



**A REPORT  
TO THE UNITED NATIONS SPECIAL RAPPORTEUR ON  
INDIGENOUS PEOPLES ON HUMAN RIGHTS VIOLATIONS  
SUFFERED BY THE T'BOLI-MANOBO COMMUNITY  
OF BARANGAY NED, LAKE SEBU,  
SOUTH COTABATO, PHILIPPINES**

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This report was prepared on behalf of the T'boli Manobo people of Brgy. Ned, Lake Sebu, South Cotabato by the Legal Rights and Natural Resources Center-Kasama sa Kalikasan/Friends of the Earth Philippines (LRC-KsK/FoE Philippines)

**Legal Rights and Natural Resources Center-Kasama sa Kalikasan/Friends of the Earth Philippines  
(LRC-KsK/FoE Philippines)**

24-A Malingap Street, Teachers' Village, Quezon City, Philippines, 1101  
lrcksk@lrcksk.org

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This report was submitted to the United Nations Special Rapporteur on the Rights of Indigenous Peoples, Prof. James Anaya, on the occasion of his Asia Regional Consultation in Kuala Lumpur, Malaysia on 12-13 March 2013.

A previous report, "Report from the T'bolis of Datal Bonlangan, Barangay Ned, Lake Sebu, South Cotabato" was presented to the UN Special Rapporteur, Rodolfo Stavenhagen, during his country visit to the Philippines in 2-11 December 2002. The final country report was presented in March 2003. The Special Rapporteur included the evictions of the T'boli Manobo families from their ancestral domain as a major human rights issue for Philippine Indigenous Peoples.





*The vicious spiral of political violence, causing forced uprooting, migration, and deep trauma to families and communities...spins out of control across a bureaucratic landscape of health, social welfare, and legal agencies. The gathering cycle churns through domestic and international agendas and threatens both local and global structures of security.*

Veena Das and Arthur Kleinman  
in *Social Suffering*, 1997









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## INTRODUCTION

This report provides information on violations of human rights suffered by the indigenous T'boli-Manobo (also Taboli-Manubo) community of Barangay<sup>1</sup> Ned, Lake Sebu, South Cotabato, Philippines. Considered in this report are the presence of an agro-industrial coffee plantation through an Industrial Forest Plantation Management Agreement (IFMA) between the Government of the Philippines (represented by the Department of Environment and Natural Resources or DENR) and the Sarmiento Industries Inc., also known as Silvicultural Industries Inc. (SII), and coal -related contracts between the Government of the Philippines (represented by the Department of Energy or DOE) and various entities including David M. Consunji (DMC) Construction Equipment Resources Inc. These contracts encroach on land being claimed by the Taboli-Manubo S'daf Claimants Organization (TAMASCO). They were issued without the Free Prior and Informed Consent of the community, as mandated by Philippine law, Republic Act No. 8371 or the Indigenous Peoples' Rights Act of 1997. Both the coffee plantation and the drilling activities by David M. Consunji (DMC) Construction Equipment Resources Inc. are without the Free Prior and Informed Consent in accordance with the customary law of the T'boli-Manobo, thus, are blatant disregard of Philippine law and violates the community's right to self-determination.

This report highlights the historical perpetuation of marginalization and usurpation of the T'boli-Manobo from their ancestral domain.









## CASE PROFILE

### Types of Human Rights Violations

This case involves the violation of collective rights of the Brgy. Ned T'boli-Manobo to self-determination and to their ancestral domain. It also reports the violations of individual rights to property, to security of person. It also considers violation of collective and individual rights to remedy and equal protection of laws.

### Inclusive Dates/Specific Dates

Covered by this report are:

- (1) Incidents involving the Brgy. Ned community in relation to the Silvicultural Industries Inc. (SSI) operations since 1995 up to the present;
- (2) Incidents involving the Brgy. Ned community in relation to the David M. Consunji (DMC) Construction Equipment Resources Inc. operations since 2009 up to the present;

- (3) Threats and harassment of the community by the guards of David M. Consunji (DMC) Construction Equipment Resources Inc. in July 2010;
- (4) Destruction of houses owned by the community by the guards of David M. Consunji (DMC) Construction Equipment Resources Inc. in July 14, 2010;
- (5) Military harassment of the T'Boli-Manobo community of Brgy. Ned on February 2, 2012;
- (6) Threat on the life of community leader, Victor Danyan, on February 3, 2012 forcing him to leave the community and his family to seek safety elsewhere.

### **International Human Rights Agreements/Instruments and National Laws Violated**

The *International Covenant on Civil and Political Rights* (ICCPR) and the *International Covenant on Economic, Social and Political Rights* (ICESCR) provide that:

“All peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and economic and cultural development

“All peoples may, for their own ends, freely dispose of their natural wealth and resources, arising out of international economic cooperation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.”

The Philippines has ratified the United Nations Declaration on the Rights of Indigenous Peoples, ICCPR and the ICESCR and has the obligation to respect the rights of indigenous peoples.

The Government of the Philippines violated the rights of indigenous peoples when it signed contracts with Sarmiento Industries Inc. and David M. Consunji (DMC) Construction Equipment Resources Inc. or their successors-in-interest for agro-industrial and coal mining activities in T'boli-Manobo territories. As a result, the T'boli-Manobo are deprived of their ancestral domain, their source of sustenance and livelihood, including the mineral resources found therein. By imposing the contracts on the community of T'boli-Manobo, they, as the rightful owners and stewards of the land were deprived of their right to determine their own economic, social and cultural development. At the onset, both Sarmiento Industries Inc. and David M. Consunji (DMC) Construction Equipment Resources Inc. did not seek the required consent from the community, making a mockery of the principle and stringent requirement of Free, Prior, and Informed Consent as one mechanism of the community to assert their right to self-determination.

The *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) in Articles 18 and 19 specifically provides for the rights of indigenous peoples to participate in decision-making in matters which would affect their rights, and mandates States to consult and cooperate in good faith with the indigenous peoples through free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them. The UNDRIP under Article 10 specifically provides that:

Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.



The *1987 Constitution of the Philippines* also articulate said rights. The right to and principles of Free, Prior and Informed Consent -- requiring the consent of community for any projects within their ancestral domain is further galvanized under the *Indigenous Peoples Rights Act of the Philippine Republic* (RA 8371):

Sec. 59. *Certification Precondition* - All department and other governmental agencies shall henceforth be strictly enjoined from issuing, renewing, or granting any concession, license or lease, or entering into any production-sharing agreement, without prior certification from the NCIP<sup>ii</sup> that the area affected does not overlap with any ancestral domain. Such certificate shall only be issued after a field-based investigation is conducted by the Ancestral Domain Office of the area concerned: Provided, That no certificate shall be issued by the NCIP without the free and prior informed and written consent of the ICCs/IPs concerned: Provided, further, That no department, government agency or government-owned or -controlled corporation may issue new concession, license, lease, or production sharing agreement while there is pending application CADT: Provided, finally, That the ICCs/IPs shall have the right to stop or suspend, in accordance with this Act, any project that has not satisfied the requirement of this consultation process.

The coal contract signed by the government and DMCI amounts to arbitrary taking or confiscation of property without due process of law. No consent was given by the T'boli-Manobo community to the agro-industrial plantation of Sarmiento Industries Inc. and to the coal-mining operations of David M. Consunji (DMC) Construction Equipment Resources Inc. Both the IFMA and the coal operating contracts are premised on violations of the community's right to Free, Prior and Informed Consent. The Philippine Government, as issuer of the permit, should be held directly accountable for the human rights violations emanating from the invalid entitlement of the corporations. The guards and the military deprived the T'boli-Manobo not just of their properties, but also of their right of movement, to a safe and healthy community, to live freely their way of life, and their peace of mind.

Both the UDHR in Article 3 and the ICCPR in article 9(1) provides that "Everyone has the right to life, liberty and security of person." Article III provisions of the Philippine Constitution reiterate the essence of these provisions.

Article III, Section 1 of the Philippine Constitution provides that "No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the law." The unwarranted harassment of community members, the targeting of their tribal leader, Victor Danyan, in his own home forcing him to seek refuge elsewhere to ensure his safety, notwithstanding the community's repeated complaints to the department complements of the Government of the Philippines are violation of their right to life and a denial of the equal protection of the law.

The eviction from their ancestral domain, the persisting harassments of the T'boli-Mabobo community, the threat and actions of the company guards and the military during their "operations" in Brgy. Ned, run counter to the mandate of the *Universal Declaration of Human Rights* (UDHR) recognizing the right to property and the right not to be deprived of property.

The 2003 report of the United Nations Special Rapporteur on Indigenous Peoples took notice of the community's story of injustice and stated in the report:

"In the early nineties around 67 T'Boli families of Sitio Datal Bonlangan (sic) in Mindanao were evicted from their ancestral domain by private company, which took over their land under a government-approved contract to fell trees in the

forest and turn it into a coffee plantation, as well as for other activities. While eventually some of the evicted families returned to their village, the community is still claiming access to its land and resolution of the long-standing conflict.”

At present, however, community realities reflect how nothing has been done by the Government of Philippines and the corporations to address the plight of the T'boli-Manobos of Brgy. Ned. The recent threats suffered by the community in early 2012 and the harassment of their tribal leader in his own home, and the encroaching coal mining project in the area highlight the continuing perpetuation of abuses and disregard of the T'boli-Manobos' right to self-determination.





## PROFILE OF VICTIMS

The Taboli-Manubo S'daf Claimants Organization or TAMASCO is composed of T'bolis coming mainly from the communities of Sitio Datal Bonlangon (DBL), Sitio Tawan Dagat, Sitio Tuburan and Sitio Segowit and Sitio Salakawas all of Barangay Ned, Lake Sebu, South Cotabato. Some of its members are also scattered in nearby communities of Tulale and Buhangan in Brgy. Santo Niño, Municipality of Bagumbayan, Sultan Kudarat.

The site presently occupied by the Taboli-Manubo community in Datal Bonlangon is nestled in a rolling terrain with some flat areas surrounded by hilly outcrops on all sides. Most of the houses are situated in the flat area surrounding the open space at the center of the village. Small farm lots are scattered on the northern part of the community while relatively large patches of forests can be found in the southern part. In the western part, farm lots are also scattered with small patches of forest. East, within the ancestral domain, is the coffee plantation claimed by Victor Consunji. The coffee plantation is part of Integrated Forest Management Agreement (IFMA) No. 22, issued to Silvicultural Industries Inc. (SII). Parts of the area has now been granted to the DMCI Inc. under a coal operation contract, without the free, prior and informed consent of the T'boli-Manobo community members.

The *datu/bo-i*, as the traditional leader, governs over the ancestral territory of the community. The boundaries of a community's territory are results of agreements, mutual recognition and common traditional knowledge of the community's *datu/bo-i* and the respective leaders of contiguous villages. These boundaries are identified through landmarks such as mountains, hills, rock formations or caves, bodies of water such as rivers, streams or lakes, trees or plant growth, and other distinguishable features of the land and its resources.

Such recognition makes the *datu/bo-i* the virtual "owner" of the ancestral domain. Presently, local residents refer to it as the "claim" of a *datu/bo-i*. Before occupying portions of land within a territory, the *sakop* asks the permission of the *datu/bo-i*. A stranger-outsider-newcomer to the community also asks for the consent of the *datu/bo-i* in order to stay, build a house and cultivate land. It is the *datu/bo-i* who first decide who stays where. Such decisions are guided by generosity, need to survive and desire to help. In the past, other *lumad* families were allowed to settle in Datal Bonlangon after they evacuated their community due to impacts of the conflict between Muslim residents and the *llaga* cult fighters.<sup>iii</sup>

As with most indigenous communities, the T'boli-Manobo do not have tenurial security over their lands and resources. Basic social services in the communities are lacking. Having since occupied the land prior to the imposition of formal tenurial requirements, the T'boli-Manobo considers themselves the rightful owners, occupants and protector of the area they consider to be their ancestral domain. Organizing themselves to formally claim the land that is rightfully theirs, TAMASCO member communities settled overlapping boundaries according to their traditional way. The settlement and consolidation meeting, led by T'boli-Manobo leaders was held on August 11-12, 2009 at Sitio Kibang, Brgy. Ned, Lake Sebu, South Cotabato. The agreement listed the specific details of the traditional boundary and declared that each organization shall have the power in the management and control of their respective territories.

TAMASCO's claim is integrated with that of T'boli-Ubo Claimants Organization (TUCO) ancestral claim under T'boli-Ubo and Taboli-Manobo Indigenous Cultural Community ancestral domain recognition application spanning an area of 5,379.5931 hectares. A perimeter delineation survey was conducted in February 22 to March 4, 2009 (**See Annex A and A-1**).

Community members continue to subsist on the meager produce from their small farm lots. Some members are now trying to venture into commercial or cash crops just to earn a little to meet some basic needs. Incidents of pests particularly rats are increasing since 2003. Sources of water for drinking and domestic uses are periodically threatened during the dry season. The community looks forward to the time when they can regain access to nearby abundant water sources that are presently within the coffee plantation.

Despite the seemingly endless threats and harassments, the communities refuse to give their consent to SII, and presently, to the encroaching DMCI. The communities have yet to reclaim the original village sites prior to the entry of the coffee plantation. Residents are presently occupying portions of the areas covered by collective Certificate of Land Ownership Awards (CLOAs) issued by the Department of Agrarian Reform (DAR) to some community residents headed by Lisa Danyan-Wali and the late Benig Danyan. Because of the coffee plantation, and now the exploration for coal, the farming lots available to the community have been further limited.





## PROFILE OF PERPETRATORS

The Government of the Philippines violated the rights of indigenous peoples when it, through its representative departments, Department of Environment and Natural Resources, signed an agreement with Sarmiento Industries Inc. for an agro-industrial plantation project dubbed as a “forest agreement”, and then granted a coal exploration or operation contract through the Department of Energy to David M. Consunji (DMC) Construction Equipment Resources Inc. within lands that are T’boli-Manobo territories. As a result, the T’boli-Manobos are deprived of their ancestral domain, their source of sustenance and livelihood, including the mineral resources found therein. By imposing the contracts on the communities of T’boli-Manobo, they, as the rightful owners and stewards of the land are deprived of their right to determine their own economic, social and cultural development. From the onset, both Sarmiento Industries Inc. and subsequently, David M. Consunji (DMC) Construction Equipment Resources Inc. did not seek the required consent from the communities. In attempting to subdue the resistance of the T’boli-Manobo community members, armed guards have been deployed to harass and threaten the community. Leaders from the communities, who by customary law of the T’boli-Manobo are meant to speak on the community’s behalf, were even harassed by the security personnel of the corporations, making a mockery of the principle of the Free, Prior and Informed Consent of the community.

### **IFMA 22 and Silvicultural Industries Inc.**

Sarmiento Industries Inc., presently known as Silvicultural Industries Inc. (SII), was given an Industrial Tree Plantation Lease Agreement (ITPLA) No. 238 on April 29, 1991 covering an area of 11, 862 hectares of public forests located in villages within the provinces of South Cotabato and Sultan Kudarat. ITPLA No. 238 was a portion of the area covered by the expired logging concession or Timber License Agreement (TLA) No. 77 of Sarmiento Industries Inc. ITPLA No. 238 was converted into Industrial Forest Plantation Management Agreement (IFMA) No. 22 on May 25, 1992 and set to expire on December 31, 2016 although it is renewable for another 25 years. Both legal instruments were issued by the Department of Environment and Natural Resources (DENR).<sup>iv</sup>

After the issuance of a DENR-central office memorandum for the conduct of a timber inventory of the ITPLA area, the regional director also submitted another survey of the IFMA 22 perimeter. It was recommended that since the original ITPLA areas were within what is classified as protection forests, five (5) area blocks were identified as substitute areas. After IFMA 22 was amended on 8 August 2002, the tree plantation area was likewise amended to consist seven (7) parcels that included the five (5) substitute blocks and two (2) remaining blocks from the original ITPLA areas. Block VII, one of the remainder of the original ITPLA area, was also noted by the DENR-Forest Management Bureau (FMB) records as a “developed forest plantation intercropped with coffee plantation.” Also noted as one of the contentious issues was the area development that started before 1991 even if “planting of agricultural crops under the ITPLA was not yet allowed.”<sup>v</sup>

What is locally known as the Dawang Coffee Plantation is operating within the government-approved 300-hectare Block VII of IFMA 22. The recent listing of existing IFMAs listed IFMA 22 with an 872 hectare-area in South Cotabato and another 10,990 hectares in Sultan Kudarat.<sup>vi</sup> The Dawang Coffee Plantation lies within the ancestral domain claim of TAMASCO. This was validated by the perimeter survey conducted by NCIP on February 2009.

### **Coal Operating Contract 154 and David M. Consunji (DMC) Construction Equipment Resources Inc.**

In 2007, TAMASCO communities, particularly in Sitios Segowit and Tuburan were subjected to test pitting by Daguma Agro Minerals Inc. (DAMI) and Bonanza Energy Resources Inc. (BERI). Both corporations were granted coal operation contracts by the Department of Energy. Foreign investors, BHP Billiton and Crew Gold Corporation financed various exploration projects of DAMI and BERI. In April 2007, Dwyka Resources Ltd. financed the DAGUMA Coal Project under the COCs of DAMI and BERI. In October 2008, DAMI announced it would discontinue with the project. It was, however, later acquired by giant San Miguel Corporation (SMC) as part of its intention to put up a coal-fired power plant in General Santos City. In October 2009, the Department of Energy issued another coal operating contract, no. 154, to David M. Consunji (DMC) Construction Equipment Resources Inc. The coal operating contracts cover areas well within TAMASCO territories, including Block VII of IFMA 22 concession area (**See Annex B**).

