



COMMISSION OF INQUIRY INTO SABL

MR ALOIS JEREWAI

COMMISSIONER

DAGENHARDT CONFERENCE ROOM, RABAU ARCHDIOCESE,  
VUNAPOPE, KOKOPO, FRIDAY 28 OCTOBER 2011 AT 10.26 A.M.  
(Continued from Tuesday 25 October 2011)

10.09 am] MS PEIPUL: Good morning Commissioner, this is a continuation of a matter on I believe it was Tuesday, it was this past Tuesday, Commissioner. We have heard from the Lands, provincial Lands officers on Tuesday and I believe we will be continuing on with at least one of them Mr Ereman Peril and then we will be proceeding on with calling witnesses from the company, the grantee company Toriu Timbers. That is the matter in which we would want to proceed. However, I do note there could be other persons present from with respect to other SABL matters, perhaps we want to get an indication of who is present. However, if not, we can proceed with Toriu Timbers at this time.

COMMISSIONER JEREWAI: Before we do I agree, counsel that we just check on any other SABLs. I do not seem to have a – is there any, there is no PA system.

MS PEIPUL: Commissioner, it appears there is no speakers at the back of you so obviously there would not be a microphone. Speakers are not available so – so you would have to project more, yes.

COMMISSIONER JEREWAI: All right, I will just have to speak up.

MS PEIPUL: Yes, exactly.

COMMISSIONER JEREWAI: Let me just hope my voice will hold for the day. Before we proceed this morning with Toriu Timbers inquisition, we would like to do some preliminaries. Are there other SABLs, Special Agriculture Business Leases representatives in the room so that we can deal with them administratively before we continue with the Inquiry into Toriu Timbers? Are there anyone who represents any other Special Agriculture Business Leases? No, no one is responding. So we will not do any administrative one on them. We will proceed with Toriu where we left off and afterwards we can deal with others.

MS PEIPUL: Thank you Commissioner. If we can then continue with Mr Ereman Peril? We can call Mr Ereman Peril into the witness box.

COMMISSIONER JEREWAI: Please.

**EREMAN PERIL, Continuing:**

**XN: MS PEIPUL**

Q: Mr Peril, you are still under oath at this time so I think we can carry on with where we left off couple of days ago. Prior to us continuing, I believe you may have some documents that you have been asked to produce? Perhaps you can – thank you Mr Peril, you have produced a Provincial Executive Council Decision Number 6 of 2005, Meeting Number One of 2005 regarding oil palm development Toriu, Pondo and Bai, I believe. And it is just regarding an approval of some K300,000 from trust fund to be used in a study to be carried out. That was as of 2005. And then there is another PEC, Provincial Executive Council Decision which has been previously referred to by another witness Mr Balbal, that is Decision Number 19 of 2006 of Meeting Number Four of 2006 also referring to the Inland Lassul-Baining Toriu Integrated Agriculture Project. So those are the two documents you produced as well as the meeting Minutes of the meeting of 13 March 2006 which appears to be a separate meeting apart from these, the two decision documents. So those are the three documents you produced this morning. They also make reference to the project within the Meeting Minutes.

COMMISSIONER JEREWAI: Could I take a look at them?

MS PEIPUL: Yes, you can give that to Commissioner. I note that it ---

COMMISSIONER JEREWAI: Ms Peipul, I will just take a look at this before we proceed.

MS PEIPUL: Yes, of course, Commissioner.

COMMISSIONER JEREWAI: Very well. Associate, pass them back to Ms Peipul. Ms Peipul, thank you, you may proceed with those matters.

MS PEIPUL: Thank you Commissioner. I think we have finished off with, at least, my line of questioning, have finished off with your signing off on the land investigation report, specifically with respect with your satisfaction as to what you have done and how the land investigation report have been carried out. I just have a few more questions with regards to the content of the land investigation report, just specifically referring to the sketch. I think we have heard from the surveyor, Mr August, Mr Simon Puipui August, he said that a

concept plan had been given to him and upon which he based his survey. I note that the land investigation report has that survey, not at least a survey plan but a sketch. From your own preparation of the report, where did this particular sketch come from? Where did it originate from? Perhaps I can refer Mr Peril to this particular schedule.

A: As it is required in the land investigation report, you have to attach a locality map or a sketch of the project area. And this sketch was done after the survey.

Q: So the sketch itself was done after the survey, is that what you are saying?

A: That is right.

Q: Okay, alright. But if you say that it was carried out after the survey itself, was that survey plan used at any time during the actual awareness or did people have a visualization of what land would be included or that their land or where their land would be included within the project, proposed project site; proposed SABL?

A: That time we were carrying out the land investigation report, we were – the landowners themselves, they declare the boundaries which was going to be surveyed.

Q: So the timing is they declared the boundaries themselves, then a survey plan is carried out, and then that is where this sketch comes from the survey plan, and then you include that within the land investigation report, is that correct?

A: That is right.

Q: So in other words, you were not able to actually visually tell the people that you were conducting the investigation with what actual – you would not be able to point out what land would be covered by the actual SABL to be granted or in which area, if their area was included in the project, particularly in the project site area. Do you understand my question? Like, you did not take a map with you to show to the people that you were asking?

A: After the survey was registered, we did show the registered survey plan to them.

Q: So you did take the registered survey plan to the people?

A: After the survey was done.

Q: After the survey was planned?

A: Completed.

Q: So not prior to that. There was no ---

A: No.

Q: Nothing before that. But the survey plan was carried out during the time of the land investigation, during that six months that the land investigation was carried out?

A: That is right.

Q: So perhaps, you are saying that on your first initial contact with people, you were not able to take anything but then on follow ups when the survey plan was finished, then you were able to show people where their village or where their area was within the SABL area. Is that what you are saying?

A: That is right.

Q: Can you just indicate your yes to the microphone?

A: Yes, Counsel.

Q: An essential part of land investigation reports, well, the production of land investigation reports is assessing existing land, that is not only alienated land but land that is customary land that people may have attributed significance to that would need to be respected within and I note that within the land investigation report, that is what you say that - you make some references to - that would be on page 41, the next page. In doing so, do you fully satisfy yourself that you have in fact gathered all the necessary information from everyone with respect to this? I say this in noting that there have been issues with other SABLs with respect to sacred sites been transacted by roads, that people have not been consulted

with respect to, especially with the building of roads. And had you fully satisfied yourself that this had been done, that you had taken into consideration all the areas that people would have objections to any type of road going through, any type of development upon? You understand my question?

A: Counsel, can you ask me the question again?

Q: So you were satisfied?

A: Repeat your question again, sorry?

Q: Sorry, so maybe my question is not clear. Within the actual recommendation, that would be 12, in the land investigation report, you were saying that you identified appropriate areas that should be excised from that, well, according to the landowners and communities, in fact, reserved; that would not be – so were you fully satisfied that had been done that you had communicated or contacted enough people that you knew, you were satisfied that enough areas had been identified? Because that is often an area that is of contention or dispute later on when roads go through areas that might be considered sacred sites or had not been adequately identified as reserved areas within the land. And this is such a big area of land that you need to be satisfied that this has happened. So were you satisfied that this had happened?

A: Yes. Like in my report I certified which I am satisfied with it.

Q: I note from the documents, perhaps Commissioner I can turn to the documents that he has now produced.

COMMISSIONER JEREWAI: Yes.

MS PEIPUL: Commissioner has probably had more of a chance to read through them than I have. However, I note once again, that there is reference to 22 incorporated land groups and I turn to a particular document that actually has named those particular ILGs that are referred to. From previous, you may have heard Mr Balbal say that within the clans that were, that you have looked into, they had to sign off on the land investigation report, those 22 ILGs or incorporated or within those clans. So the document itself is not reflecting the ILGs but it is reflecting the clans. So the clans in particular are, if I may just go through a few of them from the document that I have. What I can see on the

land investigation report is that Dolit, I believe one, Eval, Alakasam is another that are included within the land investigation report. But of those there are a number of other ILGs that are not included within that and of course, there is a differentiation between an ILG name and a clan name and sometimes obviously they are not the same. But from what I can see from the ILG name it is the same as the clan name within the land investigation report. So for – I mean, I will just go through a few of them that are not on the land investigation report. I think maybe, Sambam, Vali, and Sambam being ILG No 1176, Vali being 1175, those are just two out of the 22 that do not appear to be on the land investigation report. Did you have knowledge at the time you went and did the land investigation report that there were some 22 ILGs that had been identified and registered? These are registered number starting from 11169 all the way to 11190, they are the ILG numbers. So were you aware of these 22 ILGs that had been registered?

A: I was not aware.

Q: You were not aware of these 22 ILGs. And so when you undertook the land investigation report, you were just – how was it you were undertaking, just identifying clans, was it?

A: Identify the clans, that is all.

Q: So not ILGs?

COMMISSIONER JEREWAI: Few days ago you said you had representatives from nine ILGs and not the other 13 or remaining 13 because they did not have their incorporation certificates. Did you not say that on Tuesday?

A: I mentioned there are 22 ---

Q: Correct me if I am wrong, yes.

A: The whole 22 they are for the nine ILGs represent the, representative of the Toriu timbers.

Q: You dealt with all 22 ILG representatives?

A: Come again, sorry?

Q: Tuesday, when the question was posed to you as to whether you heard from all the – or rather, let me rephrase. It was pointed out to you there

were 22 ILGs who lay claim of customary rights to the land involved in portions 903 and 904C, milinch of Kokopo, fourmil, is it East New Britain? Rabaul.

MS PEIPUL: Rabaul.

COMMISSIONER JEREWAI: Fourmil Rabaul. And you said you dealt with nine ILGs only. Was that what you said, correct me if I am wrong?

A: Okay, I will correct you. I dealt with the 22 clans which the nine ILGs, the ones which were registered first which I did ask them to submit to the required requirement of the LIR.

Q: And what happened to the other 13.

A: Their ILGs are still in process.

Q: But you did hear from the representatives?

A: That is right.

Q: You did?

A: Yes.

MS PEIPUL: Sir, if I may clarify you. They were waiting for their certificates, is that what you are saying? That they were not involved in the process because of the lack of certificate or is it the nine were interested and they were part of it but the other 13 had a lack of interest. I am sorry, I will just clarify myself, Commissioner.

COMMISSIONER JEREWAI: That is all right, get the clarification from the witness.

A: We did submit the first nine which they had the registered certificate with them whilst the others, we asked them to submit their ILG certificate if they received their certificate.

MS PEIPUL: So because from what I can see is there are these numbers that have been issued, ILG numbers but numbers obviously being issued is not the certificate. So you mean to say the certificate had not been issued to them.

A: The document certificate, that is right.



Q: From the document itself?

A: That is right.

Q: They had not received the document from the Registrar of Incorporated land groups.

COMMISSIONER JEREWAI: But did you hear from the representatives or not, the other 13 who did not have their certificates at that time. The 13 ILGs who did not have their certificate at that time you went into the area. Did you hear from them?

A: Yes, they did form their ILGs.

Q: No, did you hear from them? I did not ask you if they did form their ILGs. You answer my question, did you hear from them?

A: I did get from them.

Q: All right, and who represented each of them that you heard from?

A: The clan leaders or the ones which got appointed as chairmen for them.

Q: Should any of them appear in this Inquiry, whether here or during our site visit, let me warn you, and if they say to the contrary that you did not hear from them and we verify that you are lying to us, you will be held in contempt. Is that clear? So let me ask you again. Did you hear from the representatives of the remaining 13 or some of them at least, ILGs?

A: I did hear from them.

Q: Proceed. The penalty for contempt, let this be heard by everyone. The penalty for contempt or perjury under the Commission of Inquiry Act can be imprisonment of up to two years. So it is a very serious thing. You must tell the truth.

MS PEIPUL: Thank you Commissioner. With your contact with these ILGs, you are saying that there are nine ILGs that were actually, came to you or came through the public process of the land investigation, that you have sighted their certificates of incorporation. Is that correct, would you have sighted them, the nine ILGs?

A: Yes, I did sight them.

- Q: I will just let you have a look at one, the one for Toriu land group. Would you have sighted this?
- A: Yes.
- Q: Flip over the page and there is the second one.
- A: Toriu, yes.
- Q: The Chairman, there are some other ILG certificates there as well, I think for Eval and, I mean, that would just be examples of the certificates of the nine that you would have sighted?
- A: Toriu, yes.
- Q: I mean, if you have not sighted it, I mean, you can obviously reflect on it. But you are confirming that you have sighted this particular, there would only be a few there. I think there are three ILG certificates.
- A: Yes, I have sighted these ILG certificates.
- Q: In sighting these ILG certificates, did you then sight an appropriate resolution agreeing to Toriu Timbers being the developer of the land, the portion, appropriate SABL portion. Did you sight such a resolution?
- A: After the compilation of this land investigation report we did wait for them for the lease instrument for signing.
- Q: So you are saying that the lease instrument was signed. Sorry, can you repeat, you repeat again. I did not quite get you.
- A: After compilation of this land investigation report, we brought this down to the Department of Lands for the lease instrument which was signed.
- Q: All right. So you had not sighted any kind of resolution by the ILGs to agree to Toriu Timbers to be the developer, is that correct? Because I note that there are other resolutions for the change of chairmanship that I have sighted. But you have not sighted a resolution by the ILG that they agree to a particular developer, in this instance Toriu Timbers. So that is my question. Have you sighted such a resolution?
- A: No, I did not sight any papers.

Q: I repeat again. I have asked this question previously but I will expand on it some more. During the course of your land investigation, the six months, you had only received one set of protest and that is from, I forget the particular, but you said there was only one instance of any kind of dispute over the land. That is to do with the ---

A: Boundary.

Q: The boundary.

A: That is right.

Q: And even after the land investigation report was prepared and I suppose, during the months after, perhaps when it has gone through the – and it is ready for the Lease-lease Back instrument and that that will be no other to your knowledge, there be no other approaches to you or for any persons who are disputing anything and disputing even the developer themselves or the landowner company, there will be no disputes that you heard of?

A: No.

Q: After the land investigation report you had nothing else to play in the subleasing process, did you have any part to play in that from the landowner company to the developer?

A: I finished when I lodged the earlier documents.

Q: Once you finally put in your report, the final report, did the report come back to you from your supervisor or any of like, Ms Dadatliu or Mr Balbal, there was nothing to go back and review, either they were satisfied with what you had done and that it was final? Was there any process of reviewing once you put in your final report?

A: When the report was – that was the final report. I never attend to any ---

Q: Sorry, can you repeat that?

A: The final was the report, final report, yes.

Q: Final. So there was no need for you to go back and review anything within your report that you gave was the final and that was ---

A: That was, yes.

Q: That was it. You said that this was your first land investigation report. You conducted like one or two others after that? Is that what you have said last time? You have conducted one or two land investigations after that, is that correct? From your own assessment having conducted about three land investigations, what do you say, your own opinion of the process of land investigation that you had undertaken? Were you satisfied with the way the document itself is set out? Are you satisfied with the way in which it is conducted generally? This goes towards understanding how it can be improved, your own opinion being the customary officer, lands officer who has conducted this investigation.

A: During the land investigation report, like, we did need the full cooperation of the landowners and support. Like, they themselves, they are landowners which they are satisfied with the land investigation report then that was the satisfied part of what I have done during the land investigation report.

Q: But I am asking what you think of the actual process itself. Are you satisfied with the way the forms are set out or do you think it will be improved. What are own personal opinion on ---

A: That is the standard format, the land investigation format we are using right now.

Q: But do you see anyway it can be improved?

A: Unless there is a change.

Q: Can you give, I mean, the reason why I ask is, you are actually using the report, you are actually using the format, you are going out there doing it. So how do you think it can be improved to better gauge consent of landowners or to better enable you to do your job more effectively. This is your opportunity to say how you think it can be improved having actually done the land investigation?

COMMISSIONER JEREWAI: Let me guide you to answering some of these because it is important we hear from people like yourself on the ground, public administration officials on the ground who carried out these processes. First of all and very, very fundamentally, in other words, very basic, would you not in your belief when you are carrying out this process, consider it very important to hear anybody who wants to be heard as to whether they consent, they agree to

becoming involved by giving up rights to their customary land for such an organization? You think that is very important?

A: Yes.

Q: All right. So if you think that is very important, do you agree that you should not be restricted to listening to people who are ‘maus people’ representative people, who sometimes are very overbearing on their own people. It is the same, in my village, in yours, everywhere else. There are always overbearing fellow village men. Do you think you should be able to get around them and hear the people who are more reserved, more timid, correct, do you not think so?

A: Yes.

Q: Do you agree that we should, when talking to the people about the fact that they are about to give up their rights to customary claim or interest in their land; customary land, do you agree that they should all speak up?

A: Yes.

Q: So that there is no room for doubt as to the fact that they consciously agreed to giving up those rights? You agree.

A: Agree.

Q: So I have just assisted you in putting you through some of the processes as a public administration official that you have been engaged in the way you have. And might I add your first land investigation report that these are the processes we should have in place and we should train people like yourselves to be able to go out there and not allow officialdom, documents, systems and developers cover our eyes so that we do not hear the real people who own customary land. You agree with that?

A: Agree.

Q: Thank you. I have got a few questions counsel.

MS PEIPUL: Yes Commissioner, you may proceed.

COMMISSIONER JEREWAI: During the course of your land investigation, did you come across the president of Sinivit Baining LLG, Honorable Boniface

Setavo? Did you come across or meet up with him, rather during your land investigations?

A: President for ---

Q: Sinivit LLG, Honorable Boniface Setavo. If you have not, you say so.

A: I deal with him officially.

Q: Sorry?

A: I meet him every time ---

Q: No, during the land investigation. I am very specific here. I am not talking about whether you two met down at the pub at Kokopo for a beer.

A: No.

Q: Good. Did you at all meet the president of Lassul Baining, Honorable Bernard Kulap?

A: Yes.

Q: During the investigation?

A: Yes.

Q: Did you meet Honorable Andrew Kusal, president Inland Baining LLG?

A: Yes.

Q: During the course of the investigations. Did you meet Mr Nick Leo of Mali clan?

A: No.

Q: Did you meet Mr Ben Tamaratap of Qaqet clan?

A: No.

Q: Did you meet Hosea Kailam of Uramot clan?

A: No.

Q: Did you meet Thomas Kalas of Qarat clan?

A: No.

Q: Did you meet Boniface Gerep of Mali clan?

A: No.

Q: Did you meet Henry Samingao of Qaqet clan?

A: Yes.

Q: Did you meet Aloyius Bula of Qaqet clan?

A: I do not know him.

Q: You cannot recall.

A: I, yes.

Q: Now, those two, Henry Samingao of Qaqet clan and Honorable Bernard Kulap, is that right?

A: Yes.

