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for the peoples of the rainforest

# The Mulu Land Grab

**Results of a Fact-Finding Mission  
to Sarawak (Malaysia) on palm oil-related  
deforestation and a land conflict  
near the UNESCO-protected  
Gunung Mulu World Heritage Site**

Report by the Bruno Manser Fonds, [www.bmf.ch](http://www.bmf.ch), May 2019



***“No more palm oil plantations. No more!”***

*Adenan Satem, former Chief Minister of Sarawak,  
Speech at the Malaysian High Commission in London, 4 May 2015*



*Figure 1: Community protest against clearing activities by palm oil company Radiant Lagoon, Mulu/Sarawak, March 2019*

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## The Fact-Finding Mission

While the Malaysian government promotes palm oil as a sustainably produced crop, every day tropical rainforests are being cleared for new oil palm plantations in Malaysian Borneo. It is envisaged that, between 2019 and 2023, 600'000 hectares of rainforest and community lands will be converted into plantations, especially in Sarawak, Malaysia's largest state.

In early 2019, the Bruno Manser Fund (BMF) conducted a fact-finding mission to Sarawak in order to get an in-depth understanding of the situation at the fringes of Gunung Mulu National Park, Sarawak's only UNESCO World Heritage Site, where indigenous Penan and Berawan/Tering communities are threatened by the aggressive encroachment of a palm oil company on their lands.

This report summarizes some of the key findings of this fact-finding mission. More information can be gathered from the campaign website [www.savemulu.org](http://www.savemulu.org)

For the collection of evidence, the team used the following methods: interviews, field research, remote sensing, drone imagery, community meetings, GPS measurements and further analyses of the acquired data, amongst others.

The Bruno Manser calls on the Malaysian authorities, in particular the Sarawak state government, to reform their oil palm policy and to stop the expansion of oil palm concessions in Sarawak with immediate effect.

In the case of Radiant Lagoon's concessions ("provisional leases") over Penan and Berawan/Tering community lands in the Tutoh and Apoh Land District, the Bruno Manser calls on the Sarawak state government to immediately revoke the leases for various breaches of the lease stipulations, most importantly for the failure of the leaseholder to start planting within two years after the lease was granted, which means that the lease has expired since December 2010.

## Key findings

- In or around **December 2018**, the **Malaysian palm oil company Radiant Lagoon Sdn Bhd** (“Radiant Lagoon”) started to clear-cut an area of **4,400 hectares of intact natural rainforest** between the banks of the Tutoh river and the border to Brunei **near the UNESCO-protected Gunung Mulu National Park**. The clearings happened on lands over which local indigenous Berawan/Tering and Penan communities claim **Native Customary Rights**.
- By April 2018, around 730 hectares (16% of the total lease area of 4,400 hectares) of intact secondary rainforest have been cleared by Radiant Lagoon and an estimated **30,000m<sup>3</sup> of timber** with a market value of more than USD 10 million **have been harvested**. These clearing activities took place even though Radiant Lagoon holds **no licence to extract timber** from the area.
- Radiant Lagoon is closely connected to the Double Dynasty palm oil group whose owner, Yee Ming Seng, is the controlling shareholder both of Double Dynasty as well as of Onlyee Plantations, Radiant Lagoon’s parent company.
- The entire local Penan community and a significant part of the Berawan/Tering community are opposed to the conversion of their forests and farmlands into an oil palm plantation. While some Berawan/Tering community leaders have been paid off by the palm oil company with at least 800,000 Malaysian Ringgit (USD 193,000), neither the Penan nor the Berawan/Tering communities gave their free, prior and informed consent to the development of their lands.
- In March 2019, the clearing activities were stopped after the Penan and Berawan/Tering communities erected blockades in the forest against the company’s bulldozers. The clearing activities may be resumed very soon, depending on further government action.
- The **Sarawak government failed to consult the local communities** when the provisional leases over their lands were granted in 2008. **This is a clear violation of the United Nations Declaration for the Rights of Indigenous Peoples, to which Malaysia is a signatory.**
- When the leases were granted, Radiant Lagoon was controlled by Chung Soon Nam, a close associate of Mahmud Abu Bekir Taib, the son of the former Chief Minister and current Governor of Sarawak, Abdul Taib Mahmud.
- The Natural Resources and Environment Board (NREB), a Sarawak government agency, is in the possession of an Environmental Impact Assessment (EIA) conducted by Radiant Lagoon as part of their obligations under the provisional leases. **NREB refused to make the EIA accessible to the local indigenous communities**, even upon request by the headman of the largest village in the area.
- **A hazardous pesticide, Antracol**, by German manufacturer Bayer, **was found near a greenhouse with palm oil seedlings** operated by Radiant Lagoon in the concession area. Antracol is **banned in the European Union** because a major metabolite of propineb, its active ingredient, **is suspected of harming the unborn child**.

