



Republic of the Philippines
Department of Environment and Natural Resources
Provincial Environment and Natural Resources Office
MIMAROPA Region
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November 7, 2023

MEMORANDUM

FOR : The Regional Executive Director
DENR MIMAROPA Region
1515 L&S Bldg., Roxas Blvd.,
Ermita, Manila

FROM : The Provincial Environment and
Natural Resources Officer


SUBJECT : **Responses/Comments on Letter interrogatories regarding
The mining activities in Brooke's Point Palawan and its effects**

Respectfully endorsing the responses/comments on issues raised by Mr. Roger Garinga, et. al., in their letter interrogatories on the mining activities in Brooke's Point, Palawan and its effects on the environment and local communities.

Enclosed are the 2020 land cover map of the STCEP application and active mining operations of Ipilan Nickel Corporation (INC) and the ECAN Map of the of the STCEP application and active mining operations of Ipilan Nickel Corporation (INC).

For your information, perusal, and further instruction.

For the PENRO


RONIE B. GANDEZA
DMO V/Chief, TSD
In-Charge, Office of the PENRO



October 29, 2023

MEMORANDUM

FOR : The Provincial Environment and Natural Resources Officer

FROM : The Community Environment and Natural Resources Officer

SUBJECT : **LETTER INTERROGATORIES ON THE MINING ACTIVITIES IN BROOKE'S POINT, PALAWAN AND ITS EFFECTS**

This pertains to the letter of Mr. Roger Garinga, et.al., dated October 17, 2023, which was referred to this Office on October 27, 2023, regarding interrogatories on the mining activities in Brooke's Point, Palawan, and its effects on the environment and local communities.

On the said letter, several issues and concerns were raised regarding mining operations in Brooke's Point, Palawan by the companies Ipilan Nickel Corporation, MacroAsia Mining Corporation and Lebach Mining Corporation. Please see the matrix below regarding the responses/comments on the same:

Issues and Concerns	Responses/Comments
1. Consistency of mining projects with national laws such as RA 7942 (Philippine Mining Act of 1995) and the Local Government Code	As part of the Environmental Impact Assessment (EIA) process, per Presidential Decree No. 1586 and its implementing rules and regulations (DENR Administrative Order No. 2003-30), the proponents were required to submit the EIA Report which includes the inventory of flora and fauna. This process involves evaluating and predicting the likely impacts of a project (including cumulative impacts) on the environment during construction, commissioning, operation, and abandonment. It also includes designing appropriate preventive, mitigating, and enhancement measures addressing these consequences to protect the environment and the community's welfare.
a. Was there a DENR-commissioned inventory of the various species of flora and fauna in the affected areas prior to the commencement of mining operations	
b. Has the DENR identified areas where old-growth forests in Brooke's Point are located?	
c. What were the species of plants and animals that were positively identified in the conduct of such inventories?	
d. Has an inventory of such species within the area been conducted anew?	
e. In the DENR's evaluation of the applications for mineral agreements, did it seriously consider the CLUP of Brooke's Point which does not provide for a mineral zone?	The EIA Reports of the approved mining projects were submitted to the DENR-Environmental Management Bureau (EMB) for their evaluation and approval prior to the issuance of the companies' Environmental Compliance Certificate (ECC).
	The same was also given emphasis by Section 70 of RA 7942 which provides

