

To,

Shri Alok Joshi
Principal Chief Conservator of Forests, Maharashtra
Nagur

27th September 2011

Dear sir,

Sub: permission granted to Andhra Wind Power Project Enercon-India, Maharashtra.

This letter is to bring to your notice the forest clearance granted to Andhra Wind Power Project Enercon-India, Maharashtra, on 10th December 2009, is based on conflicting facts. The forest clearance has been granted for a total Reserved Forest area of 194.66 hectares falling within the boundaries of 14 villages of Khed and Maval Taluka's in Pune District. A significant part of this area lies within 10 km radius of Bhimashankar Wildlife Sanctuary. The area in and around Kharpud village of Khed taluka is less than 3.5km from the sanctuary boundary (*ref 1: CCF (T) Pune's Letter D-1/Land/FCA-164/1092/2009-10 Dated 19 November 2009*).

Project clearance in an eco-sensitive zone

The ecological value of Bhimashankar wildlife sanctuary has been well established. These forests are the northern most stretch of semi-evergreen and seasonal cloud forests and home to some endangered fauna and flora such as the Indian Giant Squirrel (the subspecies found here is endemic to Bhimashankar), the leopard, some rare medicinal plants and the bio-luminous fungus, among others. The above mentioned area, for which clearance has been granted, is an extension of similar forests to the south of the sanctuary forming the southern corridor and buffer for the fauna and flora.

As per the Wildlife Conservation Strategy 2002, adopted by the Indian Board of Wildlife in January 2002, lands falling within 10 Km radius of National Parks and Wildlife Sanctuaries should be notified as eco-fragile zones under section 3 (V) of Environment (Protection) Act. This has been further reinforced by Guidelines for Declaration of Eco-sensitive Zones around National Parks and Wildlife Sanctuaries, issued by MoEF in February 2011. Additionally, MoEF Guidelines for diversion of forest land for non-forest purposes under the Forest (Conservation) Act, 1980- For projects utilizing wind energy thereof dt. 14.05.2004, Section 2 (i)

and (ii) suggest that no wind energy projects should come up within National Parks and Wildlife Sanctuaries and should be at a safe distance from the same.

Granting of this permission is in violation of both the above policies. It also violates the very spirit for which the Indian Board of Wildlife adopted the strategy, namely to provide an effective buffer and corridor for wildlife sanctuaries and national parks. It is now well established that conservation of biological diversity cannot happen solely within the confines of protected areas (PAs) and hence ensuring the ecological integrity of the surrounding areas is critical for the long term survival of these PAs.

Ecological and cultural value of the said area

The following points illustrate the ecological and cultural value of the area that has been diverted in favour of the company:

1. This area has been included in the most sensitive working circles by the forest department, viz, Protection Working Circle and Soil and Moisture Conservation Cum Catchment treatment working circle (*ref 2: Site Inspection Report by CCF (T) Pune Forest Circle, Pune dated 10.12.2008*).
2. As these forests are the southern extent of the same forests as found in Bhimashankar and are contiguous with those forests they form an important corridor and buffer area of the sanctuary (*ref 3: Site Inspection Report by CCF (T) Pune Forest Circle, Pune dated 10.12.2008*).
3. There is a sacred site at Shingi cliff at Kude Budruk village (1287 m) where an old Shiva temple is located, which is held in high regard locally. Presence of many other similar sacred sites within this landscape which falls within the project area
4. The site inspection report of the CF, Pune while supporting granting of forest clearance also mentions that “A very large number of trees mostly regeneration poles will have to be removed for the 13 mt wide road alignment which have come up due to protection given to the forests” (*ref 4: Site Inspection Report by CCF (T) Pune Forest Circle, Pune dated 10.12.2008*).
5. The area is known to be the habitat of endangered mammals, reptiles and birds, particularly, including the Giant Squirrel and leopards, among many other flora and fauna species (*ref 4: census report 2006; DFO*

Junnar's Letter no. A D-5/Land/Survey/808/2006-2007 dated 21.09.2006; Census Report Khed Division 2010 and Panchanama of Leopard attack by Tahasildar, Khed on 26.12.2010).

6. Given the presence of some important medicinal plants in this area, a Medicinal Plant Conservation Area (MPCA) has been declared by the forest department with support from Foundation for Revitalisation of Local Health Traditions (FRLHT) in Kharpud village which is located between the sanctuary and the area where the windmills have been erected.

These facts were known at the time of granting the permission in 2009 and many of these were clearly mentioned in the “Inspection Report on the Natural Status of the Original Fauna and Flora of the Protected Forest Land, 87.57 ha in the Junnar Forest Division” sent by the Range Forest Officer, Khed taluka, Pune district vide his letter No. Wind Mill/952 of 2008-09, Chakan, dt. 28th December 2008 to the Dy Conservator Forest, Junnar Division. This letter mentions that:

- The 87.57 ha of land consists of evergreen forests, rich biodiversity and is located adjacent to Bhimashankar and helps enormously to protect and conserve environmental equilibrium.
- Although the actual construction of the windmill will be in 87.5771ha in Khed taluka, the actual impact because of other allied activities such as road construction will be on the total area of 3541.84ha.
- This project will also affect the MPCA and the future of the highly threatened medicinal plants being conserved here.
- Such destruction of these valuable high altitude forests is likely to impact the rainfall pattern in this area.

