Philippines

Mining or Food?

Case Study 4: Davao Oriental - Mindanao. The Hallmark Project
Philippines: Mining or Food?  
Case Study 4: Nickel and Cobalt in Davao Oriental – Mindanao. The Hallmark Project

by

Robert Goodland and Clive Wicks

for

The Working Group on Mining in the Philippines

Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs

The Brundtland Report, Our Common Future, UN World Commission on Environment and Development, 1987

In a world overflowing with riches, it is an outrageous scandal that more than 826 million people suffer hunger and malnutrition and that every year over 36 million die of starvation and related causes. We must take urgent action now.

Jean Ziegler
UN Special Rapporteur on the Right to Food, April 2001

DEDICATION

The Working Group on Mining in the Philippines and the authors respectfully dedicate this report to all the courageous and dignified people who have been killed while protecting the environment and upholding human rights in the Philippine archipelago.

Disclaimer

The views expressed in this report are those of the authors and not necessarily those of the participating or supporting organizations. The authors have, however, done their utmost to reflect the views of the many people they met in the Philippines and the views and reports of the people and organizations who have commented on earlier drafts of this report.
The Working Group on Mining in the Philippines
The Working Group on Mining in the Philippines was established in 2007, after the publication in January that year of the report, *Mining in the Philippines: Concerns and Conflicts*. Based in Britain and chaired by the Right Honorable Clare Short MP, UK’s former Minister of International Development it includes representatives from the Columban Missionary Society, the Ecumenical Council for Corporate Responsibility, Philippine Indigenous Peoples’ Links and IUCN- CEESP.

The Authors

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However, in view of the vast number of extrajudicial killings that have taken place since 2001, now believed to be over 1,000, including a Bishop of the Independent Church, the authors are reluctant to name people or organisations in the Philippines. The authors admire the many other people, including lawyers, some of whom have also lost their lives while trying to protect their people from mining industry abuses.

The authors admire the courage of the politicians, bishops, priests, sisters and pastoral workers of the Catholic Church and the leaders of many other faiths and none and human rights lawyers who have the courage to speak out against the destruction that mining is currently and will increasingly cause to their beautiful, fruitful and biodiverse archipelago. It has been a great honour and a humbling experience for the authors to work with such brave and committed people.

They would like to thank the Local Governments Units, the Catholic Church, especially the Columban Missionaries and the bishops, priests, sisters and communities who welcomed them during their trip and provided accommodation, transport and food for the team.

The best help the authors could provide was to apply their long years of experience and professional knowledge of the extractive industry around the world and their knowledge of environmental and human rights ‘best practise’, laws and conventions in an impartial and professional way.

They would like to especially thank PAFID for their contribution to the mapping of the areas visited in their February 2008 Field Trip, LRC-KSK-Friends of the Earth for their expertise on the law and assisting Indigenous Peoples protect their rights, Professor Arturo Boquiren, Professor Ernesto Gonzales for their contribution and insights about the economics of mining versus environmental value and Cathal Doyle of the Irish Centre for Human Rights for input on the rights of indigenous peoples.

From The Working Group on Mining in the Philippines (WGMP):

The Working Group would like to thank Robert Goodland and Clive Wicks for their dedication and passion for human rights and environmental justice, which has led them to generously give of their time and expertise to travel to the Philippines and answer the call of an ever increasing number of communities to help them protect their rights, their lands, their lives and livelihoods. We wish to thank Cordaid, the Holly Hill Charitable Trust, Paul K. Feyerabend Foundation, the Columbans, the IUCN-CEESP (Commission on Environmental Economic and Social Policy), for their financial support to realise this report and maps.
## Case Study 4: Nickel and Cobalt in Davao Oriental – Mindanao. The Hallmark Project

Table of Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Background</td>
<td>126</td>
</tr>
<tr>
<td>Proposed Mining</td>
<td>127</td>
</tr>
<tr>
<td>Environmental and Social Impacts</td>
<td>129</td>
</tr>
<tr>
<td>Opposition and Deficiencies in Consultation</td>
<td>31</td>
</tr>
<tr>
<td>Visit to Pujada Bay / Mt Hamiguitan</td>
<td>134</td>
</tr>
<tr>
<td>Pujada Bay Conclusion, Recommendation and Map</td>
<td>135</td>
</tr>
</tbody>
</table>

