

STRATEGIC COMMUNICATION AND INITIATIVES SERVICE

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DENR sees mine audit results released in Nov.

THE Environment department has once again delayed releasing the results of its environmental-compliance audit of metal mines.

"Maybe first week of November," said Environment Secretary Regina Paz L. Lopez in a phone interview late Monday when asked about the department's timetable for releasing the results of its two-month long review.

The agency has so far sent out to 16 mining companies, including some facing suspension, the results of their respective reviews and letters asking them to explain the findings.

"Although it is noteworthy that as of today (Monday) we have had two responses," she added.

Ms. Lopez said she is set to sign the issuance of 22 more individual reports, including those to miners being recommended for suspension and those that were found to have compliance issues not serious enough to merit suspension.

Global Ferronickel Holdings, Inc. President Dante R. Bravo said that the delays affect some miners more than others.

"If it involves a listed company, definitely the prospect of suspension (creates) uncer-

tainty... for unlisted companies the concern is primarily continuity of operations," he said in a phone interview on Tuesday.

Mr. Bravo noted that the company whose subsidiary Platinum Group Metals Corp., one of the 11 miners that were not singled out for suspension, has not received any letter or reports but will address the findings once received.

The Chamber of Mines, however, reiterated its earlier stance that the accuracy of the findings is more crucial.

"It's not really so much on the delay but more on the accuracy of the report,"

said CoMP Vice President for Legal and Policy Ronald V. Recidoro in a phone interview on Tuesday.

Mr. Recidoro added that those recommended of suspension are absorbing "damage to their reputations."

To cite a the latest case filed against the regulator in light of the audit, listed Lepanto Consolidated Mining Co. filed graft and corruption charges against former Environment OIC, Undersecretary Leo L. Jasareno who headed the audit before being relieved by President Rodrigo R. Duterte.

The firm alleges that Mr. Jasareno's announcement on Sept. 27 when he revealed the initial audit results were at variance with the audit team's finding of compliance with environmental regulations.

The announcement, according to the firm, "besmirched the good reputation of Lepanto as a responsible mining company" pulling down share prices.

The mines suspended outright of recommended for suspension account for 55.5% of the country's nickel output last year. — **Janina C. Lim**

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Companies seeking consultation before DENR's ECC audit

By MADELAINE MIRAFLORES

Companies holding environmental permits, but not engaged in the mining business, want to hold dialogues with the Department of Environment and Natural Resources (DENR) to ensure smooth compliance with government regulations.

To ensure other business will not suffer the "chaotic" fate of some mining companies, a number of businessmen now want to meet with the DENR for a proper consultation before the agency starts its "intense evaluation" of their environmental compliance certificates (ECCs).

Business groups fear that other industries, including property, manufacturing, infrastructure, construction, and power, could be interrupted once the DENR starts the reevaluation.

"I don't believe the guidelines on the intense evaluation on ECCs beside mining have been discussed with other sectors. There should be consultation first before implementing," Philippine Chamber of Commerce and Industry (PCCI) President George Barcelon told Business Bulletin.

"Otherwise it would be chaotic like what happened to the mining industry," he added.

PCCI is currently the largest and most influential business organization in the country.

Makati Business Club Executive Director Peter Perfecto has the same appeal to the DENR.

"My call and appeal to the DENR is for constructive dialogue and consultation with the business sector so that we can hopefully agree on a mutually acceptable evaluation process."

further said.

The DENR will likely start the audit of 800 existing ECCs next month.

DENR Undersecretary for Legal Ipat Luna said on Tuesday that the agency will come up with a set of guidelines that will set the direction for the audit on ECCs.

According to her, companies with existing ECCs will be formally informed of the said audit once the guidelines are issued.

When asked how long the audit will take, Luna only said "SGL [Secretary Gina Lopez] instructed that it must be done

When asked about this, Environment Secretary Gina Lopez said she is open to have a dialogue with the companies first but she didn't give any other details as to when and how this will happen.