The forest and water resources in the area support Brgy. Ned, especially the T'boli Manobo community. The coal operating contracts encroach on the Watershed Forest Reservation of Allah Valley River System (declared protected under Proclamation No. 2455 in September 12, 1985) and the Kabulnan Watershed Forest Reserve (declared protected under Proclamation No. 214 issued on February 08, 2000). Both reservations comprise the headwater of many rivers in three major provinces in the region (namely, Provinces of Sultan Kudarat, South Cotabato and Sarangani), and a source of sustenance and livelihood for the T'boli Manobo communities and other communities. Mining operations inside Brgy. Ned will result in the large dislocation of the T'boli Manobos. As with the IFMA, there were no genuine free, prior and informed consent asked from the community. The corporations failed to provide exact information of their intents and did not provide a full disclosure of information regarding their projects. Moreover, in



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the implementation of the projects, the communities were harassed and threatened with the Philippine military appearing to act as private security for the company. Community members report that military entry preceded that of both the coffee plantation, and coal explorations and mining activities. TAMASCO along with other concerned groups in the area filed with the Department of Energy an appeal to cancel the coal operating contracts in 2009. The Department of Energy made no action on the appeal (**See Annex C**).







## ACCOUNTS OF INCIDENTS

The violations to the right to self-determination of the T'boli Manobo communities highlight the historically perpetuated marginalization and usurpation of indigenous peoples' right to their ancestral domain.

The following incidents were reported and considered in the UN Special Rapporteur's report in 2003:

In 1991, Silvicultural Industries Inc. simply informed the T'boli-Manobo community of Brgy. Ned that logging operations would soon commence. By way of explanation, representatives of the corporation said Victor Consunji was said to have bought Sarmiento Industries Inc. and would now assume rights over the concession area. The community was not told of the impending conversion of their ancestral domain into a coffee plantation. In the ensuing months, heavy machineries were brought in to cut down trees, native coffee, corn, bananas, fruit trees were cut down to give way to the coffee plantation. Thousands of hectares were affected. The T'bolis were prevented from tilling their farms; farm implements and hunting tools were confiscated. Company guards armed with M-14s, M-16s, Garand and carbines rifles went on daily patrol all over the area. The continued threats and harassment forced

thirty-seven families of around 100 individuals from Datal Bonlangon, at the heart of the coffee plantation, to flee and seek refuge in B'lugsanay. The community members left in haste, bringing with them only few essentials and their valued animals, fearing that company guards will catch them. The family of Datu<sup>vii</sup> Victor Danyan, the tribal chieftain, decided to leave behind the body of their brother, a decent burial foregone. Along the way, they suffered the death of two children and an old man. The community lived as refugees in their own land for seven years, living under harsh conditions. They were forced to build and live in shelters made from available materials. Food was scarce, malnutrition was rampant, and mothers could no longer nurse their babies. Children could no longer attend school.<sup>viii</sup>

In December 1998, in their bid to assert their way of life and right to their ancestral domain, the T'boli-Manobo decided to go back to Datal Bonlangon. Upon their return they were prevented from putting up huts and clearing patches of lands in Datal Bonlangon. Accounts of human rights violations continued as the company also went on with its expansion activities.<sup>ix</sup>

In July 2001, about thirty-three (33) T'boli-Manobo families from sitio Sigawit, Barangay Ned were allegedly harassed by armed security men of the Dawang Coffee Plantation, forcing them to leave their homes and properties behind. They sought temporary refuge in nearby Sitio Lubo.”

The reported incidents were, however, mostly left unresolved by the Government of the Philippines and its complement departments. The Philippine Government Delegation in the UN reportedly lashed back at the Special Rapporteur's Philippine Mission report.<sup>x</sup> Since then, harassment has escalated in the community.

In May 2004, a memorandum of understanding was signed by the representatives of Victor Consunji, holder of the IFMA 22, with officials of DENR-12, DAR-12, NCIP-South Cotabato and JP-Marbel<sup>xi</sup> to stop the expansion of the coffee plantation. This was, however, only a token gesture. Incidents of further encroachments into the farms of tribal council members and sitio leaders occurred between June and September of 2004. Threats were also leveled on one of the tribal council member whose farm was included in the expansion operations in direct contravention and violation of the MOU.<sup>xii</sup>

In 2010, the David M. Consunji (DMC) Construction Equipment Resources Inc. commenced drilling in Sitio Tuburan, Brgy. Ned. The drilling caused a landslide in the sitio, causing a house near the drilled hole to collapse (**See Annex D**). In June 18, 2010, community members spotted armed men approaching their village. The armed men however turned back when they realized that the community night watchers noticed their presence. In July 9, 2010, ten (10) SII personnel with eight (8) fully armed men entered Datal Bonlangon in violation and disrespect of the community's "*kitab*", a community declaration or resolution that bans outsiders from carrying firearms while inside the community area.<sup>xiii</sup>

In February 2012, drilling activities commenced in Sitio Talule, T'boli-Manobo community in Brgy. Ned. No prior consultation was conducted nor consent asked from the community by the David M. Consunji (DMC) Construction Equipment Resources Inc. Most of the drillings were done during the night, under cover of darkness (**See Annex E**).

In February 3, 2012, a group of armed men came to surround the house of tribal leader, Datu Victor Danyan. Datu Victor was at home but the military did not recognize him. The men warned the Datu's neighbors to tell him to immediately "visit" the military base camp at El Dulog to clear his name otherwise the Datu's name would be included in the *wanted list* (list of criminals and armed insurgents), and that



something bad might happen to him. To emphasize their point and instill fear among the community members, one of the uniformed men fired his gun (**See Annexes F, F-1 and F-2**).

Anxious for the community's safety and having identified the men to be members of the 27th Infantry Battalion of the Philippine Army, the community sought a dialogue with the Battalion representatives to prevent the escalation of the on-going tension within their territory. The dialogue took place on March 22, 2012. During the dialogue, Sergeant Gerry Reginio, Platoon Leader of the Battalion, admitted to "visiting" the sitio but alleged that he and his men were only conducting a simple foot patrol in the area and was not doing military operation. The platoon was supposed to be in Sitio Datal Bonlangan to do a courtesy call to the tribal chieftain, Datu Victor. By way of explanation, the sergeant said they had guns because it was part of the standard operating procedure when the army was conducting patrolling operation. As part of the agreements arrived at by the parties in the dialogue, the Army committed to ensuring peace and order in the community, and assured the community that Datu Victor is not a wanted man (**See Annex G**). The Battalion's commander also called on the community members to "coordinate" with them on any or all activities to happen within the community, including about educational visits from non-government organizations or church-based organizations.

On April 24, 2012, after a Fact Finding Mission to ascertain the complaints of the community, the Municipal Environment and Natural Resources Office of the Province of Sultan Kudarat issued a memo stating that three drilling sites by the David M. Consunji (DMC) Construction Equipment Resources Inc. were found in the community without the required documents to operate (**See Annex H**).

On May 9, 2012, the representative of the David M. Consunji (DMC) Construction Equipment Resources Inc., Moncano A. Melchor, along with two security staff from the company came to announce that drilling would begin in Sitio Tulale. On the same day, the home lot of Danilo Yang was bulldozed and cleared without prior notice to him and unknown to him at the time as he was tending to his farm. During this period, community members continued to be harassed, told to leave, as the land was owned by David M. Consunji (DMC) Construction Equipment Resources Inc. and that they were "squatters." By June, the company guards have destroyed four houses and the coffee plants that the families have planted (**See Annex I**).

The drilling activities by David M. Consunji (DMC) Construction Equipment Resources Inc. without the Free, Prior and Informed Consent in accordance with the customary law of the T'boli-Manobo is a blatant disregard of Philippine law and a violation of the communities' right to self-determination. The perpetration of violations stems from a faulty and unjust issuance of an Industrial Forest Plantation Management Agreement, which continues and is even made worse by the grant of a coal operating contract that encroach on the ancestral domain of the T'boli Manobo. The community members have never given their consent to any project or development or economic activity to David M. Consunji (DMC) Construction Equipment Resources Inc. and Silvicultural Industries Inc., not even to representatives of the Government of the Philippines.







## ACTIONS TAKEN

The T'boli Manobo community members participated in the UN Special Rapporteur Philippine Mission in December 2002. Their case was reported by the UN Special Rapporteur in his Mission Report.

TAMASCO along with other concerned groups in Brgy. Ned filed with the Department of Energy an appeal to cancel the coal operating contracts in 2009. No action was taken on the appeal to the Department of Energy (*see Annex C*).

A fact-finding mission was conducted by non-government organizations, church-based groups and media representatives particularly for the incidents of threats and harassments occurring in July 2010, and in particular the destruction of houses owned by the community by the guards of David M. Consunji (DMC) Construction Equipment Resources Inc. in July 14, 2010. Among the findings were:

Secondary data confirmed the presence of coal operating contracts (COC) affecting the lands covered by IFMA and the ancestral domain of TAMASCO. Such COCs are COC No. 126 awarded by the Department of Energy (DOE) to Daguma Agro Minerals, Inc. (DAMI) covering 2,000 ha on July 16, 2002 and COC No. 154 awarded by DOE to the DMC Construction Equipment Resources, Inc. covering 3,000 ha. on

April 01, 2009. The areas of COCs of SMEC and DMC-CERI overlap certain portions of the contested Block VII of IFMA 022 and the claimed ancestral domain of TAMASCO.

Non-implementation of the Free-Prior and Informed Consent process in the TAMASCO communities in the awarding of contracts and exploration activities by the companies involved.

Destruction of a house in Sitio Tulali, and other conflicts arising from the overlap of the lands farmed by the community and the claimed IFMA of SII.

Non-compliance of the provisions of the MOA signed by the regional DAR and DENR offices, NCIP, Justice and Peace Center of the Diocese of Marbel and the company representative on May 13, 2004 stating that *"SII shall immediately stop its development/expansion activities in the area except forest protection activities of the remaining residual forests."*

As an immediate response to the incident that took place on February 3, 2012, the community participated in a dialogue with the 27th Infantry Battalion of the Philippine Army on March 22, 2012. During the dialogue, Sergeant Gerry Reginio, Platoon Leader of the Battalion admitted to "visiting" the sitio but alleged that he and his men were conducting a simple foot patrol in the area and was not doing military operation. They also admitted to having guns as part of the standard operating procedure when the army was conducting patrolling operation, deemed as an indirect admittance of their conducting a military operation in the area.

On June 8, 2012, the community as represented by TAMASCO, filed a case for Injunction and Moral Damages with Application for Urgent ex parte Temporary Restraining Order and/or Writ of Preliminary Injunction with the National Commission on Indigenous Peoples against the David M. Consunji (DMC) Construction Equipment Resources Inc. to perpetually refrain it from continuing violation of fundamental and legal rights and causing damage to their community and their ancestral domain, especially as these are conducted without the free, prior and informed consent of the communities.

On 21 February 2013, chief Victor Danyan was set to testify before the National Cultural Communities of the lower house of Congress during an on-site Congressional Inquiry held at the city of Koronadal to investigation human rights violations being committed against indigenous peoples in relation to extractive industries. Due to lack of time, Datu Danyan was unable to verbally present his testimony, but, officially filed his written statement with the Committee (**see Annex J**).





## RECOMMENDATIONS

This report echoes the demand of the T'boli-Manobo Community of Brgy. Ned, civil society organizations and indigenous peoples advocates for the:

1. Respect of the individual and collective Human Rights of Brgy. Ned community;
2. Recognition and respect of the Rights of the Brgy. Ned T'boli-Manobo to their Ancestral Domains;
3. Cancellation of the Coal Operating Contracts or similiary contracts issued to David M. Consunji (DMC) Construction Equipment Resources Inc., or its agents or entities action for and/or its behalf or its successors-in-interest, and other coal operating contracts or coal-related contracts that encroach on T'boli-Manobo ancestral domain, including any agreement arising from the transfer of coal operating contracts to other companies;
4. Non-renewal of the Industrial Forest Plantation Management Agreement (IFMA) No. 22 issued to Silvicultural Industries Inc.;

5. Investigation of the human rights violations of government agencies and military units, and prosecution of persons and groups involved;
6. Implementation of projects and programs that will develop and protect the livelihood, community and ecology of Brgy. Ned;
7. For the Philippine state to be accountable, and for any or all of Philippine government branches, offices, instrumentalities or agencies, to respect and protect its indigenous citizens.



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## ENDNOTES

- <sup>i</sup> Tagalog or Filipino word for “village”.
- <sup>ii</sup> National Commission on Indigenous Peoples
- <sup>iii</sup> Discussions with Datu Victor Danyan, July 2005.
- <sup>iv</sup> LRC-KSK research notes on the DBL Community Profile, 28 May 2004.
- <sup>v</sup> Notes taken from the “Brief Background on IFMA No. 22 of Silvicultural Industries Inc.” [on file at the DENR- FMB] during an office visit on 16 September 2004 in Quezon City. As an internal document, it was not cleared for reproduction.
- <sup>vi</sup> Forest Management Bureau Website at <http://forestry.denr.gov.ph/IFMA%2011-30-04.xls>
- <sup>vii</sup> Local word for “Chief”
- <sup>viii</sup> LRC-KsK. (2005). Case Study: Determining a Community’s Future with Maps and Coffee. IWGIA (unpublished)
- <sup>ix</sup> LRC-KSK DVO, DBL Community Profile-draft, 2005 [internal document.]
- <sup>x</sup> Tauli-Corpuz and Alcantara. (2005). Engaging the UN Special Rapporteur on Indigenous People: Opportunities and Challenges. Baguio City: Tebtebba.
- <sup>xi</sup> JP stands for Justice and Peace. JP Marbel is a Roman Catholic Church-based support organization.
- <sup>xii</sup> Documentation Report on the Operations of the Dawang Coffee Plantation within Block VII of IFMA No. 22, dated 27 January 2005
- <sup>xiii</sup> Documentation from July 28, 2010 Fact Finding Mission conducted by the Social Action Center of the Diocese of Marbel, Provincial Environmental Management Office – South Cotabato, Provincial Environmental Management Office – Sultan Kudarat, OND Hesed Foundation, TRICOM, LRC-KsK/FoEPhils. and media representatives.





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## ANNEXES

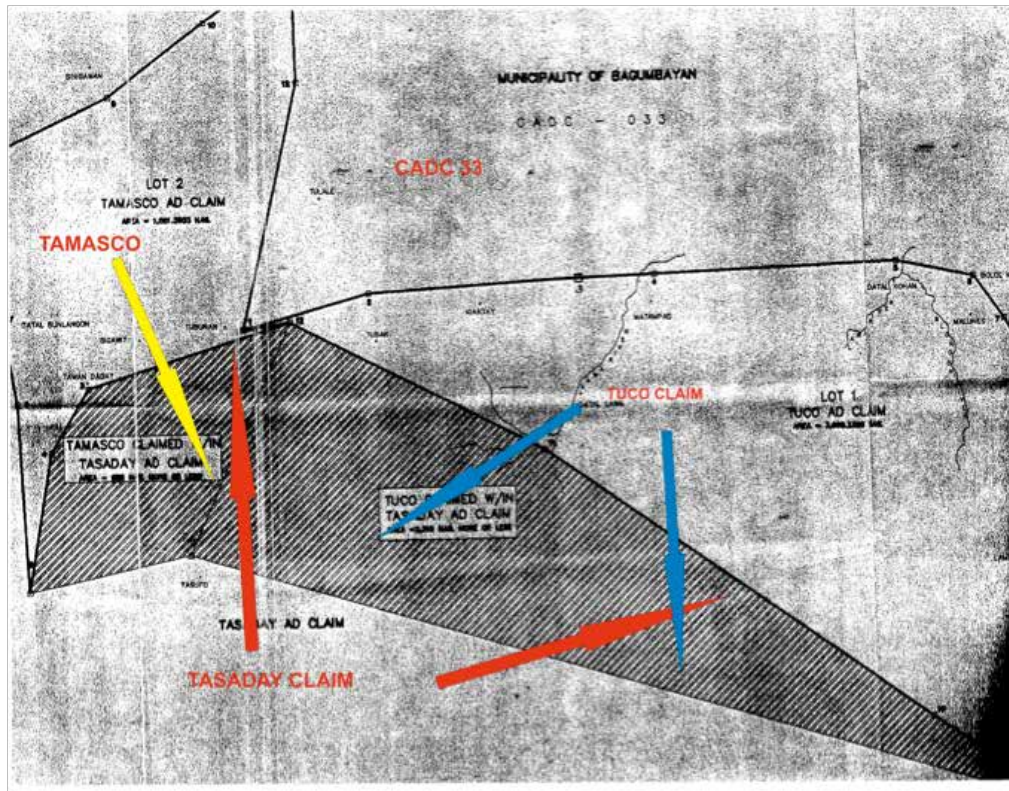
- A – TAMASCO Claim Map
- A-1 – National Indigenous Commission acknowledgment and receipt of TAMASCO CADT application, as of 19 February 2010. No action has since been taken by NCIP on the application.
- B – Coverage of Consunji Coal Operation Contract Overlap with TAMASCO Ancestral Domain Claim for CADT
- C – Appeal for the Cancellation of the Coal Operating Contracts with MG Mining and Energy Corporation/Sultan Energy Philippines Corporation, Daguma Agro-Minerals Resources Inc., and Bonanza Energy Resources, Inc. by the Hublag Kontra Mina (HUKOM)
- D – Arnel Cuales affidavit
- E – Dande Dinyan affidavit
- F – Lita Wali affidavit dated
- F-1 – Abiatar Wali, Ali Danyan, Doming Danyan, joint affidavit
- F-2 – Romeo Danyan affidavit
- F-3 – Valentin Dayao affidavit
- G – Dialogue between the T’boli Community of Brgy. Ned, Lake Sebu, South Cotabato and the 27th Infantry Batallion- Philippine Army dated March 22, 2012.
- H – Memorandum Issued by the Municipal Environment and Natural Resources Office of the Province of Sultan Kudarat dated April 24, 2012.
- I – Injunction and Moral Damages with Application for Urgent ex parte Temporary Restraining Order and/or Writ of Preliminary Injunction filed by the Taboli Manobo SDaf Claimants Association (TAMASCO) with the National Commission on Indigenous Peoples on 6 June 2012.
- J – T’boli-Manobo chief Victor Danyan written statement to the National Cultural Communities of the lower house of Congress during an on-site Congressional Inquiry held at the city of Koronadal to investigation human rights violations being committed against indigenous peoples in relation to extractive industries, conducted last February 21, 2012.



