

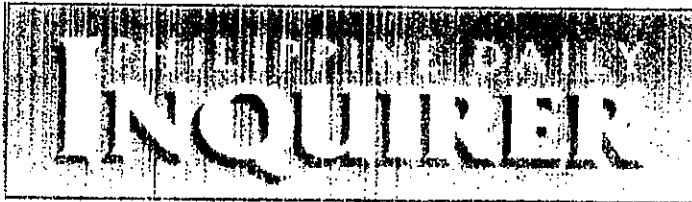
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STRATEGIC COMMUNICATION AND INITIATIVES SERVICE

UNDER REVIEW

DUTERTE WILL HAVE FINAL SAY ON THE FATE OF 23 MINES

By Ben O. de Vera
and Ronnel W. Domingo
@Team_Inquirer

It will be up to President Duterte to decide if the suspension slapped on at least 23 mines will push through, even as the interagency Mining Industry Coordinating Council (MICC) on Thursday ordered a review of the Department of Environment and Natural Resources (DENR) audits.

Following a five-hour meeting, the MICC, cochaired by Finance Secretary Carlos G. Dominguez III and Environment Secretary Gina Lopez, issued Resolution No. 6, which called for the establishment of a multistakeholder review of the DENR's orders to shut down mines in 10 provinces, as

mandated under Executive Order No. 79.

"The review shall be based on the guidelines and parameters set forth in the specific mining contract and in other pertinent laws, taking into account the valid exercise of the State's police power to serve the common good, especially of the poor," the resolution said.

Lopez told a press conference that companies were given seven days to respond to initial show-cause orders last year.

"Further review was conducted by a technical review committee for five months before releasing the results, ensuring that we followed the process meticulously," Lopez said in a statement.

However, Lopez said the

MICC review would only be recommendatory, hence it would be ultimately up to her if she would consider them.

Dominguez told reporters that Lopez may indeed "ignore" the recommendations of the MICC.

But both Dominguez and Lopez acknowledged that in the end, Mr. Duterte would have the final say on whether the closure orders will be ultimately implemented, as affected companies can still appeal to the President.

Lopez nonetheless said the review may cover all mines and mining operations, including those not yet issued closure orders.

"We'll look at the contract of each mining firm. If there's a

clause that they can appeal or invoke arbitration, they can do so," Dominguez said.

Meanwhile, the country's biggest business group has added its weight to a push to observe due process with respect to the order of Lopez for the closure of 23 mines and the suspension of five others.

Hans Sicat, president and chief executive of the Philippine Stock Exchange, on Friday told a forum that the DENR's announcement of the orders "may have been a worrisome trend, if not very irresponsible."

The forum was organized jointly by the Philippine Chamber of Commerce and Industry and the Chamber of Mines of the Philippines. —WITH A REPORT FROM JAYMEET T. GAMIL INQ



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STRATEGIC COMMUNICATION AND INITIATIVES SERVICE

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Mining body to respect due process for firms

By MARY GRACE PADIN

Should the mines remain operational pending review?

The inter-agency Mining Industry Coordinating Council (MICC) has decided to form a multi-stakeholder committee that will review and advise the Department of Environment and Natural Resources (DENR) on the operations of mining companies in the country.

On Thursday evening, Finance Secretary Carlos Dominguez III and Environment

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Part 1



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STRATEGIC COMM

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Mining body to respect
due process for firms

Secretary Regina Lopez released MICC Resolution 6, which lays out the government's actions in consultation with local government units following DENR's order to close 23 mining firms and suspend five others.

"The review shall be based on the guidelines and parameters set forth in the specific mining contract and in other pertinent laws, taking into account the valid exercise of the state's police power to serve the common good, especially of the poor," it added.

In a briefing, the Chamber of Mines of the Philippines (COMP) welcomed the review and asked that the industry be included in the process to ensure fairness.

COMP chairman Artemio Disini said the move would give concerned mining firms the opportunity to address the allegations hurled at them and would mean the mines would remain operational.