Q: Those are the ones you said you met. What were their views expressed about the proposed issuance of SABL over portions 903 and 904C? Did they express any position on this? Can you recall?

A: I cannot recall.

Q: You cannot recall.

A: I cannot recall.

Q: They have written a letter to this Commission of Inquiry dated 23 August 2011, in which they say, among many things, that many landowners within those portions of land did not give their consent to this land being given up affecting their customary rights so that it can be operated as a Special Agriculture Business Lease. Did such indication come at all in the beginning?

A: During the land investigation there was no objection.

Q: No such ---

A: No such objection, yes.

Q: No such expressed opposition?

A: Yes, that is right.

Q: After the issue of the lease, did it come to your notice at all or your superior's notice such objections.

A: No.

Q: You have anything to proceed further with this witness, counsel?

MS PEIPUL: Just with respect to any, just finally, I think this would be the final question. In the land investigation report, there is the usual what appears to be the usual form in the land investigation report regarding to representation by agents and that is specifically executing the Lease-lease back document. I note that you, I believe this is your signature at the bottom?

A: Yes.

Q: Because you then sign off on it. We note that it is four persons that have been agreed to are Mr Bernard Taingas, Paul Ingi, James Tapele and Lukas Koatnaski. You could clarify that in the course of your investigation, how did you assess the consent of people? Was it when you went and you asked them about their consent, did you also ask that these would be their representatives? You can clarify perhaps how that process of agreement by the landowners takes place?

A: Through the time of the land investigation report, this is what I got from the landowners. They appointed these four to be the representative for Toriu Timbers and also inside the consent which are in the agency agreement, they agreed for these people to be the representative.

Q: So they knew clearly when they were asked that those would be the four that will be representing them in the Lease-lease Back Instrument. That was clearly communicated to all the people that signed on that document?

A: That is right.

Q: Commissioner, I have no further questions with this witness.

COMMISSIONER JEREWAI: Yes. We take this opportunity to thank you very much Mr Peril, for cooperating and appearing and giving evidence. In the latter part of the questioning, you realized, and I think this is for the benefit of the audience and the others who are here interested, that ultimately, the interest



or underlying, rather underlying objective of this Inquiry is not to do away with SABLs. It is to help in instilling processes that must carry the highest integrity. However, people must know and they must be consciously agreeing to giving up their customary rights to their land. Those - it means you will not be able to exercise your customary rights over your land for the period of the lease that you give up to the government even though it is leased back to your choice of the lease titleholder and we want to come up by this examination. You among, many other public officials that we hope to come up with a set of procedures that must instil the highest integrity in the public officials to carry out so that the interest of the individual customary interest holders in a customary land must be protected.

Secondly, for developers to note that if they attempt to breach that integrity, they will not and must not be allowed to be involved in these SABLs. So having said that thank you very much Mr Peril, you may step down.

A: Thanks.

Q: Thank you.

## **THE WITNESS WITHDREW**

MS PEIPUL: Commissioner, we would now wish to enter into the actual SABL grantee Toriu Timbers and call our first witness in that respect, that would be Mr James Tapele.

COMMISSIONER JEREWAI: Yes.

[0.55 am] **JAMES TAPELE, Sworn:**

**XN: MS PEIPUL**

Q: Thank you Mr Tapele, if you please briefly state your position with respect to the Toriu Timbers as well as maybe a bit of your background with respect, maybe professional background or any educational qualifications you may have.

A: Thank you Counsel and Chair, Commissioner. I was serving as Deputy

Governor. I ceased in politics in 2008. Now current being a chairman for Toriu Timbers. Thank you.

Q: How long have you been Chairman of Toriu Timbers?

A: Six months.

Q: Mr Tapele, you have submitted an affidavit to the Commission, it was received on 29 August. Do you have a copy of your own affidavit with you?

A: Yes.

Q: Good. Commissioner, we would like to have the witness essentially have his affidavit read into the – it is not very long. He refers to some annexures as well which are also attached to the affidavit.

COMMISSIONER JEREWAI: The affidavit is sworn 25<sup>th</sup>, was it not?

MS PEIPUL: Yes, 25 August 2011, that is correct, Commissioner.

COMMISSIONER JEREWAI: I suggest, rather than the witness reading the affidavit, you have him identify the affidavit and then you read each paragraph very quickly to him for the purposes of our transcripts. In that way we will get through them. I realized that we allow the witnesses to read their own affidavits, those ones who are fast are okay. But those who are slow just kept us going for the whole day.

MS PEIPUL: Of course Commissioner, I realized that. So perhaps if I can show him the – if it can be shown to him, he can identify the – Mr Tapele, can you identify that particular affidavit as yours, the one you have sworn to?

A: To the top?

Q: Yes, and is that your signature there at the corner?

A: Yes.

Q: If you can show that to the Commissioner that this is indeed your ---

COMMISSIONER JEREWAI: Yes, I see it from here. Thank you.

A: Thank you.

MS PEIPUL: All right, thank you very much.

COMMISSIONER JEREWAI: And that is sworn on 25 August 2011 by yourself before a Commission for Oaths?

A: Yes.

Q: Counsel, can you take us through the paragraphs for the purposes of the Transcript's records.

MS PEIPUL: This is an affidavit sworn on the 25<sup>th</sup> day of August by James Tapele of PO Box 1851, Kokopo, East New Britain Province, of Papua New Guinea, duly sworn, make oaths and say as follows that;

"I am the chairman of Toriu Land Group Incorporated ILG No 1915 and the director of Toriu Timbers Limited. I have first-hand knowledge of all facts and processes leading up to the issuance of the Special Purpose and Business Agriculture Lease, SPABL, over portion 904C to Toriu Timbers Limited on 22 December 2009 for a period of 99 years, and therefore, depose to this my affidavit.

As early as 2006, the East New Britain Provincial Executive Council, chaired by myself as then deputy governor in our development plans for our people in Toriu, a submission on "Inland Lassul-Bainings (Toriu) Integrated Agriculture Infrastructure and Re-forestation Project" was presented and passed in its Meeting No 4 of 2006. Annexed hereto to annexure A is a copy of the PEC Decision No 19/2006 referred to herein.

Paragraph 4 - In implementing this PEC decision, the Lands Division of the East New Provincial Administration then commenced intensive awareness in the wards within the project area. As a result, a land investigation report ENBLA12/08 dated 9 November 2009 was completed by the District Lands Coordinator, Gazelle District Allan Balbal and submitted to National Lands and Physical Planning and is kept in their file reference 292/080C, NLD '6586' and can be viewed there.

Paragraph 5 - Land groups for the three clans identified in the land investigation report as customary landowners were also incorporated between the years 2007 and 2009. Copies of ILG certificates of Toriu Land Group Incorporated, Rainga Land Group Incorporated and Eval Land Group Incorporated are attached hereto and marked annexures B1, B2 and B3.

Paragraph 6 - as a result of Lands and Physical Planning acceptance of the land investigation report an Instrument of Lease for customary land, Lease-lease Back Agreement pursuant to section 11 of the Land Act 1996, between the customary landowners and the Independent State of Papua New Guinea was executed on 22 December 2009. Annexed hereto and marked as annexure C is a copy of the Instrument of Lease we signed.

Paragraph 7 - On 22 December 2009, a Special Agriculture and Business Lease was issued to Toriu Timbers Limited for a period of 99 years commencing at that date and contained in State leases volume 19, folio 81. Annexed hereto and marked annexure D is a copy of the SABL issued to Toriu Timbers Limited.

Paragraph 8 - A Notice of Grant under section 102 was published in the National Gazette No G37 and was published on Friday, 26 February 2010. Annexed hereto as annexure E is a copy of the National Gazette No G37 referred to herein.

Paragraph 9 - In part 4 of the schedule of the Instrument of Lease for customary land executed between the customary landowners and the Independent State of Papua New Guinea on 22 December 2009 and annexed to as annexure C, Toriu Timbers Limited is the appointed nominated sub-lessor.

Paragraph 10 - Toriu Timbers Limited is a company registered in Papua New Guinea whose major shareholding includes all three incorporated land groups of Toriu, Rainga and Eval, together with some others. Their chairmen, three of them including myself are directors of Toriu Timbers Limited. Annexed hereto and marked annexure F is a copy of the company extract obtained from the Investment Promotion Authority.

Paragraph 11 - On 30 April 2010, a sublease was executed between Toriu Timbers Limited, the sub-lessee and KK Connections Limited, the sub-sublessee as a developer for a term of 60 years. Lodgment fees of K200 and stamp duties of K57,000 were paid to the State and the sub-sublessee was approved on 25 October 2010 with confirmation of these payment stamped on the owners copy of the sublease which is attached as annexure G.

Paragraph 12 - As attached as annexure H to confirm the approval is a copy of the Special Business and Agriculture Lease, SABL, as subleased to KK Connections Limited No I14872, registered, 25 October 2010.

Paragraph 13 - In clause 5(b) of the sublease Instrument and annexed hereto as annexure G, quotation, the sub-lessee and sub-sublessee covenanted and agreed that all rents reserved will be paid direct to and in accordance with clause 2.1 and 2.2 of the head lease and specifically to Rainga Incorporated Land Group, Eval Incorporated Land Group and Toriu Incorporated Land Group, who are the customary landowners and signatory to the head lease.

Paragraph 14 - As a result of this clause a Memorandum of Agreement was also signed on the same day, 30 April 2010, between KK Connections Limited, the developer sub-lessee, and Rainga Land Group Incorporated and Eval Land Group Incorporated and the Toriu Land Group Incorporated, purposely so that all rentals on the sublease due would be paid direct to the three landowning companies and setting out the time and manner in which these rents would be paid. Annexed hereto as annexure I is a copy of the Memorandum of Agreement referred to herein.

Paragraph 15 - On 28 April 2010, prior to signing both sublease and the Memorandum of Agreement on 30 April 2010, we did request from the Office of the Valuer General, a valuation of the 11,240 hectares contained in portion 904C to enable us to fully appreciate KK Connection's offer which we accepted whole heartedly and are happy with our decision. Attached hereto as annexure J is a copy of the valuation referred to herein.

Paragraph 16 - All necessary permits have been obtained prior to the issuance of the SABL as this was a prerequisite and necessary for the issuance of the SABL. Attached hereto as annexure K is a copy of a letter dated 22 June 2006, containing confirmation of the Department of Agriculture and Livestock approval over the project area in portion 904C. The certificate can be viewed at the office of the Department of Agriculture and Livestock in Port Moresby.

Paragraph 17 - Also attached hereto as annexure L is a copy of the Forest Clearance Authority FCA number FCA 50-4 dated 15 January 2008. Original and copies can be viewed in file at the head office of the National Forest Authority, Port Moresby.

Paragraph 18 - Attached also as annexure M is a copy of the environment permit WE-L3(142) issued to Toriu Timbers Limited, 6 June 2008, for a term of 25 years. Original and copies can be viewed in file at the Office of the Environment and Conservation, Port Moresby.

Paragraph 19 - In relation to your inquiries under Terms Of Reference (g)(i), (ii) and (iii), I can confirm that there is no such thing happening in our villages. There exists among us a family relationship which is mutually accepted and respected.”

This is signed by the deponent before a Commissioner for Oaths, I believe, Orim Gweri Kibu, is the Commissioner for Oaths who signed off on this affidavit.

Mr Tapele, if I can just refer firstly to perhaps your involvement in the project. I note from your annexure A that it has been approved at the PEC level, the Provincial Executive Council level, however, I also do note that you are the signatory, I believe, this is also your signature on the bottom of this particular decision as well. Can you account to us your level of involvement within the project while you were with the administration?

COMMISSIONER JEREWAI: While he was the deputy governor?

MS PEIPUL: Yes, while he was the deputy governor.

A: The decision was signed on 22<sup>nd</sup> or 5<sup>th</sup> of 2006. Question might arise on the governor. The governor is the same position, if the governor is absent, the submission is given to another chairman of the executive and at the conclusion part of it, it is going to be the deputy governor signing all the recommendations. And during that time I was deputy governor with no conflict of interest, but I believe that I was a principal landowner of that area. Thank you.

Q: I mean, my question is just to your general involvement with the project at that level. Because from what we have heard from the other witnesses is there has been a big support for the project from the PEC, the provincial level at that level. So, maybe, if you can tell us apart from this, just your own involvement in the project as being a deputy, I mean, obviously as a principal landowner but as the deputy governor as well?

A: Yes, okay, thank you. The project was approved in 2006 when it was enacted before the new Act came in which then Toriu Timbers was approved in 2006. Then I came in which the project with the FCA concept came in 2007. Being a deputy governor that time I had no other interest in whatever capital but I have the interest on my people to seeing that the development must get to the rural bulk of my people.

COMMISSIONER JEREWAI: If I may interject briefly. Do not labor to explain that. I grew up in Rabaul and the comparative variance in the development in Gazelle compared to Baining is very, very stark; very, very, big. There is a very, very big abyss or space in between Gazelle and Baining and Pomio. So your efforts are well noted. But certain matters of integrity will be raised and do not hesitate to answer as honestly as you can. We will be appreciative of this stark economical difference between the two areas of your province. Yes, proceed.

MS PEIPUL: I noted in there, particular, your annexure A, your note there is identified 22 incorporated land groups. Perhaps, you refer previously from other witnesses as to their position on the 22 incorporated land groups as the representative of the population or the landowners there. Perhaps, you can give some insight into why they have got only three land groups including your own land group, Mr Tapele, are included on the – in terms of the recognized landowners of the land area. Perhaps, you can explain that?

A: Rainga land group comprises of people of Mumbilim, Eval land group comprises of people of Alakasam and Toriu land group comprises of people of Lamareng.

Q: Sir, my question is therefore, in the decision, 22 incorporated land groups had been identified as being part of the project. So my question therefore is why then are there only three land groups identified as owners of the area? What has happened to the other, what is it, 19 land groups?

A: 19.

Q: 19 incorporated land groups? Maybe you can explain?

A: Yes. During the time the land investigation program was taking place, they were only mentioning there was nine, and then people came to flow in with the ILGs coming in. In 2003 there were 19. All right, the question of the three ILGs, the investigation mentioned was, they found that we owned that area. We thought that the ILG is a clan group of wards. That is Rainga from Mungrem, Alakasam and Lamareng.

Q: On the list of resource owners making up the 22, Rainga is there, Alakasam is there, Eval is there as well but there are 19 others there.

A: Yes.

Q: I will ask the question again, what has happened to the other 19 incorporated land groups?

COMMISSIONER JEREWAI: Or perhaps if you could rephrase the question.

MS PEIPUL: Yes, okay.

COMMISSIONER JEREWAI: How did the others come about?

A: You mean the other 19?

Q: Yes, the first three which includes your, how did the other remaining 19 come about? Have you any idea?

A: Yes.

Q: Please explain.

A: The other 19 came that time in 2006, then we put another three on top to make it 22. I only answer this that, we thought ---

Q: Sorry, did you start with three and then come in with 19 others or did you start with 19 and come in with the three on top?

A: 19 and three.

MS PEIPUL: It is just that as I put to Mr Peril, Rainga, Eval and Lamareng are a part of the ILGs numbering from 111569 to 11190. So, in fact they were all incorporated at the same time. So this turns to my question of the ownership of the land and in fact, there are 22 identified ILGs and now there are only three that say they represent all of the landowners on the land. So as Commissioner has asked, I mean, can you explain what has happened to these 19 other ILGs and where they are right now, what has happened to them? If you can clarify that?

A: They are already in there but as it mentioned ---

COMMISSIONER JEREWAI: I think what Ms Peipul is driving at is, how is that only three ILGs, including yours executed the - was that the head lease?

MS PEIPUL: Yes, the head lease. The Lease-lease Back Instrument, head lease.

COMMISSIONER JEREWAI: With the State and not the other 19?



A: Sir, we just, sorry, we just thought that we own the land on that area of Toriu.

Q: Only three or all of you altogether?

A: All the villages along that Toriu on portion 904C.

Q: He is referring to 904 portion only, which is over 11,000 hectares.

A: 11 hectares.

MS PEIPUL: So that means that out of the 22, only three ILGs own that one portion, is that what you are saying?

A: Yes, with four villages.

COMMISSIONER JEREWAI: Portion 904C.

A: 904C.

Q: And you are not speaking of 903C?

A: I am not speaking of 903C.

Q: There we are. Proceed, counsel.

MS PEIPUL: Thank you. If I can turn to the land investigation reports which identify the people who are acting as agents for everyone to sign the land investigation report, I believe I can just double check and confirm that this is the case. Because there are two land investigation reports, obviously one for 904C and 903C. Indeed, for 904C, you are named along with Lukas Koatnaski, Bernard Taingas and Paul Ingi as representatives for executing a Lease-lease Back document. We turn to land investigation report for 903C, you are also named as a representative for 903C; yourself, Sir James Tapele, Lukas Koatnaski, Paul Ingi and Bernard Taingas. So in fact, it is not only for 904C but you are also representative for the purpose of signing on the Lease-lease Back Instrument, 903C as well. So my question to you is, do the three landowning groups, ILGs that you, Toriu as well as Rainga and Lamareng, are they representatives also for 903C? Sorry, Commissioner, unfortunately the copy you have there would not be reflective of – I am working from the submission given by Allan Balbal.

COMMISSIONER JEREWAI: No, I will rely on yours.

MS PEIPUL: Yes.

COMMISSIONER JEREWAI: That is fine. But I follow, proceed.

MS PEIPUL: So my question once again is, does the three ILGs that have signed off on the Lease-lease Back Instrument also represent 903C as well.? Although, there was no, I believe no - no, I correct myself.

A: Yes, we are part of the 903C.

Q: So you are in fact contradicting what you just said that in fact, 903C and 904C are both under the ILGs, the two, three ILGs that are - now, I would like to find out what the Lease-lease Back Instrument. That is fine. We will proceed with examining you further on your affidavit. The second annexure on your affidavit is, well, they are in fact the ILG certificates. I note that it is the three ILG certificates for the three ILGs that you have mentioned other representations or essentially other landowners of this particular area. I note that in the list of ILG numbers that I have of the 22, Toriu does not appear to be one of them. So, yes, sorry Commissioner, I am just noting that Toriu Timbers is not, rather Toriu land group is not one of the ones listed on the list of 22 that I have although, they do appear to be from the Lamareng village. So, we have been informed by the land investigation officer that the way they have conducted is they have gone into different villages and they have got plans to sign off on the land investigation report, well, representatives of clans or members of clans. Can you please explain therefore, and confirm that all the clans that are now on the land investigation report that they all come from just the three ILGs? Can you confirm whether that is the case or not?

A: The land investigation report on the mapping, it is only three but some of these villages are outside of the concession area; places like Malasait, Yaiyem, Raunsitna. Those three villages, all of them they are all part of the 22 ILGs, all of them.

