

Philippines: Mining or Food?

Case study summaries – background, conclusions & recommendations

Case Study 1: Midsalip, Zamboanga del Sur

Companies: Canadian based TVI Pacific and six other local companies; history of Rio Tinto applications in the areas

Background: In 1996 the municipality of Midsalip was covered by a number of Rio Tinto applications, including applications for a Financial and Technical Assistance Agreement (FTAA) and a number of Mineral Production Sharing Agreements (MPSAs). Rio Tinto, operating under the name Tropical Exploration Philippines Incorporated, withdrew from the area in 1999 following strong local and international opposition to the project. In June 2001, US mining company Phelps Dodge together with a Philippine partner also applied for an exploration permit in Midsalip. However, in October 2001, they too withdrew their application because of community opposition. Despite their withdrawing from the area, the status of these Rio Tinto claims remains unclear.

Conclusion and recommendations: The authors recommend that no mining or exploration proceed in Midsalip. The authors believe mining and irrigated rice and fish farming are conflicting activities and are incompatible in an area that produces valuable agricultural and marine food supplies, not only to the Zamboanga peninsula but also to major Philippine cities. Their ocular survey of the picturesque landscape and visiting the sites of the proposed exploration and mining tenements lead the authors to conclude that extraction or exploitation of iron ore and other minerals will severely damage the water catchment services of Midsalip, undermine the human rights of the Indigenous Subanen people, reduce agricultural production in the three provinces and diminish the ability of future generations to survive in the area.

Mining will also affect the significant investment of the international community in reforestation. It will pollute and cause erosion and siltation of the rivers, and exacerbate geo-hazard and landslide problems. There will be a risk of flooding and pollution of fresh water supplies and of the main fish farming and marine fish breeding grounds. There is also likely to be flooding of lowland communities, which the forest and water catchment currently protect.

The Indigenous Subanen community will be particularly impacted if mining proceeds in their lands. Their right to Free Prior Informed Consent (FPIC) has been denied as the processes facilitated by the National Commission on Indigenous Peoples (NCIP) were seriously flawed. During the fact finding mission of July-August 2006 Clare Short and the team met with the National Ombudsman. She invited the Subanen community to submit a complaint and promised to act on it. The complaint was submitted in 2006. However, to date there appears to have been no action taken with regard to it by the Office of the Ombudsman. The NCIP now claims that the Subanen have given their consent to exploration.

Case Study 2: Sibutad and Libay, Zamboanga del Norte

Companies: Philex Gold and Freeport McMoRan Copper & Gold Inc.

Background: Philex Gold Inc., created in 1996, was 81.8% owned by Philex Mining Corporation, a Philippine-based company. It was listed on the Toronto Stock Exchange in 1996. In 2002, the Department of Environment and Natural Resources (DENR) suspended the mining operations of Philex. Nonetheless, locals report that the company is continuing with “small-scale” mining within the site using mechanized equipment. On 19th March 2007, Freeport McMoRan acquired US mining company Phelps Dodge. As a result of the takeover, Phelps Dodge became Freeport McMoRan Copper & Gold Inc., which owns 40% of Philex Gold. On 3rd October 2007, Philex Gold announced that its wholly-owned subsidiary, Philex Gold Philippines Inc., had signed an agreement with PDEPI (Phelps Dodge Exploration Philippines Inc.), which is an indirectly 40%-owned subsidiary of Freeport McMoRan Copper & Gold Inc. The Earn-In Agreement concerns part of Philex Gold Philippines Inc’s (PGPI’s) Sibutad project tenements covering 6,954 hectares.

Throughout the operation of Philex Gold Inc. at Sibutad there were serious problems in relation to siltation and sedimentation. The failure of a silt dam in 1997 resulted in the destruction of agricultural lands and irrigated rice fields, and destroyed five homes. The following five years saw a series of toxic overflows from Philex's tailings dams damaging rice fields, mangroves, and causing fish kills with major impacts on local livelihoods. Dangerously high levels of mercury were also detected in the Bay. The mine operation resulted in an eruption of violence with a small scale miner being killed by mine security guards in 1998.

