

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

---

10



## COMMISSION OF INQUIRY INTO SABL

MR NICHOLAS MIROU

COMMISSIONER

20

KIUNGA VOCATIONAL TECHNICAL COLLEGE, THURSDAY 17  
NOVEMBER 2011 AT 9.59 A.M.  
(Continued from Wednesday 16 November 2011)

[9.59 am] THE CHAIRMAN: Good morning Mr Bokomi.

MR BOKOMI: Good morning Commissioner. For this morning, we will be dealing with the hearing into portion 1C, SABL held by North East West Investment Limited. Now, there is some interest in respect of Portion 27C which we dealt with yesterday, in that the landowner company representatives or the landowner company purporting to represent the interest of the landowners, North East West Investment Limited, have through their lawyers, Titus Lawyers, written to us advising as of this morning that they are still  
10 working on their affidavits which they intend to present to the Commission perhaps by tomorrow. That is in relation to Portion 27C, Portion 1C and Portion 14C. All those matters are interrelated in the sense that:

- 1) The Notice of Direct Grant was issued on the same day and gazetted also on the same day, same date; and
- 2) It is the same company that is involved together with Portion 14C, Tosigiba, in terms of its preference for the developer, the developer here, the proposed developer is the International Timbers and Stevedoring  
20 Limited. Tosigiba, Commissioner, you would note, is listed for hearing starting this afternoon but that is subject to how we will proceed with the evidence this morning.

COMMISSIONER MIROU: Yes.

MR BOKOMI: But we will definitely make mention of Tosigiba in the afternoon and have it adjourned to tomorrow if the need arises for same.

COMMISSIONER MIROU: Yes, okay.

30 MR BOKOMI: Apart from that, the lease is, as it appears, the instrument of lease or lease – lease back agreement between the State and the landowners were also done on the same day and that is 24 June 2009. That will come in the evidence now, Commissioner.

COMMISSIONER MIROU: Thank you counsel. In relation to that matter that you raised with regard to Mr Titus' letter.

MR BOKOMI: Yes.

40 COMMISSIONER MIROU: If Counsel could confer with Mr Titus and also bring to his attention the rules that we adopted prior to our substantive hearings where normally all the evidence will be called through Counsel.

MR BOKOMI: Yes. I think Mr Tusais is working on our response to that effect to ---

COMMISSIONER MIROU: And may be a copy of that rule can be made available to Mr Titus.

MR BOKOMI: Yes, we will make available that.

10 COMMISSIONER MIROU: And if there is a need, most appropriate for affidavits, if Mr Titus could provide affidavits including affidavits of those witnesses to counsels so counsels could read them and determine what you require in relation to our Inquiry into portion 1C and 27 C.

MR BOKOMI: Yes. And it may also affect portion 14C as well. So if we can in terms of progressing the matter, all the matters to a finality within the time limit that we have, we were supposed to start on Monday but due to Air Niugini schedule, bookings et cetera, we had this particular hearing started on, that is Wednesday, yesterday. So we are basically out by at least two days so if  
20 Commissioner, if you agree, I would propose that some of these matters we deal with them, more or less in a package because the evidence would more or less be the same except for the different portions et cetera and different witnesses that we will be called; evidence may not exactly be the same but they will be very, very similar in nature. And that relates to the other five SABLs issued in and around the Gogodala area. That is Foifoi, Godae, Mudau, Lahali, Abauwe, they have the same trend running through. So most of these grants were basically made based on Land Investigation Reports or purported Land Investigation Reports investigations conducted. Around almost the same dates and the grant basically is made apparently on the same date as well.

30 COMMISSIONER MIROU: Counsel for the convenience of the Commission we can hear evidence from people and we will sort out into the various SABLs that they give evidence into so we can work that out as we go along.

MR BOKOMI: Yes, I appreciate that Commissioner, you have the discretion as well under the Act.

COMMISSIONER MIROU: But Mr Titus, we can draw attention to our rules and you can confer with him and discuss but the most preferred manner to deal  
40 with it is for affidavits to be sworn and provided to counsels so we can consider the ---

MR BOKOMI: Very well.

COMMISSIONER MIROU: Thank you.

MR BOKOMI: Thank you. Those are basically, if you like, preliminary matters with respect of how we should progress given the time factor that will constrain our efforts to complete these hearings here.

Without further ado, I have a number of witnesses listed. Some are still on their way here. There are about seven witnesses listed for this morning; some will give their evidence in English, some will give their evidence in Tok Pidgin. For those persons who will be giving their evidence in Tok Pidgin, I have asked your Associate to also fill the role of being an interpreter.

COMMISSIONER MIROU: Yes, okay.

MR BOKOMI: Commissioner, you would note from the draft list of witnesses that we have handed up, there about six names there. I would ask that we include one more witness and that is going to be number seven witness, Nelon Women.

COMMISSIONER MIROU: Sorry?

MR BOKOMI: Nelon is spelt N-e-l-o-n and Women, W-o-m-e-n.

COMMISSIONER MIROU: And these are all witnesses in relation to Portion 1C?

MR BOKOMI: Portion 1C.

THE CHAIRMAN: Okay. All right, when you are ready, we can ---

MR BOKOMI: Thank you Commissioner. Commissioner, we would be relying on the same map that I handed up yesterday as part of the Exhibits because that is the map that contains all the three portions, the subject of the Inquiry. I wonder whether you still have your ---

COMMISSIONER MIROU: Yes, I have a copy in my bag.

MR BOKOMI: Perhaps you get that while I---

COMMISSIONER MIROU: Thank you Mr Bokomi, when you are ready we can ---

MR BOKOMI: Thank you. Commissioner, I would ask that that map in relation to portion 1C as depicted on the map be tendered into evidence – tendered and admitted into evidence and marked as Exhibit NEWIL 1C(1).

[10.09 am]COMMISSIONER MIROU: We can just use the same Exhibit. Counsel, we can just use the same Exhibit or you want us to rename?

MR BOKOMI: For purposes of this particular proceeding, as it concerns a different portion of land and a different SABL---

10

THE COMMISSIONER: Yes, okay. So that is NEWIL1C(1).

**[EXHIBIT NEWIL 1C(1) – MAP OF PORTION 1C TENDERED INTO EVIDENCE]**

MR BOKOMI: I also seek to tender and ask that the Land Investigation Reports, forming the basis of the Notice of Direct Grant and subsequent issuance of the SABL, Portion 1C, be admitted into evidence and marked as Exhibit NEWIL IC (2).

20

THE CHAIRMAN: Yes, thank you counsel, we will accept them.

**[EXHIBIT NEWIL 1C(2) – LAND INVESTIGATION REPORT TENDERED]**

MR BOKOMI: For record purposes, this Land Investigation Report also has indicated yesterday a contentious check list on the front cover and the check list is signed off by a Mr Neville Harsley who is the Chief Executive Officer of International Timbers and Stevedoring Limited. For some reasons he has filled in the role of the Registrar of Titles. This is the form I believe that the Registrar of Titles uses to determine whether or not all the paper work is in order for the grant of a particular lease. It is dated 30 September 2010; it is basically the same as the Land Investigation Report that we tendered in yesterday.

30

COMMISSIONER MIROU: Through Mr Imen Papa?

MR BOKOMI: Yes and it is signed by Imen Papa as the District Lands Officer who has conducted the land investigations. Mr Papa's evidence covers this one as well and it will also cover portion 14C.

40

And the person who signed off on the recommendation as to alienability which is dated 9<sup>th</sup> December 2008 and at Kiunga, he is the incumbent District Administrator of North Fly District, Mr Ronald Manise DMonai. Ronald

Manise DMonai - Manise is spelt M-A-N-I-S-E, that is the middle name and DMonai is D-M-O-N-A-I.

COMMISSIONER MIROU: Yes.

MR BOKOMI: Commissioner, You would know, we have issued a summons for Mr DMonai to appear today. I believe the policemen have already gone up to serve him. I ask them that - they asked him to come down at least by 10.30, this morning. If not then, any other time that is subject to your discretion to direct.

THE COMMISSIONER: Yes.

MR BOKOMI: The other pertinent feature of this Land Investigation Report is that in a number of pertinent and necessary respects, the Land Investigation Reports are basically incomplete. For instance, the declaration of custom in relation to land tenure contains names only and then there are no signatures. In terms of the overall area, in terms of the breadth and the length of Portion 1C, according to the Land Investigation Report, it is within Kiunga, extending North about 75 kilometers in length and then cuts across easterly for about 25 kilometers in width and that Commissioner is a very substantial area of land.

COMMISSIONER MIROU: It is substantial from the map here that we have.

MR BOKOMI: Yes.

COMMISSIONER MIROU: 470,642 hectares. Okay, this is Exhibit?

MR BOKOMI: NEWIL 1C(2).

COMMISSIONER MIROU: Yes.

MR BOKOMI: The notice of direct grant which was issued following the admittance and acceptance of the Land Investigation Report was caused to be issued under the hand of the then Secretary for Lands, Mr Pepi Kimas on 23 September 2010 and that Notice of Direct Grant was gazetted on Friday 24 September 2010 in the National Gazette No G218.

I ask that this particular Notice of Direct Grant be admitted into evidence and marked as Exhibit NEWIL 1C(3). If you flip that over, it is at the back, marked with the asterisks, that is the relevant---

COMMISSIONER MIROU: Exhibit NEWIL 1C(3) is the notice of Gazettal Notice G218 dated 24 September 2010, page 2, Notice of Direct Grant under Section 102 signed by Mr Kimas, delegate of the Minister for Lands and Physical Planning dated 23 September 2010.

**[EXHIBIT NEWIL 1C(3) – GAZETTED NOTICE NUMBER G218 DATED 14 SEPTEMBER 2010 AT PAGE 2 – NOTICE OF DIRECT GRANT UNDER SECTION 102 SIGNED BY MR PEPI KIMAS, DELEGATE OF THE MINISTER FOR LANDS AND PHYSICAL PLANNING DATED 23 SEPTEMBER 2010]**

MR BOKOMI: Commissioner, you will note that in the Notice of Direct Grant, the land described now as Portion 1C is also known as Awin Pari land. That is the same name as Portion 27C.

[10.20 am]COMMISSIONER MIROU: That is why land investigation is crucial in determining that SABLs do not overlap into an existing SABL, and so Awin Pari has been mentioned in two SABLs; Portion 27C and Portion 1C.

20 MR BOKOMI: It may also be the same in Portion 14C. So that is something that the Commission will have to confer---

COMMISSIONER MIROU: There is a major discrepancy.

MR BOKOMI: With and confirm from Lands Department and the National Mapping Bureau as to whether it is proper to name---

COMMISSIONER MIROU: For the same name to appear in three portions.

30 MR BOKOMI: And also for two portions as well to be described as the same because as we go through the hearing, the later stages of the hearing, it will also become evident that the SABL held by Tumu Timbers Development Limited is also described as Portion 1C.

40 Following on from there, I also seek to tender and ask that the Instrument of Lease for customary land, that is the lease – lease back agreement between the customary landowners and the State in respect of Portion 1C, Awin Pari, as demarcated by the Surveyor Plan Catalogue No 9/133, having a total land area of 470,642 hectares re-admitted into evidence and marked as Newil 1C(4). That lease – lease back instrument is dated 24 June 2009 and that apparently, Commissioner is the same date as the lease – lease back instrument in respect of Portion 27C.

COMMISSIONER MIROU: Okay, so Exhibit NEWIL 1C (4) is the Instrument of Lease for Customary Land, Lease – Lease Back Agreement, pursuant to Section 11 of the Land Act 1996. The deed was dated 24 June 2009 between those persons named and listed in the Land Investigation Report as the customary landowners as represented wholly and severally by the appointed agents of the one part and the Independent State of Papua New Guinea. And those customary landowners are named or agents are named in the scheduled to the instruments which was signed by Mr Pepi Kimas as the delegate of the Minister.

10

MR BOKOMI: Commissioner, the other glaring part about not only this particular SABL, but also in respect of portion 27C and the same may also apply to portion 14C, is the term of the lease. In land investigation reports, the landowners seemingly have given their consent. I am using the word, “seemingly” for legal reasons.

COMMISSIONER MIROU: May have purported, purported to---

MR BOKOMI: Purportedly may have given their consent for the lease to be effected for a period of 25 years and not 99 years as per the notice of direct grant and presumably the State lease. To date, despite request for supply of the copy of the State lease to the Commission, the Registrar of Titles Office at the Department of Lands, Waigani has not provided a copy of the relevant State lease issued under Section 102 as a Special Agriculture Business Lease.

20

COMMISSIONER MIROU: The Commission will make directions that when we return to Waigani, we will recall the Registrar of Titles to indicate or give us reasons why the State lease is not being provided to the Commission since our establishment in July of this year. Mr Samson Wasa.

30

MR BOKOMI: Mr Henry Wasa.

COMMISSIONER MIROU: Henry Wasa, yes. Not only this SABL lease but the other seven or eight leases that we are inquiring into in the Western Province.

MR BOKOMI: Thank you Commissioner.

COMMISSIONER MIROU: And the Commission notes with dissatisfaction that despite the SABLs being registered, the Land Investigation Report is incomplete, and the instrument that gives that title to these companies is missing. Therefore Mr Wasa will explain to the Commission why those instruments are not immediately available to the Commission.

40



Yes, thank you counsel.

MR BOKOMI: Thank you Commissioner. Commissioner, I will now proceed with calling of the first witness.

COMMISSIONER MIROU: Yes.

10 MR BOKOMI: That is Mr Montford Awetari. Commissioner, this witness will be giving his evidence in English.

COMMISSIONER MIROU: Yes, thank you.

MR BOKOMI: Mr Montford Awetari

**MONTFORD AWETARI, Sworn:**

**XN: MR JIMMY BOKOMI**

20 MR BOKOMI: Mr Awetari, for record purposes again, can you restate your name and perhaps spell it correctly into the microphone for the Commission's benefit.

A: My name is Montford Awetari. My first name is spelt M-O- N- T- F- O- R- D. Second name is A- W- E- T- A- R- I.

Q: Where do you come from?

30 A: I come from Musiore Village. It is the first village from Elevala, from Kiunga.

Q: Is your village within Portion 1C?