Q: So it just so happens that if I may clarify that some of these land, rather, the clans that are within the incorporated land group also have the same names as the incorporated land groups. And although the incorporated land group of that name is not within the three that you say own the land, do you say that those clans are within the ILGs, the three ILGs that you

mentioned now. That being Toriu, Rainga and Eval land groups, that correct?

A: Yes. All right, I think those are within the wards, but there are some other ILGs within the wards.

Q: All right, well, those are the three ---

COMMISSIONER JEREWAI: Of the 22 ILGs, which ones lay claim to customary interest in portion 904?

A: The ones that was – Toriu, Eval and Rainga.

Q: And which ones they claim to portion 903C?

A: All of us within 903C in terms of ---

Q: So the three in relation to 904C also hold interest in 903C?

A: Under the name Toriu Timbers.

Q: No. I do not want you to place them under Toriu Timbers. My question is, which of these ILGs out of the 22 have customary interest in 903C?

A: All the 22 ILGs.

Q: Including the three who hold interest in 904C?

A: Yes.

MS PEIPUL: Sorry Commissioner. If I can turn your attention to in your affidavit, you have referred to – I note that there are some resolutions with respect to the Eval Land Group Incorporation - just out of interest, with respect to any other resolutions that the incorporated land groups would have made, especially with respect to agreement to Toriu Timbers being the SABL, the name or the entity that they are happy with, were there any resolutions to confirm that or any other resolutions with respect to the subleasing? Did the ILG make any resolutions because I note that there is only one resolution here with respect to the change of chairmanship for Eval ILG but were there any other resolutions? You may have heard, I asked the same question of Mr Peril, whether he sighted any resolutions. I am also asking you whether you as chairman of Toriu Land Group whether you made any resolutions about that?

A: All right, yes, there was one on Toriu which was Lamareng.

Q: My question is, did you make a resolution, did the ILG, the Toriu, let us keep for example, the ILG that you are chairman of, being Toriu Land Group, whether you have made any resolution to accept or agree to Toriu Timbers holding the SABL, the name? Were there any resolutions made?

A: You mean by the landowners?

Q: Yes, by the landowners.

A: It was done through all ILGs.

Q: Yes, so my question is, through the ILGs, was there a resolution made that actually, specifically said, we agree to Toriu Timbers holding the SABL lease?

COMMISSIONER JEREWAI: Even if it is each individual ILG resolutions?

MS PEIPUL: Was there a resolution, yes or no?

A: No and yes.

Q: Thank you.

COMMISSIONER JEREWAI: Perhaps the next question is, how did you get all their consent?

MS PEIPUL: I mean, the next question would be how did you then get consents to Toriu Timbers then being granted the SABL, meaning, how did you know that everyone was consenting to Toriu Timbers being granted SABL?

COMMISSIONER JEREWAI: There are no resolutions from the individual ILGs, so how did they give their tokorait?

A: I think it was through the, I mean, the ---

Q: No, you better not think here. You must tell us.

A: Resolutions.

Q: There was no resolution, you just answered that. So we want to know now how did you get the consents of the landowners?

A: There was no resolutions.

Q: There was no resolution of the ILGs, how did you get the consent of the landowners or did you, their headman only, gave the okay; gave the consent?

A: Yes.

MS PEIPUL: Obviously, I turn to the land investigation report where it states that the landowners have agreed to you being their representative. To your knowledge, would all the people who have signed off on the land investigation report, would they have all agreed to you being their representative? Sorry, do you understand my question?

A: Yes.

Q: Because the land investigation report says, maybe, if I can have – do you see that your name is there on that particular piece of paper that says that you are representing, you along with the other three gentlemen on there are representing everyone within that document that is signed on the Lease-lease Back Instrument. But do you think that all the people in the document have actually agreed to you being representing them as a signatory on the Lease-lease Back Instrument which is this one; that Instrument?

A: Yes.

Q: That is what you believe.

A: Yes.

Q: If we can turn to that Lease-lease Back Instrument which is annexure C of your affidavit, we note that from the incorporation of Toriu Timbers which you said was in 2006 ---

COMMISSIONER JEREWAI: I thought it was incorporated on 28 March 2007. It is 28 March 2007, counsel.

MS PEIPUL: 7, okay, 28 March 2007. From that time ---

COMMISSIONER JEREWAI: The Lease-lease Back was executed, if I follow your line of questioning Counsel. It was executed on 22 December 2009 and title was issued on 2 March 2010. I cannot read my copy clearly.

MS PEIPUL: Yes, it would be 2010.

COMMISSIONER JEREWAI: Yes, March 2010, nonetheless.

MS PEIPUL: Yes, that is correct.

COMMISSIONER JEREWAI: And gazetted thereafter on the ---

MS PEIPUL: It seems to been gazetted before the actual granting of the ---

COMMISSIONER JEREWAI: Before the issue of the title, yes. Gazetted on 26 February 2010 and then title issued, formal title issued in March 2010.

MS PEIPUL: I do not think that is possible.

COMMISSIONER JEREWAI: Counsel, if I may just take the witness through the extract of Toriu Timbers. That is the company registry extract from the office of the company. Annexure, which is annexure F, can you turn to that, please. That is in your affidavit. You found annexure F? Counsel, you can ponder your next set of questions while I take him through this. You found annexure F? It is the historical extract for Toriu Timbers Limited that you annexed to your affidavit. You found it?

A: Thank you.

Q: Thank you. I would like you to take a look at the incorporation date. That is the 28 March 2007. You notice that, at the top there on the first page? Thank you. Go down to where it says shareholders and you open to the next page and the name of the first shareholder name there is Francis Araden of Lamareng village. You see that?

A: Yes.

Q: Which clan does he belong to and which ILG would he be part of?

A: Eval.

Q: Eval?

A: Yes.

Q: All right, and the next shareholder named here is Joachim Bilingi, who is from Raunsetna village, Inland Baining. Now same, which clan does he belong to and which ILG could he be verified under?

A: Vali.

Q: Vali?

A: Rausetna.

Q: Is that Vali clan or ILG or both?

A: Vali clan but he put it to an ILG.

Q: The next annexure is Lucas Dumbarik from Mubilam village Inland Baining LLG. Which clan does he belong to and where can he be identified in terms of ILG?

A: Lucas Dumbarik?

Q: Yes, from Mubilam village.

A: No, he is from Alakasam.

Q: You are saying he is from Raunsetna?

A: Lakasem.

Q: Lakasem?

A: Yes.

Q: Very well, and which ILG should he belong to?

A: Alakasem.

Q: The next is Paul Ingi. He is said to be from Konako village, Inland Baining area LLG. Which clan or ILG does he, is he a member of?

A: Kanako.

Q: Kanako?

A: Yes.

Q: Then you have Caspar Irin who is also from Konako village. Which ILG or clan does he belong to? You cannot ---

A: I cannot recall it.

Q: All right, that is fine. We will cross check there.

A: Unsavraye, sorry.

Q: Sorry?

A: Unsavraye.

Q: On ---

A: Unsavraye.

Q: And that there is an ILG of that name.

A: Yes, that name too.

Q: And Lukas Kotnaski is from Alakasem village?

A: Eval from Alakasem.

Q: He is a Eval ILG?

A: Yes, Alakasem.

Q: And Joe Langis.

A: Lamarain.

Q: Lamarain village?

A: Yes.

Q: And ILG, I suppose would be Lamarain.

A: Kandaski.

Q: I am talking about Joe Langis?

A: Joe Langis.

Q: Yes.

A: Kandaski.

MS PEIPUL: Kandaski ILG, ILG Kandaski or village, Kandaski village or Kandaski ILG.

A: Kandaski ILG but with ---

Q: Lamarain village?

A: Lamarain village but after change of names.



COMMISSIONER JEREWAI: Right. And Francis Mastakwaik.

A: Mastakai, Alakasam.

Q: Alakasam village and ILG would be Alakasam also?

A: I cannot remember.

Q: ILG, which ILG does he belong to. You cannot remember?

A: I cannot remember.

Q: You do not have to labor there. You will realize that this exercise when I come to it, I just want to identify all these people first. Alphonse Moraska from Lamarain village, which ILG does he belong to?

A: Lasaram.

Q: Mr George Revisit. He said here to be from Raunsetna village, which ILG does he belong to?

A: Evite, but coming up with change to a new ILG.

Q: Sorry?

A: Evite.

Q: Chris Sagalip from Mala ---

A: Malasait.

Q: Malasait village, yes. And of the same ILG? You cannot immediately attach---

A: Cannot think of it.

Q: John Taing Gebem from Yiayang village?

A: Yes.

Q: Bernard Taingnas from Mubilam village?

A: Rainga.

Q: Rainga. And then of course yourself, you belong to ---

A: Lamareng.

Q: Yes, you from Lamareng village but your ILG is ---

A: Toriu.

Q: Yes, Toriu. And Joe Tasnasip? He is from Lamareng also?

A: Kandaski ILG.

Q: Thomas Tobel, Malasait village?

A: Malasait village.

[11.42 am] Q: Which ILG is he member of?

A: I cannot remember just like the person.

Q: You cannot remember, okay. Alfred Urengi?

A: Urengi.

Q: Yes, he said to be from Kanako village. Would you know his ILG?

A: He has passed away, nowhere to be seen.

Q: He has passed away?

A: He died; passed away.

Q: But which ---

A: His village is Tenako.

Q: ILG, can you remember?

A: Unsevrei.

Q: I will go quickly through the directors of Toriu Timbers Limited. Lukas Koatnaski, can you confirm that? He is still a director?

A: He is still a director.

Q: Joel Langis, still a director?

A: Still a director.

Q: Francis Aradem, still a director?

A: Still a director.

Q: Joachim Bilingi?

A: Still a director.

Q: Bernard Taingnas?

A: Still a director.

Q: Caspar Yirim?

A: Director.

Q: Thomas Tovel?

A: Still a director.

Q: Paul Ingi?

A: Still a director.

Q: George Revisit?

A: Still a director.

Q: Alfred Urengi?

A: Passed away.

Q: John Taimben?

A: Director.

Q: Chris Sagalip?

A: Director.

Q: Mastakwaik?

A: Director.

Q: Francis. Thank you and the secretary is Joe Tanasi. Is he still secretary?

A: No.

Q: Who is the new secretary?

A: With the new document that I extracted yesterday.

Q: Thank you. Counsel, I would like to suggest that we adjourn for lunch and if Mr Tapele can come back and if we can start at 1 o'clock because we are adjourning at quarter to 12 and if Mr Tapele can come back. I would like, I make it known openly so that there is no secrecy about the way we are going to cross check as to the shareholding of Toriu Timbers, the members of the board of directors of Toriu Timbers compared against the representation spread among all the ILG represented or supposedly represented in these two SABLs. Counsel is going to take time during the lunch hour to check this out so that we can properly place it before you and we would like some explanation, if there is any. There may not be need for any explanation. But it is very important we do that and that is why I am adjourning early for lunch. Thank you. Adjourn the – you step down. You are under oath, you step down and come back at 1 o'clock.

A: Thank you.

Q: Thank you, sir.

A: Thank you.

Q: Okay, Mr Associate, adjourn the Inquiry.

## **LUNCHEON ADJOURNMENT**

[1.39 pm] COMMISSIONER JEREWAI: Have Mr Tapele back in the witness stand, please.

MS PEIPUL: Commissioner, if I may, before we proceed?

COMMISSIONER JEREWAI: Yes.

MS PEIPUL: Something, a bit of an oversight, perhaps we can give an exhibit number to the affidavit that was read into ---

COMMISSIONER JEREWAI: All right, which ---

MS PEIPUL: It would be C, exhibit number C, I believe.

COMMISSIONER JEREWAI: Which will, in which of course is found the annexures of the PPC, PEC rather, Provincial Executive Council decisions you

have referred to as well as a Joint Planning and Budget Priorities Committee, Joint District, JDP&BPC, minutes of meeting and resolutions. I thought those were three documents you showed me.

MS PEIPUL: Yes, the earlier documents were the documents from Mr Peril, Ereman Peril that we have not given an exhibit number to those documents as well. If they are in fact being tendered, the earlier ---

COMMISSIONER JEREWAI: Did we have them tendered?

MS PEIPUL: Well, no, we have not had them tendered. We only cited them, Commissioner, we had only cited them. So ---

COMMISSIONER JEREWAI: But they are official documents anyway, records of meetings. We will deal with it ---

MS PEIPUL: Yes, it is, yes, it is some PEC decision so ---

COMMISSIONER JEREWAI: All right, let us keep them aside ---

MS PEIPUL: Yes.

COMMISSIONER JEREWAI: But remember to ---

MS PEIPUL: I will.

COMMISSIONER JEREWAI: For us to deal with them formally to adopt ---

MS PEIPUL: Of course.

COMMISSIONER JEREWAI: Into the evidence.

MS PEIPUL: Yes.

COMMISSIONER JEREWAI: But you can proceed to have the affidavit of Mr Tapele tendered, if you may.

MS PEIPUL: It should be exhibit number - if we are going back chronologically it would be D. If in fact we – but if we are dealing with this later, Commissioner the two documents from previously then we can number this as exhibit number C, Commissioner.

COMMISSIONER JEREWAI: Exhibit C?

MS PEIPUL: Exhibit C, Commissioner.

COMMISSIONER JEREWAI: All right, that will be exhibit C.

MS PEIPUL: We were numbering it by saying exhibit number and then the case, which in this instance would be exhibit C, Toriu Timbers, that is portion 904C, 903C ---

COMMISSIONER JEREWAI: East New Britain Province.

MS PEIPUL: Yes.

COMMISSIONER JEREWAI: All right, thank you.

MS PEIPUL: Thank you.

**[EXHIBIT C – AFFIDAVIT OF MR JAMES TAPELE - TORIU TIMBERS, 904C, PORTION 903C, EAST NEW BRITAIN PROVINCE]**

COMMISSIONER JEREWAI: All right, proceed where we left off.

MS PEIPUL: I believe Commissioner you would ask witness to identify the clans and ILGs to which these various shareholders of Toriu Timbers Limited were a part of and I believe in terms of cross checking, of the 17, I had identified some 12 ILGs of the 17 - my apologies, I did not quite get a few of the, some either not known by the witness or my hearing was not quite there in terms of hearing which of the ILGs he was referring to.

COMMISSIONER JEREWAI: We can verify, take note of it.

MS PEIPUL: Of course, I can cross check that with the ---

COMMISSIONER JEREWAI: With the witness.

MS PEIPUL: Of course, I can do that. Of the three ILGs that have been identified as the landowning ILGs which make up Toriu Timbers or rather, have made up the Lease - lease back Instrument, in terms of the signatures on the Lease-lease back Instrument, and what Mr Tapele said are the main landowning ILGs, I have identified that there are in fact two from Eval ILG - two shareholders, one from Rainga and ---

COMMISSIONER JEREWAI: Call them, call their names as you go, counsel.

MS PEIPUL: Yes, of course. From Eval it would be Francis Araden from Eval, the other one is Lukas Koatnaski from Eval ILG; and from Rainga ILG, would be Mr Bernard Taingnas from the Rainga ILG; and from the Toriu ILG would be Mr Tapele from the Toriu ILG. The other ILGs that are represented are, Vali; two from Alakasam; two from Kandaski; I should say; and one from Lamarain ILG.

COMMISSIONER JEREWAI: Counsel, as you, it is very important, as you go as per name of the shareholder as indicated in the IPA records against the ILG who is represented on the shareholding and could you try do them one by one?

MS PEIPUL: Yes.

COMMISSIONER JEREWAI: One LLG, call their name, relate to the shareholding and get the witness to confirm.

MS PEIPUL: Yes. This would be with respect to the names that he has given us and just confirming it against the ILGs that are within the 22 ILGs as well as the three ILGs that he has, in fact, previously mentioned are the landowners of the two portions.

COMMISSIONER JEREWAI: All right, you take the first shareholder ---

MS PEIPUL: The first shareholder is Francis Araden.

COMMISSIONER JEREWAI: Which ILG does that shareholder represent?

MS PEIPUL: Mr Tapele has said that he represents Eval, Eval ---

A: Ivetki.

Q: Sorry, Mr Tapele?

A: Ivetki.

Q: I cannot hear you.

COMMISSIONER JEREWAI: Speak up.

A: Ivetki, correction.

MS PEIPUL: Ivetki ILG.

A: Yes.

Q: So you did not say Eval?

A: Not Eval.

COMMISSIONER JEREWAI: All right, just forget what he said from what you have confirmed over the lunch hour. Get the shareholder and from your check and pose it to him and see if he can confirm it.

MS PEIPUL: Yes. With respect to that Commissioner, I would have to cross-check with the actual land investigation report. There is no way to actually confirm whether this person is an actual member of the ILG. I do not have the records of the ILG, the registered ILGs. I only have records of the three ILGs that he has mentioned previously. So I am unable to confirm whether or not they are part of the chairman, the committee of ---

COMMISSIONER JEREWAI: So that is our difficulty.

MS PEIPUL: Each of those ILGs. Yes, that is the difficulty at this time, unfortunately. I am unable to cross-check that. But I could obviously, cross-check the land investigation report, if in fact, that person is in the land investigation report. However, as we have noted, it is only by clan that they have been ---

COMMISSIONER JEREWAI: Yes and it is not by ILG.

MS PEIPUL: Not by ILG, unfortunately. So it would have to be – yes, so a really thorough cross-check of whether or not they are in fact the part of the ILG or not. But going by what Mr Tapele has said with respect to the ILGs that each of those shareholders are part of it, it is quite obvious ---

COMMISSIONER JEREWAI: Yes, all right, let us proceed that way instead.

MS PEIPUL: Yes. I think in terms of cross-checking it is quite obvious that only, well, four ---

COMMISSIONER JEREWAI: Go one by one, pose it to the witness.

MS PEIPUL: Yes, I think so. Francis Araden, ILG is Ivetski, is that correct, Mr Tapele, that is his ILG.

A: Yes.

Q: Joachim Bilingi, it is Vali, Vali ILG?



A: Yes.

Q: If I may just ask. You have given me a current extract dated 27 October which you gave me just today. Are there any changes from this current extract?

A: Only secretary.

Q: Only secretary is different, has changed. Okay, then I will proceed. Lucas Dumbarik. Is he Alakasam ILG?

A: Yes.

Q: Correct, okay. Paul Ingi, which ILG is he? That is one I did not hear properly, what ILG, can you confirm, please?

A: Rangusap.

Q: Gamunsap, is it?

A: Rangusap.

Q: Can you please, spell it? Can you spell it, please.

A: R-a---

Q: R-a---

A: N-g---

Q: N-g- Rangusap.

A: U-n—

Q: U-n---

A: S-a-p.

Q: S-a-p. It is Rangusap, okay, thank you.

A: Yes.

