

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

In OA No. 829 of 2024

&

In OA NO. 1042 of 2024

Public Action Committee & Ors.

...Applicants

Versus

State of Punjab & Ors.

...Respondents

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Submitted by:

Davinder Kumar
Executive Engineer

National Highway Division
PWD (B&R) Branch, Mohali, Punjab

Place: **CHANDIGARH**

Date:

0 2 SEP 2025

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Affidavit of Davinder Kumar, Executive Engineer, National Highway Division, PWD (B&R) Branch, Mohali, Punjab, on behalf of respondent no. 5

I, the deponent above named, am conversant with the facts of the case and competent to swear this affidavit, do hereby solemnly affirm and declare as under:

That the afore-mentioned Original Application No. 829/2024 & Original Application No. 1042/2024 (hereinafter jointly referred to as 'OAs') are pending adjudication before the Hon'ble Tribunal.

2. The answering respondent has already filed affidavits dated 16.10.2024 and 24.04.2025, the contents of which may be treated as a part of the present affidavit, and the same are not repeated for the sake of brevity. It is however respectfully clarified that in the affidavit dated 24.04.2025, a typographical error inadvertently occurred. It was mentioned that 75,032 trees were proposed for compensatory afforestation over 45.18 hectares in district

Davinder Kumar



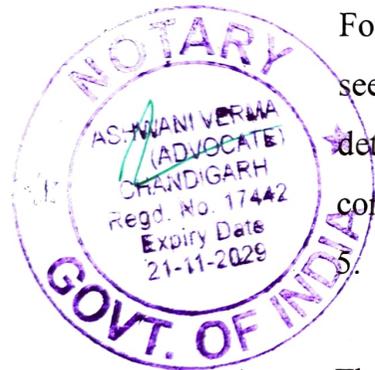
Hoshiarpur and 29.852 hectares in district Rupnagar. The correct figure is 60106 trees. The compensatory plantation of 60106 trees has already been completed by State Forest Department. The answering respondent respectfully prays that the inadvertent error may kindly be condoned, and the above facts taken on record.

3. That the present affidavit is being filed in compliance with the directions contained in order dated 30.04.2025 passed by the Hon'ble Tribunal that directed the respondents to disclose compliance of conditions no. 1.1.2, 1.1.3 and 2.1.1 of the Final Approval dated 18.01.2024 issued by the Ministry of Environment, Forests and Climate Change (MoEF&CC). The present affidavit seeks to place on record the requisite clarifications and supporting details evidencing substantial compliance with the above stated conditions, so far as concerned with the answering respondent no.

4. That insofar as compliance of conditions no. 1.1.2, and 1.1.3 of the Final Approval dated 18.01.2024 issued by the Ministry of Environment, Forests and Climate Change are concerned, it is respectfully submitted that all felling of trees has been undertaken strictly under the supervision of the State Forest Department, without exceeding the number of trees sanctioned in the diversion proposal, with due safeguards to ensure that no harm is caused to wildlife.

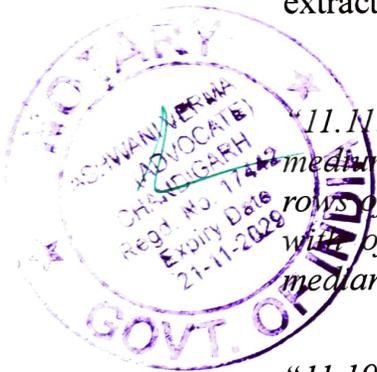
5. The responsibility of the answering respondent as user agency is confined to financial compliance, and in this regard, the respondent no. 5 has already deposited the entire sum of Rs. 9,90,73,233 with

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the State Forest Department. This amount covers both expenses towards felling of trees/plants as well as costs for undertaking Compensatory Afforestation in district Hoshiarpur and Additional Compensatory Afforestation in district Rupnagar.