A: Yes, I am on the demarcating map under 1C.

Q: Can you show the Commission where your village is exactly located?

40 COMMISSIONER MIROU: Yes, I have noted the name.

MR BOKOMI: Which clan do you come from?

COMMISSIONER MIROU: Elevala river, is it?

MR BOKOMI: Yes, that village is along the Elevela River. Before the witness proceeds Commissioner, you would note that the Portion of land under inquiry, Portion No 1C, is the bounded by Elevela River to the South. In fact Elevela River empties into the Fly River and it is about two and a half hours by boat ride from here, from Kiunga, upstream.

[10.34 am] And further Westerly it is bounded by Fly River and then there is a straight GPS line connecting further upstream along the Fly River to join up with the Palmer River, this is the Palmer River coming down, that is North Westerly, further North into the border of Southern Highlands Province and then from the border of the Southern Highlands Province, it cuts South Easterly down to the Strickland River. This is where the Strickland River is. That is in the Easterly direction, if you take it from the centre. Then that is the Strickland River.

So, there are a number of rivers, which form natural boundaries of this particular portion, 1C. Those are the Elevela River, that is on the Southern part toward the Southern borders of the Portion and the Western borders by Fly and Palmer and the Eastern border by Strickland. And of course the administrative divide between Southern Highlands and the Western Province to the North.

And the same statements with regards to map which was made available yesterday to the Commission applies here, and that is that, in respect of this particular map, all the coordinates which forms the boundary of this particular Portion, 1C, were scaled off from topographics maps according to the notes on Surveyor Catalogue No 9/133. This means that no actual survey, meaning no actual physical survey of this subject land was done on the ground. The topographic map sits as depicted in the cadastral survey plan of Portion 1C, indicate that the following photograph maps were used in coming up with this particular map here. That is Kiunga, 7185, Ningrum 7186, Elevela 7285, Pari 7286, Nomad 7385, and Karoma 7386 with the scale of 1 is to 100,000.

Essentially there were five other previously existing maps as I have indicated which were basically used to come up with this particular plan, considering there was no physical land boundary surveys conducted.

COMMISSIONER MIROU: Do we have copies of those maps?

MR BOKOMI: We can always get that from the National Mapping Bureau.

COMMISSIONER MIROU: Yes. If that can be organized.

MR BOKOMI: Okay, back to Mr Montford Awetari. Which clan of Musiore village do you come from?

A: Tumten Clan.

Q: How many persons in your clan?

A: I only had 15.

10 Q: 15 persons. What are you in that particular clan?

A: I am a clan chairman.

Q: In terms of your customary landownership, how much land would your clan within your Musiore village basically your home which is covered by the SABL – Portion 1C?

A: Portion 1C was the whole of the boundary within the village. I have 14 land groups – 14 land groups within the village.

20

Q: Can I stop you there. I am basically asking you in terms of your clan land, is it big or small et cetera? You try and just give an estimate for the benefit of the Commission. Does it extend up that way – like that.

A: My land is located under Ketu River under 1C and it is about a thousand plus hectares.

Q: Does it all fall within 1C?

30 A: Yes.

Q: What is your position in your clan?

A: I am a clan Chairman.

Q: Clan Chairman. Perhaps you have something about this thing called Business Agriculture and Business Lease? I want you to basically tell the Commission now all that you know about the SABL. Whether you were involved et cetera?

40

A: Thank you Commissioner, I have never heard of the SABL up until after the Gazettal No G218 was released. That was early this year. I was the

one who did the awareness campaign to cease or terminate Gazettal No 218 under SABL.

Q: You mean, you carried out the awareness to go against the – and have the SABL revoked?

A: Yes.

Q: Portion 1C?

10

A: Yes.

COMMISSIONER MIROU: Mr Awetari, this notice was issued in 2010. You only got to know about it early this year. You got to know about it early this year?

A: Only know early this year.

COMMISSIONER MIROU: What month of this year?

20

A: June.

COMMISSIONER MIROU: As a result of the Inquiry publishing these SABL in the newspaper?

A: Yes.

COMMISSIONER MIROU: From this Commission of Inquiry?

30

A: Yes.

THE COMMISSIONER: So if this Commission of Inquiry was not established, you would not even know that your land was part of that portion issued to the company. You would not know about it?

A: No idea.

COMMISSIONER MIROU: Okay, thank you. You may continue.

40

MR BOKOMI: Mr Awetari, I note you once signed as an agent of your clan in the schedule to the lease – lease back. If you can confirm to the Commission that this is your signature as your signature against your land and your land happens to be the first one.

A: Commissioner, I did sign. That was only for the trans Papua Highway. I was told that I only give consent to 25 years.

MR BOKOMI: Mr Awetari, in the lease instrument, the ILG of your clan is called Tumten ILG and the ILG Registration number is 12432. Could you confirm all denied to the Commissioner, whether you were actively involved, you and your clan members were deeply involved in the formation of that ILG.

A: ILG was done here in Kiunga in respect of the landowner company.

10

Q: I will stop you there. What is the name of the landowner company?

A: North East West Investment.

Q: That is the lease-holder now?

A: Yes.

20

Q: Did at any time Lands officers or representatives of the company conduct any awareness and consult with your clan members about the need and the purpose for your clan to form its ILG?

A: Yes, the ILGs were formed only for the Trans Papuan Highway. Not SABL.

[10.58 am]Q: I am talking about awareness. Did any Lands officer go into your area? That is the first leg of my question.

A: No sign of the Lands officers from this end.

30

Q: How about company officials? Officers of NEWIL or their directors?

A: They came only for the trans-highway.

Q: When these people came to you and your clan members, did they tell you to conduct any clan meeting?

A: No.

40

Q: No?

A: No.

Q: So if I put to you that there was no clan meeting conducted and there was no minutes of the clan meeting recorded in respect of the formation of your ILG, and there was no decision made because there was no clan meeting conducted to appoint who should be the Chairman, who should be the Secretary, who should be the Treasurer as well as who should constitute the dispute settlement authority of your incorporated land group which is now called Tumten, would you say or confirm that, that is the truth and the correct position?

10 A: The ILGs forms were only given to me to do it myself by the company so I never had any meetings with my own clan groups.

Q: Thank you. In terms of this major acquisition of land which is now comprised in Portion 1C, did you and your clan members at any point in time give your okay, or approval, or consent for your portion of land to form the entire portion 1C which is now a very very big area of land as I have indicated earlier. That is 75 kilometers x 24 kilometers, that is a lot of land. Yes or no?

20 A: No.

MR BOKOMI: Commissioner, I have no further questions.

COMMISSIONER MIROU: Adding on to that, Mr Awetari, there was an application, normally when you, as counsel has informed you or has told you, that you yourself together with your group of people within your village must sit down and discuss this matter before you decide to say, we have a piece of land here that we want to develop. So when you do that, under the SABL requirement of Law, you will make an application to the Lands Department.

30

I am looking at this agreement here. This instrument for lease customarily that you have been – there is a tender form and this tender form is basically the forms that start this process for SABL, the Lands Department, and under this application for tender form which was signed in 20 June 2009. This is the propose purpose for why Portion 1C, including your village and the area around your area, it says; “The proposed purpose for improvement and other details stating value of improvement is for Forestry, reforestation, sawmilling, agriculture and major road infrastructure construction.” Estimated value of improvement is about K123 million and this was lodged by North East West Investment Limited which is a landowner company. That is what they submitted to the Lands Department. Were you fully aware that apart from the major road infrastructure construction, forestry was one of the activities on the land? Sawmilling, even agriculture, did you know? Did you know about that?

40

A: Commissioner, I was not briefed by the landowner company concerned. I was at Trimasu while I signed the consent form out at Trimasu in a hurry – in a rush. The person who brought the consent form, he said I only have sufficient of time.

Q: Who is that person?

A: Samson Uvre.

10

MR BOKOMI: Mr Uvre is on our Summoning List.

COMMISSIONER MIROU: You will call him?

MR BOKOMI: I think he will be served any time today.

COMMISSIONER MIROU: All right. So Mr Samson Uvre, who is he by the way. What does he do? Is he from the Lands Department?

20 A: He normally involves with the landowner company.

COMMISSIONER MIROU: He is an agent? Where is he from? Which part of Western Province does he come from?

A: He is from Dringas Village.

COMMISSIONER MIROU: Where that road project is going to be developed?

A: Yes.

30

COMMISSIONER MIROU: When the company submitted this application to the Lands Department, they are saying that there are a number of other activities apart from that road transport. Forestry, reforestation, sawmilling, agriculture. Did he tell you that?

A: Commissioner, that was not briefed during the signing.

Q: So from that day until today, all you know together with your people is that, they were going to build this road, the Dringas road network?

40

A: Commissioner, we know only is the trans-Papuan Highway.

Q: Tell me, has that project started? The Dringas Project?

A: From Drimgas to the eastern side of the Fly River, the inventory only went in but actual work has not been done.

Q: What about logging operations?

A: Still under pending.

10 Q: Has there been any other major agricultural activities, rubber plantation, oil palm?

A: Commissioner, so far I know it is only a virgin forest. Not any other projects within the ---

Q: From your village to Drimgas?

A: From my village, yes.

20 COMMISSIONER MIROU: Thank you counsel. I do not have any further questions to ask.

MR BOKOMI: Thank you witness. Perhaps witness can be excused.

30 COMMISSIONER MIROU: Yes. Mr Awetari, we thank you for coming forward to give evidence in reference to your village and including others that you represent as being included under Portion 1C. Your evidence is now recorded for our purpose and we will make our findings and recommendations and recommend to the government in April next year. We will not make anything now. We will consider all the evidence that we collect in relation to Portion 1C and when we complete it, we will do a report to the Government. We will submit that report in March next year. After that you will know about those recommendations that we make. We thank you for coming forward to assist us with our Inquiry into Portion 1C.

Is there anything you want to say before you leave?

A: Yes, Commissioner, I have one.

40 Q: Feel free to say it.

A: I am not happy. A person who declares or I think it is a false statement against my land. That somebody from Gre declared under my name. It could be under SABL or I do not know where.



MR BOKOMI: Commissioner, I think witness is making reference to a number of persons who have been appointed, perhaps without their knowledge or at least without his knowledge he has been appointed also as an agent.

COMMISSIONER MIROU: So with your name on the list as an agenda in this document, did they approach you?

10 A: Commissioner, it is a hidden agenda, I do not know anything about this --

-

Q: So you never consented to be an agent for the company?

A: No.

Q: Or any other persons?

A: No.

20

MR BOKOMI: Perhaps I would ask that that particular document be tendered marked as Exhibit ---

COMMISSIONER MIROU: NEWIL1C(5). Mr Awetaru, you can tender that – We will accept this document and we will also include it as part of your evidence. So you are listed under clan Tumten?

A: Tumten, yes.

30 Q: And you are named as an agent on behalf of Gusiore village. Kuston, Mepu, Turangia/Scoltia, Gire Village. The declarer was Areke Wasepi. So you say that this list here, you did not consent to be named as an agent for North East West Investment Limited. Is that correct?

A: Yes.

Q: So this is Exhibit NEWIL 1C(5). It is headed, ‘North East West Investment Limited’, and there is a list of names in the schedule which are purported to be agents for the company.

40

[11.00 am] And Mr Dawetari says that he never considered to be an agent. Awetari, sorry. Thank you MrAwetari.

MR BOKOMI: Thank you witness, you may be excused.

### **THE WITNESS WITHDREW**

Commissioner, I would be asking for a very short adjournment due to consider the other witnesses because in the morning when I called, most of them were not in.

10

COMMISSIONER MIROU: Yes, okay, Associate let us adjourn.

### **SHORT ADJOURNMENT**

[11.26 am]COMMISSIONER MIROU: Thank you Mr Bokomi.

MR BOKOMI: Commissioner, I will call another witness now and that is the latest inclusion on the list, witness number seven, Nelon Women and depending on his evidence we will adjourn for lunch. During the lunch hour I can organize the other witnesses and also there are those witnesses who gave evidence yesterday, they want to give further statements and I am subject to your discretion Commissioner.

In my submission for purposes of enabling the Inquiry, to have an all embracing statements of account of what actually happened which culminated in the subject of SABLs under inquiry now, I would submit that we also allow them to give additional evidence in respect of portion ---

30

COMMISSIONER MIROU: That is if their evidence is totally different from what they said yesterday.

MR BOKOMI: Yes.

COMMISSIONER MIROU: There are some new matters they need to bring to the attention of the Commission if you can ascertain from their statement.

MR BOKOMI: That is basically what it is.

40

COMMISSIONER MIROU: I mean, they cannot come and repeat what they said yesterday. Or if they changed their evidence, they may be subject to ---

MR BOKOMI: Not necessarily. I think they have information – information which they did not tell the Commission yesterday.

COMMISSIONER MIROU: Okay.

MR BOKOMI: Yes. I now proceed to call ---

COMMISSIONER MIROU: Mr Women.

10 MR BOKOMI: Yes, Mr Women. Sorry witness, are you going to speak in English or Pidgin?

MR MELON: English.

**NELON WOMEN, Sworn:**

**XN: JIMMY BOKOMI**

MR BOKOMI: Can you state our full name?

20

A: My name is NELON WOMEN, N-E-L-O-N W-O-M-E-N, father's name.

Q: Where do you come from?

A: I come from Tmingondok village. T-M-I-N-G-O-N-D-O-K Village.

Q: Can you indicate on the map here, where exactly your village is located?

30 A: Commissioner, that is the next village from Dringas down, along the Fly towards Kiunga.

COMMISSIONER MIROU: And that village is lying in Portion 1C.

MR BOKOMI: The nature of his evidence, Commissioner, perhaps we allow him to give, I believe his customary lands are on both sides.

COMMISSIONER MIROU: Border?

MR BOKOMI: Yes, on both portions, 1C and 27C.

40

COMMISSIONER MIROU: Thank you.

MR BOKOMI: Mr Wonen, what clan do you come from in the village of Tmingondok?

A: My clan is Gase clan, G-A-S-E.

Q: Gase clan?

A: Yes, Gase clan, G-A-S-E.

10 Q: What are you in that clan?

A: I am a Deputy Chairman for our Dispute Settlement Authority.

