February 14, 2013

Member Secretary
Central Ground Water Authority
A-2, W-3, Curzon Road Barracks,
Kasturba Gandhi Marg, New Delhi 110001

Dear Members of CGWA:

We are writing regarding the bottling plant owned and operated by the **Hindustan Coca-Cola Beverages Private Limited (HCCBPL) in Mehdiganj, Block Arajiline, District Varanasi in Uttar Pradesh.**

HCCBPL has applied to the Central Ground Water Authority and the Uttar Pradesh Pollution Control Board on April 25, 2012 seeking to expand the existing bottling plant – by increasing its groundwater consumption fourfold – from 50,000 cubic metres per year to 200,000 cubic metres per year.

We would like to categorically state that HCCBPL's water consumption in Arajiline block since 1999 has already had a significant negative impact on the groundwater resources in Arajiline, making access to water for the community and farmers far more difficult since the HCCBPL bottling plant started operations in Mehdiganj in 1999. Arajiline block has a population of 311,723 as of 2001.

As such, we are asking the Central Ground Water Authority to refuse permission to HCCBPL for expansion in Mehdiganj.

In addition, we also seek CGWA's active involvement in scrutinizing the destructive role that the HCCBPL bottling plant has played in destroying the water resources in the area – both through excessive extraction of water and pollution of groundwater resources.

HCCBPL's current bottling operations in an increasingly water stressed Arajiline block is simply not sustainable. If left as is, HCCBPL's continued over-extraction of water will see the groundwater resources rapidly becoming overexploited, a trend that seems almost inevitable right now.

Continued operations of the HCCBPL bottling plant will continue to destroy the livelihoods of thousands who live in the surroundings of the bottling plant by denying adequate access to water for the community and farmers. As you may be aware, agriculture is the dominant activity in the area, covering over 80% of the available land. HCCBPL's operations also threaten the future generations of Mehdiganj who will have even more limited access to water – courtesy Coca-Cola's over-extraction of groundwater.

We have worked since 2003 to challenge and document HCCBPL's over-extraction of water and pollution of groundwater resources. We have maintained that HCCBPL's water needs in Mehdiganj cannot co-exist with the water needs of the community and the farmers in the area.

There are many reasons why HCCBPL's application for expansion should not only be rejected but its current allowances to over-extract groundwater also be scrutinized and ended because of the serious harm the bottling plant has already caused and the disastrous consequences if allowed to continue operations in water stressed Arajiline block.

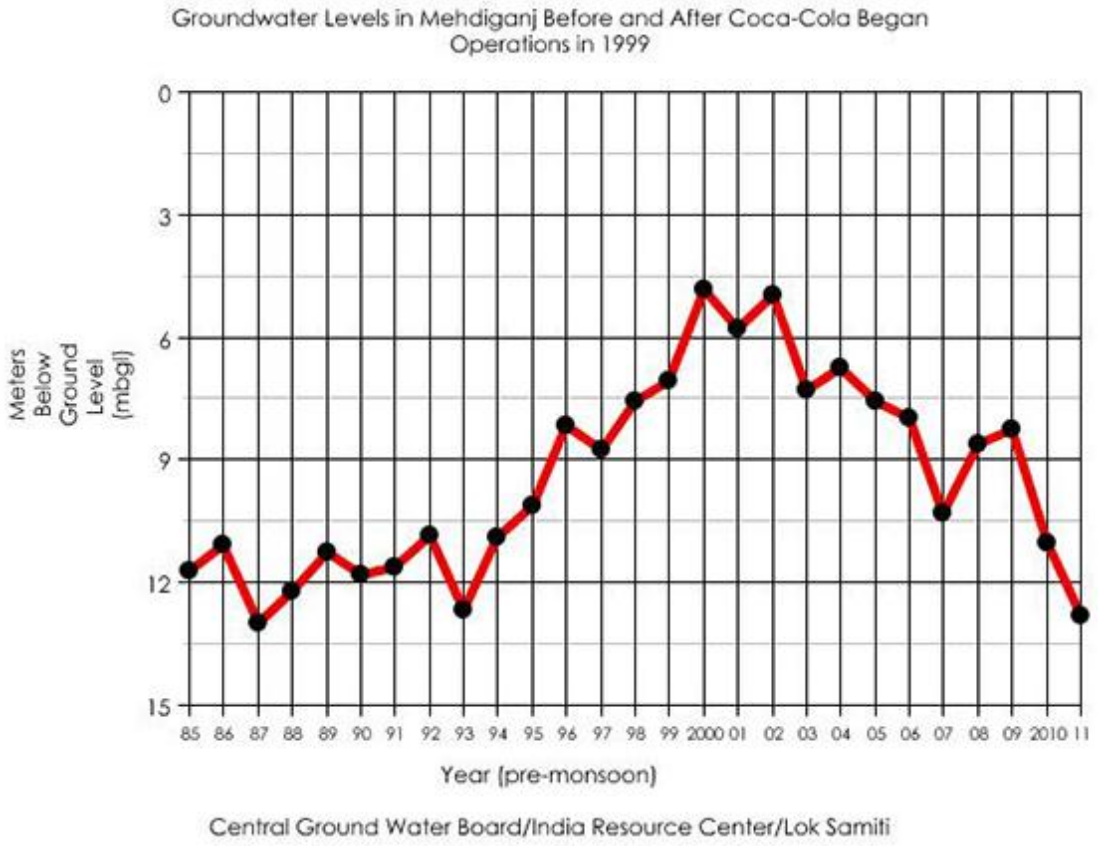
Below, we will highlight just a few problems associated with HCCBPL's bottling operations.

