

In the National Court
of Justice at Waigani
Papua New Guinea

WS No. *14* of 2014 (*CCY*)

BETWEEN
PASTOR STEVEN BAGARI & FOUR (6) OTHERS WHOSE
NAMES APPEAR IN THE SCHEDULE 'A' TO THIS WRIT.

First Plaintiffs

AND

GEDI DABU – PRESIDENT OF KIWAI LOCAL LEVEL
GOVERNMENT

Second Plaintiff

AND

BENZES KUDI ALUSI – PRESIDENT OF ORIOMU
BITURI LOCAL LEVEL GOVERNMENT

Third Plaintiff

AND

HON. JAMES MARAPE – MINISTER FOR FINANCE

First Defendant

AND

SADRACH HIMATA – SECRETARY for MINIMNG

Second Defendant

AND

INDEPENDENT STATE OF PAPUA NEW GUINEA

Third Defendant

AND

OK TEDI MINING LIMITED

Fourth Defendant

AND

PNG SUSTAINABLE DEVELOPMENT PROGRAM LTD

Fifth Defendant

AND

OK TEDI DEVELOPMENT FOUNDATION LIMITED

Sixth Defendant

AND

BANK SOUTH PACIFIC LIMITED

Seventh Defendant

AND

AUSTRALIA & NEW ZEALAND BANKING GROUP (PNG)
LIMITED

Eight Defendant



COURT ORDER

Ordered: *24* January 2014

Entered: *25* January 2014

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Date:	<i>25/1/14</i>
Document No:	<i>24</i>
Circuit Court:	<i>Waigani</i>
Officer:	<i>MDA NC</i>

In the National Court
of Justice at Waigani
Papua New Guinea

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WS No. of 2014

BETWEEN
PASTOR STEVEN BAGARI & SIX (6)
OTHERS WHOSE NAMES APPEAR IN
THE SCHEDULE 'A' TO THIS WRIT.

First Plaintiffs

AND
GEDI DABU – PRESIDENT OF KIWAI
LOCAL LEVEL GOVERNMENT

Second Plaintiff

AND
BENZES KUDI ALUSI – PRESIDENT OF
ORIOMU BITURI LOCAL LEVEL
GOVERNMENT

Third Plaintiff

AND
HON. JAMES MARAPE – MINISTER FOR
FINANCE

First Defendant

AND
SADRACH HIMATA – SECRETARY MINING

Second Defendant

AND
INDEPENDENT STATE OF PAPUA NEW
GUINEA

Third Defendant

AND
OK TEDI MINING LIMITED

Fourth Defendant

AND
PNG SUSTAINABLE DEVELOPMENT
PROGRAM LIMITED

Fifth Defendant

AND
OK TEDI DEVELOPMENT
FOUNDATION LIMITED

Sixth Defendant

AND
BANK SOUTH PACIFIC LIMITED

Seventh Defendant

AND
AUSTRALIA & NEW ZEALAND
BANKING GROUP (PNG) LIMITED

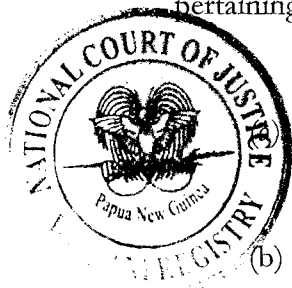
Eight Defendant



COURT ORDER

THE COURT ORDERS THAT:-

1. Pursuant to Order 1, Rule 7 of the *National Court Rules*, the requirements for service are dispensed with and leave is granted to have this application heard and determined ex parte.
2. The Fourth Defendant, Ok Tedi Mining Limited (**OTML**) and its agents and employees are restrained from dumping anymore mine waste and tailings into the Ok Mani, Ok Tedi and Fly River and all its tributaries collectively the "*Ok Tedi Fly River Systems*" pending the substantive hearing or until further Orders of this Court and after inter parties hearing.
3. Pending further Orders of the Court and after inter parte hearing OTML and the State disclose to the plaintiffs and the Court records of all dividends it declared and paid to shareholders between 2001 to 2013 inclusive and that the State provide details and records of how it spent the dividends it received from OTML from 2001 to 2013 inclusive.
4. Pending the substantive hearing or further orders of the Court, OTML and the State be ordered to provide copies of all financial records, transactions, Bank Statements, contracts and other relevant documents pertaining to commitments made or pertaining to the use of all funds or profits or dividends declared or noted by the OTML Board in its meeting on 26th February 2013, for the financial year 2012.
5. Pending the substantive hearing or further orders of the Court, OTML, the State, PNG Sustainable Development Program (PNGSDP) and Ok Tedi Development Foundation (OTDF) be ordered to disclose and provide copies of all financial records, transactions, Bank Statements, records of contracts, list of service providers, assets, and properties pertaining to, or purchased from the use of **all funds:-**



derived from the 2001 CMCA Agreements, and 2007 CMCA Review Agreement,

(b) paid into, and out of the following Accounts/Funds:

