

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)
Original Application No. 21/2026/EZ

IN THE MATTER OF: -

Mrutyunjay Pradhan-----Appellant(s)

Versus

State of Odisha and Others. -----Respondent(s)

AFFIDAVIT ON BEHALF OF THE OPPOSITE PARTY/RESPONDENT
NO.04 STATE ENVIRONMENT IMPACT ASSESSMENT AUTHORITY
(SEIAA), ODISHA

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Place: Bhubaneswar
Date: 02/07/2026

Shri Apurba Ghosh
Advocate for Respondent No.04
(SEIAA), Odisha
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(THROUGH PHYSICAL HEARING WITH HYBRID MODE)

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Mrutyunjay Pradhan-----Appellant(s)

Versus

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AFFIDAVIT ON BEHALF OF THE OPPOSITE
PARTY/RESPONDENT NO.04 STATE ENVIRONMENT IMPACT
ASSESSMENT AUTHORITY (SEIAA), ODISHA

1. Dr. Pradeept Kumar Nayak, son of late Bhimasen Nayak aged about 43 years, at present working as Environmental Scientist, State Environment Impact Assessment Authority, Odisha, do hereby solemnly affirm and state as follows.
2. That I am the deponent in this affidavit and I have been duly authorized to swear this affidavit on behalf of the Opposite Party No.04 before this Hon'ble National Green Tribunal.
3. That, I have gone through the original application and Hon'ble NGT, EZ order dated. 12.02.2026 and understood the contents



Pradeept Kumar Nayak
Environmental Scientist
SEIAA, Odisha

thereof. I am well acquainted with the facts of the case and the relevant official records. Any contention, allegation or averment not dealt with in the present affidavit shall be construed as denied.

4. That, this is matter with allegation made by the petitioner in respect of unauthorized excavation of 14580 cum of soil/earth from Khata no. 130/244, Plot No. 65,66,67,67/1491, 73, 1255/1494 in Mouza-Gangasagar, Tahasil-Patnagarh, Dist-Balangir, Odisha by the respondent no. 07.
5. That, in reply to the averments made in the Para-01 to Para-14 of the original application, the deponent humbly submits that the SEIAA, Odisha has neither received any application/project proposal for mining of ordinary earth/soil nor issued any environmental clearance in favour of respondent no. 07 for extraction of soil/earth from Khata no. 130/244, Plot No. 65,66,67,67/1491, 73, 1255/1494 in Mouza-Gangasagar, Tahasil-Patnagarh, Dist-Balangir, Odisha. It is submitted that the environmental clearance (EC) is mandatory for the mining of any minor minerals including 'ordinary earth' as per Officer Memorandum (OM) dated 24.06.2013, 08.08.2022 & Notification dated 17.03.2025 of MoEF & CC, Government of India.

Copy of the Officer Memorandum (OM) dated 24.06.2013, 08.08.2022 & Notification dated 17.03.2025 of MoEF & CC, Government of India is attached in **Annexure-I**.



NOTARISED

6. That the facts stated above in this counter affidavit are true to the best of my knowledge and belief which are based on official records that I believe to be true.
7. That the deponent reserves the right to file further affidavit as and when necessary.

Identified by
Advocate

02.07.2026

Pradhept Kumar Nayak

**Deponent
Environmental Scientist
SEIAA, Odisha**

VERIFICATION

Verified at Bhubaneswar on this day of **02 JUL 2026**

that the contents of the above affidavits are true and correct on the basis of the records maintained by the respondent in the daily course of its business, no part of it is false and nothing has been concealed therefore.

Place: Bhubaneswar

Date: *02/07/2026*

Pradhept Kumar Nayak

**Deponent
Environmental Scientist
SEIAA, Odisha**

SWORN BEFORE ME

02.07.2026

**DUSASAN SAMANTARAY
NOTARY, GOVT. OF ODISHA
BHUBANESWAR, ODISHA
REGD. NO. 88/2012
MOB-9439143015**



No. L-11011/47/2011-IA.II(M)
Government of India
Ministry of Environment & Forests

Paryavaran Bhawan,
C.G.O. Complex, Lodhi Road,
New Delhi-110003.

