



Republic of the Philippines
Office of the President
NATIONAL COMMISSION ON INDIGENOUS PEOPLES
MIMAROPA Regional Office
3rd Floor, Argo Bldg., Edsa Corner P. Tuazon, Cubao, Quezon City
Email Address: region4b@ncip.gov.ph

June 29, 2023

ATTY. DANILO U. UYKIENG
OIC Director
Mines and Geosciences Bureau
MGB Compound, North Avenue
Diliman, Quezon City

NCIP MIMAROPA
RECEIVED
JUN 30 2023
BY: *Sy*

Dear **ATTY. UYKIENG**:

This has reference to the Ipilan Nickel Corporation and their application for Certificate of Precondition for their Mineral Production Sharing Agreement (MPSA) with MPSA no. 017-93-IV as Amended-2000, located in the Ancestral Domain Claim of the Pala'wan ICCs/IPs of Brgys Barong-Barong, Ipilan, Calasaguen, Maasin and Mambalot, (BICAMM) all in the Municipality of Brooke's Point, Province of Palawan.

The Pala'wan ICCs/IPs of BICAMM has endorsed to this office the documents from the Mines and Geosciences Bureau Central Office and MIMAROPA Regional Office, to wit:

No.	Date	From	To	Subject
1.	February 17, 2022	Atty. Wilfredo G. Moncano Director, Mines and Geosciences Bureau – Central Office	The Regional Director, Mines and Geosciences Bureau – MIMAROPA	MGB Central Office Memorandum to MGB MIMAROPA Regional Office re approval of the Implementation of the 3YD/UWP for CY 2021-2023 subject to the three (3) conditions.
2.	April 21, 2022	Atty. Wilfredo G. Moncano Director, Mines and Geosciences Bureau – Central Office	Atty. Dante R. Bravo, President, Celestial Nickel Mining Exploration Corporation	MGB grants one (1) year extension for securing the CP with the NCIP for the MPSA No 017-93-IV-as Amended-2000, reckoning from the date of the actual commencement of the development/construction and mining activities in the contract area of the MPSA.

With the above cited references, may request for validation of the said documents thru providing us a certified true copy to be used as official reference by this office. We have attached herewith the cited documents for your reference and perusal.

You may forward the said documents thru our email at region4b@ncip.gov.ph

We thank you for your continued support to our ICCs/IPs brethren.

Very truly yours.

Marina
Dr. MARIE GRACE T. PASCUA, CESO III
Regional Director

Cc:

Ancestral Domains Office
Legal Affairs Office
DENR-MGB MIMAROPA
BICAMM Pala'wan ICCs/IPs
FPIC Team
TMSD
File/Records



February 17, 2022

MEMORANDUM

FOR : The Regional Director
Mines and Geosciences Bureau
MIMAROPA Region
7th Floor DENR Building
1515 Roxas Boulevard, Ermita, Manila 1000

FROM : The Director
This Office

SUBJECT : Clarification on the Implementation of the Approved
Three-Year Development/Utilization Work Program for
CYs 2021-2023 under the Mineral Production Sharing
Agreement No. 017-93-IV as Amended-2000 of Celestial
Nickel Mining Exploration Corporation

This refers to your Memorandum dated February 07, 2022 to this Office forwarding the Letter dated February 03, 2022 of Atty. Dante R. Bravo, President of Ipilan Nickel Corporation (Ipilan), on behalf of Celestial Nickel Mining Exploration Corporation (Celestial), requesting for reconsideration of the suspension of the implementation of the approved Three-Year Development/Utilization Work Program (3YD/UWP) for CYs 2021-2023 under Mineral Production Sharing Agreement (MPSA) No. 017-93-IV as Amended-2000 in the absence of the Certification Precondition (CP) from the National Commission on Indigenous People's (NCIP).

It may be recalled that this Office, through the Memorandum dated January 07, 2022, informed your Office that the implementation of the approved 3YD/UWP for CYs 2021-2023 is still held in abeyance pending the compliance of Celestial/Ipilan with Section 59 of Republic Act (RA) No. 8371, the Indigenous Peoples Rights Act (IPRA) of 1997.

On Item No. 3 of the said Memorandum, this Office also provides a condition that Celestial/Ipilan "should secure the pertinent CP or [Memorandum of Agreement (MOA)] prior to the conduct of development/construction and mining activities within the contract area of MPSA No. 017-93-IV-as Amended-2000. In case that Celestial/Ipilan has only secured a MOA, it is given ninety (90) days upon the commencement of the development/construction and mining activities to secure the CP from the NCIP."

Subsequently, Ipilan wrote to this Office on February 11, 2022 informing that the company has already secured the following pertinent documents for the issuance of the CP:



1. Certificate of Free and Prior Informed Consent (FPIC) dated December 18, 2008 issued by the Palawano Indigenous Peoples/Indigenous Cultural Communities of Barangay Calasaguen, Maasin, Mambalot, and Ipilan, Municipality of Brooke's Point, Palawan.



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cc. 240747

- 2 MOA executed by and between the Celestial, NCIP, and Pala'wan Indigenous Peoples/Indigenous Cultural Community, among others, on December 18, 2008. The said MOA was forwarded and received by NCIP Region IV on July 07, 2009.

