

TRANSCRIPT OF PROCEEDINGS

Commission of Inquiry into SABL
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COMMISSION OF INQUIRY INTO SABL

MR JOHN NUMAPO

THE CHAIRMAN & CHIEF
COMMISSIONER

LOCAL GOVERNMENT COUNCIL, VANIMO, MONDAY 21 NOVEMBER
2011 AT 10.02 A.M.
(Continued from 18 November 2011)

10.02 am] CHIEF COMMISSIONER: Yes, counsel, we finished last week Friday with Wammy. And I understand that there are one or two more remaining witnesses that you intend to call to sum up Wammy's case before we proceed to the other SABL. So, is this still the position?

MR PUPAKA: Yes, Chief Commissioner, summarizing Wammy, Wammy Limited was closed except for one witness as we understood at the time, Friday closing, president of Namea LLG. That gentleman was to have given evidence in relation to the JDPBP, Joint District Budget Priorities Committee perspective on things. Unfortunately, he is not here; he is not available.

In his place to wrap up inquiry into Wammy Limited or SABL held by Wammy Limited, portion 27C, we intend to call witness Johnson Wapunai. He is part of the dissent or person of interest category. But he says, evidence – he has been served with the summons. His evidence is specific to, particularly of relevance to SABL portion or Chief Commissioner, correction, portion 7C is not exactly part of our SABL inquiries, but it, there is issues of overlap and encroachment of SABLs issued by the Lands Department. So we will take the witness through the schedule appended to the summons that he was served and get some clarification on the issue of the overlap. That makes his evidence different to the evidence of witness Moses Laliwo, who is the chairman of the dissent entity; the rival entity to Wammy Limited, Nakap Resources.

So, we call this morning, next witness for the day and last witness for the Wammy Limited SABL, witness Johnson Wapunai.

JOHNSON WAPUNAI, Sworn:

XN: MR PUPAKA

Q: Witness, you prefer evidence or you wish to give your evidence in Pidgin or English?

A: English.

Q: English.

A: English, yes.

Q: All right, Mr Johnson Wapunai ---

A: Wapunai.

Q: Wapunai.

A: Yes.

Q: Could you spell that for the records?

A: W-a-p-u-n-a-i.

Q: Right, let me, witness, let me, Mr Wapunai, let me clarify this with you. All the other, in the other SABLs we have wrapped up hearings so far, we have only called - we have made it a practice called one witness per interest groups. I understand your position is similar to that of the chairman of Nakap, Moses Lali Wau.

A: Lali Yawo.

Q: Lali ---

A: Yawo, yes.

Q: All right. We have sort of deviated a bit from the usual practice and called you because we intend for you to, after your representation this morning, we do realize that there is a – we have revisited the summons that was served on you and the schedule appended to it indicates you have been specifically summonsed amongst other things to give evidence in relation to an issue of overlap. All right, before we actually ask you to get started on that aspect of the evidence, would you briefly indicate what interest, general interest you represent and what is your view of the SABL held by Wammy Limited. In our own words.

A: My name is Johnson Wapunai as you stated. I am interim managing director for Nakap Agro Forestry Joint Venture Development Limited. And I am also a clan member under Awolo clan of Tipas, Edwaki.

My interest in representing this is the portion 27C which is currently, we have been titled. That area is especially under Nakap which we have already negotiate for Special Agriculture and Business Lease. We want that to happen in that area. That is why we – I am here to clarify on my standing that there should not be any overlap of boundaries in regarding to that area.

Q: There should not be ---

A: There should not be any other overlapping of boundaries in regard to that particular area.

Q: In relation to the portion 27C.

A: C.

Q: There is no overlap.

A: Originally, that area is we were working on it; Nakap was working on it but then Wammy came in to overlap the boundary which we are disputing that overlapping. We respect Wammy as it is, it is an organized landowner group which already affiliate themselves with Ammana 56.

Q: Sorry, what was that again, the last bit about you respect Wammy?

A: We respect Wammy as a group, a landowner group, they have their area of operation. They already affiliated themselves with Ammana 56 and we respect that. And the only dispute that we are having now is they have extended their boundary from where they are supposed to have whole part of portion 27C.

Q: What do you know about portion 7C?

0.10 am] There is a portion 7C, is there?

A: Portion 7C is the original, sorry, portion 7C?

Q: Yes, portion 7C. Is there a portion 7C, would you know? I am not talking about 26, 26 is held by Nuku Resources and Wammy holds title over portion 27C. Evidence before the Commission indicates there is a portion 7C. Is there one such? Chief Commissioner, that has been extrapolated. That information is being worked out from representation made to the Commission from interest groups including Nakap Resources. So is there a portion 27C to your knowledge or not or specified portion 7C, that is?

A: No.

Q: No.

CHIEF COMMISSIONER: Counsel, I am just thinking that it might be a misunderstanding of portion 27C rather than 7C on its own. I am just speculating. I am not too sure whether I am right or not. But ---

MR PUPAKA: That is right. I am not quite able to recall from the top of my head right now how that, the second last paragraph on the schedule, someone's schedule was worked out, information. What do you know about Base Oil Palm Limited Investment, full name is Base Oil Palm Investments Limited?

A: I know they are operating out of Ambunti, that is what I know.

Q: You know, what is it again?

A: I know, as a landowner company that is operating in Ambunti in East Sepik. But where their boundary comes in, I do not know.

Q: Now that you are on the witness stand, what exactly, what other information and evidence do you intend to present before the Inquiry?

A: First of all, I just want to give you our dispute regarding the overlapping of boundary and the hearings that they conducted in Edwaki; that is the environment hearing and public hearing and the land investigation report of Edwaki.

Q: All right, land investigation report, yes. So what do you want to say about that again, the land, LIR, land investigation, LIR for land investigation report.

A: Report and the hearings they conducted in Edwaki, environmental hearing and then public hearing. The two hearings conducted in Edwaki.

Q: Ed, what is it again, Ed?

A: Edwaki.

Q: How do you spell that?

A: Edwaki, E---

Q: E-d---

A: D-w-a-k-i.

Q: Edwaki, public hearings at Edwaki.

- A: Public hearing and environmental hearing.
- Q: So what about it, again? What do you want to say about the public hearing at Edwaki?
- A: How it was conducted and who were present in that time, yes. Should I continue in details to explain this?
- Q: Well, that is what I am saying, you are saying there was a public hearing at that place Edwaki. So what are you going to say in respect of it? You liked it, you did not like it, what?
- A: First of all there were two hearings conducted. There was, first of all, there was an environmental hearing conducted on 22 October 2010. The officers present during that hearing ---
- Q: That is environmental hearing.
- A: Hearing, yes.
- Q: Could I just suggest to you, you probably would want to start with the initial land investigation report ---
- A: Yes, yes.
- Q: If it happened at that place in relation to the receipt and obtaining of landowner consent on the original decision to venture into oil palm and who was to do what and that sort of thing? Environment, I presume is something to do with what happened after the decision, after the SABL was granted.
- A: Thank you Commissioner and the counsels. Shall I start with the land investigation?
- Q: Yes.
- A: To my knowledge there was no formal land investigation carried out in the area by Wammy. And should there be an investigation in the area to cover up 105,200 hectares, to my knowledge, this would take about two to three months to complete the work. Portion 27C as drawn and seen on the map was done by a surveyor called Patrick Kopal. Patrick Kopal is a surveyor based in Moresby. He has never visited Edwaki.

- Q: How do you spell the name, K-o-?
- A: K-o-p-a-l. He has never visited Edwaki to carry out the survey nor West Sepik Province. All these maps were done in Moresby without the local landowners' consent. There were no government officers in the province involved in carrying out the survey in Namea LLG area which is Edwaki.
- Q: All right, so, had he visited or not particularly him but had he visited, he would have learnt of what things that you dispute or do not like about the map.
- A: Why I am disputing this is his presence was not there. He has never consulted the landowners and the landowners have never seen him in person. But we only saw the map which we did notour area, yes. But he was not present physically to confirm what he has done. So how it was prepared and presented to secure that portion 27C is still unknown to most people of Edwaki.
- Q: So that has brought about what results?
- A: That was when this map came about we began to learn that it has, that map that came all the way to areas that Nakap was intending to operate. So that includes whole of portion 27C. It was not intended for them to operate in that area.
- Q: All right, so, what is your attitude, who do you represent anywhere?
- A: Sorry?
- Q: You are the managing director of Nakap.
- A: Nakap, yes.
- Q: You are not there in any representative capacity, are you? Are you official of Nakap Resources Limited?
- A: I am a landowner with the Waulo clan of Tipas village. I am one of the members in there.
- Q: Who is your representative on Nakap?
- A: Sorry?

Q: Who is your village representative on Nakap? Anybody representing your village separately on Nakap Resources Board?

A: No.

Q: I am just trying to work out with yourself Mr Wapunai as to whether someone else speaks in a representative capacity for your village on Nakap. They do not, there is no on.

A: No.

Q: All right, what about Wammy, your village represented in any capacity at the ILG level or ILG that your village belongs to is effectively represented in Wammy?

A: Sorry, let me rephrase my answer again. For Nakap, yes, the chairman for the Walu clan with a certificate number 17398. These are our representative for our, to represent the village in Nakap.

Q: What about, what is the name again? What is the name of the chairman?

A: Walu clan.

Q: Name of the chairman.

A: Kanai, sorry.

Q: K---

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

Q: So I am not going to ask you what your village's position is suffice for the moment, Chairman that the general spokesman for Nakap Resources has spoken for all those that adhere to and profess to belong to, exclusive to that entity in opposition to Wammy went to the alleged mandate vested in Wammy over that piece of land or portion of land 27C. But the point of the matter here is that the witness Mr Wapunai will not be asked to speak for his village here because he is not in any representative capacity other than being the executive of the company per se and not, which is probably something that needs not exactly as a result of the consensus that goes into having people represent at the company level.

.0.21 am]

Generally, through a process of election and selection. All right, so you are saying Nakap's land was captured in the SABL now or portion 27C now held by Wammy because this mapping person, the surveyor Patrick Kopal never visited the site.

A: That is right.

Q: What about the land investigation report, anything to say in relation to that?

A: There was on officers on the ground to carry out the land investigation to date that I know of. I would not know how they came about with the presentation and with the reports to acquire that area.

Q: Wammy allegedly or Wammy went through all of that, did it? Wammy would – what you are trying to tell the Inquiry is that Wammy or what is its name, Naka, beg your pardon Commissioner, Nakap went through the process of land investigation and public hearings, gatherings to get landowner consent.

A: Not to that details. But we initiated the idea. We initially conducted the land investigation survey on that. We engaged the Forest Authority which is FRI to carry out the survey for us and we were still working on it. But we would, when we are about to ---

Q: So you were in no better position than Wammy would otherwise have been in had it not been for the fact that they secure title by whatever means they did.

A: We were in a process of doing it when we put in our details, put it together to acquire the map. And we later found out that they already secure the map which is portion 27C. And we found out to do some more work on it that we also found out also that they already acquired the title over the area which stopped us from going any further. That is why we are here to dispute that.

Q: So what is your difference with thewith this Wammy Limited? Is there no chance, no opportunities, is there any way they could get to work with these people? For example, what is the name of your village again?

A: Tipas.

Q: Tipas.

A: Yes.

Q: Tipas cannot possibly in say like, the village that Wammy chairman comes from. So he will have by way of the traditional landownership in this country and I presume, that applies to your place. Tipas village would probably have interests exclusive or majority interest over a timber tract that probably someone in your position in Wammy would not have. So if you all agree to respect the rights over your respective pieces of land, I am sure you can find common grounds somewhere. Have you tried working with Wammy instead of trying to kick them out and grab title for yourselves?

A: Our biggest concern here is the – like, we have did all the work. We used the Lands officers to do this investigation ---

Q: I am just trying to find, that is your position. I am trying to put you on the frameworks in relation to alternatives that is available to you, knowing that you possibly will have to undo portion 27 in order to get yours. And the chances that you may get yours is not exactly iron clad, it is not guaranteed. So you got a good opportunity here to work with these people and have you explored that option, that is what I am trying to tell you or put to you?

A: We have not explore options. We want to acquire it as our own and we want to work on it.

Q: Well, someone Mr Wapunai, someone, last week said something about me, I, me, my and all of it, all three composed and constituted in one person. The idea is about trying to hold hands and collaborate for something that probably no individual owns but collectively and individually, all of the landowning units, I am talking about entities, clans, groups that can possibly unite at leadership level, including managing director level, chairman and director level so that they can work together instead of seeing the individual up there on the pedestal.

A: Our dispute, I mean, our dispute in this case now is, it is not Mr ‘Me’ as Wammy stated last week. Our dispute is doubling on the boundary. We

acquired 80 ILG certificates and they got 43 certificates. We cover most of the area which without their consultation, they overlap our boundary. That is our consent at the moment.

Q: So I am thinking, you people are not going to get together on the round table.

A: At this point in time I did not think it will happen until the majority of ILGs chairmen agreed.

Q: Well, try and picture this in your head. I am just trying think aloud here, it is not necessarily that you need necessarily agree with me. In the event that you were in position that Wammy enjoys, what is the chance of Wammy staying, rolling over easily and say, look, okay mate, you win, I will walk away. They probably might do the same thing and you know, you will probably holim, taitim, brukim namel until the next three, fourth generations from now start finding common ground. And you probably like either of your forefathers and your colleagues here might not see development happening on the land for the next couple of decades.

A: We, our ---

Q: I am presuming that Nakap as well as Wammy and everybody else want development. It is just the issue of who leads. If that is the chance your party may also be easily spoilt by Wammy acting in the way that you are acting.

A: That, my party would be appreciate, we would require, I mean, if we can have a genuine developer who is interested in SABL and who does not have that double interest in the area.

Q: Well, that probably will make an issue out of the choice of a selected, preferred developer, for the time being leave that out. I am talking about getting a united stand by people who profess some interest over the portion 27; the human beings, the papagraun pastaim. Leave the choice on selection of developers out for the time being.

A: Sorry, can you rephrase your question.

Q: Yes, all right, I will do that. You know, quite apart from the choice of developers unless the difference between you and Wammy is only in

relation to the choice of developers, I am sure you can work that out. It does not seem to be a choice of developers. It seems to me to be issue of who is in charge. And by the time you get around to being in charge and remembering that you will have to undo portion 27C first to be able to secure something because as the Law stands, they will not grant you title until portion 27C is undone and set aside. And by the time you get around to doing that Wammy would have reorganized to do the same thing that you are doing.

