

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
Execution Application No. 16/2019
(Earlier O.A. No. 153/2014)

IN THE MATTER OF:

Indian National Trust for Art & Cultural Heritage Applicant

Versus

Govt. of NCT of Delhi & Ors. Respondents

AND IN THE MATTER OF:

Randhir and Ors APPLICANTS

NDOH: 20.01.2022

INDEX

SI No.	Particulars	Page Nos
1.	Brief Written Submissions On Behalf Of The Applicants In Ia 235/2021 To The Action Taken Report Dated 13.12.2021 Submitted By Central Pollution Control Board (CPCB)	2-19
2.	Annexure A/1 True copy of the report dated 27.09.2020 submitted to the Hon'ble Tribunal	20-21
3.	Annexure A/2 True copy of the report dated 22.01.2021	22-35
4.	Annexure A/3 True copy of the minutes of the meeting held on 20.11.2021	36-51

5.	Annexure A/4 True copy of the recommendations of the Technical Committee	52-55
6.	Annexure A/5 True copy of the views of the Irrigation Department, Haryana	56-63
7.	Annexure A/6 True copy of the photographs	64-65

Place: New Delhi
Date: 20.01.2022

Filed By



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Dharampur, Budhera whose agricultural lands comes within the core area, zone of influence as proposed in the Draft EMP, and the majority of the land is private land and the same is evident from the report dated 17.09.2020 submitted by District Magistrate, Gurgaon to this hon'ble Tribunal pursuant to the order dated 10.10.2019. failed to take steps to maintain the historical drainage channels and construct Storm water drains in Gurgaon resulting in untreated sewage and untreated industrial effluents inundating their agricultural lands. The present Najafgarh waterbody as evident from Google Images is restricted primarily on the Gurgaon side of the Najafgarh Drain and this is not on account of only natural drainage flow, but on account of structures and embankments made on Delhi side of the Najafgarh Drain that have restricted the overflow from the Najafgarh Drain on to the Delhi side.

2. The present waterbody termed as "Najafgarh Jheel" is not the Najafgarh Jhil that is referred to in historical accounts which naturally existed near Chawla and below Najafgarh in Delhi and was fed by the Sahibi River that originated in Jaipur District of Rajasthan and Badshahpur Drain. Historically, the Najafgarh Jheel was in Delhi and not in Gurgaon and it would drain out to the Yamuna through an irregular channel known as the Sahibi Nala. The Delhi District Gazetteer, 1883-84 elucidates a description of the Najafgarh Jhil/Jheel saying that it spread over an area of 88.5 sq.miles, one part of it was north of Jhrodha Kalan and another larger body of drainage was meeting the Jheel/Jhil below Chhaolah

(presently Chawla) in the southern side. The relevant extract is reproduced hereinbelow:-

*"The western lines, as has been already said, converge on the Jhil below Najafgarh. There are two main passages into this: one to the north of Jharaudah (now Jhrodha Kalan) and east of Dichaon comes into the low lands at Nawadah Hashtal; the other and larger body of drainage comes in between Mandelah Khurd and Bakargarh running south-east to Pindwala Kalan and meeting, and **meeting jhil below Chhaolah**. The main jhil lies to the south-west and west of this, and is fed, as already noted, by the Sahibi drainage from Gurgaon and the flow of hill water on the west side of the Delhi hills. This last comes down in several places; the most distinct lines perhaps are those lying about Dabari and Palam. A more particular account of Najafgarh Jhil considered in its revenue and irrigation aspects will be found in Mr. Maconachie's Settlement report. It is sufficient to note here that the area drained by it is 3072 sq miles, and its water surface with a depth of 12 feet in the water gauge at Nanak Heri is 56,657 acres or about 88.5 sq miles. In 1833, its area was estimated at 52.5 sq miles, but the time of the year this refers to does not appear. Its outlet is a drain passing with a muddy sluggish flow to the north-east by Kakraula, Nilanthi and Basei across the Rohtak road about three miles east of Delhi and emptying itself into the Jamuna just above the village of Wazirabad".*

3. In another account of the Najafgarh Jheel/ Najafgarh waterbody found in the Gurgaon District Gazetteer of 1883 stating clearly that it was at the border of the Gurgaon District. The relevant portion is extracted for ready reference:-

4.

"Another marked physical characteristic of the District (Gurgaon) is found in its jhils or lakes. The most important of these is the Najafgarh jhil on the northern border of the district; but this is mainly situated in the Delhi district. Into the Sahibi, swollen by Indori, and the Badshahpur stream pour their waters."

5. There is further reference of the Najafgarh Jheel/ Najafgarh waterbody in the Gazetteer of the Delhi District-Part A, 1912 clearly stating that it existed in Delhi. The relevant extract is reproduced hereinbelow for ready reference:-

"Thus we are brought by natural steps to describe the Najafgarh basin into which falls not only the drainage of the district on the west of the canal but also two other streams of importance: : the one is the depression by which the drainage of the part of the Rohtak district joins this district at Mundela Kalan and passing Ujwah and Pindwala joins the main Jhil at Chhaola: the other is the Sahibi

Nala which passes through the Gurgaon district having its head waters far off from in Alwar. The main Jhil receives too, a few petty streams from the local hills. The area which drains into this Najafgargh Jhil is estimated at some 3000 square miles: in years

gone by an area of more than 80 square miles has been known to be submerged by the floods, but for various reasons such extensive flooding no longer takes places. As may be imagined the volume of water was more than the soil could absorb and cause of much sickness and fever; so it was determined to cut a channel, now known as the Jhil Drain, to run the surplus water into Jamna. This work was carried out in 1888 under the direction of Captain (afterwards Sir Hennery) David. This drain begins about Chhaola where it is little more than a petty ditch and passes via Kakraula, Hasttsal and Basai, by a deep cut through the high lying Bangar into the Jamna at Wazirabad. The result of this work is that the water is drawn off too quickly fixed in the channel, it is possible to flood an area of twenty square miles and to draw off the water in time for cultivation."

6. In 1865 the Govt. of the North West Province (later United Provinces) started draining the Najafgarh Jheel by excavating the irregular channel from the eastern end of the Jheel to the Yamuna through a gap between Delhi's Northern Ridge and Central Ridge. This channel then came to be known as the Najafgarh Nala or Najafgarh Drain having a length of 51 km in Delhi. In the floods of 1958, the Najafgarh Jheel attained a spread of 145 sq.km. Subsequently, after the floods of 1964 the Najafgarh Drain was widened to accommodate the flood discharge. The Govt of NCT in order to prevent overflow from the Najafgarh Drain built left side embankment on the Najafgarh Drain to prevent flooding of cultivated area of 30 villages on Delhi side. The State of Haryana

did not build any such embankment on its side. The great flood of 1977 led Haryana Government to construct the Masani Barrage to impound flood waters of Sahibi River on NH8 near Dharuhera. The Construction of several checkdams in the catchment area of Sahibi River in Rajasthan have restricted the flow and the diminished flow disappears in the arid soils after the Masani Barrage near Dharuhera. Further, Govt of NCT constructed 3.5 km Dhansa Bund in 1962 in the upstream of Najafgarh Drain and installed a regulator. On account of the above, there is no discharge from Sahibi River into the Najafgarh Drain or Najafgarh waterbody/Jheel. In 1865 the Govt. of the North West Province (later United Provinces) started draining the Najafgarh Jheel by excavating the irregular channel from the eastern end of the Jheel to the Yamuna through a gap between Delhi's Northern Ridge and Central Ridge. This channel then came to be known as the Najafgarh Nala or Najafgarh Drain having a length of 51 km in Delhi. In the floods of 1958, the Najafgarh Jheel attained a spread of 145 sq.km. Subsequently, after the floods of 1964 the Najafgarh Drain was widened to accommodate the flood discharge. The Govt of NCT in order to prevent overflow from the Najafgarh Drain built left side embankment on the Najafgarh Drain to prevent flooding of cultivated area of 30 villages on Delhi side. The State of Haryana did not build any such embankment on its side. The great flood of 1977 led Haryana Government to construct the Masani Barrage to impound flood waters of Sahibi River on NH8 near Dharuhera. The Construction of several checkdams in the catchment area of Sahibi River in Rajasthan have restricted the flow and the diminished flow

disappears in the arid soils after the Masani Barrage near Dharuhera. Further, Govt of NCT constructed 3.5 km Dhansa Bund in 1962 in the upstream of Najafgarh Drain and installed a regulator. On account of the above, there is no discharge from Sahibi River into the Najafgarh Drain or Najafgarh waterbody/Jheel. In the 1976 toposheet of Survey of India the area where there is presently submergence is a depression and it is mentioned as Drain No. 8 (Najafgarh Drain). There is no mention of Jheel or lake or waterbody as a topographical feature, it is just mentioned as a depression on both side of Najafgarh drain but major portion of the depression is on Delhi side covering villages like Guhmmenhera, Sikarpur, Pandwala Kalan, Jhatikara etc. which also finds mention in the Delhi Gazetteer of 1883-1884.

7. An Antique/Historical Map of Delhi for the year 1807 shows the location of the Najafgarh Jheel/Jhil/waterbody to be near Palam on the Delhi side.
8. The Google Images of the year 1990 it is seen that there is no water submergence of the agricultural lands and at that time the Gurgaon city was spread in an area about 25 sq km. And if the Google Image of 2021 is seen there is submergence of panchayat , private and government lands in an area of 2048 acres as per estimate of Gurgaon Metropolitan Development Authority (GMDA) when the area of the Gurgaon city has increased to 350 sq km.
9. The Leg-II storm water drain is not fully connected to the Najafgarh Drain and requires drain construction of 500 m and

similarly Leg-III also known as Badshahpur Drain requires balance construction of 3.5 kms to join the Najafgarh Drain. Presently, the storm water during rains, untreated sewage and industrial effluents from Gurgaon City has spread into the lands of the residents of Villages of Daultabad, Khedki Majra, Makdola, Dhankot, Dharampur, Budhera, District Gurgaon as it is a natural depression. The problem of inundation and submergence over private lands started from the year 2010 onwards. This aspect is evident from the Google Images of year 2005, which shows there is water spread only 80 acres only in the panchayat area of Villages Daultabad, Kheri Majra and Dhankot.

10. The water was used by the farmers/applicants for cultivation of Rabi Crops. In the Google images of year 2009, the water has spread over 47 acres of the panchayat land. The Google Image of 2021 shows submergence over an area of 2048 (September, 2021) as per GMDA estimates, which includes 97 acres Panchayat land and the approx. 70% of the land is private agricultural land of the applicants/ residents of Villages of Daultabad, Khedki Majra, Makdola, Dhankot, Dharampur, Budhera, District Gurgaon. The above Google images show that there was no lake/jheel/waterbody on Haryana side and there is no water submergence of private agricultural lands upto the year 2010. The problem of submergence aggravated with expansion of the city of Gurgaon. With the increase of urbanised area, the discharge of untreated and treated water also increased leading to spreading water in adjoining private land/agricultural fields beyond

Panchayat land as the Leg-II and III are not connected to the Najafgarh Drain. due to silting of Najafgarh Drain, its bed has become higher than the lands of the applicants and as there is no embankment on the right bank of Najafgarh Drain on the Haryana side, there is overflow of both rain and sewage water into the lands of the applicants.

11. The issue of regards to presence of primarily private lands in the area under inundation/submergence presently of the Najafgarh Jheel has not been addressed by the State of Haryana as is evident from the perusal of the Draft EMP submitted to this Hon'ble Tribunal. The issue of private land being part of the waterbody came up before this Hon'ble Tribunal on 10.10.2019, wherein State of Haryana was asked to file a report as regards to the relevant revenue entry of the lands in question. The District Magistrate filed a report dated 17.09.2020 wherein it was categorically stated that there was no entry of waterbody and the lands of Villages Daultabad, Khedki Majra, Dhankot, Dharampur, Budhera comprised of 3112 Kanal 15 Marla private land, 832 Kanal 6 Marla Gram Panchayat Land, 679 Kanal 17 Marla company land, 82 Kanal 13 Marla Government Land out of Total of 4707 Kanal 11 Marla. The true copy of the report dated 27.09.2020 submitted to the Hon'ble Tribunal is annexed herewith and marked as **Annexure A/1**.
12. The present execution petition came up for hearing before this Hon'ble Tribunal on 17.09.2020, wherein mention was made to the

report submitted by the District magistrate but on the statement of the Ld. Counsel for the State of Haryana that factually it is a large water body and management plan is under consideration, this Hon'ble Tribunal has not passed any further orders as regards to the situation of the land of the applicants and residents of villages of Daultabad, Khedki Majra, Makdola, Dhankot, Dharampur, Budhera. Though, in the order dated 17.06.2021, this Hon'ble Tribunal referred to this aspect and recorded a finding that a reconciliation was arrived at as regards to the revenue entry, but in reality, it is not so, as it is private land belonging to the applicants and residents of villages Daultabad, Khedki Majra, Makdola, Dhankot, Dharampur, Budhera.