ANNEX: Table of Contents for Entire Report Including Case Studies 142
Map of the Philippine Archipelago

Case Study Locations

1. MIDSALIP
2. LIBAY SIBUTAD
3. TAMPAKAN SAGITTARIUS COPPER & GOLD
4. MATI DAVAO ORIENTAL PJJADA BAY
5. MINDORO NICKEL PROJECT
6. SIBUYAN ISLAND

Report and Case Studies available in individual documents at:
http://www.piplinks.org/miningorfood
MAPS associated with these 6 Case Studies are available at http://www.piplinks.org/maps
Provincial Map of the Philippines

1 Source Wikipedia
Case Study 4: Nickel and Cobalt in Davao Oriental – Mindanao. The Hallmark Project

**Background**

The Mati municipality of Davao Oriental province is a beautiful place. High, largely forested, rugged mountains plunge steeply into the ocean. The forested mountain ridge, the Mount Hamiguitan range, enhances the sustainability of agriculture on the lower slopes (although new logging trails are being built) and, where space permits, behind some of the beaches. In July 2004, President Gloria Macapagal-Arroyo declared the 6,800-hectare Mount Hamiguitan range and its vicinities as a wildlife sanctuary (under 2004 Republic Act No. 9303) “and its peripheral areas as buffer zone”. The sanctuary is considered so precious that it has been categorized as Hiyas ng Turismo or “jewel of tourism”. It supports a century-old bonsai or “pygmy” forest and 250-foot twin waterfalls, and has been classified as “Montane Forest”. The mountain range is also a Key Biodiversity Area. According to the research and development section of the Philippine Council for Agriculture, Forestry and Natural Resources, it is home to five endangered species of plants and to 27 rare, 44 endemic and 59 ecologically important species, including the Philippine Eagle. The protected area also contains the unique Tinagong Dagat, a lake at the mountain’s peak.

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2 Biological diversity – or “biodiversity” for short – is a general term for the diversity of genes, species and ecosystems that constitute life on planet Earth. It is defined as "the variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems”... and .. “In-situ conservation means the conservation of ecosystems and natural habitats and the maintenance and recovery of viable populations of species in their natural surroundings and, in the case of domesticated or cultivated species, in the surroundings where they have developed their distinctive properties.” (Article 2 of the Convention on Biological Diversity)
The Mount Hamiguitan range is the source of several major rivers and watersheds, which flow down towards Pujada Bay and the Davao Gulf. They are the main source of water supply for domestic use for all the communities living within the areas.

The ocean in this region used to be one of the Philippines’ centers of tuna, shrimp, prawn, crab, and other associated fishing industries. These are now declining because of landslips, erosion and sedimentation, which is destroying the marine life.

On 31st July 1994, Pujada Bay was declared a 21,000-hectare Protected Seascape and Landscape under Presidential Proclamation No. 431. It is home to several endangered species including sea cows, dugongs, turtles, and stingrays, is a priority area for reef, corals, and mollusk, and a reef fish priority area for cetaceans, sea grasses, seaweeds, and mangroves. Unsurprisingly, the sea and its life is the major source of livelihood to many coastal communities of Mati, whose population numbers just over 105,000 people. Up to 80% of the residents of barangay Macambol (some 4,000 people) rely on fishing for their livelihoods.

**Proposed Mining**

In the late 1960s, exploration tests and geological mapping of Macambol barangay within the Mati municipality indicated six laterite deposits. It was not until the 1990s, however, that various companies applied for permits to explore and mine. Full exploration began in earnest in 2000.

According to Government information, four Mineral Production and Sharing Agreements (MPSAs) were approved on 8th June 2004 by the then Department of

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Environment and Natural Resources Secretary, Elisea Gozun, to four Philippine companies⁴ A year later, on 10th June 2005, Michael Defensor, who replaced Elisea Gozun as DENR Secretary, approved another three MPSAs to a further three firms “to explore and develop”.⁵ The total area covered by all these permits is reported to be 17,573 hectares. The MPSA for Blue Ridge Mining Company was approved three months before the Mt. Hamiguitan was declared a wildlife sanctuary. The MPSAs are all in Mindanao’s Davao Oriental Province, mainly in the municipality of Mati, although some components also touch on San Isidro and Governor Generoso municipalities. The companies were given 25 years of mining rights, renewable for another 25 years.

