IMPLEMENTING RULES AND REGULATIONS FOR THE CONDUCT OF MINING OPERATIONS IN AREAS SITUATED WITHIN THE JURISDICTION OF THE PARTIDO DEVELOPMENT ADMINISTRATION

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Pursuant to Sections 4 and 8 of Republic Act (RA) No. 7942, otherwise known as the "Philippine Mining Act of 1995", and Section 6 of Department of Environment and Natural Resources (DENR) Administrative Order (DAO) No. 2010-21, the implementing guidelines of RA No. 7942, and the pertinent provisions of RA No. 7820, otherwise known as the "Partido Development Administration Act of 1994, " and the Memorandum of Agreement executed by and between the Partido Development Administration (PDA) and the DENR through the Mines and Geosciences Bureau (MGB), the following implementing . rules and regulations are hereby promulgated for the guidance and compliance of all concerned:

Section 1.0 Objectives

These rules and regulations are promulgated toward the attainment of the following objectives:

a. To promote the rational exploration, development, utilization and conservation of mineral resources in the Municipalities of Sagnay, Tigaon, Goa, San Jose, Lagonoy, Tinambac, Siruma, Presentacion, Garchitorena and Caramoan, Province of Camarines Sur; and

b. To encourage investments in responsible mining projects in the said municipalities and thereby enhance economic growth in the localities concerned.

Section 2.0. Authority of the DENR

Being the primary Government agency responsible for the conservation, management, development and proper use of the State's mineral resources, including those in reservations, watershed areas and lands of the public domain, the DENR shall have the following authority, among others:

a. To act on mining applications endorsed by the PDA-
b. To provide PDA with data and information concerning mineral resources of the said municipalities of Camarines Sur; and
c. To provide capability building technical assistance to PDA as the need arises.

Section 3.0 Authority of the PDA

The PDA, as the corporate body under RA No 7820 shall be responsible for the acceleration of the economic development of the municipalities within its jurisdiction and shall have the following authority, among others;

a. To act on requests for endorsement of mining applications to the DENR through the MGB;
b. To coordinate with DENR in monitoring all mining activities in the said municipalities of Camarines Sur;
c. To generate funds for its own operating expenses and for other programs and projects not included in the budget of the DENR and as such, in accordance with its mandated functions, may on its own or in partnership with any Qualified Person engage into any of the schemes allowed under the Mining Act and its implementing rules and regulations, for the exploration, development, utilization, and conservation of mineral resources in the areas under its jurisdiction, to accelerate development therein; and

d. To link with other government and non-government institutions who could provide additional services/support.

Section 4.0. Organization and Authority of an Evaluation Committee

The PDA and DENR shall created an evaluation committee to be composed of the following:

a. Chair — MGB Director or his duly authorized representative;
b. Member — Nominee of PDA; and
c. Member — Common Nominee of the Chair and PDA Nominee.

The committee shall evaluate mining applications covering areas situated in the subject municipalities prior to endorsement for issuance of clearance by the PDA and approval by the DENR.

Section 5.0. Term of and Maximum Areas Allowed for Mining Contracts and Permits

In the case of an Exploration Permit, its term shall be for a period of two (2) years from date of issuance thereof, renewable for like periods but not to exceed a total term of four years (4) years for nonmetallic exploration or six (6) years for metallic mineral exploration; Provided, That no renewal of the Permit shall be allowed unless the Permitee has complied with all term and conditions thereof, and has not been found guilty of violation of any provision of the Mining Act and its implementing rules and regulations.