13. The State of Haryana constituted a committee under the Chairmanship of Commissioner, Gurugram Division vide Additional Chief Secretary to Govt. Haryana, Environment and Climate Change dated 14.02.2020 regarding issues related to the Najafgarh Waterbody. Under Issue No.2: Major activities undertaken by the owners during submergence and after receding of water, it was stated that 75% to 80% of the total land measuring 4707 Kanal 11 Marla belonging to Daultabad, Khedki Majra, Makdola, Dhankot, Dharampur, Budhera remains waterlogged due to Najafgarh Drain and remaining 20%-25% land can be cultivated only when there is no overflow from Najafgarh drain and rainfall. On the extent of submergence at various contour level it was stated that at 209 mts area was 917 acres, 210 mts it is 3436 acres and at 212.5 mts it is 12871 acres. It was recommended that GMDA be directed to

complete the construction of Leg-II and Leg-II upto Najafgarh Drain so there is no unwanted spillage and there is a need for bunding of Najafgarh Drain on the Haryana side to prevent back flow of water from the drain. The technical committee of the Haryana State Wetland considered the recommendations of the committee of Divisional Commissioner and agreed that with its conclusions. The copy of the Haryana Wetland Authority was submitted to the Hon'ble Tribunal. The true copy of the report dated 22.01.2021 is annexed herewith and marked as **Annexure A/2**.

14. The State of Haryana submitted a draft EMP after the order dated 17.06.2021 was passed by Hon'ble Tribunal without holding any deliberations with the stakeholders including the applicants who are adversely affected by the prescriptions made in it. A meeting was held on 20.11.2021 under the chairmanship of Sh. Devender Singh IAS, Additional Chief Secretary to Government of Haryana wherein the some of the applicants who participated in the meeting became aware of the submission of Draft EMP. The applicant was also part of the meeting. At the meeting it was submitted by Irrigation & Water Resources Department and Gurugram Metropolitan Development Authority (GMDA) as follows:

"There is no fresh water coming in the so called Najafgarh Jheel depression in Haryana portion at present except during rainy season. The water of the city during rains and the sewage water/ treated water is coming in the water body at present and the quality of water is very bad. GMDA & Irrigation Department are serious about

utilization of treated waste water generated from STPs at Dhanwapur and Behrampur in the city. The Irrigation department has constructed a special STP channel of 26.680 km for utilization of treated waste water for agriculture purposes from Dhanwapur STP to Sondhi, Beed Dadri in Jhajjar District. The present capacity of this channel is 188.60 MLD which will be upgraded upto 550 MLD. Presently the total Treated Waste Water (TWW) generated in Gurugram City is 243 MLD and the availability of TWW will further increase in the years to come. Against the available 243 MLD TWW, 40-45 MLD is being utilized in City for various purposes such as Horticulture, Industries and construction purposes through 110 KM recycle network laid in Gurugram City whereas 60-70 MLD is being utilized for agricultural purpose through STP channel in villages of Jhajjar District. To ensure quality of treated waste water, real time sensors will be installed in the channel and upstream out falling drains (i.e. Badshapur Drain etc) which would provide the real time quality and quantum parameter of the flowing water in the channels / drains and help in curbing any unauthorized disposals in the drain. Moreover, Treated Waste Water (TWW) from STPs shall be utilized in irrigation of 51445 acres of the area which is existing on fresh water channels and thus, fresh water supply shall be substituted by TWW of STPs which would save fresh water. Even Tenders amounting to Rs. 17.24 crores and Rs. 13.96 crores for utilizing STP water in 1700 acres (villages Dhankot, Gopalpur, Chandu, Garhi Harsaru District Gurugram) and 1400 acres (villages Badsa District Jhajjar and village- Sultanpur, Jhanjhrola of District Gurugram) have been invited by Irrigation Department and even tender for the work of increasing capacity of STP channel from 188.60

MLD to 550 MLD amounting to Rs. 116.33 crores have been opened on 18.11.2021. Administrative Approval for this is already received in Irrigation Department amounting to Rs. 295.82 crores. Further, Irrigation Department is planning to provide TWW of STP's to Jharli Power Plant by which about 220 MLD fresh canal water from JLN Feeder (near Pump house JF-I) shall be saved as fresh canal water shall be substituted /shifted by TWW (Treated Waste Water) of STPs. Saving of fresh water / canal supplies shall be utilized in water deficit areas in the State. It has also been reported by Irrigation Department that the level of Najafgarh Drain, the Bed level of Najafgarh Drain near submerged area is 207.34 and Bed Level at outfall point at Yamuna River is approx. 202.00. Hence the level difference of more than 5 Mtr exists in length of 51 KM resulting in gradient of 1:10,000 approx which is adequate, provided desilting of Najafgarh drain is done regularly by Irrigation & Flood Control Deptt, Delhi. This is normal gradient in our drainage system across Haryana.

As per historical images of year 2005, there is water spread only 80 acres only in the panchayat area

As per historical images of year 2009, there is water spread only 47 acres only in the panchayat area

The above images show that there was no lake in Haryana side and no water submergence upto the year 2010.

The problem aggravated with expansion of the city of Gurgaon. With the increase of urbanised area, the discharge of water also increased which led to spread water in adjoining private fields beyond Panchayat land as there was slow speed of water in Najafgarh Drain due to silting. The water moves slowly in the drain and takes time for

reaching river Yamuna. The area on Delhi side is completely safe as bank has been constructed. Otherwise, this water has spread over large area in Delhi upto Najafgarh. The original area of lake as mentioned in the literature.

From the images shown above, it is clear that the rain water and city waste water are the main source of water in the submerged area at present. If the treated waste water is channelized for utilisation in agriculture, only rain water will come to the area and that will be utilized by farmers for cultivation purposes and the water will dry and the farmers will be able to grow Rabi crops in winters. The panchayat area of about 97 acres will remain under waterbody. The bundh should be created on the Haryana side bank of the Najafgarh drain and gate should be installed at the bank so that drain water does not spread in the private areas. The construction of bank will also help in storage of rain water in Haryana side and will as act as waterbody till it is automatically dries up. The water may be pumped in the drain also so that farmers can sow Rabi crops if the spread is beyond panchayat land.

The balance portions of Leg-2 and Leg-3 should be constructed upto Najafgarh drain so that water can directly be put into Najafgarh drain and excess water during rainy season may be allowed to spread in the area which will be beneficial to farmers for grow kharif crops as done in the Delhi portion beyond Najafgarh drain.”

The true copy of the minutes of the meeting held on 20.11.2021 is annexed herewith and marked as **Annexure A/3**.

15. There was a meeting held on 03.01.2022 of the Technical Committee, Haryana State Wetland Authority to discuss the issues as regards to the Najafgarh Waterbody and it is evident that there is no finality as to the extent of the waterbody on the Haryana side. The true copy of the recommendations of the Technical Committee is annexed herewith and marked as **Annexure A/4**. The Irrigation Department, Haryana has also submitted its views which are captured in the minutes of the meeting dated 20.11.2021. The true copy of the views of the Irrigation Department, Haryana is annexed herewith and marked as **Annexure A/5**. The photographs (December, 2021) of the area on the side of the bund on Delhi side would show that there is no submergence on the Delhi side of the "Najafgarh Jheel". The true copy of the photographs is annexed herewith and marked as **Annexure A/6**. It is submitted that the applicants have not been consulted at the time of preparation of Draft EMP and even now the "Framework of Integrated Environment Management Plan jointly submitted by Govt of Haryana and NCT of Delhi-2021" is not bringing the entire facts that are in the knowledge of the Govt and prescriptions are being made in it affecting the ownerships rights of the applicants. The present action of the State of Haryana can't be a fait accompli situation of notifying a wetland and then ascertaining the affected persons and working backwards as the same would result in the private agricultural land of the applicants and residents of villages Daultabad, Khedki Majra, Makdola, Dhankot, Dharampur, Budhera being taken without due process of law and it would amount to violation of Article 300A of the Constitution of India. The present

submission of draft EMP is a knee jerk reaction to the orders passed by this Hon'ble Tribunal. The present draft Integrated EMP proposed by the State of Haryana assumes a linearity approach which is not the case as they are aware of the ground situation as regards to the applicants. The proposed framework would result in the altering and restricting the ownership rights of the applicants and residents of villages Daultabad, Khedki Majra, Makdola, Dhankot, Dharampur, Budhera. The management approach adopted by the state of Haryana for constituting conservation areas de-hors the participation of stakeholders and affected persons is not a sound management strategy. It is the submission of the applicants that if the Leg-II and III are constructed and connected to Najafgarh Drain and bund is made on the Haryana side (right bank) of the Drain would reduce the inflow of untreated sewage and industrial effluents and the proposed measures of the Irrigation Department and GMDA to set up STPs in Gurgaon and make conveyance system for use of treated waste water for agriculture will further reduce the inflow in the Najafgarh waterbody. Even after that the compensation regime for the private land coming within the waterbody has to be considered and decided at the first instance. From the minutes of the technical committee, it is clear that the state of Haryana has not accepted the existence of the Najafgarh Jheel as being natural but has arisen on account of the flow of untreated sewage into this area. All these measures are to be considered and adopted and then a considered decision is required to be taken by the State of Haryana and as such the present the "Framework of Integrated Environment Management

Plan jointly submitted by Govt of Haryana and NCT of Delhi-2021” cannot be accepted and a notification declaring it as a wetland cannot be issued.

Place: New Delhi
Date: 20.01.2022

Filed By



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ANNEXURE A/1

प्रेषक

उपायुक्त, गुरुग्राम।
सेवा में,

Registrar,
National Green Tribunal Faridkot House
Copernicus Marg New Delhi – 110001
(rkjust25@gmail.com)

क्रमांक 3378 / एस.के. 2

दिनांक 17-09-2020

विषय: Execution Application No. 16/2019 in O.A. 153/2014 titled as Indian national Trust for Art & Cultural Heritage Vs. Govt. of NCT of Delhi & Ors. Before the Hon'ble National Green Tribunal.

उपरोक्त विषय पर Director, Environment & Climate Change Haryana, SCO 1-3, 2nd Floor, Sec-17D, Chandigarh के कार्यालय के पत्र DE&CCH/2019/5912 Dated 16-12-2019 के सन्दर्भ में।

विषयाधीन मामले में उपतहसीलदार कादीपुर व हरसरू से रिपोर्ट प्राप्त की गई। उपतहसीलदार कादीपुर व हरसरू से रिपोर्ट इस कार्यालय में प्राप्त हो चुकी है। जिसमें ग्राम दौलताबाद, धर्मपुर, धनकोट, खेडकी माजरा, व बुढेडा में रकबा निर्धारित प्रोफार्मा पर निम्न प्रकार है।

क्र० स०	नाम गांव	निजी (किसान) रकबा कनाल-मरला	ग्राम पंचायत रकबा कनाल-मरला	कम्पनी रकबा कनाल-मरला	सरकार रकबा कनाल-मरला	कुल जोड रकबा कनाल-मरला
1	दौलताबाद	1818-12	287-9	148-9	30-19	2286-09
2	धर्मपुर	123-16	7-11	12-7	-	143-14
3	धनकोट	336-17	236-03	-	49-09	622-09
4	खेडकी माजरा	141-2	258-16	1-4	-	401-02
5	बुढेडा	691-8	42-7	517-17	2-5	1253-17
	कुल जोड	3112-15	832-6	679-17	82-13	4707-11

उपरोक्त विषय पर राजस्व रिकार्ड से अवलोकन किया गया अवलोकन उपरान्त पाया गया कि उपरोक्त रकबा चकबन्दी से पहले राजस्व रिकार्ड में झील बारे कोई इन्द्राज दर्ज नहीं है। अतः भूमि राजस्व रिकार्ड में चकबन्दी से पहले किस्म डहरी - चाही - बंजर कंदीम - मगदा का इन्द्राज राजस्व रिकार्ड में दर्ज है। अतः रिपोर्ट आपकी सेवा में आगामी कार्यवाही हेतु प्रेषित है।

o/c कृते: उपायुक्त गुरुग्राम।

पृ० क्रमांक 3379 /एस.के. 2

दिनांक 17-09-2020

इसकी एक प्रति Sh. Anil Grover Additional Advocate General, Haryana (Supreme Court of India) A-174, 2nd Floor Defence Colony, New Delhi (groveradvocate@rediffmail.com) को सूचनार्थ प्रेषित है।

o/c कृते: उपायुक्त गुरुग्राम।

क्र.सं.	विवरण	प्रमाण	दिनांक	स्थान	विवरण	प्रमाण	दिनांक	स्थान
1
2
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6

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ANNEXURE A/2

From

Director General
Environment & Climate Change Department, Haryana,
Cum Member Secretary State Wetland Authority, Haryana
SCO 1-3, 2nd Floor, Sector-17D, Chandigarh

To

Sh. Anil Grover,
Additional Advocate General, Haryana.
groveradvocate@rediffmail.com

Memo No. SWAH/2021/ 166

Dated: 22/01/21

Subject: EA No. 16/2019 in OA no. 153/2014 titled as Indian National Trust for Art & Culture Heritage Vs. Govt. of NCT of Delhi & Ors. before the Hon'ble NGT.

Reference : Order of the Hon'ble NGT dated 17/09/2020 on the subject noted above.