Q: Caspar Ivim, is he or that is the one you said you could not recall. But can you recall now what ILG he is with, Caspar Ivim?

A: Unsavaraqi.

Q: Can you spell that, please.

A: Un, U-n---

Q: U-n---

A: S-a---

Q: S-a---

A: V-a-r---

Q: V-a-r---

A: A-q---

Q: A-q---

A: I.

Q: I. So that is U-n-s-a-v-a-r-a-q-i.

A: U-n-s-a-v-a-r-a-q-i.

Q: Okay, thank you. With Mr Koatnaski, Lukas Koatnaski, that is Eval ILG, is it?

A: Yes.

Q: And Joel Langis is Kandaski, is that correct?

A: Yes.

Q: And for Mr Francis Mastakwaik?

A: Mastaraik.

Q: Aik.

A: Yes.

Q: Masta, can you repeat his name again, sorry, I am not saying it properly.

A: M-a-s---

Q: Masta ---

A: Tahaik.

Q: Tahaik.

A: Yes.

Q: Tahaik. He is Alakasam ILG, is that correct.

A: No, I am not really sure.

Q: Alakasam or ---?

A: No, he is another ILG.

Q: So what ILG is he?

A: He is another ILG.

Q: Another ILG?

A: Yes.

Q: Do you know what other ILG? Can you recall what ILG he is?

A: Sorry, he is from Alakasam, Alakasam ILG.

Q: Alakasam. Alphonse Moraska?

A: Lasasram.

Q: Can you spell that?

A: L-a-s-a-r-e-m.

Q: L-a-s-a-r-a-m.

A: S-a-r-e-m.

Q: R-e-m, Lasarem?

A: Yes.

Q: ILG. And George Revisit, is he Ivetski ILG.

A: Yes.

Q: Thank you. And Chris Sagalip, can you confirm what ILG, can you recollect what ILG he is?

A: West Langaram.

Q: Langram. And John Tain Gebem?

A: Unga.

Q: Unga. How do you ---

A: Natunga Unim.

Q: U---

A: Unim.

Q: Unim, can you spell it, please?

A: U-n---

Q: U-n---

A: G-e-m.

Q: G-e-n or m, n?

A: M.

Q: M. Mr Taingas, Bernard Taingas is he Rainga ILG, is that correct?

A: Bernard Taingas, yes.

Q: He is Rainga. Yourself, Toriu ILG.

A: Yes.

Q: And Joe Tasnasit, is that Kandaski ILG?

A: Yes.

Q: Thomas Tuvell, can you recollect what ILG he is with or member of?

A: Cannot recall.

Q: You cannot recall?

A: Yes.

Q: And the last one is Alfred Urengi. You said he is with Lamarain, is that correct, Lamarain?

A: No, it should be at Kanakuwo.

Q: Can you spell it? Can you spell the ILG name?

A: I cannot recall.

Q: No, you just said what it was, that ILG name, did you not say it now?

A: Which one?

Q: That Mr Urengi, Alfred Urengi.

A: Alfred Urengi.

Q: Urengi, yes.

A: He is from Kanako.

Q: Kanako.

A: Yes.

Q: So can you spell Konako, K-o-n-o-k-o?

A: K-o- yes, Kanako.

COMMISSIONER JEREWAI: K-o-n-a-k-o.

MS PEIPUL: Those are the 17 shareholders. Cross-checking from what he has just told me, he has recollected all but one of the ILG names. And we are to cross-check with the three that he has previously said in his testimony are the, which are Rainga, Vali and Taingas, I believe, three. Let me just double-check that.

COMMISSIONER JEREWAI: How many of those shareholders, perhaps if we can start this way.

MS PEIPUL: Yes.

COMMISSIONER JEREWAI: How many of those shareholders belong to the three main clans each?

MS PEIPUL: The three main clans, if I can recollect from paragraph 10, appear to be Toriu, Rainga and Eval and those reflected also in the signatories as well from the lease-lease back instrument as well. If we turn to look at those particular ---

COMMISSIONER JEREWAI: Document ---

MS PEIPUL: Yes, if you look at the shareholders and where they come from in terms of ILG membership, if you look at ---

COMMISSIONER JEREWAI: Sorry, Ms Peipul ---

MS PEIPUL: Yes, sorry, Commissioner.

COMMISSIONER JEREWAI: I just want to get the Lease - lease back Instrument first.

MS PEIPUL: Of course. The Lease - lease back Instrument is annexure C in Mr Tapele's affidavit.

COMMISSIONER JEREWAI: All right, and I ---

MS PEIPUL: And as you can note on page 5 of the Lease - lease back Instrument, you will note the signatories.

COMMISSIONER JEREWAI: The signatories agents for and on behalf of the landowners.

MS PEIPUL: Yes.

COMMISSIONER JEREWAI: How many of these shareholders belong to the first one Mobilum?

MS PEIPUL: How many of the shareholders belong to Mobilum?

COMMISSIONER JEREWAI: Yes.

MS PEIPUL: Mobilum is a village name and ILG name is Rainga.

COMMISSIONER JEREWAI: Rainga, sorry.

MS PEIPUL: Yes, Rainga.

COMMISSIONER JEREWAI: I beg your pardon, Rainga.

MS PEIPUL: Rainga, there would be, I believe just one from Rainga.

COMMISSIONER JEREWAI: And that would ---

MS PEIPUL: And that would be the signatory himself.

COMMISSIONER JEREWAI: That will be Mr Bernard Taingnas?

MS PEIPUL: That is correct.

COMMISSIONER JEREWAI: Then how many are from Eval ILG apart from the signatory Mr Lukas Koatnaski?

MS PEIPUL: That would be just Mr Koatnaski himself.

COMMISSIONER JEREWAI: Right, and from Toriu apart from Mr James Tapele, the witness.

MS PEIPUL: It will be just Mr James Tapele himself, no others from Toriu.

COMMISSIONER JEREWAI: Alright. What about the sublease entered into with KK Connections, which is annexure G?

MS PEIPUL: I am turning to the signatories.

COMMISSIONER JEREWAI: That will be the executives of Toriu Timbers?

MS PEIPUL: Yes, that would be correct and that would be a director and a secretary.

COMMISSIONER JEREWAI: That would be Mr Ngapele and Mr Koatnaski who signed there on behalf of Toriu Timbers.

MS PEIPUL: It appears to be, although I am not able to independently confirm. I think one signature, I think I can identify as Mr Koatnaski.

COMMISSIONER JEREWAI: Is that not Mr Tapele's signature on the sublease?

MS PEIPUL: As a director, I am unable to independently confirm it from just looking at it.

COMMISSIONER JEREWAI: I am looking at this signature on his affidavit and ---

MS PEIPUL: Yes, okay, yes ---

COMMISSIONER JEREWAI: It looks like his.

MS PEIPUL: It could be. Perhaps I will ask Mr Tapele. Mr Tapele, in terms of ---

COMMISSIONER JEREWAI: You, yourself signed the ---

MS PEIPUL: Did you ---

COMMISSIONER JEREWAI: The Instrument of Lease - lease back to the State together with Mr Koatnaski?

A: To?

Q: I beg your pardon, the sublease to KK Connections, together with Mr Koatnaski. Can you look at your affidavit, annexure G, sublease between Toriu Timbers and KK Connections Limited? Annexure G.

MS PEIPUL: Perhaps, I can assist Commissioner.

COMMISSIONER JEREWAI: Please, show him your copy.

MS PEIPUL: Yes, sorry.

COMMISSIONER JEREWAI: You found it?

A: Yes, this one, yes.

Q: Yes, all right. You look at the back where you signed on where the seal of Toriu Timbers is placed.

A: No.

Q: Is that your signature there?

A: No.

Q: Who signed with Mr Koatnaski?

A: KK Connection or Francis.

Q: No, I am talking about the segment where Toriu Timbers put the seal on top.

A: Yes, KK Connection.

Q: Who signed with Mr Koatnaski?

A: Koatnaski, KK Connection.

MS PEIPUL: Yes, there is a, above ---

COMMISSIONER JEREWAI: No, the - for Toriu Timbers ---

A: Yes, I said Francis.



Q: Francis who?

A: Araden.

Q: Who is he? No, I mean, who is he in terms of the position in the company?

A: He is a MD.

Q: He is the managing director, okay. He is the managing director. Counsel  
---

MS PEIPUL: Yes Commissioner.

COMMISSIONER JEREWAI: It seems we are unable to determine very clearly at this point all the named shareholders as contained in the extracts of the company obtained from IPA to determine if shareholding had been distributed fairly across all the ILGs involved in these SABLs; the whole 22 of them. That is what we are attempting to determine this afternoon.

MS PEIPUL: Yes, of course. Yes, we are Commissioner.

COMMISSIONER JEREWAI: Now, perhaps Mr Tapele, you could help us. How many of these shareholders that are named in the IPA records that we have obtained – let me rephrase this question. How many of ILGs have not got a shareholder representative named in among all of those we have noted in the IPA records?

A: I cannot remember.

Q: Who are not there?

A: Yes, I cannot remember.

Q: Yes?

A: I cannot remember.

Q: All of them are there? You are saying all of them are there?

A: No, I am saying I cannot remember.

Q: You cannot remember.

A: Yes.

Q: Sorry, I did not hear you. It is very important we know. We will – counsel ---

MS PEIPUL: Yes Commissioner.

COMMISSIONER JEREWAI: That is a matter imperative to determining if all of the consenting, if “consenting” in question mark, landowners’ representatives be as they may in ILG or directly among the shareholders named in the IPA records of Toriu Timbers and that will have to be an issue we have to clarify, if need be in the further continuation of this matter. But let us direct, because we will not be able to ascertain it this afternoon. Let us direct our questioning to other matters for the time being.

MS PEIPUL: Yes, of course. That is fine Commissioner.

[2.03 pm] In terms of the project approvals, Commissioner, perhaps, then if we can turn to the rest of his affidavit while Mr Tapele is there.

COMMISSIONER JEREWAI: Yes, do that Counsel. Welcome back Mr Kereng.

MR KERENG: Thank you.

MS PEIPUL: Perhaps, Mr Tapele can give us an indication of where, at what time Toriu Timbers – from the records it appears that Toriu Timbers appear to be operating under different name Aladaam Malara, I believe was the previous company name. And out of, just clarification for the Commission, perhaps Mr Tapele can give us an insight into why or into the history of the company. Mr Tapele, if you can give us an indication of Aladaam Malara, how it was – how you were operating under Aladaam Malara and I believe, it was first incorporated in, I do not seem to have the records here, but it is clear from the records we have that Aladaam Malara was the company operating before Toriu Timbers. And if you can give us an indication of operations and why you then decided to change the name or insert, create another company, Toriu Timbers? Perhaps, if you can do that Mr Tapele?

COMMISSIONER JEREWAI: Shorten your questions so that we get answers to them.

MS PEIPUL: Yes.

A: Started in 1992. We tried our best to operate, Aladaam Malara was our first named company. Then the other option came in, disturbed all the operations and then the company was decommissioned from the – was decommissioned - Aladaam Malara. And then ---

MS PEIPUL: So you were saying something happened. There was a ---

A: A volcanic eruption.

Q: Volcanic eruption, of course. And then it was ---

COMMISSIONER JEREWAI: Which volcano was that?

A: The twin volcanic eruption.

Q: You mean the Rabaul volcanoes?

A: Rabaul.

Q: Okay.

MS PEIPUL: Perhaps you can indicate the relationship between Aladaam Malara and Toriu Timbers? Because in our company searches there does not seem to be a connection, although in correspondence you have the letterhead of Aladaam Malara but there is no history of the same shareholding as Toriu Timbers being Aladaam Malara. Perhaps, you can give us an indication of why that is?

A: Toriu Timbers came in but negotiation and consulting for the operation of the company and then it started then I put the Toriu Timbers in.

Q: And that was in, before, obviously 2007 when the company started so---

A: Before 2004.

Q: '04?

A: '04.

Q: Then that was when it was first Aladaam Malara?

A: Aladaam, yes.

Q: And then you were operating under Aladaam Malara and then eventually you became Toriu Timbers?

A: Then we became Toriu Timbers, just only a name.

Q: Only a name but the people are the same people?

A: They are the same people.

Q: And at what point during that time did you start being approached by developers or did you approach developers?

A: No. I have never have approached any developer. I just try to put the company in a way that I want the operation to take place in there.

Q: So at what time did you – was there any ---

COMMISSIONER JEREWAI: When did you become involved with KK Connections?

A: 2006, I was not come in with KK Connection. It was 2007.

Q: And did KK Connections approach you or you approach KK Connections.

A: I have never approached KK Connection and they never approached me.

Q: What did you invite them, if you approached them, what did you invite them to do in terms of business with you?

A: They were operating on at Pondo that time.

Q: They were ---

A: Operating at Pondo.

Q: Sorry, what is the place again, say it loud?

A: Pondo before that.

MS PEIPUL: That is the logging area Pondo. I mean, it is the – Pondo, is the --  
-

COMMISSIONER JEREWAI: Pondo, P-o-n-d-o?

MS PEIPUL: Yes.

A: Yes.

COMMISSIONER JEREWAI: P-o-n-d-o, Pondo.

A: Yes.

Q: What sort of operations were being conducted in Pondo?

A: Just logging.

Q: Just logging. Were they involved in oil palm or any other agriculture projects?

A: No.

Q: If you can take it on from there?

MS PEIPUL: So what date was that you first became involved or started with KK Connections?

A: Sorry, I cannot hear you, please?

Q: I am saying the date of when it was first, you first were approached or had negotiations with KK Connections. Can you recall?

A: I cannot recall but it was 2008.

Q: And were they a part of the land investigation process or what was they in? Were they involved or did they take part in the land investigation process?

A: No.

Q: So what role did they take in as of 2008 with Toriu Timbers?

A: Oil palm, there is supposed to be oil palm.

Q: Yes, but in 2008 when you were first talking with KK Connections, what were your discussions about exactly? How did you talk or negotiate from 2008?

A: Agriculture, infrastructure ---

Q: So in other words, did they assist you with agriculture proposals or did they come in and assist with any surveys of the land regarding agriculture? I mean, from what, how did they assist or was it Toriu Timbers?

A: They just assist in terms of planting, buying seedlings but the surveying is done by the Lands Division.

Q: Well, planting seedlings is now but back then in 2008, did they do the initial work; assist with initial work of scoping, of looking at the terrain to say that it was good for agriculture, of oil palm at that stage in 2008 or how did Toriu Timbers decide that oil palm was the best?

A: The agriculture then we did not lock agriculture into oil palm again because of no – and we, company now is building up cocoa in terms of agriculture.

Q: Maybe, I am not clear in my question. But because with every agriculture project you need to have a proposal and someone needs to go out and look at the land and say, this land is good for what crop, cocoa, oil palm. So my question is, for Toriu Timbers, who went out and did that initial agriculture proposal work? Go and looking at the land and saying it is good for oil palm. Can you answer? Who did that work?

A: I would not know.

Q: So Mr Tapele, who would know who did that initial work? If you do not know, then can you tell us who would know?

A: I think it is Department of DPI.

Q: Yes, but Mr Tapele, my question is, Toriu Timbers is the SABL grantee and as a requirement there needs to be an agriculture proposal prepared and given to the Department of Agriculture or at least they need to be involved. So I am asking you whether or not or who prepared that agriculture proposal at the beginning in 2008 or maybe, even before then?

COMMISSIONER JEREWAI: Did Toriu Timbers, yourselves, did the agriculture proposal or were you assisted by KK Connections? Were you assisted by KK Connections? Were you assisted?

A: Yes.

Q: You must answer into the mic so that it is on the transcripts.

A: Yes.

Q: Do not just nod your head because it is not on record if you nod your head.

A: We were assisted by KK Connection.

Q: Good. Please relax. We are all trying to help each other here. And did that involve KK Connections sending in their agriculture experts, maybe soil experts, other scientifically qualified personnel?

A: No.

Q: Alright. But who from KK Connection assisted and in what manner, in what form, an agriculturalist or an oil palm expert, and if it is an oil palm expert, what sort of qualifications? Are you able to explain to us? It is very important Mr Tapele because it is part of our function to be able to go back and say portions 903C and 904C were issued SABL. And all SABLs must involve agriculture. We will not be able to go back and say okay, we have found for Toriu Timber's case an agriculture project. And let me explain why. SABLs will not be used as a cover to log forests. So assist us, tell us what was your agriculture project? And how did you come about having an agriculture proposal? So, Mr Tapele, how did you come about your agriculture proposal for portions 903C and 904C?

A: The 904C, in terms of agriculture, it was done by the developer himself. So only cocoa alone was just to be in portion 904C because of the oil palm was scrapped away. So the developer came in with thinking of cocoa and that is the only idea that they were trying to put cocoa.

Q: And that is in relation to portion 904C?

A: 904C.

Q: What about 90 ---

A: 903C?

Q: 03C.

A: Is supposed to be all the ILGs building alongside of the road in terms of cocoa. That is all.

Q: From early 2010, and I am speaking generally, but it is around last year, that you began to obtain a number of approvals, including the Department

of Agriculture approval, the Environment and Conservation approval and eventually Forest Clearance Authorities. Will you be able to tell us now with the Forest Clearance Authority, how much land you have cleared so far for the agriculture development, whatever that agriculture proposal is?

A: In 904C, the clearance of course must be at 4000 hectares of cocoa trees to be planted.

Q: Planted already?

A: To be planted.

Q: Sorry, to be planted?

A: Yes.

Q: 4000 hectares?

A: 4000 hectares.

Q: And those 4000 hectares have been cleared off the forest so that these cocoa can be planted?

A: It is not yet cleared.

Q: Not yet planted?

A: Not yet cleared.

Q: When is it proposed that would be planted?

A: We proposed 2010 that area should be cleared for agriculture.

Q: No. You said 4000 hectares of land had been cleared for cocoa to be planted. What I am asking now is when do you propose to plant?

A: Must be 2010 and 11.

Q: Of course, I mean, let me be fair. We all understand the process of planting cocoa. We have to plant the shade trees first after clearing the land and having the land prepared. Correct? Now, has that taken place?

A: No.

Q: And when was the 4000 hectares cleared?



A: I said not yet because we have to get the certification from Forest Department.

Q: Sorry, my apologies, Mr Tapele. But you intend to clear 4000 hectares?

A: Yes.

Q: On portion 904C?

A: Yes.

Q: My apologies, all right. Then let me ask, when do you – have you received the forest clearance authority for the 4000 hectares?

A: Not yet.

Q: Not yet. And so it remains in the plan; the agriculture plan only?

A: Yes.

