

**[ADMINISTRATIVE ORDER NO. 2002-35,
December 03, 2002]**

**GUIDELINES GOVERNING THE MANAGEMENT OF THE DIWALWAL
MINING AREAS AND VICINITY AS MINERAL RESERVATION AND
ENVIRONMENTALLY CRITICAL AREA PURSUANT TO
PROCLAMATION NO. 297 AND FOR OTHER PURPOSES**

WHEREAS, Article II of the 1987 Philippine Constitution and Section 4 of Republic Act (R.A.) No. 7942, otherwise known as the Philippine Mining Act of 1995, provide that mineral resources are owned by the State, that the exploration, development and utilization thereof shall be under its full control and supervision and that it may directly undertake such activities or pursue the same through agreements with qualified contractors;

WHEREAS, Executive Order (E.O.) No. 192 mandates that the Department of Environment and Natural Resources (DENR) shall be the primary agency of Government responsible for the conservation, management, development and proper use of the country's environment and natural resources, as well as the licensing and regulation of all natural resources as may be provided by law to ensure equitable sharing of the benefits derived therefrom for the welfare of the present and future generations of Filipinos;

WHEREAS, Section 8 of R.A. No. 7942 also provides that the DENR shall be the primary agency of Government responsible for the conservation, management, development and proper use of the State's mineral resources, including those in reservations, watershed areas and lands of the public domain, and that the DENR Secretary shall have the authority to promulgate rules and regulations as may be necessary to implement the intent and provisions of R.A. No. 7942;

WHEREAS, Diwalwal in Mt. Diwata, Monkayo, Compostela Valley has been the site of crude and semi-mechanized to mechanized types of mining operations, starting as a gold rush area in 1983, involving thousands of miners, local entrepreneurs and service providers;

WHEREAS, the Diwalwal mining and mineral processing operations have also adversely effected the environment over the years, mainly through pollution and siltation of the river systems, and posed serious threat to health and safety because of mercury contamination;

WHEREAS, conflicting claims and rivalries over the Diwalwal mining areas have further brought about peace and order problems that, together with the environmental, health and safety problems, have led to an emergency situation needing immediate intervention by Government;

WHEREAS, DENR Administrative Order (DAO) No. 2002-18 was issued on August 12, 2002, Declaring an Emergency Situation in the Diwalwal Gold Rush Area and

Providing for Interim Guidelines to Address the Critical Environmental and Social Consequence Therein;

WHEREAS, DAO No. 2002-18 imposed the stoppage of mining and mineral processing activities of major operators in Diwalwal until such time that all the environmental and permitting requirements are complied with, the relocation of mineral processing plants and construction of a common mill tailings disposal system in the nearby Mabatas Area completed and the implementation of a mine management plan to generate cash flow for the construction activities in the Mabatas Area and to address socio-environmental issues, including the sustainable livelihood of subsistence mine workers, attained;

WHEREAS, the President of the Philippines issued Proclamation No. 297 on November 25, 2002 Excluding a Certain Area from the Operation of Proclamation No. 369 dated February 27, 1931, and Declaring the same as Mineral Reservation and as Environmentally Critical Area, which mainly includes the Diwalwal mining areas and the Mabatas Area;

WHEREAS, Proclamation No. 297 expressly provides that mining operation in the Mineral Reservation may be undertaken either by the DENR directly, subject to payment of just compensation that may be due the legitimate and existing claimants, or through a qualified contractor, subject to any existing rights;

WHEREAS, Section 5 of R.A. No. 7942 provides that mining operation in a mineral reservation may be undertaken either directly by the DENR or through a contractor;

WHEREAS, Proclamation No. 297 also provides that the DENR shall formulate and issue the appropriate guidelines, including the establishment of an environmental and social fund, to implement its intent and provision;

NOW, WHEREFORE, the foregoing premises considered, the following guideline in the management of said Mineral Reservation and Environmentally Critical Area are hereby promulgated for the guidance and/or compliance of all concerned:

SECTION 1. Title. — This Administrative Order shall be known as the "Guidelines in the Management of the Diwalwal Mineral Reservation and for Other Purposes."

SECTION 2. Policies and Objectives. — Guided by the social reform agenda of the Government, the policies and objectives of this Administrative Order shall be:

- a. To rationalize the mining and mineral processing operations in the Mineral Reservation and Environmentally Critical Area for greater efficiency and to provide for adequate environmental protection and mine rehabilitation measures.
- b. To adequately address the health and safety concerns of the miners, mineral processors and residents.
- c. To uplift the social and economic well-being of the underprivileged sectors that are directly and indirectly involved in the mining and mineral processing operations.
- d. To stabilize the peace and order situation.