The maximum area that a Qualified Person may apply for or hold at any one time under an Exploration Permit shall be as follows:

a. Onshore, in any one province —

a.1 For an individual — twenty (20) blocks or approximately one thousand six hundred twenty (1,620) hectares; and
a.2 Fora corporation, partnership, association or cooperative — two hundred (200) blocks or approximately sixteen thousand two hundred (16,200) hectares.

b. Onshore, in the entire Philippines —

b.1. For an individual -forty (40) blocks or approximately three thousand two hundred forty (3,240) hectares; and
b.2. For a corporation, partnership, associations or cooperatives — four hundred (400) blocks or approximately thirty-two thousand four hundred (32,400) hectares.

c. Offshore, in the entire Philippines, beyond five hundred meters (500 m) from the mean low tide level —

c.1 For an individual-one hundred (100) blocks or approximately eight thou-sand one hundred (8,100) hectares; and
c.2. For a corporation, partnership, association or cooperative — one thousand (1,000) blocks or approximately eighty-one thousand (81,000) hectares.

The term of and maximum area allowed for mining contracts and other mining permits shall be in accordance with the pertinent provisions of DAO No. 2010-21.

Section 6.0. Filing of a Mining Application and the Mandatory Requirements

Any Qualified Person shall file the duly accomplished application form for an Exploration Permit in MGB Regional Office No. V, through payment of the required fees and subdivision of five (5) sets of the following mandatory acceptance requirements:

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a. Location map/sketch plan of the proposed permit area showing its geographic coordinates/meridional block(s) and boundaries in relation to major environmental features and other projects using a National Mapping and Resource Information Authority NAMRIA) topographic map in scale of 1:50,000 duly prepared, signed and scaled by a deputized Geodetic Engineer;
b. Two-Year Exploration Work Program (MGB form No. 5-4), duly prepared, signed and sealed by a licensed Mining Engineer or Geologist;
c. Proof of technical competence in the form of —

c.1. Duly signed curricula vitae with track records in mineral exploration and environmental management of the technical personnel who shall undertake the activities in accordance with the proposed Exploration and Environmental Work Programs, and
c.2. Proof of employment/availed service(s) of the said technical personnel or joint sworn commitment of the mining applicant and technical personnel as to the implementation of the Work Programs;

d. Proof of financial capability to implement the Exploration and Environmental Work Programs, as follows:

d.1. For an individual — Copy of income tax return for the preceding year and proof of bank deposit or credit line in the amount of at least Two Million Five Hundred Thousand Pesos (Php 2,500,000.00) or
d.2. For a corporation, partnership, association or cooperative — Latest audited financial statement and, where applicable, Annual Report for the preceding year, credit line(s), bank guarantee(s) and/or similar negotiable instruments (in addition to the minimum capitalization requirements of Ten Million Pesos (PhP 10,000,000.00) for authorized capital and Two Million Five Hundred Thousand Pesos (PhP 2,500,000.00) for paid-up capital pursuant to DENR Memorandum Order (DMO) No. 99-10, as amended);

e. Photocopy of Articles of Incorporation/Partnership/Association, By-Laws and Certificate of Registration, duly certified as true/machine copy (in original form) by the Securities and Exchange Commission or authorized Government agency(ies) concerned, for a corporation, partnership, association or cooperative; and

f. Sworn Declaration of total area covered by approved/pending application(s) for an individual or Affidavit of Undertaking (using MB Form) for a corporation/partnership/cooperative.

The Certificate of Environmental Management and Community Relations Record (CEMCRR)/Certificate of Exemption from the CEMCRR and Environmental Work Program (MGB Form No. 16-1A) as provided for in Section 168 of DAO No. 2010-21 shall be submitted by the applicant after the acceptance of the application but prior to the publication, posting and radio announcement of the pertinent Notice of Application.

The Certificate of Non-Overlap for areas without Indigenous Cultural Community/ies (ICCs)/lndigenous Peoples (IPs) or Certification Precondition from the National Commission on Indigenous Peoples (NCIP) for areas with ICCs/IPs shall be secured by the applicant in accordance with the NCIP rules and regulations; Provided, That in case the aforesaid requirements are not issued within the NCIP's prescribed periods, the applicant shall submit the NCIP's Report on the Field-Based Investigation for the applied area that does not overlap ancestral domain, or the Memorandum of Agreement (MOA) executed by and among the applicant, ICC/IP concerned and the NCIP for the applied area that affect the ICCs/IPs; Provided, further, That the said Certificate of Non-Overlap or Certification Precondition shall be submitted by the applicant within ninety (90) days from issuance of the mining contract or permit.

