



BEFORE THE NATIONAL GREEN TRIBUNAL,
EASTERN ZONE BENCH, KOLKATA.

Original Application No. 131/2024/EZ

Subhash Datta Applicant(s)

Versus

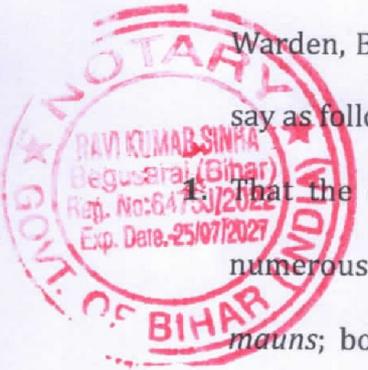
State of Bihar & Ors. Respondent(s)



COUNTER-AFFIDAVIT ON BEHALF OF RESPONDENT NO. - 7

Most respectfully showeth:

I, Abhishek Kumar Singh, son of Rama Shankar Singh, aged about 35 years, by faith Hindu, by occupation service, working as Divisional Forest Officer -cum- Wildlife Warden, Begusarai Forest Division, Begusarai, Bihar, do hereby solemnly affirm and say as follows:



1. That the entire floodplain of river Ganga and its tributaries in north Bihar has numerous interspersed wetlands and minor freshwater bodies – known as *taal*, *chaur*, *mauns*; both seasonal and perineal that falls on the Central Asian Flyway, where migratory birds come, rest and breed during the Indian winters. The population of such – migratory and resident birds in these areas has historically been reported to be in lakhs.
2. That, while most of these *chours* are between 100 ha and 200 ha, while a few exceed 1,000 ha, with an average depth of 1.5 m during the monsoon. As the *chours* dry out during summer season – especially with the heat waves during May-June, the exposed substrate becomes covered with vegetation. That while the total area and number of such wetlands is unknown, these wetlands including *taal*, *chours* and *mauns* are

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biodiversity hotspots, and have high conservation value. That, and as such, the entire wetland ecosystems of north Bihar are inter-linked.

3. That therefore, a very liberal approach is required when analysing any individual wetland ecosystem, and hence no one wetland ecosystem can be looked in isolation.
4. That, in this respect the Kabartaal Wetland & the Kanwar Lake Bird Sanctuary is distinct and unique because it is Bihar's first Ramsar site, having well recognized social, cultural, ecological and biodiversity significance.
5. That the Kanwar Lake Bird Sanctuary consists of several large and small, shallow permanent and ephemeral wetlands of which Kabartaal is the largest and most prominent from the point of view of biodiversity and ecology. That other major / minor wetlands interconnected with the Kabartaal are – Nagri Jheel, Bikrampur Chaur, Rajakpur Chaur, Chalki Chaur, Chakka-Matihani Chours, Malipur- Brahampur Chours, Rajor Chaur, Dasin-Turki Chours, Korai- Sajanpur Chours, and Dunhi Chaur, etc. of size between 100-200 hectares, most of which lie within the stated area of the said Kanwar Lake Bird Sanctuary.
6. That the notification of Kabartaal under Wetland (Conservation and Management) Rules, 2017 is currently under process. That the Kabartaal wetland (2620 hectares area) lies within the larger Kanwar Lake Bird Sanctuary, of total notified area 6311.63 hectares (which is 15780 acres) – notified in 1989. That the entire taal, mauns and chours around the Kanwar Lake cover more than 14000 hectares.
7. That since any biodiversity or ecology related disturbance within the sanctuary disturbs the Kabartaal wetland and vice versa. That therefore, the Zone of Influence of the Kabartaal is the entire Kanwar Lake Bird Sanctuary.

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8. That the main issues plaguing the Kabartaal & Kanwar Lake Bird Sanctuary are - undemarcated land, agricultural & concrete encroachment, absence of water and law & order problems.

9. That, therefore it is humbly requested of the honourable National Green Tribunal to kindly consider the wider "zone of influence" of the Kabartaal Wetland - namely the Kanwar Lake Bird Sanctuary, while considering the judgment and/or proceedings in the matter of this petition related to the Kabartaal Wetland.

