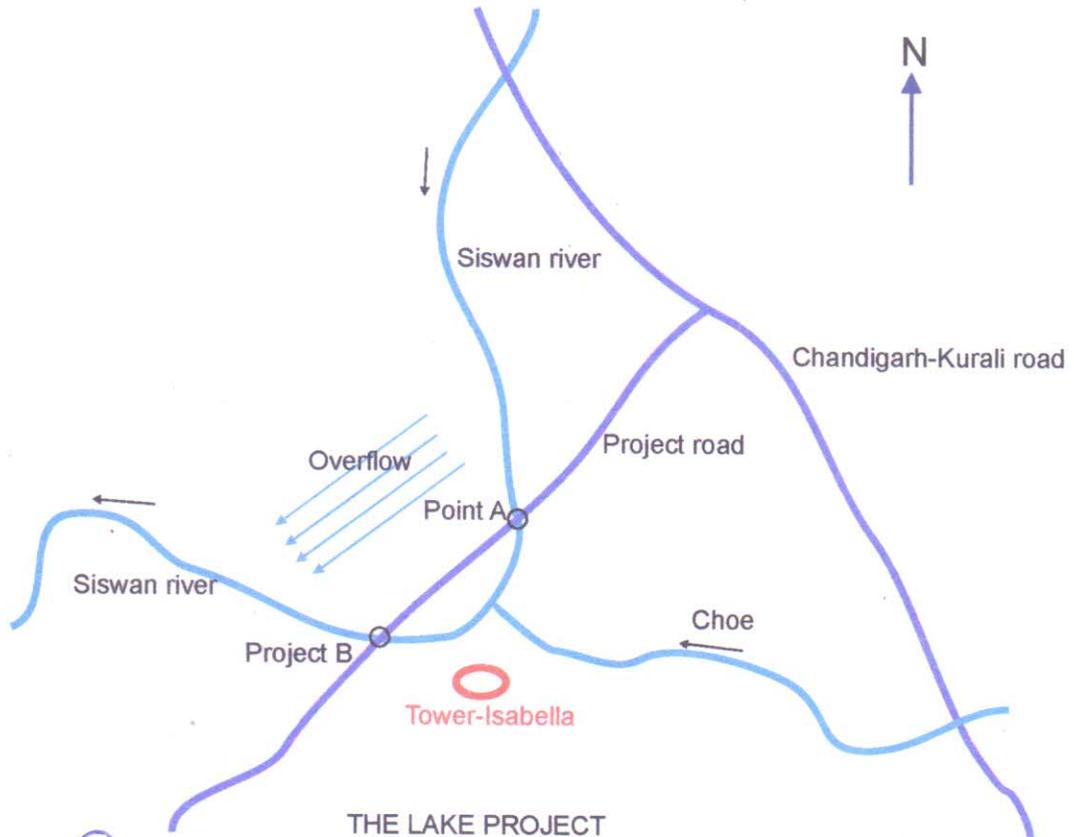


Subject: Report of Joint Committee constituted in compliance of order dated 3.3.2020 of the Hon'ble NGT in the matter of OA no. 980 of 2019 titled as Harminder Singh and others Versus Union of India.

1.0 Background

Harminder Singh and other complainant filed an application (OA no. 980 of 2019) titled as Harminder Singh and others Versus Union of India in the Hon'ble National Green Tribunal. The complaint refers to a residential project namely 'The Lake' by M/s Omaxe Chandigarh Extension Developers Pvt. Ltd., which is obstructing the natural flow of River Siswan by filling up and closing a part of it in Village Bharonjian and diverting it to another place nearby in Vill. Kansala, Sub Tehsil Majri, Distt. SAS Nagar, Mohali, which has resulted flood like situation in the vicinity of the project area.

An index map of the Siswan river, Choe (seasonal drain), Chandigarh-Kurali road, project road etc. are shown in Fig. 1.



THE LAKE PROJECT

Fig. 1 Index map

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2.0 The Hon'ble NGT has constituted a joint committee comprising of Additional Chief Secretary, Housing and Urban Development, Punjab, Secretary, Irrigation, Punjab and SEIAA, Punjab w.r.t. to the allegations and for factual and action taken report. The committee submitted its report along with findings and their recommendations to the Tribunal. The findings and the recommendations of the Committee are reproduced here under as:

Findings of the committee:-

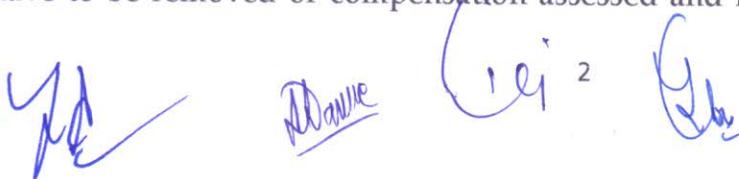
- i) The committee observed that the natural flow of river Siswan was disturbed by M/s. Omaxe Chandigarh Extension Developer Pvt. Ltd. by providing pipes of 5' diameter beneath the road, which are not sufficient to cater the discharge flowing in the river (Nadi).
- ii) Area adjoining to the creek has also been filled with the construction debris thrown by M/s. Omaxe Chandigarh Extension Developer Pvt. Ltd.

Recommendations by the committee:-

- i) GMADA will construct culverts at point A for passing 2000 cusecs of water and at point B for passing of 2650 cusecs of water after vetting drawings from the Water Resources Department.
- ii) M/s. Omaxe Chandigarh Extension Developer Pvt. Ltd shall removed the debris from the water way of the natural drain and restore the level of the land to the original level. GMADA shall ensure the compliance of the notice issued by it.
- iii) M/s. Omaxe Chandigarh Extension Developer Pvt. Ltd. shall protect the left side of creek of the reach adjoining to " The Lake Project and the left edge of the road from point A to B along the creek with the help of stone pitching as per the undertaking 22/10/2019 submitted by it. GMADA and Water Resource Department shall ensure the compliance of the same."

