

TRANSCRIPT OF PROCEEDINGS

Commission of Inquiry into SABL
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COMMISSION OF INQUIRY INTO SABL

MR ALOIS JEREWAI

COMMISSIONER

TOP FLOOR, MURUK HAUS, WAIGANI, FRIDAY 2 DECEMBER 2011 AT
10.00 A.M.

(Continued from Thursday 1 December 2011)

THE COMMISSIONER: Mr Boi, I think before we proceed with the Vailala matter and also the mention of Wowobo Oil Palm, East Waiwai and Iowa. We have an outstanding matter with Koaru Resource which we will complete that particular matter so that it can be put out of the way.

MR BOI: Perhaps, Commissioner, before we proceed to the leftover matters for Koaru, because we might have some people from Wowobo, East Waiwai and Iowa, we do not know how long the Koaru matter will take. Perhaps, the Commissioner – I formally have to seek an adjournment or rescheduling of those matters to another date because of the backlog or backup. So maybe, we can have that out of the way and then we continue.

THE COMMISSIONER: Yes. Those of you who are interested in Wowobo, East Wai and Iowa, respective oil palm SABLs, we have backed up a bit in the schedule, although you have been set down for commencement this morning.

Due to circumstances beyond our control, we will not be commencing on the West New Britain inquiry – leg of the inquiry – early next week as originally planned. In fact, it has been postponed until further notice, which will mean we have time commencing as of Tuesday next week because Monday I will not be available, but commencing as of Tuesday next week which gives us more time to deal with all these three matters together.

In the meantime, we hope to get Koaru out of the way with, I think, a very short matter to be attended to this morning and then commence on Vailala Oil Palm and hopefully have it completed this afternoon by the end of today. So that the only remaining ones will be those three.

Those of you who are interested in those matters, if you do not agree to the rescheduling to Tuesday, you may please come forward and let me know why you will be unable to agree to the rescheduling to Tuesday next week which will be 7th. Yes, Lukas, please come forward and let us know what you have to say.

MR: Commissioner, according to that, we stand by your timeframe.

THE COMMISSIONER: Thank you very much; I appreciate that. We will have these matters rescheduled to 9 o'clock. If we can start at 9 o'clock on Tuesday; Tuesday 7th, I believe.

MR BOI: Yes, Commissioner.

THE COMMISSIONER: I beg your pardon, Tuesday 6th.

MR BOI: Tuesday.

THE COMMISSIONER: 6 December; thank you very much, all right. Those of you who are interested in relation to Vailala Oil Palm, we will commence with you shortly after we have completed the small remaining matters relating to Koaru Resources portion 323C, Malalaua. Counsel?

MR BOI: Thank you, Commissioner. In relation to the continuation of the hearing - this Commission of Inquiry into Koaru Resources, the SABL portion 323C, this morning, I think the two matters which will be addressed by the Commission, first, I wish to call the Lands Investigation Officer. He was unable to be called on Monday because we could not locate him but he has turned up. So, I propose to call Mr Alexis Iva, the Provincial Lands Officer for Gulf Province.

10.05 am] **ALEXIS IVA, recalled:**

XN: MR BOI

Q: Mr Iva, you are still under oath from Tuesday, but just for the record again, you state your name and your title to the Commissioner, for the record.

A: My name is Alexis Iva. I am a Provincial Lands Officer, Kerema, Gulf Province.

Q: Are you still the Provincial Lands Officer for Gulf Province in and around 2006-2007?

A: Yes.

Q: During your time as the Provincial – or, you are still the Provincial Lands Officer – but in that capacity, have you become aware of the SABL granted over portion 323C?

A: No.

Q: In the Gulf Province?

A: No.

Q: I am referring to the SABL granted to Koaru Resources Limited. Have you been in one way or the other made aware of its existence or the processes being applied to process that SABL?

A: I was aware, but its assistance, no.

Q: What does your job as a Provincial Lands Officer for Gulf entail in relation specifically to SABLs?

A: Normally, we are requested or I am requested to conduct the land investigation from National Lands Department, Land Acquisition Division or Customary Lands Division. So once I get instructions from them, I go out and do the job.

Q: Do you conduct the investigation yourself or you delegate it to somebody else?

A: I do it myself with assistance from the District Lands Officers

Q: Do you ever recall conducting a land investigation for portion 323C, milinch of Kukipi, North West, South West, Cupola, North East, formerly in the Guf Province. Do you recall conducting a land investigation that portion 323C?

A: No.

Q: Is it not in your experience - is the land investigation report not pre-requisite to the grant of a SABL?

A: Yes.

Q: So in other words, in the absence of a land investigation report, a SABL cannot be simply granted?

A: Cannot be granted.

10.10 am] THE COMMISSIONER: Mr Iva, this particular SABL is among the two files which are missing from the Department of Lands and Physical Planning, and we

are unable to ascertain if indeed any land investigation report at all had been provided.

Could it be possible that anyone else within your office in the Gulf Provincial Administration may have undertaken the necessary land investigation prior to the grant of this particular lease?

A: That I am not aware of.

Q: If you are not aware, is that to say that none may have been carried out?

A: Yes.

Q: Is that because ordinarily, every matter of this nature would come to your attention?

A: Yes.

Q: And in relation to portion 323C granted to Koaru Resources Owners Limited, as far as you are concerned, no land investigation report had been compiled?

A: I believe nothing has been compiled.

Q: Mr Boi?

MR BOI: I have no further questions for the witness.

THE COMMISSIONER: Neither do I. Mr Iva, thank you very much. You may step down and wait for the other matter which you are fixed to give evidence in which was adjourned from yesterday. Thank you.

THE WITNESS WITHDREW

THE COMMISSIONER: I believe Mr Koaru was to reappear this morning and produce minutes of a purported meeting in which there was an attempt to have 20 directors appointed for Koaru Resources Owners Limited.

MR BOI: That is correct, Commissioner.

THE COMMISSIONER: All right, have Mr Koaru recalled to the witness stand.

FOSE KOARU, recalled:

XN: MR BOI

THE COMMISSIONER: Mr Koaru, you are still on oath. Yes, I, at this juncture, I apologize I should have given due recognition of counsel's appearance this morning at the commencement of the hearing this morning. It is Mr or Major Aloysius Kanu. I believe you are appearing for Koaru Resources Owners Limited.

MR KANU: Yes, Commissioner.

THE COMMISSIONER: Thank you, Major Kanu. Yes, Mr Koaru, would you be now in a position to produce records of the meeting sometime last month or the month previous to last month, in which you had stated in your evidence that 20 directors were to be appointed to your company.

A: Yes.

MR BOI: Commissioner, that came out in the evidence of Mr Kalasi Ovelare, the meeting.

THE COMMISSIONER: Oh, yes.

MR BOI: It came out and Mr Koaru was requested to bring the minutes.

THE COMMISSIONER: I beg your pardon; I stand corrected. Thank you.

