

To:

**By Email and Speed Post**

1. Director General of Forests and Chairperson  
Forest Advisory Committee  
constituted under the Forest (Conservation) Act, 1980  
Ministry of Environment, Forest and Climate Change  
Indira Paryavaran Bhawan, Aliganj, Jorbagh Road,  
New Delhi - 110 003
2. Inspector General of Forests and Member Secretary  
Forest Advisory Committee  
constituted under the Forest (Conservation) Act, 1980  
Ministry of Environment, Forest and Climate Change  
Indira Paryavaran Bhawan, Aliganj, Jorbagh Road,  
New Delhi - 110 003
3. Non Official Members  
Forest Advisory Committee  
constituted under the Forest (Conservation) Act, 1980  
Ministry of Environment, Forest and Climate Change  
Indira Paryavaran Bhawan, Aliganj, Jorbagh Road,  
New Delhi - 110 003

**Date: 18-05-2020**

Sirs:

**Sub: Urgent Request to reject the FAC sub-committee recommendations on Etalin HEP proposal**

**Ref:** (1) Minutes of the FAC Meeting dt. 23.04.2020 through VC

(2) Agenda No. 3, F.No. 8-20/2014-FC

(3) Our submissions on the Forest Clearance process dt. 28.09.2011, 09.07.2013, and 28.09.2016.

This submission is in continuation of various representations and comments cited at (3) that some of us have submitted to the Ministry over time on strengthening the ecological basis of the forest clearance process. The signatories to this letter are active conservationists and/or former members of statutory committees, with a clear understanding of the forest clearance process, including related legal and scientific aspects of forest conservation. We also hold a pragmatic view on the need to balance conservation imperatives with development aspirations based on knowledge driven solutions. We are therefore presenting our views after due analysis, with full responsibility and in the supreme national interest.

We have very carefully studied various aspects pertaining to the Etalin HEP and are deeply concerned about the recommendations of the sub-committee of the FAC recorded in the minutes cited at (1) above, that – *“The project may be allowed subject to the condition that the financial outlay of Wildlife Conservation Plan be deposited to Forest Department by User Agency”* on the basis of a Wildlife Study done by WII which – *“...is accepted in toto...”*

Based on our analysis of published data and peer reviewed scientific principles of landscape ecology, we submit that the sub-committee of the FAC appears to be ignoring established tenets of forest conservation

and related legal issues while recommending this proposal, which is highly destructive, and the impacts of which **cannot be “mitigated”**. This may be tantamount to a breach of the FAC’s constitutional and statutory duty to conserve forests.

Fundamentally, the objects of the Forest (Conservation) Act, 1980, (69 of 1980), which was enacted in furtherance of the Constitutional obligations of the Central Government under Article 48-A, is to ensure protection of forests and wildlife, and not just clearance of projects by imposing standard conditions and compensatory afforestation. The Supreme Court, in 2003 AIR (SC) 3240 (3 judges), has held that – *“We cannot shut our eyes to the statements made in Article 48-A of the Constitution of India which enjoins upon the State to protect and improve the environment and to safeguard the forests and wild life of the country. What is destructive of environment, forest and wild life, thus, being contrary to the Directive Principles of the State Policy which is fundamental in the governance of the country must be given its full effect”*...

This interpretation has been reiterated in a catena of Judgments by the Apex Court, which you are all well aware of. Thus, as members of the FAC, you are under a legal obligation to conserve forests and wildlife. The FAC, being a statutory committee, has a duty to conserve forests, and not merely to mechanically grant permissions, even to such destructive proposals, under the pretext of development. By glossing over crucial facts, and by accepting untenable submissions in reports submitted by WII, the User agency and State forest officers, the FAC is doing a grave disservice to the larger interests of the nation, i.e., its ecological security.