In this connection, it is intimated that the Divisional Commissioner, Gurugram had submitted the Report of the Committee constituted vide order dated 14.02.2020 to consider all the issues related to Najafgarh Water Body, vide letter No. 2020/LFA/2340 dated 19/08/2020 (copy enclosed).

The Report of the Divisional Commissioner, Gurugram was placed before the State Wetland Authority's Members in its 2nd Meeting dated 19/10/2020 held under the Chairmanship of Hon'ble CM, Haryana.

The following decisions were taken in the above Meeting:

- i) **The Report of Divisional Commissioner, Gurugram shall be forwarded to Technical Committee (SWA) for carrying out the detailed analysis of the report. The Technical Committee (SWA) may constitute a sub-committee or Committee(s) at their own level for any assistance required.**
- ii) **The Revenue Department shall examine temporary discontinuation of registry of sale deed of land falling below the contour level 211 and only agricultural and allied activities be permitted in the said contour level till the final notification of the Wetland or till further orders. CLU shall not be further permitted in the area by Town & Country Planning Department till further orders.**
- iii) **The already constituted Committee under Chairmanship of the Divisional Commissioner, Gurugram shall be the Standing Committee for the**

Najafgarh Wetland issues. The matter requiring detailed exercise can be referred to this Standing Committee.

It is further submitted that vide letters dated 13/11/2020 and 03/12/2020, the Minutes of the 2nd meeting were sent to the Technical Committee of State Wetland Authority for detailed analysis of the Report.

Apart from the above it is also submitted that on the 3 decisions made in the 2nd Meeting of the State Wetland Authority, Haryana, reminders were issued to the quarters concerned on 06/01/2021 for taking action on the relevant points (**copy enclosed**).

But, till date, no Action Taken Reports from any quarter concerned has been received in this office.

This is being sent for your information and further necessary action please.

DA/ As above


Joint Director
For Director General, Environment &
Climate Change Department -cum-
Member Secretary State Wetland Authority,
Haryana



010/0001
F.R. No. 1813
Date 21-08-2020

To

Additional Chief Secretary to Govt. Haryana
Environment & Climate Change departments,
Chandigarh.

~~10~~ Memo. No. 2020/LFA/ 2340
Dated: 19.8.2020

ACS, Env.
21.8.2020

Sub: Report of the Committee- Najafgarh Jheel.

D. Env. (Buel)
21/8/20

Kindly refer to your office endst. No. DE & CCH/2020/6842-54 dated 14.2.2020
whereby the committee had been constituted.

JLB
R

ARO

The Committee has prepared and finalised the report. The report of the
Committee is attached and is submitted for consideration of the State Wetland Authority.

Encl: Report

Commissioner, Gurugram Division,
Gurugram

19/8/20

1-2

“Declaration of Najafgarh Jheel as a Wetland”

*Report of the committee headed by
Sh. Ashok Sangwan, IAS, Commissioner, Gurugram Division*

ABSTRACT

A committee was constituted under the Chairmanship of Commissioner, Gurugram Division vide Additional Chief Secretary to Govt. Haryana, Environment & Climate Change Order No. DE&CCH/2020/6842-54 dated 14.02.2020 regarding issues related to the Najafgarh Water Body colloquially referred to as Jheel as mentioned in the minutes of the first meeting of the State Wetland Authority. The relevant part of the minutes of the first meeting of the State Wetland Authority is reproduced as under:

“After deliberations on various issues like the extent of submergence at various contour levels (during Monsoon and post Monsoon), CLUs granted in the catchment area of the colloquia term ‘jheel’, its zone of influence, Master Plan development notified by the Town and Country Planning Department, major agricultural activities undertaken by the owners during the submergence and receding of water, construction plan of remaining portion of the badshapur Drain and its effect on the quantum of water and reduction in the area of submergence, controlling and monitoring of Najafgarh Drain upto Delhi, role of stakeholders and beneficiaries, it was decided that a committee constituted as under shall consider all the issues including those listed above and submit the report to the State Wetland Authority for consideration and further action....”

Meetings of the committee were convened on the following dates:

1. 26.02.2020 (First Meeting)
2. 20.03.2020
3. 02.06.2020
4. 03.07.2020
5. 08.07.2020
6. 24.07.2020
7. 31.07.2020 (Consultation with GMDA)
8. 17.08.2020 (Final Meeting)



Detailed discussions were held. Inputs of the concerned farmers/beneficiaries of the concerned villages were also obtained by holding meetings at village level by BDPOs. Reports/comments were sought from relevant departments. After considering the matter, the report of the committee is as under:

Issue no. 1:

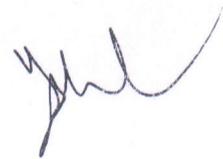
CLUs granted in the catchment areas of the colloquia term 'jheel'; Its zone of influence; Master plan for development notified by Town and Country Planning Department:

District Town Planner, Gurugram has reported that the khasra nos. for catchment of Najafgarh Jheel fall within villages Daultabad, Kherki Majra, Dhankot and Budhera in reference to the *Shijra* received through email dated 17.07.2018. The said khasra nos. have been examined vis-a-vis final abstract of NCZ sent by Committee on 09.06.2016 and published Final Development Plan GMUC-2031 AD. It was found that same fall out of **NCZ** and are in Agriculture Zone. As per the office record of District Town Planner (Enf), Gurugram, no CLU has been granted in these khasra numbers. The said area has been tentatively marked on the FDP-GMUC-2031 AD in blue colour (copy enclosed). However in the immediate surroundings, few sectors have been planned & plan is attached showing different licenses granted sites in these sectors.

Issue no.2:

Major activities undertaken by the owners during the submergence and after receding of water:

As per the report of DRO, Gurugram, 75% to 80% of the total land measuring 4707 Kanal 11 Marla belonging to village Daultabad, Dharampur, Dhankot, Kherki Majra and Budhera remains waterlogged due to Najafgarh Drain and rain water. The remaining 20%-25% land can be cultivated only when there is no overflow from



Najafgarh Drain and rainfall. But most of the time the Najafgarh drain remains in over flow condition and thus this land remains uncultivated.

Issue no.3:

**Extent of submergence at various contour levels (during and post monsoon);
Construction plan of remaining portion of Badshahpur drain and its effect on
the quantum of water and reduction in area of submergence:**

i. Extent of submergence at various contour levels (during and post monsoon)

As informed by GMDA, there are three contour levels, which broadly define the maximum and minimum submergence levels of the Najafgarh depression. These as are as under:

Contour Level	Area in acres	Remarks
209 mts.	917	Mean Flood Level
210 mts.	3436	--
212.5 mts.	12871	Maximum Flood level

The extent of submergence at various contour levels: Year-wise data (During monsoon and post monsoon) is reported as under:

Year /Date With Significant Flooding	Area (acres)
24/09/1977	12871
16/10/2010	3186
17/11/2013	1188
09/09/2016	1776
10/10/2017	1431
25/11/2018	1408

Lean season submergence area:

Submerged in Pre-monsoon period during winter and summer (Dates)	Area (acres)
28/02/2013	333
29/06/2012	177

Submergence Area in relation to 209 m contour:

Year/Dates With Significant Flooding	Total Extent (acres)	Within 209m (acres)	Percentage of Contour line 209m water logged
1977	12871	917	100.00
2010	3186	917	100.00
2011	697	582.76	63.55
2013	1188	745	81.24
2016 Sept	1776	917	100.00
2016 Oct	1420	784	85.50
2017	1431	759	82.77
2018	1408	875	95.42

From the above, it emerges that the submergence has been contained broadly within 209 mts. Contour level which has been breached only thrice during the last 40 years.

II. Construction Plan of remaining portion of Badshahpur drain and its effect on the quantum of water and reduction in area of submergence:

The regular inflow of water into the najafgarh depression comes from three main drains from Gurugram under jurisdiction of GMDA, known as Leg-I, II & III (popularly known as Badshahpur Drain).

The construction of remaining portion of Badshahpur drain and Leg-II upto the Najafgarh drain is still pending. There is a length of 3270 mtr., in Leg-III, and 550 mtr.

Leg-II which has not been constructed. Additional land for ROW was required in both the drains and the status of acquisition of this land is as under:

Drain	ROW acquired with 30 m width	Land yet to be acquired
Leg-III (Badshahpur drain)	3100 meters	170 meters
Leg-II	550 meters	Nil

However, it is pertinent to mention here that construction of Badshahpur drain will not resolve the problem of water logging as the submergence is mainly and primarily due to the overflow of the Najafgarh drain and non-desilting of Najafgarh Drain in Delhi portion. The balance length of Badshahpur drain shall have to be considered for construction by GMDA after the bunding of Najafgarh drain in Haryana portion. There will be considerable reduction in quantum and area of submergence if Haryana portion of Najafgarh Drain is bunded and there is no back flow from Delhi.

Controlling and monitoring of Najafgarh drain up to Delhi

The jurisdiction of Najafgarh Drain originating from drain No. 8 till up to the Delhi falls under the jurisdiction of Irrigation Department, Government of Haryana. The jurisdiction of Leg-I, II & III up to the point of culminating in Najafgarh Drain falls under the jurisdiction of GMDA.

Issue no.4:

Comments on cost of bunding of submerged area of the Jheel; Details of the bund on the R/side of the Najafgarh Drain

Najafgarh drain from Km 0 to tail falls in the jurisdiction of Delhi Govt. and there is a Bund on Left side of entire Najafgarh Drain on Delhi side. In case a parallel bund is constructed on the right side of the drain, it is seen that a portion of 0.937 meters (Km

5.800 to Km. 6.737) falls under the jurisdiction of Delhi Govt. The length from Km 6.737 to Km 11.734 (Right side) of Najafgarh Drain falls in the boundary of Haryana. The proposed bund is shown as Y-Z on the map. Accordingly 75 Acres Land is required for constructing the Embankment (Total length 4.997 Km) from Km 6.737 to 11.734 along Najafgarh Drain.

Issue no.5:

Role of Stakeholders and Beneficiaries

Primarily the stakeholders and beneficiaries of the Najafgarh depression/proposed wetland will be landowners, farmers, Gram panchayats and environmentalists. The District Development has obtained the views of the landowners/ panchayats. Broadly, the villagers have demanded either compensation for the land in question or land measuring equal size in the adjoining areas. The inputs received from the Divisional Forest Officer are also attached.

Recommendations/Views of the Committee

- i. After detailed deliberations with various stakeholders, the committee proposes that GMDA may complete the leg-2 and leg-3 (Badshahpur drain) up to the Najafgarh drain so that there is no unwanted spillage into the proposed wetland. Provision of sluice gates may be provided by GMDA for maintaining a fixed level of water in the proposed wetland under emergent conditions/lean season, provided the quality of water (BOD,COD levels) match the standards set by wetland authority. This aspect should also be taken up with the technical committee to ward off any adverse repercussions in future.
- ii. The committee is also of the view that bunding of Najafgarh drain on Haryana side is necessary for the section Y-Z to prevent back-flow of water from Najafgarh drain onto the Haryana side. Any solution without bunding would be



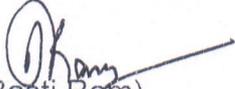
futile as it would not fix the problem of drain water over flowing into area demarcated for the proposed wetland.

- iii. An area marked (with orange boundary) may be considered for declaration as core area of the proposed Wetland measuring 333 acres based on lean period submergence data. Around the core zone of the wetland, multiple iterations have been depicted at an interval of 100 m each up to 500 metres which may be considered by the wetland authority for declaration as buffer zone, as deemed appropriate. The committee proposes that this area may be exclusively used for activities permitted under wetland (Conservation & Management), Rules.
- iv. The committee recommends that a mechanism must be developed with Govt. of NCT Delhi for regular de-silting of Najafgarh drain in a joint manner.
- v. The tentative costs indicated by GMDA for executing the works above is as under:

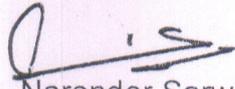
Proposal	Length	Cost*	Remarks
Construction of bund of Najafgarh drain on Haryana side (Pt Y to Z)	a) Length of bund on Najafgarh drain -4997 m	15.40 cr	75 acre to be acquired for bund on Najafgarh drain
Construction of drains till Najafgarh drain	b) Construction of Badshahpur drain (Leg-III) upto Najafgarh drain from Pt K to L 3515 mtr & Construction of balance portion of Leg-II of 550 mtr	160 cr	3.18 acre to be acquired for Construction of drain
Total		175.40 cr	

Note: 1 Cost includes construction cost only. Cost of acquisition of land to be worked out separately. The Collector rates of land for the 6 villages in the zone of influence of the proposed wetland are enclosed.

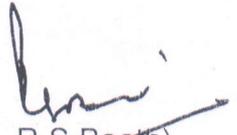
Note: 2 A pumping mechanism will be required for flow of water from Leg-II and III into Najafgarh drain to prevent backflow of water. The cost of this will have to be worked out separately.



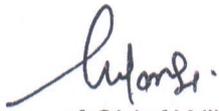
(Sh. Basti Ram)
DRO, Gurugram



(Sh. Narender Sarwan)
DDPO, Gurugram



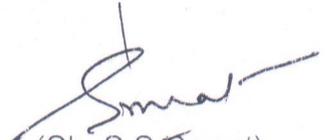
(Sh. R S Baath)
DTP, Gurugram



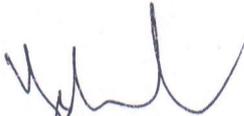
Rep. of Chief Wildlife Warden,
Gurugram (D.W.L.O.)



