



Republic of the Philippines
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JUL 04 2023

URGENT MEMORANDUM

TO :

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FROM :

- The Undersecretary**
Legal and Administration

SUBJECT : VERONICA BATAN, ELMOR A. BORDA AND ALFREDO B. PASCUAL VS. MINES AND GEOSCIENCES BUREAU, DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, ALTAI PHILIPPINES MINING CORP. G.R. NO. 265146 WRIT OF KALIKASAN WITH PRAYER FOR ISSUANCE OF TEMPORARY ENVIRONMENTAL PROTECTION ORDER (TEPO)

This pertains to the petition¹ filed before the Supreme Court by the petitioners in the above-mentioned case. The Department, as one of the respondents of the case, was furnished with a copy of the Resolution dated 13 June 2023 on 29 June 2023, to wit:

G.R. No. 265146 (Veronica R. Batan, Elmor A. Borda, and Alfredo B. Pascual vs. Mines and Geosciences Bureau, Department of Environment and Natural Resources, and Altai Philippines Mining Corporation). - Acting on the Petition for Writ of Kalikasan (with Prayer for the Issuance of a Temporary Environmental Protection Order), the Court Resolved to:

- (a) **ISSUE a WRIT OF KALIKASAN** against the respondents;
- (b) **REQUIRE** the respondents to file a **VERIFIED RETURN/COMMENT** on the petition within a **NON-EXTENDIBLE** period of ten (10) days after service of the writs;
- (c) **REFER** the case to the **COURT OF APPEALS** for further reception of evidence pursuant to A.M. No. 09-6-8-SC; and
- (d) **DENY** the prayer for the ex-parte Temporary Environmental Protection Order.

The Court further Resolved to **NOTE** the Entry of Appearance dated May 29, 2023 filed by Esguerra & Blanco, entering its appearance as counsel for respondent Altai Philippines Mining Corporation and **GRANT** said counsel's request to be served with copies of all notices, orders, and other processes at 4th and 5th Floors, S&L Building, Dela Rosa corner Esteban Streets, Legaspi Village, Makati City.

Pursuant to the agreement reached during the Executive Committee meeting regarding the filing of a verified return/comment by the Office of the Solicitor General (OSG) to the Supreme Court, to be cleared first with the Office of the Secretary, the concerned Offices are hereby required to submit their respective position papers on the above-mentioned subject. **Submissions are due on or before 05 July 2023 at 12:00 n.n.**

The position papers should address the legal and technical aspects of the petition comprehensively. Each concerned Office is expected to analyze the case, present relevant supporting evidence, and possible defenses.

For easier reference, please accomplish the consolidated comments on the attached Google Documents Link: <https://bit.ly/3pCr5z9>.

¹ Copy of the Petition is attached as ANNEX "A".

Considering the time constraints, please submit your position papers and relevant documents via the following link: <https://bit.ly/AltaiDocs> in order to facilitate faster communication.

For your preferential attention and appropriate action please.


ATTY. ERNESTO D. ADOBO JR., CESO I

Copy furnished:

The Office of the Secretary

The Undersecretary

Field Operations Luzon, Visayas and Environment

The Assistant Secretary

Legal Affairs

The Undersecretary

Special Concerns and Legislative Affairs



Republic of the Philippines
Department of Environment and Natural Resources
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Document No: DENRCO LAS - LCPMD-2023-000143 Print Date: Tuesday, July 04, 2023

Sender: Bohol, Illac G.

Address: Legal Crisis Prevention and Management Division
DENR Main Bldg., Visayas Ave., Diliman, Quezon City

Subject: MEMO DTD 07/04/2023 VERONICA BATAN, ELMOR A. BORDA AND ALFREDO B. PASCUAL VS. MINES AND GEOSCIENCES BUREAU, DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, ALTAI PHILIPPINES MINING CORP. G.R. NO. 265146 WRIT OF KALIKASAN WITH PRAYER FOR ISSUANCE OF TEMPORARY ENVIRONMENTAL PROTECTION ORDER (TEPO)

Addressee(s): LAS - Office of the Director (DENRCO - LAS OD)

CC Addressee(s):

