

D.M.O. *RR*

Government of West Bengal
Panchayat & Rural Development Deptt. (R.D. Wing)
Jessop Building, (1st floor), 63, N. S. Road, Kolkata-1.

No. 1996(21)-RD/O/MGNREGA/18S-14/06

Dated, the 26th March, 2013.

2892
11/2/13

From : Smt. Esha Sengupta
Assistant Commissioner, MGNREGA,
P&RD Department.

To : 1. The D.M. & D.P.C. (*Talpaigury*)
2. Principal Secretary, DGHC

**Sub : Guidance document for taking up non-forestry activities
in wild life habitats under MGNREGS.**

The undersigned is directed to enclose herewith a copy of letter bearing no. L-13060/1/2013-RE-VII Dated : 11-02-2013 from S. K. Verma, Under Secretary to the Government of India on the above mentioned subject for information and compliance.

Encl : As stated.

Assistant Commissioner
to the Government of West Bengal



R. Bose
11/4/13

U.P. No. 352/13
dt 19/3/13

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F.No. L-13060/1/2013-RE-VII
Government of India
Ministry of Rural Development
(MGNREGA Division)

New Delhi, Krishi Bhawan
Dated: 11th February, 2013

Comm. NREGA
[Signature]
28/2/13

To
Principal Secretary/Secretary
Rural Development Department
All States & UTs

Subject: - Guidance document for taking up non-forestry activities in wild life habitats issued by Ministry of Environment & Forests, GOI -reg.

Sir/Madam,

I am directed to enclose herewith a copy of letter No.6-10/2011-WL dated 19.12.2012 received from Ministry of Environment & Forests regarding Guidelines for taking non-forestry activities in wild life habitats for information and necessary action at your end.

Yours faithfully

Encl: as above (14 pages)

[Signature]
(S.K.Verma)
Under Secretary to the Govt. Of India
Tel No. 011- 23384980
Fax No. 011-23381528
E-mail: sk.verma@nic.in

Copy to: PPS to Secretary(RD)/PS to AS&FA/PS to AS(RD)/PS to JS(RE-I)/ PS to JS(RE-II)/Guard file

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Palash
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SI No (P)

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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: 19th December 2012

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

Reference is invited to this Ministry's letter of even no. dated 15th March 2011 regarding the above mentioned subject. In this context, the undersigned is directed to mention that the matter has been discussed in great detail in the Ministry of Environment and Forests and the old guidelines have been reviewed in light of the existing provisions of laws and rules. It has been highlighted in the review that unless there is a clear legal delineation of elephant habitats and corridors, the implementation of the guidelines with respect to Elephant Reserves and corridors becomes very difficult. Therefore, the Wildlife Department is to work out a process by which these habitats acquire legal status. In the meanwhile, the revised guidelines, annexed to this letter, will be used as guidance for NBWL clearance for non-forestry activities are to be taken up in wildlife area.

2. It is clarified that while project proponents may simultaneously apply for Environment, Forest and NBWL clearances, in order to complete the formalities without undue delay, no rights will vest in or accrue to them unless all clearances are obtained. In other words, project proponents cannot rely upon the concept of *fait accompli*, if they have already received any of the clearances. The Environmental, Forest and NBWL clearances will all be processed on their respective merits, and the clearance of one aspect will not confer any right upon the project proponent. Complete clearance is obtained only when all the requisite clearances have been obtained by the Project Proponent. This approach would protect the integrity of the flora and fauna of the country, as well as bring in clarity and transparency in the issue of Environmental, Forest and NBWL clearance.

3. This is in supersession of the orders of even no. dated 15th March 2011, and any communication related to this document thereafter.

4. This issues with the approval of Hon'ble Minister of State (Independent Charge) for Environment and Forests.

(Vivek Saxena)

Deputy Inspector General of Forests (WL)

Encl: Revised guidelines

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.

