

Memorandum Order
No. 98 - 19
December 02, 1998

SUBJECT : Interim Authority to Transport Ores Already Extracted and not Included in the Writ of Injunction Issued by the Court of Appeals in CA-G.R. SP No. 47293, Entitled Mt. Diwata Upper Ulip Tribal Association, Et Al., Vs. Monkayo Integrated Small-Scale Miner's Association (MISSMA).

WHEREAS, Republic Act No. 7076 (Otherwise known as the People Small-Scale Miner's Act of 1991) enacted on 27 June 1991 declared the segregation and reservation of certain mineral lands as people's small-scale mining areas and the non-dispossession of small-scale miners who have been in actual operation of mineral lands on or before 01 August 1987.

WHEREAS, Administrative Order No. 66 promulgated on December 1991 by the Department of Environment and Natural Resources pursuant to Republic Act No. 7076 declared the seven hundred twenty nine hectares (729) in Mt. Diwata Gold Rush Area in Monkayo, Compostela Valley, as open for small-scale mining;

WHEREAS, Republic Act No. 7942 (Otherwise known as the "mining Act of 1995") enacted on 03 March 1995 gave preferential right to small-scale miners of up to twenty-five per cent (25%) of the country's mineral reservation as provided in Republic Act 7076;

WHEREAS, taking into account the legislative intent of the enactment of Republic Act 7076, the Mines Adjudication Board decision, in MAC-Case No. 005 (XI) dated January 1998, declared

the seven hundred twenty nine hectares (729 has.) in Mt. Diwata Gold Rush Area in Monkayo, Compostela Valley, as excluded from the Southeast Gold Mining Corporation's adverse claim and, thus, open for small-scale mining.

WHEREAS, under Section 79 of Republic Act No. 7942, the decisions of the Mines Adjudication Board (MAB) are final and executory;

WHEREAS, On 23 September 1998, His Excellency Joseph Ejercito Estrada issued a Memorandum Order directing the moratorium and stoppage of all mining activities in the disputed Mt. Diwata Gold Rush Area, Monkayo, Compostela Valley, until after the controversy and conflicting claims have been finally addressed and resolved;

WHEREAS, in line with the aforementioned Memorandum Order dated 23 September 1998, the small-scale miners conducting mining activities in the disputed Mt. Diwata Gold Rush Area numbering around twenty-five thousand individuals, more or less, have faithfully abided therewith and voluntarily desisted from continuing with their mining activities;

WHEREAS, in view of the extremely distressful situation in the Compostela Valley resulting from the short period of time that the mining activities of the small-scale miners were put on moratorium, the entire area was declared under a state of calamity and desolation such that the Department of Welfare and Development conducted the much needed relief operation in order to temporarily alleviate the affected families from their current plight and distress.

WHEREAS, aside from the resultant hardship being experienced by vast citizenry of Compostela Valley, the economy of the area has been widely affected in view of the great loss of revenue being generated by the mining activities being conducted in the Mt. Diwata

Gold Rush Area in the form of local taxation, regulatory permits and licenses and local commercial trade;

WHEREAS, in view of the extreme urgency of the situation necessitating priority concern, the Memorandum Order issued by the Office of the President On 23 September 1998 was supplanted by the creation of Task Force Diwa by the Office of the President, an inter-agency/Cabinet-level work and research group, composed of the DENR, Department of Justice (DOJ), Department of Interior and Local Governments (DILG), and tasked to investigate and assess the on-going dispute in the Mt. Diwata Gold Rush Area and make its findings and recommendation;

WHEREAS, on 22 October 1998, Task Force Diwat issued a resolution declaring the 729 - hectare disputed Gold Rush Are of Mt. Diwata as, delineated, and designated and reserved for small-scale mining activities;

WHEREAS, in the said resolution, the mining activities being conducted by the small-scale miners presently occupying the Mt. Diwata Gold Rush Area was legitimized;

WHEREAS, in the said resolution, the Department of Environment and Natural Resources (DENR), a member of Task Force Diwa, was mandated to commence with the processing of gold ore deposits in the seven hundred twenty-nine hectares (has.) in Mt. Diwata Gold Rush Area in Monkayo, Compostela Valley. The DENR was likewise mandated to ensure that all environmental protection, safeguard and enhancement, including the safe operation of the mining activities by the small-scale miners, are complied with and implemented;

WHEREAS, in the said resolution, the DENR was likewise mandated to enter into an Interim Operating Agreement, through the Natural Resources Development Corporation (NRDC) as the DENR's corporate implementing arm, with the small-scale miners presently

occupying and conducting mining activities in the Mt. Diwata Gold Rush Area for the interim exploration, exploitation, extracting and processing and transport of gold ore deposits prior to the final issuance in favor of the small-scale miners of the appropriate and necessary Exploration, Ore Transport and Mineral Processing Permits and Mineral Trading Registration;

WHEREAS, in the said resolution, the DENR was likewise mandated to facilitate the transport and processing of the extracted gold ores in Mt. Diwata excluded from the Compromise Agreement by and between Monkayo Integrated Small Scale Miners Association and the DENR dated 19 March 1998 and, therefore, excluded from the Preliminary Injunction dated 24 June 1998 issued by the Court of Appeals in CA-G.R. SP No. 47293;

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

1. To ensure the payment of the proper excise taxes in accordance with existing laws, the MGB region director is hereby ordered to conduct an inventory, segregate, and separate the gold ores in the Diwalwal area not subject to the writ of injunction issued in CA-G.R. SP No. 47293, not later than five (5) days from the execution hereof;
2. In accordance with the Task Force Diwa Resolution dated 22 October 1998, the MGB regional director is hereby ordered to cause and monitor the transportation of the extracted gold ores that have been so inventoried, separated, and segregated and excluded from the Compromise Agreement by and between Monkayo Integrated Small Scale Miners Association and the DENR dated 19 March 1998 and subject of the Writ of Injunction issued in CA-G.R. SP No. 47293; To achieve this objective, the Provincial

Mining Regulatory Board of Compostela Valley is hereby ordered to issue the necessary Ore Transport Permits;

3. The MGB regional office shall submit a report on the action conducted under this Order within ten (10) days from receipt hereof;

THIS ORDER SHALL TAKE EFFECT IMMEDIATELY.

(Sgd.) ANTONIO H. CERILLES
Secretary