Date/Time Received: 07/04/2023 01:44:00 PM

DENR LEGAL AFFAIRS SERVICE

RECEIVED BY: Shoany

DATE: 07/04/2023 TIME: 2:20pm

ROUTING AND ACTION INFORMATION				
FROM	DATE/TIME RECEIVED	FOR/TO	DATE/TIME RELEASED	ACCEPTANCE REMARKS/ACTION REQUIRED/TAKEN REMARKS/STATUS
	07/04/2023 01:45:22 PM	DENRCO LAS - LCPMD		Date: 07/04/2023 01:47:58 PM To: From: Molina, Marie Jasmine A. Message: Draft Urgent Memo to MGB, EMB, DENR MIMAROPA Region, and BMB - Released to LASOD 04 July 2023 - LCPMD B5-242-2
DENRCO LAS - LCPMD		DENRCO - LAS OD	07/04/2023 01:48:11 PM	

Petitioners: Veronica R. Batan, Elmor A. Borda, and Alfreo B. Pascual

Respondents: Mines and Geosciences Bureau, Department of Environment and Natural Resources, Altai Philippines Mining Corporation

Arguments (Petition)	Comments	Relevant Documents
A. THE EXTRACTION OF 50,000 METRIC TONS OF NICKEL ORE AND THREATENED SHIPMENT THEREOF IS TANTAMOUNT TO THE CONDUCT OF MINING OPERATIONS WITHOUT SOCIAL ACCEPTABILITY, SANGGUNIAN APPROVAL, AND AN ENVIRONMENTAL COMPLIANCE CERTIFICATE (ECC), CONSTITUTING A VIOLATION OF THE RIGHT OF THE PEOPLE TO A BALANCED AND HEALTHFUL ECOLOGY.		
B. THE SHIPMENT OF NICKEL ORE WITHOUT THE REQUISITE SIGNED CERTIFICATES OF MOISTURE CONTENT INCLUDING TRANSPORTABLE MOISTURE LIMIT POSES A SERIOUS THREAT TO PHILIPPINE WATERS FROM MARINE POLLUTION AND PUTS THE LIVES AND SAFETY OF ITS SHIPPING CREW AT VERY SERIOUS RISK.		

Discussion

A. THE EXTRACTION OF 50,000 METRIC TONS OF NICKEL ORE AND THREATENED SHIPMENT THEREOF IS TANTAMOUNT TO THE CONDUCT OF MINING OPERATIONS WITHOUT SOCIAL ACCEPTABILITY, SANGGUNIAN APPROVAL, AND AN ENVIRONMENTAL COMPLIANCE CERTIFICATE (ECC), CONSTITUTING A VIOLATION OF THE RIGHT OF THE PEOPLE TO A BALANCED AND HEALTHFUL ECOLOGY.

35. In order to understand the anger and frustration of the Sibuyanons on what is happening to their island, it is important to know first why the 50,000 WMT permitted by Respondent MGB's Central and MINARDPA offices is so questionable especially in the light of the assurances made by the DENR in lifting Altai Mining's CDO:

"The activities of Altai are limited only to activities to determine the feasibility of the project and is not a full scale mining operation, and any disturbances that may happen to the environment are properly addressed in Altai's approved Environmental Work Programme (EWP)."⁸ (underscoring supplied)

Altai Mining's EWP allows the "bulk sampling" of only 3 cubic meters of nickel ore, not 50,000 wet metric tons.

36. The Exploration Work Program (EWP) of Altai Mining approved by the MGB on 21 December 2022 indicates that the volume of nickel ore for bulk sampling is only just three (3) cubic meters. The following sections are pertinent and quoted hereunder for quick reference:

"Sec. 5.5.5 METALLURGICAL BULK SAMPLING AND ANALYSIS

* * * *

5.5.5.2 NUMBER AND OVERALL LENGTH

To complete the metallurgical study as required in the permitting process, three (3) metallurgical bulk sampling of three different types of ores one from the main saprolite zone, one from the transition saprock zone and one from the limonite zone shall be collected which shall be loaded and transported by interisland vessel to a reliable foreign metallurgical laboratory in order to test the concentration of multi-elements in all three samples.

