



OSEC-2023-005425: Addressing the Kalikasan Writ and Request for Understanding

1 message

DENR OSEC Referral <osec.referral@denr.gov.ph>

Thu, Sep 14, 2023 at 9:42 AM

To: "Undersecretary for Administration, Finance, Human Resources and Information Systems" <usecais@denr.gov.ph>, central@mgb.gov.ph

Cc: Office of the Undersecretary for Field Operations and Environment <officeofuseccuna@denr.gov.ph>, DENR Mimaropa Region <mimaroparegion@denr.gov.ph>

Sir/Madam:

Good day. Respectfully referred to your good office for information and appropriate action, with EDATS No. OSEC-2023-005425.

Thank you.

NOTE: DO NOT REPLY TO THIS EMAIL. For updates, inquiries and other communications, please send to osec@denr.gov.ph.



OFFICE OF THE SECRETARY

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Date: Fri, Aug 18, 2023 at 3:54 PM

Subject: Addressing the Kalikasan Writ and Request for Understanding

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August 18, 2023

Hon. Maria Antonia Yulo-Loyzaga

Secretary

Department of Environment and Natural Resources

Visayas Ave., Diliman

Quezon City

Dear Sec. Yulo-Loyzaga:

Addressing the Kalikasan Writ and Request for Understanding

We inform you that on August 16, 2023, Ipilan Nickel Corporation ("Ipilan") and Celestial Nickel Mining Exploration Corporation ("CNMEC") were served a Writ of Kalikasan ("Writ") directing them and other respondents to file a Verified Return to the Writ within ten days from date of receipt. The issuance of the Writ does not stop Ipilan from continuing with its mining operations since the Supreme Court has not granted the petitioner's prayer for a Temporary Environmental Protection Order.

Ipilan welcomes this development as an opportunity to address and dispel recurring baseless allegations that have consistently been refuted by various government agencies. The petition against the Ipilan Nickel Project is marked by distortions and inaccuracies, suggesting a motive to undermine a valuable and legitimate government-mandated development program by fueling anti-mining sentiments and deceiving the public.

Contrary to the petitioner's claims, Ipilan obtained a Certification Precondition ("CP") exemption from the National Commission on Indigenous Peoples (NCIP) in 2006. In separate letters dated March 31, 2006, addressed to the Mines Geosciences Bureau (MGB) and CNMEC, the NCIP itself confirmed that the CP was no longer necessary. This affirmation comes from the understanding that CNMEC, the predecessor to Ipilan, entered into an agreement with the government for a Mineral Production Sharing Agreement (MPSA) in 1993 or four years before the Indigenous Peoples Rights Act (IPRA) was enacted in 1997. The IPRA and its implementing rules state that existing contracts for the exploitation of natural resources within the ancestral domain continue until they expire. According to the Department of Environment and Natural Resources (DENR), in an Order dated December 21, 2020, the MPSA expires on April 10, 2025.

While not explicitly bound by the IPRA, CNMEC engaged with the Palaw'an Indigenous Peoples/Indigenous Cultural Communities (IPs/ICCs) through a Memorandum of Agreement (MOA) signed on December 18, 2008. Building on this precedent, Ipilan and the Palaw'an IPs/ICCs solidified their commitment through a second MOA on September 1, 2022. These agreements were meticulously administered by the NCIP, ensuring the free and prior informed consent of the indigenous peoples (IPs) to the company's existing operations and its future MPSA renewal in 2025. In exchange, the IPs were to benefit comprehensively from their partnership with Ipilan. The trajectory of events reflects Ipilan's acceptance of NCIP's ruling that the company is exempt from CP prerequisites until the MPSA's expiration. Ipilan displayed its commitment by offering fair compensation, befitting royalties, or equivalents to the IPs. Unfortunately, the NCIP fell short in addressing the 2008 MOA and further complicated the approval process for the 2022 MOA.

On the other hand, Proclamation No. 1815 (2009), which designates the Mt. Mantalingahan Mountain Range as a Protected Area, recognizes pre-existing contracts such as the MPSA with the government. Besides, Ipilan has not conducted mining operations within the area of overlap.

As to Ipilan's tree-cutting activities, they were conducted under a valid permit, upheld by the court.

All told, we request that your office respect the right of Ipilan and CNMEC to exhaust all legal remedies without threat of stoppage or suspension of its mining operations.

Ipilan remains resolute in aligning its operations with the highest environmental and ethical standards, promoting sustainable practices and regulatory compliance. It is steadfast in its mission to responsibly harness natural resources, fostering local and national progress for the collective benefit of all stakeholders.

Thank you very much for your understanding.

Very truly yours,

Dante R. Bravo
President

Copy furnished:

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