

**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI  
OA 669/2018**

IN THE MATTER OF:

Marvada Amrutlal Becharlal

.....Petitioner

Versus

State of Gujarat and ors

.....Respondents

NDOH: 29.01.2021

**INDEX**

SL NO.	PARTICULARS	PAGE NOS
1.	Written submissions and objections to the joint report of CPCB And GPCB In Compliance With Order Of The Hon'ble NGT (Principal Bench, Delhi) in the matter O.A no. 669 of 2018: Marvada Amrutlal Becharlal Vs. State Of Gujarat	2 - 21

PLACE: NEW DELHI

DATE: 28.01.2021

FILED BY:



SHILPA CHOCHAN AND SHAWAHIQ SIDDIQUI  
ADVOCATES FOR THE PETITIONER

FOR

INDIAN ENVIRONMENT LAW ORGANIZATION (IELO)

ADVOCATES AND LEGAL CONSULTANTS

B-59 (GROUND FLOOR),

SOUTH EXTENSION PART-II,

NEW DELHI 110049

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**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI  
OA 669/2018**

IN THE MATTER OF:

Marvada Amrutlal Becharlal .....Petitioner  
Versus  
State of Gujarat and ors .....Respondents

**WRITTEN SUBMISSIONS AND OBJECTIONS TO THE JOINT  
REPORT OF CPCB AND GPCB IN COMPLIANCE WITH ORDER  
OF THE HON'BLE NGT (PRINCIPAL BENCH, DELHI) IN THE  
MATTER O.A NO. 669 OF 2018: MARVADA AMRUTLAL  
BECHARLAL VS. STATE OF GUJARAT**

- 1. Operation of plant for which EC has been cancelled by SEIAA:** The applicant had challenged legality of Environmental Clearance (EC)(SEIAA/GUJ/EC/2(b)/355/2019) dated 26.02.2019 granted to M/s Ashapura Perfoclay Limited for expansion of production capacity of bleaching clay at the existing unit at Survey no. 167, village Ler, near Bhujodi, Anjar- Bhuj Highway, District Kutch in *Appeal No. 40/2019 (WZ)- Marvada Amrutlal Becharlal & Anr Versus Gujarat State Environment Impact Assessment & Ors.* while the present OA was pending against the same unit for violation of environmental norms. The Hon'ble NGT issued notice in the appeal and a joint report was sought from the Gujarat State

Environment Impact Assessment Authority (SEIAA) and Gujarat Pollution Control Board (GPCB). Accordingly, Gujarat SEIAA filed affidavit dated 28.07.2020 to the effect that the EC has been cancelled vide order dated 03.03.2020 after being satisfied that the unit had given incorrect information. The Hon'ble NGT based upon this affidavit disposed off the Appeal vide order dated 01.09.2020. The true copy of the order dated 01.09.2020 in Appeal No. 40/2019 (WZ)- Marvada Amrutlal Becharlal & Anr Versus Gujarat State Environment Impact Assessment & Ors. is annexed herewith and marked as **Annexure A/1**. Despite cancelation of the EC, the plant for which EC was sought is functional day and night. The true copy of the photographs of the functional plant is annexed herewith and marked as **Annexure A/2 (Colly)**. The applicant has made a complaint to Gujarat SEIAA and GPCB, but no action has been taken by them. The true copy of the complaint dated 16.01.2021 made to Gujarat SEIAA and GPCB is annexed herewith and marked as **Annexure A/3**. GPCB in its various closure and revocation orders have specified that the new plant cannot function without permission. The true copy of revocation order dated 27.09.2019 is annexed herewith and marked as **Annexure A/4**. The plant is being operated in blatant violation to the orders of this Hon'ble Tribunal and environmental statutes.

- 2. REGARDING THE ENVIRONMENT COMPENSATION:** In the Action Taken Report submitted earlier by GPCB it was stated as *"In compliance with the order dated 17/09/2009 passed by the High Court of Gujarat in Special Civil Application No. 9699/2008,*

*GPCB has submitted a file on 20/12/2018 before the District Collector for the constitution of a District Level Compensation Committee to assess the amount of compensation for environmental losses, agricultural losses, etc pollution caused by M/s. Ashapura Perfoclay Ltd. The said Committee has been constituted and is under the process of ascertaining the said damages."* In the subsequent reports, the outcomes of the District level Compensation Committee has not been specified.

- 3. Dumping of Gypsum:** Indiscriminate dumping of the Gypsum continues on Survey No. 167/paiki 2 and Survey No. 205 which is government land adjoining the plant, in contravention of the amended CCA. Out of 13 locations where Gypsum was dumped, there has been no efforts at lifting it up and just plantation has been done to somehow cover it up. The present Joint Committee report has not placed on record the GITCO report which is purportedly the basis for undertaking plantation. It is not stated if testing of the Gypsum that is dumped is hazardous or not.
  
- 4. Groundwater contamination and remediation:** The groundwater wells in Village Bhujodi which is at a distance of 1 km from the plant is having yellow water and these wells have not been taken for the purpose of remediation. The sampling which was undertaken is not of this area and remediation of the groundwater is required. There is still an illegal groundwater well being operated by the company on government land in Survey No. 205, Village Ler.

5. **Violation of CCA and other environmental norms:** The chemical water which is generated is not being disposed off in the open without any treatment and the same is transported through tankers. The true copy of the photographs is annexed herewith and marked as **Annexure A/5 (Colly)**.

In view of the above, it is evident that the unit continues to operate in violation of the environmental statutes.

PLACE: NEW DELHI  
DATE: 28.01.2021

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FOR  
INDIAN ENVIRONMENT LAW ORGANIZATION (IELO)  
ADVOCATES AND LEGAL CONSULTANTS  
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SOUTH EXTENSION PART-II,  
NEW DELHI 110049  
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(M) 9811391760, 9718647753

Annexure A/1/6

Item No. 04

Court No. 1

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

(By Video Conferencing)

Appeal No. 40/2019(WZ)

Marvada Amrutlal Becharlal & Anr.