- 13 -

S.S.5.3 ESTIMATED NUMBER OF SAMPLES

The estimated number of samples to be collected shall be three (3) from the identified main zones of mineralization previously identified during the later phases of exploration period.

x x x x

S.S.5.6 ESTIMATED COST

Excavation, loading and shipping @P1,500,000/m ³	P4,500,000.00
Metallurgical and elemental analysis @P350,000/m ³	P1,050,000.00
Total	P5,550,000.00

(undermining supplied)

37. While the exact volume of the bulk samples was not specified by the EWP, Sec. S.S.5.3 is clear that three (3) samples will be taken, one (1) from each zone.

38. The total volume of the bulk samples can then be inferred from the estimated cost or the budget prepared by Altai Mining. In each of the items, it is clear that the total volume is just three (3) cubic meters. Thus:

P4,500,000 divided by P1.5 million/cu.m. is equal to 3 cu.m.

P1,050,000 divided by P350 thousand/cu.m. is equal to 3 cu.m.

At a specific gravity of 3.3 tons/cu.m., this 3 cu.m. allowed by Altai Mining's EWP is equivalent to 9.9 tons, or simply 10 tons for ease of computation.

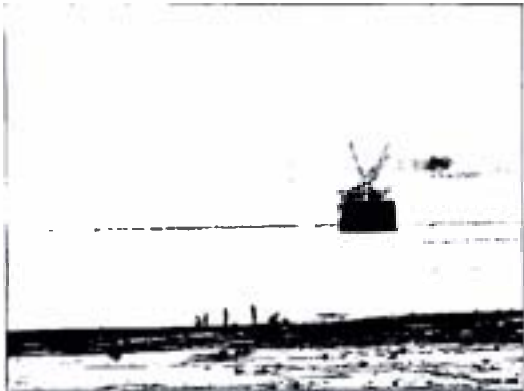
39. Where the MGB Central Office and the MGB-NIMAROPA then got their 50,000 WMT, or 5,000 times than what the EWP authorizes, is a mystery. Nowhere can it be found or inferred from the EWP.

40. One possible answer can be found in Altai Mining's letter dated 07 December 2022 (Annex H) requesting for the issuance of an OTP for 15,000 cu.m. Even from this request, the 50,000 WMT is still way more than the amount sought by Altai Mining. But more to the point, this 15,000 cu.m. requested by Altai Mining itself has no basis and this grant of unwarranted benefits, advantage or preference to the prejudice of the Government, the Filipino citizens and the natural environment is plain and simple anomalous.

Altai Mining's extraction of 50,000 WMT of nickel ore is worth P103.4 million.

41. The 50,000 WMT permitted by Respondent MGB to be transported and shipped abroad is a volume typical of a full-blown mining operation that would have ordinarily required an ECC, sanggunian approvals and social acceptability.

42. Respondents tried to pass off the extraction of 50,000 WMT of nickel ore as a harmless case of "bulk sampling". But the sheer scale of the undertaking betrays the real score. First, 50,000 WMT of nickel ore is no measly mound of soil. As earlier explained, a single dump truck with a capacity of 12.5 tons will need to go back and forth 4,000 times to finish the job. It will also require a large cargo ship to transport abroad just like the one waiting at the private port of Altai Mining.



43. Second, based on the OTP and MOEP, the declared value of the nickel ore is 1.85 million. This is in US dollars. In Philippine pesos, this translates to P103,415,000.00, an amount usually associated with big companies. And this is just for a single shipment. In fact, on excise taxes alone, it stands at P4,136,600.00. How anyone could downplay this as just part of exploratory activities is being disingenuous.

The consignee of Altai Mining's 50,000 m.t. of nickel ore is not a metallurgical laboratory but a mineral commodities trader.

44. Even more telling is the Buyer of the 50,000 WMT nickel ore—Transamine Far East Limited—based in Unit 1, 7/F Bank of America Tower, 12 Hartsourt Road, Admiralty, Hong Kong, China.¹ Based on the website of Transamine based in Geneva, Switzerland from which this Hong Kong unit is presumably affiliated, it is the "world's oldest independent and privately held commodities trading company specializing in non-ferrous raw materials."²

This is a SALE of minerals, not a contract for testing.

45. To be sure, Transamine has its own metallurgical testing laboratory. But even more surely, testing is not its main line of business. It is commodities trading. This is contrary to Sec. 5.5.5.2 of the EWP³ which states that the bulk sample will be shipped to a "reliable foreign metallurgical laboratory in order to test the concentration of multi-elements in all three samples."

