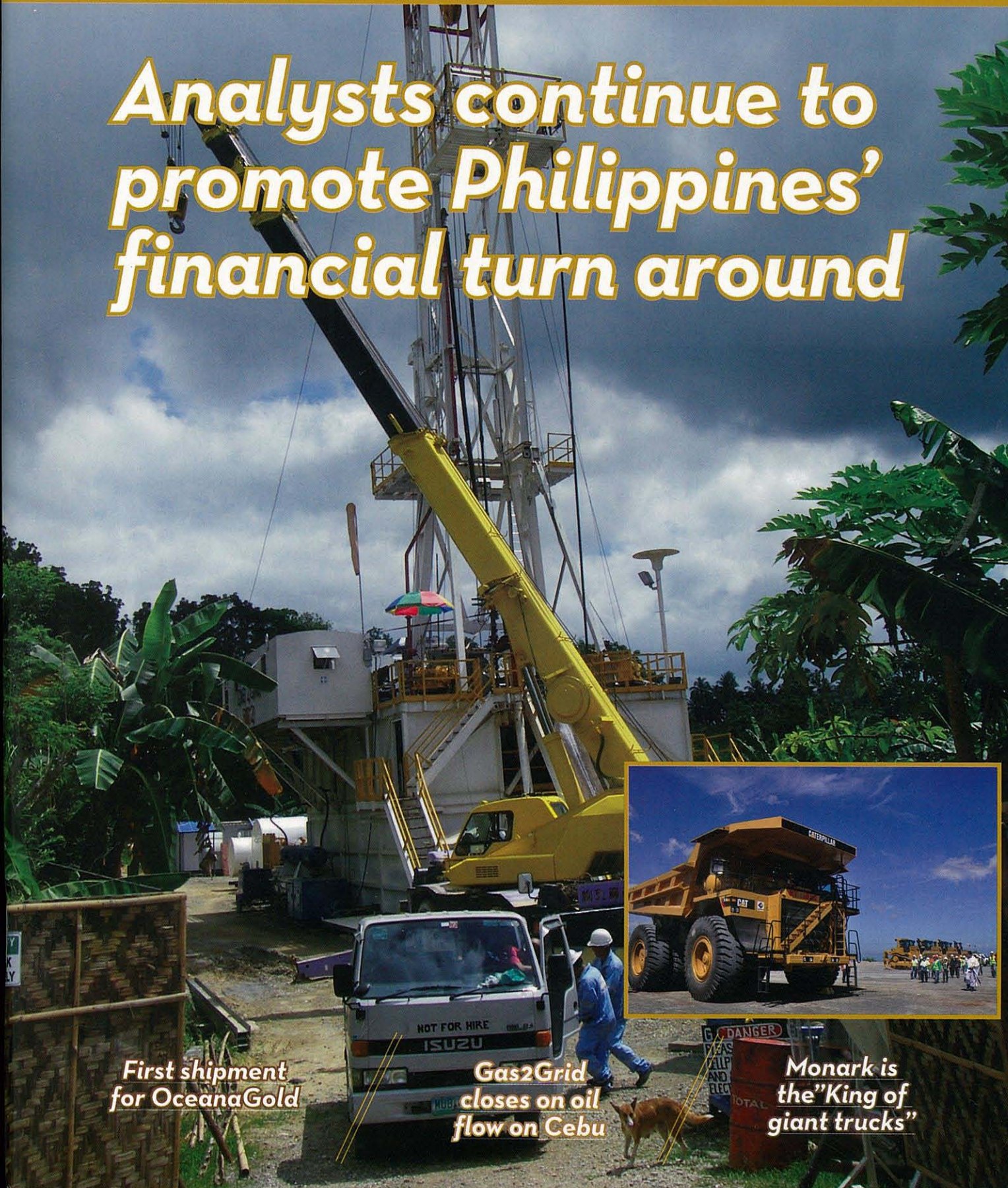


Philippine Resources



Mining, Petroleum & Energy Journal
Issue 2 2013, May - July

Analysts continue to promote Philippines' financial turn around



First shipment
for OceanaGold

Gas2Grid
closes on oil
flow on Cebu

Monark is
the "King of
giant trucks"



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Front cover photo shows drilling activity at Gas2Grid's operations on Cebu island, where the company is looking to produce an historic oil and gas discovery, and the Philippines' largest mining truck recently delivered by Monark.