6. That condition no. 2.1.1 of the final approval dated 18.01.2024 requires the user agency to raise plantation on both sides and the central verge of the road in accordance with IRC norms. As far as the central verge is concerned, it is submitted that the central verge width is 1200 mm, that is less than the 1500 mm threshold under Clause 11.11.11 and 11.19.2 of IRC:SP:21-2009, the relevant extract of which reads as under:



11.11.1 The shrubs to be planted in the median should be of low or medium height for prevention of the headlight glare. One to two rows of flowering shrubs will be provided according to the varying width of the median in different sections. In sections where the median width is less than 1.5m, only turfing of grass is proposed.”

“11.19.2 One or two rows of flowering shrubs are recommended in accordance with the varying width of the median in different sections. In sections where the median width is less than 1.5 m, only grass turf is recommended. One row of shrubs is recommended on mediums of up to 3 m width. Two rows of shrubs should be planted on 4.5 to 5 m wide median, at a spacing of 1.5 m from the inner edge of the median.”

7. Accordingly, turfing of grass/planting of shrubs will be undertaken on the central verge in conformity with IRC standards after approval from the government. It is pertinent to note that the phase for construction of central verge has not yet arrived, and the precursor works on other parts of the road are in progress.

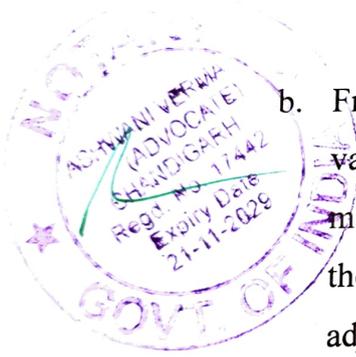
Chaman Singh

8. The impugned stretch of the project extends from km 7.800 till km 29.551 on the Sirhind – Patiala road that is a Major District Road, on which there is heavy traffic and previously 12 blackspots were identified, which are also sought to be rectified with the instant four laning project. A brief description of the road along with land availability and forest land diversion is as under:

a. From km 1.250 to km 7.800, only the carpeting of the road has been carried out, and since a four lane road already exists, no further work is proposed at the present time, and there is no diversion of forest land in this stretch.

b. From km 7.800 to km 15.00, the available forest strip is varying from 0.67 m to 1.00 m; and, is insufficient for meaningful plantation. The answering respondent has therefore proposed additional plantation activities and adjoining available areas, as detailed in affidavit dated 24.04.2025. This part has been taken up for four-laning.

c. From km 15.000 to km 27.790, the available forest strip is 2.41m, and from km 27.790 to km 29.380 the available forest strip is varying from 2.41 to 1.00m. In the remaining length from km 29.380 to km 29.551, no residual land for forest strip is available. There are approximately 2396 trees remaining standing. Within this stretch, potential has been assessed for planting additional 3000 trees, and such plantation is proposed to be undertaken in collaboration with the forest department.



- d. As a whole, the total right of way (ROW) is varying from 24.000m to 26.820m. Out of this, both side carriageway is $8.75 \times 2 = 17.500$ m, the median is 1.2 m, the earthen shoulder is 1.5 m. An illustrative cross section of the road from km 7.800 to km 29.551 is annexed as **Annexure A**.
- e. The work is being executed at site with all diligence and speed. 90% widening of road on both sides is done with subgrade, granular, sub base and wet mix macadam complete in all respects. The total expenditure incurred for the project till date for utility shifting, forest diversion and clearances, and contractual agency is approximately Rs. 27 crores. On date, only work of bitumen layers and center verge is pending due to continuous rainy season and shall be completed once the current monsoon season is over.



9.

The instant OA presented by the applicant for consideration of this Hon'ble Tribunal is predicated upon certain provisions of IRC:SP:21:2009, to the exclusion of all others. It is important to bear in mind the scope and underlying logic of IRC:SP:21:2009, as exemplified by the following provision.

"1.6 It is not possible to lay down rigid and uniform standards for landscaping. The treatments to be adopted vary from place to place depending on the topography, climate and other environmental features. Accordingly, this Manual lays down only broad guidelines, subject to such modifications as may be governed by local site conditions."