A: I produced the minutes at the meeting which was conducted on 29 October 2011 at 9.30 in the night. Present was Tova Seviri, all the – I will not name the people who are here but their names are clearly written on the minutes. Some of them are in the Commission's room today.

Q: Where was the meeting held, again?

A: At 29 October 2011 at Koaru village. The persons who have been purportedly appointed as directors, they have filled Form 15 of the Companies forms and as required by the Companies Act.

10.15 am] The current Directors are myself Posa Koaru and my daughter Avia, will be able to have an extraordinary meeting to screen all those people who have been appointed in terms of their clans, their ILGs before the formal – final application is made to the IPA for registration. The forms that I hand up, Form 15, are all signed and I hand up as drafts.

Q: Could I have them first?

A: We have not gone to the stage where we are able to have extraordinary meeting to finalize the actual appointments that have been made by the people; landowners from the village.

Q: All right. For the record, I am going to call out each name, whose names appear on Form 15 of the Companies Act – Form 15 in the schedule to the Companies Act which form relates to consent and certificate of director of an existing company; and in particular their company, namely is Koaru Resource Owners Company Limited.

As indicated in Mr Koaru's evidence pursuant to a meeting held on 29 October 2011 at Koaru village, the following persons were purportedly appointed as Directors. First is Mr Toi Parapa.

A: Toi Parapa, Commissioner, has already returned home. He was here on---

Q: That is all right, I just want to be on record. That is all.

A: Yes.

Q: Let me go through them very quickly.

A Okay, thank you.

Q: Second, Isaro Piri; third is Tova Siviri; fourth is Charles Toue; fifth is James Aupika; sixth is Aipi Sipi; seventh is Lei Moraopa; eighth is Moiu Koaru; ninth is Laisi Saukatu; tenth is Thomas Oki; eleventh is Iruka Farapo.

Eleven persons whose names have appeared on the consent form, namely Form 15 with, I believe, their respective signatures.

A: That is correct.

Q: But---

A: Some have not been signed.

Q: But, I believe, still unfiled.

A: That is correct, yes.

Q: With the Companies office at this stage.

A: That is correct, yes.

Q: Counsel, is that all right, you have no objection if we receive them as exhibits?

A: No objections, Sir.

Q: So you duly tender this?

A: I tender those---

10.20 am] THE COMMISSIONER: Counsel, is that all right you have no objection if we receive them as exhibits?

A: No objections, sir.

Q: So you duly tender this?

A: I tender those---

Q: 11---

A: Form 15, 11---

Q: 11 Form 15 forms.

A: Duly signed.

Q: Yes. Where were we in the last exhibit? Counsel, assist me, I will look back.

MR BOI: Yes, exhibit H, a letter from Jack Aipi dated 14 October. It was exhibit H.

THE COMMISSIONER: Bear with me, I just wanted to confirm with my own records as well. My record shows we have gone up to exhibit J.

MR BOI: Pardon me, Commissioner, maybe I may have missed.

THE COMMISSIONER: Yes, exhibit J is a record of meeting held in Koaru village on 29 also of October 2011.

MR BOI: Yes.

THE COMMISSIONER: When 20 directors were sought to be appointed.

MR BOI: Yes, that is Mr Ovelare's unofficial minutes.

THE COMMISSIONER: Unofficial minutes?

MR BOI: Yes.

THE COMMISSIONER: Not verified by Mr Koaru---

A: No.

Q: And the others. But, nonetheless, that was his evidence. So that was the last exhibit. "Therefore, myself received Form 15, consent to act as Directors" as further exhibits. I lost it again; just hold on a second. Yes. This will be exhibit J1 to 15 in the order of the names that I have called out for the record. Koaru Resource Owners Limited, portion 323C, Kukipi, Gulf Province, did I say exhibit K?

MR BOI: J.

THE COMMISSIONER: No, it should be exhibit K1 to 15.

MR BOI: Yes, K.

[EXHIBIT K1 – K15 – FORM 15, CONSENT TO ACT AS DIRECTORS – LIST OF NAMES]

THE COMMISSIONER: Mr Koaru, you are a lawyer by profession.

A: That is right.

Q: Yes, appointment of directors are usually done by shareholders?

A: That is right.

Q: Either in a General Meeting or a Special General Meeting.

A: Yes.

Q: Currently, as already shown in evidence, you hold---

A: That is right.

Q: Nearly all of the shares of Koaru Resource Owners Limited?

A: That is right in trust, yes.

Q: In trust?

A: Yes.

Q: Which renders that you alone will have to convene a shareholders meeting to effect the appointment of the directors who have signed this consent to act as directors; Form 15, in other words?

A: Yes.

Q: Have you convened formally and resolved in a shareholders meeting to effect the appointment of the directors who have signed this consent to act as directors?

10.25 am] A: Yes.

Q: Form 15, in other words. Have you convened formally and resolved in a shareholders meeting which, of course, comprises of you alone?

A: I will not be able to do that within the next week or so. The reason why – if I can emphasize on this, Commissioner – the reason why the company structure has not changed so much is because we have experienced from previous projects for the same area Kerema-Meporo, the companies and developers had formed resources companies, firstly, one was - in 1996 one was Metata Investment.

Metata Investment, it was a landowner company for the same area Kerema-Meporo. They appointed directors and when a project developer came, the directors then moved the developers to Port Moresby. Commissioner, I must say that being a Director, it is a – you are in a powerful position and in such a position, you are liable to abuse.

Q: You need not tell me that.

A: That is correct, yes.

Q: I am very well aware of the responsibilities of a director of a company.

A: That is right, yes. So the reason why because that when this project was---

Q: However, look, I have got to stop you from taking too much time trying to explain this. I simply want to know – and you have answered me, actually – that you have not convened a shareholders' meeting to appoint these directors you have just named and who have signed their consents under Form 15 of the Companies Act. Do you realize that these consents normally follow resolutions of the shareholders to appoint?

A: That is correct.

Q: You have these consents here signed prior to the shareholders resolution?

A: Yes.

Q: Is that not irregular?

A: Yes.

Q: Can you explain why you have these consents signed prior to a resolution being adopted to that effect?

A: The meeting was held in the village on 29 November.

Q: Shareholders meeting is different to the meeting you held in the village.

A: That is correct.

Q: Perhaps the meeting in the village is to obtain their consent. However, after you obtained their indication as to their preparedness to be directors, you must convene the shareholders meeting. That is what I am getting at. You are a lawyer; you should know that.

A: I have not convened but I will definitely convene a meeting. But there is an irregularity in that. I am in a position to apologize to the Commission.

Q: For all intent and purposes, the consent forms that you have just tendered as now being exhibit K1 to 15, are really defective.

A: That is correct, yes.

Q: Mr Koaru, I will have you look again at the map on which you have delineated in the highlighter – yellow or greenish highlighter – the area you pointed out as being the area comprised within the SABL known as portion 323C Kukipi, Gulf Province

A: That is right, yes. This is Meporo.

