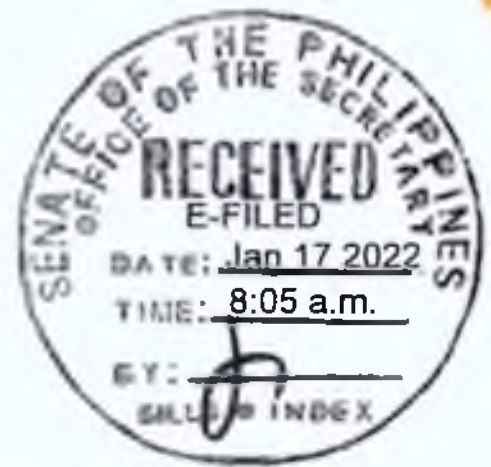


EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Third Regular Session)



SENATE

P.S. Res. No. 970

Introduced by **SENATOR LEILA M. DE LIMA**

RESOLUTION

DIRECTING THE APPROPRIATE SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE RECENT DECISION OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES (DENR) TO LIFT THE BAN ON OPEN-PIT MINING IN THE PHILIPPINES WITH THE END VIEW OF REVIEWING THE POLICY DECISION AND EXPLORING OTHER AVENUES FOR GENERATING WEALTH WITHOUT COMPROMISING THE SAFETY OF OUR PEOPLE

1 WHEREAS, Article II, Section 16 of the 1987 Constitution declares that “[t]he
2 State shall protect and advance the right of the people to a balanced and healthful
3 ecology in accord with the rhythm and harmony of nature”;

4 WHEREAS, Section 2 of Republic Act No. 7942, otherwise known as the
5 “Philippine Mining Act of 1995”, declares that “[a]ll mineral resources in public and
6 private lands within the territory and exclusive economic zone of the Republic of the
7 Philippines are owned by the State. It shall be the responsibility of the State to promote
8 their rational exploration, development, utilization and conservation through the
9 combined efforts of government and the private sector in order to enhance national
10 growth in a way that effectively safeguards the environment and protect the rights of
11 affected communities”;

12 WHEREAS, the Philippine Mining Act of 1995 also acknowledges the inherently
13 destructive effects of irresponsible mining as it emphasizes environmental protection
14 and rehabilitation on the part of contractors. Section 69 thereof mandates contractors
15 to “undertake an environmental protection and enhancement program” for the
16 duration of their mineral agreement or permit. Section 71 further mandates
17 contractors and permittees to “technically and biologically rehabilitate” the affected
18 areas to the “condition of environmental safety”;

1 WHEREAS, Section 70 of the same also requires project proponents to obtain
2 an environmental clearance certificate based on an environmental impact assessment
3 (EIA) prior to proceeding with a mining operation “except during the exploration
4 period of a mineral agreement or financial or technical assistance agreement or an
5 exploration permit”;

6 WHEREAS, on 27 April 2017, then Secretary of the Department of Environment
7 and Natural Resources (DENR) Gina Lopez issued an administrative order banning all
8 prospective open-pit mines in the country which covered “open-pit method of mining
9 for copper, gold, silver and complex ores”;¹

10 WHEREAS, Lopez said the destructive nature and its potential for a disaster
11 were the main reasons why she decided to impose a ban on open-pit mining. According
12 to Lopez, open-pit mining is a financial liability, poses risks to host communities, and
13 kills the economic potential of the community;²

14 WHEREAS, on 23 December 2021, DENR Secretary Roy Cimatu signed
15 Department Administrative Order No. 2021-40, lifting the four-year-old ban on open-
16 pit mining instituted by his predecessor;³

17 WHEREAS, the recent move was widely seen as part of the government’s latest
18 attempts to revitalize the country’s economy as it is being ravaged by the COVID-19
19 pandemic and was welcomed by the mining industry. On the other hand,
20 environmental groups have criticized the decision as a “shortsighted and misplaced
21 development priority of the government”;⁴

22 WHEREAS, mining is widely regarded as having adverse effects on
23 environment of considerable magnitude and diversity. Some of these effects include
24 erosion, formation of sinkhole, biodiversity loss and contamination of groundwater by
25 chemical from the mining process in general and open-pit mining in particular;⁵

26 WHEREAS, open-pit mining, where material is excavated from an open pit, is
27 said to be the type of mining that is “particularly damaging to the environment”

¹ DENR Press Release. Retrieved 3 January 2022, from <https://r6.denr.gov.ph/index.php/86-region-news-items/595-a-tribute-to-trees-and-flowers>

² *Ibid*

³ Reyes, D. & Lagare, J. B. (29 December 2021). *DENR lifts 4-year ban on open-pit mining*. Retrieved 3 January 2022, from <https://newsinfo.inquirer.net/1533260/denr-lifts-4-year-ban-on-open-pit-mining>

⁴ *Ibid*.