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10. The objective of planting has been stated as either functional or aesthetic in IRC:SP:21:2009, the relevant extract of which reads as under:

“3.7 Tree Planting or Arboriculture

3.7.1 Tree planting or arboriculture is the most important component of landscaping. Planting may be functional, or for aesthetic effects, but in either case the objective should be to help restore the unity of the landscape. Functional planting applies to such problems as protection of slopes against erosion, screening of unsightly views, reducing headlight glare, providing shade in summer and so on. In most cases, such planting also improves the appearance of the road and enhances the natural landscape. Planting for aesthetic effects is also by and large functional but goes beyond that to blend the road into the surrounding countryside and enhance the overall beauty (Figs. 6 and 7)”

(Emphasis supplied)

3.7.3 The amount of planting to be provided at different situations needs careful attention. While roads in landscapes devoid of trees or woodlands may require little or no planting, extensive planting is necessitated in settled rural landscapes where a new road may introduce more new elements than the countryside can absorb.

11. IRC:SP:21:2009 acknowledges issues of working with restricted land width/ROW in multiple paragraphs, including 8.6, 9.1, 11.8.3, 11.8.4 and 11.9.1, that read as under:

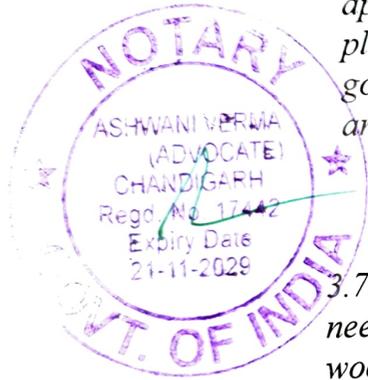
8.6 Landscape Treatment in Forest Areas

8.6.1 As far as possible, no new road should be aligned through the forest. Only under unavoidable circumstances, a road may be planned with restricted ROW.

8.6.2 Cutting of trees should be avoided, as far as possible. But wherever road passes through animal corridor, it may be ascertained that there is minimum disturbance to the forest and the animal life. This is illustrated in Fig. 27.

(Emphasis supplied)

Devendra Kumar



9.1 To improve the appearance of existing roads through landscaping measures, can prove to be a variably difficult task because of several limitations, e.g. restricted land width, difficulties in road realignment, presence of man-made features not conducive to aesthetic treatment, etc. Yet, every possibility of beautifying the landscape should be investigated and feasible steps taken.

(Emphasis supplied)

11.8.3 The planting type should be decided based on the requirement and feasibility at various sites along the project corridor. Physical growth characteristics of trees, like form and shape, foliage and rooting characteristics, growth rate, canopy type and branching pattern are the major criteria in the selection of plantation type and density. The space available in the ROW is one major guiding factor for different themes of landscaping applied in the entire corridor.

(Emphasis supplied)

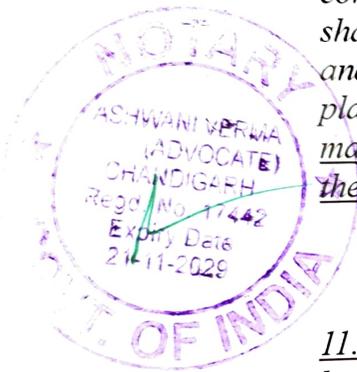
11.8.4 Depending on the available ROW, plantation pattern should be worked out as follows:

- i) The first row along the Highways will be of small to medium sized ornamental trees.
- ii) Subsequent rows, depending on the availability of width, will comprise of ornamental and/or shade bearing species, of more height than those in the first row. In rural sections, the last row will always be of shade bearing tall trees.
- iii) Planting of shrubs in the median.
- iv) Planting of herbaceous species as ground cover in the median, special landscapes and embankment slopes.
- v) Turfing with grass in the median, special landscapes and embankment slopes.