Q: The Dispute Settlement Authority of what? ILG or something?

A: Yes, ILG.

Q: What is the name of your ILG?

20 A: Gase clan.

Q: Do you know the ILG number?

A: ILG number? We have not filled the ILG form but there is approved.

Q: Your clan, Gase clan, does it have any land? That is on the eastern bank of Fly River that is now covered by Portion 1C?

30 A: Yes. I have the land in Portion 27C. That is in Tmingondok village and in 1C, that is in Dibona Village, just below Tmingondok on the eastern bank of Fly River.

Q: How big is the land on the eastern bank? Is it within Dibona Village or is it just between Tmingondok and Dibona Village on the border?

A: On 27C, that is estimation – 4 kilometers wide and 5 kilometers length and on the 1C, that is estimation 5 kilometers width and 6 kilometers length.

40 COMMISSIONER MIROU: You mean to say it is horizontal or vertical?

A: 5 kilometers width, 6 kilometers length down.

Q: North South?

A: Yes, north – from North to South is 6 and from East to West is 5.

MR BOKOMI: That is about 30 square kilometers?

A: Yes

COMMISSIONER MIROU: So that is on Portion 1C?

10

A: Yes, portion 1C.

Q: If we convert that, that would be about almost 30,000 hectares of land I believe. It is a massive piece of land he is talking about.

COMMISSIONER MIROU: Yes.

MR BOKOMI: At any point in time did any Lands officer from Kiunga or from the National Lands Department come to your village and talk to you about the needs and the purpose for you to give away land to the State?

20

A: Commissioner, I had not been informed or I was not aware of how this company, IT & S will come in and work within our land. What we know is only the Papuan Highway from Gre Dringgas to Kerema and Moresby and in addition was logging.

[11.36 am]

30

But that was not direct, that was indirect message that came from the rumours. No Government officers or Lands officers and no IT&S or NEWIL company leaders or the other leaders did not come in and inform us that the work, the Terms and Condition will be done this way or that way. They have not directed us and we are not aware of it.

MR BOKOMI: I will stop you there. NEWIL Company, is that – you are making reference to North East West Investment Limited? Is it?

A: Yes. North East West Investment Limited.

40

Q: Witness, please continue to, just make your statement to the Commission. What do you know about all these matters now – Portion 1C under Inquiry?

A: Okay, that is both 27C and 1C. No information or no awareness been coming around to the villages and telling us how we will be benefitted

under landowner company NEWIL. And we have not filled in any consent form or ILG forms. But the land is under the IT&S and NEWIL.

Q: How many clans are there in – is it Trimingondok or Tmingondok?

A: Tmingondok.

Q: Is there a village also called Trimingondok?

10 A: No.

Q: There is no village either in Portion 27 or Portion 1C. Trimingondok?

A: No Trimingondok. It is Tmingondok.

Q: Firstly, answer my question, how many clans are there in Tmingondok village?

20 A: Nine clans in Tmingondok village.

Q: Do all of them own land on both sides of the Fly River or ---

A: There are people who live on Western Bank of Fly River and people living on Eastern Bank of Fly River.

Q: So you mean to say that, they own land on both sides of the Fly River?

A: Yes.

30 Q: I will stop you there. For the record, there is a village called Trimingondok and the clan or the ILG name is Musiok, I think he is from Musiok clan and the ILG No. is 12448 and the person by the name of Julius Mangunen signed. So Mr Women, do you know this person?

A: Yes, Commissioner. I know Julius Mangunen of Musiok Clan. But this Musiok Clan land is on the eastern bank.

COMMISSIONER MIROU: I mean Julius' clan, where does he – on which bank of Fly River does he represent? Which side of the river?

40 A: The eastern bank – new heights.

COMMISSIONER MIROU: And you are on the western ---

A: Yes, on the Portion 1C. They are right across where Tmingondok village is. But again on 1C, the Gase clan is on the eastern bank near Dibona village.

10 Q: Okay, witness, I will stop you there. You said that there were nine clans in your Tmingondok village. But there is no village called Trimingondok? Okay, those nine clans, you went on to further say that they own lands both on the West and the Eastern bank. Do some of these clans have lands which are on the road corridor proposed for the Trans Papuan Highway apart from Musiok clan?

A: Commission, on the Western Bank on 27C, there is no road there, but on the Western bank, Musiok clan, the new proposed road, their land is there.

20 Q: Did you or your clan at any point in time, fill out any consent forms to give, for instance, your right to this person, Julius Mangunen to facilitate for – to sign this lease – lease back for purposes of this SABL now under inquiry? What is your answer? Yes or No?

A: Commission, for that, I have not filled in any consent form.

Q: So your answer is no?

A: So my answer is no under SABL.

30 COMMISSIONER MIROU: And did any members of your family and your clan also agreed that – to fill that consent form?

A: My members, my clan, they did not sign any.

MR BOKONI: Did you at any point in time have any meeting together with all your clan members regarding this particular lease – lease back and to discuss whether you should give your approval to Julius Mangunen?

40 A: Commission, I have not made any agreement within the plan to give the land to Julius Mangunen and even have the plan to even sit down together to do this or fill out the forms.

Q: There was no meeting at all?

A: No meeting at all.

Q: When did you become aware of this thing call SABL or Special Agriculture and Business Lease?

A: Commission, about SABL, I know nothing about it until just before your arrival on Tuesday this week, I got the form and from there I got this name and I asked my friends, what is the initial SABL and there he explained and I knew that, and I know nothing about what SABL means.

[11.491am]Q: You mean to say that, there were no – there was no awareness conducted either by representative from the North East West Investment Limited or the Lands officers about this exercise they were in to acquire a major portion of land which is now portion 1C and also portion 27C?

A: Commission, I know nothing. No Government officers or no Lands officers or IT&S Company or any NEWIL landowner companies their reps have not told us about SABL getting the land. But there was only rumours saying things will go on like this about road and only logging.

20 COMMISSIONER MIROU: And what did they say, you and your people will get out of that Trans Papuan Highway? What benefits will you get?

A: They have not told us what benefits we will get, because my village is far out from the project area but we have only requested for the land, only the land to link into our village.

Q: Sorry, you for what?

A: For the road. Not the major road but the feeder road only.

30

Q: And that feeder road will link up with which road?

A: To the village, to Tmingondok village.

Q: And it will link up with the Kiunga-Tabubil Highway?

A: To Gre Dringas Highway, Papuan Highway.

40 Q: Did you know that this SABL is a result of an application made by the company sometime in June of 2009, this North East West Investment Limited which is a landowners company? They submitted a form to the Lands Department in Port Moresby for a Special Agriculture and Business Lease to be issued. Which is now we know as Portion 27C and



10 Portion 1C where your land is also affected. And that purpose or the reason why they were requesting for SABL because your land is customary land, this is not State land, this is customary land, owned by people. And they were asking for – the company was asking for forestry, reforestation, sawmilling, agriculture and major road infrastructure construction, the estimated value of the improvements was about 133 million. That improvement would also include benefits to those villages who have been affected by this SABL. And were you aware that this application was made by the company on your behalf including others within the SABL to the Lands Department for an SABL to be issued? Were you aware of that?

A: No.

20 Q: As a result of this application, on the tender form, normally a Land Investigation Report is conducted. Not by any other private company or any persons but by the Department of Lands through the Provincial Administrator's office and the Provincial Lands Office here in Kiunga. Did you receive any such presentation from the people from the Lands Department? In 2009?

A: No.

Q: In 2010 last year?

A: No.

Q: And 2011?

30 A: No.

40 Q: A direct grant as a result of that, the Government, through Mr Pepi Kimas, issued this direct grants on the 23 September 2010 and this was gazetted in the National Gazette on 24 September meaning that your land now belongs to North East West Limited because of this application form they submitted on your behalf including others from your area. That is the result of that. Were you fully aware that your land was going to be given up for this period of time called 99 years? You including others affected in that particular area, Portion 1C and Portion 27C, were you fully aware of that?

A: I was not fully aware of it until now.

Q: Once this tender form or the application form is made by the landowner company on behalf of everyone who consents that we want to see some developments in our area, we want to free a bit of our customary land for that purpose, the Department of Lands through its officers have an obligation to come in and undertake that Land Investigation Report. Did any person from the Department of Lands or from the Provincial Lands Office here visit your village and talk to the people about what was the effect of this SABL, the application, how it was going to affect you and your customary rights? Did they talk to you about those things?

10

A: None had come to my village or even my clan to talk about this matter or these things.

Q: And now without your knowledge and without your consent, even your people's consent, the land now belongs to the company called North East West Limited and it has been leased to them for 99 years by this Gazettal Notice.

A: For this 99 years lease, I disagree with this 99 years and even they have not made any agreement with me before they got the land.

20

Q: That is why the Government set up this Inquiry to inquire into whether the Department of Lands has done its job by properly informing people about the SABLs and the effect of these SABLs? The effect of the SABLs basically is to – for people within a particular area, your language group to sit down together and say, or we will free up some portion of our land for oil palm, rubber, commercial, for people to be involved in commercial activities and not an entire area. So once you agree to that then you make an application or you set up a company similar to what NEWIL is doing, you set up a company and then the Department of Lands officers come and they undertake the Lands Investigation Report. Through that process they have to inquire whether people agree to it or not. But you do not free up the entire land for that, it is only a specific provision. If it means that you have to chop a few trees to clear it to undertake oil palm projects or rubber or any commercial trees, the National Forest Authority will come in and give clearance for 50 hectares to be cleared basically to allow oil palm, rubber, or those other things to be planted on the actual location. That is what SABLs are all about. SABLs is not an entire area, hectares of land been given to one company and that company goes out and does whatever it wants to do for the next 99 years. As a result, people, you will die, your grandchildren will come and die, three or four generations will pass by before your land comes

30

40

back to your people. That is the effect of what has happened and that is the result of the Inquiry that we are here for.

So would you know generally, did you, did any person from the Department of Lands talk to you? Did you generally agree to allow this huge portion of land to be given to this company to develop on your behalf?

10 A: No Government or no Land officers or Forestry Department officer went to consult with the people.

Q: At least you are now aware of what has happened basically with SABL?

A: Yes. What we know or what we are aware is – what I am aware of is or what I was not or what I am aware of is only the road project. And then the logging was at the back of it. But the SABL, that I do not know until this week Tuesday when I get the form and that is where I knew the SABL.

20 Q: Thank you.

MR BOKOMI: Witness, I have no further questions but in a nutshell, what you are basically trying to say is that, you or your clan members were not consulted and you did not give your consent for this SABL acquisition to the land to be acquired for purposes of the SABL? Is that correct?

A: Yes.

30 MR BOKOMI: Commissioner, I have no further question except that if you would you would note from the Land Investigation Report of all those clans in that compilation that I have provided, you will note that each of them tend to have the same population and the total area of land, they have purportedly given their approval to free up for purposes of acquisition as part of this SABL is exactly if people approved,

COMMISSIONER MIROU: That is 470,642 plus 149,117 hectares ---

40 MR BOKOMI: Yes, all of them seem to have, each particular clan which has given their consent, seem to have given their consent on the basis that they have 470,642 hectares and I submit that that is very very highly irregular and very fraudulent.

Commissioner, I have no further questions to ask the witness. May he be excused.

COMMISSIONER MIROU: Yes. Thank you Mr Wonen for your evidence. Is there anything you want to say before you leave the witness table?

A: Yes.

COMMISSIONER MIROU: Feel free to say what you have to say.

10

A: Firstly, is the land title. Land title – that is currently I am under NEWIL but we have not been made agreement to get one land title so I will get my land back. Yes, that is the point. Just only one point, I will get my land back. That is all.

20

COMMISSIONER MIROU: Yes, okay. Well, thank you Mr Women to come forward and assist the Inquiry on behalf of your people and we thank you for coming forward to provide assistance. At lease you yourself and the people present here know what the SABL is all about and as the Inquiry continues, we hope that this is enough to assist you people to become fully aware of your rights over land and how SABLs will affect you.

SABLs are there to improve benefits to our people but SABLs does not mean the entire portion of the land is extinguished from the people – taken away or alienated. It is something that a portion of a particular area or a hectare is released just basically for the development to take place and can benefit you yourself and your children but that is not happening. And that is the result of this Inquiry.

30

This inquiry will look into those facts and consider and make recommendations for improvements to be made for the future and good of our people. We thank you for coming forward and making that bold stand to speak on behalf of your people and we will report to the Government next year and it will also include this SABL which affects you and your people.

You are excused from giving evidence now. Thank you Mr Women.

#### **THE WITNESS WITHDREW**

40

[12.04p.m] MR BOKOMI: Commissioner, before we adjourn for lunch, I have no further witness to call at this point in time but I will do so after lunch.

COMMISSIONER MIROU: Any indication on which witnesses you have present here?

MR BOKOMI: I will make another attempt to call all the others which have been listed.

COMMISSIONER MIROU: So we shall deal with this further evidence---

MR BOKOMI: Yes. There are those other witnesses who have been summonsed, the summonses have been issued, perhaps we should make mention of that at 1.30.

COMMISSIONER MIROU: Yes.

10 MR BOKOMI: For the record, that is Mr Foxy Asobi, Foxy is spelt F-o-x-y and his surname is A-s-o-b-i. He is from Drindamaso village. He is a director I believe of North East West Investment Limited. Mr Samson Ubre, he will be appearing under Summons No 227 issued by the Commission. He also is a director of North East West Investment Limited. Mr Foxy Asobi will be appearing under Summons No 225. Mr Waidi Kwani---

COMMISSIONER MIROU: Sorry?

MR BOKOMI: Mr Waidi Kwani, Waidi is spent W-a-i-d-i, Kwani is K-w-a-n-i. He is from Dringas village. He is also a director and I understand he is the chairman of North East West Investment Limited. And the district  
20 administrator for North Fly District based here at Kiunga, Mr Ronald Manise Dmonai. Manise is spelt M-a-n-i-s-e, that is the middle name, and Dmonai which is the family or surname is D-m-o-n-a-i. He will be appearing under Summons No 223 and Mr Waide Kwani will be appearing under Summons No 224. We still have one more summons to serve and that is summons issued to Ms Betty Wain or Ms Betty Jenkin or some name like that.