"Yes, absolutely, just to be fair. Yes we will talk to them so they can give their side," Lopez told Business Bulletin.

Lopez said the DENR will prioritize suspending projects that have the most negative impact on the government, putting emphasis

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ERDB replants 42 ha of polluted Bagacay Mine in Western Samar

THE Ecosystems Research and Development Bureau (ERDB) has replanted 42 hectares of mined-out Bagacay Mine in Western Samar, which has regenerated heavily metal-laden soil through "bioremediation".

Species used that have aesthetically greened the area are Mount Agoho (*Gymnostoma rumphianum*); vetiver (*Vetiveria zizanioides*); narra (*Pterocarpus indicus*); *Acacia auriculiformis*; and mangium (*Acacia mangium*).

"Today the aesthetic condition of the waste-dump area has improved. A total of 42 hectares of mined-out area have been successfully planted already. The project has also provided employment to the surrounding community," ERDB Director Henry A. Adornado said in a statement.

The joint project of ERDB and the Mines and Geosciences Bureau (MGB) called An Integrated Science-Based Approach in the Rehabilitation of Mined-out and Waste Dump Areas in Bagacay, Hinabangan, Samar, started in 2009 in the mined-out area of Bagacay—a 2,672-hectare former copper and pyrite area.

Bagacay Mine used to be operated by Marinduque Mine Industrial Corp. from 1956 to 1985 and by the Philippine Pyrite Corp. from 1986 to 1992. It ranked first in the general risk ranking among the seven inactive mines in the Philippines.

In the joint research by the ERDB and the MGB, both attached agencies of the Department of Environment and Natural Resources (DENR), three experimental blocks of land measuring 20 meters by 50 meters have been put up. All these three experimental blocks were chosen for having been laced with heavy metals.

"The ERDB determined the potential of selected indigenous tree species in regreening and absorbing toxic elements in the abandoned mined-out area," said Adreana Santos-Remo, ERDB information officer.

After the study period, high concentrations of heavy metals were recorded for Mount Agoho, mangium, *A. auri* and narra. This showed that the four species planted on the metal-filled soil were most efficient in absorbing the metals and in distributing heavy metals from their

roots to leaves.

"All hope is not lost for the environment. The initial results of the phytoremediation study conducted by the Department of Environment and Natural Resources-ERDB and the MGB revealed that mined-out areas can be rehabilitated through the use of appropriate technology," Adornado said.

ERDB forester Gregorio E. Santos Jr., study project leader, said that with the inherent bioremediation (metal and pollutant absorption) capacity of selected tree species, along with the fertilization technique, an observable increase in the height of mangium and Agoho del Monte was observed in the former mine.

Biomass (dried leaves and branches) produced by narra was noted to provide nutrients to the soil, which prompted the growth of grasses and other shrub species.

The research also revealed that organic fertilizer treatment could work well in areas like the Bagacay mine.

The combination of 1-by 3-meter forest soil, 1-liter agricultural lime and 3 liters of organic fertilizer (chicken manure) was found to

be the best treatment for the four tree species that were included in the study, according to the ERDB.

The ERDB said it hopes that the joint research would inspire other mining companies to use similar rehabilitation protocols to bring back the natural state of the mined-out areas in the Philippines.

The agency is also implementing the use of other ERDB-developed technologies, such as carbonized biomass and Hi Q Vam 1 in this endeavor. The ERDB experts applied Hi Q Vam on the plants while they were growing.

Hi Q Vam, also mycorrhiza, is a fungus that has a symbiotic relationship with plants. Mycorrhiza resides in plant roots and causes soil nutrients to retain in the roots, causing survival and growth in plants despite adverse soil condition, such as heavy-metal content.

Adornado said Section 47 of Presidential Decree 705 of the Revised Forestry Code of the Philippines requires mining companies to restore mined-out areas as near to its former natural state before the mining operation.

