



July 14, 2021

MEMORANDUM

FOR : The Regional Executive Director
DENR MIMAROPA Region

THRU : The Assistant Regional Director for Technical Services

FROM : The OIC-PENR Officer

**SUBJECT : INTENT OF PROVINCIAL GOVERNMENT OF MARINDUQUE
REPRESENTED BY GOVERNOR PRESBITERO J. VELASCO, JR.
TO ENTER INTO A MEMORANDUM OF AGREEMENT (MOA)
OVER THE AREA PREVIOUSLY COVERED WITH OLPLA NO.
002 (BODEGA AND PORT FACILITIES) OF MARCOPPER
MINING CORPORATION (MMC) LOCATED IN BRGY.
BALOGO, STA. CRUZ, MARINDUQUE**

REFERENCE

This refers to your Memorandum dated June 14, 2021 regarding the intent of the Provincial Government of Marinduque to enter into a MOA to take over the area previously covered by OLPLA No. 2 issued to Marcopper Mining Corporation (MMC) located in Brgy. Balogo, Sta. Cruz, Marinduque.

BACKGROUND

1. In February 1968, the area covering 17.655 hectares was leased to MMC through OLP No. 002 (Bodega and Port Facilities) for one (1) year. After the expiration, the lease was converted into OLPLA with 25 years duration which had expired on June 30, 1994. It was applied for renewal on September 09, 1993 for approval of then-Secretary Victor O. Ramos. Based on the available document, and as per response of the Forest Management Bureau, the renewal for OLPLA was not approved. However, the MMC is still occupying the area without any tenurial instrument up to this date. (*See attached Memorandum dated March 02, 2020, August 7, 2020 and September 18, 2020*)
2. The Provincial Government of Marinduque, represented by Governor Presbitero J. Velasco, Jr., has an intent to develop the Balogo Port area including the cadastral lots identified as Lot No. 5143 and 5836, Cad 815-D claimed by MMC and to declare the same as Marinduque Economic Zone (MAREZ) under House Bill 8551 of House Speaker Lord Allan Q. Velasco of the Lone District of Marinduque.

ACTION TAKEN

1. In order to assess the current situation of the bodega and port facilities, the staff of PENRO Marinduque together with the representatives from the Provincial Government and MGB proceeded to the area on June 11, 2021. It was observed that the majority of the facilities inside the port are old and dilapidated. However, the visit was cut short and the assessment was not thoroughly conducted due to the prohibition imposed by the security guard of MMC residing in the area. (*Please see ~~report~~ inspection report*)

2. That based on the preliminary plotting of Lot No. 5143, Cad. 815-D and Lot No. 5836, Cad. 815-D which are declared in the name of MMC, the whole area of Lot 5836 falls within Timber Land Block B, Project No. 5, LC Map 789 (*see attached Map*)

RECOMMENDATIONS

1. Since the OLPLA No. 2 was already expired and no renewal of the same was approved, the government has jurisdiction over the area. Section 7.3 of DAO 2020-09 which states that ***“Upon identification of the expired tenurial instrument, the Asset Management Team (AMT) shall secure the area covered, prepare and implement a protection and management plan, and conduct a comprehensive assessment to determine the best land use hereof”***, thus issuance of notice to vacate the area by the Regional Office is necessary. Likewise, Regional Special Order creating AMT must be issued by the RED.
2. To validate the extent of the area covered by the OLPLA No. 2 and the land classification of the whole area, the copy of Map covering the 17.655 hectares is hereby requested from the FMB as this Office does not have any record of it. Moreover, it will be the basis to verify if the abovementioned cadastral Lot Nos. 5143 and no. 5836 are included in the issued OLPLA No. 2.
3. The Provincial Government of Marinduque is hereby advised to apply for appropriate tenurial instrument for the portion that falls within the Timberland.
4. Legal action should be undertaken concerning the claim of the MMC over the two parcels of land (Lot Nos. 5836 and 5143).

For your information and further instruction.