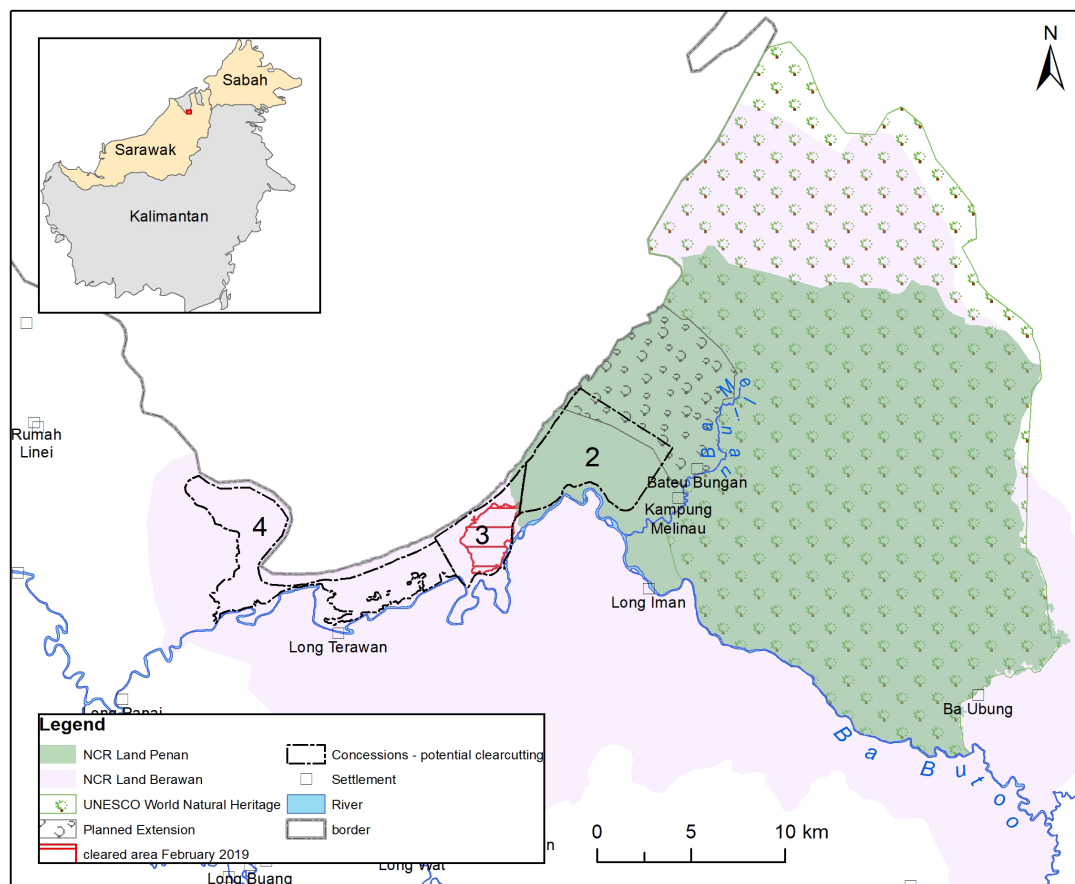
- Several Berawan / Tering **gravesites** in the concession area **have been desecrated** by Radiant Lagoon's use of heavy machinery.

- The Radiant Lagoon palm oil plantation would significantly contribute to habitat fragmentation of Gunung Mulu National Park. The lease area is an **important wildlife corridor between the National Park and the forests of Brunei, the last major primary forest reserve** in the region.

- **457 hectares** of the Radiant Lagoon provisional lease area **consist of peat soils**. Their drainage for palm oil cultivation would have a **significant impact on Malaysia's greenhouse gas emissions**.

## A) Plantation leases over Native Customary Rights (NCR) Land

1. On 3 December 2008, the Sarawak state government granted two provisional leases for agricultural purposes to Radiant Lagoon Sdn Bhd, a Malaysian oil palm company, near the Gunung Mulu National Park for a term of 99 years:
  - a. Lease over 3,017 hectares of mixed zone land, Lot 2 Tutoh Land District (Lease number 04-LCPLS-057-000-00002) (EXHIBIT 1)
  - b. Lease over 1,423 hectares of mixed zone land, Lot 3 Apoh Land District (Lease number 04-LCPLS-052-000-00003) (EXHIBIT 2)
  
2. The leases were granted at extraordinarily favourable conditions, with Radiant Lagoon having to pay an annual rent of MYR 7543 (USD 1823) for Lot 2 Tutoh Land District and MYR 3558 (USD 860) for Lot 3 Apoh Land District. The annual rent thus amounts to MYR 2.5 (USD 0.60) per hectare. (EXHIBITS 1 and 2)
  
3. The location of the above-mentioned leases (Lots 2 and 3) between the banks of the Tutoh river, the Mulu airfield and the border to Brunei can be identified on a map provided by the Sarawak Land and Survey department (Jabatan Tanah Dan Survey) with a scale of 1:150,000 and identified as Siri Permohonan 3847/2011, Restit/Bil No 76721, Rujukan Mapshhet E20-28-1 (Figure 2 / EXHIBIT 3)