3.0 The Hon'ble Tribunal in its orders dated 3.3.2020 while accepting the report of the committee has directed that the recommendations be complied with and overseen by Secretary, Irrigation Deptt., Punjab and Greater Mohali Area Development Authority (GMADA).

4.0 The Tribunal has further constituted a separate committee comprising of representatives of the Central Pollution Control Board (CPCB), IIT Roorkee and the State PCB for the purpose to assess as to whether illegal construction may either have to be removed or compensation assessed and recovered. The committee may

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also look into the issue of diversion of river at Vill. Kansala, illegal filling up of the river and raising illegal construction and remedial action to be examined. The Tribunal directed the State PCB to assess and recover compensation on 'Polluter Pay's Principle'.

5.0 The following committee is constituted in compliance with the said order of the Hon'ble Tribunal:

- i) Sh. Suneel Dave, Additional Director, Central Pollution Control Board
- ii) Prof. Zulfequar Ahmad, Deptt. of Civil Engineering, IIT Roorkee
- iii) Sh. R.K. Ratra, SEE, Punjab Pollution Control Board
- iv) Sh. Ashok Sharma, EE, Punjab Pollution Control Board
(Mr. Lavneet Kumar, E.E., taken over charge due to transfer of Sh. Ashok Sharma, E.E.)

6.0 The applicant has not furnished the paper book to the above committee and the information to this effect along with a report dated 17/07/2020 has been filed before the Hon'ble Tribunal. In spite of non-submission of paper book by the applicant, the committee has undertaken the task assigned vide said order of the Tribunal.

7.0 Due to COVID-19 pandemic, inter-state movement, physical visits and meetings remained restricted. The committee members deliberated the issues through video conferencing and videography conducted through drone survey, however, the same was found insufficient to arrive at a conclusion.

8.0 The committee visited the project site 'The Lake' developed by M/s Omaxe Chandigarh Extension Developers Pvt. Ltd., located at Vill. Kansala, Bharonjian, Ranimajra, Dhode Majra and Rasoolpur, Sub. Tehsil Majri, Distt. SAS Nagar on 29/7/2020. A meeting was held with the stake holder departments, representative of promoter company and the complainants to get clarity on the matter and to obtain their view points. The meeting was held in the Board room of the project 'The Lake' to facilitate the complainants.

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9.0 The salient points of the meeting are summarised as follows:

- A) The complainant Sh. Harminder Singh has asked his brother Sh. Manjinder Singh to present their views / grievances before the committee.
- B) Sh. Manjinder Singh brought out that the project proponent has blocked the natural flow of Choe flowing from village Bharonjian, by filling up debris which has resulted in inundation of agricultural fields especially during rainy season. The developers have also pushed the course of the river Siswan towards north to accommodate the construction of residential towers belonging to the project 'The Lake'. Further, it was also stated that the course of river Siswan has also been diverted by filling towards the village Kansala which is located towards right side of the river.
- C) Sh. Dalip Moudgill, Director of M/s Omaxe Chandigarh Extension Developers Pvt. Ltd., has stated that the Lake Project has been carried out with due approval from the concerned authorities and in accordance to the Master Plan of New Chandigarh.
- D) Further, the committee along with the complainant, project proponent and representatives of the stake holder departments visited the sites in question i.e. Vill. Bharonjian and Vill. Kansala.

10. The committee sought pertinent information from the concerned departments and the same are placed below:

i) Information sought from GMADA:

- a. **As to whether there is any shift in the alignment of the GMADA (project) road or is provided at its true location as approved by the Department of Housing and Urban Development-Town and Country Planning.**

Response from GMADA:

The area of land acquired for 100 feet wide road also falls on the alignment of the 200 feet road (VR-6) in which these numbers are included.

- b. **Providing Longitude and Latitude of the GMADA road, specifically for the length it runs within the project site.**

Response from GMADA:

Longitude and latitudes :

Start point of the road : 30° 49' 39" N and 76° 43' 53" E

End point of the road : 30° 48' 38" N and 76° 42' 06" E

- c. Further action taken by GMADA against the project proponent of 'The Lake' project since 2014 (after issue of notice on 5/6/2014), when it first observed that the promoter company had not obtained permission for crossing the river underneath the GMADA road.

Response from GMADA:

The promoter company was asked to stop the work immediately when it was first noticed vide DEPH-2 office memo no. GMADA-DE(PH-2)/2014/2323-26 dated 5.6.2014. The promoter company did not take any permission for crossing the river underneath the GMADA road. No further action has been taken by the GMADA in this regard.

ii) Information sought from Chief Town Planner (CTP, Punjab)

- a. Clarify the reason for not matching the site conditions of river and GMADA road.

Response from CTP:

CTP has referred matter to GMADA. GMADA vide letter no. 2259 dated 30.09.2020 referred back the matter to CTP for providing the information.

- b. Certify that the location of GMADA road is as per the approved master plan and it has not been pushed or deviated from the location shown in the master plan.

Response from CTP:

No response on the above query.

- c. Certify that the construction of the project 'The Lake' is being done at the same location as was shown in the site / location plans approved by your department and there is no deviation, specifically w.r.t. the towers / boundaries adjoining to the river Siswan falling in the area between Point-A and Point-B (as shown in the map attached and provided by Drainage Deptt.) and for the project boundaries near the Vill. Kansala.

Response from CTP:

CTP has referred matter to GMADA. GMADA informed that a committee headed by Superintending Engineer, GMADA has been constituted to verify the site condition and report will be submitted shortly.

- d. Providing Longitude and Latitude of the project boundaries of 'The Lake' project particularly in the area starting from Chandigarh-Kurali Road village Bharonjian to Vill. Kansala adjoining to the river banks, specifically for the length falling between Point-A & B and for the project boundaries near the Vill. Kansala.

Response from CTP:

CTP has referred matter to GMADA. GMADA informed that no such information is available in their record.

- e. Provide the authenticated copy of the notified master plan of the area along with the approved layout plan of the project 'The Lake' at the time of start of the project and last amendment approved by their department.

