

PT KPC (Sinar Mas) recognizing and respecting community rights?

Presentation to
to GAR and SMART,
Sinar Mas Building, Jakarta
5th March 2015



Forest
Peoples
Programme



Update March 2015



Objectives of meeting with GAR

- Summarise findings from FPP and LinkAR Borneo review of sit'n in PT KPC 17-27 February 2015
- Compare findings to RSPO requirements
- Discuss how GAR/SMART plans to bring itself into compliance
- Clarify next steps, if possible

Reminder: communities involved

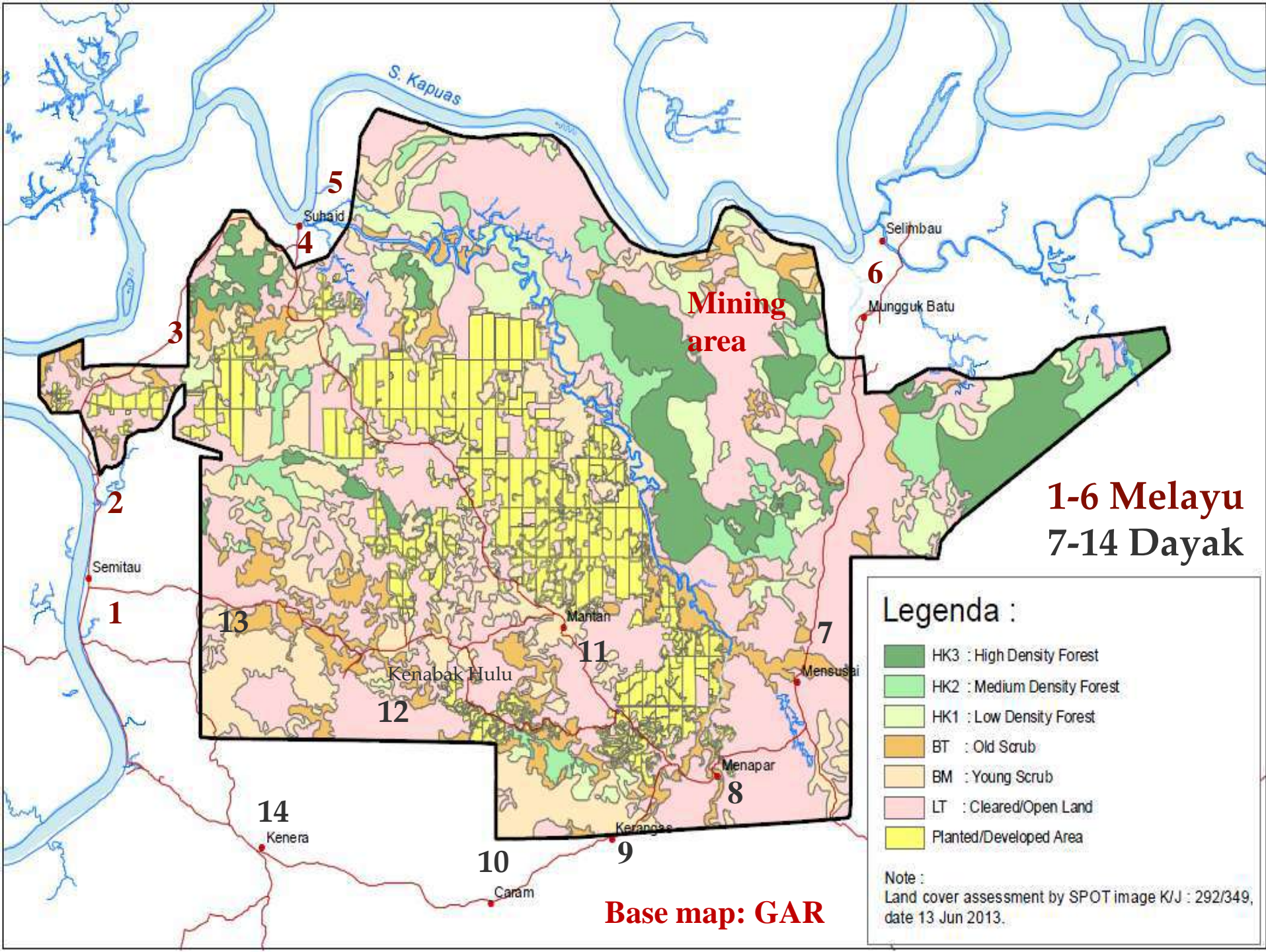
Melayu

1. Desa Semitau Hulu
2. Desa Semitau Hilir
- Dusun Marsedan
3. Arwana fishers
4. Suhaidd
5. Tanjung/Harapan
6. Selimbau

Numbers refer to numbers on map: see next slide

Dayak Mayan

7. Desa Mensusai
8. Desa Menapar (+ dusun)