<p>Section 63 of RA 7942 also dictates that "All contractors and permittees shall strictly comply with all the mines' safety rules and sanitary upkeep of the mining operations and achieve waste-free and efficient mine development."</p> <p>a. Have any of the following companies mentioned who have undertaken mineral development and utilization faithfully subscribed to this provision?</p> <p>b. What measures have the DENR adopted to ensure that such contractors and permittees strictly comply with the said safety rules and sanitary upkeep in their operations?</p> <p>c. Have multipartite monitoring teams (MMTs) been formed which include civil society and local community representatives? If so, have these MMTs met and prepared reports? Can we access these reports?</p>	<p>that "an environmental clearance certificate shall be required based on an environmental impact assessment and procedures under the Philippine Environmental Impact Assessment System"; Section 35 of DAO 2010-21 wherein ECC is a mandatory requirement of mining agreement applications, and further clarified in Section 7 of DAO 2021-25 which provides that "no mining project shall proceed without the issuance of ECC pursuant to Section 70 of RA 7942".</p> <p>Considering that all the above-mentioned companies have a valid ECC prior to their operations, the same underwent the EIA process, and the DENR-EMB is regularly conducting their compliance monitoring activities based on the terms and conditions of their respective ECCs.</p> <p>Under Section 142 of RA 7942, "All Contractors, Permittees, Lessees, Permit Holders, and Service Contractors shall strictly comply with all the rules and regulations embodied under DENR Administrative Order No.2000-98, otherwise known as the "Mine Safety and Health Standards.".</p> <p>By virtue of Section 87, Rule 1200 of DAO 2000-98, the Director of DENR-Mines and Geosciences Bureau or his duly authorized representatives shall have the power and duty to enforce this Order and all rules and regulations that may hereafter be promulgated concerning the safe and sanitary upkeep of the mine, hence the same is regularly conducting compliance monitoring with regard to mine safety and health.</p> <p>In compliance with Section 9 of DAO 2003-30, MMTs have been formed and active in each concerned companies. Quarterly MMT Meetings are being conducted and are attended by the proponent and stakeholder groups, including representatives from concerned LGUs, locally accredited NGOs/POs, the community, the concerned EMB Regional Office or its representative, and other relevant government agencies, which were tasked to undertake monitoring of compliance with ECC conditions as well as the Environmental Monitoring Plan (EMP).</p>
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<p>DAO 2022-04 mandated mining companies to engage the services of a biodiversity expert to work with and under the Mine Environment Protection and Enhancement Office.</p> <ol style="list-style-type: none"> Have programs been put in place to ensure the protection of the affected mining areas' biodiversity through such experts? Should such programs be put in place, what studies or reviews have been yielded by these experts regarding the continued operations of the concerned companies 	<p>With regard to copies of MMT reports, per DAO 2016-29, such reports fall under the exceptions provided in "Annex C" of the subject DAO.</p> <p>Please be informed that, per the records of this Office, only the Ipilan Nickel Corporation has requested the training on conduct of a Biodiversity Assessment and Monitoring System (BAMS) as mandated by DENR Administrative Order No. 2022-04 Enhancing Biodiversity Conservation and Protection in Mining Operations and Orientation of Environmental Laws and Regulations. The same is tentatively scheduled on the 1st Quarter of 2024 due to time and budget constraints of the company.</p>
<p>2. Whether or not respect has been accorded to the areas covered by the Mt. Mantalingahan Protected Landscape (MMPL) as per PP No. 1815, Series of 2009</p> <ol style="list-style-type: none"> Has the DENR been empowered through such proclamation to police the activities of contractors and/or permittees over the said protected area? Do the powers of the DENR over such area, in accordance with its mandate to protect the same, include the power to cancel or revoke permits in accordance with national interest and the needs of the area's environment and natural resources? 	<p>Paragraph No. 3 of Presidential Proclamation No. 1815, Series of 2009, <i>"Any valid contract, permit or license for the extraction or utilization of natural resources therein already existing prior to this Proclamation shall subject to national interest and existing laws, rules and regulations, be respected until its expiration..."</i>. Please be informed that the Mineral Production Sharing Agreement (MPSA) of the existing mining company was issued prior to the establishment of MMPL as a protected area, hence, the same is subject to prior rights therein.</p> <p>5th paragraph of PP 1815 provides that "The Mt. Mantalingahan Protected Landscape shall be under the administrative jurisdiction of the DENR in partnership with the PCSD and shall be administered in accordance with Republic Act No. 7586 in harmony with Republic Act No. 7611 or the Strategic Environmental Plan of Palawan (SEPP) Act and other relevant laws, rules, and regulations."</p> <p>Section 5 of Executive Order No. 192, Series of 1987 enumerated the power and functions of the DENR, and on letter "L", it specifically stated that the DENR has the power to "Promulgate rules, regulations and guidelines on the issuance of co-production, joint venture or production sharing agreements, licenses, permits, concessions, leases and such other privileges and arrangement</p>

c. The 1987 Constitution itself establishes that "The State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature". In coordination with the State through your Office, what actions have you undertaken or plan to undertake to protect the rights of the affected residents of Brooke's Point, Palawan?

