

PNG FORESTRY REVIEW TEAM

AUDITING FORESTRY PROJECTS CURRENTLY "IN PROCESS" FOR COMPLIANCE WITH THE REQUIREMENTS OF THE POLICY, THE FORESTRY ACT AND OTHER REGULATIONS AND GUIDELINES

To: Government of Papua New Guinea
C/- The Interagency Forestry Review Committee
Office of the Chief Secretary to Government

From: Review Team

Date: 5 March 2001

Re: **INDIVIDUAL PROJECT REVIEW REPORT NUMBER 28**
SOUTH WEST WAPEI (WEST SEPIK PROVINCE)

AUDIT CONCLUSIONS AND RECOMMENDATIONS:

RESOURCE AND PLANNING ISSUES:

The sustainable timber yield principle has been complied with. The estimated sustainable annual cut is not sufficient to support a conventional stand alone log export project. The lack of strategic planning with regard to this and a number of adjoining projects is evident. Road access is an issue.

LEGAL COMPLIANCE:

While due process may have been generally observed, there are many unsatisfactory aspects to this project. The Forest Management Agreement is defective in a number of respects. The usual concerns about PFMC certification of Forest Management Agreements are indicated here.

LANDOWNER ISSUES:

Landowner awareness throughout the area has been a function of the activities of Landowner Companies and has been unsatisfactory. The ILGs were not conducted in a manner that empowered the landowners. Landowner expectations are set out in the Development Option Study but are not brought forward to the Project Guidelines. Some Landowner expectations (e.g. agricultural development) are ruled out by the PNGFA.

RECOMMENDATIONS (INCLUDING CORRECTIVE MEASURES IF REQUIRED):

- That the PNGFA undertake sensible strategic planning regarding this and a number of other projects in the immediate vicinity, with the aim of amalgamation of projects to increase the annual sustainable cut up to a level attractive to industry, and to secure access.
- That the strategic planning options be fully discussed with landowners, and their preferences sought.
- That defects in the Forest Management Agreement must be remedied.
- That the PFMC certification of the Forest Management Agreement should be revisited and landowner representatives must be in attendance at future relevant PFMC meetings.

Note: The individual project reports summarise the findings of the Review Team regarding material compliance issues, and present project specific recommendations for the consideration of the Interagency Forestry Review Committee. Separate reports produced at the end of the review process set out in more detail the audit procedures applied, and comments and recommendations regarding existing policies, legal requirements and project development processes.

REVIEW REPORT

SUMMARY PROJECT DETAILS:

Project type:	Forest Management Agreement / Timber Permit
Processing stage:	Formation of Incorporated Land Groups (ILGs) completed. Forest Management Agreement executed. Development Options Study completed. Project Guidelines drafted and sent to the Board for approval.
Gross FMA area:	117,000 ha
Gross loggable area:	84,000 ha
Net sustainable timber yield:	68,000 m ³ /annum (a)

(a) Review Team estimate based on:

- Area information extracted from the PNGFA Geographic Information System (FIMS);
- Gross volume per hectare information from PNGFA field inventory work (FIPS);
- A standard reduction factor of 15% applied to gross loggable area;
- A standard reduction factor of 30% applied to gross volume per hectare; and
- A 35 year cutting cycle.

A. FORESTRY AND PLANNING ASPECTS

<p>1. SECTORAL PLANNING AND CONTROL</p>	
<p><u>PROVINCIAL FOREST PLAN</u></p> <ul style="list-style-type: none"> • PNGFA Board endorsed Provincial Forestry Plan exists: • Is the Provincial Forestry Plan current: • Is the Project listed in the Provincial Forestry Plan: <p><u>NATIONAL FOREST PLAN</u></p> <ul style="list-style-type: none"> • Is the Project listed in the National Forest Plan as required under s54 of the Act: 	<p>Yes</p> <p>No – expired December 1999</p> <p>Yes</p> <p>Yes</p>

