

*Sumatran tiger cub in the
Bukit Tiga Puluh Landscape*
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APP in strange legal maneuvers

in the Bukit Tiga Puluh
Landscape



5 March 2014

What exactly is APP up to in the Bukit Tiga Puluh Landscape?

Asia Pulp and Paper (APP), through its subsidiary PT Rimba Hutani Mas (RHM), wrote to the Minister of Forestry on 25 July 2013 – the sixth month of the implementation of APP's Forest Conservation Policy – to ask the Ministry to make changes to its previous application for an extension of RHM's work area under its pulpwood plantation concession. The area in question would be converted into an ecosystem restoration area extending to some 41,970 hectares.

In its letter, RHM said that based on a survey of field conditions, the area in question was covered by forest that was attached to the Bukit Tiga Puluh National Park. Thus, the letter stated, the forest – in the opinion of RHM – should be subject to an ecosystem restoration license, rather than a pulpwood plantation concession.

On 22 August 2013 – in the seventh month of the implementation of APP's Forest Conservation Policy – RHM again wrote to the Minister of Forestry. Surprisingly, in its letter RHM stated that out of the original area of 41,970 hectares, only 9,380 hectares, or 22.3%, constituted surviving natural forest.

The said forest was scattered between a number of groups that were far-removed from each other so that overall it would be very difficult for it to be managed and developed as an ecosystem restoration area. RHM further stated in the letter that if the area in question were to be managed based on an ecosystem restoration license, there was little hope that this would produce optimal social, economic or environmental benefits in the future.

Also in the letter, RHM asserted that in respect of the said remaining natural forest area, RHM would perform a delineation operation so as to ensure it is managed and maintained as natural forest. Meanwhile, for those areas where the land cover no longer consisted of natural forest, RHM stated in the letter that it would be more appropriate for them to be rehabilitated using a land-clearing system for development as pulpwood plantations.

On that basis, the RHM letter requested that the Minister of Forestry to process RHM's application that the area of 41,970 hectares be designated for pulpwood plantation development rather than for ecosystem restoration purposes.

From these two letters, which were sent just one month later, it will be clear that RHM is inconsistent in its explanations to the Minister of Forestry regarding the land cover in the area of 41,970 hectares.

In its letter in late July 2013, RHM stated that the area was still forested and that it would be more appropriate for it to be subject to an ecosystem restoration license. By contrast, in its letter of August 2013, RHM stated that only 22.3% of the area was still under natural forest cover, and that even this forest cover was divided up in widely dispersed groups. In other words, the land cover in the area depended greatly on the interests of APP/Sinarmas Forestry. It should be noted that both letters were sent at the same time as APP was implementing its Forest Conservation Policy.

Of course, we should not be surprised by APP's maneuvers through its subsidiary. On 19 February 2014, one year after the commencement of APP's Forest Conservation Policy, RHM once again wrote to the Minister of Forestry. In this letter, the company again sought to have the area of 41,970 hectares changed from the subject of a pulpwood plantation concession on behalf of RHM into an ecosystem restoration license in the name of RHM. In the said letter, RHM based its application on one of the provisions in a Minister of Forestry Regulation on licensing, and the use of the phrase "... having regard to the guidance of the Minister".

25 July 2013
The sixth month of the implementation of APP's FCP

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22 August 2013
The seventh month of the implementation of APP's FCP

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19 February 2014
One year of the implementation of APP's FCP

