

No. FFE-B-F(4)-1/2015
Government of Himachal Pradesh
Department of Forests.

From

Principal Secretary (Forests) to the
Government of Himachal Pradesh.

To

The Principal Chief Conservator of Forests (HoFF),
Himachal Pradesh, Shimla-171001.

Dated: Shimla-2, the 31st December, 2016.

Subject: **Notification No. FFE-B-F(4)1/2015 dated 02-12-2016
suspension of FCA, 1980 in the scheduled areas of
Himachal Pradesh.**

Sir,

I am directed to refer to your letter No. Ft.48-66/20014/misc./(FCA)/Scheduled areas dated 7th December, 2016 and to enclose herewith a copy of procedure (11 pages) approved by the Government for seeking prior approval for diversion of forest land for non-forestry purposes for the facilities provided and managed by the Government in Scheduled Areas of State of Himachal Pradesh subsequent to the suspension of Forest Conservation Act, 1980 vide H.P. Govt. Notification No. FFE-B-F(4)1/2015 dated 02-12-2016, for taking further necessary action.

Yours faithfully,


(Sat Pal Dhiman) 31-12-16

g/c Joint Secretary (Forests) to the
Government of Himachal Pradesh.
Phone No. 0177-2621874.

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Government of Himachal Pradesh
Department of Forests

Procedure for seeking prior approval for diversion of forest land for non-forestry purposes for the facilities provided and managed by the Government in Scheduled Areas of State of Himachal Pradesh subsequent to the suspension of Forest Conservation Act, 1980 vide H.P. Govt. Notification No. FFE-B-F(4)1/2015 dated 02-12-2016 for the limited purpose of implementation of the H.P. Nautor Rules, 1968 and carrying out Essential Developmental Activities

1. Govt. of H.P. Notification No FFE-B-F(4)1/2015 dated 02-12-2016, provide that the Forest Conservation Act, 1980 will not apply to the Scheduled Areas of State of Himachal Pradesh for the limited purpose of implementation of the H.P. Nautor Rules, 1968 and carrying out Essential Developmental Activities for a period of two years that is up to 01-12-2018 subject to fulfilment of certain conditions mentioned therein.

A. The conditions mentioned in the aforesaid Notification are as under:-

1. The area does not fall in National Park/Sanctuary/Conservation Reserve/Community Reserve/Reserve Forest/Demarcated Protected Forest.
2. The number of tree standing over the land proposed to be allowed as Nautor should not exceed two.
3. It shall only be applicable to the Nautor lands already sanctioned by competent authority till the date of issue of this notification in which *pattas* could not be granted.
4. The Nautor so granted is utilized only for bona-fide domestic purpose and is not utilized for any commercial activity.
5. The Nautor is not granted to any such person who is involved in any kind of forest offence including encroachment on forest land.
6. No forest land will be granted for any purpose in which natural water resources are utilized by the local inhabitants.
7. No forest land will be granted for any purpose where paths and roads exist which are used by the local inhabitants.
8. The Essential Developmental Activities to be provided by the Govt. Departments shall include:-
 - (a) Schools
 - (b) Dispensaries/Hospitals
 - (c) Electric and Telecommunication lines
 - (d) Drinking water project

- (e) Water/Rain water harvesting Structures
- (f) Minor Irrigation Canals
- (g) Renewable Sources of Energy
- (h) Skill upgradation/Vocational Training centers
- (i) Power sub-stations
- (j) Communication posts
- (k) Construction/Widening of roads including approach road to side establishments.
- (l) Up-gradation/Strengthening/Widening of existing bridges by the Border Roads Organization(BRO)
- (m) Police Establishments like Police Stations/ Outposts/Border Outposts/watch towers in sensitive areas identified by the Ministry of Home Affairs.

2. For the purpose of carrying out aforesaid Essential Development Activities to be provided and managed by the Government Departments, the following regulation is framed.