Q: Can you please stop looking down that way. You look at me and let us talk, let us just talk so that I can hear you. Part of the reason is you are looking that way when I am talking, sir and when you are talking. So when do you propose to do, let us say, you receive FCA for the 4000 hectares. Now, FCAs are limited to 500 hectares we know that already and which means you will have to apply for FCAs in aggregates to make up the 4000 hectares you intend to clear. And is that now stopped because of the suspension placed since this Commission of Inquiry commenced?

A: No.

MS PEIPUL: Sorry, Commissioner, if I can just interject. Pursuant to paragraph 17 of Mr Tapele's affidavit, he does swear that there is an FCA over that land which is FCA number 154. It is also annexed annexure L to his affidavit.

COMMISSIONER JEREWAI: Thank you. All right, there is an FCA issued. Have you started clearing land pursuant to that FCA?

A: No.

Q: No.

MS PEIPUL: Commissioner, it was granted on 15 January 2008, just to give some time.

COMMISSIONER JEREWAI: 15 January 2008?

MS PEIPUL: 2008, give some ---

COMMISSIONER JEREWAI: Okay, it was granted on 15 January 2008 and you still have not commenced clearance.

A: Already cleared.

Q: Already cleared?

A: Yes. I mean alongside of the road.

Q: And has it reached the 4000?

A: It is on the plan of that ---

Q: You plan to clear 4000?

A: 4000.

Q: You have an FCA issued since 2008 and you have cleared along the road ---

A: Road line.

Q: That is being constructed.

A: Road line.

Q: Right. How many cubic meters of timber have you harvested in that process? Excuse me, how many cubic meters of timber have you harvested in that process?

A: I would not know.

Q: You are the chairman of the company. How come you would not know? All right, you need not answer that. I am just upset a bit that a chairman of a company should not know something so basic such as that. When do you fully, intend to fully implement your agriculture project in relation to portion 904C? Let us just leave portion 903C out first. When do you see fully implementing that cocoa project?

A: That, I would not know also.

Q: In relation to portion 903C, has there any development taken place there?

A: Yes.

Q: What are they?

A: Cocoa.

Q: Can you elaborate, can you explain to me the kind of cocoa development that had taken place?

A: Some are bearing.

Q: Can you give me approximate acreage that had been cleared and planted with cocoa?

A: 600 cocoa trees.

Q: 600 cocoa trees or 600 hectares of cocoa trees?

A: Hectares.

Q: 600 hectares. Did those 600 hectares hold forest stock and the forest had been cleared for them to be planted?

A: Come again, sir?

Q: Were there any forest, any trees standing on those 600 hectares that needed to be cleared before planting of cocoa?

A: It was along the side of the road where Open Bay Timber cleared before. So it just – we are building on the land that was already been cleared by Open Bay Timber.

Q: Okay. Open Bay Timber used to operate there?

A: That is correct.

Q: But since your proposal, has there been any other area within portion 903C that had been cleared for cocoa planting or other agriculture crops? Counsel, can you take it from there?

MS PEIPUL: Your own affidavit, you have attached not only the FCA, the Forest Clearance Authority but also relevant environmental permits as well. So

this is a fully operational integrated agriculture project. For all intents and purposes according to recent on-site field reports produced by the Forest Authority, the operation has been underway for the past eight years and just in terms of some scraps ---

COMMISSIONER JEREWAI: Can you pose to, counsel, can you pose to the witness if we have any records from, especially the PNG Forest Authority, National Forest Service, the logging operations that may have been carried out there since the issue – prior to the issue of SABL and after the issue of the SABL.

MS PEIPUL: The SABL was issued in 2009 and the logging operation, at least the development on the particular site, according to a field verification report prepared by the PNG Forestry Authority in August 2010, they confirm that there has been some 1300 hectares cleared thus far and that there has been – it appears to be divided in blocks and there appear to be four blocks within the particular area and I believe there is about 30,000 hectares of area that has been divided up into four different blocks. And it states that the first block as being cleared and that consists of 500 hectares are being clear felled and that is paving the way for cocoa establishment which confirms what Mr Tapele is saying. And that in a block 2, work is underway for forest clearance or at least forest is being cleared within the second block for another 500 hectares to be cleared.

In terms of the actual planting it says that five ---

COMMISSIONER JEREWAI: Can you – the first part you have just relayed there, can you pose it to the witness and have him confirm?

MS PEIPUL: Yes. Mr Tapele, can you confirm that that is the case, that in fact 500 hectares in block 1 had been cleared and that currently underway is another 500 hectares is being cleared in block 2?

A: In 903C?

Q: 904, I believe.

A: 03?

Q: 903?

A: Yes.

[2.29 pm] Q: Yes. So are you confirming that is the case, yes?

A: Yes.

Q: Is that a yes, Mr Tapele? Pull the microphone, yes.

A: Yes.

COMMISSIONER JEREWAI: You have to, I am afraid you have to answer this in words not by motion of the body or the transcript will not record the motion of your body only.

MS PEIPUL: In terms of the actual planting of cocoa seedlings, can you confirm that the 500 hectares has been planted with cocoa seedlings?

A: Yes.

Q: Yes, good. There is a further 270 hectares in block 2 that has also been planted with cocoa seedlings, is that correct?

A: Yes.

Q: In terms of the actual clearance for growths, because you have mentioned that that is where main clearances happen along the roads, can you confirm that approximately 35.5 kilometers has been constructed and obviously, around the construction there were would have been clearing of timber? Can you confirm that that is the case?

A: Yes, 35 kilometers was cleared but there were no timbers because of the Open Bay, they make that road.

Q: Of course, because of Open Bay. But can you confirm that it has been constructed by KK Connections?

A: Yes.

Q: That is correct, okay. And there is a further 25 kilometers left to complete?

A: Yes.

Q: Is that correct?

A: Yes.

- Q: Now in terms of, sorry, if I can turn back to the issue of the cocoa seedlings. Can you confirm that there are seedlings now ready for planting, approximately, 25,000 seedlings? Would that be correct or have they already been planted because this report was from ----
- A: Yes, there are 25 seedlings ---
- Q: August 2010. So ---
- A: On the nursery ready to be planted.
- Q: Right. So they are also ready to be planted. So of this, can you – you confirm that you do not – you have previously said that you do not recall any agriculture project actually being prepared. But obviously, there must be an agriculture project document that has been prepared in line with – we had actually received something from Toriu Timbers, a large document. But you have never sighted that document, an agriculture proposal?
- A: Well, I sighted it but in terms of seeing the real term in terms of the language, I have not even sighted it.
- Q: So you have not sighted anything in the past? I mean, as the chairman of Toriu Timbers you have not sighted anything---
- A: For six months.
- Q: And previously with your involvement in the organization, because you have been a signatory to the Lease - lease Back Instrument and you should have been aware of the type of agriculture proposals that were being prepared. So are you telling us that you had no knowledge of what was contained in any agriculture project or proposal?
- A: The obtaining of the knowledge that I have is no. Maybe it is in there but I do not read it.
- Q: So can you confirm who from Toriu Timbers, I asked you previously, who would have the knowledge on what is in a project proposal? Would that be your managing director Francis Kaning or who exactly? Can you confirm the name of the person who is involved with that from Toriu Timbers?

A: Come in again, I cannot get you clear?

Q: Sorry, what I am asking is which director or which shareholder from Toriu Timbers is involved in the agriculture proposal or was involved in preparing the agriculture proposal; that is engaging someone, agriculturalist to come and look at the land or engaging someone to do soil assessments or can you indicate which of your shareholders or directors of Toriu Timbers or as it was back then Aladaam Malara was involved, including your employees was involved in preparing or at least some input into the agriculture proposal.

A: I think our technical personals in the District assigned to have that agriculture plan on the area and with also the corporative of the management.

Q: So who would those people be, your technical personnel and ---

A: In the District we got the technical person from the Agriculture.

Q: So you are saying that Department of Agriculture or the Provincial Agriculture would have assisted in the preparation of the agriculture proposal?

A: Yes.

Q: So who in your organization can confirm this, would that be Mr Kannin?

A: With, what is it?

Q: No, my question is, who else can confirm who was involved in the proposal? Is it Mr Kaning, your managing director can confirm that?

A: Yes.

COMMISSIONER JEREWAI: I did not quite get the length of the road constructed so far and in which direction? Could you just, for my sake just explain further?

A: Thank you. The road is coming to Vudal.

Q: Vudal way?

A: Vudal way.

Q: Yes, which will connect right up to Lassul?

A: Malasait. It is already connected Lassul but it comes up to the Inland Baining and the Vudal area.

Q: Right. And that will be connecting portions 903 and 904?

A: That will be connecting 904C and the whole area of 903C.

Q: Which is the furthest portion, 904 or 903?

A: Just 904.

Q: I know they are adjoining but 904 is the furthest one?

A: You will be travelling through 903C.

Q: Yes. So total kilometer reach of road constructed so far is, you were saying?

A: 35.

Q: 35 kilometers?

A: Yes.

Q: And that is ---

A: But it is more than that.

Q: And what sort of a road is it? Is it a firm surface regularly maintained road?

A: Yes, they are doing it, kilometer by kilometer.

Q: Yes, but what, it is a all-weather surface road or what sort of ---

A: I mean, from Mubilum to Konako. That is ---

Q: No, is it all weather surface road? Do you know the surface of it?

A: Yes.

Q: Karanas?

A: Yes.



Q: Gravel, it is not sealed?

A: 35 of it is already karanas.

Q: Karanas?

A: Yes.

Q: That is what I want to know. So in other words it is all weather road?

A: Yes.

Q: And that covers an area that was inaccessible before?

A: Yes.

Q: Go on counsel, I just wanted to clarify that. There must be some good things as well as bad things.

MS PEIPUL: Thank you. Well, yes, that is why we are just going through the different points that were pointed out in the survey, rather the field report by the Forest Authority.

COMMISSIONER JEREWAI: Yes, that is fine, just proceed with other questions.

MS PEIPUL: Mr Tapele, turning back to your affidavit, I know you have been chairman of Toriu Timbers for six months but you have indicated you have been involved with the company for a while and with respect to the ILGs and obviously you signed off on the instruments and so you have been involved for a while now. But my question is with respect to, upon the signing of the or granting of the SABL, which I noticed shown in terms of the owner's copy that is attached as annexure H to your affidavit, that was in March of 2010, there was a Memorandum of Agreement that was signed pursuant to that. Can you, if you can turn to your Memorandum of Agreement, that is annexure I? Can you read out the particular companies or the incorporated land groups that are party to the Memorandum of Agreement? That would be KK Connections Limited as one party and it is an agreement or Memorandum of Agreement between Rainga Land Group Incorporated, Eval Land Group Incorporated and Toriu Land Group Incorporated. Why did you feel it appropriate to enter into an agreement with those incorporated land groups rather than Toriu Timbers? Can you explain why?

A: What is it?

Q: My question is, why did you – why was the decision made or should I say who made the decision, I should say, as to why a MOA was being entered into between KK Connections and the three incorporated land groups rather than Toriu Timbers?

A: I cannot answer that. I cannot answer it because I thought the statement was under Toriu Timbers; the Agreement. I thought the Agreement must be under Toriu Timbers.

Q: So why do you think it is being under Rainga Land Group, Eval Land Group and Toriu Land Group?

A: I mean, all these should be the ILGs but under the Toriu Timbers as a title holder all the ---

Q: So are you saying this is a mistake?

A: Yes, it should not be like that.

Q: So are you saying this is a mistake?

A: It is supposed to be Toriu Timbers getting 903C. But these three ILGs signing in on that portion 904.

Q: So this is for portion 903, this particular MOA, is that what you are saying?

A: 904C.

Q: 4C, okay, 904C.

COMMISSIONER JEREWAI: Counsel, is this not an agreement entered into with KK Connections ---

MS PEIPUL: Yes, it is.

COMMISSIONER JEREWAI: So that the rentals are paid directly to the ILGs rather than to the representative company?

MS PEIPUL: Yes. But that leads to the issue of the representation in other ILGs, Commissioner, that is the line of questioning. In terms of 22 and the fact that they are not included in.

COMMISSIONER JEREWAI: I do not think so. I think when it comes to rental it would be more appropriate to pay directly to the landowners.

MS PEIPUL: Yes.

COMMISSIONER JEREWAI: And it does not go through the landowner company which ---

MS PEIPUL: Of course, but then the question is then, are those ILGs representative of all the appropriate landowners.

COMMISSIONER JEREWAI: I do not think that will be the conclusive manner in proving whether Toriu Timbers truly represents the three ILGs or not.

MS PEIPUL: Yes.

COMMISSIONER JEREWAI: I do not think that is the appropriate way to prove anything. We cannot be asked draw an inference to that effect. I think it is a good arrangement that rentals are paid directly to the landowners.

MS PEIPUL: Agreed Commissioner. But it goes to the representativeness of those three ILGs. I think that has been an issue as to whether there are 22 ILGs at issue or whether these three ILGs are truly representative of ---

COMMISSIONER JEREWAI: But remember, he did say that in relation to portion 904C there are only three ILGs who really represent their clans who claim ownership of that portion. Which and we have yet and that is why we have reserved the other issue to determine and we will do that at the conclusion of all the witnesses, because that issue needs to be addressed and we will come back on that, and that is the relationship of the shareholders in connection with all the ILGs. And then we will be able to determine per portion as to who is claiming ownership or representative ownership in relation to each of the portion 904 and 903C. So, no, I do not think we should stretch this witness just so that we can prove lack of authority, want of authority. Let us move on to some other matters.

Every landowner corporation when it comes to rent it should be paid directly to the landowners and I think this is good here, on the face of it anyway until we are shown to the contrary.

MS PEIPUL: Yes, thank you Commissioner. Perhaps, just with respect to the, perhaps not the content of the MOA but just in terms of the signatures on the MOA, Memorandum of Agreement.

COMMISSIONER JEREWAI: There you are, that is more imperative. I thought I noticed some discrepancies which appear to be similar signatures attached to different names. Someone seems to be signing on behalf of everybody else or somebody else. So can we be taken to that and let us see. Because one of the major issues here will be due authorization in relation to agency, in relation to consent including consent to have Toriu being issued SABL title, include consent to having agents represent the individual landowners as well as the ILGs. So I noticed there. Can you draw this to the witness's attention?

MS PEIPUL: I make specific references Commissioner to the Memorandum of Agreement. So Mr Tapele, looking at that MOA again and at the back, you will notice that there are all the signatures there. Could you just kindly in your – identify whose signatures they are, starting with the Director of KK Connections and moving down to the different land group signatures? If you could identify them.

A: Bernard Taingas.

Q: Yes, Bernard Taingas and that would be for Rainga Land Group, is that correct?

A: Yes.

Q: As chairman and then below that?

A: I think it is still the same signature.

Q: So for secretary, who would have signed for secretary for Rainga Land Group?

A: I think that is the same signature.

Q: So Bernard Taingas signed for both chairman and secretary?

A: Yes.

Q: And for Eval Land Group?

A: Koatnaski, Lukas Koatnaski.

Q: Can you confirm that there is the same signature for secretary?

A: That is still the same signature.

Q: So, yes, so that is Mr Lukas Koatnaski. Can you confirm the signature for Toriu Land Group?

A: Yes, my signature.

Q: That is yourself. And you have also signed in the secretary space as well. Can you confirm who signed for KK Connections, the signatory for KK Connections?

A: No developer, KK - Kevin Ling.

Q: Kevin Ling? Kelvin Ling or Kevin Ling. Thank you.

THE COMMISISONER: Counsel, where is the document that contains obviously what appears to be someone signing for other people as well? And what document is that, to start with? I would like to get to that.

MS PEIPUL: Yes, of course, get to the document. Now as a part of the permitting process, to get permits from the Department of Environment & Conservation, Mr Tapele, there have to be appropriate proposals submitted and one is an environmental impact statement. And that was submitted, and that would be in your blue binder Commissioner, that was submitted in January of 2008. Sorry Commissioner, it is not clearly marked, however, it is in there. And as a part of it, I have been referring to some 22 incorporated land groups all along and there are some signatures within this particular environmental impact statement that actually says or notes, done all the ILG numbers that I had set previously and – sorry Commissioner, it would be to the back, more to the back. It is not numbered so you are not able to find it as easily.

COMMISSIONER JEREWAI: All right, never mind. I will rely on what you have there.

MS PEIPUL: So as a part of the environmental ---

COMMISSIONER JEREWAI: Just draw it to the witness's attention, let us get on with it, yes.

MS PEIPUL: Mr Tapele, you will note that in the signature columns for these 22 ILGs that have been listed there, do you notice there are similarities between signatures that the same person must have signed for different ILGs?

A: Yes.

Q: And do you recognize some of those signatures?

A: Yes.

Q: Yes, you do. Can you tell us who those signatories are?

A: Calling their names?

Q: Yes, if you can call their names, please.

A: Joe Tasanasip, secretary.

COMMISSIONER JEREWAI: Who did he sign for? He signed for himself, number 1.

A: No, it is ILGs.

MS PEIPUL: You will have to say the ILG name because that is ---

COMMISSIONER JEREWAI: Call the ILG name, yes.

A: Konwalki.

Q: Counsel, would you mind coming and standing next to him, take him through each one. Show him where the same signature appears in different ILGs where they are not supposed to be, I would like that very clearly pointed out. And speak into the mic I want that recorded.

MS PEIPUL: Mr Tapele, you can see that under ILG name Kulugam, ILG number 11170 the signature is the same as ILG 1171 which is Langaram 1 and Lamarain which is ILG number 1172. Can you identify the signature?

A: Yes, Joe Tasanasip.

Q: What was the name again, can you repeat it?

A: Joe Tas, T-a-s---

Q: T-a-s---

A: A-n---

Q: A-n---

A: A-s-i---

Q: S-i---

A: P.

Q: Joe Tasanasi?

A: Yes.

Q: Thank you. Mr Tapele, you will also note that ILG name Dulit, ILG number 11173, Kandaski, ILG name and ILG number 11174, the same signature is annexed to those two ILG names. Can you identify those two signatures, that signature?

A: Yes, Joe Langis.

Q: Mr Tapele, there is also several signatures next to different ILGs, about four ILGs or five ILGs. I will read them out. Baragi, that is ILG number 11177, Gilgil, that is ILG number 11178, ILG named Rangunsap, that is 11179 and Eval, that is 11183 and lastly, Yayam 11190. Can you identify the signature?

A: Yes.

Q: And who would that be?

A: Lukas Koatnaski.

COMMISSIONER JEREWAI: Speak loud into the mike please, Mr Tapele.

MS PEIPUL: Can you repeat the name?

A: Lukas Koatnaski.

Q: There are two other signatures that I can identify that are similar, that would be Nangasaga which is 11180 and Aninga 11181 and also Ivetki 11188. Can you identify those signatures?

A: I cannot identify them. I do not know.

Q: You do not know these three signatures.

A: Yes.

Q: There are two other signatures for the ILGs of Buris 11182 and Alakasam, 11184. Can you identify them?