Appellant(s)

Versus

Gujarat State Environment Impact Assessment & Ors.

Respondent(s)

Date of hearing: 01.09.2020

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON  
HON'BLE MR. JUSTICE S. P. WANGDI, JUDICIAL MEMBER  
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Appellant(s): Mr. Shilpa Chohan, Advocate

**ORDER**

1. This appeal has been preferred against the order of the Gujarat State Pollution Control Board (Gujarat State PCB) dated 26.02.2019 granting EC for expansion of production capacity of the unit in question in District Kutch, Gujarat. According to the appellant, Environmental Clearance (EC) was obtained without disclosing all the material facts to State Level Expert Appraisal Committee (SEAC).

2. The Tribunal, vide order dated 20.11.2019, sought a report from the Gujarat State Environment Impact Assessment Authority (SEIAA) and the Gujarat State PCB. Accordingly, Gujarat SEIAA has filed affidavit dated 28.07.2020 to the effect that the EC has been cancelled vide order

7

dated 03.03.2020 after being satisfied that the unit had given incorrect information.

3. In view of above, the appeal is disposed of as infructuous. Pending application, if any, will also stand disposed of, without any separate order.

4. In view of the fact that EC is at times obtained by the project proponents without disclosing complete and correct information, SEIAA must cross check and verify the information furnished by the project proponent independently so that the safeguards for which EIA has been provided by the law can be ensured. Absence of doing so is leading to avoidable damage to the environment and public health.

A copy of this order be forwarded to the MoEF&CC and CPCB for being circulated to SEIAAs of all States/UTs in the country by e-mail for compliance.

Adarsh Kumar Goel, CP

S. P. Wangdi, JM

Dr. Nagin Nanda, EM

September 01, 2020  
Appeal No. 40/2019(WZ)  
(I.A. No. 74/2019 & I.A. No. 85/2019)  
DV



23°12'21", 69°44'32", 124.3m, 145°  
15/01/2021 10:31:56

**Plant Operation for which EC has been cancelled**



23°12'27", 69°44'34", 102.9m, 157°  
14/01/2021 21:44:29



Annexure A/3

From :

Marvada Amrutlal Becharlal, 10  
R/o. Vankar Vass,

Near Bus Station Kukma,

Village and Post : Kukma,

Taluka : Bhuj, Dist. Kutch,

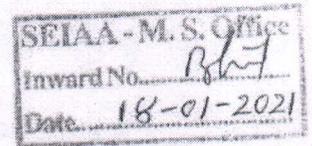
Gujarat-370105

Mo. 98251 72629

Date : 16-01-2021

To,

- (1) The Member Secretary,  
Gujarat State Environment Impact Assessment Authority,  
Paryavaran Bhawan, Sector-10/ A,  
Gandhinagar-382 010 (Gujarat)
- (2) The Chairman,  
Gujarat Pollution Control Board,  
Paryavaran Bhavan, Sector-10/ A,  
Gandhinagar - 382 010 (Gujarat)
- (3) The Member Secretary,  
Gujarat Pollution Control Board,  
Paryavaran Bhavan, Sector-10/ A,  
Gandhinagar - 382 010 (Gujarat)
- (4) The Chief Secretary,  
Ministry of Environment, Forest  
And Climate Change,  
Jor bagh, Lodhi Colony,  
New Delhi (110003)



Re :- Stoppage of operation of Unit/Plant of Ashapura Perfoclay Limited (APL) operating without Environment Clearance for manufacture of Bleaching Earth, bleaching clay, Activated Fullers Earth and clay-based products

Sir,

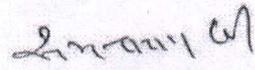
Ashapura Perfoclay Limited (APL) operates unit for manufacture of Bleaching Earth, bleaching clay, Activated Fullers Earth and clay-based production Survey No.

167, Village-Ler, Nr. Bhujodi, Anjar-Bhuj Highway, Taluka-Bhuj, District-Kutch, Gujarat. APL sought environment clearance for increasing the capacity of the plant which is on Survey No. 166 and Environment Clearance (EC) dated 26.02.2019 was granted by SEIAA, Gujarat to APL. The undersigned challenged the grant of EC before National Green Tribunal (NGT) vide Appeal No. 40/2019 (WZ)-MarvadaAmrutlalBecharlal&Anr. Vs Gujarat State Environment Impact Assessment & Ors. At the same time Original Application No. 669/2018 titled MarvadaAmrutlalBecharlalVersusState of Gujarat was also pending against APL before NGT for violation of CCA terms and EC.

After notice was issued in the Appeal, your office placed before NGT order dated 26.02.2019 cancelling the EC dated 26.02.2019 granted to APL on the ground that EC was fraudulently obtained by APL by providing misleading information. Despite, cancellation of EC by your office the plant is operational and the enclosed photographs shows to that effect.

It is requested that appropriate action may be initiated for immediate cessation of production activity at the plant as the same is in violation of environmental laws.

Your Sincerely,

  
(Marvada Amrutlal Becharlal)

*Enclosed : Includes D.I.L.R. measurement seat, Googlemap and GPS coordinated photograph.*

Copy To :-

- (1) The Regional Director,  
Central Pollution Control Board,  
Parivesh Bhavan, Aatmjyoti Ashram Road,  
Opp. VMC Ward Office No. 10,  
Subhanpura, Vadodara-390023 (Gujarat)
- (2) The Regional Officer,  
Gujarat Pollution Control Board (West-Kutch)  
Near Income Tax Office, Sanskar Nagar,  
Bhuj-Kutch (370001) Gujarat.
- (3) The District Collector of Kutch  
Jilla Seva Sadan, Bhuj-Kutch (370001)



*Annexure A/y*

## GUJARAT POLLUTION CONTROL BOARD

PARYAVARAN BHAVAN

Sector-10-A, Gandhinagar 382 010

Phone : (079) 23222425

(079) 23232152

Fax : (079) 23232156

Website : www.gpcb.gov.in

**BY RPAD**

### REVOCATION ORDER OF CLOSURE ORDER ISSUED UNDER SECTION 33(A) OF THE WATER (PREVENTION AND CONTROL OF POLLUTION) ACT-1974.