Response from CTP:

CTP has referred matter to GMADA. GMADA provided vide letter no. 2259 dated 30.09.2020 revised (26.02.2020) Zonal Development Plan, SAS Nagar, Punjab, which is not related to the concerned area.

CTP has yet to provide the complete information despite reminders and persuasions by the nodal agency (PPCB). Latest reminder issued through E-mail on 18th December 2020.

iii) Information sought from Deptt. of Water Resources (Drainage)

- a. Providing the plans / documents available with their department showing the course (natural flow) of river Siswan before the commencement of the "The Lake Project" and the plans showing subsequent changes, if any and indicating the location of river crossing the GMADA road between Point-A & B at Vill. Bharoujian and at Vill. Kansala.
- b. Clarifying whether there is any change / no change in the natural flow of river Siswan since 2008 or the project proponent has pushed the river Siswan between Point-A & B at Vill. Bharoujian and at Vill. Kansala.

Response received from Dept. of Water Resources (Drainage):

A copy of communication dated 18.09.2020 has been received, however, the replies from the Superintending Engineer, Patiala Drainage circle, Patiala are not in line of the quarries raised.

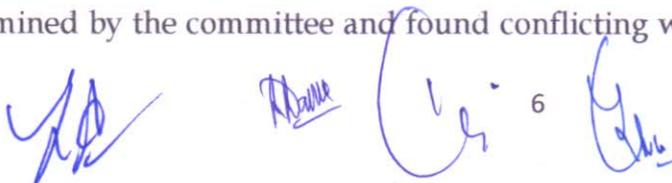
IV) Information sought from SEIAA, Punjab

To clarify as to whether there was any specific reference of the Siswan river passing through the project site in the Term of Reference (TOR) issued to the project proponent at the time of considering the application for grant of Environmental Clearance under EIA Notification 2006 and the compliance status thereto.

Response from SEIAA, Punjab:

SEIAA vide email dated 22/9/2020 informed that the matter of Siswan river passing through the project site was neither deliberated upon nor any specific TOR was imposed while granting the Term of References to the promoter company.

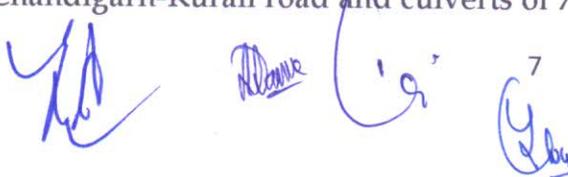
11. The information provided by the concerned Departments was examined by the committee and found conflicting with the ground reality. To arrive

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at a conclusion, a study of morphological changes in the course of the river Siswan and Choe near the project 'The Lake' was undertaken by Prof. Zulfequar Ahmad (Technical Expert of the Committee) using Google Earth images.

12. Based on the morphological study, deliberation held in the meeting and observations recorded during field visit, the committee finds the following:

- a) Centrelines of the main course of the river Siswan and the Choe that comes from Bharonjian village are marked on the Google earth images dated 17/8/2007 and 9/7/2020 as shown in Fig. 2. Other available Google earth images from year 2002 to 2020 have also been examined and some of them area given in Annexure-1. It is apparent from the examined images that before the construction of the project i.e., year 2008, the Siswan river after crossing the Chandigarh-Kurali road was taking a left turn (towards east) and then crosses the project road at point 'A' and joins the natural Choe coming from village Bharonjian and takes right turn (towards west) while crossing the project road at point 'B' as depicted in the Fig. 2. Thereafter, the river flows towards the village Kansala.
- b) Even after the ongoing construction of the project, the river Siswan crosses the project road at point 'A' and then return back at point 'B'. Due to narrow channel section of the river Siswan and the Choe, a major part of the flood water flows over their flood plain. As shown in the Fig. 1, due to inadequate channel section of the river Siswan before its crossing with the project road, a part of the flood water follow straight path.
- c) Even before the construction of the project, the channel section of the river Siswan and Choe was not adequate to pass the flood discharge. A major part of the flood water in Siswa river was following straight path before the point-A as shown in Fig. 1.
- d) After the commencement of the project, the confluence point of river Siswan and Choe was shifted by 300 feet (90 m) approx. towards the northern side near Tower-Isbella of the project. It is also evident from the Fig. 2 that the development of the project has shifted the main course of the river and Choe and also encroached their flood plain near Tower-Isbella. Such encroachment may result in more inundation of the area towards the right side (north) during high flow in the river and the Choe.
- e) A bridge of 400 ft width is provided on river Siswan at its crossing with Chandigarh-Kurali road and culverts of 75 ft and 45 ft width are provided on the

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Choe joining to the river. Strangely, only two pipes of 5 ft. dia. each at point 'A' & 'B' are provided across the project road to pass the flow of the river.

- f) The historical 'Google earth images' reveals that the river Siswan has wandering behaviour at village Kansala. The main course of river near village Kansala during pre- and post construction of the project is shown in the Fig. 3. Some patch of land towards right side of the river is low lying and gets inundated frequently during the monsoon period. The river has also eroded the right bank at some places. Inundation and some erosion towards the right bank of the river Siswan near the village Kansala can be attributed to natural change of the river.

13. Based on the ongoing observations, the committee recommends the following:

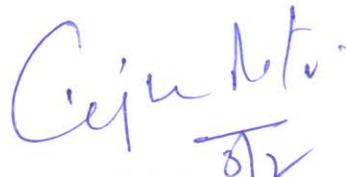
- a) Provided two pipes each of 5 ft diameter at the crossings of the Siswan river with the project road at Points A and B are not adequate and would inundate the area towards west side of the project road even during moderate flow in the river. Such obstruction in flow may divert the main channel and the river may follow a straight path in future which would cause erosion of the agricultural land. To avoid such damage, it is recommended that culverts of suitable size be constructed at both the points A & B. The concerned Dept. may engage some expert agency to carry out study to design the culverts and the cost of the construction of the culverts shall be levied from M/s Omaxe Chandigarh Extension Developers Pvt. Ltd.
- b) The course of the river and Choe at their confluence have been shifted towards north and the left flood plain of the Choe and Siswan river have also been encroached near the confluence. To avoid the environmental damage in future, the committee recommends that the course of the river shall be restored to its original course as it was before the construction of the project. Alternatively, a suitable section of the Siswan river from Point A to B and the Choe from the Culvert on the Chandigarh-Kurali road to its confluence with Siswan river be excavated and debris be cleared so that flood water can be contained in the channelized section of the river and the Choe to avoid inundation and soil erosion in the nearby area. The concerned Dept. may engage some expert agency to carry out study to fix the size of the section of the river and the Choe. The cost towards the restoration or the channelisation including land cost is required to be borne by M/s Omaxe Chandigarh Extension Developers Pvt. Ltd.



