

TRANSCRIPT OF PROCEEDINGS

Commission of Inquiry into SABL
Department of Prime Minister & NEC
P O Box 639
WAIGANI. NCD
Papua New Guinea

Telephone: (675) 323 7000
Facsimile : (675) 323 6478

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COMMISSION OF INQUIRY INTO SABL

MR NICHOLAS MIROU

COMMISSIONER

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KIUNGA, WEDNESDAY 16 NOVEMBER 2011 AT 9.48 A.M.

COMMISSIONER MIROU: Good morning Counsel.

MR BOI: Good morning Commissioner.

COMMISSIONER MIROU: I am ready to begin proceedings in Kiunga. If you are ready counsels we will ---

MR TUSAIS: Commissioner, perhaps before you open, just for the record, I am appearing with Mr Bokomi. I am assisting him on this Commission of Inquiry into SABLs conducted in the Western Province. Mr Bokomi is lead lawyer. He will be taking over and conducting most of the hearing for the two weeks that – well, one and a half week that the Commissioner will be sitting here. Thank
10 you.

COMMISSIONER MIROU: Yes, thank you Mr Tusais . Mr Bokomi?

MR BOKOMI: Good morning Mr Commissioner, before we proceed with the matters listed for today, that is firstly Portion 27C held by – SABL over Portion 27C held by a North East West Limited in acronym NEWIL, Western Province, I would formally like to ask you to make an opening statement basically as an welcome address to the persons gathered here today.

COMMISSIONER MIROU: Yes, if I can speak loudly enough for them to hear. Thank you. Do we have an interpreter? So we can interpret in Pidgin for the benefit of our – if the interpreter can be sworn?

20 What is your name?

MR ALI DABEMA: Ali is my first name; Ali Dabema.

ALI DABEMA (Interpreter), Sworn:

COMMISSIONER MIROU: Thank you Associate. This is a general remark that we normally make at the opening of each of the SABL Inquiries to the provinces and the Commission and the team are happy to finally come to Kiunga, North Fly, part of the Western Province. Because in the Western Province there are a number of SABLs. In fact there are about nine.

In the opening of my remarks there is a slight tremor which has caused a bit of concern in the building but yes I will continue. There are about nine SABLs
30 that have been granted to companies of which this Commission has been given the task to inquire into those nine SABLs in the province.

Mr Dabema, if you can interpret.

The Commission, the first three months of its operation completed preliminary inquiries with four key government agencies, the processes, registration and issuance of Special Agriculture Business Lease. So we have received evidence from the Department of Lands in the land investigation reports, the processes that are used; the National Forest Authority on issuance of Forest Clearance Authority; the Department of Agriculture and Livestock in relation to the suitability as to the type of commercial crops that are to be – or activities that will take place on the land like cocoa, copra, rubber or oil palm; and the
10 Department of Environment on the type of activities that will take place that will affect your land. So that task has been completed by the Commission in Port Moresby.

For the benefit of everyone the Commission is not conducting trials as in court. Because the Government has given some Terms of References and we are guided by that Terms of Reference. And our coming to Kiunga is basically to get more information on the SABLs that are in this province.

[9.58a.m]Our time is very short, it is only two weeks or about eight days. But this Inquiry is for the people. That is why the Commission encourages you to come forward to see the lawyers assisting this Commission and if possible to assist the
20 Commission, you can channel your views or concerns through one person that you may regard as your spokesman or leader in your clan or village; if all of you are in agreement and have the same evidence that you will give to this Commission. So the presence of each and everyone in the first sitting day at Kiunga is an indication of your willingness to assist the Commission and the Commission values your presence this morning.

The Inquiry was further extended on Friday 21 October for a further five months. This was granted by the current Prime Minister, Honourable Peter O'Neill. In addition to the Terms of Reference, which is guiding this
30 Commission, is that if there are other SABLs that are not within the 75 that have been listed and published in the Papers that you are aware of, this Commission will appreciate it if you can provide that information to the legal team.

The Commission would like to make acknowledgment before we proceed into the substantive hearings. First of all, the Commission would like to appreciate and acknowledge the cooperation extended to the advance party and our arrival yesterday. We acknowledge the presence of the Provincial Administrator of the

Western Province and the assistance he has provided in terms of logistic and other things that has made it possible for the Commission to hold its Inquiry in the Province. We also acknowledge the assistance from the Provincial Police Commander and the members of his team in terms of security and other issues that may arise to assist the Commission and most importantly of the people who have responded to the publication of our notice and have seen and talked to the lawyers.

Under the Commission of Inquiry Act, the Commissioner has power to issue summonses. So if you have been issued summonses, you are required to attend the hearing and to produce any information, documents, anything that you have on your possession to the Commissioner. There are penalties also for refusing to do that. The penalty is a fine not exceeding K5,000 or imprisonment of a term not exceeding two years. There are also penalties for giving false evidence to the Commission and that also attracts a terms of not more than 14 years. There is also this offence called, "Contempt of the Commission". Under this offence, any person who wilfully insults the Commission or wilfully interrupt the proceedings of the Commission, or anything that may hinder or obstruct the performance of the Commission and its team, you may be guilty of an offence called, "Contempt of the Commission"; a fine not exceeding K5,000 or imprisonment for a term not exceeding two years.

The prosecution is normally conducted by the Public Prosecutor or the Police. And this is the most important one. If you come and give evidence before this Commission of Inquiry as a witness, any statement or disclosure that you make to the Commission, in answer to a question asked by counsel, that evidence will not be used against you in any criminal proceedings or any civil proceedings. So you have immunity; it will not be used against you in any future proceedings.

This Inquiry is a fact finding Inquiry and information that we collect will form a report which the Commission will make its final recommendations and present it to the Prime Minister on 21 March 2012. So our work is still continuing until we make that report to the Prime Minister. Thank you Mr Interpreter.

Mr Bokomi?

MR BOKOMI: Thank you, Commissioner. As I have indicated earlier on I will proceed with the hearing on Portion 27C, that is the SABL held by North East West Investment Limited, in acronyms, NEWIL. That is an area of land which

totals to 149,117 hectares for the record. Before we actually get into proceeding with the hearings substantively, Commissioner, we have issued summonses to a number of officers in the Western Province Administration who have been involved one way or another in the land investigations forming the basis for the alienation, acquisition and conversion and subsequent grant of these particular nine portions of land as SABLs within the Western Province. The first witness who will be appearing under summons, Commission of Inquiry summons number 157, is Mr Imem Ite Papa, who is presently the acting provincial Lands advisor, Division of Lands, Western Provincial Administration, Kiunga,
10 Western Province. I have the liberty to call upon Mr Imem Papa to stand up and take the ---

COMMISSIONER MIROU: Yes, Mr Imem Papa, please come forward to the Bar table. When do you propose to ---

MR BOKOMI: To take the witness box but before he takes the witness box shortly, we have also issued another summons number 154 to a Mr Ipisa Biyama, who is the District Lands Officer for Balimo District, Western Province. Mr Ipisa's involvement – Is Mr Ipisa in?

COMMISSIONER MIROU: Please Mr Ipisa, can you come forward or Mr Biyama?

20 MR BOKOMI: Mr Biyama, Commissioner. We will simply make mention of Mr Biyama's summons today and we will call him again on Friday of this week, that is 18th at 9.30 a.m. for mention. For our purposes for this morning, we will basically be asking Mr Imem Ite Papa to give his evidence from the witness box.

COMMISSIONER MIROU: Okay, I will deal with Mr Biyama. Mr Biyama, thank you for responding to the summonses that was served on you and your presence here today indicates that you are now answering to that summons. Counsel has indicated to me that we will require you to attend a hearing on Friday, this Friday, 18th November 2011 and you will give your evidence at 9.30
30 a.m. In the meantime, you are excused from that summons until Friday 18 November 2011. Do you understand? So we will require you here on Friday in the morning to give your evidence. You are now excused.

Yes, Mr Bokomi?

MR BOKOMI: Thank you once again, Commissioner.

COMMISSIONER MIROU: And Mr ---

MR BOKOMI: Mr Imen Ite Papa.

COMMISSIONER MIROU: Mr Ite Papa's evidence will basically be on all the SABLs?

MR BOKOMI: Mr Papa will be giving his evidence on three SABLs, that is Portion 27C, granted to NEWIL or North East West Limited; also Portion 1C, also granted to North East West Limited; and Tosigiba Investment Limited, that is Portion 14C. That is in the Normad subdistrict of the – Middle Fly area of the Western Province. With that ---

10 COMMISSIONER MIROU: Thank you Counsel.

MR BOKOMI: Thank you. Perhaps we call on Mr---

COMMISSIONER MIROU: Thank you. Yes, Mr Ite Papa to the witness box and take your evidence on Oath.

MR IMEN ITE PAPA, Sworn:

XN: MR BOKOMI

COMMISSIONER MIROU: You may sit down. Mr Papa, can you speak into the mic because we are recording the proceedings, and if you can speak up
20 loudly so that our people can hear what you are saying.

MR BOKOMI: By way of introductory only, I would like to say for the record that ---

COMMISSIONER MIROU: An opening statement was made---

MR BOKOMI: It was made in ---

COMMISSIONER MIROU: Waigani, yes.

MR BOKOMI: Port Moresby, in the early part of this Inquiry so I do not need to address the Commission in detail on the opening.

COMMISSIONER MIROU: Yes.

MR BOKOMI: They are already in---

COMMISSIONER MIROU: Yes, they are in the transcripts.

MR BOKOMI: They are already in the transcripts. But for purposes of the actual location of the subject SABL, which is under consideration by this Commission this morning which is Portion 27C, which is held by NEWIL. Portion 27C, as I have indicated earlier, encompasses a total land area of 149,117 hectares of land. It starts from the township of Kiunga, bordered by the western bank as you go up stream along the Fly river, all the way up to a point long the Fly river right at the border near Mt Furu and it extends westerly across to Osobib – that is an LLG, local level government council within the North Fly river of Western Province and then it connects to a river called Hogma, that is
10 the national boundary on the West, comes down to a place called Bungunae along the road towards Tabubil from Kiunga and that Kiunga – Tabubil road from there, all the way down to Kiunga, if you are travelling from Tabubil down to Kiunga, then it will be on the left side of the road, that is the boundary. The actual boundary of the SABL which is described as Portion 27C.

For exhibit purposes, I seek to tender the cadastral survey map of the subject area and have it marked as exhibit NEWIL27C(i).

COMMISSIONER MIROU: Exhibit NEWIL27C(1) – Survey Map of Portion of 27C, Milinch of Palmer, Sari, Mula, Kalinton, Alice, Elavala, Strickland, and
20 Tomu, Portion 27C, Western Province, Milinch of Tedi, Sari, Palmer and Kiunga, Fourmil of Blucher and Raggi. Zone is 54, the class of survey is rural class 4, catalogue number 9/133. Thank you.

**[EXHIBIT NEWIL27C(1) – SURVEY MAP OF PORTION 27C,
MILINCH OF PALMER, SARI MULA, KALINTON, ALICE,
ELAVALA, STRICKLAND, AND TOMU, WESTERN PROVINCE]**

MR BOKOMI: The notice of direct grant, Commissioner, relating to the subject SABL was cause to be issued under the hand of the then Secretary for Lands, Mr Pepi S Kimas as delegate of the Minister for Lands and Planning on
30 23 September 2010 and that notice was published in the National Gazette under G218 at Port Moresby on Friday 24 September 2010. I seek leave to tender the notice of direct grant relating to Portion 27C and ask that the Commission marks it as an exhibit; exhibit NEWIL27C(2). The Commissioner will note that the notice is published on that second page which I have marked with the asterisks after relevant notice.

COMMISSIONER MIROU: Thank you counsel. Exhibit NEWIL27C(2) is the national gazette number G218 issued on Friday 27 September 2010, at page 2 a notice of direct grant under section 102 and Pepi S Kimas as the delegate of the Minister for Lands and Physical Planning signed the instruments on the 23rd day of September 2010. Thank you Counsel.

[EXHIBIT NEWIL27C(2) – COPY OF NOTICE OF DIRECT GRANT RELATING TO PORTION 27C IN NATIONAL GAZETTE NO G218 DATED FRIDAY 27 SEPTEMBER 210]

10 MR BOKOMI: Commissioner, I further seek to tender the lands investigation report, apparently and presumably done by the Lands officer based at Western Provincial Administration, Mr Papa, and which was signed for some reason by a Mr Len Lasly, whom we are led to believe is the managing director of Independent Timbers and Stevedoring Limited, IT&SL, which is the third party developer concerned in all these SABLs. The cover page of this report is executed and dated as 30 September 2010. This particular lands investigation report essentially forms the basis for the acquisition and subsequent grant of Portion 27C as an SABL to North East West Investment Limited.

COMMISSIONER MIROU: Thank you Counsel.

20 MR BOKOMI: I ask that the Land Investigation Report purportedly forming the basis of the acquisition and subsequent grant of Portion 27C as an SABL be marked for Commission's purposes as Exhibit NEWIL27C(3).

COMMISSIONER MIROU: Exhibit NEWIL27C(3) is the Land Investigation Report. Instruction number is 01/316 and this was submitted by North East West Investment Limited, C/- Titus Lawyers, Level 4, Defence Haus, P O Box 132, Port Moresby, NCD.

[10.20 a.m.] Yes, thank you Counsel.

30 MR BOKOMI: Thank you Commissioner. Commissioner, that particular Land Investigation Report paved the way for the issuance of the notice of direct grant and subsequent to the notice of direct grant, an instrument of lease dated 24 June 2009 was executed in respect of Portion 27C by the customary landowners and the State.

[EXHIBIT NEWIL27C(3) – LAND INVESTIGATION REPORT]

Commissioner, I seek leave to tender as an exhibit, to be marked as Exhibit NEWIL27C(4), the instrument of lease pertaining to Portion 27C as alluded.

COMMISSIONER MIROU: Yes, thank you Counsel. Exhibit NEWIL 27C(4) is the instrument of lease for customary land, lease – leaseback agreement pursuant to section 11 of the Land Act 1995. The deed was made on 24 June 2009 between those persons named and listed in the Land Investigation Report which I understand is number two exhibit as represented wholly and severally by the appointed agents of the one part and the State of Papua New Guinea.

10 **[EXHIBIT NEWIL 27C(4) - INSTRUMENT OF LEASE FOR
CUSTOMARY LAND, LEASE – LEASEBACK AGREEMENT]**

Thank You Counsel.

MR BOKOMI: Thank you Commissioner. For the record, todate the Commission has not been provided by the Lands Department, although the office of Registrar of Titles within the Department has been requested to do so a copy of the State lease, which should have as a matter of cause been issued to NEWEL, subsequent to completion of all those formalities which are now in evidence. We are yet to be provided a copy of the State lease.

20 COMMISSIONER MIROU: Despite the fact that the direct grant has been issued?

MR BOKOMI: That is correct; pertaining to the grant under section 102 of the Land Act as a Special Agriculture and Business Lease. Just one last remark that I have to make before call on the witness to give his evidence. Commissioner, you would note that Portion 27C relates to a land known as Awin Pari and has 149,117 hectares. Now that same name has been given as Awin Pari to the other two SABLs, that same land name known as Awin Pari has been given to the two SABLs; one held by NEWIL - North East West Investment Limited - and described as Portion 1C, which is the Portion adjoining if you look at the map cadastral, that is from the eastern bank. It starts from the eastern bank of
30 Fly river going northerly and then cuts across by a straight line to Palmer river further up north, all the way to the border of Southern Highlands and then by a straight line again it cuts across and goes all the way to connect with the Strickland river to the east and from there it follows southerly by the natural boundary formed by the river further down – I cannot actually clearly see the name here – but it goes further down and then there is another straight line that

cuts apparently north-westerly from the end of the Strickland river divide, all the way out to and connecting Elevala river on the south. That natural river boundary goes all the way and connects with Fly river a little upstream from here from Kiunga. That is Portion 1C, 470,642 hectares, title also held by NEWEL. That Portion plus Portion 27C, as well as Portion 14C are all known as Awin Pari land.

Commission will need to make further inquiries in Port Moresby to determine whether or not naming of the same Portion of land over different areas of land, using the same name is regular or not. The other thing which can be gleaned
10 from the reading of the map is that all coordinates which forms the boundary of both Portions were scaled off from topographic maps according to the notes on the survey plan, catalogue number 9/133. This means that no actual survey was done on the ground, and I repeat for the record, no actual survey was done on the ground.

