



Republic of the Philippines
Department of Environment and Natural Resources

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ADMINISTRATIVE ORDER

No. 2002-18

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SUBJECT: Declaring An Emergency Situation In the Diwalwal Gold Rush Area and Providing for Interim Guidelines To Address the Critical Environmental and Social Consequences Therein

WHEREAS, Article II of the 1987 Philippine Constitution provides that the State shall protect and promote the right to health of the people and advance the right to a balanced and healthful ecology in accord with the rhythm and harmony of nature;

WHEREAS, Article XII of the 1987 Philippine Constitution provides that all natural resources are owned by the State, that the exploration, development and utilization thereof shall be under its full control and supervision, and that the State may directly undertake such activities;

WHEREAS, Section 4 of Republic Act (R.A.) No. 7942, otherwise known as the Philippine Mining Act of 1995, provides that the mineral resources are owned by the State, that the exploration, development and utilization and processing thereof shall be under its full control and supervision and that it may directly undertake such activities or it may enter into mineral agreements with contractors;

WHEREAS, Section 8 of R.A. No. 7942 also provides that the Department of Environment and Natural Resources (DENR) shall be the primary agency responsible for the conservation, management, development and proper use of the State's mineral resources including those in reservations, watershed areas and lands of the public domain and that the DENR Secretary shall have the authority to promulgate rules and regulations as may be necessary to implement the intent and provisions of the said Act;

WHEREAS, Executive Order (E.O.) No. 192 mandates that the DENR shall be the primary government agency responsible for the conservation, management, development and proper use of the country's environment and natural resources, as well as the licensing and regulation of all natural resources as may be provided for by law in order to ensure equitable sharing of the benefits derived therefrom for the welfare of the present and future generations of Filipinos;

WHEREAS, the authority over small-scale mining and enforcement of certain environmental laws by the Provincial Government concerned are subject to the supervision, control and review of the DENR Secretary pursuant to the pertinent provisions of R.A. No. 7160 or the Local Government Code of 1991;

WHEREAS, pursuant to E.O. No. 786 dated March 19, 1982, the Natural Resources Development Corporation (NRDC) as a government corporation and corporate arm of the DENR is mandated to help promote the development of the country's natural resources;

WHEREAS, the Supreme Court has ruled in G.R. No. 135190 issued on April 3, 2002 that the State may not be precluded from considering a direct takeover of the mines if it is the only plausible remedy in sight to the gnawing complexities generated by the gold rush;

WHEREAS, Proclamation No. 2146, dated December 14, 1981, provides that mining being a resource extractive industry is an environmentally critical project;

WHEREAS, the Diwalwal gold rush area in Mt. Diwata, Monkayo, Compostela Valley Province has been the site of crude and semi-mechanized to mechanized types of mining operations since 1983, involving thousands of miners, local entrepreneurs and service providers;

WHEREAS, comprehensive studies on the extent of pollution and siltation resulting from the Diwalwal mining operations undertaken by the DENR, the United Nations Industrial and Development Organization (UNIDO), and other entities have confirmed the elevated levels of mercury and serious siltation incidents in the area, indicating an emergency situation that needs immediate intervention by Government;

WHEREAS, the above situation has been aggravated by peace and order problems, notably the recent killing of a judge in Compostela Valley, the alleged burning of tires and toxic chemicals in the underground working areas causing the suffocation of forty-four (44) miners and one (1) fatality; blockade of vital Bincungan Bridge in Davao del Norte and Tagmanok Bridge in Compostela Valley; and fatal ambushes which now calls for immediate positive action by Government;

WHEREAS, the current situation requires an urgent need to address the issues on environmental degradation, social dislocation, peace-and-order, and occupational health and safety hazards facing the Diwalwal mining operations, including the need for an appropriate site and engineered waste and tailings disposal system;


WHEREAS, mining and mineral processing operations are matters impressed with public interest and that rationalized gold mining operations in Diwalwal would ensure the sustained livelihood of the thousands of miners, local entrepreneurs and service providers therein and optimize the benefits to be derived from the mineral wealth in accordance with the sustainable development strategy of the Government;

WHEREAS, the rationalization of the Diwalwal gold mining operations should be pursued in line with sustainable development and poverty alleviation strategies of the Government;

NOW, WHEREFORE, foregoing premises considered, the following are hereby promulgated:

Section 1. Declaration of Emergency. In view of the issues on environmental pollution, social dislocation, health and safety hazards, and deteriorating peace and order situation, an emergency situation is hereby declared in the Diwalwal gold-rush area.

Section 2. Objectives. In consonance with existing laws, and to immediately address the critical environmental and social dimensions of the Diwalwal gold-rush area, the following objectives are hereby set-forth:

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- a. Provide for immediate measures to mitigate the critical environmental and social conditions in the Diwalwal gold-rush area;
 - b. Address the deteriorating peace-and-order situation in the area;
 - c. Address the needs of the destitute small miners and the demands of farmers in the area, taking into consideration their sustained livelihoods, health and safety; and
 - d. Establish a management system for environmental protection and resource utilization.