- c) Inundation and some erosion towards the right bank of the Siswan river near the Kansala village can be attributed to natural change of the river. However, to control loss of pricey land against erosion, it is recommended that the concerned department may take suitable measures to protect the right bank of the river near the Kansala village.
- d) The concerned department should hire an expert agency for studying the damage caused to the flora and fauna / loss of ecology due to change in morphology of the river Siswan. The environmental damage and its restoration cost may also be estimated by agency and be recovered from M/s Omaxe Chandigarh Extension Developers Pvt. Ltd.



Lavneet Kumar
Environmental Engineer,
Punjab Pollution Control Board,
Regional office, SAS Nagar



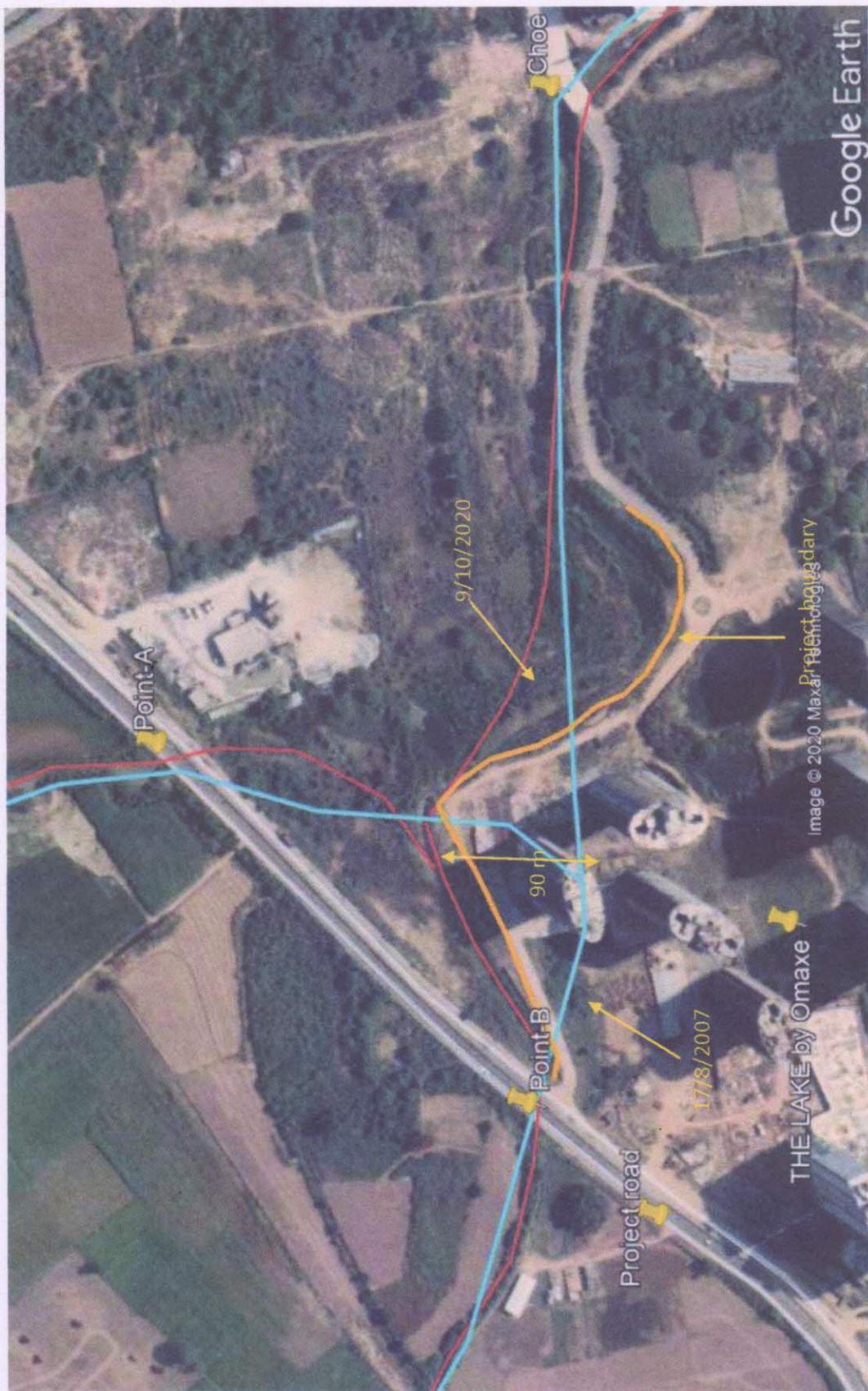
R.K Ratra
Senior Environmental Engineer,
Punjab Pollution Control Board,
Zonal office-1, Patiala



Suneel Dave
Additional Director & Regional
Director
Central Pollution Control Board,
Chandigarh



Zulfequar Ahmad,
Professor, Deptt. of Civil Engineering,
Indian Institute of Technology (IIT),
Roorkee



Yes *Done* *Cei* *Sh*

Figure 2 Google images showing centrelines of the river and choe pre and post construction of the Lake project at their confluence