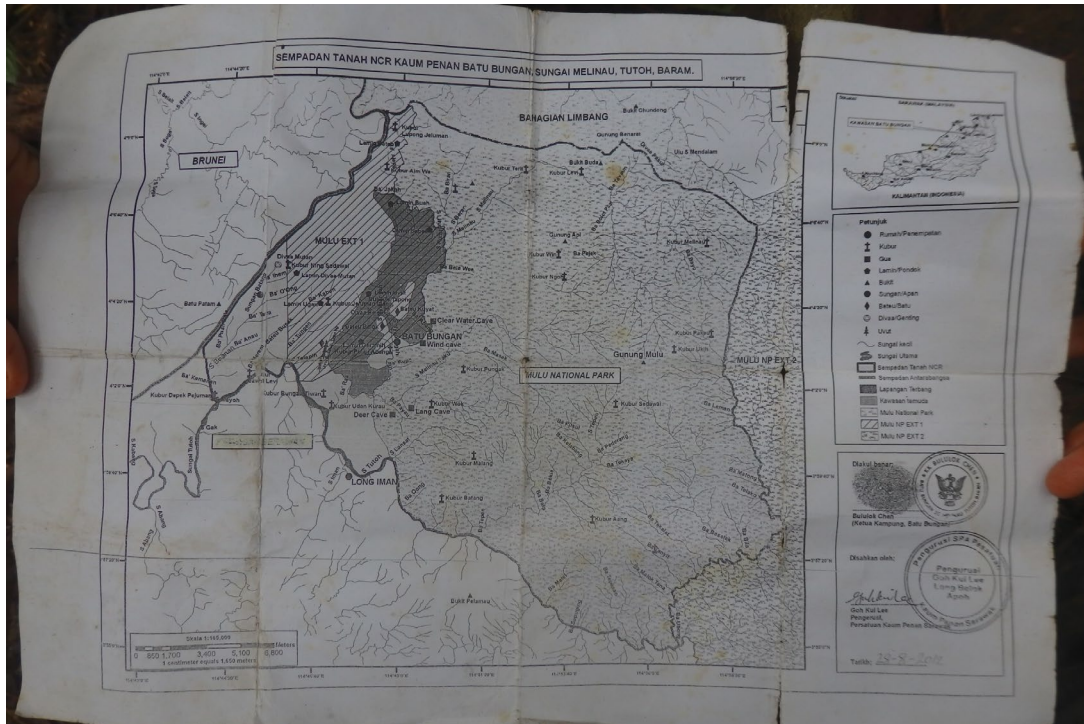


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**Figure 2: Native Customary Rights (NCR) land and oil palm concessions in the Mulu region**



4. The above-mentioned leases affect lands that are being claimed by indigenous Penan and Berawan/Tering communities as their Native Customary Rights (NCR) land.
5. The Penan land claim is supported by an official map of the Penan NCR land approved and signed by Pengurus Goh Kui Lee on 28 August 2012. (Figure 3 / EXHIBIT 4)



**Figure 3: Map of the Penan NCR Land, approved by Pengurus Goh Kui Lee, 28 August 2012**

6. The Penan land claim is further supported by a community map with cultural sites and land use information published in 2017 and handed over to the Sarawak state government on 17 November 2017 when Deputy Chief Minister Amar Douglas Uggah Embas received a copy of the map during a ceremony in the Sarawak State Assembly Building. (EXHIBIT 5)
7. The Berawan/Tering land claim is supported by a map of the Berawan/Tering NCR land and its cultural sites endorsed by Pengulu Herbert Lawai Epoi on 25 July 2007. (EXHIBIT 6)
8. A map established by the Bruno Manser Fonds shows that the provisional leases granted to Radiant Lagoon overlap with the NCR claims by the Penan and Berawan/Tering communities. (Figure 2 / EXHIBIT 7)



## B) Questionable involvement of the son of Sarawak Governor and former Chief Minister Abdul Taib Mahmud with Radiant Lagoon

9. Radiant Lagoon is a Malaysian company incorporated on 11 September 2007 with its headquarters at Lot 2461, First Floor, Boulevard Commercial Centre, 3km, Jalan Miri-Pujut, 98000 Miri, Sarawak / Malaysia. (EXHIBIT 8)
10. Radiant Lagoon is closely connected to the Double Dynasty palm oil group whose owner, Yee Ming Seng, is the controlling shareholder both of the Double Dynasty group as well as of Onlyee Plantations, Radiant Lagoon's parent company. (EXHIBITS 9 and 10)
11. From 12 February 2008 to 25 April 2008 and from 24 December 2009 to 4 April 2018, Mahmud Abu Bekir Taib, residing at 936 Demak Jaya, Jalan Bako, Petra Jaya, 93050 Kuching, Sarawak, was a director of Radiant Lagoon. (EXHIBIT 11)
12. As of 11 June 2010, Mahmud Abu Bekir Taib was the controlling shareholder of Radiant Lagoon Sdn Bhd holding 99 out of 100 shares of the company. (EXHIBIT 12)
13. Mahmud Abu Bekir Taib held 99% of shares of Radiant Lagoon until 21 February 2018 when these shares were transferred to Onlyee Plantations, a Malaysian company controlled by Yee Ming Seng, a Malaysian citizen. (EXHIBIT 13)
14. Mahmud Abu Bekir Taib is the son of Abdul Taib Mahmud, the former Chief Minister and current Governor of Sarawak.
15. On 3 December 2008, Radiant Lagoon was granted the provisional lease for agricultural purposes over Lot 2 Tutoh Land District (Lease number 04-LCPLS-057-000-00002) by the Land and Survey Department Sarawak. At the time, Abdul Taib Mahmud was Chief Minister and Minister for State Planning in charge of land issues and as such overseeing the Land and Survey Department Sarawak. (EXHIBIT 1)
16. On 3 December 2008, Radiant Lagoon was granted the provisional lease for agricultural purposes over Lot 3 Apoh Land District (Lease number 04-LCPLS-052-000-00003) by the Land and Survey Department Sarawak. At the time, Abdul Taib Mahmud was Chief Minister and Minister for State Planning in charge of land issues and as such overseeing the Land and Survey Department Sarawak. (EXHIBIT 2)
17. On 12 August 2009, Radiant Lagoon was granted a Special Condition by the Land and Survey Department Sarawak, according to which the planting period for Lot 2 Tutoh Land District was extended from 5 years to 15 years. At the time, Abdul Taib Mahmud was Chief Minister and Minister for State Planning in charge of land issues and as such overseeing the Land and Survey Department. (EXHIBIT 1, p. 3)
18. On 12 August 2009, Radiant Lagoon was granted a Special Condition by the Land and Survey Department Sarawak, according to which the planting period for Lot 3 Apoh Land District was extended from 5 years to 15 years. At the time, Abdul Taib Mahmud

was Chief Minister and Minister for State Planning in charge of land issues and as such overseeing the Land and Survey Department Sarawak. (EXHIBIT 2, p. 3)