[10.30 am]

So, it will be a case of entangle with each other and rolling down hill and going nowhere. You realize that.

A: Yes.

Q: That is why I go back to my initial query with you or my lack of appreciation, what baffles me as why you have not put the option of having to work together on the squarely, you know, visibly on the table and try and work towards meaningful results in the corporation department. Instead of trying to wrestle control of each other. That is the same thing, for your information, it is on the matter on record now. Your chairman Mr Yaliwawo.

A: Lali Yawo.

Q: Yes, Lali Yawo. His evidence was that just portion 26 were just part of it. He even asserted that your land and Nakap land extended even over the, across the border to East Sepik Province. And like I am saying, all of these is not putting the issue of all of these and all the others who have been left in the village wanting to bring development into the general Sepik plains. It is not taking that; the idea of pro-work. It is pulling it down and putting, stepping in the face of it. It does not progress the idea of development through the agro-forestry project, proposed agro-forest, different agro-forestry projects forward. It only wraps it up in a quagmire of dispute and probably stay like that for the next foreseeable future. It really does not. All these song and dance in the media with the leadership, all political and otherwise, provincial government wise, LLG and District Budget Priority Committee aspirations, really goes nowhere when there is no united, make common ground on any aspect at all, quite apart from choice of developers, anything. The only thing that seems to permeate the SABLs in the Sepik plains is that everybody wants

development but that is it. Beyond that there is no agreement on anything. So why are you people wasting your time. You seem to be educated enough guy and you want to say that into the records of the Inquiry as to why people are not going to the roundtable. You want to say something on that. I have said enough.

A: Like I have said earlier, yes, you said is at least given us some idea on what we should do. But the way we operate at the beginning that we supposed to be consulting each other to fix everything up from the bottom up. But it did not happen that way until we find out that there was land portion number given and the title. That is when we come and do it. But yes, that resolve at our level depending on how we coming together in our discussion.

Q: Counsel, Chief Commission, I am done here. I will reserve my thoughts.

CHIEF COMMISSIONER: Have you got any question?

XN: MS PEIPUL

Q: Just one question. Have you been negotiating with any developer or are you still at the point where you are still trying to push through, I mean, the initial place of things. Are you currently in negotiations with any developer?

A: Currently, yes, we have negotiated with a developer. But we do not want our developer to take lead at this point in time until we clear ourself right before they come in.

Q: So in that respect you are not interested in therefore, negotiating with the developer of Wammy Limited.

A: Not at this point in time until we get everything right for ourselves so that when they come in they go straight to the development process and not to come entangle with us.

Q: We have heard from Wammy Limited, the developer that they have assisted them with much of the process of registering their SABL, the developer assisting you in that respect?

A: No. We use our fund from the government District Development Grant to take all these things. Our plan is to make sure that we have to spend at our costs so that we hold anybody. Until such time when we are ready to develop then they can come straight for development.

Q: Thank you.

CHIEF COMMISSIONER: I have just got few questions for you. We are talking about the same portion of land which is portion 27C. Did you say that Nakap was formed before Wammy came into existence?

A: Yes. We registered our company in 2009. And we were in the process through the funding of the District Development Grant - they gave us bit by bit at that time so we were not able to complete it on time. The Development Grant, Telefomin District gave us 10,000 to start off with our project and then followed on by 50,000 and then last, beginning of this year, they gave us 200,000. So because our funding was little bit slow so our process was also in line, little bit slow. We put in our advertisement, we took all ILGs, put it through the Lands Department and we advertised on the newspaper, while the newspaper – while ours was in the process of for dispute to be made in the 62 days, that is when we found out that Wammy got that certificates; ILG certificates which was never advertised.

Q: So Wammy was formed in what year?

A: The landowner itself, like, they organized themselves in 2000 as far as I know but they were never registered until 2010.

Q: So Wammy Limited was registered in 2010.

A: Yes.

Q: But prior to that Nakap ---

A: We registered ours in 2009.

Q: You already registered yourself.

A: Yes.

Q: Is there any reason why Wammy then decide to form their own group after, because we are talking about the same portion of land 27C, so why

did Wammy then decide to form itself and have it registered after knowing that Nakap is already in existence for the same piece of land?

A: We respect Wammy as they were. What we know is Wammy has the boundary where the Sengi River cuts, most of their ILGs already went back with Ammana 56, which we did not dispute that. That, we dispute only when they overlap the boundary from Sengi River all the way down where it is now. That is why we are disputing. If they work within Sengi River and back towards Ammana 56 we have no problem with them.

Q: So the dispute is really over because they have come over to your site.

A: That is right.

Q: And they said it was on their site, it is still under portion 27, is that correct?

A: Portion 27C was the portion that we were trying to take it. But they overlapped it by getting the boundary before we went in. So if they have gone in with Ammana 56 on bloc 6 we have no problem with them.

Q: When did it, land investigation report and when the survey was done by surveyor, does it also include the land that you are talking about on the other side; that is your land to make it so that they form altogether 27C?

A: When we started doing our work we started from Sengi River down back towards where it is now, where the map covers. What Wammy has already given away to Ammana 56, we did not touch that.

Q: Which means that you can – are you able to proceed with and negotiate with a developer to come in and proceed with whatever agro-forest development that you want to do in your area or that you might have some real conflict with Wammy. Because Wammy has taken or encroach onto your land?

A: Right now we cannot do any development and - right now because they already have taken the part of the land that we want to develop which is under portion 27C now. That is why, initially we suppose to work on. We engage regional surveyor Chris Mandra from Lae to do all our mapping but while the approval, as he was in a process of putting them

together to get the map for us, we found out that there was already map named portion 27C. So it blocked us from getting our own map.

Q: Would I be correct to say that it appears that some of your people are involved with Wammy and some are involved Nakap. So there is a split. It is not that all of your people have decided to go for one rather than the other. As you indicated that your clan; Walu clan is represented in the Wammy Limited.

A: No, we are not.

Q: You are not in the Wammy Limited.

A: No.

[10.40 am]Q: So, those people who are supporting Nakap are not at all involved with the Wammy or not, represented in Wammy board or anything like that. They are totally outside of Wammy. They are supporting Nakap. Would I be correct to say that?

A: No. There are some who have just taken up board through convincing the method they used. There are some with them now, yes.

Q: So, really, the problem is that there is a split between your own people. Some are supporting Wammy, some are supporting Nakap, that all of them are not supporting Nakap.

A: When we look at that one in population, we have about almost 10,000 plus. When we look at the population itself Nakap secured about 90 percent of the population while Wammy have 10 percent.

Q: And 10 percent stayed with Wammy.

A: Yes, 10 percent with Wammy, yes.

Q: And Wammy has now, let us say, Wammy has got the SABL title to proceed on with the development on the land and obviously Nakap has missed out on that. Is that correct? So what is Nakap doing about it.

A: We already engaged our lawyer to pursue but because the Commission of Inquiry is here, we just put it off for a while. The reason we are doing that is simply because we initiated the idea, we have all the certificate, original with us, we want to develop the area. Without consulting the

bulk of the population this map came about and the title was issued without their knowledge. So these are the dispute that we are having. If they have gone through the process, if all community and all the ILG chairmen has been consulted before they acquire all these things, we have no dispute on that.

Q: So out of the 107,000 hectares of land for Wammy, sorry, 105,000, how much of that land do you think is under Nakap?

A: Actually, we should have the total land mass of 288,000 plus hectares. When Wammy acquired 105,200, so we are only left with 100 plus hectares to work on.

Q: Well, the 27C, if that is the case then portion 27C really remains with Wammy because you still got your 100,000 hectares that is not part of the portion 27C. You see what I am saying. Because you said there are 200 and what was it again?

A: 88.

Q: 288,000 hectares of land. Portion 27C only covers 105,200 hectares and the balance is still remaining. Is that, the balance belongs to Nakap?

A: Our initial idea is that all of that area is ours.

Q: Including portion 25C.

A: Including portion 27C.

Q: Sorry, 27C, pardon me.

A: Yes.

Q: So what you are saying basically is that, the 105,200 is also part of Nakap.

A: Nakap's, yes.

Q: So that means that Wammy really does not have anything, because if you take 105,000 out, well, that is it, Wammy is gone. They do not have any title to anything. That is according to what you are saying.

A: Yes.

Q: Okay, I have got no further questions to ask.

MS PEIPUL: Maybe, if I can just ask a question. You did say that there is a bit of land, there is a land between certain boundaries that you said would be okay for Wammy to give. Can you just go through that again?

A: Like I said earlier, like Wammy itself we have no dispute with them, their landowner group organized themselves and get themselves with Ammana 56. And part of the land, starting from Sengi River back towards west, they affiliated themselves with Ammana 56 so we are not disputing that area. If they can draw up the map in that area to work on we have no dispute.

Q: And how many hectares do you think that land area is?

A: I would have no figure right now.

Q: You would not know. But if they stick to that then you have no issue.

A: No problem. Those who are outside of that boundary, the ones that come with us, no problem with them.

Q: All right, thank you.

MR PUPAKA: Chief Commissioner, that wraps up the last witness to SABL held by Wammy Limited. Witness, that is the Vanimo leg of Inquiry. Witnesses; Simon Malu, Pepi Kimas, Dr Phil Shearman and from out of the last witness at Vanimo's evidence, witness Patrick Kopal, surveyor, all these will be called in Waigani.

Mr Wapunai, in line with what we have been or in keeping in practice with what we have been saying for every SABL Inquiry and every witnesses we would like to remind you that you are under oath. Any evidence that you have given and evidence that others have given that needs to be clarified by yourself and in the event that there is a need for you to be recalled either here or elsewhere, in relation to the continued inquiries over the SABL held by Wammy Limited, we will do so. We ask you that you avail yourself greatly for that purpose. For the time being, thank you for coming. Too, thank you for volunteering to come after we thought you were not present and we would like to stand you down. Thank you.

A: Thank you.

THE WITNESS WITHDREW

MR PUPAKA: Chief Commissioner, we will proceed straight to the SABL part-heard matter of the joint hearings in relation to the SABL held by Bewani Palm Oil Limited and Ossima Resources Limited.

Wrapping up things the administrator, I think it was, the former administrator Mr Sungi testified. And then witness, I think it was Mr, we will have to clarify a few things here Chief Commissioner, but the first one to be called was witness Peter Wuni. He was sworn in. In the midst of his evidence there was disruptions which caused that inquiry, further inquiry into that matter to be adjourned to today or we would like to recall that witness. That is Peter Wuni.

CHIEF COMMISSIONER: Who is that?

MR PUPAKA: Peter Wuni.

CHIEF COMMISSIONER: Peter or John Wuni?

MR PUPAKA: It was Peter Wuni. There was some adjustments being made in relation to witnesses that were identified in the opening statements. So based on what the Associate and I did on the 14th, initial names given, there were a lot of names given, we will work out the pros and cons of calling them as we go forward with this witness. But the opening sides, story where to be presented, first through Peter Wuni. He was giving evidence, I think, for the record. We will ask him to recap and continue with what he was saying to give us a clear indication of what juncture we were until he was disrupted and I am unable to do that myself. So ---

CHIEF COMMISSIONER: Still on oath, is he?

MR PUPAKA: Yes, he is. He was sworn in. Mr Wuni, morning. All right, which language where you using at the time English or Pidgin.

MR WUNI: Pidgin.

MR PUPAKA: Pidgin.

MR WUNI: Yes.

PETER WUNI, Recalled:

XN: MR PUPAKA

Q: All right, we will continue with your evidence. You are under oath. Your evidence was disrupted dramatically at the time and which sort of caused us to – it does not help me recall exactly what juncture of your evidence we were at. So you will do us the favor, you will commence - you collect your thought patterns together and give evidence where you stopped off.

10.49 am] MR PUPAKA: You ---

CHIEF COMMISSIONER: Counsel, before you do that, there is another person by the name of John Wuni. Is it the same ---?

MR PUPAKA: This one is Peter Wuni. He was the only witness that was called.

CHIEF COMMISSIONER: You related to John Wuni, no.

A: Sir, John Wuni is my small brother.

Q: All right, that is all. We want to get the first name right, that is all.

MR PUPAKA: Do you want to explain that to him first, for the record?

CHIEF COMMISSIONER: And John Wuni is one of the directors of Bewani Palm Oil, is that correct? And that is different from Bewani Palm Oil Development, is that correct?

A: Yes your Honour.

MR PUPAKA: Chief Commissioner, that is a management, we have a list of about up to 21 people here. We will not be short of witnesses on this one. It is just a selective process of calling the right person first to pave the way for – to call the others. Give us a better appreciation of where we are headed so that we will, there will be two – there were two people; himself, the current witness and Jacob Yane were identified to give evidence. And this one was called first. He is under oath. He will continue with his evidence.

All right, before he does, Chief Commissioner we ask you to make some clarification in relation to the continued hearings of this matter, the double hearing into Ossima and Bewani will be, it is appropriate – I wish not to put

words in your mouth. We ask from where we stand, the counsel and I to ask, to make a general announcement in relation to the most likely outcome in relation to any continued disturbance into the hearing of this matter. We think it is, something that is within the Commission's call. So if you are of a mind to sound out warnings, cautions and that sort of thing, Chief Commissioner, we would appreciate that.

CHIEF COMMISSIONER: Yes, all right, I will do that, probably relay that in Pidgin for the benefit of everyone. All right, Bewanis and Ossima, we started again this morning. We started last week and due to disturbances and noises so we are starting again. Let me inform you people that this week is the last week for the Commission of Inquiry to sit here in Vanimo. We will finish on Friday and leave and there will not be another sitting again here in Vanimo. So I am asking all of you not to cause inconveniences and corporate. There is time for you people to give your side of your story. So let everyone come and give their evidence. Commission of Inquiry is here to listen to what people have to say, and that includes those who are for and against the establishment of the projects or SABL. So if someone is giving their evidence, I want you people to just listen, let them complete their statements and then those of you who are given the opportunity to speak can say something. Your statements are recorded. So I am asking you once again to corporate with us to allow this Inquiry to complete its task because this is our last week now. Good. We all understand now? Good, thank you. All right, counsel, you proceed.

MR PUPAKA: All right, witness, following on from that, you recall where you stopped last, when was it, Wednesday?

A: I cannot recall, counsel.

Q: All right, please continue with your evidence and we will work out where we are.

CHIEF COMMISSIONER: You tell your story. Counsel, you might like to lead him.

MR PUPAKA: The reason why we called you Mr Wuni was that, because as a result of dispute as to who comes first and who does not come in the long list of evidence, we called you as a Director of Palms 21. Is that correct?