COMMISSIONER MIROU: You mean to say that nobody walked the boundary physically?

MR BOKOMI: That is correct, Commissioner. The topographic map sits, pertaining to the subject areas are Kiunga, 7185; Ningerum, 7186; Elevala, 7285; Bare, 7286; Nomad, 7385; and Karama, 7386 with the scale of one is to
20 100,000.

As I have indicated earlier, most of the other positions depicted in the boundaries are natural features; rivers which are Fly river, Elevala and Palmer rivers.

Thank you Commissioner. That is by way of the introductory opening as well as setting the legal premises for the – apparent legal premises for the grant of this subject SABL.

COMMISSIONER MIROU: These are some observations that you made as a result of the inquiries you made on the documents and---

MR BOKOMI: Yes.

30 COMMISSIONER MIROU: And Mr Ite Papa will further assist us further with

MR BOKOMI: Yes. Before he does that I still have a further and final remark to make is that Commissioner, you would note that the concept of Special Agriculture Business Lease, as it appears from the current legal regime under section 102 as well as the interpretation part of the Land Act of 1996 as amended to date is not clearly and all-embracingly defined. So at this stage we do not know exactly how much area of land should an SABL cover for all intentions and purposes of developing agriculture or whatever business activity on the land. Number two and final observation is that the SABLs, unlike all the other leases are not susceptible to be forfeited under section 122 of the Land Act
10 by the State in the event that there is found to be certain anomalies in the grant which may render the grant void ab initio. Thank you.

[10.43a.m.]COMMISSIONER MIROU: Yes. That is a matter that we can reconsider – the Commissioner will reconsider as we progress with the facts.

MR BOKOMI: Yes. Thank you Commissioner.

COMMISSIONER MIROU: We may now proceed with the ---

MR BOKOMI: I now call on Mr Imen Papa. Mr Papa's evidence – perhaps Commissioner, I have just been notified that we seek a short adjournment for public and conference purpose.

COMMISSIONER MIROU: Yes, I will definitely grant a short adjournment
20 for you to discuss.

MR BOKOMI: It is for the benefit of the witness.

COMMISSIONER MIROU: Mr Imen Papa, you are on oath so you do not have to say anything to anyone until you are excused. We will adjourn temporarily.

SHORT ADJOURNMENT

[10.51a.m.]MR BOKOMI: Mr Papa is still under oath.

COMMISSIONER MIROU: You may proceed with the questions.

30 MR BOKOMI: You may proceed with his evidence. What I propose to do is – in response to the summons number 157 that was issued by the Commission of Inquiry to Mr Papa, he has obligingly prepared a response for the benefit of

assisting the Commission of Inquiry into the three SABLs he has been involved in – assigned as the Lands investigation officer responsible for the conduct of the relevant and respective land investigations in respect of the three SABLs. That is namely, I repeat again, Portions 27C and 1C respectively held by North East West Investment Limited and Portion 14C held by Tosigiba Investments Limited. That covers government land in and around; Nomad station as well.

COMMISSIONER MIROU: Thank you Counsel. You wish to hand it up?

MR BOKOMI: Yes. I have an extra copy of the response prepared by Mr Papa for your benefit Commissioner.

10 COMMISSIONER MIROU: We can exhibit it.

MR BOKOMI: I would ask that that response –

COMMISSIONER MIROU: You have no objection to it being tendered as an exhibit?

MR BOKOMI: Yes. I think it is dated 14 November 2011.

COMMISSIONER MIROU: This will be exhibit NEWIL27C(5). That exhibit is in response to Commission of Inquiry into SABLs in Western Province over the Trans Papuan Highway Road Project in Kiunga, Western Province prepared by Imen Papa, Acting Advisor, Division for Lands and Physical Planning, Western Province. It is dated 14 November 2011.

20 **[NEWIL27C(5) – COPY OF RESPONSE BY MR IMEN PAPA, ACTING ADVISOR, DIVISION FOR LANDS AND PHYSICAL PLANNING RE TRANS PAPUAN HIGHWAY ROAD PROJECT IN KIUNGA, WESTERN PROVINCE]**

Yes, thank you Counsel.

MR BOKOMI: Thank you Commissioner.

Mr Papa, for purposes of the proceedings, I would ask you to read verbatim the content of your response. Commissioner, Mr Papa, as we have indicated is the Acting Provincial Lands Advisor---

30 COMMISSIONER MIROU: Maybe you can ask Mr Imen Papa on his background?

MR BOKOMI: I think I should do that, yes.

COMMISSIONER MIROU: Thank you Counsel.

MR BOKOMI: Witness, can you state your full name?

A: My name is Imen Ite Papa as it has been mentioned. I come from Solna village in Western Province, in Kiunga, North Fly district.

Q: What do you work as within the Provincial administration?

A: Formerly I was a District Lands officer from 1998 up to 2004. As 1998 up to 2003 as a casual, I worked underneath my superior called Bob Miller, he was a District Lands officer. 2004, I was appointed as District Lands officer through the normal selection process. Last year, 2010 February I was appointed as acting Principal Advisor for Western Province in place of Sikabu Micah when he left for Milne Bay. I hold a Bachelors Degree in Lands Study and I have one attachment---

Q: Commissioner, we have a copy of the Bachelors Degree in Lands Studies which was confirmed by Papua New Guinea University of Technology upon Mr Imen Ite Papa back in 1997. I do not really consider that as necessary but for record purposes I would like that to be stated in the transcript.

COMMISSIONER MIROU: Maybe you can exhibit it. We can receive the documents.

MR BOKOMI: Very well then.

COMMISSIONER MIROU: That will be exhibit IP1 or you still want to ---

MR BOKOMI: We still proceed with NEWIL. It makes it much more convenient Commissioner.

COMMISSIONER MIROU: Exhibit NEWIL27C(6), a copy of the Bachelor of Lands Studies Degree to Imen Ite Papa which is dated 28 November 1997.

MR BOKOMI: And attached to that is the notice of his acting appointment.

COMMISSIONER MIROU: Yes, and attached to that is a notice of appointment as acting Principal Advisor for Lands and Physical Planning in the

Western Province. It was signed by William G Koinau, Provincial Administrator on 16 February 2010.

[EXHIBIT NEWIL27C(6), A COPY OF THE BACHELOR OF LANDS STUDIES DEGREE TO IMEN ITE PAPA DATED 28 NOVEMBER 1997 AND NOTICE OF APPOINTMENT AS ACTING PRINCIPAL ADVISOR FOR LANDS AND PHYSICAL PLANNING – WESTERN PROVINCE]

MR BOKOMI: Commissioner---

10 COMMISSIONER MIROU: Yes, please proceed.

MR BOKOMI: I would now ask Mr Papa to read for the record what he has prepared by way of his response to the summons to the summons that we have issued to him so far.

COMMISSIONER MIROU: Yes. Thank you Mr Papa. You may read.

A: Thank you Commissioner. I wish to take through the Commission of Inquiry the document that I prepared in response to the summons that was said to me.

20 In my introductory remark, this presentation will not support anybody but I will pinpoint every actions, factual information and actions that had taken place in the initial stage of the project to the signing at Government House in the middle of this year. Commissioner, the purpose of my response is to present documentary evidences and any form of additional information related to Commission of Inquiry on SABLs related to the role I played in the Land Investigation Reports along Trans Papuan Highway, especially the indicated parcels of land that have been mentioned earlier on in the morning.

The nature of the issue – firstly, I will introduce, starting from the introduction and I will complete the document as I go through. I am Imen Papa, Acting Principal Advisor, Lands---

30 Q: You may proceed to (ii).

A: I will give a brief detail of the background of Western Province. Western Province is a Province that is very big in land mass compared to other

provinces in PNG, having an area of 98,189 square kilometres. It has a total population, approximately 153,304 people living in Western Province. It has three districts; South Fly, Middle Fly and North Fly. The size of one district is similar to one province compared to other provinces including other – living in Western Province.

10 South Fly district has four LLG and 75 Wards, approximately, a population of 47,000. It has an area of 31,864 square kilometres. The amount of area in the South Fly occupied by people is estimated to be 2,447 square kilometres land is occupied by people. You will find that small portions of land is occupied by the people whilst the major land mass of South fly there is no people living in.

Middle Fly district has five LLGs, 126 Wards, a total population of approximately 56,000 people. It has a total area of 44,749 square kilometres, approximately 3,659 square kilometre area is occupied by people. It starts from Aimba, Lake Murraray towards Nomad down to Wawoi Falls, Kamusi, Panakawa in the Bamu area to Balimo and Fly area – Fly Gogols.

20 North Fly district has five LLGs with 89 Wards. It has a total population of approximately 51,000 people. It has a total land area of approximately 21,846. It has approximately 5,438 square meter of land occupied by people.

The above figures have been received from the District and Provincial profiles published in March 2010 by National Research Institute.

30 The above population and the area of people occupying the land mass in Western Province indicates that the population density in Western Province is very small compared to other provinces. Also the figures indicate that the actual area of land occupied by people in Western Province from North Fly to Middle Fly to South Fly is pretty small. The large area of vast land of Western Province is unoccupied indicated by the population figures above.

The proposed integrated highway project Trans Papuan Integrated Highway Project starts from North Fly district starting Gre-Drimgas road to Middle Fly, Nomad area and down towards Wawoi Falls into the Middle

Fly area. The proposed road is actually cutting through where no people or little pockets of people are living in the vast virgin forest.

Various places I physically walked some years back. The following are the places I have been to and know of their social settings. In my high school days in 1988-89, I have been to Nomad station, Moguru station, Lake Murray station, Suki and Obo. In those same years I have been to Ainba Boset area. In the year 1999 and 2000 I have been to Uwari Government station and know the area and title people and their language and tribal groups.

10 I know Yobo area in the Middle Fly as we fly over to Daru by plane. I have not physically gone there yet. I know Balimo and Daru and Parama island and Ambam village in South Fly, physically walked the land. I have been to Tabubil and along villages at the border areas on the north bank of Alice river in North Fly.

I basically know the social settings of the people of Western Province in their tribal groups and electorate and LLG areas. LLG boundaries, their culture and land tenure system. We basically inherit land through patrilineal system, that is through the father, through man and not through woman.

20 Of land rights – Western Province is very large and sparsely populated. Most parcels of land in Western Province stretching from North toward Middle and South is quite big in land mass with thick forest, swamps in Middle Fly and grass, savannah lands towards Middle and South. You hardly find people in between this large forest areas where the road project is stretching through. People move to locations easily accessible to government services leaving their large parcels of customary land. Only a minority of people dwell in the forest as hunters and gatherers.

30 The subject area, North East West Pauri area, Nomad and Wawoi Falls area where the proposed Trans Papuan Highway road comes through contains huge potential of natural resources, including huge valuable economic forest resources possible of oil and gas reserves and minerals. Western Province is a province that has huge natural resource, both above the land, under the water, sea and beneath the ground.

Introduction to my response. This affidavit relating to my involvement and other related information regarding the SABLs and the proposed Trans

Papuan Highway road project in Western Province. Some of the information I will provide will be written evidences, whilst others are reports based on my actual participation, others are on hearsay which needs further investigation and verification.

1. Commissioner, before I fully introduce the background of this project from the initial stage to date, I want to make myself clear that I will not be supporting any party involved in this project but report the actual factual evidence that took place and inform the Commission of those that participated in the project from negotiation, consultation, to feasibility studies, to the actual signing of the project at the Government House in Konedobu. I will also point out some of the malpractices of every stakeholders in this project.

Accessibility is a majority hindrance to socio-economic development in Western Province. Having a background - scenario given – on geographical and demographic information on the land mass and the population density status has given this province a big challenge. Not only the Provincial Government but also the local people and other stakeholders are given the opportunity to explore for a best model that is suitable for Western Province in terms of delivery of socio-economic services and infrastructure delivery. The major hindrance to delivery of socio-economic services and infrastructure is accessibility. To have access to growth centres of Western Province is either by air, which is very expensive, and water transport along Fly River tributaries only and the oil and petrol is very expensive. The landowners or the people being a stakeholder in this development in Western Province proposed a model of exchange of economic logs for a road construction and making land available for agricultural purpose as a justification to invite a potential developer to invest in the land and the available natural resources on the land, including forest, trees was a brilliant idea. This idea was people-oriented, they introduced it and sought for government intervention with options of mechanisms, procedures and processes available for implementation.

The people of North East West Paria, Biabi, Nomad and Wawoi Falls towards South have come up with the proposed road with exchange of logs and agriculture activities. They propose to trade their resources for a road that has been long for many years since independence. The

landowners have consented for the harvest of logs in exchange for the road construction starting from Gre-Dringgas, crossing Fly River, all the way to Nomad, Biami area down to Wawoi Falls in the Middle Fly. The proposed Trans Papuan Highway Project is currently expected by the people along this region, starting from North Fly towards Middle and South. The news of the project agreement has gone out to the four corners of Western Province and the expectation of the people are too high. If this project commences well, it will bring major changes and cause socio-economic infrastructure development and services to the people of this area.

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I therefore fully support this road project, having an extension of 1 kilometer buffer zone for harvest of logs under normal timber authority or permit rather than SABLs with an integration of agriculture project component.

2. Awareness on ILGs and SABLs process – lack of coordination of SABLs will complicate the lease titles administration and management of terms and conditions of the agreements in the future if not done well. With the current experience of Kilometer 59, station and Kiunga airport, motel, SABLs under lease – leaseback arrangement to date is still a problem. Currently, the OTML and Western Provincial Administration is in the process of negotiation and consultation process for the reviews of the terms and conditions.

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The protection of landowners rights, their land, their interest, ownership and inheritance rights to their land and resources must be protected at all times by way of applying correct existing legislations, procedures and processes. The people of PNG have not yet understood the meaning of ILGs and SABLs. The people need to know the available appropriate legislations, processes and procedures with their positive and negative implications governing the land dealings in PNG before they can opt for which mechanism to be undertaken. Right now the people seem to be misled or forced into accepting SABLs without understanding the implications in the future.

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[11.13 a.m.]

ILGs are for recognition of clan owning a clan in a particular location with the property listings on each customary land and each identity and membership. The ILGs is the incorporated land group mandated to administer its population, land, properties, resources and distribution and management of the benefits derived from the land and resources. SABL is simply demarcate a parcel of land within a clan's customary with a physical survey on the ground; register the survey plan with each coordinates clearly defined on the survey plan, then the landowners, ILG has to incorporate commercial entity or company for agriculture purpose, agriculture business on their own land. The sublease agreement has to be drawn and a sublease title be given to the landowner company for agriculture project. It is not to register the entire customary land under SABL and sublease them out to multi-million corporations for harvest of logs or other purposes. The ILGs and SABLs concept and the piece of legislation with their processes and procedures have not been made aware to the people of this country including Western Province. Due to lack of knowledge and understanding of this piece of legislation has caused misappropriation of this piece of legislation causing havoc in this nation, affecting the large parcels of land, the landowners, the government and the investors or developers. ILGs and SABLs have been widely abused by logging companies which require proper control and direction.

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3. Initial intent and purpose of this project, Trans Papuan Highway. Commissioner, now I want to introduce the original plan and purpose why this Trans Papuan Highway has been introduced at the beginning. The initial plan and intention of the project was initiated by former politician, Kala Swokin, after he lost elections to late Martin Tabi in 2002 National Elections. After he lost the elections, in Port Moresby, at Lamana Hotel, myself, Kala Swokin, Sam Wegan – Sam Wegan, as my witness is sitting there – and Sevi Bonai had a lunch and proposed a project called, “Gre-Dringas Nomad Road Project.” The initial intent of the project was to build a road for accessible purpose of the large population of people living in North East, Awin, Pari, and Nomad area who have since Independence, did not have any or very little form of government services. There has

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not been any accessibility to the area. The idea was to find a developer or Aid assistance from overseas or within the country to build the road at their expense since the Fly River Provincial Government has little funds to build such road in the province as the province is so large. And to pay for the cost of the construction was to get consent from landowners to allow for timber permit or authority to harvest logs within 1 kilometer of both side or selective felling along the road, starting from Gre-Drimgas across Fly River, all the way to Nomad and Wawoi Falls area. The whole plan and

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purpose for the road project was to firstly provide accessibility for the population that lives in the North East West Pari and Nomad towards Wawoi Falls. Secondly, the economic logs to meet the cost of the road construction through timber permit obtained by the developer to sell and recoup the cost of construction of the road. There was no intention of SABLs. It was a simple road project for accessibility purpose to provide accessibility to the people of that region.

