



Republic of the Philippines
PROVINCE OF NUEVA VIZCAYA
BAYOMBONG



OFFICE OF THE PROVINCIAL GOVERNOR

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TO: **PROVINCIAL ENVIRONMENT AND
NATURAL RESOURCES OFFICE (PENARO)**
Bayombong, Nueva Vizcaya

MUNICIPAL LOCAL GOVERNMENT UNIT OF KASIBU
Kasibu, Nueva Vizcaya

BARANGAY LOCAL GOVERNMENT UNIT OF DIDIPIO
Didipio, Kasibu, Nueva Vizcaya

PSSUPT. RICHARD R. SAAVEDRA
Provincial Director
PHILIPPINE NATIONAL POLICE
Nueva Vizcaya Provincial Office

Date: **June 25, 2019**

ORDER

SUBJECT: **EXPIRATION OF THE FINANCIAL OR TECHNICAL
ASSISTANCE AGREEMENT OF OCEANAGOLD
(PHILIPPINES) ON JUNE 20, 2019**

X-----X
Section III of the Financial or Technical Assistance Agreement (FTAA) of OceanaGold Philippines Inc. (OGPI) provides that the Agreement shall have a term of twenty-five (25) years from its date of effectivity or from June 20, 1994 until June 20, 2019. Section XIX of the FTAA further provides:

This Agreement shall be terminated and the parties shall be relieved of their respective obligations:

19.1 On expiration of the term, or extension thereof as provided elsewhere herein.

Nevertheless, despite the expiration of their FTAA and without any contract or renewal of their Agreement, OGPI is continuously operating business at the Didipio Mine in Kasibu, Nueva Vizcaya. To justify their continued operation, the undersigned received a written communication from OGPI¹ on June 24, 2019 stating that the Mines and Geosciences Bureau (MGB) through its Acting Director, Atty. Wilfredo G. Moncano, issued a letter dated June 20, 2019 confirming that they are permitted to continue their mining operations pending the renewal of their FTAA by the President.

Upon scrutiny however, of the June 20, 2019 letter of the MGB Acting Director, there is nothing stated therein showing that said Office confirms that OGPI is permitted to continue its operations pending the renewal of its FTAA. The language used by MGB's Acting Director is plain and simple when he said thus: xxx ***this Office has taken its position** that OGPI is permitted to continue its mining operation pending the approval of the renewal of FTAA No. 001:*” Contrary to the claim of OGPI, the statement of MGB is a mere pronouncement of the stand of the Office that OGPI is permitted to continue its operations sans renewal of their FTAA and not a confirmation allowing OGPI to continue its operations despite lack of a renewed FTAA as assumed by OGPI.

Further, in justifying their stand, the MGB likewise cited Section 18, Chapter 3, Book VII of Executive Order (EO) No. 272 which reads thus:

“ where the **licensee** has made timely and sufficient application for the renewal of a **license** with reference to any activity of a continuing nature, the existing license shall not expire until the application shall have been finally determined by the **agency**.” (Emphasis supplied.)

Said provision is not applicable to OGPI as the FTAA entered into by them is not a license but a contract entered into by the Government through the President in accordance with the provisions of the Constitution². A license is not a kin to a contract for a **license** is merely a permit or privilege to do what otherwise would be unlawful, and is not a contract between the authority, federal state, or municipal, granting it and the person to whom it is granted; neither is it a property right, nor does it create a vested right³ while a **contract** is an act of agreeing. It is an agreement which signifies the coming together of minds, which may be written or verbal, implied or express⁴.

In view of the foregoing and in the absence of an effective Agreement renewing the FTAA, all rights and interests vested to OceanaGold by virtue of the Agreement are terminated effective midnight of June 20, 2019. In this regard, and in accordance with the mandate of the Environmental Code of the

¹ A copy of OGPI's letter is enclosed herein for perusal.

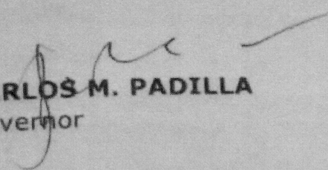
² Section 2, Article XI of the 1987 Constitution

³ 37C J. 168

⁴ Philippine legal encyclopedia, Jose Agaton R. Sibal

Province of Nueva Vizcaya and pertinent provisions of the Local Government Code, you are hereby directed to enjoin and restrain any operations of OceanaGold upon the termination of the FTAA or after June 20, 2019. You are further directed to maintain peace and order and prevent any unwarranted incidents in the execution of this Order.

For your immediate compliance.


CARLOS M. PADILLA
Governor