

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Original Application No. 90/2020

IN THE MATTER OF:

Pramod

...Applicant

Versus

State of Uttar Pradesh & Anr.

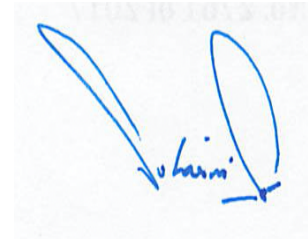
...Respondent(s)

N.D.O.H. – 03.02.2025

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THROUGH



SUHASINI SEN

(COUNSEL FOR MOEF&CC)

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New Delhi

Date: 31.01.2025

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Original Application No. 90/2020



IN THE MATTER OF:

Pramod & Ors

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State of Uttar Pradesh & Ors.

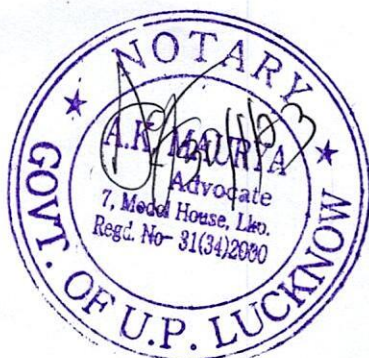
...Respondent

**AFFIDAVIT ON BEHALF OF THE MINISTRY OF ENVIRONMENT,
FOREST AND CLIMATE CHANGE (RESPONDENT No. 1)**

MOST RESPECTFULLY SHOWETH:

I, Dr. A. K. Gupta, currently working as Scientist 'E' at the Ministry of Environment, Forest and Climate Change (MoEF&CC), Regional Office, Lucknow, do hereby solemnly affirm and state as under:

1. That I, in my official capacity in the Ministry of Environment, Forest and Climate Change, in the above mentioned matter, am conversant with the



Amind

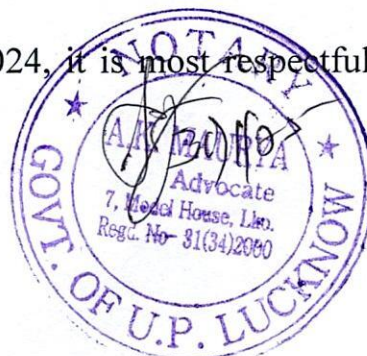
facts and circumstances of the case on the basis of official records, and as such authorized and competent to swear this affidavit.

2. It is submitted that a short affidavit is being filed by the answering respondent at this stage and craves leave and liberty to file a detailed Counter Affidavit to the aforesaid application, as and when required
3. It is respectfully submitted that this affidavit is filed in compliance with the Order dated 14.10.2024 passed by this Hon'ble Tribunal. The Hon'ble Tribunal vide Order dated 14.10.2024 has directed as follows;

"1...This original application has been listed in pursuance to the order of the Hon'ble Supreme Court dated 02.09.2024 passed in Civil Appeal No. 1659/2022.

3. In terms of the above direction, fresh adjudication of the OA on merit is required after taking into account the affidavit which was filed by the MoEF&CC before Hon'ble the Supreme Court as well as the contentions and issues raised by the parties. Hence, we direct all the concerned parties to place on record the pleadings/reports, etc. which were filed before the Hon'ble Supreme Court in Civil Appeal No. 1659/2022..."

4. That, in compliance with the direction of the Hon'ble Tribunal in para 3 of the order dated 14.10.2024, it is most respectfully submitted that a true



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copy of the affidavit, along with the annexure filed before the Hon'ble Supreme Court of India is annexed and marked herewith as **Annexure-R1/1**.

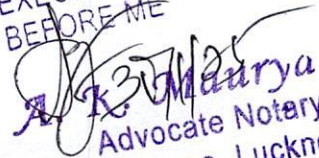
5. That, in view of the aforementioned facts and circumstances, this Hon'ble Tribunal may kindly be pleased to pass appropriate order(s)/directions as the Hon'ble Tribunal may deem fit and proper in the interest of justice.