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After the discussion was agreed, former leader, Kala Swokin and old man Sam Wigan, Sevi Bona on the following week went to Department of Works, Forestry Department, National Planning on their deliberations on whether the proposed idea was ideal or not. Since then the Department of Works, Forestry Department, National Planning gave their preliminary consents for feasibility work to proceed. The records of these arrangements can be obtained from Works Department or National Planning.

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The negotiations and consultation began among the national agencies responsible for this project went well. However, along the way the project was hijacked in Port Moresby and the entire plan and purpose of the project lost its face and direction. IT&S Limited identified as developer for the project, the Independent and Stevedoring Limited was identified in Port Moresby as a developer to the Trans Papuan Highway Project. How this company was formed is mystery and the entire original plan and the intent of the project was deviated along the way by not only this company but landowner leaders as well. Since then, former leader, Kala Swokin, Sam Wigan,

Sammy Bona, who initially proposed this project idea were dropped off along the way and other new people and landowner leaders took over assisting IT&S and introduced the idea of SABL with the assistance of Lands Department officers. When the new operator IT&S Limited took over the leadership in the project conducted several meetings in Kiunga, inviting government officers and the local landowner leaders along the proposed road project at Lobido Hotel sites. These were the promises out of the CEO of the IT&S:

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- (i) IT&S Limited will build electronic harbour bridge at Drimgas village across to the other side of the river. I heard it;
 - (ii) The road will be sealed. It will become a very big highway;
 - (iii) All outstations and airstrips will be fully maintained by the project. The road corridor and extension of 1 kilometer or more as per Forestry requirement under the timber permit or authority will be under lease – leaseback arrangement to increase the benefits of the people apart from their timber royalties. The logs will be harvested using choppers and highly specialised latest machines from America will be introduced in this project.
- 20
- (iv) The Provincial Government, the LLGs and the landowners of the project will have equity shares in the projects. These were the statements out of the CEOs mouth if the landowners will agree. The bush people who have been waiting for such services for so long since independence were convinced of the sweet words coming out of the mouth of the CEO.
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- (v) The landowners concerned granted - after the awareness programs by IT&SL and landowner leaders – the people along the proposed road accepted the idea and supported the project feasibility studies to proceed including environmental studies, forestry inventory, land investigations and other associated work towards formalising the road construction project to begin immediately. The people welcomed the project on the grounds

that the road will be built by the developer's expense, later recoup the cost through the harvesting of logs within 1 kilometre on both sides of the road. Since the landowners consented through the meetings, IT&S Limited began to engage relevant national agencies, including Department of Environment and Conservation on the environmental impact studies. The Department of Works officials and the Forestry officials and IT&SL's own foresters, the National Forest and the Lands Department officers were engaged to carry out their part in the project feasibility component. The landowners consented through the meetings because of the words the CEO. Even the Western Provincial Administration officials were led into believing these promises, including myself at the time.

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- (vi) The feasibility studies, upon the consent of the people, the Department of Environment and Conservation team came down to Kiunga to carry out environmental impact studies on the project engaged by IT&S Limited. The same with other relevant departments such as Forestry, National Works and DAL and Lands Department. IT&S Limited also engaged all surveyors and National Lands Department officers to formalise all land surveys, land investigations and ILGs. There were a team of foresters, environmental scientists, land surveyors and other relevant personnel that were out in the bush between Gre-Dringas, Nomad and Wawoi Falls areas.

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There were no Provincial Government officers assisting in the project feasibility studies out in the bush. The Western Provincial administration officers were only involved in the Kiunga meetings. After IT&S Limited had conducted environmental impact studies, forestry inventory, lands survey both on the road and 1 kilometer buffer zone for logging purposes, the investigation was also conducted by IT&SL, with its consulting surveyors and National Lands officers and the landowner leaders. The investigation reports were filled and completed by the company and its agents. Therefore, what

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happened after I signed the Land Investigations Reports, I have no idea.

Just recently in mid-2011, I witnessed large amounts of parcels of land that is covered by the SABL titles, I began to question these titles. I wrote a letter for Provincial Administrator's signature inviting IT&SL to carry out formal presentation of the entire project after the signing by the Governor General to date, there was no response. The copy of the letter is attached by the Provincial Administrator to the report.

10 MR BOKOMI: Witness, I will stop you from there. What particular letter is that?

A: Addressed to the CEO of IT&SL; "Attention Neville Harsley, invitation for public presentation of Trans Papuan Highway Road and Agro-Forestry Project from Gre-Dringas to Nomad, Wawoi Falls, Western Province."

Q: That is the letter dated---

A: Attachment.

Q: Commissioner, that is the last attachment before the summons to witness number 157 issued to Mr Imen Papa. That is the last attachment.

20 COMMISSIONER MIROU: Something September 2011?

MR BOKOMI: Yes, 22 September. Witness, this IT&SL, is that Independent Timbers and Stevedoring Limited?

A: Yes.

MR BOKOMI: Very well. The other question that I wish to pose to you is that, the Land Investigations, as you say on page 7 of your report, that is the paragraph that you have just read. It is from top down to paragraph 6. You say that, "After IT&S Limited had conducted environmental impact studies, forestry inventory, Lands survey work both on the road and 1 kilometer buffer zone for logging purposes. The land investigations were also conducted by the
30 company, IT&S, with its consulting surveyors and National Lands officers and landowners. The investigation reporter were filled and completed by the

company and its agents. Therefore, what happened after I signed the land investigation reports I have no idea.”

I am going to pose to you a question. Under normal circumstances from your experience as a government Lands officer, who should actually take the lead in the land investigations? Should it be the developer company or should it be government Lands officers?

10 A: Commissioner, it is the functions of the government; the agent of Lands Department in Western Province is Division of Lands and Physical Planning, which I am responsible for all land investigations, every land dealings in Western Province, I must be consulted first.

Q: Where you actually physically involved in the lands investigations in respect of the three project areas?

A: No, I have not been to the project site.

Q: Very well. I think that evidence will come out later. I will ask him to proceed.

COMMISSIONER MIROU: Sorry Counsel, before we do that ---

MR BOKOMI: Yes. And can you read a bit more slowly and be exact with the kind of words you have put there? You read verbatim. Thank you.

20 COMMISSIONER MIROU: Counsel, before you sit down, that letter, do you want it to be exhibited?

MR BOKOMI: Yes, it is already marked as exhibit. It is contained in, as part of the attachment to the response.

COMMISSIONER MIROU: Yes, so it forms part of the attachment.

MR BOKOMI: Perhaps we can make a reference to that only. Thank you Commissioner. Witness, you may proceed.

A: Thank you Commissioner.

30 In the feasibility studies, the following activities were done:
Environmental impact studies, done by Department of Environment and Conservation; Works Department on the standard highway designs;
Department of Agriculture and Livestock on the agriculture plans;

National Forest Authorities on the forestry development plans; Lands Department on land investigations, ILGs and SABLs.

(vii) Special Agriculture Business Lease – SABLs, it is anticipated that during the feasibility studies the whole initial concept of the project was deviated. Probably the landowners or the company IT&SL pushed for the SABLs is a question that needs to be answered by either parties. According to my observations, the following arrangements were initiated during the course of the feasibility study without prior consent from the landowners of the changes of the scope of the project feasibility stage includes; landowners umbrella companies were formed, such as NEWIL, Tosigiba, Kebogas Limited, umbrellas company Awin Pari, American Lumber Limited were incorporated and others. The SABL titles were registered under the landowners umbrella companies, names and documents were held by IT&S. There are about 600,000 hectares of customary land in the whole of Nomad area covered under SABL titles registered under Tosigiba. I have sighted the document but actually I do not have the copies of the document but they just showed it to me in the office. Not Kebogas, it should be under Tosigiba. The landowners and the provincial lands office in Kiunga office are not aware of it and do not have the copies in file. Because of the lack of Customary Land Registration Act, the landowner leaders must have pressured Lands Department – Lands officers, to have their land registered for accessibility, for other natural resources activities as well as including forestry, oil and gas and minerals. However, the only option available which can be easily abused is Special Agriculture and Business Leases under lease – leaseback arrangements. The Lands Department may have opted for SABL for 99 years leases in the absence of proposed Customary Land Registration Act. However, the 99 year lease can only be applicable for State leases and not on the customary land. The relevant period of customary land leases cannot be more than 25 years. Therefore, in my view, the SABL began a counterfeit for customary leases under proposed Customary Land Registration Act or Bill.

Having the above scenario, the subject parcels of land registered under SABLs for 99 year be retained for customary purposes after the three generations. These processes themselves can deprive the right of the landowners from exercising their rights for 99 years on their own customary land till the term of the lease expires after 99 years as the lease titles are given to the landowner companies who are totally different commercial entity apart from the landowners. That means
10 NEWIL and Tosigiba are not landowners, they are an entity that has its own constitution and its own way of doing things.

(viii) Actions of all stakeholders related to the project. In this section, I will be highlighting misconduct made by all parties related to this Trans Papuan Highway Road Project.

(1) Fly River Provincial Government, lack of provision of accessibility. Since Independence, there has not been any plans or little budgetary support to support to provide
20 accessibility in terms of road access into Nomad towards Wawoi Falls and Bamo area. The consequence of lack of accessibility for this group of people, the basic government services have run down and most schools and hospitals have been closed todate.

(2) Landowner leaders' failure of consultation. The landowner leaders failed to conduct proper meetings and carry out awareness of the progress of the work and inform the landowners of the latest developments of the project and
30 truly informing the landowners of the amount of land and the area that the SABL has covered, apart from the consented road corridor and 1 kilometer buffer zone on both sides of the logging. The intention of the landowners where the road corridor where the logging is progressing, they also wanted to register their entire customary land for purposes of securing their resources, including forest.

(3) IT&S Limited's failures: The IT&S company also during the process of feasibility studies and period in between the project signing conducted mal-practice which may deem unlawful and unethical. During series of meetings in Kiunga the underlined promises were used in exchange for consent for the project to proceed, these are the promises of the same that I had already highlighted at the beginning is captured again.

Q: Witness, can you read again for the record, please?

10 A: These were the promises out of the mouth of IT&S's CEO, Neville Harsley; "IT&S Limited will build electronic harbour bridge at Drimgas village across to other side of Fly River. This bridge, itself will open and itself will close when the ship comes." I witnessed it with my own ears. "The road will be sealed and it will be a big highway. All outstations and airstrips will be fully maintained by the project. The road corridor and extension of 1 kilometer or more as per Forestry requirement under the timber permit or authority will be under lease – leaseback arrangement to increase the benefits of the people apart from the timber royalties. The logs will be harvested using choppers and highly sophisticated latest machines from America will be introduced in this project." This statement too I heard it. 20 "The Provincial Government, LLGs and landowners of the project will have equity shares in the project." There may have been other things that he mentioned but I have not probably captured, but maybe landowners they know it. IT&S financed the cost of the SABLs outside of the proposed road corridor and 1 kilometer buffer zone for logging without the consent of the landowners knowing. 30 This has led to large parcels of land where covered under SABLs. All the land documents, including land investigation reports, ILGs, SABL titles, and signed project agreement document were all kept by developer, IT & S Limited to date.

Commissioner, my office does not have any copies of these documents with me, in my office, therefore I cannot produce the copies of those documents here. Landowners of NEWIL and Kebogas and Tosigiba complaining about IT&SL playing divide and rule tactic. However, landowner leaders who do not adhere to see or Mr Harsley's direction were ignored and talked to those who favoured him. That resulted in landowner leaders and conflict among themselves, advising landowners of entering into customary land, not part of the project to be part of the project resulting in land disputes. Meaning that the initial consent was within this normal Forestry TA requirement of within 1 kilometer but what went outside, people are not aware so there is a division between landowners here as the project extended down to Kiunga which these landowners around here are not aware of. Sorry, where did I stop?

MR BOKOMI: Go to the third bullet point, "advising landowners"

A: "advising landowners of entering into customary land, not part of the project", meaning that land that was initially consented were asked to be also included in the SABL which I explained. No indication of sublease agreements over those parcels of land that were registered under SABL. Normally, under lease – leaseback, under SABL, it is the State and landowners sign. But if the developer comes in, there has to be a sublease agreement with the developer, with the landowners. And those I ask for those documents, nothing has been produced to my office, Commissioner. Accepted a request by the landowner leaders to include those parcels of land, not part of the road project to be included in the SABLs resulted in 600 hectares of land were registered under SABL in Nomad area under Kebogas Limited – sorry, Tosigiba not – correspondence by PRL4 landowners related to IT&S involvement in oil and gas activities in PRL4 and the pipeline route. There is also a correspondence addressed to North Fly Development Company Limited to IT&S Limited and Talisman Limited funded by one financier from

10 Canada. There is an element of suspect or hidden agenda by IT&S over taking control of oil and gas fuels and the proposed pipeline route if followed through the proposed Trans Papuan road. Commissioner, I have an attachment here from the landowners indicating that PRL4 is the prospective returns and Licence area for petroleum projects. Orison Oil is the licence holder, where landowners have written to the companies stopping the project at PRL4 which is a different licence for different resource indicating here that IT&S should be the one that should be developer on that project and also put a pipeline all the way to Trans Papuan Highway. I pose a question. Is there a intention at the back of IT&S over the SABLs in that part because of the huge potential of oil and gas and other minerals in that area that may have been leaked to the landowners' ears. I just put it there as just a reference for further verification and investigation.

20 MR BOKOMI: Mr Commissioner, I think that is the letter dated 29 August 2011 to Community Affairs manager, Orison Oil Papua Limited, Kiunga operations. It is, "Attention: Bob Locke." That is by a company called, "Osmeduk Umbrella Company Limited." It is signed off by a Betty Wynne, Chairwoman; Mutae Ude, Secretary; Wasa Sowati, Treasure; Grawe Duke, Community Rep; and Swipe Duke, Community Rep. That is the letter that is attached – that is the one before the letter by the Provincial Administrator to the Chief Executor officer of Independent Timbers and Stevedoring Limited. That is the attachment before that.

COMMISSIONER MIROU: Yes, there is an attachment under NEWIL27C file?

MR BOKOMI: Yes.

30 COMMISSIONER MIROU: Okay. Mr Papa, you may continue.

A: In that statement on that attachment, page – I will just read that small paragraph that relates to IT&S have mentioned there. "With due respect, we understand that when all the seismic drilling operations are complete, we want the developer who is transparent in incorporating ILGs for landowners in PRL4 of Stanley Gas field will construct the pipelines along

the proposed national highway of Papuan Trans Highway, East Awin, where people can benefit from the corridor is a great concern.” I made a note there is this information from IT&S to the landowners of PRL4.

Q: We should not confuse that with the SABLs because that one too is covered under the SABL.

A: Sorry?

Q: That particular petroleum project that you are referring to is covered by the SABL. The SABL actually covers the whole area.

A: No. That PRL4, Petroleum and Retention area is on this side.

10 Q: Is it outside the 27C?

A: It is outside the project. It is along this Kiunga-Tabol highway in between Kilometer 42, the project area. Commissioner, there is also another letter similar, with due respect, there is another attachment. With due respect, we understand that when all seismic – sorry, I think I read that. There is another one here. The front one. The Hore Lopnai clan who are principal landowners, customarily having traditional ownership rights of Tope land from Tope village in Kiunga Local Level Government area is now negotiating with the developer. We are having the developer, investor , IT&S for the seismic drilling operations regardless of PRL4 licence as resource owners spearheaded by Mrs Betty Wynne, who is the NGO from the project-Women in Mining. I made a comment down there, “Is this information from IT&S to landowners of PRL4 Stanley Gas field?” I am just making a reference of likely or there could be an intention why SABL covered all of that area because there is a potential of prospects ---

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COMMISSIONER MIROU: Well you tell the Commission why. Why because this investigation report was signed by you. Now, you are telling us that this PDL is also included in this SABL. I am only – because this land investigation report was not prepared by you but you signed off. That is where the problem is.

30 A: Yes.

Q: And you are trying to draw other activities like this Petroleum Licence, I say that that is also included in this SABL.

A: No, no.

Q: So why is it coming in?