COMMISSIONER MIROU: One of the directors?

MR BOKOMI: She is apparently an NGO activists and a proponent of the developer company North East International Timbers and Stevedoring Limited. She is also based here in Kiunga. Those are the persons that I will – if we serve  
30 Betty, Ms Wain, at lunch hour, then we will call her as well.

COMMISSIONER MIROU: The others have been served?

MR BOKOMI: But the others have been served. The District Administrator, Mr Dmonai is the chairman for the organising committee of the oncoming visit, the current visit of the Prime Minister. So ---

COMMISSIONER MIROU: He may not be---

MR BOKOMI: Yes, he has left with us his mobile number. We will discuss with you during lunch hour as to how we should proceed with that particular witness.

COMMISSIONER MIROU: We will require another day.

10 MR BOKOMI: The District Administrator has been called because of his execution of the recommendation as to alienability of all of these particular lands, Portions 14C, 27C and 1C now under inquiry. Commissioner, I have no further matters before you right now. I would ask that the hearing of the Commission be adjourned to 1.30 p.m.

COMMISSIONER MIROU: Yes. Mr Associate, shall we adjourn proceedings to 1.30?

## **LUNCHEON ADJOURNMENT**

[1:55pm] COMMISSIONER MIROU: Yes Mr Bokomi when you are ready.

20 MR BOKOMI: Good afternoon Commissioner. Before we adjourned for lunch I did indicate to you Commissioner that there were a number of witnesses under summons which we have served today. I believe they are in the hearing room now. They are namely, Mr Waidi Kwani, Summons number 224, Mr Samson Ubre, he is appearing under Summons No 227, Mr Foxy Asobi, he will be appearing under summons number 225 and Mr Ronald Manase Dmonai he will be appearing under summons number 223. He is the District Administrator for North Fly District based here at Kiunga. We understand that he is the Chairman of the organizing Committee but I have instructed the police officers assisting us to go and serve him the summons and they have in fact gone back to  
30 his office this afternoon at about one o'clock to advise his Secretary that if he can able to make himself available before the Commission this afternoon at about 2:30 or 3:00 if that is possible. We will be basically asking him a few questions on his involvement in the SABL and the role that he has played in

respect of recommending alienability of the various portions of land under inquiry.

COMMISSIONER MIROU: You want us to deal with those one who been summonsed?

MR BOKOMI: I would call them to basically take the witness box and then we find out from them when they actually want to give their evidence. There is also a Miss Betty Wai, I believe she has been served. She is in the hearing room today. Perhaps I should call on her first whilst if Mr Waidi Kwani, if you are in, if you can also wait until she takes the witness box and I note from your  
10 lawyer, Mr Titus's correspondence to us, that he would be ready by tomorrow with the affidavits. Perhaps we just make mention and adjourn to tomorrow.

COMMISSIONER MIROU: Maybe counsel we can call each one of them and as they can come forward, we can discharge them each for mention.

MR BOKOMI: Perhaps I start with Mr Waidi Kwani. Please take the witness box.

COMMISSIONER MIROU: Yes, we note your appearance on a summons that was issued to you this morning, served on you this morning. Thank you for attending this afternoon's session. Counsel is not ready to proceed and I understand that your lawyer, Mr Michael Titus, has contacted our lawyers here.  
20 Inform him that they will be preparing affidavits on your behalf including other members of the company. So in that regard, Counsel, we will adjourn and we will ask you to come tomorrow morning at 9:30 am. So your summons is extended to the date tomorrow, Friday the 18<sup>th</sup> at 9:30 am so you come tomorrow at 9:30 am. At the moment you are excused for that summons.

MR BOKOMI: The second witness under summons is Mr Samson Ubre. Mr Ubre is a Director of North East West Investment Limited, just as much as Mr Waidi Kwani is the Director and Chairman.

COMMISSIONER MIROU: Yes, likewise what I have said Mr Ubre, thank you for attending this afternoon. You have been served a summons and the  
30 purpose of the summons is to ask of you to provide further evidence to the Inquiry on the involvement as an executive of the Company which is now the owner of portion 1C which is subject of our Inquiry.

MR BOKOMI: Portions 1C and 27C.

COMMISSIONER MIROU: And your lawyer has written to the Commission this morning and we have asked him to provide affidavits and those affidavits we understand will be ready by tomorrow so in that regard we will have to excuse you this afternoon and ask you to come tomorrow at 9:30 am. You are excused.

MR BOKOMI: The third witness from the ranks of NEWIL, North East West Investment Limited is Mr Foxy Asobi. Commissioner, this witness appears under summons number 227 issued by the Commission.

COMMISSIONER MIROU: Yes, thank you Mr Asobi, you understand  
10 English?

MR ASOBI: Yes.

COMMISSIONER MIROU: Thank you. As you have heard counsel and I have told two of your other colleagues that your lawyer is preparing, making statements, I think you have seen your lawyer Mr Titus to organize your statements in writing. And this we understand will be delivered to the Commission and we will require your attendance tomorrow at 9:30am. Do you understand? Come to the hearing tomorrow morning at 9:30 am so that we can deal with you as a witness.

MR BOKOMI: Perhaps Commissioner, if you issue a consequential direction  
20 also that their lawyer serve us the documents at least by this afternoon or first thing in the morning tomorrow.

COMMISSIONER MIROU: Maybe, I will deal with that after I have dealt with the last.

MR BOKOMI: Thank you. Okay, Mr Asobi.

COMMISSIONER MIROU: You are excused.

MR BOKOMI: The other witness from, I believe North East West Investment Limited and the proposed developer company is Mrs Betty Waine.

COMMISSIONER MIROU: Witness, just take a seat there. Thank you. Mrs Waine, yes, good afternoon Mrs Waine. You have been served a summons, I  
30 believe sometime this afternoon by our police officers. The summons is basically to ask you to come and assist the Inquiry in relation to your involvement as a director of North East West Investment Limited. And since



the summons was served to you later this afternoon, we will require you to come tomorrow morning at 9.30 am and we will know exactly what your lawyer will provide to us in terms of obtaining statements from you and preparing affidavits which will serve on counsel and then counsel will inform the Commission whether they will be ready or we will have to find another date next week to deal with you. You are only summonsed as a witness and then you are asked to assist us with the Inquiry into this SABL which is called Portion 1C, which is 1C and 27C which is registered in the name of North East West Investment Limited. Therefore, we thank you for coming this afternoon  
10 and you are excused until tomorrow morning at 9.30 am. Counsel.

MR BOKOMI: Perhaps, you can now issue that consequential direction I have basically applied for, Commissioner.

COMMISSIONER MIROU: For those persons who have appeared on summonses, namely, Mr Asobi, Mr Gube, Mr Wani and Mrs Wai, this is a direction that your lawyers, your lawyer Mr Michael Titus, be informed to provide to the Commission later this afternoon or early ---

MR BOKOMI: First thing in the morning tomorrow before 8.30.

COMMISSIONER MIROU: Before 8.30, all your statements and other relevant documents that you wish to produce to this Commission. This is to  
20 allow our lawyers to look at those materials and then make – to consider them whether or not to call you or to make other things. So that is a direction and I hope that you will bring that to the attention of your lawyer this afternoon, before 8.30 tomorrow morning. Is that understood? Thank you.

MR BOKOMI: Thank you witnesses. I think one of you come forth ---

COMMISSIONER MIROU: You are excused from ---

MR BOKOMI: I have a letter from the Commission to your lawyer. If you can sign for it and take it straight to him, please, Mr Wani.

### **THE WITNESS WITHDREW**

30  
[2.06 pm] MR BOKOMI: Thank you, Commissioner. I have a number of witnesses to call for this afternoon. I would like to proceed with the first witness for the

afternoon, that is Mr Patoro Ako. Mr Ako, sorry, if I have not pronounced your name properly, correctly. Mr Ako, can you take the witness box.

COMMISSIONER MIROU: Sorry, counsel what is his name again?

MR BOKOMI: Patoro Ako. P-a-t-o-r-o, then Ako.

COMMISSIONER MIROU: A-k-o?

10 MR BOKOMI: Yes. Have him sworn.

**PATORO AKO, sworn:**

**XN: MR BOKOMI**

Q: Good afternoon to you witness.

A: Good afternoon.

20

Q: I am going to ask you some questions for the benefit of this Commission of Inquiry. Please you feel free to answer the questions, you do not have to feel intimidated or be afraid. You must speak truthfully and precisely what you know about the subject matter of this particular inquiry. Witness, can you, for record purposes, state your full name?

A: My name is Patoro Ako, P-a-t-o-r-o, surname is A-k-o.

Q: Which village do you come from?

30

A: I come from Gengas village along the Kiunga/Tabubil highway, kilometre 10.

Q: What clan from that village do you come from?

A: I come from the clan called Hongas clan, my small clan name called Hongas; Hongas clan.

40

Q: Could you tell the Commission all that you know about this thing called Special Agriculture and Business Lease, noting that there are two large or there are a number of large portions of land which are or have been under inquiry to date. Perhaps where your – if you can indicate on the map where your village lies and whether it falls within this portion 1C?

A: Start from Kiunga town is a State ground. At the back of the State land and going towards kilometre 17, that is where my land demarcation, Commissioner. That is part of – not inside, but the road corridor, part of the road corridor is taken away by SABL.

Q: Commissioner, I am subject to exercise of your discretion. This particular witness happens to be a witness from Portion 27C. I am subject to your discretion.

10

COMMISSIONER MIROU: We will hear him.

MR BOKOMI: Okay, very well.

COMMISSIONER MIROU: He is already on oath.

MR BOKOMI: Can you tell the Commission anything and everything that you know about this thing called SABL?

20 A: From my understanding as a clan member of the Hongas clan and a leader of Dringgas village and I was the former president of Kiunga Local Government, and this project called IT&S it was under my leadership. The project called IT&S was brought before my leadership and actually the road was only for the road corridor not – this name called SABL, I was not aware of that time when I was a leader. It was one of my agenda I discussed over this project because of the people neglected by the State have not put a road link towards East Awin, that way towards Nomad and all these way that is why we actually made a decision for only the road corridor not for this SABL to have this land title, everything. The  
30 proposal was only for the road corridor; road corridor from Kiunga town to Dringgas, all the way to Nomad. It is only – the approvals were only given to IT&S not the SABL. That is a new name I just overheard it now before I came into this Commission of Inquiry. All I know is only the IT&S as when I was a leader, as a president. I was the one who brought to the Provincial Assembly for endorsement and then we made a submission to NEC. It was under the IT&S not the SABL. SABL is a new name I just got it, found out from here Commissioner. I see that the whole land for the Awin tribe, almost all the Awin tribe is taken away by the SABL which totally we disagree and I appeal to the Commissioner  
40 before you the title here I want to make recommendation that the title must be thrown away because we are not for the – we are for the project, but it is only for the road corridor, it is not for this whole entire land, all entire land where the Awin tribe they own that land. That is all I know

and my people are not happy with how the arrangement was made. It must go through the Lands office, Lands office must deal with the customary landowners and make a proper arrangement for the proper benefit when the project comes in. The way I see it, it is not a proper arrangement.

10 So, therefore, Commissioner I see that this is not a proper arrangement where my people are – we are not aware of what is happening, what is happening here in – it is done in Moresby, not here. Therefore, the initial arrangement was only for the road corridor to be built all the way to Drimgas, past Drimgas, put the bridge across to Nomad and then all the way to Balimo and that is what they call Trans-Papuan highway; the initial arrangement. But this arrangement, SABL, I am not aware of it. I am not – I have never been sighted this type of arrangement since I was a leader.

COMMISSIONER MIROU: You say you were involved with IT&S. Have you had any involvement with the company called North East West Investment Limited?

20 A: After the company came in we- - -

Q: Which company came in first, IT&S or North East West Investment Limited?

A: IT&S came first and then through IT&S they asked the landowners to come up with a formal, a company called North East West Investment Company through IT&S.

30 Q: So you are saying that IT&S came before North East West Investment Limited was incorporated for the benefit of landowners?

A: Exactly.

Q: And so what did IT& tell you people; your people?

40 A: IT&S told my people that we will only build the road, access road both sides 40 kilometres, 40 metres on the road corridor buffer zone, 40 metres on that side, 40 metres on the other side. They said they will build the road and then they will put the agriculture project on both sides.

Q: What type of agricultural projects?

A: Rubber project, poultry project, oil palm project, like those. The company IT&S have told the people that this is the project through agriculture re-forest. They said they will put this type of project along the road corridor.

[2.19 pm] Q: Did anyone from the Department of Forest come in to see you regarding this corridor, this clearing that was going to take place in your land to clear the forest so that this road can be built?

10 A: That time was the initial stage where when the election came I came out from the office that is the time they came in.

Q: But you say you engineered the whole thing on behalf of your people with IT&S?

A: In fact, yes that was the starting time. I endorsed the project they came in and then we discussed to have the road in and then we asked for the environment team and all these people to come in. At that time election came in and I went out.

20

Q: When did you actually start negotiating with IT&S, what year?

A: 2006.

30

Q: Well, this SABL which is Special Agricultural and Business Lease is created under an Act called the Land Act. Section 10 says that; "The government can enter into agreement with the people to free up certain portions of their customary land so that people can be involved in commercial projects." But these commercial projects are to assist people within that area. That is what it is all about. SABL is law under what we call the Land Act and that is an avenue where the government comes in and uses your land which is customary land not State land and they make it become – they provide, they make this arrangement so that they can facilitate on behalf of people who enter into some projects like setting up agricultural projects. In the process too they will have to clear some parts of the forest. When they cut down trees, they must also plant, agricultural. So you will have Lands Department involved, you will also have forestry involvement, Department of Forest where forest are to be chopped down, cleared so that agricultural projects can take place. But these agricultural projects cannot take place without an agriculturist going and confirming, is that soil suitable for that type of agricultural project or not? You see a lot of things are involved. Then you must also look at the impact, is it going to spoil the waterways? You have to bring in the

40

Environment and Conservation people. They have to ensure that no pollution enters the water stream that affects the livelihood of people, fishing, hunting and gathering food and all these things. So it is not that simple. It involves a number of processes and these authorities or regulators are involved in that process. Did you, during that time with your involvement with IT&S get any information or any representation from the Department of Lands, the Forestry people, Environment and Conservation, Agriculture and Livestock?

