



# LEBACH Mining Corporation

Mezzanine flr., South City Homes Recreation Center, South City Drive, South City Homes,  
Brgy. Sto. Tomas, Biñan City, Laguna  
E-MAIL: [lebach\\_mining@yahoo.com](mailto:lebach_mining@yahoo.com)

August 10, 2023

Honorable Ma. Antonia Yulo-Loyzaga  
Secretary  
Department of Environment and Natural Resources  
Visayas Avenue, Diliman  
Quezon City

Thru:

Atty. Danilo U. Uykieng  
Director  
Mines and Geosciences Bureau  
North Avenue, Diliman  
Quezon City

Engr. Felizardo A. Gacad Jr.  
Regional Director  
Mines and Geosciences Bureau  
DENR- Region IV-B  
7th Floor, 1515 Roxas Boulevard  
Manila

Dear Hon. Secretary Yulo-Loyzaga,

In compliance with the letter dated 26 July 2023 from Edwin M. Mojares, OIC of MGB Region IV-B, which I received electronically on July 25, 2023, I am respectfully submitting this comment to the 17 July 2023 letter of Ms. Jeanie A. Villaruz for Chengde Mining Group Inc. requesting the immediate cancellation of the 19 May 2022 Exclusive Operating Agreement entered into by and between Lebach Mining Corporation (Lebach) and PHDM Resources, Inc..

It is respectfully submitted that the above request for cancellation is utterly devoid of merit and should be forthwith denied based on the following reasons:

(1). The January 16, 2012 *Deed of Assignment* between Lebach Mining Corporation ("Lebach") and Chengde Mining Group, Inc. ("Chengde") over MPSA No. 285-2009-IV-B covering an area of 2,573.33 hectares and AMA-IVB-74C (amended additional area of EPA-IVB-230) covering an area of 412.0444 hectares situated in the Municipality of Brooke's Point, Province of Palawan, has never been approved by the Secretary of the Department of Environment and Natural Resources (DENR). Thus, it cannot be considered as valid as between the parties and the DENR. A copy of the August 8, 2023 certification issued by the Mines and Geosciences Bureau, MIMAROPA Region certifying that no order was

issued approving the deed of assignment (and the Mines Operating Agreement) between Lebach and Chengde is attached as Annex “A”;

(2). The approval by the Secretary of DENR is indispensable to confer validity to the said Deed of Assignment considering that the operation of a mining claim is imbued with public interest and it is the bounden duty of the DENR to see to it that the entity to which the right to operate was conferred has all the qualifications and none of the disqualification to operate the mining claim.

(3). The mandatory nature of such approval for the validity of the deed of assignment is explicit from the following provisions of Section 46 of the Revised Implementing Rules and Regulations of Republic Act No. 7942. Thus:

*“SECTION 46. Transfer or Assignment of Mineral Agreement. — A Contractor may file an application for the total or partial transfer or assignment of its Mineral Agreement to a Qualified Person(s) upon payment of an application fee (Annex 5-A) with the Bureau/concerned Regional Office for evaluation. No application shall be accepted for filing unless accompanied by the pertinent Deed of Assignment that shall contain, among others, a stipulation that the transferee/assignee assumes all obligations of the transferor/assignor under the Agreement. Any transfer or assignment of rights and obligations under any Mineral Agreement shall be subject to the approval of the Secretary upon the recommendation of the Director: Provided, That any transfer or assignment of a Mineral Agreement shall not be approved unless the transferor/assignor or Contractor has complied with all the terms and conditions of the Agreement and the provisions of the Act and these implementing rules and regulations at the time of transfer/assignment: Provided, further, That any transfer or assignment shall be deemed automatically approved if not acted upon by the Secretary within thirty (30) calendar days from official receipt thereof, unless patently unconstitutional, illegal or where such transfer or assignment is violative of pertinent rules and regulations: Provided, finally, That the transferee assumes all the obligations and responsibilities of the transferor/assignor under the Mineral Agreement.”*

(4). Cognizant of the foregoing provision, Lebach and Chengde agreed to immediately register the subject deed of assignment with the Mines and Geo-Sciences Bureau of the Department Environment and Natural Resources, to wit:

*“The parties agree that this Deed of Assignment shall be immediately registered with the Mines and Geo-Sciences Bureau of the Department of Environment and Natural Resources with title to the PROPERTIES, immediately assigned and transferred to the name of the ASSIGNEE in substitution of the ASSIGNOR upon execution hereof.”*

(5). Lebach tried to secure the approval of the deed of assignment by the Mines & Geosciences Bureau;