Dated: 24th June, 2013

OFFICE MEMORANDUM

Subject: Guidelines for consideration of proposals for grant of environmental clearance under EIA Notification, 2006 for mining of 'brick earth' and 'ordinary earth' having lease area less than 5 ha – regarding categorization as Category 'B2'

The Hon'ble Supreme Court, vide its order dated 27.02.2012 in I.A.No.12-13 of 2011 in SLP (C) No.19628-19629 of 2009 titled Deepak Kumar etc. Vs. State of Haryana & Ors. has inter alia ordered that leases of minor mineral including their renewal for an area less than 5 ha be granted by the State / Union Territory only after getting environment clearance (EC) from the Ministry of Environment & Forests (MoEF). In order to ensure compliance of the aforesaid order of the Hon'ble Supreme Court, MoEF issued an OM No.L-11011/47/2011-IA.II(M) dated 18.05.2012 stating inter alia that all mining projects of minor minerals including their renewal, irrespective of the size of the lease would henceforth require prior EC and that the projects of minor minerals with lease area less than 5 ha would be treated as Category "B" as defined in EIA Notification, 2006 and will be considered by the respective State Environment Impact Assessment Authorities (SEIAAs) notified by MoEF and following the procedure prescribed under the EIA Notification, 2006.

2. MoEF has received a number of representations conveying problems being faced by the brick kiln manufacturers in obtaining EC for 'brick earth' mined by them for making bricks and by the developers of road projects in respect of mining of 'ordinary earth' used for road construction. The brick kiln manufacturers have requested that as the digging of 'brick earth' for making bricks is a small scale activity requiring digging only upto a certain depth, the activity may be kept outside the purview of EC. The project proponents developing roads have represented that the 'ordinary earth' required for road construction is generally taken from the farmers / individuals along the road alignment from their borrows. It would be impractical to ask the farmers / individuals to obtain EC for such digging. In a nutshell, the arguments being put forth are that while digging of 'brick earth' for brick making and 'ordinary earth' for road making do not have serious environmental implications, the provisioning for EC for such operations is impeding these development activities because of practical problems in obtaining EC.

3. MoEF vide OM No.F.No.J-11013/12/2013-IA-II(I) dated 30.01.13 has constituted an Expert Committee, under the Chairmanship of Director, NEERI, Nagpur, to categorize Category “B” projects / activities into Category “B1” and “B2” under EIA Notification, 2006 and review classification of projects / activities into “A” and “B” and General conditions as contained in the aforesaid Notification. The issues raised by brick kiln manufacturers regarding ‘brick earth’ and road developers in respect of ‘ordinary earth’ were referred by MoEF to this Expert Committee to give their recommendations. The Committee deliberated upon these issues and has since given its recommendations in the matter.

4. The recommendations of the Committee have been examined by MoEF and the following has been decided:

(a) The activities of borrowing / excavation of ‘brick earth’ and ‘ordinary earth’, upto an area less than 5 ha, may be categorized under ‘B2’ Category subject to the following guidelines in terms of the provisions under ‘7.I Stage(1)-Screening’ of EIA Notification, 2006:

- (i) The activity associated with borrowing/excavation of ‘brick earth’ and ‘ordinary earth’ for purpose of brick manufacturing, construction of roads, embankments etc. shall not involve blasting.
- (ii) The borrowing/excavation activity shall be restricted to a maximum depth of 2 m below general ground level at the site.
- (iii) The borrowing/excavation activity shall be restricted to 2 m above the ground water table at the site.
- (iv) The borrowing/excavation activity shall not alter the natural drainage pattern of the area.
- (v) The borrowed/excavated pit shall be restored by the project proponent for useful purpose(s).
- (vi) Appropriate fencing all around the borrowed/excavated pit shall be made to prevent any mishap.
- (vii) Measures shall be taken to prevent dust emission by covering of borrowed/excavated earth during transportation.
- (viii) Safeguards shall be adopted against health risks on account of breeding of vectors in the water bodies created due to borrowing/excavation of earth.
- (ix) Workers / labourers shall be provided with facilities for drinking water and sanitation.
- (x) A berm shall be left from the boundary of adjoining field having a width equal to at least half the depth of proposed excavation.

(xi) A minimum distance of 15 m from any civil structure shall be kept from the periphery of any excavation area.

(xii) The concerned SEIAA while considering granting environmental clearance for such activity for brick earth / ordinary earth will prescribe the guidelines as stated at (i) to (xi) above and specify that the clearance so granted shall be liable to be cancelled in case of any violation of above guidelines.

(b) Notwithstanding what has been stated at (a) above, the following will apply:-

- (i) No borrowing of earth / excavation of 'brick earth' or 'ordinary earth' shall be permitted in case the area of borrowing/ excavation is within 1 km of boundary of national parks and wild life sanctuaries.
- (ii) In case the area of borrowing / excavation is likely to result into a cluster situation i.e. if the periphery of one borrow area is less than 500 m from the periphery of another borrow area and the total borrow area equals or exceeds 5 ha, the activity shall become Category 'B1' Project under the EIA Notification, 2006. In such a case, mining operations in any of the borrow areas in the cluster will be allowed only if the environmental clearance has been obtained in respect of the cluster.

