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

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Telefax No. (+632) 8536-0215 / (+632) 5310-1369
Email: region4b@mgb.gov.ph



22 February 2023

MEMORANDUM FOR THE HONORABLE SECRETARY

THRU : **The Undersecretary for Legal and Administration**
Department of Environment and Natural Resources

The Assistant Secretary for Finance, Information Systems and Mining Concerns
Department of Environment and Natural Resources

FROM : **The Regional Director**
This Office

SUBJECT : **The Alleged Illegal Mining Activity of Ipilan Nickel Corporation in the Municipality of Brooke's Point, Province of Palawan**

This respectfully refers to the allegations of *Alyansa Tigil Mina* against the mining operations of Ipilan Nickel Corporation (INC) under Mineral Production Sharing Agreement (MPSA) No. 017-93-IV as Amended-2000 in the Municipality of Brooke's Point, Province of Palawan.

This Office seeks to provide clarification on the following:

1. On its operation without a Certificate Precondition (CP) from the National Commission of Indigenous Peoples (NCIP)

Pursuant to the attached 31 March 2006 Letter of the NCIP, there is no need for Celestial Nickel Mining Exploration Corporation (CNMEC) to secure a CP as this requirement only applies to applications filed after Republic Act (RA) No. 8371 or the Indigenous Peoples Rights Act of 1997 was enacted. (copy attached)

The NCIP did not rescind their position regarding the matter. Be as it may, Ipilan is currently undergoing the process of obtaining the Free and Prior Informed Consent pursuant to RA No. 8371. In fact, the Memorandum of Agreement by and between the Indigenous Peoples concerned, Ipilan and the National Commission on Indigenous Peoples (NCIP) has been entered into. What remains to be obtained is the Certification Precondition from the Commission EN Banc of the NCIP.

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IN SUSTAINING WEALTH CREATION AND IMPROVED QUALITY OF LIFE."**

2. On its operation without a Protected Area Management Board Clearance

On 18 September 1993, MPSA No. 017-93-IV was entered into by and between the Philippine Government and CNMEC situated in Brgys. Mambalot and Ipilan, Brooke's Point, Palawan. It was registered on 08 December 1993.

Of the 2,917.2743 hectares covered by the MPSA, approximately 1,397.50 hectares fall within the Mt. Mantalingahan Protected Landscape (MMPL) under Proclamation No. 1815 dated 23 June 2009.

The MPSA, however, predates the proposed Final Boundary of the MMPL. It is protected under the pertinent provision of Presidential Proclamation No. 1815 creating the MMPL while recognizing prior or vested rights, as follows:

"Any valid contract, permit or license for the extraction or utilization of natural resources therein already existing prior to the Proclamation shall subject to national interest and existing laws, rules and regulations, be respected until its expiration."

3. On its operation without a Mayor's Permit

The acquisition of a Mayor's Permit falls outside the mandate of MGB as it is not a mandatory requirement for Mineral Agreements based on the pertinent provisions of RA No. 7942 or the Philippine Mining Act of 1995 and DENR Administrative Order (DAO) No. 2010-21, its revised implementing rules and regulations.

4. On the alleged renewal or extension of the MPSA without the endorsement of the Local Government Unit of Brooke's Point

MPSA No. 017-93-IV did not expire on 05 August 2018. Rather, on 10 April 2000, the said MPSA was amended to conform to the provisions of RA No. 7942 and a new MPSA was executed by and between the Philippine Government, through the DENR Secretary and Celestial Nickel Mining Exploration Corporation, and was redennominated as MPSA No. 017-93-IV as Amended-2000.

To resolve the issue on the effective date of the MPSA, the DENR has issued the Order (copy attached) dated 21 December 2020 confirming that the effective date of the same MPSA shall be reckoned from the date of execution of the amended MPSA, i.e., 10 April 2000, hence, the MPSA shall only expire on 10 April 2025,

pursuant to the pertinent provision of Section 8 and 29 of RA No. 7942, which provides the authority of the Secretary to issue MPSAs.