9. Desa Kerangas
10. Dusun Caram
11. Desa Mantan
12. Dusun Kenabak Hulu
13. Dusun Kenabak Hilir
14. Desa Kenerak



Dayaks and farming

- Been there many generations
- Have long history of occupation and ownership
- Clearly defined territories
- *Adat* still revered
- Forest and reserve lands held communally – *wilayah adat*
- farmlands and fallows held by individual families
- Inheritance is 'cognatic' (sons and daughters equal)



Outsiders often prejudiced against 'slash and burn' farming



**actually 'rotational farming' can
maintain forest cover and diversity
if there is enough land for rotation**



Melayu and fisheries



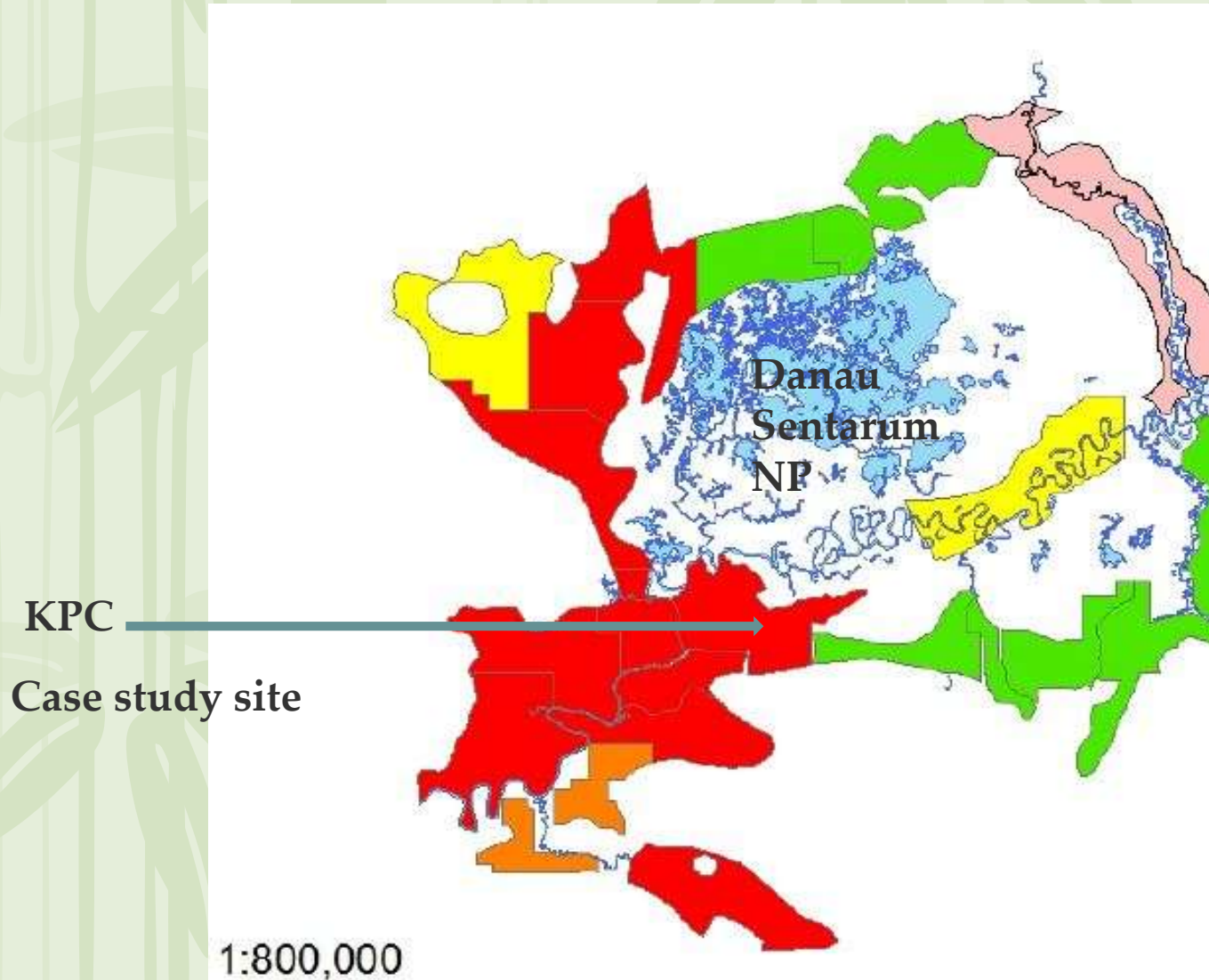
Majority of population in Suhaid, Semitau and Selimbau are Melayu fisherfolk