DEPONENT

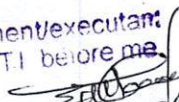
VERIFICATION

Verified at Lucknow on this 3rd day of January, 2025 that the contents of this affidavit based on official record(s) maintained and information available in the office are true and correct, no part of it is false and nothing has been concealed there from.



EXECUTION ADMITTED
BEFORE ME

Advocate Notary
7, Model House, Lucknow


DEPONENT

I identify the deponent/executant
who has signed/put TI before me.


BEFORE THE HON'BLE SUPREME COURT OF INDIA

CIVIL APPEAL No. 1659/2022

IN THE MATTER OF:

State of Uttar Pradesh

...Petitioner(s)

Versus

Pramod & Ors.

... Respondent (s)

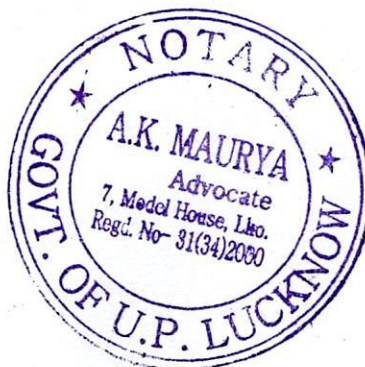
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1.	Affidavit on behalf of Ministry of Environment, Forest and Climate Change, New Delhi- 110 003, Respondent No. 2.	1-4
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Counsel for Respondent No 2

NEW DELHI

DATED:



BEFORE THE HON'BLE SUPREME COURT OF INDIA**CIVIL APPEAL No. 1659/2022****IN THE MATTER OF:**

State of Uttar Pradesh

...Petitioner(s)

Versus

Pramod & Ors.

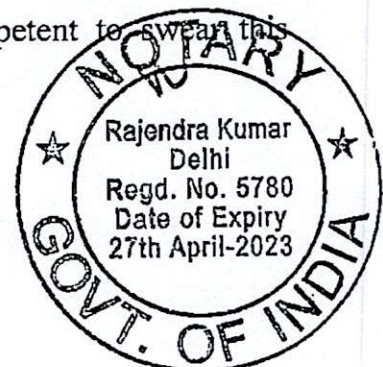
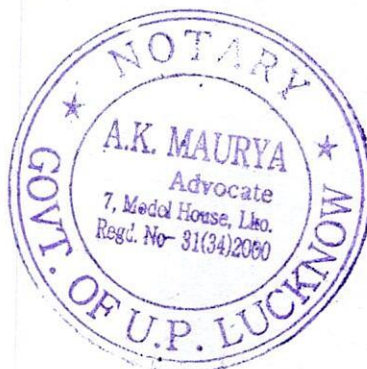
... Respondent (s)

COUNTER AFFIDAVIT ON BEHALF OF RESPONDENT NO. 2,**MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE.****MOST RESPECTFULLY SHOWETH:**

I, Pankaj Verma, S/o Shri Ram Sagar Verma, aged 43 years, currently working as Scientist 'E' at the Ministry of Environment, Forest and Climate Change (MoEF&CC), New Delhi, do hereby solemnly affirm and state as under:

1. That I, in my official capacity in the Ministry Environment, Forest and Climate Change, i.e., Respondent No.2 in the above mentioned matter, I am conversant with the facts and circumstances of the case on the basis of official records, and as such authorized and competent to swear this affidavit.

Pankaj Verma

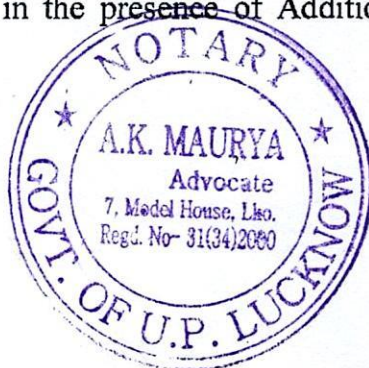


(2)

2. It is submitted at the very outset that the Respondent No.1 denies each averment and/or submission made in the application which is contrary to and inconsistent with the averments made and facts stated in the present reply. It is submitted that the nothing was mentioned in the application, may be deemed to have been admitted by the Respondent No.1 unless and until the same is expressly admitted in the present reply.
3. That a short affidavit is being filed by the answering respondent at this stage and craves leave and liberty to file a detailed Counter Affidavit to the aforesaid application, as and when required.
4. That, Hon'ble Supreme Court vide order dated 25.03.2022 in Civil appeal no. 1659/2022, in the matter of the State of Uttar Pradesh &Ors. Vs Pramod & Ors directed as follows:

"...Respondent no. 2, is directed to examine whether mining can be allowed upstream of Hathnikund Barrage in villages Mayapur and Rehna and file an affidavit to that effect..."