A: Why I am making a reference of - the mention of Trans Papuan Highway in the---

Q: Why are you trying to draw some correlation between that Petroleum Licence with an SABL?

A: Sorry?

Q: What is the correlation you are trying to draw between this Petroleum – is it in relation to the Trans Island Highway or is it the Petroleum?

10 A: Petroleum. It is stated there but the company is IT&S, which holds a different permit, not a Petroleum Licence.

Q: Okay, yes.

A: But the company, IT&S mentioned, it can be the developer for Petroleum activity in the PRL4 replacing another company who holds the licence currently now which is Orison Oil.

Q: Alright. Maybe you can proceed with it.

A: Okay, thank you.

Q: The more you go, I will be confused with it. Maybe you can read through your statement and then we will try to---

20 A: Okay. Lack of awareness to the people of the affected area and the Provincial Administration on the progress of the project agreement, all information are kept in secret by IT&S. Copy of letter signed by Provincial Administrator inviting IT & S conducting public awareness of the project agreement, environmental, socio-economic impacts and benefits sharing of the project in Kiunga to date no single response. The landowners were not given enough time to read and understand the project agreement. They went ahead signing the project agreement without understanding the content and intent of the project and their share of benefits in the agreement. Straight after the signing of the project agreement in the Government House at Konedobu, the CEO of IT & S
30 instructed the securities to lock the landowners out of the office area at

Pacific View. I witnessed it. I was locked out too straight after the signing.

MR BOKOMI: Witness, I will stop you there. Commissioner – what sort of project agreement was it that you are making reference to? Is this the---

A: Trans Papuan Highway project.

Q: Is this the project agreement?

A: Commissioner, this is my first time to see this agreement here before me. I have not seen it but I only witnessed the signing at the Government House. I stood there.

10 COMMISSIONER JEREWAI: What is the document titled?

A: Gre-drimgas Duara Wawoi Falls, Trans Island Highway Stage two Road Project Agreement.

Q: And you were not aware of?

A: I am not aware of this agreement.

Q: The existence of that document?

A: I do not have a copy too.

MR BOKOMI: But you were there when it was signed?

A: I was there when the signing took place.

Q: But you did not see the document itself?

20 A: I did not see the document itself.

Q: Could this be the document? Because there is no other project agreements that we have on file.

A: That I will not confirm yes or no because I have not actually seen the actual document. I was just standing at the corner of the – straight from the Pacific View to the signing place. As an advisor of Lands in Western Province I should have been informed. I was not properly invited; I was left out but landowners pushed me into the bus to be a witness.

Q: Very well, Commissioner. I seek leave to tender that agreement. That is essentially the agreement apparently prepared by the State Solicitor, pertaining to Gre-dringas Duara Wawoi Falls Trans Island Highway, Stage two Road Project.

COMMISSIONER MIROU: For further inquiry, we may call on them.

MR BOKOMI: Yes. That agreement is between the Independent State of Papua New Guinea and the Fly River Provincial Government and North West East Investment Limited and Kebogas Investment Limited and Tosigiba Timbers Group Limited and PNG Agency for International Development and
10 Independent Timbers and Stevedoring Limited.

COMMISSIONER MIROU: That will be Exhibit NEWIL27C(7).

MR BOKOMI: Yes.

**[EXHIBIT NEWIL 27C(7) - AGREEMENT BETWEEN THE
INDEPENDENT STATE OF PAPUA NEW GUINEA AND THE FLY
RIVER PROVINCIAL GOVERNMENT AND NORTH WEST EAST
INVESTMENT LIMITED AND KEBOGAS INVESTMENT LIMITED
AND TOSIGIBA TIMBERS GROUP LIMITED AND PNG AGENCY
FOR INTERNATIONAL DEVELOPMENT AND INDEPENDENT
20 TIMBERS AND STEVEDORING LIMITED]**

COMMISSIONER MIROU: Thank you Counsel.

MR BOKOMI: And that agreement is dated 23 May 2011. Is that not the date you were there?

A: May, yes, that was the date. Exact day I cannot recall but around May.

Q: Who were the landowners who were there to sign that agreement? Can you recall?

A: Tosigiba, Kebogas, North East West Investment Limited and Tumul Timbers and those other landowner companies towards the Middle Fly.

30 Q: Who were the landowners representing North East West Investment Limited? Was it a Mr Whitie Ekwani?

A: Whitie Ekwani for North East West Investment Limited. Yes, Whitie Ekwani. I saw his face on the signing table. I was not part of the signing table but outside.

Q: Commissioner---

COMMISSIONER MIROU: I note from this agreement that was executed on 21 May, Ruby Zariga, Acting Secretary for National Planning did not sign, Gabriel Yer, Department of Finance did not sign, Honourable Dr Bob Danaya, MP, Governor of Western Province did not sign and Gul Gurun Provincial Administrator did not sign this document.

10 MR BOKOMI: Yes, that is correct, Commissioner, for record purposes. Perhaps the other persons who have signed from the ranks of landowner company, Commissioner, subject to your directions, I would suggest we issue summonses.

COMMISSIONER MIROU: Yes, we will issue summonses and we will make further inquiries into this document.

MR BOKOMI: Simply on the basis that it is being observed that the intention of this particular road project may have been misinterpreted, which has culminated into these SABLs.

20 COMMISSIONER MIROU: I would direct that this particular aspect of our inquiry into this document would be fully inquired into and those persons summonsed. If any, that is in Kiunga, we will summon them, but if not, we will summon them in Waigani.

MR BOKOMI: Yes. The summonses for the persons in Kiunga are ready for you to sign later in the day.

COMMISSIONER MIROU: Yes, okay.

MR BOKOMI: In respect of this particular matter.

COMMISSIONER MIROU: Yes. So this is another issue that the Inquiry will look into? I think Mr Papa does not have any---

MR BOKOMI: Yes. Perhaps we ask the witness to proceed?

30 A: April 4, Lands Department failures – we have just finished with Provincial Government, landowners and IT &S failures. Now we are going into

Lands Department failures. Lands Department is the State agent that deals with all customary and State land in PNG. All land related registrations are administered by Lands Department including ILGs and SABLs. These are the likely failures of the responsible department over the SABLs issue in PNG.

10 Firstly, Lands Department failed to carry out awareness on ILGs and SABLs legislations, processes and procedures country-wide. The purpose and intent of these pieces of legislations were not made known to the people of PNG including Western Province, particularly the project areas. Lands Department, Customary Lands officers failed to consult the Provincial Lands Office for advise before further course of action taken. Lands Department failed to advise the landowners and the developer on the appropriate mechanism for this integrated road project rather than opting for SABL. The correct method of surveying for registration of customary land for SABL titles is a question. Whether GPS was used or permanent survey was done physically on ground for registration of titles. All Lands titles should have permanent markers on the ground rather than GPS points or user-topographical maps to plot areas for SABLs. The survey plans registered for SABL titles is subject for verification.

20 All national highways for public use must be compulsory acquired by State. In this case, this road should go compulsory acquisition process. The buffer zone of 1 kilometer can be, under normal Forestry requirements to have TA for logging purposes. The SABL can be done as the project progress and when people require agriculture activities along the buffer zone area, SABLs can be applied on optional as requested by the landowners.

30 However, the counterfeit land registration was applied on this project leading to large parcels of customary land were alienated under SABL for 99 years. The term of lease should have been at the maximum of 25. Lands Department should consult Provincial Lands office for advice on the SABLs on this project and get the views of the Provincial Government first. That has not been made.

MR BOKOMI: That has not been done, is it?

A: Yes, it was not been made.

Q: You were never consulted?

A: We were never consulted on SABL.

Q: Very well.

A: I as the Principal Advisor for Lands, I was not consulted.

COMMISSIONER MIROU: Mr Papa, that seems to be the normal course of things that has been happening with relation to SABLs. What you have highlighted is basically what Lands Department has failed to do in terms of carrying out those processes and procedures.

10 A: 8.5 Other relevant national agencies' failures. The Department of Environment and Conservation has not carried out awareness on the environmental impact statement after the study was done. After the study there should be a response; awareness that a study was done and this is the statement on the table so the public must know; stakeholders must know. Department of Works in consultation with Provincial Administration on Provincial Works office have not carried out awareness on the proposed Trans Papuan Highway Road Project to the people. Department of Agriculture and Livestock also have not consulted or carried out any awareness on the developers or agriculture development plan on the proposed
20 road. The Forestry Department may have walked the bush with IT&S foresters and conducted log inventory but failed to inform the Provincial authorities and the awareness to the people. The Lands Department kept silent in the amount of land taken out for SABLs under this project. As a responsible department failed miserably to inform the Provincial authorities and landowners of the changes done by the landowner leaders and the developer.

I am officer responsible for all Provincial Government matters in Western Province am not aware of the SABLs issue over those projects.

30 Most dealings by the landowners, leaders and developer were with the national agencies by-passing provincial authorities through the project though the project was in Western Province. The only consultation was when the project was referred by National

Forestry Authority to Provincial Forest Management Committee for deliberation and endorsement.

10 8.6 National Government and the office of the Governor General's failures. The responsible Secretaries of the above national agencies responsible for this project failed to peruse through the documents to pick up any anomalies before sanctioning the project agreement signing. The National Government signed the Trans Papuan Highway Project at Government House in Konedobu failing to consider the large parcels of land transacted under SABLs for instance the hard evidence of 600hectares of land in the Nomad LLG was captured in the SABLs. Most of these parcels of customary land have not been consented by the landowners.

MR BOKOMI: I will stop you there witness. Is it 600 hectares or 600,000 hectares?

A: About 600,000. It covered the whole of Nomad including the government station which is the State property was also covered by the SABL.

Q: Sorry, the Nomad government station land, is it?

A: Yes, it is capturing, yes.

Q: It is covered by the SABL?

20 A: Yes.

Q: Thank you.

A: 8.7 – Imen Papa, District Lands Officer, now Acting Advisor's failures. Commissioner, I now will admit to the Commission of what actually I have done to the Lands Investigation Reports. The initial arrangement was to consent for road corridor and 1 kilometers both sides of the road. Firstly, my office in Kiunga have no records of these registered plans. Special Agriculture and Business Lease listed at number 64 held by Tosigiba Investment Limited over land described as Portion 14C Milinch of Kariton, Karia, Strickland, Bosavi, Campbell, Iema, Tomu and Sisa fourmil of
30 Kutubu, Wabag Blucher and Raggi located in the Upper Middle Fly area of Western Province, National Gazette number 3218 of 24 September 2010. Special Agriculture and Business Lease listed as number 65 held by North

East West Investment Limited over land described as Portion 1C, Milinch of Palmer, Sari, Mula, Karrington, Alice and Evara, Strickland and Tomu, fourmil of Blucher and Raggi located in the Middle Fly district of Western Province. Notice of direct grant under section 102 of the Land Act of 1996 was published in the National Gazette No G.218 of 24 September 2010. Special Agriculture and Business Lease listed as number 66 held by North East West Investment Limited over land described as Portion 27C Milinch of Alice, Tedi, Palmer and Kiunga fourmil of Blucher and Raggi located in the Middle Fly district of Western Province. Notice of direct grant under section 102 of the Land Act of 1996 was published in the National Gazette No G.218 of 24 September 2010. During the project feasibility studies status, land investigation and lands surveys were part and parcel of the feasibility work. The IT&S officers, Department of Works officer and landowners have collectively completed the lands investigation report for my signature only. All I understood was that once the project feasibility was sanctioned by national relevant agencies, lands surveys, lands investigation was one of the component of the feasibility studies. And because all various professionals who went out on the field collected data were the agents of the State including landowners leaders and IT&S officials, though I was not out in the field carrying out inspections, I relied all information before me for signature were all true and correct as it was sanctioned by State and the landowners before the actual feasibility work commenced. While I was in Port Moresby in 2008 on other official duties, I was called in to sign the lands investigation report for the proposed road project at the Pacific View up at the 10th floor at 2 Mile Hill in the presence of few landowners and the company IT&S officials, I signed the lands investigation report as North Fly District Lands officer.

MR BOKOMI: Witness, I will stop you from there. Commissioner, I have a number of questions to ask.

COMMISSIONER MIROU: Yes, you may proceed.

MR BOKOMI: You stated earlier on to the Commission that you never conducted the lands investigations yourself?

A: No, I stated that I was not involved in the investigation out on the field.

Q: Well, if I put to you that you were not physically involved in the investigations yourself - leave aside all those others who may have done

it - is that a true statement? You were not involved in the lands investigations yourself?

A: That is a true statement. I was not involved in the investigation reports that were compiled.

Q: Then my further question to you is, how then can you sign the lands investigation report? Is it possible?

10 A: I made a statement that because at the initial consent by the landowners in the start of the project, negotiations, consultations with landowners in Kiunga, because they gave their consent for feasibility to commence, other departments like Environment Department, Lands Department, Forestry Department, other State agencies were involved in other components, as well as the IT&S and their lands officers and surveyors being an agent of the State, conducted – I cannot go out to the forest and I was, as I have stated, I was on other official duty in Port Moresby and the report was before me. Believing that all the reports were related to the road corridor that is within the 1 kilometer, both side, as initially agreed by people, not outside of the both sides 1 kilometer.

20 Q: Mr Papa, I will show you something. Before I do that, you would agree with me if I put to you that under normal circumstances, the Lands officer who signs the investigation report is the one who actually physically goes out to the area to conduct the investigations and then thereafter to confirm by taking a land boundary walk with the relevant landowners that these are parcels of land that they do not require in the near future and they can have it alienated by the State for whatever purpose that the State would require the land for. Is that not a true statement of your duties and functions as the Lands officer?

30 A: That is correct. I should be physically on the ground identifying the area that investigations should cover which are the landowners that I should interview or provide consultations and negotiations for the project to go through as well as identifying the landowners physically on the ground.

Q: That should have been the correct procedure?

A: That should have been the correct procedure I am saying.

Q: But who told you to sign the land investigation report?

A: I signed on the understanding that ---

Q: No, my question to you is, who told you to sign the land investigation report? Who asked you?

A: I was asked by the IT&S company. They picked me up in Waigani while I was on other official duty.

Q: Yes, where did you sign the Lands investigation report?

A: Pacific View, 10th Floor.

Q: Commissioner, I have no further questions. Witness can proceed.

10 COMMISSIONER MIROU: Just to add on to that. You see this land investigation report was submitted by North East West Investment Limited through care of Titus Lawyers. Was it through that law firm?

A: At that time Titus Lawyers, I am also not aware but I only saw ---

Q: Were you aware that they prepared these documents?

A: A lawyer but the name I have not known the name yet.

Q: Are you aware that they are involved in preparing this lands investigation reports?

A: That, I am not aware.

20 Q: Mr Papa, if I may take you, under this process, you are fully aware of the processes that is required to undertake where a application is made by a landowner company to the Department of Lands for an SABL to be issued, Lands Department normally facilitates that application. During that process they issue an instruction. Is that a correct procedure?

A: Yes.

30 Q: Once the instruction is issued, that particular instruction is conveyed to the Provincial Lands office of which you are the Lands officer involved in the Western Province. Amongst those process for conducting of conducting that investigation, it is the Lands Department; it is not any other person, it is only the Department of Lands who is authorised to undertake land investigation report; no other persons. Is that a correct procedure?

A: No. The only issue---

Q: Why do you say that? Why do you say that? Is that process done by somebody else outside of the Department of Lands process?

A: That may have been done. The normal process is that they only issue instruction to the Provincial office, for us to engage our “kiaps” and our Lands officers to go out to the field. With that instruction, we do report and we submit it to---

10 Q: Let me remind you – let me remind you of the procedures and these are the number of processes that you undertake as an investigation officer and you will agree with me or you deny it;

(1) One of the things that is required is, you have to undertake an investigation into the name, location and type of land;

(2) You have to identify the customary landowners, do a genealogy.

Is that correct?

A: Yes.

Q: (3) The area, size of land to be acquired through a survey;

A: Yes.

20 Q: (4) Declaration of land boundaries with other landowner clans if that particular land is going to protrude into other – is there are landowners going to be affected by that acquisition or alienation of that particular land?

A: Yes, if there needs to be a witness by another clan to verify the other clan sharing the boundary, yes.

Q: That must be done; that must be done.

A: Yes.

Q: You cannot just exempt them from the actual effect of the SABL.