1. **Arajiline Block is Categorized as a Critical Block**

In 2009, the Central Groundwater Board categorized Arajiline block as a critical area, confirming the community's assertion that Arajiline's water situation had worsened significantly since HCCBPL began operations in 1999, when the area's groundwater was in safe category.

The exact extent of HCCBPL's contribution to the worsening and critical groundwater situation in Arajiline may be up for debate. But there is no doubt whatsoever in our minds that HCCBPL's arrival and operations in Mehdiganj have taken a downward toll on the groundwater resources. HCCBPL is the single largest user of groundwater in the area, and no industry, leave alone a farmer, comes even close to extracting 50,000 cubic metres of water annually.

The graph below is extraordinarily clear in relaying the co-relation between HCCBPL's bottling operations and its impact on the groundwater resources in Arajiline block – before and after HCCBPL began operations in the area in 1999. The data, obtained from the CGWB, are for the nearest station to the plant, in Rajatalab.



It is our fear the groundwater conditions will continue to worsen if we are to allow a water-intensive company such as HCCBPL to continue operations in Mehdiganj.

A March 2012 report by the Central Groundwater Board, "A Short Report Regarding Need To Stop Over-Exploitation of Ground Water By M/S Hindustan Coca-Cola Beverages Ltd., Mehndiganj, Varanasi District, U.P" has characterized HCCBPL's <u>current</u> groundwater extraction as "excess" in its conclusion.

It is important to note that the CGWB found the groundwater extraction as "excess" under the current permissions granted to HCCBPL, which allow for 50,000 cubic metres of groundwater annually (and of which HCCBPL used 36,084 cubic metres in 2011, or 72%, according to HCCBPL).

It is also worth noting the seasonal nature of HCCBPL's water extraction and the exponential adverse impacts the bottling plant has on the groundwater resources. HCCBPL reaches its peak production capacity – extracting the largest amount of groundwater – in the summer months, exactly when the groundwater levels are at its lowest, further increasing the hardships caused by an already deleting groundwater resource.

As a result of the Arajiline block being categorized as critical (local media and communities referred to the area as a "dark zone" well prior to 2009), many restrictions have been placed on the common person on the use of groundwater resources in the area. It is no longer possible, for example, to sink new borewells without permission, and rightfully so. In general, access to water in Arajiline has been significantly made difficult for the community as a result of the rapidly declining groundwater levels. And the summer months are particularly problematic.