A: No.

Q: Which capacity do you come in?

A: I talk as a landowner in the Palms 21.

Q: You were allowed to give evidence as some kind of a compromise, what was the compromise, how did you get to be chosen to speak first.

A: There were two disruptions in the Commission of Inquiry. So the Commission of Inquiry asked us to go and appoint spokesman from amongst those of us who oppose the project.

Q: All right, you are for the project or oppose the project?

A: Against the project, counsel.

Q: You are against the project.

A: Yes, counsel.

Q: You represent anyone particular group.

A: I represent the team that oppose and also represent my own village.

Q: Your village would be?

A: Imbinis village.

Q: That is I---

A: I-m-b-i-n-i-s, Ibinis.

Q: I-n---

A: I-m---

Q: I-m.

A: I-m-b-i-n-i-s, Imbinis.

Q: Imbinis village. So the whole of Imbinis village does not like the project.

A: Yes, counsel.

Q: Why is that?

A: Issue of land acquisition, counsel.

Q: Land acquisition. What does he mean land acquisition?

A: The landowners did not give consent to lease their land.

Q: Your brother is John Wuni.

A: Yes, counsel.

Q: He is a director of, as you said, Palms 21.

A: He is no director of Palms 21.

Q: Chief Commissioner, I do not have the opening statement. Is that what it is?

CHIEF COMMISSIONER: Director is John Wuni.

MR PUPAKA: So ---

CHIEF COMMISSIONER: I will read out the names, you want me to read out the names?

MR PUPAKA: Yes, please, director of Palms 21.

CHIEF COMMISSIONER: Directors of Bewani Oil Palm Limited, is Mr Belden Norman Namah, sole shareholder, directors are John Wuni, Belden Norman Namah, Bob Namah, Ambrose Bewatou and Tom Sirae. Tom Sirae is the secretary for the company. So those are the directors of Bewani Oil Palm Limited and John Wuni is one of them, your brother.

A: My apology. I did not put it right.

MR PUPAKA: We will sort that out as we go in. That may have changed Chief Commissioner. Down the line there may have been documentation filed for change of directors.

CHIEF COMMISSIONER: So who are the new directors?

MR PUPAKA: So who are the new directors?

[1.00 am] Do you know who the directors are?

A: I do not know.

CHIEF COMMISSIONER:inaudible..... continue the change of directors.

MR PUPAKA: Yes.

CHIEF COMMISSIONER: So according to the records that we have from Investment Promotion Authority, the Bewani Oil Palm was – Bewani Palm Oil Development Limited was incorporated on 3 March 2008. And all those names that I have called are directors of the company, including John Wuni, you said John Wuni is your brother. On 8 April 2008, Bewani Palm Oil Development changed ownership. It was sold for cash by the sole shareholder Belden Norman Namah to one, his name is Jimmy Tse. All the original directors ceased to be directors. Jimmy Tse and one other person by the name of Hung Kai Hii became the new directors.

On 21 October 2010, Hung Kai Hii (a Malaysian national), from Malaysia, ceased to be a director. This therefore mean that Jimmy Tse, who appears to be a Papua New Guinean became the sole owner and director of Bewani Palm Oil Limited, as on 21 October 2010. IPA records shows that on 24 November 2008, Bewani Palm Oil Development Limited, fully owned by Jimmy Tse, issued 999900 shares, does that sound correct or 9 million? 99900, I think it is, bringing the total to one million shares of the Bewani Palm Oil Development Limited. On 23 March 2009, after he got the ownership of the company, Jimmy Tse, transferred all of the million shares in Bewani Palm Oil Development Limited at K1.00 each share in the following way.

- (i) he transferred 800,000 shares which is about 80 percent to Million Miles Group Limited of Singapore;
- (ii) he transferred 150,000 shares to a Bewani Palms Management Limited to be held in trust for four landowner companies. 150,000 shares comprised of 15 percent of the total shareholding. He transferred the remaining 50,000 or 5000 shares, sorry, I repeat that. Pardon me. He transferred the remaining 50,000 shares which is about 5000 to Bewani Palms Management Limited.

In the Investment Promotion Authority records for Bewani Palm Oil Limited shows that the Million Miles Group Limited which has got 800,000 shares of the Bewani Palms Oil Palm Limited has its registered office in the British Virgin Islands. IPA records confirm that Million Miles Group Limited was 80 percent shareholder of Bewani Palm Oil Development Limited between the 21 March 2009 and 21 October 2010.

With regards to Bewani Palms Management Limited is owned by a person by the name of Philip Eledume. He is a PNG citizen.

MR PUPAKA: Chief Commissioner, there is a, I think, the next paragraph, 9 has got critical information that changes the situation with the shareholding structure. So you want to read that through the records.

CHIEF COMMISSIONER: You mean, the 9?

MR PUPAKA: Yes.

CHIEF COMMISSIONER: So you got a copy of that now?

MR PUPAKA: Yes, paragraph 9.

CHIEF COMMISSIONER: All right, so I go back and I will read from the Investment Promotion Authority records. There is a paragraph that I need to read too as well, so that it makes sense with paragraph 10. IPA, Investment Promotion Authority record shows that the, sorry, will confirm if Million Miles Group Limited complied with all the requirements of the law under the Investment Promotion Act 1992 which also includes section 36A(2) of the Investment Promotion Act which requires foreign enterprises to obtain from the Investment Promotion Authority a certificate permitting foreign enterprises to acquire or hold an interest in a National enterprise or business.

On 21 October 2010, Million Miles Group Limited which had its registered office in the British Virgin Islands transferred all its shares to four landowner entities. It no longer has an interest in the SABL holder.

11.09 am] CHIEF COMMISSIONER: So we will be, Commission of Inquiry will be obtaining some more information from the IPA, Investment Promotion Authority. We need to ascertain the compliance requirement on foreign companies operating here and the process that they need to go through. All right, we go to the next paragraph. Bewani Palms Management Limited is owned by a person by the name of Philip Eludeme. He is a Papua New Guinea citizen. And his directors are Philip Eludeme himself and three other Papua New Guineans, namely, Charles Litau, John Wuni and Bob Namah.

On 21 October 2010, he had also transferred all his shares in Bewani Palm Oil Development Limited to the four landowner companies. Therefore, Bewani Palms Management Limited no longer has any shares in Bewani Palm Oil

Development Limited. The holding in trust arrangement as indicated earlier on or referred to in paragraph 7 appears to have been formalized on 21 October 2010. The landowner companies now own all the issued 1 million shares in equal shares of 250,000 each in Bewani Palm Oil Development Limited. The landowner companies are Palms 21 Limited, Momu Holdings Limited, Ossima-Yalamaki Limited, Bulala Limited, IPA information or Investment Promotion Authority information shows that two of the landowner companies are wholly owned by ILGs whilst two other are not owned by individuals, sorry.

Bulolo Limited was incorporated on 3 September 2008. It is owned by 11 ILGs. Its 11 directors appears to be the respective chairmen of all these ILGs. Ossima-Yalamaki Limited was incorporated on 21 August 2008. It is owned by 13 persons who are also its directors. Momu Holdings Limited was incorporated on 1 July 2008. It is owned by Kamilus Apu and Jacob Yani. It is not known whether the two men hold their shares in trust of any groups or village. There are also seven others who are also directors of the company. Palms 21 Limited was incorporated on 22 February 2008. It is owned by 23 ILGs. It has five directors. Sublease. The developer and the sublease holder is Bewani Oil Palm Plantations Limited. It was incorporated last year on 10 October 2010. It is equally owned by a person by the name of Kin tee TEE another person by the name of Lip Hian TEE. They both a Malaysians. Both of them and a Papua New Guinean by the name of Marie Maumanua are the directors of the Bewani Oil Palm Plantations Limited. I think I need not go further than that, counsel, far from that. That is possibly the background to it and they will help the witness to understand how the status of the records are for Bewani Palm Oil Development.

MR PUPAKA: Witness, that is the initial background story. And Palms 21 is one of the four landowner companies that hold shares, in equal shares in Bewani Palm Oil Development Limited. That is where the SABL is. So which one does he come in under or supposed to be?

A: Palms 21, counsel.

Q: Well, it seem to be equally represented in that through that company.

A: That is correct. But I speak because we were not given our consent when they were purchasing the land.

Q: All right, good enough. So consent for land to be converted to SABL or you did not give consent for the place to be converted to agro-forest project? Consent in relation to which, what?

A: The landowners were not happy with the land being leased to SABL.

Q: You do not want development there, that is, I mean, you do not want agro-forest.

A: Project, we will not deny. But they acquired land from us was not correct.

Q: All right. We will call, Chief Commissioner, if the witness is available, the land investigator shortly, we hope to. Initial indication indicate that this person is available. In preparation for that we will put a series of question to this witness who seems to be on the opposing camp. So Mr Wuni, was there any land investigation? You do not want land investigations.

A: To me, this was never conducted.

Q: Meetings or land investigation report is constituted by people walking or land gathering hearing, public hearing. Initial public hearing and then selected people walk the length and breadth of the boundary of the proposed SABL area, when it becomes too big. They do not do all of it but to an extent, they try to.

[1.20 am]

And the investigators and the land investigation, Lands Department people will obtain consent of neighbouring tribes or neighbouring landowners whose land will not be included in the proposed SABL to make sure that no one is stepping into other people's land. And then the land investigation report will try to capture the consent through signatures of all the people constituted within the SABL area. Sometimes that is difficult to do if there is too many people. So they have this thing called agency agreement by which representatives of the people may sign on the consent, give consent on behalf of the people. That is the land investigation process, can you say whether all these things happen?

A: My own thinking, my village this will never have take place, all of them.

Q: All right, so let us go to the other bit. You did say, to be fair, you did say the area that is represented by Palms 21 Limited wants development notwithstanding the fact that they did not give you, obtain your consent or you and your people's consent. To what extent they support the project? To what extent, meaning they still forgot about the developer, what about the project itself. Is there any common ground agreement with what is going on?

A: Development is all right, but like I said, the way to get the land they did not follow the legal process.

Q: All right, well, it is kind of confusing the initial commentary by the chairman Chief Commissioner, indicated that the SABL structure sort of went through a stage where transfers of ownerships did take place to people who are no longer in the frameworks. The story behind it is not altogether clear why all of those happened. But the long and short of it is that now the project proponent, Bewani Palm Oil Development Limited is owned in equal shares by four landowner companies. After that, all those transfers take place. He has got anything to say in relation to that?

A: The shareholdings I have no question on that. But I am concerned about the lease. Lease, according to the paper I am holding here, the landowners are going to give the land free.

Q: Could I have a look at what he has got? Yes, Chief Commissioner, this one is the title deed of the SABL that Bewani Palm Oil Development Limited has, yes. It is on the record.

CHIEF COMMISSIONER: So your consent is that under the title deed, the land is to be leased out for free. Is that what you are concerned about?

A: Yes, Commissioner.

Q: Did they consult with the landowners, yourself and the landowners before you agree on that, was there any discussion or public hearings to agree under the conditions that the portion of land will be leased?

A: No.

Q: So you want to tell us your concern about the lease itself, you want to tell us about your concern regarding the lease.

A: My concern is with this paper and the conditions here. It says that we have given our land free. My thinking is, the landowners, we did not give our consent to give this land free. The people who signed this paper, we did not give them the power of attorney to give our land free to this SABL.

Q: So who are the people that sold it off?

A: My thinking is they handpicked a minority group and signed these papers in Port Moresby.

Q: But who are the minority group, everybody has got a name, who are the minority group? Are they the company directors or shareholders or what?

A: My own knowledge, these people who signed the papers were self-appointed team.

Q: Okay, so what are their names? Are they on the records or what, what are their names?

A: My knowledge the people who signed this lease, they are John Wuni, Samson Wuni, Jim Sumo, Philip Mark, Francis Zulu, Ambrose Bewa, Samson Mote. These are the names I can still recall.

Q: And you said John Wuni is your brother, did you say?

A: Yes.

Q: And who is the other Wuni again, what is the name?

A: Samson.

Q: Is he your brother as well?

A: Yes.

Q: So how is it that they are signing it off and you are not involved in it?

A: Like I said, they were handpicked.

Q: By who?

A: Myself, I will say that the former forest minister, Belden Namah.

Q: Handpicked those people.

A: Yes.

Q: What else do you have to say about this lease?

A: I have nothing else to say except to ask the Commission if they can revoke this first and get – until the landowners give their consent.

1.30 am] Q: So how many people are you representing?

A: My own area in Palms 21, I represent three areas.

Q: Villages?

A: Yes, three villages, three villages, correct.

Q: What about ILGs? How many ILGs in three village, how many of them, ILGs in the three villages?

A: Ol ILGs namba bai stap wantaim ol chairmans na ol deputi.

Q: So what is the approximate population of the three villages, roughly?

A: Probably less than 3000.

MS PEIPUL: What would be the name of the villages, basically?

A: Imbio 1, Imbio 2 and Imbinis.

Q: How do you spell it, sir?

CHIEF COMMISSIONER: How do you spell it, the village, the names, how do you spell it?

A: Imbio is I-m-b-i-o, Imbio 1, Imbio 2 and Imbinis, Imbinis is spelt I-m-b-i-n-i-s, Imbinis.

Q: What is the other one, 1 and 2 and what is the other one, villages?

A: Imbinis.

Q: Sorry?

A: Imbio 1, Imbio 2 and Imbinis.

Q: So it appears in my view that it will be a case of who is supporting you and who is supporting your two other brothers on the other side. It is going to go through the family line. And I do not know how landownership representative is part of the country. But it just worries me when you say two of your brothers have given the consent for the lease on the other side and you on the other side. It is a matter for you people to sort out. But if you are going to go through the villages, I see the villages cutting into clans and into family lines with brothers going the other side and brothers going the other side. And I do not know how that is going to help solve the problem. But I am just raising this point. You do not have to answer it. Counsel?

MR PUPAKA: Chief Commissioner, you did say something about this division of family members is the ideal footing in which to take the Inquiry further. But you did say something about your brother no longer being associated with Palms 21. Is that true?

A: One is, yes.

Q: One is still there.

A: Yes.

Q: All right, let me just give you this extra information in addition to what CHIEF COMMISSIONER has said. On 16 November 2010, that is last year, a sublease was granted to Bewani Palms Plantation Limited. Sublease of that lease.

A: No.