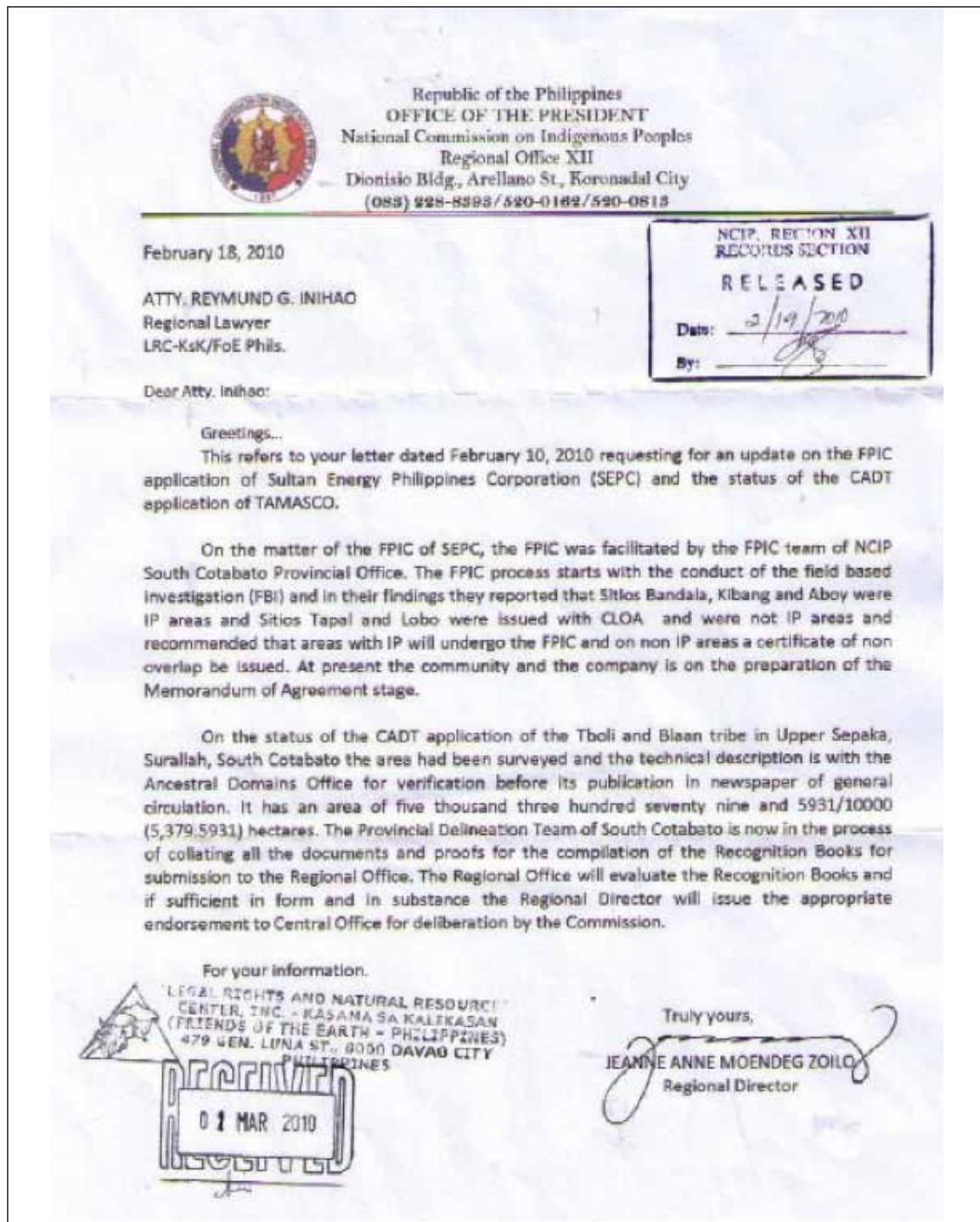


## Annex A – TAMASCO Claim Map

TAMASCO's claim is integrated with that of T'boli-Ubo Claimants Organization ancestral claim under T'boli-Ubo and Taboli-Manobo Indigenous Cultural Community ancestral domain recognition application (see map) with a containing area of 5,379.5931 hectares. The perimeter delineation survey was conducted last February 22 to March 4, 2009.



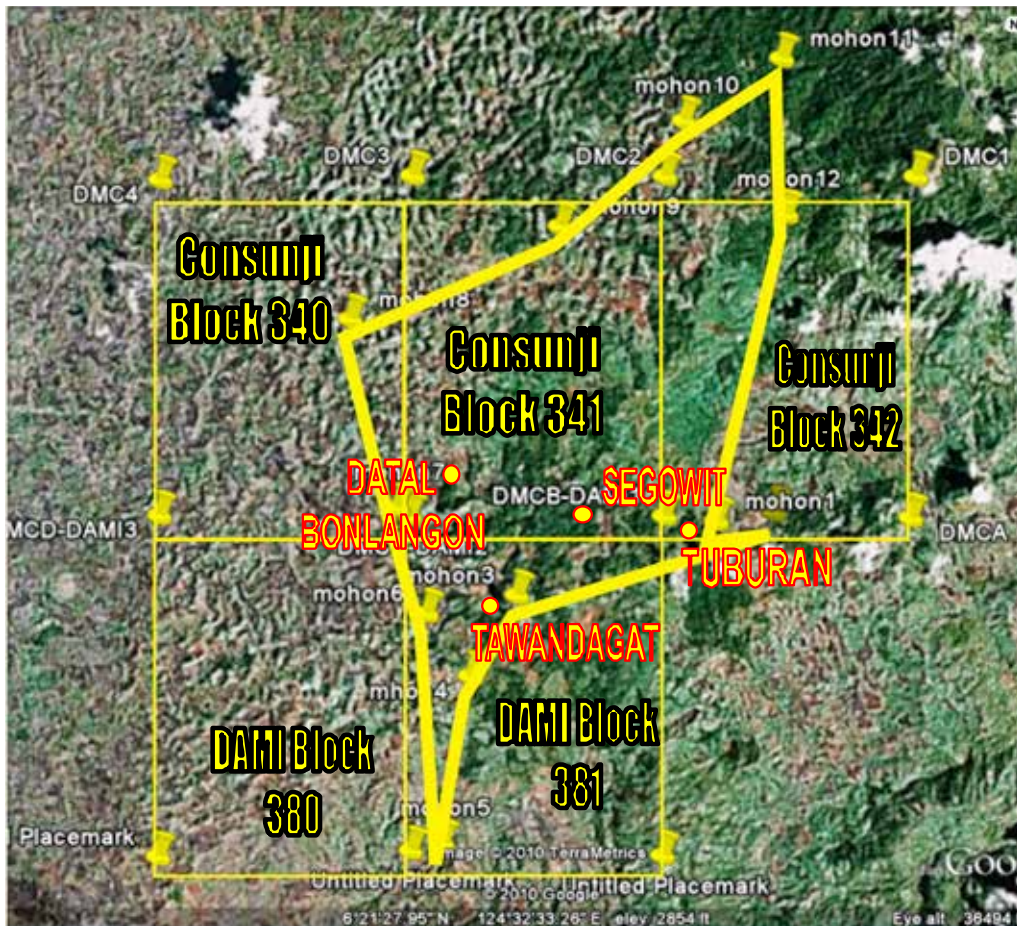
**Annex A-1 – National Indigenous Commission acknowledgment and receipt of TAMASCO CADT application, as of 19 February 2010. No action has since been taken by NCIP on the application.**





## Annex B – Coverage of Consunji Coal Operation Contract Overlapped with TAMASCO Ancestral Domain Claim for CADT

On October 2009, Department of Energy (DOE) signed a coal operating contract, COC 154, with David M. Consunji (DMC) Construction Equipment Resources Inc.. The area lies within and beyond the ancestral claim of TAMASCO including Block VII of IFMA 22 concession area. With this development, TAMASCO's quest to claim their ancestral territories is further threatened even after IFMA 22 expires in 2016.



### **Annex C – Appeal for the Cancellation of the Coal Operating Contracts with MG Mining and Energy Corporation/Sultan Energy Philippines Corporation, Daguma Agro-Minerals Resources Inc., and Bonanza Energy Resources, Inc. by the Hublag Kontra Mina (HUKOM)**

**HUBLAG KONTRA MINA**  
(HUKOM)  
Brgy. Ned, Lake Sebu, South Cotabato

September 04, 2009

**The Secretary**  
Department of Energy  
Fort Bonifacio,  
Makati City, Philippines

**Re: *Appeal for the Cancellation of the Coal Operating Contracts of MG Mining and Energy Corporation/Sultan Energy Philippines Corporation, Daguma Agro-Minerals Resources Inc., and Bonanza Energy Resources, Inc.***

**Sir:**

We, the undersigned are legitimate residents and taxpayers of Barangay Ned, Lake Sebu, South Cotabato.

We refer to the following Coal Operating Contracts (COC) signed between the Department of Energy, with the appeal for the cancellation of the same contracts:

1. Coal Operating Contract No. 134 signed o MG Mining and Energy Corporation on February 23, 2005, whose rights and privileges under the contract was transferred to Sultan Energy Philippines Corporation on October 18, 2007 and November 20, 2007. The contract covered Blocks 46-J-19, 46-J-20, 46-J-21, 46-J-59, 46-J-60, 46-J-98, and 45-J-379. The said COC for exploration was converted into a COC for development and production on February 23, 2009.
2. Coal Operating Contract No. 126 signed with the Daguma Agro-Minerals, Inc. on November 19, 2002. The contract covered Blocks 45-J-380, and 45-J-381. The said COC for exploration has been converted into a COC for development and production on October 26, 2005 and was issued an Environmental Compliance Certificate (ECC) October 04, 2007 by the Environmental Management Bureau region XII Director Datu Tungko M. Saikol for its Blk 380 Lot 10 with a production not exceeding 69,000 MT per annum.

*Appeal for the Cancellation of Coal Operating Contracts (COCs) at Brgy. Ned, Lake Sebu, South Cotabato*

Page 1



3. Coal Operating Contract No. 138 signed with the Bonanza Energy Resources Inc. on May 2005. The contract covers blocks 282, 18, 57, 178, 179, 219, 220, and 300.

We appeal for the cancellation of the aforementioned COCs based on the following grounds:

1. The opening of the lands of Barangay Ned to mining, more so in the form of open pit mining, will result to the destruction of a wide portion of our mountains and forests, and of the watershed areas;
2. Parts and parcels of the areas covered by the above-mentioned COCs are either encroaching or close to the ancestral domain claims of the T'bolo Manobo S'daf Claimant Organization (TAMASCO), Taboli-Ubo Claimants Organization, (TUCO) and the Manubo-Tasaday Blit and CADC 033 claimants.
3. Portions of our barangay and some areas under the coal operating contracts listed above are either under or close to the Watershed Forest Reservation of Allah Valley River System as declared under Proclamation No. 2455 issued on September 12, 1985, and Kabulnan Watershed Forest Reserve under Proclamation No. 214 issued on February 08, 2000. Our barangay is the headwater of many rivers in the Provinces of Sultan Kudarat, South Cotabato and Sarangani thus many more places in the low-lying areas in the aforementioned provinces are dependent on sufficient and clean water coming from our place for their livelihood, drinking and other uses;
4. Most of us are indigenous peoples who had been occupying these lands since time immemorial and rely primarily relying on the resources in these areas; and/or small farmers with no lands to till and farm workers who were sent to Barangay Ned through the Surallah-Baningo Resettlement Project established by the Ministry of Agrarian Reform in 1969; The lands included under the above-mentioned COCs are our only source of livelihood and our only wealth to be passed to our next generations.
5. We already have established sustainable livelihood projects within our lands to ensure our food security and other socio-economic needs. The mountains in our Barangay grow crops that support the food security not only of our Barangay but also of other places. The agricultural produce coming from our Barangay reach other provinces and cities such as Davao;
6. Mining inside Barangay Ned will result to the dislocation of a large number of people. More than 16,000 of the 60,000 population of the Municipality of Lake Sebu live in Barangay Ned; majority of this population are indigenous peoples. Of the 41,000 ha of the Barangay, 14,000 ha are under the aforementioned coal operating contracts (COCs). The mining operation of SEPC can potentially be the largest open pit coal mine in the Philippines.

*Appeal for the Cancellation of Coal Operating Contracts (COCs) at Brgy. Ned, Lake Sebu, South Cotabato*

Page 2



7. The entry of mining in our place has brought conflicts and ruined social relations among the families and residents of our community that we fear this will eventually cause polarization and destruction of basic community structures.
8. The mining companies did not respect the processes of getting into our community. They failed to provide exact information of their intents, plans or the full disclosure of information regarding their project. The companies did not conduct genuine public consultations nor obtain the genuine consent of the indigenous peoples living within and close to their concessions.
9. Lastly, coal is the dirtiest source of energy. The burning of coal in power plants made huge contributions to global warming and climate change which affects everybody and render more adverse effects to us small farmers. It has been a constant pronouncement by our government that confronting the effects of climate change is its priority program but ironically, it allows mining companies to extract coal from our environmentally critical areas.

We believe that the above stated reasons are serious and immediate concerns that deserve urgent attention by your good office.

We also appeal that current activities by the aforementioned mining companies relevant to their coal mining exploration and/or development and production in our barangay be suspended pending hearing of this complaint.

We further request that this appeal will be expeditiously dealt with according to appropriate administrative legal processes by your office and as prescribed by our laws.


Done on September 04, 2009 in the year of our Lord 2009 at Barangay Ned, Lake Sebu, South Cotabato.


**Yellen Z. Zata**  
Chairperson  
Hublag Kontra Mina (HUKOM)


**Chiquito R. Batacandulo**  
Vice-Chairperson  
Hublag Kontra Mina (HUKOM)


**Genalyn P. Baculina**  
Secretary  
Hublag Kontra Mina (HUKOM)


**Gideon T. Labi**  
Treasurer  
Hublag Kontra Mina (HUKOM)

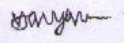
  
**Narciso V. Zonio**  
Kaabag Ned1 District IV Coordinator  
Gapoc-Langgal Mission Station  
Roman Catholic Church


  
**Remito Cortez**  
Chairperson  
Gagmayng Kristohanong Katilingban  
Sitio Kibang, Brgy. Ned, Lake Sebu

  
**Ailyn O. Perez**  
Secretary  
Association of Ned Aklanon  
(ANA)

  
**Emiliano Esog**  
Lay Minister  
Gagmayng Kristohanong Katilingban  
Sitio Tafal, Brgy. Ned, Lake Sebu


  
**Rex D. Orquia**  
President  
Gagmayng Kristohanong Katilingban  
Sitio Tafal, Brgy. Ned, Lake Sebu


  
**Datu Victor Danyan**  
Chairperson  
T'boli Manobo S'daf Claimants  
Organization  
(TAMASCO)

  
**Merly Z. Zonio**  
President  
Kibang Women's Organization  
(KIWO)

  
Cc:

**Office of the Ombudsman**  
Ombudsman Building  
Agham Road, North Triangle  
Diliman, Quezon City 1101

  
**Office of the Secretary**  
Department of Environment and Natural Resources

  
**Office of the Provincial Governor**  
Province of South Cotabato

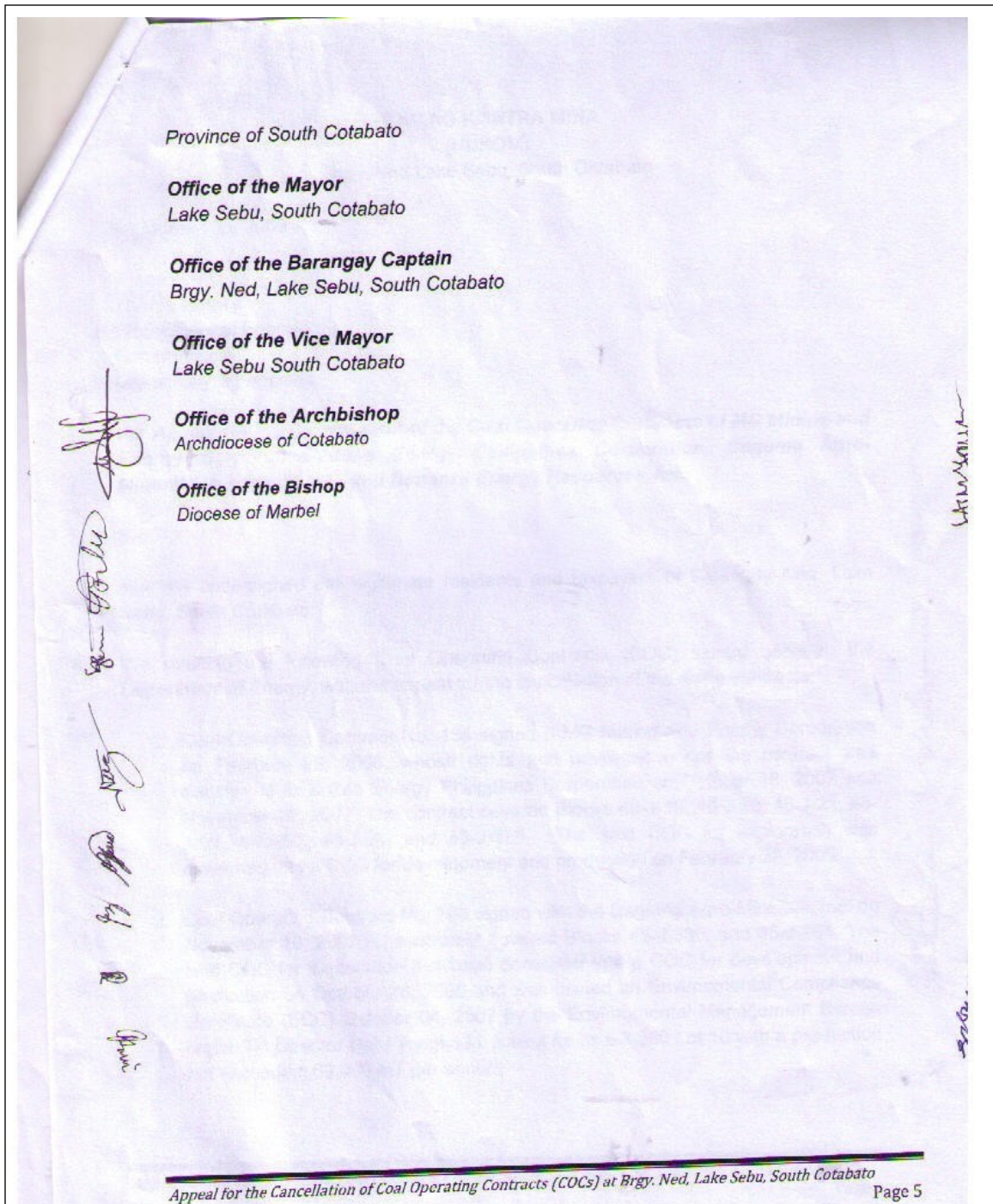
**Office of the provincial Vice-Governor**

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*Appeal for the Cancellation of Coal Operating Contracts (COCs) at Brgy. Ned, Lake Sebu, South Cotabato*

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## Annex D – Arnel Cuales affidavit

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REPUBLIC OF THE PHILIPPINES)  
Koronadal City) s.s.

### AFFIDAVIT

I, **ARNEL N. CUALES**, Filipino, of legal age and resident of Sitio Segowit, Barangay Ned, Lake Sebu, South Cotabato after oath, depose and state, as follows:

1. I am married, a father to six (6) children, and a farmer;
2. Currently, there are four (4) to five (5) holes that are drilled in our community area. The first and second holes drilled are located at the coffee plantation commonly known as "Bermuda". The third hole is at New Datal. The fourth hole caused by the drilling is at New Surallah, about 50 meters from the Baptist Church. The fifth hole is now being drilled at Sitio Tulale, at a "high place" where there is a spring;
3. On 28 January this year, drilling equipment including a "traktora" entered or were introduced at Bermuda;
4. The drilling activities began in February 2012. I saw a bulldozer that would bring and take materials necessary or related to the drilling;
5. I also saw metal tubes piled that are as big as thighs or legs, and as tall as, or taller or longer than a door;
6. Some SCAA would accompany the men conducting the drilling;
7. When drillings are being conducted, I would observe that the bulldozer would come and go about twice daily;
8. From where I live, in Sitio Segowit, I can see and I have witnessed the men doing the drilling put some kind of "medisina" or chemical into the metal tubes, which I understand could melt rocks;
9. I fear that this "medisina" or chemical would harm our people, most especially the children in our community; and not only the people, but, the "medisina" might pollute our river as well;
10. Before a hole is drilled into the land, the men from "DMC"/ "IFMA" would bulldoze the land. After drilling the hole, the company men would cover the hole with cement and put some details such as a calendar date;
11. In 2010, drilling was also conducted within the ancestral domain in Sitio Tuburan, Barangay Ned, Lake Sebu, South Cotabato. The drilling was done at the side of the highway. This drilling truly caused damage because a landslide occurred – the soil really "bogged down" – and the house near the hole made by the drilling slipped with the soil;
12. The men conducting the drilling are associated with the company "DMC" because since the long years that we have stayed at Barangay Ned, we have come to know that it is the company and its men that can say or control who can come in and out of our community ("nagpapapasok");

13. Although I am not T'boli, I join and support their community in seeking legal help so that the drilling would stop;

14. I execute this affidavit to attest to the truth of the foregoing.

IN WITNESS WHEREOF, I have signed this instrument on 8<sup>th</sup> June 2012 at Koronadal City.

  
ARNEL N. CUALES  
Affiant

SUBSCRIBED AND SWORN TO before me this 08<sup>th</sup> of June 2012 at Koronadal City, Philippines, affiant exhibiting to me his Voter's Identification Card No. 6319-0092A - H0572ANC10003-5 issued by the Commission on Elections at Lake Sebu, South Cotabato.

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## Annex E – Dande Dinyan affidavit

REPUBLIC OF THE PHILIPPINES)  
Koronadal City) s.s.

### AFFIDAVIT

I, **DANDE DINYAN**, Filipino, of legal age and resident of Sitio Tulale, Barangay Sto. Nino, Bagumbayan, Sultan Kudarat, after oath, depose and state, as follows:

1. I am married, a father to three (3) children, a farmer, and a T'boli chieftain. I am the Vice Chairman of Taboli Manobo Sdaf Claimants Organization or more popularly known as TAMASCO, an organization of mostly T'boli that is established in 2006, and a rural workers organization that is registered with the DOLE. Since time immemorial or as far back as memory goes, my T'boli ancestors have been occupying territories in what is now known as Lake Sebu, South Cotabato, and Bagumbayan, Sultan Kudarat. Our application for Certificate of Ancestral Domain Title (CADT) has been filed with the National Commission on Indigenous Peoples (NCIP) around 2002 and is now pending with the Commission;

2. On 28 January 2012, I saw heavy drilling equipment and machines being transported to our barangay in Sto. Nino, Bagumbayan, Sultan Kudarat;

3. In February 2012, drilling activities started in our sition in Tulale. They would drill at around midnight somewhere near or at the area of the "kapihan". Although then I could not see them drilling, I could hear the sound that they were making;

4. As far as I have seen, in February 2012, there were only three "holes" made by the drilling – two were at Barangay Sto. Nino, and one was at Barangay Monteverde;

5. On 30 March 2012, personnel from the "COC" ("coal operating contract") visited me at my home. They introduced themselves as Rolando Boloria, Fortunato Arbiola, and the person we have come to know as the Administrative Officer of the "IFMA" ("Integrated Forest Management Agreement") Pikitpikit Buenaventura. They told me that they have come to "explore"; that "national" is already "angry" at why they have not yet started "exploring". During this visit, the three also asked me questions about the status of our application for issuance of Certificate of Ancestral Domain Title (CADT);

6. Our ancestral domain covers at least three (3) barangays, in two (2) municipalities and two (2) provinces – Bagumbayan in Sultan Kudarat, and Lake Sebu in South Cotabato. It is estimated to be around 2, 200 hectares and has around 10 "muhon" or AD boundary markers. Our application is pending with the National Commission on Indigenous Peoples (NCIP);

7. Also on 30 March, Mr. Boloria told me that with the drilling and exploration they did not have to coordinate with sitio leaders, or tribe leaders like me. I told him that not consulting with my community could not be ("hindi pwede");

8. Mr. Boloria, Mr. Arbiola, and Mr. Buenaventura then informed me that they have a coal operating contract with no. "154" and that it supposedly covers 3000 hectares, and covers Sultan Kudarat only. They also told me that after drilling and exploring in Monteverde, they would move on to Sitio Tulale, which is where I live;

9. Mr. Boloria also told me that they, the "DMC-COC" (D.M. Consunji-coal operating contract") had scheduled a "pulong-pulong" but that this had not pushed through as they were still looking for a lawyer. Then they asked me about my and my tribe's "demand". I answered that they would need to call for a "GA" (general assembly). I also told them that I already went to NCIP Region XII and complained about the ongoing drilling and explorations;

10. About the ongoing drilling activities, I went to NCIP Region XII sometime in January or February 2012 and made inquiries and they told me that there are no "COCs" (coal operating contracts) in Sitio Tulale;

11. I also went to the NCIP Sultan Kudarat Provincial Office and asked for advice on what we could do about the drilling. I also sought the help of the municipal officials of Bagumbayan as regards the drilling activities being conducted in our community without our consent;

12. On 19 April 2012, the Municipal Environment and Natural Resources Officer of Bagumbayan went to our community at Sto. Nino and inspected the area in relation to our complaint about the drilling. During this inspection, the Indigenous Peoples representative of Bagumbayan Datu Rashid Corpuz was present, plus three others, and, of course, the MENRO. The inspection team saw for themselves the holes made by the drilling;

13. At around 9 o'clock in the morning of 09 May 2012 a certain Mr. Moncano A. Melchor, known to us as a foreman of the Coal Operating Contract Drilling, came to our house together with two (2) SCAA, Jaime Demantocay and Estelito Senador. He informed me that they are drilling at Purok New Suralla, Sitio Tulale, Brgy Sto. Nino, Bagumbayan, Sultan Kudarat. I told him that they should have conducted a meeting so that the people can express what they think about their drilling activities. He told me that he will just relay what I told him to Mr. Pikit-pikit "Titing" Buenaventura;

14. During this visit from Mr. Melchor, I was already aware that their drilling equipment was already at the homelot of Danilo Yang. The drilling site is near the ancestral cemetery of the tribes. It is for this reason, among others, that our tribal group is opposing the setting up of their drilling equipment;

15. At around 9:30 in the morning of that same day, Pikit-pikit Buenaventura told me that "we will start the drilling in your place in New Suralla". I responded to him "that it cannot be because that is very close to the graveyard of our forefathers". He answered me that "we will just make the hole a little farther away from the cemetery so that the drilling will not be at the center of the cemetery because the drilling will only be around 100 meters deep";

16. Then together, Mr. Buenaventura and I went to their proposed drilling site. My "tanod" colleagues and some members of the community came with us. When we reached the drilling site, the drilling equipment were already installed in the homelot of Danilo Yang. Pikit-pikit asked Danilo Yang what was his demand considering that the drilling will be at his homelot. He offered Danilo Yang a work in the company at two hundred pesos per day. At that time Danilo did not make a decision;

17. When we went to the drilling site at the homelot of Danilo, the area was already bulldozed and was cleared; the soils were dumped to the plants of Danilo. I realized then that while we were talking in our house, clearing of the area where Danilo's home was located has started such that when we went there, clearing or bulldozing was already done. Danilo Yang was then not aware about what was happening to his homelot. We parted with Pikit-pikit at around 11 o'clock in the morning;

18. Sometime in April, I took photographs of the people conducting the drilling-related activities, the drilling equipment, and the drillings made;

*(Attached and made integral parts of this affidavit are four (4) film pictures and marked as Annex Dinyan Affidavit "A", "A-1", "A-2", and "A-3".)*



19. Sometime in May, I took another batch of photographs showing the big metal drilling equipment, metal tubes, abaca trees submerged in water, a road in our community that has turned muddy, and other trees submerged also in flood water;

*(Attached and made integral parts of this affidavit are five (4) film pictures and marked as Annex Dinyan Affidavit "B", "B-1", "B-2", "B-3" and "B-4".)*

20. Also one morning in May this year, a DMC company guard told me that Mr. Pikitpikit Buenaventura would have me "receive" something. I waited for about three (3) hours for Mr. Pikitpikit to visit me. When he did come to my house, I offered him coffee. He then showed me an envelope, and a sheaf of papers. He said that the envelope contained PhP5,000.00 pesos, which was supposedly for the homeowner of the homelot, Danilo Yang, whose house was destroyed. He also told me that it was up to me how I would use the PhP5,000.00, if I wanted. I told Mr. Buenaventura that I did not approve of it. Mr. Buenaventura told me that the money came from the mango plantation known to us as "Phlamango";

21. On this same day, Mr. Buenaventura told me that the Operations Manager of DMC known as "JRI" or as Joselito R. Invento has called for a dialogue at Bermuda or the coffee plantation of the company. Mr. Pikitpikit Buenaventura also told me that I was supposedly the only tribal leader that was absent at the dialogue, and that I was allegedly the only one left who did not sign ("hindi pumirma"). I told him that if there was a dialogue, the local government units particularly the Municipality should be involved;

22. When Mr. Buenaventura was suggesting and asking that I sign a paper/document and that I give my consent to the drilling, I told him that I would not sign the "certification" because I would have to go to the local government unit of Bagumbayan, and to NCIP Region XII to lodge a complaint. I also remember seeing in the papers carried by Mr. Pikitpikit Buenaventura the words "DMC CER". Mr. Buenaventura also tried to convince me to sign the paper by saying that our barangay captain would give approval to the drilling. I told him to show me the proof of approval, or the signature of our barangay captain, which Mr. Buenaventura was unable to show;

23. As of this date of 1<sup>st</sup> week of June 2012, I know that there are four (4) holes drilled by "DMC CER" and they are preparing to drill a fifth hole at my community at Sitio Tulale, Barangay Sto. Nino, Bagumbayan, Sultan Kudarat;

24. "DMC" (D.M. Consunji) company has not helped us with anything ("hindi nakatulong"). Before, company guards have destroyed at least three (3) houses, and the coffee that the families have planted;

25. Company guards have been telling me to go away from my home because the guards said that the area was part of the IFMA of DMC;

26. Once during a public hearing the Operations Manager of DMC called us, my tribe, as "squatter."

27. DMC's plants such as "kabibaya", ipil-ipil used to occupy lots some distance from home, but now, they are already surrounding if not encroaching my home and yard.

28. When they were drilling these past months, I could not sleep because of the loud sound caused by the drilling. It was like something very heavy was hitting something as solid as rock;

29. One hole that was drilled appears to have "failed" ("palpak") or appear to have "bogged down" because the soil and the equipment "slid" ("bog down") ("lumubog");

30. My farm has been flooded and my abaca is submerged in water because the outlet for the water has been blocked caused by the company's drilling activities.

31. I execute this affidavit to attest to the truth of the foregoing.

IN WITNESS WHEREOF, I have signed this instrument on 8<sup>th</sup> June 2012 at Koronadal City.

  
**DANDE DINYAN**  
Affiant

SUBSCRIBED AND SWORN TO before me this 08<sup>th</sup> of June 2012 at Koronal City, Philippines, affiant exhibiting to me the **original copy of a CERTIFICATION** by NCIP Provincial Officer **Teresa A. Somorostro** on **13 April 2007** at **NCIP Provincial Office, Isulan, Sultan Kudarat**, that affiant is **DATU DANDE DINYAN**, is a tribal chieftain of Sitio Tulali, Barangay Sto. Nino, Bagumbayan, Sultan Kudarat and is a bona fide member of the indigenous peoples/indigenous cultural communities of the Philippines belonging to the T'boli ethnic group of Central Mindanao. Affiant also exhibited to me his **Community Tax Certificate No. 03995242** issued on **11 May 2012** at **Bagumbayan, Sultan Kudarat**.

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**"A"**



**"A-1"**



**"A-2"**



**"A-3"**





**"B"**



**"B-1"**



**“B-2”**



**“B-3”**





**"B-4"**



## Annex F – Lita Wali affidavit

Republic of the Philippines )  
Province of South Cotabato )  
City of Koronadal ) S.S.

### **AFFIDAVIT**

I, **LITA WALI**, Filipino, of legal age, married, and a resident of Sitio Celtec, Brgy. Ned, Lake Sebu, South Cotabato, after having duly sworn in accordance with law, hereby depose and say:

1. I am a member of the T'boli indigenous community.
2. My children and I were eating at around two o'clock in the afternoon of February 3, 2012 when suddenly we heard some men shouting outside the house ordering us to come out and bring our arms outside the house (**"GAWAS! GAWAS! GAWAS AND MAY MGA ARMAS!"**) Then, the man counted "one! two!" (**ISA! DUHA!**) then a loud gunshot followed.
3. While holding my one year old child, I immediately went outside the house even amidst the heavy rain. My other four children who were all minors fled and ran away for their safety. Outside the house, I saw several heavily armed men in military uniform who were surrounding us. I was standing there with my relatives, and was still holding my child amidst the heavy outpour of the rain as the military men were all pointing their guns at us in the assault position.
4. As I saw one of them intensely pointed his gun to my elderly father, I stepped in to cover my father and asked the armed men what is our fault and why are they doing this to us; I also told him we do not have arms, but just farm tools instead: (**"SIR, PWEDE KA MAMANGKOT? ANO SALA NAMON? NGAA GINAHIMO NIYO NI SA AMON SIR HAW? WALA MAN KAMI ARMAS, PISAW LANG MAN NGA GINAGAMIT NAMON SA UMA"**). But there was no answer from any of them.
5. Then our Sitio Leader came and I heard the military man asked him were Victor is. When he was told that Victor is in K'batang, the man then said the if he comes back, he should immediately go to El Dulong tomorrow, or immediately the day after he arrives; he should clear his name, other wise, he will be in the wanted list. He also said that if Victor will not come, something bad will happen to him (**"KUN MAABOT SI VICTOR BWAS, KADTO SIYA SA EL DULOG. KINANGLAN LIMPYUHAN NIYA IYA NGALAN, KAY KUN HINDI, MA WANTED SIYA. KUN MAABOT SIYA KARON, KINANGLAN MAKADTO SIYA BWAS; KUN MAABOT SIYA BWAS, SA DOMINGO SIYA KADTO. KUN HINDI SIYA MAKADTO, MAY MALAIN NGA MATABO SA IYA!"**)
6. When they were about to leave, our Sitio Leader asked them to sign in the log book. I saw six men who signed their names in the log book, the first one being the man who gave the instructions above.
7. After the incident, my one year old child got sick for the whole week. I also suffered bleeding and was hemorrhaging for several days after that incident. I also learned that my four children who ran away when this incident happened was hiding in a very dangerous place just to secure themselves. Some of my nephews have also stopped schooling. We are very afraid of our lives and safety.
8. I am executing this affidavit to attest to the truth of the foregoing, and for such other purpose/s it may serve.



