



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

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MAR 0 1 2024

**IN RE: DENIAL OF APPLICATION FOR
EXPLORATION PERMIT OF AURORA
COPPER-GOLD RESOURCES &
MANAGEMENT CORP. DENOMINATED AS
EXPA-000003II**

X-----X

NOTICE OF ISSUANCE OF A DECISION

The President

Aurora Copper-Gold Resources & Management Corp.
1301 Estrada St. cor.
Pres. Sergio Osmeña Highway, Manila

Reg. Mail

The Regional Director

Mines and Geosciences Bureau
Regional Office No. II
No. 18 Dalan na Pagayaya corner Matunung
Regional Government Center
Carig Sur, Tuguegarao City

Reg. Mail

Please be notified that a Decision was issued by this Office on even date on the subject, a copy of which is attached.



[Handwritten Signature]
ATTY. DANILO U. UYKIENG
OIC, Director



**"MINING SHALL BE PRO-PEOPLE AND PRO-ENVIRONMENT
IN SUSTAINING WEALTH CREATION AND IMPROVED QUALITY OF LIFE."**



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CERTIFIED TRUE COPY

[Signature]
DANILO D. DELEÑA
 CHIEF
 MINING TENEMENTS MANAGEMENT DIVISION

**IN RE: DENIAL OF APPLICATION FOR
 EXPLORATION PERMIT OF
 AURORA COPPER-GOLD RESOURCES
 & MANAGEMENT CORP. DENOMINATED
 AS EXPA-000003II**

X-----X

DECISION

Before this Office is the Appeal dated February 14, 2011 filed by Aurora Copper-Gold Resources & Management Corp. (ACGRMC) to the Orders dated July 21, 2010 and January 14, 2011 of the Mines and Geosciences Bureau (MGB) Regional Office (RO) No. II denying the company's application for Exploration Permit (EP) denominated as EXPA-000003II.

Records of this Office bear the following antecedent facts:

On October 16, 1995, ACGRMC filed an application for EP denominated as EXPA-000003II in MGB RO No. II covering an area of 13,810.00 hectares located in San Guillermo and Echague, Isabela.

On June 17, 1996, MGB RO No. II issued the Notice of Application for EXPA-000003II for publication, posting and radio announcement, covering an amended area of 16,200 hectares.

On October 14, 2003, MGB RO No. II endorsed EXPA-000003II to the National Commission on Indigenous Peoples (NCIP) for the issuance of Certificate of Non-Overlap (CNO) or Certification Precondition (CP).

On October 27, 2003, MGB RO No. II sent its first Letter-Notice to ACGRMC requiring to submit the lacking documents that include (a) proof of consultation/endorsement from the *Sanggunian* concerned, (b) NCIP Certification, (c) revised Exploration Work Program (ExWP), (d) Revised Environmental Work Program (EnWP), (e) proof of financial capability, (f) sworn statement of the technical personnel who shall undertake the implementation of Work Programs, and (g) Certification from the Panel of Arbitrators as to any adverse claim, among others.

On December 10, 2003, ACGRMC submitted to MGB RO No. II copies of the revised ExWP and EnWP.

On February 04, 2004 and September 16, 2004, MGB RO No. II sent its second and third Letters-Notice of ACGRMC reiterating the lacking documents stated in the first Letter-Notice.

On August 12, 2005, MGB RO No. II issued the Order denying EXPA-000003II for the company's failure to submit the mandatory requirements despite sufficient notice pursuant to DENR Memorandum Order (DMO) No. 99-



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no. 287/G

34¹. The said Order was then reconsidered and ACGRMC was given the opportunity to comply with the submission of the requirements for the EP application.

On September 26, 2005, ACGRMC submitted to MGB RO No. II copies of its updated proof of financial capability.

On March 12, 2010, DMO No. 2010-04² was issued, providing, among others, for policy directives in cleansing mining applications in all the ROs of the MGB. The said DMO took effect on April 01, 2010 after publication in a newspaper of general circulation and registration in the Office of the National Administrative Register. Sections B.1 and B.3 thereof provides the grounds for the denial of mining applications, as follows:

"1. Strict implementation of the Three (3) Letters-Notice Policy:

The maximum time interval of 30 days between Letter-Notice shall be strictly followed in the implementation of the Three (3) Letters-Notice Policy in exacting compliance with the requirements for the grant of mining tenements and as ground for denial of mining applications.