A: No.

Q: I identified three previously for Joe Tasanasip but can you also identify that Malasaet 11185 is also signed by Joe Tasanasip?

A: Yes.

Q: This environmental impact statement from which this lease comes from is dated in 2008 as I previously said, I will confirm that, 15 February 2008. Not wanting to dwell on the issue of ILGs Commissioner, but I think it is relevant with respect to from 2008 then at that time, February 2008, when you were in fact freely submitting the 22 ILG names, it is clear that similar people who are also related to Toriu Timber and obviously the main ILGs who also signed off on these 22 ILGs.

1.55 pm] February 2008 when you were in fact freely submitting the 22 ILG names, it is clear that similar people who are also related to Toriu Timbers and obviously the main ILGs who also signed off on these 22 ILGs. So I think I turn back to Mr Tapele when I ask the question, in terms of this particular 22 ILGs and what you have presented in your affidavit, I once again, go back to the question of representation, Mr Tapele.

COMMISSIONER JEREWAI: Please do that.

MS PEIPUL: Yes, and specifically to the fact that ---

COMMISSIONER JEREWAI: Can I assist you by ---

MS PEIPUL: Yes, sorry, yes, Commissioner.

COMMISSIONER JEREWAI: Can I ask you by dividing the question?

MS PEIPUL: Yes.

COMMISSIONER JEREWAI: You have just seen the signatories representing each ILG, 22 ILGs when submitting the environmental impact statement. Among them are signatories of people who are not supposed to sign for the ILGs they sign for. If that is the kind of activity relating to other matters of



consent, which you earlier on said in your evidence, that you conceded, you agreed that there may not have been consents, then that document, as submitted is partially forged. Can you respond to that?

A: No, I cannot respond. But I see it ia a truth of conduct.

Q: I mean, you may have meant well to bring development to your people. But that is not the way to do it.

MS PEIPUL: I think if we dwell further into this particular environmental impact statement ---

COMMISSIONER JEREWAI: Please proceed.

MS PEIPUL: We will ---

COMMISSIONER JEREWAI: My question, as posed, is not conclusive. Please, continue counsel.

MS PEIPUL: I think in terms of this environmental impact statement obviously it came before the granting of the SABL. So there needed to be some proof of landowner consent within the actual environmental impact statement and the application process permitting. And to that effect, there is a Forestry Act forms that have been filled, a number of forms and I am not able to go through all of them right now. But they are all referring to, Commissioner, it would be at the end of your, if you want to sight them. But there is a number of timber authority verification of ownership and consent of landowners' documents that are in and they are all the ILGs that have been referred to, perhaps even more, are referred to in each of these verification forms. And a number of them have been signed by many of the same people that are now shareholders within Toriu Timbers. The first particular verification form within the DIS is for the Gilgil Incorporated Land Group at Alakasam, and that is - the person signing is Mr Luke Koatnaski of Alakasam village. So he is one of the persons who has signed off multiple times on the previous 22 and he is also one of the signatories on the Lease - lease back Instrument and also, I believe a significant person within Toriu Timbers at this time. So that is just an example of one of the verification documents and I believe if you go through the verification documents the same names do pop up a number of times through it with respect to confirming some form of landowner consent in the environmental permitting process which is well before the SABL was granted in 2008.

COMMISSIONER JEREWAI: In other words counsel, let us pose it to the witness. He is still there.

MS PEIPUL: Yes, of course, we should pose it to the witness.

COMMISSIONER JEREWAI: Mr Tapele, the forms that are referred to as landowner verification as to consent with regard to the environmental – application for environmental license, is that right?

MS PEIPUL: Indeed.

COMMISSIONER JEREWAI: Had been signed in a similar manner that a number of ILGs whose authorized executives should have signed such verification had their verification signed by somebody else and Mr Koatnaski seems to be a very regular infringer of this process. Are you aware of that?

A: No.

Q: The witness is not aware of that. But it is – we are putting what we have found on the documents. We have conducted preliminary hearings in Port Moresby. We have summoned officials of all the relevant departments and let this be a warning to everyone who may come up as witnesses. There is nothing we have not covered before we came here. Either you are able to verify or you are unable to verify, that will also determine the veracity, the truth or otherwise of what you are telling us. So bear this in mind, we did not come here unprepared. Proceed counsel.

MS PEIPUL: Thank you Commissioner. Sorry Commissioner, I am just looking through these verification forms, just to locate whether or not Mr Tapele is a signatory here. Mr Tapele, to your recollection, did you sign off on any of these forms in, would have been 2008, 2007? This is a copy of them here, one here which I note does have your signature in terms of a witness. I will just give that to you to note. Can you confirm that that is in fact your signature at the bottom as a witness?

A: Yes.

Q: Can you recall when you signed that, when that would have been?

A: No.

Q: No, you cannot recall ---

A: Yes, cannot recall.

Q: When you signed that? I believe these documents are dated in early 2006. So can you turn your mind to when you would have signed them? Can you recall now early 2006?

A: 2006?

Q: 2006.

A: I cannot recall where I signed it.

Q: So where you with the other gentlemen that signed the other documents at that time? There are a quite a few of those same forms have been signed by others.

A: Yes.

Q: So were you with them at that time?

A: Yes, you mean this one now?

Q: That one and the others. Because your signature is on others as well so I am asking whether ---

A: No.

COMMISSIONER JEREWAI: While the counsels are conferring let us discuss some things. The process of SABL application involves request by landowners to convert their land, your land to an Agriculture Business Lease and the State, the Government of Papua New Guinea assist you by you giving up your customary rights to your land to the State and the State then gives the lease back to you or a person or entity of your choice that you have agreed to so that you can engage in a commercial business to improve your lives. And that is a very important way of getting customary landowners in this country own about 97 percent of the land to become involved commercially. What we are interested in is if everyone who is affected agreed to a particular SABL to become part of that in that process, and maybe, there are some people who did not agree, maybe there are some who agreed, such as in this case as it is beginning to become clear. So it will help all of us, if when you are here in the witness stand, you tell us the truth so that we can all make our findings and try to correct it and set your business on track and you continue. Those who do not want to

be part of that business, they can come out of it, and you can reshape your SABL. There is nothing so difficult about that. I am just pointing out a possibility. So when it comes to the question of did everyone agreed or not, I would like to urge everyone to please, cooperate and say, yes, everyone agreed or some did not agree. Those who did not agree, have you affected their land as well? You know, tell us, please. Help us in the process so that we can help you. Counsels, are you ready?

MS PEIPUL: Yes.

COMMISSIONER JEREWAI: Please proceed.

MS PEIPUL: Thank you Commissioner. I think we have covered this issue of what is in the environmental impact statement with respect to the consent forms that have been filled. It is obvious that Mr Tapele, you have identified your signature on one of them so that is for obviously us to review. But with respect to the issue of – perhaps we can turn to the land investigation process and consent process in that respect. Can you confirm Mr Tapele, if there was any form of public hearings and that would be public hearings for the environmental permitting process? Because as part of the environment, process of permitting, they need to have a public hearing. That is one, and there is also the need for public hearing for Department of Agriculture for there to be approval for the agriculture proposal. So can you tell us if there had been any public hearings and when they were and what happened?

A: You mean, public hearing by the Department of Agriculture?

Q: Yes, from the different departments and also obviously, maybe even from Toriu Timbers as well, any type of public hearings that you have had.

A: From the environmental, I say I would not know.

Q: So you would not know for environmental?

A: The environment.

Q: But any other public hearings or DAL, for Department of Agriculture Livestock, they are supposed to have public hearings too. So can you recall any public hearings for them?

A: Yes.

Q: So you recall.

A: Yes.

Q: Could you tell us?

A: 2009 and 10 they have been going down to the project site.

Q: So were you present at that meeting, at that public hearing?

A: Yes, Tommy Peni and them.

Q: Do you recall what happened at that public hearing, can you recall?

A: Yes, only landowners wanting to develop agriculture along the side of the road.

Q: So you are saying the development on the side of the road, did you say?

A: Yes.

Q: And the side of the road meaning the road that was being developed that we talked about, the 20 ---

A: From Konako to Mumbilum.

Q: So at that public hearing there was talk of the actual project itself; the Inland Lassul Baining, the Toriu Timber, the project itself; integrated project?

A: Yes.

Q: From what you could see, was there an overwhelming agreement to that? Did all the landowners who attended agree to the project or did you have some people not agree to the project?

A: They all agreed on the project. Only the time when there was a public hearing at Vudal University and there were some negative on the public hearing.

Q: So there was a public hearing at Vudal?

A: Vudal.

Q: Are you saying there was some disagreement?

- A: Only few people come with disagreement.
- Q: So a few people came and they said things?
- A: Yes.
- Q: But would you say overwhelmingly, most people were in agreement with the project? Is that what you are saying?
- A: Yes.
- Q: With this hearing at Vudal University, that was a separate meeting, is that correct, separate public hearing? Are you saying there were two public hearings, there was one at Vudal University and there was another one, more near to the site? Is that correct?
- A: I can only remember the one at Vudal University at Qaraq Investment.
- Q: That is the one in 2009?
- A: Yes.
- Q: So was it the Department of Agriculture public hearing or can you tell us what the hearing was for, precisely?
- A: The hearing was done by the all sectorial departments and the landowners.
- Q: When you say sectorial departments you mean?
- A: Provincial government.
- Q: Provincial government as well as the National departments?
- A: Yes.
- Q: That were like, the Department of ---
- A: Kanawi Pouru, Forestry.
- Q: Forestry, yes.
- A: Forestry.
- Q: So all those representatives of those different government agencies they attended that meeting, is that correct, Vudal?

A: Yes.

Q: Earlier you said that you would not know about the Department of Environment and Conservation hearing. You informed us that, is that correct that you would not know where the DEC, the Department of Environment and Conservation meeting was held?

A: Well, from me as a director to the landowners we have never seen the environment people coming and ---

Q: So you have not seen any public hearing of the ---

A: Sighted them, yes.

Q: But do you know that it is a requirement that the public hearing for the Department of Environment and Conservation to have a public hearing before ---

A: I do not know that this is part of the requirement. I do not know.

Q: But from what you know they never conducted a public hearing?

COMMISSIONER JEREWAI: Counsels, can we have a 15 minutes break?

MS PEIPUL: Mr Tapele, thank you. You will stand down for 15 minutes and we will come back in after 15 minutes. Everyone we will adjourn for 15 minutes. Take a break and come back.

## **SHORT ADJOURNMENT**

[3.38 pm] MS PEIPUL: Commissioner, at this time I would ask that, in terms of further questioning of this witness, since we will be having witnesses, one particular witness from KK Connections later one next week, we probably like to join this witness to perhaps questioning after that time. That would be our request at this time to ---

COMMISSIONER JEREWAI: Are you suggesting we retain the witness?

MS PEIPUL: Sorry Commissioner?

COMMISSIONER JEREWAI: We retain Mr Tapele as a witness?

MS PEIPUL: Yes, that is ---

COMMISSIONER JEREWAI: Into next week?

MS PEIPUL: Yes, to next week.

COMMISSIONER JEREWAI: That will give him sometime also to ponder what we have said.

MS PEIPUL: Absolutely.

COMMISSIONER JEREWAI: Ponder some of the questions that he was unable to deal with.

MS PEIPUL: Yes.

COMMISSIONER JEREWAI: Because this Inquiry is not about catching anybody.

MS PEIPUL: Yes, of course.

COMMISSIONER JEREWAI: This Inquiry is about fair and forward cooperation for us to reach some conclusions to what went wrong with what was otherwise a noble concept. I appreciate that.

MS PEIPUL: Absolutely.

COMMISSIONER JEREWAI: I will go along with what you propose counsels. Thank you. So what do you propose for us to do next, this afternoon?

MS PEIPUL: I think it would be preferable perhaps if he can come before Mr Ling from KK Connections on Thursday, who is the - Mr Ling being the managing director of KK Connections.

COMMISSIONER JEREWAI: That will be Thursday next week?

MS PEIPUL: Thursday next, yes, that is correct.

COMMISSIONER JEREWAI: All right. I think at this juncture I would like, please Ms Peipul, it is all right, we are discussing so I would like you to sit down and relax a bit.

MS PEIPUL: Thank you.

COMMISSIONER JEREWAI: For your information, yesterday I - day before I went in and discussed with the Chief Commissioner and I gave an estimate of what may be involved here in East New Britain. It appears very likely we are



going to have to extend the Inquiry in East New Britain for one more week, possibly up to Friday the 11 November, rather than 4 November, and this is being considered very seriously. Even though I cannot confirm at this stage we will confirm that before the end of next week. If that happens, in fact we should confirm early next week so that we can rearrange many of the matters. Even though we have what appeared originally to be not so problematic SABLs, now appears to be, if we are to allow the most rudimentary rules of natural justice to take its course. We will definitely require further time to listen to everyone. But for the time being, do not – have an alternate rescheduling stand by for confirmation as to the extension of time from 4 to 11 rather than completing here on the 4<sup>th</sup>.

MS PEIPUL: With that in mind, because Mr Ling of KK Connections, the managing director had been unable to attend due to illness, he had indicated that he needed six to eight days and Thursday, he being scheduled to at least make his appearance here. And in that case we would ask that Mr Tapele be recalled prior to Mr Ling giving his ---

COMMISSIONER JEREWAI: For Thursday next week.

MS PEIPUL: Yes, that is correct.

COMMISSIONER JEREWAI: Thursday next week will be 3 November.

MS PEIPUL: 3<sup>rd</sup>, I believe so, yes, Commissioner, 3 November.

COMMISSIONER JEREWAI: 3 November. Mr Tapele, you heard everything we have said with the possibility of you coming back with Mr Ling on 3 November, that is Thursday next week?

A: Yes.

Q: Will that be all right with you?

A: Yes.

Q: Thank you. If that is all right with you we will not continue with you today. We appreciate very much that you have come. I think you have taken most part of the day but it was very important because you are the chairman of the title holder of these two Special Agriculture Business Leases. I hope you understand that your involvement in giving statements before this Inquiry is very imperative to what conclusions we

may reach and we will be hearing from the witnesses for those who oppose you.

A: Yes.

Q: We will be hearing from them as well and that is very important also. Now with Mr Tapele stepping down, what do you propose we do for the rest of the afternoon?

MS PEIPUL: We had in mind the other two gentlemen who were actually, have been summonsed, which is Mr Koatnaski, who is a previous managing director, and he is quite prominent on many of these documents. He is one and then there is also Francis Kaning who is the current managing director of Toriu Timbers. So depending, if Commissioner is agreeable to this afternoon, if we can call one or the other or both of them. We would proceed that way.

COMMISSIONER JEREWAI: And where do we fit – I note that we had fixed, was it Monday for the opposing - representatives of the opposing group and who had gone back to Lassul Inland Baining and for 9.30 on Monday morning.

MS PEIPUL: Yes. I mean, if it is agreeable to Commissioner, we could very well adjourn to that time.

COMMISSIONER JEREWAI: No, I am not suggesting we finish for today yet. I am just trying to weigh up because I know there are also the interest group, Qaqets, is it?

MS PEIPUL: Yes, that is correct, Qaqets Stewardship Council.

COMMISSIONER JEREWAI: Qaqets Council of interest.

MS PEIPUL: Stewardship Council.

COMMISSIONER JEREWAI: Stewardship Council, correct.

MS PEIPUL: Yes.

COMMISSIONER JEREWAI: They are also here now. How many witnesses from that Organization is listed?

MS PEIPUL: There were two that made their appearances the other day on Tuesday and I believe those two are present here this afternoon and I believe there is another. So there would be three from the Stewardship Council.

COMMISSIONER JEREWAI: Is there – I would prefer we always finish a witness. I did not quite get the exact reason for not completing Mr Tapele. There are a number of things he needs to verify and bring back when he returns with Mr Ling.

MS PEIPUL: Yes, perhaps in relation to the organization of the company, that might assist us in understanding relationship between Toriu Timbers and KK Connections, it may be an appropriate ---

COMMISSIONER JEREWAI: Mr Tapele, that is very important because we do not want to finish with you with many questions either half answered or unanswered. And I think it is important you come back after almost a week so that you can address those issues because we will raise them again. So perhaps we could have him stood down now.

MS PEIPUL: And I think in all fairness also to Mr Tapele, in terms of his signatures, in terms of refreshing his memory on, it would be fair to him if perhaps he can be ---

COMMISSIONER JEREWAI: Much of what you have been presented including also some signatures and so on, you have not been able to recall everything. And it would be unfair as counsel Peipul had been saying that we should expect that you should be able to remember everything off your head, so to speak. So, okay, you may step down until Thursday 9.30 next week. That is Thursday 3 November.

A: Yes.

Q: Okay, thank you very much for appearing Mr Tapele. And you remain on oath and you can return on Thursday, 3 November at 9.30 am. Thank you. Perhaps we can proceed with Mr Koatnaski.

## **THE WITNESS WITHDREW**

MS PEIPUL: Yes, Mr Lukas Koatnaski.

**LUKAS KOATNASKI; sworn:**

**XN: MS PEIPUL**

[3.47 pm]Q: Thank you. Mr Koatnaski, if you could indicate to us your current position with Toriu Timbers and also perhaps, your past association with Aladaam Malara as well as you were associated with Aladaam Malara? For the record this is Mr Lukas Koatnaski. That is spelt K-o-a-t-n-a-s-k-i, is that correct?

A: Yes, please.

Q: If you can talk into the microphone, Mr Koatnaski?

COMMISSIONER JEREWAI: Sit up close to the mic, thank you.

A: Okay, counsel, Commissioner, I think I will speak Pidgin because all those at the back are my people. They are observing.

Q: Is that all right, MsPeipul he is going to speak in Pidgin?

MR KETAN: Yes. I think ---

MS PEIPUL: Sorry, it is just the fan, Commissioner.

MR KETAN: We will arrange for the fan to be ---

COMMISSIONER JEREWAI: That is all right but he is going to speak in Pidgin, that is why – is that all right with you?

MS PEIPUL: That is fine.

COMMISSIONER JEREWAI: Transcriber, is that all right with you?

MS N'DRALIU: Yes.

A: Koatnaski is my name. I was once the chairman for Aladaam Malara and later - my current position is the vice chairman for Toriu Timbers. Thank you.

Q: Yes, go on.

MS PEIPUL: Perhaps Commissioner, Mr Koatnaski, can I ask you questions in English, is that okay and then you can respond in Pidgin?

A: Okay.

Q: Okay, thank you. Can you give us an indication of when---

COMMISSIONER JEREWAI: Counsel, hold on.

MS PEIPUL: Yes, sorry, Commissioner.