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C.A.
E.A.
clt
1.1.13
M. S. Anand
Smt. Anandla Shrivastava

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)/PPS to Addl. DGF(FC)/PPS to Member Secretary, NTCA
5. PPS to JS (I.A Division)/ PPS to IGF (WL)/PPS to IGF& Director, PE/PPS to IGF (FC)
6. 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. General Policy:

National Parks, Sanctuaries and Conservation Reserves are notified under the Wildlife Protection Act, 1972 as dedicated areas rich in, and representing the unique biodiversity of a place. Such protected areas are considered very important for conservation of biodiversity, and for ensuring the healthy populations of its floral and faunal components, for the present and future generations alike. However, the rising human population and its growing demands for socio-economic development put increasing stress on forests including protected areas both directly and indirectly. This calls for a balance that has to be struck between development and conservation implying that any activity involving use or diversion of any part of a notified protected area may be considered only under **most exceptional** circumstances, taking fully into account its impending impact on the biodiversity of the area, and consequently on the management of the Protected Area. A critical part of this balanced approach is to spell out the feasibility of mitigation to address the impacts without compromising the management objectives of the Protected Area. The activities to be taken up in the identified wildlife habitats also need to comply with the orders of the Hon'ble Supreme Court in addition to the statutory requirements as provided in the Wild Life (Protection) Act, 1972.

2. Scope:

Measures to protect the wildlife and biodiversity in general include *inter alia*, notification of suitable wildlife habitats as Protected Areas (National Parks, sanctuaries etc.) under the Wild Life (Protection) Act (WLPA), 1972. Recommendations of the National Board for Wildlife (NBWL) are prescribed in the Act for regulating any activity inside such areas. Hon'ble Supreme Court through a number of orders has further made it essential to seek the recommendations of this advisory body for regulating activities in the adjoining areas to the Protected Areas. Protection of other forests is ensured through the Forest (Conservation) Act 1980 wherein, recommendations of the Forest Advisory Committee are prescribed for this purpose. Protected areas cover generally the known habitats of wildlife including important flagship species. Tiger Reserves represent specifically notified areas under the WLPA focusing on conservation of the charismatic big cat under the Project Tiger in view of the specially threatened status of this national animal. With a view to

ensuring conservation of elephants, the national heritage animal, 'Project Elephant' is operational. Technical and financial assistance is provided by the Central Government for conservation of elephants in the designated elephant habitats in the country. But presently such habitats are not legal entities. Though many existing elephant habitats are part of the existing Protected Areas, a proposal for enabling notification of such important habitats as elephant reserves under appropriate legal provisions is also under consideration of the government in the Ministry of Environment and Forests. It is expected that once the legal provisions for declaration of elephant reserves is in place, such areas will also be included under the regulatory regime under Wild Life (Protection) Act 1972 as proper legal entities.

These guidelines prescribe the process of obtaining recommendations of the Standing Committee of NBWL under the Wild Life (Protection) Act 1972 with respect to the areas, for which this process is mandatory under the law, and also in compliance to relevant Hon'ble Supreme Court orders. These guidelines replace the guidelines dated 15.03.2011 issued earlier in this regard, along with all amendments made therein.

3. Activities inside Protected Areas:

The process of consideration of any proposal for use of areas inside the protected areas, as a mandatory requirement under the present statutes, involves consideration and recommendation of the **National Board for Wildlife**. 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. Details of such situations where such reference is warranted are described below:

3.1 Activities inside Wildlife Sanctuaries:

Section 29 of the Wild Life (Protection) Act, 1972 provides for the seeking the recommendation of the **State Board for Wildlife** (*a Board chaired by the State Chief Minister*) for any diversion of land or produce including water, etc. from a Sanctuary.

A per the proviso under Section 33 (a), no construction of commercial tourist lodges, hotels, zoos and safari parks can be undertaken inside a sanctuary except with prior approval of the Standing Committee of NBWL.