Arajiline had depended on normally sunk wells for quite some time, even when the HCCBPL began operations in 1999. However, as time progressed since 2000, groundwater levels receded, and more and more farmers (especially those who could afford it) began to sink borewells and even submersible pumps in order to extract groundwater. Over time, there has been a proliferation of borewells in Arajiline, including many that have been sunk to even 100 metres or more as water levels have dropped precipitously. It is our belief that HCCBPL's arrival and operations in the area have resulted in a race to the bottom, and continued (and expanded) operations will see a significant and rapid decline in groundwater tables as more and more users sink borewells to deeper depths in an effort to ensure water, food and livelihood security.

As you well know, groundwater is a common pool resource and the Supreme Court of India has opined that groundwater is a public trust, and as such, the state is a custodian of the public trust. The Supreme Court has also recognized the fundamental right to water.

The Indian government, as part of its commitment to the Rio Declaration on Environment and Development of 1992 which stated that the right to development must be fulfilled to equitably meet the needs of present and future generations, has operationalised the National Green Tribunal.

The National Green Tribunal affirms the principles of **sustainable development** – development that meets the needs of the present without compromising the ability of future generations to meet their own needs.

The National Green Tribunal also affirms the **precautionary principle** – which requires anticipatory action to be taken to prevent harm, even on reasonable suspicion, and that it is not always necessary that there be direct evidence of harm to the environment.

Granting HCCBPL permission to expand its water use fourfold in Arajiline violates the principles of sustainable development because it not only threatens the needs and wellbeing of current residents of Arajiline block, but future generations as well.

There is also reasonable evidence to suggest that HCCBPL's groundwater use in Arajiline block has already had an adverse impact on the groundwater resource in Arajiline block through its excessive groundwater extraction, and an allowance to increase its groundwater usage would further worsen the situation. Applying the precautionary principle, HCCBPL's application for expansion should not be granted.

HCCBPL's operations have already created significant social tensions in the area as a result of the increased competition for a depleting groundwater resource. **Continued operations of HCCBPL will lead to increased social tensions, and permission to expand would almost certainly mean the end of livelihoods for thousands who also depend on the Arajiline block for their water needs.**

2. **HCCBPL Pollutes Groundwater, Further Impeding Access to Groundwater**

We also would like to bring your attention to the issue of HCCBPL (and its franchisee operations) in India and the manner in which they have been polluting the groundwater and land around its bottling plants in India, including Mehdiganj. HCCBPL continues to deny that it is guilty of pollution even as the facts point otherwise. Pollution of groundwater, and that too by heavy metals such as lead, cadmium and chromium, is hardly a matter to be taken lightly because it is extremely difficult to reverse and has significant long-term public health impacts.

In 2003, the Central Pollution Control Board sampled the waste from 15 bottling plants across India (nine HCCBPL (and its franchisee) plants and seven Pepsico (and its franchisee plants)).

CPCB found that ALL nine HCCBPL (and its franchisee plants) were violating the hazardous waste rules and regulations of India, and it found that the effluents from all nine bottling plants had exceeded levels of either lead, cadmium or chromium (and sometimes more than one).

In the case of Mehdiganj, CPCB found excessive levels of Cadmium and Chromium in almost ALL the sludge that it had tested from the HCCBPL bottling plant. It is only after this finding that HCCBPL in Mehdiganj was ordered to treat its waste as hazardous waste.

It is shocking to us that a multinational company of such repute was being so callous in the manner in which it handled its waste. Often times, the sludge from the bottling plant was passed on to

farmers in the area, as fertilizer. Effluents from the plant have flown directly outside the bottling plant into the surrounding agricultural lands, no doubt leaching into the groundwater in both instances.

Subsequently, the Energy and Resources Institute (TERI) has also found violations when testing effluents from the HCCBPL bottling plant in 2008.

The TERI report, whose mandate was to look only at pesticide residues in Coca-Cola products, noted that, "Regional water quality assessment of four out of six sites (Kaladera, Mehndiganj, Nemam, and Sathupalle) revealed that villages located in the immediate vicinity of the plant showed the excess presence of certain parameters. However, since this assessment here could not relate the regional groundwater quality to the operations of the Coca-Cola plant, there is a need to carry out a further detailed study to establish/rule out the reasons for such presence."