19. The above-mentioned transactions are showing that Mahmud Abu Bekir Taib resigned as a director of Radiant Lagoon shortly before the company was granted the provisional leases by the Land and Survey Department overseen by his father, the Chief Minister and Minister for State Planning. He took up his role as a company director again after Radiant Lagoon had been granted these provisional leases and after the allowed planting period for the leases had been extended from 5 years to 15 years. (EXHIBIT 11)
20. After Mahmud Abu Bekir Taib's resignation as a director, from 26 April 2008 to at least 11 March 2009, the majority shareholder and managing director of Radiant Lagoon was Malaysian citizen Chung Soon Nam, residing at Beverly Villa 1, Beverly Heights, Lot 5359, Lorong Sherip Masahor 3A, 93350 Kuching, Sarawak. As of 11 March 2009 he held 95 out of 100 shares of the company. (EXHIBIT 14)
21. Chung Soon Nam had joined Radiant Lagoon as a director on 12 February 2008, the same date as Mahmud Abu Bekir Taib had become a director of the company. (EXHIBIT 11)
22. As of 11 June 2010, Chung Soon Nam only retained one share (out of 100 shares) of Radiant Lagoon. All other shares had been transferred to Mahmud Abu Bekir Taib. (EXHIBIT 12)
23. Chung Soon Nam had also been a close associate and business partner of Mahmud Abu Bekir Taib on numerous other occasions, namely
  - as a director (since 1998) and a minority shareholder of Titanium Management Sdn Bhd, a company controlled by Mahmud Abu Bekir Taib (EXHIBIT 15)
  - as a director (since 2000) of Titanium Construction Sdn Bhd, a wholly-owned subsidiary of Titanium Management Sdn Bhd (EXHIBIT 16)
  - as a director (since 2001) and minority shareholder of Titanium Engineering Sdn Bhd, a company controlled by Mahmud Abu Bekir Taib (EXHIBIT 17)
  - as a director (since 2003) and minority shareholder of Titanium Project Management Sdn Bhd, a company controlled by Mahmud Abu Bekir Taib (EXHIBIT 18)
24. On 12 February 2008, the same day that Chung Soon Nam assumed the directorship of Radiant Lagoon, he also became a director and, together with Mahmud Abu Bekir Taib, a minority shareholder of the following companies:
  - Bella Magic Sdn Bhd (EXHIBIT 19)
  - Essential Straits Sdn Bhd (EXHIBIT 20)
  - Log Oak Promotions Sdn Bhd (EXHIBIT 21)

The three above-mentioned companies were all registered on 11 September 2007, the same date as Radiant Lagoon, and had a similar structure, with 47.5% of the shares being held each by Mahmud Abu Bekir Taib and by his associate Chung Soon Nam. According to leaked Land and Survey Department Sarawak files, these three companies

were, like Radiant Lagoon, granted significant provisional leases for palm oil development:

- Bella Magic Sdn Bhd was granted 3,960 hectares on 21 August 2008.
- Essential Straits Sdn Bhd was granted 5,000 hectares on 17 October 2008
- Log Oak Promotions was granted 3,900 hectares on 17 October 2008 (EXHIBIT 22)

25. In summary, Radiant Lagoon had been associated with Mahmud Abu Bekir Taib, the son of then Chief Minister and for land leases responsible Minister of State Planning Abdul Taib Mahmud, since February 2008. When it was granted the provisional leases over Lot 2 Tutoh Land District and Lot 3 Apoh Land District by Land and Survey Department Sarawak on 3 December 2008, it was being directed and owned by Chung Soon Nam, a close associate and known business partner of Mahmud Abu Bekir Taib, who was also a business partner of the Chief Minister's son in several other palm oil-related firms. Less than two years after Radiant Lagoon was granted the two leases by Land and Survey Department Sarawak, Chung Soon Name transferred his shares to Mahmud Abu Bekir Taib.

### C) Lack of consultation of native communities on leases granted over their Native Customary Rights Land

26. Neither the Penan community of Bateu Bungan or Long Iman nor the Berawan/Tering community of Long Terawan have been consulted by the Sarawak state government on the occasion of the granting of the lease to Radiant Lagoon in 2008. They only learned about the leases granted to Radiant Lagoon when Radiant Lagoon started clear-cutting their claimed NCR land in 2018.
27. The Sarawak state government's and Radiant Lagoon's failure to consult the local communities when the leases were granted over their NCR land amounts to a clear violation of Articles 18, 26 and 29 of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), to which Malaysia is a signatory. (EXHIBIT 23)
28. Since mid-January 2019, affected Penan and Berawan/Tering villagers repeatedly set up blockades of the logging road to prevent Radiant Lagoon from further encroaching onto their claimed NCR lands. (EXHIBIT 24)
29. On 17 January 2019, 268 villagers from Bateu Bungan, Long Terawan, Kampung Melinau, Long Iman and Long Panai sent a letter to Sarawak Chief Minister Abang Johari in which they expressed their opposition to Radiant Lagoon's plantation development and asked the Sarawak state government to respect their Native Customary Rights. (EXHIBIT 25)
30. According to Penan sources, during a meeting held between community leaders and local government officials, an officer of the Special Branch (Malaysia's political police) threatened to arrest Ukau Lupung, the Penan headman of Bateu Bungan, if he continued to resist against the Radiant Lagoon plantation development. (EXHIBIT 26)



31. On 20 February 2019, Miri resident Nyurak Ketu invited the affected stakeholders for a meeting to resolve the conflict at his office on 4 March 2019. (EXHIBIT 27)
32. During the 4 March 2019 meeting at the Miri resident's office, no agreement was reached over the land conflict. However, the meeting was used by the Sarawak state government (District Officer Marudi) to hand over a certificate of appointment to the new headman of Long Terawan, a controversial person (Ugum Jalong) who is favourable to the oil palm plantation development. Apparently, he had been appointed already on 2<sup>nd</sup> May 2018 without the community being properly informed. (EXHIBIT 28)



*Figure 4: Radiant Lagoon clearing community land for palm oil cultivation near Ba Besanan, Sarawak, March 2019.*