IN WITNESS WHEREOF, I hereby affix my signature this \_\_\_\_\_  
in the City of Koronadal, South Cotabato.

(signed) LITA WALI

\_\_\_\_\_  
Affiant

SUBSCRIBED AND SWORN TO before me this \_\_\_\_\_ at the City of  
Koronadal, South Cotabato, affiant having exhibited to me his CTC/valid identification \_\_\_\_\_  
\_\_\_\_\_ issued on \_\_\_\_\_ at \_\_\_\_\_.

NOTARY PUBLIC

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## Annex F-1 – Abiatar Wali, Ali Danyan, Doming Danyan joint affidavit

Republic of the Philippines       )  
Province of South Cotabato       )  
City of Koronadal                ) S.S.

### **JOINT AFFIDAVIT**

We, **ABIATAR WALI**, 20 years old, single, a resident of Sitio Datal Bonlangon; **ALI DANYAN**, 21 years old, married, resident of Sitio Datal Bonlangon; and **DOMING DANYAN**, 27 years old, married, resident of Sitio Datal Bonlangon, all part of Brgy. Ned, Lake Sebu, South Cotabato. Having sworn to in accordance with law, do freely and of our own volition depose and state that:

- 1) Last February 3, 2012, at least 20 women and men members of of TAMASCO ( *T'boli Manobo A'daf Claimants Organization* ) assisted the “pugasan” (planting) of the 2- hectare farm lot of Mr. Abiatar Wali of maize seeds;
- 2) At around past 1:00pm, we started leaving the farm area heading towards the house of Mr. Abiatar Wali in Sitio Datal Bonlangon after the rain started to drop;
- 3) On our way to the house of Mr. Wali, which is just 60 meters from the farm area, we saw armed men with high powered guns and in combat uniform heading towards the plaza;
- 4) We saw a group of 5 armed men positioning behind the house of Datu Victor Danyan, one of the five armed men run and hid at the elevated house of Benito Bon which is directly behind the house Datu Victor Wali. Later the armed man was recognized by the house owner as Mr. Amay Gomez;
- 5) Another group of 3 armed men in assault position heading towards the house of Datu Victor's house and another 3 armed men strategically positioning their high powered guns. One at the Day Care Center near the comfort room, the second near the plaza hiding behind the banana tree, and the third one, just across the house of Mr. Abiatar Wali;
- 6) He moved closer to the house of Mr. Abiatar Wali and shouted “**Gawas! Gawas! Ang may mga armas**” (Go Out! Go Out! those with guns! ).Then, he counted “**Isa! Duha!**” and fired a single shot into the ground which caused further tension in the area.
- 7) Mr. Abiatar Wali asked “**Unsa man ang problema?** (What's the problem?) Then, the armed man responded “**nagkadto kami diri kay may nangayo bulig**” ( We came here because someone asked for our assistance)
- 8) The armed man then asked “**Asa ang Sitio leader?**” Mr Abiatar Wali responded, “**ara didto nagpangas**”. Mr. Abiatar then asked Mr. Mario Dayao, the child of the Sitio leader to fetch his father at the farm area but only Victor Danyan, Jr., who fetch the Sitio leader because Mario got nervous and was looking afraid.



9) In a while, the sitio leader, Mr. Valentin Dayao, arrived. The armed man asked him **“Asa si Victor?”** (Where is Victor?) After the latter replied that he was in K'batang, the man again said: **“Ipa-kadto siya sa camp sa El Dulog para malimpyuhan iya ngalan. Kun hindi siya makadto, ma wanted siya. Kun maabot siya karon, kadto siya didto bwat. Kun sa bwat siya maabot, makadto siya didto sa Domingo. Kun hindi siya makadto, may malain nga matabo sa iya”** (He should visit the base camp at El Dulog to clear his name, because if he will not, he will be on the wanted list. If he will arrive later today, he should go there tomorrow. If he will arrive tomorrow, he should go there immediately the next day Sunday. If he will not come, something bad might happen to him);

10) Before leaving, the Sitio Leader asked them to sign in their sitio logbook. So they went with him and wrote their names in the logbook. We saw that the man who signed first was the person who was earlier giving instructions as mentioned above. We saw in the logbook that their names are:

1. Jojo Vellame
2. Romy delos Santos
3. Bryan Aragon
4. Reynold Pansador
5. Sur Abalas
6. Dextermy Santoval

11) We are executing this affidavit to attest the truth of all the above and for such other purposes it may serve.

IN WITNESS WHEREOF, I hereunto set our hands this \_\_\_\_\_ at Koronadal City, Philippines.

**(signed) Abiatar Wali**  
Affiant

**(signed) Ali Danyan**  
Affiant

**(signed) Doming Danyan**  
Affiant

SUBSCRIBED AND SWORN TO before me this \_\_\_\_\_ at the City of Koronadal, South Cotabato, affiants having exhibited to me their CTCs/valid identifications \_\_\_\_\_ issued on \_\_\_\_\_ at \_\_\_\_\_.

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## Annex F-2 – Romeo Danyan affidavit

Republic of the Philippines )  
Province of South Cotabato )  
City of Koronadal ) S.S.

### **AFFIDAVIT**

I, **Romeo Danyan**, 32 years old, married, a resident of Tawan Dagat, Brgy. Ned, Lake Sebu, South Cotabato, after having been sworn to in accordance with law, do freely and my own volition depose and state that:

1. Around 2:00pm of February 3, 2012, the rain started to pour while I was eating jackfruit inside the house of my sister Mrs. Amihan Danyan Gayao in Sitio Datal Bonlangon, Brgy. Ned, Lake Sebu. I was there to visit my father who was staying there for a few days, Datu Logata Danyan.
2. I was visiting my sister's house after my hunting activity at the nearby area, bringing along with my air gun;
3. At that time, I saw 5 armed men positioning behind the house of Datu Victor Danyan. One of the five armed men run and hid at the elevated house of Benito Bon which is directly behind the house Datu Victor Wali. Later the armed man was recognized by the house owner as Mr. Amay Gomez;
4. Inside the house at that time, my sister, Amihan, told me that she saw three (3) armed men in military combat uniform carrying high powered guns, and in assault position, were heading towards the house of Datu Victor Danyan;
5. Another 3 armed men positioning their high powered guns near the Day care center, at the nearby plaza, and near the house of Mr. Abiator Wali's house;
6. One of the armed man, in between Mr. Abiator Wali's house and Amihan house shouted "**Gawas! Gawas! Ang nay mga armas!**" ("Go Out! Go Out! those with guns"). Then, he counted "**Isa! Duha!**", and then fired a shot into the ground which caused further tension in the area.
7. After the fired shot, me, my Father Datu Logato Danyan, and my sister Amihan, went outside the house and proceeded near the house of Mr. Abiator Wali's house. While we were there, my father moved to approach the armed man. But Lita intervene covering his father and said "**Unsa man ang among sala sir? Wala man kami armas, pisaw lang man para sa panguma namon**" (What is our fault sir? We do not have any arms, only our farm tool which we use in the farm).
8. The armed man then asked "**Asa ang Sitio Leader?**" (Where is your Sitio Leader?) Mr. Abiator Wali responded, "**naa didto nagpanggas**" (There at the farm, sowing seeds). Mr. Abiator asked the child of the Sitio leader to fetch his father at the farm area but only Victor Danyan, Jr., the son of Datu Victor, who fetched the Sitio leader.
9. In awhile, the sitio leader arrived, Mr. Valentin Danyan. The armed man asked "**Asa si Victor?**" (Where is Victor?) When Mr. Danyan told him that Datu Victor was in K'batang, he then instructed the latter that: "**Ipa-kadto siya sa camp sa El Dulog para malimpyuhan iya ngalan. Kun hindi siya makadto, ma wanted siya. Kun maabot siya karon, kadto siya didto bwat. Kun sa bwat siya maabot, makadto siya didto sa Domingo. Kun hindi siya makadto, may malain nga matabo sa iya**" (He should visit the base camp at

El Dulong to clear his name, because if he will not, he will be on the wanted list. If he will arrive later today, he should go there tomorrow. If he will arrive tomorrow, he should go there immediately the next day Sunday. If he will not come, something bad might happen to him);

10. Before leaving, the Sitio Leader asked them to sign in their sitio logbook. So they went with him and wrote their names in the logbook. I saw that the man who signed first was the person who was earlier giving instructions as mentioned above. I saw in the logbook that their names are:

1. Jojo Vellame
2. Romy delos Santos
3. Bryan Aragon
4. Reynold Pansador
5. Sur Abalas
6. Dextermy Santoval

11. I am executing this affidavit to attest the truth of all the above and for such other purposes it may serve.

IN WITNESS WHEREOF, I hereunto set our hands this \_\_\_\_ day of March 2012, at

\_\_\_\_\_

**(signed) Romeo Danyan**  
Affiant

SUBSCRIBED AND SWORN TO before me this \_\_\_\_\_ at the City of  
Koronadal, South Cotabato, affiant having exhibited to me his CTC/valid identification \_\_\_\_\_  
\_\_\_\_\_ issued on \_\_\_\_\_ at \_\_\_\_\_.

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### Annex F-3 – Valentin Dayao affidavit

Republic of the Philippines       )  
Province of South Cotabato       )  
City of Koronadal                ) S.S.

#### **AFFIDAVIT**

I, **VALENTIN DAYAO**, Filipino, of legal age, and a resident of Sitio Celtec, Brgy. Ned, Lake Sebu, South Cotabato, after having duly sworn in accordance with law, hereby depose and say:

1. I am the Sitio Leader of our Purok Celtex in Barangay Ned, Lake Sebu, South Cotabato, and I am a member of the indigenous people of T'boli community in our barangay.
2. About two o'clock in the afternoon of February 3, 2012, I was helping a Abiatar Wali in his farm to plant corn when suddenly I heard a gunshot near the house of Datu Victor Dangyan (a.k.a "Datu Victor") as his house can be seen from the farm of Abiatar. Some of my companions went to the place of the incident while I was left and looked out for the safety of my fellow farm workers who were mostly women. Some of them however, immediately went home as heavy rains fell, and also for fear of their lives.
3. Later, I was approached by Victor Dangyan, Jr. (a.k.a. "Junior") who said that I needed to go to there because they were looking for me. So I immediately went there at the house of Datu Victor. Along the way, I saw my neighbors numbering about twenty (20) were out of their house and was being drenched in the rain as several armed men were holding and pointing their guns at them. As I approached the scene, one of the armed men in military uniform asked me where Victor is ("**Diin si Victor?**") I told him that he was in K'batang ("**ara siya sa K'batang**"). The same man told me that when Victor comes back tomorrow, Saturday, he should immediately go to El Dulong on Sunday; or, if he arrives on Sunday, he should go there immediately the next day, Monday.
4. I also heard him say that if Victor needs to clear his name; otherwise, he will be on the wanted list ("**kun hindi siya kadto, ma wanted siya!**")
5. As they were about to leave then, I asked them to sign in our log book. So we went to get the logbook and have them registered their names in the book. I saw the six of them wrote their names in the logbook, and the first one who signed his name was the same person who gave the above-cited instructions. After that, they left.
6. And on March 18, 2012, a man in civilian clothing approached me while I was at Sitio Tawandagat of Barangay Ned, Lake Sebu. He led me aside and read a letter which was written in a yellow paper. He informed me that I should go to El Dulong to the next day at nine o'clock (9 am) to talk about peace and order situation with Sgt. Gamboa of the 27th IB of the Philippine Army.
7. I am fearing for my life now. My fellow community members are feeling the same since this assault and harassment of the military in our place. We only want peace and we live in peace. I am certain that since the military is looking for me now, it is relative to the incident in February 3, 2012 which left many people in our village traumatized and are now living in danger.
8. I am executing this affidavit to attest to the truth of the foregoing, and for such other purpose/s it may serve.

IN WITNESS WHEREOF, I hereby affix my signature this \_\_\_\_\_ in the City  
of Koronadal, South Cotabato.

**(signed) VALENTIN DAYAO**  
Affiant

SUBSCRIBED AND SWORN TO before me this \_\_\_\_\_ at the City of  
Koronadal, South Cotabato, affiant having exhibited to me his CTC/valid identification \_\_\_\_\_  
\_\_\_\_\_ issued on \_\_\_\_\_ at \_\_\_\_\_.

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## **Annex G – Dialogue between the T'boli Community of Brgy. Ned, Lake Sebu, South Cotabato and the 27th Infantry Battalion- Philippine Army dated March 22, 2012.**

### **Dialogue between the T'boli Community of Brgy. Ned, Lake Sebu, South Cotabato and the 27th Infantry Battalion- Philippine Army**

March 22, 2012

EMR Convention Center, Koronadal City South Cotabato

The dialogue intended to come-up an agreements among the tribal community of Barangay Ned, Lake Sebu, South Cotabato and the 27th Infantry Battalion- Philippine Army on the February 3, 2012 military operation that triggered the on-going tension inside the community.

The tribal community leader of TAMASCO ( T'boli Manobo S'daf Claimants Organization ) Datu Victor Danyan was the target during the said operation last February 3, 2012 in Sitio datal BonLangon, Lake Sebu as attested by the community members through their affidavits . At present, Datu Victor Dayan presently stayed outside his domain since February 3 because of his fear of life.

The dialogue is set to report to the what had happened in February 3 to the relevant agencies and 27th Infantry Battalion as the direct institution identified by TAMASCO.

The community dreamt of achieving a lasting and peaceful coexistence of the T'boli community in their ancestral domain. The Dialogue is provided as a space to talk and come-up a solution in achieving peace in the community.

Historically, the military was able to dismantle the guerilla front 73 camp as been identified as infested with NPA . Now has been reactivated with a skirmishes with the military and the armed group last May 1, 2011 in the boundaries in Maitum and as part of the effort of the 27th infantry as a token in support of the province peace and order program. The Military effort is primary in response to the program in Brgy. Ned as a contested area. In the next few months, the military will be active in Brgy Ned, Lake Sebu, South Cotabato. The mission is to get the picture, the structure of how the Guerilla 73 operates in the area and has been validated by the reports gathered as narrated by Col. Bravo. Sergeant Gerry Reginio, Platoon Leader who conducted a foot patrol in the area and not doing military operation. They visited Sitio Datal Bonlangan to look and have a courtesy call for the tribal chieftain in the community. They cannot do the patrolling/operation in an area without carrying an armed as part of the Standard Operating Procedure (SOP).

#### **Over-all Commitments:**

- Respect the integrity of the Indigenous Peoples in their Ancestral Domain.
- Informed relevant government agencies (NCIP, CHR, DILG) or the in-placed peace and order task force set-up by the province in engaging patrolling/operation of the Military in the area particularly inside the TAMASCO Ancestral Domain;
- As much-as-possible a Two-way coordination in the activities implemented/conducted or visitors invited in the area by the community/agencies/support groups.

#### **Specific Commitments:**

##### **27th Infantry Infantry Battalion**

- Committed in achieving peace and order in the community;
- If there are trainings or seminars in the community, they may attend or participate;
- Datu Victor is not wanted, nor in any wanted list of the military

##### **Commission on Human Rights**

- Support programs of the indigenous peoples and the Military programs
- Assist and address complaints of human rights violations of the indigenous peoples



***National Commission on the Indigenous Peoples***

- Ensure a genuine Free Prior and Informed Consent (FPIC) in areas which may create resource conflict;
- Respect the rights of the IP on their opposition of any development projects encroaching the area.

***HESED***

- Provided instructions to the Military and relevant government agencies during any operation or any visits particularly inside the TAMASCO to prevent further tension in the area as agreed in March 22, 2012
- To provide forum/ venue to effect proper coordination between the military and the community;

***PROVINCIAL GOVERNMENT:***

- To support the peace and development initiatives in the area
- To assist problems on mining-related problems within the area.

***DATU VICTOR DANYAN (TAMASCO):***

- I give my trust to our government officials to pursue the basic interests of democracy
- We do not allow arms within our community.

**(Signed) Datu Victor Wali**  
TAMASCO Representative

**(Signed) Col. Noel Bravo**  
27TH Infantry Battalion-Philippine Army

**Witness:**

**Sister Susan Bolanio**  
**HESED**


**National Commission on Indigenous Peoples (NCIP) Reg, 12**

**Commission on Human Rights (CHR) – Reg. 12**

**Office of the Governor, Province of South Cotabato**

## Annex H – Memorandum Issued by the Municipal Environment and Natural Resources Office of the Province of Sultan Kudarat dated April 24, 2012.

