



global witness

Buchanan House
30 Holborn
London EC1N 2HS
Tel: +44 (0)207 492 5896
Fax: +44 (0)207 492 5821
www.globalwitness.org

Earl Gast
Senior Deputy Assistant Administrator, Bureau for Africa
RRB 4.08-037
U.S. Agency for International Development
1300 Pennsylvania Avenue, NW
Washington, DC 20523-4800
egast@usaid.gov

11 May, 2010

Dear Senior Deputy Assistant Administrator Gast,

We are writing to express concerns that Liberia's natural resources sector is increasingly characterized by mismanagement and a lack of transparency and to call upon USAID to prioritize the governance of Liberia's natural resources. It is our opinion that this reform process has lost its way.

The urge to fast track the restarting of logging and mining has lead both the Liberian Government and the donor community to overlook legal breaches, irregularities, evidence of corruption and poor governance. To date, the Liberian Government has not addressed most of these concerns and has not been held accountable for its failure to do so. Attached to this letter is a list of proposed policy changes that we believe should be addressed before the extraction of Liberia's valuable resources commences.

In 2004, the U.S. helped launch the Liberian Forest Initiative (LFI) to assist in the reform of the country's forest sector. LFI's mandate is to promote the transparent management of forest resources and to ensure that these resources are used for the benefit of the Liberian people. To date, the United States Government and the World Bank have spent US\$10 million dollars each and a huge amount of time, energy and resources to reform Liberia's forestry sector and put in place a robust legal framework for forestry. These efforts are now being undermined by the failure to address the systemic flaws in the restarting of the sector. The UN expert panel and civil society groups have highlighted numerous irregularities in the process of allocating concessions, as described in the attached memorandum.

Global Witness applauds the decision by the U.S. Government not to fund "industrial-scale logging or other industrial-scale resource extraction or sector reform that would promote these activities." However, given USAID's key role in supporting the drafting the National Forestry Reform Law of Liberia, and previously leading the LFI, it is vital that the Agency engages with the Government of Liberia to ensure that the law is implemented. As a key donor to Liberia and as a founder of LFI, USAID has a responsibility to ensure that it is effective and that its funds are used to promote the wider policies of USAID. It is our view that the Agency's reluctance to ensure that the Government of Liberia addresses the problems in the forestry sector risks undermining its own credibility and the

success of its efforts to promote good governance and development in Liberia. It is not in the interest of the Government of Liberia or the donor community to push ahead with a forest management regime grounded on the illegal allocation of concessions and controlled by companies that do not have the financial or technical capacity to operate.

It is our understanding that USAID and the State Department will be holding a meeting in Monrovia at the end of May to consider issues in Liberia's forest sector. This meeting would serve as an ideal forum in which to address these concerns.

Addressing the systemic flaws in the forestry sector is in line with the objectives of both USAID and LFI. A recent report on conflict timber sponsored by USAID found strong links between poor governance – including a lack of accountability and an inability to enforce laws – and timber-based conflict. It concluded that "good governance is a condition of sustainable forestry."ⁱⁱⁱ In Liberia, USAID has advertised that "LFI is working with the government of Liberia to ensure that transparent procedures and practices are followed and that contracts are awarded to reputable logging companies that follow the correct procedures for harvesting timber and paying government fees."ⁱⁱⁱ While logging has only just commenced in Liberia, poor governance and an unwillingness to apply the forestry laws and regulations have already been seen in the allocation of concessions and are a poor foundation from which to restart the sector.