(Emphasis supplied)

11.9.1 The first and subsequent rows of plantations along the highway, except the last row, should be worked out based on the land availability within the ROW along the various sections. In case of urban and semi-urban areas, where because of land constraints, only one row of plantation possible, ornamental

Dhruv Kumar



species should be planted instead of shade bearing species. A combination of ornamental, shade and screening trees have been recommended. The number of rows and the repetition of the trees and their type vary with the landscape section, the typical cross-section and the space available in the ROW for tree plantation.
(Emphasis supplied)

12. IRC:SP:21:2009 further notes that all plantation must be at least 1 m away from the ultimate edge of the roadway, and sight distance and safety are of primary importance, and cannot be subordinated to aesthetics.

3.7.4 In the design and development of arboriculture, certain restrictions imposed by engineering, traffic and safety requirements should be kept in view. Some of these are:

- Position of trees on either side should be fixed taking into account the ultimate development of the roadway with regard to future widening.

Trees should be offset upto and beyond 1 m back from the ultimate edge of the roadway so that they are not a safety hazard or affect the required sight distances (Fig. 8).

Considerations of sight distance and safety being of primary importance, these should in no case be subordinated to aesthetics.

- Shrubs and trees should be planted clear of roadside drains and other drainage structures so that their root system do not interfere with efficient working of the drainage facilities.
(Emphasis supplied)

13. Distances for plantation have been further specified in paragraph 11.14.1 of the IRC:SP:21-2009. Ornamental plants (except last row) have to be 1 meter away from the toe of the embankment and the shade plants (last row) have to be 3 m away from the preceding row. The distance requirement is further to be adhered to, since the

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danger is also provided for in paragraph 11.24.5 of the IRC:SP:21-2009:

11.24.5 Large size trees develop a very strong and large taproot and lateral root system, which weakens the compaction and pavement of the carriageway with the passage of time.

14. IRC:SP:21-2009 further provides that no plantation zone where plantation is prohibited, and paragraph 11.26 reads as under:

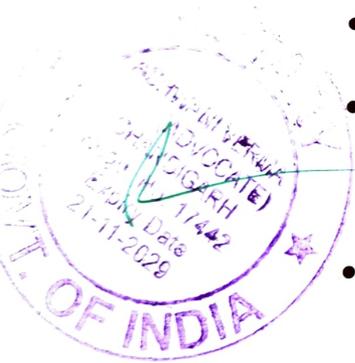
11.26 No Plantation Zone

11.26.1 The plantation may not be carried out in the following areas:

- *Within 1.5 m from the toe of the carriageway.*
- *At median cut and grade separator, at least 5 m blank space shall be left for clear view of the traffic .*
- *At curve, dense and tall height tree reduce visibility in plain terrain, a stopping sight distance of 170 m corresponding to the design speed of 100 km per hour should be ensured on all curved sections, on the innermost lane of the curve.*
- *At median, medium and large size trees are more prone to cyclone damage resulting in accidents, disruption of traffic and clear view of the carriageway. Long rooted plants may also damage the carriageway.*
- *Screen plantation as a visual barrier in schools, hospitals, residential colonies, etc.*

15. In the instant case, the layout plan stands approved by the Ministry of Environment, Forest and Climate Change (“MOEFCC”) vide in-principle approval dated 01.08.2023 and final approval dated 18.01.2024. In each instance, the answering respondent has been precluded from changing any aspect of the layout plan under Condition 2.1.14 of the in-principle approval dated 01.08.2023 and condition 1.1.13 of the final approval dated 18.01.2024. A true copy

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of the layout plan approved by the MOEFCC in Final Approval dated 18.01.2024 is annexed as **Annexure B**.

16. It is further pertinent to note that the instant case involves the diversion of forest area along an existing brownfield alignment for widening of a Major District Road. There is no acquisition undertaken in the present process, and there is further residual forest land on either side of the said road. The applicant's contention that the said forest land be acquired/diverted for the purposes of plantation is a perverse and misguided interpretation of the provisions of IRC:SP:21-2009.