No.	Description of Account/Fund
1	Suki Fly Gogo BSP A/C # 1000752596
2	Suki Fly Gogo BSP A/C # 1000752596
3	Manawate Investment Fund BSP A/C # 1000752594
4	Manawate Development Fund BSP A/C # 1000752595
5	Kiwaba Development Trust BSP A/C # 1000752598
6	Kiwaba Investment Trust BSP A/C # 1000752599
7	Dudi Development Trust BSP A/C # 1000752600
8	WPPDTA 10% BSP account no 1001093970
9	WPPDTA-NON CMCA 5% BSP account no BSP A/C # 1001310415
10	WPPDTA-CMCA 5% Trust Account No.12767457 with the ANZ BANK
11	HEDURU TRUST LIMITED BANK ACCOUNTS
12	PNGSDP BANK ACCOUNTS



6. Pending the substantive hearing or further orders of the Court, **'all funds/monies'** held in the following Bank Accounts be paid by the Seventh and Eight Defendants into the National Court Registrar's Trust Account forthwith:-

- (a) The Western Province Community Mine Continuation Agreement (CMCA) Region Peoples Dividend Trust Account No. **12767475** with the Australia and New Zealand Banking Group (PNG) Limited (ANZ Bank).
- (b) The Western Province Non Community Mine Continuation Agreement (WPPDTA-NON CMCA) Region Peoples Dividend Trust Account No. **1001310415** with the Bank of South Pacific Limited.

7. Pending the substantive hearing of the matter , the plaintiffs shall engage:-

- (a) a reputable environmental scientist or firm to conduct extensive research into the extent of environmental pollution in the Fly River within the South Fly area of the Western Province and its Social, health and economic impact on the lives of people living within the South Fly Area and a preliminary report of such research be provided to this Court within three Months from the date of the orders herein
- (b) a reputable Health specialists and/or firm of Health specialists to conduct extensive health patrols and research into the extent of the environmental impacts on the health and nutrition of the South Fly people and other CMCA region people and a preliminary report of such research be provided to this Court within three Months from the date of the orders;and in addition that
- (c) In the South Fly Area the extensive research be done in the Bensbach River area, the Wassi Kussa and Mai Kassa River area, the Pahoturi River Area, the Banaturi River Area, the Oriomo River Area, the Bituri River Area, the Suki River Area, the Dudi Area of the mouth of the Fly River, and Torres Strait from East to West.
- (d) Extensive Health patrols and research into the same areas above



8. All accounts listed on page four (4) of the Notice of Motion namely Suki Fly Gogo BSP acc # 1000752596, Suki Fly Gogo BSP acc # 1000752596, Manawete Investment Fund BSP acc 1000752595, , Manawete Investment Fund BSP acc 1000752596, Kiwaba Development Trust BSP acc # 1000752598, Kiwaba Development trust BSP acc # 1000752599, Dudi Development Trust account no 1000752600 are frozen pending further Orders of the Court.
9. Pending the substantive hearing or further orders of the Court, an Order that the sum of K45 million promised as a one off payment from the 2006 dividend payment held in the Western Province Peoples Trust Funds, to the South Fly Region, for Projects be paid to the National Court Trust account or such other nominated person or entity of their choice, by the Registrar of the National Court, immediately after receipt of the funds referred to in paragraph 7(a) and (b) of the Notice of Motion ,(Order (6)) above and to pay the costs of the scientific and health studies referred to under paragraph 8 (a) and (b) of the Notice of Motion (Order 7) , and to cover reasonable legal costs.
10. Pending further Orders of the Court and pending the substantive hearing , all outstanding and/or future compensation dividend funds payable by Ok Tedi Mining Limited and/or the State to the Western Province Community Mine Continuation Agreement (CMCA) Region Peoples Dividend Trust Account No. 12767475 with ANZ Bank be paid into the National Court Registrars Trust Account.

11. Pending further Orders of the Court and pending the substantive hearing , all outstanding and/or future compensation dividend funds payable by Ok Tedi Mining Limited and/or the State to the Western Province Non Community Mine Continuation Agreement (WPPDTA-NON CMCA) Region Peoples Dividend Trust Account No. 1001310415 with the Bank of South Pacific Limited forthwith be paid into the National Court Registrars Trust Account.
12. The Cost of this Application be costs in the cause
13. Time be abridged to the time of settlement of these Orders
14. The Orders are returnable on the 12th February 2014 .



BY THE COURT

REGISTRAR