In order to substantiate the submissions made above, we present the following facts and data for your kind consideration –

i. That the FAC continues to ignore the biggest threat to forests –**Forest fragmentation**–resulting from ill-planned intrusion of developmental projects into contiguous landscapes with natural forests. Peer reviewed research has clearly established that the effects of fragmentation are highly deleterious to biodiversity conservation at all three critical scales – single populations of rare species, entire community of such species and diversity at the landscape level.

ii. That Compensatory Afforestation has become the proverbial fig leaf to justify forest clearance, and that the rejection rates for ecologically destructive projects are abysmally low, at around 1%. This is notwithstanding scientific reports, which clearly conclude that no amount of Compensatory Afforestation can mitigate the impact of forest fragmentation. In the submissions cited at (3) above, it has been repeatedly requested that a paradigm shift be made from Compensatory Afforestation to a scientific landscape/ecosystem approach that is anchored on minimizing fragmentation of large blocks of contiguous forests instead of the present emphasis on only measuring area lost, enumerating trees, raising plantations and calculating NPV. This suggested policy change is being stonewalled to the detriment of the country’s ecological security.

iii. That the sub-committee of the FAC has either completely failed to understand, or chosen to ignore, the impact of the forest fragmentation that will be caused by the Etalin HEP. Even though the user agency’s submission, recorded in the site inspection report of the sub-committee, states that the entire project with approximately 50 components will be spread across 40 km, not one question has been raised by the FAC on the impact of fragmentation. This is a matter of grave concern.

iv. That in order to arrest and reduce forest fragmentation it has been submitted earlier that only extremely site-specific proposals of supreme national importance be considered for clearance in biodiversity hotspots and large forested landscapes, that too, only in unavoidable circumstances, and after considering all feasible alternatives. In our considered view, the Etalin HEP does not qualify in the said category. It is one amongst 50-odd hydel projects that have either been approved or under consideration as listed on the Parivesh

portal. Thus, there is nothing site-specific about the Etalin HEP nor is it of national importance. On the contrary, the incredibly rich biodiversity and ecological value of the Dibang landscape is of great national importance, which the FAC is constitutionally duty-bound to protect.

v. That a bare reading of the Site Inspection Report of the FAC sub-committee reveals that it is shockingly bereft of details of locations within the forests visited, number of grids across an altitudinal range inspected, the status of vegetation therein, direct and indirect signs of wild animals listed in the various schedules of the Wildlife Act and overall appreciation of the ecological value of the area. That the sub-committee has not intensively inspected the forest area is further evident from the fact that they appear to have merely examined tree enumeration notebooks in a meeting room and accepted the revised numbers of the State Government. There is not even a mention of any random cross-checking in the field. In the absence of facts to the contrary, this may not even qualify to be called a comprehensive “Site Visit”.

vi. That the FAC sub-committee appears to have overlooked Rule 7(4)(e)(vi) of the Forest (Conservation) (Rules) 2003, (amended upto August 2017) which mandates that before making their recommendation, it must be ascertained that the State Government has considered all issues having direct and indirect impact of the diversion of forest land on forest, wildlife and environment. Even though the FAC has rightly found that the Environmental Impact Assessment (EIA) of the User Agency is “inadequate”, it has chosen not to recommend a full critique of the EIA. It is our considered opinion that a thorough critical review of the EIA is imperative to ferret out the possible falsification of data and misleading conclusions on the negative impacts of the project by the User agency. It is also unclear whether any action has been initiated against the User agency or the EIA consultant.

vii. That the sub-committee report records the observations on “**Wildlife aspect and WII studies**”. The terms of reference framed for the WII study reads as follows – “*multiple seasonal replicate study on biodiversity assessment of the catchment area*”. This notwithstanding the fact that the FAC was already aware of the attempts to cover up the real negative impacts, as is evident from the admitted inadequacy of the Impact assessment.

viii. That in view of what is stated in para vii above, the action of the FAC in framing incorrect/vague terms of reference for the WII study violates the spirit of Guideline (i) of the Lafarge Judgment wherein the Apex Court has clearly concluded that EIAs undertaken by Institutions who though accredited submit answers according to terms of reference... The WII appears to have done exactly that to enable Etalin HEP to secure clearance. It would be logical to raise a question as to whether the WII study / expenses were funded by the User Agency. If this indeed proves to be true, it would, under the specific circumstances, amount to a serious conflict of interest.