17. That, in view of the detailed submissions made hereinabove, it is respectfully submitted that the present Original Applications are wholly misconceived, factually erroneous, and legally untenable. The applicant has selectively cited judicial pronouncements, while deliberately omitting material facts, including the subsistence of a stay order granted by the Hon'ble Supreme Court in Civil Appeal no. 8178/2022. The respondent department has acted in full conformity with the applicable legal and environmental framework, including the provisions of the Forest (Conservation) Act, 1980, and the conditions of approval granted by the Ministry of Environment, Forest and Climate Change (MoEF&CC).



[Signature]
Deponent

Executive Engineer

National Highway Division

PWD (B&R) Branch, Mohali, Punjab

Place: **CHANDIGARH**

Date: **02 SEP 2024**

Verification

Verified that the contents of the short affidavit from paragraphs no. 1 to 11 are true and correct to the best of my knowledge based on official records and nothing has been concealed therein.

[Handwritten Signature]
Deponent

Executive Engineer

National Highway Division

PWD (B&R) Branch, Mohali, Punjab

Place: **CHANDIGARH**

Date: **02 SEP 2025**



ATTESTED AS IDENTIFIED

ASHWANI VERMA, ADVOCATE
NOTARY, Chandigarh

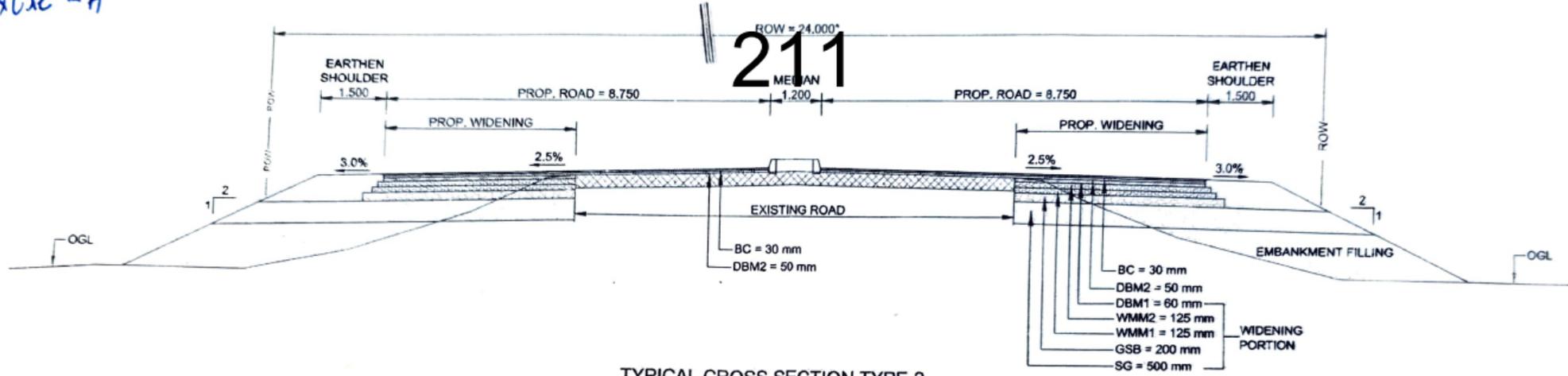
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02 SEP 2025

I Identified the deponent/Executant who has Signed/Thumb Marked in my presence
[Handwritten Signature]
Signature

Annexure - A

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TYPICAL CROSS SECTION TYPE-2

APPLICABLE:-

RD: 7800 TO RD: 27860
RD: 28635 TO RD: 29455

Executive Engineer,
National Highway Division, PWD, B&R,
S.A.S. Nagar.

Sub Division Engineer
N.H. Sub Division
Chandigarh

Note:-

* ROW RD: 1250 TO RD: 15000 = 24,000 M.
RD: 15000 TO RD: 29550 = 26,820 M.

PROJECT :-

REHABILITATION/UPGADATION OF 2-LANE TO 4-LANING OF GURUDWARA DUKH NIWARAN SAHIB-FATEHGARH SAHIB-CHAMKAUR SAHIB-BELA (MDR-31) FROM KM. 1.250 TO KM. 29.551 = 28.301 KM. (UPGADATION/WIDENING OF NEWLY ANNOUNCED MATA GUJRI MARG (MATA GUJAR KAUR))

CLIENT :-

EXECUTIVE ENGINEER,
NATIONAL HIGHWAY DIVISION,
P.W.D. B&R BRANCH, MOHALI.