concerning the development, exploration and utilization of the country's natural resources and shall continue to oversee, supervise and police our natural resources; to cancel or cause to cancel such privileges and arrangements upon failure, non-compliance or violations of any regulations, orders, and for all other causes which are in furtherance of the conservation of natural resources and supportive of the national interests."

As part of the regulatory function of the DENR, through the Mines and Geosciences Bureau (MGB), all mining projects are mandated to submit a Social Development Management Program (SDMP). Based on Section 2(o) of DAO 2000-99 (amendment to DAO 1996-40, Revised IRR of RA 7942), it refers to the comprehensive five-year plan of the Contractor/Permit Holder/Lessee authorized to conduct actual mining and milling operations towards the sustained improvement in the living standards of the host and neighboring communities by creating responsible, self-reliant and resource-based communities capable of developing, implementing and managing community development programs, projects, and activities in a manner consistent with the principle of people empowerment.

The formulation/development of SDMP is in consultation and in partnership with the host and neighboring communities, actively promotes and shall cover and include all plans, projects, and activities of the Contractor/Permit Holder/Lessee towards enhancing the development of the host and neighboring communities.

The SDMP is being submitted to the Director of MGB every five years to meet the changing demands and needs of the concerned communities.

Further, on Section 3(c) of DAO 2000-99 provides that, "the Contractor/Permit Holder/Lessee shall allot annually a minimum of one percent (1%) of the direct mining and milling costs"

Lastly, the concerned DENR-MGB Regional Office is monitoring the implementation of the approved SDMP periodically and reports are being

	submitted to MGB as the basis for audit as provided for in Section 9 of DAO 2000-99.
<p>3. Compliance with the provisions of RA 11038 (ENIPAS)</p> <p>a. What measures has the DENR pursued to maintain and protect the old-growth forest and watersheds of Brooke's Point as well as MMPL in consideration of its outstanding natural and scenic landscapes?</p> <p>b. What activities are undertaken for solely scientific, educational, and recreational pursuits?</p> <p>c. Has extractive resources used within this area</p>	<p>Section 9 of RA 7586 otherwise known as the NIPAS Act as amended by RA11038 (ENIPAS) provides for general management planning strategy to serve as guide in formulating individual plans for each protected area. The management planning strategy shall, at the minimum, promote the adoption and implementation of innovative management techniques including if necessary, the concept of zoning, buffer zone management for multiple use and protection, habitat conservation and rehabilitation, diversity management, community organizing, socioeconomic and scientific researches, site-specific policy development, pest management, and fire control. Currently, the MMPL has an approved management plan which served as the bible in managing the PA and all PA activities should be in consonance with the management plan with guidance of Protected Area Management Board as the governing body.</p> <p>(No data available)</p> <p>Based on the Multi-Partite Monitoring Team Meetings conducted with the mining companies in the Municipality of Brooke's Point, no extractions are being conducted inside the protected area (MMPL).</p>
<p>4. Effects of mining operations on waters and watersheds as defined by Presidential Decree o. 1067, Series of 1976 (Water Code of the Philippines) and the EIS System (PD 1586)</p> <p>a. Has the DENR o any of its representatives studied and/or reviewed the state of the nearby waters in Barangay Maasin where INC has put up a causeway in support of its mining operations? Is the DENR aware that the causeway area is a fishing ground of the Pala'wan IPs who have earned their livelihood as fishers,</p>	<p>Per coordination with the DENR-EMB MIMAROPA, the company, INC is conducting its quarterly water quality monitoring because the same is part of the Quarterly Self-Monitoring Report (QSMR) being submitted to DENR-EMB MIMAROPA. Such reports are also being validated on the ground by DENR-EMB MIMAROPA as part of compliance monitoring on their ECC.</p>