<p>2. PROJECT DEFINITION IN FMA DOCUMENT</p>	
<ul style="list-style-type: none"> • Is the gross loggable area properly defined: • Has the total gross merchantable volume been properly estimated: • Has the net merchantable volume been properly estimated: 	<p>No. The gross loggable area in the FMA is stated to be 99,000 ha, with no explanation given. Applying the standard 15% reduction factor indicates a net loggable area of 84,000 ha. Applying the logging exclusion areas defined in the PNG Code of Logging Practice 1996 indicates a gross loggable area of 98,000 ha which also reduces to 84,000 ha on the application of the standard reduction factor – it is merely coincidental that the two estimates are the same</p> <p>Yes. FIPS data indicates a gross loggable volume of 40.5 m³/ha but the sample is small (0.19%). This is consistent with that used in the FMA.</p> <p>Yes. The data in the FMA indicates a total net harvestable volume of 2.4 million m³.</p>

<ul style="list-style-type: none"> • Have “Fragile Forest Areas” (OEC definition) been considered: • Have environmentally sensitive areas been considered: • Have conservation set asides been appropriately implemented: 	<p>No, because there is no agreed position regarding fragile forest areas. An estimated 7% of the gross loggable area of the South West Wapei project is classified as Fragile Forest.</p> <p>Yes. Large scale Gazetted conservation areas are excluded from the FMA area. Small scale Gazetted conservation areas are identified and excluded from the gross loggable area. The Logging Code prohibits logging in defined environmentally sensitive areas which are excluded when the gross loggable area is defined.</p> <p>The standard FMA document reserves the right for the PNGFA to exclude up to 10% of the gross loggable area from logging for conservation purposes.</p>
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<p>3. ESTIMATE OF SUSTAINABLE CUT</p>	
<ul style="list-style-type: none"> • Has the sustainable annual cut been properly calculated: • Is the estimated sustainable yield sufficient to support a financially efficient logging investment (min 30,000 m3/a): • Is the estimated sustainable yield sufficient to support a stand-alone log export operation (min 70,000 m3/a guideline set by PNGFA Board): 	<p>Yes – estimated to be 68,000 m3/a, or 63,000 m3/a if areas classified as Fragile Forests are excluded from logging.</p> <p>Yes</p> <p>No</p>

<p>4. CONSISTENCY BETWEEN DOCUMENTS</p>	
<ul style="list-style-type: none"> • Is the area and volume data consistent between the FMA, the Development Options Study and the Project Guidelines: • Any other material inconsistencies regarding the resource: 	<p>The DOS and Project Guidelines set out a slightly reduced net loggable area (82,000 ha) and consequently a slightly reduced sustainable annual cut (66,000 m³/a).</p> <p>None found.</p>
<p>5. ANY OTHER MATERIAL NON-COMPLIANCE REGARDING THE RESOURCE</p>	
<ul style="list-style-type: none"> • The standard cutting cycle assumed in the sustainable annual cut calculation. 	<p>The National Forest Policy specifies a 40 year cutting cycle. In practice a 35 year cycle is applied. No explanation is available.</p>

It should be noted that this project does not have direct access to the coast for log shipment, and will require access through either the Aitape East Coast or the Romei Tadjji project areas.

RECOMMENDATIONS REGARDING FORESTRY ASPECTS:

1. SECTORAL PLANNING AND CONTROL

- That the PNGFA pro-actively assist the West Sepik Provincial Government update their Provincial Forest Plan (s49), and facilitate the inclusion of the updated Provincial Forest Development Programme (s49(2)(b)) into the National Forest Development Programme (s47(2)(c)(ii)) as required under the National Forest Policy (Part II (3)(b)) as the basis for the PNGFA's acquisition and allocation programme.

2. ANY OTHER MATERIAL NON-COMPLIANCE REGARDING THE RESOURCE

- That the PNGFA either base their sustainable cut calculations on a 40 year cutting cycle (as required under the National Forest Policy) or provide justification for adopting a 35 year cutting cycle.

B . LEGAL COMPLIANCE

SUMMARY OF LEGAL COMPLIANCE:

- Due process has been generally observed but it cannot be said that the project has progressed satisfactorily. It is clear from the files that the PNGFA has not been able to overcome the deficiency in the volume of the resource by achieving a satisfactory consolidation with any one of many nearby project areas. The views of the PFMC in this regard have been ignored and the decision made by the Board in 1997 remains unimplemented.
- There are a number of defects in the form of the Forest Management Agreement.
- The files only confirm the attendance of landowner representatives at one relevant PFMC meeting.