For humble submission to the honourable National Green Tribunal, Eastern Zone Bench, Kolkata, this document is true to the best of my knowledge.

PARAWISE REPLY ON BEHALF OF RESPONDENT NO. - 7

1 --NO COMMENT--

2 --NO COMMENT--

3 --NO COMMENT--

4 --NO COMMENT--

5 --NO COMMENT--

6 --NO COMMENT--

7 That historically the population of resident and migratory birds in and around the Kabartaal has been reported in lakhs. But the current population as counted in the Annual Waterbird Census, Bihar 2023 is roughly 1500.

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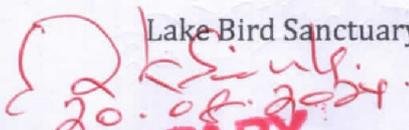
That the bird population in Kanwar Lake Bird Sanctuary has drastically declined due to several factors mainly – land encroachment, absence of water, siltation and fragmentation causing loss of habitat – namely breeding and nesting grounds, due to destruction of ecology and biodiversity.

That despite limited resources the Begusarai Forest Division has successfully registered total 17 cases of illegal poaching between 2016 and 2023. That because the entire area of the Sanctuary has not been demarcated, and because of inundation during monsoon & winter seasons, lack of armed personnel with forest department, and law & order issues especially during the night (due to inaccessible and crime-prone interior islands within the Sanctuary) the spatial coverage of routine patrolling is very low.

That historically, large scale armed hunting of migratory birds has been reported in areas including (and beyond) the Kanwar Lake Bird Sanctuary.

- 8 That an area of roughly 6311.63 hectares (with roughly 4620 identified plots) around the Kabartaal is notified as “Sanctuary” under section 18(i) of the Wildlife (Protection) Act, 1972 – known as “the Kanwar Lake Bird Sanctuary”, vide S.O. 781, Bihar Gazette 20 June 1989.

That the Kabartaal Wetland (2620 hectares area) lies within the larger Kanwar Lake Bird Sanctuary, of total notified area 6311.63 hectares (which is 15780 acres) – notified in 1989. That the Kabartaal is inter-connected with several minor freshwater bodies within the Kanwar Lake Bird Sanctuary of size up to 100-200 hectares, most of which lie within the stated 6311.63. hectares of the said Kanwar Lake Bird Sanctuary. That therefore, the entire *taal*, *mauns* and *chours* around the


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Kabartaal is one complex wetland ecosystem. That therefore, the Zone of Influence of the Kabartaal is the entire Kanwar Lake Bird Sanctuary.

That currently, the claims and rights of people over the land within the said 6311.63 hectares Kanwar Lake Bird Sanctuary (which includes Kanwar Wetland) notified in 1989 have not yet been settled. That currently there is no physical demarcation of the notified land of the Kanwar Lake Bird Sanctuary. That currently there is also no consolidated Map of the notified Sanctuary.

That therefore, the Begusarai Forest Division is currently not in possession of any demarcated land, or otherwise, as notified in the aforesaid notification of the Kanwar Lake Bird Sanctuary.

That the Sub Divisional Officers Manjhaul and Bakhri were appointed as Collectors for settlement of land claims and rights under sections 19-25 of the Wildlife (Protection) Act, 1972 for the above notified "sanctuary" areas falling within their jurisdiction, in 2009 and 2020 respectively.

That out of the total 15780 acres (or 6311.63 hectares) originally notified as Bird Sanctuary in 1989, roughly 772.16 hectares land lies within the jurisdiction of Sub Divisional Officer Bakhri, and the remaining land roughly 5539.47 hectares lies under the jurisdiction of Sub Divisional Officer Manjhaul.

That out of the total land 772.16 hectares under the jurisdiction of Sub-Divisional Officer, Bakhri, roughly 560.58 hectares land has no land-related claims, and only 211.58 hectares land is under dispute. That however, the details of such land and

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their map is currently not available, and therefore there is no progress on this front.