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ENV'T GROUP RAISES ALARM OVER CORAL POACHING IN TAYABAS BAY

By Delfin T. Mallari Jr.
@dtmallarijrINQ

LUCENA CITY—The threat of coral poaching in Tayabas Bay has surfaced after the recent arrest of a fisherman who yielded 11 sacks of assorted corals harvested in this body of water in Quezon province, a local environmental group said.

"It seems that aside from unabated illegal fishing and other destructive fishing activities, coral reef poachers also threaten the marine life of Tayabas Bay," said Zeny Bernal, Tanggol Kalikasan Southern Luzon program director.

Bernal said Mateo Taneo, 60, a fisherman from Barangay Dalahican here, was arrested by a team of personnel from the police's maritime group and local Bantay Dagat (sea watch) on Oct. 20.

Quoting a police report, Bernal said authorities saw sacks containing corals, some of these pulverized, along a village road.

Taneo admitted that he owns the sacks of corals and he intends to sell these in Pasay City.

Bernal said Taneo was also nabbed for coral smuggling last year. She said Taneo was selling a piece of coral for P10.

"As a first time offender, the suspect was only fined P2,000 and was ordered to plant 2,000 mangroves as community service," Bernal said.

A local fisherman, who

sort to coral poaching due to unfair competition from commercial fishers operating in the bay.

"Most often, our catch is only enough for the family table. Coral poaching is our recourse to avoid hunger," the fisherman said.

Price of corals in the underground market varies depending on the size and form, the source said.

"Earning a few hundreds to a couple of thousands is easy in a single dive. There are always ready buyers," he said.

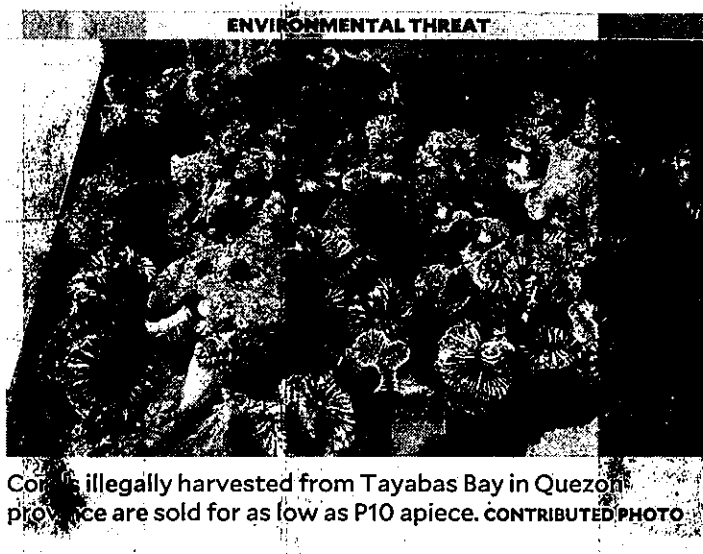
Section 96 of Republic Act No. 10654 (Amended Philippine Fisheries Code) prohibits any person or corporation to "gather, possess, commercially transport, sell or export ordinary, semi-precious and precious corals, whether raw or in processed form, except for scientific or research purposes."

It said it is "unlawful for any person, corporation or entity to commit any activity that damage coral reefs."

Bernal said poaching happens because coral reefs are highly valued decorative materials among aquarium vendors and landscape artists.

The depletion of marine resources of Tayabas Bay covering parts of Quezon, Marinduque and Batangas provinces has long been the subject of concern among environmentalists and local governments.

Aside from coral reef poaching, large vessels of commercial fishers operate in the bay while dynamite fishing



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'Dissolved oxygen caused fish float'

By **ANTHONY GIRON**

TRECE MARTIRES CITY, Cavite — The reported fish kill in Tanza, this province, recently was, in fact, a "fish float" caused by dissolved oxygen or low oxygen levels in the water, the Provincial Government-Environment and Natural Resources (PG-ENRO) officer clarified yesterday.

Citing the report by Tanza Municipal Environment and Natural Resources Office (MENRO), Engineer Roliño Posas said that low oxygen due

to changing water temperature was the cause of the incident which the PG-ENRO tagged as a "fish float."