(Sh. Rajesh Bansal)
S.E. GMDA



(Sh. S S Rawat)
S.E. Irrigation, Gurugram



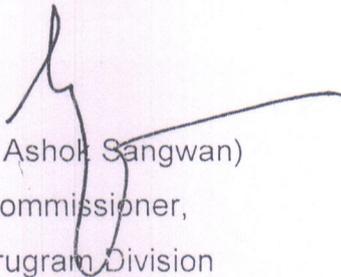
(Sh. Prashant Panwar)
ADC, Gurugram



(Sh. Vinay Pratap Singh)
Commissioner MCG



(Sh. Amit Khatri)
DC, Gurugram



(Sh. Ashok Sangwan)
Commissioner,
Gurugram Division

From

Director General,
Environment & Climate Change Department,
Haryana, Chandigarh

To

1. Additional Chief Secretary to Government of Haryana, Revenue and Disaster Management Department
2. Divisional Commissioner Gurugram
Gurugram, Haryana.

Memo No. DEH/2020/Wetland/ 52-53

Dated 06-01-2021

Subject:

Minutes of the 2nd Meeting of State Wetland Authority (SWA) held on 19-10-2020 under the Chairmanship of Hon'ble Chief Minister-cum-Chairman State Wetland Authority

Kindly refer to earlier letter no. DEH/2020/Wetland/8347-8361 dated 13-11-2020 on the subject noted above

A copy of the minutes of the 2nd meeting of State Wetland Authority (SWA) held on 19-10-2020 under the Chairmanship of Hon'ble Chief Minister-cum-Chairman State Wetland Authority and a copy of the report submitted by the Commissioner Gurugram Division (Chairman of the Committee) regarding issues of Najafgarh Jheel is hereby again forwarded for further necessary action.

Enclosed: 1. Minutes of the meeting

2. Report submitted by the Commissioner Gurugram Division

Joint Director
for Director General, Department of Environment
& Climate Change-cum-Member Secretary,
SWA.

10/10/20

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From

Director General,
Environment & Climate Change Department,
Haryana, Chandigarh

To

- 1) Sh. M.D. Sinha, IFS, 76 HIPA Complex, Sector 18, Gurugram, Haryana 122001 (Chairman Technical Committee on State Wetland Authority Haryana)
- 2) Member Secretary, Haryana State Pollution Control Board, Sector 6, Panchkula
- 3) Director, Urban Local Bodies Department, Bays 11-14, Sector 4, Panchkula, Haryana
- 4) Director, Town and Country Planning Department, Plot No. 3, Sec-18A, Madhya Marg, Chandigarh 160018
- 5) Director, Development of Panchayat Department, Plot No. 3, Sector 28, Chandigarh
- 6) The Deputy Commissioner Gurugram, Haryana.
- 7) Sh.Subhash Yadav, IFS, Divisional Forest Officer, Gurugram Metropolitan Development Authority, Metro Station, Plot No3 Sector 44, Near HUDA City Centre, Gurugram, Haryana 122003
- 8) Chief Engineer, Irrigation & Water Resources Department, Sinchai Bhawan, Sector 5, Panchkula, Haryana
- 9) Director, Fisheries, Bays No-31-32, Sector 4, Panchkula Haryana
- 10) Senior Scientist, SG (Environment/Forest) HARSAC, Haryana Agricultural University, Hisar, Haryana 125004

Memo No. DEH/2020/Wetland/ 42-5)

Dated 05-01-2021

Subject: Minutes of the 2nd Meeting of State Wetland Authority (SWA) held on 19-10-2020 at 3.00 P M. at CM Camp Office.

Kindly refer to earlier letter no. DEH/2020/Wetland/8347-8361 dated 13-11-2020 and DEH/2020/Wetland/8496-8505 dated 03-12-2020 on the subject noted above

A copy of the minutes of the 2nd meeting of State Wetland Authority (SWA) held on 19-10-2020 under the Chairmanship of Hon'ble Chief Minister-cum-Chairman State Wetland Authority and a copy of the report submitted by the Commissioner Gurugram Division (Chairman of the Committee) regarding issues of Najafgarh Jheel is hereby again forwarded for further necessary action.

Enclosed: 1. Minutes of the meeting

2. Report submitted by the Commissioner Gurugram Division

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Joint Director,
for Director General, Department of Environment
& Climate Change-cum-Member Secretary,
SWA.

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Minutes of Meeting held on 20.11.2021 in the Chairmanship of Sh. Devender Singh IAS, Additional Chief Secretary to Government, Haryana, Irrigation & Water Resources Department in PWD Rest House in the matters of Najafgarh Waterbody

Brief background of the matter:

Indian National Trust for Art & Cultural Heritage (INTACH) filed an application vide OA No. 153 of 2014 in Hon'ble National Green Tribunal about taking remedial steps for conservation of Najafgarh Waterbody which has been claimed as transboundary waterbody called Najafgarh Jheel. The said matter was disposed of on the statement made behalf of the State of Haryana that waterbody in question was a lake and the state was in process of declaring same to be a waterbody.

On October 14, 2015, Hon'ble NGT passed following directions:

We directed the state of NCT, Delhi, Central Ground Water Authority and the Applicant to visit the site in question and submit a Joint Inspection Report. We are told that inspection has been carried out and the observations made have been compiled in the form of Reports. The Learned Counsel appearing on behalf of State of Haryana submits that the report would be tendered within a week. The Learned Counsel appearing on behalf of CGWA, India submits that the report would be filed within a week. Let these reports be placed before us for further consideration. List this matter on 04th November, 2015. We direct the State of Delhi as well as Haryana to make a statement as to whether they have acted as per Rule – 6 of the Wetlands (Conservation and Management) Rules, 2010 to prepare list of Wetlands upon the identification as stipulated in the said rules. List this matter on 04th November, 2015.

In a similar matter OA No. 325 of 2015 titled as Lt. Col. Sarvadaman Oberoi Vs Union of India & Ors, **the State Government has taken up the stand that the Najafgarh Jheel has been accepted to be a waterbody and the Government has decided to identify the said water body and approval in that behalf is under process (February 20, 2017).**

Further, an Execution Application No. 16/2019 was filed by the applicant in OA No. 153/2014 alleging that the NCT of Delhi and the State of Haryana have failed to take necessary action. It is stated that the water body falls partly in NCT Delhi and partly in Haryana. The matter was thereafter considered on 10.10.2019 in the light of action taken report filed by the State of Haryana as follows:

“3. Vide order dated 26.03.2019, the status and an action taken report was sought from the State of Haryana and the NCT of Delhi. The report filed is that there is doubt that it is a private land and not a wetland. This assertion is based on revenue record of the year 2005. As against the said revenue record, there is a 1983 gazette notification showing the area to be a lake. To reconcile the situation, it will be appropriate that the earlier revenue records particularly before the Settlement are checked up. Let the Deputy Commissioner, Gurgaon depute an expert of the department to look into the revenue record. Further action taken report be filed before the next date.”

4. Report dated 17.09.2020 received from the District Magistrate, Gurgaon is to the effect that there is no entry of water body in the revenue record. The area is partly government land partly private.

Learned Counsel for the State of Haryana, however, states that factually there is a large water body in existence and a management plan is under consideration of the State.

The matter was further heard on 17.09.2020 by Video Conferencing and the Hon'ble NGT directed as under:

In view of the fact that there is a large transboundary water body which partly falls in Delhi and partly in Haryana, it will be appropriate that an Environment Management Plan is prepared jointly by the State of Haryana and NCT of Delhi. The MoEF&CC may steer the proceedings for preparation of Environment Management Plan with the assistance of CPCB. CPCB may coordinate as a nodal agency. Such plan may be prepared within three months. Action taken report may be filed before the next date by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.

List again on 27.01.2021.

A copy of this order be forwarded to the MoEF&CC, CPCB, State of Haryana and NCT of Delhi by e-mail for compliance.

While hearing the EA on 17.06.2021, following directions were issued by Hon'ble NGT:

5. *We have considered the matter and find that the issue of restoration of water body in question is significant for the environment but has not received the attention it requires from the authorities. The State of Haryana has neither prepared EMP nor given any explanation for not doing so. None appears for the State of Haryana. The Delhi Government has prepared the draft EMP but execution thereof has to be ensured after completing the EMP.*

6. *In these circumstances, we consider it necessary to direct Chief Secretaries of Haryana and Delhi to coordinate with the concerned departments to ensure further remedial action expeditiously and to remain present in person by Video Conference on the next date with the status of compliance. The Chief Secretaries may also take a report from the concerned Police whether action is taken against the violators under Section 277 IPC, which is a cognizable offence. The Chief Secretaries may also inform the concerned senior officer of the police to remain present in person before this Tribunal on the next date.*

List for further consideration on 04.10.2021

That to ensure the compliance of directions issued by Hon'ble tribunal vide its order dated 17.06.2021, a meeting was convened under the chairmanship of Chief Secretary to Government of Haryana on 02.09 .2021 wherein it was decided that:-

- (i) CEO, Gurgaon Metropolitan Development Authority (GMDA) shall submit the report with regard to flow of untreated sewage into the lake.
- (ii) Haryana State Industrial and Infrastructural Development Corporation (HSIIDC), Gurgaon Metropolitan Development Authority (GMDA) and Haryana State Pollution Control Board (HSPCB) shall submit a report about the existing water quality of Jheel and steps taken to prevent the entry of untreated sewage into the lake before.

- (iii) DCP/Commissioner Police, Gurugram and S.P. Jhajjar to take action under Section 277 of IPC against violators and submit compliance report by 16.09.2021.
- (iv) HSPCB to submit report about the existing quality of the water in the Najafgarh Jheel.
- (v) Director, Environment to prepare Draft Environment Management Plan for consideration in the next meeting.

Later, on 27.09.2021, the State Government has submitted the Environment Management Plan for Najafgarh Jheel.

Some relevant paras related to restriction of activities proposed under Environment Management Plan on various contour levels are given below:

- 1.10. On behalf of the NGTs context a visit was made to Najafgarh Jheel by a team consisting of Hon'ble Member of Yamuna Monitoring Committee, Shri. B.S. Sajwan, two Monitoring Committee Members of Haryana, Shri. M.D. Sinha, Additional CEO, Gurugram Metropolitan Development Authority and his team, the Member Secretary of CPCB and his team, Irrigation Department of Haryana and HSPCB Members and Professor C.R. Babu of the University of Delhi. The visit was made on January 25, 2020. An excerpt from the report of Prof. Babu is reproduced below:

“The left out Najafgarh Jheel is the only landform that ensures the safety to Gurugram and Delhi from the massive floodwaters during heavy rainfall resulting from climate change. In fact, it was pointed out that the frequent water logging of Gurugram city roads and submergence of Flats in the submergible area enclosed by 212m contour line is the rule rather than the exception. Sector 108 of Gurugram and neighbouring areas, which were flooded and submerged in 2010, have been brought under construction and are in the core flood zone. Najafgarh Jheel is the only safeguard for both the cities against climate change and adaptation to extreme events – extreme temperature and rainfall.”

- 1.11. As per the data and analysis of the topography of the area and surface hydrology, the high flood level in the area was at 212.5m contour level. It is also clear from the report of the Technical Committee of State Wetland Authority Haryana that the flood water usually covers the area under the 209m contour and rarely go beyond the 210m contour it is clear that the 209m contour level is crucial for the maintenance of this wetland.

Taking into consideration, the lean season historical data, an area of around 333 acres under the Contour level 209m, would be appropriate core area for the wetland. The area enclosed between 209m and 210m contour will be declared as buffer where the community can practice seasonal agriculture and no construction activity and mining are permitted. The area enclosed between 210 m and 211m contour should be zone of tourism with no new construction activity, whereas the area upto 212.5m contour level is a zone of high floods. On the eastern and western sides, the major sector road intersecting the 211m contour can be the boundary of the buffer zone. This delineation takes into account:

- Permanent and intermittent inundation areas, as well as the presence of hydrophytes.
- Detailed contour mapping presented in report of Prof C R Babu.
- Report of the Technical Committee of the State Wetland Authority, Haryana.
- Report of the Divisional Commissioner, Gurugram

1.12. It is crucial that construction activity in and around the wetland region is completely curtailed given the high risk of liquefaction and earthquake Hazards.

Due to submission of Environment Management Plan and restriction of activities in various contour levels, various stakeholders are objecting the prescriptions made in the Environment Management Plan related to Najafgarh Jheel portion of Haryana side.

