

**SMALL-SCALE MINING IN BENGUET PROVINCE
AFTER DENR ADMINISTRATIVE ORDER No. 2015-03**

I. INTRODUCTION:

Benguet is a landlocked province of the Philippines located in the southern tip of the Cordillera Administrative Region in the island of Luzon. It has thirteen (13) Municipalities with La Trinidad as its Capital Town. It has land area of 2,833 sq. km. with a population of 446,224. Its highest elevation is at 2,926 m (9,600 feet) located at Mt. Pulag in Kabayan. It has a diverse number of ethnic origin with many spoken languages: Kankana-ey; Ibaloi; Kalanguya; Bontoc; Ilocano; Pangasinan; Filipino; English.

Although the primary livelihood is farming, the Province also is known with its mining operations, both Large and Small Scale Mining, being endowed with a very rich mineral resources i.e. Gold, Silver and Copper. Currently, the Province has four (4) large scale mining operators, i.e. PMC, BC, ISRI and LCMC and a number of small scale mining associations/operations.

Small Scale Mining (SSM) continues to proliferate in Benguet Province being the second main source for employments/livelihood of a family and/or small scale enterprise industry, next to farming. The issuance of DAO No. 2015-03, re: "The Revised Implementing Rules and Regulations of Republic Act No. 7076 known as the 'People's Small Scale Mining Act of 1991'" complementing Section 14 of DAO No. 2012-17, Implementing Rules and Regulations of E.O. No. 79, Series of 2012, explicitly providing measures to improve the small-scale mining activities by: a) adopting RA No. 7076 to govern the SSM operations in lieu of the previous two (2) SSM laws (i.e. PD No. 1899 and RA No. 7076) as provided in RA No. 7942; b) limiting the mineral to be mined to only Gold, Silver and Chromite; c) emphasizing on the SSM compliance with Environmental Impact Statement System (EISS) and other Environmental laws where ECC, EPEP, FMRDP and CDMP are required; d) re-enforcing the establishment of the multipartite governing bodies (P/CMRB); and, e) tasking the concerned regulating agencies (e.g. EMB and MGB) to provide technical assistance for capacity training measures and not to exclude the Free and Prior Inform Consent (FPIC) requirements of the National Commission on Indigenous Peoples (NCIP) had provided a number of issues, concerns and challenges to the current members of the Provincial Mining Regulatory Board (PMRB) of Benguet Province in the regulation of the SSM operation in the Province.

II. OBJECTIVE:

This presentation aims to present the Status of Small-Scale Mining in the Province of Benguet; the current Programs and accomplishments including the issues, concerns and challenges pressing the PMRB-Benguet Province and the recommendations to effectively regulate these SSM operations under DAO No. 2015-03.

III. STATUS OF SSM IN BENGUET

- a) **MINAHANG BAYAN DECLARATION.** There is no Minahang Bayan area declared yet in the Province of Benguet. Of the more than one hundred (100) numbers of SSM associations operating in various areas of the province, only twelve (12) SSM associations that were earlier issued with a Temporary Small Scale Mining Permits/Contracts (TSSMP/C) by the Provincial Governor or the PMRB under PD No. 1899 were extended by the Board until their areas of operation are declared as Minahang Bayan.

More than thirty one (31) SSM associations had petitioned for the declaration of their area of operation into Minahang Bayan and are currently being processed by the TWG of the PMRB.

- b) **PROVINCIAL MINING REGULATORY BOARD (PMRB) & TECHNICAL WORKING GROUP (TWG).** The members of the PMRB of Benguet Province are in place along with its Technical Working Group which also acts as the Secretariat..

The composition of the PMRB is still in consonance with the old IRR of R.A. No. 7076 (DAO No. 34, Series of 1992) where the Regional Director of MGB-CAR is the Chairperson; the Governor of Benguet is the Co-Chairperson and the three (3) Sectoral Representatives as members.

The members of the Technical Working Group (TWG) of the PMRB comprises of six (6) Technical personnel of which three members are from MGB-CAR and the other three (3) members from the Benguet Provincial Environment and Natural Resources Office (BPENRO) under the Office of the Governor.

IV. PROGRAMS and ACCOMPLISHMENT OF THE PMRB

The following highlights the programs and accomplishment of the PMRB-Benguet Province as of Year 2016 to 2017 after the issuance of DAO No. 2015-03:

- a) PMRB meetings;
- b) Extended twelve (12) TSSMC;
- c) Investigation of SSM complaints resulting to the issuance of Stoppage Orders;
- d) Formulation and adoption of the Internal Rules of Procedures (IRP);
- e) Started crafting of the Procedures and Guidelines in the implementation of the Functions of the PMRB as provided under DAO 2015-03;
- f) Processing of applications/petitions for Minahang Bayan declaration; and
- g) Information Education Campaign (IEC) on Minahang Bayan.