46. Altai Mining's 07 December 2022 letter⁴ stating that it is sending the nickel ore to "a reliable DSO pyro-plant and testing company in order to complete the necessary metallurgical study" is a clear pretense. The MGB-MIMAROPA's note in its DTP that it is "[s]ubject to the submission of Analysis Report within 30 days from arrival at Discharge Point" plays along this ruse.⁵ Transamine Far East Ltd. is a buyer and seller of minerals. It may issue such mineral analysis report but more than that, it will also very likely report a windfall profit from the nickel ore it imported which, in its concentrated form, currently fetches an average of \$30,060 per metric ton.⁶

47. For if the purpose of the shipment is to have 50,000 WMT of Sibuyan soil to be tested for its mineral content, why is the consignee referred to as "Buyer" in the MOEP?⁷ Lest it be argued that this was just a proforma mistake, why is this buyer paying \$1.85 million instead of being paid for the mineral testing services it will supposedly render in favor of Private Respondent? To recall, Altai Mining even budgeted the sum of ₱1.050 million for the testing.⁸ Lastly, if this is truly just testing, will

¹ MOEP No. DENR-MGB-11-008 (Annex 1).

² See <https://www.transamine.com/about-us.html>, last visited on 02 February 2023.

³ Annex 1.

⁴ Annex 2.

⁵ DTP No. DTF-APMC-182-000-2022 MIMAROPA (Annex 3).

⁶ See <https://www.commodity.com/price-and-usage.html>, last visited on 02 February 2023.

⁷ MOEP No. DENR-MGB-11-008 (Annex 1).

⁸ Sec. 7.5.5.6, EWP (Annex 1).

<p>- 16 -</p> <p>Transmine Far East Ltd. be required to return the soil and all the minerals it finds therein after it is paid ₱1,050 million for its testing services? This is the \$1.85 million question. The fact that riot police had been called to break-up the local residents of Sibuyan just to conduct this test, all the more makes this transaction highly dubious.</p> <p>48. Based on the above circumstances, only one conclusion can be arrived at—Altai Mining engaged in commercial mining operation and is now in the process of profiting from its illegal operations, facilitated by no less than its regulator, the MGB, in total disregard of the right of the people to a balanced and healthful ecology.</p>		
<p>Altai Mining did not procure the necessary local government approvals.</p> <p>49. Among the institutional safeguards are the requirements imposed by R.A. 7160¹¹ or the Local Government Code of 1991, which states:</p> <p>Sec. 2. Declaration of Policy. –</p> <p style="text-align: center;">* * * *</p> <p>(3) It is likewise the policy of the State to require all national agencies and offices to conduct periodic consultations with appropriate local government units, nongovernmental and people's organizations, and other concerned sectors of the community before any project or program is implemented in their respective jurisdictions.¹²</p> <p>Sec. 26. Duty of National Government Agencies in the Maintenance of Ecological Balance. – It shall be the duty of every national agency or government-owned or controlled corporation authorizing or involved in the planning and implementation of any project or program that may cause pollution, climatic change, depletion of non-renewable resources, loss of crop land, rangeland, or forest cover, and extinction of animal or plant species, to consult with the local government units, nongovernmental organizations, and other sectors concerned and explain the goals and objectives of the project or program, its impact upon the people and the community in terms of environmental or ecological balance, and the measures that will be undertaken to prevent or minimize the adverse effects thereof.¹³</p>		

