

Memorandum Order
No. 97-03
June 24, 1997

SUBJECT : Policy in Rationalizing the Diwalwal Gold-Rush Mining Operations

WHEREAS, tens of thousands of miners, local entrepreneurs, and service providers are earning their livelihood from the mining operations in the Diwalwal Gold Rush Area in Mt. Diwata, Monkayo, Davao del Norte;

WHEREAS, the advent of gold mining in the area contributed substantially in arresting the insurgency problem in the province, and in improving the local and regional economy;

WHEREAS, the adverse environmental, safety, health, and sanitation conditions in the area resulting from the mining operations are major concerns that need to be addressed immediately;

WHEREAS, tenurial and mining rights in the area have been characterized by conflicting claims which have to be addressed in an atmosphere of peaceful co-existence among the various stockholders, and within the framework of the law, so that a comprehensive development of the area can be carried out;

WHEREAS, a rationalized gold-mining operation in the area offers the opportunity of putting in place viable measures that would ensure the sustained livelihood of the stakeholders therein, and would optimize the benefits which may be derived from the irreplaceable mineral resources, in accordance with the sustainable development strategy of the government;

WHEREAS, appropriate measures have to be set in place so that the necessary sanctions and penalties can be imposed, and the appropriate compensation schemes may be applied in cases involving environmental degradation, and also for the purpose of preventing its further occurrence;

WHEREAS, the government must take adequate measures within the framework of the law to protect the livelihood of the people; minimize, if not eliminate, the adverse effects of mining in the community; enhance safety in mining operations, and ensure that revenues due the government from the development of mineral resources are properly paid and collected;

WHEREAS, the government still has to study prudently and exhaustively the various options available to it in rationalizing the Diwalwal Gold Rush Area situation, as well as seek better options, if any, in coming out with a rationalization plan that would be just and fair to all concerned parties in the Diwalwal Gold Rush Area;

WHEREAS, pursuant to Sections 4, 6 and 8 of Republic Act No. 7942, mineral resources are owned by the State, and the exploration, development, utilization, and processing thereof shall be under its full control and supervision, and that the State may directly undertake such activities;

WHEREAS, the Department of Environment and Natural Resources (DENR) is the primary government agency responsible for the conservation, management, development, and proper use of the State's mineral resources, including those in reservations, and that mining operations in reserved lands other than mineral reservations may be undertaken by the State through the Department of Environment of Natural Resources; and,

WHEREAS, it is the declared policy in DENR Administrative Order No. 96-40, that all mineral resources in public and private lands

within the territory and exclusive economic zone of the Republic of the Philippines are owned by the State;

NOW, THEREFORE, pursuant to the premises laid down above, the following Order is hereby issued for guidance and compliance:

1. The DENR shall study thoroughly and exhaustively the option of direct state utilization of the mineral resources in the Diwalwal Gold-Rush Area. Such study shall include, but shall not be limited to, studying and weighing the feasibility of entering into management agreements or operating agreements, or both, with the appropriate government instrumentalities or private entities, or both, in carrying out the declared policy of rationalizing the mining operations in the Diwalwal Gold Rush Area; such agreements shall include provisions for profit-sharing between the state and the said parties, including profit-sharing arrangements with small-scale miners, as well as the payment of royalties to indigenous cultural communities, among others. The Undersecretary for Field Operations, as well as the Undersecretary for Legal & Legislative Affairs and Attached Agencies, and the Director of the Mines and Geo-sciences Bureau are hereby ordered to undertake such studies.

2. Pursuant to the above-mentioned studies, and in coordination with the other departments of the government, including the Department of Interior and Local Governments (DILG), the Bureau of Internal Revenue (BIR), the Department of Agriculture (DA), among others, the DENR shall promulgate the necessary rules, orders, and regulations that would carry out the following objectives:

- a) prohibit the use of Mercury, and other chemicals or substances prohibited under R.A. 6969 or those that may be prohibited in the future by law;
- b) strictly regulate the use of cyanide in the processing operation of the miners and;
- c) strictly enforce the ore transport permit provision of RA 7942;
- d) institute strict controls on the importation, disposition and use of such materials, as provided under RA 6969, otherwise known as the "Toxic Substance and Hazardous and Nuclear Wastes Control Act of 1990";
- e) Regulate and control the issuance of licenses and permits for the importation, disposition and use of explosives, provided that licenses and permits to purchase and possess explosives for mining operations may be issued only to entities duly endorsed by the MGB, and approved by the PNP, and only for the purpose and use of legitimate mining operations.
- f) Provide the necessary technical assistance in the conduct of geodetic and geological surveys for the delineation of mining area boundaries.
- g) Facilitate the determination of the legitimacy and processing of Certificate of Ancestral Domain Claim (CADC) applications of the indigenous people in the area.
- h) Ensure the collection of taxes, fees, and charges due from any and all mining operations, promulgating measures to address any attempts to smuggle gold outside the country.

- i) Give guidance and technical support to all local government units concerned in the formulation of a Master Plan, which shall include the determination of feasible sites or relocation of mineral processing plants, or both. Such Master Plan shall harmonize small-scale mining operations and mineral-processing activities, enhance environmental protection, and ensure adequate human health and safety.
- j) Conduct health monitoring and assessment activities, as well as the management or treatment of health cases; launch health education campaigns and environmental sanitation activities for the residents in the area.
- k) Formulate necessary policies, and occupational safety standards and education of workers in the said mining operations.
- l) In coordination with the local government units of the affected area, undertake the necessary activities in monitoring the mining operations, and provide other government agencies cooperation and support to ensure strict compliance with existing mining and environmental laws, rules, and regulations.
- m) Provide adequate security in the area and maintain an adequate peace and order situation. L
- n) Formulate and recommend to Congress the necessary amendments to current small-scale mining laws for the protection of small-scale miners, particularly the traditional ones.
- o) Facilitate the legalization and the strengthening of laws on security of tenure, and at the same time, increase the levels of environmental responsibility.

- p) Provide mechanisms for the adoption of environment-friendly technology in consultation and in coordination with the Department of Science and Technology.
- q) Coordinate with the various government agencies involved in this undertaking to insure the availability of personnel and resources that would undertake the activities needed in the implementation of this memorandum order.
- r) Create a Committee that shall review past mining activities, which shall recommend appropriate measures, including the review and revision of the Implementing Rules and Regulations of RA 7076 or the People's Small-scale Mining Act.

THIS ORDER SHALL TAKE EFFECT IMMEDIATELY.

(Sgd.) VICTOR O. RAMOS
Secretary