This issues with the approval of the Competent Authority.


(Dr. Saroj)
Director

Telefax : 24364067

To

1. All the Officers of IA Division
2. Chairpersons/Member Secretaries of all the SEIAAs/SEACs
3. Chairman, CPCB
4. Chairpersons / Member Secretaries of all the SPCBs/UTPCCs

Copy to:-

1. PS to MEF
2. PPS to Secretary(E&F)
3. PPS to ADG(F)
4. PPS to ADG(WL)
5. PPS to JS(AT)
6. PPS to IG(FC)
7. Website, MoEF
6. Guard File

F. No. 3-70/2020-IA.III [141127]
Government of India
Ministry of Environment, Forest and Climate Change
(IA Division)

Indira Paryavaran Bhawan
Jor Bagh Road, Aliganj,
New Delhi - 110003

Dated: 8th August, 2022

OFFICE MEMORANDUM

Subject: Clarification on the applicability of EIA Notification 2006 for excavation of Ordinary Earth from borrow area for linear projects - reg.

The Ministry, vide Notification S.O. 1224 (E) dated 28.03.2020, amended the appendix IX of EIA Notification to inter-alia provide exemption from Environmental Clearance (EC) for "*extraction or sourcing or borrowing of ordinary earth for linear projects such as roads, pipelines etc.*"

2. Subsequently, the above mentioned Notification was challenged before the National Green Tribunal, Principal Bench in Original Application No. 190/2020 in the matter of Noble M. Paikada Vs. Union of India & Ors., wherein the Hon'ble Tribunal while disposing of the application vide order dated 28/10/2020, *inter-alia* held that "*.....the exemption should strike balance and instead of being blanket exemption, it needs to be hedged by appropriate safeguards such as the process of excavation and quantum...*" and directed to revisit the impugned notification dated 28.03.2020.

3. Subsequently vide order dated 31/05/2022, the Hon'ble NGT in M.A. No. 07/2022(WZ) & M.A. No. 08/2022(WZ) in Original Application No. 68/2020(WZ) titled Shri Rajiv Babasaheb Waman & Ors. vs. Ministry of Environment, Forest & Climate Change & Ors inter-alia held that "*... that excavation of earth and mining of sand and other minor minerals being hazardous activity having serious adverse impact on environment in view of 'Precautionary' and 'Sustainable Development' principles, such activity cannot be left unregulated by statutory enforceable mechanism. Blanket exemption is against ecologically sustainable development norms and judgment of Hon'ble Supreme Court...*"

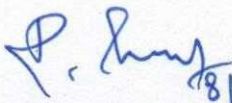
4. The matter was referred to the concerned Expert Appraisal Committee (EAC) for deliberation. After due deliberation, the EAC was of the opinion that if such linear project has obtained EC based on EIA studies incorporating such sourcing of construction material or other activities, necessary safeguards are already incorporated in the EC appraisal process. However, if such sourcing of material is not considered in the EIA or such linear project does not attract provisions of EC, then

such individual activities will be subject to extant environmental regulations as per EIA Notification 2006, as amended and/or applicable environmental safeguard related directions issued by the State Government /SPCB which need to be observed while sourcing construction material.

5. Based on the recommendations of the EAC and keeping in view the direction of Hon'ble NGT, the matter has been examined by the Ministry in detail and it has been decided that the exemption from EC provided vide S.O. 1224 (E) dated 28.03.2020 for "*extraction or sourcing or borrowing of ordinary earth for linear projects such as roads, pipelines etc.*" shall be subject to Standard Operating Procedure (SOP) as enclosed to this Office Memorandum.

6. This is issued with the approval of the Competent Authority.

Encl: as above.


(Sundar Ramanathan)
Scientist 'E'

To

1. Chairman and Member Secretaries of SEIAA/ SEACs.
2. Chairman, Central Pollution Control Board (CPCB).
3. Chairpersons/Member Secretaries of all SPCBs/UTPCCs
4. All the Officers of I.A. Division

Copy for information to:

1. PS to Hon'ble Minister for Environment, Forest and Climate Change
2. PS to Hon'ble MoS (EF&CC)
3. PPS to Secretary (EF&CC)
4. PPS to DGF&SS (EF&CC)
5. PPS to AS(TK)/PPS to JS (SKB)
6. Website, MoEF&CC/Guard file

ANNEXURESOP for Borrow Area Identification; its operation, safety and redevelopment

