



Alyansa Tigil Mina

September 8, 2009

Position Paper on HB 6342: Philippine Mineral Resources Act of 2009

The Alyansa Tigil Mina (ATM) is a national coalition of more than eighty (80) organizations composed of mining-affected communities, Peoples Organizations (POs), Church-based organizations, non-government organizations (NGOs), academe and other support-groups. ATM and its members have decided to confront the aggressive promotion of large-scale mining in the Philippines. Given the various social, environmental, cultural, economic and political concerns associated with large-scale mining, ATM has tasked itself to: i) increase the awareness and enhance the capacities of the mining-affected communities regarding these issues, ii) study, recommend and pursue policy reforms that will address these issues, and iii) articulate the voices of the mining-affected communities at the national and international levels.

ATM welcomes the filing and deliberations on HB 6342 or the Philippine Mineral Resources Act of 2009. We are conscious that the proposed bill puts forward some policy reforms that are reflective of the genuine needs of mining-affected communities, and that the bill will respond to the regulatory framework necessary to implement large-scale mining without sacrificing social and other costs associated with the extractive industry. We also strongly believe that HB 6342 complies with the framework of sustainable development for the Philippines.

Substantially, we are supportive of the clear policy positions that are imbedded in HB 6342:

1. Clarity of the **declaration of state policy** and its adherence to total human development and sustainable development principles.

In Section 2. Declaration of Policy, the policy on large-scale mining is super-imposed with equally crucial state policies, especially that on a balanced and health ecology (section 2.b), respect for human rights (section 2.c and 2.j), promotion of social justice (section 2.d), recognition of rights of indigenous peoples (section 2.e), protection and promotion of the health of the people (section 2.f), ensuring the autonomy of local governments (section 2.i), and encouraging people's participation in governance (section 2.k)

We note with interest that the current Philippine Mining Act of 1995 (RA 7942) is quite weak in reflecting these inclusive policies that will inform the implementation of mining operations.

2. Comprehensiveness of the **definition of terms**

Section 3 of HB 6342 provides a more comprehensive, and realistic list of definition of terms that are directly and critically related to the value-chain of large-scale mining operations. This list accurately catalogs the relevant offices, procedures, land and land uses/classifications, and other relevant processes that will create impacts both from the demand and supply side of the mining value-chain. The list therefore, provides better reference points in clarifying further the parameters and limitations of large-scale mining in the Philippines, in contrast with RA 7942.



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3. Integrating **development of communities** and science and technology initiatives (Chapter IX).

We firmly believe that the introduction of Sec. 88 positively reinforces that critical role of local communities in the value-chain of large-scale mining. Putting the local communities at the “center of development” will ensure that host communities do not fall under the “resource curse”, nor will they be side-lined as the local economy will be affected by price and wage distortions. This section is also desirable as it clearly distinguishes the obligation of the company to pay the expected royalties and fees and the commitment to invest in local development initiatives. The former is part of a legal requirement, the latter a social responsibility commitment.

4. Clear **policies on conflict resolution** (Chapter XII)

As we have documented and witnessed the escalating conflicts in mining areas, ATM is seriously concerned that the aggressive promotion of large-scale mining is introducing social divisions and cultural displacements in the localities where application, operations and expansion of mining projects have entered. We believe that the current mining law is inadequate in addressing these conflicts. At present, there is confusion with regard to the jurisdiction of the administrative bodies under the Mining Act. The re-composition of the local (regional) Panel of Arbitrators and the national Mines Adjudication Board will present more realistic mechanisms. The provisions outlined in Sec. 126-128 of HB 6342 are more appropriate and provide better procedures and means to reasonably resolve these conflicts. HB 6342 tries to prevent further confusion by expressly providing the limitation of the quasi-judicial bodies to only handle cases which would need the technological and technical expertise of these quasi-judicial bodies.

5. **Recognition of local autonomy and just share in revenues** of mining by LGUs

One of the pillars by which proponents of large-scale mining has aggressively promoted this extractive industry is the promise of increased revenues for host local governments. Statistical data, however, show that LGUs get the least share from these. Of the Php 10.4 billion pesos taxes collected in 2007, only Php 357.9 million pesos were given to LGUs. This is a measly 0.03% of the total taxes of the mining industry for that year. HB 6342 presents a stronger recognition of local autonomy as reflected in: i) Sec. 8 – “mining is a shared concern and responsibility” (between national and local governments, etc.); Sec. 35 – “defining local governments in relation to their dependence to watershed”; Sec. 39 – “considerations in declaring whether to open or not areas to mining”; Sec. 40, where LGU representatives are expected to relay their decisions from their constituents and local legislative bodies on the issue of mining.

Moreover, Sec. 92-93 of this bill expressly outlines the sources of revenues by which LGUs are entitled to. We believe this listing is more complete than those outlined in RA 7942. Aside from the share from the IRA, LGUs shall be entitled to the net revenues from mining operations paid



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directly to the provincial treasurer, taking into consideration classification of local governments, as well as vulnerability and human development indexes.

6. Adherence to **principles of participatory governance** (Sec. 36-38)

We believe that the creation of the Multi-Sectoral Mineral Council, including the definition of its powers and composition is an excellent way of reflecting true and genuine participation of local communities and their designated representatives, in accepting, studying, approving and monitoring the application and operations of mining projects. Creation of such council will ensure authentic and legitimate representation, promote transparency and exact accountabilities from the decision-makers. The council will also provide sufficient venue for major concerns from the different affected sectors and levels of authority to be satisfactorily deliberated.

7. Addressing the **social impacts** of large-scale mining (Sec. 48).

We believe that the proposed measure for the contractor to prepare and submit an Environmental and Social Impact Prevention and Mitigation Plan (ESIPMP), is a better mitigation measure than the current EIA system. Since most of the priority large-scale mining projects being promoted will employ open-pit methods, the impacts will not only be limited to environmental or ecological parameters. In most instances large-scale mining will introduce enormous on the economic, lifestyle patterns, cultural practices, social relationships and political-governance systems of the local communities. As it is, the EIA system is not designed nor ready to incorporate these huge concerns in its identification and preparation of mitigation measures. We believe that the proposed ESIPMP will be in a better position to address the complicated and complex nature of these impacts.

8. Improved **Access to Justice** (Chapter XIII, Sec. 129-137)

Related to the increase of tensions and conflicts in mining areas, recent national policies have introduced additional security measures that impact on social justice angles. For instance, para-military forces and even personnel of the Armed Forces of the Philippines have been tapped to provide security for mining companies. In many cases, human rights groups have documented human rights violations in mining “hotspots”. Chapter XIII of HB 6342 is able to lay down the policy foundations to ensure protection of human rights, definition of corporate and individual acts resulting to human rights violations, as well as prescribe procedures by which these can be resolved.

9. **Updated Penal Provisions** (Chapter XIV, Sec. 138-151).

HB 6342 reflects a more reasonable set of penalties and fines for companies and other stakeholders who will violate and or cause to effect violative acts will be imposed fines that are realistically commensurate to the violations. These updated schedule of fines will make violators think twice of simply “brushing-off” the mining act because of the comically low fees being imposed by RA 7942.



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Given these observations outlined above, we would like to register our strong and committed support to HB 6342, and we encourage the 14th Congress of the Philippines to pass this bill as soon as possible.

In behalf of the Alyansa Tigil Mina (ATM)

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