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Government of India
Ministry of Shipping

Transport Bhawan, Parliament Street
New Delhi - 110 001

2nd November, 2017

Office Memorandum

Subject: Requirement of Environment Clearance (EC) for Jal
Marg Vikas Project (JMVP) – Minutes reg.

The undersigned is directed to say that a meeting was held under the
Chairmanship of Hon'ble Minister of Shipping, RT&H, Water Resources
RD&GR on 24th October, 2017 at 6.00 P.M. in the Committee Room, Shram
Shakti Bhawan, New Delhi on the above subject.

- 2 The minutes of the meeting are enclosed for information.

Paras Sacha
Advisor, Ecological
2.11.2017

Copy As Above.

1. Secretary, Ministry of Water Resources, River Development &
Ganga Rejuvenation, Shram Shakti Bhawan, New Delhi.
2. Secretary, Ministry of Environment & Forests and Climate
Change, Indira Paryavaran Bhawan, Jor Bagh Road, New Delhi.
3. Chairperson, Inland Waterways Authority of India, A-13, Sector-1,
Noida - 201 301, UP

Copy to:

1. PS to OSD to Hon'ble Minister of Shipping and RT&H.
2. PS to Hon'ble Minister of Environment and Forests, Climate
Change and Science and Technology.
3. PS to Minister of State of Water Resources, River Development &
Ganga Rejuvenation.

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Subject: Requirement of Environment Clearance (EC) for Jal Marg Vikas Project (JMVP) - Minutes reg.

1. A meeting was held at the level of Hon'ble Minister of Shipping, RT&H and Water Resources, RD and GR and the Hon'ble Minister of Environment & Forests, Climate Change, and Science & Technology on 24th October, 2017 at 6:00 p.m. in the Committee Room, Shram Shakti Bhawan, New Delhi on the above subject. The list of participants in the meeting is at Annex.
2. The Inland Waterways Authority of India (IWAI) made a presentation on the subject wherein it was informed that the JMVP was being implemented for capacity augmentation of navigation on the Halida-Varansai stretch of National Waterway-1 (NW-1) with technical assistance and investment support of the World Bank. It was stated that it would lead to improvement in navigability by providing an assured depth of 2.2 to 3 meters and a bottom channel width of 45 meters for movement of 2000 DWT vessels. It was further informed that Public Investment Board (PIB) had recommended the proposal on 6.3.2017 with an observation that the issue of non-requirement of prior Environmental Clearance (EC) for maintenance dredging in rivers be resolved between the Ministry of Shipping (MoS) and the MoEF&CC before seeking approval of Cabinet.
3. The IWAI specifically highlighted the following points in its presentation:
 - 3.1 The fact as to whether Environmental Clearance (EC) was required to be obtained for the implementation of Jal Marg Vikas Project (JMVP) - involving dredging from the river bed - was to be seen with reference to the provisions contained in (i) EIA Notification dated 14th September 2006 issued by the MoEF&CC, (ii) the Notification dated 1st December 2009, and (iii) Notification dated 15.01.2016.
 - 3.2 The Schedule under Notification dated 14th September 2006 contains the list of projects or activities requiring prior environmental clearance. The entry at Sr. No. 7(e) is reproduced below:

(1)	(2)	(3)	(4)	(5)
7(e)	Ports, Harbours	> 5 million TPA of Cargo handling capacity (excluding fishing harbours)	<5 million TPA of cargo handling capacity and/or ports/ harbours > 10,000 TPA of fish handling capacity	General Condition shall apply

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3.3 The amendment Notification dated 1st December 2009 of the MoEF&CC is the next in order. The said amendment Notification has following relevant provisions:

- "(iii) in para 7(i), in sub-para III relating to Stage (3) - Public Consultation, in Clause (i), -
 - (i) after item (c), the following item shall be inserted, namely:-
 - (cc) maintenance dredging provided the dredged material shall be disposed within port limits."
- (xiv) against item 7(a) -
 - (a) in column (2) for the entry the following entry shall be substituted, namely:-
"Ports, harbours, break waters dredging."

3.4 Further, the Notification dated 15th January 2016 contains Appendix IX, which spells out certain cases exempted from requirement of Environmental Clearance. The relevant portion is extracted below:

**"APPENDIX-IX
(See para graph 7(i) (B))
EXEMPTION OF CERTAIN CASES FROM REQUIREMENT OF ENVIRONMENTAL CLEARANCE**

The following cases shall not require prior environmental clearance, namely:-

- 1
- 5 Dredging and de-silting of dams, reservoirs, weirs, barrages, river and canals for the purpose of their maintenance, upkeep and disaster management."

3.5 It was clear from a reading of the above that the Original Notification of 14th September 2006, dealt with Ports and Harbours, entries 7(i) and 7(a) under amendment Notification dated 1st December 2009 specifically related to 'dredging' in Ports, harbours and breakwaters whereas the exemption granted under Appendix IX was specifically applicable to dredging and de-silting in dams, reservoirs, weirs, barrages, river, and canals for the purpose of their maintenance, upkeep and disaster management. As such, 'dredging' in inland waterways, jetties and multimodal terminals was specifically exempted under the amended Notification dated 15.01.2016.