COMMISSIONER JEREWAI: We may have a technical problem with regard to recording of evidence without properly entering into a translation arrangement. I mean, I understand Pidgin and I could speak fluently and I can communicate with the witness, but we do not want to hit that snag with some smart lawyer who decides to challenge the findings. Perhaps, let us consider swearing in a translator from Pidgin to English and vice versa. And that is what I think we were unprepared for.

MS PEIPUL: Yes, of course. Perhaps Commissioner we can then call another person at this time and he can be excused to attend, perhaps at the same with Mr Tapele. He is due to return or on Monday might be more convenient when the other landowners will be appearing.

COMMISSIONER JEREWAI: Yes, when the other witness who we excused on Tuesday return.

MS PEIPUL: Yes.

COMMISSIONER JEREWAI: Or we excused on Monday, rather.

MS PEIPUL: Yes. So that at that time we can have an interpreter obviously sworn in at that time.

COMMISSIONER JEREWAI: I think that will be best. I just do not want any, you will recall the Commission of Inquiry into Finance Report is still sitting collecting dust because of some legal hurdles. We do not want to run into the same bend.

MS PEIPUL: Fair enough Commissioner. In that case ---

COMMISSIONER JEREWAI: Mr Koatnaski, mipela baiigatsampela problem, legal technical problems. Baimipelainoinap long proceed inap mipela painim wanpela interpreter na bai swearim em in olsem mipela swearim yu in long Bible nabai emi ken tanim tok igo long English taim em i harim long yuna tanim bek igo long Pidgin taim em i harim long mipela. Mipela ken understandim tokpisin tasol mipela save olsem mipela ino bihaim dispela rule blong kisim evidence, nogut mipela painim sampela challenge bihain, legal challenge. Olsem na mi bai askim yu em sapos olrite long yu long mipela

standim yu daun inap Monday taim bai mipela stat long Toriu Timbers gen long half past 9 long moning, em Monday, 31 October 2011. Em i orait wantaim yu?

A: Okay.

Q: Orait, tenk yu tru, Mr Koatnaski.

A: Tenk you.

Q: Bai yu stand down inap half past 9 long Monday, 31 October 2011 long taim bai yu kam bek. And thank you, you can step down.

### **THE WITNESS WITHDREW**

COMMISSIONER JEREWAI: All right, he is deferred to Monday and can we get the next witness up on the stand?

MS PEIPUL: That would be Francis Kaning of Toriu Timbers, he is the managing director.

### **FRANCIS KANING, Sworn:**

#### **XN: MS PEIPUL**

Q: Thank you. Witness, you are Mr Francis Kaning, is that correct?

A: Yes.

Q: And you are currently the managing director of Toriu Timbers, is that correct?

A: That is correct.

Q: Mr Kaning, you are here pursuant to a summons that was issued to you so that you can answer to specific questions the Commission has regarding Toriu Timbers. Sir, if you can indicate to us how long you have been a managing director of Toriu Timbers?

A: Counsel, at the moment I do not have all my progress reports currently so that I can provide a better report to you Commissioner. And if I can ask for ---

Q: If you can talk into the microphone, please.

COMMISSIONER JEREWAI: You do not have all the ---

A: As now is you know, the nature of work now is coming and that we have get really prepared in order to help and do ---

Q: It serve, let me guide you. You have been sitting there and listening ---

A: Yes.

Q: And it has become clear to you that the issues that are being raised you want to be more prepared ---

A: Yes.

Q: To be able to answer the questions we are likely to pose.

A: Yes Commissioner.

Q: Counsel, that is basically what he is saying.

MS PEIPUL: Yes, absolutely.

COMMISSIONER JEREWAI: So you want to also defer giving your evidence to Monday?

A: Yes, please. You can give me time until say, Thursday.

Q: Thursday, rather, sorry.

A: Yes.

MS PEIPUL: To Thursday?

A: Yes.

Q: When Mr Tapele will be called?

A: Yes.

Q: Okay, well, so long as he is able to produce the documents that – but I would not ---

COMMISSIONER JEREWAI: Ms Peipul, we will afford them the opportunity as much as possible. I do not see forcing him to say anything this afternoon.

MS PEIPUL: Fair enough. Perhaps, if he can actually not only produce but if he can serve it on us or provide to us prior to us going in so we can review the documents?

COMMISSIONER JEREWAI: Will you be able to ---

MS PEIPUL: So we are adequately prepared to question him on the documents.

COMMISSIONER JEREWAI: Yes. Will you be able to do what Ms Peipul just indicated?

A: Yes. Whatever the documents you may want to produce, you provide copies earlier in the week. We are located at Gazelle International but you can come here also and deliver it here. In fact, we prefer you bring it here. But that is where we are and when you do come, for instance over the weekend, you request to see the counsel assisting, Mr Simon Ketan, he is the gentleman sitting on the right and if he is not available, Ms Mayambo Peipul, will attend to you. We want to be accessible subject to the ordinary security arrangement. But otherwise, we are not very keen on barring people from approaching us.

MS PEIPUL: If we could have that by close of business Tuesday, next week, which is 1 November, next week Tuesday?

A: Yes.

Q: Is that okay with Mr Kaning?

A: Yes.

Q: Commissioner, we would also ask Mr Tapele to provide us copies of employment records, all employees; that means national and foreign as well, including the appropriate work permits. We would also want to see copies of the management structure and the structure in which the organization is operating as well and any other appropriate permits that have been issued to the company with respect to the work that they are undertaking at this time. So if you can provide that as well as up to date reports on your finances and so forth, you know, and your production and so forth.

A: We will do that.



Q: And any documentation regarding the management operations or relationship between Toriu and obviously, the developer, KK Connections as well? Thank you.

COMMISSIONER JEREWAI: Is it fair to ask him for production of work permits because KK Connections may be the actual entity ---

MS PEIPUL: Well, if they have employees that, I mean, that is Toriu Timbers if they have employees.

COMMISSIONER JEREWAI: Well, ask him if he ---

MS PEIPUL: Yes, sorry Mr Kaning, if you have employees that are foreigners?

A: Yes, we have on agriculture.

Q: So you can, obviously, if there is a foreigner then you can produce their work permit and so forth. That is if they have. That is for Toriu Timbers, yes.

COMMISSIONER JEREWAI: And KK Connections representative will also appear. Perhaps you can convey to KK Connections management that similar documents may be required or will be required for that. Is that right?

MS PEIPUL: Yes, we would appreciate that as well.

COMMISSIONER JEREWAI: That will assist so that they do not come here on Thursday and say that they will have to go back and bring those documents.

MS PEIPUL: Yes. I think in terms of other required documentation we need are, as I may have indicated earlier, financial records with respect to the sale of timber, ongoing sale of any timber and obviously the income from that. So any financial documentation you are able to provide us I think that will greatly assist us in respect to that and then the ongoing cost of development.

A: You mean through spin-offs by locals ---

Q: Yes, spin-offs, you know ---

A: Or that, that is what I mean.

Q: Exactly, any information regarding spin-offs that you can provide us, any costings in terms of the amount of capital being inputted into those spin-offs, we would appreciate that information as well, especially with

respect to the cocoa and the agricultural aspects of the work that you were doing with KK Connections, obviously. Thank you Mr Kaning. Commissioner, we would ask that the witness be recalled on Thursday and with him to provide documents by close of business on Tuesday.

COMMISSIONER JEREWAI: Mr Kaning, Counsel, Terms of Reference (g) requires matters of employees and so on that we need to cover in this Inquiry. So that is why the counsel had asked for this. If you could convey to the management of KK Connections that in the same manner we may require production of those records and you can all come back - when did you ask that he be stood down to?

MS PEIPUL: Thursday, he asked that he be stood down Thursday.

COMMISSIONER JEREWAI: Thursday, 3 November 2011 at 9.30 am.

A: Good.

Q: You are excused now. Thank you.

A: Thank you, sir.

## **THE WITNESS WITHDREW**

MS PEIPUL: That would conclude the witnesses for Toriu Timbers. It may be appropriate at this time to proceed with Qaqet Stewardship Council. I believe there are a few gentlemen here.

COMMISSIONER JEREWAI: Yes.

MS PEIPUL: So we can proceed with them.

COMMISSIONER JEREWAI: Yes, I think we should proceed with Qaqet witnesses and see how far we go.

MS PEIPUL: Two gentlemen that have made their appearance on Tuesday are signatories to submissions that were received by the Commission. And the gentlemen that were present at the time was Mr Nick Leo and Alois Palar. Perhaps we can start with Nick Leo because he is the chairman of the Qaqet Stewardship Council. If Mr Leo is present at this time?

Unfortunately he is not present. He had made his appearance on Tuesday. He is not subject to summons so obviously he is not here this time. However, I note that Mr Balar is here this time, Alois Balar, who is also signatory to the letter that ---

COMMISSIONER JEREWAI: All right, call him up to the witness stand.

MS PEIPUL: Mr Balar?

[4.04 pm] **ALOIS BALAR, Sworn:**

**XN: MS PEIPUL**

Q: If I may clarify with Mr Balar. Will you be speaking in English or will you prefer to speak in Pidgin this afternoon?

A: In English.

Q: Thank you Mr Balar. Perhaps, I can personally confirm you are indeed Mr Alois Balar of the Qaqet Stewardship Council.

A: Yes, I am.

Q: Are you a signatory to a submission letter that was received by the Commission of Inquiry, in I believe of recent time?

A: Yes.

Q: You are, okay.

A: I am.

Q: Perhaps, you can give us a bit of information about yourself, perhaps where you reside and your occupation and maybe some of your educational background? Just for our information.

A: I am a member of the Qaqet Stewardship Council and I represent the Qaqet clan. The Baining tribe is divided into five clans. We got the Qaqet clan and then we got the Kairek clan and then we have the Mali clan, the Uranot clan and then we got the Simbali clan. The Toriu project is located in the Qaqet clan. So it is part of my interest that I sort of look after the welfare of the Qaqet people or within the concession area. I am from Raunsetna, from which some of those ILGs that have been mentioned originate. I am an ex-Rural Development banker, having

worked with the Bank for 15 years. I also do NGO work. I am supposed to be one of the members of one of those ILGs from Raunsetna but because of my standing in regards to this project I have never been part of that ILG.

Q: Thank you Mr Balar. Perhaps ---

COMMISSIONER JEREWAI: Sorry, what standing is that? Because of your – you explain what standing? Because of your standing that you are not part of that ILG.

A: Thanks Commissioner. Initially, I was, I stood against this project on the basis that my people were not prepared for it, given its complexity. So when we had this public hearing at Qareq Center on 2 May 2007, where all agencies were involved including the landowner reps I was the only one who stood up and spoke against the timing of the introduction of this project; the Toriu Agriculture project.

Q: And that is the stand you ---

A: That is my stand.

Q: You said you took that you did not become a member of ---

A: Right.

Q: The ILG that claims to represent you?

A: Right. And I ---

Q: Go on, counsel.

A: Sorry Commissioner, and I still maintain that stand until today.

MS PEIPUL: Perhaps, for the sake of clarity because some of us do not know where places are within the particular SABL area, you can just indicate on the map, survey map where in fact you are from and the area that the Qaqet Stewardship Council is referring to. This is a map that - those boundaries were indicated by the surveyor, boundaries for both 904 and 903. So perhaps you can indicate where you are from and perhaps, using a pen just indicate with an x where you are from and where the Qaqet Stewardship Council is?

A: Okay, the asterisk there at Raunsetna is where I am from. Just ---

COMMISSIONER JEREWAI: Can I see? What is the name of that place you are pointing to?

A: Raunsetna.

COMMISSIONER JEREWAI: Counsel, what do you determine from the indication there?

MS PEIPUL: From the indication it appears to be outside the portion 903 indicated on this map. Are you saying the Qaqet stewardship - I am currently showing witness map and the back, that this is the boundary highlighted in yellow indicating the boundary between portion 903 and 904. You have indicated that you are from Raunsepna and Raunsepna is outside portion 903C.

COMMISSIONER JEREWAI: Of portion 903C.

A: Right.

Q: Why do you say you have interest in portion 903C?

A: That is because most of those ILGS mentioned and who are also beneficiaries from this project are from Raunsetna.

Q: In other words, that is the village down there but the land extends all the way into the portion 903C area?

A: Yes. I am, actually ---

Q: Can you explain in your own words? I am just asking.

A: Okay. Actually, the set up of these ILGs, when they were introduced, most of the ILGs from Raunsetna, Yayim, Malasait villages and probably Lamarain villages, they are all outside the land that is in question; the portions. But they do get benefits. So I am astounded as to why they have given or if they have not, their consent to the land in question that is outside. So I am here talking and I also do not have any direction over those piece of land but my people have been getting benefits.

Q: Counsels, can you connect the witness to any interests he may have? I do not want any generalities. I want him to indicate from his own stand point where his villages as we see outside of the portion 903C as to why he has an interest in portion 903C? It may well be that he has interest because many of us can live in a village that is not located within the

SABL but our land is in there. So please, direct the questions in that manner.

MS PEIPUL: You have indicated that you are from Raunsetna, you also indicated that the ILG that has been referred to is from, well, it is supposed to be from that area as well. But can you just repeat the ILG name again just for ---?

A: I think it is Kanolki.

Q: Can you spell that, please?

A: K-a-n-o-l-k-i.

COMMISSIONER JEREWAI: Quickly verify if that ILG is among the list there; of the 22?

MS PEIPUL: It does not look familiar Commissioner, but I will just double check the list.

COMMISSIONER JEREWAI: Thank you. Before you proceed with your next question. Take your time and this is very important. We need to link up the interest first.

MS PEIPUL: I can in fact identify the ILG that he is referring to, it is Kanoki. Perhaps I can give the document to him so he can identify that it is in fact the same ---

COMMISSIONER JEREWAI: Thank you.

MS PEIPUL: Same ILG referred to, that he referred to. In fact, it is the top one.

A: That is it.

Q: Kanoki, yes. And apparently it is a Joe Tasa Nasit, that has signed on this particular – would you know who that is and whether he has any sort of representational capacity?

COMMISSIONER JEREWAI: You know him?

A: Yes, I know him.

Q: And he is a member of your ---

A: No, I think his signature is in the wrong place. I think he is signing for the other one. It is here.

Q: Who signed for the one that you said you ---

A: I am not too sure.

MS PEIPUL: Is it that you do not recognize the signature that is in ---

A: No.

COMMISSIONER JEREWAI: You do not recognize the signature that was signed there on the document? But that is the ILG which you refuse to be a member of it?

A: Right.

Q: But that represents your clan?

A: Yes.

Q: All right, that is clear.

MS PEIPUL: What is the name of your clan; your clan name?

A: I think that is the one, Kanolki.

Q: Kanolki is your clan name, okay. And to your knowledge, apart from this ILG, Kanolki, are there any other ILGs that represent the Kanolki clan or have any members of the Kanolki clan say that they have other ILGs that represent Kanolki?

A: No.

Q: No, so there is no other ILGs. You have referred in your letter that you are part of the Qaqet clan, however. So if you can explain how Kanolki is a part of Qaqet, if Qaqet is more of a representation clan, or maybe you can explain Qaqet clan?

A: Okay, the Stewardship Council is like, it is a body that is supposed to be looking after the welfare of all the Baining; the Baining tribe. Now Qaqet takes its name from the bigger clan which is the Qaqet Clan in which Toriu project is located.

Q: I asked that because you indicated you were part of the Kanolki clan. So how does that work? Are you ---

A: Kanolki is one of those small clans ---

Q: So it is a sub-clan, is it ---?

A: Yes, it is ---

Q: A sub-clan or I mean, I am trying to understand the ---

A: Those are clans, small units in villages or that are made up of lineage groups. But when we talk about the bigger clans we are talking about the clans that are distinguished by languages. So the Qaqet Clan is the biggest one with its own language and in which the Toriu project is located and then we moved to the other clans. But those clans, those are small ones. But the major clans of the Baining tribe, that is what I am talking about.

Q: You say that Kanolki and the Qaqet Clan, the name, it is defined by the language that you speak the Qaqet. So in terms of the actual map you have indicated that you are from Raunsetna , however, would you say that the Qaqet – how far does the Qaqet extend into the 903 land?

A: Those two portions, that map is only one part, one small part of the whole Qaqet Clan. It is only a project area.

Q: Because you are defining Qaqet Clan by the language rather than by any other, you are saying that because of the language, the Qaqet people actually go beyond these portions?

A: Right. We have got more than I think, 20 villages, wards and two LLGs; Local Level Governments. But the project is situated in a number of village within the Qaqet Clan. And when we refer to the small clans, those are small clans within the – they are basically identified by lineage groups. They call themselves clans.

COMMISSIONER JEREWAI: Let us just be clear about this. There is a difference clan between a clan and a tribe. If I have a set of children and when my children begin to have their own family units then they are a clan. They have gone beyond the single family unit, me, my wife and my children and they now have their wives and their children and that has become a clan. And they



belong to a tribe. Now, get it from the witness and I want to hear it clearly. Is Qaqet a tribe or a clan?

MS PEIPUL: So witness, I have to ask you. Is Qaqet a tribe or a clan?

A: It is a major clan, one of the five major clans.

COMMISSIONER JEREWAI: No, it is not. If you go by the definition of clan I just described, it is a tribe, is it not? I am not going to sit here whole afternoon and dwell on what your perception over the tribe is, over the clan is. You take my definition and let us move on. It is a tribe. Get on with it.

MS PEIPUL: Is Qaqet a member of another tribe?

A: Yes, it is a member of the Baining tribe.

Q: Baining tribe.

A: Yes.

COMMISSIONER JEREWAI: And it is a tribe within which portions 903C and portion 904C comprised in. The land area over which Qaqet tribe lay claim to are all there within 903 and 904C, respectively. So, now, let us go further down. I want to know his own interest within 903 and 904C.

MS PEIPUL: With respect to that, if you say that, although you are a part of the Qaqet clan or as you defined it but which we say is more like a tribe, therefore, and then you have identified yourself that you are part of the actual Kanolki sub tribe or sub-clan, in fact, you have identified the ILG of Kanolki that you are part of, does therefore Kanolki in that respect, have an interest within 903? Because you have indicated you actually come from Raunsetna which is outside and we can say that yes, Qaqet people have an interest in all of these, but do you, Mr Balar, have an interest in this land, here? Because you have indicated you are from Raunsetna.

A: No, we do not have any interest all that piece of land. I actually brought – I am actually the link between the landowners of that portion 903C who are here and who will be giving evidence on Monday.

COMMISSIONER JEREWAI: But you because of your Stewardship Council, you would like to be heard in that representative capacity?

A: Yes.

Q: And we allow that, actually. So now we know that that is the interest he represents. So let us get on with the questions relating to the objections.

MS PEIPUL: May be, I can then turn to the letter that has been submitted, you have actually signed off on. You have essentially in the letter, you said, perhaps you do not have a copy with you so maybe I can – unfortunately, this is the only copy we seem to have at this time.

