



ALTAI PHILIPPINES MINING CORPORATION

14 April 2023

JOE AMIL M. SALINO

Regional Director
Environmental Management Bureau (EMB)
6th Floor DENR By the Bay Building
1515 Roxas Blvd., Ermita, Manila

DENR MIMAROPA RECORDS SECTION RECEIVED	
APR 20 2023	
<input type="checkbox"/> INCOMING	<input type="checkbox"/> OUTGOING
BY: _____	DATE: _____
TIME: _____	

SUBJECT: Request for Resolution of Notice of Violation (NOV)
Dated January 27, 2023 Issued by PENRC-MIMAROPA,
(Alleged Violation of R.A. 9275 or Philippine Clean
Water Act of 2004 and PAB Resolution No. 1 Series of 2019
as amended by PAB Resolution No. 5 Series of 2021)

Dear Director Salino:

We write your good office concerning the subject Notice of Violation (NOV) to which we have timely submitted a Position Paper that was duly received by your office on **13 February 2023**. However, we have not received any Resolution up until this time despite the lapse of sixty (60) days from receipt thereof by your office. We have attached a copy of our Position Paper (**Annex "A"**) for your easy reference.

We wish to emphasize that Alti Philippines Mining Corporation (APMC) intends to resume its exploration and related activities that will lead towards commercial operation in due time. APMC remains undaunted in pursuing its investment in the mining industry that will usher in social and economic benefits to all stakeholders, particularly the host and nearby communities in Barangays España and Taclobo, San Fernando, Romblon, in accord with the terms and conditions under MPSA No. 304-2009-IVB dated 23 December 2009. In this light, we respectfully implore your good office to immediately resolve the subject NOV.

We trust that this request will merit your prompt action.

Truly yours,


Mr. HANNIEL T. NGO
President – APMC

Copy Furnished:

Mr. ARNOLDO A. BLAZA, JR.

OIC, Provincial Environment and Natural Resources Officer (PENRO)
Department of Environment and Natural Resources – MIMAROPA Region
PENRO Compound, Formelleza St., Brgy. Tabing-Dagat
Odiongan, Romblon 5505

Engr. IRWIN ANZALDO

Chief of Environment Management Services – Romblon
PENRO Compound, Formelleza St., Brgy. Tabing-dagat
Odiongan, Romblon 5505

Ms. LORMELYN E. CLAUDIO, CESO IV

Regional Executive Director
DENR-MIMAROPA Region
DENR By the Bay Building, 1515 Roxas Blvd., Ermita, Manila 1000

POLLUTION ADJUDICATION BOARD

DENR Compound, EMB Building
Diliman, Quezon City 1101

Ms. MARIA ANTONIA YULO-LOYZAGA

Office of the Secretary
Department of Environment and Natural Resources (DENR)
DENR Compound, Visayas Avenue, Diliman, 1101 Quezon City

Atty. JUAN MIGUEL T. CUNA

Undersecretary for Field Operations and Environment
Department of Environment and Natural Resources (DENR)
DENR Compound, Visayas Avenue, Diliman, 1101 Quezon City

Dr. CARLOS PRIMO C. DAVID

Undersecretary for Integrated Environmental Science
Department of Environment and Natural Resources (DENR)
DENR Compound, Visayas Avenue, Diliman, 1101 Quezon City



ALTAI PHILIPPINES MINING CORPORATION

07 February 2023

JOE AMIL M. SALINO
Regional Executive Director
Environmental Management Bureau (EMB)
6th Floor DENR By the Bay Building
1515 Roxas Blvd., Ermita, Manila

RECORDS SECTION
EMB - MIMAROPA REGION

02/13/2023

OFFICE BY
L. Salino

SUBJECT: Position Paper
(Notice of Violation Dated January 27, 2023 Issued by the
Provincial Environment and Natural Resources Office)

Dear Director Salino:

We acknowledge receipt of the subject Notice of Violation (NOV) on February 7, 2023 issued by the Provincial Environment and Natural Resources Office (PENRO) through PENR Officer Arnoldo A. Blaza, Jr. In the said NOV, ALTAI PHILIPPINES MINING CORPORATION (APMC) is directed to submit to your good Office a notarized Position Paper within ten (10) days upon receipt thereof, why we should not be held liable for a "total fine amounting to Forty-Seven Thousand One Hundred Fifty-Eight Pesos and Ninety-Six Centavos (Php47,158.96) pursuant to Section 28 of RA 9275, as amended by the Pollution Adjudication Board (PAB) Resolution No. 1, Series of 2019 and PAB Resolution No. 5, Series of 2021."

In compliance with the above directive from PENRO, we hereby submit our Position Paper for your consideration:

A. The Provincial Environment and Natural Resources Office acted without jurisdiction when it issued the instant Notice of Violation (NOV).

In the Notice of Violation issued by PENRO thru PENR Officer Blaza, Jr., Section 28 of R.A. 9275, as amended by PAB Resolution No. 1 series of 2019 and Resolution No. 5, Series of 2021 were cited as basis for the directive to APMC to submit herein position paper allegedly for violating the provision of RA 9275 of the "Philippine Clean Water Code Act of 2004" based on the findings and verification conducted by the PENRO personnel on January 25, 2023.

Under Section 28 of RA 9275, the PAB has the primary authority and jurisdiction to recommend to the Secretary of the DENR imposition of fine to erring parties based on the schedule of fines stated thereunder which was amended by PAB Resolution No. 5 Series of 2021 with schedule of penalties increasing the originally prescribed amount of penalty. The same Section 28 further provides that "the Secretary, upon recommendation of the PAB may order the closure, suspension of development or construction, or cessation of operations or, where appropriate disconnection of water supply, until such time that proper environmental safeguards are put in place and/or compliance with this Act or its rules and regulations are undertaken. This paragraph shall be without prejudice to the issuance of an ex parte order for such closure, suspension of development or construction, or cessation of operations during the pendency of the case."