In view of above and in continuation of discussions held on 28.09.2021 in the matters of Najafgarh Jheel, a meeting of all stakeholders was held on 20.11.2021 at 3.00 pm in the Chairmanship of Sh. Devender Singh IAS, Additional Chief Secretary to Government, Haryana, Irrigation & Water Resources Department in PWD Rest House, Gurugram. The following stakeholders participated in the meeting:

1. Sh. Rakesh Daultabad, MLA, Badshahpur & Chairman, Haryana Agro-Industries Corporation
2. Department of Country & Town Planning
3. Gurugram Metropolitan Development Authority (GMDA)
4. DG & Secretary, Environment Department, Govt. of Haryana
5. District Administration
6. Municipal Corporation Gurugram
7. Irrigation & Water Resources Department
8. Haryana Pollution Control Board
9. Farmer Representatives of flood affected villages
10. Ms. Ritu Rao, representative of INTACH present on behalf of Sh. Manu Bhatnagar

The Chair heard the view point of all stakeholders one by one as mentioned under:

1. **Sh. Rakesh Daultabad, MLA, Badshahpur and Farmers Representatives:** Sh. Rakesh Daultabad and the Farmers' Representatives of flood affected area submitted that during 1960s, the water used to come in the area in Delhi only in rainy season as the area was in the course of Sahibi river which was tributary of Yamuna. The Najafgarh Jheel area used to be in Delhi state and the water used to flood during rainy season the villages like Jhatikara, Pandwala, Shikarpur, Ghummenhera, Daulatpur, Kaganheri and a Jheel was in Chhwala village near Najafgarh. They further submitted that the drain called Najafgarh drain was dug upto Yamuna to ease flow of water and to control flooding in these villages during mid 1960s and a bundh was constructed towards Delhi side bank of the drain near these villages. After construction of check dams in Rajasthan State and construction of barrage at Masani near Dharuhera during late 1970s, no water of Sahibi river used to flood the area but the water of Drain No. 8 used to come during rainy season. The flooding was for one or two months and the farmers used to sow Rabi crops on conversed moisture. Even upto 2010, the water used to come in their fields only during rainy season and farmers used to show Rabi crops easily. They further argued that after expansion of Gurgaon city, the discharge of sewage water and treated waste water was drained through Leg-2 and Leg-3 (Badshahpur Drain) nearby their fields to finally drain out through Najafgarh drain. The water has spread in last 10 years in their fields and they are not able to sow no crops in any season as the area remains waterlogged throughout the year due to flooding of sewage water in their fields. The sewage water has led to spread of cancer disease in the flood affected villages. The

farmers representatives have submitted that they will not allow their private land to declare as Jheel/Waterbody. Sh. Randhir Singh, representative of farmers who was present in the meeting that his age is 60 years and there was no Jheel in their fields since his childhood. He contended that water used to collect in the form of Jheel in Chhawla village near Najafgarh which is about 15 km from their area. The water has been flooded and spread in their area only after year 2010 as a bank was constructed by Delhi Government along Najafgarh drain to check spread of water in their area. He also contended that the water is also coming from Drain No. 8 and flooding their area as the Najafgarh Drain has been silted and there is no flow of water during rainy season. Therefore, Sh. Rakesh Daultabad, MLA, Badshahpur and the farmers representative are of the view that bank on Haryana side may be constructed on Haryana side along the Najafgarh drain on the same lines as constructed on Delhi side so that water coming from Drain No. 8 is channelized through Najafgarh Nalla to Yamuna. Two pumping stations may be installed at Leg-2 and Leg-3 to pump water from farmers fields to Najafgarh drain after rainy season so that farmers can sow Rabi crops. The balance portions of Leg-2 and Leg-3 are constructed upto Najafgarh Drain and gates/pumping stations may be installed at the drain only.

2. **Ms. Ritu Rao, representing Mr. Mannu Bhatnagar of INTACH:** Ms. Ritu Rao shared a presentation of Sh. Mannu Bhatnagar (applicant in the matters of Najafgarh Jheel) – **Annexure-I**. She contended that the Jheel should be protected in any case as it has vital ecological role for fast spreading city of Gurugram considering the future climate change challenges. Various points raised by her are mentioned as under:
 - a. Declare the submerge area as lake
 - b. Stop disposal of sewage/untreated water in the lake
 - c. Declare no construction zone in the zone of submergence considering seismic zone.

As per her presentation, Conservation of lake may lead to following:

- Store rainwater [Water harvesting]
- Moderate Urban Flooding
- Recycle Treated Wastewater
- Enhance water supplies
- Recharge aquifers
- Climate change resilience & SDG 11
- Public recreation & Ecotourism
- Nature habitat/bird sanctuary
- Add Several Revenue streams

She argued that farmers may be compensated as under:

- Pay farmers for parking water on their land by way of rental @ Rs. 1 lakh per acre as Delhi is doing in Palla
- Farmers may be paid down payment for 15 years at one go.
- Abadi lands of farmers will become lake front properties commanding high values - they are all just outside 211m contour
- Farmers to be preferred for eco-tourism ventures
- Extraction of Groundwater for a population of 300,000 possible @100 lpcd bringing in revenue [Groundwater sustained by continuous recharge of Recycled Water]
- Property Values of Surrounding Sectors Goes up resulting in higher revenues to Govt.

- Tourism, adventure sports, sailing, boating, sports angling, bird watching
- Scientific fisheries for high catch
- Island Formations can bring Massive Revenue

Argument on construction restrictions:

- Based on the logic of water, Eco-system Services, Water Sustainability and Haryana's submissions in EMP. There is no basis to decrease the Zone of Influence Below 211 m contour and this is non-negotiable.
- The 211m Contour Leaves all Abadi Areas untouched.
- Moratorium if any can be applied to areas beyond 211 m contour at risk of Haryana Govt.

3. Views of Country & Town Planning Department: Principal Secretary to Government, Country & Town Planning Department argued that Country & town Planning Department has already issued licences to various agencies in the area. Therefore, the projects for whom licences have been issued and the projects on which construction is going on should not be affected by restrictions proposed in the Environment Management Plan. He further argued that there was no water logging upto the year 2010 and once the city water (sewage and treated water) will be managed, there will not be problem of flooding in the area. He further suggested that the water coming from Drain No. 8 is channelized to Najafgarh drain to Yamuna river so that it does not spread in the area in question. The city authorities should plan for usage of the city water in the city greens and waterbodies and check that no untreated water flow in Leg-2 and Leg-3. He also argued when the underground water is brackish, it cannot be utilised for drinking purposes. They have submitted that the no construction zone may be confined to contour level 209 only as the area under 209 contour level is 917 acres as per report of Divisional Commissioner. A buffer may be kept around 100 m along 209 contour level.

4. Views of Irrigation & Water Resources Department:

The Irrigation and Water Resources Department informed that no water is coming in Sahibi river after construction of Masani Barrage in District Rewari and construction of check dams in Rajasthan. The Hydrologists from the Hydrology department is of the view that the water level in the area is almost at ground level and reported that EC of the water is more than 8000 micro S/cm, therefore, the ground water cannot be utilized for drinking purposes. They further submitted that instead of construction of circular bundh, bank on Haryana side should be constructed on Haryana Side of Najafgarh Drain so that water coming from Drain No. 8 and Outfall Drain No. 8 does not spread in large area and rather channelized to Yamuna. As, in past, the Sahibi river used to be tributary of River Yamuna.

They further informed that their department is serious about development of water bodies in the State. They mentioned that they have developed Bhindawas lake by diverting excess water of JLN Canal and one more lake has immerged at Masani Barrage (Sahibi river course) after releasing of excess water of JLN during monsoon. Water has also been stored during monsoon in Hamidpur Bandh in district Mahendergarh which is also dry zone. There is no fresh water coming in the so called Najafgarh Jheel depression in Haryana portion at present except during rainy season. The water of the city during rains and the sewage water/ treated water is coming in the water body at present and the quality of water is very bad.

GMDA & Irrigation Department are serious about utilization of treated waste water generated from STPs at Dhanwapur and Behrampur in the city. The Irrigation department has constructed a special STP channel of 26.680 km for utilization of treated waste water for agriculture purposes from Dhanwapur STP to Sondhi, Beed Dadri in Jhajjar District. The present capacity of this channel is 188.60 MLD which will be upgraded upto 550 MLD. Presently the total Treated Waste Water (TWW) generated in Gurugram City is 243 MLD and the availability of TWW will further increase in the years to come. Against the available 243 MLD TWW, 40-45 MLD is being utilized in City for various purposes such as Horticulture, Industries and construction purposes through 110 KM recycle network laid in Gurugram City whereas 60-70 MLD is being utilized for agricultural purpose through STP channel in villages of Jhajjar District. To ensure quality of treated waste water, real time sensors will be installed in the channel and upstream out falling drains (i.e. Badshapur Drain etc) which would provide the real time quality and quantum parameter of the flowing water in the channels / drains and help in curbing any unauthorized disposals in the drain. Moreover, Treated Waste Water (TWW) from STPs shall be utilized in irrigation of 51445 acres of the area which is existing on fresh water channels and thus, fresh water supply shall be substituted by TWW of STPs which would save fresh water. Even Tenders amounting to Rs. 17.24 crores and Rs. 13.96 crores for utilizing STP water in 1700 acres (villages Dhankot, Gopalpur, Chandu, Garhi Harsaru District Gurugram) and 1400 acres (villages Badsa District Jhajjar and village- Sultanpur, Jhanjhrola of District Gurugram) have been invited by Irrigation Department and even tender for the work of increasing capacity of STP channel from 188.60 MLD to 550 MLD amounting to Rs. 116.33 crores have been opened on 18.11.2021. Administrative Approval for this is already received in Irrigation Department amounting to Rs. 295.82 crores. Further, Irrigation Department is planning to provide TWW of STP's to Jharli Power Plant by which about 220 MLD fresh canal water from JLN Feeder (near Pump house JF-I) shall be saved as fresh canal water shall be substituted /shifted by TWW (Treated Waste Water) of STPs. Saving of fresh water / canal supplies shall be utilized in water deficit areas in the State.

It has also been reported by Irrigation Department that the level of Najafgarh Drain, the Bed level of Najafgarh Drain near submerged area is 207.34 and Bed Level at outfall point at Yamuna River is approx. 202.00. Hence the level difference of more than 5 Mtr exists in length of 51 KM resulting in gradient of 1:10,000 approx which is adequate, provided desilting of Najafgarh drain is done regularly by Irrigation & Flood Control Deptt, Delhi. This is normal gradient in our drainage system across Haryana.

5. Views of Environment Department:

Director General and Secretary, Environment Department informed that in view of various directions by Hon'ble NGT, Environment Department has submitted Environment Management Plan before the Tribunal. Therefore, the proposed actions of the Government authorities should be in consonance with the prescriptions of the Environment Management Plan. Haryana Pollution Control Board has made challans and initiated prosecution cases and imposed environmental compensation for violation of Water Act 1974 for discharging effluent into Leg-1, Leg-2 and Leg-3 as given below:

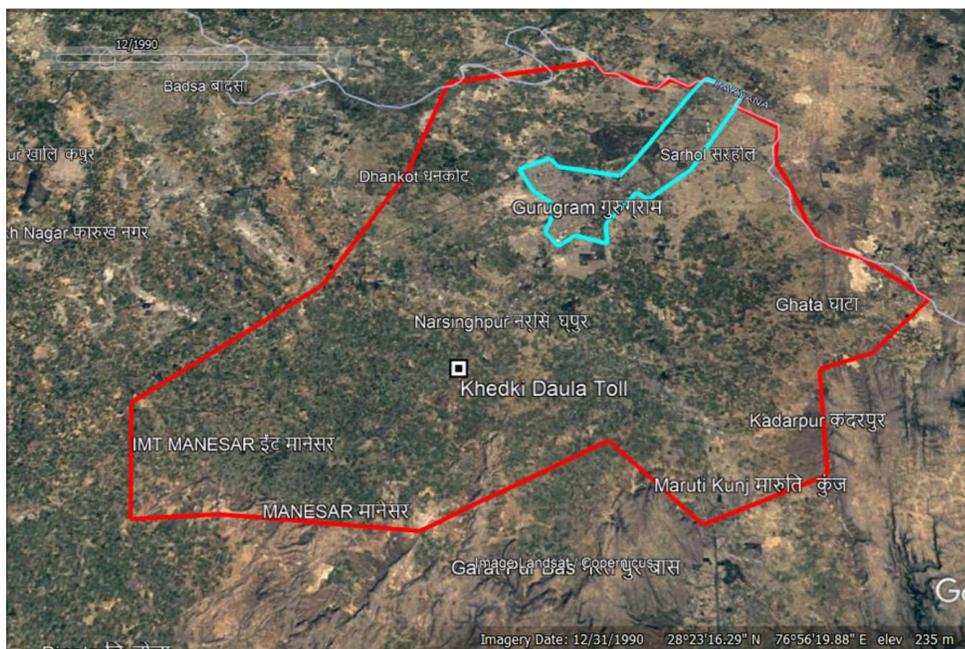
Sr. No.	Particulars	No. of cases
1.	No. of closures under Water Act	203
2.	No. of prosecution case files under Water Act	52
3.	No. of cases under which compensation imposed under Water Act	44
4.	Amount of Environmental Compensation imposed under Water Act	3278915169/-

6. Views of Gurugram Metropolitan Development Authority (GMDA): GMDA made a detailed analysis of the facts about Najafgarh Jheel based on historical literature, toposheets of Survey of India, old maps and the google historical images and made a presentation about history of Jheel.