3.5 Further, Sustainable Sand Mining Management Guidelines, 2016 notified by the MoEF&CC re-iterate the cases exempted from being considered as "mining" for the purpose of requirement of Environmental Clearance. Sr. No. 6 under the said guidelines is reproduced below:

- "6. Dredging and de-silting of dams, reservoirs, weirs, barrages, river and canals for the purpose of their maintenance, upkeep and disaster management."

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- 3.6 Making a reference to the Notification provisions as mentioned above, the MoEF & CC had stated in its Affidavit filed before the NGT that EIA Notification SO No. 1533 dated 14th September 2006, as amended from time to time, mentions ports, harbours, break waters, dredging, and it did not mention jetty, multimodal terminal and Inland Waterways. It further stated in the Affidavit that the EIA Notification, 2006 and its amendments from time to time did not mention jetty, multimodal terminal and inland waterways.
- 3.7 It was further explained that while recommending the proposal on 6.3.2017, the PIB had indicated the need for resolution of the limited point of non-requirement of EC for maintenance dredging in rivers before seeking the approval of Cabinet. However, the Expert Appraisal Committee of MoEF&CC considered the issue of EC for the JMVP. The Expert Committee had recommended that maintenance dredging involved in this project could not be exempted from environmental clearance as the project had not obtained any prior environmental clearance as provided in column 5 of item 7(e) of EIA Notification, as amended from time to time. In order to bring more clarity regarding the applicability of such projects under EIA Notification, 2006, the Committee recommended for amending the EIA Notification 2006 to include the Waterways, jetties and Multimodal Terminals under the list of items requiring prior environmental clearance in column 2 against item 7(e) of the schedule requiring prior environmental clearance as Category A projects.
- 3.8 Since there was difference of opinion between the MoS and the MoEF&CC, the Ministry of Shipping took the matter to the Committee of Secretaries (CoS) for an early resolution of the matter. The minutes of the CoS held on 29.9.2017 were also discussed. It was also informed that Department of Economic Affairs and the NITI Aayog had also supported the position taken by the MoS on the ground that maintenance dredging was merely a de-silting process.
4. Secretary, MoEF&CC stated that the MoEF&CC felt that the JMVP should apply for EC keeping in view the involvement of dredging component, which attracted the provisions of EIA Notification, 2006 as amended from time to time and in view of the interpretation taken by the Expert Appraisal Committee and its recommendations on the subject. He assured that the MoEF&CC would process the application for EC on a fast track basis if the JMVP applied for the same.
5. The house took note of various points advanced by the MoS and the MoEF&CC. It observed that a plain reading of the provisions in the EIA Notification, as amended from time to time, the exempted cases listed under Appendix-IX, the exemption reiterated in

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the Sustainable Sand Mining Guidelines of 2016, and even the position taken by the MoEF&CC in its affidavits filed before the NGT, it left little doubt that 'dredging' of silt in the river beds to keep the same navigable did not require Environmental Clearance. It was further observed that the comments and recommendations of the EAC could not be given priority over the provisions contained in the EIA Notification, especially when its recommendations had not been incorporated in the Notification itself, more so, when the EAC had not given any cogent reasons in support of their observations and recommendations. As matter of fact, the recommendations of the EAC would amount to introducing a change in the EIA Notification vis-à-vis Schedule IX thereof, which required the prescribed process to be followed. Keeping the aforesaid in view, it was agreed that maintenance dredging for navigational channel in Inland Waterways was aimed at maintaining adequate depth of the waterway for safe navigation and as per the extant legal position, this activity did not require obtaining prior EC. Similarly, construction of Multi-Modal Terminals, jetties etc. and setting up of navigational aids etc. do not require obtaining prior EC. Accordingly, the Ministry of Shipping was advised to submit the proposal seeking approval of JMVP for consideration and approval of CCEA as soon as possible.

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**List of participants at the meeting held on 24.10.2017 to consider
Environmental Clearance for JMVP**

Hon'ble Ministers

1. Shri Nitin Gadkari, Hon'ble Minister of Shipping, RT&H and Water Resources, RD&GR
2. Dr. Harsh Vardhan, Minister of Environment & Forests, Climate Change and Science and Technology
3. Shri Arjun Singh Meghwal, Minister of State for Water Resources, RD&GR

Officers

1. Dr. Amarjit Singh, Secretary, Ministry of WR, RD&GR
2. Shri C.K. Mishra, Secretary, Ministry of MoEF & Climate Change
3. Shri Y.S. Malik, Secretary, RT&H and Shipping
4. Ms. Nutan Guha Biswas, Chairperson, Inland Water Authority of India
- 4-5. Shri Gyanesh Bharti, Joint Secretary, MoEF & CC
- 5-6. Shri Rajat Sachar, Adviser (Eco.), Ministry of Shipping
- 6-7. Shri Parvir Pandey, Vice Chairman, Inland Waterways Authority of India
- 7-8. Shri S.K. Gangwar, Member (Technical), Inland Waterways Authority of India