

# 02 Major Flaws uncovered in the Blouquia & Neezonnie CFMA allocation processes

BRIEFING | FEBRUARY 2014



## Introduction

The Civil Society- Independent Forest Monitors (CS-IFM) have previously drawn attention to a number of irregularities concerning the allocation of the ECOWOOD Community Forest Management Agreement (CFMA) in Bluyeama, Lofa County. We would now like to highlight our findings concerning the unusual circumstances of two CFMAs obtained by A&M Enterprises Inc., in the Blouquia and Neezonnie Community Forests, Grand Gedeh County. There are a number of irregularities in the allocation and current use of these two CFMAs, leading us to believe that this may be a company-driven, rather than community-driven Community Forest Agreement. There are currently concerns that the allocations of five of the ten approved CFMAs have not followed the requirements of the Community Rights Law (CRL). Due to there being a further 69 CFMAs awaiting approval, these concerns must be urgently investigated to prevent a repeat of the recent PUP crisis that saw large quantities of timber harvested and exported without providing tangible benefits to Liberian citizens. We would like to thank you for your time in considering the following information with a view to taking appropriate and immediate action.<sup>1</sup>

The Neezonnie CFMA is 42,424 hectares and is adjacent to the Blouquia CFMA that covers 43,794 hectares. The CFMAs are located in Grand Gedeh and Rivercess counties, covering a combined area of 86,224 hectares. The combined Community Forests allocated to A&M Enterprises Inc. covers an area larger than both the FMC B and FMC C commercial logging concessions, which cover 57,262 and 59,374 hectares respectively.

## The Blouquia and Neezonnie Community Forest Management Agreements

On November 30th 2013 the Environmental Protection Agency facilitated an Environmental Social Impact Assessment (ESIA) Stakeholders Review Hearing in Gbarzon Jarwodee for the Neezonnie and Blouquia CFMAs. 91 participants attended the stakeholder hearing

### footnotes

- 1 Stakeholders including the Forestry Development Authority (FDA), the Environmental Protection Agency (EPA) and the two companies in question were contacted as an opportunity to respond to the information provided and provide clarifications. However, no counter-evidence was provided by any stakeholders allowing us to conclude that the information provided below is accurate.
- 2 CRL Regulations (2011) Chapter 7; Section 2: Attachments to the draft Community Forest Management Agreement.
- 3 CRL Regulations (2011) Chapter 7; Section 5: Negotiation with the Authority.
- 4 Blouquia Clan Community Forest Management Agreement, 15th August 2011; Neezonnie-Gbao Clan CFMA, 16th August 2011.
- 5 Liberia Business Registration of Blouquia Clan CFMB, May 30th 2013.
- 6 Lists of CFMB, CA and EC members obtained from the FDA.

including the CS-IFM team. The purpose of the meeting was to verify the findings of the ESIA with members of community and obtain their permission for Environmental Protection Agency (EPA) to issue an Environmental Permit to the Liberian Hardwood Company.

The CS-IFM received documents showing that community members representing both Blouquia and Neezonnie Community Forests signed separate Memorandum of Understandings (MOUs) in May 2011 with A&M Enterprises Inc. to allow commercial logging in the two Community Forests.

Based on a review of documents related to these CFMAs, and our observations and interaction with participants, we have outlined several issues related to the establishment and management of these two Community Forest areas. The Forestry Development Authority (FDA) and the Community Forestry Working Group (CFWG) must urgently investigate these claims and take appropriate action to ensure the Community Rights Law is correctly implemented, and that the allocation of CFMA contracts proceeds on a legal and sustainable basis. Below is a summary of the key issues.

### 1. CRL Regulations designed to ensure accountability were not fulfilled before the FDA approved the CFMA.

The CRL Regulations states that before the FDA approve a CFMA with the community, the community must establish a Community Assembly (CA) who then elect an Executive Committee (EC) and also appoint members to the Community Forest Management Body (CFMB). Before the Authority can authorize a community forest they must also receive a list of the Executive Committee members of the Community Assembly; a list of the CFMB members; the Community Assembly Constitution and By-laws and the CFMB by-laws.<sup>2</sup> It is then the CFMB who represent the community during the negotiations with the FDA.<sup>3</sup>

However our investigations found that the FDA approved the Blouquia and Neezonnie CFMAs on August 15th and 16th 2011,<sup>4</sup> whilst the Blouquia and Neezonnie CFMBs were in fact not legally established until almost two years later on May 30th 2013.<sup>5</sup> Instead of a legally established CFMB representing the affected communities in the negotiation of the CFMA, different individuals to those that now make up the CFMB were the signatories on both documents. It appears that these individuals were therefore not elected in accordance with the provisions of CRL outlined above that are designed to ensure legitimate community representation. The list of CA, EC and CFMB members that was received by the CS-IFM from the FDA contains no date or signatures of any of the members.<sup>6</sup>



