

HIGHLIGHTS OF THE 1st QUARTER 2023
MINE REHABILITATION FUND COMMITTEE MEETING
Ipilan Nickel Corporation
(MPSA No. 017 – 93 – IV as Amended-2000)
MGB MIMAROPA Conference Room, Ermita, Manila
17 March 2023 | 9:00 a.m.

ATTENDANCE:

MRFC Members:

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| 1. Engr. Glenn Marcelo C. Noble | Chairperson and Regional Director
MGB MIMAROPA Region |
| 2. Ms. Bibianilyn Lyn T. Aguha | Representing Dir. Lormelyn E. Claudio, CESO IV
Co-Chairperson and Regional Exec. Director
DENR MIMAROPA Region |
| 3. Mr. Joel Amil M. Salino | Regional Director, EMB MIMAROPA Region |
| 4. Ms. Rhoda B. Roque | Representing Atty. Teodoro Jose S. Matta
Executive Director, PCSDS |
| 5. Atty. Noel E. Aquino | Representing Hon. Victorino Dennis M. Socrates
Provincial Governor, LGU – Palawan |
| 6. SB Victoriano B. Colili | Representing Hon. Cesareo R. Benedito, Jr.
Mayor, LGU – Brooke's Point, Palawan |
| 7. Mr. Inocencio C. Magallanes | NGO – Haribon Palawan |
| 8. Fr. Jasper A. Tabangay | Social Action Director, AVPP |
| 9. Mr. Alex C. Arabis | Resident Mine Manager, INC |
| 10. NCIP MIMAROPA Representative
(via Zoom) | Representing Dir. Marie Grace T. Pascua, PhD
Regional Director, NCIP MIMAROPA |

Guests and Other Participants:

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| 1. Engr. Mark Angelo S. Rogel | Deputy PEMO – 1 st Dist. of Palawan, EMB
MIMAROPA |
| 2. For. Marvin Louie O. Arlegui | Mine Environmental Protection and
Enhancement Officer, INC |
| 3. Engr. Marilou C. Celzo | Assistant to the VP, GFNI |

MMT

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| 1. Engr. Hanna Lee B. Arriesgado | Sr. SRS, MGB MIMAROPA |
| 2. Mr. Carl Anthony L. Madamag | EMS I, EMB MIMAROPA |

Secretariat (MGB MIMAROPA):

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| 1. Engr. Alvin S. Requimin | Division Chief, MSESDD, MGB MIMAROPA |
| 2. Engr. Al Janry S. Tuazon | Sr. Science Research Specialist, MGB MIMAROPA |
| 3. Engr. Venus V. Jesoro | Sr. Environmental Mgt. Specialist, MGB MIMAROPA |

I. Preliminaries

Engr. Glenn Marcelo C. Noble, Chairperson and MGB MIMAROPA Regional Director, called the meeting to order at 9:50 a.m. upon confirmation of a quorum (10 out of 10) by the secretariat.

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54 **II. Meeting Proper**
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56 **A. Review and Approval of the Provisional Agenda**
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58 Among the items that were included in "Other Matters" were as follows:

- 59 • Quick Response Team (QRT) Inclusion in the Manual of Operations of
60 INC and River Management Masterplan of the Municipalities of
61 Brooke's Point and Sofronio Española as requested by Mr. Inocencio C.
62 Magallanes (Haribon Palawan);
- 63 • Provision of Pertinent Documents and Inclusion of Results of Monitoring
64 of STCEBP as requested by Fr. Jasper A. Tabangay (AVPP);
- 65 • Cross-visit in Surigao as mentioned by Engr. Alvin S. Requimin (MGB
66 MIMAROPA);
- 67 • Donation for the Oil Spill Incident in Oriental Mindoro as raised by Engr.
68 Noble; and
- 69 • Clarification on the Certification Precondition (CP) and Issue on the
70 Mayor's Permit as raised SB Victoriano B. Colili (MLGU – Brooke's Point).
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72 Mr. Magallanes moved for the approval and adoption of the provisional
73 agenda, duly seconded by Atty. Noel E. Aquino (LGU Palawan), with the
74 additional abovementioned matters for discussion.
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76 **B. Review and Approval of the Draft Minutes of the 4th Quarter 2022 MRFC meeting**
77 **held on 19 December 2022**
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79 With no additional comments from the body, the draft minutes for the 4th
80 quarter 2022 MRFC meeting was approved upon motion of Mr. Magallanes
81 seconded by Fr. Tabangay.
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83 **C. Matters Arising from the 4th Quarter 2022 MRFC Minutes of the Meeting**
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85 **1. Presentation of Highlights of the Field Findings and Recommendations**
86 **during the 3rd Quarter 2022 MMT Monitoring**
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- 88 • When asked for an update regarding the status of "claimants" within
89 the 230-has. area target for reforestation and the inventory of seedlings
90 that were uprooted by said "claimants," For. Marvin Louie O. Arlegui
91 (INC) responded that the company cannot conduct a ground
92 verification as they are not allowed to enter the area. He explained
93 that the incident was reported to CENRO Brooke's Point and concerned
94 *barangay* but the "claimant" did not attend the meeting scheduled by
95 the *barangay*. Furthermore, the company requested for a meeting right
96 after the previous MRFC meeting, but the *barangay* is yet to address
97 the company's request.
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- 99 • Mr. Magallanes commented that the time allotted for MMT monitoring
100 is not sufficient to visit the said area and that this is a concern of the
101 PENRO and CENRO Brooke's Point. He suggested to request for a copy
102 of CENRO – Brooke's Point's report regarding the incident.

- The Chairperson requested for the PENRO, CENRO-Brooke's Point and INC to monitor the incident. He likewise requested Ms. Bibianilyn Lyn T. Aguha (DENR MIMAROPA) to ask RED Claudio to instruct the CENRO of Brooke's Point to address the concern.
- SB Victoriano B. Colili (MLGU Brooke's Point) requested for CENRO – Brooke's to likewise conduct an inventory of the “claimants” in coordination with Hon. Domingo D. Bernas (Chairperson of Brgy. Maasin) and the MLGU as the latter's report focused on the uprooted seedlings and cases of illegal charcoal-making.
- Ms. Rhoda B. Roque (PCSDS) requested to include lines 196 to 215 of the minutes of the meeting on the matrix to get an update on the actions taken by the company on the safety concerns raised by Ms. Remie L. Mostiero of MLGU – Brooke's Point.
- When the Chairperson asked for an update on the provision of separate bin for medical wastes, For. Arlegui reported that there are red-colored trash bins placed in strategic locations for the medical wastes and the company has started its construction of a septic vault.
- As for the improvement that must be needed to address the safety concerns, For. Arlegui said that warning lights were installed at the intersection. The Engineering Team are still studying how to further improve the area, he added.

2. Annual Work and Financial Plan

- For. Arlegui stated that the company has yet to update the Work and Financial Plan (WFP) but a budget was allocated in the 2023 AEPEP for the items enumerated by Mr. Magallanes (i.e., capacity building, PPE and other related expenses).
- Mr. Magallanes requested for the company to create a separate WFP for the MMT.

D. Technical Reports

1. Presentation of Highlights of the 4Q2022 MMT Validation

Engr. Hanna Lee B. Arriesgado presented the findings and recommendations during the 4th Quarter 2022 MMT monitoring.

- Regarding the MMT's request for a copy of the report/presentation on the flooding occurrence in Brooke's Point, the Chairperson said that the report may be provided next MRFC meeting as the geologists were on fieldwork.

