

Private Use Permits (PUPs) and the Voluntary Partnership Agreement (VPA): *Do They Demonstrate Legally Recognised Rights?*

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Summary of Presentation

- What are the PUPs?
- What is wrong with them
- PUPs convert primary forests to agric plantations
- PUPs are a threat to the credibility of VPA
- PUPs will undermine EU timber regulation



Legal basis

The National Forestry Reform Law (2006) and the Community Rights Law (2009) provide for five categories of permits for timber extraction:

- Four Have Regulations:
 - Forest Management Contracts (NFRL 5.3)
 - Timber Sales Contracts (NFRL 5.4)
 - Forest Use Permits (NFRL 5.5)
 - Community Forest Contract (CRL 3.1)
- One Does Not:
 - Private Use Permits (NFRL 5.6)



Legal Basis

- In law, PUPs are not agreements between the Government and a company, although they must be Government approved. They are agreements between a land owner and a company.
- For a PUP to be approved by the Government, holder must have a forest management plan, conduct an ESIA and have an agreement with affected communities.
- But no detailed regulations beyond these broad requirements:
 - No limits on contract duration.
 - No limits on contract size.
 - No details on how communities should be consulted.
 - Reportedly, no cutting restrictions beyond 45 dbh.

Existing PUPs?

- Some information publicly available, but information sources conflict:
- Chain of Custody contractor (SGS) May Operations Update : 28
- FDA Board of Directors' February Report: 55
- Land Commission April Report: 62





Initial Findings/Issues

- PUPs cover an immense area:
 - 2.3 million Ha (20 percent of all Liberia).
 - Estimated 30 percent of Liberia's forests.
- PUPs issued very quickly:
 - 44 in 2011
 - 1,457,232 Ha in four months surrounding Presidential campaign.



Initial Findings/Issues

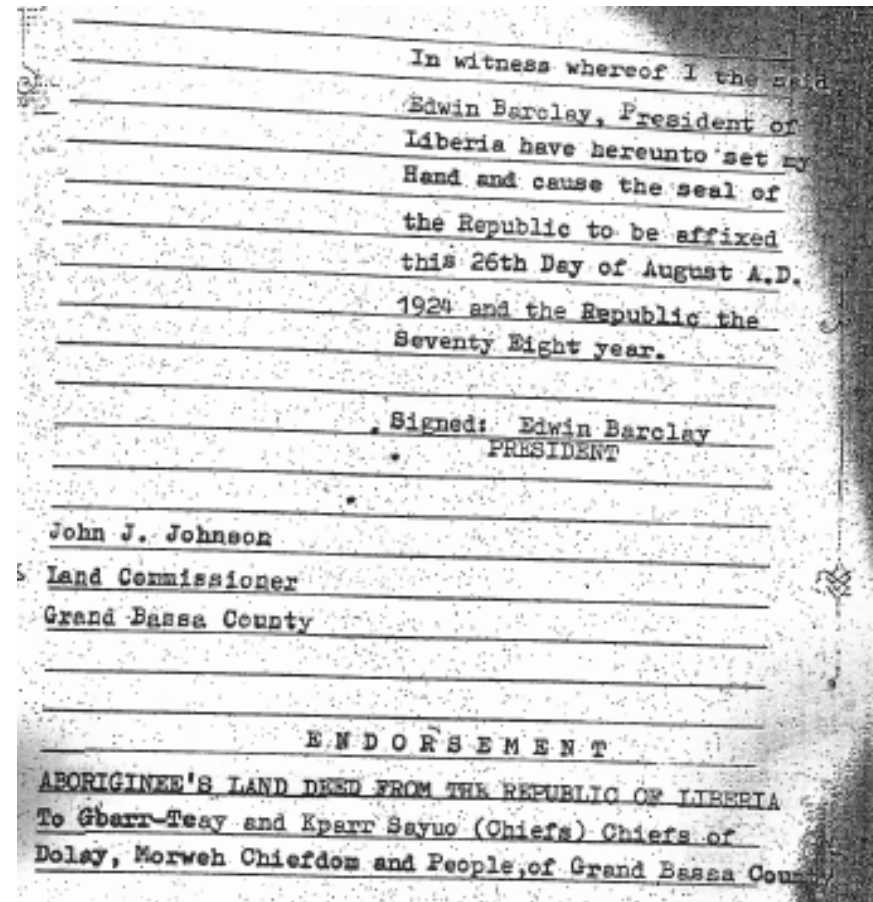
Legitimacy of some PUPs Questionable. April Land Commission Report findings:

- Five-year land management plan virtually non-existent for all contracts.
- A significant number of contracts are based upon doubtful, or invalid, private ownership rights.
- Some logging areas much larger than deeds that justify them.

Initial Findings/Issues

At least one deed is fraudulent:

Doedian PUP based upon
Aborigine Deed “signed” in 1924
by Liberian President Edwin
Barclay. Barclay was not president
until 1930.