For an offshore Exploration Permit application, the following additional requirement shall be submitted:

a. The name, port of registry, tonnage, type and class of survey vessel(s)/platform(s); Provided, That if a foreign vessel is to be used, the expected date of first entry or appearance and final departure of the survey vessel shall be provided and all the necessary clearances obtained;

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b. A certification from the Coast and Geodetic Survey Department of the N AMRIA that the proposed Exploration Work Program was duly registered to provide update in the publication of "Notice to Mariners" together with a list of safety measures to be regularly undertaken to ensure the safety of navigation at sea and prevent accident;
c. An agreement to:

> c.1. Properly identify all installations, vessels and other crafts involved in exploration recognizable to all vessels within reasonable distance;
> c.2. Notify the MGB thirty (30) calendar days prior to the intention to remove all scientific installations or equipment and apparatus; and
> c.3. Allow the MGB's authorized personnel, Philippine Coast Guard and other authorized persons during reasonable hours to board the vessel(s) while within the Exclusive Economic Zone.

Section 7.0 Clearance/Consent by the PDA thru a Memorandum of Agreement

Within five (5) working days from acceptance of the application, MGB RO No. V shall fprward the application to the PDA, for clearance/consent. The applicant shall be notified RO NO. V of such submission to PDA.

Upon the receipt of the said notice, the applicant shall negotiate with the PDA for the forging of a Memorandum of Agreement (MOA) whereby the PDA grants consent to the applicant for the exploration, development and utilization of the mineral resources in the applied area. All expenses that will be incurred in connection with the MOA shall be shouldered by the applicant.

The PDA shall facilitate the issuance of the required proof of consultation with/endorsement of the project by the Sanggunian concerned pursuant to the pertinent provisions of RA No. 7160 or The Local Government Code of 1991.

Section 8.0. Area status and Clearance

Within fifteen (15) working days from receipt of the application and the MOA executed by and between the PDA and the applicant, MGB RO No. V shall check in the control maps if the area is free/open for mining applications. It shall also transmit a copy of the location map/sketch plan of the applied area to the pertinent Department sector(s) effected by the application for area status, copy furnished other relevant offices or agencies of the Government for their information. Upon notification of the applicant by MGB RO No. V as to the transmittal of said documents to the Department sector(s) concerned and/or Government agency(ies) concerned, it shall be the responsibility of the same applicantto secure the necessary area status/consent/clearance from said Department sector(s) and/ or Government agency(ies). The Department sector(s) concerned must submit the area status/consent/clearance on the proposed permit area within thirty (30) working days from receipt of the notice; Provided, That the Department sector(s) concerned can not unreasonably deny area clearance/consent without legal and/or technical basis.

In reservations/reserves/project areas under the jurisdiction of the Department where consent/clearance is denied, the applicant may appeal the same to the Office of the Secretary.

If the proposed permit area is open for mining applications, MGB RO No. V shall give written notice to the applicant to pay the corresponding clearance fee; Provided, that if a portion of the area applied for is not open for mining applications, MGB RO No. V shall, within fifteen (15) working days from receipt of said written notice, exclude the same from the coverage of the application: Provided, further, That in cases of overlapping of claims/conflicts/complaints from landowners, NGOs and other stakeholders concerned, the Regional Director shall exert efforts resolve the same.

Section 9.0. Publication/Posting/Radio Announcement of the Application

Within five (5) working days from receipt of the necessary area clearances, MGB RO No. V shall issue the pertinent Notice of Application to the applicant for publication and radio announcement, and to the Offices concerned for posting. The Notice must contain among others, the name and complete address of the applicant, duration of the permit applied for, extent of exploration activities to be undertaken, area location, geographical coordinates/meridional block(s) of the proposed permit area and location map/sketch plan with index map relative to major environmental features and projects and to the nearest municipalities.