5. On the alleged absence of a Special Tree-Cutting/Earth-Balling Permit (STC/EP)

STC/EP Permit No. DENR IV-B MIMAROPA-2016-14 was granted to INC by DENR MIMAROPA Region on 26 May 2016 for the cutting of a maximum 13,490 trees of various species with diameters of 16 centimeters and above; and earth-balling of a maximum 14,439 trees of various species with diameters of 15 centimeters and below.

At present, another STC/EP application is pending with DENR MIMAROPA for the authorization to cut and earth-ball 8,613 trees of various species with a total gross volume of 552.9674 cubic meters within its MPSA area. This Office provided comments on said application through the Memorandum dated 06 January 2023.

6. On the alleged absence of necessary permits for the construction of its port and causeway

INC filed an Application for Permit to Construct with the Philippine Ports Authority with Application No. 2022-001 and was approved 05 April 2022. The company was likewise granted by the DENR MIMAROPA Region Provisional Permit No. 045306-001 valid from 01 June 2022 to 01 June 2023 as regards their Miscellaneous Lease Application (MLA) intended for causeway and jetty port. To date, the right to lease the land is still under bidding.

Furthermore, this Office conducts regular Tenement, Safety and Health, Environment and Social Development monitoring that determines the company's level of compliance with mining laws and regulations to be reflected in their respective compliance scorecards. INC is expected to be compliant with mandatory requirements, and to have an average score of 80% and above. Otherwise, it shall be tagged as non-compliant and penalized accordingly.

Multipartite Monitoring Teams (MMT) likewise conduct quarterly monitoring and inspection to assess the environmental impacts from operations and ascertain the effectiveness of control measures being implemented. The company's Environmental Protection and Enhancement Program was approved on 25 November 2021 with a projected allotment of PhP563,126,000.00 for a 10-year period. Meanwhile, a total of PhP157,968,944.00 is set to be lodged for the Final Mine Rehabilitation and/or Decommissioning Plan approved on the same date.

Aside from that, this Office conducts semestral monitoring of the implementation of Social Development and Management Program. Host and neighboring communities stand to benefit from the allocated amount of PhP136,294,600.00 for the five-year period.

Operations thus far have been able to generate employment for 1,086 people. To ensure the safety of employees and the surroundings, routinary inspections are performed to measure the company's compliance with the Mine Safety and Health Standards and other pertinent laws, rules, and regulations. For CY 2023, about PhP7,087,920.00 was allocated for such programs.

DAO No. 2015-07 also mandates mining contractors to secure ISO 14001 certification that establishes an environmental management system in accordance with international standards and involves periodic external audits.

Financial statements are also audited by private auditing firms to obtain reasonable assurance about whether disclosures are free from misstatements. And to further promote transparency and accountability in the management of natural resources, DAO No. 2017-07 orders the mandatory participation in the Philippine Extractive Industries Initiative.

Results of the most recent monitoring conducted on the MPSA show that INC has not incurred any violation to the mining law as well as the terms and conditions of the MPSA. With that, there is no legal basis to substantiate the allegations of *Alyansa Tigil Mina* against INC.

For the Honorable Secretary's information and further instruction.


GLENN MARCELO C. NOBLE

Enc'l: As stated

Cf: **The Undersecretary for Field Operations for Luzon and Visayas and the Environment**
Department of Environment and Natural Resources
Visayas Avenue, Manila

The Director
Mines and Geosciences Bureau
North Ave., Diliman, Quezon City

The Regional Executive Director
Department of Environment and Natural Resources
MIMAROPA Region
Roxas Boulevard, Ermita, Manila

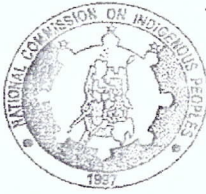
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Memoandum
2023/2023



MINES AND GEOSCIENCES BUREAU
MIMAROPA Region



Republic of the Philippines
OFFICE OF THE PRESIDENT
NATIONAL COMMISSION ON INDIGENOUS PEOPLES
2nd Flr. N. dela Merced Bldg., Corner West & Quezon Aves., Quezon City
Tel Nos. 373-9534 • 373-9578 Tel. Fax 373-9765
Website: www.ncip.gov.ph