- a. **Reporting of Najafgarh Jheel in Delhi Gazetteer of 1883 (page-8):** *The western lines, as has been already said, converge on the Jhil below Najafgarh. There are two main passages into this: one to the north of Jharaudah (now Jhrodha Kalan) and east of Dichaon comes into the low lands at Nawadah Hashtal; the other and larger body of drainage comes in between Mandelah Khurd and Bakargarh running south-east to Pindwala Kalan and meeting, and meeting jhil below Chhaolah. The main jhil lies to the south-west and west of this, and is fed, as already noted, by the Sahibi drainage from Gurgaon and the flow of hill water on the west side of the Delhi hills. This last comes down in several places; the most distinct lines perhaps are those lying about Dabari and Palam. A more particular account of Najafgarh Jhil considered in its revenue and irrigation aspects will be found in Mr. Maconachie's Settlement report. It is sufficient to note here that the area drained by it is 3072 sq miles, and its water surface wit a depth of 12 feet in the water gauge at Nanak Heri is 56,657 acres or about 88.5 sq miles. In 1833, its area was estimated at 52.5 sq miles, but the time of the year this refers to does not appear. Its outlet is a drain passing with a muddy sluggish flow to the north-east by Kakraula, Nilanthi and Basei across the Rohtak road about three miles east of Delhi and emptying itself into the Jamuna just above the village of Wazirabad.*
- b. **Reporting of Najafgarh Jheel in Gurgaon District Gazetteer of 1883 (page-3):** Another marked physical characteristic of the District (Gurgaon) is found in its jhils or lakes. The most important of these is the Najafgarh jhil on the northern border of the district; but this is mainly situated in the Delhi district. Into the Sahibi, swollen by Indori, and the Badshahpur stream pour their waters.
- c. **Reporting of Najafgarh Jheel in Delhi Gazetteer of 1912 (page-7):** *Thus we are brought by natural steps to describe the Najafgarh basin into which falls not only the drainage of the district on the west of the canal but also two other streams of importance: : the one is the depression by which the drainage of the part of the Rohtak district joins this district at Mundela Kalan and passing Ujwah and Pindwala joins the main Jhil at Chhaola: the other is the Sahibi Nala which passes through the Gurgaon district having its head waters far off from in Alwar. The main Jhil receives too, a few petty streams from the local hills. The area which drains into this Najafgargh Jhil is estimated at some 3000 square miles: in years gone by an area of more than 80 square miles has been known to be submerged by the floods, **but for various reasons such extensive***

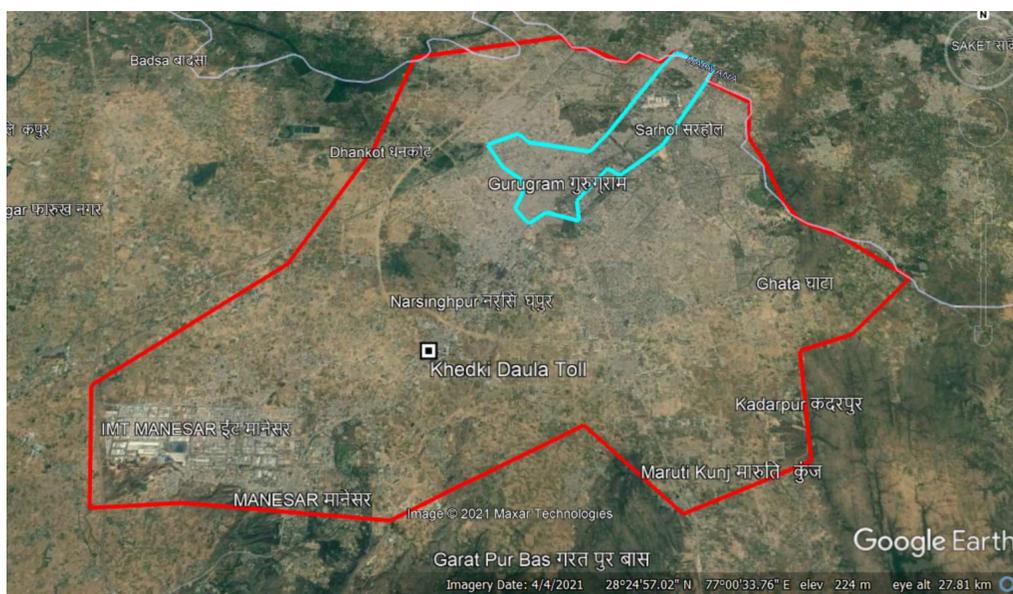
e. Historical Google Earth Images:

On the basis of historical images of goggle earth, it was found that there is no water submergence in the Year 1990 and the spread of Gurgaon city was about 25 sq km mainly concentrated on north near Delhi border as shown as under:



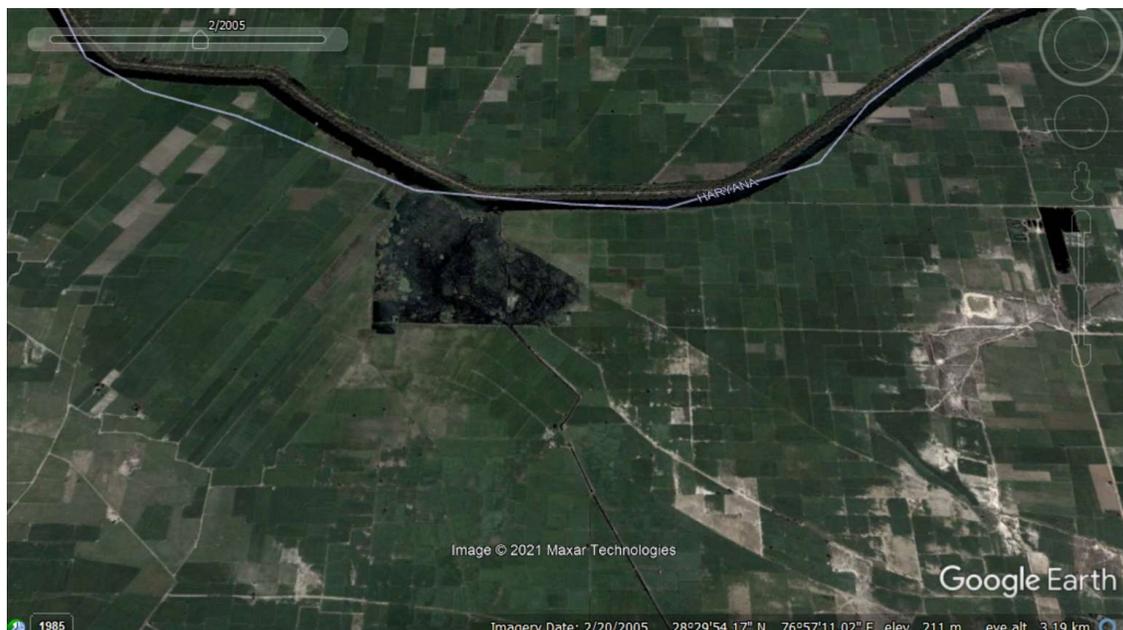
Google Image dated 31.12.1990; spread of the city was 25 sq km; no water submergence

On the basis of historical images of goggle earth, it was found that there is submergence in the present images and the spread of Gurgaon city was about 350 sq km as shown as under:



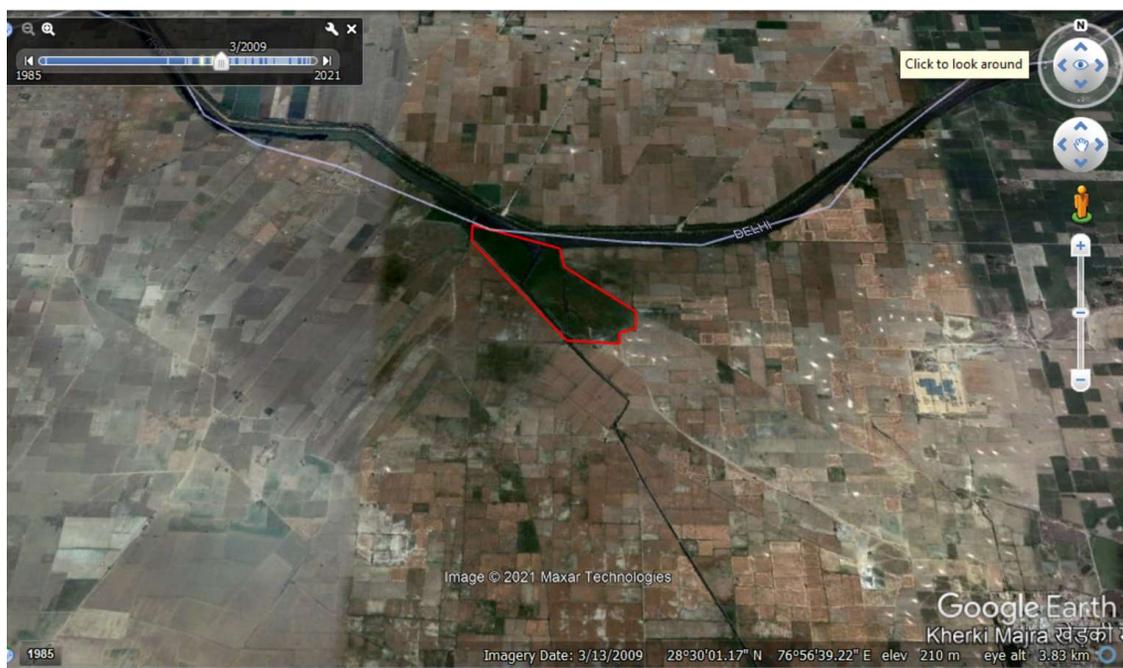
Google Image Dated 04.04.2021; spread of city is 350 sq km. Water submergence is clearly seen

As per historical images of year 2005, there is water spread only 80 acres only in the panchayat area. The excess water used to flow in the Najafgarh drain. The adjoining is all cultivated under Rabi Crops as shown under:



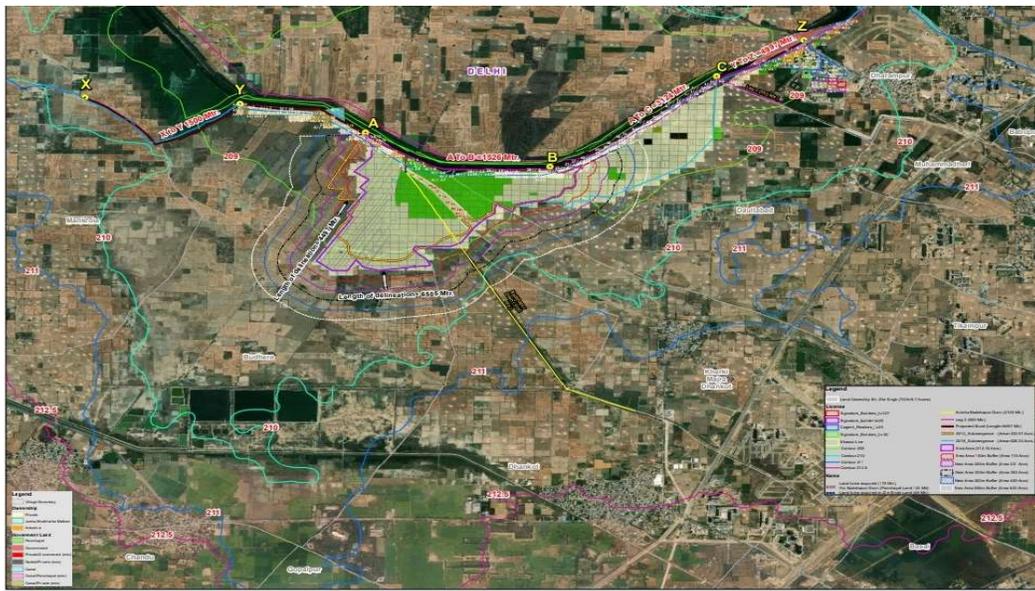
Google Image dated 20.02.2005 showing water only in Panchayat land spread over 80 acres only.

As per historical images of year 2009, there is water spread only 47 acres only in the panchayat area as shown under:



Google Image dated 13.03.2009 showing water only in Panchayat land spread over 47 acres only.

From the images shown above, it is clear that the rain water and city waste water are the main source of water in the submerged area at present. If the treated waste water is channelized for utilisation in agriculture, only rain water will come to the area and that will be utilized by farmers for cultivation purposes and the water will dry and the farmers will be able to grow Rabi crops in winters. The panchayat area of about 97 acres will remain under waterbody. The bundh should be created on the Haryana side bank of the Najafgarh drain and gate should be installed at the bank so that drain water does not spread in the private areas. The construction of bank will also help in storage of rain water in Haryana side and will as act as waterbody till it is automatically dries up. The water may be pumped in the drain also so that farmers can sow Rabi crops if the spread is beyond panchayat land. The panchayat land has been shown in dark green color in the image under:



The balance portions of Leg-2 and Leg-3 should be constructed upto Najafgarh drain so that water can directly be put into Najafgarh drain and excess water during rainy season may be allowed to spread in the area which will be beneficial to farmers for grow kharif crops as done in the Delhi portion beyond Najafgarh drain.

Besides this, GMDA in association with Irrigation & Water Resources Department has targeted to construct channel of Treated Waste Water for its utilisation in agriculture as mentioned under Irrigation Department.