<p>- 17 -</p> <p>Sec. 29. Prior Consultations Required. - No project or program shall be implemented by government authorities unless the consultations mentioned in Sections 2 (c) and 25 hereof are complied with, and prior approval of the sanggunian concerned is obtained. Provided, That occupants in areas where such projects are to be implemented shall not be evicted unless appropriate relocation sites have been provided, in accordance with the provisions of the Constitution.¹⁹</p> <p>50. These were not complied with. In fact, the opposite is true if the number of resolutions issued by the pertinent local government units against mining in their area is an indication, to wit:</p> <ol style="list-style-type: none"> Sanggunian Panlalawigan Resolution No. 07-2022-20 of the Province of Romblon²¹ Joint Resolution²² of the Sangguniang Bayan of San Fernando, Caidocan and Magdiwang dated 28 July 2022, and Sangguniang Barangay Resolution No. 24²³ of Bgy. Taclobo, San Fernando, Romblon dated 09 December 2022.²⁴ <p>51. All these resolutions have expressed the sentiment of these local government units against destructive and irresponsible mining, which as previously discussed, Altai Mining has engaged in.</p>		
<p>Altai Mining has no ECC.</p> <p>52. Another safeguard is environmental under P.D. 1586²⁵ or the Philippine EIS System. To date, Altai Mining has not yet secured an ECC. In fact, the initial process of scoping under the EIS system was conducted only last 19 January 2022 in Bgy. Taclobo, San Fernando, Romblon. The worst part of this scoping is that it placed the community in a false sense of complacency that this environmental legal safeguard is at work, when in reality, the island is being already ravaged albeit surreptitiously.</p> <p>53. The extent of the damage is currently unknown given that there is no ECC issued, no EIS having yet been prepared. As opposed to just small drillings measuring an average of about 3 inches in diameter and 5 meters in</p> <p>¹⁹ Sec. 29, ibid. ²⁰ Annex C. ²¹ Annex D. ²² Annex E. ²³ Annex F. ²⁴ Annex G. ²⁵ Republic Act No. 9743, entitled "An Act to Strengthen the Environmental Impact Statement System, to Amend Republic Act No. 9743, and for other purposes."</p>		

<p>depth²⁴ plus the additional 3 cu.m. of bulk sample discussed earlier. Altair Mining has instead managed to leverage this to 50,000 WMT of nickel ore with utmost impunity, the various environmental agencies tasked to protect the people's right to a balanced and healthful ecology complicit to this serious infliction of harm to this bastion of biodiversity.</p>		
<p>There is no question that the environmental stakes are high.</p> <p>54. According to the Foundation for the Philippine Environment,²⁵ in terms of flora, "Sibuyan is home to 700 vascular plant species, and 144 recorded species of trees, ten of which are in the IUCN Red List. Thirty-three are Philippine <u>endemic</u> tree species, while two are island <u>endemic</u> (<i>Elaeagnus argenteus</i> var. <i>gilgensis</i> and <i>Astronia pitipensis</i>).²⁶ Fifty-four plant species are <u>endemic</u> to the island." (underscoring supplied)</p> <p>55. In terms of fauna, "[t]here are at least 83 recorded Philippine <u>endemics</u> in Sibuyan, with four of them island <u>endemics</u>.²⁷ Eighteen...are in the IUCN Red List of Threatened species. A total of 130 bird species were recorded in Sibuyan, including the Rufous-lored Kingfisher (<i>Halcyon winchellii</i> <i>neohydronotus</i>), and the Philippine Hawk-Eagle (<i>Spurautus philippensis</i>). Sibuyan is home to 5 native terrestrial mammal species (four of which are <u>endemic</u> rodents), 9 bat species (including the <u>endemic</u> Sibuyan Pygmy Fruit Bat (<i>Haplophycus</i> sp. A), 15 Philippine <u>endemic</u> reptiles, among others." (underscoring supplied)</p> <p>56. Few countries in the world can boast of a high rate of endemity like the Philippines. Fewer islands in the country can boast such a high rate of endemity like Sibuyan. Just how much then of Sibuyan's endemic tree species were felled in the course of the mineral extraction of 50,000 WMT of nickel ore? Just how many endemic bird species were affected by their operation? How many endemic terrestrial mammals were affected?</p> <p>57. Nobody knows because nobody was even supposed to know that this was happening.</p> <p>58. The fact that many of these species, both flora and fauna, are endemic only serve to underscore the magnitude of the environmental</p>		

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²⁴ See p. 8, *Decision* (Annex B) describing the planned explorative activities of Altai Mining and its "technical investigation".

²⁵ See https://www.fpa.gov.ph/conservation_site/conservation_details/sibuyan-island (last visited 11 June 2021) (citing Sibuyan Island Biodiversity Baseline Assessment, 2011).

²⁶ C. Ong, "Sibuyan Island Rapid Biodiversity Baseline Assessment," *Fauna & Flora International and the Foundation for the Philippine Environment*, 2011.

²⁷ *Ibid.*

damage of the activities sought to be enjoined by this petition, it is not just two or more cities or provinces being affected, it is the whole world—both present and future generations—because the Philippines is the steward of this global environmental patrimony. When they disappear, the whole world bears the brunt of their extinction.