The activity relates to identification of borrow areas to obtain earth/soil materials; its operation, safety and redevelopment shall be carried out as per the following criteria:

1. Selection of site, operation and site-specific measures to adopt

- i. Environmental issues like siting borrow pit location, soil erosion aspects, accumulation of run-off and associated problems, disposal of debris by local community in open borrow area, transport of borrow earth to construction site, preservation of top soil of 15m depth and reuse for plantation, reinstatement of borrow pits and sites shall be considered before selection of site.
- ii. Guidelines, Manuals, Notifications etc issued by various agencies from time to time like IRC, MoRTH, MoEFCC etc shall be followed.
- iii. For selection of the site for the borrow area, agricultural land, cut material available from other road construction projects, dredging material from dredging operations of ponds, lakes, rivers and canals, material from barren land or land without tree cover outside the road RoW, material from excavation of proposed culverts can be considered. Provided further that, highly productive top-soil shall be stored separately and used for planation activity.
- iv. Borrowing shall be avoided on the lands close to toe line, irrigated agricultural lands, grazing land, lands within settlements, 1 Km from environmentally sensitive areas such as Reserve Forests, Protected Forests, Sanctuary, National Parks, Conservation Reserve, Wetlands etc, unstable and fragile side-hills, streams and seepage areas, areas supporting rare plants/ animal species. It should be ensured that unsuitable soft rock is not prominent within the proposed depth of excavation which will render rehabilitation difficult.

2. The General Guidelines

- i. The preservation of topsoil will be carried out in stockpile.
- ii. A 15 cm topsoil will be stripped off from the borrow pit and this will be stored in stockpiles in a designated area for height not exceeding 2m and side slopes not steeper than 1:2 (Vertical: Horizontal).
- iii. Preservation of Top Soil of 15cm depth and its reuse for plantation
- iv. Validation of the work of re-use of Top Soil by the AE/IE. Competent authority to check the re-use anytime if warranted.
- v. Borrowing of earth will be carried out up to a depth of 2m from the existing ground level.
- vi. Borrowing of earth will not be done continuously throughout the stretch.
- vii. Ridges of not less than 8m widths will be left at intervals not exceeding 300m.
- viii. Small drains will be cut through the ridges, if necessary, to facilitate drainage.
- ix. Depends upon the location of borrow areas, the safeguard measures & management specific treatment as a particular borrow area depending upon its

location viz Agriculture Land, Elevated Land, Waterbody, near Settlement and along the alignment.

3. Re-development of Borrow Areas

The objective of the rehabilitation programme is to return the borrow pit sites to a safe and secure area, which the general public should be able to use safely. Securing borrow pits in a stable condition is fundamental requirement of the rehabilitation process. This could be achieved by filling the borrow pit approximately to the road level. Following measures shall be taken for Rehabilitation:

- i. Borrow pits shall be backfilled with rejected construction wastes (unserviceable materials) including fly ash, compacted and will be given a turfing or vegetative cover on the surface. If this is not possible, then excavation slope should be smoothened, and depression is filled in such a way that it looks more or less like the original ground surface.
- ii. During works execution, the Contractor shall ensure preservation of trees during piling of materials; spreading of stripping material to facilitate water percolation and allow natural vegetation growth; re-establishment of previous natural drainage flows; improvement of site appearance; digging of ditches to collect runoff; and plantation may be carried out wherever feasible or pit may be developed for water storage as per Amrit Sarovar Scheme of MoRTH.

4. Development of Amrit Sarovar

Under Amrit Sarovar Programme, water bodies are being developed by MoRTH/NHAI/other road development agencies and the desilting of existing water body is also being taken up for water harvesting and re-charge of ground water. The earth available from development of such water bodies is to be utilised for road works and plantations as per suitability of soil. The State Authorities have already been advised not to levy any royalty for borrowing of earth for development of water bodies under Amrit Sarovar Programme.



(7) सामान्य मिट्टी का निष्कर्षण, स्रोतन या खुदाई की निगरानी -

- (1) पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय, केंद्रीय सरकार रैखिक परियोजना के लिए सामान्य मिट्टी का उत्खनन, स्रोतन, खुदाई से पहले, उसके दौरान और बाद में आवधिक निगरानी करेगी ताकि यह सुनिश्चित किया जा सके कि इस परिशिष्ट में निर्धारित आवश्यक पर्यावरणीय सुरक्षा उपायों का ध्यान रखा गया है।
- (2) रैखिक परियोजना के लिए सामान्य मिट्टी के निष्कर्षण या स्रोतन या खनन की निगरानी तब तक की जाएगी जब तक कि निष्कर्षण पूरा नहीं हो जाता है।
- (3) केंद्रीय सरकार द्वारा इस संबंध में प्राधिकृत एक अधिकारी स्थल का निरीक्षण करेगा और उस स्थल को सही तरीके से पुनःविकसित किया जाना सुनिश्चित करने के पश्चात् एक समापन रिपोर्ट प्रदान करेगा।
- (4) समापन रिपोर्ट पूर्व और पश्चात् के फोटोग्राफों के साथ तुलनात्मक रूप से प्रस्तुत की जाएगी और उसके पश्चात्, परियोजना की निगरानी अपेक्षित नहीं होगी।