33. On 16 March 2019, Penan community leader Ukau Lupung, headman of Bateu Bungan, engaged Messrs Jamilah Baharuddin and Associates as the community's legal counsel with regards to their claim of Native Customary Land Rights. The terms of engagement are stating that the clients are opposed to any logging activities or oil palm developments on their land. (EXHIBIT 29)
34. On 16 March 2019, Berawan community leader Willie Kajan, on behalf of the Long Terawan/Mulu Action committee, engaged Messrs Jamilah Baharuddin and Associates as legal counsel with regards to their claim of Native Customary Land Rights. The terms of engagement are stating that the clients are opposed to any logging activities or oil palm developments on their land. (EXHIBIT 30)

35. Another meeting was held on 15 April 2019 upon invitation by the Sarawak government. The communities opposed to the Radiant Lagoon plantation were invited only one day by Whatsapp before the meeting was held. Subsequently, all villagers invited at short notice could not attend the meeting, because way to Miri is far and expensive. (EXHIBIT 31)

#### D) Payment of suspected bribes to Berawan/Tering community leaders

36. On 21 May 2018, Radiant Lagoon sent a letter to Penghulu Herbert Lawai Epoi in which the company announced that it intended to commence development soon and showed its willingness to address concerns by the locals. The letter was copied to Edmund Abang, Headman of Long Terawan, and Headman Ugom Jalong of Kampung Sungai Melinau. Long Terawan and Kampung Sungai Melinau are Berawan/Tering villages. (EXHIBIT 32)

37. No mention was made in the Radiant Lagoon letter of the Penan community of Bateu Bungan which is the most numerous community in the region and thus one of the main stakeholders. It is unknown why the Penan NCR claims were not considered by Radiant Lagoon but racial discrimination or anticipation of resistance cannot be ruled out as underlying reasons.

38. On 13<sup>th</sup> July 2018, Edmund Abang, Headman of Long Terawan, Ugum Jalong, Headman of Sungai Melinau, Penghulu Herbert Lawai and Councillor Garry Hassim Wan sent a letter in the name of the community committee (JKKK) of Long Terawan and Kampung Sungai Melinau to Yee Ming Seng, the beneficial owner of Radiant Lagoon. In the letter, they made various claims, including a payment of one million Malaysian Ringgit of “saguhati” (500,000 Ringgit to Long Terawan and 500,000 to Kampung Sungai Melinau) (EXHIBIT 33)

39. On 4<sup>th</sup> August 2018, three villagers of Kampung Long Terawan/Mulu sent a letter to Nyurak Ketu, Deputy Resident of Miri, to enquire if the news that Ugum Jalong had been appointed by the Sarawak government as Headman was true. They also expressed concerns over Ugum Jalong’s and Councillor Garry Hassim Wan’s appointment and alleged their involvement in a criminal arson case against several Mulu National Park projects in the 1990s (EXHIBIT 34)

40. On 24 August 2018, villagers of Long Terawan sent a letter to the Miri Resident complaining about the intransparent handling of corporate payments by Edmund Abang who had accepted funds from Pusaka KTS Plantations Sdn Bhd and Rimbunan Sawit Sdn Bhd related to the use of Berawan NCR land for plantation developments. (EXHIBIT 35)

41. In or around August 2008, Radiant Lagoon allegedly paid 800,000 RM of “goodwill money” (saguhati) to two leaders of Long Terawan (400,000 MYR) and Kampung Sungai Melinau/Mulu (400,000). The payments were apparently connected to the signing of an agreement between the two leaders, the Penghulu and the Councillor

with Radiant Lagoon. According to villagers from Long Terawan, Headman Edmund Abang did not inform the community about this payment about which they ultimately learned from other sources. (EXHIBIT 36)

42. On 3 January 2019, villagers from Long Terawan wrote to the Miri Resident expressing their dissatisfaction with headman Edmund Abang over his lack to engage for the community and his preoccupation with his own businesses. In particular, they criticized his improper handling of community funds and the lack of audits of the community bank accounts. The villagers brought up that Edmund Abang had allegedly received RM 400,000 from Radiant Lagoon in August 2018 without disclosing this to the community and accused him of enriching himself instead of helping the community. (EXHIBIT 35).
43. When challenged during the 4 March 2019 meeting at the Resident's office in Miri, Ugum Jalong from Long Terawan admitted that he and Headman Edmund Abang had received payments of RM 400,000 each from Radiant Lagoon. It was furthermore communicated that villagers of Long Terawan had been paid RM 3500 per family without knowing from where the money came and why. (EXHIBIT 37)

## **E) Racial discrimination by Radiant Lagoon and the Sarawak state government**

44. No mention whatsoever was made in the 21 May 2018 Radiant Lagoon letter to Penghulu Herbert Lawai Epoi of the Penan community of Bateu Bungan which is the most numerous community in the region and thus one of the main stakeholders. The only communities addressed in the letter were the Berawan communities of the region. It is believed that racial discrimination may be a major underlying reason for this discriminatory and unfair treatment. (EXHIBIT 32)
45. Since the Gunung Mulu National Park has been planned by the Sarawak authorities in the 1960s, the Sarawak state government has been aware of the Penan communities use of the land. When the park was established, the Penan community agreed to focus their land use in the area to the West of Bateu Bungan to the Ba Besanan river. This land use was again acknowledged and confirmed by the map signed by Pengurus Goh Kui Lee on behalf of the Sarawak authorities on 28 August 2012. (EXHIBIT 4)
46. On 17 November 2017, the Penan handed over the maps of their NCR land to Deputy Chief Minister Amar Douglas Uggah Embas. The community maps clearly show the NCR land of Bateu Bungan which extends to the Ba Besanan river. In spite of this, the Land and Survey Department Sarawak claimed at a meeting held on 15 April 2019 that no one had Native Customary Rights in the area. It is believed that racial discrimination may be a major underlying reason for this discriminatory and unfair treatment. (EXHIBIT 38 and 39)



## F) Failure by the Sarawak state government do disclose the Environmental Impact Assessment

- 47. According to the special conditions under which the provisional leases over Lot 2 Tutoh Land District and Lot 3 Apoh Land District were granted, the proprietor (=Radiant Lagoon) is required under the Natural Resources and Environment (Prescribed Activities) Order, 1994 to undertake an Environmental Impact Assessment Study on the area prior to project implementation. (EXHIBITS 1 and 2)
- 48. The Environmental Impact Assessment Study was never disclosed to the affected local communities nor were they involved in its elaboration.