X X X.

3. Grounds for denial of mining applications:

Mining applications that have not complied with any of the following requirements shall also be denied:

- a. Securing the NCIP Certificate of Non-Overlap within 1 year and NCIP Certification Precondition (Compliance Certificate) within 3 years from the date of NCIP's receipt of the pertinent letter-request from MGB.*
- b. Securing the proof of consultation with the Sanggunian concerned within 2 years from the date of acceptance of the mining application.*
- c. Completion of the publication, posting and radio announcement requirements within 1 year from the date of acceptance of the mining application."*

On July 21, 2010, MGB RO No. II issued the Order denying EXPA-000003II for ACGRMC's failure to "fully comply with the needed requirements despite the three (3) letter notices and extension of time given." The RO emphasized Section 8 of DMO No. 99-34 or the Three (3) Letter-Notice Policy which states that failure to "fully comply with the requirement as embodied in the Letters-Notice shall be a ground for denial of the mining application."

¹ Clarificatory Guidelines in the Implementation of DENR Administrative Order No. 96-40 or "Revised Implementing Rules and Regulations of Republic Act No. 7942 Otherwise Known as the Philippine Mining Act of 1995"

² Reforms in the Department Mining Tenement System.



On August 06, 2010, ACGRMC filed a Motion for Reconsideration (MR) arguing that it has already complied with the requirements stated in the May 27, 2008 Letter, except for the (1) registration of the Affidavit of Undertaking, (2) updated proof of financial capability, and (3) certifications pertaining to the project presentation with *Sanggunian* concerned, DENR clearances, publication and NCIP.

On September 03, 2010, MGB RO No. II issued the Order reinstating EXPA-000003II and granting 15 days to fully comply with the lacking requirements.

On October 04, 2010, ACGRMC submitted to MGB RO No. II copy of the (a) proof of financial capability, (b) original newspaper clipping on publication, (c) updated Affidavit of Undertaking, (d) Certification from the Panel of Arbitrators, among others, except for the compliance to issues raised in the evaluated Memorandum of Agreement (MOA) with Coral Resources Philippines, Inc. (CRPI).

On January 14, 2011, MGB RO No. II issued the Final Order declaring the July 21, 2010 Order as final and executory since ACGRMC *“failed to fully comply despite the grant of another fifteen (15) days to submit the lacking requirements.”*

On February 16, 2011, ACGRMC filed an Appeal dated February 14, 2011 to the Orders dated July 21, 2010 and January 14, 2011 of MGB RO No. II, arguing mainly that:

We appeal for your [favorable] consideration in reinstating our application based on our substantial compliance with the mandatory requirements and our interest to pursue our project.

Attached is a copy of our letter dated October 4, 2010 to OIC, Regional Director Mario A. Ancheta regarding submission of the lacking documents. Please note that the remaining requirement is the NCIP Certification wherein we paid the fee for Field Based Investigation but NCIP formally informed us in writing that they cannot conduct the said FBI due to continuing adverse peace and order situation in the area. We seek your advice as our partner in our common interest to develop our country's mineral resources on how to go about this problem.

The other remaining requirements of your Regional Office are submission of Certificates of Posting which have been previously secured but presently misplaced and certain documents relevant to the Operating Agreement we executed with CORAL RESOURCES PHILIPPINES, INC.



After evaluation of the said Appeal and the pertinent records, this Office determined the following:

1. Records show that ACGRMC has failed to show evidence of its full compliance with the three Letters-Notice such as:
 - a. Proof of financial capability, and