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## **2. The Blouquia and Neezonnie CFMAs were approved by the FDA before the CRL Regulations had been authorised.**

The FDA Board approved the implementing regulation for the CRL on 26 August 2011<sup>7</sup> but the two agreements were signed on 15 August 2011, two weeks before the Regulations had been approved.<sup>8</sup> The ARD/PROSPER project with USAID assistance is working with the FDA to develop community forestry in Liberia, and is providing useful skills to enable communities to effectively manage the five CFMAs it has helped to establish. When PROSPER completed the necessary documentation for two community forests the FDA had refused to allow these CFMAs to be signed before the CRL Regulations had been promulgated.<sup>9</sup> Therefore the signing of these CFMAs appears to have revealed double standards on the part of the FDA.

## **3. The MOU was signed over two and half years before the Forest Management Plan was approved.**

The CRL Regulations states that no commercial activities must occur on Community Forest lands until a Community Forest Management Plan has been developed by the CFMB, approved by the FDA and is being implemented.<sup>10</sup> According to the Community Rights Law Regulations the Forest Management plan shall be prepared by the CFMB with the participation of the community with technical assistance from the Forestry Development Authority (FDA), institutions, donors or with individuals who have skills in community forest management if the community so wishes, and submitted to the FDA for approval.<sup>11</sup> Both communities stated during the hearing on 30th November 2013 that they had not yet developed Forest Management Plans, two and a half years after the Memorandum of Understanding (MOU) was signed with the company. The issue of lack of the Forest Management Plan was raised during the ESIA hearing with few community members having any knowledge about the plan, or that it must be developed before commercial forestry takes place. The CS-IFM have since learned that Liberian Hardwoods held a meeting in Monrovia during December 2013 for the CFMB to sign a Forest Management Plan which was then approved by the FDA on January 3rd 2014.<sup>12</sup> The sequence of events raises concerns that Liberian Hardwoods may have developed the Forest Management Plan with little Community input, in contravention to the CRL Regulations.

## **4. The MOU was signed before the FDA approved the Community Forest Management Agreements, and before the CFMB had been legally established.**

In contravention to CRL Section 6.4, the MOU between the company and each of the communities that forms the

basis for the company's operations was signed on May 31st 2011, two and a half months before the FDA approved the CFMA on August 15, 2011. The CFMB is the only legitimate body that can enter into a CFMA with a company, and must be established before any agreement is signed.<sup>13</sup> However, our investigations show that the CFMB had not been established at the time the MOU was signed with A&M on May 31st 2011. Documents obtained from the Liberia Business Registry show that the CFMBs did not become legal entities until May 30th 2013, two years after the MOU was signed.<sup>14</sup> Community members who were not elected in accordance with the provisions in the CRL instead signed the MOU - completely different individuals to those who now make up each CFMB.

## **5. The MOU was signed with A&M Enterprise Inc. who holds no business registration in Liberia.**

Liberian forestry law states that a Person who is not qualified by registration or otherwise to do business in Liberia must not seek or hold permission to conduct commercial forest operations in Liberia.<sup>15</sup> Yet, communications received from the Liberia Business Registry<sup>16</sup> confirm that they have no record of application forms, Business Registration or Articles of Incorporation for A & M Enterprises Inc, the key documents that are pre-requisites for any legally registered company. Furthermore, a 'thorough check of the entire Business Registry data, Ministry of Commerce & Industry and the Liberia Business Registry system' yielded no information on A & M at all.<sup>17</sup> This information is reiterated in the UN Panel of Experts report, which also stated that A&M is not a legally registered entity in Liberia.<sup>18</sup>

## **6. The MOU expired on 31 May 2013, yet pre-felling activities are currently continuing in the absence of a contract.**

The only contract that the communities of Blouquia and Neezonnie hold with any logging company is the expired MOU with A&M Enterprises Inc. In the absence of a renewal or a new MOU the communities have no current contract with any company. Community members and