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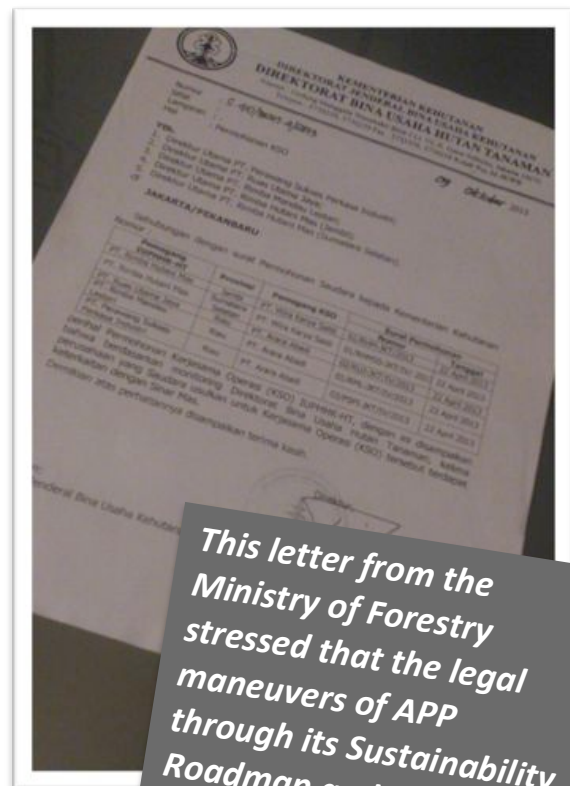
These three letters sent by RHM obviously give rise very important questions: which precisely does APP want to do with the Bukit Tiga Puluh Landscape? What are the real purposes behind this legal maneuver by APP which clearly places a big question mark over the application of APP's Forest Conservation Policy? Why would they do this?

Why is the legal status of APP suppliers one of the key issues surrounding APP's Forest Conservation Policy?

In early June 2012, when APP/Sinarmas Forestry announced its Sustainability Roadmap, RHM was mentioned as one of its independent suppliers, implying that APP/Sinarmas Forestry had no control over RHM.

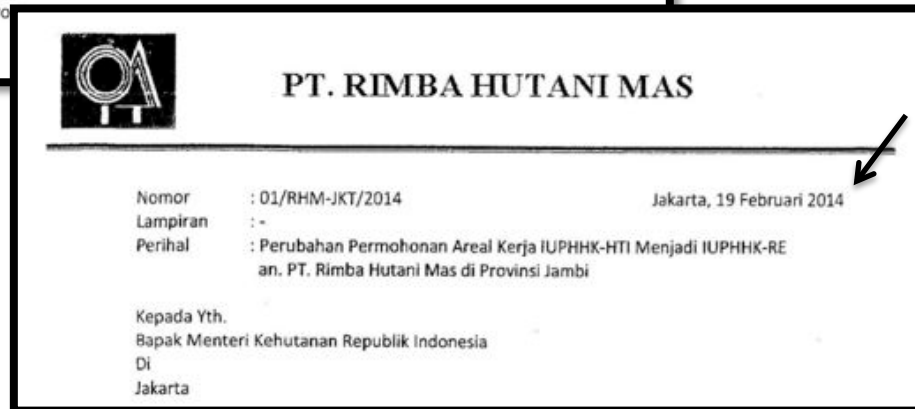
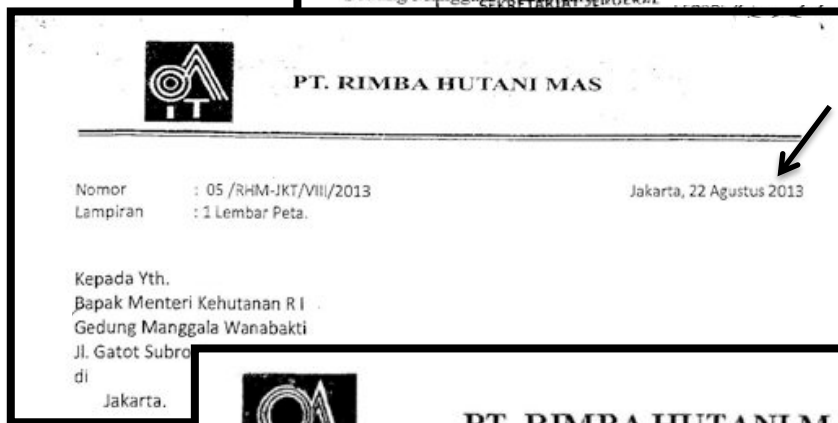
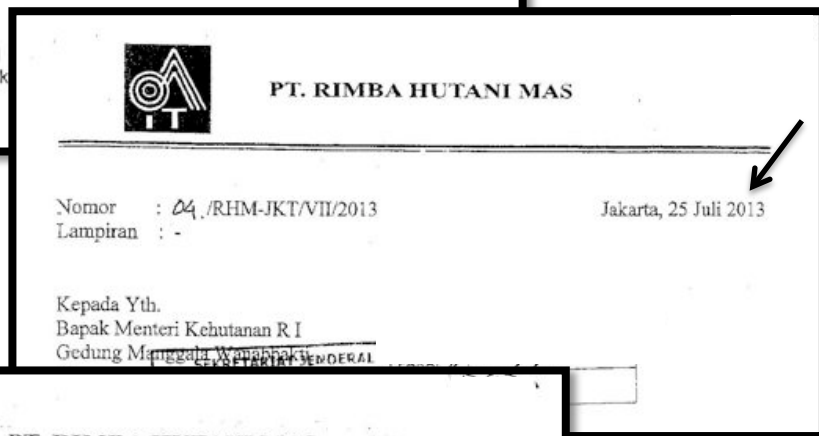
However it turns out the entire process of obtaining license for pulpwood plantations by RHM in the Bukit Tiga Puluh Landscape is orchestrated by APP/Sinarmas Forestry. In fact, in RHM's cover letter of 9 January 2008, which contained the application for the license, it is stated that RHM's head office is located in the same building as APP headquarters.