Q: That is Bewani Oil Palm Plantations Limited owned by two Malaysian individuals. So that will be the – that Bewani Oil Palms Plantation Limited will be the development partner with Bewani Palm Oil Development Limited. This Bewani Palm Oil this and that is a bit confusing.

A: I am not sure.

Q: All right, well, that is how it is going to be, that is according to IPA records and Lands records. Unfortunately, the Commission of Inquiry does not have a copy of the sublease or Agriculture sublease. But the

entry on the title, it has, all right, I do have that now, sorry. And the entry on the title, copy held by Registrar of Title indicates that the sublease is for the remaining term of the lease. You know what it meant. Would that change your views both the existence of the sublease – by the way, SABL lease is with Bewani, that is the company that is owned by four landowner companies? We, yet, do not know what the conditions of the sublease are. But this development partner, Bewani Oil Palms Plantation Limited owns a sublease for the rest of the term starting 16 November last year. So, does that change your views on these things? Views on the position you hold in respect of say, they sold or they acquired your land without your permission.

A: My position stands the same.

Q: All right, there is an opening statement which CHIEF COMMISSIONER read out, that is not only for the witness but for everybody as well. That is a matter of record, that was read into the records at Waigani, Muruk Haus and Commission of Inquiry place. Whereas, that was probably about a month ago, I suppose, that is available for people to obtain it from the Commission of Inquiry Secretariat and in arrangement with the Secretariat and lead counsels. That is for everybody's benefit so that there was something read so Chief Commissioner, I am just letting it be known that that is available. All right, is there anything else you want to tell us in relation to where your position is and who else is or what else you want to say in relation to this SABL apart from, or maybe you want to say something about Bewani Palm; the development partner, the choice of development partner. It started off with something else before. But the one that is now on the ground with theof the subleases, Bewani Oil Palm plantations limited, you got any views on that company?

.1.40 am] A: I have something to say.

Q: Yes, please say it, yes.

A: The issue I want to address is this, the developing companies that are now in, for us at Palms 21 they are working in Imbio 1 at the Palms nursery.

Q: That is one of his village.

A: That is one of the villages. Yes, one of my villages. The issue I want to address is this, we found out that the company will not pay the logs that are cut, they are not tallied and paid to the landowners.

Q: Sorry, what is that again?

A: The round logs that are cut, they are not tallied and paid the payment to the landowners.

Q: What is the name of the place where which was logged again?

A: Imbio 1.

Q: Have not been paid, royalties not paid.

A: No.

Q: They did not pay sago trees.

CHIEF COMMISSIONER: Sorry, pay what?

A: The sago trees ---

Q: Sago trees.

A: Yes.

Q: Sago trees were destroyed.

A: Sago olsem, saksak em diet blong mipla ah.

Q: Yes, what happened to the sago trees?

A: When this dozer goes in it clears the sago trees. And sago trees is the main diet. When the landowners asked for compensation the development company said your resource and your land we already bought off.

Q: Who said that again?

A: The developing company.

Q: That is Palms, Bewani Oil Palm Plantations Limited.

A: Yes.

CHIEF COMMISSIONER: So what did they say, they already paid for what?

- A: Paid for the resource and the land.
- Q: That includes sago and everything and the logs as well.
- A: And that upsets the landowners.
- Q: So can I ask you the question. So if they say that they have already paid, whom did they pay that money to?
- A: That is the question that we are also trying to find out.
- Q: Did you get some information, did you make any attempts to find out from the company, speak to them or speak to the government departments responsible, like the PNG Forest Authority orexactly, if they have already made the payment. Who received that payment on behalf of the people?
- A: We did not find out because the process of this project is, it is lease – private partnership.
- Q: Yes, but private partnership with who?
- A: Developer and the landowners.
- Q: But you are just telling me that you did not get any royalties and payments out of it, it is a private partnership, what happened, who gets it, who gets the payment? It is a private partnership then you are supposed to get the payment.
- A: As a landowner that question still stays amongst the landowners.
- Q: So how long has this question been hanging over your head and the rest of the landowners, for how long?
- A: Since the developing company kam operetim, wokim nesari long insait long Imbio 1.
- Q: So what year was that?
- A: This year.
- Q: This year.
- A: Early this year.

Q: When you asked the developer, when the developer said that they have already paid the lease; paid for the land. You asked the developer, whom did they pay the money to? Because if the landowners are missing out then who is the developer paying the money to?

A: Like I said, the developer told us that they already paid for our land. And we did not proceed to finding out who got the payment.

Q: Are they paying a rental lease or is it an annual thing or how is the arrangements of payment?

A: So the document I showed you it shows that it is free lease and the rental was not paid.

Q: Counsels, you got any questions. There is only two things, it is either they are paying money to some other people who are receiving the money on your behalf, on behalf of the landowners or the developer is not paying anything at all. They are probably lying to you people.

A: I am emphasizing this because when we ask the developing company, they said we already paid and you ask amongst yourselves to find out.

Q: So did you make any attempt to find out from amongst yourself as to who got the money on your behalf; the money for the landowners?

A: I consulted my two landowner reps Felix Tio and Samson Gumi and they said, they do not know.

Q: And they are also part of the directors of the company, are they directors of the company?

A: They are chairman ---

Q: And that is the company that is the developer.

A: Yes, that is ---

11.50 am] Q: And the directors in there, you got no knowledge of it.

A: No.

MR PUPAKA: Chairman, that is one of the landowner companies. Chairman, the witness is referring to one of the four landowner companies, it is not the developer.

CHIEF COMMISSIONER: Not the developer, is it?

A: No, not the developer. One of the ---

MR PUPAKA: The answer that has been the reference to the fact that they have already paid, that is the response that has been given to the witness by the developer. What he has done is he is saying, witness will correct me. For the records that he has also spoken to the chairman and director of Palms 21 and they seem not to know who the payments were made to. That is what the witness in my understanding is saying.

CHIEF COMMISSIONER: And that is one of the landowner company out of the four.

MR PUPAKA: The landowner company that he is part of which is Palms 21 Limited, one of the four.

CHIEF COMMISSIONER: One of the four, Palms 21 is one of the four.

A: Yes.

Q: And they are not aware of any payments being made by the developer.

A: No.

Q: And the directors and the chairmen of Palms 21, you got no knowledge whatsoever about the payments.

A: Yes.

MR PUPAKA: All right, witness, you have seen this sometime before. All right, so, chairman, we failed to sublease agreement here. I will show that to you. I will show this to you. But for the purpose of the witness, witness Mr Wuni, you, first paragraph of it, highlighted part, see that? That says, the sublease is to be granted to Palms or Bewani Oil Palm Plantations Limited for the remaining part of the SABL which starts last year at nearly early rental and that would not make you happy, would it?

A: That is right, yes.

Q: That is the lease, official lease. Turn to the next page. You know these people who have signed?

A: Yes.

Q: All these people, you know them?

A: Yes.

Q: That is Mr Jimmy Tse, seem to be witnessed by a lawyer or someone. Mr Felix or yes, Mr Felix Pius or Piu.

A: Pio.

Q: Samson Wune, I believe he is your brother.

A: Yes.

Q: Mr Bob Namah, Mr Caspar Yawi, Tom Sumo, Nathan Wia, obviously all these people who were witnessed by the person that the Commission wants to talk to is Tom Sirae. For the record Chief Commissioner, IPA records indicates he is also the company secretary to the SABL holder. He has witnessed them. So you, this was signed by your relatives and village or people from the SABL area.

A: Yes.

Q: All right, I can have that. Chief Commissioner, that document has been already tendered. It is part of the records. Has anyone ever told you that there will be some form of payment for the extraction of the timber with the FCA clearance? Before planting happens, timbers will be logged, some have been already logged. So have you been told or assured that monies will be paid for the timbers, merchantable timber logged?

A: Yes. When we first discussed it was agreed and also in the project agreement.

Q: Project agreement.

A: Yes.

Q: There is a project agreement that says the money will be paid.

A: They said they are going to pay royalties to landowners.

Q: All right, so that is quite apart from the sublease.

A: The projectthey are saying and agreed that they will – the work, it is in the project area.

Q: We will need to clarify all that Chief Commissioner later. But I am just putting it into perspective, payments will be the formalized things is that, the land, as the law stands, it is subject to confirmation for purposes of reporting later. But the sublease will make reference to rental that maybe paid to the SABL holder direct and not necessary landowners, remembering that SABL is held by an entity. So development agreement would have captured other areas of agreement by which landowners are paid. So those will be two different things. I wish not to pursue with that at this stage because the witness is not an official of the landowner company that he represents or that he is part of, that he is categorized under and that is Palms 21. I have no further questions for the witness.

CHIEF COMMISSIONER: Counsel, you got any question?

MS PEIPUL: Just, perhaps, the counsel has asked this question before but regarding public hearings. So you can confirm, no public hearings, no consultations, no land investigation, documents taken to the people, none of that was conducted by ---

A: Yes.

Q: You maintain that people were handpicked to represent the interest ---

CHIEF COMMISSIONER: So what does that mean? What does the answer 'yes' mean?

MS PEIPUL: Yes, meaning that there was no public hearings. I think that is what he means by -- can you confirm that is what you mean that there were no public hearings, no public consultations.

A: On this project, yes.

CHIEF COMMISSIONER: No, no, no public hearings.

MS PEIPUL: Thank you.

12.00 pm] CHIEF COMMISSIONER: We are done with the witness unless you have got, I mean, I do not have any further question to ask. But there might be a likelihood of us recalling him back later on if there are any specific issues being raised with regard to his evidence.

MR PUPAKA: Yes.

CHIEF COMMISSIONER: At this stage, I do not have any further questions to ask.

MR PUPAKA: Just get the clearance from Mr Jacob Yani is the other spokesman for the opposing group.

A: Yes.

Q: Mr Wuni, you are the first witness so – in the course of this inquiry we might need you to clarify a few things. So we will stand you down and you will stay within close proximity to be called because you are under oath. You understand.

A: Yes.

Q: At this juncture, we will be calling one of the project proponents to make things even out. But we will really need to start with the witness as the usual practice, verify the land investigation report as we go forward. The person who provided or who was in the middle of the preparation of the land investigation report, according to our records is one, Mr Bruno Tanfa. If he is available we will call that witness.

CHIEF COMMISSIONER: Is he available?

MR PUPAKA: I was informed in the morning that he will be.

CHIEF COMMISSIONER: We can check on that. We can, it is ---

MR PUPAKA: And we will, right after that we will start with the people for the project.

CHIEF COMMISSIONER: What we need to do counsel is that, we need to get a spokesman representing an ILG of the group of villages. As far as consent is concerned and also we need to ascertain whether or not ----

MR PUPAKA: That is right.

CHIEF COMMISSIONER: They were involved or whether or not there were some public hearings at all being held. Because Mr Luke Lusim ---

MR PUPAKA: What has happened Chief Commissioner, is that as a result of this continuance disturbances over two, no less than two times we attempt to agree with each other as to who is speaking for which one. We do not want that

people with you know, who does not have any popular consent to come and sit in the witness box. So we are working with the list of names that they themselves submitted.

CHIEF COMMISSIONER: Yes, but I would hope that one of those names or couple of names are landowner representative, particularly with respect to the land investigation report, public hearing and the consent that has been obtained. The witness has just left, he is representing more of the Palms 21, a company interest than the landowner group, I would like to think.

MR PUPAKA: I think in all fairness Chief Commissioner, we will be calling a representative from all of those four landowner groups. That is ---

CHIEF COMMISSIONER: He is a chairman of the Palms 21, did he say, he is not?

MR PUPAKA: He is not.

CHIEF COMMISSIONER: I mean, those are some of the things that we need to try and establish and get them to come in so they ---

MR PUPAKA: Our understanding is that Palms 21's representative was him and one other witness who will be called.

CHIEF COMMISSIONER: So long as they represent the landowners, I am happy with that.

MR PUPAKA: That is right. This is as a result of all these disturbances.

CHIEF COMMISSIONER: It is all right. We will ---

MR PUPAKA: We will call the land investigation report, witness for the land investigation report first and then we will next to interchangeably call the person for and against. So we will call Mr Tanfa, if he is available.

CHIEF COMMISSIONER: Counsel, I am going to propose that we break for lunch. It is 12 now so we can start at 1 o'clock.

MR PUPAKA: All right, yes, that is right. All right, we will ---

CHIEF COMMISSIONER: We break for lunch and we come back at 1 o'clock so people will go and find something to eat.

MR PUPAKA: We will finalize the witness list in the meantime.

CHIEF COMMISSIONER: Yes, in the meantime you can use that opportunity to finalize all these. So we will break for lunch and come back at 1, 1.30.

MR PUPAKA: Half past 1.

CHIEF COMMISSIONER: Yes, all right, that is all right.

LUNCHEON ADJOURNMENT

[1.31 pm] CHIEF COMMISSIONER: Counsel?

MR PUPAKA: For the purpose of verification of the land investigation report, he is Mr Bruno Chilong Tanfa.

BRUNO CHILONG TANFA; sworn

XN: MR PUPAKA

Q: Mr Tanfa, could you spell for the record your name, please.

A: My name is Bruno Tanfa, B-r-u-n-o, C-h-i-l-o-n-g T-a-n-fa-, Tanfa.

Q: Thank you. You have received a summons in relation to ---

A: No.

Q: Not yet.

A: But in person.

Q: You were summoned but unfortunately you have not been served and I cannot – you were the land investigator for Bewani Palm Oil for the purposes of issuing a SABL to Bewani Palm Oil Development Limited.

A: Yes your Honour.

Q: You were alone or you worked with other Lands Department people.

A: During the time of investigation I was the provincial customary lands officer assigned on that task to carry out the task.

Q: So you worked with Mr Waranduo.

A: Yes, of course.

Q: He has already given evidence in relation to this. The necessity to call yourself still been there because you prepared and signed off on the land investigation report.

A: Yes.

Q: All right, have a look at this Mr Tanfa. This is a sample of a land investigation report in relation to the group, one of the groups. Maybe, this one is. But this one is in relation to Imbinis village. Have a look at it? I just want you to, I may havedifference here but that is what it is. That is part of the investigation you did and completed.

A: That is right.

Q: Have a look at part or page 6 of it, I think it is standard for each one of them. There is something like seven names on that list, you agree, on page 6 of it.

A: Yes.

Q: What are these people, you recall? It could have been – the one I have here is the Wa clan or yours maybe different. And the number of people there may be different as well. That page represents agency agreement. You mind explaining what it means?

A: These are the agency, the agents appointed for and on behalf of the clan.