The seven Philippine firms who had applied for and obtained MPSAs regrouped into two companies, Hallmark Mining Corp (President Albertus Mostert) and the Austral-Asia Link Mining Corp (President Philip Hopkins);⁶ they also collectively formed

Asiaticus Management Corporation (AMCOR President Peter Tan) so as to strike a joint venture deal with QNI Philippines, Inc, (which then became a subsidiary of the Australian mining giant, BHP Billiton). The joint venture between AMCOR and BHP Billiton to form what is known as the Hallmark Project involved a 60-40% equity split

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between the two respectively. BHP Billiton said it would invest US$1.5 billion in the project.\(^7\)

But the partnership appears to have gone sour. At BHP’s annual shareholder meeting in October 2007, Chief Executive Officer Marius Kloppers admitted that “there is a commercial dispute” between BHP and AMCOR. When asked for more details, Kloppers responded that they were commercially confidential and that the dispute had not impacted on the company’s work program. AMCOR, however, sought and was granted in May 2008 a restraining order and preliminary injunction against BHP Billiton, which means that all QNI/BHP employees are barred from entering and operating within the Pujada site.\(^8\)

Having gained their MPSAs, the companies began the identification, selection and definition phase in 2007, which they scheduled to end in 2012. (Other sources, however, suggest that the companies would like to start commercial operation earlier in 2009 or 2010, suggesting that the exploration phase may be nearing completion. In July 2007, Maximo Lim of DENR’s Mine and Geosciences Bureau was quoted as saying that mining operations might start by 2010.\(^9\) A year later, in May 2008, it was reported that the reason AMCOR had taken legal action against BHP Billiton was because it had discovered BHP intended to mine the Pujada nickel only in 2019, contrary to their joint agreement to start operations by 2010.\(^10\) If mining gets the go ahead, construction would begin in 2012 and extend through 2015, employing an estimated 4,000 people initially and costing $1.4 billion. Production of the nickel reserves (estimated at 200 million metric tons - 1.3% nickel) at a gross value of US$22.7 billion) and cobalt (unknown reserves) would then start in 2015 and last until the year 2045 supporting 700 jobs.

During this time, the company envisages paying taxes, royalties and profit sharing. According to the Government, the project would earn the Government an estimated US$ 10 million per year in potential excise tax and US$ 70 million a year in potential income tax (not taking into account “incentives” that might be granted the company including tax holidays).

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\(^7\) For more details, see Sonya Maldar, Kept in the dark: Why it’s time for BHP Billiton to let communities in the Philippines have their say, CAFOD, London, October 2008.

\(^8\) On 25th July 2007, AMCOR rescinded its agreement with QNI Philippines Inc. for the exploration and development of Pujada because of QNI’s failure to comply with its reciprocal obligations as stated in the agreement. On 20th May 2008, the Regional Trial Court of Makati granted AMCOR a writ of preliminary injunction against QNI, thereby barring all QNI/BHP employees from entering and operating within Pujada. “The mining that divides”, Ben O. Tesiorna, Sunstar, 1st June 2008, http://www.sunstar.com.ph/weekendDavao/06-01-2008/cover.html.


Environmental and Social Impacts

The Hallmark/AMCOR/BHP Billiton project area falls close to or within the Mount Hamiguitan range Protected Area. Although BHP stated in December 2007 that its proposed mining would exclude the strictly protected core of Mt. Hamiguitan, it is not clear how much of the protected area’s buffer zone would be affected. The mine management division of the Mines and Geosciences Bureau (MGB) of the Department of the Environment and Natural Resources (DENR) has said that, if mining operations in Hamiguitan begin, they would be outside the mountain range’s buffer zone, because they would be in the Macambol and Cabuaya barangays of Mati municipality and the nearby villages. But a new road along the Hamiguitan mountain ranges, following the coastline, has already been constructed by the province although totally paid for by the mining corporations, enabling them to gain better access into pristine areas.

The proposed project would overlap with five major river drainage systems and watersheds in the Mount Hamiguitan Range. The risk of water pollution at Magum village should be included in the Environment and Social Impact Assessment (ESIA).