TITLE:- TYPICAL CROSS SECTION

DRAWING NO :- GHAI/2021/2024/TCS-01

DRAWN BY :- A.K.

CHECKED BY :- Br. P.S.

SCALE:- NTS

DATE :- August-2024

SHEET NO. :- 1 OF 2

CONSULTANT :-

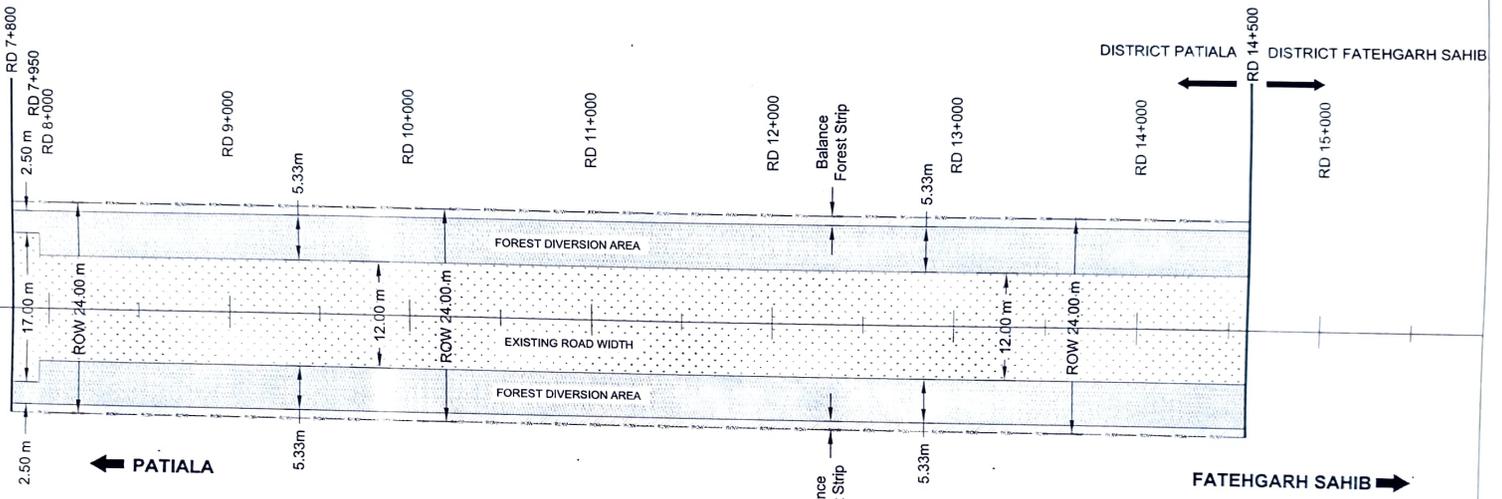


General Highways And Infracon Pvt. Ltd.
Plot No. 40, Industrial Area Phase-4,
Panchsala 134113 (Haryana), Tele. 0173-5026296,
Regd. Office S.C.O. 51, 2nd Floor, Sarathi Vihar, Maana Devi Road
Sector-5, Panchsala, Mobile: 99145 75200, Email: hoi@thghai.com

Annexure - B

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PLAN OF FOREST LAND TO BE DIVERTED FOR REHABILITATION/UPGDATION OF 2-LANE TO 4-LANING OF GURUDWARA DUKH NIWARAN SAHIB-FATEHGARH SAHIB-CHAMKAUR SAHIB-BELA (MDR-31) FROM KM. 1.230 TO KM. 29.551 = 28.301 KM. (UPGDATION/WIDENING OF NEWLY ANNOUNCED MATA GUJRI MATA (MATA GUJAR KAUR))
(FOR DISTRICT PATIALA)



(FOR DISTRICT PATIALA)