"Lumutang ang mga isda dahil mababa ang oxygen. Kapag nag-iiba ang water temperature nagkakaroon ng BOD (biological oxygen demand). Actually mga sariwa at buhay ang mga isda na lumutang at nakuha (The fish floated due to low oxygen. There is the biological oxygen demand when water temperature changes. The fish gathered were fresh and alive)," Posas said.

He said that fish, mostly the "sap-sap" species, floated in the waters of Barangay Capipisa on October 13 and in Barangays Julugan I and Julugan III on October 14.

The Bureau of Fisheries and Aquatic Resources reported that some 3,500 kilograms (or 3.5 tons) were hauled on 17 "banyeras" (fish containers) in those two days.

Posas said some residents gathered the fish, "took them home, cooked and ate them as they were fresh, alive and in good condition."

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REBUILDING COMMUNITIES

'LUMAD' EVACUEES NOW HOME, FACE CHALLENGE OF RESTARTING LIVES

By Ryan Rosaura
@rosaurorINQ

ILIGAN CITY—It will take about six months for the lives of lumad (indigenous peoples) evacuees, who recently went home to their communities in Surigao del Sur province, to return to normal, a humanitarian agency said.

Last month, about 4,700 people—mostly belonging to indigenous families—returned to their hometowns of Tago, Marihatag, San Miguel, Lianga and San Agustin after evacuation last year following the killing of three civilians by paramilitary forces.

The families spent about a year in the provincial sports complex in Tandag City.

"The main challenge for these returning communities will be how they can restart their lives. It will take them at

least six months to start rebuilding. With ample support, they will be able to recover faster," Olav Sinsuat, head of the International Committee of the Red Cross (ICRC) office in Butuan City, said.

For about a week starting Oct. 13, ICRC, with the support of the Philippine Red Cross (PRC) chapter in Surigao del Sur, distributed aid to the returning families.

ICRC, in a news release, quoted Tago town resident Demetrio Bada as saying that when they returned home, their livestock and crops were all gone.

"Weeds and grass covered our fields. We will have to replant and revive our farms so we can provide for our families," Bada said.

To help the returning evacuees cope, ICRC said it provided each family with half-month food rations consisting of 25 kilograms of rice, 12 cans of sar-

dines, two liters of cooking oil, a liter of soy sauce, a kilogram of sugar, half a kilogram of salt, and hygiene items.

Each family also received seeds of string beans, eggplant, squash, bokchoy (pechay), and bitter melon (ampalaya) for them to grow vegetables in their backyards for their consumption.

Between September 2015 and February 2016, ICRC and PRC augmented the aid provided by the government to more than 3,200 displaced people in Surigao del Sur through distribution of food, household, and medical items; provision of potable water; and construction of toilets in the evacuation center. INQ

WHAT WENT BEFORE

In September 2015, at least 3,000 lumad from the towns of Lianga, Marihatag, San Agustin, San Miguel and Tago in Surigao del Sur evacuated after a paramilitary group killed three lumad leaders in the village of Diatagon in Lianga.

The Magahat-Bagani paramilitary group shot and killed administrator Emerito Samarca of the Alternative Learning Center for Agricultural and Livelihood Development. Dionel Campos of the

Malahutayong Pakigbisog Alang sa Sumusunod and his cousin Juvello Sinzo.

Over 800 students in three lumad schools in the province were among the evacuees.