An Environmental Assessment Report on Mati’s Balete Bay Watershed Oriental is known to have been submitted by Mines and Geosciences Bureau (MGB) regional director, Constanco Paje Jr., to Congressman Mayo Almario, but has not been seen or made publicly available. It states, however, that the MPSA contains a total land area of 4,778 hectares that “overlaps the five major drainage systems and watershed”.

The Integrated Coastal Resource Management Plan (ICRMP) for Pujada Bay, carried out by the Department of the Environment and Natural Resources (DENR), clearly indicates in detail what needs to be done to make sure the coast is not damaged. The DENR has constructed a Coastal Environment Program (CEP) Marine Center in Barangay Guang-Guang, whose main aim is to rehabilitate Pujada Bay’s once extensive mangroves of which only 300 hectares remain. The sea turtle rehabilitation center is said to be functioning, as is a museum and education center. The 725-hectare Balite Bay used to be the seafood basket of Davao, but siltation from Union Cement Corporation since the 1990s caused yields to plummet; red tides are now common, poisoning the seafood and thus making it toxic to consumers. The ICRMP for Pujada Bay may not be implemented adequately unless the DENR puts a high priority on integrated coastal management.11 The Plan does, however, have funding from the Asian Development Bank.12

The proposed mine is near the Pacific Cordillera fault-line, which is vulnerable to intense seismic activity: two branches of this active fault line flank the project area. This makes the long-term containment of mine waste highly risky.

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11 Similarly, the excellent 13-page implementation plan of the Sarangani Bay Landscape/Seascape Integrated Management shall be initially funded by the DENR through its Coastal Environment Program, but again sadly is unlikely to become a priority.

Opposition and Deficiencies in Consultation

People in the area fear an environmental disaster that would affect their fishing and farming livelihoods if the project goes ahead. They have expressed their opposition in various ways and also highlighted the deficiencies in the consultation and agreement procedures with them, which should take place before the mining can go ahead.

The Mineral Production Sharing Agreement (MPSA) overlaps with 16,000 hectares of Ancestral Domain claim of the Mandaya Indigenous Peoples and thus their Free and Prior Informed Consent (FPIC) would be needed for mining to proceed. Various meetings were held between the Indigenous Peoples and the National Commission on Indigenous People (NCIP) about the project. The Macambol-Mamali United Mandaya Tribal Council say that their members were not sufficiently consulted about the project and were not permitted to speak during meetings with the NCIP when they tried to raise objections to the mine.

Soon afterwards, with the support of NCIP, another council of elders was formed, the United Pujada-Macambol Mandayan Council of Elders Inc (UPMMCEI), which the majority of Indigenous Peoples do not consider legitimate. It was the UPMMCEI that is credited with granting FPIC to AMCOR in 2002. The Memorandum of Agreement (MOA) between AMCOR and the NCIP granting consent to mining was signed in February 2002 by Regelio Lemente, claiming to represent the Manobo tribe of Cabuaya, and by Rufino Mapinogos, claiming to represent the Mandaya tribe of Macambol. During a community consultation, the NCIP commissioner for Southern Mindanao, Norma Gonos, said that Mapinogos should be one of the candidates put forward for election by constituents in the normal manner. Mapinogos’s leadership of the Mandaya is contested by Datu Rosillier Galon, head of the Macambol-Mamali United Mandaya Tribal Council, among others. Complaints have been filed by Mandaya residents with the National Commission on Indigenous People (NCIP) about the leadership and authority of Rufino Mapinogos, the chair of UPMMCEI.

BHP Billiton also held a consultation with potentially affected villagers in January 2006 at which the latter expressed their opposition. Professor David Brereton, Director of Research at the Criminal Justice Commission in Queensland, Australia, and Director of Queensland University’s Center for Social Responsibility in Mining, documented this consultation and clearly showed how the some people and groups, representing indigenous leaders, fisherfolk and farmers, of Macambol opposed the project. Brereton’s paper, which quoted extensively from Phillip Hopkins, BHP’s


15 In his correspondence with the authors Professor Brereton pointed out that other groups he met in earlier visits to neighbouring villages in 2005 / 06 were in favour of the project. The 2008 CAFOD Report addressing issues pertaining to the Hallmark project emphasises the fact that the project has
group manager for regional development, stated that the company has still to decide whether to develop a mine in the area or not, after it has digested the results of its exploration. The Brereton paper notes the irresponsible mining practices that have been prevalent in the Philippines. “Much of the mining in the Philippines up until now has not been responsible, but this does not have to be the case in the future. If BHP Billiton does decide to develop a mine, this will be done responsibly,” Hopkins said. “The company’s reputation is very important and it would not do anything that would undermine this reputation. No mining will be undertaken in the Mt. Hamiguitan area.”