Republic of the Philippines  
Province of Sultan Kudarat  
Municipality of Bagumbayan  
**MUNICIPAL ENVIRONMENT & NATURAL RESOURCES OFFICE**  
Bagumbayan, Sultan Kudarat



MEMORANDUM

FOR : THE MUNICIPAL MAYOR  
Chairman, Municipal Mining Council  
Bagumbayan, Sultan Kudarat

FROM : THE MENRO

SUBJECT : Special Report re: Conduct of ocular Inspection of DMC-CIRE  
relative to alleged Coal Deposit Exploration at Barangay Monteverde,  
Bagumbayan, Sultan Kudarat

DATE : April 24, 2012

I. Reference:  
1. Instruction of the Municipal Mayor to submit written reports on the said  
alleged activity.

II. BACKGROUND:

On or about 9:00 o'clock in the morning the personnel of MENRO in the  
presence of Mr. Mostacho and the Municipal IP Coordinator, Datu Rashid Corpuz  
proceeded to the area of Monteverde to conduct inspection on the reported coal  
exploration activity of the DMC-CIRE

III. ACTION TAKEN

In view of the instruction by the Municipal Mayor, the team  
conducted interview and inspection at the area.

Coordination was made with the tribal leaders and the personnels  
of DMC-CERI at Sitio Tulale of Barangay Sto. Niño, and Barangay Monteverde

IV. RESULT OF ACTION TAKEN

1. DMC-CIRE is owned and operated by David Consunje, the father of Victor  
Consunje grantee of the IFM area at Barangay Monteverde.

2. Area of Operation – 3,000 has.
3. COAL Operation Contract No. 154 issued by the Dept. of Energy
4. Area operated by coal drilling activity.


Sitio	No. of Drillings	Drilling in Meters
1. Bermuda	2	300 meters
2. Datal	1	300 meters
3. Name of Foreman – Mr. Melchor Montano		

V. CONCLUSION

3 sites of drilling were found and no corresponding documents to operate.

VI. RECOMMENDATION

1. The company should comply all needed requirements before the conduct of exploration activity in the area.
2. Proper consultation/dialogue with the host Barangay.

  
**WILFREDO S. MOSTACHO**  
EMS II, OIC MENRO

Copy Furnished:

MGB 12  
PEMO SK  
CENRO  
NCIP 12  
Punong Barangay  
Tribal Chief Iain



**Annex I – Injunction and Moral Damages with Application for Urgent ex parte Temporary Restraining Order and/or Writ of Preliminary Injunction filed by the Taboli Manobo SDaf Claimants Association (TAMASCO) with the National Commission on Indigenous Peoples on 6 June 2012.**

REPUBLIC OF THE PHILIPPINES  
**National Commission on Indigenous Peoples**  
Region XII  
Dionisio Building, Arellano St., Koronadal City 9600  
(083) 520-0162

**TABOLI MANOBO SDAF CLAIMANTS ORGANIZATION (TAMASCO)**, represented by its Chairperson Victor Danyan and Vice Chairperson Dande Dinyan, **Datu VICTOR DANYAN** (in his personal capacity), **DANDE DINYAN** (in his personal capacity), **ARTEMIO DANYAN, MANUEL DANYAN, Datu KLONG TIKAO DINYAN, DAHIL SIMFAL, ARNEL CUALES**,

*Plaintiffs,*

- versus -

For: **Injunction and Moral Damages with Application for Urgent ex parte Temporary Restraining Order and/or Writ of Preliminary Injunction**

**@ "DMC-CONSTRUCTION EQUIPMENT RESOURCE, INC." (DMC-CERI) or "DMC-CERI", MONCANO A. MELCHOR, JAIME DEMANTOCAY, ESTELITO SENADOR, PIKIT-PIKIT BUENAVENTURA, ROLANDO BOLORIA, FORTUNATO ARBIOLA, JOHN DOES and JANE DOES, and/or anyone and everyone acting for and on behalf of the entity known as/@ "DMC-CONSTRUCTION EQUIPMENT RESOURCE, INC.", and the above-named individuals, who are conducting drilling activities within the ancestral domain of the T'Boli Manobo in South Cotabato and Sultan Kudarat,**

*Defendants,*

X ----- X

**COMPLAINT**  
with  
**Application for URGENT EX PARTE TEMPORARY RESTRAINING ORDER and WRIT OF PRELIMINARY INJUNCTION**

**PLAINTIFFS**, by counsel, to the Honorable Regional Hearing Officer, respectfully file this verified complaint and state:

**I. PLAINTIFFS**

1. Complainant **TABOLI MANOBO SDAF CLAIMANTS ORGANIZATION (TAMASCO)**, represented by its Chairperson Victor Danyan and Vice Chairperson Dande Dinyan, is an indigenous peoples' organization, whose members are mostly of the T'boli tribe/indigenous peoples community. Since time immemorial, the T'boli and Manobo tribes have been occupying areas and territories within what is now known as the provinces of Sultan Kudarat and South Cotabato including Barangay Ned, Lake Sebu, South Cotabato. The application for Certificate of Ancestral Domain Title (CADT) filed sometime in 2002 is pending with the Honorable Commission. **TAMASCO** may be served with pleadings, motions, orders, notices, summons and other court processes through undersigned counsel with address at **LEGAL RIGHTS AND NATURAL RESOURCES CENTER, INC., 24-A Malingap St., Teachers Village, 1101 Quezon City, Philippines**. **TAMASCO** is also registered as a rural workers organization with the Department of Labor and Employment.

*(Copy of Certificate of Registration dated 20 May 2011 issued by the DOLE to TAMASCO is attached as ANNEX "A".)*

2. **Datu VICTOR DANYAN** is a T'boli tribal leader and elder and chairperson of **TAMASCO**. Since time immemorial, his forebears have been occupying areas within what is now known as the provinces of Sultan Kudarat and South Cotabato, including Sitio Datal Bonglangon, Barangay Ned, Lake Sebu, South Cotabato. He is a farmer and a father to four (4) children. He may also be served with pleadings, motions, orders, notices, summons and other court processes through undersigned counsel.

3. **DANDE DINYAN** is a T'boli, sitio leader, and vice-chairperson of **TAMASCO**. Since time immemorial, his forebears have been occupying areas within what is now known as the provinces of Sultan Kudarat and South Cotabato including Sitio Tulale, Barangay Sto. Nino, Bagumbayan, Sultan Kudarat. He is a farmer and a father to three (3) children. He may also be served with pleadings, motions, orders, notices, summons and other court processes through undersigned counsel.

4. **ARTEMIO DANYAN** is a T'boli, high school student, a farmer, and a member of TAMASCO. Since time immemorial, his forebears have been occupying areas within what is now known as the provinces of Sultan Kudarat and South Cotabato including Sitio Datal Bonglangon, Barangay Ned, Lake Sebu, South Cotabato. He may also be served with pleadings, motions, orders, notices, summons and other court processes through undersigned counsel.

5. **MANUEL DANYAN** is a T'boli, a farmer and a member of TAMASCO. Since time immemorial, his forebears have been occupying areas within what is now known as the provinces of Sultan Kudarat and South Cotabato including Sitio Tuburan, Barangay Ned, Lake Sebu, South Cotabato. He is a farmer and a father to five (5) children. He may also be served with pleadings, motions, orders, notices, summons and other court processes through undersigned counsel.

6. **Datu KLONG TIKAO DINYAN** is a T'boli tribal leader and elder. Since time immemorial, his forebears have been occupying areas within what is now known as the provinces of Sultan Kudarat and South Cotabato, including Sitio Tulale, Barangay Sto. Nino, Bagumbayan, Sultan Kudarat. He is a farmer and a father to three (3) children. He may also be served with pleadings, motions, orders, notices, summons and other court processes through undersigned counsel.

7. **DAHIL SIMFAL** is a T'boli and member of TAMASCO. Since time immemorial, his forebears have been occupying areas within what is now known as the provinces of Sultan Kudarat and South Cotabato, including Sitio Datal Bonglangon, Barangay Ned, Lake Sebu, South Cotabato. He is a farmer and a father to four (4) children. He may also be served with pleadings, motions, orders, notices, summons and other court processes through undersigned counsel.

8. **ARNEL CUALES** is a farmer, father to six (6) children, and resident of Sitio Segowit, Barangay Ned, Lake Sebu, South Cotabato. He may also be served with pleadings, motions, orders, notices, summons and other court processes through undersigned counsel.

## **II. DEFENDANTS**



9. **DEFENDANT COMPANY** commonly known to plaintiffs as "DMC" or "DMC-CERI" appears to be a juridical corporation, and **INDIVIDUAL DEFENDANTS** are persons associated with defendant "@DMC-CERI", and who are known or have been known to TAMASCO and witnessed by community members as the ones conducting drilling activities within Plaintiffs' ancestral domain covering South Cotabato and Sultan Kudarat. They may be served with pleadings, motions, orders, notices, summons and other court processes at their known office at "Dawang Coffee Plantation", Barangay Sto. Nino, Bagumbayan, Sultan Kudarat.

### III. CAUSE/S OF ACTION

10. Since 28 January this year 2012 to present, drilling activities are being conducted by defendants within plaintiffs' ancestral domain, including areas within Bagumbayan, Sultan Kudarat.

11. The drilling activities and the holes drilled into the ground have been witnessed by community members including plaintiffs. Sometime in April and May 2012, plaintiff Dande Dinyan took photographs of the drilling equipment, materials and people who conducted the drilling within their domain and barangay. Plaintiff Dande Dinyan took an oath and allege, as follows:

x x x

"I, **DANDE DINYAN**, Filipino, of legal age and resident of Sitio Tulale, Barangay Sto. Nino, Bagumbayan, Sultan Kudarat, after oath, depose and state, as follows:

1. I am married, a father to three (3) children, a farmer, and a T'boli chieftain. I am the Vice Chairman of Taboli Manobo Sdaf Claimants Organization or more popularly known as TAMASCO, an organization of mostly T'boli that is established in 2006, and a rural workers organization that is registered with the DOLE. Since time immemorial or as far back as memory goes, my T'boli ancestors have been occupying territories in what is now known as Lake Sebu, South Cotabato, and Bagumbayan, Sultan Kudarat. Our application for Certificate of Ancestral Domain Title (CADT) has been filed with the National Commission on Indigenous Peoples (NCIP) around 2002 and is now pending with the Commission;

2. On 28 January 2012, I saw heavy drilling equipment and machines being transported to our barangay in Sto. Nino, Bagumbayan, Sultan Kudarat;

3. In February 2012, drilling activities started in our sitio in Tulale. They would drill at around midnight somewhere near or at the area of the "kapihan". Although then I could not see them drilling, I could hear the sound that they were making;

4. As far as I have seen, in February 2012, there were only three "holes" made by the drilling – two were at Barangay Sto. Nino, and one was at Barangay Monteverde;

5. On 30 March 2012, personnel from the "COC" ("coal operating contract") visited me at my home. They introduced themselves as Rolando Boloria, Fortunato Arbiola, and the person we have come to know as the Administrative Officer of the "IFMA" ("Integrated Forest Management Agreement") Pikitpikit Buenaventura. They told me that they have come to "explore"; that "national" is already "angry" at why they have not yet started "exploring". During this visit, the three also asked me questions about the status of our application for issuance of Certificate of Ancestral Domain Title (CADT);

6. Our ancestral domain covers at least three (3) barangays, in two (2) municipalities and two (2) provinces – Bagumbayan in Sultan Kudarat, and Lake Sebu in South Cotabato. It is estimated to be around 2, 200 hectares and has around 10 "muhon" or AD boundary markers. Our application is pending with the National Commission on Indigenous Peoples (NCIP);

7. Also on 30 March, Mr. Boloria told me that with the drilling and exploration they did not have to coordinate with sitio leaders, or tribe leaders like me. I told him that not consulting with my community could not be ("hindi pwede");

8. Mr. Boloria, Mr. Arbiola, and Mr. Buenaventura then informed me that they have a coal operating contract with no. "154" and that it supposedly covers 3000 hectares, and covers Sultan Kudarat only. They also told me that after drilling and exploring in Monteverde, they would move on to Sitio Tulale, which is where I live;

9. Mr. Boloria also told me that they, the "DMC-COC" (D.M. Consunji-coal operating contract) had scheduled a "pulong-pulong" but that this had not pushed through as they were still looking for a lawyer. Then they asked me about my and my tribe's "demand". I answered that they would need to call for a "GA" (general assembly). I also told them that I already went to NCIP Region XII and complained about the ongoing drilling and explorations;

10. About the ongoing drilling activities, I went to NCIP Region XII sometime in January or February 2012 and made inquiries and they told me that there are no "COCs" (coal operating contracts) in Sitio Tulale;

11. I also went to the NCIP Sultan Kudarat Provincial Office and asked for advice on what we could do about the drilling. I also sought the help of the municipal officials of Bagumbayan as regards the drilling activities being conducted in our community without our consent;

12. On 19 April 2012, the Municipal Environment and Natural Resources Officer of Bagumbayan went to our community at Sto. Nino

and inspected the area in relation to our complaint about the drilling. During this inspection, the Indigenous Peoples representative of Bagumbayan Datu Rashid Corpuz was present, plus three others, and, of course, the MENRO. The inspection team saw for themselves the holes made by the drilling;

13. At around 9 o'clock in the morning of 09 May 2012 a certain Mr. Moncano A. Melchor, known to us as a foreman of the Coal Operating Contract Drilling, came to our house together with two (2) SCAA, Jaime Demantocay and Estelito Senador. He informed me that they are drilling at Purok New Suralla, Sitio Tulale, Brgy Sto. Nino, Bagumbayan, Sultan Kudarat. I told him that they should have conducted a meeting so that the people can express what they think about their drilling activities. He told me that he will just relay what I told him to Mr. Pikit-pikit "Titing" Buenaventura;

14. During this visit from Mr. Melchor, I was already aware that their drilling equipment was already at the homelot of Danilo Yang. The drilling site is near the ancestral cemetery of the tribes. It is for this reason, among others, that our tribal group is opposing the setting up of their drilling equipment;

15. At around 9:30 in the morning of that same day, Pikit-pikit Buenaventura told me that "we will start the drilling in your place in New Suralla". I responded to him "that it cannot be because that is very close to the graveyard of our forefathers". He answered me that "we will just make the hole a little farther away from the cemetery so that the drilling will not be at the center of the cemetery because the drilling will only be around 100 meters deep";

16. Then together, Mr. Buenaventura and I went to their proposed drilling site. My "tanod" colleagues and some members of the community came with us. When we reached the drilling site, the drilling equipment were already installed in the homelot of Danilo Yang. Pikit-pikit asked Danilo Yang what was his demand considering that the drilling will be at his homelot. He offered Danilo Yang a work in the company at two hundred pesos per day. At that time Danilo did not make a decision;

17. When we went to the drilling site at the homelot of Danilo, the area was already bulldozed and was cleared; the soils were dumped to the plants of Danilo. I realized then that while we were talking in our house, clearing of the area where Danilo's home was located has started such that when we went there, clearing or bulldozing was already done. Danilo Yang was then not aware about what was happening to his homelot. We parted with Pikit-pikit at around 11 o'clock in the morning;

18. Sometime in April, I took photographs of the people conducting the drilling-related activities, the drilling equipment, and the drillings made;

*(Attached and made integral parts of this affidavit are four (4) film pictures and marked as Annex Dinyan Affidavit "A", "A-1", "A-2", and "A-3".)*

19. Sometime in May, I took another batch of photographs showing the big metal drilling equipment, metal tubes, abaca trees



submerged in water, a road in our community that has turned muddy, and other trees submerged also in flood water;

*(Attached and made integral parts of this affidavit are five (4) film pictures and marked as Annex Dinyan Affidavit "B", "B-1", "B-2", "B-3" and "B-4".)*

20. Also one morning in May this year, a DMC company guard told me that Mr. Pikitpikit Buenaventura would have me "receive" something. I waited for about three (3) hours for Mr. Pikitpikit to visit me. When he did come to my house, I offered him coffee. He then showed me an envelope, and a sheaf of papers. He said that the envelope contained PhP5,000.00 pesos, which was supposedly for the homeowner of the homelot, Danilo Yang, whose house was destroyed. He also told me that it was up to me how I would use the PhP5,000.00, if I wanted. I told Mr. Buenaventura that I did not approve of it. Mr. Buenaventura told me that the money came from the mango plantation known to us as "Phlamango";

21. On this same day, Mr. Buenaventura told me that the Operations Manager of DMC known as "JRI" or as Joselito R. Invento has called for a dialogue at Bermuda or the coffee plantation of the company. Mr. Pikitpikit Buenaventura also told me that I was supposedly the only tribal leader that was absent at the dialogue, and that I was allegedly the only one left who did not sign ("hindi pumirma"). I told him that if there was a dialogue, the local government units particularly the Municipality should be involved;

22. When Mr. Buenaventura was suggesting and asking that I sign a paper/document and that I give my consent to the drilling, I told him that I would not sign the "certification" because I already went to the local government unit of Bagumbayan, and to NCIP Region XII to lodge a complaint. I also remember seeing in the papers carried by Mr. Pikitpikit Buenaventura the words "DMC CERFI". Mr. Buenaventura also tried to convince me to sign the paper by saying that our barangay captain would give approval to the drilling. I told him to show me the proof of this so-called approval, or the signature of our barangay captain, which Mr. Buenaventura was unable to show;

23. As of this date of 1<sup>st</sup> week of June 2012, I know that there are four (4) holes drilled by "DMC-CERFI", and they are preparing to drill a fifth hole at my community at Sitio Tulale, Barangay Sto. Nino, Bagumbayan, Sultan Kudarat;

24. "DMC" (D.M. Consunji) company has not helped us with anything ("hindi nakatulong"). Before, company guards have destroyed at least three (3) houses, and the coffee that the families have planted;

25. Company guards have been telling me to go away from my home because the guards said that the area was part of the IFMA of DMC;

26. Once during a public hearing the Operations Manager of DMC called us, my tribe, as "squatter."

27. DMC's coffee plants used to occupy lots some distance away from my home, but, now, they are already surrounding if not encroaching my home and yard;

28. When they were drilling these past months, I could not sleep because of the loud sound caused by the drilling. It was like something very heavy was hitting something as solid as rock;

29. Two holes that were drilled appear to have "failed" ("palpak") or appear to have "bogged down" because the soil and the equipment "slid" ("bog down") ("lumubog");

30. My farm has been flooded and my abaca is submerged in water because the outlet for the water has been blocked caused by the company's drilling activities.