⁵ Monjezi, M., Shahriar, K., Dehghani, H., & Samimi Namin, F. (2008). *Environmental impact assessment of open pit mining in Iran*. Retrieved 3 January 2022, from <https://link.springer.com/article/10.1007/s00254-008-1509-4>

1 because “strategic minerals are often only available in small concentrations, which
2 increases the amount of ore needed to be mined.” It has also been observed that
3 “[c]ompared with underground mining, surface mining is much more efficient.
4 Unfortunately, this economy comes with a strict environmental cost because the
5 surface environment is destroyed and polluted during the mining process.”⁶ Other
6 environment hazards during the open-pit mining process include rocks when crushed
7 exposing radioactive elements, asbestos-like minerals, and metallic dust.⁷ Dangers
8 include erosion, formation of sinkhole, biodiversity loss and contamination of
9 groundwater by chemical from the mining process;

10 WHEREAS, in the Philippines, the risks to human life and adverse
11 environmental impacts of unregulated open-pit mining are well-documented. One
12 such event, the 1996 Marcopper mining disaster in the province of Marinduque,
13 occurred when a fracture in the drainage tunnel of Marcopper Mining Corporation’s
14 Tapan pit spilled more than 1.6 million cubic meters of toxic mine tailings, flooding
15 villages and poisoning the Boac River. To this day, the affected communities are still
16 trying to recover from this environmental disaster;⁸

17 WHEREAS, more than two decades after the Marcopper incident, there had
18 been at least five more mining disasters, one of which was the Padcal incident in
19 Benguet involving Philex Mining Corporation, considered the “biggest mining disaster
20 in the Philippines” in terms of volume, when, in 2012, one of its tailings ponds had a
21 series of leakages due to heavy rains from the onslaught of Tropical Typhoons Ferdie
22 and Gener;⁹

23 WHEREAS, it is evident from the numerous mining disasters that have
24 occurred in the country that we have still yet to figure out how to consistently extract
25 our mineral resources in a safe and efficient manner and reduce or altogether prevent
26 such accidents from occurring;

27 WHEREAS, there is a need to conduct a thorough review of this policy decision
28 as this can potentially open up the country once more to irresponsible mining practices

⁶ Dilthey, M. (25 June 2018) *Open Pit Mining Pros & Cons*. Retrieved 05 January 2021, from <https://sciencing.com/open-pit-mining-pros-cons-12083240.html>

⁷ Massachusetts Institute of Technology, *Environmental Risks of Mining. How they arise and how their effects can be mitigated*. Retrieved 04 January 2021, from <https://web.mit.edu/12.000/www/m2016/finalwebsite/problems/mining.html>

⁸ Dizon, N. (3 April 2019). *The Marcopper disaster: A tragedy that continues in people’s veins*. Retrieved 3 January 2022, from <https://miningwatch.ca/news/2019/4/3/marcopper-disaster-tragedy-continues-people-s-veins>

⁹ de la Cruz, G. (24 March 2021). *Look Back: The 1996 Marcopper mining disaster*. Retrieved 3 January 2022, from <https://www.rappler.com/moveph/165051-look-back-1996-marcopper-mining-disaster/>

1 which could further compromise the environment and pose health and safety risks to
2 people and their communities;

3 WHEREAS, when gains and risks are placed on a scale, the State must always
4 err on the side of caution. In this case most especially, when open-pit mining has been
5 time and again proven to virtually eliminate any biologic life at the surface of earth,
6 the State must first ask whether it would be prudent to think of only short term benefits
7 even when confronted with proof that open-pit mining results in the stripping of
8 vegetation which leaves the surface of every dig site completely barren, as well as
9 serious environmental concern of acid mine drainage (AMD) which has the potential
10 of polluting water and killing life along water sources for miles.;

11 WHEREAS, it must also first be determined whether policies on replanting and
12 restoring the ecosystem have been put in place before lifting the moratorium given
13 that open-pit mining sites take decades to recover. With abandoned mining pits posing
14 extreme risks causing landslides and rockslides without warning, proponents of the
15 lifting of the moratorium must be able to prove that these risks will be mitigated by
16 sound scientific- and evidenced-based policies;

17 WHEREAS, there must also be an evaluation of DENR's present regulatory
18 capacity to ensure that the present safeguards can be implemented and that our
19 regulators will not be overwhelmed by the operations of the mining companies;

20 WHEREAS, it behooves our government to exert all efforts to explore other
21 avenues before resorting to possibly catastrophic means of generating wealth for our
22 country at the cost of sustainability and the welfare of present and future Filipinos;

23 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE, to direct the
24 appropriate Senate Committee to conduct an inquiry, in aid of legislation, on the
25 recent decision of the Department of Environment and Natural Resources (DENR) to
26 lift the ban on open-pit mining in the Philippines with the end view of reviewing the
27 policy decision and exploring other avenues for generating wealth without
28 compromising the safety of our people.

Adopted,


LEILA M. DE LIMA