V. ISSUES, CONCERS and CHALLENGES

Anent to the implementation of the PMRB-Benguet Province programs of activities and its accomplishments, are some gathered issues, concerns and challenges:

1. **Inadequate Budget Allotment.** No allocated budget for the implementation of the PMRB Programs/Project/Activities.
2. **Tedious Process in the Minahang Bayan Declaration.** Issues were encountered in satisfying the NCIP and some MGB-CO requirements. Numbers of MB applications endorsed to the MGB-CO for initial evaluation were returned for further evaluation by the Region. There is a need to collaborate with the NCIP in coming up with a simplified FPIC process. Also, there is a need to level off with the MGB-CO counterparts as some of the requirements such as the parameters and format in the conduct of initial evaluation of the petitioned MB areas in order to craft a simplified and common format that is acceptable to the MGB-RO and the MGB-CO.
3. **No Specific Timeframe per Step/Activity.** Evaluation, processing up to the approval of a Minahang Bayan application takes months or even years and the small-scale miners are complaining on such a long period.

4. **Some Restrictive Provision of DAO 2015-03.** Noted some SSM practices (e.g. Blasting and use of Chemicals) in the actual SSM operations are prohibited in the DAO. There is also a filed case in court by the Benguet Federation of Small Scale Miners Association questioning some of the provision of DAO No. 2015-03.
5. **Vague and Non-Provision of DAO 2015-03 and Related Issued DAOs and MCs.** Encountered challenges in getting reference due to some vague/unclear and/or no specific provisions in the DAO and some related DAOs and Memorandum Circulars; e.g.
 - a) No Terms of Office and Specific guidelines of accreditation process of the PMRB membership.
 - b) Treatment of SSM operations in existence before 1987 considering the provisions under Section 8 which provides that SSM area of operations before 1987 can be declared as Minahang Bayan.
 - c) Further clarification of PD 1899 as regard to the regulation of SSM.
5. **Late and Inadequate IEC Materials.** Current IEC topics are still confined with the MB process and the campaign against illegal mining. There is a need to expand the IEC topics to also cover the mandatory requirements in the application for mining contracts to which simplified forms should have been formulated. Along this line, the need to craft a simplified flow process and forms and IEC materials on the mandatory requirements on the SSM contract issuance.
6. **Lack of Provision/s in RA No. 7076 and in DAO No. 2015-03 on Theft and Transport of Minerals from small-scale mining areas.** Prosecutors always dismiss filed cases on transport of minerals from small mining areas due to no provisions on theft or transport of minerals in RA No. 7076 and DAO No. 2015-03. According to them, the provision on theft and transport of minerals provided in RA No. 7942 is for large-scale mining.
7. **Most Small-Scale Miners are Non-Technical People.** Requirements for petition for Minahang Bayan area are more technical in nature and most small-scale applicants/petitioners are non-technical people.

VI. RECOMMENDATIONS

Considering the current issues, concerns and challenges of the PMRB-Benguet Province in regulating the SSM operations in the Province, the following are recommended:

1. Allocation of budget for the implementation of the PMRB P/P/As.
2. Review R.A. No. 7076 and related policies, rules and regulations, such as:
 - a) Inclusion of a provision on theft of minerals, its transportation and the disposition of confiscated minerals and illegal SSM implements;
 - b) Providing a specific term of office for the members of the P/CMRB;
 - c) A provision mandating the LGUs in the regulation of small-scale mining areas in their jurisdiction;
 - d) Enhancing Memorandum Circular No. 2016-03 to gain the support of other Government Agencies against illegal mining and logging;

- e) Inclusion of copper minerals to be mined thru small-scale mining;
 - f) Inclusion of a provision allowing the regulated use of explosives and chemicals by small-scale miners as it is already being practiced; etc.
3. Maintain an inventory of small-scale mining operations in the area.
 4. Provide a monitoring facility to track status of Minahang Bayan petitions/applications. This includes a specific timeframe per step/activity in the processing of applications. The requirement/step/activity is deemed complied with if said requirement/step/activity is not completed within the timeframe without any valid reason or the Minahang Bayan application is deemed approved if the timeframe is exceeded.
 5. MGB-Central Office to come up with a simplified pro-format on the mandatory requirements and reporting requirements.
 6. Inclusion in the Regional Office' Organizational Structure a Section whose main function is to assist the small-scale miners and the PMRB.
 7. LGUs to include in their Organizational Structure a position for Licensed Mining Engineers to assist the small-scale miners.

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