Sr. No.	Chainage/RD		Length between consequent RD (Mtr)	R.O.W. (Mtr)	Existing Formation width of Highway		Width of Forest Land to be diverted within ROW		Proposed Forest Land Diversion in Sqm (Col 8 x Col 3)		Balance Forest Strip	
	From	To			LHS (m)	RHS (m)	LHS (m)	RHS (m)	LHS (m)	RHS (m)	LHS (m)	RHS (m)
1	7 800	7 950	150	24	8.50	8.50	2.50	2.50	375.00	375.00	1.000	1.000
2	7 950	13 360	5410	24	6.00	6.00	5.33	5.33	28835.30	28835.30	0.670	0.670
3	13 360	13 650	290	24	6.00	6.00	5.33	5.33	1545.70	1545.70	0.670	0.670
4	13 650	14 500	850	24	6.00	6.00	5.33	5.33	4530.50	4530.50	0.670	0.670
	Total		6700									

Total Forest Area to be diverted (in sqm) = (2 x 375) + (2 x 28835) + (2 x 1545.70) + (2 x 4530.50)

70573	sqm
7.06	Hectares

LEGEND

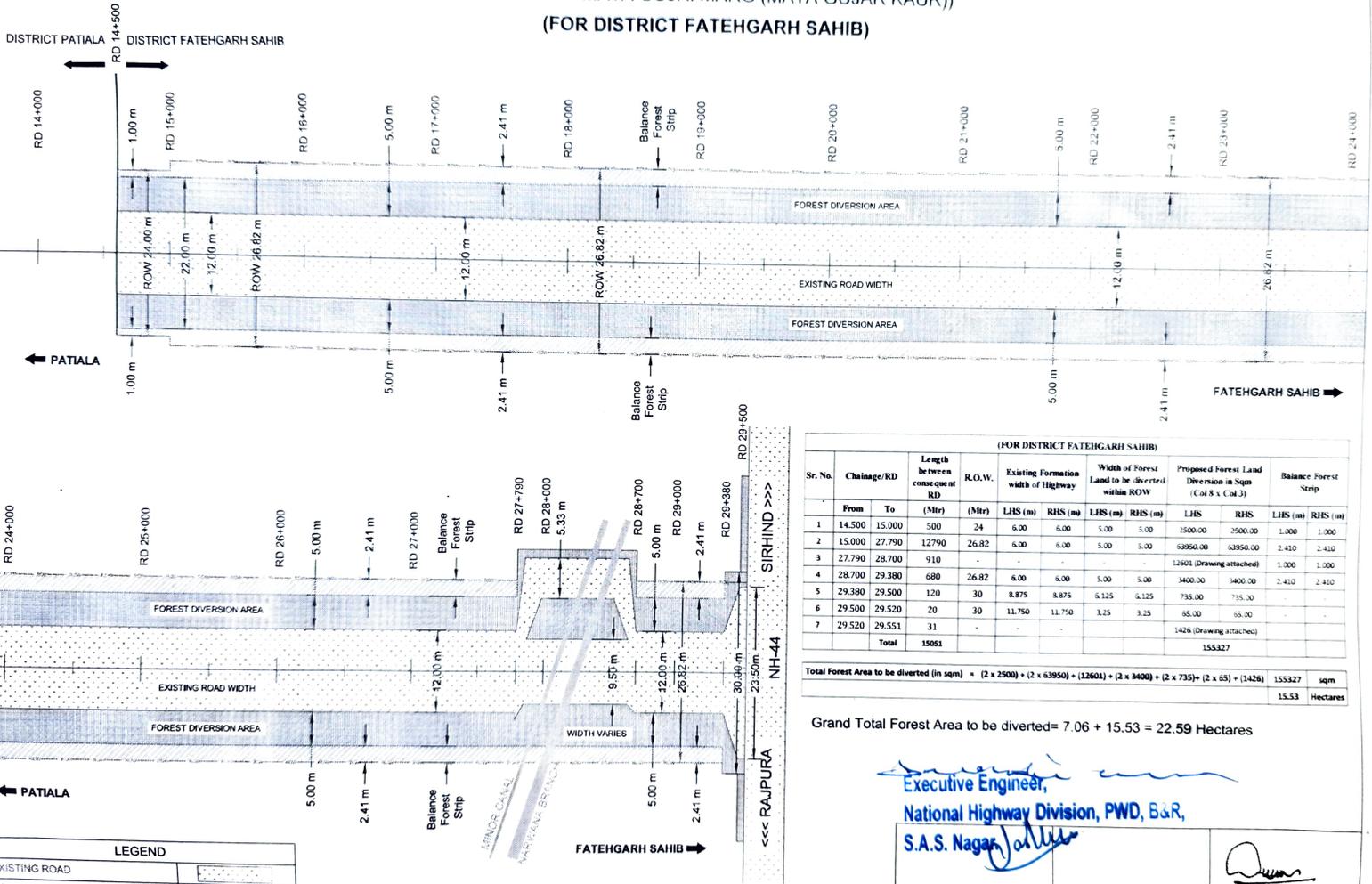
EXISTING ROAD	
FOREST LAND	

Executive Engineer,
National Highway Division, PWD, B&R,
S.A.S. Nagar

SUB DIVISIONAL ENGINEER, NH SUB DIVISION PWD B&R, BR. CHANDIGARH.	 EXECUTIVE ENGINEER, P.W.D. B&R BRANCH, MOHALI.
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PLAN OF FOREST LAND TO BE DIVERTED FOR REHABILITATION/UPGRADATION OF 2-LANE TO 4-LANING OF GURUDWARA DUKH NIWARAN SAHIB-FATEHGARH SAHIB-CHAMKAUR SAHIB-BELA (MDR-31) FROM KM. 25.50 TO KM. 29.51 = 28.301 KM. (UPGADATION/WIDENING OF NEWLY ANNOUNCED MATA GUJRI MARG (MATA GUJAR KAUR))

(FOR DISTRICT FATEHGARH SAHIB)