Conclusion and recommendations: The authors believe that mining in Sibutad, Libay and elsewhere in the Zamboanga Peninsula will severely damage the remaining forests and water catchment quality, increase flooding, erosion, siltation and landslides. It will thereby reduce production of agricultural and marine resources, damage bio-diversity, displace populations, re-engage conflict, and affect the human rights of local communities. Mining will increase poverty and limit the ability of future generations to survive.

The authors conclude that mining is not compatible with irrigated agriculture, notably rice or fish production, and is inappropriate in areas such as the Zamboanga Peninsula in western Mindanao. The authors strongly recommend that the Government bans mining in critical water catchments and prioritises the immediate protection of the environment (including reforestation), food security and human rights, including the right to a healthy environment for present and future generations.

Case Study 3: Tampakan, South Cotabato

Companies: Xstrata Copper, Indophil

Background: The FTAA for the Tampakan project was awarded on 22nd March 1995 to Western Mining Corporation Philippines (WMCP), a subsidiary of the Australian company Western Mining Corporation (WMC). The FTAA was transferred on 10th January 2001 to Sagittarius Mines Inc. Sagittarius Mines is a Philippine-incorporated company whose equity was 60% owned by Filipino citizens or Filipino-owned corporations, and 40% by another Australian company, Indophil Resources NL. The project has been managed since March 2007 by Xstrata Copper. Xstrata Copper, headquartered in Switzerland and listed on the London Stock Exchange, is the world's fourth largest producer of copper, and its major shareholder is the private company Glencore.

Conclusion and recommendations: The authors recommend that mining in this area of important forests and water catchments, including the proposed Tampakan mine, should not be permitted. Mining will impact the lands of the Indigenous B'laan peoples and the downstream agricultural areas of the provinces of South Cotabato, Sultan Kudarat and Davao del Sur. These areas would be at risk from mining pollution, erosion, siltation, and continuing devastating flash floods and landslides. Lake Buluan, with its superb sustainable fish production capacity, may be damaged or even destroyed by flash floods, toxic pollution and increased siltation which will gravely affect the largely Muslim population who depend upon it for survival. The Liguasan Marsh could also fall victim; the marsh is an extensive swamp region some 40 km long and 30 km wide, in central Mindanao. There are fertile rice-growing areas and mangrove forests in the marsh, a game refuge and a bird sanctuary.

The area is geologically unstable with frequent landslides, and fault lines mark the area. Government geo-hazard mapping should corroborate this with its data of frequent and often intense earthquakes (see *Mining or Food?*, Annex E). Seismic shocks aggravate and amplify the dangers compounded by the damage of extensive logging in the recent past. Water catchment areas need urgent protection, conservation and reforestation, not mining, to help sustain and increase sustainable food production.

The area is also a centre of armed conflict because of ongoing political, cultural and economic issues. Mining in conflict areas has fuelled, and will most likely continue to fuel, the flames of armed conflict, exacerbating human rights abuses and internal displacement of vulnerable communities.

Case Study 4: Pujada Bay, Mati, Davao Oriental **Company: BHP Billiton**

Background: Seven Philippine firms had applied for and obtained MPSAs. They regrouped into two companies, Hallmark Mining Corp. and the Austral-Asia Link Mining Corp.; they also collectively formed Asiaticus Management Corporation (AMCOR) so as to strike a joint venture deal with QNI Philippines Inc. (which then became a subsidiary of the Australian mining giant BHP Billiton). The joint venture between AMCOR and BHP Billiton over the Hallmark Project involved a 60-40% equity split between the two respectively. BHP Billiton said it would invest US\$1.5 billion in the project. However, disputes have arisen between AMCOR and BHP Billiton, with AMCOR being granted a restraining order and preliminary injunction against BHP Billiton in May 2008. This resulted in all QNI/BHP employees being barred from entering and operating within the Pujada Bay site.