Q: All right. Who prepared this particular sketch?

A: This is a resource map from the---

Q: From Pacific International?

A: No, it is a resource map from the---

Q: Forestry?

A: Yes.

Q: You look at the river on the right. Is that Lakekamu River? Gulf Province.

10.30 am] A: That is right, this is Meporo, this is Meporo.

Q: Who prepared this particular sketch?

A: This is a resource map from the ---

Q: From Pacific International.

A: No, it is a resource map from the ---

Q: Forestry.

A: Forestry, yes. Resource ---

Q: You look at the river on the right, is that Lakekamu river?

A: That is right, yes.

Q: Yes?

A: Yes.

Q: All right, I want to show you this map which is from the Surveyor General's Office. It is not very clear but it is legible enough for us all to recognize what is contained in that letter. I want you to look at what is described as portion 3222C, that is down below. Indicate to me where Malalaua station is. Above that show me where portion 323C is.

A: This one.

Q: No, that is 322C. I want you to show me where 323C is.

A: 322C is.

- Q: Yes. You show me the boundary of portion 323C. It follows just above Malalaua station or township, it goes right up to Lakekamu river and it runs all the way up to the top over there and goes to the left. And we cannot read what is on the left. But one can assume it goes further than what you delineated in the highlighter.
- A: It is apparently – that is what is shown on the map. But perhaps, if I may mention---
- Q: Yes, I need to hear you on why you delineated only a very small area and you did not indicate to me honestly as to what really was the boundary, as the grantee you should know that.
- A: Mr Commissioner, when the survey instructions were given to the surveyor, the surveyor's name is shown on the map. He was given specific instructions to survey Meporo customary land. As I mentioned earlier when I came to give evidence, I said Tauri/Meporo is a TRP area, and a TRP area was granted for 20 years and it is subject to expiration in 2010. So specifically when the surveyor was taken down there he was to survey Meporo, Meporo covering the area that I marked. That is the land in which all planning was done. And if you see it on the agriculture plan that has been tendered ---
- Q: I do not have to see that for the simple reason that you are the principle shareholder in trust as you put it, you are a principal director, you are full versed with the grant. And one can also safely assume that the boundary of the grant is known to you. I cannot accept any other explanation.
- A: Commissioner, what I am saying ---
- Q: I cannot accept even an explanation as to instructions given to the person or persons who may have carried out a survey. Those are matters that have been dealt with, with or without your instructions upon being shown and I am sure and I will be correct to assume that as grantee you would have no doubt looked at the total boundary of your grant. I would like you to explain that to me if you did or you did not.
- A: Mr Commissioner, I am in a position to say that the map that is produced was not shown to me. All I know is that when I gave specific instructions that the surveyor was to ---

Q: I find it hard to accept that and perhaps you might be able to explain that in a court of law. I am about to exercise my power under section 10A of the Commission of Inquiry Act and refer you for charges for lying on oath.

A: But Commissioner, I am sorry, I am not telling lies. What I am saying is ---

Q: You can explain that in your defence but I will exercise my power under section 10A of the Commission of Inquiry Act. You said in that same witness stand, you, yourself delineated the area comprising of this particular SABL which holds a very small area compared to the official map outlining the exact boundary of that SABL comprising of ----

10.35 am] You sat in that same witness stand, you, yourself delineated the area comprising of this particular SABL which shows a very small area compared to the official map outlining the exact boundary of that SABL comprising of 59,460 hectares in total. I am not the tribunal for you to try and explain. I will exercise my powers.

A: Perhaps, Commissioner, perhaps it will be important if the surveyor can also be called because it is important.

Q: Perhaps, perhaps, I will give you that benefit. I will give you that benefit. Counsels, take note. I want the Surveyor General summoned. If we need to have these matter recalled tomorrow morning, I want it dealt with ASAP.

A: The surveyor's name is Hudson Hape.

Q: I do not want you to provide the name. My office has the resources to pursue the right person from that office to attend. Any further matters to proceed further on from there, counsel.

MR BOI: Commissioner, this witness was recalled to provide the Minutes of the Meeting.

THE COMMISSIONER: Which he has done.

MR BOI: Which was referred to, which he has done and obviously the situation has gone further to a stage where the Commissioner has already indicated that this witness will be charged for lying under oath. But we take note ---

THE COMMISSIONER: We will fix this matter for 9 o'clock tomorrow morning. If the Surveyor General or the appropriate official from his office can appear to fully explain the content of the rough copy of the map we have before I can make a final decision on whether or not I refer Mr Koaru for criminal charges. I will afford Mr Koaru the benefit of an explanation from the Surveyor General's Office before I make any decision.

A: Thank you.

Q: This will, by stating this position, it is important for the audience and people at large to understand. You cannot treat the Commission of Inquiry lightly. And I am not a Commissioner who will hesitate to exercise my powers. If it is necessary I shall. Witness can step down until tomorrow at 9 o'clock.

A: Yes, Commissioner ---

Q: Mr Koaru, you are excused.

A: Thank you Commissioner.

Q: You are a lawyer, you understand that any person remains innocent of any allegations. And even from the position where I am, it is a mere allegation and subject to clarification from the Surveyor General's Office tomorrow. Thank you Mr Koaru. You may step down. Mr Kanu, I am afraid, I did not allow you to say anything on behalf of your client, the company which is separate from Mr Koaru as the director and the shareholder in trust. You can make representations on behalf of Mr Koaru and also the company tomorrow.

THE WITNESS WITHDREW

MR KANU: Yes, thank you Commissioner. I seek to be excused.

THE COMMISSIONER: You are excused, thank you, Major Kanu. That takes us to Vailala.

MR BOI: Commissioner, that is the – yes, we will move on to Vailala matters. Well, the hearing into Vailala Oil Palm, the SABL granted to Vailala Oil Palm. I did a very brief opening ---

10.40 am] MR BOI: The hearing into the Vailala Oil Palm, the SABL granted to Vailala Oil Palm. I did a very brief opening. I did a – Commissioner, sorry for the interruption there. But I ---

THE COMMISSIONER: By your time counsel. There is a lot of movement in the room.

MR BOI: I was about to suggest if we can – can weback to sort out this summonses for the Surveyor General before we resumed our – the counsel ---

THE COMMISSIONER: You want us to adjourn for half an hour, at least.

MR BOI: Yes, short time for us to sort out the summonses for the Surveyor General given the period of time and tomorrow is weekend.

THE COMMISSIONER: Given the urgency of the matter.

MR BOI: Yes, it is weekend tomorrow as well.

THE COMMISSIONER: Yes, Mr Ketan is here.

MR KETAN: We can organize that, he can continue. We have those two maps. We will organize it.

MR BOI: Thank you Commissioner. And with the counsel assisting has very kindly come to our assistance. We allow you to do the summons and get in touch with the Surveyor General for him to appear tomorrow morning. I did a very brief opening ---

THE COMMISSIONER: Yesterday afternoon.

