

SIXTEENTH CONGRESS OF THE REPUBLIC )  
OF THE PHILIPPINES )  
Second Regular Session )



SENATE  
P. S. Res. No. 1338

15 MAY 13 P4:06

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Introduced by Senator Maria Lourdes Nancy S. Binay

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RECEIVED BY: *Ji*

**RESOLUTION**

**DIRECTING THE APPROPRIATE SENATE COMMITTEES TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, REGARDING THE ALLEGED VIOLATIONS OF REPUBLIC ACT NO. (R.A.) 7076, OTHERWISE KNOWN AS THE “PEOPLE’S SMALL-SCALE MINING ACT OF 1991” AND PRESIDENTIAL DECREE NO. (P.D.) 1899 ENTITLED “ESTABLISHING SMALL-SCALE MINING AS A NEW DIMENSION IN MINERAL DEVELOPMENT”, IN THE VILLAGE OF LA FRATERNIDAD IN THE TOWN OF TUBAY, AGUSAN DEL SUR PROVINCE**

**WHEREAS**, Under Rule X, Section 13 (24) of the Rules of the Senate, the Senate Committee on Environment and Natural Resources has jurisdiction over all matters relating to the conservation and protection of the environment, the regulation of the impact of human activities on the same, the promotion of environmental awareness of our citizens, the renewal of resources in damaged eco-systems and other environmental-related issues; and all matters relating to the administration, management, development, protection, exploration, storage, renewal, regulation and licensing, and wise utilization of the country's national reserves including, but not limited to, forest, mineral, public land, off-shore areas and the development of industries based on these resources;

**WHEREAS**, the laws governing small-scale mining activities in the Philippines, R.A. 7076 and P.D. 1899 define and classify small-scale mining;

**WHEREAS**, news reports have indicated that nearly 2 million metric tons of nickel ore worth billions of pesos were extracted by a controversial mining firm, whose politically-connected owners are being publicly accused of plunder but have not been formally charged or investigated<sup>1</sup>, in Tubay, Agusan del Norte province, allegedly in violation of existing mining laws;

**WHEREAS**, SR Metals, Inc., San R Mining and Construction Corp. and Galeo Equipment and Mining Company, Inc. previously filed a Petition for Certiorari with the Supreme Court assailing the decision and resolution of the Court of Appeals that upheld the validity of certain provisions of P.D. No. 1899, which include the limitation in the annual production or extraction of mineral ore in small-scale mining to 50,000 metric tons and the definition of ‘ore’ as provided by the Mines and Geosciences Bureau of the Department of Environment and Natural resources that led the Court of Appeals to conclude that the mining corporations had exceeded the aforesaid 50,000-MT limit<sup>2</sup>;

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<sup>1</sup> Philippine Daily Inquirer Website; <http://newsinfo.inquirer.net/689738/small-scale-p28b-in-ore-shipped-out>.

<sup>2</sup> G.R. No. 179669, June 4, 2014.

**WHEREAS**, the Supreme Court last June 4, 2014, affirmed in *toto* the decision of the Court of Appeals and differentiated the extraction of metallic and non-metallic minerals and its effect to the environment, *to wit*:

...Also in Section V of the earlier mentioned DMC-2007-07, the DENR clarified the 50,000-MT limit by differentiating the measurement of metallic minerals from nonmetallic ones. Noticeably, the metallic minerals are conservatively measured compared to nonmetallic or industrial minerals for a reason. Compared to metallic minerals, nonmetals are easily available when mined in their raw/natural state, like limestone. As non-metallics are produced from natural aggregates, the production limit of 50,000 DMTs will be easily met. On the other hand, metallic minerals, like Ni-Co are not easily available in their pure form since they are sourced from ores which are mined. To extract these metals of economic value, the gangue lumped with them have to be removed by metallurgy. And in order to produce a ton of a metallic mineral sought for, big volumes of gangue will have to be removed. As indicated by the mining corporations' Summary of Shipments, it took 151,612 DMTs of ore to extract only 1,699.66 DMTs of Ni-Co. Thus, 149,912.34 DMTs of ore are considered waste. This means that if we are to subscribe to the mining corporations' interpretation of how to measure mined ore by measuring only the Ni-Co and excluding the gangue, small-scale miners are virtually given the license to continuously collect large volumes of ore until the 50,000 DMTs of Ni-Co limit is met. It must be emphasized that mining, whether small or large-scale, raises environmental concerns. To allow such a scenario will further cause damage to the environment such as erosion and sedimentation, landslides, deforestation, acid rock drainage, etc. As correctly argued by the Solicitor General, extracting millions of DMTs of run-of-mine ore will mean irreversible degradation of the natural resources and possible landslides and flashfloods.

It may be significant to state at this point that while the annual production limit by measuring only the material itself may apply in small-scale nonmetallic mining, the same cannot be true to metal mining for the reasons above stated. Hence, the DENR saw it proper to conservatively measure the production of metallic minerals apparently bearing in mind the more intense impact of such kind of mining to the environment<sup>3</sup>;

**WHEREAS**, according to news reports, despite the apparent irregularities in the shipment of ores, no government agency has yet taken SR Metals, Inc., San R Mining and Construction Corp. and Galeo Equipment and Mining Company, Inc. to court for the massive shipment of ores, which amounted roughly to ₱28 billion<sup>4</sup>;

**WHEREAS**, environmental advocate, Rev. Peter Vargas, co-convenor of the environment group "Caraga Watch", as well as Rodney Basiana who filed a case with the Ombudsman involving SR Metals, Inc. admitted that taking on SR Metals, Inc. was an uphill battle and noted that the company's owners were known supporters of the ruling Liberal Party<sup>5</sup>;

**WHEREAS**, allegedly connected to the controversy are SR Metals, Inc. CEO's Francis Enrico "Eric" Gutierrez, described in the news article as "malakas" with the Liberal Party, particularly with Secretary Mar Roxas and Caloocan Representative Edgar Erice who is an

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<sup>3</sup> Supra Citation [2].

<sup>4</sup> Supra Citation [1].

<sup>5</sup> Ibid.

Liberal Party stalwart and was also listed as SR Metals, Inc.'s president when the plunder complaint was filed involving such company<sup>6</sup>;

**NOW, THEREFORE, BE IT RESOLVED BY THE SENATE**, as it hereby resolved, to direct the appropriate senate committees to conduct an inquiry, in aid of legislation, regarding the alleged violations of R.A. 7076 and P.D. 1899 in the village of La Fraternidad in the town of Tubay, Agusan Del Sur province.

Adopted,



**MARIA LOURDES NANCY S. BINAY**  
Senator

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<sup>6</sup> Supra Citation [1].