5. It is submitted that in compliance to the Hon'ble Supreme Court directions, the Integrated Regional Office (IRO), Lucknow, of Ministry of Environment, Forest and Climate Change conducted a site inspection on 22.04.2022 in the presence of Additional District Magistrate, Regional



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Officer, Uttar Pradesh Pollution Control Board (UPPCB), Mining Officer and Mining Inspector of Saharanpur district.

A copy of the report is annexed herewith as **Annexure- R2/1**.

6. It is submitted that, the IRO, Lucknow, of the Ministry vide its report dated 29.4.2022 has stated the following;

a. Mining in the upstream of Hathnikund barrage (Hathnikund barrage is Wetland Winter Migratory Avian Biodiversity point), may not be allowed as the mining site of village Rehna on river Yamuna, plot no. 3 measuring 8.05 hectares is within 1.0 Km from the declared Eco-sensitive zone (Kalesar National Park and Kalesar Wild life Sanctuary), in which mining activities is prohibited as per Sustainable Sand Mining Guidelines, 2016.

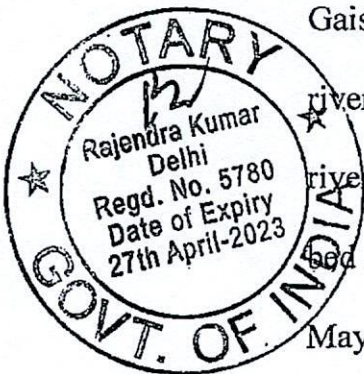
b. The mining lease granted at village Mayapur on Badshahi Bagro river and village Rehna-Plot No. 179/2 measuring 3.75 hectare on Gaisaro river do not fall in upstream of Hathinikund Barrage. The

river Badshahi Bagro and Gaisaro were observed as the seasonal

river, which were found dry during the site visit. Therefore, river

bed mining activities at seasonal river may be allowed in village

Mayapur.



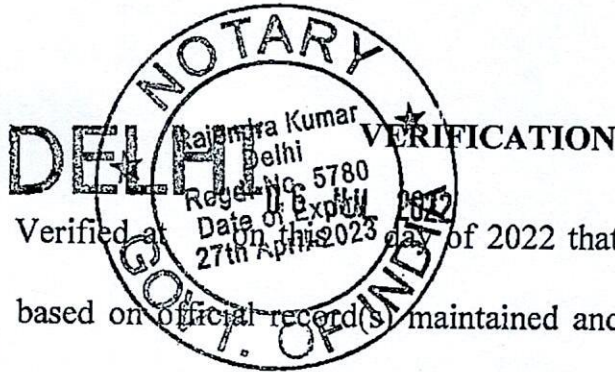
(4)

7. That in view of the aforementioned facts and circumstances, this Hon'ble Court may kindly be pleased to pass appropriate order(s).

Pankaj Verma

DEPONENT

(पंकज वर्मा)
(PANKAJ VERMA)
वैज्ञानिक 'ई' / Scientist 'E'
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
Min. of Environment, Forest and Climate Change
भारत सरकार, नई दिल्ली
Govt. of India, New Delhi



Verified at *Delhi* on this *27th* day of *April* 2022 that the contents of this affidavit based on official record(s) maintained and information available in the office are true and correct, no part of it is false and nothing has been concealed there from.