[फा.सं. आईए3-22/5/2024-आईए. III]

रजत अग्रवाल, संयुक्त सचिव

टिप्पण- मूल अधिसूचना भारत के राजपत्र में तारीख 14 सितंबर, 2006 के का.आ. 1533(अ) द्वारा प्रकाशित की गई थी और इस अधिसूचना में अंतिम संशोधन तारीख 29 जनवरी, 2025 के का.आ. 523(अ) द्वारा किया गया था।

MINISTRY OF ENIRONMENT, FORESTAND CLIMATE CHANGE

NOTIFICATION

New Delhi, the 17th March, 2025

S.O. 1223(E).—WHEREAS the Central Government in the erstwhile Ministry of Environment and Forests vide notification number S.O. 1533(E), dated the 14th September, 2006, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), (*hereinafter referred to as the said notification*) imposed certain restrictions on constructions of new projects or activities or expansion or modernisation of existing projects or activities and require prior environmental clearance before undertaking such projects or activities covered under the Schedule to the said notification;

AND WHEREAS the Central Government vide notification number S.O. 1224(E), dated the 28th March, 2020 amended the items 6 and 7 of Appendix-IX of the said notification, *inter alia*, to provide exemption from obtaining the prior environmental clearance for extraction or sourcing or borrowing of ordinary earth for linear projects such as roads, pipelines, etc., and for dredging and desilting of dams, reservoirs, weirs, barrages, river and canals for the purpose of their maintenance, upkeep and disaster management;

AND WHEREAS the National Green Tribunal, vide its order dated the 28th October, 2020 in O.A. No. 160 of 2020 titled Noble M. Paikada vs. Union of India, directed the Ministry of Environment, Forests and Climate Change to revisit the impugned notification dated the 28th March, 2020 within three months;

AND WHEREAS in compliance of the order of the National Green Tribunal, the Central Government in consultation with the Expert Appraisal Committee relating to the non-coal mining and river valley and hydro-electric projects, issued an Office Memorandum dated the 8th August, 2022 to clarify the applicability of the said notification for the excavation of ordinary earth from borrow area for linear projects and issued a standard operating procedure for borrow area identification, its operation, safety, environmental safeguards to be observed and redevelopment and vide another Office Memorandum dated the 12th July, 2023, issued a clarification regarding the exemption from the requirement of prior environmental clearance provided vide notification number S.O. 1224(E), dated the 28th March, 2020 for dredging and de-silting of dams, reservoirs, weirs, barrages, river and canals for the purpose of their maintenance, upkeep and disaster management;

AND WHEREAS the petitioner had filed a Civil Appeal No. 1628-1629/2021 titled Noble Paikada vs Union of India and Ors., before the Supreme Court and based on the hearings in the matter, the Central Government vide notification number S.O. 3840(E), dated the 30th August 2023 amended items 6 and 7 of Appendix-IX to the said notification, to the effect that the exemption provided therein shall be subject to the compliance of standard operating procedures and environmental safeguards issued in this regard from time to time and also issued an Office Memorandum dated the 21st August, 2023, with directions to the authorities concerned to enforce the standard

operating procedures and environmental safeguards covered in the Office Memoranda dated the 8th August, 2022 and 12th July, 2023.

AND WHEREAS the Supreme Court *vide* its judgment dated the 21st March 2024 in Civil Appeal Nos. 1628-1629 of 2021 titled Noble M. Paikada Vs Union of India has struck down item 6 of the Appendix-IX to the said notification, as amended from time to time, on the grounds that the term “linear projects” is not defined and is very vague and the process to be adopted for excavation has not been set out, thus, item 6 is a case of completely unguided and blanket exemption which is, per se, arbitrary and violative of article 14 of the Constitution of India;

AND WHEREAS in order to address all the issues and concerns raised by the Supreme Court, a draft notification for amending the said notification was published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (ii), *vide* number S.O.3099(E), dated the 2nd August, 2024, inviting objections and suggestions from all the persons likely to be affected thereby, within a period of sixty days from the date on which copies of the Gazette containing the said draft notification were made available to the Public;