That out of the total areas (roughly 13,688.33 acres) under the jurisdiction of Sub-Divisional Officer, Manjhaul, roughly 6961.73 acres land has no land-related claims, and further 1876.34 acres land has been settled of claims/disputes. That previously (and apart from this) only 1527.64 acres of land has been transferred to forest department, in 2012. That further (and apart from this), 137.60 acres of notified sanctuary land is pending under litigation in the court of sub-judge Manjhaul in case no 182/85. That however, the details of such land and their map is currently not available, and therefore there is only little progress on this front.

That there has been no previous survey, delineation, boundary demarcation, etc. work carried out for the entire Bird Sanctuary. That currently there is also no consolidated Map of the notified Sanctuary. That therefore, exact status of encroachment is not known.

That therefore, based on the google satellite imagery of the Kanwar Lake Bird Sanctuary (including the Kabartaal) it appears that there is 100% agricultural encroachment, except those areas where it is permanently inundated. That almost all the total 4648 plots notified in the Sanctuary are illegally encroached for farming by roughly 4000 farmers.

That approximately 18 acres of concrete encroachment is present in the Jaimanglagadh Island and extra few acres in fringe areas of the Sanctuary, along

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the roadside. That therefore, roughly 200 people have illegally encroached in the Sanctuary by way of concrete construction.

That several roads – one major, three minor paved, and few unpaved elevated roads – and several public utility infrastructures like electric lines, drainage, concrete roads, etc. are also present in the Sanctuary area causing habitat fragmentation, loss of biodiversity and ecosystem degradation.

That the canals and embankments constructed on the *Burhi-Gandak* river, while outside the sanctuary have completely stopped the inflow of any water into the Bird Sanctuary. That the *Burhi-Gandak* river was the lifeline of the Kanwar Lake Bird Sanctuary. That, as such currently there is no source of water for the Sanctuary, which is insufficiently rainfed, where further any water available is seasonally pumped out by local farmers who have illegally occupied the Sanctuary lands for agriculture.

That there has been mob violences reported by Range Officer and other Forest Staff in Begusarai Forest Division, who in the past have tried to construct earthen embankments to hold water in the Sanctuary after monsoon season. That in the absence of armed forest personnel it is not possible to either remove encroachment or keep the land encroachment-free or to hold water in the Sanctuary / Kabartaal.

That the entire wetland complex of Kanwar Lake Bird Sanctuary is extremely important for waterfowls, particularly wintering ducks and waders, besides larks and wagtails. That the marshes, aquatic vegetations and mudflats around the inundated area are the integral and important part of the sanctuary suitable for



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birds like waders (mostly migratory) and the breeding habitat for many waterbird species. That therefore, many species of large waterbirds and water dependent birds breed on the trees and shrubs around water logged area.

That therefore, the protection of such areas with aquatic and terrestrial vegetation around the lake is critical to the survival of resident and migratory birds of the sanctuary.

That although the Sanctuary has not been declared as "Protected Forest", under the Indian Forest Act, 1927, but the definition of "forest land" as defined by the Honorable Supreme Court in T.N. Godavarman Judgment, 1993 seems applicable to the entire Sanctuary.

That the Begusarai Forest Division has no record of forest clearance or wildlife related clearance for the aforesaid – particularly stoppage of water-inflow into Sanctuary from *Burhi-Gandak* river, and habitat-fragmentation due to public infrastructure and encroachments, with respect to the provisions of the Forest (Conservation) Act, 1980.

That a detailed digitized Map of the Sanctuary is required, with survey and ground-truthing of both submerged and un-submerged areas using latest technologies. That thereafter, encroachment removal, construction of boundary pillars, trench cutting and plantation in such areas need to be taken up after removing such encroachments, to appropriately restore the ecosystem and biodiversity.

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That urgent restoration of hydrological regime as per the two reports submitted by Wetland International South Asia in Feb 2016 (report ID - 2015-Kanwar-02) and Oct 2023 (report ID - 2023-WISA-GEF-UNEP-MoEFCC-02) is required for the survival of Sanctuary / Kabartaal.

That adequate infrastructure - including armed personnel - at the disposal of Begusarai Forest Division is also required for enforcement.