Fishing is mainstay of people's livelihoods
but rubber and inland *arwana* (exotic fish)
fish-farming also important



KPC in wider local context (red concessions offered to **Sinar Mas**)



GAR & Sinar Mas commitments

- GAR & SMART both members of **Roundtable on Sustainable Palm Oil**
- This means they have committed to only take land from communities if the communities have agreed to it
- So communities have the right to accept or reject oil palm after being fully informed of the implications (costs and benefits)
- Company must also ensure operations do not harm communities or clear HCVs dll.

**PT KPC: 19,000 ha. in *ijin lokasi*,
5,000 ha. acquired, 3,000 ha. planted**



3 FPP surveys 2013 & 2014

- Multiple violations of RSPO standard
- Land taken without informed consent (FPIC)
- HCV assessment not completed
- Serious complaints about smallholdings
- Major concerns about fisheries
- Some land conflicts



FPP Recommendations

- Comply with RSPO P&C
- Participatory mapping
- Redo HCV assessment
- Release AMDAL, HCV assessment and SOPs
- Renegotiate land surrenders as there has been lack of FPIC
- Independently verify and mediate conflicts and resolve in line with P&C
- Resolve problems with fisherfolk
- Rethink smallholder scheme
- Excise or enclave '*kontra*' village territories
- Explore alternative tenures

Promises from Sinar Mas

- Excise community areas where they said 'no'
- Give copies of agreements to all who surrendered land
- Open to receive grievances from all who surrendered land: payments, term and type of land surrender, area of smallholdings, terms for smallholdings
- Will seek to identify pollution and address water disputes
- Open to discussing co-management of watershed with Suhaid

HCV

- HCV assessment was redone by IPB in 2013-4
- Some extra HCV 4 and HCV6 areas included
- Short socialisation done
- Little HCV 5 (areas for basic needs) identified (used old tool kit)
- Community understanding of HCV still very limited



- No clear roles defined for communities in management and monitoring
- Growing resentment of imposition of HCVs

Free, Prior and Informed Consent

- New Standard Operating Procedure adopted
- Not yet clear if new SOP has been applied in most recent land acquisitions
- Some other elements of FPIC are **in the process** of being addressed (see below)



Mapping the boundaries of disputed lands, Kerangas, Sept 2013

Providing information

- Land release agreements now shared with prior land owners (98%)
- Summaries of AMDAL and HCV assessment provided to KADES
- Implications of HCVs for livelihoods and management still unclear



Meeting with KADES
Kerangas and Camat
Suhaid, Feb 2015

Participatory Mapping (1)