MR BOI: Of the hearing into this SABL yesterday and I was about to call the Registrar, Lands officer but was adjourned to today, given the time frame.

THE COMMISSIONER: You need not explain Mr Boi, we went through that. Please call him.

MR BOI: I will recall ---

THE COMMISSIONER: Please call him.

MR BOI: I will call Mr Alex Iva.

THE COMMISSIONER: Alexis.

MR BOI: Alexis Iva.

THE COMMISSIONER: Thank you once again Mr Iva. You will be very familiar with that stretch of the floor by the time we finish this Inquiry.

ALEXIS IVA, recalled:

XN: MR BOI

Q: Mr Iva, you aware of this; the SABL. Since you are continuing as a witness and you are already familiar with the Inquiry, we are now going into the Inquiry into Vailala Oil Palm Limited. And are you familiar with this SABL in your capacity as the provincial lands officer for Gulf Province.

A: There are two here. Top one or bottom one?

Q: Sorry, the – I have to explain that both of them have been considered together because the second one which appears on the COI list number 73 is a re-grant of the first SABL which was granted to Vailala Oil Palm. It was revoked or it was surrendered; the lease was surrendered and was re-granted. Well, are you able to explain, are you familiar with the background to this? Can you explain what happened in terms of the two SABLs?

A: Top one, the first SABL which was gazette 3 July 2003, the title was registered, State lease was registered under SABL, Vailala portion 377C. Unfortunately, the same title was cancelled because there was no land investigation report conducted. Before the cancellation land investigation was conducted for the same portion, land investigation was conducted to allow for re-registration of the SABL portion 377C, Vailala.

10.45 am] I was the one who actually requested through customary lands division manager, late Jacob Wafinduo to conduct land investigation at Vailala.

Q: Can you explain to the Commission of Inquiry how you conducted this land investigation?

A: The Investigation was conducted by going to the villages which the landowners lived. I have spent almost three weeks telling people what is to be done and all that. So the people, all agreed and they helped me to complete the forms that were provided. After completion of the report I returned to Kerema.

Q: Is there a copy of the report you filed?

A: Yes.

Q: How many landowning clans are indicated? Can you call out the names of the landowning clans indicated on the ---

A: Ownership, name of actual landowning groups already stated; Wei 1, Wei 2, Wei 3, Wei 4, Weiyua, Miaru and Makera Auka clans of Mairawa village. Laura and Aruma clans of Pevora village, Pepere and Laura clans of Hepea village.

10.50 am] Haiapo Haura, Louaia, Haiapo, Houra, Louwaiya, Hariporo, Avoira Kea, Mipo clans of Pavela village, Ivahahia and Oromiva clans of Hairi village. Those are the names of the clans where the respective villages name mentioned.

Q: What was the position of all those landowners?

A: Okay, portion 377C contains an area of 11,800 hectares. So all these people have portions of land within 11,800 hectares of land, that is ---

THE COMMISSIONER: Within the boundary of the SABL.

A: Yes.

MR BOI: When you conducted the investigation where everybody, where all that 11,000 hectares were they all in agreement either individually or through their

agents, were they in agreement with leasing this land for the State to be made available for a SABL.

A: Unfortunately some of those villages the clans that I have mentioned in the report they never turned up and they also rejected for Oil Palm project. Only villages that have – the clans from the villages that have agreed are Wei 1, Wei 2, Wei 3, Wei 4, Weiyuha, Miaru, Materauka of Bairava village, Laura Arume clans of Pevora village, Hepere and Loura clans of Hepea village. Those are the only clans that have agreed. The others that I have called, they all refused to sign any ---

THE COMMISSIONER: Mr Iva, when they refused, did you ensure that their land was excluded from the proposed lease? Did you report accordingly that they refused and that their land should be excluded from the proposed grant?

A: No. Because the land was already surveyed. It was already surveyed ---

Q: I do not care. If you have to resubmit it Mr Iva. For your own inconvenience you are going to include land whose owners did not consent. Just because you would not ensure there is a resurvey done to include only the land agreed to be included.

A: Yes, Commissioner.

Q: This is beauracracic inefficiency and recklessness. You cannot just include people's land who did not consent to just because there was already a survey and you cannot have it redone. Proceed, counsel.

A: Commissioner, the reason is being that to conduct a resurvey of the areas that have been excluded, who is going to meet the cost. That was the reason.

Q: Well, you do not just include people who do not agree. I do not care about the cost.

MR BOI: Mr Iva, the ---

THE COMMISSIONER: Peoples' rights have to be protected.

MR BOI: So in effect not everybody within this particular SABL, even though the land investigation report was filed, not everybody consented to the land being made available for ---

THE COMMISSIONER: And you failed to indicate that in your land investigation report, is that right?

A: Yes.

10.55 am] THE COMMISSIONER: You speak up so that it is on record.

A: Yes, Commissioner.

MR BOI: Do you recall the specific clans or tribes who objected or who did not give their consent to the land being included in this SABL.

A: The clans are Aihapo, Haura, Lauvaia, Harikoro, Avoira, Kea, Miko clans of Paevela village and Ivaihia, Oroviru clans of Haiari village.

Q: Sorry, can you go slowly so I can just record that.

A: Yes, okay.

Q: Which clans?

A: Aihapo.

Q: Aihapo, Aihapo, yes.

A: Haura.

Q: Haura?

A: Haura.

Q: That is another clan.

A: H-a-u-r-a.

Q: That is another clan or same one.

A: That is another clan.

Q: Haura, yes.

A: Lauvaia.

Q: Lauvaia.

A: Harikoro.

Q: Harikoro.

A: Avoira.

Q: Avoira, yes.

A: Kea.

Q: Kea ---

A: And Miko.

Q: Miko.

A: They are all Paevela village, all those clans.

Q: Paevela village.

A: Yes, P-a-e-v-e-r-a.

Q: They did not consent.

A: They did not consent.

Q: They did not.

A: They did not.

Q: So the report is somewhat misleading when you say that ---

THE COMMISSIONER: And it indicates total consent.

MR BOI: Yes. Very well, you indicate total consent and say that ---

THE COMMISSIONER: It is not only misleading, it is totally reckless, negligent.

MR BOI: Well, you say down there on towards the end of your report that the landowners have informed the land investigation report that they agreed with the landowner company and the State's concept of grouping a number of landowning clans from the same village into one or two groups for the common purpose being participate in the Oil Palm development. But in general, by saying that the landowners agree to this project that was not totally true. It was misleading in that, the named clans here.

THE COMMISSIONER: It was misleading, needless for you to explain further counsel. Do you agree it was misleading?

A: Yes, Commissioner. I was on ---

Q: I am glad you answer that.

A: On the pressure.

Q: I am glad you answered the way you answered ---

A: Yes, yes.

Q: Because if you did not ---

A: Yes, I did.

Q: Now that you are on oath I would be treating you almost similarly to Mr Koaru.