Not surprisingly, on 22 April 2013, RHM submitted an application to the Minister of Forestry as a KSO/joint operations in order to have RHM recognized as an independent supplier of APP/Sinarmas Forestry. However, the Ministry of Forestry rejected the application on 9 October 2013, on the grounds that, among other things, RHM was associated with Sinarmas.



This letter from the Ministry of Forestry stressed that the legal maneuvers of APP through its Sustainability Roadmap and Forest Conservation Policy were shameful and clearly not to be in accordance with the legal facts.

Since the RHM letter to the Minister of Forestry on 22 April 2013, differences have appeared in the RHM cover letters. In the RHM letter of 9 January 2008, the correspondence address of the company is given as that of APP head office. However, the RHM letters of 25 July 2013, 22 August 2013 and 19 February 2014 do not given any address at all, as shown by the scans of the three letters given below.



During an event to mark the first anniversary of APP's Forest Conservation Policy that was held in Jakarta on 5 February 2014, **APP stated in public that the issue of ownership of APP's suppliers would be one of the issues evaluated by the Rainforest Alliance – within the framework of the Rainforest Alliance's evaluation of the implementation of APP's Forest Conservation Policy.**

However, APP has also claimed that it is not entitled to dictate the scope of the evaluation to be conducted by the Rainforest Alliance. This statement by APP came in response to the allegations contained in the Greenomics Indonesia report titled **"Indonesian Forestry Ministry Rejects Applications from APP "Independent Suppliers": APP's Sustainability Roadmap & Forest Conservation Policy under serious question from legal perspective"** (published to mark one year of implementation of APP's Forest Conservation Policy).

During the event, WWF Indonesia related the uncertainty about the legal status of APP's "independent suppliers" – as raised by the Greenomics Indonesia report – to the issue of questionable transparency in APP's Forest Conservation Policy. Greenomics Indonesia would also like to express its appreciation for WWF Indonesia's comments during the event.

Thus, it is very apparent that the independent audit to be performed by the Rainforest Alliance will be decisive. In conducting this audit, the Rainforest Alliance must not overlook the ownership of APP's suppliers. If this question is ignored, then the findings of these audits will have clearly failed to address one of the key issues in APP's Forest Conservation Policy, and the Rainforest Alliance will be adjudged to have closed its eyes to the legal status of APP's "independent suppliers".

In this respect, we would like to thank Rhett Buttler, founder and chief editor of Mongabay.com, who acted as moderator at the event and raised the ownership issues that were addressed in the Greenomics Indonesia report.

It is incumbent on the Rainforest Alliance to include an evaluation of the legal status of APP's "independent suppliers" in the terms of reference of its independent audit.

Unilateral withdrawal

Other facts that show that RHM is a subsidiary of APP/Sinarmas Forestry are based on an official Ministry of Forestry investigation, which found that RHM had been involved in the clearing and supplying of ramin wood (a protected species) to APP mills.