A full compliance checklist and some additional notes are presented in Appendix 1.

RECOMMENDATIONS REGARDING LEGAL ASPECTS:

1. That the defects in the Forest Management Agreement must be rectified. The use of an ink stamp will ensure that the corporate seal appears clearly on all copies of the Agreement.
2. That the PFMC must ensure that landowner representatives are in attendance at relevant meetings.
3. That a sensible means of achieving a larger area by consolidation must be considered, and that landowners must be involved in all aspects of such a decision. A number of options appear to exist and so a preferred course must be adopted by the Board, after due consultation, and acted upon by the PNGFA.

C. LANDOWNER ISSUES

RESOURCE ACQUISITION	
1. Landowner Awareness	
<p>The Review Team was looking for evidence of an awareness package containing information explaining the purpose, benefits and otherwise to be expected from the project. This could include general conditions that could be used for all prospective projects.</p>	<p>Project inventory mooted 23 September 1997.</p> <p>PFMC planned to amalgamate South West Wapei, Wes and then possibly Amanab 1,2,3,4 plus Nuku after being told that Wapei is too small to stand alone and that it is too far from a port and that other timber areas are in between. Landowners wanted Amanab 1-4 to be a stand-alone project, or to join South West Wapei with Amanab 3 &4.</p>
2. Landowner Mobilisation	
<p>Landowners are required to be mobilised by means of the Land Groups Incorporation Act. The Review Team was looking to find evidence of full participation by landowners in the ILG process particularly with regard to:</p> <ul style="list-style-type: none"> • Recognition that the resources are owned by individual land groups and not collectives of land groups • The formation of representative bodies for project consultations and negotiations. 	<p>PNGFA was not in a position to adequately do the ILG work owing to shortage of funds. Requests were made to National Politicians to fund the work from their Electoral Development Funds. One obliged. The FMA was signed by 103 ILGs from 54 villages. ILG documentation is very superficial. Some appear to be family groups and not clan groups. No genealogies were done. Property lists show lack of understanding. No real empowerment of the landowners occurred during the ILG process.</p>
3. Forest Management Agreement	
<p>Must Specify:</p> <ul style="list-style-type: none"> • Monetary benefits for the 	<p>The FMA was signed by 103 ILGs. The FMA document contains no map but includes normal terms including landowner monetary benefits</p>

<ul style="list-style-type: none"> • customary group • Area in agreement by map • PFMC certificate as to <ul style="list-style-type: none"> - authenticity of the tenure of the customary land - willingness of customary owners to enter into FMA • Review level of consultation with landowners 	<p>and the certificate by PFMC relating to land tenure and willingness to participate in the project. The FMA is defective in that it does not set out the term of the agreement in the copy sighted.</p> <p>The project was not advertised owing to the small size of the area but attempts by PNGFA to amalgamate it with others were foiled as ILGs for these other areas had not been done and the resources had not been acquired.</p>
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RESOURCE ALLOCATION	
1. Development Options Study	
<p>The Review Team was looking to see if the Development Options Study:</p> <ul style="list-style-type: none"> • Catered for landowner concerns and aspirations and if • All options presented for the resource development had a realistic chance of being pursued. 	<p>The DOS sets out significant expectations for landowner desired infrastructure. These expectations are not carried forward into the Project Guidelines.</p> <p>The PNGFA declined the landowner request to develop some of their area into agriculture as “not being allowed in an FMA” but were told that the “LANCO can have an agricultural project outside the FMA”.</p> <p>DOS recommendation is to amalgamate with adjacent areas to increase the size of resource to meet sustainability guidelines, or to have a stand-alone project based of some log export plus domestic processing.</p>
2. Project Guidelines	
<p>Draft guidelines must be discussed and developed in consultation with the resource owners.</p>	<p>The Project Guidelines are generic and reflect nothing specific from the South West Wapei DOS.</p>

3. Project Agreement	
Authority is required to involve landowners in selection of the “developer” and in negotiation of the Project Agreements according to the terms of the FMA.	Not yet applicable.
4. Environmental Plan	
EP is produced by the preferred developer according to the prescription of the Environmental Planning Act. Evidence of consultation with landowners is important.	Not yet applicable.