- Engr. Arriesgado relayed to the body the concern that the current IP representative the MMT, Mr. Julhadi Titte, may not represent the IP community as a whole since he is from Brgy. Maasin. The Chairperson requested for a copy of the letter regarding the representation of Mr. Titte.
- Mr. Arabis explained that when MGB MIMAROPA sent a letter to the Indigenous Person Mandatory Representative (IPMR) of Brooke's Point, SB Nerelia P. Pacaldo responded that she will be the primary while Panglima Julhadi Titte was designated as her alternate. He explained that while Mr. Titte is from Brgy. Maasin, he likewise carry all the issues being raised by all barangays. Upon this clarification, the Chairperson asked to set aside the issue as it was clear that Mr. Titte is representing all IPs not just those from Brgy. Maasin.
- A discussion arose whether a commendation was in place for the mini-hydro powerplant that the company established using Corporate Social Responsibility (CSR) funds. When the Chairperson asked the committee for comments, Ms. Roque and Mr. Magallanes were in favor of the commendation while Engr. Mark Angelo S. Rogel and SB Colili suggested to put it on hold. Engr. Rogel explained the need to check whether the mini-hydro powerplant is included as project component in the company's EIS/ECC while SB Colili suggested to validate the families who benefited from it.
- One of the MMT recommendation was to conduct mapping of the discoloration observed along the shoreline. Mr. Magallanes took note that there were no ECC conditionalities pertaining to the causeway. He suggested for conditionalities to be in place from the construction stage until its completion. Furthermore, to conduct sediment sampling to determine the level of heavy metals and to install a bioindicator project.
- Engr. Rogel responded that the causeway is included as one of project component hence no separate ECC. Sampling stations along the causeway were established by the company, he added.
- For the information of the body, Ms. Aguha said that the company has a provisional MLA which is valid from June 1, 2022 to June 1, 2023.
- SB Colili informed the body that the MMT requested for a copy of the company's application for an MLA as well as the design of the causeway. Whether the MMT may be provided with a copy of the said documents, the Chairperson responded that he will leave the matter to the discretion of the DENR. Engr. Rogel agreed with the statement of the Chairperson.
- Engr. Arriesgado asked on the committee's decision regarding the conduct of sediment sampling. The Chairperson asked the secretariat to look into the baseline conditions to determine the level of metal

content and to check if there's available data. A decision shall be made next MRFC meeting upon presenting the mentioned data.

- Engr. Rogel advised the company to provide the correct address for all project structures particularly the causeway.
- Regarding the complaint of Ms. Gloria Bernas, whose beachfront lot was allegedly destroyed because of the presence of the pier, the Chairperson instructed the secretariat to endorse the matter to the MGB Embedded Personnel assigned in CENRO – Brooke's Point for investigation.
- Related to the complaint of Ms. Bernas, Engr. Rogel advised to coordinate with the LGU's Engineering if the concern has something to do with the drainage.

2. Presentation of highlights of the 1st Quarter 2023 Water, Air and Noise Monitoring and Sampling

The MMT was not able to conduct actual sampling due to limited time. Thus, instead of actual sampling result, Mr. Carl Anthony L. Madamag (EMB MIMAROPA and MMT Sampling Group Leader) presented the 4th quarter 2022 water and air quality monitoring results indicated in the company's Self-Monitoring Report (SMR).

Based on the 4th quarter 2022 SMR of the company, water and air quality monitoring results were within the DENR standards. Agreements and discussion that arose during/after the presentation were as follows:

- The number of days for the conduct of MMT monitoring will increase from three (3) to four (4) days to give time for the sampling group to conduct its activities.
- Mr. Arabis requested for a follow-up orientation as most of the MMT members are new. The purpose of which was to orient the members what to expect and what rules to be observed during the monitoring. The Chairperson agreed and requested to set the date.
- Engr. Rogel remarked that they will improve their report by including the DENR standards and monitoring trend.

3. Presentation of compliance with the 4Q2022 MMT's field findings and recommendations and presentation of physical and financial accomplishments, including updating and established Funds.

For. Marvin Louie Arlegui presented the company's compliance with the 4th quarter 2022 MMT field findings and recommendations. Below were the discussion that arose during his presentation:

- While Mr. Arlegui was presenting a drone shot of the causeway, the Chairperson inquired on the location of Ms. Bernas' property. SB Colili

interjected that it was Engr. Villanueva, who was with him inside the vehicle during MMT monitoring, who explained that it was possible that the installed culvert was not sufficient to convey the volume of water during torrential rain (January 2023). The Chairperson asked the company to check the capacity of the culvert that was installed.

