

04 Financial flows from logging to communities & the central government

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Introduction

This briefing paper provides an analysis of the revenue flow from the logging industry into the national coffers and logging affected communities. Publicly available national revenue collection data and payments to communities are used as the basis for the analysis to ensure a fairly accurate assessment of the financial flows. The objective is to provide reliable information about financial flows from logging to communities and the central government in an accessible format to the general public.

In developing this brief, the Sustainable Development Institute (SDI) relied on an independent consultant to gather and analyze the data and write up the brief. This initiative had two objectives: to test the National Forestry Reform Law of 2006 provisions on transparency and public access to information and; to generate data that could be used to inform public policy debates about the economic benefits of the logging sector.

The SDI acknowledges that the formal revenue flow reported by government does not provide a complete picture of the contribution the logging industry makes to the national economy. However, SDI argues that the revenue reported through the national accounts can arguably be considered the lion's share of the pile – to argue that this is not the case on the other hand would raise questions about economic justification for the very existence of the logging industry.

As have been noted, this brief is only concerned with publicly reported revenue collected by the government and communities from logging companies. It does not consider the spinoff industries such as local furniture producers and their contribution to the national economy. The challenges with collecting such information would be daunting and it is difficult to see the benefits of including them in this analysis. It also disregards logging roads constructed by logging companies because the majority of the roads are for their own benefits and are not altruistic undertakings or good will investments for the benefit of communities.

Based on official data we estimate that approximately US\$100 million worth of round logs have been produced and more than 90 per cent of the timber produced has been exported. Therefore, SDI believes now is the appropriate time to ask – so, how much of the value of the timber produced has gone to the government in the form of taxes and fees? How much has gone to communities in the form of Land Rental Fees? Is the government in compliance with the NFRL 2006 with respect to logging revenue redistribution?

This brief is an attempt to answer these critical questions.

Background

Liberia has come some way since it initiated wide-ranging reforms in the forestry sector in 2005. From institutionalizing public participation in forest governance to legislating transparency requirements and establishing a progressive revenue sharing arrangement with logging affected communities. When the National Forestry Reform Law (NFRL) of 2006 was enacted, followed by ten core regulations to implement the law, NGOs and communities had something to celebrate; the dawn of a new day and a new environment in the forestry sector.

According to the NFRL of 2006 the Land Rental Fees, the main revenue stream from the logging sector, would be distributed 30-30-40: i.e. 30 per cent to communities where log would be extracted; 30 per cent to the provinces or counties where the community is located; and 40 per cent to central government.¹ The government would collect the Land Rental Fees, deliver the counties' shares in coordination with the Central Bank and the Ministry of Finance,² and then deliver the communities share via a National Benefit Sharing Trust Board.³ Based on round logs harvested, the law also provide for logging companies to pay royalties directly to the affected communities through Community Forestry Development Committees (CFDCs) elected by the beneficiary communities. The rates established for the royalties in the first batch of Social Agreements were \$1 per cubic meter for Timber Sale Contracts (TSCs) and \$1.50 per cubic meter for timber harvested under Forest Management Contracts (FMCs).

These changes in the law marked a steep departure from the old-days when logging trucks only hauled out high-value timber species leaving behind pollution and human suffering. Particularly coming on the heels of the end of a brutal civil war, partially funded by logging companies that aided and abetted gruesome human rights abuses and violations, these changes were considered extremely progressive by civil society, albeit some concerns lingered on. Securing a deal that would compel the government to develop a comprehensive law to govern community rights in the forestry sector – became the icing in the cake.

In 2009, the Community Rights Law with Respect to Forest Lands (CRL) was enacted into law. The CRL raised the bar further setting aside 55 per cent of revenue from logging forests on customary land to the affected communities.

footnotes

- 1 NFRL of 2006, Section 14.2e
- 2 FDA Regulation 106-07 on Benefit Sharing, Section 22
- 3 FDA Regulation 106-07 on Benefit Sharing, Section 32

Notes

- The United States Dollar is the currency used throughout this brief.
- Hectare is the measurement used throughout this brief.