IMELDA M. DIAZ

Cc:

Hon. Presbitero J. Velasco, Jr.
Governor
Provincial Government of Marinduque



Republic of the Philippines
Department of Environment and Natural Resources
PENRO Marinduque





Republic of the Philippines
Department of Environment and Natural Resources
PENRO Marinduque





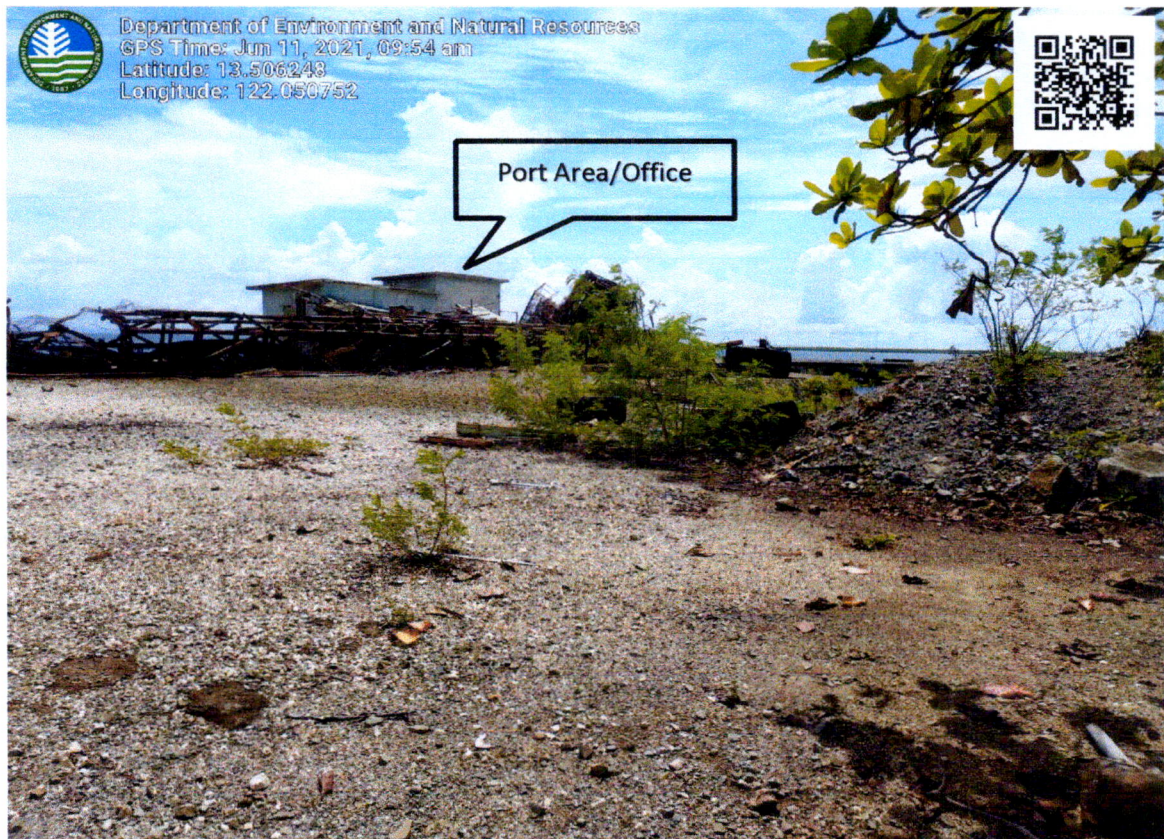
Republic of the Philippines
Department of Environment and Natural Resources
PENRO Marinduque



Geotagged photos of old conveyor connected from bodega to the port



Republic of the Philippines
Department of Environment and Natural Resources
PENRO Marinduque



612500

612800

613100

613400

613700

**BALOGO PORT OF MARCOPPER MINING
COMPANY COVERED BY OLPLA**

**1:6,000**

0 55 110 220 330 440
Meters

Alienable and Disposable Land

Timber Land Block E, Project No. 5
LC 789 Map

Note 1.) Lot 5143 and 5836 were plotted using the technical description on Lot Data Computation record of this Office overlayed to LC 789.

2) LC 789 were georeferenced subject for further verification due to erroneous tickmarks indicated in the LC 789.