Further, in view of the directions dated 9th May 2002 of Hon'ble Supreme Court in Writ Petition (Civil) No. 337/1995, all such proposals in respect of a

Sanctuary or a National Park also require Supreme Court's approval based on 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*).

3.2 Activities inside National Parks:

Section 35 (6) of 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 use or diversion of the habitat of any wild animal, or produce including water, etc. in a National Park.

This proviso is also applicable with respect to National Parks in view of Section 35(8) of the Act.

In the circumstances, any activity proposed within the boundaries of a National Park or Wildlife Sanctuary shall require the recommendation of the Standing Committee of NBWL, and the approval of the Hon'ble Supreme Court.

Section 33 (8) of the Wild Life Protection Act, 1972 provides that no construction of commercial tourist lodges, hotels, zoos and safari parks can be undertaken inside a National Park except with prior approval of the Standing Committee of NBWL.

3.3 Activities inside a Tiger Reserve:

A Tiger Reserve notified under the provisions 38V (1) of WLPA may include an existing Protected Area or other forests (as the buffer areas). The Tiger Reserve, once notified gets conferred protection on par with a Wildlife Sanctuary under section 38V (2). Further section 38W makes it mandatory to obtain approval of Standing Committee of NBWL for any activity including alteration of boundaries of Tiger Reserves. Therefore, any proposal involving any area under the notified Tiger Reserve will also be governed by the relevant provisions applicable to the Wildlife Sanctuaries and therefore, will be referred to the Standing Committee of NBWL for consideration.

3.4 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 in the Standing Committee of NBWL. Therefore, the procedure indicated under para 4 below needs to be followed for planning and executing any activity inside Conservation Reserve also.

3.5 Activities in areas other than Protected Areas:

In addition to the notified protected areas as described above, the consideration of the Standing Committee of NBWL has been prescribed in certain circumstances, which are listed below:

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

In pursuance to the order of Hon'ble Supreme Court dated 4th December 2006 in Writ Petition (Civil) No. 460/2004, in case any project requiring Environmental Clearance, is located within the eco-sensitive zone around a Wildlife Sanctuary or National Park or in absence of delineation of such a zone, within a distance of 10 kms from its boundaries, the User agency/Project Proponent is required to obtain recommendations of the Standing Committee of NBWL.

3.5.2 Activities within areas connecting the Tiger Reserves, notified by NTCA for controlling the land use as per section 38 O (g):

Section 38 O (g) of the Wild Life Protection Act, 1972 entrusts the responsibility to NTCA to ensure that areas connecting Tiger habitats are not diverted for ecologically unsustainable habitats except in public interest and with the approval of NBWL. Proposals for any activities in such areas duly notified by NTCA, and recommended by it in accordance with these provisions, to be covered under such regulation will be permitted only after seeking recommendations of the Standing Committee of NBWL. Violation of this provision is required to be dealt with by the NTCA.

4. PROCEDURE TO BE FOLLOWED FOR CONSIDERATION OF PROPOSALS BY THE STANDING COMMITTEE OF NATIONAL BOARD FOR WILDLIFE:

4.1 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://moef.nic.in/modules/others> to be filled in) **(Annexure-1)**.

4.2 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.

4.3 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.

4.4 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.

4.5 The Chief Wildlife Warden, after giving his specific comments on the proposal, shall forward 15 copies of the same to the Government of India, through the Forest Secretary **after obtaining the recommendation of the State Board for Wildlife on the proposal.**

4.6 The proposal so received from the State Chief Wildlife Warden will be 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.

4.7 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 may be conducted by the members of the Committee or further studies/ surveys may be conducted by experts on the instructions of the Standing Committee of NBWL.

4.8 The site inspection reports are generally considered in the next meeting of the Standing Committee to enable the Committee to make its recommendation.

4.9 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.]

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

5. 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 4 above would need to be followed.

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(a) 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?
- 5(b) Whether the proposal sub-judice? If yes, give details.
- 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