Initial Findings/Issues

- FDA attested to a Social Agreement between the People of Dugbeh River District and Atlantic Resources while simultaneously conducting an investigation of the PUP. FDA Investigation found that:
 - Atlantic had not signed a Social Agreement.
 - Atlantic was not consulting with the communities.
 - Atlantic was not entering logs cut into the Chain of Custody.
- community raised concerns for the same PUP concession

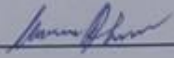
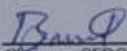
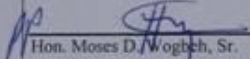
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SOCIAL AGREEMENT
 Between
 ATLANTIC RESOURCES LIMITED,
 And The People
 OF ~~GRAND KRU~~ ^{SINCE} GRAND KRU COUNTY
 LIBERIA



Forestry Development Authority

In witness whereof, the parties hereto have executed this agreement as of the last date written below.


 ATLANTIC RESOURCES LIMITED. (ARL), Augustus Abram Forest Manager	Date: January 21, 2012
 Chairman CFDC /Dugbeh River District, SINCE Grand-Kru County-LIBERIA	Date: January 21, 2012
 Hon. Moses D. Wogbeh, Sr. Managing Director Forest Development Authority	Date: January 21 st 2012

Dependant Community as defined in the regulation is as follows: a community comprising less than a statutory district (including chiefdoms, clans, townships, towns, villages, and all human settlements) whose interests are likely to be dependant by Operations carried out under a Forest Resource License. "Interests" for purposes of this definition may be an economic, environmental, health, livelihood, aesthetic, cultural, spiritual, or religious nature

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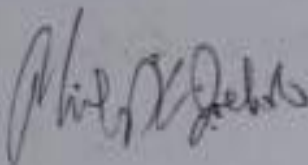
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REPUBLIC OF LIBERIA
FORESTRY DEVELOPMENT AUTHORITY
DISTRICT B – REGION #4
GREENVILLE, SINOE COUNTY

To: The Management
Atlantic Resources Limited
Greenville, Sinoe County

From: The Regional Technical Team
Region #4



Subject: Findings in the complaint filed against Atlantic Resources Limited.

Date: January 26, 2012

Re: Investigation conducted in the complaint filed against the Atlantic Resources Limited by the affected communities of the Dugbe Community Forest (Formerly University of Liberia Forest) regarding illegal exploitation of their community forest and failure to observe the forty (40) chain (800m) boundary allocated for road side felling by the Forestry Development Authority and SGS-Liberfor.

Base on the above mentioned complaint, a Regional Technical Team headed by the Regional Forester of Region #4, Mr. Philip K. Jokolo decided to conduct an intensive on the spot investigation into the allegation supra to authenticate said allegation.

Result from the two days (January 24, 25, 2012) intensive investigation and patrol gathered the followings:

1. That the MOU signed between the Dugbe Communities and Atlantic Resources Limited met the approval of the affected communities;
2. That there no Social Agreement signed and witnessed by the FDA between Dugbe Communities and Atlantic Resources Limited;
3. That there is no Legal Formation of the Community Forestry Development Committee (CFDC) as stipulated in the New Forestry Reform Laws;
4. That besides the absence of the above, Atlantic Resources Limited is building new road and cutting blocks in the Dugbe Community Forest without the prior knowledge of the affected communities and the FDA. Moreover, it was also observed that the chain of custody system and the code of Harvesting Practices weren't observed.