Legend

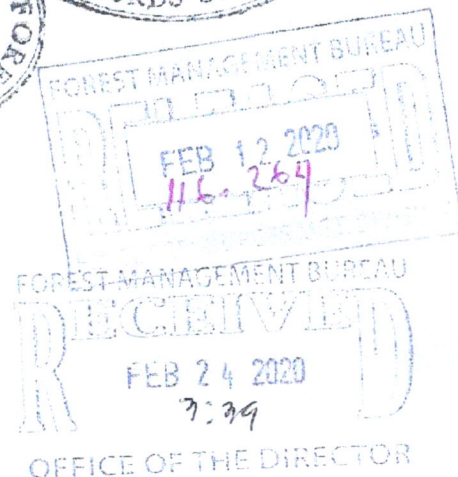
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Lot

Lot No. 5143, Cad. 815-D
Lot No. 5836, Cad. 815-D

1493200
1493400
1493600
1493800
1494000
1494200

74.34.3
Forest Resources Management Division
RELEASED
DATE FEB 04 2020
FLUAS

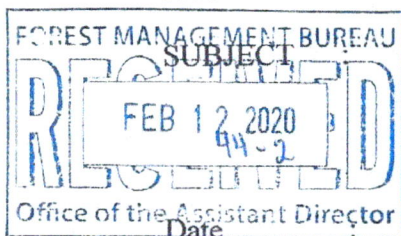


MEMORANDUM

FOR : The Regional Executive Director
DENR Region IV-B, MIMAROPA
1515 L&S Bldg., Roxas Boulevard,
Ermita, Metro Manila

THRU : The OIC-PENR Officer
Marinduque

FROM : The OIC Director



**REQUEST FOR STATUS OF OLPLA NO.2 (BODEGA AND
PORT FACILITIES) OF MARCOPPER MINING
CORPORATION COVERING 17.655 HECTARES IN BALOGO,
STA. CRUZ, MARINDUQUE**

MAR 02 2020

This refers to the memorandum of the PENRO of Marinduque dated November 27, 2019 addressed to the Director of FMB requesting for the status of Other Lawful Purposes Lease Agreement (OLPLA) for Bodega and Port Facilities FMB No. 2 issued to Marcopper Mining Corporation (MMC) covering 17.655 hectares in Barangay Balogo, Sta. Cruz, Marinduque.


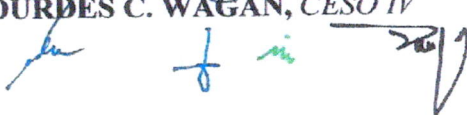
In reference to the said request available documents from this Office regarding the above-mentioned OLPLA were reviewed and disclosed the following:

- MMC was issued an OLP (Bodega and Port Facilities) Permit on February 1968 with duration of one year. Upon its expiry one year after, said permit was converted to OLPLA with a duration of 25 years to expire on June 30, 1994;
- Prior to the expiration of the subject OLPLA, the holder applied for renewal on September 09, 1993. Renewal application was endorsed by the Director of FMB per Memorandum dated January 15, 1996 together with the draft OLPLA (signed by the applicant and notarized) for the approval of then DENR Secretary Victor O. Ramos;
- While the OLPA is in process MMC paid the annual rentals for CY 1996 and 1997 as evidenced by copies order of payments and receipts;
- Letter dated June 21, 2000 addressed to MMC from the FMB Director requesting for the payment of annual rentals and arrears for CY 1998, 1999 and 2000 in the amount of P2, 362,983.22. However, there is no available document from this office to show that MMC paid the said amount.

- Letter dated January 23, 1997 from T. C. Gabor of MMC informing the FMB that the corporation did not receive any copy of the OLPLA duly signed by the DENR Secretary;
- Memorandum dated March 11, 1998 addressed to the Undersecretary for Legal, Legislative Affairs and Attached Agencies from the FMB informing DENR Central Office that the MMC is continuously occupying the area without an approved tenure; and
- The FMB has on file copy of the subject OLPLA but not duly signed by the DENR Secretary, hence deemed disapproved.

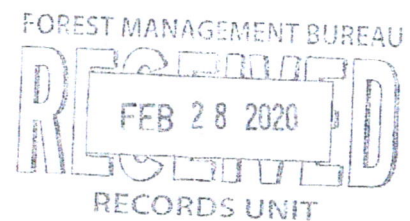
Relative thereto, we wish to furnish DENR MIMAROPA Region of the above-mentioned documents for information and reference should there be necessary needed action on the matter.

FOR APPROPRIATE ACTION.