It is worth noting that the effluents from the HCCBPL plant in Mehdiganj discharges into a drain, and the drain leads to the river Ganges.

Although we have approached the Uttar Pradesh Pollution Control Board on this matter and sought to have them regularly (and randomly) check the HCCBPL plant for violations of pollution norms, we do not have much confidence in the office.

The person who was in charge of the Varanasi office, Mr. Ghanshyam, had offered to do all kinds of monitoring while also saying that HCCBPL had no violations, was arrested by the Anti-Corruption Cell in March 2009 and charged with corruption as he was allegedly demanding a bribe to offer a NOC. We are left at a loss as to who to approach (with confidence) to monitor the pollution from such a hazardous waste generating unit.

Pollution by HCCBPL (and its franchisees) is not an isolated case, even though HCCBPL claims that it is within the rules and regulations in India. As you may be aware, HCCBPL's single largest bottling plant in India, in **Plachimada in the state of Kerala**, has been shut down since March 2004.

Although the HCCBPL plant in Plachimada was initially shut down because the state government of Kerala had asked all water intensive companies to stop production to ease drought conditions, HCCBPL has never been able to re-open its bottling plant in Kerala because the Kerala State Pollution Control Board has refused to re-issue the No Objection Certificate/Consent to Operate to HCCBPL because HCCBPL has been unable to answer adequately the issues around its hazardous waste. **The Kerala State Pollution Control Board issued a Stop Production with Immediate Effect to HCCBPL in Plachimada due to heavy metals pollution, and the plant has never re-opened since.**

As you may also be aware, the Kerala State Legislature passed a law in 2011 seeking compensation from HCCBPL for the damages it had caused in the area.

More recently, HCCBPL has been found to be in violation of pollution norms, in Jalpaiguri in West Bengal. **The National Green Tribunal has ordered in March 2012 that more tests be conducted on the effluents from the bottling plant as a result.**

We urge the CGWA to seriously consider the pollution track record of HCCBPL while scrutinizing the operations in Mehdiganj. HCCBPL does not have a good track record when it comes to pollution. A polluted groundwater resource simply compounds a depleted groundwater resource by making already scarce groundwater unusable.

3. HCCBPL's Rainwater Harvesting Initiatives Do Not Work

In response to the growing opposition over its excessive extraction of groundwater in Mehdiganj, HCCBPL has turned to pointing out that its ambitious rain water harvesting initiatives are enough to "offset" the groundwater that it uses.

This is simply not true, belies logic and HCCBPL's claims are more designed as a public relations ploy to limit damages to its "brand" and the company's image than it is rooted in reality.

It is worth noting that in 2005, six years after HCCBPL began operations in Mehdiganj, it only had ONE rainwater harvesting structure in Mehdiganj. We fail to understand how a water intensive company would have such a limited commitment to water conservation in Mehdiganj when it was clearly the single largest use of groundwater in the area, and that too in an area where the vast majority of the population derived a living from the same groundwater resource.

We have continuously pointed out the HCCBPL's rain water harvesting initiatives mostly do not work because we have regularly monitored these structures in the area and found them to be in pathetic shape due to lack on maintenance. If the pipes that have been constructed on the roof tops to funnel the water to be collected are broken and not connected (as has been the case many times), no amount of rain water harvesting will be successful.

In 2008, the Energy and Resources Institute (TERI), India's largest NGO headed by Dr. Rajendra Pachauri, conducted an assessment of six Coca-Cola bottling plants in India, including Mehdiganj. **The assessment has described HCCBPL's rainwater harvesting structures to be in "dilapidated" condition, an assessment we agree with**.

A March 2012 report by the Central Ground Water Board, "A Short Report Regarding Need To Stop Over-Exploitation of Ground Water By M/S Hindustan Coca-Cola Beverages Ltd., Mehndiganj, Varanasi District, U.P" has also stated that, "The Coca-Cola plant has only two RWH structures in the premises whereby recharging 5467 cum of rain water per year (as claimed by Plant) and remaining 25 RWH structures installed by the factory are actually away from the premises located as far as 1.5 to 20 Kms from the Plant premises which don't have any bearing on the pumping of water being carried out by the factory."