Logging permits and contracts

The National Forestry Reform Law (NFRL) of 2006 provides for three major licenses for the extraction of timber: Timber Sale Contracts (TSCs), Forest Management Contracts (FMCs) and Private Use Permits (PUPs). The Community Rights Law (CRL) of 2009 with Respect to Forestlands provides for a Community Forest Management Agreement (CFMA). The table below provides a list of FMCs, TSCs and CFMAs issued to date. PUPs are not included because they all ceased operation in 2014.

Logging in the new environment

Following the allocation of the first batch of Timber Sale Contracts logging and export after sanctions commenced in 2009. A total of 106 cubic meters of logs was exported in 2009. In 2009 and 2010 seven FMCs were allocated and logging began to gather momentum. By the end of 2011 export had gone up to 94,680 cubic meters of round logs. The export figures almost tripled in 2012 as result of surge in log production from PUPs. Round log production from PUPs accounted for about 52% of the total round log export in 2012.

Table 1: Logging concessions and Community Forest Management Agreement⁴

Summary

| No. | Concession Company | Contract | Size | Effective Date |
|---|-----------------------------------|----------|---------------------|----------------|
| 1. | Euro Logging | FMC | 253,670 ha | 2010 |
| 2. | Geblo Logging | FMC | 131,466 ha | 2010 |
| 3. | International Consulting Capital | FMC | 266,910 ha | 2010 |
| 4. | Atlantic Resources Ltd. | FMC | 119,344 ha | 2010 |
| 5. | Alpha Logging and Wood Processing | FMC | 119,240 ha | 2009 |
| 6. | Liberia Tree and Trading Co. | FMC | 59,374 ha | 2009 |
| 7. | EJ & J Investment Corporation | FMC | 57,262 ha | 2009 |
| 8. | Liberia Hardwood (1 & 2) | CFMA | 66,447 ha | 2013 |
| 9. | ECOWOOD | CFMA | 49,444 ha | 2012 |
| 10. | Liberia Tree and Trading Co. Doru | CFMA | 35,000 ha | 2011 |
| 11. | Liberia Tree and Trading Co./ Gbi | CFMA | 31,155 ha | 2011 |
| 12. | Tarpeh Timber Company | TSC | 5,000 ha | 2008 |
| 13. | Akewa Group of Companies | TSC | 5,000 ha | 2010 |
| 14. | Bulgar Vincent Timber Company | TSC | 5,000 ha | 2008 |
| 15. | Bargor & Bargor | TSC | 5,000 ha | 2008 |
| 16. | Thunder Bird Int'l Liberia | TSC | 5,000 ha | 2010 |
| 17. | Bassa Logging and Timber Co. | TSC | 5,000 ha | 2010 |
| 18. | Sun Yeun Corporation Limited | TSC | 5,000 ha | 2010 |
| Total: forestland under logging contract | | | 1,224,312 ha | |

Acronyms used in this brief

| | |
|-------------|---|
| CFDC | Community Forestry Development Committee |
| CFMA | Community Forest Management Agreement |
| CRL | Community Rights Law of 2009 with Respect to Forestland |
| FMC | Forest Management Contracts |
| FOB | Freight on Board |

| | |
|-------------|--------------------------------------|
| NFRL | National Forestry Reform Law of 2006 |
| NGO | Non Governmental Organization |
| PUP | Private Use Permits |
| SDI | Sustainable Development Institute |
| SGS | Société Générale du Surveillance S.A |
| TSC | Timber Sale Contracts |
| UL | University of Liberia |

Table 2: Volume of round logs and sawn timber exported for the period 2009 – 2016⁵

Timber Export data from 2009 to 2016

| Contract | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | Totals volume | Value |
|---------------|------------|---------------|---------------|----------------|---------------|------------------|-------------------|-------------------|----------------|-----------------------|
| TSC | 106 | 2,503 | 12,181 | 19,543 | 14,598 | 6,680.66 | 6,519.20 | 720.99 | 62,851.85 | 11,941,851.50 |
| FMC | - | 11,289 | 61,435 | 53,542 | 42,675 | 82,010.34 | 128,296.04 | 128,366.78 | 507,614.16 | 96,446,690.40 |
| PUP | - | 26 | 20,889 | 123,229 | 14,113 | - | - | - | 158,257.00 | 30,068,830.00 |
| UL | - | - | - | 40,004 | - | - | - | - | 40,004.00 | 7,600,760.00 |
| Sawmill | - | 12 | 175 | 1,257 | - | - | - | - | 1,444.00 | 274,360.00 |
| CFMA | - | - | - | - | 2,427 | - | 25.53 | 13,217.46 | 15,669.99 | 2,977,298 |
| Totals | 106 | 13,830 | 94,680 | 237,575 | 73,813 | 88,691.00 | 134,840.77 | 142,305.23 | 785,841 | 149,309,790.00 |