49. On 15 March 2019, Ukau Lupung, headman of Bateu Bungan, visited the Natural Resources and Environment Board (NREB) in Kuching to request access to the Environmental Impact Assessments for the Radiant Lagoon oil palm leases for Lot 2 Tutoh Land District and for Lot 3 Apoh Land District within the Penan’s Native Customary Rights land. On this occasion, the NREB denied the headman access to these important public documents. (Figure 5 - EXHIBIT 40)

50. The denial of access to the Environmental Impact Assessment to the affected stakeholders amounts to a violation of their human rights and violates in particular Articles 18 and 26 of the United Nations Convention on the Rights of Indigenous Peoples, to which Malaysia is a signatory. (EXHIBIT 23)



Figure 5: Ukau Lupung, headman of Bateu Bungan, and his son on 15 March 2019 in front of the Natural Resources and Environment Board Sarawak in Kuching, where they were denied access to the Environmental Impact Assessment on the palm oil concession over their community lands

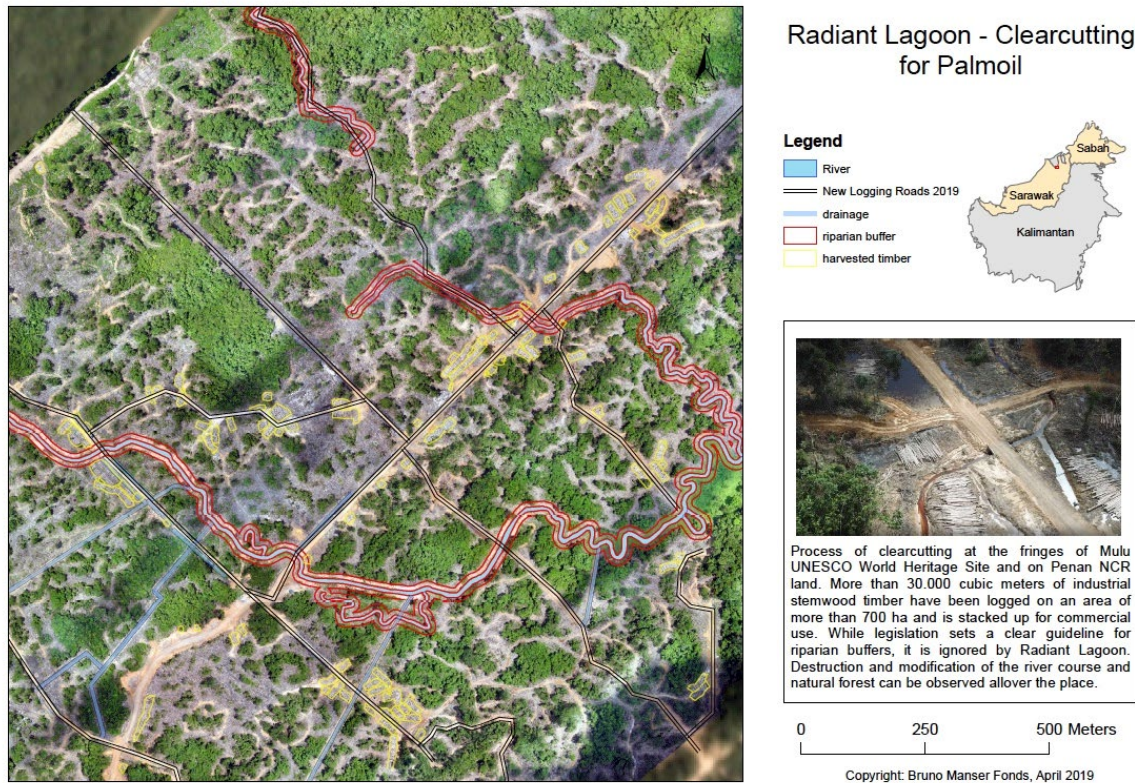
## G) Breaches of the provisional lease stipulations by Radiant Lagoon

### Breach of duty to commence planting within two years

51. According to the provisional leases granted to Radiant Lagoon for Lot 2 Tutoh Land District and for Lot 3 Apoh Land District, the proprietor shall commence field planting within two (2) years of the issue of this lease (Special condition i). (EXHIBITS 1 and 2)
52. The leases were issued on 3<sup>rd</sup> December 2008. Planting should thus have commenced by 3<sup>rd</sup> December 2010.
53. However, more than ten years after the leases were issued, planting has not been commenced. Clearing activities started in late 2018, during which time also a greenhouse with oil palm seedlings was established. None of these seedlings have been planted yet as of January 2019. (EXHIBIT 41)
54. Radiant Lagoon has itself admitted that it commenced the development of the plantation only in 2018. On 21 May 2018, in a letter to Penghulu Herbert Lawai Epoi, Radiant Lagoon informed the local Berawan/Tering leaders that “we intend to commence development soon”. (EXHIBIT 32)
55. In other words, the period has expired in which Radiant Lagoon would have been allowed to plant the provisional lease area.