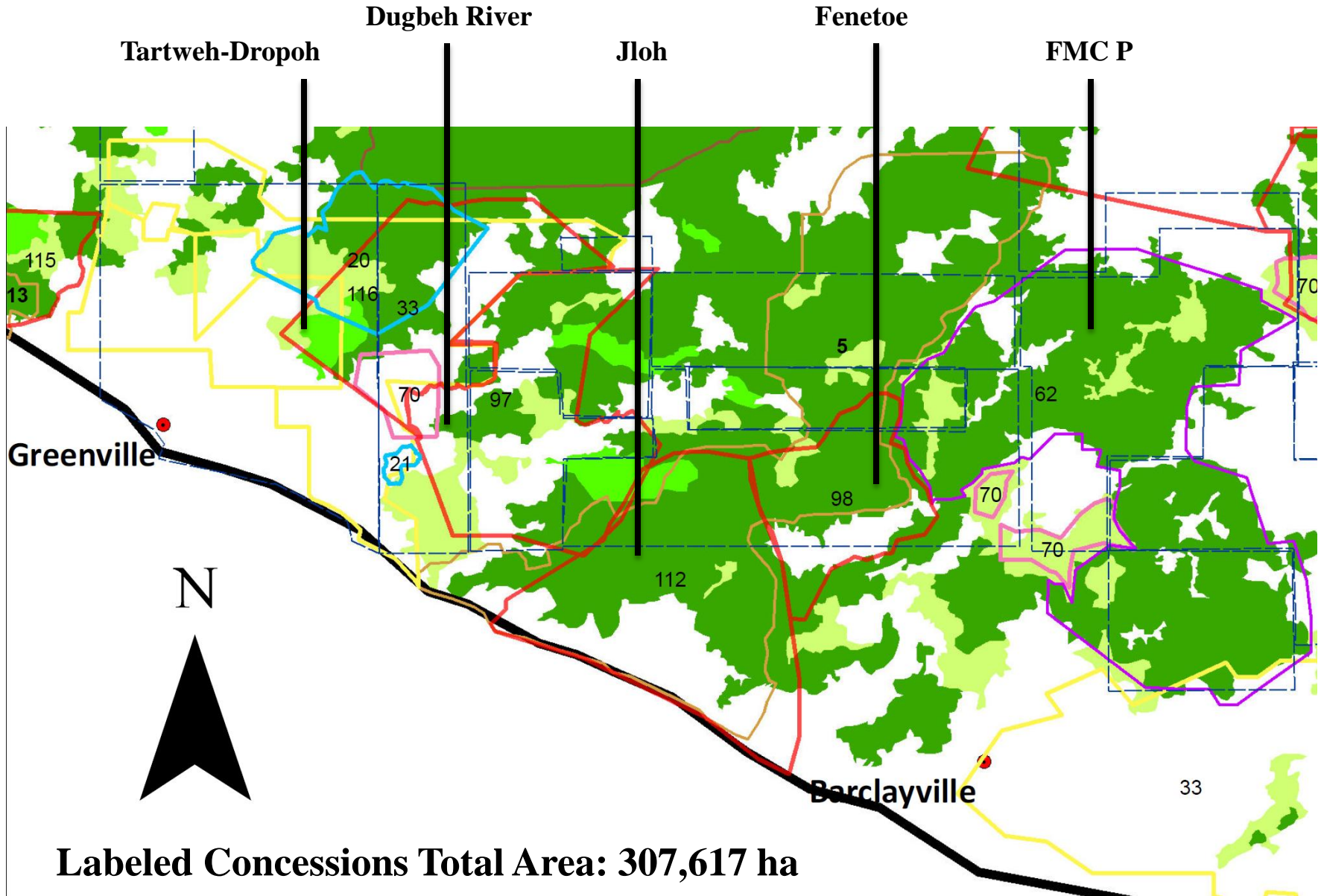


Initial Findings/Issues

Atlantic Resources, a company linked to Malaysian logging giant Samling, has been instrumental to the explosion of PUPs:

- Company has between 20 and 29 PUPs.
- Of those Atlantic PUPs that are known about, cover 856,454-908,480 Ha.
- Company is currently apparently targeting forests between Greenville port, Sinoe County and an FMC it holds in Grand Kru County. It is building a road and tens of thousands of m³ of timber is waiting in the port to be exported.

Known Atlantic Logging Permits between Greenville and FMC P



Section of Atlantic's Greenville Port log yard, June 2012





Civil Society Concerns – Government’s Commitment

- February 2012 FDA Board recalled all inactive PUPs, stating that only 4 licenses active at that time could operated. Nine additional PUPs now active.
- March 2012 PUP moratorium outlined in VPA Aide Memoire.
- February 2012 FDA Board Called for a PUP compliance audit:
Not yet completed
- No PUP regulations.

Implications of PUPs to the VPA with EU

- PUPs have the ability to defeat the objective of the VPA:
 - PUPs are clearance logging licenses, potentially allowing for conversion of primary forest.
 - Some PUPs appear to be based upon questionable titles or have been awarded through questionable procedures
- Current VPA standards for verifying legality of PUP timber are weak, requiring only:
 - Valid deed of private land owner (Indicator 2.5.1)
 - Written permission of private land owner (Indicator 2.5.2)
 - No requirement that environmental standards be developed.
- PUPs will dilute EU timber regulation which comes into effect

March

2013



Some Suggestions for Moving Forward

- FDA's Board mandated compliance audit must be fast tracked and the report must be published.
- FDA must fully comply with current moratorium on the issuance of new PUPs.
- FDA must recall all but the four PUPs operating at the time of the FDA Board's operational moratorium of February 2012.
- The four PUPs active in February 2012 should cease operations until findings of GAC compliance audit is implemented and regulations developed.



Some Suggestions for Moving Forward

- **SGS must stop enrolling timbers from the PUPs into the Chain of Custody system in compliance with the FDA Board's February 2012 moratorium.**
- **The Liberian Government must hold accountable those within the FDA and companies responsible for breaching the FDA Board's moratorium and allowing new PUPs to start logging.**
- **The Liberian Government must initiate a consultative process through which regulations governing PUP operations are developed.**

Without addressing these issues the VPA will serve as an opportunity for laundering timber from Liberia's PUPs.

THANK YOU FOR YOUR ATTENTION