In addition, USAID has undertaken to help improve the management of Liberia's mining sector. The U.S. was instrumental in the launch and continued funding of the Governance and Economic Management Assistance Program (GEMAP). Under GEMAP, financial experts were provided to Liberian Government ministries, including the Ministry of Lands, Mines and Energy, to provide management advice and a degree of financial oversight. The Program, which is now being closed, cost the U.S. over \$5 million in 2008 alone.^{iv}

However, as in the forestry sector, USAID efforts to reform governance of the mining sector through GEMAP have been weakened by instances of corruption and a lack of transparency. In 2008, the Ministry of Lands, Mines and Energy was criticized for awarding a contract to the large Western Cluster mining deposit under suspicious circumstances. The contract was later rescinded, but, according to a 2010 Audit by the Liberian Government's General Auditing Commission, fundamental problems remain. Millions of dollars in expenditures are unaccounted for, the Ministry has limited control over diamond production and the issuance of concessions agreements is not being done transparently, posing the risk of corruption.

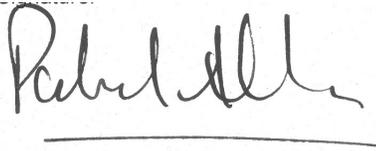
Having supported structural reform of Liberia's mining sector, USAID should now make efforts to ensure that it is managed transparently and that irregularities are checked. Because companies have not yet commenced full operations USAID still has an opportunity now to ensure that the sector is put back on track. The U.S. acknowledges that strong governance structures in the extractive industries sector is "vitally important to the success of their social investment goals."^v In addition, a 2008 Senate Foreign Relations Committee report recommended that "international donors who give aid to resource-rich countries should focus their efforts on improving revenue management and fighting corruption."^{vi}

The importance of addressing governance and corruption in achieving development goals were central themes during the recent visits by Secretary of State Clinton and President Obama to Africa. In a speech given in Liberia in July 2009, Secretary Clinton offered U.S. assistance to build "strong, democratic institutions that work and are accountable and deliver results" and that "ending corruption is necessary to growing and sustaining such institutions and restoring the public's trust."^{vii}

The U.S. has contributed more than \$2 billion in aid to Liberia since 2003.^{viii} USAID has both the responsibility and the opportunity to affect Liberia's natural resource management for the better, and for this reason we urge it to push the Liberian Government to follow its laws. It is our belief that, if USAID's current approach is not changed, using forums such as the upcoming Monrovia

conference, the reform process will be remembered as a waste of time and money, with significant negative implications for Liberia's natural resources and those who depend upon them.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Patrick Alley", written over a horizontal line.

Patrick Alley
Director
Global Witness

Copied

- 1) Michael Yates
Senior Deputy Assistant Administrator, Bureau for Economic Growth, Agriculture, and Trade
RRB 3.09-009
U.S. Agency for International Development
1300 Pennsylvania Avenue, NW
Washington, DC 20523-3900
myates@usaid.gov
- 2) Robert D. Hormats
Under Secretary for Economic, Energy and Agricultural Affairs
U.S. Department of State
2201 C Street NW
Washington, DC 20520
hormatsrd@state.gov
- 3) Maria Otero
Under Secretary for Global Affairs
U.S. Department of State
2201 C Street NW
Washington, DC 20520
oterom@state.gov
- 4) William J. Burns
Under Secretary for Political Affairs
U.S. Department of State
2201 C Street NW
Washington, DC 20520
burnswj@state.gov
- 5) Johnnie Carson
Assistant Secretary of State for the Bureau of African Affairs
U.S. Department of State
2201 C Street NW
Washington, DC 20520
carsonj@state.gov

- 6) Linda Thomas-Greenfield
Ambassador to Liberia
U.S. Department of State
111 UN Drive
Mamba Point
P. O. Box 98
Monrovia, Liberia
thomas-greenfieldl@state.gov
- 7) Lael Brainard
Under Secretary for International Affairs
U.S. Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220
lael.brainard@dotreas.gov
- 8) Michelle Gavin
Special Assistant to the President for African Affairs
National Security Staff
The White House 20504
emitsler@nsc.eop.gov

ⁱ United States Government, "FY2010 Conference Report and Statement of Managers for the State, Foreign Operations, and Related Programs Appropriations Bill," 2010.