Multiple murder and other criminal complaints were filed days after the incident against 23 leaders and members of the paramilitary group. —COMPILED BY KATHLEEN

DE VILLA, INQUIRER RESEARCH

Sources: Inquirer Archives

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DENR-Zambales officials face raps before OMB

By JONAS REYES

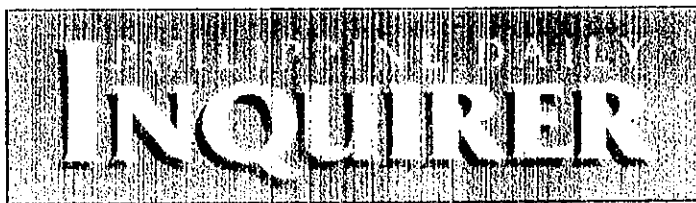
OLONGAPO CITY, Zambales — The Provincial Environment and Natural Resources Office (PENRO) officer in Zambales, the chief of the Olongapo City Environment and Natural Resources Office (CENRO) and a CENRO special investigator are facing charges before the Office of the Ombudsman (OMB)

for their actions that allegedly resulted in a group of complainants deprived of ownership of a one-hectare beach property here.

In a case filed before the OMB for Luzon last September 30, PENRO Officer-in-Charge Laudemir Salac, CENRO Marife Castillo, and CENRO Special Investigator Emelita Lambinico were charged by Samuel Montecastro, rep-

resenting the owners of The Cliff Beach resort in Barangay Barretto, this city.

Montecastro, in his complaint to the Ombudsman, said the three environment officials caused the issuance of the Order of Award, Miscellaneous Sales Patent and Original Certificate of Title over the said beach property allegedly based on falsified statements and fraudulent documents.



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OPINION

The rule of law in the seas of Asia

COMMENTARY

JUN TSURUTA

Tokyo—In the seas of Asia, disputes and conflicts frequently arise between China and other countries, particularly around the Spratly and Paracel Islands in the South China Sea. There have been instances in which these countries' warships and other vessels confronted each other, or even collided. For the seas of Asia to be open and stable, we must first verify the extent to which these countries have the same interpretation of what is and is not allowed under the present international law of the sea, and the points in which they differ. Next, they must work together to come up with remedial measures. With these efforts, the ambiguity and insufficiencies of the international law of the sea should become clear.

Because of the ambiguity of the international law of the sea, the concerned countries' responses to specific cases are likely to differ. If resolving these differences in interpretation proves difficult, we need to clarify these differences, assume in advance that confrontations and collisions may happen in specific individual cases, and prepare to prevent and mitigate them. In short, we need to properly manage these differences internationally.

The insufficiencies of the international law of the sea make it reasonable to argue for new international rules, or to make a request to change it. There are various factors to determine whether this request is accepted by concerned countries and leads to the thesis for a new international law of the

sea, such as systems like the continental shelf and exclusive economic zones that were created in the past. Another important point is whether the international order that forms under the new international law of the sea is better than the existing one.

But in the case of China, it is unclear whether the rule of law in the seas of Asia means the present international law of the sea or a new one corresponding to its vision for a better international order.

In 2002, Asean and China adopted the Declaration on the Conduct of Parties (DOC) in the South China Sea. The DOC advocates compliance with the charter of the United Nations and the UN Convention on the Law of the Sea (Unclos); respect for freedom of navigation in the South China Sea; peaceful settlement of disputes on territorial rights and jurisdiction over the waters; and restraint on acts that could result in the complication and aggravation of disputes.

Because the DOC is not legally binding, the parties also agreed to move forward with the adoption of a legally binding code of conduct (COC) in the South China Sea. No real progress was made after that, but the parties agreed at the fourth official high-level meeting last August to accelerate negotiations on adopting the COC. This

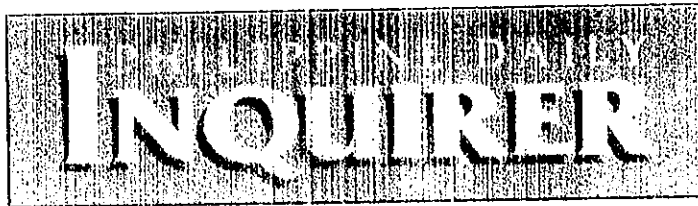
sentiment was echoed in the remarks of Liu Zhenmin, China's vice minister of foreign affairs, who indicated that a draft of a framework for the COC would be completed by mid-2017.