WHEREAS you are having an industrial plant located at Sr. No. 167, Vill: Ler. Near Bhujodi, Tal: Bhuj, Dist: Kutch

AND WHEREAS the Gujarat Pollution Control Board has granted Consent to manufacture products mentioned in Consent order no. AWH-93521, which is valid upto 24.6.2023 with subject mentioned therein

AND WHEREAS, the closure order was issued by vide letter no. GPCB/CCA-KUTCH-27(8)/GPCB ID 17774/463339, dated 26/07/2018. Thereafter on basis of inspection report and your submission revocation order for three months was issued on 27/08/2018. It was extended for further three months on 10/12/2018 and on 02/05/2019 with conditions stated in it.

AND WHEREAS, considering the observations of inspection report and Hon'ble NGT order in matter of O.A. 669/2018 the closure was re-implemented u/s 33(A) of Water Act on 11/06/2019 with immediate effect.

AND WHEREAS, with reference to observations of inspection report and compliance report of unit, the trial revocation order was issued for one month with 50% production manufacturing capacity on 25/07/2019 and on 28/08/2019 with conditions stated therein.

AND WHEREAS you have applied for Revocation along with progress report and your industry was visited by the officials of Regional Office on 17/09/2019 and following observations were made;

- (1) The unit has provided gypsum storage area at survey no. 163 with lining system and along with the leachate collection system. Unit has provided the compound wall
- (2) At present stock of approximately 25000 MT of gypsum is stored at survey no. 167 i.e. within the premises.
- (3) The gypsum disposed by unit to cement industries for co-processing is as follows:
  - June'19 – 18977.62 MT
  - July'19 – 24021.22 MT
  - August'19 – 2964.33 MT
- (4) New plant was not in operation.
- (5) Unit is using hydrated lime.

**Clean Gujarat Green Gujarat**

ISO-9001-2008 & ISO-14001 - 2004 Certified Organisation

13

(6) For the ground water quality restoration and geo-hydrological study is given to the M/s. Kadam Enviro Consultants. the interim report is submitted.

AND WHEREAS the matter O.A. 669/2018 is pending before Hon'ble National Green Tribunal.

Under the circumstances, i. Smt. U. K. Upadhyay, Environmental Engineer, Gujarat Pollution Control Board is hereby directed to revoke the closure order for **THREE MONTHS** from the date of issue of order with following conditions:

1. Unit shall manufacture product as per the existing CCA and unit shall comply with all the conditions of the CCA and Amendment thereof.
2. Unit shall maintain the record of the production, spent acid generation, gypsum generation and its disposal on day to day basis.
3. Unit shall dispose the gypsum waste as per the CCA conditions.
4. Unit shall comply with the conditions for the storage and disposal of gypsum as per CCA conditions.
5. In no case the gypsum waste shall be disposed at any other places. If such observations are made unit shall be held responsible.
6. Not to operate new plant without prior permission of the Board.
7. To submit the detailed report of ground water quality restoration and geo-hydrological study along with the conclusion
8. Unit shall continue to use fresh hydrated lime for neutralization process.
9. Unit shall submit the data of the production, spent acid generation, gypsum generation and disposal of gypsum & spent acid on monthly basis to regional office, Kutch and Head Office, Gandhinagar
10. Unit shall comply with the conditions of CTE and CCA.

For and on behalf of:  
Gujarat Pollution Control Board

Smt. U. K. Upadhyay:  
Environmental Engineer:

Date:

NO: GPCB/CCA-KUTCH-27(16)/GPCB ID-17774/

ISSUED TO: .

Ashapura Perfoclay limited  
Sr. No: 167, Vill: Ler,  
Near Bhujodi, Tal: Bhuj,  
Tal: Bhuj, Dist:- Kutch



# GUJARAT POLLUTION CONTROL BOARD

PARYAVARAN BHAVAN

Sector-10-A, Gandhinagar 382 010

Phone : (079) 23222425

(079) 23232152

Fax : (079) 23232156

Website : www.gpcb.gov.in

COPY TO: -

To,

1. The Superintendent Engineer (SE)  
Paschim Gujarat Vij Company Limited (PGVCL),  
Division office, Power House compound,  
Hospital Road, Bhuj, Dist - Kutch - 370110.....

I am directed to request you to extend the supply of electricity for **THREE MONTHS** from date of issue of this order to the industrial plant of M/s Ashapura Perfoclay Ltd, located at Survey No. 167, Vill: Ler, Nr. Bhujodi, Anjar- Bhuj Highway, Ta. Bhuj, Dist. Kutch.

2. Senior Manager,  
Gujarat water Infrastructure Ltd. (GWIL),  
Near Municipal Bore Well,  
No.4, Anjar, Bhuj Highway, DIST: KUTCH - 370106.....

I am directed to request you to extend the water supply for **THREE MONTHS** from date of issue of this order to the industrial plant of M/s Ashapura Perfoclay Ltd, located at Survey No. 167, Vill: Ler, Nr. Bhujodi, Anjar- Bhuj Highway, Ta. Bhuj, Dist. Kutch.