Despite this report and other sources documenting the extent of the opposition and division among local people with regard to the mining operation proceeding, company president Don Argus stated at the 2007 AGM in London that there was no ‘significant’ local opposition.

Local Government Units have also expressed their opposition to the proposed mining. In 2003, barangay councils formalized Resolutions regarding the damage that mining exploration was doing to their rice production. The mining permits were granted without the consent of two of the three local government units involved, contravening the Local Government code. The municipalities of San Isidro and Governor Generoso have both opposed the mining project, putting forward clear positions by means of written Resolutions. In 2005, Resolution No.155 of Governor Generoso’s Sangguniang Bayan (municipal council) puts in place Moratorium on mining. Mati City Mayor Michelle Rabat and Vice-Mayor Cesar de Erío, although in favor of

created major division in the community. It also highlights the paucity of the information available in relation to the potentially major impacts of the proposed mining operation and the fact that this has impacted peoples’ ability to make an informed decision about the project. CAFOD ‘Kept in the Dark’ 2008 part of its Unearth Justice campaign http://www.cafod.org.uk/policy-papers/unearth-justice/panels/resources-to-download/unearth-justice-kept-in-the-dark

16 Sources illustrative of the degree of local opposition to the project include resolutions passed in by the municipalities of San Isidro in 2003 opposing the entry of all large scale mining; in 2005 a moratorium declared in neighboring municipality of Gov. Generoso due to lack of local government permissions for the granting of Hallmark permits and concerns relating to environmental impacts; resolution of the provincial government of Davao Oriental passed in January 2006 supporting the opposition of Gov. Generoso town to the mining activity and restraining of the mining exploration within the Mt. Hamiguitan Range and its vicinities; articles published by local and national organizations e.g. LRC-KsK/ Friends of the Earth Philippines, Davao Office, including those listed in note 14 above; newspaper and media reports documenting opposition of local indigenous leaders, fishermen and farmers to the project (e.g. “Protect Mt. Hamiguitan or we die” F Gallardo, MindaNews 22 April 2007 available at http://www.minesandcommunities.org/article.php?a=224 and “Nickel mining faces tough challenge” By Jeffrey M. Tupas July 8, 2007 available at http://newsinfo.inquirer.net/inquirerheadlines/regions/view_article.php?article_id=75437); and a petition opposing the project signed by over 800 people which was presented to the president of BHP at the 2007 AGM. For a list of sources citing continuing opposition to the project throughout 2008 see CAFOD Report ‘Kept in the Dark 2008’ part of its Unearth Justice campaign http://www.cafod.org.uk/policy-papers/unearth-justice/panels/resources-to-download/unearth-justice-kept-in-the-dark
mining, emphasized on 25th February 2008 that a clean record would be an essential requirement for any mining companies seeking permits.18

Local people are now petitioning the Supreme Court in Manila. In March 2008, several representatives of potentially affected communities – together with Ana Theresia 'Risa' Hontiveros-Baraquel, (PL-Akbayan political party), Lorenzo R. Tañada, (LP Party), Teodoro Casiño (PL-Bayan Muna political party) – and several residents of Davao Oriental and other areas of the Philippines with the help of the Legal Rights Center19 filed petitions against the “legality and constitutionality” of the Mineral Production Sharing Agreements (MPSA) and the Financial Technical Assistance Agreements (FTAA). They have asked the Supreme Court to stop the Department of the Environment and Natural Resources (DENR) from issuing any more mining permits in the province and to nullify the seven permits already assigned to the mining firms Hallmark Mining and Austral-Asia Link mining. The petitioners