A: Yes, I was on extreme pressure.

Q: Who applied the pressure?

A: Landowners and the landowner directors.

Q: And which now has it turned out, obviously, yes, which, as it now turned out obviously did not include these other clans or tribes or villages who did not want to consent to their land being part of it. Thank you for that.

MR BOI: Commissioner, I do not see anything further which might – from this witness which might assist the Commission because he has already said that the report is misleading. He was under pressure to do it.

THE COMMISSIONER: And the recommendation subsequently made was based on a misleading, not only misleading but a very reckless and negligent land investigation report for this particular lease to be granted.

MR BOI: Yes. And, therefore ---

THE COMMISSIONER: For the witness to be excused in the meantime with regard to this matter. Mr Iva, before you go my commendation to you still stands. You are a hard worker, from all that I have noted. But there are matters of very, very great importance and very specific that you are being negligent, even reckless as we are now hearing in relation to this particular case. No matter how small people are or how big people are, you must or how outnumbered they may be, you must never be swayed. Everyone's interest must be protected, from the smallest, from the lease numbers.

11.00 am] Otherwise, might will rule. There will be no rule of law, might is ripe, bigger numbers are ripe. The smaller numbers you are, the smaller person you are, you cannot be heard. We will fall into despotism; there is no rule of law. We must recognize individuals and smallest people and least in number in terms of the people who stand up against a certain thing. We must never fear, ensuring that their rights are fully recognized in any processes. But, otherwise, apart from that I still – my commendation for you still remains.

A: Thank you, sir.

Q: Thank you.

A: Thank you.

Q: Kindly step down for the time being.

THE WITNESS WITHDREW

MR BOI: Commissioner, the next witness is Leo Opa.

THE COMMISSIONER: Is he one of the objectors?

MR BOI: No, he is one of the directors and shareholders of the ---

THE COMMISSIONER: Vailala.

MR BOI: Grantee company.

LEO OPA, sworn:

XN: MR BOI

THE COMMISSIONER: I may have, there was a momentary lapse. We did not have Mr Iva formally tender the ---

MR BOI: The land investigation report.

THE COMMISSIONER: Yes. We just have to have a ---

MR BOI: Recall Mr Iva.

THE COMMISSIONER: Yes, have this witness stand aside very briefly and we have these documents formerly tendered first.

MR BOI: Yes Commissioner.

THE COMMISSIONER: Sir, could you kindly just step down to the seat at the table over there. We were amiss in dealing with matter of some documents to be tendered. Just take a seat while we complete it.

THE WITNESS WITHDREW

Sorry Mr Iva, please, return to the witness stand. The land investigation report which you have just referred to and gave evidence on. Your evidence on it is noted. We want to formally receive it in evidence as an exhibit. You do not have any objection to it being tendered.

ALEXIS IVA, recalled:

XN: MR BOI

A: No objection.

Q: All right.

MR BOI: Commissioner, I tender the land investigation report which was identified by the author Mr Iva, in his evidence. I tender that as part of the record of the Commission.

THE COMMISSIONER: Yes, tendered, what is the date?

MR BOI: 02nd December.

THE COMMISSIONER: 02nd or 07th.

MR BOI: 02nd December.

THE COMMISSIONER: 02nd, thank you, December.

MR BOI: 2011.

THE COMMISSIONER: Year, please.

MR BOI: 2000, sorry, the date.

THE COMMISSIONER: Yes, 02nd December 2000 and ---

MR BOI: No, I am sorry, I am sorry. I was talking about today's date.

THE COMMISSIONER: No, I want a ---

MR BOI: The date on the report is 11 November 2008.

THE COMMISSIONER: That will be exhibit A, Vailala Oil Palm, Portion 377C, Milinch of Ihu and is it Ihu and Kerema southwest.

MR BOI: Yes, it is---

11.05 am] THE COMMISSIONER: That will be exhibit A, Vailala Oil Palm, portion 377C, milinch of Ihu – is it Ihu and Kerema South West?

MR BOI: Yes, it is milinch of Ihu North East-South West, Kerema North West-South West.

THE COMMISSIONER: Milinch of Ihu North East-South West?

MR BOI: Kerema North West-South West.

THE COMMISSIONER: Kerema North West-South West. Fourmil of Kerema?

MR BOI: Fourmil of Kikori.

THE COMMISSIONER: Fourmil Kikori, all right.

MR BOI: Yes.

THE COMMISSIONER: Exhibit A, Vailala Oil Palm portion 377C; Ihu North East-South West, Kerema North West-South East.

MR BOI: Sorry, Kerema North West-South West.

THE COMMISSIONER: North West-South West, rather.

MR BOI: Yes.

THE COMMISSIONER: Fourmil Kikori, Gulf.

MR BOI: Gulf, yes.

[EXHIBIT A – LAND INVESTIGATION REPORT – VAILALA OIL PALM PORTION 377C – IHU NORTH EAST-SOUTH WEST, KEREMA NORTH WEST-SOUTH WEST]

THE COMMISSIONER: Let us just get this right first. Any other documents to be tendered through Mr Iva?

MR BOI: No, Mr Commissioner, the Land Investigation Report is the only document. The title and gazette and that, you have taken judicial notice.

THE COMMISSIONER: Judicial notice of this – or, rather, semi-judicial.

MR BOI: So the lease – the head lease may have to be tendered through him.

THE COMMISSIONER: We can deal with it. We can tender it from the table later.

MR BOI: Yes, at some stage.

THE COMMISSIONER: It does not have to come through Mr Iva.

MR BOI: Yes.

THE COMMISSIONER: They are official documents and we will have them formally tendered at their conclusion.

MR BOI: Yes.

THE COMMISSIONER: So, remember that we do that before the close of the hearing on this particular matter.

MR BOI: Very well, Commissioner.

THE COMMISSIONER: Thank you very much again, Mr Iva, you may step down.

THE WITNESS WITHDREW

THE COMMISSIONER: Okay, Sir, you can return to the witness box. Sorry about that.

LEO OPA, recalled:

XN: MR BOI

Q: Witness, for the record, you will give your full name and address, status and occupation.

A: Commissioner, my name is Leo Opa.

THE COMMISSIONER: Sorry?

A: Leo.

Q: Leo?

A: Leo Opa

Q: Opa.

A: I am from Mairava.

Q: Mairava?

A: Yes, Mairava village, and a principal landowner. I am the Chairman of the company Vailala Oil Palm and landowner company Weahomo.

Q: Counsel, I am about to – you can remove your jacket if you wish. It is getting a bit hot.

MR BOI: Yes, thank you.

THE COMMISSIONER: Proceed, please.

MR BOI: You are the Chairman of the grantee company Vailala Oil Palm Limited?

A: Yes.

Q: Who are the shareholders of this company?

A: Shareholders are the clan leaders, ILG.

Q: Sorry?

A: The ILGs from clans.