As indicated in Table 2 above 785,841 cubic meters of round logs was exported from Liberia between January 2009 and September 2016. Of the total 784,397 cubic meters representing 99.82 per cent of the total export for the period was shipped out as round logs with no value addition. Using the average FOB price of the logs exported for the period 2009 – 2013, which was \$190 per cubic meter, this could have generated approximately \$149 million.

Revenue from logging

The National Forestry Reform Law (NFRL) of 2006 provides for three broad categories of fees including:

1. Stumpage fees, which are fees associated with the harvest of Forest Resources, including fees based on the kind and amount of Forest Resources harvested.
2. Land Rental Fees, which are fees associated with the use of Forest Land, including administrative fees and area-based fees tied to Forest Resources Licenses.
3. Forest Product fees, which are fees associated with the production, registration, transport, transfer of ownership, use, or export of Forest Products.

These three broad categories of fees are sub-divided as follows: Area Fee, Annual Contract Administration Fee, Export Fee, Annual Coupe Inspection Fee, Waybill Fee, Late Payment Fee, and Sawmill Permit. The international commodity tracking firm, SGS assesses and invoices these fees, which are then paid to the government.

The Land Rental Fees

Land Rental Fees are “fees associated with the use of Forest Land, including administrative fees and area-based fees tied to Forest Resources Licenses”.⁶ Although the law states ‘area-based fees tied to Forest Resource Licenses’ are part of Land Rental Fees, the FDA insists that the bid amounts that companies offered to pay per hectare for the land in the concession would not be included in the Land Rental Fee calculation. The Land Rental Bid is therefore not included in the Land Rental Fees.

The Land Rental Bid for the seven Forest Management Contracts amounted to just under \$10 million per year. By 2013 the government had collected about \$13 million – leaving an outstanding balance of about \$17 million.

footnotes

⁴ The CFMAs included are only those that have conducted logging operations.

⁵ The timber export data for the period 2009 – 2013 presented in Table 2 is found in the SGS report “LiberFor, Wood Exports and Revenue Collection 2013, January 1 to December 31, 2013”. The data for 2014, 2015 and 2016 are found in SGS summary CoC Financial Updates for 2014, 2015 and 2015.

⁶ National Forestry Reform Law of 2006, Section 14.2(b)(ii)

Legal Working
Group meeting
facilitated by
Client Earth,
Monrovia.
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Far right: Round
logs Blouquia
CFMA 2R; Grand
Gedeh County.
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In 2013, the government enacted “An Act to Abolish the Payment of Annual Land Rental Bid Premium on Contract Area and Merging of Export Taxes into Stumpage/ Production Fee in the Forestry Sector of Liberian Economy”.⁷ At the time the law was enacted, logging companies owed about \$43 million in Area Fees, Land Rental Bid and Contract Administration Fees combined.⁸

As a result of this legislation, however, more than \$10 million of the \$43 million in arrears was waived for the period July 2012 to June 2013. No official explanation was given for the waiver; the amount simply disappeared from the SGS Monthly Financial Updates. Also, taking into account the remaining 20 years on the seven FMCs at the time, an additional \$200 million was waived to the logging companies. In spite of these generous waivers, the seven FMCs owed a combined total of more than \$24 million by the end of that year.

Stumpage Fees

Stumpage fees are “associated with the harvest of Forest Resources, including fees based on the kind and amount of Forest Resources harvested”.⁹ Stumpage fees are primarily applicable to timber and are calculated based on species of the tree and the volume of timber in the log harvested. For the purpose of calculating stumpage, tree species are grouped into three categories: Class A, which is the highest value species; Class B, the second high value species and Class C, the low value species. The international commodity tracking firm, SGS assesses and invoices the stumpage fees monthly to companies, who then pay directly to a designated central government revenue account.