30 (5) Consent of the landowners to sell, lease land to the State, that is an essential ingredient of this action. Do you undertake that? The consent is a very big issue. That is where the land is either given away or if there is a dispute over it, you do not issue an SABL until

that dispute is mediated and resolved. Would you agree that consent is a very important issue?

A: Yes, consent is very important.

Q: Consent; consent of the landowners are very crucial and then indicate how much land owned by the clan group including population and rate of future growth. So you must undertake also look at the population. People are affected by that area. Is there sufficient land for future population growth in 50 years time? You have a whole vast of land given for 99 years. Three-four generations will go. What about those future generation? You see, that is very crucial. Even if you say that – if you pass the buck and say that somebody else was doing your job, this is the process that is done by the Department of Lands of which you are part of that State entity. And coming to this actual land investigation report, you seem to have just accepted everything on the face of it and you signed off. You signed off and referred the matter to the Provincial Administrator or in this matter, the District Administrator, to sign a recommendation for the land to be alienated. That means, it becomes a SABL lease. That is what has happened now. So Portion 27C, Portion 1C, Portion 14C have been alienated to the company for the next 99 years. And one crucial factor that I want to highlight here is that once that alienation takes place, customary rights are divested from the people. They no longer have any rights over that land for 99 years. Do you realise how important this is?

A: Yes.

Q: As a Provincial Lands officer, you realise the importance of your role in playing a neutral role, rather than allowing a developer, persons who have no interest whatsoever on a particular piece of land to be involved in this process. As a result of it, we have a lease now – lease to a developer company. Do you realise the impact of this?

A: Yes.

Q: Well that is what has happened now. We have nine SABLs all in this province covering huge tracts of land, covering huge forestry resources, even for that matter minerals, it is now in the hands of private businesses, developers. That is how serious it is. And listening to you, it seems that

you have totally failed in your duties as a Lands officer to undertake what is specifically instructed you from the Department of Lands. You have not done what you are supposed to do to protect the people. So ---

MR BOKOMI: Mr Papa, if you can proceed? Commissioner?

COMMISSIONER MIROU: Yes, you may proceed.

A: Thank you Commissioner. I signed the land investigation reports of the subject sites on the following reasons:

10 (1) The area covered by the survey plan was consented for a road corridor and 1 kilometer buffer zone for logging purpose as agreed in the series of meetings in Kiunga.

(2) I believe all information on the document as true and correct as physical inspection and land investigation in the bush was made by the agents of the State including developers, surveyors, Lands officers from Lands officers with the assistance of landowner leaders before I signed the land investigation reports.

20 (3) Though I did not physically walk the land, the State sanctioned agents from Waigani were on the land collecting relevant data for feasibility studies, which land investigation work was part of the feasibility studies on the landowners' identification. In my understanding, the documents before me for signing, was all in order for landownership identification for road acquisition processes and ILG incorporation for benefit sharing only, not SABL purposes.

[12.16p.m] Also having acquainted with the social setting in the Province as detailed in my opening remarks and the confidence the landowner leaders and company officials gave me clear consent of what I signed for. I had no intention of SABLs. However, my all intention of signing land investigation report was for the purpose of identifying landowners for road acquisition and incorporation of ILGs for benefit distribution of timber royalties to the landowners. Also, I as the agent of this document, I must do my part to allow for the road to go through as soon as possible to the neglected people of Western Province that live without or little government services since the Independent of this country. Since the signing of this lands investigation reports, I have no copies in my office todate. They are all kept by the Department of Lands and IT&S. I have

30

asked for the copies of the land titles documents but the responses were that the IT&S Limited was holding on all the documents and even the copies were not issued. The people are not aware of the terms and conditions of the agreement and the benefits captured in the agreement. They were given very short period of time to read the very big legal document and went straight for signing at Government House at Konedobu middle of this year, 2011.

10 My own analysis of this issue; below is the analysis of the entire issue of SABLs in Western Province by IT&S Limited. The original initiators of the project idea were dropped along the way for unknown reasons; promises were made to obtain consent from the landowners; initial project intent and purpose of road accessibility and logs in exchange of the road was deviated for SABLs. SABLs which were consented by the people to cover road corridor and buffer zone for log harvest exceeded the boundaries into very large parcels of land alienated for 99 years under SABLs which the landowners are not being made aware of during the feasibility process. Element of suspicious of acquiring large parcels of land under SABLs for exploiting natural resources, including economical logs, control of possible of oil and gas fields, proposed future LNG
20 pipeline or other mineral resources within the period of 99 years under SABLs.

Avoidance of Provincial Lands office and directly involved with national agencies in the project from initial stage to date. IT&S conducted an unlawful and unethical actions with landowners and their leaders. National Government failed to understand the intent and purpose of the document before signing.

30 Conclusion and recommendations: My report reveals that all the stakeholders who participated in one way or the other to this project, from feasibility stage to project signing by Governor General failed in one or the other. I therefore propose that all landowners, IT&S officials, relevant national agencies, including Provincial Government and myself must all own up and take appropriate actions to correct any technical errors and refocus the project towards the original plan and purpose. The IT&S must come out clear and play a transparent role rather than play hide and seek game in this project. The good news is that the project has not started and therefore there is room left for alternations to the

document as the feasibility study approvals are still progressing, especially on the land component and others as well. The people living along the road project area have waiting for government services for long since the independence and we cannot prolong this project any more. It is injustice to the people of North East West Nomad area towards Middle Fly and South.

These are my options for recommendations as Advisor for Division for Lands and Physical Planning in this province.

- 10 (1) Conditionally surrender all the SABL titles in Western Province along proposed Trans Papuan Highway Project to Lands Department for deregistration of titles;
- (2) Reduce the size of the project area to road corridor acquisition and allow 1 kilometer both sides buffer zone for logging under the timber permit requirements and not SABLs.
- (3) The main proposed 40 metre Trans Papuan Road corridor be compulsory acquired under normal National Works Department road requirement.
- (4) The 1 kilometre both sides of road for logging fall under normal timber concession or TA under Forestry requirement and not as
20 SABLs.
- (5) The SABLs can only be applied on specific locations within the buffer zone of 2 kilometre be identified for agriculture projects, townships, lay down areas, work sites, sawmill stations, infrastructure, that will stay for more than five years and less than 25 years can be arranged under SABL lease – leaseback arrangements. Further to that, separate sublease arrangements be made with the landowners and the developer.
- (6) State must reprimand IT&S to play a transparent role in its dealings with landowners, relevant State agencies and Western Province
30 administration.
- (7) All dealings on State or customary land in Western Province must come through the Western Province administration for verification, recommendation before further action can take effect.

I now recommend that this integrated road project proceed with actions, with alterations as per recommendations stated above.

For your information and judgment for appropriate actions.

Imen Papa, Acting Advisor, Western Province.

Thank you Commissioner. This brings to the end of my response to the summons that was issued to me.

COMMISSIONER MIROU: Yes, thank you, Mr Papa for your statement.

MR BOKOMI: Commissioner, since we have gone past the lunch hour---

COMMISSIONER MIROU: You wish to continue?

MR BOKOMI: Yes, I would ask that we adjourn and return say about 2 o'clock?

10 COMMISSIONER MIROU: Yes.

MR BOKOMI: It is subject to your discretion.

COMMISSIONER MIROU: 2 o'clock will be fine.

MR BOKOMI: We return at say 1.30?

COMMISSIONER MIROU: 1.30, yes that would be fine.

MR BOKOMI: And if I have any questions to ask, I will ask then and we can close him and move on to the---

COMMISSIONER MIROU: Yes. Mr Papa, you will be excused but will be required to be questioned further by Counsel or the Commission if there is any need for clarification so whilst you are on oath you are not to discuss any details
20 with anyone during the luncheon break. We will adjourn and resume and 1.30.
Thank you.

LUNCHEON ADJOURNMENT

COMMISSIONER MIROU: Mr Bokomi?

MR BOKOMI: Thank you Commissioner. The witness, Mr Imem Papa, is still under oath so I will just proceed with him.

COMMISSIONER MIROU: Yes, you may continue.

MR BOKOMI: Just a couple of questions. Mr Papa, in your evidence this morning, in relation to the surveys conducted, you made mention of a GPS points been used. Now, can you elaborate on that? In relation to the cadastral maps forming the SABL areas.

A: Thank you Commissioner. The statement is clear, I made a statement that the survey method that was applied on that area must be verified, whether they have used GPS or actual physical boundary surveys on the ground.

10 Q: Thank you. I have a further question to you, Mr Papa. You said company surveyors; meaning IT&S Limited surveyors apparently were involved in the survey work as well as the lands investigations. Now, who in particular are you making reference to? We need to know the name of the particular surveyor – if you know, could you tell the Commission?

A: Commissioner, the Surveyor that was involved in this survey work was Hudson. I cannot remember his surname, his first name is Hudson.

Q: Is it Mr Hudson Hape?

A: Yes.

20 Q: Just one final question. You made mention of the fact that landowners had given their consent for the acquisition of land. Is it for the road project or for the entire SABL, according to your observation, noting that you did not conduct the land investigations?

A: Commissioner, the consent granted by people was based on logs for the road, not SABL. I have not sighted a written consent. But based on the series of meetings conducted in Kiunga, the people consented for the 1 kilometre both sides for logging purpose and in exchange of those logs will meet the cost of the road; they consented that. That was my observation during the process of negotiations.

30 Q: The last and final question. Mr Papa, when you signed the land investigations report – you have already admitted that you did not do the land investigations – when you signed the land investigation report, did you read the cover to see who the actual person who conducted the – or the firm – because in this instance, it is the firm of Titus lawyers who have

basically submitted that document for approval. Did you at that point in time, at the 10th floor of Pacific View Apartments, did you ever talk to Mr Titus?

A: Commissioner, I have not talked to Mr Titus todate.

Q: Where you shown the document on the face of it; to read what the cover read?

A: The document was before me, where my signatures – I went through and then I signed where my signature was.

Q: So you never read the document?

10 A: I never read the whole thing and try to understand what was it for. But all I knew was this investigation report maybe a reference to what people consented and I think that was the investigation related to what people agreed here, that is within the 1 kilometre both sides of the road, not extension.

Q: Can I put it correctly for you that you never knew but you basically presumed?

A: Presumed, yes.

Q: Commissioner, I have not further questions. The witness may be excused, unless you have any further questions.

20 COMMISSIONER MIROU: Mr Papa, only one question. You know that in the process of issuing SABLs, public meetings is also an essential feature of engaging landowners in obtaining generally their consent. This general meeting that was - out of this land investigation report, was there any general meetings or public hearings conducted prior to your signing the---

A: No. Those general meetings were during the discussions; the developer, the people they initiated the meeting themselves and just called us to indoor participate and all that that was taking place in Kiunga.

30 COMMISSIONER MIROU: So one of the matters that was important for SABL to be issued was the public meetings. Normally, it is conducted by Lands Department. That was never conducted?

A: That was never conducted; no public hearing on SABL was conducted here in Kiunga and announcing people that your land will be part of SABL and extension into the first approved parameters that went out was never informed to the people and including Provincial Government as well too.

Q: Okay, alright. Thank you. Counsel, I have no questions to ask.

MR BOKOMI: Perhaps, Commissioner, we can ask the witness to be excused?

COMMISSIONER MIROU: Yes. Mr Imen, thank you for being honest with the Inquiry and your evidence will serve as a great assistance to this
10 Commission in relation to the three Portions of SABL that is part of this Inquiry, and we thank you coming forward and being honest with us this morning and today, for giving your evidence with sincerity so we acknowledge your evidence. It has been recorded and whatever matters you have raised and documents will be considered by the Commission and will form part of our report to the Government next year. So we thank you for coming forward and you are excused. Unless there are other matters that you wish to bring to our attention, you are at liberty to.

A: No. With that, Commissioner, I apologise before you and everybody for my signature. If I negligently or if I had not done it properly, I would like
20 to apologise in front of the public here. Thank you.

COMMISSIONER MIROU: Thank you. You are excused.

MR BOKOMI: Thank you Mr Papa.

THE WITNESS WITHDREW:

COMMISSIONER MIROU: Thank you Mr Bokomi.

MR BOKOMI: Thank you Commissioner. I have a number of witnesses which I have lined up for this afternoon. There is about eight of them but as it appears from my impromptu discussions with them on the kind of evidence that
30 they will give, they may be giving one and the same type of – similar evidence in nature; I will just basically call in at least about five of them. I propose to start with Mr Ronny Gurau of Olsobip village. If you look at the map of the

subject SABL, this particular witness – is he in? Mr Gurau? In fact, Commissioner, most of them will be giving evidence as to whether or not they were aware of all these things happening; the processes involved and which eventually culminated in the acquisition of the major tracts of their customary land.

COMMISSIONER MIROU: Yes. Maybe we can hear them generally on what they have to say.

MR BOKOMI: Mr Gurau, can you come first? Commissioner, Mr Gurau –
Ronny Gurau is a councillor of Ward 16, Olsobip Rural Local Level
10 Government Council, that is further up North, near Tabubil area but it is within
the SABL, Portion 27C. Please, Mr Gurau.

COMMISSIONER MIROU: You can call him. And you will give sworn testimony in Pidgin?

MR RONNY GURAU: In Pidgin.

COMMISSIONER MIROU: Stand up and swear on the Bible to tell the truth.

RONNY GURAN, Sworn:

XN: MR JIMMY BOKOMI

20 Q: Witness, can you state your full name?

COMMISSIONER MIROU: He can sit down. You may remain seated, get closer to the mic and when you speak, because you are speaking in Pidgin and we are recording for the purpose of our recordings in English, you cut your talking bit so that he can interpret it in English.

MR BOKOMI: Yes, I think let us start.

COMMISSIONER MIROU: Witness, you move a little bit closer to the interpreter so that both of you can speak into the mic. And speak up, speak loudly so that everybody can hear.

Thank you Mr Bokomi.

[2.16 p.m.]MR BOKOMI: Witness, can you state your full name to the Commissioner?

A: My name is Ronny Gurau, I am a Ward Councillor for Olsobip LLG.

Q: Which village do you come from?

A: I come from Dahamo village.

Q: What Ward is that in Olsobip LLG?

A: I am from Ward number 16.

Q: How many other villages do you represent?

A: I look after five villages that make up a Ward.

Q: What are those villages?

A: Dahamo, Aedro, Deberebip, number four and number two Deberebip, number five is Tinahae; some from Novet and some from Olsobip too.

10 Q: Are all those villages located within the SABL Portion 27C area?

A: This area that live in, they say that it is the project area for IT & S.

Q: Project area belonging to whom?

A: To IT&S.

Q: IT&S, Independent Timbers and Stevedoring Limited?

A: Yes. The villages, I represent are all in the IT&S boundary.

Q: What is the total population for all those five villages put together?

A: I have got a population of 500 people within the area.

Q: Have you ever heard of a company called North East West Investment Limited?

20 A: Commissioner, I am not aware of the existence of that company within the area.

Q: Okay, what is that team you are talking about?

A: We are not aware of the company or the existence of this thing that has gone in as of today.

Q: What is the team that you are making reference to?

A: I am just aware of the team or company that has gone in. We are not very sure of their existence and their activities they are doing within the area.

Q: Is that company called IT&S?

A: That is the only company that exists in there.

Q: Did anybody tell you of the existence of a landowner company called North East West Investment Limited?

A: I am not fully aware of and been made aware of whoever goes in there to do all these activities and we have been ignorant today.

10 Q: So you do not know what North East West Investment is and whose interest it represents?

A: We are not aware of the existence of the company and its activities as of today.

Q: Did anybody ever tell you that your customary land has already been taken up as part of the Special Agriculture and Business Lease under Portion 27C which has now been issued to North East West Investment Limited?

A: We are not aware of anything of such existence by any government officer as of today's date.

20 Q: The road that you were talking about. What road is that?

A: We are not aware of the name of the road but road existence would have started from Dringas towards Dahamo. That is what I know.

Q: That is a feeder road?

A: That is a feeder road to Dahamo.

[2.27 pm]Q: You cannot recall at any point in time any government officer going in or even company officials going into your area conducting public meetings et cetera to talk about what an SABL is. You interpret. The land will be given away. You will give away your land to the State for SABL purposes.

30

A: People at the moment in the village or in the area are not made aware of so they do not know anything of such nature until today.

Q: There were no government officers in the area at all conducting awareness, yes or no?

