



Pusong Minero: The good miners



*Scapegoats in
the blame game*

*Honors for the
five best miners*

*Cold water
on oil hopes*

*High-tech tools
for boreholes*



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Front cover photo shows a portable water filtration system provided critically needed safe drinking water in Cagayan de Oro during the recent flood disaster, after being rushed to the area by the Philippine Mine Safety and Environment Association Pusong Minero team. Pictured inspecting the equipment, which can produce 30 gallons of drinking water per minute, are (from left) Bam Bam Villanueva (left) of the Mines and Geosciences Bureau Region 10's mining environment and safety division, PMSEA director Roger Casido, PMSEA president Louie Sarmiento, and Holcim Philippines' Christopher Ramos and Jason Niza.



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Scapegoats in the blame game

By Patricia A. O. Bunye

In December 2011, Typhoon Sendong ravaged Mindanao, particularly the cities of Iligan and Cagayan de Oro, leaving more than 1,200 people dead and countless others still missing. Barely a month later, a landslide took dozens of lives with many more missing under the mud and debris in Pantukan, Compostela Valley.

Activist groups quickly and loudly blamed mining as the cause for both tragedies, contending that without mining the disasters would not have happened. Kilusang Mayo Uno's chairperson said of Typhoon Sendong: "It is now clear that the destruction of the environment due to wanton mining and logging caused the flash-floods that killed more than a thousand of our fellow Filipinos and washed away entire communities," and that "in the interest of the Filipino workers and people, the Supreme Court should act swiftly to stop the implementation of (mining) laws and to junk them immediately. Large-scale corporate mining and logging should be banned completely."

Ifugao Representative Teddy Brawner Baguilat weighed in, urging that new forest conservation and alternative mining legislation be passed "to prevent a repeat of the Sendong devastation in Mindanao and other areas of the country."



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The fact is, as the Chamber of Mines of the Philippines pointed out and the government Mines and Geosciences Bureau confirmed, there are no large-scale mining operations in Cagayan de Oro and Iligan.

In the case of the Pantukan disaster, activists tried to link the landslide to the activities of large-scale miners. However, it transpires the local government units and residents were warned as early as April 2010 that the area was a geo-hazard and were advised to evacuate. On this score, the Secretary of the Department of Interior and Local Government has called for a probe into the failure of local government officials, particularly the mayor of Pantukan town and the barangay chairman of Napnapan, to stop illegal mining activities there.

Legally, while the Department of Justice, in its Opinion No. 29, Series of 2011, has confirmed that Republic Act No. 7076, otherwise known as the "People's Small-Scale Mining Act of 1991" (RA 7076), completely repealed Presidential Decree No. 1899 ("Establishing Small-Scale Mining as a New Dimension in Mineral Development") [PD 1899], but it qualified this by adding that individuals remain entitled to pursue small-scale mining, and that small-scale mining is not limited to qualified cooperatives only (cf. Defining the Small-Scale Mining Rules, Philippine Resources, Issue 3 2011, August-October online edition).

It must be noted that PD 1899 was not expressly repealed by RA 7076. Section 28 of RA 7076, however, contained a repealing clause that provided that all laws, decrees, letters of instruction, executive orders, rules and regulations, and other issuances, or parts thereof, which are in conflict or inconsistent with it, are accordingly repealed or modified.

Considering, as the Department of Justice itself pointed out in the foregoing opinion, implied repeals are not favored, and the urgency of transferring the responsibility of regulating small-scale mining from local government units to the national government, particularly to the DENR, the Chamber of Mines has repeatedly called for the express repeal of PD 1899 and has formally recommended this to the Minerals Policy Group created by the president to develop a comprehensive national mining policy.

It is easy for anti-mining groups to point fingers at the mining industry, particularly large-scale mining operations, as the culprit behind environmental disasters. They purposely overlook the fact that large-scale mining in the Philippines, surface or underground, is heavily and strictly regulated by a myriad laws and regulations, including but not limited to: Republic Act Nos. 7942 (Philippine Mining Act); 8749 (Philippine Clean Air Act); 9003 (Ecological Solid Waste Management Act); 6969 (7586, [National Integrated Protected Area System (NIPAS) Act]).

The Philippine Mining Act and its Implementing Rules and Regulations, as consolidated in DENR Administrative Order 2010-21, are underpinned by the policy that mining activities attendant to permits, agreements and leases shall be managed in a technically, financially, socially, culturally and environmentally responsible manner to promote the general welfare of the country and the sustainable development objectives and responsibilities as provided for in these implementing rules and regulations.