For and on behalf of  
Gujarat Pollution Control Board,

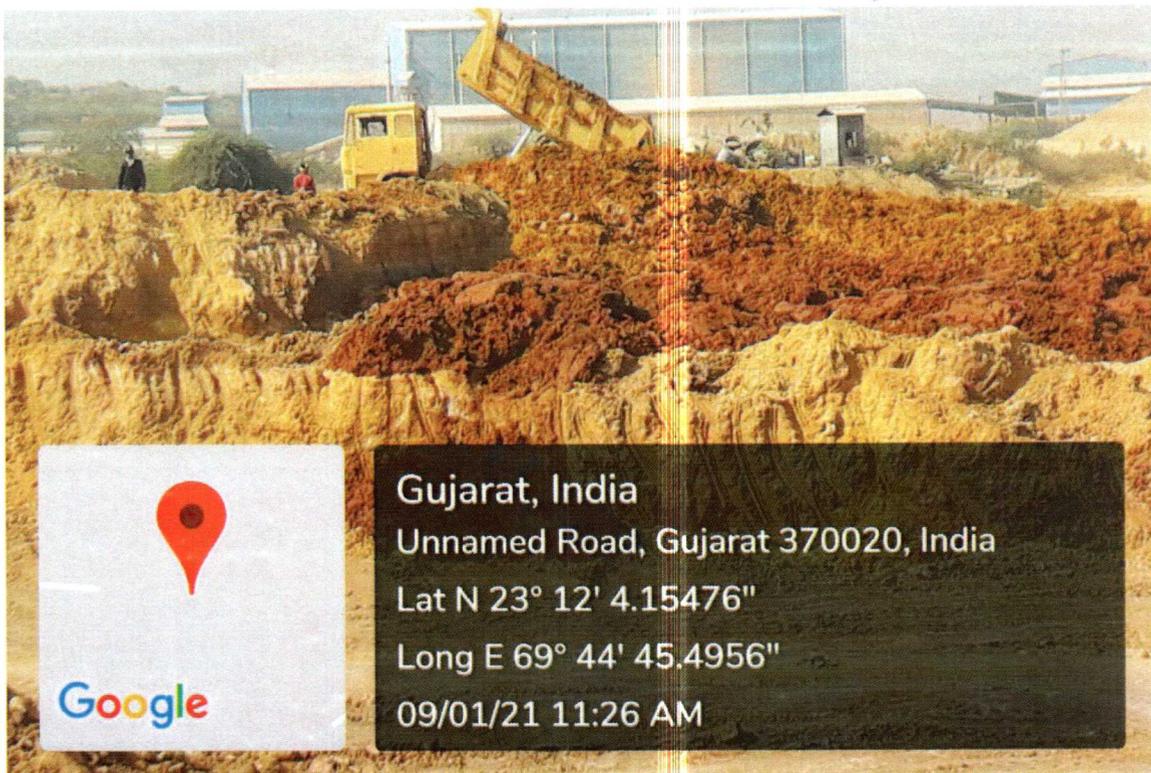
(Smt. U. K. Upadhyay)