A: Okay, we cannot see a government officer to teach us these things like the road will be like this or the project will be like that that type of awareness we did not get it yet. Because of that reason the landowners do not want to sell the land.

10

Q: So, there was nobody there to explain to you what an SABL is? You interpret properly please.

A: We did not see a government officer come and explain to us the purpose of an SABL and how it will affect our lives or how we are going to live. We are not sure of these things; we did not hear anything about an SABL.

Q: So nobody even explained to you that if you were to give your land away for SABL purposes you will lose your customary rights over that land for the period of the SABL?

20

A: That is the whole reason why we did not want to sell our land because no government officer came and explained to us the purpose of an SABL, the benefits of it and so on. We did not know so we did not want to sell our land and later on we will suffer.

Q: So you never gave your consent at all for the SABL over portion 27C?

A: The consent was never given to anybody to go inside the feeder road.

30

Q: Consent for what, for the land to be given away to form part of the special agriculture and business lease? You explain to him properly, please. Interpreter not logging, for purposes of transforming that land into a special agricultural and business lease. They will have title over it.

A: For us to just give our land, the traditional landowners and the community, as a whole we do not want to give our land over to the company. If the company is to provide services such as; roads, school and health all these things, they can come in, but for- - -

40

Q: Special agriculture and business lease, no. Is it?

A: Yes, that is correct.

Q: I have no further questions.

COMMISSIONER MIROU: Yes, thank you counsel. Mr Gurau, the Commission knows about that project about the road. This is only in relation to the area where you live. The land that you own. Did anyone from the Department of Lands visit your village and talk to you or some of your other leaders for that five villages during that time did anyone visit you?

10

A: No, I did not see anyone.

Q: Did they tell you that the reason why they were coming to your village is because your land has been identified for some specific agricultural projects?

A: Not at all, sir.

20

Q: And did you within your knowledge with others in your area, did you make any representation to the Department of Lands that you want to allow some portion of your land to be used for that purpose, agricultural?

A: One time I came and stayed here with my brother Iafami he told me only last month so now I am aware of this thing. I did not go through with a land officer, I just heard from my brother Iafami, he told us at home.

Q: But this is before these things happened, did you and your villagers - - -

30

A: Not at all.

Q: Did you ever come to the Lands Office here in Kiunga to get some advise that you want to free up some of your land for that project?

A: No.

Q: So you did not sign any papers you have no idea what has happened to the land today?

40

A: I did not sign any papers up until now.

Q: Okay. Counsel, I have no further questions to ask. The witness will be excused?

MR BOKOMI: Yes, the witness can be excused, I have no further questions as well.

COMMISSIONER MIROU: Mr Gurau thank you for coming forward and for providing your assistance to the Commission and we have taken note of your evidence and we will consider it when we complete our investigation into the Inquiry.

10 **THE WITNESS WITHDREW**

MR BOKOMI: Commissioner the next witness is Mr Giwi Giwi of Tiomnai village.

[2.36 pm] **GIWI GIWI, Sworn:**

XN: MR BOKOMI

20 COMMISSIONER MIROU: Mr Bokomi you may be seated if you feel it is convenient to- - -

MR BOKOMI: Thank you, Commissioner. It is all right, I will remain standing. Witness, can you state your full name?

A: My name is Giwi, surname is Giwi, Giwi Giwi. I come from Tiomnai village along Kiunga Tabubil road.

30 Q: What is the population of your village or your – what clan do you come from?

A: My clan is Somi clan Awin tribe.

Q: How many people in your clan?

A: I have about 70 plus members in the clan.

40 Q: Are you aware of the SABL that has been given to not East/West Investment Limited which is now described as portion 27C?

A: I am not aware of SABL portion 27C until it was gazetted.

Q: Does your clan, sorry, what is the name of your clan again?

A: Somi.

Q: Okay. Does Somi clan made up of 70 persons own land, customary land that is within the portion 27C? Tiomnai village, I note, is along the Kiunga Tabubil highway. Now, does your clan own land that is on the eastern bank of the road?

A: Yes, my clan own the land which is now under SABL.

10

Q: Did you and your clan at any point in time, let me put it this way. Can you tell the Commission if there were any government patrol or lands officers going into your area sometime in or before 23 September 2010?

A: There was no government officer or anybody from the company went to my village even it was only 13 kilometres, but nobody went and told us about what was going to happen.

20

Q: There was basically no awareness, is that what you are trying to say? No awareness at all was conducted as to what an SABL is and as to the need for your clan members as well as other villagers from your village as well as surrounding villages to give their land up for what is supposed to be made into an SABL?

A: There was no awareness.

Q: Because there was no awareness conducted either by company officials, which company is this?

30

A: That is IT&S.

Q: That is International Timbers and Stevedoring Limited?

A: Yes.

Q: How about a landowner company called NEWIL, North East West Investment Limited. Are you aware of the existence of that company?

40

A: That company I knew it only it came or it appeared in the Gazette.

Q: Before then you never knew about the existence of that company?

A: No.

Q: Now, I am putting it to you that because there was no awareness you and your clan members as well as other villagers did not give consent for your land to be acquired and form part of the SABL that is now called portion 27C. Is that so?

A: We did not give any consent to SABL.

10 Q: Witness, how long have you been living in the village? Have you always been living in the village all these time?

A: Since I was born.

Q: You have not worked in town or anywhere else within the last two years?

A: I mean I live in the village, but I do go around out of the province or district.

20 Q: Do you know or about say – at the time immediately before your land was converted into an SABL that is on or about 23 September 2010 or at least a little thereafter, were you still living in the village?

A: Yes, I was still living in the village.

Q: So you can safely confirm that there was no awareness nothing whatsoever conducted?

A: I can confirm that there was no awareness.

30 Q: And that your people never gave their consent for the land to be acquired?

A: My people never gave any consent.

Q: Commissioner, I have no further questions.

COMMISSIONER MIROU: Yes, thank you. Thank you, Mr Giwi for coming forward to assist us with the Inquiry into portion 27C you are no longer required so you are excused from giving further evidence.

40

THE WITNESS WITHDREW

MR BOKOMI: Commissioner, the next witness is Mr Steven Kwani.

STEVEN KWANI, Sworn:

XN: MR BOKOMI

Q: Good afternoon, Mr Kwani?

10 A: Good afternoon.

Q: Steven Kwani, your full name is Steven Kwani?

A: Steven Kwani.

Q: Kwani?

A: Yes Kwani, Steven Kwani.

20 Q: Kwani is spelt, K-w- - -

A: K-w-a-n-i.

Q: Just briefly tell the Commission where you come from?

A: Thank you.

Q: Where do you come from?

30 A: Commissioner, I am Steven Kwani from Tmigondok village up the Fly.

Q: Spell it?

A: T-m-i-g-o-n-d-o-k.

Q: What is the name of your clan?

A: Husyoke clan.

40 Q: Spell it?

A: U-s-i-o-k-e.

Q: What are you in that clan? Basically, are you a leader of that clan or what are you?

A: Yes, I am the – we have set up the association incorporate through the Incorporate Act to IPA and I am the chairman.

Q: What is the name of your association?

A: Nakrone Forest Area Landowners Association.

10
[2.51pm] Q: Nakrone Forest Area- - -

A: I spell the name of Nakrone, N-a-k-r-o-n-e Forest Area Landowners Association.

Q: Are you aware of this special agricultural and business lease?

A: No.

20 Q: Called portion 27C?

A: No. I was only told that a road line from Gre/Drimgas and a road will be built crossing Fly River to my land and that is where I was informed.

Q: Before that nobody went into the area in the form of a government officer or a Lands Department Officer, company officials to talk to your people?

30 A: Before that there was no lands officer from the district office here at Kiunga and Western Province or this customary lands officer never came into the area, I mean, into my land for some kind of land getting the land investigation report or getting the social mapping and other things. So there was no lands officer involved.

Q: How many people in your clan?

A: I have about 105 including adult fathers, mothers and children and to the babies 105 in total.

40 Q: 105?

A: Yes.

Q: That is for the Usioke clan of Tmigondok village?

A: Tmigondok village.

Q: Now, your association how many villages does it cover?

A: My association currently we are having a land dispute in that project area and it covers about nine clans including my clan Usioke. We fill in the affidavit, I gave you the affidavit, that is where the clan is holding, association is holding nine plus Usioke, ten.

10

Q: So the – can you estimate the number of persons in your association. What is the total population of your association? You said there are nine clans that form the association.

A: Yes, nine clans.

Q: How many persons?

A: So far only contra vision reports that I got it on my system is 246.

20

Q: 246?

A: 246, yes.

Q: Now, those nine clans yours is Usioke, what are those other clans? What are their names?

A: Ukasomi from Kumom village.

30 Q: Ukasomi?

A: Yes, it is on the statement there. Drim clan from Tumam village. The Mesuke clan from Tmigondok, Timin clan from Tmigondok, Grai clan from Tmigondok, Timin clan from Gibonai and Dua clan from Gibonai and Usioke, myself.

Q: That is basically about four villages?

A: Yes, about four villages.

40

Q: That come under your association?

A: Yes, under my association.

Q: Of which you are the chairman?

A: Yes.

Q: All those villages, do they have customary land which are within the SABL area portion 27C?

A: Yes, we are right on the SABL- - -

10

Q: Can you indicate where on the map your village is located or those four villages? Commissioner, those villages, stand up and you show it, turn it around. Can you show the Commissioner where exactly those villages are?

COMMISSIONER MIROU: Do not guess.

A: Tmigondok is here and Gibonai down here, Tumam here and Tupensomi up here.

20

MR BOKOMI: Commissioner those are areas within the – those villages are within the subject SABL portion 27C. Are you aware that on or about the 23 September customary lands, various tracks of customary lands belonging to your people were given away to the State by way of a notice of direct grant?

A: Yes.

Q: When did you become aware of that?

30 A: You mean the title?

Q: After that the title will come, but were you aware that such – did anybody explain to you at all- - -

A: No.

Q: That this was going to take place, these are the processes involved?

A: No.

40

Q: And it is for this purpose or reason that your people must give up your land?

A: No.

Q: There was no awareness at all?

A: As I have said, the awareness was only the road line going through.

Q: Road line?

A: Yes.

10

Q: Not for you to give up all your customary land?

A: No.

Q: That road line what is that road line? Is that the – can you explain?

A: Trans-Papuan Highway.

Q: Trans-Papuan Highway.

20

A: As our officer said.

Q: Is that the one from Gre?

A: Yes, Gre all the way- - -

Q: All the way to Dringas?

A: Yes.

30

Q: And then that electronic bridge that they will put across?

A: Yes, that is the one.

Q: Okay, what did they tell you about that road? How much land will it take up et cetera?

A: It is under the government – I mean it was shared by 20 by 20 on each side – 20 by 20 on both sides when the road corridor is constructed, 20 by 20. And then they want to have 1.5 which was the next extending for their selective logging.

40

Q: Who actually told you about all those things?

A: These are the investors come and invest - IT&S.

Q: IT&S?

A: Yes, IT & S.

Q: Which particular officer of IT&S?

10 A: The officer itself the CEO of the company.

Q: CEO, who is he?

A: Neville Ashley.

Q: Neville Ashely. Commissioner we will have to summon him later in Port Moresby.

COMMISSIONER MIROU: Yes.

20

MR BOKOMI: So there was no government officer at all?

A: No, not at all, not even at all.

Q: No awareness on this thing called SABL, Special Agriculture and Business Lease at all?

A: That I would not know, I never know.

30 Q: You never knew about that at all?

A: No.

Q: So, to cut the long story short. I will just put it to you now that you and your people of all those four villages when they were informed of what SABL is or – and you never gave your consent for that?

A: Yes, we have never been informed for the SABL. As I have said we were informed only for the – I mean the road line project.

40

Q: In other words you never gave your okay for the SABL?

A: SABL we never say okay.

Q: You were never asked to even give okay?

A: No. They asked for 20 by 20 the road corridor so those people who live along the road corridor have to keep away because the road is crossing the villages, they are all there, so we are allowed to give 20 by 20 for the road construction.

Q: It was only for that purpose, for the purpose of road construction?

10

A: Yes, for the purpose of road construction.

Q: For that 20 by 20, did they give you any papers to sign et cetera?

A: No, I am the opposition for day one through that eight years negotiation I am opposition for day one. I want my association to sign some kind of understanding between the developer and myself, my group. So I have never signed anything for – we have to sit down in the negotiation round table, this is what I want for the people and then the developer will agree on what I have and then we have to sign and I am still fighting as of today.

20

Q: What about the other members of your association or your clan members, have they signed any papers?

A: My clan actually on Tmigondok I was away that time I worked with oil and gas I was away and how did they organise the ILGs to sign, I mean the consent from the ILG sign, I just opened the book and I saw one day when an investor brought that paper down, I mean the application down. I just saw one man name on the ILG form so I argued. I want to cook that application book. I said, “Look, my name is not at that ILG so”- - -

30

Q: I will stop you there witness. Okay, let us talk about the ILG just calm down and let us talk about the ILG. The ILG, who actually formed the ILG?

A: Okay, ILG was organised by the- - -

Q: Was it by the local – the clan members themselves or your clan members themselves or was it done by the company, the developer?

40

A: It was done by the landowner company group called NEWIL, North West Investment. They were giving out the consent forms to – for the landowners to sign for the road line project.

Q: The consent forms.

A: Yes, consent forms.

[3.04 pm]Q: Consent forms for the road line here or consent forms for the formation of the ILG?
10

A: Formation of the ILG.

Q: Formation of the ILG?

A: ILG, correct.

Q: But did they ever tell you or your clan members or even members of your – other members of your association that these ILGs are supposed to be formed by the local people themselves and not at the instigation of the company. Did they carry out that awareness?
20

A: No that awareness was not given so I had to complain, I had to put my complaint in from day one. We have to have a proper ILG investigation, sit down together and we decide.

Q: So to date have you ever sighted any minutes of- - -

A: No, that minute ILG- - -
30

Q: A meeting of your clan- - -

A: No, we never.

Q: Regarding formation of the ILG?

A: As I have said, I was away. When I came in the ILG papers were already in Moresby. I mean taken away.

Q: Just one final question. You say that you were – no awareness was conducted for purposes of this SABL, now on the basis of that, you or your people did not give your consent for the land to be acquired and transformed into an SABL. Is that a correct position?
40

A: No, we were informed the road line touching which ILGs or which clan group then we are to fill the ILG.

Q: That is for the road line. You have already indicated that you did allow for that, but how about this big area, area which is now called SABL. You know, in the process you have lost all your customary land. Now, your rights would basically be subject to this SABL. It is suspended for the time being this SABL is valid. Now, did anybody ever explain to you that these are the consequences?

A: No, when I came back in – you know, when moving around making a comeback I just got a copy from one of my member. He said, “Look our land is given away, this much of the area.” And then he gave me the gazetted number so now we told them it is the time where we have to talk about it.

Q: Okay, so in other words if I put to you that right from the start up to and including the time this particular SABL was made you nor your clan members including those other members of your association never gave your consent?

A: No.

Q: No?

A: No, just as I have said other three clans they have not – went through the investigation report, but just only Usioke on the road line just next to Drimgas just for the road only.

Q: Commissioner, I have no further questions.

COMMISSIONER MIROU: Thank you Steven for your evidence. You are not the only leader that is concerned about that particular piece of area which is not only that. If we have to call everyone definitely we are looking at the entire area which is marked out as portion 27C. So your area is also included in the whole area which goes right up to the borders of Southern Highlands and comes right down towards the township of Kiunga. And the result of this direct grant is that you know that land has been given out for 99 years to the company called North East West Limited. And so your understanding of that road line was it basically for that road line project and not any other thing?

A: Yes, it was basically for the road line project. It was basically for the road line project. That was my understanding.

Q: And that understanding of yours is in collectively would affect – would also include your people in the area and others that were also affected by it?

A: Yes, they are all.

10 Q: Well, thank you Steven for coming forward and providing your evidence to the Commission. Your evidence has been recorded and we will consider the matters that you have raised with us and we will report on the matter next year by way of a recommendation to the government. So this is still an on-going Inquiry. In the meantime you are excused from giving evidence now so thank you for coming forward.

MR BOKOMI: Thank you, Mr Kwani.

20 **THE WITNESS WITHDREW**

MR BOKOMI: Thank you Commissioner I will call Mr Jack Kwani.