Q: And they ---

CHIEF COMMISSIONER: I cannot hear that, what is this or agency appointed for what? What did you say? You speak up.

A: The agency is, the agency agreement here is the listing of those representatives of the landowner group.

MR PUPAKA: And they are the – they are what appointed or nominated?

A: Basically, there are, well, there are, it isaway. They are nominated and consented.

- Q: So they sign on behalf of the village or the clan they represent.
- A: The clan.
- Q: The next page here is in relation to the declaration of custom in relation to land tenure. So what is the purpose of that?
- A: It is a similar, it is just the same as the agency agreement.
- Q: And these are ---
- A: This one verifies that they are the genuine representatives of the landowner group.
- Q: What about the people in page 8? What are they expected to do?
- A: This is the appointment list, page 8. This is the appointment list.
- Q: They are the ---
- A: Appointment list.
- Q: Appointment list and they sign or they agree for ---
- A: On behalf of the clan members.
- Q: Purpose of ---
- A: Same group.
- Q: All right. And people listed in page 9.
- A: Page 9 are the adjoining land groups.
- Q: They are the ones, the sample I have, it is a sample I have, have no names but names contained in that schedule will indicate people who have given, people who have land adjacent to – in this case, land that borders Bewani Palm Oil Development Limited land.
- A: No. The listing here is to verify; is to confirm who owns the parcel of land boundarying the subject land.
- Q: If this is right, the forms is supposed to have names of people or elders of neighboring villages. In this case, I have elders who are not yet listed in but they belong allegedly or would have, where their names listed they would have belonged to Nipu 2, would have said that their - the project

land is land in which Nipu 2 has no claims over. Meaning, they are clearing the way or paving the way for the project land to be or they profess no interest over it for the boundaries of the land identified as project area does not spill into their land. That is what it is supposed to be, is it not?

[1.41 pm] A: No.

Q: No, let me read this. I am reading the samethat I have here and it says, declaration of recognition of custom in respect to and rights in the land known as Bewani. We, the elders of Nipur 2 clan, well, clan name is not stated in this one, do hereby declare that we have no interest in and have no rights by custom or otherwise to the land known as Bewani containing approximately 139,909 hectares and situated near Vanimo or something to that effect. Well, that seems to me they are saying they profess no interest over the land and that land that is earmarked for project does not spill into their land. Is that not what it is supposed to be?

A: Let me explain again.

Q: Yes.

A: What the form here says is what the deposition here simply gives us the meaning that there are other landowners who are sharing the boundary with the current group. It is just to verify that, yes, the genuine, that this particular group has adjoining landowners too.

Q: Well, maybe we are not speaking the English language in the same way, maybe the Queen intended. But what I am saying is that it means these people are releasing the land to the project saying that they do not, their land is not included in that project. They are saying, well, that is it, that is what they are saying, do hereby declare that we have no 'interest in and have no rights by native custom or otherwise to the land known as Bewani.' So they are saying they are ol narapela lain. That is what they are not supposed to say, are they not?

A: As I have ---

Q: It serves no, it is already done, does that. So Chief Commissioner, I am just trying to establish the steps 1, adjoining people declaring and then

those who walked the boundary declaring and those who were giving their consent declaring and signing. So the various component of the land investigation report, that is what we are going through. For the record, done this in relation to other cases as well. So that is what it is, is it not?

A: No.

Q: And then at the back of it page 10 of what I have, that is three people there. I have got their names, Zacchary Ila, Tobias Ila and I think, it is Damien Huang, who walked the boundary with yourself.

A: That certificate.

Q: With yourself.

A: Yes.

Q: Presumably of that clan, that is the one that we have referred to. And at the back page 12 we read this Valuer General's requirement is not necessary to read at this time. And 13, page 13 of it contains the administrator's sign off, that is the recommendation as to alienability and it is the last thing that happens on a lands investigation report. Let me just go back to page, probably or last page of the standard land investigation report thing that probably has comments and recommendation. That will be where you signed off. Recommendations and comments would have contained, for instance, reservation areas like sago sites, swampy areas where, would needed to be reserved and hilly areas where the developers need never go because it is unsuitable for palm oil or other tree crop production. And when on page 13, when the administrator is signing off he would have clearly made reservations in A, B, C in accordance with your recommendation. All right, in this case you made no recommendation. So on page 13, Mr, I think Sungi, it was, did not make any recommendation. That is for the record Chief Commissioner.

I am saying that because the first witness we heard today said they destroyed his sago palms. He is waiting for payments to this day which is never likely to come in accordance with this information. And the chances are, it is not surprising because on the form that you have, that is for Ibis number, what, 1?

- A: This is for Huf.
- Q: Huf. I think I got probably 1 for the, I may have gotten myself Ibis one or I do not know. There was one there. And we need to confirm that nobody recommended any reserve for sago areas, probably the developer does not seem obligated to pay. Mr Tanfa, I am just trying to ---
- A: Yes, yes, yes, your Worship.
- Q: You do not have necessarily, yes. But let us move on, that is what, seems to be the case for the record Chief Commissioner. Did your team actually did the actual, physical check of the place? I think it is too big.
- A: The land is so ---
- Q: So huge.
- A: So vast that we were not able to, I was not able to walk all the land parcels.
- Q: And the developers and project proponents, directors and chairmen and everybody wants to sign on the dotted line very quickly that people sort of conveniently forget to walk the boundary. That is where saksak areas are not identified, nobody reserves it on the land investigation report. Does that sound familiar?
- A: Also, I have also assisted the group and compiled the, give land the incorporated land groups or if, much of this is not contained in this land investigation report. Those are contained in ---
- Q: They did not come back with ---
- A: Sorry, in the land group incorporated applications where each landowning group has the ILG certificates.
- Q: So they were supposed to come with information like this or are they supposed to give you information that you need to work with or ILGs?
- A: ILGs were done later and much were, most of them were done in 2008.
- Q: That is right. I mean, you need to make some short cut because, it will be presuming on the impossible to expect you and your team to traverse up

and down the boundaries of 139,909, that is nearly or almost close to 140,000 hectares. That is a huge tract.

A: Yes.

Q: So no one investigated whose sago swamp areas and others were going to be affected. So nothing was reserved.

A: I must say no.

Q: All right, Mr Tanfa, have a look at this one. Chief Commissioner, you will have a look at it later. I am showing this to him on the map. This one is a satellite map, super imposed onto each other of three SABL, Bewani, the SABL held by Bewani. Yes, that is Ossima and Ainbai-Elis, portion 160C, that is the one in light blue, big one.

[1.49 pm] The other one is portion 163C, that is the red one in the middle. Portion 160C is the one that is in the hands of Bewani Palm Oil Development Limited. And the red one is marked 72 because that is, it corresponds with the number that went to CHIEF COMMISSIONER and is Commissioner's from government on the Terms Of Reference number. So you would probably ignore that for the time being. It is actually portion 163C. It used to be held by Ossima Resources Limited.

All right, the other one in light yellow, that is portion 40C, it does not show. But that number 69 is the reference number on the Terms Of Reference so it will not hurt. It is actually 40C and that belongs to Ainbai-Elis Holdings Limited. I do not know whether you have any role in the mapping process and the land identification process. But confirm with me, about a third of the SABL in the hands of Ainbai-Elis Holding Limited is captured in the SABL 160C which is held by Bewani Limited. That is a huge tract. It looks small on the map but that is a satellite tract and considering its acreages and the 10s of thousands involved, it will probably be more than two or three years of operations included in there. How do these things get to happen?

A: Sir, in my capacity as a – during that time as a lands officer, it was not my duty to compilework. I only do the land investigations with the registered survey given to me by the surveyor that time.

Q: They survey first.

A: They do the survey and they give us the copy of the survey and we compile every work based on that registered survey plan.

Q: Chief Commissioner, that is extrapolated, that map that has say, a satellite print with the witness's map that has been prepared with the assistance of the remote sensing sender UPNG. A better one under better circumstances with amplified version of which will be utilized for cross checking later with the Lands Department people when the Lands Department witnesses are being called in Waigani. But for the purposes of this leg of inquiries on the ground in Vanimo, the witness is being shown a relief map or satellite map of the three SABLs referred to here, that is portion 163C held by Ossima Resources Limited and portion 160C in the hands of Bewani Palm Oil's Development Limited and portion 40C in the hands of Ainbai-Elis Holdings Limited and they overlap into each other. And for the time being for the record portion 163C stands cancelled, for the reason that it was issued after the bigger SABL in 160C was issued to Bewani Limited or Bewani Palm Oil Development Limited. So you are not party to it then that is it and I accept that, I can live with that for the time being. But it just goes to show what can go wrong when due diligence is not carried out. You agree with me. This one on the part of the people drawing up maps.

A: Yes. Because the survey counterfeit here is a GPS survey. It covers a large stack of land; large area of land.

Q: During the investigation, did you encounter any dissent or opposition to both the project and the conversion of land to SABL or Special Agriculture and Business Lease.

A: At the time of my investigations there were no dispute.

Q: All right, fair enough. How did you conduct the initial landowner assessment in Vanimo, Bewani?

A: Physically, they said that

Q: Where would that happen?

A: In the villages.

Q: In the villages.

A: Yes.

Q: All right. So what happened, were there gatherings or public hearings?

A: This project was not initiated, lot of people, it was some 15 years before the actual work started. So the awareness has been going on for quite some time.

Q: So when you hit the ground running at the villages and in the gatherings, there was no voice of dissent.

A: No.

Q: One witness at least has been held, that is in relation to - had been heard this morning and that is in relation to the villages that classified as Imbio number 1, Imbio number 2 and Imbinis villages, three villages. Witness identified and agreed to by people around that area to come and testify that land investigation team did not visit them.

A: I was not aware of this fellow. I have not seen him at the time of the investigation. Actually, I was at the village but particularly the Imbio.

Q: Imbio.

A: Yes.

Q: Imbio 1 or Imbio 2.

A: Yes.

Q: Is there such things called Imbio 1 and 2 differences?

A: These are villages.

Q: So you have never seen him around that place.

A: No.

Q: All right. I am not going to engage in a cross-examination here. So I will refrain from questioning around that what may seem like that. So the point you are making is that everybody that needed to be heard in relation to all the villages and interest groups within the general area of Bewani were gave their consent.

A: Yes, of course.

Q: No voice of dissent.

A: No.

Q: Is there anything else you want to the – for the record, purpose of record?

A: Yes. I will like to make a mention here for the purpose of this CoI regarding this land investigation reports. There is no actual form that caters for Special Business and Agriculture Leases land that are earmarked for acquisition or for conversion into these leases. This land investigation report was formatted before Independence, during the colonial times, purposely to advance the government services. That is building of government stations, acquisition for land for road and bridges. So at this point in time there is no specific form. Yes, this is the sort of general format that you use.

[2.00 pm]A: Yes. It is still used today. So, looking at this the current land investigation report here, it generally takes away the land from the landowners and it is converted for purpose of development.

Q: I can agree with you to an extent there. It is, all of this is geared towards one thing to get the agreement of everybody who has land, who needs to survive and live on that land. There is no straight this way and all things boxed up so if you probably, go one centimeter out of that box, you are in trouble. It does not operate like that. But the long and short of it is that you utilize this process to secure consent. And anything that falls short of what is intended here will amount to some people not giving full and informed consent. Informed consent meaning they still have an option to say no if they want to, meaning, if the proposed road area or the road line area crosses over to burial grounds or some area where – of sago patch, it does look like it is probably going to in a big way damage survival land. They need to know that so that they will say no. They do have that option. That is what it is. Do you not agree with that is what it is? Yes, anything else you want to say.

A: Yes. Finally, I was duty bound to carry out this investigation because I was instructed by my superior to do it for the benefit of our people. If this was not done, the process of – the phase of development they are experiencing now will not be there. So I have done this duty for the benefit of my people as a government officer at that time. Thank you.

Q: I think the Commission appreciates that. Someone needed to do this and you were that bloke at that time on the ground. It is just the correctness of it, not whether you should not have done it. There is a difference. If you had not done it then probably they would have said, you doing your job or what? The difference is whether, all considering the importance of what was being done. How thorough you were in doing what you did so that on record it does show that people who needed to say no to some of the aspects did have the opportunity given to them to say no but they chose to say yes. That is what it is. Just to clarify for the records that you cannot be blamed for having done that. If there is a need for someone to be criticized, it is the effort put in more than whether he should have stayed out of the Bewani, yes, Bewani area. Yes, anything else you want to say?

A: No, sir, thank you.

Q: Chief Commissioner, counsel, I have no further question.

MS PEIPUL: Mr Tanfa, can I ask you. Did you completely understand the document that you were taking around? Did you understand the contents and what is required of you in these documents?

A: Yes.

Q: You did. I think counsel referred to the previous form before and it is obvious that counsel's understanding of it and your understanding of it is quite different. But you believe that you understood the document that you were taking around. Can you indicate when precisely the process started? We may have heard from Mr Waranduo but maybe, if you can indicate to us when it started and what villages you visited and maybe, a bit about that process, if you do not mind.

A: We were consulted, I was consulted through the Lands Department and the Provincial Lands office and the landowner, we have a process of, our communication goes back some 15 years ago before the actual project started. Because the current project is a carryon from what the original one was.

Q: It is a carryon from a previous ---

A: Yes, of course, yes.

- Q: Previous project. Can you just indicate what the project was?
- A: There was one, there was a, the same project but it started off some '92, somewhere. Then that was Hohola, I was still with the administration and I was one of those officers tasked to carry out the first land investigation for Sunuminei. That also covers, I think, some parcels of land for Imbinis. And those reports were not registered because the whole project failed. Then ---
- Q: Sorry, why did the project fail, to your knowledge.
- A: I would not answer that because it was beyond my capacity. I was just a lands officer and I did my part. But these reports were still there at the Lands office here. So when this, the new – the carryon project which is now the Bewani Palm Oil Project, it came on, because we have a long awareness process on. So were just ---
- Q: So all the landowners were well aware that there is project development going on in their area but now it was becoming an SABL process.
- A: Yes, yes.
- Q: Maybe, did the process start in 2008, is that correct or was it slightly before that?
- A: No, but 1992.
- Q: Yes, '92 but just for this SABL process though.
- A: This SABL project; the process came in around 2008, 07 something, yes.
- Q: Maybe, you can go through the process of your involvement in the land investigation report. Like ---
- A: Yes. That is what I am saying. I am going back some 15 years ago, back from 19, 2000, 2008. So actually, I was one of those officers tasked to carry out this work. And we have visited a lot of villages including Imbinis as far as Sumboye and all these villages. I have been around there.
- Q: So you are saying how many villages in total did you visit then, can you recall?