LOURDES C. WAGAN, CESO IV


Copy furnished:

The Undersecretary for Field Operations, Enforcement and Muslim Affairs





PENRO MARINDUQUE

Capitol Compound, Barangay Bangbangalon, Boac, Marinduque

Tel. Nos.: (042) 332-1490/ (042) 332-0727/ (042) 332-1913

Website: <https://penromarinduque.gov.ph>

Email: penromarinduque@denr.gov.ph

August 07, 2020

MEMORANDUM

FOR : The Director
Forest Management Bureau

FROM : The OIC-PENR Officer

SUBJECT : **REQUEST FOR STATUS OF OTHER LAWFUL PURPOSES (OLP) NO. 002 (BODEGA AND PORT FACILITIES SITE) OF MARCOPPER MINING CORPORATION LOCATED IN BRGY. BALOGO, STA. CRUZ, MARINDUQUE**

This is a follow up to our previous requests dated November 27, 2019 and March 2, 2020, respectively, regarding the status of OLP No. 002 (Bodega and Port Facilities Site) of Marcopper Mining Corporation located in Brgy. Balogo, Sta. Cruz, Marinduque with an area of 17.655 hectares.

Please be informed that based on our record, an application for renewal was filed by Marcopper Mining Corporation sometime in 1994. However, this Office is bereft of any record whether the said application for renewal was approved or not.

Further, the Provincial Government of Marinduque are constantly following up the status of said OLP No. 002 of Marcopper in relation to their proposal to include the area in the establishment of Marinduque Economic Zone (MAREZ). Likewise, the requested status is vital in the on-going expropriation proceedings filed before the Regional Trial Court (RTC) of Marinduque by the Municipal Government of Santa Cruz covering some properties of the company in the interest of public use/purpose.

Relative thereto and taken into consideration the urgency of the need, our standing request for the status of OLP No. 002 (Bodega and Port Facilities Site) of Marcopper Mining Corporation located at Brgy. Balogo, Sta. Cruz, Marinduque is hereby reiterated.

For information and consideration/~~approval~~.


IMELDA M. DIAZ



September 18, 2020

MEMORANDUM

FOR : The Regional Executive Director
DENR MIMAROPA Region

THRU : The Assistant Regional Director for Technical Services

FROM : The OIC-PENR Officer

SUBJECT : **STATUS OF OLP NO. 002 (BODEGA AND PORT FACILITIES SITE) OF MARCOPPER MINING CORPORATION LOCATED IN BRGY. BALOGO, STA. CRUZ, MARINDUQUE**

BACKGROUND:

During the regular monitoring and investigation conducted by PENRO Marinduque in the area of Brgy. Balogo, Sta. Cruz, Marinduque, it was discovered that the abandoned Bodega/Warehouse of Marcopper in Balogo Pier is within public land and allegedly under lease contract between DENR and Marcopper. Since the transaction of Marcopper was directly handled at the Central Office, old records are presumed at the FMB or Central Office. Thus, PENRO Marinduque made a query to FMB on November 27, 2019 as to the status of the OLP No. 002. Also to know the exact location of the leased area.

Other Lawful Purposes (OLP) No. 002 (Bodega and Port Facilities Site) was granted to Marcopper Mining Corporation on August 7, 1969 covering an area of 17.655 hectares of public land situated in Brgy. Balogo, Sta. Cruz, Marinduque.

Based on records, OLP No. 002 had expired on June 30, 1994. An application for renewal was filed by Marcopper Mining Corporation also in 1994 but no record whether said application was approved or not.

Further, the Provincial Government of Marinduque represented by Governor Presbitero J. Velasco, Jr., has a proposal to include the Balogo Port Area and the adjacent parcels of land claimed by Marcopper identified as Lot Nos. 5143 & 5836 in the establishment of Marinduque Economic Zone (MAREZ) under House Bill 8551 of Congressman Lord Allan Q. Velasco of the lone District of Marinduque.

FINDINGS (BASED ON AVAILABLE RECORDS OF PENRO):

1. In a Memorandum dated March 11, 1998 by then Forest Management Bureau Director Jose D. Malvas, Jr., it was mentioned that OLP No. 002 (renewal) was forwarded to the Office of then DENR Secretary Victor O. Ramos for his approval under Memorandum dated January 16, 1996. It was mentioned also that no record on the approval of renewal of said Lease Agreement (*Copy of the memorandum is attached for reference*).