17 http://www.sunstar.com.ph/static/dav/2008/05/24/bus/amcor.gets.nod.to.mine.in.davor.html
18 They should be aware that BHP Billiton, the world’s largest mining transnational company, with an estimated $1.5 billion in investments, dumped 80,000 tons of rock mine tailings filled with toxic heavy metals such as copper, zinc, cadmium, and lead directly into the Fly and Ok Tedi rivers from the late 1980s through the 1990s, thus contaminating two of Papua New Guinea’s largest river systems. This has ruined the livelihoods of hundreds of thousands of farmers, and poisoned some 2,000 square kilometers of forests. Also see http://www.uknetmonitor.com/BHP1.pdf
19 LRC-KSK/Friends of the Earth Philippines - Legal Rights and Natural Resources Center-Kasama sa Kalikasan. www.lrcksk.org/
claim that the existing MPSAs already approved by the Government include sizeable indigenous lands. Moreover, Section 19 of the 1995 Mining Act states that mining is prohibited in all protected areas. According to reports, this prohibition was not mentioned in the original application for an exploration permit.

People from communities potentially impacted by the proposed BHP Billiton/Hallmark nickel mine picketed the Mati office of BHP Billiton on 4th March 2008, at which they announced the filing of these petitions with the Supreme Court.

One local group, the Macambol Multi Sectoral Alliance for Integral Development (MMSAID), is made up of representatives from different sectors (fisherfolk, farmers, Indigenous Peoples) who oppose mining in Macambol (although it does not yet include members of the Indigenous People’s groups contesting Mapinogos). Like the Macambol-Mamali United Mandaya Tribal Council, MMSAID say they were excluded from meetings, and were not part of negotiations between UPMMCEI and AMCOR.

Local people and their supporters have set up a website\(^{20}\) to air their concerns and to act as a forum for the community voice. A representative of MMSAID attended the BHP Billiton AGM in London in October 2007 to raise concerns about the project with shareholders. The MMSAID submitted a petition signed by over 800 people to the BHP Billiton’s Chief Executive Officer opposing the development of a mine in their area.

**Visit to Pujada Bay / Mt Hamiguitan**

The authors visited the whole area, including rice paddies and fish ponds that depend upon irrigated water from the mountain. They traveled around Mount Hamiguitan as far as possible on the road that was claimed had been built with mining company funds. This road was badly constructed; tree saplings had been planted to control erosion, but the planting seemed to be tokenism at best since most of the saplings had died; and landslides had already affected it. More landslides will doubtless follow as exploration continues, most probably causing siltation of the coral reefs. The road opened up the area to illegal logging and the authors heard chain saws operating and laden logging trucks leaving the area.

While the authors were mainly looking at the site that BHP Billiton/AMCOR aims to mine, they noted that there are many other mining applications in the area. They met many of the Mandaya Indigenous People, including most of their leaders, who reported how upset they were that just two or three of their leaders had sold out their Ancestral Domain to the mining companies by agreeing to Free and Prior Informed

Consent (FPIC), without the consent of all of the tribal elders. The Indigenous People showed the authors where they lived in the forest and claimed that the mining company refused to accept that they lived there. The authors do not know how FPIC could have been given validly without all of the community being fully informed and consulted.

The mining company had posted corporate signs claiming a wide area, including some of the forests that the Indigenous People have always used. The authors inspected a number of tracks in the forest built by mining companies. It was obvious that mining on or around Mount Hamiguitan would not only damage the terrestrial protected areas but would also harm or destroy the marine protected areas on both sides of the mountain. These areas have coral reefs that could easily become silted up or polluted by acid mine drainage, which would damage or destroy key fish breeding grounds.

The authors stayed in one of the new tourist hotels that has been built by local people and juts out into the sea. It was built on piles or stilts with a fish and crab breeding ground (fish pen) beneath. This development illustrated the potential the area has for eco-tourism: an area of great natural beauty, of tropical seas and forests, and a great diversity too of wonderful people who care about the place they call home.

**Pujada Bay Conclusion, Recommendation and Map**

Mining claims (mainly nickel and cobalt) in this area cover approximately 17,573 hectares. Mining pollution, erosion and siltation will severely damage biodiversity, water catchments, agricultural and marine resources and erode the area’s potential as an eco-tourism attraction. The human rights of the Mandaya will be further affected by mining on their ancestral domain. Costal communities who depend on fisheries are likely to be displaced and fish stocks, the main protein diet of the coastal communities and nearby cities, will likely be adversely affected in both the short and long term.

Exploration and mining within this “Pacific–Cordillera” fault line, which flanks the watershed on the southwest and southeast, will increase the risks and may induce additional seismic activity.