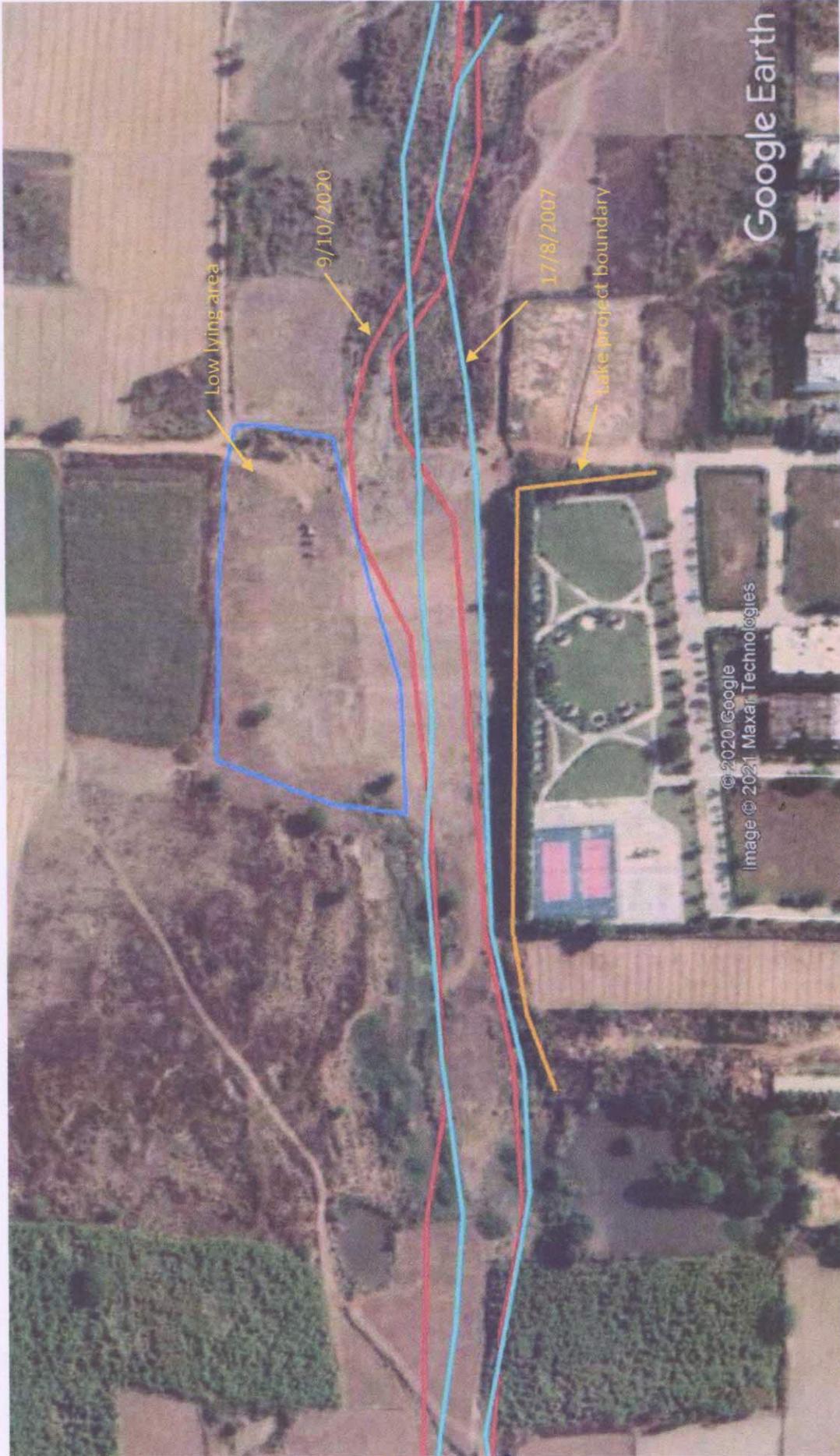
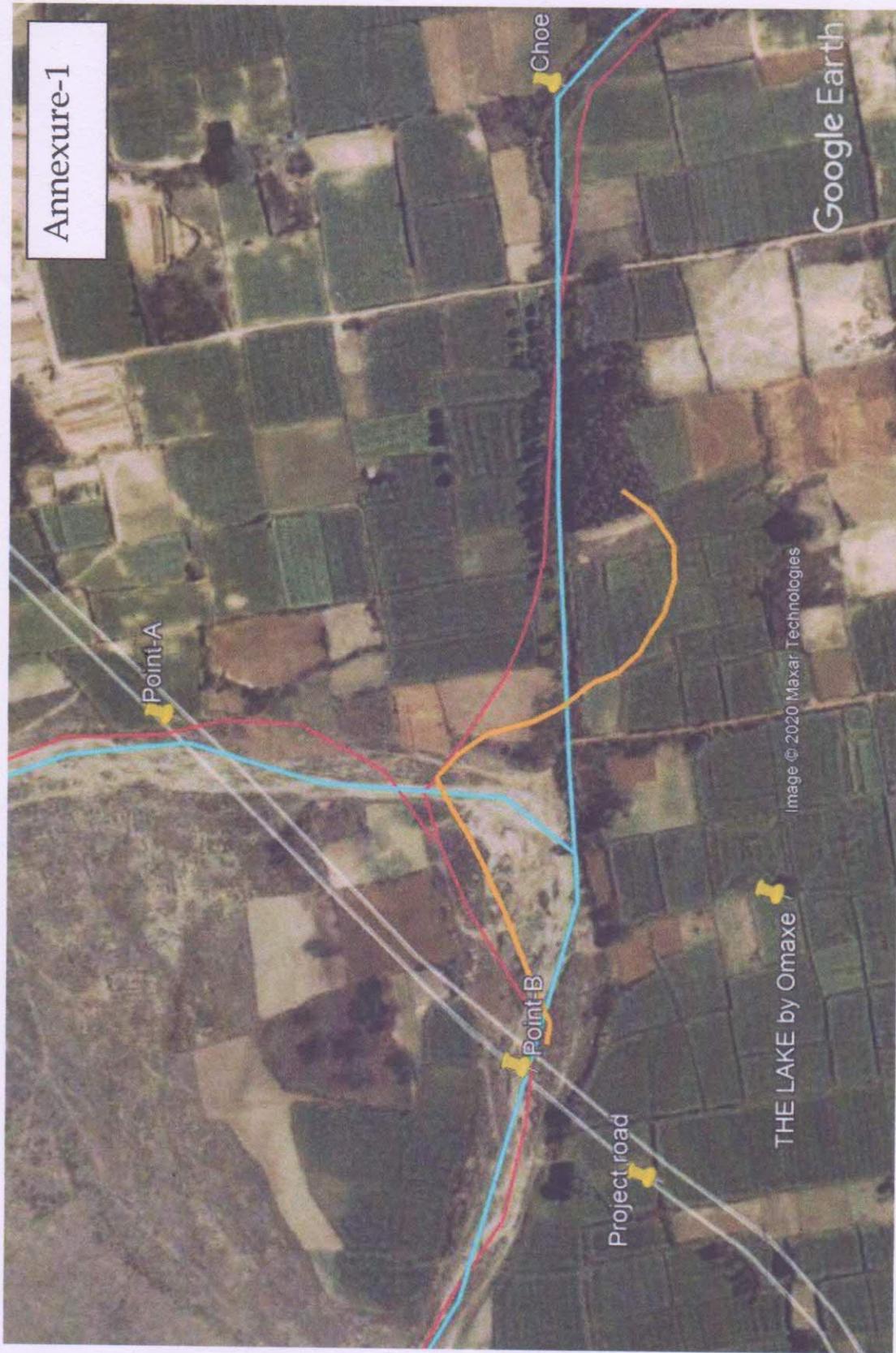