HCCBPL's response has been alarming. In haste to deflect the growing opposition, HCCBPL has claimed that it recharges more water than it uses in Mehdiganj, suggesting that it no longer can be held responsible for its excessive extraction of the groundwater. For its operations across India, HCCBPL claims that it has a "**net zero groundwater usage**", implying that it has no impact whatsoever on groundwater resources in India as a result of its bottling operations!

HCCBPL's response is wrong on many counts. As we, TERI, as well as the March 2012 report from the CGWB have pointed out, HCCBPL's rainwater harvesting schemes have not worked for a number of reasons, including the structures being in dilapidated conditions as well as lower than normal rainfall for many years in the Mehdiganj area.

Thirdly, HCCBPL has calculated the "potential" recharge that it has created, and simply goes on to add those numbers to suggest that its rainwater harvesting initiatives have actually recharged the amount of "potential" recharge. But it is a fallacy to equate actual recharge of groundwater with potential recharge, especially given that rainfall has been less than normal for most years in the last ten years in the area, and also because the rainwater harvesting structures have been ill-maintained.

Fourth, it is disingenuous on the part of HCCBPL to claim that it has recharged more water that it uses through rainwater harvesting because many of the rainwater harvesting structures it has built are far away from the bottling plant to make an impact of the groundwater at the point of extraction, sometimes as far away as 30 kilometres from the bottling plant.

As you may know, although the groundwater in Arajiline block lies in semi-confined to unconfined conditions, this does not mean that recharging an aquifer at a far distance of 20 to 30 kilometres away from the point of extraction will have any meaningful impact *locally*, to the water tables in areas closer to the HCCBPL plant.

It is clear to us that HCCBPL's touting of rainwater harvesting is a clever ploy by the company to absolve itself of any responsibility towards the declining groundwater table in Arajiline.

Even the HCCBPL officials admit the failure of its rainwater harvesting initiatives. The March 2012 CGWB report states that, "As per plant authorities all the Rain Water harvesting structures are well maintained but due to below normal rainfall since 2004 (except in 2008 & 2011) its desired impact is not visible in the area."

In spite of this admission of failure, HCCBPL officials maintain that the Mehdiganj unit is a "positive contributor" to groundwater in Mehdiganj.

It is also clear to us that the only manner in which HCCBPL can assist in stopping the declining groundwater conditions in the area is by stopping its use of groundwater in the area. Not only does an expansion of the groundwater needs for HCCBPL by four times in Mehdiganj sound preposterous, its current use of 50,000 cubic metres of groundwater must also be stopped in order to leave a livable Arajiline for future generations to come.

The most recent guidelines issued by the CGWA (November 15, 2012) for locating new/expansion Industries Using Groundwater as Raw Material and other Water Intensive Industries limit the groundwater to 50% of the groundwater recharged in critical areas.

If HCCBPL has been giving misleading numbers in the past, how are we supposed to be assured that it will only use 50% of the ACTUAL water it has recharged?

Measuring the amount of ACTUALLY water recharged is possible through instruments available today and to our knowledge, HCCBPL has not used them anywhere. It is also alarming to us that HCCBPL had no meter installed to measure its groundwater withdrawal until 2005, six years after beginning operations.

If the HCCBPL is so confident that it actually recharges more water than it used in Mehdiganj through rainwater harvesting, why does not HCCBPL actually use rainwater alone to meet its productions needs in Mehdiganj (and other parts of India where HCCBPL (and its franchisees)) have set up bottling plants in water stressed areas?

It is our belief that the HCCBPL is trying to mislead the CGWA, CGWB and the Central and State Pollution Control Boards by providing misleading numbers on the amount of actual water recharged. We urge you to take action on this.

In our experience, HCCBPL's first and foremost concern is meeting its water needs for its production – regardless of the impact on other users of the common resource of groundwater – the community in particular.