- Ms. Roque asked For. Arlegui to give an update on the environmental and safety concerns regarding the highway. The latter responded that the company addressed the issue by installing additional signages and street lights along the intersection. Upon coordination with the DPWH, the company was not allowed to install barriers nor humps. As for the environmental concerns, he explained that INC will construct a tire bath along the haul road and that the Engineering Office of INC is in the process of drafting a design.
- Engr. Alvin S. Requimin asked For. Arlegui to use a single map overlay in google earth in presenting the drainage pattern/water flow for better visualization.
- At the end of his presentation, For. Arlegui showed a photo taken during the MMT monitoring that was maliciously posted on social media. The Chairperson asked the company to remind all MMT members regarding this.
- Mr. Arabis briefly discussed the 2022 ASDMP accomplishments of INC. As indicated in his presentation, the company accomplished all of its physical targets with a financial accomplishment of 92.33%.

E. Presentation of recent drone shots/videos of rehabilitation areas

Already included in For. Arlegui's presentation earlier.

F. Other Matters

1. QRT Inclusion in the MOO of INC

- Mr. Magallanes explained that there must be a QRT, composed of people on the ground, to conduct investigation on matters that must be immediately addressed such as flooding (i.e., no need to wait instruction from MGB Central Office/Regional Office).
- The Chairperson agreed to Mr. Magallanes' statement and said that the MOO is already in its final stage. When asked regarding the QRT composition, Mr. Colili suggested CENRO – Brooke's Point representative as Team Leader while representatives from CSO, BLGU, MLGU, PCSDS and company as members.
- The Chairperson asked the body to determine the functions and scope of work of the QRT. Furthermore, he instructed the secretariat to draft the functions and scope of work with the assistance of Mr. Magallanes.

2. River Management Masterplan of Brooke's Point and S. Española

- For the information of the body, Mr. Magallanes stated that a technical working group, composed of panel of experts, was created for the design of the river management masterplan for the Municipalities of Brooke's Point and S. Española. A budget of around PHP 95 Million was allocated for the project that involves dredging activities and the acquisition of a Doppler Radar for the rainfall data monitoring which will be purchased by both the national government and the provincial government.

3. Provision of Pertinent Documents

- The Chairperson asked the secretariat to share the necessary files such as ECC, SEP Clearance, STCEBP, AEPEP, MPSA, MRFC Minutes of the Meeting (upon request of the members) etc. via Google drive.

4. Cross-Visit in Surigao

- As discussed by the Chairperson, there will be a cross-visit in Surigao Del Norte which is tentatively scheduled on May 16 – 20, 2023. It will be a 5-day trip that will include a visit to MGB Regional Office No. 13, Taganito HPAL Nickel Corporation, Taganito Mining Corporation, Platinum Group Metals Corp., and a courtesy call to Mayor Georgia D. Gokiangkee. The secretariat to draft the necessary letters regarding the activity.

5. Donation for the Oil Spill

- The Chairperson requested for donations of necessary materials for the conduct of cleaning of the oil spill such as double cartridge facemask, nitrile gloves etc. He asked For. Arlegui to coordinate with EMB MIMAROPA regarding the PPE specifications.
- Mr. Alex A. Arabis (INC) commented that this has been raised to the management and the company already prepared the needed materials such as silt curtain.

6. Inclusion of results of monitoring of STCEBP

- SB Colili cited that the first condition of the STCEBP stated that public consultations with concerned stakeholders must be conducted. However, certain *barangays* attested that this was not carried out. He inquired on the sanction that must be imposed by DENR for not complying with the said condition.
- When the Chairperson requested a response from DENR MIMAROPA, Ms. Aguha explained that the party involved must be sanctioned in case of violation. In accordance with Presidential Decree No. 705 or

the Forestry Reform Code of the Philippines, a case may be filed against the violators, she added.