The following guidelines shall be followed for granting approvals:

- a) The proposals of requirement of forest land for diversion for the purpose of activities listed at Point No. 1 A (8) above shall be considered from the Government User Departments only.
- b) Bare minimum and need based requirement of the forest land in favour of Government User Departments shall be considered.
- c) Those proposals which are already in process for approval under FCA, 1980 and fall under the above categories and have so far not been approved 'In Principle', may be withdrawn by the Government User Departments by making a written request to the Nodal officer (FCA) under intimation to the CF and DFO concerned. A fresh application for such proposals may be submitted as per the provisions laid down in the aforesaid notification and the procedure here under.
- d) Those proposals which do not fall in the above categories shall continue to be dealt under the provisions of FCA, 1980.
- e) All the proposals of roads in which violation of FCA has already been reported to the Hon'ble High Court of H.P. shall be dealt as per the provisions of FCA, 1980.
- f) The RCC pillars shall be raised at every 20 meters on the boundary of the forest land diverted.
- g) To compensate the forest land diverted, Compensatory Plantation shall be carried out by the concerned DFO as per the norms approved by the HP Forest Department on the pattern of FCA proposals and the cost towards the same shall be paid by the Government User

Department after the approval is granted to proposal by the Competent Authority.

- e) The Government User Department shall apply on prescribed format alongwith required documents. The application shall be submitted to the concerned Divisional Forest Officer.
- f) The trees required to be felled in the proposed forest land for diversion shall be handed over to the Himachal Pradesh State Forest Development Corporation (HPSFDC) for extraction and disposal. In case of loss incurred in the extraction and disposal, the same shall be made good by the Government User Department. An undertaking to this effect may be taken from the Government User Department alongwith the application form.
- g) The Muck generated out of construction activities shall be disposed off in the supervision of HP Forest Department at the approved dumping sites only as per the muck dumping plan, so as not to damage forests, and agricultural fields and water courses. The plan for dumping muck having details of dumping locations be enclosed in the proposal at the time of application.
- h) If any Act/Law/Rule/Court Order are applicable to the proposal in question, in such cases, it will be the responsibility of the Government User Department to take requisite Permission/NOC/Approval from the concerned Agency/Office.
- i) In case of the land diverted for the intended purpose is not put to the proposed use within six months from the date of approval, it shall be the responsibility of the Government User Department to return back the same to the DFO concerned under intimation to CF concerned. In case of non return, the Conservator of Forests shall have authority to revert the land back to the Forest Department.
- j) In case of rejection of any proposal by the Conservator of Forests concerned, Government User Department may refer the case to the Pr. Chief Conservator of Forests (HoFF), Himachal Pradesh along with all relevant papers and the decision of the PCCF (HoFF) shall be final and binding.

3. The Procedure for submission and approval of the proposals for Essential Development Activities shall be as under:

(a) Definitions:- In the procedure, unless the context otherwise requires: -

- (i) "Scheduled Areas" means the areas defined as Scheduled Areas as per Constitution of India and falling in territory of the State of the Himachal Pradesh;
- (ii) "Government User Department" means any department, organization, corporation owned by the HP State Government.

(iii) "Forest Land" shall have the same meaning as defined in guidelines of FCA,

(1980)

(iv) "Renewable Sources of Energy" means Solar/Hydel/Wind power/Biomass etc. as defined by Government of India.

(v) "Divisional Forest Officer (DFO)" means any Forest officer discharging the duties of DFO in whose jurisdiction the concerned forest land proposed for diversion falls;

(vi) "Sub Divisional Officer (SDO Civil)" means any officer discharging the duties of Sub-Divisional Officer (Civil) in whose jurisdiction the concerned forest land proposed for diversion falls;

(vii) "Conservator of Forests (CF)" means the Conservator of Forests of the concerned Forest Circle in whose jurisdiction the concerned forest land proposed for diversion falls;

(viii) "Principal Chief Conservator of Forests (HoFF)" means the PCCF(HoFF) incharge of Head of Forest Force

(b) Submission of proposals seeking approval for diversion of the forest land under the provisions of above said GoHP notification:

- (i) Every Government User Department that intends to use any forest land for Essential Developmental Activities under the provisions of this notification shall make a proposal in the application on the prescribed format appended, i.e. **Form 'A'**, and submit to the DFO concerned along with all the enclosures 'in original'.
- (ii) A Joint Committee comprising of the SDO (Civil), DFO and representative of Government User Department shall inspect the area proposed for diversion and shall make observations on the minimum land required and minimum trees proposed to be felled with specific recommendation to divert the forest land in favour of the concerned Government User Department in the **Joint Committee Inspection Report** on the prescribed format (**Form-B**).
- (iii) The DFO concerned shall make specific observations in **Site Inspection Report (Form-C)** and submit the case along with all the enclosures to the Conservator of Forest concerned who will decide and accord approval within 15 days from receipt of complete proposals. The proposals having deficiencies shall be returned by the concerned Conservator of Forests with his observations to the concerned DFO within one week from date of receipt. Thereafter, the DFO concerned shall ensure that these observations are attended within a maximum period of 30 days and complete

proposal be re-submitted to the Conservator of Forests for seeking final approval.

