



DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES



MAY 26 1999

20 May 1999

HON. DEMETRIO P. SONZA  
Chairman  
Sangguniang Pantlalawigan ng Iloilo  
Provincial Capitol Building  
Iloilo City

Dear Mr. Chairman:

Greetings!

We are referring to Resolution No. 98-180 re: *Expressing the Position of the Province of Iloilo in the Strongest and Most Unequivocal Term Opposing All Mining Operations within the Territorial Jurisdiction of the Province of Iloilo.*

After a thorough review, we have found that the basis of the Resolution appears to have missed some legal and technical facts, hence, the following clarifications:

1. We fully subscribe to the provisions of the Local Government Code of 1991, in particular Sections 26 and 27 thereof. However, we are bringing to your attention Section 70 of the Philippine Mining Act of 1995, to quote:

*"Section 70. Environmental Impact Assessment (EIA).-*

*Except during the exploration period of a mineral agreement or financial or technical assistance agreement or an exploration permit, an environmental clearance certificate shall be required based on an environmental impact assessment and procedure under the Philippine Environmental Impact Assessment System including Sections 26 and 27 of the Local Government Code of 1991 xxx" (emphasis ours)*

2. The abovequoted provision of the Philippine Mining Act of 1995 means that:

- a. Any mining project under a mineral agreement including a Mineral Production Sharing Agreement (MPSA) or a Financial or Technical Assistance Agreement (FTAA) shall require among others prior approval of the concerned Sanggunian before it can proceed with its project

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construction/development and/or commercial operation stages; and

- b. Any mining project under an Exploration Permit (EP), mineral agreement including MPSA, or FTAA shall not require prior approval of the concerned Sanggunian if it is still in the exploration stage;
3. Notwithstanding the exception of exploration activities to the provisions of Sections 26 and 27, we still require mining applicants to undergo the consultation process with Local Government Units (LGUs) and other stakeholders, for the purpose of presenting their proposed work programs under the mining permit or contract that may be issued.

Besides, DENR Administrative Order NO. 96-40, the Revised Implementing Rules and Regulations of the Philippine Mining Act of 1993, has its own mechanism for informing stakeholders about a mining application. This involves requiring a mining application to be published in national and local newspapers once a week for two (2) consecutive weeks, posted on the bulletin boards of provincial, municipal and barangay halls among others for fifteen (15) days, and announced in a local radio station daily for two (2) consecutive weeks. These serve as "notice to the whole world" so that everyone who has objection to the mining application can be duly informed and provided the opportunity to argue his/her case.

4. The essence of excluding exploration activities from the provisions of Sections 26 and 27 of the Local Government Code of 1991 is explained as follows:
  - a. Section 26 qualifies that the "project" or "program" requiring prior approval of the concerned Sanggunian refers to an undertaking "that may cause pollution, climatic change, depletion of non-renewable resources, loss of cropland, rangeland or forest cover, and extinction of animal or plant species"; but
  - b. Exploration for minerals has none of such qualifications. Exploration is the first stage of mining that simply involves the search for possible economic mineral deposits. It is a non-land use, non-intrusive research activity. Its chances of hitting an economic mineral deposits is 1:100, i.e., 1 for every 100 prospects. Even when there is no find, an exploration project can not be a total failure because the

geological data obtained from this activity are equally valuable to non-mining purposes such as in groundwater search, disaster preparedness due to the identification of geohazards, land use planning, etc. LGUs will find these data extremely valuable.

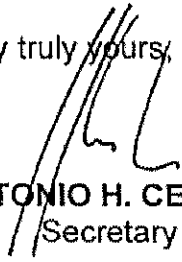
DENR Administrative Order No. 96-40 also fully recognizes the important role of LGUs in mining projects in a manner that harmonizes with the provisions of the Local Government Code of 1991. In effect, these are appropriate forums where LGUs can express their concerns and exercise authority more objectively and within the legal framework. Attached as Annex A is an excerpt of DENR Administrative Order No. 96-40 concerning this role of LGUs.

We assure the Honorable Members of the Sangguniang Panlalawigan of Iloilo that the DENR, true to its mandate, shall not allow any mining project that may compromise the protection of the environment and the welfare of the communities. But where a mining project guarantees Best Practice, with high-profit potential to absorb the social and environmental costs, the DENR is asking for your full support in accordance with the national policy to promote sustainable mineral resources development as an option to sustain economic growth.

Hoping that we have clarified matters.

Thank you very much.

Very truly yours,

  
ANTONIO H. CERILLES  
Secretary

c.c.: All concerned Sangguniang Panlalawigan  
The Director, Mines and Geosciences Bureau  
The Regional Executive Director, DENR Region VI  
The Hon. Governor, Province of Iloilo

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