



WILDLIFE FIRST

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2. The Member Secretary
National Tiger Conservation Authority
Annexe No.5, Bikaner House, Shahjahan Road,
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Sirs:

Sub: Inputs for Guidelines on Core, Buffer Areas and Tourism

**Ref: (1) Orders of the Hon'ble Supreme Court in SLP (Civil) 21339/2011
(2) Guidelines for Ecotourism in and around Protected Areas**

Wildlife First, a former member of the National Board for Wildlife and other expert committees is submitting the following '**Inputs**' for due consideration in accordance with the Orders of the Hon'ble Supreme Court referred at (1) above.

Inputs on Guidelines:

1. **Guidelines formulated by the National Tiger Conservation Authority (NTCA) must be deliberated and approved by the National Board for Wildlife (NBWL)**

Justification:

1.1: All Tiger Reserves in the country currently are Sanctuaries and/or National Parks (Protected Areas –PAs) established under the provisions of Chapter IV of the Wildlife (Protection) Act, 1972 (WLPA). An overlapping or additional notification has been issued under Section 38-V of the WLPA to constitute PAs with Tiger populations as Tiger Reserves after the 2006 amendment. Thus, all Tiger Reserves continue to have the status of a Sanctuary/National Park (PA).

1.2: It appears that an attempt is being made to create an impression before the Hon'ble Court that Tiger Reserves have an exalted legal status. The fact of the matter is that its strength is due to its status as a National Park/ Sanctuary without which Tiger Reserves will merely have the status of a Conservation Reserve where even entry with a weapon is not prohibited (S 31) notwithstanding the much bandied term 'inviolable' which is not even defined in the WLPA.

1.3: Section 5-C clearly empowers the NBWL to advise the Central Government and State Governments in framing policy, restriction of activities etc. in PAs.

1.4: The WLPA accords primacy to the NBWL on all matters concerning PAs. This is established on a plain reading of Sections 38-O (g), 38-W (1) & (2) which make it mandatory for the NTCA to place its advice/recommendations before the NBWL for approval. Furthermore, no construction of Commercial Tourist Lodges in Sanctuaries and National Parks can be undertaken without the prior approval of NBWL under Section 33 (a). Interestingly, this important section concerning tourist lodges does not apply to a Tiger Reserve since it is not included in Section 38-V (2). It will be applicable only to those Tiger Reserves which are either a Sanctuary or a National Park.

Input/Conclusion:

Therefore, Guidelines referred at (2) above, formulated by the NTCA must be placed before the NBWL, which is the apex statutory body on wildlife and Protected Areas chaired by the Prime Minister. The Ecotourism policy approved by the NBWL after due deliberation, must then be filed before the Hon'ble Supreme Court.

2. Bona fide conservation monitoring, education, research and training activities must be permissible in both Core and Buffer Areas.

Justification:

2.1: Presently closure of Tiger Reserves for tourism is also being interpreted in some areas as complete closure of Reserves for all activities including bona fide conservation monitoring, education research and training by wildlife NGOs/conservationists/biologists.

2.2: The permit regime under Section 28 of the WLPA is the same for both PAs and Tiger Reserves which makes a clear differentiation between tourism and other conservation activities. While tourism is specifically dealt with under clause (d) of sub-section (1), investigation or study of wild life (includes habitats) and purposes ancillary or incidental thereto are dealt with under clause (a). Likewise Scientific Research is dealt with under clause (c).

2.3: The Hon'ble Supreme Court in IA 1220 in IA 548/2000 in WP 202/1995 has also clarified that –

“...research and monitoring activities, etc. are undertaken for protection and conservation of the protected areas and therefore permissible...”

Input/Conclusion:

Therefore, the revised Guidelines must unambiguously clarify that bona fide conservation monitoring, education, research and training and such other activities ancillary or incidental thereto, by NGOs, conservationists, scientists and those who are or have served as Hon Wildlife Wardens, members of SBWLs/ NBWL/ NTCA etc, are permissible in both Core and Buffer Zones of Tiger Reserves. These are also permissible under various provisions of the WLPA.