Section 3. Stoppage of Mining and Mineral Processing Operations. In view of the critical environmental and social conditions now prevailing, a stoppage of mining

and mineral processing activities of major operators in the Diwalwal gold rush area is hereby ordered until such time that all the environmental and permitting requirements are complied with. To implement the said stoppage, the DENR shall:

- a. Seek the assistance of concerned local government units and other government agencies in stopping large mining and mineral processing activities, and in providing security of the area and maintenance of peace and order;
- b. In coordination with the Firearms and Explosives Office (FEO), Philippine National Police (PNP), strictly regulate and control the issuance of licenses for the purchase, disposition and use of explosives and their accessories; and
- c. Issue the necessary deputation orders to the PNP, the Armed Forces of the Philippines (AFP), and other concerned entities to police all mining activities.

Section 4. Addressing the Environmental Problems. To immediately address the siltation, pollution and other environmental problems, the DENR shall undertake the following actions:

- a. Make available the Mabatas area as feasible sites for the relocation of mineral processing plants and for common tailings disposal system;
- b. Undertake the planning, identification, construction and operation of an engineered tailings dam;
- c. Initiate and undertake the orderly relocation of mineral processing plants to the Mabatas area or any other government-designated areas;
- d. Through the Environmental Management Bureau (EMB), strictly regulate the use of Mercury, Cyanide and other chemicals or substances as provided for under R.A. No. 6969;
- e. Coordinate with the Department of Health (DOH) in the conduct of health monitoring and assessment activities, management or treatment of health cases, pursuit of health education campaigns and environmental sanitation activities, for the residents in the area;
- f. Through the Mines and Geosciences Bureau (MGB) and the EMB, in coordination with the concerned local government units, shall conduct an assessment of the nature and extent of the environmental problems in the area;
- g. In coordination with the local government units of the affected areas, undertake the necessary close monitoring of the mining operations, and formulate long-term plans and programs to address the environmental problems in the area; and
- h. Together with NRDC, and in coordination with the concerned local government units, shall initiate environmental clean-up of the Diwalwal mining area and the Naboc River, and shall establish an Environmental User's Fee mechanism under DAO No. 2002-16 and a Peoples Small-Scale Mining Protection Fund under R.A. No. 7076.

Section 5. Role of the Natural Resources Development Corporation (NRDC). In the interim, the DENR through the NRDC, shall undertake the development and utilization activities in the area, such as, but not limited to:

- a. The setting up of professionally competent and qualified technical groups, with technical assistance of MGB, to undertake the necessary planning, management and operationalization of various mining-related activities in the Diwalwal area;

- b. The preparation and initial construction and operations of the Mabatas mill tailings disposal facility;
- c. Implementation of a mine management plan to generate cash flow for the activities in Mabatas disposal system and to address issues on environmental, social and sustainable livelihood of subsistence mine workers;
- d. Development and establishment of a purchasing and marketing mechanism and facilities to ensure that all the gold produced from the Diwalwal area shall be sold to the Bangko Sentral ng Pilipinas (BSP).

Section 6. Provision of Technical Assistance. In order to address the rational development of the Diwalwal gold deposit, the following shall be undertaken:

- a. The DENR shall organize and operationalize a full-time Technical Working Group headed by the MGB, to provide all necessary assistance in the rationalization of the Diwalwal mining operations;
- b. The MGB shall conduct geodetic and geological surveys for the delineation of mineralized zones and mining areas;
- c. The MGB, in support to NRDC shall undertake survey of the underground mine workings to identify and delineate danger zones;
- d. The EMB shall develop a scheme of programmatic or unified Environmental Clearance Certificate (ECC) to fast track the necessary evaluation and approval of required ECCs; and
- e. The DENR shall provide training on mine safety, first aid, and environmental protection measures to small-scale miners and mineral processors.

Section 7. Collection of Taxes, Fees and Royalties. To ensure that the taxes, fees and royalties due from the utilization of mineral resources will be properly and adequately collected, the DENR shall undertake the following:

- a. In coordination with the Bureau of Internal Revenue (BIR) and the concerned Local Government Units, shall develop and set up the necessary collection mechanisms; and
- b. In recognition of possible vested rights in the area, the DENR shall deposit in escrow in a government bank, appropriate royalties for rightful indigenous peoples and mining tenement claimants.

Section 8. Separability Clause. If any clause, sentence, section or provision of these guidelines is held or declared to be unconstitutional or invalid by a competent court, the remaining parts thereof shall not be affected thereby.

Section 9. Effectivity. These guidelines shall take effect fifteen (15) days following its complete publication in a newspaper of general circulation.


HEHERSON T. ALVAREZ
 Secretary

AUG 12 2002

PUBLICATION:

PHILIPPINE DAILY INQUIRER
 AUGUST 14, 2002