31. I execute this affidavit to attest to the truth of the foregoing."

x x x

*(Sworn statement of plaintiff Dande Dinyan is attached as **ANNEX "B"** and is made an integral part of this Complaint.)*

12. Plaintiff Arnel Cuales also took an oath and allege, as follows:

x x x

"I, **ARNEL N. CUALES**, Filipino, of legal age and resident of Sitio Segowit, Barangay Ned, Lake Sebu, South Cotabato after oath, depose and state, as follows:

1. I am married, a father to six (6) children, and a farmer;
2. Currently, there are four (4) to five (5) holes that are drilled in our community area. The first and second holes drilled are located at the coffee plantation commonly known as "Bermuda". The third hole is at New Datal. The fourth hole caused by the drilling is at New Surallah, about 50 meters from the Baptist Church. The fifth hole is now being drilled at Sitio Tulale, at a "high place" where there is a spring;
3. On 28 January this year, drilling equipment including a "traktora" entered or were introduced at Bermuda;
4. The drilling activities began in February 2012. I saw a bulldozer that would bring and take materials necessary or related to the drilling;
5. I also saw metal tubes piled that are as big as thighs or legs, and as tall as, or taller or longer than a door;
6. Some SCAA would accompany the men conducting the drilling;

7. When drillings are being conducted, I would observe that the bulldozer would come and go about twice daily;
8. From where I live in Sitio Segowit, I can see and I have witnessed the men doing the drilling put some kind of "medisina" or chemical into the metal tubes, which I understand could melt rocks;
9. I fear that this "medisina" or chemical would harm our people, most especially the children in our community; and not only the people, but, the "medisina" might pollute our river as well;
10. Before a hole is drilled into the land, the men from "DMC" / "IFMA" would bulldoze the land. After drilling the hole, the company men would cover the hole with cement and put some details such as a calendar date;
11. In 2010, drilling was also conducted within the ancestral domain in Sitio Tuburan, Barangay Ned, Lake Sebu, South Cotabato. The drilling was done at the side of the highway. This drilling truly caused damage because a landslide occurred – the soil really "bogged down" – and the house near the hole made by the drilling slipped with the soil;
12. The men conducting the drilling are associated with the company "DMC" because since the long years that we have stayed at Barangay Ned, we have come to know that it is the company and its men that can say or control who can come in and out of our community ("nagpapapasok");
13. Although I am not T'boli, I join and support their community in seeking legal help so that the drilling would stop;
14. I execute this affidavit to attest to the truth of the foregoing."

*(Copy of plaintiff Amel Cuales' affidavit is attached as ANNEX "C" and is made an integral part of this Complaint.)*

13. Sometime also in April 2012, the OIC Municipal Environment and Natural Resources Officer (MENRO), Bagumbayan, Sultan Kudarat, conducted an ocular inspection upon instructions of the Municipal Mayor.

14. Apart from the fact that three (3) drilling sites were found by the MENRO, the drilling activities also appear to be related to coal mining. On 24 April 2012, the MENRO submitted a Memo to the Municipal Mayor, Bagumbayan, Sultan Kudarat with subject: "Special Report re: Conduct of Ocular Inspection of DMC-CIRE relative to alleged Coal Deposit Exploration at Barangay Monteverde, Bagumbayan, Sultan Kudarat". This Special Report pertinently states, as follows:



"x x x

#### IV. Result of Action Taken

x x x

3. Coal Operation Contract No. 154 issued by the Dept. of Energy

x x x

#### V. CONCLUSION

**3 sites of drilling were found and no corresponding documents to operate.**

#### VII. RECOMMENDATION

1. The company should comply all needed requirements before the conduct of exploration activity in the area.
2. Proper consultation/dialogue with the host Barangay.

WILFREDO S. MOSTACHO  
EMS II, OIC MENRO

x x x

*(Copy of the MENRO's Special Report dated 24 April 2012 is attached as ANNEX "D".)*

15. These drilling activities, and any project to which it may be related, conducted by defendants and their agents and everyone acting on their behalf within the ancestral domain of plaintiffs are **without the free, prior and informed consent (FPIC)** of TAMASCO and of the indigenous peoples and cultural communities of the ancestral domain where the drillings were conducted.

16. Sometime in May this year, one of the defendants named or known as Pikitpikit Buenaventura visited plaintiff Dande Dinyan at his home in Sitio Tulali, Barangay Sto. Nino, Bagumbayan, Sultan Kudarat and showed plaintiff some documents and an envelope which defendant Buenaventura contained PhP5,000.00, which he said plaintiff could decide what to do with. **Sec. 59,**

Republic Act No. 8371, or the Indigenous Peoples' Rights Act (IPRA) of 1997 provides, as follows:

**"Sec. 59. Certification Precondition.** - All department and other governmental agencies shall henceforth be strictly enjoined from issuing, renewing, or granting any concession, license or lease, or entering into any production-sharing agreement, without prior certification from the NCIP that the area affected does not overlap with any ancestral domain. Such certificate shall only be issued after a field-based investigation is conducted by the Ancestral Domain Office of the area concerned: Provided, That **no certificate shall be issued by the NCIP without the FREE and PRIOR INFORMED and written CONSENT** of the ICCs/IPs concerned: Provided, further, That **no department, government agency or government-owned or -controlled corporation may issue new concession, license, lease, or production sharing agreement while there is pending application CADT:** Provided, finally, That **the ICCs/IPs shall have the right to stop or suspend, in accordance with this Act, any project that has not satisfied the requirement of this consultation process.**" (emphasis supplied)

The IPRA is clear that the indigenous cultural communities or indigenous peoples have the **right to stop or suspend**, in accordance with the IPRA, **any project that has not satisfied the requirement for Free Prior Informed Consent.**

17. Performance of the drilling activities by defendants in this case without FPIC in accordance with the customary law of the T'boli and Manobo, and compliance with the essence and strict requirements of the IPRA, is a blatant disregard for the rights of plaintiffs and their peoples, and is a clear violation of national law (i.e., IPRA). Both the 1987 Constitution and national law – the IPRA – guarantee the protection of the rights of indigenous peoples, including their right to **free, prior and informed consent**, and to **stop and suspend any project** that fails to satisfy the requirements of FPIC.

18. The NCIP's mandate and authority has also been disregarded by defendants when they conducted the drilling activities because no official process for FPIC as required by law has been applied for and conducted in relation to defendants' drilling and related activities.

19. Plaintiffs have never given their consent to any project or development or economic activity and to the persons associated with the drilling activities,

including any IFMA holder/permittee. They have never and will not give their consent to any coal mining-related activity.

**ALLEGATIONS IN SUPPORT OF THE APPLICATION FOR  
URGENT EX PARTE TEMPORARY RESTRAINING ORDER and/or WRIT OF  
PRELIMINARY INJUNCTION**

20. Plaintiffs re-plead by reference the foregoing allegations as integral parts of this application.

21. Defendants' drilling activities without FPIC cause grave and irreparable injury to plaintiffs because the activities are simple, clear and blatant violations of and disregard for law and legal rights. Plaintiffs and community members have witnessed that a fifth hole is preparing to be drilled by defendants and/or their agents.

22. *Sec. 83, NCIP Administrative Circular No. 1, series of 2003*, or the *"Rules of Pleading, Practice and Procedure before the NCIP"* provide, as follows:

***"Sec. 83. Grounds for Issuance of Writ of Preliminary  
Injunction and Temporary Restraining Order.***

- a. **Free and prior informed consent of concerned ICC/IP has not been secured as required under Sec. 59 of R.A. 8371 and its implementing rules and regulations;**
- b. The consent of the ICC/IP as required under Section 59 of R.A. 8371 was irregularly or improperly obtained thereby rendering the FPIC void ab initio;
- c. Prohibited or unlawful acts are threatened to be done or would be committed unless restrained; and
- d. Grave or irreparable injury would result if not restrained."

23. Damage has already been caused by defendants' drilling activities when:

- a. Before holes could be drilled by heavy drilling equipment, the land had to be bulldozed so that the equipment could pass, or be transported, or could be introduced to the area where drilling was intended to be conducted;



b. Sometime 2010, when some drilling activities were done near the highway of Sitio Tuburan, Barangay Ned, Lake Sebu, South Cotabato, the land became loose, a landslide occurred, and a house slid with the mass of land or soil from a higher plane to a lower plane;

c. Some form of "medisina" was used by defendants to melt rocks and these chemicals were fed into tubes that go inside the holes drilled within plaintiffs' ancestral domain;

d. One plaintiff's farm was flooded because the outlet for water was blocked. As a result, his *abaca* is about five inch deep in water.

The affidavits of plaintiffs are re-pleaded by way of reference.

#### **PRAYER**

WHEREFORE, Plaintiffs most respectfully pray, as follows:

a. Upon the filing of this Complaint, that the Regional Hearing Officer immediately **ISSUE** an *ex parte* **Temporary Restraining Order** to **ENJOIN** defendants from doing any act that would cause violation to the rights of plaintiffs or damage; or, **ISSUE** the TRO to protect the rights of plaintiffs and others similarly situated, and against defendants and anyone acting on their behalf or as their agents, to prevent a continuing violation of fundamental and legal rights and causing damage to plaintiffs, their community, and their ancestral domain;

b. After due process, that the Regional Hearing Officer **ISSUE** the **Writ of Preliminary Injunction** against defendants to protect plaintiffs and their rights, and also their domain and environment from the damaging activities of defendants including their drilling or exploration activities; and,


c. After due process, for the Regional Hearing Officer to **RENDER JUDGMENT** in favor of plaintiffs and against defendants, **ENJOINING** defendants, or ordering them to perpetually **DESIST** and/or **REFRAIN** from conducting any drilling activity, or any activity related to coal mining within plaintiffs' ancestral domain; or, **ENJOINING** any of defendants' activity that is

WITHOUT the free, prior and informed consent of plaintiffs and their peoples/community, or any related activity that causes the plaintiffs and their community damage.

Plaintiffs pray for other just and equitable relief.

Quezon City for Koronadal City: 07 July 2012.

***Counsel for Plaintiffs***

  
**MARY GRACE ELLEN S. VILLANUEVA**  
Roll No. 51203  
IBP No. 889131 – 15/02/12 – RSM  
PTR No. 6187015 – 20/01/12 – Quezon City  
MCLE Compliance No. III – 009628, April 2010  
grace.villanueva@lrcksk.org

**ADDRESS:**

**LEGAL RIGHTS AND NATURAL RESOURCES CENTER, INC.**  
24-A Malingap Street, Teachers Village,  
1101 Quezon City, Philippines

REPUBLIC OF THE PHILIPPINES)  
Koronadal City) s.s.

**VERIFICATION and CERTIFICATION  
OF NON-FORUM SHOPPING**

I, **DANDE DINYAN**, Filipino, of legal age and resident of Sitio Tulale, Barangay Sto. Nino, Bagumbayan, after having been duly sworn in accordance with law, hereby state:

1. I am one of the Complainants/Petitioners/Plaintiffs in the above-captioned case;

2. I have caused the preparation and filing of the foregoing Complaint /Petition with Application for Urgent *ex parte* Temporary Restraining Order and/or Writ of Preliminary Injunction;

3. I have read the contents of the foregoing Complaint/Petition with Application for Urgent *ex parte* Temporary Restraining Order and/or Writ of Preliminary Injunction, and/or the contents of which have been explained to me in a language known and understood by me, and attest that the same are true and correct of my own personal knowledge and based on authentic records;

4. I have not commenced any other action or proceeding, involving the same issues, in the Supreme Court, the Court of Appeals, or the different divisions thereof, or in any other tribunal or agency;

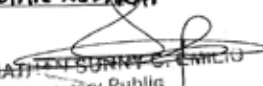
5. If I should hereafter learn that a similar action or claim has been filed or is pending before the Supreme Court, the Court of Appeals, or the different divisions thereof, or in any other tribunal or agency, I undertake to promptly inform this Honorable Court of that fact within five (5) days from such notice.

IN WITNESS WHEREOF, I have signed this instrument on  
06 JUN 2012 in KORONADAL CITY  
SOUTH COTABATO

  
**DANDE DINYAN**  
Affiant

SUBSCRIBED, 06 JUN 2012 AND SWORN TO before me this  
2012, affiant exhibiting to me his Identification Card  
with No. CTC 03995242 issued on  
5/11/2012 at BAGUMBAYAN, SULTAN KUDARAT

Doc. No. 338 ;  
Page No. 68 ;  
Book No. 16 ;  
Series of 2012.

  
**EL NATIVIDAD**  
Notary Public  
Temporary Commission No. 356  
PTR No. 87084 1-16-2012  
Koronadal City, South Cotabato  
IBP No. 870343 1-17-2012  
ROLL No. 45512  
TIN 923-457-148



REPUBLIC OF THE PHILIPPINES)  
Koronadal City) s.s.

**VERIFICATION and CERTIFICATION  
OF NON-FORUM SHOPPING**

I, **KLONG TIKAO DINYAN**, Filipino, of legal age and resident of Sitio Tulali, Barangay Sto. Nino, Bagumbayan, after having been duly sworn in accordance with law, hereby state:


1. I am one of the Complainants/Petitioners/Plaintiffs in the above-captioned case;
2. I have caused the preparation and filing of the foregoing Complaint /Petition with Application for Urgent *ex parte* Temporary Restraining Order and/or Writ of Preliminary Injunction;
3. I have read the contents of the foregoing Complaint/Petition with Application for Urgent *ex parte* Temporary Restraining Order and/or Writ of Preliminary Injunction, and/or the contents of which have been explained to me in a language known and understood by me, and attest that the same are true and correct of my own personal knowledge and based on authentic records;
4. I have not commenced any other action or proceeding, involving the same issues, in the Supreme Court, the Court of Appeals, or the different divisions thereof, or in any other tribunal or agency;
5. If I should hereafter learn that a similar action or claim has been filed or is pending before the Supreme Court, the Court of Appeals, or the different divisions thereof, or in any other tribunal or agency, I undertake to promptly inform this Honorable Court of that fact within five (5) days from such notice.

IN WITNESS WHEREOF, I have signed this instrument on  
06 JUN 2012 2012 in KORONADAL CITY  
SOUTH COTABATO

**KLONG TIKAO DINYAN**  
Affiant

SUBSCRIBED 06 JUN 2012 SWORN TO before me this  
06 JUN 2012, affiant exhibiting to me his **NCIP Certification**  
as Tribal Adviser, T'bol issued on 13 April 2007 signed by Provincial Officer Teresa  
A. Somorostro at KORONADAL CITY  
SOUTH COTABATO

Doc. No. 340 ;  
Page No. 68 ;  
Book No. IV ;  
Series of 2012.

  
**ELNATHAN SUNNY C. EMILIO**  
Notary Public  
Temporary Commission No. 356  
PTR No. 97084-1-16-2012  
Koronadal City, South Cotabato  
IBP No. 870343-1-17-2012  
ROLL No. 45512  
TIN 923-457-148

REPUBLIC OF THE PHILIPPINES)  
\_\_\_\_ City) s.s.

**VERIFICATION and CERTIFICATION  
OF NON-FORUM SHOPPING**

I, **MANUEL DANYAN**, Filipino, of legal age and resident of Sitio Tuburan, Barangay Ned, Lake Sebu, after having been duly sworn in accordance with law, hereby state:

1. I am one of the Complainants/Petitioners/Plaintiffs in the above-captioned case;
2. I have caused the preparation and filing of the foregoing Complaint /Petition with Application for Urgent *ex parte* Temporary Restraining Order and/or Writ of Preliminary Injunction;
3. I have read the contents of the foregoing Complaint/Petition with Application for Urgent *ex parte* Temporary Restraining Order and/or Writ of Preliminary Injunction, and/or the contents of which have been explained to me in a language known and understood by me, and attest that the same are true and correct of my own personal knowledge and based on authentic records;
4. I have not commenced any other action or proceeding, involving the same issues, in the Supreme Court, the Court of Appeals, or the different divisions thereof, or in any other tribunal or agency;
5. If I should hereafter learn that a similar action or claim has been filed or is pending before the Supreme Court, the Court of Appeals, or the different divisions thereof, or in any other tribunal or agency, I undertake to promptly inform this Honorable Court of that fact within five (5) days from such notice.