March 31, 2006

MR. DENNIS C. HERNANDEZ
President, Celestial Nickel Mining Corp.
193 Aerides Street, Pacific Village,
Muntinlupa City

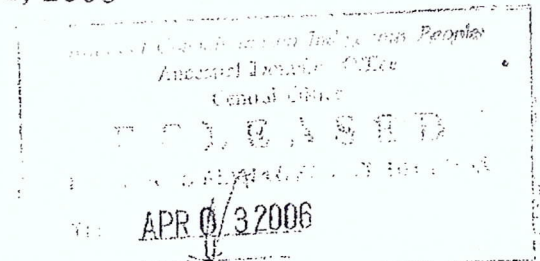
Dear Mr. Hernandez,

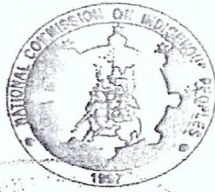
This has reference to your request for a certification on whether or not your company is required to secure a Certification Precondition over your Mineral Production Sharing Agreement denominated as MPSA No. 017-93-IV that was approved on August 5, 1993.

Please be informed that since your MPSA was already approved by the DENR-MGB on August 5, 1993, your company has no more need to secure the necessary Certification Precondition (CP) from our office since the requirement for securing the necessary Certification Precondition applies to applications filed after R.A. 8371 or the Indigenous Peoples Rights Act (IPRA) of 1997 was enacted.

Very truly yours,


MYRNA L. CAOAGAS
ADO Director





Republic of the Philippines
OFFICE OF THE PRESIDENT
NATIONAL COMMISSION ON INDIGENOUS PEOPLES
2nd Flr. N. dela Merced Bldg., Corner West & Quezon Aves., Quezon City
Tel Nos. 373-9534 • 373-9578 Tel. Fax 373-9765
Website: www.ncip.gov.ph

March 31, 2006

National Commission on Indigenous Peoples
Ancestral Domain Office
Central Office

RELEASED

RESOURCE MANAGEMENT DIVISION

DATE: APR 03 2006
BY: [Signature]

HON. GUILLERMO G. ESTABILLO, JR.
Regional Director, DENR-MGB-IV, MIMAROPA
DENR by the Bay, 1515 Roxas Blvd., Ermita,
Manila

Dear Director Estabillo,

This has reference to your endorsement letter received by our office last March 13, 2006, forwarding the letter request for Certification Precondition of Celestial Nickel Mining Exploration Corporation, location/sketch plan and technical description of the area covered by Mineral Production Sharing Agreement denominated as MPSA-017-93-IV situated in Brgys. Mambalot and Ipilan, Brooke's Pt. Palawan.

Please be informed that our office cannot accommodate the request since Celestial Nickel Mining Exploration Corporation was already awarded an MPSA (MPSA-017-93-IV) on August 5, 1993. There is no more need for the said company to secure the necessary Certification Precondition (CP) from our office since the requirement for securing the necessary Certification Precondition applies to applications filed after R.A. 8371 or the Indigenous Peoples Rights Act (IPRA) of 1997 was enacted.

In this regard we are respectfully endorsing back to your office the following documents:

1. MGB Endorsement letter dated 8 February 2006;
2. Letter of Celestial Nickel Mining Corporation dated 8 February 2006;
3. Copy of Mineral Production Sharing Agreement (MPSA No. 017-93-IV).