<p>and more particularly lobster fry gatherers? Is DENR also aware that there are marine sanctuaries adjacent to the causeway?</p> <p>b. Section 20 of DAO 2018-14 vests jurisdiction over the management of causeways such as what INC has put up upon the DENR itself. Was INC compliant in undergoing an EIA Process prior to putting up its causeway?</p> <p>c. In relation to the conduct of EIA, were consultations among stakeholders conducted? Were these stakeholders invited to the public hearing addressed by the mining companies in their EIS?</p> <p>d. PD 1586 requires the DENR to monitor projects that had been issued ECCs after having passed through the EIA process. What results have the monitoring efforts of the DENR over the concerned areas yielded?</p>	<p>The DENR MIMAROPA Regional Office recently approved (August 2023) the renewal (for 2nd year) of the Provisional Permit issued to the INC for the use of the causeway. Considering the approval of the renewal of such a permit, there is a presumption of regularity in the performance of duty unless no reason exists in the records by which to doubt the regularity of the performance of official duty.</p> <p>An ECC was issued or will be issued to all the mining companies operating within the Municipality of Brooke's Point. Stakeholder's consultation is part of the EIS/EIA Process, under the doctrine of presumption of regularity, the same was complied which resulted in the issuance/approval of their ECCs.</p> <p>As part of compliance monitoring being conducted by the DENR-EMB MIMAROPA Regional Office on the ECCs issued in the Municipality of Brooke's Point, a Notice of Violation was issued to Ipilan Nickel Corporation in violation of RA 9275 (Clean Water Act) and PD 1586. However, per coordination with the DENR-EMB MIMAROPA Regional Office, such NOV's were lifted due to compliance made by the company. Therefore a Discharge Permit was issued to INC and their ECC is still valid. Currently, regular monitoring is being conducted by the DENR-EMB Regional Office.</p>
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For consideration and further instruction.

LEONARD T. CALUYA

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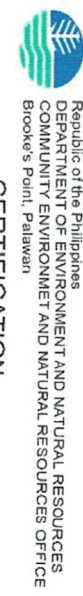
2020 LAND COVER MAP OF THE
STCEP APPLICATION AND ACTIVE
MINING OPERATIONS OF
IPILAN NICKEL CORPORATION (INC)

SITUATED IN THE
BARANGAY MAASIN,
MUNICIPALITY OF BROOKE'S POINT
PROVINCE OF PALAWAN

AREA = 15.0 Hectares
1:20,000



Coordinate System: WGS 1984 UTM Zone 50N
Projection: Transverse Mercator
Datum: WGS 1984
Units: Meter



CERTIFICATION

This is to certify that this map showing the applied for Special Tree Cutting and Earth Bailing Permit containing an area of 15.0 hectares and active mining operation of Ipiplan Nickel Corporation as described hereon.

