

Masalai i tokaut

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Forest Minister breaks the law to save Rimbunan Hijau logging project

Masalai has obtained amazing new evidence showing how in 2004, Forest Minister Patrick Pruaitch brazenly broke the law to protect an RH logging operation from official scrutiny.

The Minister acted totally outside his powers when he: [1] over-ruled a decision of the National Forest Board; [2] instructed the National Forest Service to follow his orders; and [3] issued instructions to stop a process to close an illegal RH logging project.



The Minister simply has no power to over-rule the Forest Board and has no power to direct the Forest Service. He also has no power to issue instructions to the Forest Service on operational matters; yet this is exactly what he did – and all to protect Rimbunan Hijau from proper scrutiny.

The evidence we present below shows clearly how

- "RH is able to directly control the actions of the Forest Minister*
- The Minister, Patrick Pruaitch, has no regard for the law or proper process when it comes to following RH orders*
- RH is able to escape due process and proper scrutiny of its logging operations by using its association with the Forest Minister*
- The Chamber of Commerce and Forest Industries Association routinely hand confidential Forest Board papers to foreign logging companies*
- The Forest Board is unable to stand-up to unlawful political*

interference

This paper trail shows another blatant case of unwarranted and illegal political interference in due process and a further demonstration of RH's control of the Minister for Forests.

The Forest Minister should hang his head in shame, acknowledge that he has been exposed as a servant of his Malaysian masters and resign. But we know this will not occur. We can only hope that it is not too long before the Ombudsman Commission and the Public Prosecutor beat a path to the Minister's door and haul Mr. Pruaitch before the Courts.

Who is Rimbunan Hijau?

Rimbunan Hijau is the largest logging company operating in Papua New Guinea.

It is a Malaysian owned multinational corporation that has logging operations across four continents.

In PNG, RH's logging operations have been routinely exposed for their unsustainable logging, illegal timber permits, labour and human rights abuses.

The catalogue of official Government reports condemning RH's illegal activities is extensive and the agencies involved include the National Intelligence Organisation, the Ombudsman Commission, Department of the Prime Minister, Department of National Planning, Department of Labor and Department of Community Development.

Internationally RH's logging operations in PNG have been condemned in New Zealand, Australia, London and even Washington by groups as diverse as the world's largest banking institution, a national timber trade association, a Federal Forestry Minister and a High Commissioner.

But mysteriously RH has always escaped any investigation or sanction from the bodies designated to manage our forest resources and control the activities of logging companies – the National Forest Service, National Forest Board and the Minister for Forests.

Now **Masalai** can reveal the truth behind this amazing lack of culpability:

Rimbunan Hijau is able to manipulate the Forest Minister, Patrick Pruaitch, to ensure that its logging operations are protected from any liability for their gross environmental destruction, illegal logging, slave like working conditions and other abuses.

The Vailala Blocks 2&3

One of Rimbunan Hijau's many logging operations in PNG is the hugely profitable Vailala Blocks 2&3 project in Gulf Province.

Thus is one of the largest logging operations in the country and covers some

268,000 hectares with an annual allowable log harvest of 300,000 cubic meters (worth over US\$ 20 million a year)

This logging project has been surrounded in controversy since its very beginning and is completely illegal.

ILLEGAL because in June 1992 when the Government gave Rimbunan Hijau the right to harvest the logs in Vailala 2&3, the Government did not own those rights as they had not yet been acquired from the landowners.

ILLEGAL because the timber permit issued by the Minister had not been prepared by the Forestry Department.

(The timber permit was also highly suspicious because it was granted just days before the new 1991 Forestry Act came into force. The Act had actually been passed by Parliament 12 months earlier, but the Government delayed its implementation for one year so it could push through a whole raft of new permits under the old Act!)

ILLEGAL because when the National Forest Service eventually acquired the timber rights from the landowners in December 1995, those rights were not allocated according to the Forestry Act. All the steps in the Forestry Act requiring Project Guidelines, a Development Options Study, Open Tender, and selection of the logging company were ignored – Rimbunan Hijau was just allowed to keep logging.

ILLEGAL because the original timber permit expired in June 2002 and is now null and void.

The National Forest Service claims that the permit has now been extended. But that claimed 'extension' is itself unlawful because [1] it was done three days after the original permit had expired; [2] the Forest Board began processing the extension on January 3rd 2002, 3 days BEFORE any application had been made by the logging company; [3] the Forest Board resolution approving the extension was not made in a Board meeting; [4] the Board resolution was not voted on by the required quorum of six members; [5] the Provincial Forest Committee only voted to approve an extension after the permit had already expired; [6] the Provincial Committee report does not comply with the Forestry Act as it does not deal with the past performance of the logging company or the issue of sustainability; and [7] in breach of the Act no landowners attended the Provincial Committee meeting that approved the extension.

After reviewing all the evidence, the 2003 Review of Permit Extensions concluded that the extension was patently unlawful and recommended that logging operations be immediately suspended. The Government, National Executive Council and Forest Minister have all studiously ignored this report and its recommendations.