### Breach of duty to respect riparian buffers

56. According to the provisional leases granted to Radiant Lagoon for Lot 2 Tutoh Land District and for Lot 3 Apoh Land District, the proprietor shall not disturb the land within the sixty-six feet reserve along the bank of a navigable river or stream (Special condition e). (EXHIBITS 1 and 2)
57. Aerial photography shows that Radiant Lagoon failed to respect a riparian buffer of Ba Besanan, a river used by the local Penan and Berawan/Tering communities for navigation. (EXHIBIT 42 - Figure 6)



**Figure 6: A drone survey conducted by the Bruno Manser Fund in March 2019 is showing that Radiant Lagoon fails to respect riparian buffers in breach of the stipulations in the provisional lease.**

**Breach of prohibition to extract timber without a licence**

58. According to the provisional leases granted to Radiant Lagoon for Lot 2 Tutoh Land District and for Lot 3 Apoh Land District, the proprietor **shall have no right to extract timber** or mineral deposits from the land without an appropriate licence issued by the relevant authority (Special condition f). (EXHIBITS 1 and 2)
59. In spite of this stipulation, Radiant Lagoon has cleared an area of 730 hectares (16% of the total lease area of 4,400 hectares) where an estimated 30,000 m<sup>3</sup> of timber has been cut with a market value of more than USD 10million. This figure has been calculated from high resolution 3D terrain evaluation based on drone pictures of the area obtained by the Bruno Manser Fund in March 2019.
60. Radiant Lagoon has no licence to extract timber. This has been confirmed by the Sarawak Forest Department during a meeting held in Miri with local stakeholders on 15 April 2019. (EXHIBIT 43)
61. The felling of trees without licence amounts to a breach of the prohibition to extract timber without an appropriate licence and is thus in contravention of the lease and considered illegal.





*Figure 7: Logs cut by Radiant Lagoon in absence of a timber extraction licence is stacked in the concession, March 2019.*

*Suspected breach of duty to submit a report on peat depth and drainability*

62. According to an official soil map by the Sarawak government evaluated by the Bruno Manser Fund, 457 hectares or approximately 16% of the Radiant Lagoon lease area is on peat soil. (EXHIBIT 44)
63. According to the provisional leases granted to Radiant Lagoon for Lot 2 Tutoh Land District and for Lot 3 Apoh Land District, for commercial development of peat soils, the project proponent shall carry out a survey and submit a report on the peat depth and long term drainability of the proposed project area (Special condition m). (EXHIBITS 1 and 2)
64. It is unclear if such studies were ever carried out. However, it is clear that no study on peat has been disclosed to the local communities as stakeholders.

*Breaches should lead to forfeiture*

65. According to the provisional leases granted to Radiant Lagoon for Lot 2 Tutoh Land District and for Lot 3 Apoh Land District, any “breach or default in the observance of any or all of the conditions specified above shall render the land liable to forfeiture”. (EXHIBITS 1 and 2)
66. Radiant Lagoon’s breaches of the lease stipulations should thus lead to forfeiture and a cancellation of the lease by the Sarawak state government.

## H) Desecration of an indigenous burial site by Radiant Lagoon

67. Lot 2 Tutoh Land District and Lot 3 Apoh Land District contain a large number of cultural sites of the indigenous Berawan/Tering and Penan communities (Figure 8 - EXHIBIT 45)
68. In or around January 2019, Radiant Lagoon encroached onto a burial site of the local Berawan community where several graves were desecrated by the heavy machinery during clearing activities. (EXHIBIT 46)
69. On 31 January 2019, several Berawan representatives filed police reports in Miri over the desecration of community gravesites. (EXHIBIT 47)



*Figure 8: Intact traditional Berawan/Tering burial site with funeral jars on a trunk near the Tutoh river, March 2019. Several similar sites were destroyed by Radiant Lagoon's use of heavy machinery*

## I) Use of a hazardous pesticide banned in the European Union

70. During a field visit to the Radiant Lagoon concession in January 2019, community representatives found the fungicide Antracol 70WB ("Antracol"), a product by German manufacturer Bayer, at an oil palm nursery operated by Radiant Lagoon. (EXHIBIT 48)
71. Antracol is a wettable powder fungicide based on the active ingredient propineb (dithiocarbamate). (EXHIBIT 49)



72. In 2018, propineb failed to obtain the renewal of its approval by the European Food Safety Authority because its major metabolite may be an endocrine disruptor, that is hormonally active; in particular the substance is “suspected of damaging the unborn child”. (EXHIBITS 50 and 51)

