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SENATE

PSR No. 307

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Introduced by Senator Loren Legarda

A RESOLUTION

DIRECTING THE SENATE COMMITTEES ON ENVIRONMENT AND NATURAL RESOURCES AND ECONOMIC AFFAIRS TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, AND TO LOOK INTO THE IMPLEMENTATION OF REPUBLIC ACT NO. 7942 OTHERWISE KNOWN AS THE PHILIPPINE MINING ACT OF 1995, PARTICULARLY THE COMPLIANCE OF EXISTING GRANTEEES OF EXPLORATION PERMITS AND CONTRACTORS UNDER MINERAL AGREEMENTS TO SAFETY AND ENVIRONMENT PROTECTION, AND THE IMPACT OF THESE MINING AGREEMENTS TO THE COUNTRY'S ECONOMIC GROWTH

Whereas, Section 16, Article II of the 1987 Philippine Constitution provides that the State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature;

Whereas, Section 2, Article XII of the same Constitution further declares that the exploration, development and utilization of natural resources shall be under the full control and supervision of the State. The State may directly undertake such activities, or it may enter into co-production, joint venture or production-sharing agreements with Filipino citizens or corporations or associations at least sixty per centum of whose capital is owned by such citizens;

Whereas, in 1995, Congress enacted Republic Act No. 7942 otherwise known as the Philippine Mining Act of 1995 which shall govern the exploration, development, utilization and processing of all mineral resources in the country. This Act opened all mineral resources in public and private lands, including timber of forest lands, to mineral agreements or financial or technical assistance agreement applications;

Whereas, Section 19 of R.A. No. 7942 declared the following as areas, closed to mining applications: 1) military and other government reservations, except upon prior written clearance by the government agency concerned; 2) near or under public or private buildings, cemeteries, archaeological and historic sites, bridges, highways, waterways, railroads, reservoirs, dams or other infrastructure projects, public or private works including plantations or valuable crops, except upon written consent of the government agency or private entity concerned; 3) in areas covered by valid and existing mining rights'; 4) in areas expressly prohibited by law; 5) in areas covered by small-scale miners, unless with prior consent of the small-scale miners; 6) old growth or virgin forests, proclaimed watershed forest reserves, wilderness areas, mangrove forests, mossy forests, national parks, provincial/municipal forests, parks, greenbelts,

game refuge and bird sanctuaries, and in areas expressly prohibited under the National Integrated Protected Areas System (NIPAS);

Whereas, under Section 20 of the same Act, the Mines and Geosciences Bureau has the authority to grant an exploration permit to a qualified person;

Whereas, Section 26 of the same Act provides for three modes of mineral agreements, namely: mineral production sharing agreement, co-production agreement, and joint venture agreement. In any case, the mineral agreement gives the contractor the exclusive right to conduct mining operations and to extract all mineral resources found in the contract area;

Whereas, Section 63 of the same Act provides that all contractors and permittees shall strictly comply all the mines safety rules and regulations as may be promulgated by the Secretary concerning the safe and sanitary upkeep of the mining operations and achieve waste-free and efficient mine development;

Whereas, Section 69 of the same Act provides that every contractor shall undertake an environmental protection and enhancement program covering the period of the mineral agreement or permit which shall be incorporated in the work, program which the contractor or permittee shall submit as an accompanying document to the application for a mineral agreement or permit. The work program shall include not only plans relative to mining operations but also to rehabilitation, regeneration, revegetation and reforestation of mineralized areas, slope stabilization of mined-out and tailings covered areas, aquaculture, watershed development and water conservation, and socioeconomic development;

Whereas, Section 71 of the same Act requires contractors and permittees to technically and biologically rehabilitate the excavated, mined-out, tailings covered and disturbed areas to the condition of environmental safety. Likewise, a mine rehabilitation fund shall be created based on the contractor's approved work program, and shall be deposited as a trust fund in a government depository bank and used for physical and social rehabilitation of areas and communities affected by mining activities and for research on the social, technical and preventive aspects of rehabilitation;

Whereas, Section 85 of the same Act established a semi-annual Mine Wastes and Tailings Fee which is imposed on all operating mining companies to accrue to a reserve fund for the payment for damages to: a) lives and personal property; b) lands, agricultural crops and forest products, marine life and aquatic resources, cultural resources; and c) infrastructure and the revegetation and rehabilitation of silted farm lands and other areas devoted to agriculture and fishing caused by mining pollution;

Whereas, in the landmark case of *La Bugal-B'Laan Tribal Association, Inc. vs. Ramos* (December 1, 2004) where the Supreme Court upheld the constitutionality of the Mining Act, the High Tribunal ruled that the Mining Act provides for the State's control and supervision over mining operations through provisions that establish the mechanism of inspection and visitorial rights over mining operations;

Whereas, the same case held that the State may compel the contractor's compliance with mandatory requirements on mine safety, health and environmental protection, and the use of anti-pollution technology and facilities. Moreover, the contractor is also obligated to assist in the development of the mining community and to pay royalties to the indigenous people concerned;

Whereas, latest data from the Mines and Geosciences Bureau of the Department of Environment and Natural Resources reveal a considerable amount of gross production value in mining: from P86.9 billion in 2008 to P106.1 billion in 2009. Also, the contribution of mining to gross domestic product (GDP) growth continues to improve, from 1.2% in 2008 to 1.3% in 2009. The mining's contribution to total employment in the country continues to grow, from 158,000 workers in 2008 to 166,000 workers in 2009. Moreover, there is an increasing number of operating metallic mines in the country. From 17 contractors in 2006, there are 24 contractors this year. Finally, the number of mineral agreements approved and registered dramatically increased, from 586 agreements in 2009 to 603 mineral agreements this year;

Whereas, mining, being essentially an extractive industry which results to the depletion of non-renewable sources, must be closely monitored to ensure that the provisions of the law, particularly those that enable the government to require the use of mining practices that would protect the environment and rehabilitate mined-out areas, are implemented;

Whereas, there is a need to look into existing exploration permits and grantees of mineral agreement to determine whether their operations are consistent with the provisions of the Mining Act particularly on safety and environment protection;

Whereas, it is incumbent upon Congress to determine whether the benefits derived from the mining industry are worth the social and environmental costs that results from it;

NOW BE IT RESOLVED, AS IT IS HEREBY RESOLVED, to direct the Senate Committees on Environment and Natural Resources and Economic Affairs to conduct an inquiry, in aid of legislation, and to look into the implementation of Republic Act No. 7942 otherwise known as the Philippine Mining Act of 1995, particularly the compliance of existing grantees of exploration permits and contractors under mineral agreements to safety and environment protection, and the impact of these mining agreements to the country's economic growth.

Adopted,



LOREN LEGARDA
Senator