Pankaj Verma

DEPONENT

(पंकज वर्मा)
(PANKAJ VERMA)
वैज्ञानिक 'ई' / Scientist 'E'
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
Min. of Environment, Forest and Climate Change
भारत सरकार, नई दिल्ली
Govt. of India, New Delhi



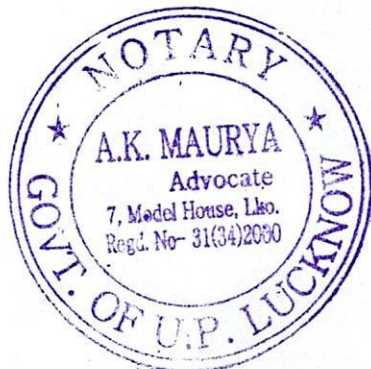
Rajendra Kumar

BEFORE ME
RAJENDRA KUMAR
NOTARY, DELHI-R-5780
GOVERNMENT OF INDIA
SUPREME COURT OF INDIA
COMPOUND, NEW DELHI
Register Pg./Sl. No. *3660*
Mobile No.: 9899446209

06 JUL 2022

CERTIFIED THAT THE CONTENTS EXPLAINED TO THE DEPONENT EXECUTANT WHO IS SEEMED PERFECTLY UNDERSTAND & AFFIRMED DEPOSED BEFORE ME AT DELHI ON 06 JUL 2022 IDENTIFIED BY *[Signature]*
IDENTIFY THE EXECUTANT/DEPONENT WHO HAS SIGNED IN MY PRESENCE

IDENTIFIED



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Annx- R2/1

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भारत सरकार
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
एकीकृत क्षेत्रीय कार्यालय, लखनऊ
Ministry of Environment, Forest & Climate Change
Integrated Regional Office, Lucknow



केन्द्रीय भवन, पंचम तल, सेक्टर-एच, अलीगंज, लखनऊ-226024
Kendriya Bhawan, 5th Floor, Sector-H, Aliganj, Lucknow-226024, Telefax-2326696
Email: roc.lko-mef@nic.in

File No. XXI/ENV/CC/SC/01/2022/ 32

Dated: 29.04.2022

COURT MATTER
SPEED POST/URGENT

To

Dr. Pankaj Verma
Additional Director/Scientist- 'E',
I.A.Division,
Ministry of Environment, Forest & Climate Change,
Indira Paryavaran Bhawan,
Jor Bagh Road, Aliganj, New Delhi
Email: pankaj.verma@nic.in

Subject: Civil Appeal No. 1659/2022, in the matter of The State of Uttar Pradesh Vs Pramod & ors before the Hon'ble Supreme Court of India- reg;

Ref: Letter no.IA-L-11011/36/2022-IA-II(NCM) dated 18.04.2022 of MoEF&CC, New Delhi.

Sir,

Kindly refer to the above mentioned subject matter and referred letter. The Hon'ble Supreme Court was pleased to pass the order dated 25.03.2022:

"Respondent No.2 is directed to examine whether mining can be allowed upstream of Hathnikund Barrage in villages Mayapur and Rehna and file an affidavit to that effect within a period of four weeks from today. ..."

That to comply above order, ministry has requested this office vide referred letter to conduct a site visit of a mine area in question and prepare a report. Accordingly, a report is enclosed herewith this letter for your perusal & further necessary action.

Encl: As above (05 pages)

Yours Sincerely

Preeti
29-04-22
(Dr.Preeti Tripathi)
Scientist 'C'



Compliance Report

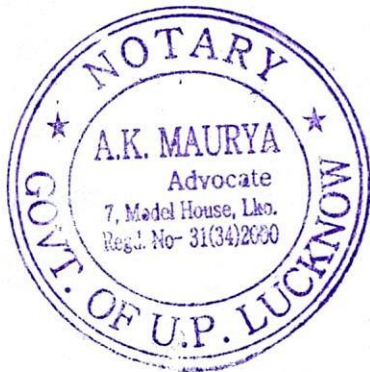
In the Matter of
Civil Appeal No. 1659/2022

Titled

as

State of Uttar Pradesh
Vs.
Pramod & Ors

Before Hon'ble Supreme Court of India



A handwritten signature in blue ink, appearing to be "A.K. MAURYA".