JACK KWANI, sworn:

XN: MR BOKOMI

30 COMMISSIONER MIROU: Counsel, when you are ready? Mr Interpreter, does he require any assistance?

MR BOKOMI: Are you going to speak in English or Pidgin?

COMMISSIONER MIROU: You want to speak in English or Pidgin?

A: Pidgin. I want to speak in Pidgin so that everybody will hear.

40 Q: Okay, speak in Pidgin, speak loudly. I know it is an afternoon and we are all feeling sleepy already so can you speak a little bit loud so that and cut it so that he can translate it to English.

MR BOKOMI: Witness, your full name is Jack Kwani?

- A: My full name is Jack Kwani.
- Q: And you come from Dringas village?
- A: Yes.
- Q: Which particular clan of that village do you come from?
- A: Gase clan.
- 10 Q: Gase clan. What position do you hold in that clan?
- A: I am the chairman of Gase clan.
- Q: In other words you are one of the leaders of that clan? Please you interpret, sorry.
- A: I am representing 12 clans in the Dringas.
- 20 Q: Twelve clans of Dringas?
- A: Yes.
- Q: Dringas village or are there any other villages?
- A: Dringas and Tupensomi.
- Q: You speak into the mic.
- 30 A: I represent Dringas and Tupensomi villages; there is no other village name. Tupensomi, it is spelt T-u-p-e-n-s-o-m-i.
- Q: Mr Kwani, I will show you this map, could you indicate to the Commission where your village is located?
- A: Number 68, that is where is he pointing.
- Q: Mr Kwani, how many people in your clan?
- 40 A: I have 624 clan members and my immediate clan is 63.
- Q: Six hundred and- - -

A: 63.

Q: 63 clan members?

A: Yes.

Q: But in total from all those other groups that you represent that is 624?

A: Yes.

10
[3.17 pm]Q: Could you confirm if your clan has customary land within what is now called portion 27C and SABL?

A: Yes.

Q: You have land, customary land in there?

A: I have a customary land in there.

20 Q: Could you simply tell the Commissioner what you know about this SABL portion 27C and whether or not you were aware of it before? Whether you have given your consent et cetera please tell your story to the Commission?

A: I with my people are not very aware of SABL in the area. We were not fully aware of the existence of the SABL existence until today. Awareness was made but it was not very clear to us.

Q: Witness you continue with your- - -

30 A: We were not very clear about awareness until IT & S has gone in and we started wondering. The awareness continued and we were given ILG forms, but still we were not very clear about the forms, the use of the forms. A few of our people got them, but we were still not clear. The clan members got the ILG forms, but we were still not clear of the ILG forms. Among the 12 clans a few members got it, but still we were not aware.

40 Q: Witness what I want you to do is you talk, you make it short so that it will be easier for him to interpret. Can you speak in English?

A: That is all right, I will speak in Pidgin.

COMMISSIONER MIROU: You can speak in English?

MR BOKOMI: All right, then please interpreter you interpret exactly what he says. If he says many, you do not say few.

THE INTERPRETER: I think he is willing to speak in English.

MR BOKOMI: Okay, please. Commissioner, the witness will take us through in English.

10

A: The ILG forms were not even issued to the communities where the communities were aware of it. The content of the ILGs, the people never sighted it. They have not sighted it, even they have not seen it, even we have not talked about it in the clans.

Q: Witness, who actually instigated the formation of those ILGs?

A: The directors of the NEWIL.

20

Q: NEWIL?

COMMISSIONER MIROU: That is North East- - -

MR BOKOMI: That is North East West Investment Limited.

A: Exactly.

Q: Did they at any point in time obtain consent from the landowners to form those ILGs?

30

A: No.

Q: Thank you witness you continue.

COMMISSIONER MIROU: Continue with your- - -

MR BOKOMI: And did they explain to your people why they were forming the ILGs?

40

A: They had not explained to us. They only mentioned that there will be ILG forms issued to the clans within the village to fill out. But during that time only few attended and gave the information to the directors so the directors and had filled out the ILG forms. And then after that when

other clan members have heard that the ILG forms were not even sighted, were not even explained to them they started up the argument and complaint and I as the association chairman they complained to me all about this. They mentioned that they have not sighted it only a few sighted it and through the interest of the few they had filled out the ILG forms whereas the rest of the members have complained to me brought their statement that they have not sighted it, they have even not heard about the explanation they did.

10 Q: Were there any clan meetings conducted and minutes taken of who should be the chairman of the ILG, who should be the secretary who should be the treasurer, who should basically office bearers plus the dispute settlement authority as required by the Incorporated Land Groups Act?

A: No.

Q: Continue with your statement.

20 A: Okay, when that happen I as a chairman, what I did was I listed up the members of each clans and then I started questioning them, asking them who should be the chairman, who should be right chairman and all that for temporary positions. Then the ILG forms were sent down and when the certificates, the registration was done, the certificates were held up there at the IT & S office and we were not aware of it. The sixth – only six because only few have been there and the ILG forms were issued only six were registered and those six have not received their certificates. They only have the numbers, but other six are still included as being – they had a meeting, they came to me and said their clans to be registered
30 also in this association and I have six which are not registered and only six are registered.

COMMISSIONER MIROU: Registered with the Lands Department's Incorporated Land Group registrar?

A: Yes.

Q: You said something about the ILG forms, are you aware of who was distributing that ILG forms?

40

A: Yes, actually Waiti Kwani the chairman of NEWIL Investment was the one that issued the forms.

Q: Sorry, what is his name?

A: Waiti Kwani and Samson Ubre. But during that time I have not sighted the forms and the content of it I have not sighted it.

MR BOKOMI: Can you spell Waiti Kwani?

A: W-a-i-t-i.

10 Q: Kwani is basically the same as your surname?

A: Yes.

Q: But please spell it?

A: Kwani, K-w-a-n-i.

Q: And can you also spell Samson Ubre?

20 A: Samson Ubre, S-a-m-s-o-n Ubre U-b-r-e.

Q: Who are these people, who are these persons?

A: They are the directors.

Q: Directors of?

A: Directors of NEWIL.

30 Q: NEWIL or directors of- - -

A: North West Investment- - -

Q: North East West Investment Limited.

A: Waiti Kwani is the chairman and Samson Ubre is the director.

[3.29 pm] MR BOKOMI: Commissioner, the summons is ready for them. Later if you want to execute them we will get them to be served for those persons.

40

COMMISSIONER MIROU: Yes. You are still continuing with this witness?

MR BOKOMI: Yes. Please witness if you have anything further to add- - -

A: The ILGs I have requested and told them that please our people need to these ILG certificates so that they themselves will know exactly their land is registered and they have the power to say something or to do something. But they recommended – the IT & S has put a restriction that they will not, IT & S will not issue these certificates to landowners until the project is on the ground.

10 COMMISSIONER MIROU: Do you know that these certificates are normally issued by the Department of Lands through the Registrar of Incorporated Land Groups. Once an application is received by the registrar, he registers the papers and does all the paperwork and then if he is satisfied he issues a certificate and it is normally given to the actual persons involved in the company or the group. So it should not be with the company. It is the document that should go to the actual chairman or chair person or clan leader of that particular group not with the company.

20 A: I the chairman I was thinking that the certificate will come to the association so that the association so that the association can issue them to the landowners, the clan groups. But they have told me that no it will be held at the IT & S until the project is on the ground. And so many times even I went down the clans have sent me down to put a query there at the office during the time of signing. But that time the chairman was not there.

Q: Did you make any enquires with the registrar of incorporated land groups in Port Moresby?

30 A: No.

Q: To find out why the – why this company is holding onto the certificates?

A: No. We actually went down for the signing so we were only held back at the IT & S office. And after the signing here we came back straight away. We were not given any time to move around. Even we did not have a transport; we were only using the buses that the IT & S were using so we have no time to move around and query for that.

40 MR BOKOMI: Where did you go, to Kiunga or where?

A: Moresby.

Q: Moresby. All right, that is for the signing of what?

A: The signing of the agreement that the land investor has just talked about.

Q: Or this. Is it this agreement?

A: Yes.

Q: So you are one of those persons who witnessed the signing of this particular agreement?

10

A: I was one of them.

Q: Could you recognise if this was the document? Was it shown to you?

A: This is the signing. But that time we were at the office when the witnesses and the people who were supposed to be signing these ones were the ones going straight to the GGs room to sign this.

Q: To the Governor General's office?

20

A: Yes.

Q: The Government House?

A: Yes. I actually went there, but I was not involved in this one here, we stayed back.

Q: Very well I am not going to press you on that.

30

A: I actually went down because my clan leaders wanted me to go and query for them. Query to the IT & S to release those – if they can release the certificates.

Q: ILG certificates?

A: ILG certificates.

Q: Presently where are the ILG certificates?

40

A: Presently the ILG certificates are with the IT & S.

Q: IT & S?

A: Yes.

Q: Let me take you back to the ILGs and the – are you aware at any point in time those ILGs that you claim as been registered by IT & S. Did any one of the clans through their ILGs meet to free up certain tracks of land belonging by custom to their clan or to free up and register that land for purposes of, they have the road corridor or whatever? No?

A: No.

10

Q: No?

A: No.

Q: So IT & S or NEWIL never told you or never informed you or your people of what the actual purpose was for the registration of the ILGs?

A: No.

20

Q: They never informed you that once we register this land or the ILGs, ILGs will now free up land for purposes of formation of this SABL?

A: No. Actually those who were taking this application they only briefed those who were present and the rest of the members no. So when the ILG forms were filled up now they are only briefing so they have no further idea of why, the purpose of filling up those ILG forms and receiving those one or these ones. They have no idea now. Even the SABL they have no idea.

30

COMMISSIONER MIROU: Do you know of any person who went with you to Port Moresby supported IT & S project? Anyone from your clan or village or the surrounding areas, is there any persons within your area that supported the developer?

A: Yes, that is Waiti Kwani, Samson because they were directors and they were to go down there.

Q: Yes, and who else?

40

A: I went down, but because – I went down for a purpose of querying about this ILG forms.

Q: Any other persons?

A: Robert Tete, Robert Tete the councillor of Drimgas.

Q: Robert Tete. Who else?

A: That is all.

Q: So how many of you went to Port Moresby?

10 A: Four of us. Sorry, the other one that I missed out Dum Giwa.

Q: Sorry, spell his name?

A: D-u-m G-i-w-a.

Q: Okay. Yes, counsel?

20 MR BOKOMI: I have one last question. In fact second last question I have got two questions. Now, noting that no awareness was conducted in respect of portion 27C or even awareness in relation to your clan releasing some of its land for purposes of business and agriculture development not for road construction, but for business and agriculture development. I put it to you that there was no consent or approval given by your clan or all the other persons that you claim to represent for your customary land to form part of the entire customary land which is now called portion 27C registered as SABL portion 27C to be given away to the State. You did not give your consent, is it?

A: No.

30 Q: Is that true?

A: It is true.

Q: Okay, my final question is, I am asking you certain questions on – I am going to ask you if this company called IT&SL does it have an established office here in Kiunga?

A: No.

40 Q: Does it own machineries, heavy equipment et cetera here in Kiunga?

A: No.

Q: There is no established office. In Port Moresby does it have an established place where it conducts its business apart from, of course, 10th floor of Pacific View Apartments? Does it have any transport pool or whatever where it keeps all its bulldozers, motor graders et cetera, Toyota land cruisers?

A: I am not sure.

Q: You are not sure?

10

A: Yes.

Q: Commissioner that is something that we need to confirm. The Gre/Drimgas road, did IT&S build it?

A: No.

Q: Who built that road?

20 A: That is Trima, a contractor.

Q: A contractor, what is the name of the contractor?

A: Trima.

Q: Trima. Trima Limited is it or Trima Construction or what?

A: Trima Construction.

30 Q: Trima Construction Limited. Thank you, Commissioner, I have no further questions.

COMMISSIONER MIROU: Thank you, counsel.

A: Sorry, first it was – first it started was by Works and it had not put the contributors of gravels, it has been – only the ground and they only level it, but then after all the contractor that put up the gravels and all these ones were Trima.

40 Q: So it is a national road?

MR BOKOMI: IT&S, is it a road construction company or a logging company?

A: First it mentioned that it was a road construction company, but later on they ended up and said that it will also do the logging also. But first mention was the road construction company.

Q: Thank you, witness. I have no further questions.

COMMISSIONER MIROU: Thank you Mr Kwani unless you have any other things to tell the Commission we thank you for coming forward to give us your story and how you feel about this SABL and how it affects your village and the people that you represent. We thank you for coming forward and to give evidence to this Commission which will assist us in our inquiry into portion 27C. And unless you have any other things that you want to tell us before you leave you are excused from – you are excused.

THE WITNESS WITHDREW

[3.44 pm] MR BOKOMI: Commissioner, before I seek a brief adjournment, I call the witness- - -

20

COMMISSIONER MIROU: Maybe we can adjourn. We can adjourn and then you sort out- - -

MR BOKOMI: I will be calling Mr Max Ako to come and give his evidence. He is the hospital administrator for Rumginai Rural Hospital that is I believe, along the road from here.

COMMISSIONER MIROU: Max, the second name is?

30 MR BOKOMI: Max Ako.

COMMISSIONER MIROU: A-k-o?

MR BOKOMI: A-k-o, yes.

COMMISSIONER MIROU: Mr Ako, you give your evidence in English or Pidgin?

MR AKO: English.

40

COMMISSIONER MIROU: In English, thank you. Mr Associate, swear the witness in.

MAX AKO, sworn:

XN: MR BOKOMI

COMMISSIONER MIROU: Thank you. You may be seated and if you can speak up so that we can all hear you and counsel will ask you questions.

MR BOKOMI: For record purposes once again can you state your full name and your position?

10

A: Commissioner, my full name is Max Ako and I work as a hospital administrator for the Evangelical Church of Papua New Guinea's Rumginai Rural Hospital. That is north of Kiunga, about 30 kilometres north of Kiunga.

Q: I will show you this particular map, where is the hospital located?

A: Commissioner, Rumginai is located on the road between Kiunga and Tabubil and it is right on the map there.

20

COMMISSIONER MIROU: It is lined between 11 and 10?

A: Yes.

Q: Is it Rumnai?

A: Rumginai.

Q: Thank you.

30

MR BOKOMI: Commissioner, Mr Ako has essentially prepared a written statement.

COMMISSIONER MIROU: Yes.

MR BOKOMI: The nature of the evidence that he is going to give is that this SABLs, 27C, 1C and 14C the Evangelical Church of Papua New Guinea has Mission Stations over which it probably has mission lease.

40 COMMISSIONER MIROU: Yes, we can get Mr- - -

MR BOKOMI: He has already reduced that in writing.

COMMISSIONER MIROU: We can get Mr Ako to read his statement into record.

MR BOKOMI: Yes, thank you.

COMMISSIONER MIROU: Mr Ako you can – if you have prepared a statement, you can read that into the records.

10 A: Commissioner, with due respect I would like to read from the material we have prepared before this Commission of Inquiry. This statement was made and signed by the management team or the executive of the Rumgimai Rural Hospital. The statement reads; “Commission of Inquiry regarding SABLs Kiunga 16 November 2011. Reference: Evangelical Church of Papua New Guinea, North Fly Health Services in areas of SABLs. The Evangelical Church of Papua New Guinea provides services in Western Province including health and education.