10 A: No.

Q: Why?

A: That time they did not – we put our request, but they did not come and do the presentation. But the initial arrangement was to test the road along the – the soil along the road side not the entire whole land. Just for the road corridor and then 40 metres out of the road. That was the initial arrangement. Test the soil on both sides and give us the result so that what suitable crop will be grown in there.

20

Q: That is okay. You can clear land, you can clear those portions of the forest or things, but you must have at least those people from those departments involved in the actual process to allow those bodies to regulate whoever will come in to cut those things, in this case this company called, what is that company, counsel?

MR BOKOMI: IT&S.

COMMISSIONER MIROU: That is the developer company?

30

MR BOKOMI: That is the International Timbers and Stevedoring Limited.

COMMISSIONER MIROU: So this company must involve those government agencies to ensure that no trees are cut without proper monitoring from the Forest Department, Agriculture, all these aspects. Did they tell you that there was a need for them to comply with certain regulations that the government, the laws of our country has?

40 A: Commissioner, they did not give me the presentation. I was just advised that this is the project, the development will come. They will only build the road and then on both sides of the road they will plant this agriculture like rubber and all these things. But they never did the presentation where I was aware of it, but they only verbally talked to me.

Q: So since 2006 until now, are those things there?

A: Pardon?

Q: Have they planted, have they cleared the area, have they planted those things that they promised to do?

10 A: No, this time the project is not on and that agriculture project is not on; no.

MR BOKOMI: How about North East West Investment Limited? That is the company that actually holds the Special Agriculture and Business Lease, the SABL. Now, at that time you were dealing with International Timbers and Stevedoring Limited, did they ever at any point in time tell you that a landowner company called North East West Investment Limited is the company that we will facilitate for to be granted a Special Agriculture and Business Lease? Did they ever tell you that?

20 A: Yes, they told me.

Q: What did they exactly tell you?

A: They said along the road only; along the road they will plant agriculture like rubber, oil palm and other sustainable crops.

30 Q: But my question to you was; did they ever tell you that all these things that we are doing we will actually facilitate for formation of a landowner company which will acquire land, all the land that belongs to your tribe? What did you say you come from? East Awin tribe?

A: South Awin tribe on this side, the road corridor.

Q: Did they ever tell you that they will acquire all these land, starting from Kiunga township, all the way up north towards the border of Southern Highlands, which is now called portion 27C, this whole land?

A: No, they never told me.

40 Q: Sorry, this whole land here?

A: Commissioner, from my understanding and my knowledge they have never told me that they will acquire all these land for this SABL. They

only told me that they will build a road using your environment, both side of the road they will get the logs, sell it, get the money and build the road and this type of rubber trees they will plant. That is what they told me only. They never told me that this type of land they will acquire.

Q: All right, you are talking about logs for road?

A: Exactly.

10 Q: Anytime during your involvement with them, did you at any point in time ask them whether they had the money to build the road or were they going to come and log first and then get the money from your people's resource and then build the road for you?

A: Commissioner, that time they said they have the money. Up until now I have never seen any development anything on the ground, after all they just told me that SABL took over all the entire Awin land. That is where I am confused and I am not aware of it.

20 Q: That company called IT&S, International Timbers and Stevedoring Limited, does it have an established office here in Kiunga?

A: No, Commissioner.

Q: You said the company was involved as of 2006 up until now. Did it deploy any machinery, heavy equipment, whatsoever road construction heavy equipment, bulldozers, motor graders, rollers, dump trucks?

A: No. Up until now, nothing. No equipment on the ground.

30

MR BOKOMI: Commissioner, I am asking this question because perusal of the project agreement in a particular schedule sets out all the plant and equipment that this particular company will outlay and provide for purposes of this particular road construction.

COMMISSIONER MIROU: I will allow the question.

MR BOKOMI: Yes. Taking into account all that you have said, I now put it to you that, perhaps, let me start you off by asking you this simple question. Your  
40 Hongas clan, are you a leader of that clan?

A: Yes, I am the leader of that clan.



Q: Okay, how much land do you have in terms of – I will show you the map again.

[2.29 pm] Your clan land in and around portion 27C, can you give us a rough estimation of how much land you have, customary land for this particular portion 27C?

A: It is not quite big, it is about 20 kilometres by 20. It is not quite big, that portion.

10

COMMISSIONER MIROU: That is the proposed road. The proposed- - -

A: Apart from the proposed road, just the Kiunga/Tabubil highway just from kilometre 4 and then up to kilometre 17 just on the road corridor of the highway.

Q: Along the current highway?

A: The current, the current highway.

20

MR BOKOMI: Actually witness that is not a small block of land. That is a major piece of customary land which forms part of the portion 27C. Now, going on from there, in a nutshell, did anyone of the government officers come into your place and ask you to free up your land for this particular SABL concept?

A: No. No officer came assisting the local people to allow the SABL to come in. As a leader I say that no officer from the government department came in.

30

Q: Does that also include the District Administrator?

A: Yes.

Q: Mr Dmonai?

A: Yes. Nobody from the government department came in to assist the local people and giving them awareness that there will be a project, SABL will come in, but only IT&S awareness was made not the SABL.

40

Q: What I am basically referring you to is that any government officer, did they go in there to explain to you what SABL is all about and to also find out from you whether there were any disputes between your own clan and

any other clans insofar as your land usage, your land usages were or are concerned?

A: No. Commissioner, no. No officers assist us the local people especially my clan no officer came in to assist me.

Q: No officer including even the District Administrator?

A: No.

10

Q: Well, I am asking you this question because the District Administrator signed the certificate recommending alienability of your customary land as well as those of all your other people's within portions 27C and portions 1C including portion 14C that is further down towards Nomad area that according to him there were no disputes whatsoever arising from the land and that the people are willing to give up their land to the State for SABL purposes. That is the effect of the certificate recommending alienability and for which we have now summoned the District Administrator to come forward. My final question to you; so all in all what you are trying to tell the Commission is that your clan or your people in their entirety did not give their consent or nor approval for your entire customary land to be converted into an SABL?

20

A: My clan have never given the approval or consent and I have even never signed any consent. If I have, there should be a record somewhere around the table, Commissioner.

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

30 COMMISSIONER MIROU: I have no questions to ask. Do you have any other matters that you wish to raise before we allow you to take your seat, to be excused?

A: Commissioner, I will on behalf of my clan I say the title given to the North East West company through this SABL, the title must be given back to the people, my people, not the North East Investment Company. Because I have never signed a consent to allow them to come in to use my land.

40 MR BOKOMI: Very well witness to assist you, what you are basically saying in effect is; you want the title given to North East West Investment Limited over portion 27C revoked?

A: Revoked, yes.

Q: Thank you, Commissioner. I have no further questions, no further statements to make.

COMMISSIONER MIROU: Yes, thank you, Mr Ako for your evidence and your concerns. We have recorded them in our machine here and we will consider all that together with the other evidence we will be gathering during the course of our time here in Kiunga and we will be reporting to the  
10 government next year on the recommendations we need to make with regard to this SABL where your land is affected. So we thank you for coming forward and you are excused.

MR BOKOMI: Thank you witness.

### **THE WITNESS WITHDREW**

20 MR BOKOMI: Commissioner, my next witness for the afternoon is Samuel Kepuknai. Samuel. Commissioner, Samuel will give evidence in respect of portion number 1C North East West Investment Limited.

### **SAMUEL KEPUKNAI, sworn:**

#### **XN: MR BOKOMI**

30 Q: Witness, can you state your full name for the record? Your full name please?

A: Thank you. My name is Samuel Kepuknai.

Q: Can you spell your last name?

A: K-e-p-u-k-n-a-i.

Q: Where do you come from?

40 A: I come from a small village called Drimskai which is up the Fly River and it is located on the eastern bank about three hours from here by outboard motor.

Q: What clan do you come from?

A: I come from a clan called Suasuke clan.

Q: Could you demonstrate to the Commission where exactly on this particular map your village is located? Can you show the Commissioner where the – turn the map around. Commissioner that goes up past Drimgas village and the next village would be Drimskai. It is not clearly indicated on the map along the Fly River.

10  
[2.40 pm]

But it is clearly within portion 1C. I will ask you a few questions about this thing called Special Agricultural and Business Lease.

A: Yes.

Q: Firstly, at the start of these hearings, we did provide to the Commission what is called a land investigation report. That report is normally done by Lands officers. After talking to the local people in the area and conducting various land boundary walks and then also determining whether or not there are disputes between various landowners from different clans and then all that is compiled in what is called a land investigation report. At any point in time, over the last three years or for that matter over the last two years, did any Lands officer or a government officer for that matter, go into your village to speak to you and your clan about this thing called SABL and why they want your clan to free up any land? Did they conduct any awareness at all?

A: Thank you. Commissioner, I was a director in the North East West Investment and I was elected by two villages from Drimskai and Swipen villages, elected by them to be a director in the North East West Investment. On that – being a director and involved with a company called IT&S, your question of involving the government officers was never being done. It is a project, a Moresby project and illiterate people that was the channel of communication how I have observed. An investor right down to the village people bypassing the government office, the North Fly Office which is the Department of Western have been bypassed.

Q: You mean the provincial lands office here was never involved at all?

A: No, not to my knowledge, including the Forest officer which I myself had approached the Forest officer here to get involved on what they call an inventory, they have bypassed that. They may have done it purposely,

but from my view, as being a director in the landowner company, it is a Moresby project and down to the – Moresby project right to the village people direct.

COMMISSIONER MIROU: Sorry, this is an Inquiry hearing this proceeding so if you could all switch your mobile phones or put it on silent mode. It is disrupting the proceedings. You may continue.

MR BOKOMI: Please witness, go on.

10

A: Regarding the Special Agriculture Business Lease all I know was inventorying which was only for the Forestry which - the inventory is supposed to be on a 20 metres on both sides of the road which is the requirement for any Special Agriculture Lease. In this case, they went beyond that. And for the Special Agriculture Lease, the village people, the road that was being proposed, it is a proposed road and the type of agriculture lease or the type of agriculture cash crop that was talked about was never being, I mean, they talked about it, but up until now we do not know what sort of cash crop would be on both side of the – it is still not known. People have been believing on hearsay because most of the people they have been talking about are illiterates and so what they hear they believe things will happen just like that not knowing that procedures - they have no idea about that. I was one of those who have been asking questions to the investor and I have been kicked out because I was one of those person who asked a lot of questions.

20

Q: Sorry, when you say kicked out, what do you mean? Can you elaborate?

A: Yes. The investor – when a sensible question is asked to an investor- - -

30

Q: Who is that investor? What is that investor?

A: The agent is Neville Harsley, he is the architecture on this project. So I have been- - -

Q: Neville Harsley, you mean to say that the investor is International Timbers and Stevedoring Limited, is that the investor?

40

A: Yes, I do not know whether he is the investor or he is a broker or that I do not know. I have never been told about that.

Q: Please continue.

10 A: So, when I asked a lot of questions, they do it in a way that I am always avoided and that has made me – due to the honesty which people have elected me the 13 ILGs, I am supposed to act on behalf of them in talking about their portion of land and what sort of agriculture land and what sort of goodness is proposed in that. As a director I was – my input was never being taken care of. As I said, “kicked out”, means I am always avoided at all times and as I said the communication of – the way of communication was the investor from Moresby bypassing the Department of Western down to the village people and that was it. So that is why the government officers here will not know what is going on and the proposal, what they talked about, I think, in my view they will not know. But I was one of those landowner rep, I have been a critical person in that end and up until when I realised that they have acquired – they got the title which it comes out after the gazettal- - -

Q: Can you speak up, speak to the microphone.

20 A: After the gazettal I realised that my land was also being taken away without me knowing it so I just resigned from the landowner company.

Q: What gazettal are you talking about?

A: The land title of 1.2 million hectares which is 1C on that.

Q: You mean to say that the gazettal of the direct grant or regarding the- - -

A: The entire land.

Q: The SABL?

30

A: Yes.

Q: It is not 1.2 million hectares, it is 470,642 hectares?

A: Yes, that is part of that.

Q: It is part of that?

A: Yes.

40

Q: How did you come up with that 1.2 million? You are adding the whole lot?

A: You add up all that and you will come up to that total.

Q: Very well. You said you were a director of North East West Investment Limited. Are you still a director?

A: I have resigned.

Q: When did you resign?

10 A: Last year. That was, I have resigned last year.

Q: Last year?

A: Yes.

Q: Can you basically recall what particular date or any particular month of that year when you resigned?

20 A: I might tell you the wrong date so I have to bring you a copy.

Q: But you did resign last year?

A: Yes.

Q: Why did you resign?

30 A: I resigned basically because the entire land title was taken away from the land without the landowners knowing it, is one and as a director of the landowner company I was never told in the director meetings or gatherings or what about the idea of acquiring the land for the Special Agriculture Business Lease was never known.

Q: When you say land title was taken away, do you mean that the land title was obtained?

A: Sorry, thank you for correction there.

Q: Obtained?

40 A: Yes by the landowner company which I was also a director which I was not known of.

Q: Very well.

A: Thank you for correction.

Q: Back to your clan, you clan owns land within portion 1C. Is that correct?

A: Yes.

10 Q: Did you and your clan ever at any point in time sit down and discuss amongst yourselves on whether or not you will free up certain land for the State to acquire some of your customary land?

A: For the customary land, the village people have never released their land for title, never and all they were aware was for the road to go and that was it. They never talked about giving away their land for title or for survey or to do their Special Agriculture Business Lease – that was never, I mean, all we know was a road, that was it.

20 Q: In this instance, are you saying that the village people did not at any point in time, including your clan members agree to give away their land to North East West Investment Limited?

A: Never at any one time. This is because I come back to the first – because there was no government officer involved from the Department of Western and the only meetings was investor with the people here, the Kiunga project and the entire village people do not know all about what is going on. So there is no awareness and so the answer is no awareness whatsoever.