A: The project area covers the actual figure of little villages I am not able to give this – it should be overall, some, yes.

Q: So over 10 villages, 20 village, can you estimate, how many villages you visited?

A: Should be in the vicinity of 30 villages or so.

Q: 30 villages. And you believe that in terms of the coverage of the population of those 30 villages, did you adequately cover them for the purposes of the land investigation report, could you say?

A: Of course.

Q: Because it needs some majority consent. So you believe that in the 30 villages you canvassed enough of the population, got their consent in terms of this; the SABL.

A: Yes, of course.

Q: That is what you believe. Can I just show you some of these land investigation reports that you compiled. And I just want you to confirm that you signed off on both of them? Just confirm your signature on one.

A: Yes.

Q: You can confirm it.

A: Yes, it is, yes.

Q: And can you confirm the dates on both of them, just confirm the dates, if you can read out the dates.

A: Yes, one is on the 10/6/2008, one is on 05/5/2008.

Q: What I want you to do is I want you to look through both of them, if you do not mind. If you look at the first page first, if you do not mind looking at the first page, not that one, but the next page. Can you note the clan at the top?

A: Yes.

Q: What is the name of the clan?

A: This is Map clan.

Q: Yes, and the name of the village at the bottom, if you do not mind, of that first page as well.

A: It is Imbinis.

Q: Imbinis, okay, can you look at the same page on the other land investigation report? Can you tell the Commission?

1.23 pm] A: Bulolai represents 30 ILGs. Bewani Palm Oil Project is one of big projects as far as 140,000 hectares are concerned. There are different dialect groups inside. Based on that they divided into four landowner groupings in which we now have Bulolai Holdings, Palms 21 Limited, Ossima-Yalomake Limited and Mumu Resources Development Corporation.

The oil palm development project, the idea started in 1996. At that time the project was called Bewani Oil Palm Limited. In 2001, they started project feasibility study and the governor launched the project. And the company recruited a project coordinator in 2005, they also engaged a project designer and the first draft presented in 2005. At that time there was a landowner company, one landowner company was called Wowel Resource Limited.

Q: How do you spell that again?

CHIEF COMMISSIONER: Sorry, what is the name, spell it again?

A: Wowel, W-o-w-e-l.

Q: Resource Limited, is it?

A: Resource Limited.

Q: What year was that again?

A: 2005, Commissioner. In 2000 Sundaun Provincial Government showed some interest and held its first meeting with the landowners for this provincial government and landowners to go into partnership to develop that oil palm project. At that time the National Government gave K2 million to start that project. 80 hectares they cleared the Vanimo forest to put 80,000 seedlings. But that project failed. Currently the nursery is still there but they are full grown. I do not know what happened to the

first part of the program. Came 2006, 2007, the idea was initiated by the landowners in Vanimo TRP.

[2.30 pm]

We was thinking of when the timber permit expired in 2008 what else will happen after that. With that initiation we were thinking of what we will do after 2008 when the timber permit expire. Came end of 2007 the people in Vanimo blocks 1, 2, 3, 4, 5 and 6, the three blocks in the current SABL are blocks 1, 2, and 3 previously under Vanimo TRP, Timber Rights Purchase. From the end of 2007 to March 2008, the landowners in blocks 1 to 6, in particular blocks 6, we decided we should not renew the permit to continue cutting trees. The main reason is, almost 40 years when the timber companies were doing the loggings there were no major developments in the villages. From the little knowledge I have, the monies from royalties and premiums we collected but – about 50 million and no tangible developments in the area. Development, I mean changes like water supply, classrooms, better living standards for the people in the village. From what I know during the period nobody went to big school. When I said this, in the project agreement there was provision for support to educate people but they never sent any people to big school under the scheme. Because of that in March 2008, the people in blocks 1 to 6 in March 2008 decided that we should stop operation of the timber and look for another alternative development. And we did a big single major agreement in our areas. When we were doing the awareness we told the people that we are not going to allow the timber because after timber fell, what happen after that. When we saw the government, policy on agro-forest, we decided we should take it up. So we spoke to our people in the communities. With the community support we recognized the community leaders and the clan leaders and got them to come in as agents and the ILG formed. So we went ahead and we asked our National member to help us with the development plan that we had. Our member at that time was also the landowner of the area. Lo 2008, 2009, mipla papagraun yet i kamlong Lands ofis na askim ol long givim ILG forms and help us to fill in these forms. To my full knowledge all the ILG forms were done in the village during the meeting.

[2.40 pm]

The heads of the ILG groups we took them down to register the ILGs with the support of the lands officers. For the benefit of the Bewani landowners we registered 126 ILGs. The four landowner companies with

the management and executives, we sat down and register the four landowner companies.

CHIEF COMMISSIONER: So who are those four landowner companies? You want to name them; call their names.

A: Bulolai Limited, Palms 21, Mumu Resources Development Limited and Ossima-Yalomake. We decide and agreed to set up Bewani Oil Palm Development Limited. WeLands officers to go and survey the land, the Environment officers came and did the environment impact studies. When we finished all these, we were looking for a development partner. We approached the first development partner. We find out some work that he has, he has done and we disagreed to continue with him, physically he did not visit the land for the negotiation period.

Q: Sorry, who is that again?

A: Maxland, a Malaysian company. With the appointed director of Bewani Palm Oil, we, find another developer. The development partner is Bewani Palm Oil Plantation Limited. The process of registering ILGs, we did them in the villages. All these landowner companies, Bulolai Limited, Palms 21, Mumu Resources Development and Ossima-Yalomake, all these landowner companies were formed in the villages in their respective area with the ILGsunder them. The landowner companies you will see that they have directors. These directors we register them with the IP, about three to seven or 20 but they are directors who are directors. But the companies are owned by the ILGs. And then we went into try to develop the project agreement. At that time we engaged some consultants and lawyers to help us. We, leaders of the group we sat down and sorted the agreement, we came back to the villages, went to each area, held meetings and discussed the project proposals with the ILGs and the people in the village. It took us a time then we tried to fix things up to the time we knew that the village people agreed then we also agreed. So we sent the draft development agreement to the developer to see and he can also put his proposal in it. I think it is fair to have both parties agree by sharing the proposals. Because the developer did not come, he want the ILG leaders and they went down to Malaysia to get the agreement shown to him.

Q: Sorry, who is the developer again, the one they met in Singapore?

A: The one currently, now i stap.

Q: The one currently?

A: Yes. I want to put something on the record for the Inquiry, this is to Peter Wuni, talk about my brother Peter Wuni who came and talked against the project.

[2.50 pm] Peter Wuni was serving Correctional Service officer during the time of the negotiation and there were meetings with the village people. He was in Port Moresby. People who were in the village were John Wuni and Samson Wuni.

Q: You make a reference that, speak earlier on, he is Peter, is he, Peter Wuni?

A: Peter Wuni.

Q: Did you say he was based in Port Moresby?

A: Yes.

Q: The Correctional Services officer.

A: Long Bomana.

Q: At the time of the negotiation.

A: Yes.

Q: So you would not know what is happening?

A: He did not know what was happening. For the record of the Inquiry, now he got a big sick and he is here so the family helped him with cost of the medication, now he is okay and staying. And for record, he is my cousin brother. I also help with his medical expenses. After his sick was finish, we gave him job as a company public relations officer. He is aware, he was fully aware because he was part of the team that went down to Singapore to negotiate for this project agreement. The reason for him to reject, I do not know but the reason maybe, we terminated him because of his performances as a public relations officer.

Now we come back to the project. After the landowners and the project partner agreed with the project agreement proposal, we now deciding to

sign the agreement. In October last year, we signed the project agreement with the sub-lease agreement. All ILGs signed the project agreement, all ILGs signed sublease. That is the story on the history of the project up till now and now if you have question, ask and I will answer.

MR PUPAKA: All right, we – there is 20 names there except one, they have all signed. Chief Commissioner, that is the only copy I have. These are people from Ibis village and they do not support the project. You know these people, some of them.

A: Some of them I know.

Q: What do you say in respect of it, they do not – summarizing what they say, they say they are not happy with the way in which they were left out? They do not know where the agreements were reached, which people are, I might have that after you have seen it. And why would they be signing things like this? They have written this, it is a statutory declaration by two people Moses Wumb and Gideon Somb and this letter was written to the Commission of Inquiry Secretariat, towards the end 23 August 2011. It was brought around the time when they announced the Inquiry. They wrote this letter to them. A copy of it has been appended and given to us here, at Vanimo. And I am just putting this to you so that if this kind of thing is current, I mean, there are people out there who dispute this project. You got anything to say to that, that is quite apart from Peter Wuni.

A: Like I said earlier, when we were making the first awareness we did not meet this kind of disputes.

Q: So what is causing these people to do these things.

A: Also with this story the project agreement and lease agreement we signed them in, not in Port Moresby but in the project area. This project was signed at Wara Mei, about seven kilometers out of Bewani station, all 126 ILGs with the villages there, they all signed the project agreement and lease agreement.

[3.00 pm]Q: Yes, all right, we have inquiries going all over the places; all over the country the Commission has been commissioning into Special Agriculture Business Lease has been divided into three separate entities, you aware of that. Namah, I am telling you that there is three separate

sittings at any one time since whole of this month. And that sort of thing is all coming up, like, people give initial consent and then ol senisim tingting na, that is something that we are encountering.

A: It is good for the project agreement and the ILG people to sit down together and they can go through this ---

Q: Yes, we will. Like I said, you, Mr Namah, you are speaking for Boilaulai Limited so the other remainings will still be coming in. We stress the importance of that from the beginning.

A: Okay.

Q: I am just saying this to – olsem, there is a generic truth in that people are changing their minds. That is something that is acknowledged. But I just want you to tell me, why are these people writing these, what is, ol i no kaikai gut or they felt out or there are important blokes like yourself who should be doing something that the others are ignoring or why are they writing these things? That is what I want to know.

A: It maybe that the – maybe there are dissatisfaction amongst the land group leaders who may be left out in positions or something like that and they are instigating these things amongst the villages.

Q: There was one thing that was said before, first witness said something about forced into signing things. This one speaks about people being induced, influenced to sign. Does that sound familiar?

A: My knowledge when we had the ILG leaders meeting, nobody was forced to sign anything.

Q: And Mr Wuni whose family has two people supporting the project, quite apart, you said he probably got kicked out as not doing his job and after he went to Singapore and all of that. He did say something about handpick. What about the handpick allegation, does it sound like people may have been taken to Port Moresby and signed things?

A: Nobody, because of their liking of the person and handpicked him. Everybody came from their own ILGs and take part in it.

Q: The people who wrote this petition of sort, yes, it is a petition, said something about there was supposed to be a payment of 50,000 and only

20,000 has been given. And the first witness also said something about no payment in relation to timber already harvested and sago and other valuable things; things of value to the people that have been destroyed, not being paid and the company's response has been that they have already paid in relation to these things like, only some money has been paid in relation to the allegation that no one is going to pay anything because they have already paid or what is the stand of Bolaulai, you as chairman and you having spoken for most of the other people as well. What is your response to that?

A: The first speaker talked about the royalties so I will talk about this one first. The project of the nursery did not start early this year. It started at the mid of this year. I can say about two, three months ago. In the development project we captured this one inside and the royalties should not go to any company, developer or whoever. It will go to the landowners.

Q: That is what the Land Development Agreement, does that what the Development Agreement says or contain?

A: Yes.

Q: We will ask for copies from the right people, the representative of the SABL holder and representative of the developer. But you happen to have a copy of the Development Agreement with you? Like I said, you do not have to produce that. That is something that we will ask of the relevant witnesses.

A: We will produce.

Q: All right, so payment of money has not started yet. That is what you are trying to say.

A: When we signed the project agreement and lease agreement at Bewani.

[3.10 pm] Initial amount agreed as appreciation to the 126 ILGs is 50,000 for each ILG. 20,000 were given to those who signed the project agreement and the lease agreements.

Q: What did you say that money was for?

A: Appreciation, form of appreciation.

- Q: So they sign off when they get it.
- A: It is an appreciation.
- Q: What about 30,000?
- A: 30,000, some ILGs have been given already. Some were not given based on their own arrangements between the company and the ILG area.
- Q: That is appreciation only and it is not payment for anything.
- A: We did not sign any sales agreement to sell the land to the company. We signed Lease-lease Back Agreement and then sign the lease agreement.
- Q: Why do these people still obligated to pay out what appreciation money? I mean, this one is not – I think SABL, Chief Commissioner, SABL is itself; SABL itself is meant not to attract rentals, the issue of who get the rentals to start with. It is supposed to be held by the original landowning entity – landowners' entity anyway. And I am just wondering why they have to pay those kind of money because I am going to have to tell you this. Is that not inducement, appreciation money is inducement, is it not? I cannot understand why they have – ol bai peim dispela kain moni. It is not development agreement or component of it or it is based on any payment for anything. It seems to me to be inducement.
- A: It is not induced to people.
- Q: Amamas moni or sikhhan moni.
- A: In Papua New Guinea we have different customs. And for us we accept the appreciation and people who come with appreciation, we accept them.
- Q: Yes. I am just saying that because some of your relatives who have not probably seen any money in it seem to be – it is probably acting as a divider or wedge ol whiteman sa kol. It is dividing your people more than probably uniting them. Because some people are obviously missing out on these things as a result of money that probably, not should be paid up front.
- A: This money is not form of payment. It is money that was to given to the ILGs and if distribution was not properly done it is up to the individual

ILGs. If the ILG chairman gets 20,000 and did not distribute it properly among his followers, it is not something for the project.

Q: All right, there is something else I want be done here, Chief Commissioner. Phrosph Limited, that is P-h-r-o-s-p-h Limited, what is it?

A: Phrosph Limited, I do not know.

Q: Yes, well, that is something that is coming out of your people. Maybe, it is an indication of their level of their lack of understanding. No one is telling them anything about anything. Is that the case, probably trying to work out a company that is probably in another SABL, probably they think is involved with their company or their land. The point I am trying to make here Mr Namah, is that these people seem not to know anything of what is going on. That is why they are writing these stuff. By the way, they write good English, they seem to be very educated people so I do not think it is a case of ol kanakas. It is probably a case of lack of information and getting them involved. That is what it is. Now, I have seen lawyer's submission and I can tell you this one is good English.