3. Buffer zones should include only forest areas and not private lands and villages

Justification:

3.1: Section 38-V (2) clarifies that the provisions of Sections 18(2), 27 (2) (3) & (4), 30, 32 and 33 (b) & (c) apply to a Tiger Reserve as they apply to a Sanctuary. The provisions contained therein impose restrictions on littering the grounds of a Buffer zone (S 27(4); causing or kindling a fire (S 30) and use of injurious chemical substances (S 32). They also empower the Chief Wildlife Warden/State Government to take measures for improvement of any habitat and enforce ecologically compatible land uses in the Buffer zones (S 33(c) and S 38-V (3) (b).

3.2: On the ground, this could well translate into preventing burning of land after cropping or even cooking in an extreme case; restrictions on usage of pesticides which can be injurious to tigers/prey; and prescriptions on changing cropping patterns in Buffer Zones of Tiger Reserves.

3.3: Some State Forest Departments are notifying privately owned agricultural landscapes including entire village limits not encompassed within any forest areas as Buffer zones and even attempting to impose some controls. This may lead to serious conflicts.

Input/Conclusion:

The Revised Guidelines should make it clear that private lands and villages which are not encompassed by forests (ie those which are not enclosures within forests) must not be notified as Buffer Zones of Tiger Reserves since a Buffer Zone is also an integral part of a Tiger Reserve and the WLPA imposes various restrictions which will be practically impossible to enforce besides creating un-necessary hostility with local communities.

4. At least 25% of the permissible tourism capacity must be controlled by the Forest Department and offered at subsidized rates for encouraging and creating interest in nature.

Justification:

4.1: There are many examples where a large portion of the permissible capacity of vehicles is allocated /auctioned to high-end private and Government owned Resorts. For instance in Karnataka, it has become prohibitively expensive to responsibly enjoy nature due to a monopolistic situation created in favour of the State owned Resort which alone is authorized to run safaris. One seat in a jeep is charged around Rs. 1250 in Bandipur. For eg. Parents from a middle class family with two interested children will have to spend nearly Rs. 10,000/ just to do two trips (without stay). This will eliminate reasonable opportunities for an entire section of the society from where the next generation of wildlife biologists, forest officers, conservation activists etc will probably emerge.

Input/Conclusion:

Therefore, the Revised Guidelines must clarify that such monopolistic situations must not be created in favour of either a private or government owned resort and at least 25% of the permissible tourism capacity must be controlled by the Forest Department and a decent quality of experience offered at subsidized rates for encouraging interest in nature amongst students and other middle income groups who cannot afford the exorbitant rates for safaris charged by such high-end resorts.

5. Present Guidelines appear to be in excess of the WLPA

Justification:

5.1: On a reading of Para 2.1.9 it emerges that a Local Area Committee (LAC) is sought to be created to make recommendations to the State Government on Eco-tourism and landscape management of Tiger Reserves. However, Section 8 of the WLPA empowers the State Board for Wildlife to perform such duties. Further, there are other provisions as well including S 33-B (Advisory committee for Sanctuaries); S 38-U (Steering Committee for ensuring co-ordination, monitoring and protection for Tiger Reserves).

5.2: Notified 2007 NTCA Guidelines - 3, 5 & 6 already provide for constitution of a Tiger Reserve Foundation for conservation and eco-tourism initiatives, a Governing body for overall policy guidance and an Executive Committee for day to day management.

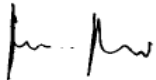
5.3: It appears that new guidelines are sought to be issued by constituting some committees that are probably ignorant or have little understanding of established legal procedures and are attempting to make recommendations in excess of the Act /Rules/existing guidelines which, apart from creating confusion, may not be in conformity with law.

Input/Conclusion:

Therefore, the Guidelines must be suitably modified and it must be ensured through a thorough legal scrutiny that the Revised Guidelines in its entirety is strictly in consonance with the existing Wildlife (Protection) Act, 1972, Rules and Guidelines already notified.

We request that these five specific '**Inputs**', which is supported by proper justification and legal references, be appropriately considered and the Ecotourism Guidelines duly revised.

Sincerely



Praveen Bhargav
Managing Trustee

Copy to: The Director General of Forests & Special Secretary