Environmental Engineer

Outward No:522922, 27/09/2019

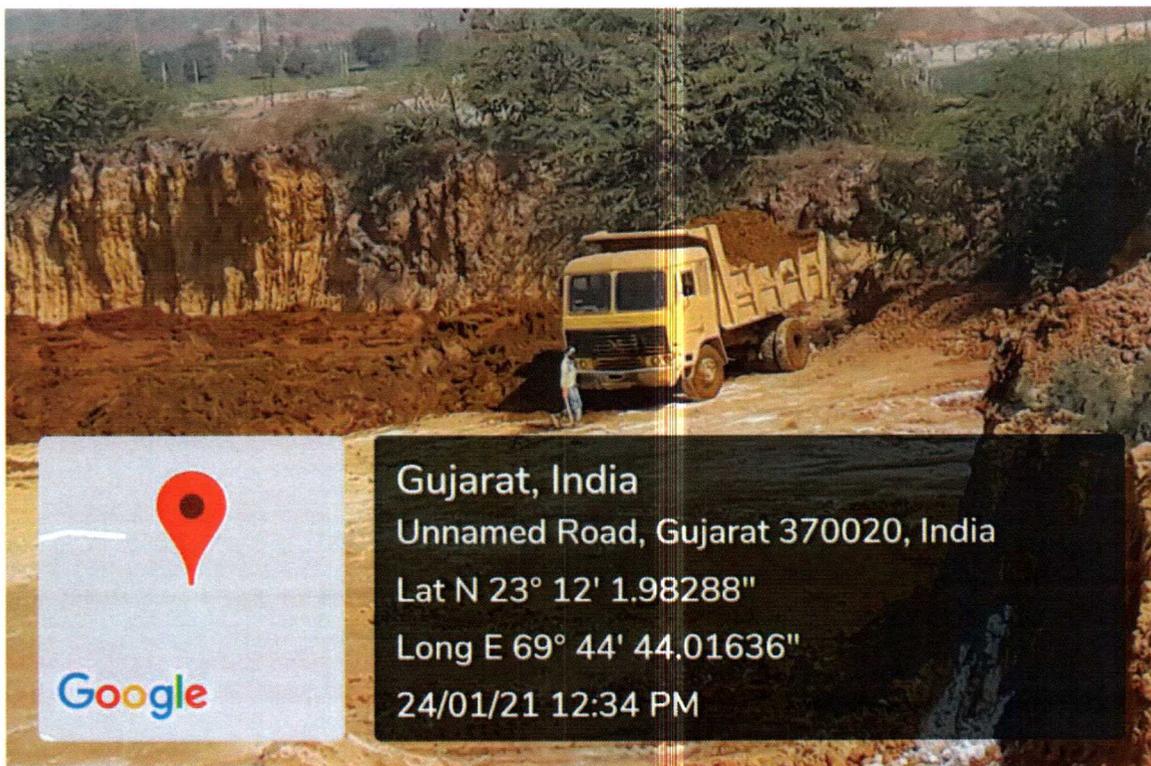
**Clean Gujarat Green Gujarat**

ISO-9001-2008 & ISO-14001 - 2004 Certified Organisation

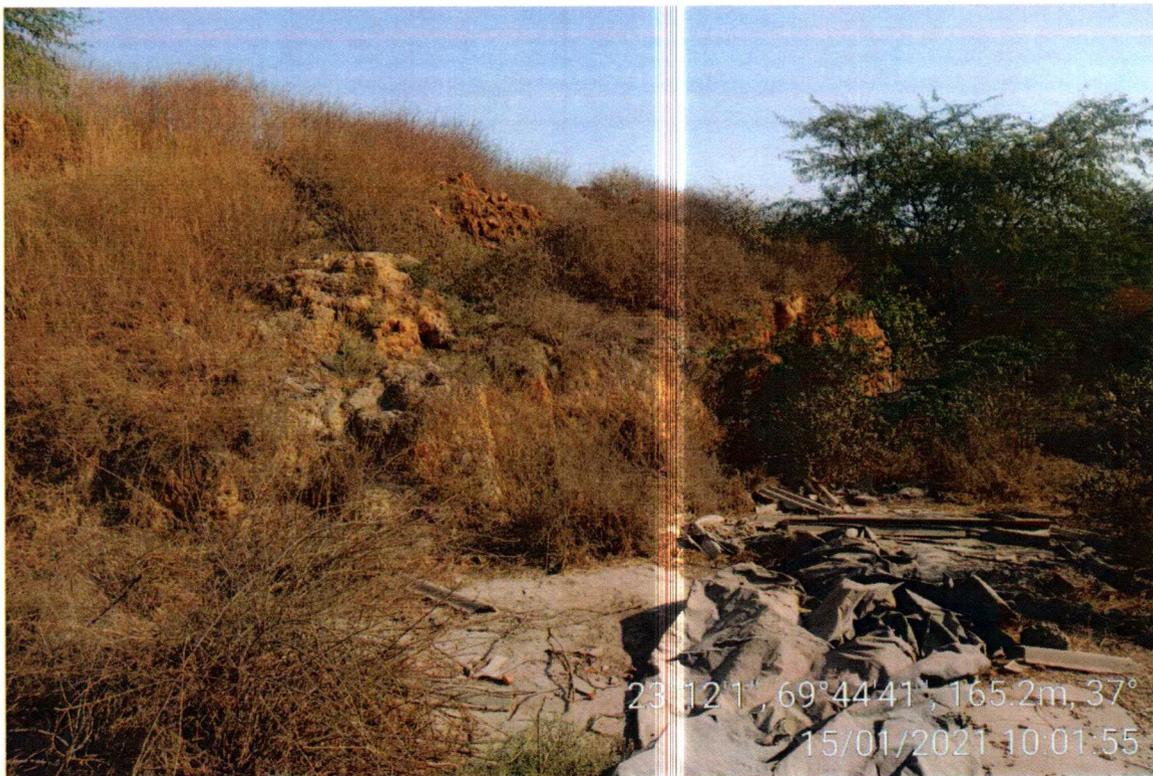
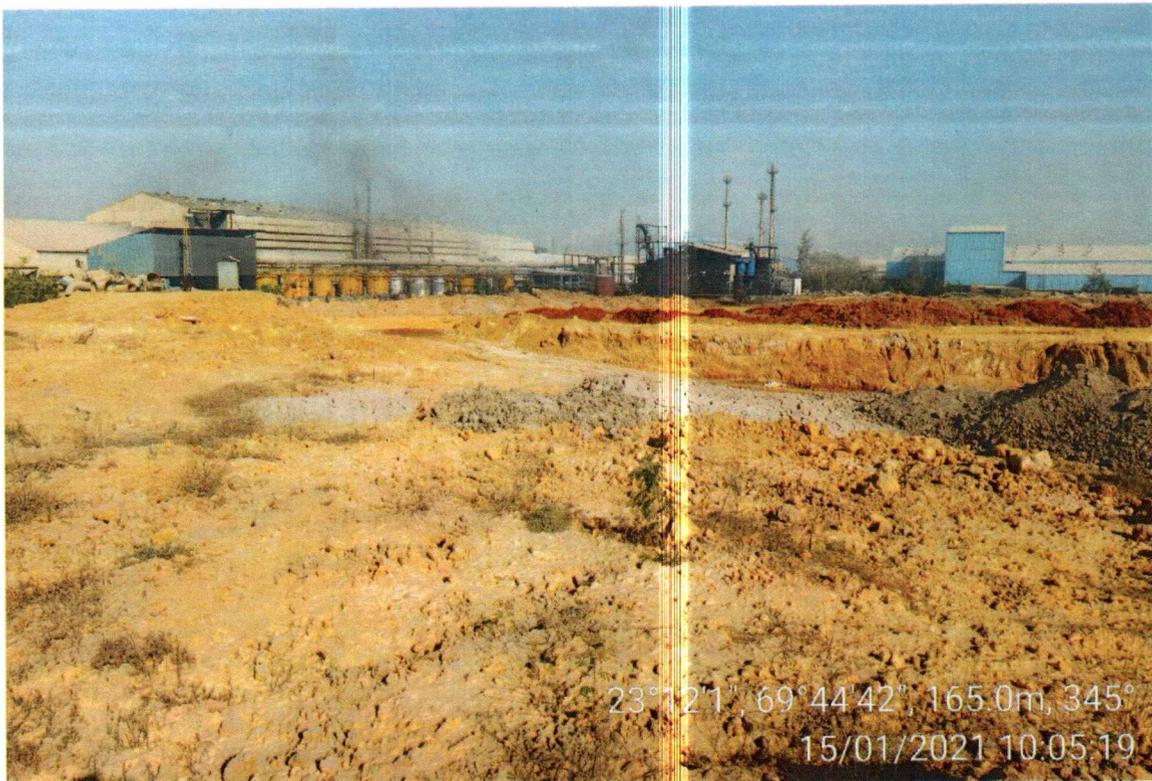


Gujarat, India  
Unnamed Road, Gujarat 370020, India  
Lat N 23° 12' 4.15476"  
Long E 69° 44' 45.4956"  
09/01/21 11:26 AM