AND WHEREAS the High Court of Kerala at Ernakulum in WP(C) No. 29810 of 2024 titled Sajeew Sebastian and Anr. Vs. Union of India and Ors., *vide* order dated the 5th September, 2024 directed the Central Government to publish the Malayalam version of the draft notification dated the 2nd August, 2024 which the Central Government in compliance of the order of the High Court has published the Malayalam translation of the draft notification for seeking public comments within a period of sixty days on the website of the Ministry of Environment, Forests and Climate Change and PARIVESH website;

AND WHEREAS the objections and suggestions received in response to the said notifications within the specified period have been duly considered by the Central Government.

NOW, THEREFORE, in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986), read with sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government hereby makes the following further amendments in the notification of the Government of India in the erstwhile Ministry of Environment and Forests, number S.O.1533(E), dated the 14th September, 2006, namely:—

In the said notification, in Appendix-IX,—

(a) for item 6 and the entries relating thereto, the following item and entries shall be substituted, namely:—

“6. Extraction or sourcing or borrowing of ordinary earth for the linear projects subject to the compliance of the conditions set out in Appendix XIV.”;

(b) after Appendix-XIII, the following Appendix shall be inserted, namely:—

‘Appendix-XIV

(See item 6 of Appendix-IX)

1. Definition of linear projects.— For the purpose of item 6 of Appendix-IX and this Appendix, “linear projects” means the projects of slurry pipelines, oil and gas transportation pipeline, highways or laying of railway lines, which require extraction or sourcing or borrowing of ordinary earth above the threshold of 20,000 cubic metre and does not require prior environment clearance under this notification.

2. Environmental safeguards for extraction or sourcing or borrowing of ordinary earth for linear projects.—

(1) All Linear projects shall follow the standard operating procedure set out in this Appendix.

(2) The Expert Appraisal Committee shall, while granting prior environment clearance for the projects requiring extraction or sourcing or borrowing of ordinary earth, include the environmental safeguards prescribed in this Appendix as part of the prior environmental clearance granted to them.

3. Standard operating procedure.—

(1) A Committee consisting of the following members (hereinafter referred to as the Committee) shall decide the quantum of ordinary earth that can be extracted, sourced or borrowed for a particular project based on the different criteria mentioned in paragraph (2) namely:—

(a) District Collector or District Magistrate or his authorised representative not below the rank of a district level Officer, in case the project is spread in more than one sub-division, or the Sub-Divisional Magistrate (if the project is restricted to one sub-division) —Chairman;

(b) District Forest Officer or his nominee —Member;

(c) an Officer of the State Pollution Control Board authorised by the Chairman of the State Pollution Control Board —Member;

(d) District Mines Officer or Assistant Director or Deputy Director or Geologist —Member-Secretary.

(2) The project proponent of the linear project, which requires extraction or sourcing, or borrowing of ordinary earth, shall make an application in the following Form to the Committee for the required quantity of ordinary earth.

FORM

PROFORMA FOR MAKING APPLICATION TO THE COMMITTEE

1.	Details of the project—	
	(i) Name of the project	
	(ii) Name of the company/ organisation	
	(iii) Registered address	
2.	Address for the correspondence—	
	(i) Name of the project proponent	
	(ii) Designation	
	(iii) Address	
	(iv) PIN code	
	(v) e-mail ID	
	(vi) Mobile No	
	(vii) Fax No.	
3.	Type of the linear project	
4.	Location of the linear project—	
	(i) Plot or Survey or Khasra number	
	(ii) Village	
	(iii) Tehsil	
	(iv) District	
	(v) State	
	(vi) PIN code	
	(vii) Latitudes and longitudes of the project or activity site	
	(viii) Survey of India Topo Sheet number	
	(ix) Copy of Topo Sheet	
5.	If project is executed in multiple States/Union territory, details thereof—	
	(i) Number of States/Union territory in which project will be executed	
	(ii) details of all the States/Union Territory where the project is located	
6.	Whether the project proposed to be located in border states: (Yes/No) if yes details thereof	
7.	Location of the site(s) from where the borrow earth is to be extracted—	
	(i) Plot or Survey or Khasra number; Village Tehsil District State PIN code	
	(ii) Latitudes and longitudes of the site	
	(iii) Survey of India Topo Sheet number	
	(iv) Copy of Topo Sheet	