APP has also been shown to have provided false information to the public via its official announcements to the effect that RHM is one of its independent suppliers. Legally speaking, RHM still needs to clarify its status following the rejection of its application as an APP "independent supplier" by the Ministry of Forestry in the ninth month of the implementation of APP's Forest Conservation Policy.

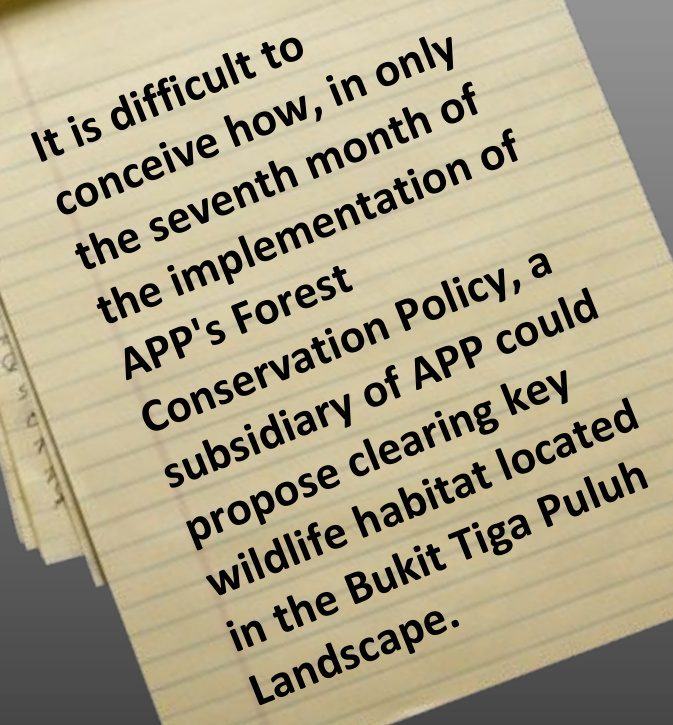
RHM has also repeatedly changed the information it provided to the Minister of Forestry through its two letters related to the Bukit Tiga Puluh Landscape. In late July 2013, an area of 41,970 hectares, which was originally proposed for the development of pulpwood plantations, was stated by RHM as area to still be under forest cover, so that it would be more appropriate for it to be managed under an ecosystem restoration license. Then in late August 2013, RHM stated that it would be better for the area to be rehabilitated using a land-clearing system for pulpwood plantation development, and that only a small portion of the area was still forested and suitable for preservation as natural forest.

What needs to be particularly stressed here is that RHM stated in its letter to the Minister of Forestry on 22 August 2013, that the overall area of 41,970 hectares would be very difficult to manage based on an ecosystem restoration license, and that consequently RHM wanted to withdraw its application for such a license in the area.

Surely APP was not using the RHM application as a negotiating tool, or to hold any party to ransom, say for example if APP were to withdraw its application if "certain parties" provided support for its Forest Conservation Policy. Especially if such negotiations would help benefit APP's business in the international market.

The area of 41,970 hectares in question constitutes state forest, and the state recognizes and acknowledges the rights of indigenous peoples residing in the area. There is clearly no legal basis available for anyone to make a licensing application for the area a negotiating tool in the interests of any party, especially a corporation. Should it at any time it becomes clear that negotiations took place over the area (which negotiations should be easily traceable from the reactions that arise after their conclusion, and should also be easily uncoverable from the legal perspective), this would constitute a major scandal that would clearly have legal implications for all involved in such negotiations.

In closing, we would like to stress once again that if the APP subsidiary withdrew its application for an ecosystem restoration license in the Bukit Tiga Puluh Landscape, then that decision was taken by the APP subsidiary in accordance with its letter dated 22 August 2013, which stated that the overall area of 41,970 hectares would be very difficult to manage based on an ecosystem restoration license.



It is difficult to
conceive how, in only
the seventh month of
the implementation of
APP's Forest
Conservation Policy, a
subsidiary of APP could
propose clearing key
wildlife habitat located
in the Bukit Tiga Puluh
Landscape.

For further information please contact:

Elfian Effendi

Executive Director – Greenomics Indonesia

elfian@greenomics.org