[11.10 am] THE COMMISSIONER: ILGs representing each clans?

A: Representing each clans.

MR BOI: Which are?

A: Which are Waiwai; Mr Iva has already read out.

THE COMMISSIONER: Sorry?

A: Those are the ILGs.

Q: Yes, Waiwai ILG.

A: Waiwai.

Q: Yes, first of all before you continue naming them, all ILGs are named after their respective clans?

A: Right.

Q: So, Waiwai?

A: Wai 1 clan.

Q: Clan, which is also an ILG?

A: Yes. Nawei 2 clan.

Q: Waiwai 2?

A: Wai 1, Wai 2, Wai 3.

Q: Yes?

A: Wai 4.

Q: Waiwai 4?

A: Wai 4.

Q: You went through 3 already?

A: Yes, 3, 4.

Q: Yes?

A: Auka.

Q: Auka?

A: Yes.

Q: Yes.

A: And Miaru.

Q: Miaru?

A: Miaru, Weiowe.

Q: Sorry?

A: Weiowe.

Q: Weiowe?

A: Yes. Sorry, Mairava village.

Q: Sorry, which village?

A: Mairava.

Q: Mairava, yes. That is 7; anymore? That is all?

A: That is all.

MR BOI: I do not want to take you to task, but the IPA record I have in my hand do not – does not seem to agree with you because the shareholders of this company which I have here are different. They show that you have 1 share. There are actually - records here say that the 4 ordinary issued shares – 4 issued shares – ordinary shares, that is, 1 held by yourself; 1 held by Miri Setae, another held by Ohaka Hoko, and another by James Iava. Those are the 4 shares, according to the IPA records.

A: Okay. When we formed the company, we just want to hold the shares in trust. Later when project kicks off, then we can transfer all these to the ILGs.

Q: So, at the moment---

A: At the moment, we have not---

Q: You still hold those shares, those four people?

A: Yes, just only trustees.

Q: So, you have to tell the Commission that you people hold the shares which may have to be transferred later to the---

A: Transferred to the---

Q: When the project kicks off?

11.15 am] A: Yes.

THE COMMISSIONER: Why is that? Why can you not have everyone hold the shares now because the lease had been granted and all these people's land is within

the lease? Why should you continue? What could be a legitimate reason to continue holding shares in trust?

A: Sorry, Commissioner. When this project starts 19 years now, so we have not found any investors.

Q: I understand that.

A: So, once we---

Q: I understand that but you have to answer my question.

A: Yes.

Q: The lease had been granted. There is no legitimate reason, do you not think, to continue to hold these shares in trust because these people's land are already part of that lease. Are they not entitled to have a direct say right now in relation to that lease whether there is development or not? They must have a direct say now because of the incorporation of their land in that lease, including also, the choice of developers. You cannot continue to act as if you are the sole person with all knowledge and power to do these things. This is becoming all too regular. Do you understand that?

A: Yes.

Q: Do you have any instrument of trust, a document that says that, this is the trust deed pursuant to which I will hold shares in trust for all these people named? Do you have such an instrument or not?

A: No.

Q: So, strictly, those shares belong to you and the other three. That is not right. You solely own that company and you, therefore, solely are the grantee of this lease and all these people's land, you took, without them being afforded any position whatsoever to have a say as to what you do with their land. Do you not think that is a bit irregular?

MR BOI: The Commission has in evidence – or, before it – the landowning clans which the investigations were conducted by the Lands investigation – Provincial Lands officer and before the Commission, are all those landowning clans named

here, also, you are holding those in trust for them or just these seven you mentioned?

A: Yes, all these names on the investigation report are not true but only those seven whose names are because we have surveyed that area before Alexis did the Lands investigation. So we did the survey and we got the title and then later when - investigation went out.

Q: So you say that all these other clans and villages – people mentioned in the Land Investigation Report - as being owners of the land are actually – it is not true and that the land covered by the SABL is only owned by these seven people – seven ILGs or members of those seven ILGs or members of those seven ILGs and therefore you are holding those shares in trust for these people?

A: Yes.

Q: What measures have you taken to develop this lease in accordance? This is a Special Purpose Agriculture and Business Lease. It was granted in 2003. The previous – the first one was granted in 2003 and then---

THE COMMISSIONER: Then surrendered and---

MR BOI: Surrendered and---

THE COMMISSIONER: And re-granted.

MR BOI: Re-issued this year.

A: Yes.

Q: But the question remains that it has been since 2003, what steps have you taken or Vailala Oil Palm Limited taken?

THE COMMISSIONER: Yes, perhaps, counsel, just ask him. Witness, just tell us if any commercial development had taken place, be it agriculture, forestry? Just tell us.

11.20 am] A: We propose to develop the agriculture project but when those years came to us, Forest Act, FMA team took over the area. So the investors we brought---

Q: What was the name of the FMA, Vailala?

A: No. It is---

Q: Turumu?

A: It is Vailala Block 3.

Q: Vailala Block 3?

A: Yes.

Q: That is the FMA?

A: Yes, FMA area.

Q: For Forestry purposes?

A: Forestry, yes.

Q: Forestry operations purposes?

A: Yes.

Q: Were your people involved in that FMA?

A: Yes.

MR BOI: It is a TRP, I think it was. It is not a FMA.

THE COMMISSIONER: Is it a TRP or a FMA?

A: Yes, it is a TRP but it is same; Forest Management Authority.

MR BOI: FMA?

A: FMA.

THE COMMISSIONER: Yes, peculiar.

MR BOI: This SABL---

THE COMMISSIONER: Peculiar ways the PNG Forest Authority goes about doing business with regard to forest, I must say.

MR BOI: Was that not a Vailala Block 3 TRP area instead of a FMA? It is a TRP?

A: That is right.

Q: Is that not correct?

A: That was the---

THE COMMISSIONER: No, he is saying it is FMA.

A: That was the old Act.

Q: One must have superseded the other. Nonetheless, it is not very imperative for us at this point.

MR BOI: Yes.

THE COMMISSIONER: Save and except when we call Mr Pouru in to verify.

MR BOI: Yes.

THE COMMISSIONER: But, obviously, witness will not be in a position to clearly verify that. So just take note that we need to call Mr Pouru in for this.

MR BOI: Yes.

THE COMMISSIONER: It is imperative. In fact, any SABL that comprises of forest, we are duty bound to ensure these are not gimmicks. SABLs are not gimmicks since the amendment to the Forestry Act, namely sections 90A and 90B. So that under the guise of agriculture, huge tracts of forest are being cleared in

clear-felling operations and we must be – this Commission of Inquiry will have to be alert to this, Counsel.

MR BOI: Yes. Witness, can you confirm to the Inquiry whether there is some logging currently going on within this SABL and this – yes, in the SABL?

A: About maybe 10 years ago – 10 years to right now, the logging operation is currently going on but they are not in this area but on the other side of Purari. That same area Purari through Mairava, that is, Block 3.