<p>Public consultation was not done.</p> <p>59. Section 16, Article XIII of the 1987 Constitution provides:</p> <p style="padding-left: 40px;">The right of the people and their organizations to effective and reasonable participation at all levels of social, political, and economic decision-making shall not be abridged. The State shall, by law, facilitate the establishment of adequate consultation mechanisms.</p> <p>60. In the environmental context, this provision finds its way in the public consultation requirements of the Local Government Code and the FIS system. Given that no ECC or sanggunian approval has yet been issued, it goes without saying that the various modalities for public consultation are absent as well. In fact, only an IEC (information, education and communication) activity was done at the covered court of Bgy. Panangalan, San Fernando, Romblon last 19 October 2022. Little did they know that in just seven weeks, Aitai Mining was already asking the MGB for permission to transport 15,000 WMT of nickel ore.</p>		
<p>OTP No. OTP-APMC-162-001-2022, MIMAROPA and MOEP No. DENR-MGB-22-008 are both expired.</p> <p>61. One final point. Add to these problems is the fact that both transport and export permits of Aitai Mining have expired on 27 January 2023 and 28 January 2023 respectively. This alone should have ended the current stand-off. Instead, riot police were sent several days after to ensure that the transport and export shipment of these ores still take place notwithstanding the fact that their only semblance of legality had since faded away.</p> <p>62. All told, there was a total failure of the various checks and safeguards intended to protect the right of the people to a balanced and healthful ecology.</p> <p>B. THE SHIPMENT OF NICKEL ORE WITHOUT THE REQUISITE SIGNED CERTIFICATES OF MOISTURE CONTENT INCLUDING TRANSPORTABLE MOISTURE LIMIT POSES A SERIOUS THREAT TO PHILIPPINE WATERS</p> <p style="text-align: center;">- 20 -</p> <p>FROM MARINE POLLUTION AND PUTS THE LIVES AND SAFETY OF ITS SHIPPING CREW AT VERY SERIOUS RISK.</p>		

<p>- 21 -</p> <p>65. In the case at hand, the stockpile of Alta Mining has been drenched non-stop by incessant rains, a situation that has been affecting a major swath of the country since the start of 2023 resulting in major flooding from Mindoro to Mindanao, a result of the shear line across the central and southern parts of the Philippines. Good industry practice requires constant testing of the cargo as basis for the certifications, with the ship master being mindful of the weather conditions (i.e., significant precipitation) between the time of testing and loading. Given that as will be elaborated earlier, tremendous effort is exerted to ship this nickel ore at once despite the fact that it has been exposed for weeks under constant rain, the threat is real, not just of marine pollution but loss of lives as well.</p>		
<p><u>Allegations in Support of the Issuance of a Temporary Environmental Protection Order (TEPO)</u></p> <p>66. Petitioners plead and incorporate, by way of reference, all the averments in the foregoing, insofar as they are pertinent, relevant, and material hereto.</p> <p>67. The matter is of extreme urgency. Petitioners, the residents of San Fernando, Caidlocan, and Magdiwang, ordinary Filipinos and the whole world, both present and future generations, will suffer grave injustice and irreparable injury if no TEPO is issued. The extent of environmental damage that has been inflicted on Sibuyan Island and its endemic species is an irreparable damage that is hard to fathom. This is environmental impunity at its height and the island's isolation from urban centers only adds to the brazenness and audacity by which Sibuyan Island's natural heritage is being pillaged.</p> <p>68. The volume of nickel ore that the MGB allowed Alta Mining to extract and export in the guise of bulk sampling is excessive, going over and beyond what its permit allows. The force used against the locals to facilitate a mere "testing" or "sampling" was equally excessive. It was allowed to be perpetuated despite the fact that the permits have already expired. Moreover, environmental officials already knew about Alta Mining's</p> <p>4.3.5 When a container or other cargo which may be loaded into more than one cargo space of a ship, the certificate or the declaration of manifest carrier shall certify the manifest contents of each type of bulky (packed) material loaded into each cargo space. Notwithstanding this requirement, if sampling according to internationally or nationally accepted standard procedures indicates that the manifest content is uniform throughout the compartment, then one certificate or declaration of average manifest content for all cargo spaces is acceptable.</p> <p>4.3.6 Where certification is required by the individual vessel holder carrier concerning chemical hazards, the certificate shall contain or be accompanied by a statement from the shipper that the chemical characteristics of the cargo are, to the best of his knowledge, those present at the time of the ship's loading. However, it is important to ensure that the samples taken are representative of the whole depth of the acceptance (IMBIC Code, underlining supplied)</p>		

violations based on the belated notices they issued. Worse, local officials opted to side with the company instead of listening to their constituents. Now, they fall flat on their faces after the PENRO and EMB-MIMAROPA eventually proved the local residents right. But this is only but the calm before the storm.