30 Q: Even when you were a director of the company, did any one of the members or officers of North East West Investment Limited conduct any awareness from Fly River – from the, let me see- - -

A: I know what- - -

40 Q: Yes, from the eastern side of the road leading to Tabubil from here towards Fly River all the way up to Palma River and then across to Strickland River and down to Nomad station did – perhaps up to Strickland River, did any one of the officers or members or agents of the company called North East West Investment Limited conduct any awareness at all for local people from this respective areas to free up their land and give their land to North East West Investment Limited under what is now called a SABL?



A: Yes, if that has been done I should be one of those taking part, but to my knowledge there was never been an awareness, never and not up until now.

[2.55 pm]Q: To put it the other way around. What you are basically saying in effect is that all the people from all these villages there may be a 100 plus villages within both portions, 27C and 1C were not consulted and they did not give their consent? Is that the correct position?

10 A: That is the correct position. Direct and indirectly they were never been involved. I mean the awareness have never been gone through.

Q: I mean for the SABL to be granted to NEWIL?

A: No.

Q: Commissioner, unless you have any further questions, I have no further questions.

20 COMMISSIONER MIROU: Yes, I have some questions. You say you were the director of North East West Investment Limited and you resigned just last year. Any specific months when you resigned?

A: Commissioner, at this moment I really cannot, but I have a letter which I have written to the executive of North East West Investment which I will produce it.

30 Q: Mr Kepuknai, you have to tell me what month did you resign from the company? If you have a letter you should know the date that you resigned from the company. Did you know the date when you were born?

A: Commissioner, I was born in the jungle with no date so my guess date is 16/6- - -

Q: So when did you resign from North East West Investment Limited?

A: It was last year, maybe around September, it could be around September, I think.

40 Q: I have a document here, that is an agreement and I believe you are part of this whole idea to free up those portions of land which is referred to as portion 1C. You were party of that decision to ensure that this whole area

portion 1C is given to the company that is called North East West Investment Limited. This is an application or tender form that was submitted to the Department of Lands by North East West Investment Limited, a landowner company. This landowner company as we shall see represents this whole area portion 1C which has 470,642 hectares submitted to the Department of Lands on behalf of this people, so to speak, on 20 June 2009. The type of lease that was required is Special Agriculture and Business Lease. You are fully aware of that?

10 A: I do not think I am aware of that.

Q: And the proposed purpose for it was for forestry, reforestation, sawmilling, agriculture and major road infrastructure construction and the estimated value of improvements or the benefits that will go to this whole area is estimated at K123 million. That is the reason why this company was now calling for this area to be given up because all the villages within this area agreed to allow this company to have control, title over that land. Why do you nod your head? You were a director and a director has responsibilities to the company. Were you involved in this decision making to apply for this SABL?

20

A: No.

Q: I want to give you this document and I want you to identify this signature and tell me whose signature is it? Whose signature is that?

A: This is not my signature.

Q: It is not your signature, but whose signature is it?

30

A: I do not know.

Q: How do you not know when you are a director of the company up until recently as of September 2010 last year?

A: I cannot tell. Commissioner, I am sorry, I cannot tell.

Q: Maybe we will ask the other directors to identify that signature?

40 A: Yes.

Q: But that is an application by the company on behalf of all the landowner companies to free up this land for 99 years which also includes your land

of which you are in this room now complaining about what happened to your land?

A: This is not my signature, Commissioner, I am sorry.

Q: No, I am not suggesting that that is your signature. I am asking you to identify whose signature is that?

A: No, I cannot.

10

Q: That document is the result of this SABL lease. You are still a member of that SABL until this grant came out and that is probably about the time you resigned from the company because on 23 September 2010 a direct grant was given. That means that this title was given to North East West Limited.

A: Commissioner, I resigned knowing that the title came out and without me a landowner knowing and it is like killing us indirectly so I had to resign.

20 Q: So what have you been doing all this time? Did you go out to tell your villagers that our land is going to be freed up to this company?

A: I think I am one of those person who has been campaigning that this idea is not right, taking away our land without the landowner knowing is indirectly killing us.

Q: But your resignation came too late.

A: Yes, it is too – I agree, yes.

30

Q: And as a result of your involvement as a director, you must understand that your involvement as a director of the company is a collective thing. This is the result of that – your involvement as a director of North East West Investment Limited. You have fiduciary obligations to yourself, to your people that you represent, the landowner company, it is a landowner company. It should not be dictated to by developers, foreign companies. And here we are being dictated to by foreigners. It is the result of being dictated to by foreigners and the result of it, our land is given away. Do you realise the seriousness of what has happened with regard to portion 1C, portion 27C, and portion 14C? This is what has happened. Because we have allowed ourselves to be dictated to by foreigners. Is that what has been happening to the company, the landowner companies?

40

A: I think the landowner companies, I mean- - -

Q: Is that the normal cause of duty that this company, the landowner company has to the people, being dictated to by a foreign owned company? I mean I pose this question because it is pretty serious. It is not an easy matter to sit here and talk about your passion for the people and yet without you knowing what you have done is simply a matter that has affected not only your people but the vast majority of people living within this area. The land is gone for 99 years.

10

A: Commissioner, I would like to put it to you that this idea was never being talked about by the directors. I for one I have never heard in a meeting, a landowner company which is called North East West Investment there has never been an agenda discussed. Not to my knowledge and to my presence.

Q: I am only putting this because these are documents, these are official government documents, these have been documented and it is sad to note that you were a director when all these decisions were made to make this SABL become a reality. In fact, your people have lost their customary rights for the next 99 years as of 2010 last year. That is the reality. So how do you go back to your people and tell them that we have to fight and remove this SABL when by law it is there.

20

A: I think there has been forgery going on.

Q: I did not hear you. Can you speak up?

A: In answer to that, there is something going on which is not right.

30

Q: Do you want to tell us about it?

A: No, I have no idea, but that is my suspect.

Q: Thank you. Mr Bokomi?

[3.05 pm] MR BOKOMI: Witness, perhaps for the benefit of all landowners present here, as Commissioner has explained. The effect of these lands having been acquired by the State and then granted to all the so-called landowner companies, not only here in this province, but right throughout Papua New Guinea including Oro Province, East and West New Britain Provinces, New Ireland, East and West Sepik Provinces, Morobe, Madang, the Highlands region the net effect is this, for the duration of the lease, for as long as the lease subsists meaning, for as

40

long as the lease is valid for all intention and purpose, unless there is a cross in the lease that reserves, you understand me, that reserves certain rights to customary landowners, customary landowners have lost it all for the entire 99 years or whatever term of the lease that may be. You understand, that is the crux of the matter. So the lease holder can come in any time and if there is oil and gas found in a spot where you go and you hunt and you gather, he is going to tell you, no, that is not your land, that is my land. That is the effect of all this. That is why the government has given serious consideration and has made this decision for the establishment of the Commission to inquire into all these matters. So perhaps in your meeting tonight or any other gatherings you take that and advise your people accordingly. Thank you, witness.

A: Thank you.

COMMISSIONER MIROU: Do you have any further statement to make?

A: Yes, please Commissioner. Over the six years, Commissioner, as what you have said, we the people here are peace loving people and we help each other. This project here has divided the people which is not caused by the nationals, there are certain individuals in this country who is going around and causing these divisions among the people, especially the illiterates using the village people in order to benefit themselves so I appreciate this Commission and after this Commission if whoever are at the back of this sort of programs, I think, they need to go away from the country. That is my view. Thank you.

Q: Yes, okay thank you Mr Kepuknai for your evidence. These are matters - land is a part of our livelihood, it is important for all of us, me included. I also own a land in the Gulf Province and my land is also part of this SABL so it is not an easy thing and so we hope that whatever evidence that you provide to us will assist us to come and formulate or make recommendations to the government so that this whole SABL thing can be reviewed. If amendments need to be made to the legislation, that is one of the things that we are required to do under our current Terms of Reference. So we thank you for coming forward and making your presentation to us this afternoon and as long as you are now fully aware of what an SABL and the requirements for it under law and its effects in the future does impact a lot on our society so thank you for coming forward and bearing with us. You are now excused.

A: Thank you.

## **THE WITNESS WITHDREW**

MR BOKOMI: Thank you, witness. Commissioner, I make an application to have this hearing adjourned briefly, whilst I attend to organise my other witnesses if they are here.

COMMISSIONER MIROU: We will adjourn briefly.

10

## **SHORT ADJOURNMENT**

[3:25pm] COMMISSIONER MIROU: Thank you Mr Bokomi.

MR BOKOMI: I will be calling the last witness for today's proceedings. The witness is Mr Frank Ameshu.

COMMISSIONER MIROU: Number six on the list.

20

MR BOKOMI: Yes. Of Drimdemasup village just upstream from here, along the Fly River.

COMMISSIONER MIROU: Yes, okay.

## **FRANK HAMESHU, Sworn:**

### **XN MR BOKOMI**

30

Q: Witness before I proceed to ask you questions, let me remind you that you are under Oath so whatever you say must be the truth and nothing but the truth. You must be honest and sincere in other words. Witness can you please tell the Commission what your full name is? Please speak into the microphone?

A: My name is Frank Hameshu, F-r-a-n-k, Hameshu, H-a-m-e-s-h-u and I am from Drimdamasu village in the East Awin Census Division.

40

Q: What clan of your village called Drimdamasu do you come from?

A: I come from a clan call Phayuri clan

Q: Sorry?

A: Phayuri clan.

Q: Can you spell the name of your clan?

A: Yes, it is P-h-a-y-u- r- i

10 Q: Phayuri clan?

A: Yes, Commissioner.

Q: I will show you this particular map of both portion 1C portion 27 C.  
Could you indicate on this map where exactly your village is located?

A: I am from Drimdamasu which the Elevala is the boundary outside, the  
village itself is outside of the boundary of the SABL but my land is in  
SABL.

20

Q: Please speak to the microphone.

A: My village is Drimdamasu it is outside of the SABL, located outside of  
the SABL area which is Drimdamasu where the river is Fly river and  
Elevala the boundary as well as I am aware. But my land is in the SABL  
which is above Busuri village on the Fly River. The Elevala is the  
boundary of the SABL which I am in 1C.

Q: What you are saying is that your clan owns land within portion 1C?

30

A: Yes.

Q: Can you give an estimation of how much area of land your clan have that  
is encompassed by---

COMMISSIONER MIROU: Counsel. if the witness can point out where.  
Indicate on the map where your village is?

A: My village is Drimdamasu and my land is up Elevala, up to the mouth of  
Ketu river.

40

Q: Witness, show the Commissioner where your village is first please?

A: Okay, my village is Drimdamasu just above Kiunga, and then that is on the Fly River and then going up Fly River then to the mouth, you turn to Elevela and then Elevela right up follow up Elevela then to Ketu. Mouth of Ketu is another river above Busuri village and my land is within Elevela and Ketu about maybe 3,000 hectares of land.

Q: 3,000 hectares?

A: Yes.

10

Q: Thank you witness. I am going to ask you other questions now. Are you aware at all of this particular thing call Special Agricultural and Business Lease?

A: I was not informed of the Special Agriculture and Business Lease, all that I knew was the road project so I was not involved by trying to put up my name on the ILG so I believe that I have not find anything. So I was querying on this thing why I was not informed and I did not fill in the ILGs for my clan.

20

Q: Do you know that there is a company called North East West Investment Limited which is a purported landowner company?

A: Yes, I am aware of the company. I knew that company and I thought that they were only concentrating on the road project.

Q: Did that company, its officers or even Provincial Lands officers here at any point in time come to your village to ask you if you own land within that portion 1C and whether your clan is willing to give away their land for purposes of establishment of what is now called a Special Agricultural and Business Lease described as portion 1C?

30

A: No, I was not aware of the idea of the Special Agriculture Business Lease and I have not seen any government officer coming along to inform me about the nature of – concerning the SABL. So in that regard I have not seen the government officer even though I was there. All that I saw was that they were only concentrating on the road project and they did not come around to our area about the Special Agriculture Business Lease.

40

Q: What road project was that?

A: The road project I mean this IT&S were trying to build a road, the big company involved in the North East West company, they were involved



in trying to build the road. That is what I know but coming to the village about informing the Special Agriculture Business Lease I was not informed.

Q: Did they tell you the name of the road?

A: All I know is the Dringas road to Wakira and Tegena and to Strickland that is what I know.

[3.35pm.]Q: They did not tell you that it was the Trans Papua Highway which was going to run from Gre to Dringas, and then with an electronic bridge over Fly River and on to Nomad down to Wawoi falls, and to somewhere in Balimo and across to Tanakawa and all these places, into Kikori and over to Kerema and into Port Moresby?

A: Yes, I have heard people talking about the electronic bridge and the road itself going up that far, that is what I know, but apart from that I was not informed, I was not aware of that.

20 Q: Did any government Land officer, including the District Administrator of North Fly at any point in time go to your village or go to any neighboring villages that you are aware of, to find out from you whether there were any landowner issues et cetera, whether there were disputes between various clan landowning groups and to conduct awareness on the need for you to you and your people to free up land to the State for whatever development purposes?

A: No, as far as I am concerned, I am aware, I have not seen any government officers from the North Fly District Administration getting the patrol  
30 team to give awareness on this project.

Q: How about officers from the national departments; Forestry, Agriculture, Lands Department? Did any national government officers come to your place at anytime over the last three?

A: No, no officer from the Forestry, Lands, Agriculture came to my village.

Q: How about officers of this company called International Timbers and Stevedoring Limited or in short IT&S, did any one of their officers, servants or agents go into your village to talk about the need for you to  
40 free up land so that they can put up whatever projects? No?

A: No, there was no meeting conducted as far as I have been there.

Q: And how about this company that seems to represent you and all the landowners and that company called North East West Investment Limited. Did at any point in time at all, anyone of their agents, servants officers, et cetera go in to also conduct awareness of the need for you free up your portion of customary land, above Elevela river, and what is the other river that you mentioned?

A: Ketu river.

10 Q: Ketu river totaling to about 3,000 hectare. Did officers of NEWIL ask you to free up that 3,000 hectares so that they can make application to acquire it as part of the SABL now which they have forming portion 1C?

A: No, not even representative or directors of the company came to my village and we had a meeting to talk about me freeing the land to the landowners company.

20 Q: What you are trying to say, you have never even met a mosquito that basically , sorry not mosquito but anybody that basically come into the area and representing the company NEWIL, North East West Investment Limited, to talk to you about this whole issue of SABL?