ⁱⁱ Thomson, J. and Kanaan, R. "Conflict Timber: Dimensions of the Problem in Asia and Africa: Volume I Synthesis Report", Submitted to USAID, 2004.

ⁱⁱⁱ USAID, "2009 Biodiversity Conservation and Forestry Programs Annual Report" October 2009, p. 22, *available at* http://www.usaid.gov/press/congressional/2009/2009_biodiversity_forestry_report.pdf.

^{iv} USAID, "Governance and Economic Management Assistance Program (GEMAP)" *available at* http://www.usaid.gov/locations/sub-saharan_africa/countries/liberia/liberia_briefer_GEMAP.pdf.

^v USAID Global Development Alliance, "Alliance Model: What Works?" *available at* http://www.usaid.gov/our_work/global_partnerships/gda/extractives_guide/extractives3.html.

^{vi} United States Senate Committee on Foreign Relations, "The Petroleum and Poverty Paradox: Assessing U.S and International Community Efforts to Fight the Resource Curse," 16 October 2008.

^{vii} Transcript of the 11 July 2009 speech, *available at* www.africom.mil.

^{viii} As stated by Hilary Clinton in a speech given in Liberia, 13 August 2009, Transcript *available at* www.africom.mil.

Proposed Policy Changes

- 1) To ensure that Liberia's natural resources promote stability and that aid is spent effectively, the U.S. should link non-humanitarian aid to the Liberian Government's meeting of the following benchmarks on natural resource governance:
 - a) A Commission of Enquiry is established to investigate corruption and irregularities in the allocation and management of mining, oil and forestry concessions. The Commission should recommend clear measures for addressing problems identified, including cancellation of contracts and prosecutions.
 - b) Mining, oil and forestry concessions are awarded through a transparent and competitive bidding process in accordance with international best practice and the rule of law. Concessions should only be awarded without competitive bidding if the safeguards contained in the Public Procurement Act are followed. A list of individuals to be debarred or suspended from receiving concessions should be made public, taking into account information arising from the Truth and Reconciliation Commission and investigations called for under recommendation 1(a). Where, as in the mining sector, laws do not contain sufficient safeguards to ensure such a process is in line with international standards, new laws should be developed.
 - c) The Liberian Government's General Auditing Commission is fully funded, its independence ensured and its recommendations to Government ministries are followed.
 - d) A new, low carbon strategy for managing the forests is developed. In light of serious flaws in the logging concession system, this strategy should promote alternatives to industrial-scale logging and the conversion of forests for use as plantations (such as palm oil) such as donor-funded programs for Reducing Emissions from Deforestation and Forest Degradation (REDD) and other avoided deforestation schemes.
 - e) In line with Liberia's forest laws, an officially-mandated, independent forest monitoring mechanism is established to monitor activities in the forest sector, including concession allocation and management, community uses, conservation projects and forest conversion projects. Requirements for this mechanism should include unhindered access for monitors to all points in the chain of custody, the ability of monitors to work with civil society actors, independence when publishing reports and that the Government officially recognize and implement monitors' recommendations.
 - f) A Multi-Stakeholder Forum is constituted to review and address the weaknesses in the Community Rights Law, especially the way that it has weakened environmental and social safeguards that are currently in the National Forestry Reform Law.
- 2) To promote the Liberian Government's effective management of the natural resource sector the U.S. should directly support independent bodies capable of monitoring the sector, including:
 - a) Assistance to the Secretariat of the Liberian Extractive Industries Transparency Initiative in fulfilling its mandate of promoting transparent management of natural resource revenues and investigating the natural resource contracts allocation process.
 - b) Support ensuring the effective implementation of the Kimberley Process in Liberia.
 - c) Assistance to local civil society organizations that focus on government transparency and natural resource governance, including those concerned with the effective implementation of the Extractive Industries Transparency Initiative Act and the Kimberley Process Certification Scheme.