COMMISSIONER JEREWAI: I have an extra copy here. Associate please, hand it to Counsel.

[4.26 pm] MS PEIPUL: Commissioner, you have a copy?

COMMISSIONER JEREWAI: I have, yes.

MS PEIPUL: If I can turn to - perhaps, I can have this formally tendered at this time, in terms of submission that is coming from the Qaqet Stewardship Council? And perhaps ---

COMMISSIONER JEREWAI: Yes. I think they signed as in a form of a statutory declaration.

MS PEIPUL: Yes, that is correct. They did have it signed off by Commissioner for Oaths. So, perhaps, firstly, if ---

COMMISSIONER JEREWAI: Have it tendered and read through it very quickly on behalf of the witness.

MS PEIPUL: Yes. So if we can have this tendered. Commissioner, should ---

COMMISSIONER JEREWAI: No, we have adopted a faster system. Have him identify the document, accept that that is his and counsel read through it very quickly.

MS PEIPUL: Can you identify this letter and your signature at the bottom of the letter, Mr Babal?

A: Yes.

Q: Can you hold it up and point to your signature on the letter to the Commissioner?

A: Yes.

Q: Show the Commissioner it is your signature?

A: That is my signature.

Q: All right. And ---

COMMISSIONER JEREWAI: And you signed among others.

A: Yes, I think.

Q: And among others are? Can you name all of them, starting with Honorable Boniface Etavo?

A: Then he is the president of Sinivit LLG.

Q: Next?

A: Honorable Bernard Kulap, president Lasul-Baining LLG; Honorable Andrew Kusak, president Inland Baining LLG; Nick Leo, representing the Mali clan; Ben Tamartap representing the Qaqet clan; Hosea Kailam, representing the Uramat clan; Thomas Kalas representing the Kairak clan; Boniface Gerep, representing the Mali clan; Henry Samiga representing the qaqet clan.

Q: And of course yourself?

A: Yes.

Q: All these others, apart from yourself, apart from the LLG presidents that you have indicated, those others, are they clans involved in the portions 903 and 904?

A: No.

Q: Is that noted? Is that noted, his answer was no. All right, please counsel, I would like you to read the letter and then formally tender.

MS PEIPUL: The letter is dated 23 August 2011. It is to the Secretariat of the Commission of Inquiry. It states, "Dear Sir," - that is regarding portions 904 and 903C, milinch, Pondo, fourmil, Rabaul, Toriu Timbers Limited. And it starts, "We requested the Secretariat of the Commission of Inquiry accepts that this is a collective and joint sworn affidavit in regards to subject matter. We the undersigned Qaqet formerly Baining, leaders and elders of the Qaqet-Baining tribe of the East New Britain, duly swear on oath and declare that the granting

of above portions under SABL, under forest clearance license issued to the Toriu Timbers Limited was done without the informed consent of or generally consent by the landowners.

Portions 904C and 903C, milinch Pondo, fourmil Rabaul in the northwest Gazelle area of East New Britain as per gazette number G37 dated 26 February 2010, spanning 11,240 hectares and 42,240 hectares respectively were approved under fraudulent circumstances.

The gullibility of the traditional landowners was taken advantage of by the facilitators. The initiator of the project is the East New Britain Provincial Administration and KK Connections as the project developer. There was never any free prior and informed consent described as FPIC given by the traditional landowners of the area as required by law for any part of their land to be facilitated for the purpose of SABL. As well, we as leaders were never notified nor gave consent for this huge land areas to be facilitated under SABL.

It is outright against the customs of the Qaqet people for one person to sign for the alienation of lands, let alone a huge area. Under our custom, the land is communally owned. In this case, only one single landowner, Mr Bernard Taingnas, signed the project documentations and agreement to effect the approval and subsequent granting of the two portions without the knowledge of his fellow landowners and importantly, without him having a full understanding of the documents. Bernard Taingnas, being illiterate unknowingly signed for the alienation of the 11,240 hectares and the 42,240 hectares for lease for 99 years. The landowners are up in arms over the alienation of very huge portions of their traditional land. These developments have potentially created conflicts among the different landowner factions, ILGs, resulting in the breakdown of social order once enjoyed by the people.

Seeing that the huge volume of land has been alienated without the landowners' consent, we the Qaqet representatives are calling on the Secretariat to thoroughly investigate this rot and bring to justice the perpetrators of this scandalous development. Land grabbing using administrative and political powers and systems to the detriment of the traditional landowners militates against natural justice.

The Qaqet people, Bainings and their traditional land rights have become subservient in the development process using systems and entrenched power to their detriment. We have had enough. We specifically call on the COI to probe

into the matter and find out whether there was compliance to the appropriate guidelines and procedures executed for the creation of these portions under SABL. These SABLs must be nullified forthwith, however.

We wish to also advise that we will not be attending in person for any oral presentations due to financial constraints. However, we would like the Secretariat to physically visit the project site to verify our sworn affidavits and probe the allegations further.

We are willing to face the Inquiry here at the project site for the landowners. These SABLs must be nullified accordingly. Yours faithfully,” The signatories.

COMMISSIONER JEREWAI: And that is the letter of Mr Balar that you and the other signed?

A: Yes.

Q: Council proceed to have it tendered formally.

MS PEIPUL: This can be ---

COMMISSIONER JEREWAI: Exhibit D?

MS PEIPUL: Yes, exhibit D, that is correct, exhibit D. It would be exhibit D.

COMMISSIONER JEREWAI: Exhibit D, Toriu Timbers.

MS PEIPUL: Yes, it would be exhibit D, Toriu Timbers, that is portion 904C, 903C, milinch Pondo, fourmil Rabaul, East New Britain Province. That is how we have been marking them previously. That would be D, exhibit D.

COMMISSIONER JEREWAI: All right, the letter dated 23 August 2011 from Qaqet Stewardship Council to the Commission of Inquiry sent under oath before a Commissioner for Oaths is accepted as exhibit D, Toriu Timbers portions 904 and 903C respectively, milinch Pondo, fourmil Rabaul. Proceed, counsel.

**[EXHIBIT D – LETTER DATED 23 AUGUST 2011 FROM QAQET STEWARDSHIP COUNCIL TO COMMISSION OF INQUIRY - TORIU TIMBERS, PORTIONS 904C AND 903C]**

MS PEIPUL: Mr Balar, in your letter you have made a number of allegations and made claims as well. You say, I think the main statement you have made in

your letters with regards to consent; I mean the issue of consent which is of course a concern or one of the Terms of Reference that we as the Commission are looking into. Can you just indicate to us, in terms of your, although you yourself, your interest is outside of the affected land area, perhaps your understanding of how there has been a lack of free and informed consent, especially in terms of the land investigation process and of course, you have referred to a public hearing as well. So perhaps, you can give us an indication of where you think there has been a failure of obtaining free and fully informed consent from the landowners?

A: Thank you. We have the landowners from Vilanpenti village which is also called Poiniar village, who will be giving evidence on Monday. Portion 903C belongs to them and they will be here to talk against the fact that there have not been any consent given by them. They will be here to outline their concerns. But they own about 70 percent, I am not too sure but about 70 percent of portion 903C.

COMMISSIONER JEREWAI: But they themselves will verify that.

A: Yes.

Q: They, themselves will verify that.

A: All right.

Q: I would like you to give evidence without telling us what they will tell us.

A: Okay.

Q: Thank you. But you have more or less advanced their concerns as your organization represents; that is the Qaqet Stewardship Council.

A: Correct.

Q: But now it will be the substantive as to whether they gave their consents or not will be left to them to give evidence when they return on Monday as already arranged. Counsel, proceed from there.

MS PEIPUL: You have also stated in your letter, you have made specific allegations against one single landowner, that is Mr Taingnas, in that you are referring to him being an illiterate and that he unknowingly signed for the alienation of the both portions. Could you clarify this? Because you

specifically named this particular gentleman when in fact, there have been several other people that have been involved in the process and why have you singled out Mr Taingnas in particular, in this respect?

A: Yes. According to the Stewardship Council we have been having the knowledge that Bernard Taingnas owns most of those lands with his people, that stretches all the way from Mobilum village right up to – near about Alakasam village. That is inland. And there would have been nobody other than Mr Taingnas who signed that.

Q: But why in particular Mr Taingnas? I say this because there are several other gentlemen who are involved in the process and you seem to name him specifically in this letter?

A: Thanks. He was the only one who was at the forefront of all these.

Q: So you are saying that Mr Taingnas was at the forefront of all these?

A: Yes, right.

Q: So people like Mr Koatnaski who has been a person who was previously managing director for Aladaam Malara ---

COMMISSIONER JEREWAI: Just ask him, what about Mr Koatnaski?

MS PEIPUL: Yes.

A: We did not have any clear idea on his role.

COMMISSIONER JEREWAI: Of his involvement?

A: His involvement, yes.

MS PEIPUL: So, maybe, you can – then ---

COMMISSIONER JEREWAI: What about Mr Tapele?

A: Mr Tapele, we knew that he was – he replaced him as chairman lately.

Q: Go on, counsel.

A: But in regards, specifically in regards to the land, the portions, that would be Mr Taingnas.

MS PEIPUL: Mr Taingnas, in particular in relation to 903?

A: No. The ---

Q: Or in relation to all or both of them?

A: Yes.

Q: I think with respect you also make a particular reference to social issues and problems happening on the conflict, you state in one of the census developments have potentially created conflicts among the different landowners, landowner factions. Can you just indicate what those conflicts have been and what the breakdown of social order are? Because we are looking into those particular issues as a Commission.

COMMISSIONER JEREWAI: Terms Of Reference (g) specifically requires we look into that.

A: Thanks. Since inception of this project, that is about 2006, 2007, this project was, when it was, I mean, when it was about to go into operation, I mean, the people who were asked to go into ILGs. Now I am emphasizing here on the ILGs. ILGs are the ones which created this social disorder. In the Baining society and especially, the Qaqet, we are a close knit society. We have blood relationship in all the villages; all surrounding villages. When the introduction of ILGs came into place in regards to this Toriu project, we had situations, like a brother versus brother, you know. They, ILGs boundaries they just came and split families up. We had in-laws rising against in-laws. We had problems arising from these ILGs, issuance of ILGs since 2006. Police were called in, that is up at Lamarain and Raunsetna and we had problems involving Alakasam villages. Before the inception of this project there was never any such social disorder, no. So we had destruction of properties and on numerous times police were called in. And we had village elders, their hands tied up with sorting all these problems. And at no point in time, no point there has ever been any company official like the chairman or all these ILG, they have never been there to sort out all these problems. Thank you.

Q: And when you say that there have been directions, somebody has been asking you, the landowners to organize into ILGs. Who has been asking you to organize into ILGs?



A: Thank you. The people who are at the forefront of this company. This landowner company.

Q: And can you name them please?

A: James Tapele, Francis Kaning and all this time they were mobilizing all the ILG chairmen, all the elders into formation of all these ILGs, several ILGs.

Q: And then you are saying that as a result of this formation in 2007, that there were some social problems in the villages of Lamarain around Raunsetna and Alakasam. Is that what you are saying?

A: Yes, and they still continue.

Q: Continue now.

COMMISSIONER JEREWAI: Apart from those divisions within families that you have described, can you be more specific as to the kind of social problems that occurred?

A: Like, we had these ILGs from Raunsetna and most of those ILGs, I think three of them they had to go down to Lamarain, Lamarain is only about a kilometer away from Raunsetna, which is Mr Tapele's village and they had to face up with Mr Tapele's people; his ILG. And in the process there were houses burnt, gardens destroyed, pigs and these were valued by police personnel. We had to go and mediate over this several times.

Q: So there were conflicts actually. The social problems were conflicts between the two different ILGs?

A: Exactly. There were not only two different ILGs conflicting. There were all, many.

Q: Elements of many different ILGs?

A: Right.

Q: And what was the - can you repeat the center of the disagreement leading to those confrontations?

A: The disagreement is on the land. You see, when those ILGs came in, most of those ILGs from Raunsetna and Lamarain, Malasait, Yayim, they

do not own any of that land that is in question but they are getting benefits. Now, the extent of the disagreement is based on the boundaries, their clan boundaries, their traditional boundaries between villages and all these at home. So it is basically on the traditional boundaries; land boundaries.

Q: Did they confront each other because they did not want the project or just that they did not agree on the boundaries?

A: They did not agree on the boundaries.

Q: So, are the benefits equated, divided according to the amount of land and therefore, the resources found on each of the landowners land so that there is an imbalance where you have smaller amount of land, obviously the benefits will be smaller. If you have larger amount of land involved then the benefits will be larger. Is that kind of thing, kind of crystalizing to those conflicts?

A: Yes.

MS PEIPUL: Was there any other reason why there would be conflict apart from the boundary? You are saying that you were urged by James Tapele, Francis Kaning to create these ILGs. But was there any other apart from the boundary issues, was there an economic reason why there would be this conflict between people who are previously brothers-in-law and now they are disputing?

A: Counsel, sorry, can you repeat your question?

Q: My question is, was there an economic reason for this dispute? Economic ---

COMMISSIONER JEREWAI: Apart from what you have stated?

MS PEIPUL: Yes, apart from the boundary issue?

COMMISSIONER JEREWAI: You have spoken about boundary issues. But are there any other reasons, economic reasons would mean, perhaps, better infrastructure enabling them to be more well off economically?

A: No. As far as I am concerned, I think it was on the boundaries, the boundaries.

MS PEIPUL: When James Tapele and Francis Kaning, whom you said came in and asked that the landowners organize themselves in ILGs, what was the basis for, what did they tell the people would happen if they would organize themselves into ILGs?

A: The basis of them coming in and telling them to organize themselves into ILG was that there was going to be this project, big project and it is going to bring in a lot of money. That is what they actually told the people, alot of money, millions. So the people got psyched up.

Q: So do you think that would be the basis for some of the disputes and ---

A: Right.

Q: Between families. Leading on to that, when during the land investigation process, did you at any occasion sight anyone from the provincial lands division? Did they come into your community and they carry out the awareness first and then the actual reporting stage?

A: To my knowledge no, except only on one occasion and that was way back in about, I think, 2006 when there were, I think Mr Allan Balbal and there was Paul Tamurang. There was a combined trip of government officers who went and talked to us at Raunsetna. It was on a Sunday, I cannot remember the date. But to my knowledge, that was the only time, I saw a government officer in Raunsetna.

Q: And had you seen any schedules for landowners to sign off on? Because we have been informed that they have been passed out to different villages for signatures. Had you sighted any?

A: I never sighted any.

Q: Although, we understand you are outside of the land area, but to your knowledge, was there any letter being passed around. You are saying the Qaqet Stewardship Council consists of different people, different villages and I mean, obviously you, perhaps should not be giving evidence on what they have received. But to your knowledge had they been a part of the land investigation process, the gentlemen that have been signed on?

A: No.

COMMISSIONER JEREWAI: What did they speak about; those officials? What did they speak about that only time that you knew they went there?

A: Back then, they said they were – they only went there for about an hour and Mr Tapele was also there. And they said they were going to survey the route through which this project is going to be developed; that is from Mombilum right up to Alakasam. So there was this lands officer, I think he is Mr Allan Balbal and I can remember that was Mr Paul Tamurang, he is an HEO and there were other officer, I cannot remember. And they said they were going to go in there and do some identification and that is it, that is all, on their way down.

[4.52 pm] MS PEIPUL: So just to confirm, there was no consent actually ever obtained from the people around there. I think with respect to Raunsetna, because it is outside of the boundary there would need to be some consent that it is not going into the boundary. There is no conflict with respect to the boundary and that, but just asking my question. In short, was there any consent given by your people that you know of, especially with respect to perhaps, Kanolki, because Kanolki is a clan that you were from and to your knowledge, has there been any consent from that particular clan?

A: Thank you counsel. Does your question relate to the consent in relation to the SABLs or the project?

Q: Both, both of them.

A: My answer is no. May I elaborate?

COMMISSIONER JEREWAI: That is fair enough. One of the legal requirements is the consultation with neighbouring adjacent landowners when an SABL is being considered to be issued. Is that not right?

MS PEIPUL: That is correct. In the land investigation report, that is correct.

COMMISSIONER JEREWAI: And so - in fact, the question to you directly, if I may ask is, did they consult with your neighbouring, adjacent landowners outside of the SABL which are now known as portions 903C and 904C, did they consult with the neighbouring landowners?

A: No.

MS PEIPUL: Specifically and just to clarify with respect to the land investigation report, there has to be a specific declaration as to boundaries. I think this is what we need to clarify here. And obviously, once again, can you confirm that that never occurred, that there was no consultation about the boundaries, especially, the boundaries that affected your village and your clan?

A: No, to my knowledge, no.

Q: Turning to your letter again, some of the signatories at the bottom, Mr Leo, you say he is a chairman and he was present on Tuesday. But can you indicate whether any of the other signatories to the letter are in Kokopo at this time. And would they be available to give evidence on Monday?

A: I think Boniface Gerap can be available. He is available and Hosea Kailom and Ben Kamakap.

Q: So you are saying that Boniface Gerap, is it?

A: Yes.

Q: As well as Hosea Kailom and Ben Tamakap?

A: Tamarakap, yes.

Q: They were also present. I mean, they are within Kokopo and make – be available for ---

A: Yes, apart from the three presidents.

Q: Apart from the three presidents. So three presidents are not ---

A: They are here.

Q: They are here. Are they present in this room at this time?

A: No.

Q: But they are within Kokopo?

A: Right.

Q: Can be available for examination. So if it is possible we may wish to call them on Monday to come in so they can make themselves available. Is that correct?

A: Sure.

Q: Okay, good. Commissioner, unless you have some questions you wish to ask, I think that ---

COMMISSIONER JEREWAI: No, I have ---

MS PEIPUL: I think that is just substantive questions I have from the letter as a result.

COMMISSIONER JEREWAI: So witness can stand down?

MS PEIPUL: Yes, the witness can stand down. Thank you.

COMMISSIONER JEREWAI: Witness, you – Mr Balar, you can step down. Thank you very much for coming. Before you go, I think you are one of the first witnesses who may not have a direct interest in the SABL. But it demonstrates that this Inquiry will hear as much to determine the issues that are before us. And in this particular regard, particular with regard to this one, these two. So all of these must come in so that we have a very balanced conclusion.

Once again, I repeat, it is all about correcting any errors or irregularities and move on with the operations of the SABLs. The government has no intention of removing this concept. Thank you Mr Balar.

## **THE WITNESS WITHDREW**

MS PEIPUL: Commissioner, I think that concludes the witnesses for this afternoon.

**AT 5.00 PM, THE INQUIRY INTO SABL WAS ADJOURNED UNTIL MONDAY, 31 OCTOBER 2011 AT 9.30 AM**

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