Gypsum dumping on Survey No. 16 7/  
Paiki 2, Village Lee

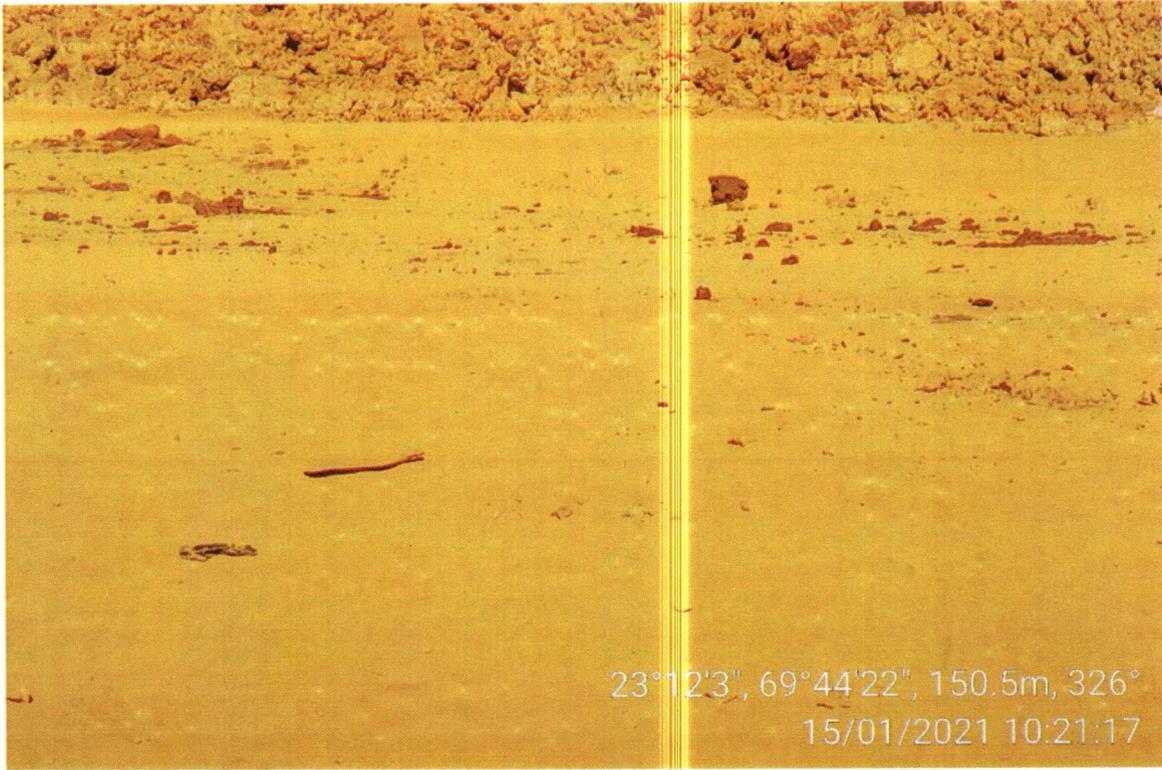


Gujarat, India  
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Long E 69° 44' 44.01636"  
24/01/21 12:34 PM