PAB Resolution No. 1 Series of 2019 amending Section 28 of RA 9275 pertains to "Delegation of the Pollution Adjudication Board To The EMB Regional Offices The

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Determination of Permitting Violations And Imposition of Fines Thereto". It provides, among others, that:

'xxxx All of the aforementioned cases delegated to the Regional Office shall be numbered and docketed consecutively and entered into an appropriate logbook in accordance with a system of numbering and docketing of case adopted by the PAB thru its Secretariat.

Thereafter, a Notice of Violation shall be issued with invitation to attend Technical Conference not later than fifteen (15) days from the issuance of said Notice. Only one (1) Technical Conference shall be allowed. The failure of such respondent to attend the technical conference or submit his position paper on the said date, shall mean a waiver of his right to contest the findings of the report or present evidence in his defense and the case may be decided based on evidence on record. xxxx" (Emphasis supplied)

With due respect, under the clear wordings of PAB Resolution No. 1, Series of 2019, it is the **EMB and not the PENRO** that should have exercised jurisdiction over APMC's alleged violation of RA 9275. The delegated authority of the PAB to EMB cannot be further delegated to PENRO in the absence of express or implied authority under the same PAB Resolution No. 1. There appears to be a circumvention of PAB Resolution No. 1 by PENRO when it directed APMC to submit its position paper to the EMB which is the primary agency that has jurisdiction.

A.1. APMC was denied procedural due process.

It is respectfully submitted that PENRO acted without jurisdiction when it issued the NOV against APMC. It also misapplied the same because a close perusal of the NOV reveals that, apart from not having been appropriately docketed as required under PAB Resolution No. 1, PENRO did not set a Technical Conference not later than fifteen (15) days from the issuance of said Notice. PENRO even gave APMC a shorter period of time than what was stated in the rules.

Apparently, PENRO committed a procedural short cut that seriously violated the right of APMC to due process of law as it deprived APMC of its right to be apprised about the nature and cause of the alleged violation during the Technical Conference required under PAB Resolution No. 1. As it is, APMC is being required to state its position and/or explain its side based on the findings of the monitoring and verification that was purportedly conducted on January 25, 2023. The details of such findings remain undisclosed to the responding party, APMC. Notably, such findings were not attached to the NOV that could have reasonably apprised APMC.

B. The findings stated in the NOV are not germane to the violations contemplated under RA 9275.

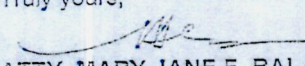
RA 9275 is intended to prevent and control water pollution. It essentially provides for wastewater charge system in all management areas including the Laguna Lake Region and Regional Industrial Centers through the collection of wastewater charges/fees. The system shall be established on the basis of payment to the government for discharging wastewater into the water bodies. Necessarily, water sampling is required with corresponding results of laboratory analysis showing the parameters that were violated or exceeded from effluent samples taken from the sampling points of the subject establishment. Since the NOV pertains to the alleged violation of RA 9275, such violation should logically point to commission of pollutive acts of APMC **penalized** under the same.

Section 23 (Requirement of Record-keeping, Authority for Entry to Premises and Access to Documents) of RA 9275 provides, among others, that "the DENR or its duly authorized representative shall, after proper consultation and notice, require any person who owns or operates any pollution source or who is subject to any requirement of this Act to submit reports and other written information as may be required by the department." Water permits are the basic documents required from subject establishments and discharge charges are collected accordingly by the DENR based on the findings of violations. APMC respectfully submits that these are inapplicable to it because its project is under exploration stage. As such, APMC could not have possibly discharged any pollutive substance or waste to the water bodies. It is also unclear if water or effluent sampling was undertaken to support the supposed findings.

Please be informed that APMC voluntarily stopped its exploration and related activities as of February 6, 2023 because of issues being raised about its operations from various sectors, including your Office. It nonetheless reiterates its commitment to compliance with prevailing environmental laws, rules, and regulations pertaining its exploration activities upon their resumption in due time. In this light, APMC shall continue to coordinate with your Office for guidance to ensure compliance to protect the interest of all stakeholders.

We trust that the foregoing Position Paper will merit due consideration by your office.

Truly yours,


ATTY. MARY JANE F. BALAGTAS
Legal Counsel

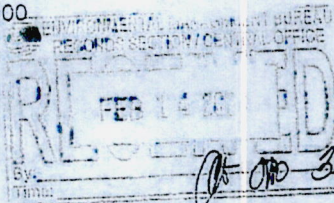
Copy Furnished:

MR. ARNOLDO A. BLAZA, JR.
OIC, Provincial Environment and Natural Resources Officer (PENRO)
Department of Environment and Natural Resources – MIMAROPA Region
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Engr. Irwin Anzaldo
Chief
Environment Management Services – Romblon
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LORMELYN E. CLAUDIO, CESO IV
The Regional Executive Director
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The Pollution Adjudication Board
DENR Compound, EMB Building
Diliman, Quezon City 1101



SUBSCRIBED AND SWORN TO before me this FEB 11 2023 at Pasig City, Affiant exhibiting to me one (1) competent evidence of her identity, to wit: Tax Identification No. 902-574-467.

Doc. No. 102;
Page No. 24;
Book No. 87;
Series of 2023.

FERNANDO P. AYAGRAO
Notary Public
For Pasig City, Malabon and San Juan City
Accreditation No. 100 (2002-2023) until 12/31/2023
MCLE Completion No. 0000000000 until 06/01/2025
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