



Roundtable on Sustainable Palm Oil

RSPO Secretariat Sdn Bhd
Company No : 787510-K
Unit A-33A-2, Level 33A, Tower A
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Bapak Bambang Dwilaksono,
First Resources Limited
8 Temasek Boulevard
#36-02 Suntec Tower Three
Singapore

10th December 2012

Dear Pak Bambang,

RE: Complaint - PT Borneo Surva Mining Jaya/First Resources

With reference to our letter dated 30 November 2012.

In light of your membership of the Roundtable on Sustainable Palm Oil and following repeated concerns regarding some of your organisation's sustainability practices highlighted in the complaint by Environmental Investigation Agency, the RSPO Complaints Panel notifies you of the following.

The RSPO takes all infringements of its Statutes, By-Laws, Code of Conduct and Principles and Criteria by its members very seriously. Its ultimate sanctions are to suspend and subsequently terminate membership of the RSPO. A complaints procedure has been started in this case as a result of the RSPO Complaints Panel's decision that there was sufficient evidence in the complaint concerning the member and the likely infringement of both the New Planting Procedure and Principles and Criteria of the RSPO.

The Complaints Panel finds that there has been a non-compliance with the RSPO New Planting Procedure and the RSPO Principles and Criteria by PT Borneo Surya Mining Jaya /First Resources specifically;

- Clearing and development of land before carrying out the necessary activities specified under Principle 7 of the RSPO P&C; in particular HCV and SEIA assessments. This



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evidence was discerned from the video provided by the complainant and, to your credit, through your own clarification via the recent communications with the secretariat.

As a result, this suggests a possibility of infringements where:

- Free, Prior and Informed Consent (P&C 2.2, 2.3, 7.5 and 7.6) may not have been obtained prior to development of the said area.
- Inadequacy in identification and hence the avoidance and/or maintenance of High Conservation Areas in the said developments.

Evidence taken into account by the Complaints Panel in reaching its decision includes the video submitted by Environmental Investigation Agency and clarification provided by you via various communications, both written and verbal.

The Complaints Panel also notes that this particular complaint has parallels with a previous complaint against First Resources with the allegation of clearing High Conservation value forests in Ketapang, West Kalimantan. This has bearing in the decision of the Complaints Panel in that the issues faced by your company may not be a one off failing but possibly more systemic in nature.

The Complaints Panel acknowledges your suggestion to temporarily stop development until the end of December 2012 and on areas where there is some dispute with the complainants but the Panel has decided that the seriousness of the failure to implement the New Planting procedure means that further measures are needed.

The RSPO Complaints Panel, therefore, requests the RSPO member PT Borneo Surya Mining Jaya/First Resources:

1. To respond by 14 December 2012 to the requirements listed below (2-7);
2. To publish a joint acknowledgment from RSPO and PT Borneo Surya Mining Jaya/First Resources of the fact that the company has been found to have infringed the Principles and Criteria of the RSPO; The text for the joint acknowledgment should be agreed by



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both parties by **14th of December 2012** and should be a reflection of this letter. The RSPO will proceed to publish this letter, on the **17th of December 2012**, if an agreement on the text for the joint acknowledgment cannot be reached by the 14th of December 2012.

3. To review the situation on-the-ground via an independent third party Certification Body. This exercise will provide further clarity on the potential infringements mentioned above. This review will then be followed by a full review of your company's Time Bound Plan and Standard Operating Procedures on new plantings (including those relating to FPIC and HCV). The Certification Body will be appointed by the RSPO and the cost will be borne by PT Borneo Surya Mining Jaya/First Resources.
4. To make the changes as recommended by the Certification Body for both the Time Bound Plan and the Standard Operating Procedures and undertake to implement the same in all future new planting by all relevant operating units within the control of First Resources.
5. To agree to work with the complainants on a suitable roadmap/action-plan to deal with the land dispute of the local community (Muara Tae), leading towards an amicable solution. This roadmap must be agreed by RSPO, First Resources and the complainants. This should be completed within a maximum period of 6 months.
6. To agree to develop within 6 months ,a plan, to be approved in advance by RSPO and to be independently verified on implementation, to mitigate the effects of, if not restore and subsequently conserve the HCV areas identified in PT Borneo Surya Mining Jaya ;
7. To declare to RSPO, explicitly, the total areas that may have been developed, by First Resources, which may have infringed Principle 7 of the RSPO P&C, but yet undisclosed to the RSPO. To be completed within 6 months.



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The RSPO requests PT Borneo Surya Mining Jaya to cease all development of this said piece of land, pending satisfactory completion of items 1-6 above. Activities that will help to arrest further deterioration of the area may be allowed. This however, will be upon providing relevant information to and obtaining explicit agreement from, the RSPO Secretariat. An example of such activities will be the planting of cover crops on bare soil in the cleared areas to reduce further erosion.

The RSPO Complaints Panel is looking forward to your earliest response.

Yours sincerely

f for the Complaints Panel of the Roundtable on Sustainable Palm Oil (RSPO),

Darrel Webber
Secretary General