- e. To provide for an equitable sharing scheme for the benefits derived from the utilization of the mineral resources.
- f. To ensure that the benefits derived from mining and mineral processing operations shall accrue to the communities, Government, both local and national, and other legitimate stakeholders.

SECTION 3. *Scope.* — This Administrative Order covers the management, administration and regulation of all mining and mining processing operations and related activities within the Diwalwal Mineral Reservation declared under Proclamation No. 297 dated November 25, 2002.

SECTION 4. *Definition of Terms.* — As used in and for the purposes of these Guidelines, the following terms shall be defined accordingly:

- a. "Diwalwal Mineral Reservation" refers to the area declared as Mineral Reservation and as Environmentally Critical Area pursuant to Proclamation No. 297 dated November 25, 2002, particularly bounded by the following geographical coordinates:

Corner	Longitude	Latitude
1	126°08'	7°46'
2	126°08'	7°51'
3	126°13'	7°51'
4	126°13'	7°46'

- b. "Mill Tailings" means materials, whether solid, liquid or both, segregated from the ores as a result of mineral processing operations, which may or may not have economic values.

- c. "Mine Waste" means soil and/or rock materials from surface or underground mining operations with no present economic value to the generator of the same.

- d. "Mineral Processing" means the milling, beneficiation, leaching, smelting, cyanidation, calcination and/or upgrading of ores, minerals, rocks, mill tailings, mine wastes and/or other metallurgical by-products or by similar means to convert the same into marketable products.

- e. "Natural Resources Development Corporation" refers to the government corporation of that name established as a corporate arm of the DENR pursuant to Executive Order No. 786 dated March 19, 1982.

- f. "Ore Transport Permit" refers to the permit that may be granted to a Service Contractor to transport minerals/mineral products.

- g. "Service Contractor" means a person or entity who enters into an agreement with the DENR or Natural Resources Development Corporation (NRDC) to undertake specific work(s) related to mining or mineral processing operations;

SECTION 5. *Identification and Delineation of Mining/Mineral Processing Areas.* — The Mines and Geosciences Bureau (MGB) shall identify and delineate mining and mineral processing areas within the Diwalwal Mineral Reservation, where mining for

gold and its associated minerals may be allowed. It shall mainly take into account the trends, dimensions and sites of the ore veins and vein systems, access to the veins and working areas, buffer zones, and other development works in delineating such areas.

Thereafter, the DENR shall endeavor to confine all mining and mineral processing operations to such areas. However, actual mining and mineral processing operations in said areas delineated may be allowed only after the same have been properly verified on the ground through technical and geodetic surveys by the MGB.

SECTION 6. Direct State Utilization as Mode of Mineral Resources Development.

— Pursuant to the pertinent provisions of Proclamation No. 297 dated November 25, 2002 and consistent with the pertinent provisions of R.A. No. 7942, the DENR shall directly undertake mining and mineral processing operations in certain identified areas in the Diwalwal Mineral Reservation through the NRDC with the assistance of the MGB and other sectors of the DENR, subject to payment of just compensation that may be due the legitimate and existing claimants.

For this purpose, the DENR and the NRDC shall enter into a Memorandum of Agreement that shall embody the pertinent terms and conditions.

SECTION 7. Responsibilities of the NRDC. — As the implementing arm of the DENR in undertaking mining and mineral processing in the Diwalwal Mineral Reservation and in strict coordination with the MGB, the NRDC shall have the following responsibilities:

- a. Implement a medium-scale and labor-intensive mine management plan for the cost-effective, environmentally sound and socially responsible mining and mineral processing operations in the Diwalwal Mineral Reservation.
- b. Secure the necessary permits and licenses and comply with all requirements pertinent to the conduct of mining and mineral processing operations.
- c. Avail of services of competent professional group(s) to undertake the necessary planning, design and implementation works.
- d. Construct and operate mineral processing plant(s) and mill tailings disposal system in the Mabatas Area.
- e. Collect the share of Government from the utilization of the mineral resources in the Diwalwal Mineral Reservation.
- f. Establish the environmental and social fund as required under Proclamation No. 297.
- g. Initiate the environmental clean-up of the Diwalwal mining areas, Naboc River and other affected areas.
- h. At its option and subject to just compensation, provide services to the mining and mineral processing operations, such as ventilation and power supply, blasting and assaying, among others.