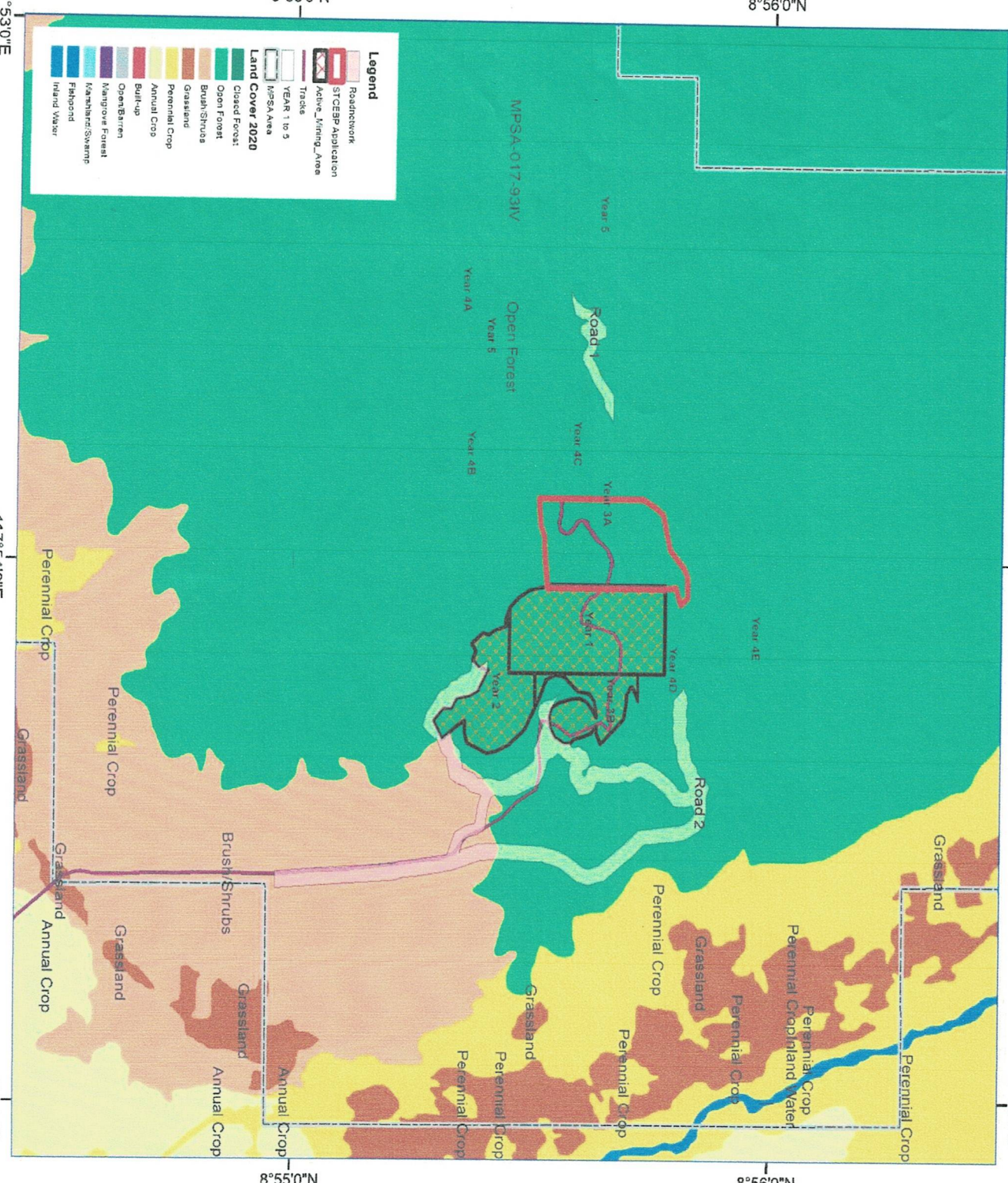
This map was digitized based from other references available in this Office.