Page-2

Compliance Report of Respondent No. 2 viz. MoEF& CC in the matter of the State of Uttar Pradesh Vs Pramod&Orspending in the Hon'ble Supreme Court of India.

1.0 Background:

In reference to the Hon'ble Supreme Court order dated 25.03.2022 in Civil appeal no. 1659/2022, in the matter of the State of Uttar Pradesh & Ors. Vs Pramod & Ors wherein, Hon'ble court has directed as follows:

"Respondent no. 2, is directed to examine whether mining can be allowed upstream of Hathnikund Barrage in villages Mayapur and Rehna and file an affidavit to that effect within a period of four weeks from today."

2.0 Compliance to Hon'ble Supreme Court directions: -

2.1 Conduct of Site Visit by Representative of MoEF& CC

In compliance with the said Order, MoEF&CC representative Dr. Preeti Tripathi, Deputy Director (s) from its Integrated regional office, Lucknow was conducted site inspection in the presence and co-ordination of Additional District Magistrate (F/R), Regional Officer, Uttar Pradesh Pollution Control Board (UPPCB), Mining Officer and Mining Inspector of Saharanpur district

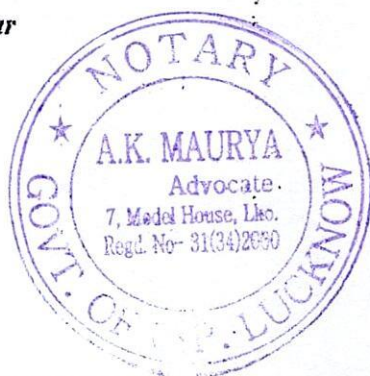
These officers of various departments were requested to be present at the site with all necessary documents vide this office letter and E-mail dated 20.04.2022.

2.2 Site inspection by the Representatives

The site under reference was visited by the Representatives of MoEF&CC along with other officers on 22.04.2022. During the site visit, it was examined that whether mining in upstream of Hathinikund barrage in villages Mayapur and Rehna is feasible.

Site inspection was conducted on four sites viz. Village Mayapur Gata no. 14/1 measuring 3.10 hectare on Badshahi bagro river, Village Rehna -Plot No. 179/2 measuring 3.75 hectare on Gaisaro river, Village Rehna on river Yamuna, lot no. 3, plot no. 3 measuring 8.05 hectares and Hathinikund barrage.

2.3 List of documents submitted by Regional Officer, UPPCB, Saharanpur and Mining inspector, Saharanpur



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Page: 2

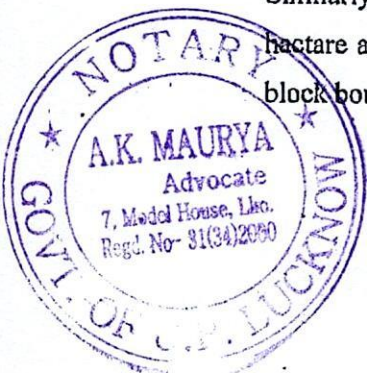
(8)

1. Environmental clearance for proposed building stone (Sand, Bajra and Boulder) mining at Gata no. 179 / 2, village Rehna, tehsil Behat, Saharanpur, U.P (Lease area 3.75 ha).
EC No. 87/Parya/SEAC/5468/2019 dated 27.05.2020.
2. Environmental clearance for proposed building stone (Sand, Bajra and Boulder) mining at Gata no. 03, lot no. 3 village Rehna, tehsil Behat, Saharanpur, U.P (Lease area 8.05 ha).
EC No. 481/Parya/SEAC/4294/2018 dated 22.11.2018
3. Environmental clearance for proposed building stone (Sand, Bajra and Boulder) mining at Gata no. 14/1, village Mayapur Roppur, tehsil Behat, Saharanpur, U.P (Lease area 3.10 ha). EC No. 88/Parya/SEAC/5402/2019 dated 27.05.2020.