ILLEGAL because the current rate of logging is not sustainable. The annual allowable cut of 300,000 cubic meters is more than three times the sustainable estimate of 90,000 cubic meters. The current allowable cut will result in the forest being completely logged out within ten years.

ILLEGAL because the current logging is not covered under an approved Environmental Plan. The original plan expired in June 2002 and the Department of Environment and Conservation has closed the project file.

ILLEGAL because the 2003 Review of Current logging operations found a whole

catalogue of abuses. These include major and extensive failures under the Logging Code of Practice; labor abuses including net wages of less than K10 per fortnight; a failure to register any vehicles; unskilled and semi-skilled foreign workers; no permanent roads, bridges or culverts in breach of the timber permit conditions; human rights abuses by police officers engaged by the logging company; poor quality infrastructure benefits; and other broken promises.

That Review recommended that the Rimbunan Hijau be instructed to remedy all their abuses and that if they could not do so the logging operation should be shut down

Landowners court action

The landowners of Vailala are understandably pretty upset by twelve years of illegal logging by Rimbunan Hijau on their land and all the broken promises as well as the environmental damage and pollution they have suffered.

But, when you live in the remote and inaccessible forests of Gulf Province with no access to Government services or even basic communications systems it is pretty hard to make yourself heard. This is especially true when Rimbunan Hijau is able to fly in police mobile squads whenever anyone raises a voice in protest. This shown in an extract from the files of the National Intelligence Organization:

DATE : 8th September 2000

SUBJECT : **POLICE RAID ON BEHALF OF R/H**

Three (3) heavily armed Policemen were seen at Rimbunan Hijau's Headquarters at Gordons today at 10:30am.

My source and I were at the site and I was informed that they were returning from Vailala Timber Operations area after raiding the villages.

Costal villages in Vailala area namely, Belepa Hilol, Opuloria and Lui Arora were raided by Police, two (2) houses burnt down, many personal properties including domestic animals damaged and killed. A person by the name of Peter is in critical condition with legs and hands broken by police in the raid.

The three (3) armed policemen were seen driven away in Rimbunan Hijau car. My source was unable to obtain the details of the vehicle.

Comments

The raid was instigated by R/H and when the three (3) policemen returned from the raid, R/H vehicle picked them up at the airport and brought them to their HQ. They were probably paid for their work and driven to their place of work.

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However, against all the odds the landowners were able in 2003 to launch a Court action against Rimbunan Hijau for illegal logging and environmental abuse, and they obtained court orders stopping the logging operations.

The judge in the case, Justice Sevua, commented, 'the Forest Minister and State are not concerned at all in the interests of simple village people who own the forest resource and they turn a blind eye to the cries and concerns and rights of ordinary people'.

Unfortunately the landowners resolve was not enough against the mighty power of Rimbunan Hijau and its network of corrupt politicians.

In **Masalai Number 27, May 2004**, we revealed how Rimbunan Hijau used its agent, Jamie Maxton Graham, to bribe and intimidate the landowners to stop their Court action.

Possible salvation

But still there was still one hope that truth and justice would prevail.

A few honest officers in the National Forest Service, supported by the NGO and Foresters Association representatives on the National Forest Board, insisted that Rimbunan Hijau not be allowed to plunder the remaining Vailala timber resources.

Though a painstaking and grueling series of negotiations with the logging company, the NFS officers insisted that the allowable annual harvest of logs had to be reduced from 300,000 cubic meters to around 100,000.

This reduction was necessary to make the logging sustainable and bring it into line with both the Forestry Act and the Constitution.

But Rimbunan Hijau would not budge.

The negotiations were totally stalled by April of last year and the NFS officers sent the matter up to the National Forest Board for the Board to decide on the next steps.

On hearing that the negotiations were totally stalled and that the logging company refused to lower its annual cut to the level necessary to make the project sustainable and ensure compliance with the Forestry Act, the Board resolved that Rimbunan Hijau should be issued with a 'Notice to Show Cause' why its logging operation should not be closed.

Resolution moved and seconded by Messrs. Pouru and Mondiai respectively with Mr. Bai abstaining.

Resolved:

"That the Board directs the Acting Managing Director to issue show cause as to why the Timber Permit should not be terminated."

Of course Rimbunan Hijau's representative in the meeting Stanis Bai did not vote for the resolution, but without the more aggressive Bob Tate or Dick McCarthy there to bully the Board, honesty and truth were able to rule the day.

Corruption takes over

Unfortunately our story does not finish there. Faced with the closure of one of their largest illegal logging operations, Rimbunan Hijau swung into action.

The first **CORRUPT** move came from an interesting and perhaps unexpected quarter; the PNG Chamber of Commerce.

After the Forest Board meeting on 5th May, the Chamber of Commerce Representative on the Board, Stanis Bai, immediately gave the confidential Board papers to the Forest Industries Association and briefed them on the confidential decisions made in the Board meeting.

The Forest Industries association immediately briefed James Lau of Rimbunan Hijau.