17

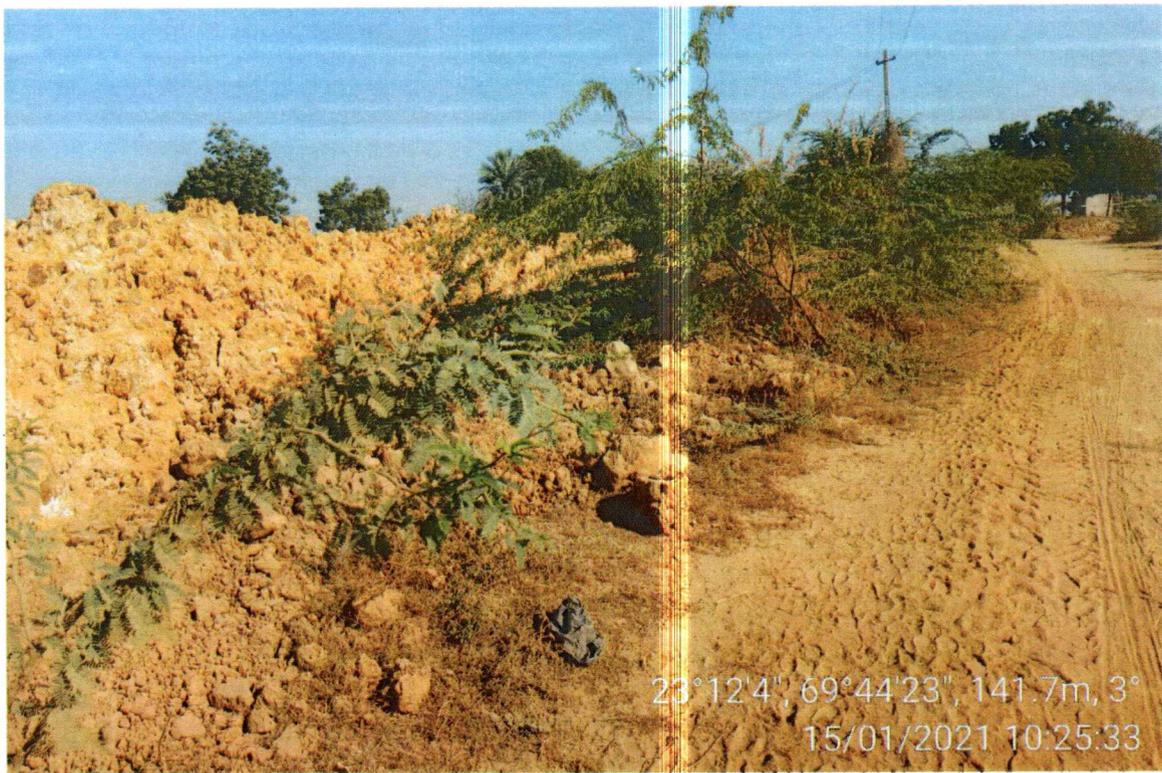




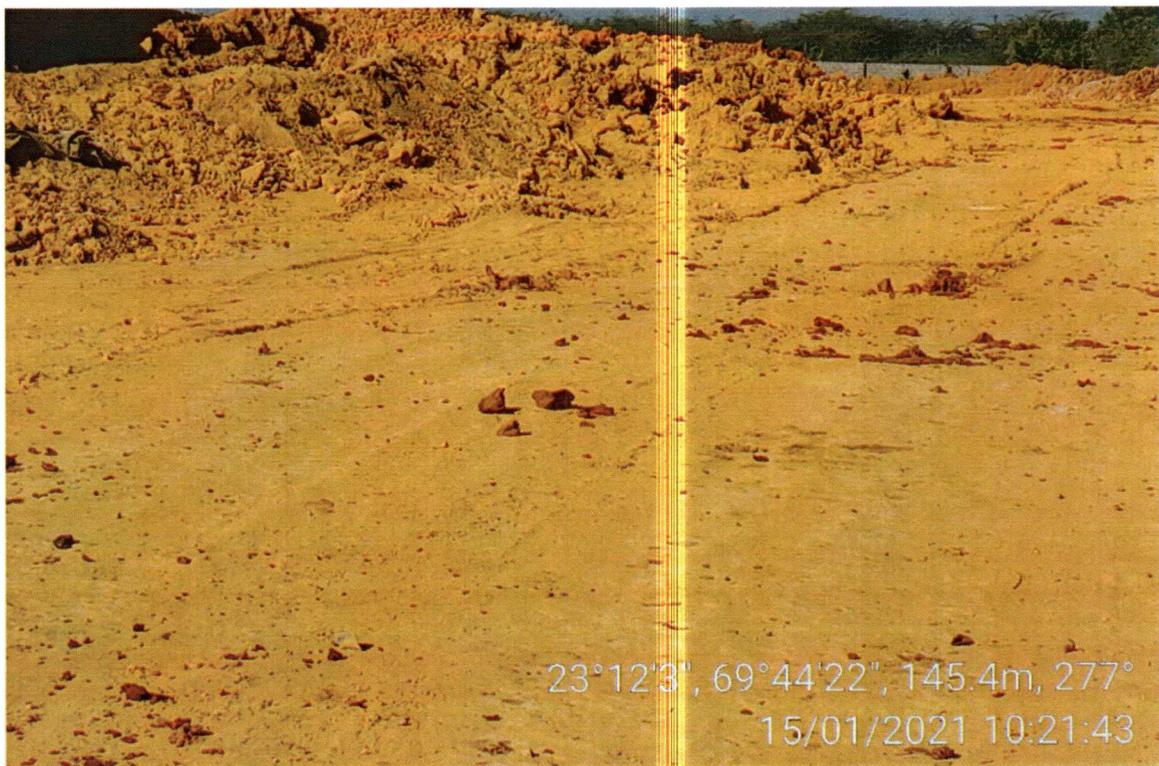
Gypsum on Survey No 205 - Government Land



19



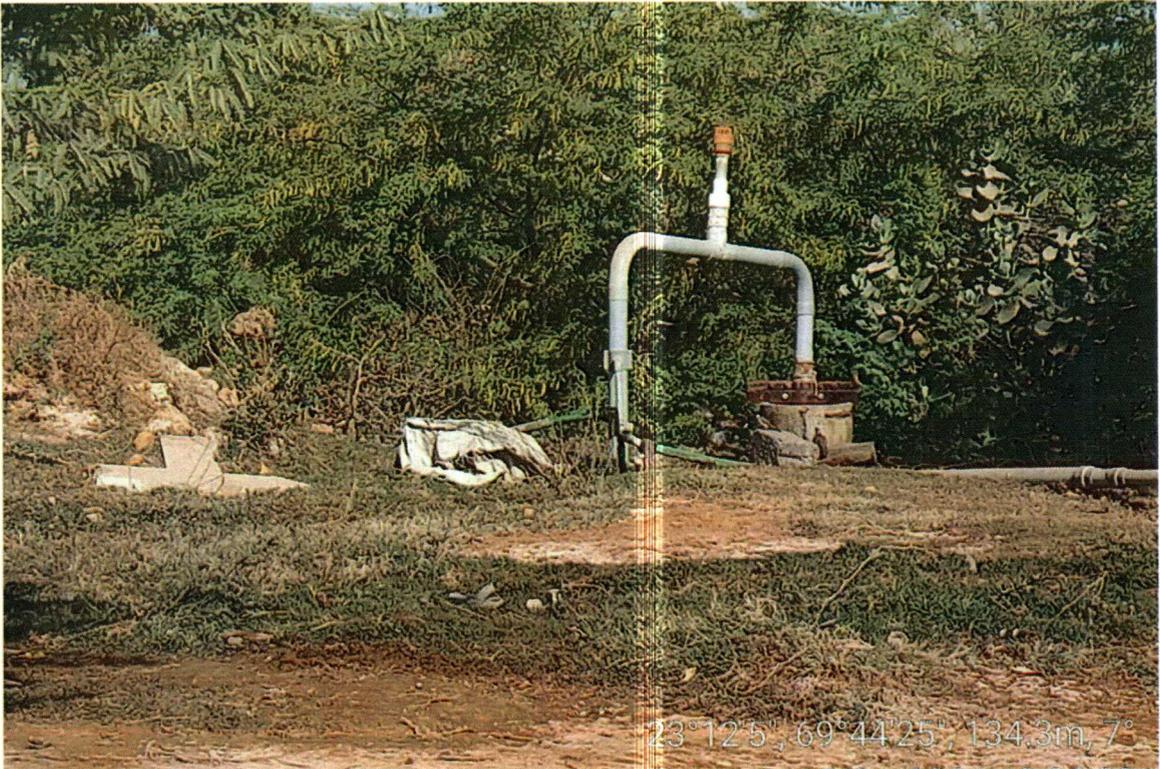
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15/01/2021 10:21:43

(P)