LEGEND	
EXISTING ROAD	
FOREST LAND	

(FOR DISTRICT FATEHGARH SAHIB)

Sr. No.	Chainage/RD		Length between consequent RD (Mtr)	R.O.W. (Mtr)	Existing Formation width of Highway		Width of Forest Land to be diverted within ROW		Proposed Forest Land Diversion in Sqm (Cat 8 x Col 3)		Balance Forest Strip	
	From	To			LHS (m)	RHS (m)	LHS (m)	RHS (m)	LHS	RHS	LHS (m)	RHS (m)
1	14.500	15.000	500	24	6.00	6.00	5.00	5.00	1500.00	1500.00	1.000	1.000
2	15.000	27.790	12790	26.82	6.00	6.00	5.00	5.00	63950.00	63950.00	2.410	2.410
3	27.790	28.700	910	-	-	-	-	-	12601 (Drawing attached)	12601	1.000	1.000
4	28.700	29.380	680	26.82	6.00	6.00	5.00	5.00	3400.00	3400.00	2.410	2.410
5	29.380	29.500	120	30	8.875	8.875	6.125	6.125	735.00	735.00	-	-
6	29.500	29.520	20	30	11.750	11.750	3.25	3.25	65.00	65.00	-	-
7	29.520	29.551	31	-	-	-	-	-	1426 (Drawing attached)	1426	-	-
			Total									
									15051			155327

Total Forest Area to be diverted (in sqm) = (2 x 2500) + (2 x 63950) + (12601) + (2 x 3400) + (2 x 735) + (2 x 65) + (1426) 155327 sqm
 15.53 Hectares

Grand Total Forest Area to be diverted = 7.06 + 15.53 = 22.59 Hectares

S.A.S. Nagar
 Executive Engineer,
 National Highway Division, PWD, B&R,
 S.A.S. Nagar

SUB DIVISIONAL ENGINEER,
 NH SUB DIVISION
 PWD B&R, BR
 CHANDIGARH.

[Signature]
 EXECUTIVE ENGINEER,
 NH DIVISION,
 P.W.D. B&R BRANCH,
 MOHALI.