2. It is worthy to note that Director Malvas in his Memorandum dated March 11, 1998 mentioned that the Lessee (Marcopper) continued their occupation over the expired leased area even though the said renewal application is under process during that time (*Attached is the copy of memorandum for reference*).
3. That even to date, it was observed that the area covered by the said expired lease is still in the possession/occupation of Marcopper Mining Corporation or its authorized caretaker.
4. In a letter dated January 23, 1997 of Mr. T. C. Gabor, Jr., Vice President and Legal and Human Resources Officer-In-Charge of Marcopper addressed to the Director of Forest Management Bureau, he mentioned that the company had paid in full the 1997 Annual Rental in the total amount of Four Hundred Fifty Four Thousand Four Hundred Nineteen Pesos & 85/100 (Php 454,419.85) for the area covered by the expired lease agreement (*Copy of the letter is attached for reference*).
5. Further, our records show that then FMB Director Al Rashid Ishmael, al-Hadj. made a Demand Letter dated June 21, 2000 addressed to Mr. Alberto O. Cuarteron, Assistant Corporate Secretary of Marcopper to pay the 1998, 1999 and 2000 Annual Rental including surcharges in the total amount of Two Million Three Hundred Sixty Two Thousand Nine Hundred Eighty Three Pesos & 22/100 (Php 2,362,983.22). No record of proof of payment is available on file (*Please see attached letter of Director al-Hadj. for reference*).
6. That due to mine waste spillage incident that happened on March 24, 1996, the corresponding permits issued by DENR to Marcopper Mining Corporation e.g. Permit to Operate and Mining Lease Agreement were cancelled.
7. That this Office sent several official requests to the Forest Management Bureau (FMB) requesting status of OLP No. 002, but as of this writing no response yet is received by this Office.
8. That due to the absence of map and technical description of the leased area, the extent of area coverage cannot be determined on the ground.
9. Regarding the adjacent parcels of land identified as Lot Nos. 5143 and 5836, Cad. 815-D located in Brgy. Balogo, it was verified based on record that both parcels of land are listed in the name of Marcopper Mining Corporation as survey claimant.
10. Based on the projection made by representative of this Office using Geographic Information System (GIS), it appeared that Lot No. 5143 falls within Alienable and Disposable (A & D) Zone of Sta. Cruz as per LC Map 789, however Lot No. 5836 falls within Timberland Block B, Project No. 5 of Santa Cruz (*Attached are A & D certifications with maps for reference*).
11. The corresponding tax declarations for Lots 5143 and 5836 reveal that both parcels of land are declared for taxation purposes as mineral lands.

RECOMMENDATION:

Based on the above findings and the fact that OLP No. 002 of Marccopper had already expired on June 30, 1994 and seemingly no renewal is made yet, the government or the DENR has jurisdiction over the leased area (Bodega and Port Facilities) located in Brgy. Balogo, Sta. Cruz, Marinduque. It is our policy that once the lease contract is cancelled or expired, the DENR has to take over the area covered by the expired lease. Hence, it is highly recommended that necessary

legal action be undertaken by DENR through FMB and issue notice to vacate the area covered by the expired lease of Marcopper Mining Corporation located in Brgy. Balogo, Sta. Cruz, Marinduque.

It is also necessary to conduct final assessment and inspection preferably by a composite team from MIMAROPA Regional Office, PENRO-Marinduque, Mines and Geo-Sciences Bureau, Forest Management Bureau and Environment Management Bureau before the turn-over of the area and demand MMC to settle any obligations to the government.

Likewise, concerning the intent of the Honorable Governor Presbitero J. Velasco Jr. to enter into an Agreement with DENR for Lots 5143 and 5836 both located at Brgy. Balogo, Sta. Cruz, Marinduque, declared as mineral lands under the name of Marcopper Mining Corporation, the State may directly undertake exploration, development and utilization of said natural resources as provided for under Section 2, Article XII of the Philippine Constitution, and under Section 2, RA 7942, otherwise known as the Philippine Mining Act of 1995, all mineral resources in lands privately or publicly owned within the territory and exclusive economic zone of the Republic of the Philippines are property of the State. Thus, the intent of the Provincial Government of Marinduque is deemed within the purview of the above provisions of the law.

Nevertheless, it is recommended that necessary legal action be undertaken concerning the claim of ownership by Marcopper Mining Corporation over the said parcels of land.

For your information, consideration and further instruction.


IMELDA M. DIAZ