Conclusions:

After hearing views of all stakeholders and facts presented; and having detailed deliberations in the matter, following conclusions are arrived upon:

1. It is established fact from historical literature (Delhi Gazetteer 1883-84 and 1912; Gurgaon Gazetteer 1883) that the Najafgarh Jheel was located in the State of Delhi. Very small area of submergence was in District Gurgaon. The Jheel used to be in village Chhawala which in Delhi. The submergence area was minimum in Haryana side even during 1912.
2. It is also fact that Jheel used get major portion of water from Sahibi river in sheet flow which was a tributary of river Yamuna and no water is coming the Sahibi river after

- late 1970s as check dams have been constructed at the source in Rajasthan state. The quantum of water from local hills through Badshahpur nala has been reported as petty.
3. To check flooding in Delhi portion, a drain was dug in 1960s to drain out Sahibi River water in the river Yamuna and a bank was constructed on Delhi side to check flooding in Delhi side and to divert water in the river Yamuna. This led to spread water in Haryana side as the drain in the area in question is at the borders of Haryana and Delhi.
 4. No water came in Sahibi river in Haryana and Delhi portion after construction of check dams in the State of Rajasthan and construction of Masani Barrage on Sahibi River in district Rewari of Haryana State during late 1970s.
 5. It is also established from toposheets of Survey of India (1976) that there is depression in the area but there is no mention of any Jheel in the toposheet but there is mention of Drain No. 8 (Najafgarh drain) meaning thereby during late 1970s, there was drain and depressions and no evidence of jheel existence.
 6. It is also established from historical google earth images that there was water spread in the panchayat land area of 80 acres only in the year 2005 (20.02.2005) and in the year 2009 (13.03.2009), it was only 47 acres.
 7. It is also established fact from google earth images that there is no submergence in the area in question in the year 1990 and the spread of urbanized area of Gurgaon city was only 25 Sq Km approx. which has extended upto 350 km in the year 2021. Due to expansion of urbanised area after the year 2010, the discharge of water through Leg-2 and Leg-3 (Badshahpur drain) increased and the water started to spread beyond the panchayat area. The submerged area used to increase during monsoon months and after monsoon, the water used to recede and the submerged area comes to about 333 acres as reported in the report of Divisional Commissioner, Gurugram.
 8. Therefore, it is misnomer that Jheel existed in Haryana side.
 9. It has been reported that the Leg-2 and Leg-3 are not connected to the Najafgarh Drain due to which water spreads in the large area and there is need to connect the Leg-2 and Leg-3 to Najafgarh Drain by installation of pumping stations and gates. The same was recommended in the report of Divisional Commissioner, Gurugram and seconded by the Technical Committee.
 10. The report of Divisional Commissioner, Gurugram and Technical Committee has also proposed to construct bank on Haryana side of the Najafgarh Drain so that the water can straight way flow upto Yamuna and does not spread in the large area. As some of the water also comes from Drain No. 8 during rainy season and spreads in the area in question which further adds to spread of submerged area. Therefore, it is recommended that bank on Haryana side of Najafgarh drain may be constructed so check spread of water in large area and also to channelize water in Najafgarh drain upto Yamuna.
 11. It has also been learned during discussions that after connection of Leg-2 and Leg-3 in the Najafgarh Drain and construction of bank on Haryana side along Najafgarh drain, the area of submergence will also automatically decrease. The water will be channelized to Yamuna by gravity or pumping so that land of private owners may be saved from submergence. The storm water during rainy season may be allowed to spread in the adjoining area through openings in Leg-2 and Leg-3 when there is lack of space in the Najafgarh drain which will be utilized by the private land owners for raising kharif crops. The excess water after rains will be pumped into drain and the lands will be available to farmers for sowing rabi crops.

12. As per plan submitted by GMDA and Irrigation & Water Resources Department, no treated water will go to the drain as plans for utilization of treated waste water for agriculture, greenspaces and industries are in pipeline as described above. Once the treated waste water will be utilized, there will not be flow of water in the submerged area except rainy season.
13. It has also been reported by Irrigation & Water Resources Department that the bed level of Najafgarh Drain near submerged area is 207.34 and Bed Level at outfall point at Yamuna River is approx. 202.00. Hence the level difference is of more than 5 Mtr in span of 51 KM resulting in gradient of 1:10,000 approx which is adequate, provided desilting of Najafgarh drain is done regularly by Irrigation & Flood Control Deptt, Delhi. This is the normal gradient in drainage system across Haryana.
14. As far as restrictions on construction activities are concerned, once the treated water will be utilised, there will not be enough water to submerge the area in question except rainy season. Therefore, it is proposed to restrict constructions upto the contour level 211 (about 5000 acres) and that will be enough to accommodate water during rainy season as the maximum spread during this extreme monsoon year is 2048 acres on September 24, 2021 which has further come down to 1667 acres on Nov 11, 2021. The same has been submitted by the Country & Town Planning Department. The extent may be demarcated with the major features like roads etc.
15. The private land owners have raised objections for declaring their land as waterbody as the city authorities are not able to channelize the disposal of storm and treated water into Najafgarh drain. They have argued that no water should be allowed to be discharged in their private lands.

Recommendations:

In view of facts mentioned above, following recommendations are made:

1. It is learnt that the so called Jheel did not exist in Haryana side, historically it was in Delhi and the area which is now under submergence is due to discharge of rain water and treated waste water of Gurugram city flowing through Leg-2 and Leg-3 (Badshahpur Drain) and the area of submergence increases due to addition of more water by Drain No. 8.
2. It is also observed that the water could not flow in the Najafgarh drain as it is silted in Delhi portion and there is no bank on Haryana side and water spreads in large area which takes time to dry up. There is no water in Delhi side in front of area of submergence in Haryana side which has been considered as Jheel as a bank has been constructed on Delhi side of Najafgarh Drain.
3. It is also learnt that the land of private owners has also submerged due to spread of water from the all sources mentioned above and declaring land of private people as waterbody is not justified.
4. An area of about 100 acres which is panchayat owned can only be considered waterbody in present situation.
5. The area under contour level 211 may be declared as no construction zone considering the future water spread during rainy season as the treated waste water will completely be utilized as per plans under pipeline.

Therefore, it is proposed that Hon'ble National Green Tribunal may be requested to review the matter in light of facts mentioned above and Hon'ble NGT may also be requested to direct Delhi Government to carry out desilting of Najafgarh Drain regularly so that water is drained out in the river Yamuna and consider 100 acre which owned by Gram Panchayat as waterbody.

ANNEXURE A/4

Recommendations of the Technical Committee on the Report of the Finance Sub-committee on Najafgarh Jheel dated 20.11.2021.

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Vide a letter No. SWAH/2021/4093 dated 30.12.2021, the department of Environment and Climate Change, Haryana has forwarded the report on the Najafgarh Jheel by the financial sub-committee headed by ACS, Irrigation to the Technical Committee of the State Wetland Authority, Haryana for examination and recommendations. They have also informed that the 3rd Meeting of the State Wetland Authority, Haryana under the Chairmanship of the Hon'ble Chief Minister, Haryana shall be held on 07.01.2022 and the report of the Technical Committee is required latest by 04.01.2022. A copy of the report is placed at Annexure-I.

Accordingly, the Member Secretary, Technical Committee vide his letter dated 1088-98 dated 31.12.2021 issued notice convening a meeting of the Technical Committee on 03.01.2022 at 2 p.m. in the office of the Principal Secretary, Tourism-cum-Chairman, Technical Committee. The list of officials who attended the meeting is placed at Annexure-II.

The Technical Committee discussed the report submitted by the Financial Sub-Committee headed by ACS, Irrigation regarding the Najafgarh Jheel Area. In brief, the report basically raises 2 points namely:-

- (i) Whether the Jheel is existed in Haryana or not;
- (ii) What should be the area of Jheel in present.

The members expressed their views as under:

- ADC, Gurugram represented on behalf of Divisional Commissioner, Gurugram agreed to the report of the Financial Sub-Committee in toto and did not submit any scientific justification for the determination of area of the Jheel.



- Panchayat Department gave their consent to include their 30 Kanal area into the proposed water body.
- Town and Country Planning Department representative informed that at present, no permissions are being granted within the contour level 212.5 meter and a decision on further permission will be taken after final decision regarding the Najafgarh water body. Town and Country Planning Department shall take a decision on the grant of License considering the sub-merged area. The Town and Country Planning Department also informed that permission within 212.5 meter Contour level will be allowed if the level of the water body is brought to 211 level by earth filling.

The Technical Committee discussed both the issues as under:

(i) Whether the Jheel existed in Haryana or not.

In this regard, a detailed report of the Technical Committee on the issues related to the Najafgarh Jheel has already been submitted to the department of the Environment and Climate Change, Haryana vide letter No. 2441-51 dated 12.03.21. Without going into further details, the Technical Committee was of the opinion that the area inundated seasonally can be determined in a very scientific and non-partisan manner on the basis of the ground level contours. As per data provided by GMDA, taking the 209 meter contours level, a total of 2,555 acres falls under this contour- out of which 917 acres is in Haryana side and 1638 acres is on the Delhi side. Water, whether it is excess rainfall run-off or treated grey water from Gurgaon, would occupy any area purely as per contour levels. The 209 meter contour level is an important level as about 92% of the time the land within this contour level is the area actually sub-merged during the monsoons.



(ii) What should be the area of the Jheel at present:

The report of the Financial Sub-Committee states that during the current monsoon the water spread over an area of 2048 acres (September 21, 2021). By November 11, 2021, it had contracted to 1667 acres. There cannot be any doubt that the Najafgarh Jheel was seasonal water-body which was fed by the waters from Sahibi System. Due to major Hydrological changes in the surface topography of the area, the Jheel is no longer fed from the Sahibi System but is largely fed by the discharge of the treated sewage water from Gurgaon City along with monsoon discharges from the surrounding area. Thus, the Jheel today is an artificially sustained Jheel, the extent of which depends largely on amount of water being released from Gurgaon City.

As per the report, The department of Irrigation and GMDA are firmly of the opinion that they would be able to fully utilize the entire grey water from Gurgaon by enhancing the capacity of the TWW Channel and that no surplus grey water would be released into the Jheel Area. In view of this clear submission, the Technical Committee recommends that the Irrigation Department may decide the extent of the area of the Jheel by determining how much water it would impound in the area. Depending on the amount of water to be impounded, the area of jheel can be scientifically determined. Therefore, the Irrigation Department may determine the extent of the Jheel taking into view the following:-

- a) The High flood level: At present the 100 year HFC level has been kept by the department of Irrigation at 212.5 meters contour level.
- b) The amount of run-off during monsoons that would collect in this area.
- c) The amount of daily sewage treated water being released by Gurgaon City into the area with further projections.
- d) The amount of water released into the Nazabgarh drain by completing the Leg 2 and Leg 3 (Badshahpur drain).

In view of the above, the total water holding capacity of the area and therefore, the extent of the area should be determined by the Irrigation Department scientifically



which in turn would be area of the Jheel. The Irrigation Department would be responsible for the maintenance of the Jheel thereafter and would be the Nodal agency for this. Further, the Town and Country Planning Department would bring out a clear policy of how they would treat licenses falling within this area as defined by the Irrigation Department.


(Subhash Yadav, IFS) 31/1/22
Member Secretary,
Technical Committee on State Wetland
Authority, Haryana


(M.D. Sinha, IFS) 31/1/2022
Chairman, Technical Committee,
Haryana State Wetland
Authority.

COMMENTS/SUBMISSIONS OF IRRIGATION & WATER RESOURCES DEPARTMENT HARYANA TO BE INCLUDED IN THE TECHNICAL COMMITTEE REPORT DATED 03.01.2022

In reference to discussions held during the Technical Committee meeting dated 03.01.2022 held in the Chairmanship of Sh. M. D. Sinha IFS, Chairman of Technical Committee of State Wetland Authority, it is submitted that the report dated 20.11.2021 submitted by Financial Sub-Committee was prepared by the Committee in consultation with various stakeholders and the recommendations made in the report dated 20.11.2021 are of a Committee constituted by the Department of Environment & Climate Change, Govt. of Haryana vide order Endst. No. 16/34/2021-3Env Dated 30.09.2021 as under:

Sr. No.	Name	
1.	Additional Chief Secretary to Government Haryana Irrigation Department	Chairman/Convener
2.	Principal Secretary to Government Haryana Town & Country Planning Department	Member
3.	Chief Executive Officer, Gurugram Metropolitan Development Authority, Gurugram	Member
4.	Deputy Commissioner, Gurugram	Member

Irrigation and Water Resources Department was one of the stakeholders. The views of Irrigation & Water Resources Department included in the report are self-explanatory as given under:

"The Irrigation and Water Resources Department informed that no water is coming in Sahibi river after construction of Masani Barrage in District Rewari and construction of check dams in Rajasthan. The Hydrologist was of the view that the water level in the area is almost at ground level and reported that EC of the water is more than 8000 micro S/cm, therefore, the ground water cannot be utilized for drinking purposes and there is no scope for ground

water recharge due to waterlogging in the area. It was reported that bank on Haryana side should be constructed on Haryana Side of Najafgarh Drain so that water coming from Leg-3 and Outfall Drain No. 8 does not spread in large area and rather channelized to Yamuna. As, in past, the Sahibi river used to be tributary of River Yamuna.