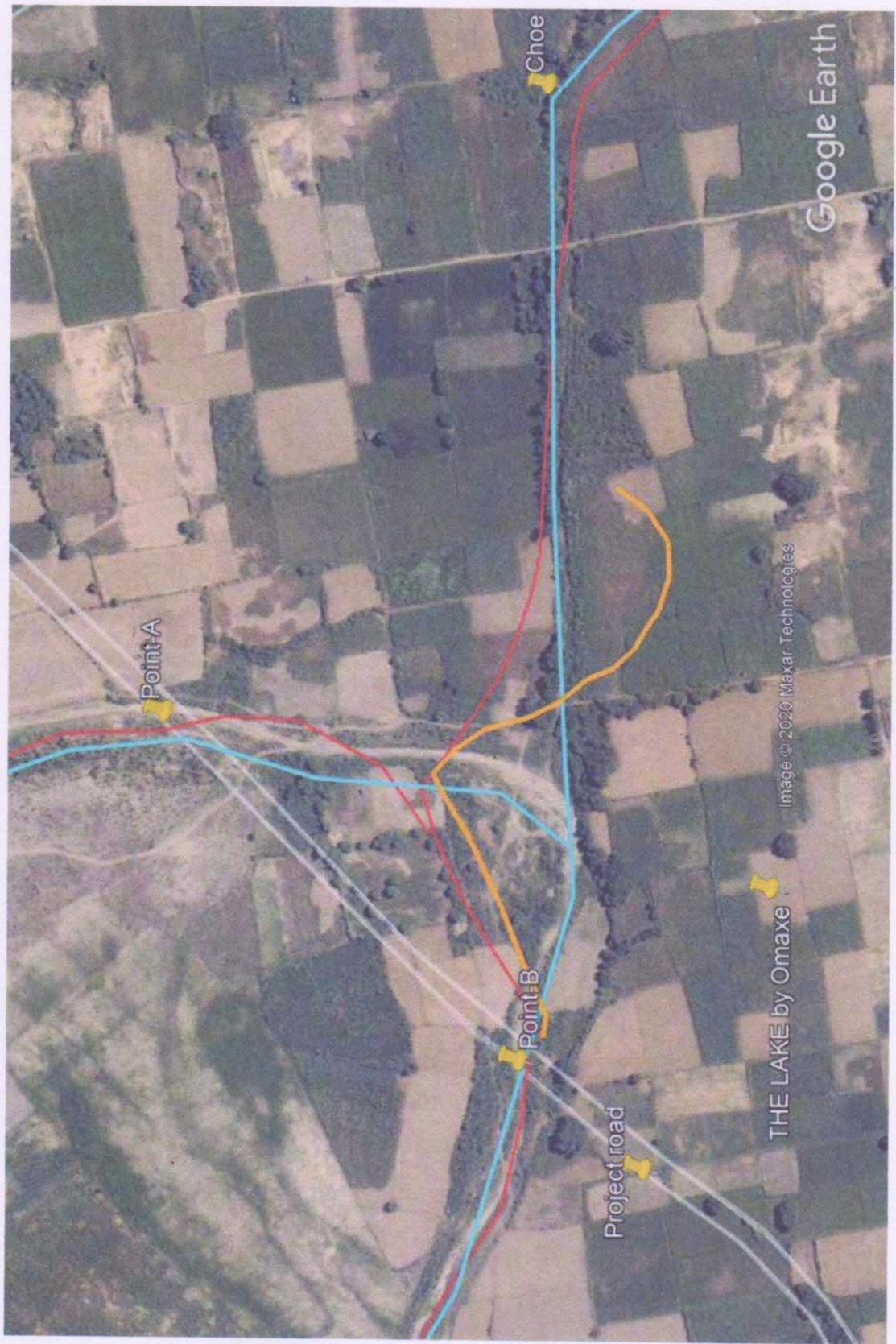
Figure 3 Google images showing Siswan river pre and post construction of the Lake project at Kansala village

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ZS
R. D. M.
Cei
G. S.