A: For the record I want to talk little bit on that later. This letter Peter O'Neill wrote it and all the people in that letter are from Imbinis village. Like you said it is a good English because Peter O'Neill's wife is a lawyer. I think Peter O'Neill worked with people who did not get the money from the clan leader and produced that letter.

Q: Just put it this way, it is just one of many we have.

A: Thank you.

Q: I got a full pledged submission from – it is a letter dated 06 August 2011, probably as soon as the Commission was announced, I think they were already coming from Ampo village, Ampo village is in Bewani, is it not?

A: Apombo village.

Q: Yes, Apombo village. Yes, clan leader of Apombo village Mr Kapus Nali. He may or may not testify here but he has written and so we might as well bring him to the surface because he has consciously written this. We will give an opportunity to say no, he did not or someone else wrote

for him if he considers that. And it involves, the letter involves statements from other people included as well, similar stuff, petition. This one is a lot more bulky than the first lot that we received here in Vanimo.

[3.20 pm] It just goes to show its repeated similar sort of argument saying they are not party to all of these.

A: Apambo village, initially they were not party to this. Only one clan in Apambo village is a party.

Q: That is – what was the clan again?

A: Ses clan.

Q: That is from Apambo village.

A: Apambo village, Ses clan.

Q: That is from the Land Investigation Report. So there are many clans in that village, is there?

A: There is one major clan.

Q: I will just mention these names here. There is Robert Nali putting his and against the project. He is from Grul village or Grul clan of Apambo, John of Fof clan, the surname does not come out clear on this photocopied document. Mewa Awasi of Sai Apambo, he is from Sai clan, Apa Nomb from Ieyu clan, Surupa Kelly from Muk clan, Simon Opo from Musi clan, Simon Biau from Wambifa clan, Samai Gibson from Nakap clan, Witi Fiau from Griki clan and the writer Kapus Nali from Wapra clan. There is something like one, two, three, four, five, six, seven, eight, nine, 10. I do not know how many villages there are in Apambo clan but all the clan leaders stood up to put their hand against this thing.

A: I am from Bewani. Apambo village is a village in Bewani, I am from Somboi. I know all the clans in Bewani, Apambo village is no exception. Apambo village has one clan called Wumu clan.

Q: Yes, I forgot to mention that Wumu clan is a major tribe they got it down as, all of them except Witi Fiau who professes to belong to a tribe called Wusal tribe. And the writer Mr Nali professes to belong to a tribe called

Afiti tribe and all the others belong to this Wumu tribe. They are clans inside the tribe.

A: Kapus Nali is the elder brother of Robert Nali and I do not know how they become members of two different clans. Apambo village has one clan and that is Wumu clan. The rest are families.

Q: All right, I will not press you too much on that. The point I am trying to make here is it is not – it may have started well but at some point in time someone is preparing detailed, bounded copies of submissions and writing in good English and really making a concerted and serious effort to demonstrate that the project in Bewani is not a result of consensus by everyone. That is the point I am trying to make. I am not trying to say it is that is what appears to us on records that we have, or information that we have now.

A: Apambo village when we started to talk about this project ---

Q: By the way I do agree that these two brothers who profess to belong to, if that is what you say is indeed as you say so Chief Commissioner, the tribe names are different as there is - I would have understood if it was family or clan. But yes, the point that underscores all of these in the correct or defective state this is in, it is besides the point. The point is, somebody is doing it whether it is one individual or two individuals or three individuals, it does not matter. If it is probably, or bunch of about nine tribes or nine clans, it does matter. They are all saying we are not on the same page with these people.

A: I will be talking little bit on that one. Like I said, when we started to talk about this project, in fact, initially when we got tired of Vanimo Forest tointo the extension, Apambo village wanted Vanimo Forest to continue with the extension. When we fixed all the ILGs, because they did not like we did not attempt to include their ILG in the project. Up until now, for the respect of Apambo village and their clan Wumu clan, there are no, they did not sign the project and they did not also sign the lease.

[3.29 pm] CHIEF COMMISSIONER: What is this story about? Sorry, can I ask you this question, please? From what the counsels have been asking and from what we have gathered on evidence from Peter Wuni, is he? What would you say to

this? He is saying that there is only a hand-picked of you so called chairmen and directors to represent all the four landowner companies and you did not get the endorsement of the landowners, you are acting on your own volition, your own thing without consulting the landowners. That is what he is saying and with all these letters coming in, that is probably what he is saying. So do you agree that that is the case that you directors are handpicked and you are doing your own thing without consulting all the landowners?

A: All the ILGs were formed at the village and the directors they all agreed.

Q: This leads me to another question. The next question I want to ask you is, do you explain to the landowners what is going on, what is happening after your meetings with the government or developer or anybody with regard to Bewani Palm Oil Development, Oil Palm Development. Do you come back to sit with the landowners and try and explain to them, tell them what is happening, what is going on so they all understand? Because some of these thing could be that they are not getting a lot of information out of the directors and those who have been appointed to represent them, like spokesman. That is probably the reason why many of them are not happy. I am not too sure. I am just asking the question. Do you have a regular meetings with the landowners to brief them on what is happening or what is going to happen and all these things?

A: Like I said when we call the meetings to stop the operation of Vanimo Forest we told the people. When we engaged the lawyers and talked to them we also tell them and when we talk about the project we also go and brief them. Sometimes we have public meetings in the grand stand here in town and all the other public members also attend and hear what we were talking about.

MR PUPAKA: All right Mr Namah, that is a map of your area, satellite map. The red one in the middle, that is Ossima, the yellow that has got partially encroaching onto the yellow or the blue one, light blue, the dark blues are different. That is for a another purpose that is not relevant to the Inquiry. So the light blue is Bewani. It has got a number, has 35 on it. Let us ignore that one. But it is portion, covered by portion 163 is held by Bewani Palm Oil Development Limited and the yellow that has got number 69 there, that is again, serves another purpose. That is a SABL number for the lease that came from Government but it is actually covered, that yellow is Ainbai-Elis Holdings and

that is portion 40C. The red one is Ossima. That is about 163C, it does not exist that is why it is in the red. They have cancelled it. All right, I want to ask you a series of questions on it so that is why I am showing this to you. For the record Chief Commissioner, I repeat that, we will amplify these things and formally credit them and accept them with the witness from the remote sensing center is called, Dr Phil Shearman has been summoned. But we are using the material now so shaping and informing these questions. All right, on that blue one, the highlight blue one. Where is Apambo village? You want to mark that on for me or approximate place where you think it is located.

A: Should be around here.

Q: If you could mark it. That is to be used. Put an X somewhere you think it is Apambo. I need to see that, yes. I will show counsel for a – show the Commissioner as well. All right, so that is inside the project area, Apambo village, near the outer fringes of it but nevertheless inside the project area. So they have a right to complain. I am just pointing that out to you. Chief Commissioner, if you are done with it, we need to have that back. All right, the other one in the middle, that is Ossima. Why did the – you recall, you have a look at it. You recall why Ossima people or people who caused you the red area, you know why they wanted to go along - I understand or we understand from evidence that came up last week that this is supposed to have been a cattle project. Why na ol laik stap blong ol yet? If it is flat enough for cows it is probably flat enough for Oil Palm. So they wanted to venture out on their own and I am just wondering. Tell us why it is that they want to go on their own?

A: That red one ---

Q: That is Ossima.

A: I do not know what period ---

Q: It was around this year. But as soon as they or early this year and as soon as Lands Department realized that it is within the greater portion 160 they cancelled it and it remains cancelled. It does not exist. But it demonstrates the fact that there is enough people in that area who do not want to be part of Bewani Oil Palm. That accounts, that red area accounts for about one third or hang on, probably a lot more than one third and you see that flat part, it is not showing clearly to you. But that accounts for

the most flat and most probably fertile land in the whole basin. And they do not want to be part of your project.

A: For this one, we have to wait, find out how they go it.

Q: The important bit is they cannot, by Law they cannot hold it. See, that is why it has been cancelled. Somebody probably did not do due diligence and check up in the Lands Department so they – but as soon as it became known they cancelled it. It does not exist, it is finished, done. But the fact of it is that someone wanted not to be part of the oil palm and wanted to be, you now, looking after cows. So that is the reason why I am putting that to you. It also adds to what Apambo people are doing. It tells a story of people not squarely behind the project. That is why I am asking for commentary from you.

A: For the purpose of this Inquiry I will tell the story. It may be funny but I will tell stories.

Q: Before you story for the benefit of people listening, that covers about 31 hectares.

MS PEIPUL: 31,000.

MR PUPAKA: Yes, 31,000 hectares of land

3.40 pm]

considering that is nearly 140, slightly over a third or under a third, I am not good with mathematics but that is over 31,000 hectares out of nearly 140,000 hectares is not small, definitely. But rest people can work out for themselves. That is what it is, yes, yu tok.

A: It is funny because I do not want to blame or two people. For benefit of all of us, Ossima Resource belong, in interest of one person, name of that person is Charles Ossi. There are lot of stories about him. He been talking to a lot of people about helping him settle down with fundings. He also knows that he has his own ILG chairmen and his ILG has two chairmen now, Imo clan. His elder brother and the chief of the clan is Ignas Bawi, chief of Imo clan. Charles went ahead and registered one ILG and called it Imo clan. Chief of the Imo clan Ignas Bawi was concerned about the special agreement on agriculture project on the area in Bewani Palm Oil.

Lot of incidents took place especially amongst us at the Bewani Oil Palm with that person Charles Ossi. One day he came and told us, I want to work with you people but I want you to give me K100,000. What I said is like this I do not know whether he has a genuine idea to develop and have the village people back him up. We gave him 100,000. We did not give it to him because he was going to withdraw but he said if we did not give it to him, he was going to disturb the project so we gave it to him.

Q: That is Charles Ossi.

A: Charles Ossi.

Q: All right, you done, finish?

A: There are ILGs in his area but I do not know how the ILGs are formed. As far as we know there are duplications of the ILGs which we have to check the records with the Lands and also with the Ossima Yalamaki. I repeat because I know the duplications of ILGs. For Charles I think he has no genuine reason.

Q: All right. That is ---

A: The red one.

Q: You know of a company called A.E. Holding Limited.

A: I do not know.

Q: I would not expect you to. It is a company that is owned by or hang on, it is not owned. It is constituted by people from Teki clan, I think, Teki clan, it is wanpela klen blong yupela, what they say, all that land starting from Maiyu River to Wako from the east, Maiyu River to Wako and presumably that is Teki clan. Have a look at these names. These are people who say they are from that area. Long and short of what they are saying is that they dispute the process by which the decision was made to include or to start the project and the process by which all these things started, they are disputing. That is what they are saying in the – are these people people within the SABL area or some other people or you do not know them?

A: Yes, these people are within the SABL area.

Q: I admittedly, they did say all these things a bit long ago. So they may have – but it also thus say, highlight the fact that at about the time the TRP permits were expiring and when you and other people who talk like you saw the need to take the opportunity for agro-forestry and started doing these things, they probably were racing that – I am looking at the dates there and it does look like they were not with you right from the beginning.

3.50 pm]

Are they, well, put it this way. Are they – have they changed their mind or have they leased, that sort of dispute is still there, you know?

A: They also have a major clan. And that major clan, the clan leader and the ILG chairman was involved with all the process.

Q: That is this, Chief Commissioner, part of document we already tendered and there is three female and nine male, that rounds about 12 of them, raised issue with the project and the processes by which the project was generated. This is dated 05 June 2008, round about that time. It is part of the affidavit of Charles Ossi, received by the Commission on 17 August 2011.

CHIEF COMMISSIONER: Which village are they are from? Where are they from?

MR PUPAKA: They are from the Teki clan and they profess to belong to a A.E. Holdings Limited.

CHIEF COMMISSIONER: They put the name of the village or their clan.

MR PUPAKA: That is probably A for Ainbai Holdings Limited or ---

MS PEIPUL: Ainbai village.

MR PUPAKA: They are from Ainbai village but they are specifically against the Bewani Oil Palm project. So you last satisfy that the major clan structure is with the project.

A: Is with the project.

Q: And these are just individuals.

A: They are like from a family, which are Yambo family from the major clan.

Q: One family. Just out of interest, how many people are within the Bewani or the project area; Bewani, the area, portion 160C. How many human beings do you know, kids to adult?

A: I would not know the actual, but we can give a rough estimate.

Q: Rough estimate will do, yes.

A: Between 5 and 7000.

Q: How many, disregarding the duplications, how many ILGs including all of that?

A: In the Bewani Palm Oil?

Q: Yes, total ILGs between the four landowner companies.

A: 126.

Q: 226.

A: Yes. And those who have missed out and who are interested are still doing their supplementaries.

Q: ILG.

A: Supplementary ILGs.

Q: So probably it will take to 130.

A: It might go up to 140 or 140 plus.

Q: Well, Mr Namah, do you realize that if there is a 140 ILGs all divided or 6000 plus, that is the max as far as you can go, 6000 individuals, kids included Chief Commissioner, all of them split into 140 ILGs, that will probably give you something like 40 human beings in one ILG. That does not add up. I mean, I am not saying anything one way or the other. But the fact of it is that there are too many ILGs, it is almost like families. There need never be ILGs like that. That is you will have, for one thing you will have too much dissent going on. You will never please 140 of them and 6000 ought to be collected together and probably five or six ILGs like other people are doing. What do you say to that?

A: That is what we have, during our negotiation discussion we have discussed with all the villages to make sure the clans are real clans not family within clans. And 126 was the exact amount of ILGs we have.

Q: Inter-groups, ILG stands for incorporated land groups. So one would presume, I mean, I do not – did anything, sort of studying the landowning history in the area. I cannot even begin to guess but in what village if landowning groups should be anything, I mean. So for the record Chief Commissioner, the point I am trying to make is that some of these dissent maybe as a result of too many breakups where there never be any breakups at all. So that is something that we need to investigate further or then the other alternative is to get these people to testify. And that will take us to the better part of this week and that is something that we are not prepared to do.

CHIEF COMMISSIONER: You can, depending on what your plans are, you can decide on the amount of information you have already got on hand including the submissions that you have received from the – from persons of interest and the opposing group, make some assessment on that and determine and decide whether you want to call evidence or call further witnesses or other people to come and give evidence in order to balance up the story. Because as it appears there seem to be a lot of objections and I presume, it is probably because of the Bewani Project itself is really big in portion.

MR PUPAKA: Well, it does, it ---

CHIEF COMMISSIONER: That incorporates a lot of people and clans and different villages.

