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REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT
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OFFICE OF THE SECRETARY

APRIL 4, 2014

MEMORANDUM CIRCULAR

No. 44, series of 2014

TO : ALL GOVERNORS, CITY/MUNICIPAL MAYORS, PUNONG BARANGAYS, DILG REGIONAL AND FIELD OFFICERS, AND ALL OTHERS CONCERNED

SUBJECT : DIRECTING ALL LOCAL CHIEF EXECUTIVES TO BE STRICTLY GUIDED BY THE LEGAL RESTRICTIONS ON BLACK SAND AND BEACH MINING

DATE :

Batas Pambansa (B.P.) Blg. 265¹ categorically prohibits “*the extraction of gravel and sand and such other activities as would erode or diminish the natural beauty of beaches.*”²

Relatedly, Section 79(a) of Department of Environment and Natural Resources (DENR) Administrative Order No. 2010-21³ expressly requires all “Quarry/ Commercial or Industrial Sand and Gravel/ Government Gratuitous/ Guano/ Gemstone Gathering Permits”⁴ issued by the government to carry the following prohibition:

No extraction, removal and/or disposition of materials shall be allowed within a distance of one (1) kilometer from the boundaries of reservoirs established for public water supply, archaeological and historical sites or of any public or private works or structures, unless the prior clearance of the

¹ An Act Prohibiting the Extraction of Gravel and Sand from Beaches and Providing Penalties Therefor.

² Section 1, B.P. Blg. 265.

³ Revised Implementing Rules and Regulations of Republic Act No. 7942 (also known as Philippine Mining Act of 1995).

⁴ First paragraph of Sec. 79, DENR Administrative Order No. 2010-21.

Government agency(ies) concerned or owner is obtained. No extraction, removal and/or disposition of materials shall likewise be allowed in offshore areas within five hundred (500) meters distance from the coast and two hundred (200) meters from the mean low tide.

These laws notwithstanding, there have been persistent reports of illegal black sand⁵ mining operations being conducted in the country in blatant violation of the foregoing legal prohibitions.

Notably, according to the DENR Mines and Geosciences Bureau (MGB), illegal black sand mining causes among others, coastal and soil erosion and the intrusion of salt water into agricultural areas, and adversely affects both local tourism and the fisher folk in the host communities.⁶

Considering all the foregoing, and pursuant to the formal request of the MGB in its Memorandum dated 24 February 2014 addressed to this Department, all Local Chief Executives (LCEs) are hereby directed to be strictly guided by the well-defined parameters laid down by the MGB in the said Memorandum with regard to the (i) invalidity of small scale mining permits for purposes of mining black sand, (ii) inapplicability of quarry and sand and gravel permits for use in black sand mining operations, and (iii) legal prohibition on quarrying within No-Go Zones (200 and 500 meter demarcations), which parameters are quoted herein below for clarity:⁸

1) Small-scale Mining Permits (SSMP) are already deemed invalid for the purpose of mining black sand as source of iron⁹ pursuant to the pertinent provisions of Executive Order (EO) No. 79, to quote Section 11 thereof:

'a) xxx;

*b) Pursuant to RA No. 7076, small scale mining operations shall be **undertaken only within the declared People's Small-Scale Mining Areas or Minahang Bayan;***

and

⁵ Black Sand: Dark, often glossy mixture of sand materials; originates from the weathering of dark rocks situated near shore or transported from inland thru natural drainage; mostly deposited in beaches and river deltas; mainly contains magnetite (Fe₃O₄), a magnetic mineral and a common source of iron for steelmaking. (MGB definition)

⁶ MGB Report in Malacanan Palace, 10 February 2014.

⁸ Lifted verbatim from the MGB Memorandum.

⁹ Underscoring supplied.

'd) Small-scale mining shall not be applicable for metallic minerals except gold, silver and chromite, as provided for in RA No 7076.'

(emphasis ours)

2) Quarry and Sand and Gravel Permits are intended only for the extraction and or utilization of non-metallic quarry, and sand and gravel resources and **not** for metallic resources, including iron ores contained in black sand.¹⁰

Section 5 of Department Administrative Order (DAO) No. 2010-21, the Consolidated Implementing Rules and Regulations of Republic Act No. 7942, the Philippine Mining Act of 1995, defines Quarry Resources as any common rock or other mineral substances as the andesite, basalt, conglomerate, coral sand, diatomaceous earth, diorite, decorative stones, gabbro, granite, limestone marble, marl, red burning clays for potteries and bricks, rhyolite, rock phosphate, sandstone, serpentine, shale, tuff, volcanic cinders and volcanic glass: Provided, That such **quarry resources do not contain metals or metallic constituents and/or other valuable minerals in economically workable quantities: xxx'** (emphasis ours)

Section 72 of the same DAO No. 2010-21 provides that Sand and Gravel Permits, issued either by the Provincial Governor/City Mayor or the Regional Director of the Mines and Geosciences Bureau are intended only for the extraction, removal, and disposition of sand and gravel, and other loose or unconsolidated materials. These are the non-metallic materials intended for use mainly in the construction industry.

3) Mining including quarrying is not allowed in areas categorized as No-Go Zones pursuant to the pertinent provisions of RA No. 7942 and EO No. 79. Beaches (within 200 meters from the mean low tide), foreshore areas (within 500 meters from the mean low tide) and river banks, including the mandated buffer zone pursuant to Presidential Decree No. 1067, the Water Code of the Philippines, are No-Go Zones.¹¹

Significantly, under Article II, Section 16 of the 1987 Constitution, the State is expressly mandated to "protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature." Also, Section 16 of Republic Act No. 7160¹³, specifically enjoins local government units to "promote health and safety, enhance the right of the people to a balanced ecology," and "preserve the comfort and convenience of the inhabitants" within their respective localities.

¹⁰ *Ibid.*

¹¹ *Ibid.*

¹³ The Local Government Code of 1991.