IN WITNESS WHEREOF, I have signed this instrument on  
06 JUN 2012 in KORONADAL CITY SOUTH COTABATO

*M. D.*  
**MANUEL DANYAN**  
Affiant

SUBSCRIBED AND SWORN TO before me this  
06 JUN 2012 2012, affiant exhibiting to me his **Community Tax**  
Certificate with No. **18409401** issued on 27 January 2010 at **South Cotabato, Lake**  
**Sebu.**

Doc. No. 339;  
Page No. 68;  
Book No. 10;  
Series of 2012.

*[Signature]*  
**EDNATHEN SUNNY C. EMILIO**  
Notary Public  
Temporary Commission No. 358  
PTR No. 97084 1-16-2012  
Koronadal City, South Cotabato  
IBP No. 870343 1-17-2012  
ROLL No. 45512  
TIN 923-457-148

REPUBLIC OF THE PHILIPPINES)  
Koronadal City) s.s.

VERIFICATION and CERTIFICATION  
OF NON-FORUM SHOPPING

I, **ARNEL CUELES**, Filipino, of legal age and resident of Sitio Segowit, Barangay Ned, Lake Sebu, after having been duly sworn in accordance with law, hereby state:

1. I am one of the Complainants/Petitioners/Plaintiffs in the above-captioned case;
2. I have caused the preparation and filing of the foregoing Complaint /Petition with Application for Urgent *ex parte* Temporary Restraining Order and/or Writ of Preliminary Injunction;
3. I have read the contents of the foregoing Complaint/Petition with Application for Urgent *ex parte* Temporary Restraining Order and/or Writ of Preliminary Injunction, and/or the contents of which have been explained to me in a language known and understood by me, and attest that the same are true and correct of my own personal knowledge and based on authentic records;
4. I have not commenced any other action or proceeding, involving the same issues, in the Supreme Court, the Court of Appeals, or the different divisions thereof, or in any other tribunal or agency;
5. If I should hereafter learn that a similar action or claim has been filed or is pending before the Supreme Court, the Court of Appeals, or the different divisions thereof, or in any other tribunal or agency, I undertake to promptly inform this Honorable Court of that fact within five (5) days from such notice.

IN WITNESS WHEREOF, I have signed this instrument on  
\_\_\_\_\_ 2012 in \_\_\_\_\_

06 JUN 2012 KORONADAL CITY  
SOUTH COTABATO

**ARNEL CUELES**  
Affiant

SUBSCRIBED AND SWORN TO before me this  
\_\_\_\_\_ 2012, affiant exhibiting to me his Identification Card  
with No. **VOTER'S ID 6319-0092A-H0725NC-10063-S** issued on  
\_\_\_\_\_ at **LAKE SEBU, SOUTH COTABATO**.

Doc. No. **337** ;  
Page No. **68** ;  
Book No. **12** ;  
Series of 2012.

**ELNATHAN SUNNY C. EMILIO**  
Notary Public  
Temporary Commission No. 358  
PTR No. 97084 1-16-2012  
Koronadal City, South Cotabato  
IBP No. 870343 1-17-2012  
ROLL No. 45512  
TIN 923-467-148



REPUBLIC OF THE PHILIPPINES)  
\_\_\_\_\_ City) s.s.

**VERIFICATION and CERTIFICATION  
OF NON-FORUM SHOPPING**

I, **VICTOR DANYAN**, Filipino, of legal age and resident of Datal Bonglangon, Barangay Ned, Lake Sebu, after having been duly sworn in accordance with law, hereby state:

1. I am one of the Complainants/Petitioners/Plaintiffs in the above-captioned case:


2. I have caused the preparation and filing of the foregoing Complaint /Petition with Application for Urgent *ex parte* Temporary Restraining Order and/or Writ of Preliminary Injunction;

3. I have read the contents of the foregoing Complaint/Petition with Application for Urgent *ex parte* Temporary Restraining Order and/or Writ of Preliminary Injunction, and/or the contents of which have been explained to me in a language known and understood by me, and attest that the same are true and correct of my own personal knowledge and based on authentic records;

4. I have not commenced any other action or proceeding, involving the same issues, in the Supreme Court, the Court of Appeals, or the different divisions thereof, or in any other tribunal or agency;


5. If I should hereafter learn that a similar action or claim has been filed or is pending before the Supreme Court, the Court of Appeals, or the different divisions thereof, or in any other tribunal or agency, I undertake to promptly inform this Honorable Court of that fact within five (5) days from such notice.

IN WITNESS WHEREOF, I have signed this instrument on  
06 JUN 2012 2012 in KORONADAL CITY  
SOUTH COTABATO

  
**VICTOR DANYAN**  
Affiant

SUBSCRIBED AND SWORN TO before me this  
06 JUN 2012 2012, affiant exhibiting to me his Provincial Tribal  
Council of Elders Card signed by Gov. Hilario L. De Pedro III and his Philippine  
National Red Cross Class Membership ID with no. 4953078 issued on 09 May  
2012 at KORONADAL CITY  
SOUTH COTABATO

Doc. No. 341;  
Page No. 69;  
Book No. 16;  
Series of 2012.

  
**ELNATHAN SUNNY C. EMILIO**  
Notary Public  
Temporary Commission No. 350  
PTR No. 97084, 1-16-2012  
Koronadal City, South Cotabato  
IBP No. 870343, 1-17-2012  
ROLL No. 45512  
TIN 923-467-148

**Annex I – T'boli-Manobo chief Victor Danyan written statement to the National Cultural Communities of the lower house of Congress during an on-site Congressional Inquiry held at the city of Koronadal to investigation human rights violations being committed against indigenous peoples in relation to extractive industries, conducted last February 21, 2012.**

*Victor Danyan*  
*2/21/2013*

Republic of the Philippines)  
Koronadal City) s.s.

**SWORN STATEMENT**

I, **VICTOR DANYAN**, Filipino, of legal age and resident of DatalBonlangon, Barangay Ned, Lake Sebu, after oath, hereby state:

1. I have been invited to speak today, 21 February 2013, at the Public Hearing of the Committee on National Cultural Communities of the House of Representatives, at the provincial gymnasium in Koronadal City, South Cotabato, in relation to the committee's ongoing investigation in aid of legislation on the situation of indigenous peoples and allegations of human rights violations against their leaders in various parts of the country where there are large-scale mining and other resource extractive interests;
2. I am Victor Danyan, tribal chieftain of DatalBonlangon, Barangay Ned, Lake Sebu and Chairperson of TAMASCO (Taboli-Manobo S'daf Claimants Organization). I come here today with the fervent hope that this congressional inquiry will be able to make decisive actions towards the full resolution of the land conflict that has put our lives and future in constant danger for more than 2 decades. Our story, like other stories of other indigenous peoples in Mindanao, is a story of dispossession, marginalization and struggles.
3. Our story began in 1991 when a company owned by Victor A. Consunji came and took away our lands. Silvicultural Industries Inc., which was then known as Sarmiento Industries Inc., did not properly inform us about the conversion of our ancestral domain into a coffee plantation. Our hearts bled as we witnessed the drastic cutting of trees, bulldozers destroying bananas, root crops, corn, and fruit trees. We were even prevented from tilling our farms and farm implements and hunting tools were confiscated. Company guards armed with M-14s, M-16s, Garand and carbines rifles went on daily patrol all over the area.
4. We were forced to evacuate to another place where we stayed for seven long years enduring too much hunger and poverty. Children stopped schooling. Mothers were forced to feed babies with sugar cane juice. Food was limited to sweet potatoes, *kayos* and *ubod* (young shoots) of rattan.
5. We decided to return in DatalBonlangon in December 1998 to reclaim our lands and re-established our community despite persistent harassment from company official and armed guards.
6. The Dawangcoffee plantation, which intruded into our ancestral domain, is covered by the Industrial Tree Plantation Lease Agreement (ITPLA) No. 238 that was later converted into an Industrial Forest Plantation Management Agreement (IFMA) No. 22. It will expire on December 31, 2016 but it is renewable for another 25 years.
7. We applied for a Certificate of Ancestral Domain Title (CADT) in 2006 to bolster our claim over some 6,000 hectares of lands in South Cotabato and Sultan Kudarat. But the National Commission on Indigenous Peoples (NCIP) has been moving on a snail pace and until now we are still waiting desperately for the issuance of our CADT.
8. While the NCIP is sluggish in helping us reclaim our time-immemorial territory, the Department of Energy (DOE) on the other hand, actively entered into coal operating contract agreements with Daguma Minerals Inc. (DAMI) and Consunji's DMC Construction Equipment Resources Inc., unmindful of the adverse impact that these contracts will have on our lives.
9. DAMI's Block 380 and 381 encroaches the ancestral territories of TAMASCO particularly in areas of TawanDagat, Tuburan and Segowit. DAMI is owned by San Miguel Corp. through its subsidiary, San Miguel Energy Corp. DMC's mine site lies within the

ancestral claim of TAMASCO including Block VII of IFMA 22 concession area, also owned by the Consunjis.

10. SMEC personnel surveyed and put markings for proposed locations of drilling holes without due notice to and consent from landowners. Residents were intimidated by these people forcing them to agree to the drilling operations.

11. Last June 2012 –as we have not consented to coal exploration activities being conducted by persons associated with DMC CERI –our organization TAMASCO and as individuals, we filed a formal Complaint for Injunction before the NCIP. The NCIP failed to act on our Complaint, however, except to transfer our petition to the office of one Commissioner. The explorers have come and gone; they have trespassed taking what they needed from our territories; yet the NCIP, legally mandated to protect our rights and equipped with authority to issue an order of injunction, was unable to exercise this given statutory power. The trespassing by unwelcome encroachers combined with government inaction has trampled upon our constitutional and human right to life and property, land and territories, and to our legal right to free prior and informed consent, and has rendered so-called legal safeguards meaningless. Neither have the Forest Management Bureau and DOE acted on our community petitions.

12. TAMASCO has been very vocal about its opposition to these coal mining projects and IFMA 22 and it is because of this that I and other leaders of the organization continue to be subjected to human rights abuses for 22 years by company officials and their armed guards. What is worse though is that the military, whose constitutional duty is to protect the people, is also violating our rights.

13. Last year, on February 2, 2012, heavily armed elements of the 27th Infantry Battalion came to Datal Bonlangon looking for me. Three of them in military combat uniform carrying high powered guns, and in assault position, headed towards my house while another three men positioned their high powered guns near our day care center. Five more armed men positioned themselves behind my house. One of them fired a shot into the ground which caused further tension among members of my community. When Valentín Banyan, our sitio leader, arrived, the armed man asked about my whereabouts. He told him that I was in K'batang. The soldier instructed him to tell me to visit their base camp at El Dulog to clear my name or else I will be on the wanted list. He said that something bad might happen to me if I will not show up at the base camp.

14. I was there when this unfortunate incident happened but they did not recognize me. Fearing for my life, I immediately walked away.

15. We are human beings too and we also have rights. The lands that we are reclaiming are rightfully ours.

16. The struggle of the T'bolls under TAMASCO is for Land, for Life, for *angatkefye*<sup>1</sup>.

17. We humbly call for the following:

- a) For all of Philippine Government to protect its indigenous constituents.
- b) For government to pass a law that strengthens genuine, culturally-appropriate FPIC as a social justice measure or legislation.
- c) To pass a law prohibiting investments and other business ventures, or profit-driven activities in territories where people have said or expressed non-consent.
- d) To pass a law disqualifying any person or entity from being permitted to conduct business where any human rights abuses or violations may be attributable to said person, entity or anyone acting on his/her behalf.

<sup>1</sup> T'boll term, meaning "future"



e) For all of government to resolve conflicts over the land and territories of the T'boli, and the Manobo, this 2013.

18. It is the government that gives paper permits, or approves applications; It is they that should be responsible for the solutions.

19. As the government permitted, or allowed, so-called development projects-projects and interests that have done nothing for us but instead essentially killed my peoples and the peoples-We hold it to be accountable.

20. We join the struggle of our *lumad* and *katutubo* sisters, brothers, and children in the struggle to live a life of dignity, justice, and peace!

IN WITNESS WHEREOF, I have signed this instrument on 21 February 2013 in Koronadal City and took an oath before the members of the House of Representatives National Cultural Communities Committee and officials authorized to take an oath.



**VICTOR DANYAN**



## POSTSCRIPT TO THE REPORT:

On March 13, 2013, Datu Victor Danyan executed a sworn statement on the recent events in Barangay Ned, Lake Sebu, South Cotabato. A personal tragedy suffered by one of the residents in their Barangay was used by the military as a pretext to justify their surveillance and harassment of the T'boli-Manobo communities of Brgy. Ned. As of the Datu's execution of his sworn statement, he, his family and elder community members decided that for his safety he should leave the community.

Republic of the Philippines  
Quezon City

)  
) s.s.

### SWORN STATEMENT

I, **VICTOR DANYAN**, Filipino, of legal age and resident of Datal Bonglangon, Barangay Ned, Lake Sebu, after oath, hereby state:

1. I am the tribal chieftain of Datal Bonlangon, Barangay Ned, Lake Sebu and Chairperson of TAMASCO (Taboli-Manobo S'daf Claimants Organization).

2. Last March 12, 2013, Kagawad Melencio Tungkay of our barangay, Ned, visited me in my home, asking me to report to the headquarters of the 27<sup>th</sup> Infantry Battalion at Sitio Kibang. He said that 1<sup>st</sup> Lt. Peralta of the 27<sup>th</sup> Infantry Battalion had asked that I visit and report there immediately, on that very same day. I asked Kag. Tungkay for what purpose, and Tungkay replied that it was for a dialogue. I said there should be proper notice and that I should be given time to prepare along with the community. There was in fact no formal letter of invitation. Whereupon, Melencio replied that I should be the one to decide my course, explaining that *"so your family will not accuse me of forcing you to **surrender**."* This made me realize of the real purpose of the military's invitation. And once more it made me anxious for my life and that of my family's. It brought back the same fear when a similar kind of "invitation" was given to me last year.

3. Last year, on February 2, 2012, heavily armed elements of the 27th Infantry Battalion came to Datal Bonlangon looking for me. Three of them in military combat uniform carrying high powered guns, and in assault position, headed towards my house while another three men positioned their high powered guns near our day care center. Five more armed men positioned themselves behind my house. One of them fired a shot into the ground which caused further tension among members of my community. When Valentin Danyan, our sitio leader, arrived, the armed man asked about my whereabouts. He told him that I was in K'batang. The soldier instructed him to tell me to visit their base camp at El Dulog to clear my name or else I will be on the wanted list. He said that something bad might happen to me if I will not show up at the base camp. I was there when this unfortunate incident happened but they did not recognize me. Fearing for my life, I immediately walked away.

4. On March 18, 2013, Mr. Memerto "Makoy" D. Villamor, Jr. committed suicide in Sitio Sigowit, Brgy. Ned. He used an old rifle to shoot himself inside his home. His wife informed me that this may have been caused by some family conflicts and that he was drunk when he shot himself. On the same day, teams from the AFP and PNP visited the sitio on the same date.

5. On March 24, 2013, at around 7PM, a team from the 27<sup>th</sup> ID stationed themselves in Sitio Sigowit.

6. On March 26, at around 6AM, the same team roved around Datal Bunlangon, Brgy. Ned, approximately 5km away from Sitio Sigowit. When my fellow community members asked what their purpose was, members of the military team replied that they were there for "roving" and "patrolling" purposes.



3. I thought that after the burial of Makoy that the military team would pull out, but instead three (3) more teams, totaling approximately twenty-one (21) army soldiers arrived and established themselves in "stations" in Sitio Sigowit. They took posts around the community, at the day care center, multi-purpose stage of the sitio, and at the private establishment of one community member. They also dug foxholes at certain parts of the community.

4. I was informed by Arnel Cuales, a resident of Sitio Sigowit whose house is approximately 10 meters near one of the station of the soldiers, that the soldiers had also started planting vegetable gardens around the areas where they are stationed. He was told by one of the soldiers that the team from the 7<sup>th</sup> Infantry Division intends to stay longer, at least until June.

5. To my mind, the military is using the pretext of Makoy's death to once more show their force and station themselves in the communities. Both Sitios Sigowit and Datal Bonglaon are part of our ancestral domain, and are under unresolved threats from the company owned by Victor A. Consunji.


6. Having experienced the same kind of harassment previously, and the same events leading to threats upon my life, upon consultation with my family and community members, I had to once again, immediately leave the community and stay somewhere safe. This causes me great worry, far from the community, to know how my family and the community are.

7. Last 21 February 2013, I was invited to speak at the Public Hearing of the Committee on National Cultural Communities of the House of Representatives, at the provincial gymnasium in Koronadal City, South Cotabato, in relation to the committee's ongoing investigation in aid of legislation on the situation of indigenous peoples and allegations of human rights violations against their leaders in various parts of the country where there are large-scale mining and other resource extractive interests; I reported on the previous activities of the military, the threat to my life and some of our community members. I called on to the government, that as it permitted and allowed corporations, so-called development projects – projects and interests that have pushed us out of our lands and instead have caused the death of my people and the peoples – that they should be held accountable.

8. These recent incidents tell me that the corporation and the government, supported by the military, has not heeded the T'boli-Manobos' call to our plight, and that until now the harassments continue with impunity.

9. I am executing this affidavit to attest to the truth of the foregoing, and for such other purpose/s it may serve.

IN WITNESS WHEREOF, I have signed this instrument on 13 March 2013 in Quezon.

  
**VICTOR DANYAN**



Legal Rights and Natural Resources Center -  
Kasama sa Kalikasan / Friends of the Earth Philippines