But even if the COC is adopted in the future, it is not certain how effective it would be in overcoming confrontations and disputes in the seas of Asia. Still it is important to encourage countries to clarify their views and the points on which they differ, and share these through negotiations conducted within Asean's multilateral framework. Asean has adopted a decision-making system called the "Asean Way," by which the member-countries reach unanimous agreement through negotiations.

If negotiations among Asean countries can clarify the extent to which they share the same interpretation of the Unclos on specific individual problems arising in the seas of Asia and the points in which they differ, they will arrive at a common framework for exchanging assertions, and conducting negotiations in the future.

Also, if the concerned countries reach a unified interpretation of the Unclos, they will be able to avoid and prevent disputes from deteriorating. Ultimately, the negotiations for adopting the COC itself could hold great significance toward ensuring the rule of law in the seas of Asia.

Jun Tsuruta is associate professor at Japan's National Graduate Institute for Policy Studies.



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The Constitution and the West Philippine Sea

Prior to *Philippines v. China*, we had claims under the United Nations Convention on the Law of the Sea (Unclos) about our maritime entitlements in the West Philippine Sea. So did China. The arbitration resulted in an overwhelming validation of the Philippines' arguments, and an emphatic rejection of China's. The four corners of every page of *Philippines v. China* determines with finality our specific rights in the West Philippine Sea.

In gist, the decision declared unlawful China's nine-dash line. It recognized the full breadth of our exclusive economic zone, and our rights over Ayungin Shoal, Mischief Reef, and Reed Bank. The tribunal further recognized traditional fishing rights within the territorial sea of Scarborough Shoal.

The character of the Philippines' and China's claims is now different. We don't have mere claims; we now have rights. Our rights trump China's claims. We won, it lost.

Strategically, what President Benigno Aquino III has done is replace the platform for asserting our rights from one based on politics to another based on law. We did not just win chips that may be bargained away. We have replaced the table where the game is played. We got permanent leverage.

Philippines v. China must be read in relation to Art. XII, Sec. 2 of our Constitution: "The State shall protect the nation's marine wealth in its archipelagic waters, territorial sea, and exclusive economic zone, and reserve its use

COMMENTARY

FLORIN T. HILBAY

and enjoyment exclusively to Filipino citizens." The decision is the legal baseline for our foreign policy in the West Philippine Sea. This is a nonnegotiable, prepolitical constitutional mandate for every administration.

Let me focus on specific areas of concern.

Historic rights. The purported basis of China's nine-dash line was the existence of historic rights that predated the Unclos. For various reasons, the tribunal rejected their existence and validity. Every administration has the obligation to not give any more credence to these imaginary rights. It would be sadly ironic if the country that debunked these imaginary rights end up validating them while everyone else in the world use our victory as basis for rejecting China's claims.

Traditional fishing rights. The tribunal characterized Scarborough Shoal as rocks entitled to a territorial sea of 12 nautical miles within which Filipinos and other nationalities enjoy traditional fishing rights. China is now under legal obligation to recognize these rights.

We should be wary of the temptation to agree to any permission system for traditional fishing at Scarborough Shoal not only be-

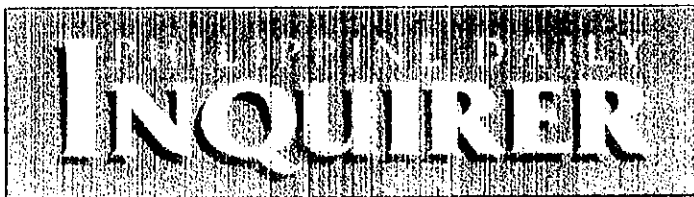
cause such a system is a diminution of our rights but also because, more important, such system could implicitly and dangerously carry a recognition of China's territorial rights over Scarborough Shoal. The incremental move forward is a rights management agreement which may cover the peaceful and responsible exercise of fishing rights, while setting aside territorial disputes over the rocks.