69. With 50,000 WMT permitted by the MGB still outstanding, the current stockpile found inside the site is but a fraction of the haul that remains to be gouged and scraped from Sibuyan's verdant mountains. The notices of violation are mere inconveniences that can be easily brushed aside by the speed by which permits are issued to legitimate this ecological plunder. Only a TEPO can abate the irreparable damage to be wrought by this environmental threat.

70. None of the notices of violation issued by the EMB and PENRO delved into the main issue at hand—the illegality of Altai's mining operations. Rather, these focused on the illegal construction of a causeway and cutting of trees, nothing that a belatedly-issued permit can mend, or a simple transfer of loading activities to a public port can resolve. In other words, no MGB or DENR order has invalidated the 50,000 WMT nickel ore granted to Altai Mining despite having been informed by Petitioners through their January 30 letter. Nor has their cold indifference been rattled by the constant reporting of the ensuing tensions in the area by local media. The transport and export permits may have expired but these can be extended or renewed; if this has not yet been done already. The environmental threat thus still remains.

71. All told, the urgent issuance of the TEPO has become a necessity (a) to protect the persons and rights of the people; (b) to temper and reduce further tensions and confrontations between the people, the police, Altai Mining, and the municipal government; (c) to prevent any violence or any other untoward incidents from happening; (d) to enjoin Altai Mining's ongoing full-blown mining activities; (e) to enjoin the police's illegal and baseless intervention; and (f) to give the relevant parties time to pursue the proper legal remedies as provided by law.

72. With no meaningful and effective recourse left, the immediate issuance of the TEPO has surpassed being an urgency and has transcended into a necessity for the purpose of protecting not only the environment of Sibuyan Island, but also its people, their right to a healthful and balanced ecology, and for the world and environment that would be inherited by generations of Filipinos yet unborn.

73. One final point. The recent issuance of notices of violation against Altai Mining by the EMB and PENRO offices did not only prove the

<p style="text-align: center;">- 23 -</p> <p>local residents' right but it made the use of the police by the local government against its unarmed constituents, not only excessive but uncalled for. It would be easy to describe the situation as ironic if not for the fact that the willingness to sacrifice the civil liberties and safety of the people of Sibuyan including the potential loss of a global environmental patrimony, is simply beyond egregious. It is a frightening portent of things to come when this mining operation is finally permitted to decimate this environmental sanctuary.</p> <p style="text-align: center;">Respectfully submitted,</p>		
<p style="text-align: center;">PRAYER</p> <p>WHEREFORE, premises considered, Petitioners respectfully pray that this Honorable Court:</p> <ol style="list-style-type: none"> 1. ISSUE a Temporary Environmental Protection Order (TEPO) ordering Respondents and all acting in their interest to refrain from transporting and/or exporting the nickel ore shipment; 2. DIRECT Respondent Altai Philippines Mining Corporation to cease and desist from engaging in any mining-related activity, exploration or otherwise, in its contract area unless and until a full-blown, thorough and independent investigation of all of the Respondents' illegal activities is conducted and the extent of their liabilities are determined and meted appropriate penalties; 3. DECLARE null and void OTP No. OTP-APMC-162-001-2022-MIMAROPA and MOEP No. DENR-MGB-22-008, including any extension or renewal thereof; 4. DIRECT Respondent Altai Philippines Mining Corporation to restore and rehabilitate the damaged forests, mangroves, foreshore, coral reefs and other ecosystems affected by the illegal mining activities and port construction to its original state; 5. REQUIRE Respondent DENR to make periodic reports on the execution of final judgment. <p>Petitioners pray for such other reliefs which relate to the right of the people to a balanced and healthful ecology or to the protection, preservation, rehabilitation or restoration of the environment.</p> <p style="text-align: center;">Quezon City for Manila, 06 February 2023.</p>		