THE COMMISSIONER: All right, but not in the area which your SABL covers?

A: They have taken away the trees already.

Q: Already?

A: Yes.

Q: What year was that? Can you remember?

A: That is 1970s – '97, '97 to 2008.

Q: Yes?

MR BOI: In the first, the trees in this area covered by the SABL has been harvested and taken away, all of it or just some of it?

A: No, not - no.

Q: All of it?

A: They did not take it away, that is, only few.

THE COMMISSIONER: It was selective logging, was it not?

A: Yes, selected logging.

Q: But many trees still remain today?

A: Yes.

Q: You are fortunate.

MR BOI: Very well.

THE COMMISSIONER: Counsel, I have a number of questions for the witness.

MR BOI: Yes.

THE COMMISSIONER: If indeed those other clans who did not consent to have their land included in this lease held by your company, would you agree to having their land removed from this lease?

A: The lease is only 11,800 hectares is only for those seven ILGs, seven clans.

Q: I understand that. I have heard you on that, and I have heard your assertion that those other clans who are not in the – named in the Land Investigation Report and also who executed – rather, among those who executed the instrument of lease to the State and then they lease back, you are asserting that they are not – their land is not comprised within.

A: That is right.

Q: But let us just assume that it is – if indeed it is or any of their land in fact is inside, would you be prepared to have them removed?

A: It is only the landowners from that particular areas, if they are interested to come in as agriculture, then they will be the extension areas.

11.25 am] Q: No, I did not ask that. I asked – let us just assume that through some other process, they prove that they do have land within the SABL, would you be prepared to have them removed because they do not want to participate?

A: Yes.

Q: The reason I am saying this, witness, is it is good for you and your people so long as you do not involve land that belongs to other people who do not agree to participate with you to arrange SABLs and get into the market economy. There is no reason why you should not do that.

Notwithstanding what I have said, I was only addressing the fact of possibility that other landowners who did not agree, have their land in the lease. That is why I spoke harshly to you. But, it is an honourable thing to attempt to bring development into your own area and you must be commended for it, yes, so long as you do not touch other people's land.

A: That is right.

Q: Other people who do not agree to participate. Go on, Counsel.

MR BOI: The issue of consent, can you confirm that all these seven ILGs you have named, the members, they all consented and agree that this SABL should be granted to or whether land should be granted through your company Vailala Oil Palm?

A: Yes.

Q: At what stage are you going to transfer the shares back to the ILGs?

A: I think it is not long if – after this investigation, then we transfer this.

THE COMMISSIONER: Counsel, do you have among the documents any document in the nature of a declaration as to custom in relation to Native Land tenure? That will appear with names in one row and signatures in another row.

MR BOI: Yes, we do have some which is attached to the Land Investigation Report.

THE COMMISSIONER: That should be the one, or it should be attached to the Instrument of Lease to the State.

MR BOI: Yes it is – we do have this declaration of custom in relation to land tenure.

THE COMMISSIONER: Yes.

11.30 am] MR BOI: I have it here. It is attached to the Land Investigation Report, together with the Agency Agreement.

THE COMMISSIONER: Yes.

MR BOI: And, yes, I do have them here.

THE COMMISSIONER: That is the document, imperatively, must be tendered at every SABL inquiry because that is the most primary document that under the current procedure, that represents consent of the landowners. Land Investigation Report itself is not very important. We want to know if consents had been given.

MR BOI: The---

THE COMMISSIONER: I mean, sorry, I must re-state that. It is important but it is only of a secondary nature. The most primary document is the declaration which apparently had been the document that was used consistently throughout the country in the grant of these SABLs.

MR BOI: Yes, and some of them are signed, some of them are not signed, and that is understandable.

THE COMMISSIONER: Irrespective, Counsel. Prepare it and have it – I know---

MR BOI: That is all attached and together with the Land Investigation Report which may have been tendered.

THE COMMISSIONER: Very well.

MR BOI: It is all tendered as exhibit A.

THE COMMISSIONER: Very well.

MR BOI: It is exhibit A.

THE COMMISSIONER: Okay, it is noted then. It should be specifically noted. I think in future, let us separate them very strictly because the land investigation report as I was saying was secondary. The primary document is the consent, and I know that from the East New Britain SABL inquiries that that is the form they have been using throughout the country, has now become apparent. That form is called the Statutory Declaration as to Custom relating to landownership or land tenure.

MR BOI: Yes, that is the declaration of custom in relation to land tenure.

THE COMMISSIONER: Yes, but I will treat this one with regard to this SABL as being part of exhibit A which had already been tendered. But in future, I suggest that we have them tendered separately.

MR BOI: Separately; very well, Commissioner. Just final few questions.

THE COMMISSIONER: Yes?

MR BOI: Have you ever briefed the landowner company, Vailala Oil Palm Limited which is the grantee? Have you been holding meetings?

A: Yes.

Q: Company meetings?

A: A lot of meetings have been taken from the village when we start forming this company and doing survey. All these have been – every meeting has been called at, so people agree to bring the project down. So we start forming the company.

Q: When I asked meeting, I am talking about the company meeting, not – the shareholders meeting and directors meetings?

A: That is right.

Q: Do you consult or do you have meetings with the ILGs to put them into picture, so to speak, as to what is going on with this SABL which was granted to your company?

A: Yes. We had a number of meetings back in the village This company is formed long time. It is about 19 years now, so people in the village are aware what is happening. They are still expecting us to bring the project down but just some reasons.

Q: Do you have some records, minutes or anything like that just for the Inquiry's---

THE COMMISSIONER: I doubt it; I doubt it. I can tell they are village-orientated company and it will be very – is that right?

A: Yes.

Q: You have not kept records of these meetings and so on?

A: No, I do not think so.

Q: All right. That is something I will counsel you before you leave this witness stand.

MR BOI: Commissioner, I have no further questions for this witness.

11.35 am] THE COMMISSIONER: All right, thank you. Mr Opa, a number of things I have pointed out and, specifically, it must be understood and I have spoken to Mr Iva when he was on the witness table that you must not, and you cannot incorporate land belonging to other people who do not consent to be part of your – part of the area of the lease sought to be granted through this scheme of lease-lease-back under the Land Act. Any excuse that because survey had already been carried out, it will cost money to re-do the survey, that is the cost to be borne by the person such as yourselves who want to have an area of land granted under this scheme.

If there is any dispute in relation to all the portions of customary land owned by various groups within the particular lease you are seeking, you must refer it to the appropriate tribunal such as the Local Land Court; and if it goes further, the Provincial Land Court, to determine these disputes so that ownership is clearly determined before you effect that grant through the process.

As we have already seen in evidence, not only in this matter but other matters affecting SABLs in the Gulf Province, as well as elsewhere in the country; that the officials have not been diligent and in some cases, reckless and negligent.