- Initially no mapping undertaken
- Not initiated in 2013 despite FPP complaint
- Government delayed mapping during 2014
- Kecamatan programme to map *desa* boundaries in compliance with UU Desa started late 2014
- TFT supplied technical assistance
- Maps do not show extent of community land rights or land use
- Fortunately the villages so long-standing that *adat* boundaries mostly same as *desa* boundaries
- Some village members participated in mapping, so some local knowledge on maps





Verifikasi Draft Peta Batas Desa Mantan



Legend:



Tim Deane Marshall

- | Ten Daze Marathon | | |
|-----------------------|-------------|-------------|
| 1. <u>MUSSES SIGN</u> | <u>1/11</u> | <u>1/11</u> |
| 2. <u>THURSDAY</u> | <u>1/11</u> | <u>1/11</u> |
| 3. <u>THURSDAY</u> | <u>1/11</u> | <u>1/11</u> |
| 4. <u>THURSDAY</u> | <u>1/11</u> | <u>1/11</u> |
| 5. <u>MUSSES</u> | <u>1/11</u> | <u>1/11</u> |
| 6. _____ | _____ | _____ |
| 7. _____ | _____ | _____ |
| 8. _____ | _____ | _____ |

Desa Wamen Laki awal 8.062.33 ha
Berdasarkan 1. Jempun Gunung 803.2013, direvisi dengan
data survey lapangan
- 2. Data hasil penelitian sebelumnya

Kapitel 10

NIKE

Karlus BPO

Handwritten signature: *Handwritten signature*
H. Nawar

Mapping (2)



Example of *desa* boundary map shown to us in Kerangas

- **Boundary** maps done of Mensusai, Mantan (with Kenabak), Menapar and Kerangas (with Caram)
- No maps yet done or shared for Selimbau, Suhaid, Semitau Hulu (Marsedan) and Semitau Hilir
- Mapping of land use not yet started (23 February 2015)
- Communities suspicious of purpose of mapping & TFT

Representation

- No measures taken to ensure communities choose their own village representatives for land cessions
- Communities not informed of right to choose their own representatives
- Later land cessions more inclusive **but still not self-representation**



Meeting in Kenabak
Hulu, 2013

Individualisation of lands

- Communities complain that their collective rights and authorities undermined by direct negotiations with farmers without community involvement
- Company did not understand Dayak tenure: lack of tenure studies & mapping



Menapar residents explaining land sales process, 2013

Ganti Rugi vs Simpak Beliung

- Company admits that *simpak beliung* was the term used for payments for land acquisition
- Communities insist that *simpak beliung* is understood to mean payment for land clearance and not for ceding land rights
- Company agrees there may be 'misperception'
- Company insists that whatever term was used people did sell their lands
- Many community members insist company has only acquired a use right of the lands ceded
- People feel cheated

Legal implications of land agreements

- Community leaders assert that they released lands expecting lands to be returned after 30 years if they wanted
- Company insists that they have rights to the land in line with Plantation Act (120 years if they choose to renew permits)
- Company has agreed there may have been misunderstandings
- Actually company does not have a HGU yet, its 2007 *ijin lokasi* has been over-extended and it has only acquired 26% of the area (not the required 50%), implying the permit should lapse

Smallholdings

- Communities released 5,000 ha lands on the promise they would get 20% (1,000ha) back as smallholdings ('plasma')
- After lands set aside late for HCV, only 3,000 ha. planted, 540 ha. for 'plasma' (kemitraan)
- Acute disappointment at returns and lack of transparency
- Some assert that extent of debt for smallholdings not adequately explained
- Company has improved transparency and explained delays in yield, which is now improving
- Company promises to develop full 1,000 ha plasma
- Not yet clear how this could be financed

Continued pressure to release land

- 2013 : Communities complained of continued pressure from company to release land even after they have rejected sawit
- 2013/2014/ 2015: GAR has repeatedly promised to stop pressing communities
- 2014: Communities complained pressure continues
- 2015: Company claims it has checked that communities don't feel intimidated
- 2015: Communities says they do still feel pressured. They mistrust company staff visits and others sent to convince them to release land
- Guarantee of land security needed

Food security and land shortage

- Some communities now realise that after land releases they have too little land left to ensure food security
- Menapar villagers in particular feeling squeezed
- Poorer farmers in Mantan feel the same
- Women outspoken
- Latest land surrender agreements seek to ensure that farmers do not sell their last lands
- No method being used to assess land security of villages as a whole
- Interviews suggest each family clears 0.3 – 0.5 ha/year on a 6 to 10 year rotation (= minimum c. 3 ha/kk to maintain cycle).