Lopez, for her part, also said she welcomes the review, as it may present a "multifaceted" solution to the mining issues in the country.

However, she said she still stands by her decision to cease all mining operations in watersheds.

"I've already made my decision and the MICC is recommendatory. They're not in a position to tell me what to do," Lopez said.

"The President is the only one who can overturn the decision," she added.

The DENR chief said the closure and suspension orders would be sent to the affected mining firms in about two days.

Once the document is received, the firms can opt to submit a motion for reconsideration with the DENR or file an appeal before the Office of the President.

"If they don't appeal, they have to stop operations, including suspension," Lopez said.

Disini, however, argued that required standards should be followed and be well-implemented following statements from Lopez that closure and suspension orders would remain valid.

Dominguez said the council has to step in because "there's a knock-on effect if they (miners) lose their jobs, so the council will put together a group to assist the DENR in preparing all of these programs to assist and to mitigate any hardship that will come to the individuals who will be affected by potential mine closure."

Part 2

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STRATEGIC COMMUNICATION AND INITIATIVE

Remedies

COMP executive vice president Nelia Halcon said Lopez "has to follow" the collective decision not

only of the members of the Cabinet but of the President instead of insisting on her decision to close and suspend 28 mining operations.

Global Ferronickel Holdings president Dante Bravo said the process should also involve the industry.

"We would appreciate if it will involve the industry to be fair. We don't know yet how it's going to work and what will be the involvement of the mining industry," he added.

"It states there that you have to follow the law, due process and the contract. The problem is how DENR would interpret due process," Bravo added.

Stakeholders, meanwhile, reiterated they have not received any order on cancellation or suspension even if the department said it has already sent out notices.

"Due process requires that the accused be given the opportunity to respond. Both parties be heard, evidence be presented and any decision should be based on substantial evidence," COMP legal and policy vice president Ronald Recidoro said.

He added that it is plain denial of due process when Lopez ordered an audit but chose to disregard the recommendations of her own team.

"There was a grave abuse of authority flowing to the DENR process," Recidoro said. "Through the freedom of information executive order, the chamber continues to request for the actual audit and not just the summation and conclusion of the report."

COMP president Benjamin Philip Romualdez said for fairness and transparency, the President must be given the opportunity to allow the process to continue.

"The position of the DENR is complicated. It must be run by someone who has technical capacity and the ability to balance interests. The position of the DENR is not just the position of the environment, but the position of natural resources," Romualdez added.

Romualdez said he is not worried about the future of the sector because "I have every confidence" in Duterte.

"He is a wise man on deciding on what policy direction he must take, who he must listen to in order to bring the country forward. The President will decide and he has decided that they (companies) be given due process and those with violation be allowed to remedy them," Romualdez added.

The Philippine Chamber of Commerce and Industry (PCCI), the country's largest business group, and local stock market

operator Philippine Stock Exchange (PSE) also expressed their discontent over DENR's lack of due process and transparency in ordering the closure and suspension of mining companies.

"Responsible mining is very important to our economic development. Our concern is not who is right or wrong, but we want clarity, transparency and due process," PCCI president George Barcelon said.

Such concern was seconded by PSE president and chief executive officer Hans Sicat, who said that as a regulator itself, the PSE finds what happened worrisome, particularly to the five listed mining firms included in the blacklist.

"We thought this is a very worrisome trend, if not very irresponsible move (on) the part of the DENR. From PSE standpoint, we are used to where processes and benchmarks are followed," Sicat said.

According to the PCCI, mining has substantially contributed to the growth and development of its host communities through its effective CSR programs.

The group said industries such as construction, transportation and energy are also reliant on the commodities produced by the mining industry.

"Obviously, we are putting at stake jobs and substantial revenues for the country," Barcelon said.

He said business groups such as the PCCI share the commitment of the government to protect the country's natural resources so that future generations will have access to viable and dignified living as well as inclusive growth and development.