### **footnotes**

- 7 CRL Regulations, approved 26th August 2011.
- 8 UN Panel of Experts on Liberia report, November 2013; page 39.
- 9 Ibid; page 39.
- 10 Community Rights Law (2009) Section 6.4 (a-e).
- 11 CRL Regulations (2011) Chapter 8, Section 1.
- 12 Blouquia Community Forest Management Plan, approved 3rd January 2014. Neezonnie-Gbao Community Forest Management Plan, approved 3rd January 2014.
- 13 Community Rights Law (2009) Section 6; Community Rights Law Regulation (2011) 4, (7).
- 14 Memorandum of Understanding between the people of Gboe/Ploe District and A&M Enterprises (May 31, 2011).
- 15 National Forestry Reform Law (NFRL) 2006. Section 5.2 b (iii).
- 16 Communication with Liberia Business Registry, dated January 20th 2014. Available on request.
- 17 Communication received by the CS-IFM from the Liberia Business Registry, dated January 20th 2014.
- 18 UN Panel of Experts Report, November 2013. S/2013/683. Paras 142-149. UN Security Council.

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'If the road starts from Grand Bassa it will cause problems for us.' **CFMB member, Blouquia.**

'The road is intended to connect Gboe-Ploe district with Rivercess [to connect to Buchanan port via Grand Bassa]'

**Liberian Hardwoods Company representative.**

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the company representative publicly stated during the ESIA hearing that although there has been an agreed amendment between the two parties which took place on May 6-7, 2013, this has not yet been signed.<sup>19</sup> However, pre-felling requirements such as the ESIA are currently being carried out in the absence of a valid contract with the intention being stated publicly in the ESIA stakeholder hearing that Liberian Hardwoods have asked EPA to carry out the ESIA in order to obtain a harvesting permit.

### **7. The relationship between the three contractors A&M Enterprises Inc, Liberia Hardwood Company needs to be clarified.**

A & M Enterprises Inc. signed the MOU with the two communities, but the company who will 'manage and carry out logging activities within the two forest areas'<sup>20</sup> are the Liberia Hardwood Company, legally established in Liberia on July 22nd 2011.<sup>21</sup> This relationship has not been made clear to the communities of Blouquia and Neezonnie Clans, as the companies have not yet honoured a tripartite discussion requested by the communities.<sup>22</sup> In light of the above we therefore recommend that no further pre-felling requirements be carried out by either company until a commercial venture agreement is reached and signed by the community CFMBs and the two companies.

### **8. Alleged links between A&M Enterprise Inc. and LURD are in contravention of NFRL Regulation 103-107.**

Regulation 103-07 of the Ten Core Regulations states that in order to 'achieve sustainable development of the forest the nation must ensure that forest users possess integrity of character and respect for law'.<sup>23</sup> However, A&M Enterprise Inc. is alleged to have close links with former LURD rebels. Therefore A&M Enterprise Inc's access to two valuable logging concessions represents a potentially serious threat to peace and security in the entire West Africa region. The UN Panel of Experts on Liberia asserts that Aicha Konneh used the alias Aissata Conde to sign the Blouquia and Neezonnie Community Forest Management Agreements she obtained from the FDA.<sup>24</sup> Aicha Konneh has had close connections and influence with the rebel group LURD and was previously married to its former leader Sekou Konneh. The UN Panel of Experts also reports that a moratorium was placed on the

two CFMAs during an investigation from January-March 2013 whilst the Governments of Guinea and Liberia conducted an investigation into allegations that Aicha Konneh was involved in plans to assassinate the Guinean President Alpha Conde. Due to the historical links between conflict and access to valuable natural resources, the Civil Society Independent Forest Monitors are concerned that Aicha Konneh's forestry concessions in Grand Gedeh may represent a threat to peace and security, both in Liberia and in Guinea. The FDA is urged to suspend all commercial activities in the two CFMAs whilst an immediate investigation is conducted, and take appropriate action where necessary.

### **9. The Liberian Hardwoods representative at the ESIA stakeholder review meeting was recently dismissed from the FDA during the PUP crisis.**

Liberia Hardwood Company's senior representative at the ESIA stakeholder review meeting was recently dismissed from his position as Commercial Manager at the FDA during the PUP crisis after an SIIB recommendation to do so, due to his role in 'orchestrating the falsification of government records and receiving illegal payments from PUP operators'.<sup>25</sup> The SIIB report also recommended that the Ministry of Justice and the Liberia Anti-Corruption Commission should further investigate the person in question<sup>26</sup> although up until now no action has been taken by either agency. Unfortunately there is a lack of clarity in Regulation 103-07, which has no provision that restricts those who have been dismissed from the FDA for alleged corruption from taking position within commercial logging entities. It would be helpful to clarify Regulation 103-07 in this respect, in light of the dismissals that took place during the recent PUP crisis and the negative impact that the employment of individuals that do not possess integrity of character or respect for the law could potentially have for the logging sector.