Land Availability (eg Kerangas)

- *Desa* boundary maps show area is c. 2900 ha. (once fitted to other maps c. 2700 ha.)
- Kerangas and Caram have some *sawah*, some rubber and 112 kk
- They feel they don't have enough land to allow *sawit*



Renegotiating to achieve **informed** consent?

- **FPF says original land acquisitions must be renegotiated**
- **RSPO FPIC requirements not complied with**
 - No community mapping,
 - No recognition of collective rights
 - No self-representation of communities
 - Individualised land sales
 - Prior to HCV assessment,
 - Inadequate information about 'set-asides' (including HCS : see below)
 - Misunderstandings on smallholdings
 - Legality of land cessions unclear
- Communities still not informed that land cessions & HGU means that their rights will be permanently extinguished. Lands revert to State on expiry of company lease.
- Company has refused to renegotiate as this could open a 'can of worms'

Resolution of land conflicts

- Lands released by Desa Mantan villagers within Desa Kerangas caused conflict between Desa
- In 2013, after FPP drew attention to the conflict, company and *camat* sought solution
- Agreement reached but villagers mistrustful of measurement of disputed area
- FPP mapped disputed area (Sept 2013) and found hectarage similar
- 2014 mapping of *desa* boundaries has now reassured community that lands are now more secure
- Proper FPIC including PM and village self-representation would have averted conflict

Resolving problems of fisheries

- Water pollution of whole river system major concern (there are other causes too)
- Plantations causing drying out
- Pollution and silting of creek waters for *kolam arwana*
- Canal has been dredged to divert polluted waters
- Company now monitoring water quality



- fisherfolk still feel waters too turbid, polluted and seasonal
- co-management of Suhaud watershed (HCV4) still not discussed

New planting on banks of lake

- Community checks on river banks and lakes shows quite recent planting by company on banks of lake Marsedan
- FPP and local team verify plantings during 2015 field visit with GPS
- Not yet had time to discuss with KPC



N 0.577643
E 111.981316

New planting by
Lake Marsedan

Grievance process

- Communities were unclear of RSPO requirements for addressing grievances
- Most early complaints were about HCV/HCS, smallholdings, wages and jobs
- New SOP on grievances instituted, staff trained and then shared with communities, Sept 2014
- No complaints registered since procedure was adopted
- Communities do have complaints they want to have resolved

High Carbon Stocks



Sign says: **Prohibited!!!!** Clearing and firing land, taking plants,

- Not yet well socialised so not well understood
- Communities unclear of the implications for their land use
- Company says ceded HCS cannot be used
- Status of unceded HCS unclear
- Continued resentment of NGO / company impositions