9 --NO COMMENT--

10 That the petitioner's claim of police post, various abandoned buildings, temple and concrete human habitations, etc. lie on the Jaimangalagadh Island, which is roughly 137.60 acres in area, and is notified as part of the Sanctuary.

That, the georeferenced map based on the google satellite imagery of Jaimangalagadh Mauja 137.60 acres shows approximately 18 acres of concrete encroachment.

That currently the said Jaimangalagadh Island has not been transferred to Forest Department.

That in the absence of armed personnel it is not possible for the forest department to remove this encroachment, or to keep the land free from further encroachment.

11 --NO COMMENT--

12 That the first Management Plan of Kanwar Lake Bird Sanctuary, Begusarai Bihar (published on 8th Oct. 1989), as well as several later reports - including the aforementioned reports of Wetland International South Asia - have stressed on the

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restoration of hydrological regime of Kanwar Wetland, including the need for inter-connecting, increasing the water-holding capacity and de-siltation of major channels and water bodies within the wetland complex.

That the detailed action plans for restoration of hydrological regime are also outlined in the reports published by Wetland International South Asia in Feb 2016 (report ID - 2015-Kanwar-02) and Oct 2023 (report ID - 2023-WISA-GEF-UNEP-MoEFCC-02). That there seems a consensus among various departments that the hydrological regime of Kanwar Wetland needs to be restored and enhanced.

13 --NO COMMENT--

14 --NO COMMENT--

15 --NO COMMENT--

16 --NO COMMENT--

17 --NO COMMENT--

18 --NO COMMENT--

19 --NO COMMENT--

20 --NO COMMENT--

For humble submission to the honourable National Green Tribunal, Eastern Zone Bench, Kolkata, this document is true to the best of my knowledge.

20.08.2024

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TEGUSARAI (BIHAR)

Prepared in my office

20/08/24
Deponent

(Aadhar No. - 610373520219)



I identify the deponent, ABHISHEK KUMAR SINGH, who has signed in my presence.

Ratanivika
Advocate
20-8-24
23109

R. K. Sinha
20.08.2024
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TEGUSARAI (BIHAR)

Verification

I, Abhishek Kumar Singh, son of Rama Shankar Singh, aged about 35 years, by faith Hindu, by occupation service, working as Divisional Forest Officer -cum- Wildlife Warden, Begusarai Forest Division, Begusarai, Bihar, do hereby verify the statements made in paragraphs 1 to 20 of the foregoing petition are based on information derived from field and records which I believe to be true and the rest including the prayer portion are my humble submissions before this Hon'ble Tribunal.

Date: 19/08/2024

Place: Begusarai

✓
A
 19/08/24
 Deponent

(Aadhar No. - 610373520219)

