



Roundtable on Sustainable Palm Oil

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Bapak Bambang Dwilaksono,  
First Resources Limited  
8 Temasek Boulevard  
#36-02 Suntec Tower Three  
Singapore

17 April 2013

Dear Pak Bambang,

**RE: Complaint - PT Borneo Surya Mining Jaya/First Resources**

With reference to our letter dated 10 December 2012 and your email dated 1 April 2013. We are pleased to inform you that the Complaints Panel (the Panel) has met and deliberated on the Independent Third Party Verification Report submitted by Moody International Certification (M) Sdn Bhd on 20 March 2013. The Panel's review of the report is as follows :

**Review of the Report**

Infringements

1. New Planting Procedure (NPP)

1.1 A total of 622ha has been cleared prior to getting the necessary NPP approval from RSPO, of which :

- 393ha is the total area planted.
- 579ha cleared before any HCV assessment was done.

2. HCV Assessment

2.1 A total of 397 ha of High Conservation Value Areas have been identified:

2.2 No clear demarcation, signages or monitoring of the HCV areas was noted for the sites identified in the HCV report – potential non-conformance of RSPO P&C Criteria 7.1.

## 2.3 The Verifying Team (VT) found that the HCV assessment is not accurate.

This finding is based on the following:

- 2.3.1 It is noted that the HCV report did not provide details of any HCVs that might have been present in the approximately 579 ha which had been cleared earlier (as at May 2012 by PT BSMJ) at that time the assessment was performed.
- 2.3.2 The HCV report does not investigate land use surrounding the PT BSMJ concession area and is therefore does not adequately address the possibility of HCV 2 (i.e. "regionally large landscape level areas")
- 2.3.2 The view of the leadership of Desa Muara Tae, that the entire forest area within the land claimed as part of Muara Tae, and in the area allocated to PT BSMJ, is of significance to the community (and therefore would be considered as HCV 5 and HCV 6) is not noted in the HCV report.
- 2.3.3 The HCV report identifies 100 ha of forest land as Muara Tae customary conservation forest. Since the Muara Tae leadership did not engage with the HCV consultants, the reason for the choice of this specific site and its specific size are unknown. The Utak Melinau forest, a few hundred of metres away, shown to the Verifying Team(VT) by the Desa Muara Tae leadership, and featured on EIA videos, exhibits a greater tree species diversity, better forest structure, and presence of useful wild trees including ironwood and wild mango.
- 2.3.4 The Lembonah conservation forest (25 ha) identified in the HCV report for the presence of several rare species, was not seen by the VT. However, 25 ha is too small to preserve in the long term, breeding populations of rare species currently found at the site (whether plants or animals), assuming the surrounding land is converted to plantations.

## 3. Social Environment Impact Assessment Report (SEIA)

- 3.1 The SEIA report was submitted on 31 May 2012 by the consultants. The land clearing and new planting development had started in 2011.
- 3.2 The SEIA report is flawed; while the AMDAL and HCV reports mentioned the Muara Tae community, the SEIA report does not. This means that a major social issue has not been identified. It is peculiar that this could be inadvertently missed out, given that this land dispute has been known since 1999.

## 4. Free Prior Informed Consent (FPIC)

- 4.1 Total Area claimed by the Muara Tae community is between 1,200 -1,800ha based on estimates from satellite maps made available to the Moody's team but this must be verified by joint-mapping exercises.
- 4.2 On FPIC, the report states that there is no information on the progress payment mechanism; this could be a potential source of conflict in future.

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- 4.3 The Standard Operating Procedure (SOP) for NPP is found to be inadequately documented as the key processes of conducting and fulfilling the FPIC are unclear and have led to discrepancies during its implementation on the field.
- 4.4 Overall, the attempts made by PT BSMJ/FR on the implementation of FPIC, were noted but found to be poorly done and did not fulfill the RSPO-FPIC guidelines.

Therefore, the Complaints Panel has decided as follows:

### **Decisions:**

#### 1. Land not Disputed

- 1.1 FR must address the issue of HCV on this land by doing a 'Land Use Change Analysis'\*. This will be then be subjected to the ongoing RSPO HCV Compensation process.

*\*the RSPO will advise FR on the mechanics of this.*

- 1.2 FR can resume planting on this cleared land, once this exercise has commenced.

#### 2. Disputed Land

- 2.1 FR will not be allowed to develop any disputed land until the resolution of the complaint. Maintenance works, to avoid degradation of the lands can be conducted with the agreement of the RSPO and after consultation with the disputed parties.

#### 3. Land not cleared

##### HCV identification and maintenance.

- 3.1 FR must do a Third Party Peer Review of the HCV assessment and identify the gaps, which will be the basis of a revised HCV assessment for the area.
- 3.2 FR must do ground demarcation of the HCV areas currently identified
- 3.3 FR must identify and implement clear procedures for the management of HCV areas.

#### 4. SEIA Recommendation

- 4.1 The SEIA must be revised to include the Muara Tae dispute.
- 4.2 A road map/action plan must be devised and agreed with the Muara Tae community on the proposed solutions to the dispute.
- 4.3 Environmental Investigation Agency (EIA), the complainant, shall be consulted on the formulation of the road map/action plan.
- 4.4 This road map /action plan shall be reviewed and approved by the Complaints Panel before its implementation.

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### 5 Free Prior Informed Consent (FPIC)

- 5.1 FR must document the SOP for land development and incorporate the elements of the RSPO NPP to achieve FPIC compliance.
- 5.2 FR must improve the FPIC process by way of joint-mapping exercises with the affected communities.
- 5.3 FR must recognize that there are communities who will decline to participate in the development of oil palm and the SOP must address this situation.
- 5.4 The SOP for FPIC must provide for dialogue and updates on progress of the development to be disseminated to the communities at regular intervals. This will help FR in communicating the details of the plasma scheme and the CSR programmes.

### 6. Schedule of Payments for Compensation

- 6.1 The details of the Schedule of Payments for compensation must be documented into a SOP and communicated to all individuals and groups within PT BSMJ.
- 6.2 Individuals and groups must be informed of the mechanism of progress payments in writing.

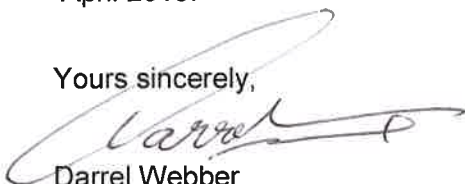
### 7. Timeframe for Implementation of Decisions 1-6

- 7.1 PTBSMJ/FR must complete the implementation of the decisions by 30 June 2013.

The Complaints Panel opines that given the challenges on implementing these recommendations on 'the ground', it would be advisable for PTBSMJ/FR to get support from external parties with the requisite expertise.

The RSPO Complaints Panel requests that the member and the complainant consent to these decisions before 24 April 2013.

Yours sincerely,



Darrel Webber

Secretary General

For and on behalf of the Roundtable on Sustainable Palm Oil (RSPO) Complaints Panel

c.c.Tomarz Johnson – Environmental Investigation Agency