Making communities visible

Sekretaris Kecamatan
Seberuang

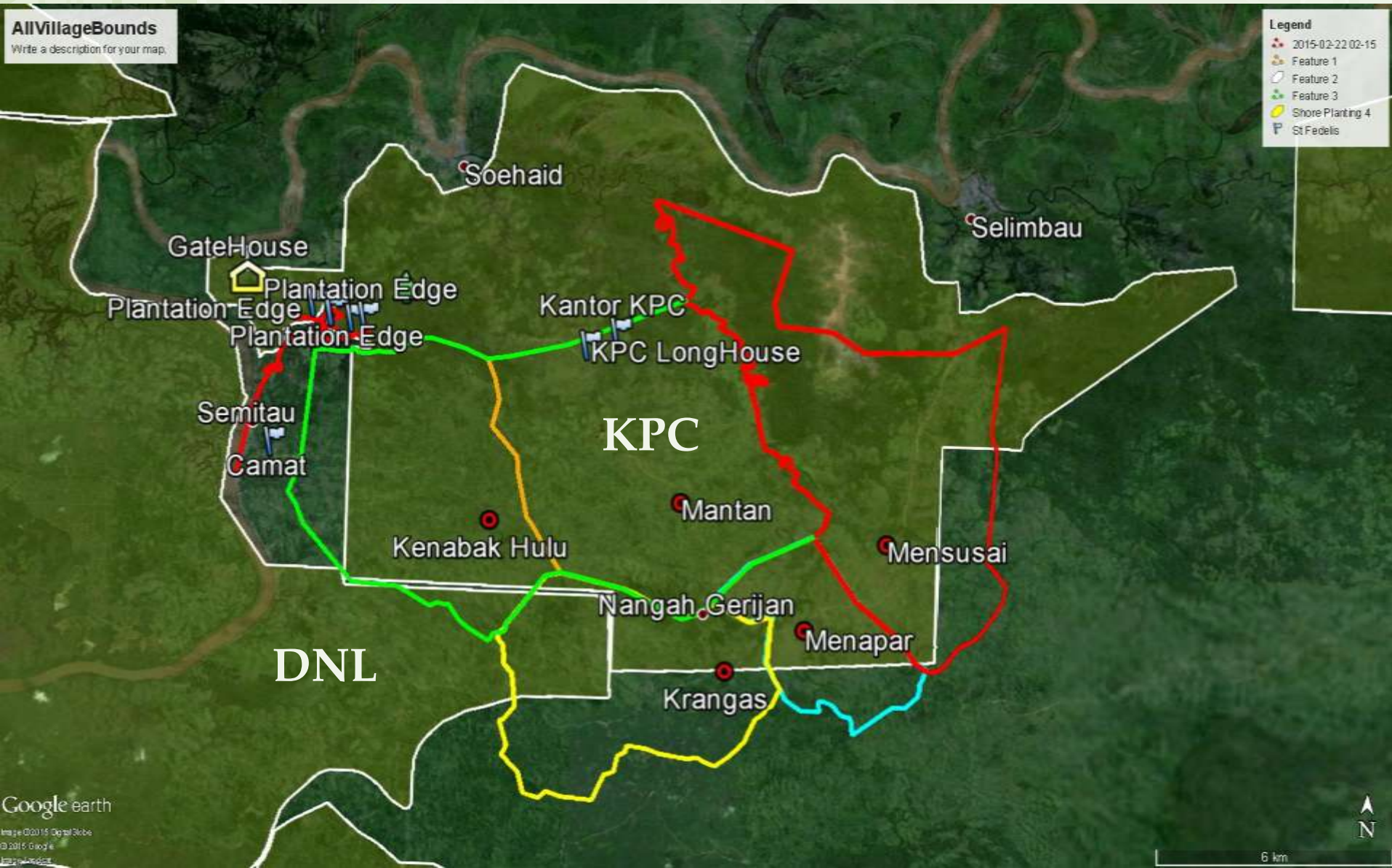
*The satellites seem to show
we are in an empty area,
so we should make clear
there are communities
here.*