Revenue flows from logging

Cubic Meter Fees

Affected communities that sign Social Agreements with logging companies are entitled to additional payments based on the volume of logs harvested from their area. This payment commonly referred to as Cubic Meter Fees “must equal or exceed US\$1 per cubic meter of logs harvested annually under the Forest Resource License”.¹⁰ Under their Social Agreements with communities, logging companies typically agreed to pay \$1.00 per cubic meter of logs harvested under TSCs and \$1.50 per cubic meter harvested under FMCs.¹¹ The Cubic Meter Fees are paid directly to the beneficiary community. Although CFDCs lobbied to have the cubic meter fees increased, the new Social Agreements negotiated and signed in 2015 and 2016 retained the same \$1.50 per cubic meter for FMCs.

The total amount of logs exported from TSCs for the period 2009 – 2016 was 62,851.85 cubic meters and the total volume of logs exported from FMCs was 507,614.16 cubic meters. Based on the agreed amount of \$1.00 per cubic meter of round logs harvested under TSCs, communities affected by TSCs were to have received \$62,851 and communities affected by FMCs were to have received \$422,352.50.

Using the export figures in Table 2 above (although the payment is supposed to be based on round logs harvested, the companies tend to pay only after shipping) round logs exported from TSCs should have generated \$62,851.85 for TSC affected communities. This amount is less than 1 per cent of the value of the logs exported from these communities. Based on the volume of round logs exported, communities affected by FMCs should have received \$761,421.24 in cubic meter fees. This amount is also less than 1 per cent. Combined, communities affected by logging should have received \$1 million out of the total FOB value of \$138 million or 0.77 per cent of the value of the round logs exported from their areas.

SDI has been unable to establish how much of the cubic meter fees have been paid to CFDCs to date.

footnotes

⁷ An Act to Abolish the Payment of Annual Land Rental Bid Premium on Contract Area and Merging of Export Taxes into Stumpage/ Production Fee in the Forestry Sector of Liberian Economy, 17th September 2013.

⁸ SGS Chain of Custody Update, June 2014

⁹ NFRL of 2006, Section 14.2b(i)

¹⁰ FDA Ten Core Regulation No. 105-07, Section 34.

¹¹ Various Social Agreements are available on the FDA website at: <http://www.fda.gov.lr/information/agreements/>

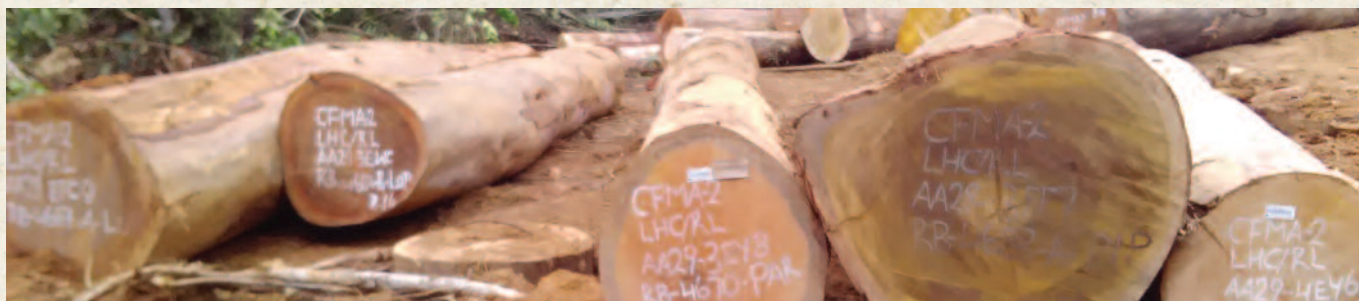


Table 3: Cubic meter fee assessment for the period 2009 - 2016

| Contract | Totals volume | Value | Cubic meter fees | % Of Value |
|---------------|-------------------|-------------------------|---------------------|--------------|
| TSC | 62,851.85 | \$11,941,851 | 62,851.85 | 0.53% |
| FMC | 507,614.16 | \$96,446,690.40 | 761,421.24 | 0.79% |
| PUP | 158,257.00 | \$30,068,830.00 | 237,385.50 | 0.79% |
| Totals | 728,723.01 | \$138,457,371.00 | 1,061,658.59 | 0.77% |

Area Fee, Land Rental Bid and other fees

As have been explained above, one stream of logging revenue flows through central government systems and the other directly to communities affected by logging. The main fees that flow through central government include Land Rental Fees (Area Fees and Contract Administration Fees combined), Stumpage Fees and Export Fees.

