

[PRESIDENTIAL DECREE NO. 1174, July 27, 1977]

AMENDING PRESIDENTIAL DECREE NUMBERED NINE HUNDRED SEVENTY-TWO, OTHERWISE KNOWN AS THE "COAL DEVELOPMENT ACT OF 1976".

WHEREAS, the coal development program envisioned in Presidential Decree No. 972, otherwise known as the "Coal Development Act of 1976" encourages the participation of the private sector with adequate and sufficient financial, technical and managerial resources to undertake a work program to effectively explore, develop and exploit indigenous coal resources calculated yield maximum benefit to the Filipino people and revenues to the Philippine government and assure just and fair returns to the participating private enterprises;

WHEREAS, in line with the policy of the Government to encourage and accelerate exploration and development of indigenous resources and in the light of current conditions in the coal industry, it is imperative that Presidential Decree No. 972 be amended granting additional incentives to coal operators participating in the coal development program;

WHEREAS, in order that coal operations should not be unnecessarily hampered and snagged by the difficulties and delays in securing surface rights under existing laws and regulations for the entry into, access to or occupation of private lands, it is necessary to provide a just and equitable system of rights acquisition and use by coal operators which would also give incentives and protection to private landowners and occupants;

Now, **THEREFORE, I, FERDINAND E. MARCOS**, President of the Philippines, by virtue of the authority vested in me by the Constitution of the Philippines, do hereby decree and declare as part of the law of the land the following:

SECTION 1, Section Seven (e) of Presidential Decree No. 972, is hereby amended to read as follows:

"SEC. 7 Existing Permittees Leaseholders

(e) In order to give holders of valid and subsiding coal vocable permits, coal leases and other existing rights granted by the government for the exploration and exploitation of coal lands of the operators thereof duly approved by the appropriate government agency, sufficient time to upgrade their financial and technical capabilities to develop a viable work program to be embodied in a coal operating contract, the deadline for entering and concluding a duly executed coal operating contract is extended from July 27, 1977 to January 27, 1978: *Provided*, that the extension shall apply only to those who have complied with the requirements of unitization; *Provided, further*, that those who have unitized may be granted by the Board during the extension period special operating permits in order not to disrupt existing coal operations; *Provided, finally*, that no further extension shall be allowed after the extension granted in this decree, and coal permits, leases and other

rights not converted to coal operating contract for any cause by January 27, 1978 shall be deemed automatically cancelled and the area thereby shall be open for coal operating contract in accordance with Section 6 hereof."

SEC. 2. Section Nine, Third Paragraph, Sub-Paragraph (a) of the same Decree is hereby amended to read as follows:

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"SEC.9. *Obligation of Operator in a Coal Operating Contract.*a) On behalf of the Government, reimburse the operator for all operating expenses not exceeding ninety percent (90%) of the gross proceeds from production in any year; *Provided*,that if in any year, the operating expenses exceed ninety percent (90%) of the gross proceeds from production, then the unrecovered expenses shall be recovered from the operation of succeeding years. Operating expenses mean the total expenditures for coal operation incurred by the operator as provided in a coal operating contract."

SEC. 3 Section Ten of the same Decree is hereby amended to read as follows:

"SEC. 10. *Additional Fee.*-All valid and subsisting holders of local revocable permits, leases and other existing rights granted by the government for the exploration and exploitation of coal lands or the duly qualified operators thereof who have organized their area into a coal unit, may, subject to conditions imposed by the Energy Development Board, be granted in the coal operating contract, in addition to the operator's fee provided in Section 9, a special allowance, the amount of which shall not exceed forty percent (40%) of the balance of the gross income after deducting all operating expenses.

"Coal operating contracts entered into with Philippine citizens or corporations except those already covered under the preceding paragraph, shall be granted a special allowance, the amount of which shall not exceed thirty per cent (30%) of the balance of the gross income after deducting all operating expenses; *Provided*, that coal operating contracts in which Philippine citizens or corporations have a minimum participating interest of forty percent (40%) in the contract area may, subject to reasonable conditions imposed by the Energy Development Board, be granted a special allowance not exceeding twenty percent (20%) of the balance of the gross income after deducting all operating expenses.

"For the purpose of this section, a Philippine corporation means a corporation organized under Philippine laws at least sixty percent (60%) of the capital of which, including the voting shares, is owned and held by citizens of the Philippines."

SEC. 4. Section Eleven (a) of the same Decree is hereby amended to read as follows:

"SEC. 11. *Minimum Terms and Conditions.*-In addition those elsewhere provided in this Decree, every coal operating contract executed in pursuance hereof shall contain the following minimum terms and conditions:

a) Every operator shall be obliged to spend in direct prosecution of exploration work not less than the amounts provided for in the coal operating contract and these amounts shall not be less than the total obtained by multiplying the number of coal blocks covered by the contract by One Million Pesos (P1,000,000.00) per block annually; *Provided*, that if the area or a portion thereof is suitable for open pit mining as determined jointly by the operator and the Energy Development Board, the minimum expenditure requirement herein provided may be reduced up to Two Hundred Thousand Pesos (P200,000.00) per block annually. From the time coal reserves in commercial quantity have been determined jointly by the operator and the Energy Development Board, the operator shall undertake the development and production of the contract area within the period agreed upon in the contract and shall be obliged to spend in the development and production of the contract area an amount which shall be determined by negotiation between the operator and the Energy Development Board taking into account factors such as measured reserves, quality of coal, mining method and location and accessibility to market; *Provided, further*, that with the approval of the Board, the operator may concentrate all the annual work obligations on any one or more of several contiguous or geologically related blocks if it is shown that such concentration of work will be most advantageous and beneficial in the development and operation of the coal operating contract area; *Provided, further*, that if during any cract year, the operator shall spend more than the amount of money required to be spent, the excess may be credited against the money required to be spent by the operator during the succeeding years; *Provided, furthermore*, that should the operator fail to comply with the work obligations provided for in the coal operating contract, it shall pay to the Government the amount it should have spend but did not in direct prosecution of its work obligations; *Provided, finally*, that except in case of open pit mining, the operator shall drill at least thirty (30) holes per block and a minimum footage of exploration holes before the end of the exploration period as may be specified in the coal operating contract. The Board may, however, taking into account the geological and technical factors involved; allow a lesser number of drill;l holes and footage giving due credit to other accepted exploration methods ad practices.

SEC. 5. The same Decree is hereby further amended by adding the following sections immediately following Section Sixteen thereof:

"SEC. 16-A. *Entry and Use of Private Lands*

a) Coal exploration, development and exploitation is hereby declared of public use and benefit and for which the power of eminent domain may be invoked and exercised for the entry, acquisition and use of private lands; *Provided*, that any person or entity acquiring any option or right on such land after the execution of a