



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 / 928-8937 Fax No. (+63 2) 920-1635 Email: central@mgb.gov.ph

May 22, 2013

IN RE: APPEALS OF TAMBULI MINING COMPANY, INC., MACOTE MINING COMPANY, INC., AND MAKILALA MINING COMPANY, INC. IN CONNECTION WITH THE DENIAL OF THEIR APPLICATIONS FOR EXPLORATION PERMITS DENOMINATED AS EXPA-000074-XIII, EXPA-000077-XIII, AND EXPA-000078-XIII

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NOTICE OF ISSUANCE OF AN ORDER

THE PRESIDENT

Tambuli Mining Company, Inc.
2nd Flr., Corinthian Plaza
121 Paseo de Roxas, Legaspi Village
Makati City

Reg. Mail

THE PRESIDENT

Macote Mining Company, Inc.
2nd Flr., Corinthian Plaza
121 Paseo de Roxas, Legaspi Village
Makati City

Reg. Mail

THE PRESIDENT

Makilala Mining Company, Inc.
Unit 73, 7th Flr., Legaspi Suites
178 Salcedo St., Legaspi Village
Makati City

Reg. Mail

THE REGIONAL DIRECTOR

Mines and Geosciences Bureau
Regional Office No. XIII
Km. 2, National Highway
Surigao City

Reg. Mail

GREETINGS :

Please be informed that an **ORDER** was issued on May 22, 2013 on the subject, a copy of which is attached.

By Authority of the Director:

LEVY G. TEODORO
Officer-In-Charge

Mining Tenements Management Division

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



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ORDER

WHEREAS, on March 29, 2005, April 4, 2005, and April 5, 2005, Tambuli Mining Company, Inc. (Tambuli, for brevity), Macote Mining Company, Inc. (Macote, for brevity), and Makilala Mining Company, Inc. (Makilala, for brevity) filed in the Mines and Geosciences Bureau (MGB) Regional Office (RO) No. XIII their applications for Exploration Permit (EP) denominated as EXPA-000074-XIII, EXPA-000077-XIII and EXPA-000078-XIII covering 15,460.00 hectares, 12,910.00 hectares and 2,378.00 hectares located in the Municipalities of Talacogon, San Luis and La Paz, all in the Province of Agusan del Sur, respectively;

WHEREAS, on March 12, 2010, Department of Environment and Natural Resources (DENR) Memorandum Order (DMO) No. 2010-04 was issued, providing, among others, for policy directives in cleansing mining applications in all the Regional Offices of the MGB;

WHEREAS, DMO No. 2010-04 took effect on April 1, 2010 after publication in a newspaper of general circulation and registration in the Office of the National Administrative Register;

WHEREAS, Section B of DMO No. 2010-04 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.

2. Denial of mining applications due to rejection of the request for Free and Prior Informed Consent:

The rejection of a request for Free and Prior Informed Consent by the rightful Indigenous Peoples concerned as certified by the National Commission on Indigenous Peoples (NCIP) shall be a

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ground for denial of the mining application concerned: Provided, that such rejection is carried out in accordance with the NCIP's procedural guidelines on securing the Free and Prior Informed Consent.

Subject to the aforesaid guidelines, the mining applicant concerned shall be allowed a maximum of two (2) attempts to secure the Free and Prior Informed Consent from the Indigenous Peoples concerned.

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.”;*

WHEREAS, on June 29, 2011, MGB RO No. XIII issued the Omnibus Order denying EXPA-000074-XIII, EXPA-000077-XIII and EXPA-000078-XIII for failure of Tambuli, Macote and Makilala to fully comply with the provisions of Section B.3 above of said DMO No. 2010-04;

WHEREAS, on July 20, 2011, Tambuli, Macote and Makilala filed their Omnibus Motion for Reconsideration (MR) in connection with the Order dated June 29, 2011 of MGB RO No. XIII, which was denied thru the Omnibus Order dated August 6, 2012 of the said Office;

WHEREAS, on October 9, 2011, Tambuli, Macote, and Makilala submitted to this Office their Appeals dated August 31, 2012 from the Omnibus Order dated June 29, 2011 of MGB RO No. XIII;

WHEREAS, this Office sent the Letters dated November 19, 2012 and October 22, 2012 to Tambuli, and Macote and Makilala, respectively, thru registered mail requiring to pay the Appeal Fee within 7 days from receipt thereof in the amount of PhP5,000.00 and PhP20.00 for P. D. No. 1856, pursuant to DENR Administrative Order No. 2005-08 in re: *“Providing for New Fees and Charges for Various Services of the Mines and Geosciences Bureau;”*

WHEREAS, the registry receipt of the Postal Office concerned shows that the said Letters of November 19, 2012 and October 22, 2012 were delivered to Tambuli and Macote on December 3, 2012 and January 4,

14, 2013, respectively, while Makilala received the same Letter of October 22, 2012 on January 18, 2013;

WHEREAS, the records of this Office show that up to now, despite the said Letters, Tambuli, Macote and Makilala failed to pay the required Appeal Fee;

WHEREAS, this Office considers as completed the mailing of the said Letters in view of the Supreme Court has ruled in the cases of Gorospe, et al. vs. Court of Appeals, et al. , G.R. No. L-11443, September 30, 1959 and Yangco vs. Milan, 57 Phil. 761, that *"when the service is to be made by registered mail, that service is deemed complete and effective upon actual receipt by the addressee, as shown by the registry return card. However, if the addressee is so negligent that he fails to claim his mail from the post office within five (5) days from the date of the first notice sent to him by the postmaster, the service is deemed complete and effective at the expiration of such time;"*

WHEREAS, the Appeals of Tambuli, Macote and Makilala are deemed not perfected because of their failure to pay the required Appeal Fee;

NOW, WHEREFORE, the foregoing premises considered, the Appeals dated August 31, 2012 of Tambuli Mining Company, Inc., Macote Mining Company, Inc. and Makilala Mining Company, Inc. are hereby **DENIED** and the Order dated June 29, 2011 of the Mines and Geosciences Bureau Regional Office No. XIII **AFFIRMED**.

SO ORDERED.

Quezon City, Philippines, MAY 22 2013.

By the Authority of the Director:



LEVY G. TEODORO
OIC, Mining Tenements Management Division

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