"We believe there should be a balance between the protection of the physical environment and the welfare of people who live off the land," Barcelon said.

"We certainly welcome the announcement from Malacañang that the mining companies up for closure or suspension will be given an opportunity to respond to the mining audit. PCCI sees this announcement as an opportunity to call for an open dialogue on mining as a legitimate industry, capable of contributing to economic growth in a sustainable manner," he added.

Life after mining

In Butuan City, lawyer Evelyn Ramos, regional director of the Department of Labor and Employment in Caraga, said 20,589 direct and indirect workers are expected to be affected by the DENR decision. — With Ben Serrano, Louise Maureen Simeon, Richmond Mercurio, Christina Mendez, Paolo Romero

Mining body to respect
due process for firms

part 3

STRATEGIC COMMUNICATION AND INITIATIVES SERVICE

Lopez to observe due process on mine decision

BY MADELAINE B. MIRAFLOR

Environment Secretary Gina Lopez will observe due process in relation to her mine closure and suspension orders like what she's been told but she stood firm on her decision that the 28 miners involved in the issue must either be shut down or suspended.

She also assured that there will be no re-audit in the mining sector even if the Mining Industry Coordinating Council (MICC) recently released a memorandum wherein it was vaguely mentioned that there will be another review on the mining companies' performance.

"(We will observe) the due process that is mandated in the law. I have followed it and I will continue to follow it," Lopez told Business Bulletin.

This, after Presidential spokesman Ernesto Abella said on Wednesday that President Rodrigo Duterte and his Cabinet have "collectively" decided to observe due process in dealing with the mining issues.

After that, MICC, which is co-chaired by Lopez and Finance Secretary Carlos Dominguez, convened and came up with a one-page resolution.

Pursuant to EO (Executive Order) 79, the MICC shall create a multi-stakeholder to review

and advise the DENR on the performance of existing mining operations in consultants with local government units," the resolution reads.

"The review shall be based on the guidelines and parameters set forth in the specific mining contract and in other pertinent laws, taking into account the valid exercise of the State's police power to serve the common good, especially the poor," it added.

When asked for clarification if this means there will be another audit, Lopez said in a text message: "No there is absolutely no (re-audit). There's no need for it".

"The MICC is recommendatory," she added. "I still make the decisions and I have already made my decision... They can do another review and find out other things and suggest other ways moving forward. But my stand on mining in watersheds stands. It is backed by law."

Chamber of Mines of the Philippines (COMP) chairman Art Disini, on the other hand, said the move of the MICC to conduct another review will certainly give the mines for closure or suspension the opportunity to address the allegations hurled at them.

He said that this also means these mines will remain operational and relieve the fears of our communities and employees.

1 Story

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STRATEGIC COMMUNICATION AND INITIATIVES SERVICE

Atienza to Lopez: BARE AUDIT REPORT ON MINE FIRMS

A FORMER secretary of the Department of Environment and Natural Resources (DENR) turned opposition House leader yesterday urged Environment Sec. Gina Lopez to disclose the audit report that led to the order closing 23 mining firms and suspending five others. /Page 6

Bare...

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House senior Deputy Minority Leader and Buhay-Hayaang Yumabong (Buhay) party-list Rep. Lito Atienza, a former secretary of the DENR during the Arroyo administration, said Lopez should reveal the full report as soon as possible for the sake of transparency and accountability.

"Sec. Lopez is accountable to this report and she should make this available in public for transparency," said Atienza.

"She should not keep the full report close to her chest because the people deserve to know the truth," Atienza stressed.

Atienza said disclosing the report is very material, especially now that the Palace has put on hold the closure and suspension orders on 28 mines purportedly to give way to due process.

"No less than President Rodrigo Duterte and members of his Cabinet

collectively decided to observe the right to due process of the affected mining companies," Atienza explained.