Conclusion and recommendation: Mining claims (mainly nickel and cobalt) in this area cover approximately 17,573 hectares. Mining pollution, erosion and siltation will severely damage biodiversity, water catchments, agricultural and marine resources and erode the area's potential as an eco-tourism attraction - especially in the Protected Seascape of Pujada Bay and Mt Hamiguitan Protected area. The human rights of the Mandaya will be further affected by mining on their ancestral domain. Coastal communities who depend on fisheries are likely to be displaced and fish stocks, the main protein diet of the coastal communities and nearby cities, will likely be adversely affected in both the short and long term.

Exploration and mining within this "Pacific-Cordillera" fault line, which flanks the watershed on the southwest and southeast, will increase the risks and may induce additional seismic activity. The authors therefore recommend that no mining should take place on Mount Hamiguitan or near Pujada Bay which are centres of high bio-diversity and high eco-tourism potential.

Case Study 5: Mindoro Nickel Project, Mindoro Island **Company: Intex Resources**

Background: Mindex Resources Development Inc., a Philippines subsidiary of a Norwegian exploration company, Mindex ASA, was looking for gold in the mountains of Mindoro in 1997 when it found deposits of the nickel-containing ore, limonite. It (and another Mindex subsidiary, Aglubang Mining Corporation) promptly lodged several claims in what has become the Mindoro Nickel Project.

A chequered history of company takeovers and name changes followed, which involved Mindex Resources Development Inc. being acquired by the UK-registered Crew Development Corporation in 2000, with Crew subsequently in 2007 creating Intex Resources Inc., which it lists as a separate company with the Mindoro Nickel Project as its main asset. Over the course of this 10 year period the mining permissions were granted, revoked and then reinstated,¹ with constant claims of deception. The project, currently under the control of Intex, is between the pre-feasibility and feasibility stage.

Conclusion and recommendations: The authors recommend that Intex and all mining companies should comply with the mining moratoria issued to it by Governor Arnan C. Panaligan of Mindoro Oriental, and immediately cease all activities. The authors empathize with the need for a mining moratoria as they can see little justification for mining on the Island of Mindoro. The Vision

¹ 14th March 1997: an exploration permit issued to Mindex Resources Development Inc. (a subsidiary of Mindex ASA) for 9,720 hectares; 12th July 1998: a Mineral Production Sharing Agreement (MPSA) for exploration for 2,290 hectares issued to another Mindex subsidiary, Aglubang Mining Corporation, covering the same areas being explored by Mindex; 1999 (March): Mindex's 1997 exploration permit was renewed; 2000: MPSA granted to Aglubang; 1st July 2001: DENR Secretary Heherson cancelled the Mindoro nickel MPSA; 10th March 2004: The MPSA cancellation was revoked by the Office of the President (OP); 10th November 2005: DENR Secretary Michael Defensor reinstated the MPSA.

and Eight-Point Development Program of Mindoro Oriental Province is commendable. Mining is likely to damage the island's important food production capacity, its fisheries and its eco-tourism potential and is clearly inconsistent with its sustainable development plan. In the light of other factors, including seismic and climatic conditions, the proposed Intex Nickel Project has the potential to cause massive damage for the water catchment area, impacting up to 40,000 hectares of rice producing lands and exacerbating flooding of towns and villages.

The Intex nickel project, and the other 91 mining applications being considered for the tropical island, would damage most of the water catchment area and the possibility of sustainable food production in the foreseeable future of Mindoro.