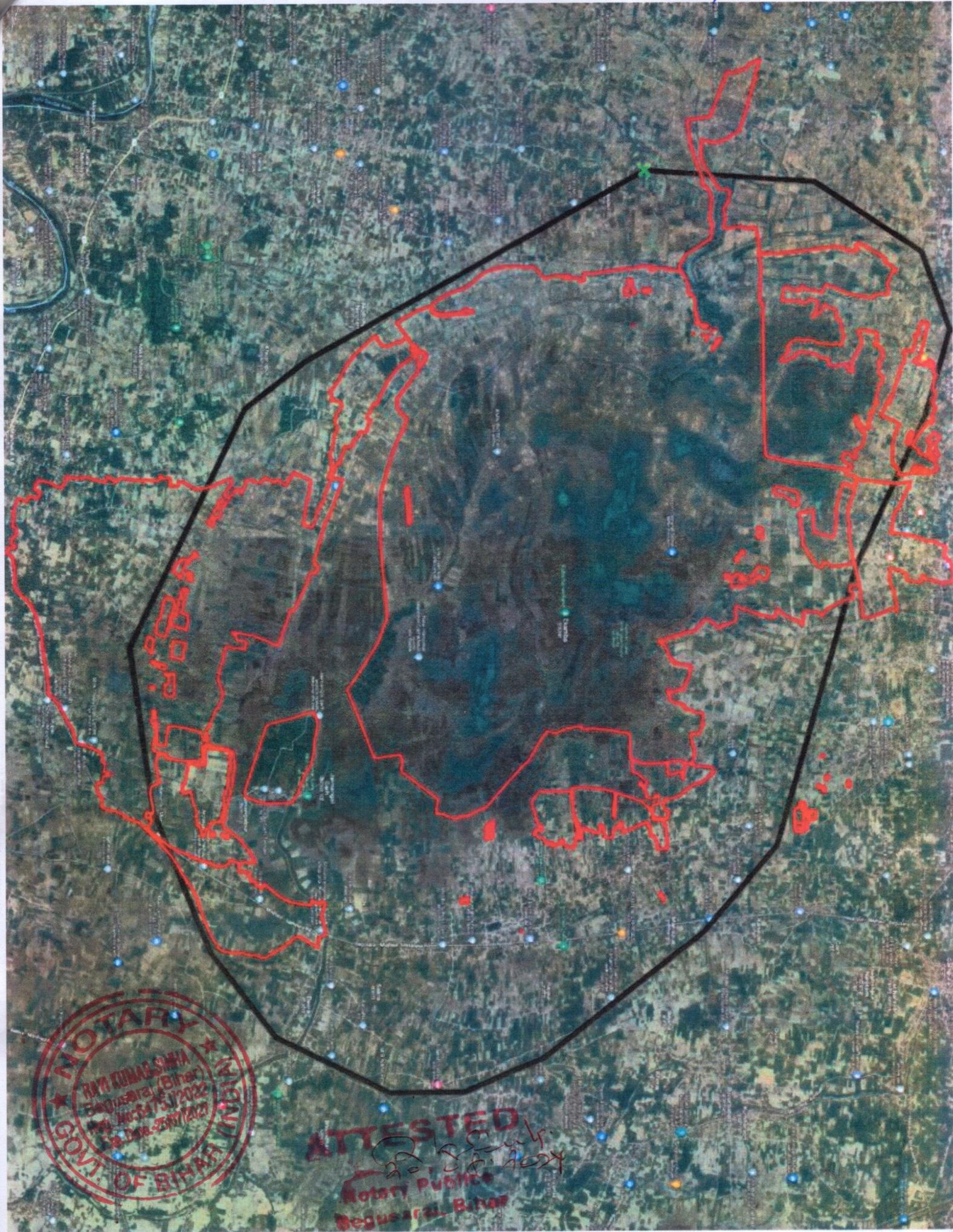
Abhishek Singh
 20.08.2024
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BEGUSARAI (BIHAR)
 Authorised under S 85 of the Indian
 Evidence Act, 1872 (Am. 1 of 1872)
 read with S-8 (1) (a) of the
 Notaries Act. (Act. L-III of 1952)
 No. 14600 Date.....

I identify the deponent, ABHISHEK KUMAR SINGH, who has signed in my presence.

✓
Ratan 14 The
 Advocate
 20-8-24
 223/PS

20 AUG 2024

MAP SHOWING AGRICULTURAL ENCROACHMENT
IN KANWAR LAKE BIRD SANCTUARY



NOTARY
Ravi Kumar Sinha
Begusarai (Bihar)
Reg. No. 5475/12022
Exp. Date: 28/07/2027
GOVT. OF BIHAR (INDIA)