- Referring to the STCEBP issued in 2016, Atty. Aquino informed the body that DENR MIMAROPA filed a case against Atty. Dante R. Bravo (INC President) at the Regional Trial Court (RTC) in Brooke's Point. Agreeing with Atty. Aquino's statement, Ms. Aguha stated that an administrative case was likewise filed apart from the criminal case.
- Mr. Arabis concurred with Atty. Aquino's statement that a case was filed against the company in RTC Branch 165. In an order dated 17 August 2022, the case was dismissed, he added.
- SB Colili commented that a case was filed against the company for cutting trees beyond the area stipulated in the STCEBP. However, he was referring to the conditions stated in the STCEBP, if DENR MIMAROPA will likewise impose a penalty as the company failed to comply with one of the conditions stated in the STCEBP (i.e., public consultation with stakeholders).
- To end the discussion, the Chairperson requested Ms. Aguha to provide a response to Mr. Colili's inquiry copy furnished the MRFC secretariat on or before the next MRFC meeting.
- Ms. Aguha inquired about the cut logs to which For. Arlegui responded that it was turned over to CENRO – Brooke's Point in 2017. The same was hauled by the provincial LGU to be used in fabricating school chairs.
- The Chairperson requested For. Arlegui to provide a full account on how the cut logs were utilized (i.e., no. of cut logs donated, etc.) next MRFC meeting.
- On the request of Fr. Tabangay to report the company's compliance with the STCEBP conditionalities every MMT, the Chairperson instructed to do so during the entry/exit meeting next MMT monitoring.

7. Clarification on the Certification Precondition

- Mr. Colili requested for clarification and written statement from NCIP MIMAROPA on whether INC is exempted from securing a CP. He narrated that INC insisted that it is exempted based on 31 March 2006 Letter from the former Ancestral Domain Office (ADO) Director, Ms. Myrna Caoagas. He presented a Memorandum dated 24 May 2022 signed by NCIP Executive Director Caesar M. Ortega which stated the need for INC to secure a CP.
- When the Chairperson asked for an update from the NCIP MIMAROPA representative attending via Zoom, the latter did not respond.

- Mr. Alex Arabis explained that the Memorandum was not addressed to the company as it is an internal document. There were no other documents forwarded to INC stating the need to secure a CP, hence the company abided by the letter of former ADO Dir. Caoagas.
- Upon reading the Letter of ADO Dir. Caoagas, Atty. Aquino commented that he now understood why the NCIP cannot give a categorical answer to the question of SB Colili. As mentioned in the Letter of former ADO Dir. Cawagas, INC's MPSA was issued prior the enactment of the IPRA law. He explained that there is now the question of interpretation whether the law passed after the existence of the mine can be given retroactive effect, only the court can interpret such as this is the function of the judiciary.
- SB Colili explained that he brought the matter before the MRFC to seek clarification from the NCIP and the Chairperson acknowledged his concern as MGB MIMAROPA was likewise seeking clarification on the matter.
- Atty. Aquino commented that he understood where SB Colili is coming from as the latter is representing the people of Brooke's Point. He agreed with SB Colili's sentiment that the NCIP must have a categorical statement regarding this otherwise this matter will be tackled in court. With the matter being brought before the MRFC, he explained that the NCIP is a member of the MRFC but the MRFC cannot impose or hammer the NCIP to provide a ruling since all entities are co-equal within the MRFC, further the NCIP is under the Office of the President.
- To end the matter, the Chairperson said that a Letter may be drafted for NCIP MIMAROPA to address the concern on INC's CP.

8. Issue on the Mayor's Permit

- SB Colili informed the body that the company is operating without a valid Mayor's Permit for 2023. He explained that compliance with other pertinent laws is part of the ECC conditionalities and SEP Clearance conditions. Apart from the DENR laws, the company should comply with the laws being imposed by other government agencies, he added.
- RD Joe Amil M. Salino (EMB MIMAROPA) corrected SB Colili's statement as the need to secure necessary permits and documents from concerned agencies is not part of the ECC conditionality but it was stated in the body of the Letter of Atty. Miguel Cuna. EMB MIMAROPA shall seek clarification from EMB Central Office regarding the issuance of a Notice of Violation (NOV) since it was the latter who issued the ECC.
- Atty. Aquino commented that what was written in the Letter read by RD Salino was self-explanatory, the company may proceed with the project implementation after securing the necessary permits from other pertinent government agencies. He then asked the company why it cannot comply with the recent directive of the Mayor.