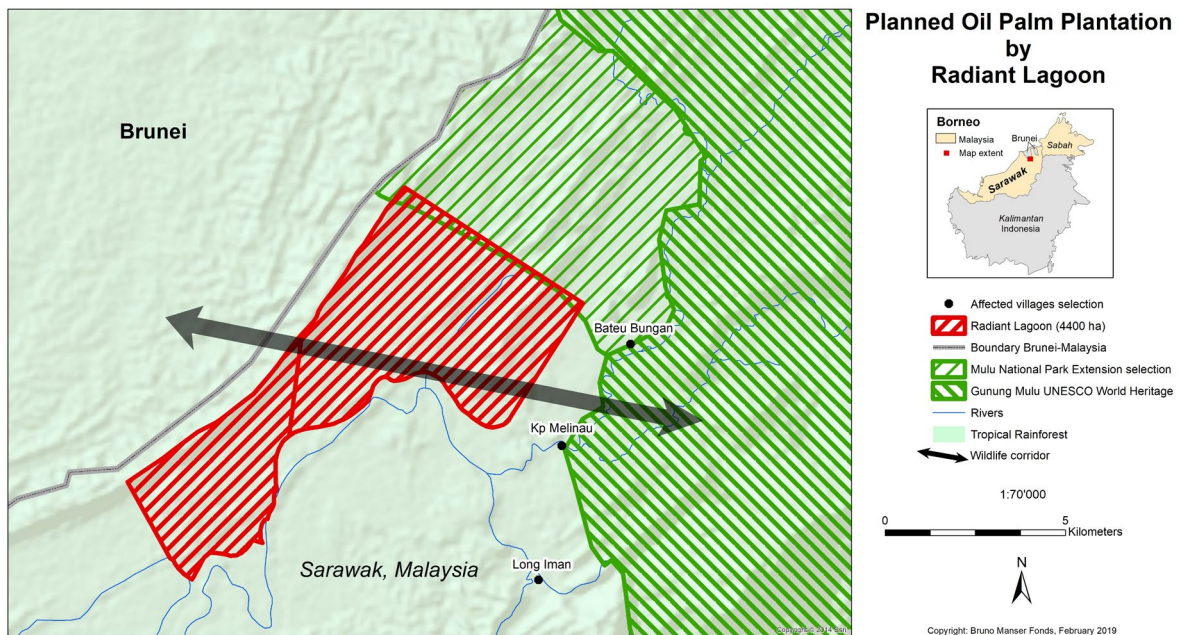
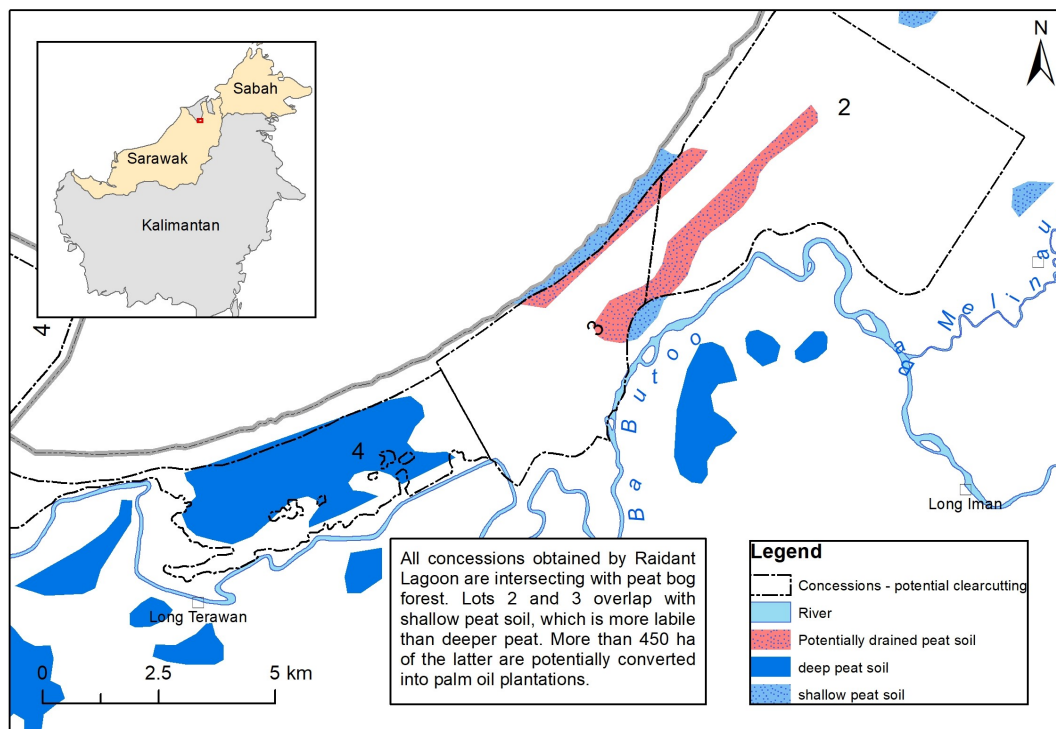


Figure 9: The Radiant Lagoon plantation would cut off an important wildlife corridor between the Gunung Mulu National Park and the primary forests of neighbouring Brunei

### K) Habitat fragmentation effects on the adjacent Gunung Mulu National Park, Sarawak’s only UNESCO World Heritage site

73. The Radiant Lagoon provisional lease area affects an important wildlife corridor between the Gunung Mulu UNESCO World Natural Heritage Site and Brunei’s extensive primary forests. (EXHIBIT 52 – Figure 9)
74. The establishment of an oil palm monoculture in this corridor would irreversibly damage the exchange of wildlife and contribute to the genetic isolation of primary rainforest species via habitat fragmentation.
75. The evaluation of the effect of the Radiant Lagoon concession on biodiversity is beyond the scope of this fact-finding mission. However, an assessment should have been made by Radiant Lagoon in the Environmental Impact assessment which has not been released to the public.



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*Figure 10: Sarawak government data are showing that an estimated 457 hectares of Radiant Lagoon's provisional leases consist of peat soils whose drainage would produce major greenhouse gas emission.*

## L) Greenhouse gas emissions due to drainage of peat soils

76. The soils in the area are podsols and peat soils. The latter play an important role for climate protection: they represent a large store of CO<sub>2</sub> and methane – for example, peat swamp forests are known to store 10 times more CO<sub>2</sub> than any other ecosystem. (EXHIBIT 53)
77. According to official Sarawak government data, 457 hectares of the Radiant Lagoon consist of peat soils. Their drainage for palm oil cultivation would have a significant impact on Malaysia's greenhouse gas emissions. (Figure 10 - EXHIBIT 44)
78. The evaluation of the effect of the Radiant Lagoon concession on Malaysia's greenhouse gas emissions is beyond the scope of this fact-finding mission. However, it has to be reminded that tropical deforestation, and in particular, the destruction of peat swamp forests, is one of the main contributors to climate change globally.