ATTESTED
[Signature]
Notary Public
Begusarai, Bihar

MAP SHOWING ROADS IN JEDE SANCTUARY



Minor Road

Minor Road

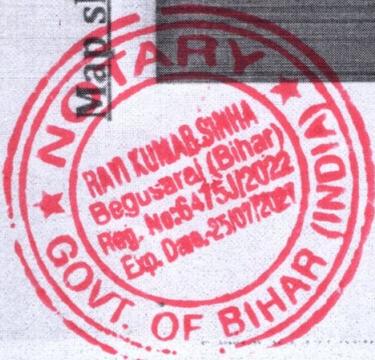
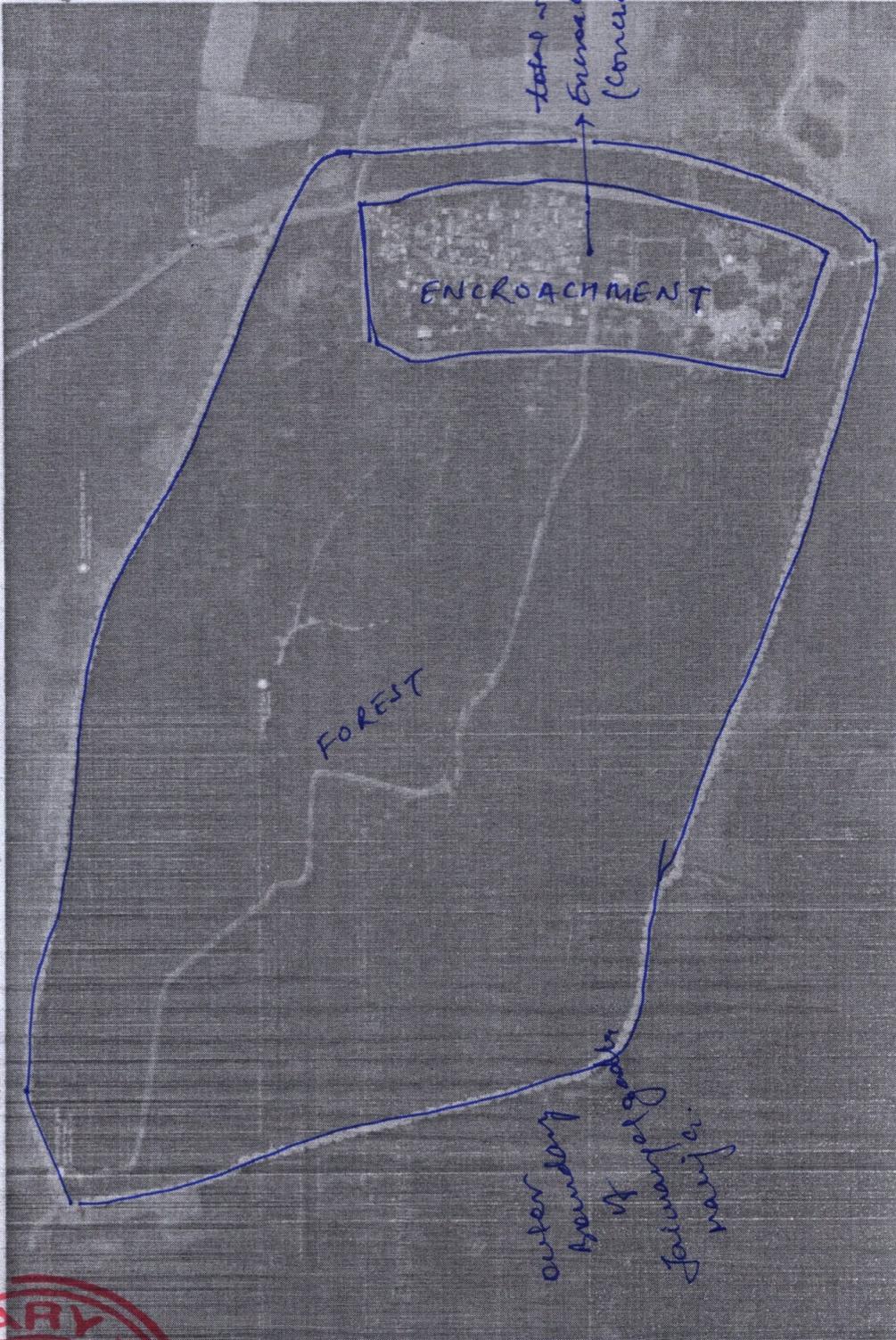
Minor Road

MAJOR ROAD



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Begusarai, Bihar

Map showing encroachment in Jaimanglagadh mauja (total area - 137.60 acres)



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Map 1 | Kanwar wetland complex

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 RAVI KUMAR SINHA
 Begusarai (Bihar)
 Reg. No: 6475J/2022
 Exp. Date: 25/07/2027
 GOVT. OF BIHAR (INDIA)

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 25/08/2024
 Notary Public
 Begusarai, Bihar

Kanwar Jheel | An Integrated Management Action Plan for Conservation and Wise Use