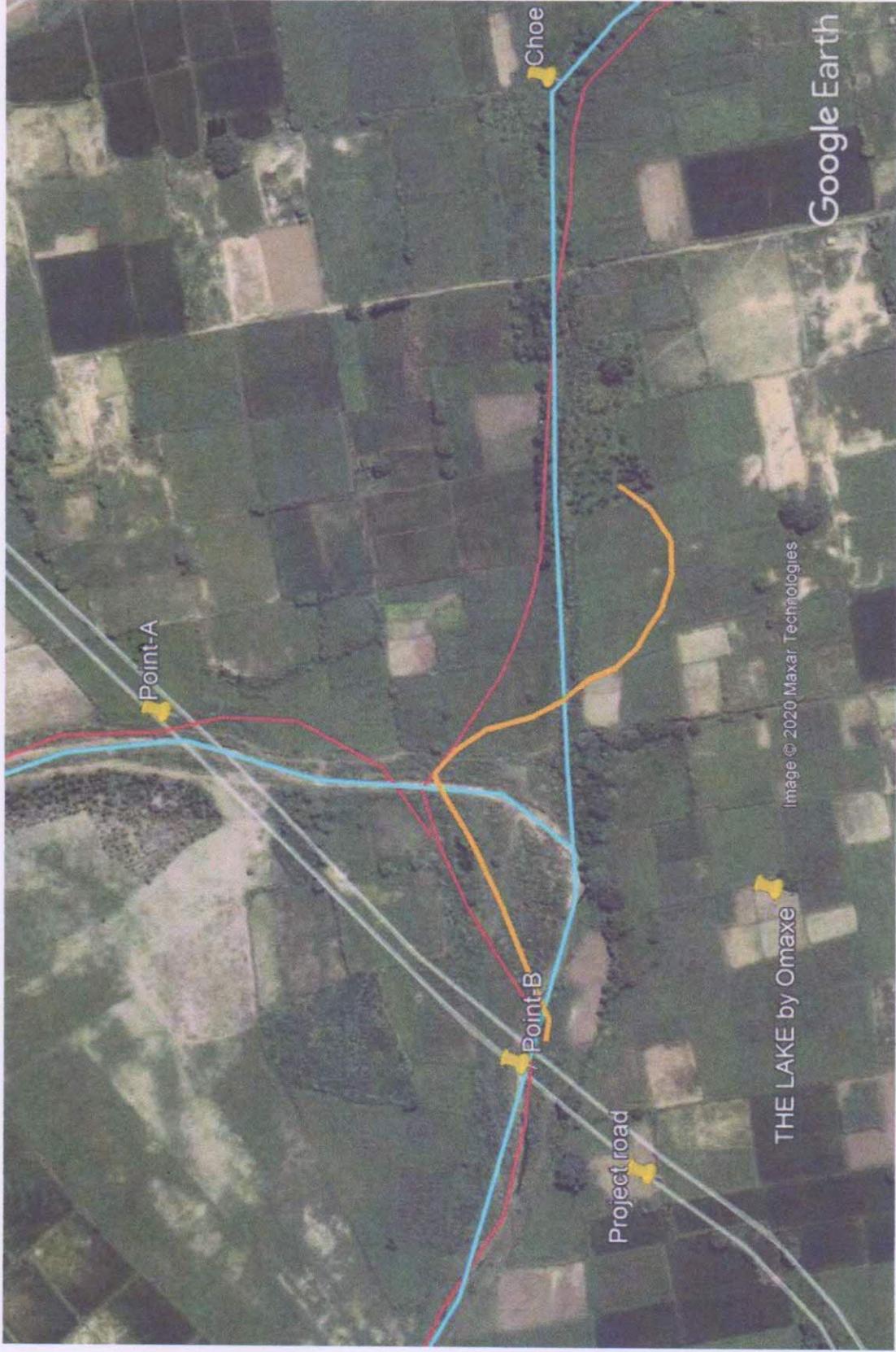
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Google earth image as on 15/2/2003



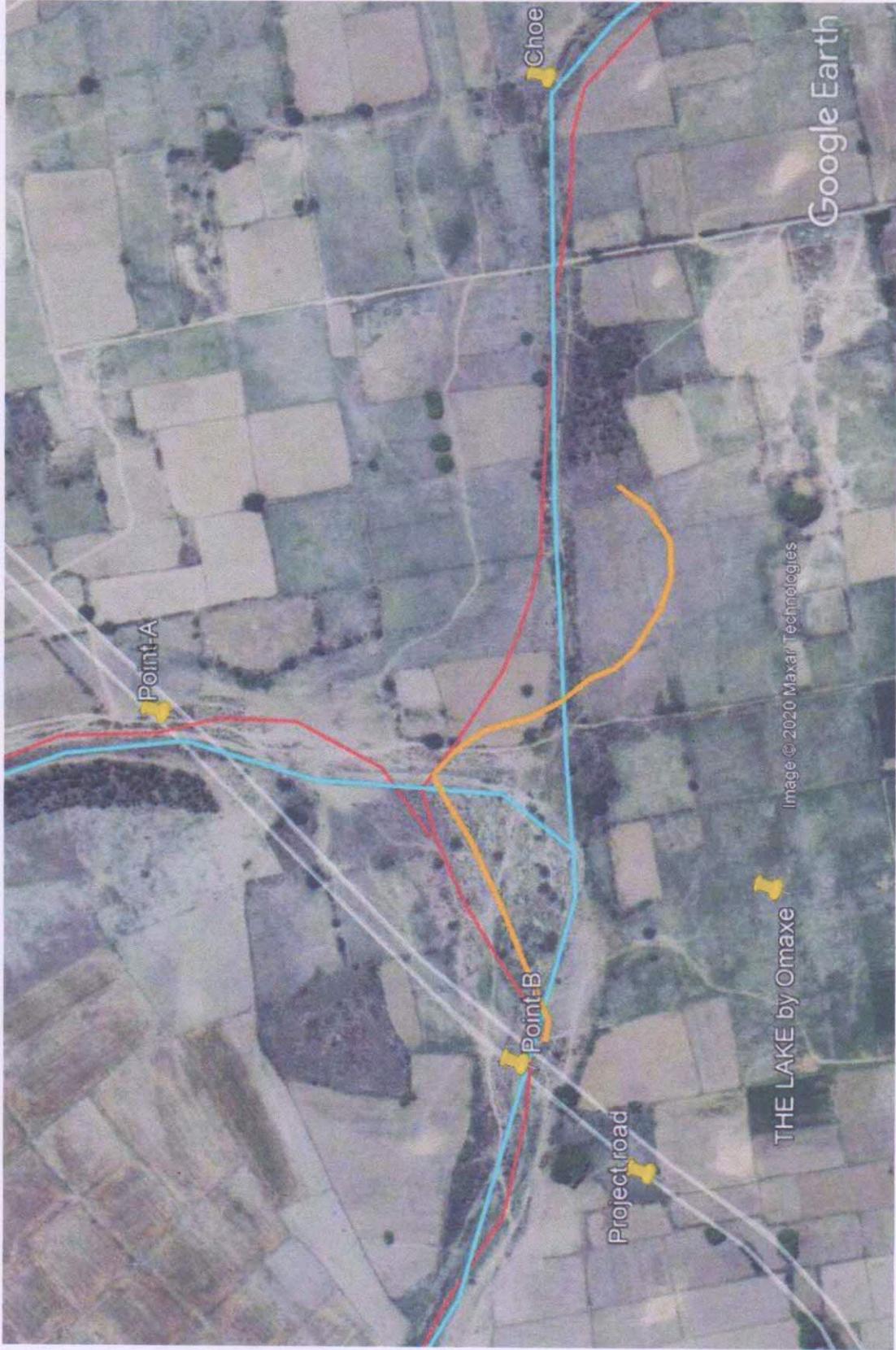
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Google earth image as on 2/10/2006