A: No.

Q: Sorry your answer?

30 A: No, no representative or directors of the company came to my village and talked about or gave awareness or inform us about the project especially the SABL on this project. I was not informed, not even one person even I am a public figure around there but no one came along and had a meeting with us in the village, no meeting was called.

Q: When you say you are a public figure, what do you mean?

A: I am a local leader, a community leader around here but I was not informed.

40 Q: May be there are also other clans, if you can confirm or deny, maybe there are also other clans in that Drimdamasu village, although it is outside portion 1C that may have also land to the best of your knowledge within portion 1C?

- A: Yes, there are about three clans that I know from Drimdamasu village which is in portion 1C which they have not filled in the ILG and consent their land.
- Q: What are those clans?
- A: They are, I mean one is myself and my clan group as I mentioned earlier, two is Slentya clan from Drimdamasu.
- 10 Q: Sorry, what is the name of the clan?
- A: Slentya, S- l- e- n- t- y- a.
- Q: Slentya clan?
- A: Yes.
- Q: And the third clan that you were talking about?
- 20 A: The third clan is Ditu clan, D- i- t- u.
- Q: Ditu clan?
- A: Yes.
- Q: Being a leader from the area you would know exactly or at least approximately where the various customary lands are and belonging to what clan, is that correct?
- 30 A: Yes.
- Q: Can you point to the map which I am going to show you now where the lands of those two other clans are within portion 1C? Please show the Commission.
- A: Another clan called Ditu clan is just on the other side of Drimdamasu from the Fly River, the eastern bank of the Fly River from the Drimdamasu village at the bank of the Drimdamasu village.
- 40 Q: But is it within portion 1C?
- A: It is in 27C, yes.

Q: Portion 27C, that is alright, okay how about the other clan?

A: The other clan is in portion 1C, that is the next clan neighbor of mine, that is Slentya clan is after my---

Q: Slentya clan that is after where your land stops, their land starts?

A: Yes.

10 Q: That is along the what river?

A: Above Ketu river on the Eevala.

Q: Eevala is on the south is it?

A: Yes.

Q: And then the Ketu river comes down it flows into Eevala is it?

20 A: Yes.

Q: It is somewhere there?

A: Yes, it is on the northern side of the Eevala.

Q: Okay, in terms of the number of persons in those three clans, how many persons do you have, what is the population of your clan?

A: My own clan have about 23 clan members.

30

Q: Twenty-three clan members?

A: Yes.

Q: Okay, how about Slentya, how many members?

[3:46pm] Q: Can you basically give a rough estimate?

A: The rough estimate would be about eight.

40

Q: And how about that other clan, sorry what is the name of that other clan?

A: Ditu clan.

Q: Yes, Ditu clan?

A: May be five, five members.

Q: So in total about thirty-six?

A: Yes.

10 Q: Thirty-six persons forming the three clans?

A: Yes.

Q: Those clans there are children in there as well who are growing up?

A: Yes, they have children.

Q: So together with the children would be – are you giving me the population of the adult only or is it inclusive of the children?

20

A: I am giving the population of all the clan members including the family.

Q: Children as well?

A: Yes.

Q: So, one, there was no awareness, no government officer went in neither was there any company officials both from North East West Investment and IT&S, none at all?

30

A: Yes.

Q: So you are really not aware of this all thing called SABL?

A: I am not really aware because I have not signed or I have not filled in any ILG forms. I have not even signed any ILG forms including this two clan groups, that is why I am not informed of that and I am not aware of that. That is where my concern is I have not signed the ILG forms so that is where my concern is.

40

Q: If I put to you, based on the evidence that you have given now, if I summarize it and put to you that neither your clan nor yourself nor even members of the Ditu clan or the Slentya clan gave your approval or

consent, gave your or their approval or consent for those parcels of land that you have indicated on the map within portion 1C to form part and parcel of SABL now described as portion 1C, would you tell the Commission as to whether or that is the true and correct position?

A: Yes. If I would have filled in the ILG forms then I would not give my evidence with rest of my two other clan groups.

Q: Commissioner, I have no further question.

10

COMMISSIONER MIROU: I have no questions to ask Mr Hameshu. Mr Frank Hameshu, Counsel has no questions to ask and I have no questions to ask you. I also thank you for coming forward to assist the Inquiry in giving evidence on behalf your members of your clan. Before you take the stand is there anything you want to say before you leave?

20

A: Yes, Commissioner. The process of the title on the SABL is not proper because I had not signed ILG forms and that my land is not registered and that I had not given the consent to the North East West Investment for the SABL. That is where my concern so if I have not signed any consent or ILG in relation to this SABL, then how was it that the title was granted for the SABL if I was not given my consent. Because when I heard that I thought that I was going to off my land of the SABL but since that the whole land is covered, I would like that SABL to be revoked and give our land back and review the road project only. Because we are hunters and gatherers on our land and most of the people in our area are illiterate. They do not know what is happening and they would not come and attend like this because they are very silent they do not know what is happening. That is why I feel that the process was not followed properly in order to obtain the SABL, because I have not seen government officers involved in this project and I have only seen the company directors talking about the road project, the Gre-Drimgas to the Strickland road project. But the SABL this is where I am opposing strongly because our people do not know what is happening here. So I think my position is that because I had not signed the ILG forms and my land is not registered before giving my consent that the title I see is illegal that has been obtained so I want this title to be revoked and concentrate on the review on the road project alone.

30

40 COMMISSIONER MIROU: Thank you Mr Hameshu for your comments and the statement that you have given to us. It will assist us in our inquiry and we thank you for coming forward to assist the Inquiry, you are excused.

## THE WITNESS WITHDREW

MR BOKOMI: Thank you Commissioner. That ends the list of witnesses that I was going to call today. The District Administer I understand is in the hearing room now for North Fly District, Mr Ronald Manase DMonai.

COMMISSIONER MIROU: Yes, you may come forward.

10 MR BOKOMI: He appears as a witness under Summons No 223 issued by the Commission. Mr Dmonai, please can you take the witness box.

COMMISSIONER MIROU: That is Mr Emoni? Yes, thank you Mr Emoni thank you for coming.

MR BOKOMI: Mr DMonai, D-M- o-n-a-i

COMMISSIONER: DMonai, yes. Thank you for answering to the summons that was probably served to you this morning by our officers. The  
20 purpose is to call you to come and assist the Inquiry in your role as District Administrator and for signing the land investigation report in relation portion 1C, portion 27C and portion 14C. But these are in the schedule to the summons. We understand that you have been appointed chairman in the coming of the Prime Minister tomorrow. Which means that you will not be available tomorrow to so I will ask counsel for an appropriate time to fix for you next week.

MR BOKOMI: Thank you. I will have to ask the witness if he wants to give  
30 verbal evidence he gives, otherwise, if he wants to reduce his evidence in writing that would even be better for the purposes of the Commission and then later he can speak through his evidence in writing and we can ask him certain questions. Perhaps if we can have him stood over to Monday because we will be formerly writing to the Provincial Administrator to direct release of both Mr DMonai and Mr Papa for the purposes of assisting the Commission in its inquiry in the course of next week. So perhaps witness I would suggest you put something down in writing in relation basically to your role in signing off on the recommendation as alienability of this very, very portions of land. DA, if I can  
40 show you, these are not peanut parcels of land we are talking about, very vast land of customary land. That is portion 27C, 1C and there 14C is on the other side so it is a very serious matter that is why we have called you up by summons for you to come and answer some questions as to your role and involvement in basically facilitating alienation of those very vast tracks of customary land.

COMMISSIONER MIROU: We do not require you to make any statement now but this is only in answer to the summons. You will make your statement on Monday.

MR BOKOMI: Yes. We know that there is a meeting in Daru for government officers on Monday and we have requested a special reprieve from the Provincial Administrator for both you and Mr Papa to be with us for purposes of assisting the Commission in its inquiry.

10

A: Can I say something with due respect Commissioner?

MR BOKOMI: Yes.

COMMISSIONER MIROU: No, it is only for recording purposes, you speak loud.

MR DMONAI: Can I say something, with due respect Commissioner, on behalf of my people here as a local ethnic person a professional from this part of the world.

20

COMMISSIONER MIROU: If you are going to make a statement, we will have to swear you on oath. You have to be sworn on the Bible to make your statement.

**RONALD MANASE DMONAI, sworn:**

**XN: MR BOKOMI**

30

COMMISSIONER MIROU: And also Mr Dmonai, this statement that you are trying to make is it any way related to the matters that the Inquiry will be touching on?

A: Yes, Commissioner.

COMMISSIONER MIROU: Particularly this is you are answering to a summons and we are only here for a mention so that we can fix a date on Monday for you to return so that you can make statement proper; the proper evidence. That is why we are giving you the opportunity to go back and put it into a statement and affidavit that you can come and read into the records. If you can probably think it over. That is the reason why we called you because

40



since you were issued with the summonses it is a requirement for you to attend the hearing so that we can take note of your appearance today and set a matter for another date so that you can come give your evidence. That is basically what we are doing now. So if you can leave that statement for the time being and we can fix a date on Monday for you to come back and if you can think about this matter and put it into an affidavit, a properly sworn affidavit so that you can come and read it into the records. That will be the best way to deal with your statement but I can allow you to read your statement since you have been sworn to and then counsel can decide later to deal with issues arising out of that statement.

MR BOKOMI: I have no problem Commissioner, it is at your discretion. If the witness is inclined to give evidence verbally now then I have no objections.

COMMISSIONER MIROU: Yes, okay. You may proceed.

MR BOKOMI: Firstly, before you proceed, can you tell the Commission what your full name is and your position within the Department of Western Province?

A: Thank you, Commissioner, my name is Ronald Manese Dmonai.

Q: Please speak into the microphone.

A: My name is Ronald Manese Dmonai. I am the District Administrator of the North Fly District. I have been a District Administrator for the last 13 years after I finished university in Western Sydney in Australia in 1998 with a Masters Degree.

[4:02pm]

I am from the Awin tribe, from here. It was in 2008, Imen Papa was my District Lands officer at that time in 2008 while I was on official duty travel to Port Moresby. Mr Imen Papa was also on official duty travel; in Port Moresby. I was living in the hotel at Lamana when Hudson Hape, a surveyor with IT&S and Mr Papa who was the investigating officer at that time brought the documents to the hotel room and I signed believing all the information for the purpose of the Trans Papuan Highway. The signing was done for the purposes of acquiring the land to provide road accessibility for my people on the North East as well as our people in the Nomad area for the road acquisition and it is not for SABL. That was the understanding I had when I signed this document now in front of you. That they were to build the road in exchange for the logs as well as the road, that document was signed for the acquisition of the road from Drimgas to Nomad for the purpose of the Trans Papuan Highway. While in the course of all the meetings that was held by IT&S, no officers

within my office or from the North Fly District Administration was deployed to conduct land investigation report, investigation to identify landowners along the proposed road corridor. None of my officers were deployed to conduct the road, the land investigation to identify landowners who own the land along this proposed road corridor. There was no clear direction from National Department and Physical Planning or any other organizations directing North Fly District Administration through my office to deploy officers to conduct land investigation reports to indentify landowners along this proposed road. So Commissioner, if I  
10 can continue, I am in support with Frank Hameshu who so gave his evidence today. As DA, I signed because for the fact that majority of my people who live and dwell silently in this part of the district have no road accessibility. They have been without road for the last 30 years as I speak today in this room. Thirty odd years. The reason why I signed this document is that if this reputable company was honest enough and that this document – I thought everything was okay and I signed purposely for the acquisition of the land along this proposed road so that my people can have accessibility to CBD here in Kiunga Central Business District in Kiunga. So that also the government services can reach them. That is the  
20 whole purpose, not to acquire the total land mass here in the North East Awin area reaching Demapari, Nomad, Moguru, Havi, Suavi, Deberebip, all those villages I have named I have been to those villages as a Government Extension Officer.

Q: Witness I will stop you there. This is a land investigation report that you signed off on the recommendation as alienability part so I will just read for record purposes.

COMMISSIONER MIROU: Read the entire statement.

30

MR BOKOMI: Yes the entire statement. You say that, “I Ronald Manese Dmonai, District Administrator of North Fly District, Western Province, do hereby certify that in respect of the proposed purchase lease by the State of 470,642 hectares, it is not for the road corridor but it is for the entire plot of land encompassing 470,642 hectares of native owned land known as Awin Pari and situated near Kiunga in the District of North Fly Western Province;

- (a) There is no dispute as to ownership;
- 40 (b) The native owners of the aforesaid said land and the native owners of all improvements thereon are willing to sell, lease the land and improvements to the State;

(c) The sale lease of the aforesaid said land improvements to the State will not be detrimental to the best interest of the landowners and I repeat will not be detrimental to the best interest of the native owners or of their decedents either now or in the foreseeable future; and

10 (d) I have fully considered the question of reserving to the native owners and or their decedents rights of hunting, gathering, collecting, fishing and access and I recommend that no such reservation be made. The aforesaid land is not required for the public purpose given under my hand at Kiunga this 19<sup>th</sup> day of December 2008.” And you signed off as North Fly District Administrator. You said you were in Port Moresby which is the prove - you tell the Commission whether this whole document was put before you, for you to read. It says the type of lease or propose use, Special Agricultural and Business Lease, not for road corridor. What is the true and correct version Mr Administrator?

A: As I said, Commissioner, I was given this at the what and I just signed at the hotel with Imen Papa.

20 Q: Where did you signed the document? Sorry, you answer my question, witness. Where did you sign the document, here at Kiunga or at Port Moresby? Witness I am asking you a simple question where did you sign the document?

A: In Port Moresby.

Q: Where, at Lamana?

A: Yes.

30 Q: Who brought to you the document, Mr Hudson Hape is it?

A: Hudson Ape and Imen Papa.

Q: And Imen Papa?

A: Yes.

40 Q: Did they explain to you the nature of the documents and the consequence of you recommending alienability for the customary land?

A: No.

COMMISSIONER MIROU: Well, if you look at part (d), “I have fully considered the question of reserving to the native owners and their dependents rights of hunting, gathering, collecting, fishing and access and I recommend that no such reservations be made. That means whoever lives within that boundary SABL has no rights to hunting, gathering, collecting, fishing and access.” That is what you recommended Mr Dmonai.