Table 4 below presents the total fees assessed and invoiced, the total amount paid, and outstanding balance per year from 2008 to December 2015. The totals presented in Table 4 represents all the revenue collected during the period, including: Land Rental Fees; Land

Rental Bid Fees; Export Fees; Stumpage Fees; Waybill Fees; Annual Coupe Inspection Fees.

The total balance due for all logging companies for the period December 31, 2008 to December 31, 2015 was approximately \$25 million. Table 5 below presents the balance due per FMC Holder for this period plus the Land Rental Fees invoiced each FMC for the period 2015/16, the total amount each FMC Holder paid against their balances in 2016, and their current balances. Table 5 shows that FMC Holders owe Liberia approximately \$23 million. This table does not include arrears TSC and CFMA Holders owe during this period.

Table 4: Invoiced and collected revenue from December 31, 2008 - December 31, 2015¹²

| Fiscal Year | Invoiced Amount | Amount paid | Balance due |
|---------------------|------------------------|------------------------|------------------------|
| 2014/ 15 | \$8,126,942.02 | \$8,814,775.98 | (\$687,833.96) |
| 2013/ 14 | \$7,308,578.20 | \$5,926,693.57 | \$1,381,884.63 |
| 2012/ 13 | \$8,079,181.63 | \$8,802,310.68 | (\$723,129.05) |
| 2011/ 12 | \$19,810,942.40 | \$8,167,919.05 | \$11,643,023.35 |
| 2010/11 | \$16,105,456.85 | \$6,699,383.21 | \$9,406,073.64 |
| 2009/10 | \$13,268,940.05 | \$9,516,950.14 | \$3,751,989.91 |
| 2008/2009 | \$263,738.71 | \$136,847.07 | \$126,891.61 |
| Grand Totals | \$72,963,779.86 | \$48,064,879.70 | \$24,898,900.13 |

footnotes

¹² All companies payment 2008 – 2015, SGS 2015

Governance strengthening meeting; Neezonnie CFMA, Grand Gedeh County.
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Table 5: Land Rental Fees FMC Holders owed as at December 31, 2016¹³

| FMC Holders | B/F 2014/15 | Amt. due 2015/16 | Total Paid | Balance due |
|---------------------|---------------------|--------------------|--------------------|---------------------|
| EJ & J Investment | \$446,382 | \$144,155 | \$148,799 | \$441,738 |
| Atlantic Resources | \$1,201,704 | \$299,360 | \$243,200 | \$1,257,864 |
| Alpha Logging | \$1,419,277 | \$299,100 | - | \$1,718,377 |
| LTTC | \$566,603 | \$149,435 | \$27,378 | \$688,660 |
| Geblo Logging | \$4,643,628 | \$329,665 | \$586,223 | \$4,387,070 |
| ICC | \$7,635,759 | \$668,275 | \$2,508,763 | \$5,795,270 |
| Euro Logging | \$8,175,627 | \$635,175 | \$75,000 | \$8,735,802 |
| Grand Totals | \$24,088,980 | \$2,525,165 | \$3,589,363 | \$23,024,781 |

Land Rental Fee Payments to Communities

In Table 6 below, the Land Rental Fees for all the timber companies operating in Liberia are presented.¹⁴ Unlike the invoiced amounts in Table 5 above, the table below does not include Export Fees, Stumpage Fees and other fees not included in the Land Rental Fees.

Disaggregating these amounts makes it easier to give a fairly accurate estimate of how much the government is required to remit to communities against how much the government has actually remitted over the last eight years.

As detailed in Table 6 below, the total Land Rental Fees due as at December 31, 2016 was approximately \$20 million. According to the NFRL of 2006, 30 per cent of this amount is to be paid to communities through the National Benefit Sharing Trust Board and another 30 per cent distributed to the counties. This would amount to about \$6 million to communities and about \$6 million to counties.

Contrary to the law, the government has transferred only \$1.9 million of the amount to the National Benefit Sharing Trust Board, leaving a balance of approximately \$4 million. Table 6 below provides a breakdown of the total paid out to communities over the last eight years.