(6). In a letter dated 28 May 2012 of Mr. Mario A. Catarroja<sup>1</sup> addressed to Lebach through Mr. Antonio G. Montojo, Jr.,<sup>2</sup> the latter was informed that while the Deed of Assignment was registered in the said office on 17 January 2012, no letter application and corresponding documentations for the transfer or assignment of the aforesaid mining tenements to Chengde were received by the said Office. In this connection, Lebach was advised that the application for transfer or assignment should be accompanied by the documents therein enumerated. A copy of this letter is attached as Annex "B";

(7). In a memorandum dated 31 August 2012 of MGB Director Leo L. Jasareno addressed to the Regional Director of MGB, MIMAROPA Region, the said office was informed of several deficiencies after evaluation of the documents pertaining to the subject deed of assignment. Based on the said findings, the said deed was returned to the office of the said region for appropriate action. A copy of this memorandum is attached as Annex "C";

(8). The foregoing deficiencies were reiterated in the letter dated 24 September 2012 of Mr. Arnilo C. Milaor<sup>3</sup> addressed to Lebach, thru Mr. Edgar Lee Rodriguez,<sup>4</sup> a copy of which is attached as Annex "D". Lebach was advised to comply with/submit to Mines & Geosciences Bureau the aforementioned requirements for transmittal to MGB-CO and to facilitate the processing of the subject deed of assignment;

(9). Lebach and Chengde failed to comply with the foregoing requirements because of difficulties/problems which they encountered that were not immediately solved and due to some issues between the two companies;

(10). This fact can be discerned from the January 18, 2013 letter of Mr. Edgar L. Rodriguez addressed to Hon. Ramon J.P. Paje, then Secretary of DENR, requesting that the processing of the subject deed of assignment be held in abeyance and that his office will be informed the moment that the issues between the two companies had been resolved. A copy of this letter is hereto attached as Annex "E";

(11). Much as they tried, the issues between the two companies were not resolved such that they did not take any action to comply with the requirements of the Mines & Geosciences Board since the said letter of Mr. Rodriguez. For more than ten (10) long years, none of the parties lifted a finger to cause the approval of the deed of assignment;

(12). More importantly, Chengde backed out and abandoned the idea of operating the MPSA covered by the deed of assignment. It totally suspended the payment of the salaries of its employees sometime in October 2012;

---

<sup>1</sup> Supervising Science Research Specialist and OIC, Office of the Regional Director of MIMAROPA, Mines & Geosciences Bureau

<sup>2</sup> Executive Assistant to the Chairman

<sup>3</sup> Supervising Science Research Specialist and OIC, Office of the Regional Director

<sup>4</sup> Chairman of Lebach

(13). Since 2013 up to the present, there had been no stockholders' and directors' meeting of Chengde. It did not file its General Information Sheet (GIS) with the Securities and Exchange Commission for the years 2013, 2014, 2015, 2016, 2017, 2019, 2020, 2021, 2022, and 2023. A GIS was filed for the year 2018 only for the purpose of avoiding the revocation of its corporate registration due to failure to comply in filing the said reportorial requirement;

(14). Considering that Chengde has been inactive since the last quarter of 2012, there is serious doubt as to the authority of Ms. Jeanie Villaruz to file the letter request for the immediate cancellation of the 19 May 2022 Exclusive Operating Agreement between Lebach and PHDM;

(15). Indeed, Chengde had already waived, relinquished, and abandoned whatever right it may have over the subject deed of assignment. It had agreed that all monies it had advanced and spent in connection with the mining claim be considered as loan of Mr. Edgar Rodriguez;

(16). Therefore, the deed of assignment between Lebach and Chengde is null and void for lack or failure of valid consideration;

(17). Whatever right of action Chengde may have acquired under the deed of assignment had already prescribed;

(18). The subject deed of assignment which had never been approved by the DENR could not be the basis of the cancellation of the Exclusive Operating Agreement between Lebach and PHDM Resources, Inc.. Such act would be tantamount to a recognition and approval of the said deed of assignment which had never been approved;

(19). The legal effect of the deed of assignment between Lebach and Chengde as regards the rights and obligations of the parties thereto is beyond the jurisdiction of the Mines & Geosciences Board. This office had already exercised its power by not approving the subject deed of assignment. Beyond that, the parties should thresh out the issues concerning the said agreement in the court vested with competent jurisdiction.

(20). The Mines & Geosciences Board should respect the Exclusive Operating Agreement between Lebach and PHDM considering that this office had approved such agreement in due course after full compliance by the parties with all the legal requirements.

Based on the foregoing, it is most respectfully prayed of your honorable office that Ms. Villaruz' request for immediate cancellation of the Exclusive Operating Agreement between Lebach and PHDM be denied for lack of merit.

Respectfully,

LEBACH MINING CORPORATION

By: 

Michelle Rodriguez  
President

CC:  
Atty. Danilo O. Uykieng, Director, MGB  
Engr. Felizardo A. Gacad Jr., Regional Director, MGB Region IV-B