



8 March 2019

Mr. Kim Carstensen, Director General
Forest Stewardship Council
Adenauerallee 134, 53113 Bonn, Germany

Dear Mr. Carstensen:

On February 27, residents of the Weed community in California, United States submitted a complaint to the Forest Stewardship Council (FSC) concerning Roseburg Forest Products, an FSC-certified company. The community submitted detailed evidence that Roseburg has violated their human rights by using a “Strategic Lawsuit Against Public Participation” (SLAPP) to silence their right to free expression and by attempting to deny them access to their primary source of clean drinking water. We strongly encourage you to open an investigation into the actions of Roseburg, as requested by the complainants.

[EarthRights International](#) is a nonprofit organization based in the United States, with offices in Southeast Asia and the Amazon region. We believe that environmental protection and human rights are inextricably linked. Using the power of the law, we hold corporations accountable for abuses committed against local communities and the ecosystems on which they depend.

As you are undoubtedly aware, we are witnessing a global trend of closing civic space. Those who dare to speak out in the public interest are being silenced by powerful actors using tactics such as threats, outright violence, smear campaigns, criminalization of civil society advocacy and protests, and abusive use of the judicial system. Companies operating in the natural resource sectors, including the forestry industry, have been implicated in the use of such tactics.

In the United States, we have seen a worrisome trend in the use of SLAPPs. SLAPPs masquerade as civil lawsuits, but their true goal is to silence the rights of free expression, association, and peaceful assembly. In many cases, courts will eventually dismiss a SLAPP lawsuit. But a SLAPP bully can achieve its intended goal of intimidating its critics into silence even without winning the lawsuit.

In the United States, a lawsuit can drag on for years, even if it is dismissed. A SLAPP can force a poor community to pay thousands of dollars in legal fees, while creating fears among the victims that they will be bankrupted, losing their homes and their life savings. Many SLAPP bullies will try to use the

discovery phase of litigation as a way to demand access to their critics' personal emails, computer files, and details of their personal lives. SLAPPs are an extremely intimidating tactic.

Several United Nations mechanisms have highlighted the ways in which SLAPPs constitute a violation of the rights to free expression, association, and peaceful assembly, as provided in the Universal Declaration on Human Rights and the International Covenant on Civil and Political Rights.

In a [2013 report to the UN General Assembly](#), for example, the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, observed “the consolidation of more sophisticated forms of silencing [civil society] voices and impeding their work, including the application of legal and administrative provisions or the misuse of the judicial system to criminalize and stigmatize their activities.” She wrote, “These patterns not only endanger the physical integrity and undermine the work of human rights defenders, but also impose a climate of fear and send an intimidating message to society at large.”

In 2017, the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, Annalisa Ciampi, [published an information note](#) that describes the telltale signs of a SLAPP. She wrote:

“Often based upon ambiguous and elastic provisions of law, SLAPPs use a range of tactics to exhaust resources, campaign capacity and morale:

- They resort to motions, injunctions and other procedurally onerous processes (particularly the expensive and resource-intensive discovery/disclosure process) to impose heavy burdens on activists and civil society organizations;
- They often target individual campaigners, as well as the organizations they work for, to maximize the SLAPP's capacity to intimidate;
- They generally include exorbitant claims for damages and allegations designed to smear, harass and overwhelm the campaigners.”

Ms. Ciampi also observed, “The SLAPP trend has been particularly pronounced in the US, fueled and aided by exorbitant legal fees, the ‘American rule’ of costs apportionment (whereby each party to a lawsuit is responsible for its own attorney fees), and an absence of caps on damages.”

In response to the chilling effect that SLAPPs are having on civic space in the United States, EarthRights International and other nonprofit organizations created the [“Protect the Protest” coalition](#) in 2018 to provide support to communities, activists, and public interest organizations targeted by SLAPPs. It is through this coalition's work that we first became familiar with the situation in Weed, California.

As described in the complaint submitted to the FSC, ample evidence exists that Roseburg Forest Products has used a SLAPP in an attempt to violate the rights of Weed residents to free expression, free association, and peaceful assembly. The situation is particularly egregious, because Roseburg's actions also threaten the community's right to access clean drinking water.

A California court agreed with the Weed residents, declaring Roseburg's lawsuit to be a SLAPP and ordering the company to pay for the Weed residents' legal fees. Nonetheless—and consistent with the pattern of behavior often seen with SLAPPs—Roseburg has appealed the case and used legal maneuvers to drag out the lawsuit as long as possible. Roseburg's efforts have placed severe stress on the economically-challenged town and the defendants, several of whom are elderly.

This behavior is fundamentally at odds with the community engagement principles that are at the heart of responsible behavior in the forestry sector. We believe that Roseburg's mistreatment of the Weed community merits further investigation by the FSC.

Thank you for taking the time to listen to our concerns. We would be happy to provide you with any additional information needed to assist in this process.

Best regards,

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