Table 6 illustrates a significant gap between the amounts communities are entitled to and the amounts that have been paid to them. Rounded to the closest millionth, \$21 million has been collected as Area Fees of which communities are entitled to about \$6 million representing 30 per cent. Of this amount about \$2 million has been transferred to the National Benefit Sharing Trust Board for affected communities leaving a balance due of about \$4 million.

footnotes

¹³ All companies payment 2008 – 2015, SGS 2015.

¹⁴ Summary SGS Data on Area Fees invoiced from 2008 – 2015. The 2016 data is from the Sept2016 COC Financial Update circulated by SGS to Liberian stakeholders.

CFDC vocational school
in Rivercess County.
© Daily Observer newspaper



Table 6: Land Rental Fees payments to communities

| Years | Invoiced Amount | Communities 30% | Amount paid | Balance due |
|---------------------|------------------------|-----------------------|-----------------------|---------------------|
| 2008 | \$18,750.00 | \$5,625.00 | - | \$5,625.00 |
| 2009 | \$2,536,915.00 | \$761,074.50 | - | \$761,074.50 |
| 2010 | \$2,580,665.00 | \$774,199.50 | - | \$774,199.50 |
| 2011 | \$2,574,415.00 | \$772,324.50 | - | \$772,324.50 |
| 2012 | \$2,602,227.25 | \$780,668.18 | - | \$784,887.43 |
| 2013 | \$2,616,291.43 | \$784,887.43 | - | \$784,887.43 |
| 2014 | \$2,561,915.00 | \$768,574.50 | - | \$768,574.50 |
| 2015 | \$2,677,103.18 | \$803,130.95 | \$1,000,000.00 | (\$196,869.05) |
| 2016 | \$2,574,415.00 | 772,324.50 | \$250,000.00 | \$522,324.50 |
| 2017 | - | - | \$686,341.00 | (\$686,341.00) |
| Grand Totals | \$20,742,696.86 | \$6,222,809.06 | \$1,936,341.00 | 4,286,468.06 |

Conclusions and recommendations

Based on the data reviewed for this brief the following conclusions are drawn:

1. The output of the logging industry in terms of revenue to the state and royalty payments to communities have been minimal compared to the value of the round logs exported from Liberia.
2. The current arrear of \$23 million the logging industry owes is unsustainable. Considering that the 2017/ 18 bill of approximately \$2.5 million is not included in this figure, the total arrear of the industry will likely increase to \$25 million by July 2017.
3. The royalties that communities receive from logging companies is minuscule. Additionally, the government is failing to fulfill its legal obligation to transfer 30 per cent of the Land Rental Fees collected annually to communities.

The figures presented in this brief, all of which are based on official statistics, raise questions about the economic justification for the industrial logging model. The data also seem to suggest that the logging companies are the main beneficiaries of industrial logging in Liberia. Considering that by failing to pay their taxes, logging companies are in breach (and have been for several years now) of their concession agreements, now is the time for Liberian stakeholders to reflect critically on the sector and decide on a new course of action rather than insisting on what is now a failed model.

Additionally, the amount in balance due to the communities should be of concern to both the Government of Liberia and the logging companies, because it has serious ramifications for the future of logging in Liberia. This is particularly critical for the implementation of the licensing scheme that is due to come into operation soon in Liberia. After years of financial investment by donors and the government, as well as valuable time from stakeholders, it would be a disaster for round logs produced in Liberia to be rejected by the EU markets – because they were produced in violation of Liberian laws.



Legal Working Group meeting facilitated by Client Earth, Monrovia. © SDI



The Sustainable Development Institute (SDI) works to transform decision-making processes in relation to natural resources and to promote equity in the sharing of benefits derived from natural resource management in Liberia. The organization's vision is a Liberia in which natural resource management is guided by the principles of sustainability and good governance and benefits all Liberians. Its activities cover a range of crosscutting issues including governance and management, the environment, state and corporate social responsibility, economic and social justice for rural populations, and the democratic participation of ordinary people in government management of natural resources. The organization received the Goldman Environmental Prize (the world's largest prize honouring grassroots environmentalists for outstanding environmental achievements) in 2006.

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