Ipilan further explained that the request for the issuance of the CP was not accommodated by NCIP considering that then MPSA No. 017-93-IV was approved prior to the enactment of RA No. 8371. Attached is a copy of the Letter dated March 31, 2006 of NCIP, for reference.

While it is true that the MPSAs which are executed prior to IPRA law is not required to secure CP prior to the commencement of mining operations, it is worthy to note that the Department of Environment and Natural Resources (DENR) issued an Order dated December 21, 2020 clarifying that the effective date of MPSA No. 017-93-IV as Amended-2000 shall be reckoned from the date of the execution of the amended contract, which was on April 10, 2000. Thus, the applicability of securing the pertinent CP for the said mining tenement shall be observed and complied with by Celestial/Ipilan.

In view of the foregoing, Celestial/Ipilan can implement the approved 3YD/UWP for CYs 2021-2023 under MPSA No. 017-93-IV as Amended-2000 subject to the following conditions:

- 1 Celestial/Ipilan shall secure the pertinent CP from the NCIP within ninety (90) days upon the commencement of the development/construction and mining activities in the contract area of the MPSA and shall notify the Mines and Geosciences Bureau (MGB) MIMAROPA Region on the target date of the said commencement.
2. Celestial/Ipilan shall secure the approval of the NCIP in the establishment of an escrow or trust fund for the royalty due to the identified Indigenous Cultural Communities/IPs in the contract area of the MPSA pending the issuance of the CP, and
3. Any changes/amendments to the approved 3YD/UWP for CYs 2021-2023 which entails a negative variance lower than twenty percent (20%) or positive variance shall be approved by the MGB MIMAROPA Region pursuant to Section 6 of DENR Administration Order No. 2018-20.



ATTY. WILFREDO G. MONCANO.



Encls As stated



Republic of the Philippines
Department of Environment and Natural Resources
MINES AND GEOSCIENCES BUREAU

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Tel No. (+63 2) 920-9120-920-9130 Trunkline No. 667-6700 loc. 134 Fax No. (+63 2) 920-1635 Email: central@mgb.gov.ph

April 21, 2022

Atty. Dante R. Bravo
President
Celestial Nickel Mining Exploration Corporation
7th Floor, Corporate Business Center
151 Paseo de Roxas cor. Arnaiz Avenue
1226 Makati City

Dear Atty. D. R. Bravo:

This refers to your Letter dated March 16, 2022 requesting for the extension of period to secure and submit the Certification Precondition from the National Commission on Indigenous People's (NCIP) in connection with the conditions stated in the Memorandum dated February 17, 2022 of this Office pertaining to the implementation of the approved Three-Year Development/Utilization Work Program (3YD/UWP) for CYs 2021-2023 under Mineral Production Sharing Agreement (MPSA) No. 017-93-IV as Amended-2000

In the said Letter, Celestial Nickel Mining Exploration Corporation (Celestial)/Ipilan Nickel Corporation (Ipilan) requested for the extension of period to secure the Certification Precondition from the NCIP from 90 days up to three (3) years due to the long and intricate procedure of its issuance, wherein investigation, validation, review and approval shall be undertaken

While this Office recognizes the manner and the issues and concerns in securing the Certification Precondition from the NCIP, the extension of period up to three (3) years to secure the pertinent document is still premature considering that Celestial/Ipilan has yet to show proof(s) that it has exerted its best effort in securing such requirement from the time it signified its intention to conduct "preliminary site preparation" through its Letter dated March 15, 2022

Moreover, Ipilan only seek the assistance of the NCIP through its Letter dated March 14, 2022 more than fifteen (15) months after the issuance of the Order dated December 21, 2020 by the Department and Environment and Natural Resources (DENR) clarifying that the effective date of MPSA No. 017-93-IV as Amended-2000 shall be reckoned from the date of the execution of the amended contract on April 10, 2000. Upon the issuance of the said Order, Ipilan should have immediately informed the NCIP that the MPSA is no longer exempted in securing the Certification Precondition.

Furthermore, Celestial/Ipilan was already allowed to implement the approved 3YD/UWP for CYs 2021-2023 as it was able to secure a Memorandum of Agreement (MOA) by and between Celestial, NCIP, and Pala'wan Indigenous Peoples/ Indigenous Cultural Community, among others, on December 18, 2008.

Given that the DENR has already issued a clarification on the effective date of MPSA No. 017-93-IV-as Amended-2000 and that Celestial/Ipilan has already secured the pertinent MOA, this Office has no substantial basis to extend the period of securing the Certification Precondition up to three (3) years. However, in light of the deferment in the processing of the application for Certification

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W. 202657



Precondition due to the previous position of NCIP, an extension of one (1) year to secure the Certification Precondition is granted reckoning from the date of the actual commencement of the development/construction and mining activities in the contract area of the MPSA.

Thank you.

Very truly yours,




ATTY. WILFREDO G. MONCANO
Director



cc: The Regional Director
Mines and Geosciences Bureau
MIMAROPA Region
7th Floor, DENR Building
1515 Roxas Boulevard, Ermita
1000 Manila

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