20 The executive committee of the Evangelical Church of Papua New Guinea Health Services North Fly has some concerns regarding the granting of SABLs in the areas where we operate health service which effectively extinguishes the mission church lease under which we were operating. At a minimum, we would like to see the areas of mission church lease exercise from the SABLs. ECPNG Health Services North Fly operates a rural hospital at Rumgimai which serves a referral centre for a very large area of Western Province as well as a Community Health Worker Training School. As well as the hospital and CSW school we also operate five health centres namely; Moguru Health Centre in Nomad, Debepari Health Centre in Nomad, Havena Health Centre north of Rumgimai and Dome, this is not in the SABL area, in the North Fly and
30 Obo in the Middle Fly and 10 aid-posts namely; Senamrai, Atkamba, Sonai, Dahamo, Suabi, Adumari, Honenabi, Yehebi, Fuma and Hesaribi. And six of these last ones are, I think, within the SABL lease. A large number of our aid post and our busiest health centre Moguru have been directly affected by the granting of the Special Purpose Agriculture and Business Lease which now includes the ground where these facilities have been built. The SABLs have also taken away land from the mission stations in which these facilities are based including land where there are schools and other facilities. We have a concern for any local people who have had customary land taken from them without their understanding
40 and consent. We hope they present their own case at this Commission of Inquiry. As a health service the granting of SABLs has presented us with a number of concerns. Rumgimai hospital was built in the late 1960s and many of our facilities are also quite old and run down. We are in the

process of presenting project submissions to various agencies. We have no longer hold a valid lease over the land where our facilities are built. We are not going to be able to convince potential donors to assist us with rebuilding or rehabilitating our facilities. To secure funding for infrastructure project, we need to have a valid lease. Our church service has a very high standard with regard to healthy living and respectful behaviour. When you walk through our facilities you will not find betel-nut on the ground or people smoking or drinking. We have been able to maintain church lease areas as places generally safe for people including families. We are concerned that if our facilities are no longer on church lease land we will find it difficult to continue the same high standards. We have noticed a significant increase in lifestyle diseases such as coronary heart diseases and diabetes in areas where there has been development. A large contributing factor is presumably a poor diet. It is a medical concern to us that people's gardens will be under a SABL. If people have less excess to good healthy garden food and have to rely on store bought food not only will they be wasting what little money they have, there is likely to be a similar increase in lifestyle diseases in those areas. As a minimum, could we please put our case that we believe the church mission leases must be exercised from the current SABLs which came into effect without any consultation whatsoever with our health service. The coordinates of the areas of the particular concern to us are Atkamba, we have got the reference from just a general map on the wall and these are our latitudes and longitudes. Atkamba which is situated that direction- - -

MR BOKOMI: Sorry, I am going to – I will get the witness to assist, by pointing to us where approximately those or exactly those locations are.

COMMISSIONER MIROU: Mr Ako you may point out those places on the map.

A: Commissioner, in fact, Atkamba is not on this map. So I shall proceed to the next one which is Dahamo. Dahamo is located up the river. I think Dahamo is – it is not indicated here, but it is around that area. And then the next one we have is Debepari. Debepari I think is – Debepari is located outside of this boundary here SABL. The next one is Fuma. Fuma is outside and that is in the Nomad, I think that is in the other map.

Q: So Dahamo is outside?

A: Yes.

Q: Dahamo is not- - -

A: Yes, that is outside. Fuma. Havena, it would be up there.

MR BOKOMI: Commissioner, the Nomad area it is the SABL covered by – that is portion 14C held by Tosigiba. So that is still subject of the Inquiry as well. So what I suggest we do Commissioner and witness is this- - -

10 COMMISSIONER MIROU: If the witness can map it out and bring it tomorrow.

MR BOKOMI: Perhaps, because some of the names are not even there. Our first witness for today was Mr Ronnie Gurau after lunch. He is from Dahamo that is within the portion 27C. Dahamo is not indicated on the map here, but we will have to get a better map. A topographical map to determine the actual location of Dahamo.

COMMISSIONER MIROU: And is Mr Ako living in Kiunga?

20 MR BOKOMI: Yes, perhaps what I suggest Mr Ako we do is if you can after delivery or completion of the delivery of your statement to the Commission provide copies of those leases so that we can check against the records.

COMMISSIONER MIROU: Yes, yes if he can provide those.

MR BOKOMI: As per your indications there.

30 COMMISSIONER MIROU: You can just call them now. But if you can provide to the Commission leases for each of the facilities where the ELPNG has hospitals and other facilities. If you can provide the lease to the lawyers so that we can consider that.

[3.59 pm] I will just have to also record this as an exhibit.

MR BOKOMI: Yes, perhaps we allow him to read first.

COMMISSIONER MIROU: Yes.

40 MR BOKOMI: You complete reading. Read the names of- - -

COMMISSIONER MIROU: The names and then you can go down to the last bit.

MR BOKOMI: Once you conclude then I can tender that document in.

COMMISSIONER MIROU: You can just call the names of the airstrip.

10 A: Yes. We come down to Havana so the next one is Hesaribi. That is in Nomad. Honenabi in Nomad, Moguru in Nomad, Obo down in Lake Murray, Rumginali itself, Suabi in Nomad and Yehebi also in Nomad. As well as those above where the airstrips. Our facilities also include Adumari a four hour walk from Moguru, Dome on the Ok Tedi River just upstream from Bike, Senannai 48 kilometres on the Kiunga/Tabubil road, Sonai upstream from Urungina on the Waimari. We want to thank the Commissioner for taking the time to investigate the granting of SABLs in this area and for your time in considering how they have impacted on our ability to deliver health service. Yours sincerely.” Thank you.

20 Q: Thank you, witness. Commissioner I ask that this particular letter dated 15 November 2011 from the hospital administrator Mr Max Ako and others who have signed of Rumginali Rural Hospital be admitted into evidence and marked as exhibit- - -

COMMISSIONER MIROU: NEWIL.

MR BOKOMI: NEWIL 27C number 8.

COMMISSIONER MIROU: Thank you.

[EXHIBIT NEWIL 27C 8 – LETTER DATED 15 NOVEMBER 2011 FROM HOSPITAL ADMINISTRATOR MR MAX AKO AND OTHERS]

30 MR BOKOMI: How long will it take for you to at least provide us a copy each of the leases? Will you require some time?

A: Yes, I do require some time.

Q: We do not leave until next weekend.

COMMISSIONER MIROU: We will be here until next week.

MR BOKOMI: Can you try and do that by Tuesday next week.

40 A: Yes.

Q: We will be here.

COMMISSIONER MIROU: We still have a week next week. A full week next week.

MR BOKOMI: Yes. Tuesday will be the- - -

COMMISSIONER MIROU: Let us say by Wednesday, Wednesday?

MR BOKOMI: Okay, Wednesday 23rd.

10

A: That is when you are leaving?

COMMISSIONER MIROU: To produce those other leases.

A: Yes, all right.

Q: Airstrip or health facilities that you have. We want to see those leases. If you can make copies of them available to the Commission that will assist us with- - -

20

MR BOKOMI: If you have- - -

COMMISSIONER MIROU: Our Inquiry into portion 27C and the other portions that are affected by this SABL. Will you be able to- - -

A: Yes, I will provide those evidences.

Q: Okay, thank you. Then we will see you next Wednesday on 22 November.

30

MR BOKOMI: Perhaps if you have a map also that shows or that depicts effectively where those installations of your mission are located then that would even greatly assist the Commission in its work. Thank you Mr Ako.

COMMISSIONER MIROU: Yes, we will stand you down until next week when you provide those documents and if we require further evidence we will call them from you.

MR BOKOMI: I have no further questions.

40

COMMISSIONER MIROU: Yes, okay. So Mr Ako you are stood down until next Wednesday when you can provide to the Commission those mission leases and airstrips leases on the various facilities that the hospital has. Not only in the

portion 27C, but the other portions that are affected by the SABL. And also if you can provide a map that has those airstrips that is run by the church, that will assist us. In the meantime we will stand you down until next week. You are excused.

MR BOKOMI: Thank you Mr Ako.

THE WITNESS WITHDREW

10

MR BOKOMI: I seek a brief adjournment.

COMMISSIONER MIROU: Okay, Mr Associate shall we adjourn the proceedings briefly.

SHORT ADJOURNMENT

[4.11 pm]COMMISSIONER MIROU: Yes, Mr Bokomi?

MR BOKOMI: Commissioner, thank you. I will be calling the last and final witness for the day and that is Mr Norbert Gwawe, G-w-a-w-e.

COMMISSIONER MIROU: Okay, yes, call Mr Gwawe.

MR BOKOMI: Mr Gwawe please take the witness box.

30 **NORBERT GWAWE; sworn:**

XN: MR BOKOMI

Q: What language are you using?

A: English.

Q: Commissioner, the witness is going to give his evidence in English.

40 COMMISSIONER MIROU: Okay.

MR BOKOMI: Witness, please give your full name to the Commission.

A: Your Worship, my name is Norbert.

COMMISSIONER MIROU: Sorry, Commissioner.

MR BOKOMI: Commissioner.

A: Commissioner, my name is Norbert Gwawe.

COMMISSIONER MIROU: Thank you.

10

A: Norbert N-o-r-b-e-r-t Norbert, Gwawe G-w-a-w-e, Norbert Gwawe.

Q: Thank you, Mr Gwawe.

MR BOKOMI: Where do you come from?

A: Commissioner, I come from a place called Somoekwankia. Somoekwankia that is on the northern part of it.

20

COMMISSIONER MIROU: Sorry, how do you spell the name of your place?

A: Somoekwankia, S-o-m-o-e-k-w-a-n-k-i-a.

Q: Thank you.

A: From Ningrum LLG. Ningrum rural LLG.

MR BOKOMI: Witness, could you show on this map of portion 27C where your village is?

30

COMMISSIONER MIROU: Just near to the 27C.

A: 27C.

Q: Yes?

MR BOKOMI: Mr Gwawe, what is the name of your clan?

A: Somoe.

40

Q: Somoe clan?

A: Yes.

Q: What are you in that clan?

A: I am the chairman.

Q: How many persons in your clan?

A: Approximately more than 100.

10 Q: Are there any other clans or persons that you also represent outside your clan?

A: No, in my village we do have two clans, but the other clan is represented by other people.

Q: Very well. Do you know anything about this thing called SABL Special Agriculture and Business Lease?

20 A: No, I never knew until it was been gazetted and then it came out publicly and I knew all about it.

Q: What was gazetted?

A: The name of the company.

Q: What company?

A: They call it IT & S.

30 Q: IT & S.

A: Yes.

Q: How about this Special Agriculture and Business Lease which is now the subject of this Commission's Inquiry today that is portion 27C? Are you aware of this particular SABL?

A: No, I was not aware. I am not aware of it.

40 Q: Have you been all the time living in your village over the last three years?

A: Not really in the village. I live in the town, but I do go to the village every holiday Christmas period I do go to the village over the weekend I go to the village.

Q: Any government team that went into your area regarding this particular SABL to conduct awareness that you are aware of?

A: No, there was no awareness being done. Even the government officers is not being deployed to go and do awareness to the people.

10

Q: Perhaps I will basically ask you to continue with your story, tell it to the Commission about this particular matter.

A: Commissioner the awareness is not been done, not been carried out our public service especially the lands officers is not been deployed to go to the areas where this company is going to take place, it has never been deployed and awareness has never been done. Awareness has never been done things are done secretly. Our land title has been taken away by certain people, people are not aware. The majority of the people are against this. Commissioner, I am concerned about the northern part of the area where that part of the area is regarded as extension area. The actual project is going to be implemented along the eastern part so my village is not located along that, but it is in the northern part of the area. The project is going to be implemented along the eastern part.

20

Q: All right, I will ask you a question. You talk about majority of the people. What sort of majority is that? Is it the entire village or what?

A: Yes, I am talking about my entire village, my village Somoekwankia.

30

Q: Okay, and about the project, what project is that?

A: Talking about this Trans-Papuan highway the road is going to be built from Dringgas all the way to Kerema and that alone is going to be linked out with Port Moresby. This is the project I am talking about. They call it Trans-Papuan highway.

Q: You continue with your- - -

40

A: Yes, I am just concerned is like I have already mentioned is there is no proper awareness being done, it is not carried out and there is no ILGs form being issued to the concerned villages even though the project is going ahead the people did issue the ILG certificate so people could fill it

up and then with their consent and there was no consent letter being or signed or some sort of a form being signed by the villages concerned. It was done without that.

COMMISSIONER MIROU: What would you say the Lands Office in Kiunga in terms of assisting people like yourself and others in terms of such development?

10 A: No, I do not see the lands officers here going around to the villages doing awareness to the villagers.

Q: Even if an SABL was to be created or a lease made normally the landowners, people within a particular area would make an application or make a request to the Department of Lands and once that request is received by the Lands Department they then undertake this, what we call the land investigation reports, and under that land investigation report there is a number of things that is required to be satisfied by the particular lands officer who is actually conducting the investigation. And throughout this time through your knowledge, was any of this thing, any person from the Department of Lands either at Kiunga or Port Moresby visited you personally or villages to talk about what they plan to do on the land?

A: No, not previously until just recently this year someone from Moresby came around.

Q: And do you know who he was?

30 A: When he came around –later he went there to do awareness he only issued the ILG forms and said fill them up land officers here went around there giving awareness.

MR BOKOMI: Witness, I will stop you there.

[4.24 pm]What is the name of that person who came from Port Moresby?

A: Yes, Hudson his name. I do not know his surname.

Q: Hudson. Could it be Hudson Ape?

40

A: Sorry?

Q: What was he? What was he? Did he tell the people what he does for a living or something?

A: He claimed to be a lands officer.

Q: He claimed to be a lands officer and not a surveyor, no?

A: No.

10 Q: And he is a lands officer from the provincial- - -

A: No national- - -

Q: National Lands Department?

A: Yes.

Q: But not from a company?

20 A: Not from a company, but he is represented from the national department.

Q: Department of what, Lands?

A: Lands.

Q: You can carry on.

A: This guy came from Moresby and then he claimed to be the lands officer.

30 Q: All right, how many people were with you at that time when he was there?

A: There were more than five or six people.

Q: Five or six people. Can you tell us their names?

A: Yes.

Q: Okay please tell the Commission.

40

A: Commissioner those people who were involved was the chairman of this IT & S Waiti Kwani himself.

COMMISSIONER MIROU: Sorry, what was his name?

A: Waiti Kwani.

Q: Yes.

A: Kokore Grise, Betty Jenkin.

MR BOKOMI: Who is Betty Jenkin?

10

A: She is a lady.

Q: She is a lady. Is she a local?

A: She is from here.

Q: She is from here. Is she known by some other name as well?

A: No, that is her name.

20

Q: Betty?

A: Betty Jenkin, Betty Wain.

Q: Betty Wain. That is one of the person's that we will call. We have prepared a summons as well.

COMMISSIONER MIROU: You said there were six people so the other three--

30

MR BOKOMI: Any other landowners with you? What I want to know is whether there were some landowners with you at that time?

A: These are the landowners, we are together.

Q: Now, what you have told the Commission I gather is – are the officers claiming to be government officers as well as representatives probably of the company. But the people from your village, who was there with you? Can you tell us their names?

40

A: This fellow came here and then we met him in the town, he did not go to the village and I met him in the town that is why these are the people we went and met him and brought him to the hotel and left him in the hotel.

I am giving the names of those people. These are not the landowners that they went to the village to collect names.

Q: Which hotel was that?

A: I never went to the village with him.

Q: I know, but which hotel was that? You say you brought him to the hotel?

10 A: Yes, Say Lodge.

Q: Say Lodge?

A: Yes.

Q: How do you spell Say?

A: S-a-y.

20 Q: S-a-y. They were staying- - -

A: Yes, he was staying there; he was booked to live in there.

Q: That lands officer called Hudson?

A: Yes.

Q: He was staying there. About what time was that, can you basically give us some exact dates or approximate dates?

30

A: I cannot remember the dates, but then it was probably about two months ago.

Q: About two months ago?

A: Yes.

Q: Two months ago would be about September?

40 A: Yes, somewhere around there.

Q: Very well you continue.

A: So Commissioner I think what I wanted to say I think that is all.

Q: Commissioner, thank you very much Mr Gwawe I have no further questions unless Commissioner you have anything to ask.

COMMISSIONER MIROU: Mr Gwawe, we thank you for coming forward to raise your concerns over the issue with regard to portion 27C. It is a reflection that generally what you and others have said will reflect generally what has happened in relation to that portion and we thank you for coming forward.
10 Your evidence is now finished and you may be excused. Thank you.

THE WITNESS WITHDREW

COMMISSIONER MIROU: Yes, Mr Bokomi?

MR BOKOMI: Commissioner, I have no further witnesses to call. I therefore ask that the hearing of the Commission be adjourned to tomorrow in the
20 morning at 9.30.

COMMISSIONER MIROU: Nine?

MR BOKOMI: 9.30 am.

COMMISSIONER MIROU: 9.30 okay. Okay, thank you counsel for your efforts today and we definitely have done something for the people. We will adjourn proceedings to 9.30 tomorrow at this hall tomorrow morning. Thank
30 you.

**AT 4.29 PM, THE COMMISSION OF INQUIRY INTO SABL WAS
ADJOURNED UNTIL THURSDAY 17 NOVEMBER 2011 AT 9.30 AM.**

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