ix. That the recommendation of the sub-committee of the FAC to approve the Etalin HEP, either ignoring or glossing over evidence on the grave impact of the project on several rare, endangered and threatened (RET) species listed in Schedule I of the Wildlife Act, completely violates Rule 7(4)(e) (i) of the FC Rules 2003.

x. That para 9.1 in Chapter 9 of the FC Guidelines insists that proposals for diversion of forest lands falling within an irrigation / hydroelectric project need to be processed in their entirety to avoid creation of *fait accompli situations*. In the specific case of Etalin HEP, there appears to be no mention of the area of forest land required and the alignment of the HVDC power line, sub-station and related infrastructure for power evacuation. It has been recorded in the Fact Sheet Para 40 (vii) that “...*this will be initiated later*”. This is again directly creating a *fait accompli* situation, which violates the Apex Court’s Lafarge Judgment Guidelines– “...*These guidelines are required to be given so that fait accompli situations do not recur. We have issued these guidelines in the light of our experience in the last couple of years. These guidelines will operate in all future cases of environmental and forest clearances...*”

Furthermore, it is learnt from media reports and information available in the public domain, that several professional ecologists from respected scientific institutions, with expertise in a range of taxa, including research experience in the Dibang valley, have peer reviewed the Wildlife Conservation Plan of the WII and submitted it to the FAC. The review *inter alia* has established that the WII report is replete with flawed methodologies and inferences, biased sampling, lack of rigor and minimization of impacts, all of which are extremely serious defects. This scientific critique demolishes the WII report, which the sub-committee of the FAC shockingly “*appreciates*” and records that it is “*accepted in toto*”.

The above submissions, when seen along with the following points –

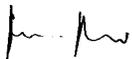
- a. the inadequacy of the EIA, as admitted;
- b. the apparent lack of application of mind of the CCF& Nodal Officer (FCA) of Arunachal Pradesh, evident on a perusal of Form A Part IV, where he has merely stated that – “*Recommended for approval as project will be of immense importance to the state*” when he was bound to record a detailed opinion;
- c. the non-compliance of the mandated comments of the CWLW as per Form A Part II 7(x) despite recording that there are twenty-five globally threatened mammal and bird species;

establish that the entire approach and handling of this ecologically disastrous proposal by the FAC, evident on a detailed perusal of all documents including various minutes, clearly point to the fact that the proposal was never appraised and scrutinized from the perspective of rejection due to massive damage to forests and wildlife. It is indeed true that details were sought, some queries were raised but **it is very apparent that rejection of this ecologically destructive project was never considered at any stage by the FAC.** There are other discrepancies and deviations in the appraisal of the project, which we may raise at an appropriate time and forum.

The FAC, in spite of receiving compelling scientific evidence from independent ecologists that demolishes the very foundation of the WII report, the SIR and opinions of the statutory authorities who have signed on Form A – Part II, III, IV and V, is pressing ahead with what will turn out to be a pre-determined conclusion – viz. according clearance to the ecologically disastrous Etalin hydel project based on some mitigation measures. The proposed mitigation measures of setting up butterfly and reptile parks, placing nest boxes... are laughable and their acceptance is certainly not expected of an expert statutory committee like the FAC. The FAC must acknowledge that such poor mitigation, including Compensatory Afforestation, is not the panacea for such large-scale fragmentation / destruction of pristine natural forests in a biodiversity hotspot.

In view of the above facts and detailed submissions, we urge you to sincerely introspect and review the entire process. Based on overwhelming data that now forms part of the records, we seek that the FAC takes the environmentally sound and ecologically conscious decision of rejecting the Etalin HEP proposal.

Sincerely



Praveen Bhargav

Trustee Wildlife First and Former Member – National Board for Wildlife

**Signed on behalf of and in consultation with:**

Shekar Dattatri, Biswajit Mohanty and Kishor Rithe – Former Members- National Board for Wildlife

D.V. Girish – Bhadra Wildlife Conservation Trust

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