Very truly yours,

[Signature]
MYRNA L. CAOAGAS
ADO-Director



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

North Avenue, Diliman, Quezon City, Philippines

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

January 05, 2021

IN RE : Clarification on the Effectivity Date of
Mineral Production Sharing Agreement
No. 017-93-IV as Amended-2000
Granted to Celestial Nickel Mining
Exploration Corporation

FILED
Date
Name Signature
Division Section
MINES AND GEOSCIENCES BUREAU - MIMAROPA REGION

X-----X

NOTICE OF ISSUANCE OF AN ORDER

THE PRESIDENT

Celestial Nickel Mining Exploration Corporation
7th Floor Corporate Business Center
151 Pase de Roxas corner Arnaiz Street
1228 Makati City

Reg. Mail

THE PRESIDENT

Ipilan Nickel Corporation
7th Floor Corporate Business Center
151 Pase de Roxas corner Arnaiz Street
1228 Makati City

Reg. Mail

THE REGIONAL DIRECTOR

Mines and Geosciences Bureau
MIMAROPA Region
7th Floor, 1515 DENR Building
Roxas Boulevard, Ermita, Manila 1000

Reg. Mail

Please be notified that an Order was issued by the Department of Environment and Natural Resources on December 21, 2020 on the subject, a copy of which is attached.



ATTY. WILFREDO G. MONCANO
Acting Director



Encl.: as stated

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IN SUSTAINING WEALTH CREATION AND IMPROVED QUALITY OF LIFE."**



Department of Environment and Natural Resources
Mineral Production Sharing Agreement
No. 017-93-IV as Amended-2000
Granted to Celestial Nickel Mining
Exploration Corporation



IN RE : Clarification on the Effectivity Date of
Mineral Production Sharing Agreement
No. 017-93-IV as Amended-2000
Granted to Celestial Nickel Mining
Exploration Corporation

X-----X

RECEIVED	
Date	11/2/21
Name/Signature	[Signature]
Division/Section	
MINES AND GEOSCIENCES BUREAU - MIMAROPA REGION	

ORDER

WHEREAS, on August 05, 1993, the Philippine Government, through DENR, and Celestial Nickel Mining Exploration Corporation (Celestial) executed Mineral Production Sharing Agreement (MPSA) No. 017-93-IV covering the contract area of 2,835.06 hectares located in Brooke's Point, Palawan, in accordance with Executive Order No. 279, the interim mining law during the period;

WHEREAS, on September 18, 1993, the MPSA No. 017-93-IV was approved by the President of the Republic of the Philippines;

WHEREAS, on March 03, 1995, Republic Act (RA) No. 7942 or the Philippine Mining Act of 1995 took effect;

WHEREAS, on April 10, 2000, MPSA No. 017-93-IV was amended to conform to the provisions of RA No. 7942 and an MPSA was executed by the Philippine Government, through DENR, and Celestial re-denominated as MPSA No. 017-93-IV as Amended-2000;

WHEREAS, both MPSAs provide for the definition of Effective date as *the date of approval of this Agreement by the President of the Republic of the Philippines.*

WHEREAS, on September 14, 2020, Ipilon Nickel Corporation, writing on behalf of and as authorized Operator of Celestial, requested for confirmation on the effectivity or effective date of MPSA No. 017-93-IV as Amended-2000;

WHEREAS, Section 3.1 of the amended MPSA provides that the Contract shall have a term of 25 years from its Effective Date and may be renewed thereafter for another term not exceeding 25 years and that Effective Date is defined in Section II thereof as *"xxx the date of approval of this Agreement by the President of the Republic of the Philippines;"*

WHEREAS, Sections 8 and 29 of RA No. 7942 provide that the DENR Secretary shall have the authority to enter into mineral agreements on behalf of the Government upon the recommendation of the Director and that proposed mineral agreements shall be approved by the Secretary;



WHEREAS, RA No. 7942 provides that approval of MPSA was already delegated to the Secretary of the DENR and that the date of such approval shall be the date of the execution thereof and so thus, in the case of MPSA No. 017-93-IV as Amended-2000, the amendment thereof.

WHEREFORE, IN VIEW OF THE FOREGOING, the Effective Date of MPSA No. 017-93-IV as Amended-2000 shall be reckoned from the date of execution thereof, and that the same amended MPSA shall expire on April 10, 2025.

SO ORDERED.

Quezon City, Philippines, DEC 21 2020

ROY A. CIMATU
Secretary