- (iv) The Conservator of Forest shall ensure that all the necessary conditions of the diversion of use are fulfilled e.g., the Joint Inspection Report has no adverse remarks, NOC of the Gram Panchayat, Undertaking of the Government User Department to pay the cost of required compensatory plantation, the undertaking to make the losses (if any) to HPSFDC, the area does not form part of Reserve Forest (RF), Demarcated Protected Forest (DPF), Wildlife Sanctuary (WLS), National Park (NP), Community Reserve, Conservation Reserve and the area required is bare minimum, recommendation of the DFO concerned.
- (v) The CF may ask the Government User Department to make necessary amendments in the proposals so as to divert minimum required forest land involving least number of trees to be felled.
- (vi) Once satisfied, the concerned CF shall issue order of approval subject to the fulfilment of conditions listed in this procedure.
- (vii) The Conservator of Forests shall issue the order of approval in favour of the Government User Department with a copy to Nodal Officer(FCA). The CF may stipulate relevant conditions out of the above mentioned conditions along with any other condition which in his/her opinion shall be necessary to conserve and maintain the ecology, environment and safeguard the lives of local inhabitants, their properties, flora and fauna of the area.
- (viii) DFO concerned shall receive the payments towards Compensatory Plantation in lieu of forest land diverted and deposit the same in HP Tribal area CAMPA account and which shall be drawn against the approved APO from the HP Tribal area CAMPA account at the time of planting. A separate account with full record will be maintained for these cases.
- (ix) In case the proposal is rejected by the CF concerned, then he/she shall forward the complete case to the PCCF (HoFF) with cogent reasons to take a final decision. The decision of the PCCF (HoFF) shall be final and binding.
- (x) The CF concerned will submit a monthly report of the approvals accorded for diversion of forest land under this notification during the month, by 5th of subsequent month to the Nodal Officer (FCA) of the State on the prescribed format (Form-D).
- (xi) The DFO shall receive the payments due prior to allowing the Government User Department to use the Land as per the conditions stipulated.

FORMS

Form for seeking prior approval for diversion of forest land for non-forest purposes for the facilities provided and managed by the Government in Scheduled Areas of State of Himachal Pradesh consequent to the suspension of FCA, 1980 vide H.P. Govt. Notification No. FFE-B-F(4)1/2015 dated 02-12-2016 for the limited purpose of implementation of the H.P. Nautor Rules, 1968 and carrying out Essential Developmental Activities

FORM-A

[See para 3b(i)]

(To be filled up by the Government User Department)

[INCOMPLETE FORMS SHALL NOT BE CONSIDERED]

- (i) Name of the Proposal:
- (ii) Short narrative of the proposed proposal / scheme for which the forestland is required.
- (iii) Justification for locating the project in proposed forest land:
- (iv) Extent of the forest area required (in hectare)
- (v) Forest Division
- (vi) Name of the Sub Division of the Scheduled Area.
- (vii) Name of the Govt. User Department authorizing the Applicant to file the application:
- (viii) Date of the Authority Letter of the Government User Department in favour of the Applicant
Officer: [Copy of the letter to be enclosed]
- (ix) Name & Designation of the applicant.
- (x) Address, Contact No. and e-Mail address of the Applicant.
- (xi) **Geo-referenced map** depicting coordinates of the forest land proposed for diversion
[Map to be enclosed]
- (xii) Details of component wise Forest Land required. (Built up area, Dumping site, parking, roads, open area etc.)
- (xiii) **Class of Land:** [Parcha Tatima of the area confirming the location and kind of the land to be attached].
- (xiv) **Current use of the land** proposed to be diverted:
- (xv) Whether any rights of any individual or community are existing in the land proposed (if yes, the extent and villages to be mentioned).
- (xvi) Whether NOC of the Gram Panchayat has been obtained (copy of NOC of the Gram Panchayat, recommending the diversion of the land proposed for diversion mentioning the area and purpose to which it shall be diverted, to be attached)
- (xvii) Lay out Plan of the project to be executed [Copy of the Approval of the Competent Authority of Government User Department to be attached]