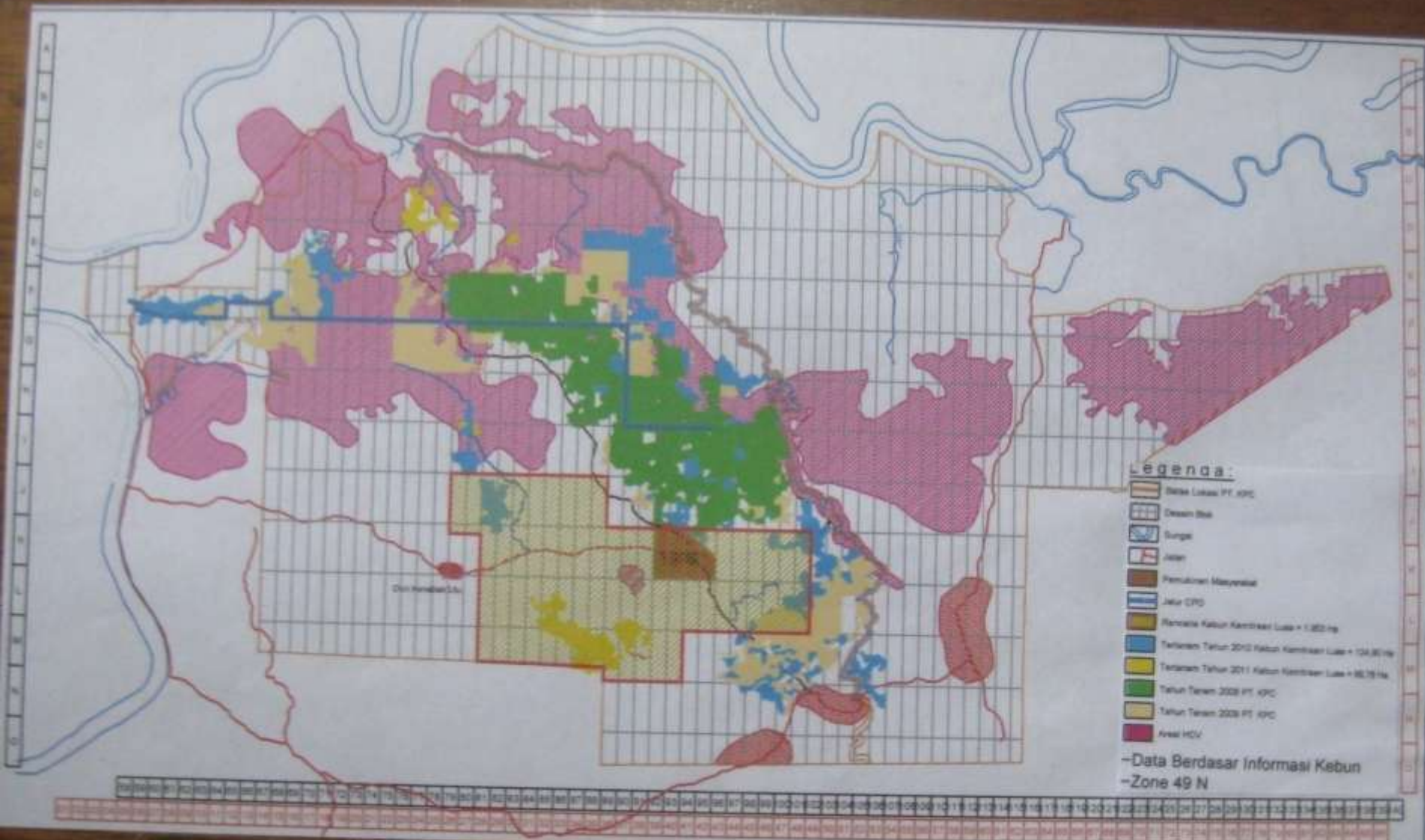
Legality and participation

- Company has agreed to exclude land of communities refusing oil palm – Mensusai, Kerangas & Kenabak – from HGU
- HGU applied for in 2013
- HGU map now being considered by BPN (Committee B)
- Sosialisasi of HGU plan with KADES, Govt, DINAS & BPN in 2014
- Villagers and KADES interviewed had no understanding of HGU
- Map of proposed HGU not shared
- Company cannot explain how they knew which areas to exclude when mapping was done after application
- Communities very suspicious