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- Mr. Arabis responded that as early as 03 January 2023, the company requested for the list of requirements and they were advised to check what was indicated in the Citizen's Charter. He narrated that upon filing the application, the MLGU asked for the additional requirements. Among the additional requirements were BLGU endorsement and SB endorsement, which were secured during the MPSA application. The company would comply with these additional requirements if it is covered by a resolution or ordinance that went through consultation. Hence, INC requested for the intervention of the Anti-Red Tape Authority (ARTA).
- When Atty. Aquino asked whether the company verified if the additional requirements were covered by an ordinance, Mr. Alex replied that the MLGU said that there was a resolution or ordinance but the company secured a certification from the *Sangguniang Panlalawigan* that it did not receive an ordinance on the additional requirements being imposed upon INC.
- RD Salino asked if the company exhausted other administrative/legal actions as the absence of the Mayor's Permit has a direct impact on company's compliance with other documents such as the ECC. He added that if there is a dispute then a document must be presented stating that there is a dispute as to the validity of the ordinance being imposed by the government as the additional requirements were unreasonable.
- Mr. Arabis responded that the company is waiting for the result of complaint submitted to ARTA (with the hope of resolving the issue). Otherwise, the company will resort to other legal actions.
- SB Colili explained that no additional requirements were required as the 2020 Mayor's Permit was issued despite the lacking requirements. He recalled that during his privilege speech on September 2022, he questioned the legality of the permit issued during the time of Mayor Jaja O. Quiachon. The lacking documents were PAMB Clearance, ECAN Board Endorsement and Barangay Endorsement as some barangays revoked their endorsement. He commented that while the legalities of the additional requirements are being addressed, it is not proper for the company to continue its operations without a valid Mayor's permit.
- Atty. Aquino said that he understood SB Colili's concern. In the latter's perspective, these are not additional requirements but rather the permit was secured despite incomplete documents. However, he explained that the permit issued during the time of Mayor Jaja was valid (and stands valid until its expiration) as it was not questioned at court.
- As for the action taken by the company, Atty. Aquino explained to the body that INC is waiting for the result of the complaint filed in ARTA as

the company cannot seek relief from the same case for it will be viewed as forum shopping. As for the additional requirements, Atty. Aquino said that these should be applied to all business or else there will be a class legislation. Furthermore, it should be covered by an ordinance that went through public hearing. Referring to the phrase imperium in imperio, he explained that the autonomy of the local law should not contravene the national laws. In the end, he said that the committee cannot order the company to stop operating due to legal issues but advised the LGU to file a case to the court for petition for prohibition resulting to Temporary Restraining Order (TRO) should the LGU feel that it has a strong case against the company.

- SB Colili responded that these requirements are likewise being imposed to small-scale mining operators. He explained that he raised this concern to the MRFC for the sake of information.
- The Chairperson requested to cut short the discussion after SB Colili conveyed said information to the body. Agreeing with Atty. Aquino, he stated that the committee does not have the authority to halt INC's operations and cited that since DENR Central Office is the issuing authority, then the latter has the authority to cancel or suspend the MPSA.

III. ADJOURNMENT

All matters properly discussed and there being no other issue/concern for deliberation, the meeting was adjourned at 4:48 pm on the motion of Mr.Magallanes.

Attesting to the correctness of the foregoing:

LADY MENDELYN J. CATALUÑA/HANNA LEE B. ARRIESGADO

Secretariat

MRFC/MGB MIMAROPA

Approved by:

GLENN MARCELO C. NOBLE

Regional Director, and

Chairperson, MRFC for INC