### **Conclusion**

Since the visit to the Blouquia and Neezonnie CFMAs was made by the CS-IFM there have been some significant developments. The CS-IFM have been informed that the EPA has now granted the Environmental Permit whilst the FDA have also issued a Harvesting Permit allowing logging activities to commence.<sup>27</sup> There are also reports from the two communities that logging has now started although so far no exports have yet taken place.<sup>28</sup> These alleged developments are of particular concern in light of the substantive evidence presented on the flaws in the allocation process for the Blouquia and Neezonnie CFMAs. The Civil Society-Independent Forest Monitors therefore urge the FDA to immediately suspend ALL commercial activities in the Blouquia and Neezonnie Community Forests until further evidence is gathered on the compliance of the allocation process with the Liberian Forestry laws, including the NFRL (2006) and the CRL (2009).

### **footnotes**

- 19 Copy of meeting minutes available: ESIA Hearing, Jawodee community, 30th November 2013.
- 20 Communication from A&M Enterprises Inc to the FDA, dated July 23, 2012.
- 21 Liberian Hardwoods Business Registration, dated 22nd July 2011.
- 22 Ibid.
- 23 FDA Ten Core Regulation 103-07; page 30
- 24 UN Panel of Experts Report, November 2013. S/2013/683. Paras 142-149. UN Security Council.
- 25 Special Independent Investigating Body Report on the Issuance of Private Use Permits (2012) pX
- 26 Ibid.
- 27 Personal Communication with senior EPA staff member, February 2014.
- 28 Personal Communication with Blouquia and Neezonnie community members, February 2014.

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'Can they not take a bit of extra time before issuing the Environmental Permit to make sure that all the correct documents are in place?'

**District Youth member.**

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## Conclusions

## Recommendations

**The FDA approved the Blouquia and Neezonnie CFMAs in August 2011, whilst the two CFMBs were not legally established until almost two years later in May 2013. The CFMA was not signed by a legitimately appointed CFMB contravening the CRL.**

The Community Forestry division of the FDA must immediately investigate whether CRL Regulation Chapter 7, Section 5 were followed during the allocation processes of the Blouquia and Neezonnie CFMAs.

**The FDA Board approved the CRL Regulations on 26 August 2011, but the two CFMAs were signed on 15th and 16th August 2011, two weeks before the Regulations were approved.**

The Community Forestry Division should immediately investigate the circumstances that lead to the CFMAs being approved before Regulations governing the CFMAs had been developed.

**The MOU was signed more than two and half years before the Forest Management Plan was approved, contravening CRL Section 6.4.**

The Community Forestry Division of the FDA must investigate immediately whether or not the Community developed the Forest Management Plan in accordance with the CRL and its Regulations.

**The MOU was signed before the FDA approved the Community Forest Management Agreements, and before the CFMB had been legally established. The CFMB did not therefore represent the community during negotiations with the logging company, violating CRL Regulation Chapter 4, Section 7.**

The Community Forestry Division of the FDA should investigate these findings to establish whether the CFMB was legally formed in full compliance with CRL Regulation Chapter 4, Section 7 before the MOU was signed with A&M Enterprises Inc.

**The MOU was signed with A&M Enterprise Inc. who holds no business registration in Liberia.**

The FDA should immediately suspend A&M Enterprises Inc. and Liberian Hardwoods commercial operations in the two CFMAs until investigations into whether or not A&M is legally entitled to hold a commercial forestry agreement in Liberia have been completed.

**The MOU expired on 31 May 2013, yet pre-felling activities are currently continuing in the absence of a contract.**

The FDA should immediately suspend all commercial activities in Blouquia and Neezonnie until it clearly establishes whether or not any company holds a legal contract that allows them to carry out commercial activities in the Blouquia and Neezonnie Community Forests.

**The relationship between the two contractors A&M Enterprises Inc. and Liberian Hardwoods has not been made clear to the two Communities.**

A&M Enterprises Inc. and Liberian Hardwoods must hold an immediate meeting with the two Communities to clarify their roles and activities.

**Alleged links between A&M Enterprise Inc. and LURD are in contravention of NFRL Regulation 103-107.**

The FDA must further investigate the findings of the UN Panel of Experts to determine if A&M Enterprises Inc. can legitimately hold any logging license in Liberia.

**The Liberian Hardwoods representative at the ESIA stakeholder review meeting was recently dismissed from the FDA during the PUP crisis.**

The FDA should ensure immediate investigation and if necessary prosecution of these dismissed individuals as recommended in the SIIB report.



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