In the 2008 TERI study, one of the HCCBPL bottling sites being assessed was in the village of Kala Dera in Govindgarh block in Jaipur district in Rajasthan. Govindgarh block had been declared as overexploited in 1998, more than a year before HCCBPL built a new plant in Kala Dera. The TERI report stated:

"A case in point here is the HCCBPL, Kaladera, which was established in 1999 in the Govindgarh block. This block was declared an overexploited block as per the assessment of January 1998 but was not notified as such. In response to queries from TERI, Coca-Cola representatives explained that the company's requirements do not explicitly necessitate the assessment of the effects of HCCBPL, Kaladera, bottling operations on groundwater in the region of operation but focused on ensuring a sustained supply of water for business operations."

In seeking to expand its water usage in Mehdiganj, HCCBPL is once again focused singularly on sustaining water for its business with scant regard for the impacts its already excessive groundwater usage will have in the area.

4. March 2012 CGWB Report on Mehdiganj

We welcome CGWB's report, "A Short Report Regarding Need To Stop Over-Exploitation of Ground Water By M/S Hindustan Coca-Cola Beverages Ltd., Mehndiganj, Varanasi District, U.P", which was conducted in response to Lok Samiti's complaints regarding HCCBPL.

We agree with the report's conclusion that "It is observed that ***excess*** groundwater withdrawn is taking place inside the plant which is reflected by water level data of Piezometer." [emphasis ours]

The report confirms our assertion that Arajiline is experiencing a declining groundwater scenario, has been categorized as critical in 2009 (while it was in safe category in 2004) and that except for one block in Arajiline, "All the remaining seven blocks show declining long term water level trends."

We also agree with the report's assessment on Coca-Cola's rainwater harvesting initiative, of which the report claims "don't have any bearing on the pumping of water being carried out by the factory." The report also observes Coca-Cola plant authorities admitting the failure of the rainwater harvesting initiatives since 2005 – "its desired impact is not visible in the area."

During the hydrogeological surveys conducted by the CGWB in Arajiline block on January 23, 2012, they found depth to water levels ranging from 9.75 metres below ground level to 25.30 mbgl. The 25.30 mbgl was observed in the Piezometer installed at the HCCBPL factory premises, the deepest water level in the area, leading the CGWB report to characterize it as "very deep".

The CGWB report notes that the "depth to water level in Piezometer in plant premises has declined by more than 7m in a period of 5 years from 2006 to 2011." The report states that the "rate of decline in water level in plant premises is 1.19m per year" although we calculate the rate of decline to be higher, at 1.43 m per year.

Regardless, it is clear that the highest rate of decline to depth to water levels in Arajiline block has been at the HCCBPL factory premises itself.

The report also concludes that, "Thus any further development of ground water for domestic, irrigation and industrial purposes should be carried out judiciously and in a planned manner ensuring sustainability of the existing water resources located near the factory premises."

We agree.

However, in spite of the conclusion above, the report goes on to say that ,"As per complaint of Lok Samiti regarding drying up of Dug-wells, village ponds, hand pumps and hardship to farmers for irrigation water, around Coca-Cola Plant, it is observed that this is not due to withdrawal of ground water by Coca-Cola Plant. There is declining trend in seven blocks of Varanasi district, but in Araziline block the declining rate is slightly higher. In spite of this decline there was water in some ponds, and Dug-wells and good crop of wheat and mustard observed in fields."

We fail to understand the reasoning and basis behind this statement that, "this is not due to withdrawal of ground water by Coca-Cola Plant."

On the one hand, the report concludes that the development of groundwater resources near the factory premises should be judicious and in a planned manner (ostensibly because of the excess water extraction by HCCBPL). The report also confirms that the groundwater levels were "very deep" at the Coca-Cola factory premises itself, also the result of excessive water extraction. The report also states that Arajiline block, where the HCCBPL plant is located, has the highest water table declining rate in the district of Varanasi. And yet, the report says that the drying up of dug-wells and hand pumps is not due to the withdrawal of water by the Coca-Cola plant. With respect, we fail to

understand how the observations of the report are used to arrive at the conclusion that HCCBPL is not due to the excessive groundwater withdrawal of the plant. If anything, all the observations in the report – the deepest water tables at the plant itself, the highest water declining rate in Arajiline among other blocks in Varanasi district, and the need to be judicious and well-planned in further groundwater development so as to ensure sustainability of the existing water resources near the factory premises – all point towards HCCBPL's operations as being part of the problem.