Case Study 6: Sibuyan Island, Romblon Province **Companies: BHP Billiton and other Australian listed companies**

Background: Pelican Resources Ltd, an Australian company, is currently awaiting the approval of an MPSA in Sibuyan Island. Its Philippine subsidiary is Sibuyan Nickel Properties Development Corporation (SNPDC). SNPDC is jointly owned with Pelican's Joint Venture partner, All-Acacia Resources Inc., and a consortium of foreign mining companies, including Altai Mining (a subsidiary of Altai Resources in Canada), Sunshine Gold Pty (a subsidiary of Pelican Resources Ltd) and Sun Pacific. The consortium aims to establish a direct nickel laterite ore shipping operation on Sibuyan Island. On 18th September 2007, Pelican announced to the ASX (Australian Securities Exchange) that a Memorandum of Agreement had been executed between BHP Billiton and SNPDC. Under this agreement BHP Billiton would be the sole financier of the exploration and drilling programme of the Romblon Nickel Project and have exclusive rights to purchase the laterite nickel.

In October 2008, Armin Marin, a former WWF employee, local councillor and member of the school board, was shot in the mouth and killed by a mine security guard while leading a peaceful protest against the proposed cutting of almost 70,000 trees to make way for mining operations. The mine guard has since been arraigned for murder. However, in what is a clear distortion of the justice system the mining company is currently taking a case against the local schoolteachers for their role in organizing the legitimate protest to protect the environment. Similar strategic lawsuits against public participation ('SLAPPs') are common throughout the Philippines as a way to deter any opposition to mining operations.

Conclusion and recommendation: The authors believe that no mining should be carried out on Sibuyan Island, which deserves its label as a national and international treasure. It has important primary tropical forest which is largely intact and is extremely rich in biodiversity. Mining in the National Park, and on coastal lands and in the sea, will displace and impoverish many people, including the island's Indigenous Peoples, and affect their human rights, and will damage water catchments and forests, and pollute rivers and the ocean. Mining will undermine the island's ability to feed itself or develop its significant eco-tourism potential.

No Strategic Environmental Assessment (SEA) has been carried out to manifest the cumulative impacts of all the proposed mines targeting the island, which the authors believe will be a disaster for this up-to-now remote island. Mining applications cover 42% of the island. The mining applications overlap with 32% of the management area of the National Park, including 14 sq km of the Protected Area, 32% of mangrove, primary lowland and secondary lowland forests, 45% of rice lands, 56% of coconut lands, and 43% of the Sibuyan Mangyan Tagabukid ancestral domain.

Illegal small scale mining activities and stock-piling of nickel should be immediately halted and the culprit mining companies, including international ones, be held criminally liable for their illegal direct and indirect mining activities.

Recommendation for all cases

In accordance with the widespread call from civil society, Indigenous Peoples and the Catholic

Bishops' Conference of the Philippines (CBCP), a Moratorium on mining should be declared in the Philippines and a credible independent body established to review all existing contentious mining operations.

In particular, no mining should take place in the areas visited by the authors and addressed in the case studies, namely in Mindanao: 1) Midsalip, Zamboanga del Sur, 2) Libay, Zamboanga del Norte, 3) Tampakan, South Cotabato, 4) Pujada Bay, Davao Oriental; in 5) Victoria, Mindoro Island; and in 6) Sibuyan Island (*Philippines: Mining or Food?*, Case Studies 1 -6). Mining in these locations would cause massive environmental problems, jeopardizing food security and supplies by damaging agriculture and fisheries.

This Moratorium should remain operational until structures and processes are in place that enjoy public confidence, especially the confidence of those communities whose lives, livelihoods and environment would be adversely impacted by mining. Revised processes and structural changes in line with the detailed recommendations contained in the report *Philippines: Mining or Food?* will be necessary to ensure this.

Philippines: Mining or Food?, written by Robert Goodland and Clive Wicks, was published by the Working Group on Mining in the Philippines, London, 2009.

Abbreviated report available at: www.eccr.org.uk/module-htmlpages-display-pid-52.html

Full report and maps available at: www.piplinks.org/miningorfood