In view of this, the following are required of mining operations whose permits are granted under the Mining Act:

1. Maintenance of sustainable environmental conditions at all stages of the mining operation: During every stage of operation, as well as after the termination stage, all open pit work areas, underground workplaces, mine waste and tailings impoundment systems, quarry sites and other mining-disturbed landforms, including those disturbed during exploration, must be progressively rehabilitated to a condition prescribed in the Environmental Clearance Certificate (ECC) and/or Environmental Protection and Enhancement Program (EPEP).

a. An ECC is required based on an environmental impact assessment and procedures under the Philippine Environmental Impact Assessment System, including Sections 26 and 27 of the Local Government Code of 1991, which require national agencies to maintain ecological balance, and prior consultation with the local government units, nongovernmental

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and people's organizations and other concerned sectors of the community.

b. The EPEP must provide a description of the expected and considered acceptable impacts and sets out the life-of-mine environmental protection and enhancement strategies based on best practice in environmental management in mining. It includes a statement on post-mining land use potential for various types of disturbed land (i.e. pits, waste dumps, tailings-impounding structures and infrastructure sites) and extends to completion of the commitments in the rehabilitation of the disturbed land in a technically, socially and environmentally competent manner. More importantly, the program must include implementation schedules, system of environmental compliance guarantees, monitoring, reporting and cost provisions.

2. Establishment of a functional post-disturbance land use capability: Mine site decommissioning and rehabilitation must aim to establish a land use capability that is functional and proximate to the land use prior to the disturbance of the mine area, unless other more beneficial land uses are predetermined and agreed in partnership with local communities and local government units.

Requirements for mining operations whose permits are granted under the Mining Act also include preservation of downstream freshwater quality; preservation of sea water quality and natural habitats for marine life; prevention of air and noise pollution; and respect for the traditional and/or sustainable management strategies concerning natural resources of indigenous cultural communities and other communities.

Additionally, an environmental work permit is required for exploration permits, mineral agreements, and financial or technical assistance agreements which undertake exploration activities. This details the environmental impact control and rehabilitation activities proposed during the exploration period, including the costs, to enable sufficient financial resources to be allocated to meet environmental and rehabilitation commitments.

A final mine rehabilitation/decom-

missioning plan (FMR/DP), including the corresponding cost estimates, is integrated with the EPEP. The cost estimates cover the full extent of work necessary to achieve the objectives of mine closure including decommissioning, rehabilitation, maintenance and monitoring and employees and other social costs, including residual care, if necessary, over a 10-year period. A Final Mine Rehabilitation and Decommissioning Fund (FMRDF) must be established by each operating contractor/permit holder to ensure that the full cost of the approved FMR/DP is accrued before the end of the operating life of the mine. The FMRDF must be deposited as a trust fund in a government depository bank and must be used solely for the implementation of the approved FMR/DP.

To effectively implement the approved EPEP, an Annual Environmental Protection and Enhancement Program (AEPEP) must be submitted to the Mining and Geosciences Bureau every year, and this program must be implemented during the year for which it is submitted. This includes exploration, development, utilization, rehabilitation, regeneration, revegetation and reforestation of mineralized areas, slope stabilization of mined-out areas, waste dumps (acid mine drainage control), tailings-covered areas, aquaculture, watershed development and water conservation and socioeconomic development.

A multipartite monitoring team monitors the activities in each EPEP and AEPEP. This includes representatives from the Mining and Geosciences Bureau regional office, DENR regional office, Environmental Management Bureau, the contractor/permit holder, the affected communities, the affected indigenous cultural communities, if any, and an environmental nongovernment organization.

Further, contractors and permit holders must incorporate in their mine organization a mine environmental protection and enhancement office which sets the level of priorities and marshals the resources needed to implement environmental management programs.

Given all these requirements, it's clear that large-scale mining companies must go through the eye of a needle. With this level

of regulation, probable disasters would have been addressed by the proper mitigation measures. The DENR and the agencies under it – the Mining and Geosciences Bureau, Environmental Management Bureau and Pollution Adjudication Board – regulate the mining industry because of their technical capability to deal with the various environmental and safety concerns involved in mining operations. Thus, it is imperative that even small-scale mining be placed under these agencies that have this specialized experience and expertise.

Ironically, the very same mining industry that is demonized by critics for alleged culpability in natural disasters is at the forefront of rescue and relief efforts in such tragedies.

The Philippine Mine Safety and Environment Association (PMSEA) has been very active in providing relief to the victims of Typhoon Sendong. In addition to distributing relief goods, PMSEA dispatched its water filtration unit to provide safe drinking water. Sagittarius Mines set up a relief operations center at the DENR compound with the assistance of the Mining and Geosciences Bureau's regional office and Holcim Philippines.

PMSEA along with Apex Mining, Philex Mining, St Augustine and Nadecor deployed teams to assist in the search and rescue operations after the landslide in Compostela Valley.

This history of miners turning out to help in times of need goes back a long way. In the 1990 Baguio City earthquake, miners from Philex were responsible for rescuing former senatorial candidate Sonia Roco from the rubble of the Hotel Nevada where she was attending a conference. Miners led by PMSEA went to Real, Quezon province, to help rescue victims trapped in the collapse of a building during a storm in 2004.

There remain unscrupulous mining companies which are unregulated or which defy government regulations, but the majority of mining companies strive to comply not only with Philippine laws and regulations, but also international best practices. It is a disservice to include in the blame game these responsible companies driving economic growth and providing livelihood to communities throughout the Philippines. ■