MR PUPAKA: Yes, it does. We are trying to establish in my other capacity as in the National Land Development Program, we are trying to work out how we may implement the amendments to the Incorporated Land Groups Act and the Land Registration Act and we were having a terrible time trying to work how many ILGs are. And if people have divided themselves into 42 individuals including kids, no wonder we have problems on our hands.

CHIEF COMMISSIONER: It probably be reflected in the recommendation as a way forward ---

MR PUPAKA: Yes.

CHIEF COMMISSIONER: To tidy up things.

MR PUPAKA: That is something that we need to do.

CHIEF COMMISSIONER: What is becoming obvious now is that there is a split in between the families and brothers and uncles and cousins in this project, I do not know what was the cause of it. I do not know what is the reason behind it. I mean, I would have thought that the families would stick together through thick and thin one represent our family. But it seem to be obvious, sorry, the obvious seem to be the opposite of what is going on. Anyhow, I will – counsel, you got any questions you want to ask.

MR PUPAKA: Yes, I was trying to ask the witness, Mr Namah, you got anything else to say in relation to something that you have not said?

[3.59 pm]A: I make one story. When we started to talk into the people in the villages to do the project, at the back of our head we always consider land being the big problem. Land give us food, we get everything from the land. During the old time, our grandparents, we look for food from land and the land is our buck store. Time has changed, money becomes power and means of purchasing food and paying schools.

About 99 percent of the land in Papua New Guinea is customarily owned, only three or seven percent is owned by the State. Government find it hard to develop the land or bring service to the people because people own the land. So we have laws like incorporating ILGs, fishing projects and the forest projects must come, mining must come. In some areas they have gold and copper, some areas they have gas. In some areas they have timber. Some areas they do not have gas, oil and timber but 100 population of Papua New Guinea, we have land. It does not matter if we have kunai grass, if the land surveyor says it is good to plant something then the landowners, we should also support the government to bring about development. And agriculture specialist for our Bewani Palm Oil, we appreciate it. Because we know that the timber company came and operate - if the Commission of Inquiry has one, two hours, the road to Bewani and road to Imbio Imbinis is okay, to go to Ningera and Sera is all right. I mark these villages because they are in the timber operation. What service is there now? If you have time you can help us to make that assessment. Because of this the small educated people in the villages we think that small projects like this, it can help the living of the people in

the village to counter appreciate development strategies of the government.

If there is problem or mistake, government must revisit the SABL Act, Land Incorporation Act, Land Acquisition Act and try to help us, the landowners because we also want to help government bring about development. That is the asking from us, the people of Bewani Palm Oil Development. Because we have some educated people going around who have personal interests against one and other seeking advice from lawyers, go into the SABL Act, go into the Agriculture Act, Forestry Act, Land Act, find the loopholes and try to stop the development. Because plenty of our people in the villages I can say, between 98 and 98 percent are illiterate. There is English can come and spoil them and disturb the sitting down that we want to develop can be spoiled. I want the government to revisit these Acts, try to put some laws where it can help us the village people. Do not make too difficult for us. On top of this, I have nothing else to say.

MR PUPAKA: May be, yes, counsel will ask a couple of questions.

MS PEIPUL: I have just a few questions with you. Mr Namah, thank you very much for your submissions this afternoon. Can you – I will show you a copy of the Agriculture sublease, if you can just kindly identify the document and also turn to the signature page, please. Can you identify your signature on the document?

A: Yes.

Q: Can you confirm to us and can you flip back to the front page, first page? Do you notice the area highlighted in pink? Can you confirm to us the content of that, pink highlighted area for the record?

A: 2010, is this the one?

Q: Yes, yes, highlighted area, what does it say?

A: 2010 at nil rental ---

Q: Yes, nil rental. Now, that refers to the fact that you had agreed in the agreement to nil rental for the sub-lease. Can you explain why that is?

[4.08 pm] A: Come again?

Q: My question is, you said you have signed it. In signing it you have signed that you are not receiving any rental for the sublease. Can you explain why you agreed to that?

A: We had a agreement with the investment partner, based on the agreement the investment partner has agreed to build housing scheme for all the population within the project area. So we come to realize that we must be lenient. It is giving and taking.

Q: So you gave up your right to rent, annual rent for the term of the entire sub-lease which is sublease for, correct me if I am wrong, but is it 60 years or how long is the sublease, 90 plus years. You gave up your right to have a rent, annual rent for 90 plus years for the agreement that they will build infrastructure on the land. Is that what you are saying?

A: That they will build infrastructure on the land.

Q: And you are referring to an agreement which is also contained in the sublease, you were not done in the second paragraph, there is an agreement that you signed that you may have signed, you note the date of that agreement, I believe it was last year. Is that correct? Is that an agreement you are referring to?

A: 28 October.

Q: Yes. And is that the agreement you are going to provide us a copy of?

A: Yes.

Q: But in signing this Agreement you understood the terms of this Agreement.

A: Yes.

Q: It was full explained to you.

A: Yes.

Q: Moving to the – something you said, in particular the name of the villages, Mr Pupaka, was it Abambo, is it?

MR PUPAKA: Apambo.

A: Apambo.

MS PEIPUL: Abambo?

MR PUPAKA: Apambo, p.

MS PEIPUL: Apambo, yes, Apambo. You said that in Apambo village they wanted to carry on with Vanimo Forest Products under the TRP and then you stated that you left them out of both the incorporation of the ILGs and also the agreement. That is correct. That is what you stated previously.

A: Yes, that is what I said. And also if I did mention or not, in Apambo village, there are about two clans, Wumu clan and Wusas clan.

Q: Did you also leave out their land because when they did not agree to come along with you, they owned land. Did you leave that land out of theSABL?

A: The Wusa clan of Apambo village did agree with us and they are party to ---

Q: So you are saying the Wusa clan agreed.

A: Yes.

Q: And what about the clan?

A: The Wumu clan ---

Q: So Wumu clan did not agree.

A: Did not agree.

Q: So are you saying that both the Wumu and the Wusa clan own the same land?

A: They are from the same village but they do not own the same land. They have portions, different portions of land.

Q: My question is, because the Wusa clan did not agree, did you leave their land out of the SABL?

A: The Wumu clan did not agree.

Q: The Wumu clan did not agree, is that what you are saying? So which one is the one that agreed and did not agree. Sorry, clarify me.

- A: Initially they agreed and in the process when the land survey was done, after that and the disagreement come.
- Q: So you are saying that after the land investigation process ---
- A: Yes, and then there was an agreement.
- Q: But they objected before the granting of the SABL, is that correct?
- A: Yes.
- Q: So in taking in the objection, did you leave out the land from the SABL.
- A: Because it was already surveyed before the argument ---
- Q: You did not leave out the land. It stayed within the SABL.
- A: The land, we did not leave out. But, yes, we did not – there were no party to the agreement and to the lease. They never signed.
- Q: So my question is, now that the land is still a part of the SABL, what will you do to compensate them because they do not want to be a part of the SABL. So what is the intention there? How are you going to rectify this problem?
- A: They have, in fact they are split in the village.
- Q: You are saying they are split again within themselves.
- A: There are about three of them now currently trying to make an ILG to join. So they really need to sit down in their own village and iron it out themselves.
- Q: Will you be assisting them as the four landowner companies, the particular landowner it comes under? Is there any intention to assist them to try and sort out this problem?
- A: Yes. From the initial stage we have always talked to ourselves and mind you, we speak the same language. And for that matter, we are also interrelated one way or the other. So we will be talking to ourselves.
- Q: You said that blocks 1, 2 and 6 are the ones who have agreed to the SABL. Blocks 1, 2 and, under the previous TRP, what about blocks 3, 4 and 5. What is their position on this?

A: The blocks 3, 4 and 5 they agreed on extension of the logging company --
-

Q: TRP.

A: And they are not part of us. They have nothing to do with us.

Q: But are they within the SABL or they outside of the SABL?

A: They are outside of the SABL.

Q: They have no part to play within at all.

A: No.

Q: All right, thank you.

MR PUPAKA: Chief Commissioner, for the record, there may have been the process of interpretation references to block 1,2, and 3, the former TRP. In fact, it is only correcting counsel's point there. To confirming what the counsel's word is 1, 2 and 6. So the previous ---

CHIEF COMMISSIONER: They are all within that SABL area?

MS PEIPUL: Yes, the TRP, the previous TRP, yes, previous one.

MR PUPAKA: The SABL is captured as, it consist of the former or the areas covered by the TRP blocks 1, 2 and 6, not 1, 2 and 3. The absence of 3, 4 and 5 have been explained there by the witness. It is something I would like to ---

CHIEF COMMISSIONER: And the TRPs are there before they apply for the SABL, is that correct?

MR PUPAKA: Yes, TRP, FA and TIA and all of that.

MS PEIPUL: I think the witness explained that because of the expiry of the TRP in 2008.

CHIEF COMMISSIONER: Yes, yes, the TRP, yes. You got any other questions you want to ask.

MR PUPAKA: Not at this stage, no.

[4.16 pm] We have already stand the witness down.

CHIEF COMMISSIONER: Yes, we stand the witness down.

MR PUPAKA: But we have got other witnesses.

CHIEF COMMISSIONER: Just do the usual caution of the opportunity we might ask for him to come back should the need arises.

MR PUPAKA: That is right. Mr Namah, thank you for your evidence. You have taken most of the afternoon. You have touched on evidence and areas of Inquiry that we need to cross check with you first, both as a result of what may happen in relation to other witnesses that are yet to be called and in relation to things that you have said on their own that needs to be clarified. The Inquiry that has commenced into Bewani or the SABL title held by Bewani Palm Oil Development Limited will not conclude until we have called relevant Lands Department witnesses in Port Moresby. But, both specifically for here and the inquiry that may yet to be concluded in Moresby, we ask that you stand by for purposes of clarification. You are under oath. You appeared before the Commission so yu stap olsem. As and when you are required we will call you. You appreciate that.

A: Thank you.

Q: For the time being you can stand down. And particularly, the project agreement, we may, if we do not secure that project agreement, a copy of which we need to have, if we cannot secure that through other relevant witnesses you may during this leg of the sittings we may need to call you. Thank you.

CHIEF COMMISSIONER: Thank you.

THE WITNESS WITHDREW

MR PUPAKA: Chief Commissioner, we need to call a couple of more witnesses. We at least need to call one and we need to call one of the chairmen and we have yet at this stage, not able to ascertain whether there is a witness for the developer. So we will clarify that as well as the representative capacity of the other witnesses and the director, at this stage of the SABL holding entity; that is Bewani Palm Oil Development Limited. By the look of things that will have to happen tomorrow.

CHIEF COMMISSIONER: Yes.

MR PUPAKA: For the time being we need to call one witness, one out of the two remaining chairmen. Actually, three remaining chairmen ---

CHIEF COMMISSIONER: You intend to call them now.

MR PUPAKA: But two of the ones, in particular for which none of them have testified as yet, we will call them, if that is agreeable with you.

CHIEF COMMISSIONER: We do that tomorrow if they are here.

MR PUPAKA: They are all here.

CHIEF COMMISSIONER: We will try and do that tomorrow. So how many have you intend to call for Bewani, in total?

MR PUPAKA: I intend to call up at least, the chairman of the one that I think there is a bit of a dispute or disagreement in relation to who is speaking for who here. So we need to call all the chairmen of the four landcos that is landowning companies. And one has already testified, there is three remaining. We need to call Mr Jimmy Tse. I believe he is here, yes, that is four. We need to call a representative of the developer, that is five. I need to call five witnesses in Vanimo, if we can help it. And the secretary of the SABL holding entity is unable to, for some reason, he is not present here. We need to call him for – because he has been the one constant in all these changes of ownership and stuff. We need to call that person maybe in Port Moresby. If he, by the look of things, we do not intend to call that person here. It is too much for one – his so

CHIEF COMMISSIONER: As I said, the landowners that you will be calling will basically, with respect to the consent given by the landowners. And whether they have represented that consent adequately and appropriately ---

MR PUPAKA: We will make it brief and short.

CHIEF COMMISSIONER: When that is given to the Land Investigation Report. So that is something that can, that will come to fore and I really do not think and they will probably be saying the same thing all throughout there, if you call the three of them, the landowners, depending on how you want to structure your questions. But that is the way I look at it and you probably be brief.

MR PUPAKA: Depending on, Chief Commissioner, depending on what they have to say, they may be pretty brief, I suspect.

CHIEF COMMISSIONER: Well, if you guide them they will tell us exactly what we want to hear.

MR PUPAKA: We will sort that out after we adjourn. And we will need to call one. The way the information had been given and the way these people have divided themselves up, the thing is if we do not call a representative of this SABL owning four of them, we do not get the complete picture.

CHIEF COMMISSIONER: We will call them but I am suggesting that we call them tomorrow morning. We call them tomorrow morning three of them and it is going to half past four. Some of these people I understand will have to travel back to where they come from.

MR PUPAKA: That is right.

CHIEF COMMISSIONER: We can call them in the morning. We have already done one landowner, you have got three more to go just after that you ---

MR PUPAKA: About five.

CHIEF COMMISSIONER: Five more.

MR PUPAKA: Yes.

CHIEF COMMISSIONER: Is it? How many of them altogether?

MR PUPAKA: We know of two. One of them that is in relation to Palm 21, at least one person has testified. The reason why we may need to call the chairman of that entity is because of the issue around whether he spoke in a representative capacity. I do not want them having whatever it is they intend to have back in the village.

CHIEF COMMISSIONER: Yes, we will ---

MR PUPAKA: So the individual they think he is a representative of them all needs to be called into and stood up on the witness box and what happens after that, that is their business.

CHIEF COMMISSIONER: We will do that in the morning. We call everybody in the morning, tomorrow, you ---

MR PUPAKA: Yes. And then the two remaining are the landowner companies that constitute for that whole shares in the SABL holder and of course, the director of the SABL that will provide backdrop to the stuff that he ran. And we need to isolate whether there is a witness for the developer. So we can adjourn and resume early tomorrow.

CHIEF COMMISSIONER: All right, we will do that. We will resume early in the morning so you arrange the witness the way you would like to present your evidence and ---

MR PUPAKA: In that order, in the order that I have set.

CHIEF COMMISSIONER: And we will get them in tomorrow morning first and then we get the developer and the others to come in. All right, so we will adjourn until tomorrow morning.

MR PUPAKA: We will adjourn until 9.

CHIEF COMMISSIONER: Yes. Let us adjourn.

**AT 4.24 PM, THE COMMISSION OF INQUIRY WAS ADJOURNED
UNTIL TUESDAY, 22 NOVEMBER 2011 AT 9.00 AM**