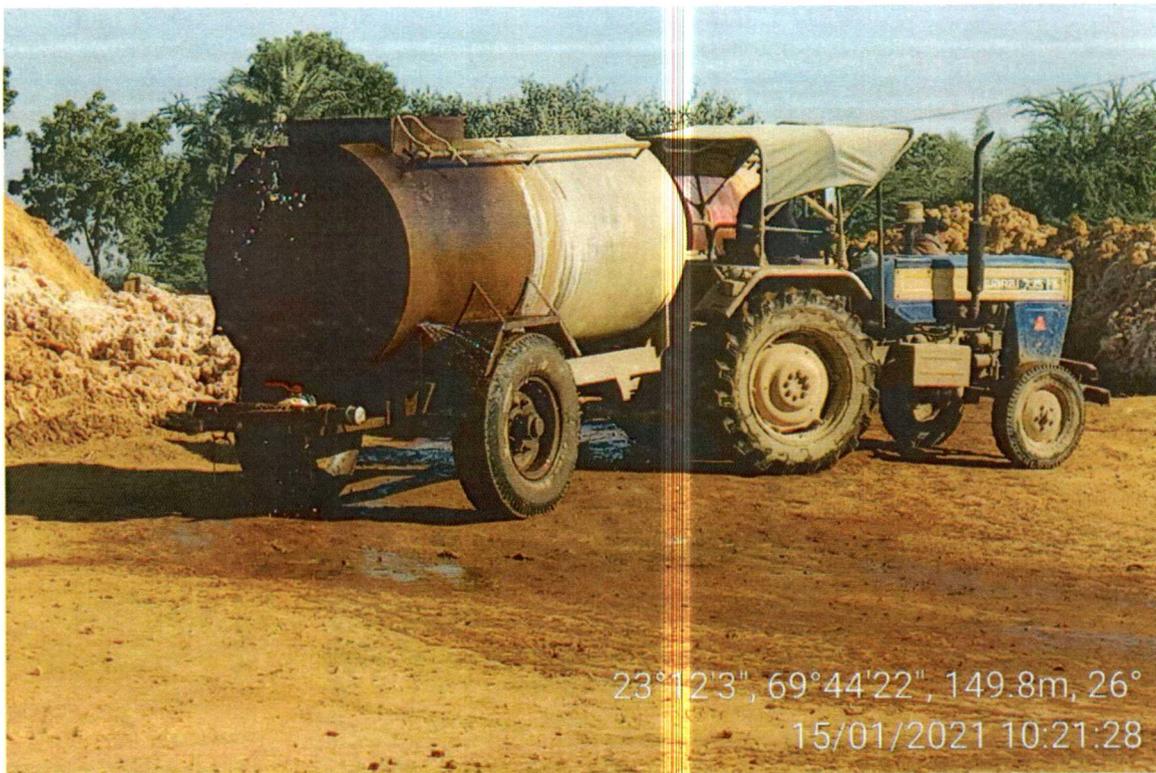
20



Borewell on Survey No 205 - Government  
Land

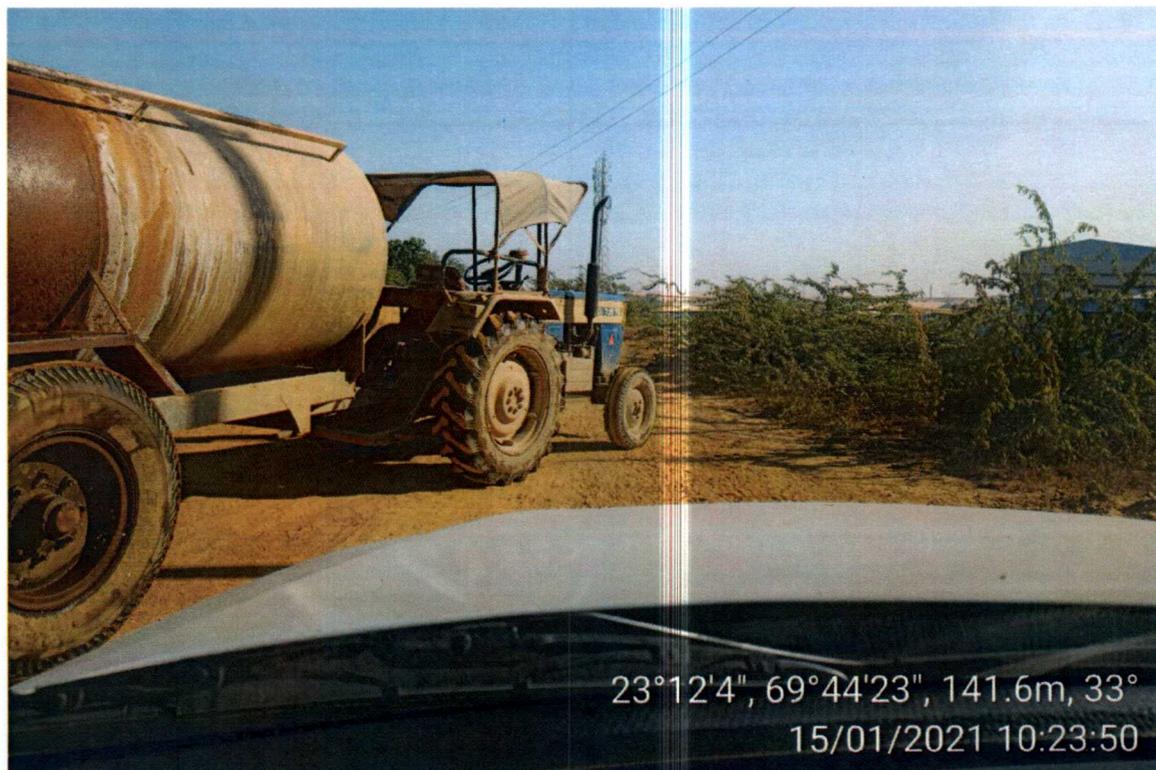
①

21



23°12'3", 69°44'22", 149.8m, 26°  
15/01/2021 10:21:28

*Tractors carrying chemical water*



23°12'4", 69°44'23", 141.6m, 33°  
15/01/2021 10:23:50