Joint development. The characterization of Reed Bank as a submerged reef within our exclusive economic zone negates the possibility of joint development with China. Our victory at The Hague makes joint development a constitutionally untenable bargaining stance. But the larger problem is that entering into such an agreement implicitly revives China's expansive claims. This is because joint development assumes China has rights that extend to our waters.

The President is the chief architect of foreign policy. He has wide leeway, constrained by the Constitution. A wide variance between the mandate of the Constitution and his preferred foreign policy will impact the national interest, affect his legacy, and trigger the accountability provisions of our Constitution.

One must therefore be careful about gambling on any sudden pivot. Instead of an easy layup, we might end up with broken ankles and lost territories.

Florin T. Hilbay is a former solicitor general. He was agent to the Republic in *Philippines v. China*.



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TRADERS, INVESTORS SUPPORT COAL-FREE ILOCOS NORTE

LAOAG CITY—The Ilocos Norte chapter of the Philippine Chamber of Commerce and Industry has supported the provincial government's decision to keep the province clean, green and free from destructive coal power plants.

Ricardo Tolentino, chapter president, said the province was on the right track safeguarding its resources "by discouraging all manner of coal projects from being developed" in Ilocos Norte.

A resolution approved by the provincial board said Ilocos Norte should be a "clean,

green and coal-free province."

"Declaring Ilocos Norte as coal-free manifests our effort to make use of clean and renewable energy like our windmills. This is a good development on our part considering the stronger typhoons and floods that come our way due to extreme weather," Tolentino said.

He said the local business sector consumes far less electricity than its counterparts in highly urbanized areas like Metro Manila so designating Ilocos Norte as coal-free works to its advantage. —LEILANIE

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Sovereignty unresolved but we must be thankful for fishing rights

ON Scarborough Shoal, which is Panatag Shoal or Bajo de Masinloc to us, the Philippines and China have simply agreed to disagree.

China claims Scarborough is a historic part of China. It lies within the Nine-Dash Line that the Chinese government drew on a map in 1947. The Nine-Dash Line loops south from Hainan, following the Vietnamese coast, then east towards Palawan, north close to the various Philippine islands, then northeast to include Taiwan.

The Philippines, on the other hand, points out that Panatag is only 150 miles from the Zambales coast and is, therefore, well within the 200-mile Exclusive Economic Zone of the Philippines under the United Nations Convention on the Law of the Sea (UNCLOS). In the recent ruling of the Permanent Court of Arbitration in The Hague, it emphasized that the Scarborough Shoal is a traditional fishing area for fishermen of various nations and should remain so.

During his China visit, President Duterte said he and President Xi Jinping both stood firm on their claims to sovereign rights to the shoal and surrounding waters. "I told him we won the case and we were told (Scarborough) belongs to us. But he said 'That belongs to us historically and we will not give it up'." The two leaders agreed that the dispute could be resolved through talks, President Duterte said.

In the next few days, we should see if the President was right to be optimistic. If he is, we

should see our fishermen back at Scarborough or Panatag, from which they have been blocked by Chinese ships in the last four years. In 2012, the Chinese had used water cannons to force Filipino fishing vessels away. It was what had caused then President Benigno S. Aquino III to file the Philippine case against China in The Hague.

We won the case in The Hague. It ruled that the Nine-Dash-Line has no legal basis. It upheld the freedom of navigation in the entire South China Sea, which was what concerned the United States the most. It ruled that traditional fishing grounds, such as those at Scarborough, should remain open to all fishermen.

None of this mattered to China which had declared from the beginning that it did not recognize the authority of The Hague. It continues to maintain this stand to this day. But now, after his visit, President Duterte believes our fishermen can soon return to their old fishing grounds and earn a living as they used to. The question of sovereignty remains unresolved, with both the Philippines and China claiming the shoal. But in the meanwhile until further talks, China—because of the goodwill visit of President Duterte—may cease blasting at Filipino fishing vessels with water cannons.

We thus continue to disagree on the legal issue of ownership and sovereignty. But we can agree on allowing fishing in the area. For this concession which President Duterte has managed to win, we must be thankful for now.