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My Wish List for the 2013 Elections

By Patricia A. O. Bunye

As I write this, the May 2013 midterm elections are 15 days away. I have not yet decided on my slate of 12 senators, as I have tried, until this point, to block out from consciousness the singing, dancing and gimmickry that Filipino voters are assaulted with during the campaign period.

I have just about given up on coming up with a list of suitable candidates on the basis of their platform as a discussion on platforms or legislative agenda is the last thing that you would hear from them. Philippine political parties cannot be differentiated by their ideology as these are mere groupings according to convenience or self-interest.

Rather than discussing specifics, these candidates assume we are naïve (or worse, stupid) and that we believe them when they said that “gaganda ang buhay” (life will be better), “ipagtatanggol ko kayo” (I will defend you), or that they are “mga tunay na tuwid sa daang matuwid” (straight people on the straight path).

It is utterly tempting to skip the polls on May 13 and take the long weekend off as elections in the Philippines have rarely



The is much at stake for the mining industry form this year's elections.

resulted in any fundamental change, only changes in names and faces.

For the mining industry, however, there is much at stake as those elected this year have the potential to either shape a clear, stable and sustainable mining policy or to dash whatever hope remains that mining can still become one of the strongest drivers of the economy.

While Executive Order No. 79, Series of 2012 (“EO 79”) is touted as addressing gaps in the current system, much will depend on the legislative branch of government, particularly with respect to revenue sharing, considering that Section . of EO 70 provides that “no new mineral agreements shall be entered into until legislation rationalizing existing revenue sharing schemes and mechanisms shall have taken effect.”

Trade Secretary Gregory Domingo recently announced that the Minerals Industry Coordinating Council (“MICC”, which was created under EO 79, is expected to complete this May its draft bill defining the revenue sharing scheme between the government and mining companies.

He was quoted in a news report that “By mid-May, there will be a more defined formula. A draft bill for mining will be finished by mid-May or sometime in June”. He further said that the MICC would not hurry to finish the draft to ensure that the government gets the best deal possible, which is consistent with pronouncements of the President himself that such a bill would not be certified as urgent.

In any event, given the significance of the

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It is no consolation too that Aquino may justify his tightening on the industry knowing fully well that the impressive growth rates in the economy recently affirmed by the much-coveted and long-awaited investment grade rating was made possible even without the contribution from big ticket mining projects.

As the nation goes to the polling booths for the mid-term elections with certain candidates having an alternative mining bill limiting foreign ownership in their platforms of government and the SC reexamining the Mining Act, the industry waits with bated breath the outcome of these developments. ■

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proposed legislation on revenue sharing, my wishes for the elections would be for the electorate to choose legislators who are capable of championing a bill that results in a win-win for the government and the mining industry, and who are competent, diligent, and who would devote time to studying the issues.

Without going into a whole discussion on political dynasties in the Philippines, we all know what damage can be done by electing those with no credentials other than being the spouse, child, grandchild or in-law of an incumbent.

Considering, further, that the proposed legislation on revenue sharing requires thorough study, number crunching and modeling, the elected legislators must not only show up at work (don't get me started on legislators who only show up once a year during the State of the Nation Address to flaunt their expensive ternos and jewelry), but also put in the required time and effort to actually understand the proposed revenue models and project how these would impact



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the lives of real people and companies, as well as marshal the proposed bill through the arduous legislative mill.

Countless bills never made it through the mill since their authors lacked the discipline and political will to drive them.

Apart from the proposed legislation on revenue sharing, there is also a proliferation of anti-mining bills, including those which seek to ban mining in specific areas notwithstanding that the Philippine Constitution clearly allows mining.

As of the adjournment of the 15th Congress, the legislators representing the following legislative districts asked for a ban on mining in their respective jurisdictions:

- Nueva Vizcaya (HB5900) - pending with the Committee on Natural Resources since 2012-02-29
- South Cotabato
- Mindoro
- Romblon
- Antique
- Zamboanga Sibugay
- Bohol
- Zamboanga del Norte
- Samar
- Marinduque
- Bukidnon
- La Union
- Capiz
- Negros Occidental
- Cagayan de Oro (HB1064) - approved by the House on 2011-08-15, transmitted to received by the Senate on 2011-08-18
- Romblon (HB4415) - substituted by HB04815; Approved by the House on 2011-08-03, transmitted to received by the Senate on 2011-08-10
- Catanduanes (HB4915) - approved by the House on 2012-06-04, transmitted to and received by the Senate on 2012-06-06
- 2nd District, Sorsogon (HB5114) - substituted by HB06218; Approved by the House on 2012-06-04, transmitted to and received by the Senate on 2012-06-06
- Davao City (HB5684) - approved by the House on 2012-06-04, transmitted to and received by the Senate on 2012-06-06
- Southern Leyte (HB5855) - pending with the Committee on Natural Resources since 2012-02-28
- E. Samar (HB5898) - pending with the Committee on Natural Resources since 2012-02-22

