



LEGAL RIGHTS AND NATURAL RESOURCES CENTER, Inc.
KASAMA SA KALIKASAN/FRIENDS OF THE EARTH-PHILIPPINES
(LRC-KsK/FoE-Phils.)

41-B Mapagsanguni Street, Sikatuna Village, Quezon City
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LRC-KsK is legal and policy research and advocacy institution which deals primarily with the process of attaining ecologically sustainable, culturally appropriate, gender-sensitive, economically viable, equitable and dynamic stewardship and use of natural resources.

With the assistance of legal policy experts, the Center strives to articulate policy alternatives which are intimately linked with those communities which directly depend upon our natural endowments.

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LRC-KsK is a member of the Friends of the Earth International (FoEI) and the Alternative Law Groups (ALG).

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MORATORIUM ON MINING APPLICATIONS: pagtutuwid ng daan para sa minahan

"We need to have a government that will encourage sustainable use of resources to benefit the present and future generations."

This was the statement of presidential spokesperson Edwin Lacierda recently, as a way of explaining the suspension of processing of mining applications. According to Lacierda, the suspension "is in accordance with President Benigno Aquino III's thrust to protect the environment."

At first, we lauded the suspension of the processing of mining applications. We laud this, because we welcome any move that would mean a possibility of a breather for rural poor communities from yet another mining company wanting to turn their lives upside down, and their lands and mountains inside out for gold, and other minerals. We welcome any possibility of relief for the earth, the remaining forests, and the waters, from massive attack, and be left alone to function as they should – food source and shelter for the rural people; and habitat for other forms of life.

Then, we asked – what was the rationale of the suspension?

With the issuance of the Department of Environment and Natural Resources (DENR) Memorandum 2011-01, the DENR Sec. Ramon Paje has called for the suspension of acceptance and processing of new mining applications. Paje said that this is a step towards enhancing the management of natural resources, with their policy of "use it or lose it." It is about "cleansing" of its records of non-moving mining applications and non-performing mining contracts to eventually "open about 5 million hectares of potential mineralized areas for serious investors." (*Mining Reform in the Philippines*, <http://www.denr.gov.ph/article/articleview/5983>)

It is clear from the memorandum that the moratorium covers only the acceptance and processing of new mining applications. Pending mining applications will continue to be processed, and existing mining tenements remain valid and in effect.

As of 2010, according to the Mines and Geosciences Bureau of the DENR, there are 702 approved mining tenements, covering 1,093,521.5619 hectares. Among these are mining permits overlapping with old growth forests, watershed areas, prime agricultural lands, and protected areas. There are also approved mining permits over ancestral domains of indigenous peoples, with no legitimate free, prior and informed consent from the people.

So if the DENR is really serious in fulfilling its responsibility of protecting the environment, Paje should start "cleansing" these approved mining tenements. But since Paje assumed position, he has not done any significant action on the more controversial approved mining permits. There is the Financial and Technical Assistance Agreement (FTAA) with the Australian mining company Oceania Gold,



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Inc., for its operation in Brgy. Didipio, Kasibu, Nueva Vizcaya. This FTAA has been riddled with a lot of issues and legal challenges for the past decade – lack of local government consent, lack of funds, diversion of water sources, among others. Then recently, the Commission on Human Rights issued a resolution, calling on the government to revoke its FTAA for human rights violations committed by the Oceania Gold against the Didipio people. The DENR however remain silent on these issues until now. Shouldn't companies like this, be the subject of Paje's cleansing program?

LRC-KsK calls for more definitive and strategic actions. We urge the government to immediately review all existing applications and contracts, and effect the immediate cancellation of non-performing mining tenements, and those without legal and legitimate consent. We also call for the suspension of all mining contractors with human rights violation complaints. During the period of moratorium, all the issues and concerns in regards to all mining activities (whether pending or existing) should be addressed, and institutional processes should be in place before mining activities are resumed.

Lacierda talks about protection of the environment and sustainable use of natural resources. The Provincial Government of South Cotabato made a very definitive act to do exactly this – by passing the Environmental Code of the province. A very significant provision of this is the ban on open pit mining. However, there has been consistent and aggressive pressure from the Aquino administration on the South Cotabato local government to remove this ban.

With all of these, there are three things that are clear to us at this point –

: There are members of the Aquino government that have taken the matter of environment protection and sustainable use of natural resources seriously – the local government units who are expressing and taking official positions against large commercial mining and other extractive industries; as well as the CHR who recognizes that human rights are central to sustainable development.

: The DENR is not one of them.

: The moratorium on the processing of mining application and the DENR's cleansing program has nothing to do with environmental protection, or sustainable use of resources as Lacierda would purport it to be. It is about paving the way for the exploitation of more lands for mining operations. This is one of the mechanisms to have "tuwid na daan" para sa minahan.

The "use it or lose it" policy of DENR is nothing but an aggressive push for the big players in the mining industry to go full blast in their application and operation.

Given the pathetic monitoring system of the government, this would mean a rush through the application process and operations, sacrificing the safeguard mechanisms in place such as the environmental compliance certificate, public



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consultations, free and prior informed consent, and local government consent. In the end, the mining companies use, and we, the people, lose.

Lacierda said that the president wants a sustainable use of resources to benefit the present and future generations. Then the government should rethink its profit-driven, extractive and destructive development framework. A decisive move is much needed at this critical time when the country is beleaguered by natural disasters. If we want to arrest disasters, let us stop cutting and destroying our forests. If we want to address deforestation, let us put a halt to the drivers of deforestation. Large-scale mining is one of them.

A new policy of mining development is indeed urgently needed. The existing Mining Act or RA 7942 does not give the space for the government to do serious re-thinking of how to rationalize the use and development of our minerals. A new policy framework on mining is imperative to guide the government in the development and management of the country's dwindling and depleting natural resources in a more sustainable and equitable manner, that would truly serve a genuine pro-people development agenda.

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