He pointed out that the continued failure of Lopez to immediately submit the audit report for public scrutiny could be tantamount to violating the Executive Order No. 2 issued in 2016 and DENR Administrative Order No. 2016-19, both providing guidelines for the right to full disclosure and transparency of public transactions or the Freedom of Information (FoI) in the Executive Department.

"The copies of mine audit reports should be given to the concerned personalities and groups, including the public as mandated by the FoI in the Executive Department," said Atienza as the Chamber of Mines of the Philippines (COMP) also aired a similar call.

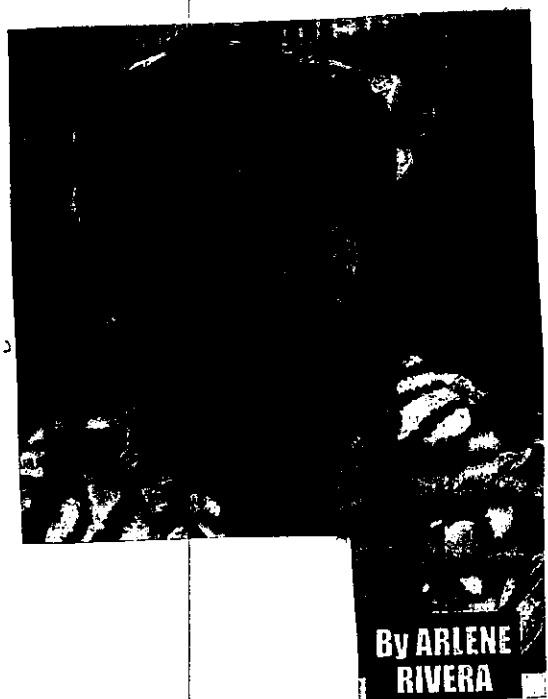
Earlier, Surigao del Norte Rep. Robert Ace Barbers assailed Lopez for her decision, explaining the audit report was

purportedly being kept secret and many of the firms affected by the ruling are legitimate and responsible in their operations.

Barbers, who chairs the House committee on dangerous drugs, said Lopez could have been misled by one of her alleged consultants, former Environment Undersecretary and Chief of the Mines and Geosciences Bureau (MGB) head Leo Jasareno, who headed the audit team but was later on sacked by President Duterte.

"When Secretary Lopez was appointed as DENR chief, she ordered the audit of all mining firms nationwide. Unfortunately, despite his dismissal, Jasareno was retained as the head of the audit team," Barbers said.

According to Barbers, the so-called environmental violations, if true, could be the result of years of alleged neglect or tolerance of former Environment Sec. Ramon Paje and the Jasareno-led MGB.



By ARLENE RIVERA

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STRATEGIC COMMUNICATION AND INITIATIVES SERVICE

EDITORIAL

CoMP invokes FoI

IT is a crucial test of the "equal protection" principle.

This pertains to citizens or individuals as well as private entities or corporations invoking their right to disclosure of or access to official or government documents with great potential impact on the public interest.

At the heart of the issue is the parity of rights between citizens and corporate entities.

The Chamber of Mines would now use the power of the Executive Order 2 signed by President Duterte in July 2016.

The EO aims to make government transactions transparent through the freedom of information.

This would also give the public the power to get information from any government entities.

The group said, to this day, it has not received any document that contains the result of the mining audit conducted by the Department of Environment and Natural Resources.

Environment and Natural Resources Sec. Gina Lopez has announced the result of the audit on February 2 wherein 23 mining operations have been ordered closed while 5 are for suspension.

The Chamber would like to know the basis of the secretary especially in shutting down the mining operations.

"We have to get that data because as of now we don't have any information regarding the reasons why. In fact what we have heard is that Mines and Geosciences Bureau has their own decisions and recommendations but these were not entirely followed," said Chamber of Mines chairman, Art Disini.

Under the EO, the requested agency is given 10 to 35 days to show the request.

Failure to do so would result in filing of administrative charges.

The group also appeals to President Duterte to review the decision of the DENR.

The Chamber said it would still continue to operate until there is no formal order or until the DENR shows the result of the audit report.