	(v) Distance in metre/kilometre					
8.	Total ordinary earth requirement (in cubic metre—					
	Location	Type of material (sand/clay/ordinary earth)	Quantity per day (In tonnes)	Distance of the site of extraction from the project site where the material shall be used (in kms)	Mode of Transport	Method/ Equipment used for extraction
	Site 1					
	Site 2					
	Site 3					
9.	Total number of borrow pits					
10.	Planned length of haul roads (m)					
11.	Area of land earmarked for stockpile (sqm)					
12.	Details of stacking arrangement along with safeguards					
13.	If forest land involved: Yes/No					
	(i) Date of in-principle (Stage-I) approval;					
	(ii) Area diverted					
	(iii) If final (Stage-II) approval obtained and file number					
14.	(i) Tree cutting, if any					
	(ii) No. of trees cut for the project (if forest land not involved); and					
	(iii) details of tree cutting and planting of trees					
15.	(i) Present land use breakup in Ha					
	(ii) Agriculture area					
	(iii) Waste/barren area					
	(iv) Grazing/community area;					
	(v) Surface water bodies					
	(vi) Settlements					
	(v) Industrial					
	(vi) Forest					
	(vii) Mangroves					
	(viii) Marine area					
	(ix) Others (specify)					
	(x) Total					
16.	Land ownership pattern (prior to the proposed extraction of borrow earth) in Hactare [Forest land; Private land; Government land; revenue land; other land; Total Land]—					
	(i) Owned or leased					
	(ii) If owned, details thereof (attach proof of ownership)					
	(iii) If leased, details thereof (attach agreement with owner as Annexure)					

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	(iv) Layout plan (attach drawings as Annexure)	
17.	In case of linear project being located in Coastal Regulation Zone area— (i) Recommendation of State Coastal Zone Management Authority (ii) Copy of the Coastal Regulation Zone clearance for the linear project	
18.	Details of reclamation: Total afforestation plan	
19.	Ecological and environmental sensitivity (within 10 Km of site of borrow earth extraction)—	
	(i) Details of Ecological Sensitivity	
	Details of ecological sensitivity	Name
		Distance from the site (Km)
		Remarks
	Ecological sensitivity: (critically polluted area, severely polluted area, protected area, eco sensitive zones, wildlife corridors, etc.)	
	(ii) Name of the project proponent	
	Signature	
	Date	

(3) The Committee shall examine the application on the criteria set out in paragraph 4 and shall inform the project proponent about the permissible quantity of ordinary earth which can be extracted from one or more identified sites within forty-five days from the date of receipt of the application.

4. Criteria for environmental safeguards.—

(1) General safeguards.— (a) The project proponent shall identify the borrow area locations in consultation with the individual owners in case of private lands and the Department concerned in case of Government lands after assessing suitability of the material.

(b) The borrow area shall not be from agricultural or cultivable land and it shall be preferably from barren land, silted ponds and other Government lands and in case the earth from those land is not available for any reason the earth from agricultural or cultivable land may be obtained only as a last option.

(c) If the Government's authorities are creating or developing ponds and water bodies especially in a water stressed or scarce area, then, in such cases, the borrowed earth of those ponds or water bodies can be used by the user agencies of highways sector for the purposes of embankments.

(2) The extraction or sourcing or borrowing of ordinary earth is to be avoided on the following areas.—

- (i) lands close to toe line;
- (ii) irrigated agricultural lands and in case of necessity for borrowing from such lands, the topsoil shall be preserved in stockpiles;
- (iii) grazing lands;
- (iv) up to one kilometre from environmentally sensitive areas such as reserve forests, protected forests, sanctuary, National parks, conservation reserve, wetlands
- (v) unstable hillsides;
- (vi) water-bodies;
- (vii) streams and seepage areas;
- (viii) areas supporting rare plants and animal species;
- (ix) areas with predominant soft rocks.

(3) The extraction or sourcing or borrowing of ordinary earth shall be in the following order.—

- (i) cut material available from other road construction projects nearby;

- (ii) from dredging operations of ponds, lakes, rivers and canals after approval from the competent authority;
- (iii) from barren land or land without tree cover outside the road right of way;
- (iv) by excavating land and creating new water tanks or ponds as choice of land owner and in concurrence of local authority;
- (v) from excavation of proposed culverts and reuse of cut materials within proposed right of way;
- (vi) use of fly-ash, inert solid waste from the secured landfills and use of construction and demolition waste;
- (vii) granulated sludge from wastewater treatment plants;
- (viii) from agricultural land subject to the condition that the productive top-soil is stored separately and its reuse for plantation and agriculture.