3.0 Observations

On the basis of site inspection of the area of Hathinikund barrage in villages Mayapur and Rehna on 22.04.2022 and the as per submitted document by Regional Officer, UPPCB, Saharanpur, following observations are made:

- i. As per observations during site visit, it was found that mining lease granted at village Mayapur on Badshahi bagro river and village Rehna-Plot No. 179/2 measuring 3.75 hectare on Gaisaro river do not fall in upstream of Hathinikund Barrage. However, mining lease granted at village Rehna on river Yamuna, lot no. 3, plot no. 3 measuring 8.05 hectares falls on the upstream of the Hathnikund barrage. The river Badshahi bagro and Gaisaro were observed as the seasonal rivers, which were found dry during the site visit, however river Yamuna is a perennial river. Therefore, river bed mining activities at seasonal river may be allowed in village Mayapur.
- ii. As per Geo-coordinates mentioned in granted EC of village Rehna on river Yamuna, lot no. 3, plot no. 3 measuring 8.05 hectares, Google earth imagery and DSS analysis has been done (Photograph 1) and it has been noticed that distance of Kalesar Wild life Sanctuary is within 1 km from the mining site (914 m approx.). As per Sustainable Sand Mining Guidelines (SSMG), 2016 mining is prohibited within 1 Km area from the protected areas (National Park, Wildlife Sanctuaries). The mining site is within the 10 km range from the interstate boundary of the Haryana and UP states.
- iii. A river island was also observed during site inspection near to the above mining sites. Similarly, As per Google earth imagery and DSS analysis; the island is about 171.0 hectare and observed at a distance of 816 mt. from mining site. Further, Shivalik Forest block boundary is about 319.48 mt. from the mining site.



[Signature]

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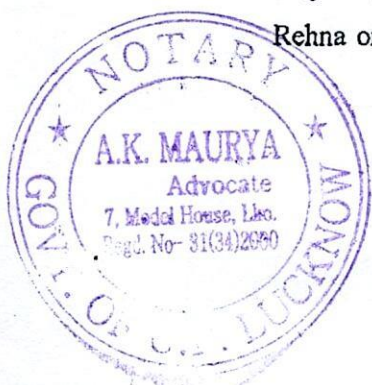
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- iv. As per Ministry Gazetted Notification No. S.O. 1766 52.S.O. 1485 (22.04.2016) the area around the Kalesar National Park and Kalesar Wildlife Sanctuary are declared as Eco-sensitive zone in the State of Haryana. Hence, mining may not be allowed to that area.
- v. On the subject of mining in the upstream of Hathnikund barrage (Hathnikund barrage is Wetland Winter Migratory Avian Biodiversity point), it is inspected and found that it mining activity may not be allowed at the above mining sites. as it is within 1 Km from Eco-sensitive zone. The place is at the intersection of foothill of Shivalik Range and Yamuna River bed, which is rich in flora and fauna. If the mining activity is permitted, the habitat will be disturbed which is already fragmented due to construction of canal and Khara Hydro power Project. The canal has already restricted the movement of animals. The mining activity will be responsible for destroying the biological and ecological activity of both flora and fauna.
- vi. River plays a most important role in the terrestrial and aquatic ecosystem. River Bed Mining is the major mining activity for destroying and imbalance of terrestrial and aquatic biota. Mining activity in the above three sites started without conducting replenishment study as per required under the sustainable sand mining management guidelines, 2020.
- vii. As per MoEF &CC Survey report published in 2018 on Tigers Co-predators' & Prey in India 2018, it was indicated that with tiger supplementation planned for western Rajaji, it is important to ensure that this tiger reserve becomes a source to repopulate the Shivalik forest division of Uttar Pradesh and Kalesar Wildlife sanctuary (WLS) of Haryana as forest connectivity is currently contiguous along the Shivalik hills from Western Rajaji to Kalesar WLS and into Himachal Pradesh. However, if tiger occupancy is to be encouraged in this empty landscape of about 700 km², restorative inputs are required to curtail poaching of prey, illegal timber extraction and livestock grazing. The village of Kalesar in Haryana, Bahral in Himachal Pradesh and Rehna in Uttar Pradesh are all expanding along the banks of the Yamuna with agriculture and urban sprawl threatening to choke the narrow corridor for wildlife (and potentially tigers).

