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Republic of the Philippines
Department of Environment and Natural Resources
Provincial Environment and Natural Resources Office
Boac, Marinduque

DENR	ROPA
RECORDS SECTION	
RECEIVED	
BY: <i>Janet</i>	
DATE: <i>10/4/20</i>	
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December 03, 2020

Transmittal of documents/report from DENR-PENRO, Boac, Marinduque to DENR, Regional Office, Manila wit:

1. Memo. dtd. 11-23-2020 Subj.: Request for Issuance of Clearance to cut/utilize six (6) naturally grown trees of different species by Jaime Regio located at Brgy. Buyabod, Sta. Cruz, Marinduque;
2. Mermo. dtd. 09-18-2020 Subj.: Status of OLP No. 002 (Bodega and Port facilities site) of Marcopper Mining Corporation located in Barangay Balogo, Sta. Cruz, Marinduque;
3. Memo. dtd. 11-23-2020 Subj.: Report on the production and distribution of flyers/briefers about climate change and magna carta of women within protected area;
4. Memo. dtd. 11-25-2020 Subj.: Resolution and minutes of 4th PAMB EN Banc meeting of Marinduque Wildlife Sanctuary (MWS) for CY 2020;

Prepared by: *[Signature]*

MANOEL CHRISTIAN S. MUNAR

Hand Carried



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*).

Hand Carried by OIC PENRO I.M. Alay 12-03-2020

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 both parcels of land fall within Alienable and Disposable (A & D) Zone of Sta. Cruz as per LC Map 789, except the portion of Lot 5836 which 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