How do we know all this?

Because we have a letter from James Lau, dated 7th May 2004 (see below), admitting that he received a briefing from the Forest Industries Association on the

confidential proceedings of the National Forest Board.

James Lau's letter also reveals the second **CORRUPT** act. Lau's letter is addressed to the Minister for Forests, Patrick Pruaitch. In the letter Lau complains about the National Forest Board decision to issue a Show Cause Notice to Rimbunan Hijau and Lau asks the Minister to "*immediately intervene*".

Why should the boss of a Malaysian logging company expect a Government Minister to unlawfully intervene on the company's behalf in the due process of the independent National Forest Board?

Why would Rimbunan Hijau ask the Minister to act illegally on their behalf?



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The Hon. Patrick Pruaitch, MP
Minister for Forest
Papua New Guinea Forest Authority
P. O. Box 5055
BOROKO / NCD

From: James Lau
Date: 07 / 05 / 2004
Ref: JLFM0705

Dear Sir,

Re.: - National Forest Board Meeting / Show Cause Vailala Block 2 & 3, TP 2-16 -

I have been informed by the FIA representative on the National Forest Board that on Wednesday 5th May 2004, the Board has concluded to issue a show cause notice on the aforementioned forestry project

Whereas the recommendation to show cause is not justified, unwarranted and not in the interest of any stakeholder, I am deeply concerned about the Board's attempt to deliberate on the issue without having the necessary quorum and therefore not following due process

Furthermore, on Friday 23rd April 2004, the Chief Secretary and Chairman of the Inter Agencies Forest Committee, Mr. Joshua Kalinoc, has informed in the presence of the Managing Director PNGFA, Mr. Terry Wara, that a directive would be issued to immediately resume negotiations on the Vailala TP 2-16

Unfortunately, this did not eventuate and on the contrary the negotiations are not progressing

I wish to strongly protest on this code of conduct and request for your immediate intervention

Yours sincerely,

James Lau
Managing Director
Rimbunan Hijau (PNG) Group

cc: Chief Secretary and Inter Agency Forest Committee Chairman
National Forest Board - Chairman
National Forest Board - FIA Representative

Ref: H./N0705

How did the Minister for Forests react to Rimbunan Hijau's letter?

The Minister acted **CORRUPTLY** and did exactly what Rimbunan Hijau asked of him!



Minister for Forests

MINUTE

TO : CHAIRMAN- DR. WARI IAMO

DATE : 25TH MAY 2004

SUBJECT: DIRECTION TO DEFER SPECIAL BOARD MEETING # 102

Thank you for your letter of 24th May 2004 that was coupled with the Board Papers for Special Board Meeting # 102 that is scheduled for 27th May 2004.

I had the pleasure of going through your Board Papers and have noted with serious concerns the submissions relating to a Compliance Audit for Wawoi Gusvi Revised Timber Permit where it has suggested amendments to Section 137 of the Forestry Act and also the paper on Vailala Blocks 2 & 3 Review negotiations where it recommended for a "Show Cause Notice" to be issued to the Permit Holder.

I have issued a direction for a ceasure of No "Show Cause Notice" and further directed that Renegotiations must commence immediately.

Hence I hereby direct you to defer the scheduled meeting indefinitely until further advice from this office.

Yours faithfully,


HON. PATRICK PRUITCHE, MP
MINISTER FOR FORESTS

CC : Acting Managing Director- National Forest Service

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The actions of the Minister for Forests were totally unlawful on five counts:

1. He illegally over-ruled a legitimate decision of the National Forest Board
2. He illegally issued instructions to the National Forest Service
3. He illegally cancelled the show cause notice
4. He illegally deferred a meeting of the National Forest Board
5. He illegally instructed the Forest Board to defer to his further instructions

What these documents show is that we have a **CORRUPT** National Forest Board member working with a **CORRUPT** Malaysian logging company and its **CORRUPT** Forest Minister to ensure that our forests are illegally raped by Rimbunan Hijau.

Afterward: RH Wins!

In accordance with the Minister's wishes, the National Forest Board did not meet as Scheduled on the 27th of May and their meeting was deferred to the 8th of June – allowing plenty of time for the Minister to bring the Government representatives into line.

The Board was told that '***there have been representations made by the company to the Government to reconsider the Board's decision***'.

5. **VAILALA BLOCKS 2 & 3 REVIEW NEGOTIATIONS – GULF PROVINCE**

[Mr. Taupa joined the meeting]

The Chairman referred the Board to agenda item 4.

The Chairman introduced the subject matter and noted that the Board has made a decision to issue a Show Cause Notice (SNC) at its last meeting but there have been representations made by the company to the Government to reconsider the Board's decision.

The Board knew that the Government and the Forest Minister have no powers to direct the National Forest Board on operational matters or to interfere in due process, but sadly the Board (with three Government Department Heads present) rolled over and gave in to the blatant political interference.

Resolved:

“That the Board rescinds its previous decision and directs that renegotiations recommence immediately between the parties.”

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