CONCLUSIONS REGARDING LANDOWNER ASPECTS:

- All discussions regarding further acquisitions, consolidations, and potential developers focus on the Landowner Companies (LANCOs) and their foreign company supporter(s), politicians (both national and provincial) and Vanimo based members of the PFMC. There is no evidence that these deliberations are being communicated to the landowners.
- There is a considerable inland population in the 54 villages and hamlets involved. Their access to services is to Wewak in the East Sepik Province. There are 9 villages that are outside the FMA area but which own land in the FMA. These villages would have to have their ILGs completed if they are to have any chance of managing their affairs later on.

RECOMMENDATIONS REGARDING LANDOWNER ASPECTS:

1. That the PNGFA pay particular attention to ensuring that landowners are aware of the options being considered, particularly the possible consolidation with adjacent project areas, and any arrangements which might be considered to provide for access to the coast.

APPENDIX 1 : CHECKLIST OF COMPLIANCE WITH LEGAL REQUIREMENTS

PROJECT – SOUTH WEST WAPEI

Step	Compliance	Non-Compliance	Not clear
<u>1. Landowner Consultation</u>			
Awareness campaign			?
Vesting of title	N/A		
ILG incorporation			?
PFMC certificate	15/11/96		
Attendance of landowners at PFMC meeting			?
<u>2. Forestry Management Agreement</u>			
Form and content		See notes	
Execution	Not dated		
Ministerial approval	5/3/97		
<u>3. Development Options Study</u>			
Board to arrange or exemption	2/2/98 Form 81 N/A		
Directions from PFMC	15/12/97 Form 82 No Form 83		
DOS given to Minister and PFMC	8/7/99 Form 84		
<u>4. Project Guidelines</u>			
PFMC consults with L/owners and Prov Govt			?
PFMC to prepare draft	Confirmed		
Attendance of landowners at PFMC meeting			?

CHECKLIST NOTES:

1. The usual concerns about the certification of FMAs by PFMC's appear to be indicated here. There is no evidence on the files that landowner representatives were present at the PFMC meeting. (There is an indication in Minutes prepared for a meeting held in March 1997 that landowner representatives were present when the prospect of consolidating with other areas was discussed). There is also no indication that the PFMC independently verified the ILG incorporations or the willingness of landowners to sign the FMA. All of these matters should be confirmed in the documentation kept on the files at headquarters.
2. There are defects in the form of the FMA. These are:
 - It is not dated.
 - The details in Schedule 1 have not been included.
 - There is no map to show the boundaries of the area as required by section 58(e).
 - The seal does not appear on the photocopy.
3. There is no real sign of clear direction in the progress of this project. It has been known for years that the resource was not sufficient to sustain a "stand alone" project. The PFMC met in March 1997, with landowner representatives present and resolved that this area be consolidated with Amanab Blocks 1-4. When nothing was achieved in this regard the Chairman of the PFMC wrote again in January 1999 requesting that some action be taken. It has not been. There is correspondence in December 1997 that suggests the Board had resolved to consolidate the area with Wes. Such a resolution is difficult to find in the Minutes. This decision too has not progressed at all. In more recent times there was a suggestion in correspondence from the Managing Director that the project could not proceed until Amanab Blocks 5, 6 and 7, and Nuku and Wes are acquired. The lack of strategic planning is evident. Neither the PFMC nor the Board can really be blamed for this. They approved their respective positions in 1997. It seems that the NFS has failed to achieve any progress at all.
4. The frustration amongst landowners and provincial politicians is clearly evident and understandable. However it must be said that a consensus position on nearly every issue would seem to be difficult to achieve.

APPENDIX 2 : NOTES ON LANDOWNER ASPECTS

- South West Wapei Pty Ltd claimed to represent the landowners.
- Wes Resources Ltd, a landowner company, represented by Florian Tono.
- Landowners were supported by Eastern Era Ltd, a company not registered with IPA or with NFS.
- The adjoining Wes timber area was surveyed in 1997 but no ILG work was undertaken.