We can take you to villages in the vicinity of the Coca-Cola bottling plant and show you the non-functional hand pumps and dried up dug wells, or you can choose to visit yourself at any time.

The reason why the villages in the immediate vicinity of the Coca-Cola bottling plant in Mehdiganj are experiencing the most problems in accessing groundwater is because the depth to water levels in these areas have dropped the most – because of the excess groundwater withdrawals by the bottling plant that the report has observed and concluded.

And while it is true that a "good crop of wheat and mustard observed in fields", this is because the Araljiline block is an agrarian area, agriculture is the main source of livelihoods, and many farmers have sunk deeper borewells and some have installed submersible pumps, particularly since HCCBPL's arrival in the area when the groundwater levels started dropping. It is also important to note that there have been some initiatives by the communities around the HCCBPL bottling plant to undertake water conservation measures, including rejuvenation of ponds, one of which was inaugurated by Mr. Rajendra Singh, noted water conservationist from Rajasthan.

In view of the report by CGWB, and in view of our experiences, the presence of the Coca-Cola factory is not sustainable. Continued operations will lead to the declining water conditions getting worse – leading to over exploited and worse.

5. **<u>Strong Opposition to HCCBPL's Water Use in the Area</u>**

HCCBPL's bottling operations in Mehdiganj face significant opposition in the area, and the factory has been the target of numerous protests over the years. Contrary to what HCCBPL may claim, the company's goodwill is very limited, and the goodwill generated by the company is often in exchange for financial benefits that the company promises to individuals in return for support.

Sustainability cannot be bought, as HCCBPL is attempting to do in Mehdiganj. We encourage the CGWA to visit the area in an unannounced manner and speak to community members anywhere and anyplace in this area.

HCCBPL's lack of support, and its role in the declining groundwater conditions will be made abundantly clear. This is particularly true in the villages in a 5 kilometre radius of the bottling plant. Most of the dug wells and ponds in the area have dried up since HCCBPL began operations and people are frustrated at the lack of any concrete action on HCCBPL's excessive use of groundwater. The opposition to HCCBPL in Mehdiganj will only get larger as the groundwater conditions deteriorate in the area.

As you are well aware, in both the Uttar Pradesh State Water Policy (1999) as well as the National Water Policy (2002), water made available for drinking as well as irrigation are prioritized over the use of water for industries. In the case of the HCCBPL bottling plant in Mehdiganj in Arajiline block, access to drinking water has been hampered by the declining water tables, and without a doubt, water for irrigation has been reduced as the groundwater in the area has gone from safe category to critical in the years that HCCBPL has been in operation.

There is no doubt in our mind that granting HCCBPL permission to expand its groundwater usage in Mehdiganj in Arajiline block will be disastrous not only for the current residents but also for future generations.

As it is, the CGWB has concluded that HCCBPL's groundwater usage is in excess under the current operations of up to 50,000 cubic metres annually.

HCCBPL's claims of water recharging efforts are dubious, and the CGWB has noted that it has no bearing on the groundwater being pumped at the bottling plant itself. HCCBPL representatives themselves have admitted that there are no visible impact of any successful groundwater recharge in the area.

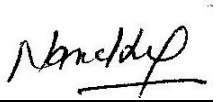
In this scenario, relying primarily on the new rules whereby HCCBPL would be allowed 50% of the groundwater it recharges makes little sense because the structures set up by HCCBPL since 2005 have has ample time to succeed but they have not. There is also the practical matter of measuring the ACTUAL water recharged as a result of HCCBPL's efforts, and that too at the local watershed.

With sustainability in mind, and using precautionary principle as a guide, we urge the CGWA to refuse any more allowances of groundwater usage to HCCBPL in Mehdiganj in Arajiline block.

We also seek your active involvement and guidance in scrutinizing and ending HCCBPL's ongoing operations in Mehdiganj which have had an adverse impact of the area's groundwater, and will continue to deteriorate if left as is.

Please feel free to contact us should you have any questions and require any clarifications.

Thank you very much.



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