A: Commissioner, I was not explained, I only signed, I was not explained.

10 Q: What is due diligences? When you receive a document of this nature, do you just sign or do you have to read through this all entire report, this complete report. Due diligences requires that you read it and ensure that everything is satisfied and all the processes are completed, then you sign off.

A: Commissioner, with due respect, I was not explained by---

20 Q: Did you read this document, did you read the entire document, this bulky document prepared not by the Lands Department but by IT&S. Did you read it?

A: I have not read the document.

Q: Due diligences, where is the due diligences? Not only that – that is portion 1C, this is portion 27C, did you read these documents? And look at it all the pages where you signed off. Tell us, have you conducted due diligences in all these things?

[4:16pm]A: With due respect Commissioner, this document was not – I was brought  
30 this and I only signed, I did not---

Q: Who brought it to your attention? Mr Imen Papa?

A: Yes, it was this surveyor and Mr Papa who brought it and I just signed.

MR BOKOMI: Did they bring to you a bulky document like this or just that one page?

A: Just one page, this document, just this one page.

40

Q: Then you would agree with me that they actually committed a total scam, sham and a fraud, is that correct?

A: That is correct, Commissioner. Without me actually reading that content and context of that document.

Q: But why did you not ask them, where are the other attendant documentations?

COMMISSIONER MIROU: They have to come with the whole entire book so that you can read them. You are required to read the entire document before you signed?

10

A: I was to but Commissioner with due respect I did not get the whole document, they did not deliver the whole document for me to read as a due diligence before I signed.

Q: That is why a due diligence is very important.

MR BOKOMI: Let us talk about due diligence witness. This is a once page document it is called recommendation as to alienability. It is much more easier for you to read this one page, is that correct?

20

A: I only signed, I did not read.

Q: You only signed?

A: Yes, that is right.

COMMISSIONER MIROU: We will accept that, but you did not conduct the due diligences, that means you did not read the whole report?

30 A: No, sir the whole document like that was not given to me.

MR BOKOMI: What did they tell you when they brought this document?

A: They said, the document is here, you sign, so I signed only without reading the contents.

Q: Without even reading the content?

A: Content, I just signed.

40

Q: Now, you stated in your opening that you hold a Masters degree from where what university?

A: Western Sydney, Oxford.

Q: If I put to you that you have actually failed your responsibility, in your responsibility and to your people, this very utmost responsibility, what do you say about that? You have not even read a one page document for a Masters degree holder?

A: Commissioner, with due respect, I was not allowed to read the content of the documents before I signed. I signed because the document was given to me so I signed only without reading the document.

COMMISSIONER MIROU: Mr DMonai, also do you have any power of delegation to sign recommendations of alienability or is it your head of the Provincial Department which is the Provincial Administrator? You have the powers to sign those documents or is it vested in the Provincial Administrator?

A: That is vested at the Provincial Administrator's level.

Q: Normally the Provincial Administrator must sign certificates of recommendations for alienability of customary land. So do you have any instrumental or delegation, delegating you the powers of the Provincial Administrator to sign?

A: No.

Q: Thank you.

MR BOKOMI: Witness, you will agree with me that you did not even go out to the villages to conduct investigations yourself to ascertain whether various portions of land – landowners owning various portions of land has no dispute, is that correct?

A: I have never conducted the land investigation myself nor the officers under my administration, no.

COMMISSIONER MIROU: Normally the Lands officer is required to undertake those activities which they have failed in this exercise. Not an exercise but actually the whole land in Western Provinces has been given up to companies without our people even knowing that their land has been given away.

A: Commissioner, normally it is the Lands officer who do the land investigation or LLG managers.

COMMISSIONER MIROU: We will make our inquiry with the Lands Department. But we are concerned that because you had made a recommendation that is the basis for a direct grant to be issued. You are stuck with it, you cannot take it away, you are stuck with it. Counsel?

MR BOKOMI: There was no report before you at all, no report whatsoever, firstly confirming or at least forming the basis for you to certify that there is no dispute as to ownership of the land proposed to be acquired. In this instance the entire portion 1C. That is 460,642 hectare. Mr Dmonai, that is a very, very big parcel of land, that encompasses all your people's customary land. How can you so blatantly disregard reading this document and then you sign, did you date yourself or who dated these documents? It says, "Given under my hand at Kiunga this 18<sup>th</sup> day of December 2008." Whose handwriting is this? Is that your handwriting, can you confirm that?

A: This is my signature but the date and the location written is not my handwriting.

Q: So if I put to that you were given a blank document and told to sign, basically were you are supposed to sign, is that the correct position?

A: That is correct.

Q: Do you understand and appreciate the gravity of your actions? You have basically committed perjury against your people by signing this document and on the basis of your signature, the land has been given away? Commissioner I have no further question.

COMMISSIONER MIROU: Mr DMonai I have no questions to ask you but you wish to conclude your statement or?

A: I would like to continue. The document was given to me and I signed thinking that it was the road and I did not read the content of what was on that document. If I was given this document that is now in front of you and I read through it and then getting ready for that, then I could have read and I could have not signed. I was given this document that counsel has read and brought a eye witness and seen by Imen Papa and that particulars are there, given to me, I signed and I did not read the content. I assumed that it was for land investigation and not SABL special lease.

COMMISSIONER MIROU: Speak up.

A: I assumed that it was for land acquisition and not for Special Agriculture and Business Lease. I would say that this is a fraud that was used for the purpose of getting into the SABL. I could like to recommend here for the revocation for the SABL titles within the North Fly District and part of Middle Fly. The reason being that---

MR BOKOMI: Could you be specific, what portions? Is that Portions 1C, 27C and 14C in relation Tosigiba, that is the Nomad area? Those are the areas where you have signed certificate as to alienability.

10

A: That is the area as well as the area from Dringgas all the way to the Nomad and at the back of Nomad. I want that to happen as soon as possible because IT&S never had a presentation of what they want to do with the Western Provincial Administration.

Q: Sorry, what is that? Is that International Timbers and Stevedoring Limited?

A: That is right.

20

Q: Headed by an American, a foreigner called Neville Harsely?

A: Correct, Commissioner.

Q: By the name of Neville Harsely, yes?

A: Correct.

Q: Okay.

30

A: I was shoved this document to sign in the early presentation of mine when you allowed me to talk. As I have said already. But now my recommendation, one, is to revoke the intention of what is now called the SABL. I think he has used the normal process and led to the corridor line for these particulars, Special Agriculture and Business Lease purposes. We do not want this to happen and it must – because this company has been sending Lands officers, surveyors to come and do all the ILGs and all those things with the people here along this proposed road corridor. Western administration of North Fly District administration do not have any document in regard to the deployment of officers for that purpose. Two months ago, the people argued and myself and Imen Papa went down and talked to the people and we told them this people may be conning.

40



Q: Please speak to the microphone.

A: This people, they may be a reputable company or not, they are telling lies, they may be telling lies and that we need to know what they are going to do. If they are going to do socio-economic projects along the road corridor and help the people and open up the road in exchange for their logs, all the way to Nomad and behind Nomad and all the way to go down, they need to come and do a presentation to Western Provincial administration so that we know what are the benefits streams are; what are the benefit streams are for the people.

10

[4.30 p.m.]

What will be the timber royalties given to the people? How are they going to provide benefit business opportunities for the landowners along the road corridor all the way to Nomad and go beyond Bosavi and go down that way. So I want to go back to that document. I did not read all these documents and signed it. But because I was given, I just signed and I said, "Okay, I will sign it." I did not read the content.

20

If they are to acquire the land, it is not supposed to be 4 kilometres and beyond but it should be about 40 meters on both sides of the road corridor so that these people can tap tappable trees and exchange their logs for the road construction to go so that we can provide accessibility for this people, both for government purposes and for the people to come to CBD and go back the same day. That was the intention. So my recommendation is still there. Revoke this intention by IT&S that led to SABL arrangement, that must be revoked. We have seen everything and we revoke everything. If it means for a new company to come in, then a new company must come. So, Commissioner, I will stop here.

30

I was served to sign, I have signed. I did not read the due diligence report, I just signed because I was caught by surprise. I had not been debriefed before I signed, I just signed thinking that everything was okay. How they went about doing this, I have no idea. I have stayed 13 years as a DA here, this is for the first time that ---

COMMISSIONER MIROU: Mr DMonai, we accept your explanation on the issue and we thank you for your honesty and your sincerity to express your genuineness, honesty so we accept that as it is and when you say about your recommendations, these are recommendations that this Inquiry will continue until March next year when we will complete our report and make

recommendation to the government. So after that time you will know what is the outcome of our recommendation, and this will feature in our report; these SABLs and other things, and we thank you for your evidence.

A: Commissioner, can I make my last ---

COMMISSIONER MIROU: Yes, you are entitled to say what you have to say.

10 A: It was two months ago when there was a conflict between the landowners as to when IT&S will start the road, from Dringas to Nomad. The landowners at the mouth of this, the Dringas, they wanted a sublease for the log pond and site area, to leave the equipment so that they can start working from there. Never have they said, no. We had a meeting down there at Sari corner one evening during the weekend. And he said that he will move the project and start the project at Yabo, and his project operation will be at Yabo. I said, no, you come and start here. It was half past six when I talked to Mr Neville Harsely and I told him, you will have to come and present whatever you are going to do to the Western Provincial administration here in Kiunga of your company's operation, otherwise we will not help you. So that is what really happened. That was not too far away from this Inquiry.

Q: Mr DMonai, you have also raised ---

20 A: So from that then we will know he may be a con person.

Q: Mr DMonai, you have also expressed some difficulties; your difficulties are also accessibility, rivers, swamps and thick forests. These are some of the difficulties you encounter as part of your responsibilities. We have taken those into account.

A: With that, Mr Commissioner, I think I will finish here.

30 MR BOKOMI: Mr DMonai, I know you would stop there. But perhaps, has anyone of your officers including yourself from the provincial administration done a due diligence on Mr Harsley and his company called, International Timbers and Stevedoring Limited? I am posing this because from evidence earlier on, which has been brought to the attention of the Commission by various witnesses, we note that the company IT&S has no established office here in Kiunga, it has only a registered office from which it operates out of, that is on the 10<sup>th</sup> floor of Pacific View Apartments at Korobosea, Port Moresby,

National Capital District and that it has no machineries whatsoever on the ground here in Kiunga nor I take it to also include Port Moresby and Papua New Guinea. So as government officers, my suggestion to you is, please do your due diligence on anything and everything that you do because in your capacity as the District Administrator, and who knows you may become the Provincial Administrator tomorrow if political climate changes, then these are some of the things that I believe you should look out for rather than simply signing documents without reading. Moreover, you are a very educated man from your area. So on that note, Mr DMonai, I thank you for your evidence, I  
10 have no further questions to ask you. Perhaps Commissioner, we can allow him to be excused?

COMMISSIONER MIROU: Yes. Mr DMonai, just for your information, under the Commission of Inquiries Act, whatever evidence you shall give, you have immunity because that information will not be used against you in a court of law, either criminal or civil proceedings so you can feel assured that nothing will happen to you insofar as this Commission of Inquiry is concerned. We will excuse you and you are discharged from the summons. Thank you.

MR DMONAI: Will I appear again Commissioner on Monday?

COMMISSIONER MIROU: No, you are discharged now and there is no need  
20 for you to attend, except that as counsel has indicated that we will be asking the Provincial Administrator for your assistance to the Inquiry. Thank you.

## **THE WITNESS WITHDREW**

COMMISSIONER MIROU: Mr Bokomi, since we have completed our ---

MR BOKOMI: Yes. Thank you Commissioner. I believe we do not need any more written statements from him. I think he has basically said it all – I am referring to Mr Dmonai. So Commissioner, that basically concludes the hearings for today in relation to Portion 1C and 27C. Tomorrow we will begin  
30 with Tosigiba Investment Limited, Portion 14C. Anyone in the room here from Tosigiba, apart from Mr Dabo? If you have any statements, etc to make, please come down to Room 42, Kiunga Guest House and ask for me. My name is Jim Bokomi.

Alright, with that, Commissioner, I ask that the hearings of the Commission be adjourned to tomorrow at 9.30.

COMMISSIONER MIROU: Yes, thank you. These proceedings are adjourned to 9.30 tomorrow morning.

10 **AT 4.40 P.M. THE COMMISSION OF INQUIRY INTO SABL5 WAS  
ADJOURNED TO TOMORROW, FRIDAY 18 NOVEMBER 2011 AT  
9.30 A.M.**

**INDEX****PAGE NO**

	MONTFORD AWETARI, Sworn:.....	09
	XN: MR JIMMY BOKOMI.....	09
	THE WITNESS WITHDREW.....	18
	NELON WOMEN, Sworn: .....	19
	XN: JIMMY BOKOMI.....	19
10	THE WITNESS WITHDREW.....	34
	PATORO AKO, sworn:.....	34
	XN: MR BOKOMI.....	34
	THE WITNESS WITHDREW.....	43
	SAMUEL KEPUKNAI, sworn:.....	43
	XN: MR BOKOMI.....	43
20	THE WITNESS WITHDREW.....	54
	FRANK HAMESHU, Sworn:.....	54
	XN MR BOKOMI.....	54
	THE WITNESS WITHDREW.....	63
30	RONALD MANASE DMONAI, sworn:.....	64
	XN: MR BOKOMI.....	64
	THE WITNESS WITHDREW.....	75

**EXHIBIT**

**PAGE NO**

EXHIBIT NEWIL 1C(1) – MAP OF PORTION 1C ..... 05  
TENDERED INTO EVIDENCE

EXHIBIT NEWIL 1C(2) – LAND INVESTIGATION ..... 05  
REPORT TENDERED

10

EXHIBIT NEWIL 1C(3) – GAZETTED NOTICE ..... 07  
NUMBER G218 DATED 14 SEPTEMBER 2010  
AT PAGE 2 – NOTICE OF DIRECT GRANT  
UNDER SECTION 102 SIGNED BY MR PEPI KIMAS,  
DELEGATE OF THE MINISTER FOR LANDS AND  
PHYSICAL PLANNING DATED 23 SEPTEMBER 2010

20