(4) Specification of area fixed for extraction.—

- (i) extraction or borrowing pits should be rectangular in shape with one side parallel to the centre line of the road;
- (ii) no extraction or borrowing pits should be dug within 5 m of the edge of the right of way, after making due allowance for future development;
- (iii) extraction or borrowing pits where other conditions permit, should be well drained to prevent the breeding of mosquitoes and to ensure efficient drainage, the bed level of the borrow pits should, as far as possible, slope down progressively towards the nearest cross drain, if any, and should not be lower than the bed of the cross drain.
- (iv) when it becomes necessary to borrow earth from temporarily acquired cultivable lands, the depth of the borrow pits should not exceed 1.5 m and the top soil to a depth of 150 mm should be stripped and stacked aside, thereafter, soil may be dug out to a further depth not exceeding 1350 mm and used in forming the embankment and the top soil should then be spread back on the land.
- (v) The Guidelines or Standard Operating Procedure as laid down in the extant construction codes or manuals regarding Borrow pits shall be adhered to.

(5) Site Specific Measures and environmental safeguards.—

- (i) A 150 mm topsoil will be stripped off from the borrow pit and this will be stored in stockpiles in a secured designated area for height not exceeding 2 m and side slopes not steeper than 1:2 (Vertical: Horizontal) and the top soil shall be re-used for plantation and cultivation etc.
- (ii) Borrowing of earth will be carried out up to a depth of 1.5 m from the existing ground level
- (iii) Borrowing of earth will not be done continuously throughout the stretch.
- (iv) Ridges of not less than 8 m widths will be left at intervals not exceeding 300 m.
- (v) Small drains will be cut through the ridges, if necessary, to facilitate drainage.
- (vi) At location where private owners desire their fields to be levelled, the borrowing shall be done to a depth of not more than 1.5 m or up to the level of surrounding fields.
- (vii) Borrow area near to any surface water body will be at least at a distance of 15 m from the toe of the bank or high flood level, whichever is maximum.
- (viii) Borrow pits located near settlements will be re-developed immediately after borrowing is completed. If spoils are dumped, that will be covered with a layer of stockpiled topsoil.
- (ix) Borrow pits along the alignment shall be discouraged. If unavoidable the borrow pit should be minimum 5 m distance away from the edge of the Right of Way.
- (x) Also, no pit shall be dug within the offset width from the toe of the embankment required as per the consideration of stability with a minimum width of 10 m.

5. Submission of information.—

The project proponent shall, from time to time, as may be required by the Central Government or the Committee furnish such information or report as it may direct.

6. Re-development of borrow areas.—

(1) The project proponent shall return the borrow pit sites to a safe and secure area, which the general public should be able to safely enter by securing borrow pits in a stable condition through rehabilitation process and by filling the borrow pit approximately to the road surface in a progressive manner

(2) The borrow areas will be rehabilitated by exercising suitable options as follows:—

(i) Borrow pits will be backfilled with rejected construction wastes (unserviceable materials) compacted and will be given a turbing or vegetative cover on the surface and where it is not possible, then excavation slope should be smoothened, and depression is filled in such a way that it looks more or less like the original ground surface.

(ii) during works execution, the project proponent shall ensure preservation of trees during piling of materials; spreading of stripping material to facilitate water percolation and allow natural vegetation growth; re-establishment of previous natural drainage flows; improvement of site appearance; digging of ditches to collect runoff; and plantation may be carried out wherever feasible or pit may be developed for water storage;

(iii) appropriate endemic plant species for the planting programme should be selected in consultation with the local Forest Department if the area is to be afforested and they should be regularly monitored, and mortality replacement be carried out as and when required;

(iv) The project proponent shall keep record of photographs of various stages i.e., before using materials from the location (pre-project), for the period borrowing activities (construction phase) and after rehabilitation (post development), to ascertain the pre and post borrowing status of the area.

7. Monitoring of extraction, sourcing or borrowing of ordinary earth.—

(1) The Central Government in the Ministry of Environment, Forest and Climate Change shall carry out periodic monitoring before, during, and after extraction, sourcing, borrowing of ordinary earth for the linear project to ensure that the necessary environmental safeguards have been put in place as set out in this Appendix.

(2) The extraction or sourcing or borrowing of ordinary earth for the linear project shall be monitored till the extraction is carried out.

(3) An officer authorised in this behalf by the Central Government shall inspect the site and provide a closure report after ensuring the site has been redeveloped satisfactorily.

(4) The closure report shall be submitted along with comparative pre and post photographs and thereafter, the monitoring of the project shall not be required.⁹.

[F. No. IA3-22/5/2024-IA.III]

RAJAT AGARWAL, Jt. Secy.

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