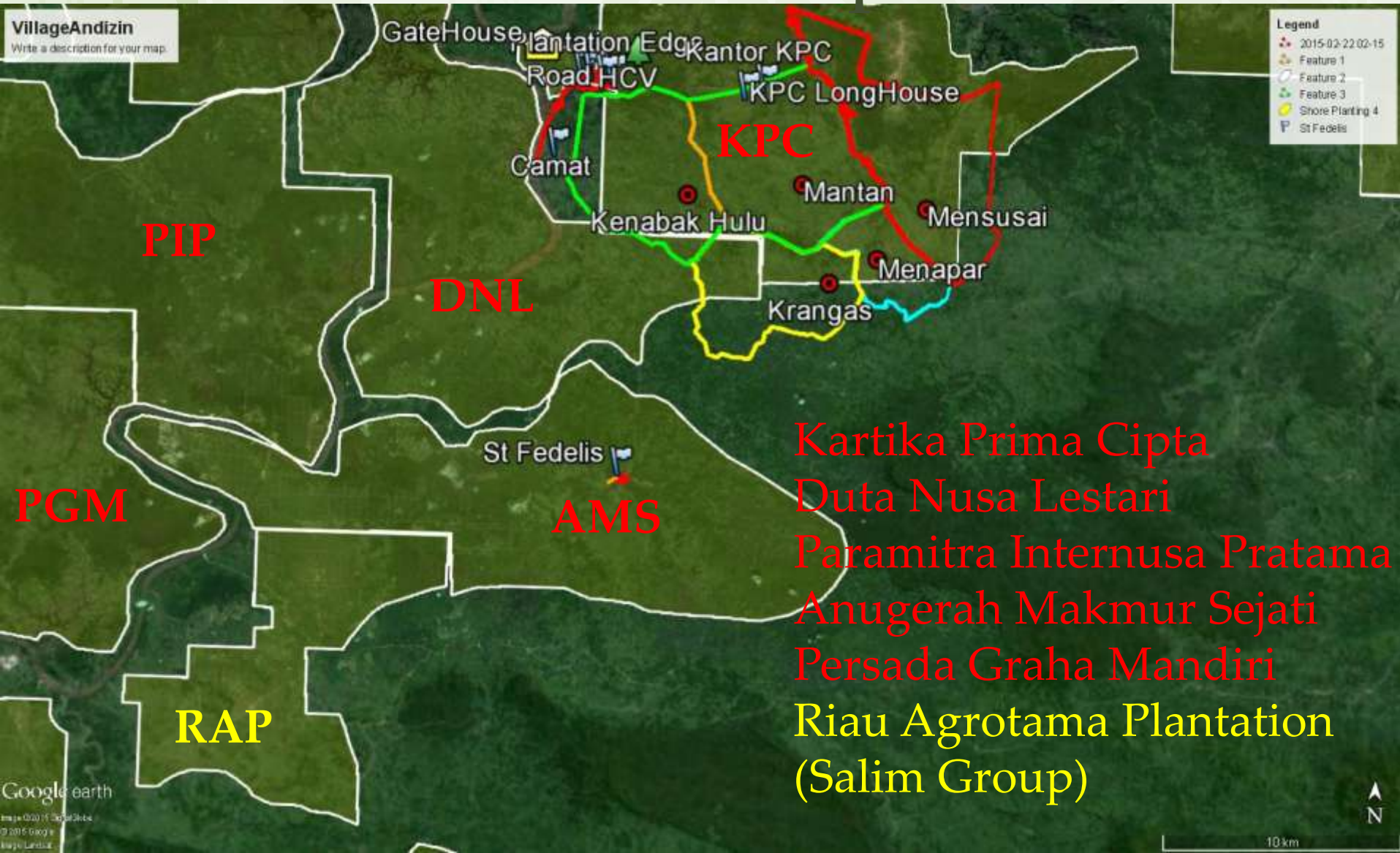
Where are boundaries of HGU?



Also unclear where are
boundaries of kemitraan area



Problems in PT KPC also found in other **Sinar Mas** plantations





Dream Team Tim Impian



A photograph showing several clusters of harvested palm oil fruit (bunches of red and orange fruits) lying on a dry, sandy ground. Some clusters are still attached to their fibrous husks. A piece of light-colored fabric or paper is partially visible near the top left cluster. In the background, there is some green palm frond and a small white rock.

Terima Kasih