Within five (5) working days from receipt of the Notice the applicant shall cause the publication thereof once in two (2) newspapers; one of general circulation published in Metro Manila and another published in the municipality or province where the proposed permit/contract area is located, if there be such newspapers; otherwise, in the newspaper published in the nearest municipality or province. The pertinent affidavits of publication shall be submitted by the applicant to MGB RO No. V within five (5) days from the date of publication of the Notice.

MGB RO No. V shall cause the posting of the Notice on its bulletin board, and those of the province(s) and municipality(ies) concerned, for one (1) week, copy furnished the Bureau and the barangay(s) where the proposed permit area is located. Where necessary the Notice shall be in language generally understood in the locality concerned where it is posted.

The radio announcements shall be made daily for one (1) week in a local radio program and shall consist of the name and complete address of the applicant, area location, duration of the permit applied for and instructions that information regarding such application may be obtained from MGB RO No. V. The publication and radio announcements shall be at the expense of the applicant.

Within five (5) working days from the last posting and radio announcement, the authorized officer(s) of the office(s) concerned shall issue a certification(s) that the posting/radio announcement have been complied with. Any adverse claim, protest or opposition shall be filed directly, within ten (10) days from the date of publication or from the last date of posting/radio announcement with MGB RO No. V or through any Provincial Environment and Natural Resources Office or Community Environment and Natural Resources Office concerned, for filing in MGB RO No. V for purposes of its resolution by the Panel of Arbitrators pursuant to the provision of the Mining Act and its implementing rules and regulations. Upon final resolution of any adverse claim, protest or opposition, the Panel of Arbitrators shall issue a Certification to that effect within five (5) working days from the date of finality of resolution thereof. Where no adverse claim, protest or opposition is filed after the lapse of the period for filing the adverse claim, protest or opposition, the Panel of Arbitrators shall likewise issue a Certification to that effect within five (5) working days from receipt of the request of any party concerned.

No application shall be approved unless the requirements under this section are fully complied with and any adverse claim/protest/opposition thereof is resolved with finality.

Section 10.0. Terms and Conditions of an Exploration Permit

The terms and conditions of an Exploration Permit shall be in conformity to the pertinent provisions of DAO No. 2010-21.

Section 11.0. Evaluation of the Application

Within fifteen (15) working days from receipt of the certification issued by the Panel of Abitrators as provided for in Section 9.0 hereof, MGB RO No. V shall initially evaluate the application. It shall, thereafter, endorse its findings to the MGB Central Office for clearance/further evaluation, within fifteen (15) working days from receipt of the application.

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Section 12.0. Registration of an Exploration Permit

Upon receipt of the clearance from the MGB Director, the Regional Director shall issue the Exploration Permit. The Permittee shall then cause the registration of the same in MGB RO No. V within fifteen (15) working days from receipt of a written notice and upon payment of the required fees.

MGB RO No. V shall officially release the Exploration Permit to the Permittee after registration of the same.

Failure of the Permittee to cause the registration of its Exploration Permit within the prescribed period shall be a sufficient ground for the cancellation of the same.

Section 13. Evaluation of other Mining Applications

The requirements for and evaluation of an application for a mining contract or any other mining permit, conversion of an application to another mode of mining application, approval of the assignment of an application and a mining permit/contract to another Qualification Person, withdrawal of an application, application for approval of a Declaration of Mining Project Feasibility and other types of application shall be in accordance with the pertinent provisions of DAO No. 2010-21.

Section 13.0 Transitory Provision

The provision of this Memorandum Order shall apply to all previously filed mining applications situated in the subject municipalities.

Section 14.0. Separability Clause

Should any provision of this Memorandum Order or any part hereof be held or declared invalid by a competent court, the other provisions shall remain in full force and effect.

Section 15.0 Effectivity. This Memorandum Order shall take effect fifteen (15) days following its complete publication in a newspaper of general circulation and fifteen (15) days after registration with the Office of the National Administrative Register.

Adopted: 24 June 2011

(SGD.)LEO L. JASARENO
Acting Director

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