5. Recommendations:

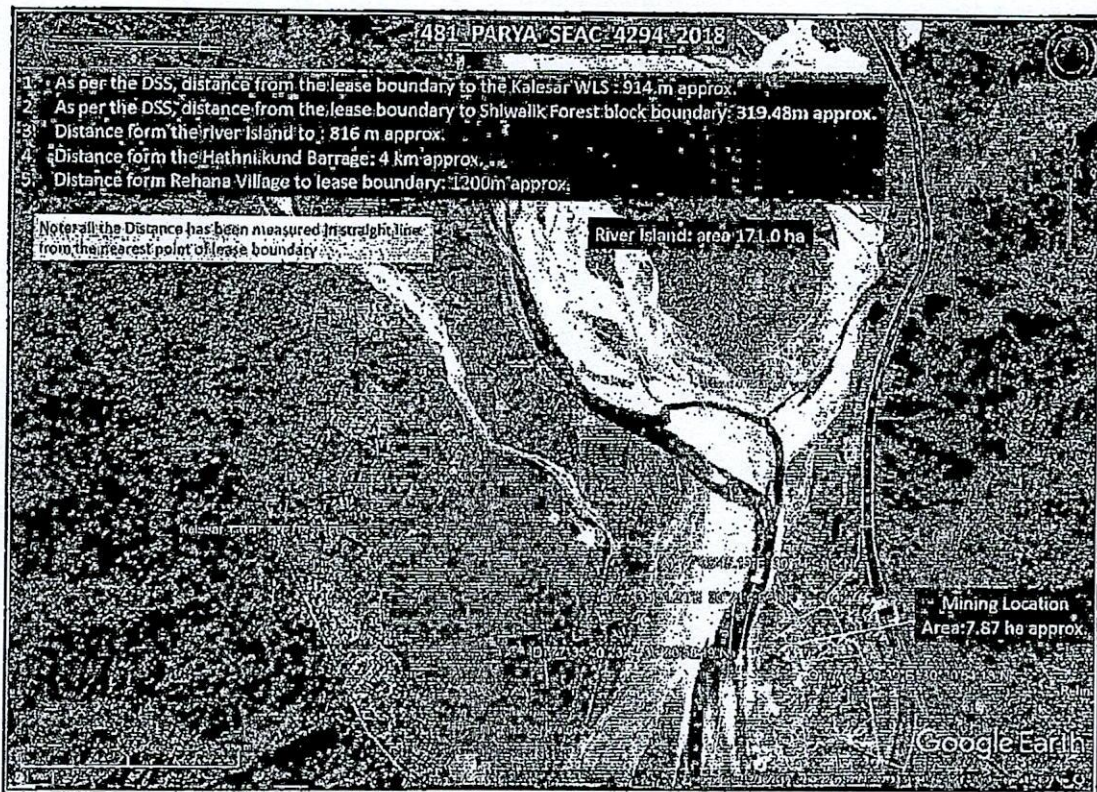
1. Mining in the upstream of Hathnikund barrage (Hathnikund barrage is Wetland Winter Migratory Avian Biodiversity point), may not be allowed as the mining site of village Rehna on river Yamuna, lot no. 3, plot no. 3 measuring 8.05 hectares is within 1.0 Km



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(10)

- from the declared Eco-sensitive zone (Kalesar National Park and Kalesar Wild life Sanctuary), in which mining activities is prohibited as per SSMG, 2016 vide order dated 08.08.2019.
2. River bed mining (RBM) and subsequent transportation of the mineral would certainly destroying and imbalance of terrestrial & aquatic biota in fragile ecosystem of Shivalik hills.
 3. RBM mining specially in village Reh na may also be restricted the movement of wild animal including elephant, tiger in Shivalik area.



Photograph:1: Google Earth Imagery and DSS analysis of Rehna Village

Preeti Tripathi
29.04.2022

Dr. Preeti Tripathi

Scientist - C, MoEF&CC



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True Copy