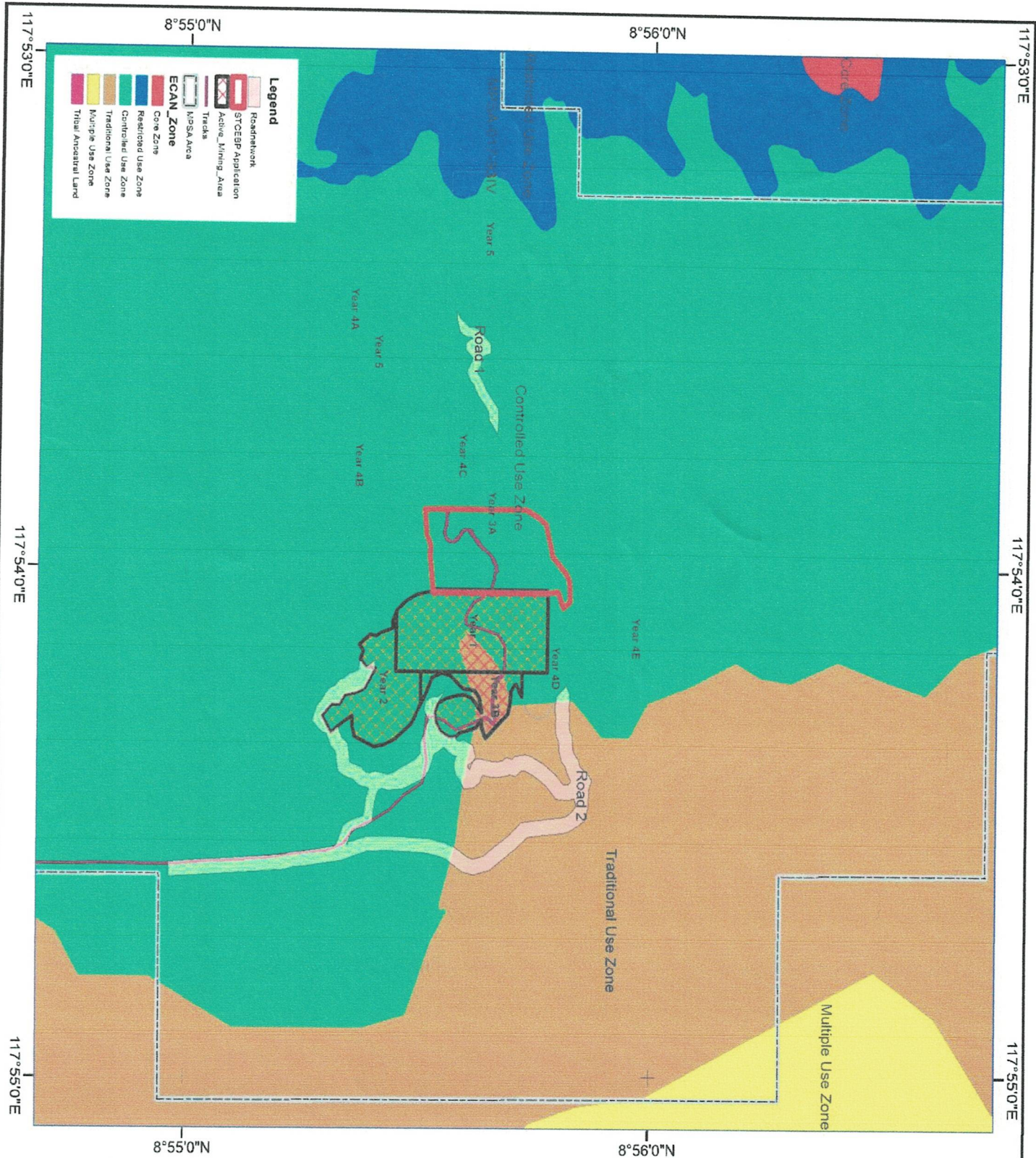
Digitized by: MARLOU O. SORETES
Forester I/GIS focal
Check and verified by: JOSELITO EYALA
For: III/Deputy CENRO/Chief, MES
Noted by: LEONARD T. CALUYA
CENRO

Legend

- STCEP Application
- Road/track
- Active_Mining_Area
- Tracks
- YEAR 1 to 5
- MPSA Area
- Land Cover 2020**
- Closed Forest
- Open Forest
- Brush/Shrubs
- Grassland
- Perennial Crop
- Annual Crop
- Built-up
- Open Barren
- Mangrove Forest
- Kalahard/Swamp
- Fishpond
- Inland Water

8°55'0"N 8°56'0"N 117°53'0"E 117°54'0"E 117°55'0"E





ECAN MAP OF THE
STCEP APPLICATION AND ACTIVE
MINING OPERATIONS OF
IPILAN NICKEL CORPORATION (INC)

SITUATED IN THE
BARANGAY MAASIN,
MUNICIPALITY OF BROOKE'S POINT
PROVINCE OF PALAWAN

AREA = 15.0 Hectares

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Republic of the Philippines
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
COMMUNITY ENVIRONMENT AND NATURAL RESOURCES OFFICE
Brooke's Point, Palawan

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Digitized by:

MARLOU O. SORETES
Forester II/GIS focal

Check and verified by:

JOSELITO EYALA

Noted by:

For: III/Deputy CENRO/Chief, MES

LEONARD T. CALUYA
CENRO