- (xviii) Total number of trees standing on the area proposed for diversion.
- (xix) Total number of trees proposed to be felled.
- (xx) Muck Dumping Plan with details of muck generated with mode of disposal showing dumping sites: (attach toposheet showing spots for muck dumping with required forest area for the purpose).
- (xxi) Undertaking that the Government User Department shall make good the loss occurred to HPSFDC Ltd on account of extraction and disposal of trees to be felled.
- (xxii) Undertaking that Government User Department shall deposit the cost of compensatory plantation to the DFO concerned on double the forest land diverted, including the maintenance cost for seven years as per the norms.

Signature of the authorized Applicant Officer

Official Seal

(Name in Block letters)

Address

Contact No.:

Email address:

Date:

Place:

NOTE: All the enclosures to be attached should be in Original and no Photocopy shall be entertained.

FORM B

[See para 3b(ii)]

JOINT COMMITTEE INSPECTION REPORT

JOINT COMMITTEE INSPECTION REPORT of the committee comprising of the concerned Divisional Forest Officer, Sub-Divisional Officer (Civil) incharge of the respective Sub-Division and the Applicant Officer authorized by the HOD of the Govt. User Department, that the land proposed to be diverted is bare minimum required for the purpose with minimum number of trees to be felled and no Non-Forestry Land is available for the same.

Place:

Date:

Signature

**Applicant Officer authorized by
Government User Department**

Signature

Sub Divisional Officer (Civil)

Signature

Divisional Forest Officer

FORM-C

[See para 3b(iii)]

SITE INSPECTION REPORT

(to be prepared by the DFO concerned)

- I. Date of inspection and accompanying members.
- II. Name of Government User Department.
- III. Extent of the forest area (in hectare) applied for diversion.
- IV. Proposed location of the project / Scheme (Name of Range/Block/Beat/Forest):
- V. Distance of proposed site from nearest RF/DPF/UPF.
- VI. Sub Division & District.
- VII. Whether proposed forest land is a part of any Reserved Forest (RF)/Demarcated Protected Forests (DPF)/Wild life Sanctuary (WLS)/National Park (NP) or Community Reserve/Conservation Reserve (In case of YES the case shall not be recommended).
- VIII. Whether the area proposed has water spring or water source: (In case of Yes the case shall not be recommended)
- IX. **Geo-referenced map** depicting coordinates of the forest land proposed for Compensatory Plantation with coordinates.
- X. Enumeration list with abstract of the total trees standing and proposed for felling, on the forest area proposed to be diverted :(list to be attached).
- XI. Details of Compensatory Plantation Scheme: area/species etc. along with costs as per norms and approved by concerned Conservator of Forests (CF): (to be enclosed separately).
- XII. Total cost of Compensatory Plantation to be deposited by Government User Agency.

CERTIFICATE

Certified that I, _____ [name], Divisional Forest Officer _____ [name of Division] have visited on _____ along with the Government User Department and local field functionaries of Forest Department and found the coordinates to be correct and I am satisfied that the diversion of _____ Ha. forest land for the proposed use in favour of the _____ (Government User Department) is the bare minimum and involves the felling of _____ trees which is the minimum and breaking the land thereafter shall not affect the rights of any local

communities, individual or not trigger the land slides or slips thereby putting in danger the lives and properties of the local inhabitants and shall not affect the wild life and ecology of the area adversely and that the Govt User Department has submitted the undertaking to make the payment to raise the compensatory plantation, which shall be done in the coming planting season and that the proposal is complete in all respects and I recommend the same for approval.

(Specific recommendation of the DFO for acceptance or otherwise).

Place:

Date:

Signature of the DFO

Name

Official Seal

FORM-D

[See para 3b (vi)]

Proforma for Monthly Progress Report of diversion cases for Essential Development Activities under the GoHP notification dated 02-12-2016.

Forest Circle _____

Month & Year _____

Sl. No.	Name of Forest Division	Name of Tribal Sub-Division	Name of the Government User Department	Name of the Proposal approved	Date of Final Approval	Area of the Forest Land Diverted	Class of Forest Land	No. of trees approved for felling	Name of Forest Area Compensation Plantation

Seal & Signature

Conservator of Forests _____

Date: _____

Place: _____

_____ Forest Circle