Clearance granted based on facts misrepresented by higher authorities in the forest department

The letter of the Range Forest Officer, Junnar was ignored and the clearance was granted based on the site visit report of Conservator Forests, Pune (*ref 7: Sr. Assistant Inspector General of Forests' Letter to Principal Secretary (Forest), Govt. of Maharashtra dated 19 March 2009, Revenue and Forest Department Dated 20.02.2009*). This site survey report has many statements which are contradictory to the facts mentioned above:

1. “On the foothills bushy growth is more than trees. Soil depth on the slopes is too shallow to support any vegetation, esp trees.” This is contradictory to another statement mentioned above citing good regeneration because of protection.
2. “This area has a 200ha of medicinal plant conservation area, and a big patch of vegetation in forest area”. “Hence there will not be any adverse impact on wildlife and avi fauna of Bhimashankar”. This clearly indicates that the MPCA and the patch of forest form an important corridor between the sanctuary and the site given to the company. Additionally, assessment of the impact on avifauna which was supposed to be carried out has not been done yet as mentioned below.
3. “Does not have any significant wildlife and no threatened/endangered species have been reported from this area”. This is contrary to the forest department census report of 2006 which mentions presence of Giant Squirrels in the forests of Kharpud where the windmills are currently being erected and large scale tree felling is being carried out (*ref 8: see accompanying photos*)

Clearance granted under certain conditions which are not being adhered to.

Based on the recommendation by the Forest Advisory Committee (FAC), forest clearance was granted under certain conditions. At least, two important conditions have not been fulfilled by the company, namely,

1. “The free movement of the local villagers, if any, within and surrounding area will be ensured”. The company instead of ensuring free movement of the local people has erected barriers and put up notices in the name of the forest department to restrict entry to the site.
2. “A comprehensive study of ecology of birds particularly Raptors shall be completed by an organisation/individual as per terms and conditions to be drawn by the Forest Advisory Committee and the outcome will be binding on the User Agency”. This has not been done by the company as yet.

Violation of Forest Rights Act 2006 and MoEF Circular

For this project a forest clearance has been obtained for a total Reserved Forest area of 194.66 hectares falling within the boundaries of 14 villages of Khed and Maval Taluka’s. The process of FRA in these villages has not been initiated as per the discussions with the villagers in Kharpud and Kude Budruk villages. *This is a violation of the government circular of 2009 (F. No. 11-9/1998-FC (pt)*

Government of India, Ministry of Environment and Forests, (FC Division). As per this circular it is mandatory to complete processes under FRA before considering an application for forest clearance. Since the company has already started construction activities and restricted entry to the sites, the processes of claiming rights under the Forest Rights Act 2006 cannot be completed. This is a direct violation of Section 4 (5) of FRA which obligates the government to ensure that rights of STs/OTFDs are protected till recognition process is complete.

Impacted village complains of fraud by the company

The company had submitted resolutions from the Forest Rights Committees (FRCs) of the 14 villages, supposedly accepting the project. This is procedurally incorrect as the resolution for acceptance of the project needs to be passed in the gram sabhas of the villages. The FRC does not have any legal right to accept or reject a project, it is only a committee set up to facilitate the process of claiming rights under the Forest Rights Act. As clarified in government circular of 2009 (F. No. 11-9/1998-FC (pt) Government of India, Ministry of Environment and Forests, (FC Division), a resolution accepting or rejecting a proposal needs to be given by the gram sabha of the village, after having discussed the proposal with 50% quorum of the gram sabha.

Villagers from Kharpud and Kude Budruk of Khed taluka deny having given any such permission to the company. Kude Budruk has filed a complaint with the Collector of Pune district in a meeting held on 20/12/2010 (*ref 9: Letter from Collector, Pune District 7.02.2011 with minutes of the meeting with Kude villagers and Enercon Company officials*) stating that “the no objection resolution that the company has sought from the village is bogus as there are no minutes in any gram panchayat meetings about such a resolution having been passed”. They have accused the company of having obtained these resolutions by bribing the sarpanch and the gram sevak”. The Collector has ordered an inquiry into the matter, the results of which are not yet available.

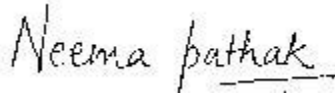
Given all the above factors we request you to withdraw the clearance granted for windmills and hence felling of trees and diversion of forest land in this ecologically sensitive zone.

Additionally, similar projects are coming up all across the Northern Western Ghats impacting other protected areas such as Koyna wildlife sanctuary and Harishchandragad wildlife sanctuary. There is an urgent need to look at the

cumulative effect of all these projects in this sensitive area, in addition to looking at them as individual projects.

Look forward to a quick and positive response from you,

Yours sincerely,

A handwritten signature in black ink that reads "Neema pathak". The signature is written in a cursive style with a horizontal line under the name.

Neema Pathak Broome (Kalpavriksh, Pune)

Saili Palande (Kalpavriksh, Pune)

Atul Kumar Kale (local RTI activist)

Vijay Paranjpe (Independent researcher)

c.c.

1. Forest Secretary Maharashtra