



# **WILDLIFE FIRST**

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3<sup>rd</sup> August, 2011

**MOST URGENT**

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The Chairman  
Karnataka Electricity Regulatory Commission  
6th & 7th Floors, Mahalakshmi Chambers,  
9/2, Mahatma Gandhi Road,  
Bangalore-560 001

**Hon'ble Chairman:**

**Sub: Objections / Comments in the matter of Complaint No.7/11**

In public interest of protecting the fragile ecosystem of Kudremukh National Park and having extensive knowledge on the issue of closure of mining in Kudremukh we wish to present the following facts –

1. The Hon'ble Supreme Court based on an Interlocutory Application (IA No. 670/2001 in WP 202/1995) filed by Wildlife First, ordered the closure of mining operations by 31-12-2005 in eco-sensitive rain forests of Kudremukh National Park. A copy of the Judgment dated 30-10-2002 is produced at ***Annexure 01***.
2. The Hon'ble Supreme Court rejected the Review Application (IA 1150 in IA 1010, 1374 in WP 202/1995) of KIOCL Ltd and other on 30-09-2005 vide the following Order:

**"In terms of the order dated 30<sup>th</sup> October, 2002, no mining is permissible after 31<sup>st</sup> December, 2005".**

A copy of the said Order is produced at ***Annexure 02***.

3. The Hon'ble Supreme Court in **IA 1458 in IA 1010 in IA670/2001 dated 15-12-2006** has also directed that the Government take possession of the mines and implement the mine closure plan with "*no or minimal disturbance to the unbroken area*".

A copy of the said Judgment is produced at ***Annexure 03***.

4. The 30 year mining lease executed on 24/July/1969 demised on 24/July/1999. After that the lease was never renewed and KIOCL was allowed to operate only on temporary working permissions after which the Hon'ble Supreme Court granted time only up to 31/12/2005 to wind up the mining operations. In this view of the matter, KIOCL cannot even be in legal possession of either the 3703 ha of the fully notified National Park area or the 1401 ha of Government land in the lapsed lease area situated within the limits of the National Park.

5. The Forest Advisory Committee (FAC), a statutory Committee under the Forest (Conservation) Act, 1980, while granting forest clearance to the proposal of diversion of 172.53 ha of forest land for the construction of UPCL (Udupi Power Corporation Ltd.) 400 kv D/C line, recommended that loss of corridor/bio-diversity values due to impact of the power transmission lines in the region must be compensated by restoring corridor values by dismantling the older Kemmar-Kudremukh power line and allied structures which passes through Kudremukh National Park. FAC has also concluded that such dismantling of mining related infrastructure is already mandated by final judgment of Supreme Court in the Kudremukh case, and the power line recommended for dismantling present serves only to the KIOCL and its operations. A copy of the FAC proceedings is produced at **Annexure – 04**.

6. Thus, as per the said Supreme Court judgments and the recommendations of Forest Advisory Committee, the KIOCL has no legitimate right over the lapsed leased land in the Kudremukh National Park after the demise of the original lease and the expiry of the time period granted by the Hon'ble Supreme Court upto 31-12-2005.

7. The covenants in the lapsed mining lease clearly empower the State Government to effect a forfeiture of all mining infrastructure including plant, machinery, powerlines etc which have not been removed by the lessee within six months of the demise of the lease.

8. KIOCL has no *locus standi* to approach this Hon'ble Commission as KIOCL does not even possess any lease over the said area to claim for retention of the Kemmar-Kudremukh power line.

In view of all the above facts, and the justification provided, it is humbly prayed that the application filed by KIOCL should be dismissed and KPTCL may be directed to immediately dismantle the Kemmar-Kudremukh transmission line as per the recommendations of the Forest Advisory Committee.

It is also prayed that an opportunity as provided under the KERC (General & Conduct of Proceedings) Regulations, 2000 in public interest be given to us to produce material germane to the issue if the Hon'ble Commission admits the said complaint.

Sincerely

Praveen Bhargav  
Trustee