It is beginning to appear that if you are a small person, if you are among people who do not have the numbers, therefore, smaller number of grouping you are, the weaker you are and you cannot stand up against to the ones who have a greater number of people and therefore stronger. This is becoming too obvious now, and I would be amiss not to say something in this regard while this Inquiry is on that we must stop this nonsense about being mighty; you are right and being weak, you are wrong, always wrong simply because you are weak. This must stop.

We must protect the weak. We must reach for justice at all times. We must not trod on the downtrodden, and this attitude has reached very high levels in the entire system in this country; and we must begin to change this attitude right from down there upwards.

So it has become obvious, and I am talking to you because you are the Chairman of the landowner company involved in this particular lease. It has become obvious that your lease may cover areas that you should not have had incorporated, and the only reason given by Mr Iva was that the survey map – or, the survey had been done and the map had been issued with all references and so on.

To me, that is rubbish. These are numbers. This is a piece of paperwork. These are people who are trained for it. If the first one is wrong, go and do it again. Those who are interested in it, you meet the costs.

So I will excuse you but you take these matters into consideration seriously between now and when we make our findings and recommendations known. Thank you, Mr Opa, you are excused for the time being.

THE WITNESS WITHDREW

THE COMMISSIONER: Counsel?

MR BOI: Commissioner, before we proceed to the next witness, a situation – I am advised by Ms Peipul that a situation has evolved outside where Mr Koaru's brother is trying to assault one of the crowd and that there is a commotion outside.

11.40 am] I do not really know.

THE COMMISSIONER: Have we called the police?

MR BOI: I need some directions or guidance from yourself.

THE COMMISSIONER: They are breaking the law and Mr Koaru's brother must be referred to the police immediately.

MR BOI: Yes.

THE COMMISSIONER: Have we called the police, Ms Peipul?

MS PEIPUL: I think so, Commissioner. I will have to double check with our security personnel on what is happening.

THE COMMISSIONER: They have decided that they will take the law into their own hands, and that does not help Mr Koaru at all when he returns tomorrow. Is there anything more you would like to advise us on, Ms Peipul, with regard to the situation outside.

MS PEIPUL: Not as such, Commissioner, however, the gentleman who has been threatened is actually currently sitting here waiting for his people to come and pick him up because they are, apparently, outside at the moment.

THE COMMISSIONER: Call for armed police or, otherwise, have our own security armed and escort him out and shoot anybody who wants to take the law into their own hands. Security, approach, please; come forward. Come forward. Come forward, stop fixing up your boots. You should be ready at all times. Stand over here.

I have had to deal with situations – anticipate situations such as this in Kokopo and I have stated I do not need security. If anyone is to be – get off the record, we do not want to use the tapes unnecessarily on this.

11.44 am] MR BOI: Commissioner, we had summoned two other Directors of that company to give some further evidence to the Inquiry but after the Chairman has given his evidence, I am not too sure whether they will be in a position to improve on the evidence given by the Chairman in respect to the affairs of the company, and the consent and involvement of the landowners.

THE COMMISSIONER: Yes, there is no question that Mr Opa is Chairman of Vailala and his people should be able to develop their land but so long as it does not involve other people's land. That is why I have spoken to him at length, and if they are able to resolve that and remove even if it means having the survey redone. Remove those land that should not have been included in the lease in the first place, and he should be able to proceed with whatever developer he seeks to engage in with his people. That so long as they remove other people, the unconsenting groups' land from the particular lease.

With regard to the inquiry on this one, Vailala Oil Palm portion 337?

MR BOI: 377C.

THE COMMISSIONER: 377, rather. There is nothing really to extend the inquiry on this one, so long as it has taken note and our finding and recommendation will come accordingly because we have already heard Mr Iva, the Land Investigation Officer with regard to the Land Investigation Report.

MR BOI: Yes.

THE COMMISSIONER: It is defective.

MR BOI: Yes.

THE COMMISSIONER: It is defective in that he had failed to disclose in the report that there were unconsenting parties.

MR BOI: Yes. In view of that, as I was indicating---

THE COMMISSIONER: Come forward.

MR BOI: I had summoned---

THE COMMISSIONER: Yes, sorry, Counsel, he put his hand up and I am asking him forward.

MR BOI: I was coming to him while I was mentioning that, but the other two Directors of the company, I had summoned them but in view of Mr Opa's evidence and Mr Iva's evidence, I do not think they will be in a position to improve.

THE COMMISSIONER: No. If you feel that way, I also feel that way. We can pass them.

MR BOI: Yes, I will excuse them.

THE COMMISSIONER: Yes.

MR BOI: As I indicated in the opening, there is an objector. Aroaro Landowners Association have lodged their objection, and we have summoned the General

Secretary and the Chairman. I am minded that it will take some time, unless Commissioner wants to sit through lunch hour.

THE COMMISSIONER: No, I am actually not feeling too well.

MR BOI: Very well, then we might – it may be a convenient juncture to adjourn.

THE COMMISSIONER: To adjourn until after lunch so that we can deal with Koaru Resource's situation outside as well.

MR BOI: Yes, and continue in the afternoon and complete this witness because he is the objector, it is going to take some time.

THE COMMISSIONER: I understand that.

MR BOI: Yes. So on that basis---

THE COMMISSIONER: Also, during adjournment, if we can take it up with---

MR BOI: Mr Peter.

THE COMMISSIONER: Mr?

MR BOI: His name is Mr Mirou Peter.

THE COMMISSIONER: Yes, take it up with Mr Peter. He sat in and he – the Inquiry is really not all about any other assertions. The Inquiry is about defects in the grant of the lease and, unless, if you are going to add on anything further, do not take too much time in asserting your land rights because we are not the tribunal to hear that. Defects already exist by the evidence of the official involved in this land investigation, as well as even from the evidence from Mr Opa, the Chairman of the grantee.

The Commission of Inquiry had specifically instructed – we have self-instructed ourselves not to engage in any matter that may appear to be a land dispute. The appropriate tribunal is for the local Land Court. I just want to make that clear. So, you confer with Mr Peter---

MR BOI: Thank you, Commissioner.

THE COMMISSIONER: During the adjournment and just ensure we do not take up time that extends into matters that we are not concerned with in this Inquiry.

MR BOI: Yes, Commissioner.

THE COMMISSIONER: I do not know if you require any directions with regard to the situation outside.

MR BOI: Commissioner, I will assess any situation and then if any application that need to be made, I will make that during lunch hour.

THE COMMISSIONER: When we resume after lunch.

MR BOI: After lunch.

THE COMMISSIONER: All right. Before we break, let me just hand down this exhibits which are Form 15; exhibit K1 to 15, if we can appropriately---

MR BOI: Yes, thank you, Commissioner.

THE COMMISSIONER: Yes. If that is all, we will return at 1.30.

MR BOI: Yes, thank you.

THE COMMISSIONER: Associate, adjourn the Inquiry to 1.30, please.

AT 11.50 AM, THE COMMISSION OF INQUIRY INTO SABL WAS ADJOURNED INDEFINITELY.

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