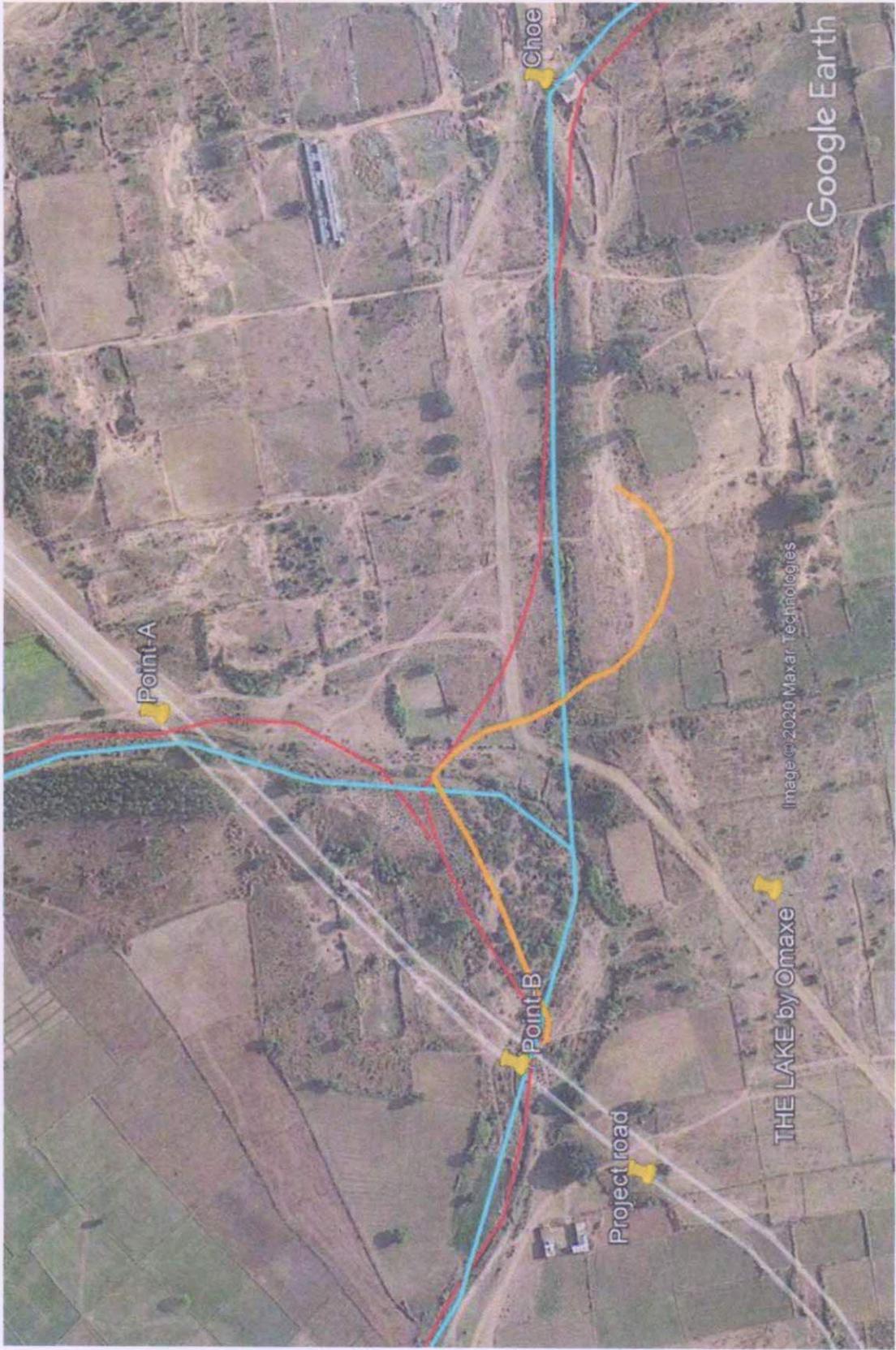
Handwritten signatures:
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Alhame
G. Bn.
Ci

Google earth image as on 17/8/2007



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Google earth image as on 30/4/2009



Handwritten signatures and initials in blue ink:
A large signature on the left.
The word "Ramesh" in the middle.
The initials "G. Ch." below "Ramesh".
The word "Civ" on the right.

Google earth image as on 16/12/2012



[Handwritten signatures]
Cei

Google earth image as on 11/6/2015



Handwritten signatures and initials in blue ink, including 'SJA', 'R...', 'G...', and 'Cu'.

Google earth image as on 8/10/2016



[Handwritten signatures]

Google earth image as on 14/02/2018