[Note: The submitted Certification dated September 02, 2005 issued by Chinabank attest that ACGRMC is still "applying for credit line x x x", hence, **inadmissible**.]
 - b. Compliance to issues raised in the evaluated MOA with CRPI.
2. ACGRMC has complied with the posting, publication, and radio announcement of the pertinent Notice of Application and NCIP requirement, as evidenced by the following:
 - a. Affidavit of Publication issued by The Manila Times on July 08, 1998.
 - b. Affidavit of Publication issued by City Star on February 3, 1998.
 - c. Certification of Posting issued by Provincial Environment and Natural Resources Office (PENRO) – Isabela on April 16, 1998.
 - d. Certification of Posting issued by PENRO – Quirino on April 17, 1998.
 - e. Certification of Posting issued by Community Environment and Natural Resources – San Isidro, Isabela on April 17, 1998.
 - f. Certification of Posting issued by the *Tanggapan ng Punong Lalawigan* of Isabela on April 16, 1998.
 - g. Certification of Posting issued by the Office of the Provincial Governor of Quirino on April 17, 1998.
 - h. Certification of Posting issued by the Office of the Secretary to the *Sangguniang Bayan* of the Municipality of Jones, Isabela on January 20, 1997.
 - i. Certification of Posting issued by the Office of the Mayor of Municipality of San Agustin, Isabela on April 17, 1998.
 - j. Certification of Posting issued by the Municipality of Echague, Isabela on April 17, 1998.
 - k. Certificate of Performance issued by Nation Broadcasting Corporation on April 20, 1998.
 - l. NCIP CP issued on March 08, 2007 (Control No. ADO-CP-II-07-03-0663).



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Decision

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3. Records show that ACGRMC was able to furnish the copy of the ExWP and EnWP to the *Sanggunian* concerned. However, DAO No. 2010-21, requires the compliance with the required consultation with the *Sanggunian* concerned pursuant to the pertinent provisions of Republic Act (RA) No. 7160 or the Local Government Code.

RA No. 7160 requires prior consultation with the *Sanggunian* concerned, to wit:

"Section 2. Declaration of Policy

XXX

(c) It is likewise the policy of the State to require all national agencies and offices to conduct periodic consultations with appropriate local government units, nongovernmental and people's organizations, and other concerned sectors of the community before any project or program is implemented in their respective jurisdictions.

XXX

*Section 26. Duty of National Government Agencies in the Maintenance of Ecological Balance. - It shall be the duty of every national agency or government-owned or -controlled corporation authorizing or involved in the planning and implementation of any project or program that may cause pollution, climatic change, depletion of non-renewable resources, loss of cropland, rangeland, or forest cover, and extinction of animal or plant species, **to consult with the local government units, nongovernmental organizations, and other sectors concerned and explain the goals and objectives of the project or program, its impact upon the people and the community in terms of environmental or ecological balance, and the measures that will be undertaken to prevent or minimize the adverse effects thereof.** [Emphasis ours.]*

*Section 27. Prior Consultations Required. - No project or program shall be implemented by government authorities **unless the consultations mentioned in Sections 2 (c) and 26 hereof are complied with, and prior approval of the sanggunian concerned is obtained:** Provided, That occupants in areas where such projects are to be implemented shall not be evicted unless appropriate relocation sites have been provided, in accordance with the provisions of the Constitution." [Emphasis ours.]*

Submission of copies of ExWP and EWP duly received by the Secretary of *Sanggunian* concerned is not considered a compliance with the required submission of proof of consultation with the *Sanggunian* concerned. Moreover, a national law requiring the



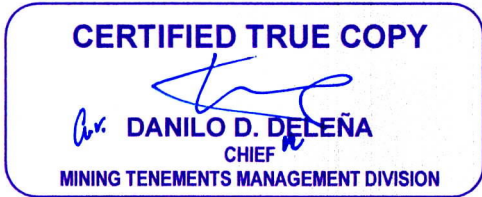
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Decision

9/1/2024



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conduct of consultations with the Sanggunian concerned cannot be overruled by a Memorandum Order modifying the said requirement. Thus, ACGRMC failed to show proof that it conducted a consultation with the *Sanggunian* concerned.

As such, the Appeal of ACGRMC is bereft of merit.

NOW, WHEREFORE, the foregoing premises considered, the Appeal dated February 14, 2011 of Aurora Copper-Gold Resources & Management Corporation is hereby **DENIED** and the Orders dated July 21, 2010 and January 14, 2011 of the Mines and Geosciences Bureau Regional Office No. II **AFFIRMED**.

SO ORDERED.

Quezon City, Philippines, MAR 0 1 2024


ATTY. DANILO U. UYKIENG
OIC, Director