Let us also not forget the many local sanggunian positions being contested this May. There are already 13 provinces that have promulgated anti-mining ordinances or open-pit mining bans:

A specific wish for those elected to local legislative positions, i.e., to the sanggunians, assuming that we were not able to weed out the incompetents during the polls, is for them to pick up a copy of and read the 1987 Constitution, particularly Article VI, Sec. 1, which provides:

“The legislative power shall be vested in the Congress of the Philippines which shall consist of a Senate and a House of Representatives, except to the extent reserved to the people by the provision on

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initiative and referendum.”

They should also read Articles X, Sections 1 and 2 of the 1987 Constitution, which state:

“ARTICLE X”

LOCAL GOVERNMENT

Section 1. The territorial and political subdivisions of the Republic of the Philippines are the provinces, cities, municipalities, and barangays. There shall be autonomous regions in Muslim Mindanao and the Cordilleras as hereinafter provided.

Section 2. The territorial and political subdivisions shall enjoy local autonomy.”

In *Lina, Jr. vs. Paño*, 364 SCRA 76 (2001), the Supreme Court held that local autonomy does not mean that local governments may actually enact ordinances that go against laws duly enacted by Congress:

“As a policy statement expressing the local government’s objection to the lotto, such resolution is valid. This is part of the local government’s autonomy to air its views which may be contrary to that of the national government’s. However, this freedom to exercise contrary views does not mean that local governments may actually enact ordinances that go against laws duly enacted by Congress. Given this premise, the assailed resolution in this case could not and should not be interpreted as a measure or ordinance prohibiting the operation of lotto.

x x x

In our system of government, the power of local government units to legislate and enact ordinances and resolutions is merely a delegated power coming from Congress. As held in *Tatel vs. Virac*, ordinances should not contravene an existing statute enacted by Congress. x x x

x x x

Ours is still a unitary form of government, not a federal state. Being so, any form of autonomy granted to local governments will necessarily be limited and

confined within the extent allowed by the central authority.

Besides, the principle of local autonomy under the 1987 Constitution simply means ‘decentralization’. It does not make local governments sovereign within the state or an ‘imperium in imperio.’ [At pages 83 to 85: emphasis supplied]

Indeed, local government units are only agents of the national government. Local councils exercise only delegated legislative powers conferred on them by Congress as the national lawmaking body.

It is high time for these unconstitutional ordinances to be reversed. Electing rational and reasonable legislators would be the first step to doing so.

Being a martial law baby, the first time I voted was in the plebiscite to ratify the 1987 Constitution. I was then filled with so much idealism and hope that my one vote meant something. Many elections later, already somewhat jaded by how the real world works, that hope has still not dimmed. Every election is a chance for a fresh start and finally electing the public servants we deserve. ■

2012 Mining Tax Revenue Up 42% AT P1.5Bbn

The government, through the Mines and Geosciences Bureau (MGB), collected a total of PhP1,567,487,372 in revenues for Fiscal Year (FY) 2012 from mining companies operating within mineral reservation areas. This represents a 42% increase compared to PhP1,103,210,799 earned in 2011 year-on-year.

Based on the FY 2012 Budget of Expenditures and Sources of Financing submitted to the Department of Budget and Management, the MGB estimated royalty earnings to reach PhP1,123,811,000.

However, actual collection exceeded target by 39%, reflective of higher output by mining companies.

Of this amount, 10% shall accrue to the MGB to be allotted for “special projects and other administrative expenses related to the exploration and development of other mineral reservations” as provided under Section 5 of Republic Act No. 7942, or the Philippine Mining Act of 1995. The remaining 90% shall be divided between the national government (60%) and the local government (40%).

Under Section 292 of Republic Act No. 7160, or the Local Government Code where the natural resources are located in the province, the sharing shall be Province, 20%; Component City/Municipality, 45%; and Barangay, 35%. The guidelines on the release of the share of local government units is provided under Joint Circular No. 2010-1 between the Department of Environment and Natural Resources, Department of Finance, Department of Budget and Management, and Department of the Interior and Local Government. ■