It is further mentioned that their department is serious about development of water bodies in the State. Bhindawas lake was developed by diverting excess water of JLN Canal and one more lake has immerged at Masani Barrage (Sahibi river course) after releasing of excess water of JLN during monsoon. Water has also been stored during monsoon in Hamidpur Bandh in district Mahendergarh which is also dry zone. There is no fresh water coming in the so called Najafgarh Jheel depression in Haryana portion at present except during rainy season. The water of the city during rains and the sewage water/ treated water is coming in the water body at present and the quality of water is very bad.

It is also mentioned that GMDA & Irrigation Department are serious about utilization of treated waste water generated from STPs at Dhanwapur and Behrampur in the city. The Irrigation department has constructed a special STP channel of 26.680 km for utilization of treated waste water for agriculture purposes from Dhanwapur STP to Sondhi, Beed Dadri in Jhajjar District. The present capacity of this channel is 188.60 MLD which will be upgraded upto 550 MLD. Presently the total Treated Waste Water (TWW) generated in Gurugram City is 243 MLD and the availability of TWW will further increase in the years to come. Against the available 243 MLD TWW, 40-45 MLD is being utilized in City for various purposes such as Horticulture, Industries and construction purposes through 110 KM recycle network laid in Gurugram City whereas 60-70 MLD is being utilized for agricultural purpose through STP channel in villages of Jhajjar District. To ensure quality of treated waste water, real time sensors will be installed in the channel and upstream out falling drains (i.e. Badshapur Drain etc) which would provide the real time quality and quantum parameter of the flowing water in the channels / drains and help in curbing any unauthorized disposals in the drain. Moreover, Treated Waste Water (TWW) from STPs shall be utilized in irrigation of 51445 acres of the area which is existing on fresh water channels and thus, fresh water supply

shall be substituted by TWW of STPs which would save fresh water. Even Tenders amounting to Rs. 17.24 crores and Rs. 13.96 crores for utilizing STP water in 1700 acres (villages Dhankot, Gopalpur, Chandu, Garhi Harsaru District Gurugram) and 1400 acres (villages Badsa District Jhajjar and village-Sultanpur, Jhanjhrola of District Gurugram) have been invited by Irrigation Department and even tender for the work of increasing capacity of STP channel from 188.60 MLD to 550 MLD amounting to Rs. 116.33 crores have been opened on 18.11.2021. Administrative Approval for this is already received in Irrigation Department amounting to Rs. 295.82 crores. Further, Irrigation Department is planning to provide TWW of STP's to Jharli Power Plant by which about 220 MLD fresh canal water from JLN Feeder (near Pump house JF-I) shall be saved as fresh canal water shall be substituted /shifted by TWW (Treated Waste Water) of STPs. Saving of fresh water / canal supplies shall be utilized in water deficit areas in the State.

After completion of the project of enhancing the capacity of TWW Channel from 188 MLD to 550 MLD in two years, TWW which is being discharged through Leg-2 and Leg-3 in the submergence area/Najafgarh drain will be diverted to Channel completely and will be utilized for irrigation purposes and the submergence area will reduce considerably. Very small area will submerge only during rainy season.

It has also been reported by Irrigation Department that the level of Najafgarh Drain, the Bed level of Najafgarh Drain near submerged area is 207.34 and Bed Level at outfall point at Yamuna River is approx. 202.00. Hence the level difference of more than 5 Mtr exists in length of 51 KM resulting in gradient of 1:10,000 approx which is adequate, provided desilting of Najafgarh drain is done regularly by Irrigation & Flood Control Deptt, Delhi. This is normal gradient in our drainage system across Haryana."

(i) Comments on existence of Jheel in Haryana portion:

GMDA made a detailed presentation in front of the above committee on the basis of detail analysis of facts about Najafgarh Jheel based on historical literature (Delhi Gazetteer 1883 & 1912), toposheets of survey of India, old maps and google historical images and concluded that Najafgarh Jheel originally existed in Delhi.

As per facts presented by GMDA in the report, Najafgarh Jheel originally existed in Delhi. It is well documented in the Delhi Gazetteer of 1883 and 1912 as mentioned under:

a. Reporting of Najafgarh Jheel in Delhi Gazetteer of 1883 (page-8):

The western lines, as has been already said, converge on the Jhil below Najafgarh. There are two main passages into this: one to the north of Jharaudah (now Jhrodha Kalan) and east of Dichaon comes into the low lands at Nawadah Hashtal; the other and larger body of drainage comes in between Mandelah Khurd and Bakargarh running south-east to Pindwala Kalan and meeting, and meeting jhil below Chhaolah. The main jhil lies to the south-west and west of this, and is fed, as already noted, by the Sahibi drainage from Gurgaon and the flow of hill water on the west side of the Delhi hills. This last comes down in several places; the most distinct lines perhaps are those lying about Dabari and Palam. A more particular account of Najafgarh Jhil considered in its revenue and irrigation aspects will be found in Mr. Maconachie's Settlement report. It is sufficient to note here that the area drained by it is 3072 sq miles, and its water surface with a depth of 12 feet in the water gauge at Nanak Heri is 56,657 acres or about 88.5 sq miles. In 1833, its area was estimated at 52.5 sq miles, but the time of the year this refers to does not appear. Its outlet is a drain passing with a muddy sluggish flow to the north-east by Kakraula, Nilanthi and Basei across the Rohtak road about three miles east of Delhi and emptying itself into the Jamuna just above the village of Wazirabad.

b. Reporting of Najafgarh Jheel in Gurgaon District Gazetteer of 1883

(page-3): Another marked physical characteristic of the District (Gurgaon) is found in its jhils or lakes. The most important of these is the Najafgarh jhil on the northern border of the district; but this is mainly situated in the Delhi district. Into the Sahibi, swollen by Indori, and the Badshahpur stream pour their waters.

c. Reporting of Najafgarh Jheel in Delhi Gazetteer of 1912 (page-7):

Thus we are brought by natural steps to describe the Najafgarh basin

into which falls not only the drainage of the district on the west of the canal but also two other streams of importance: : the one is the depression by which the drainage of the part of the Rohtak district joins this district at Mundela Kalan and passing Ujwah and Pindwala joins the main Jhil at Chhaola: the other is the Sahibi Nala which passes through the Gurgaon district having its head waters far off from in Alwar. The main Jhil receives too, a few petty streams from the local hills. The area which drains into this Najafgarh Jhil is estimated at some 3000 square miles: in years gone by an area of more than 80 square miles has been known to be submerged by the floods, **but for various reasons such extensive flooding no longer takes places.** As may be imagined the volume of water was more than the soil could absorb and cause of much sickness and fever; so it was determined to cut a channel, now known as the Jhil Drain, to run the surplus water into Jamna. This work was carried out in 1888 under the direction of Captain (afterwards Sir Hennerly) David. This drain begins about Chhaola where it is little more than a petty ditch and passes via Kakraula, Hasttsal and Basai, by a deep cut through the high lying Bangar into the Jamna at Wazirabad. The result of this work is that the water is drawn off too quickly fixed in the channel, it is possible to flood an area of twenty square miles and to draw off the water in time for cultivation.

- d. **Toposheets of Survey of India:** The toposheets of Survey of India show there is depression in the area in question and it is mentioned as Drain No. 8 (Najafgarh Drain). There is no mentioned of Jheel, it is mentioned as depression in both side of drain but major portion is on Delhi side covering villages like Guhmmenhera, Sikarpur, Pandwala Kalan, Jhatikara etc. which are mentioned in the Delhi Gazetteer also.

It is hard fact that no water used to come from Sahibi river after construction of check dams in Rajasthan after late 1970s and present submergence is due to city water which is draining out through Leg-2 and Leg-3. The historical google images also show that there was no lake in Haryana side and no water submergence upto the year 2010. The problem aggravated with expansion of the city of Gurgaon. With

the increase of urbanised area, the discharge of water also increased which led to spread water in adjoining private fields beyond Panchayat land as there was slow speed of water in Najafgarh Drain due to silting. The water moves slowly in the drain and takes time for reaching river Yamuna. The area on Delhi side is completely safe as bank has been constructed. Otherwise, this water has spread over large area in Delhi upto Najafgarh, the original area of lake as mentioned in the literature.

From facts presented above, it is clear that the rain water of Gurugram and city waste water are the main source of water in the submerged/logged area at present which cannot be termed as waterbody or wetland in which private land owners are the affected stakeholders. If the treated waste water is channelized for utilisation in agriculture or other purposes, only rain water will come to the area and that will be utilized by farmers for Kharif cultivation purposes and the water will dry and the farmers will be able to grow Rabi crops in winters. The panchayat area of about 97 acres will be enough to sustain rain water.

The bundh should be created on the Haryana side bank of the Najafgarh drain and gate should be installed at the bank so that drain water does not spread in the private areas. The construction of bank will also help in storage of rain water in Haryana side and will act as waterbody till it is automatically dries up. The water may be pumped in the drain also so that farmers can sow Rabi crops if the spread is beyond panchayat land.

The balance portions of Leg-2 and Leg-3 should be constructed upto Najafgarh drain so that water can directly be put into Najafgarh drain and excess water during rainy season may be allowed to spread in the area which will be beneficial to farmers for growing kharif crops as done in the Delhi portion beyond Najafgarh drain.

Connecting Leg-2 and Leg-3 to Najafgarh Drain & also installation and operation of pumping stations and gates at Najafgarh drain will be the responsibility of GMDA or City Municipal Authorities of Gurugram or Manesar. Irrigation and Water Resources Department, Haryana may own the responsibility of construction of bank on Haryana side and diverting the Treated Waste Water of Dhanwapur and Behrampur STPs for irrigation purpose, if funds are made available. Irrigation

Department is at final stage of awarding work amounting to Rs. 166.33 Crore for enhancing the capacity of treated water channel from 188 MLD to 550 MLD and the work will be completed by Year December, 2023. Once the capacity will be enhanced, the treated water will be utilized for various purposes, mainly for agriculture purposes. There will not any submergence in this area. If the water discharge increases in future, such channels may be planned for diverting treated waste water for agriculture purposes towards Pataudi and Farukhnagar.

(ii) Comments on area of Jheel:

There is no Jheel in Delhi side due to construction of bank on Delhi side of Najafgarh drain. Therefore, no area should be fixed for Jheel at present otherwise it will be injustice with private land owners mainly farmers of Haryana. Basically, it is not a Jheel of fresh water, rather it is sewage water/ treated waste water which is coming to the area from Gurugram city. The area of submergence varies in various seasons and also on the basis of discharge of water. Factually, it is submergence/water logged area due to non-management of city waste water due to which the land of farmers has been waterlogged/submerged. Once the city waste water will be managed, there will not be submergence/waterlogging in the area, till the bank on Haryana side is constructed and Leg-2 and Leg-3 are connected to Najafgarh Drain ~~and the bank is constructed~~, the present situation will remain the same.

The present submergence of the area is not serving any environmental services considering the present quality of the water which is drained out in the area rather it is creating problems in the adjoining villages. There is no ground water recharge as the water level is almost at ground level. The ground water is brackish in that area. The area of submergence is increasing due to saturation of the area. The health-related problems are also increasing in the waterlogged area due to bad quality of ground water. There is wetland in the name of Sultanpur National Park within five kilometre of the area and that had been the bird destination since ages and the Sultanpur National Park wetland is fed by canal water for sustenance of aquatic flora and fauna.

The technical committee recommended that the Irrigation Department may scientifically decide the extent of the area of the Jheel by determining amount to water to be impounded in the Jheel, keeping in view the following points:-

- a) The High flood level: At present the 100 year HFC level has been kept by the department of Irrigation at 212.5 meters contour level.
- b) The amount of run-off during monsoons that would collect in this area.
- c) The amount of daily sewage treated water being released by Gurgaon City into the area with further projections.
- d) The amount of water released into the Najafgarh drain by completing the Leg 2 and Leg 3 (Badshapur drain).

Regarding the above points, it is submitted that all the data related to Najafgarh Jheel such as area of submergence, amount of daily waste water generated and water released in Najafgarh drain by Leg-2 and Leg-3 are with the GMDA. All the three major drains i.e. Leg-1, Leg-2 & Leg-3 (Badshapur Drain) are under them. Therefore, GMDA should be made Nodal agency to scientifically determine the extent of the area of the Jheel to impound the water.

Regarding maintenance of the Jheel, Irrigation Department is of the view that this area falls under the urban area so GMDA should be made Nodal agency for maintenance of the Jheel thereafter.

JL 4.01.2022

Chief Engineer

Irrigation & Water Resources Department

Haryana

ANNEXURE A/6**PHOTOGRAPHS OF THE AREAS IN AND AROUND NAJAFGARH DRAIN**

ABOVE: The Bund Constructed by The Delhi Govt in 1960 On Left Bank of Najafgarh Drain

Below: The agricultural fields on left bank of Najafgarh Drain in Delhi





Above: Najafgarh Drain (downstream) from Dhansa Regulator. The left side is Delhi and Right side is Haryana