The authors therefore recommend that no mining should take place on Mount Hamiguitan or near Pujada Bay which are centres of high biodiversity and high eco-tourism potential.
MACAMBOL MULTI-SECTORAL ALLIANCE FOR INTEGRAL DEVELOPMENT (MMSAID)
Sitio Wagon, Macambol, Mati City

26th August 2007

MR DON ARGUS
President
BHP Billiton, UK

Dear Mr Don Argus,

We, members of indigenous people and migrants of Brgy Macambol and neighboring communities of Mati, Davao Oriental, whose signatures appear below, request you to respect our decision to protect the last frontier of our forest which consists of the Mt Hamiguitan Mountain Range in Barangays Macambol and Cabuaya of Mati City, province of Davao Oriental. Our strongest opposition is based on the following:

1. The Mt Hamiguitan Range, the last frontier of forest in Mati which provides one of the basic necessities in life - WATER! The operation of BHP Billiton/QNI assisted mining companies will definitely fell down trees to extract nickel. Our water level will reduce and may sources totally dry up.

We aired our views during a series of dialogues in the past with local officials and mining company representatives. Our public leaders do not listen to what we have been saying. Instead, we were branded as anti-development.

The campaign launched by the mining companies, which comes in many faces, is so strong, some members left us in favor of promised employment, better roads, schools and other amenities.

During past dialogues with local and international mining leaders they assured us that they only adhere to responsible mining. They even assured us that as soon as the mining is over they will restore the forest that we have been longing to protect.

With new technology, you may be able to replant trees to mined out areas. However, you cannot restore its biodiversity anymore. Trees alone do not make a forest. It’s the interconnectivity of all plants and animals that will. They provide us the basic necessities in life — the water, the oxygen, the medicinal plants and all.

2. Issue of Biodiversity Conservation. A big portion of the Mt Hamiguitan Range, which is a protected Wildlife Sanctuary, is part of the approved Mineral Production Sharing Agreement (MPSA) which even includes the bonsai and the twin hidden spring (Tinagong Dagat). Also part of the critical ecosystem is the lower dipterocarp forest which is still heavily stocked. Studies by 3 institutions - The University of Central Mindanao, the Bukidnon Institute and the Davao Oriental State College of Science and Technology - all agree that the ecosystems in this dipterocarp forest need protection. Recently we learned that no matter who has the prior claims, if the forest is found to be part of the critical ecosystems it is protected by the NIPAS law. Studies have proven time and again how critical the Mt Hamiguitan Range is to the Eastern Mindanao Corridor and to us residents of Mati City.
3. **The issue of Pujada Protected Seascape and Landscape.** Mati is one of the province’s municipalities which has a coastal resource management project in the pipeline with ADB. Pujada Bay is a Protected Seascape and Landscape under the NIPAS Law.

We, fisherfolk members of MMSAID are saddened by the prospect of the mining industry in Macambol. We are poor and thrive only from our fishing. We oppose mining because it is against our environmental principles. We are certain that nickel mining, the processing plants that will be installed, and the ports to come will certainly destroy our coastal areas.

We hope that you will listen to the small voice of the poor.

We affix our signatures below as a symbol of our strong opposition to nickel mining of HALLMARK/AUSTRAL ASIA /AMCOR.

**Macambol Multisectoral Alliance for Integral Development (MMSAID)**

**Signed by 206 MMSAID MEMBERS AND SUPPORTERS**
STATEMENT read at the BHP Billiton plc AGM in London on 23rd October 2008 by Sonya Maldar of Cafod, a British based Catholic NGO:

With resounding voices and determination, we, the members of the Macambol Multi-sectoral Alliance for Integral Development strongly oppose BHP Billiton's nickel mining project in Macambol and neighbouring villages!

We witness the destruction and miserable state of other communities who were hosts to mining, in the Philippines and in other parts of the world. This cannot happen to us. We do not want to destroy our community!

Even at these early stages of the project, we have seen good relations worsen among families, relatives, friends and neighbours. Divides now exist between our fellow tribespeople.

We fear for the destruction of our mountains, inland waters and sea. We cannot afford a loss of biodiversity on Mount Hamiguitan range and Pujada Bay. We dread pollution in the waters that we use for domestic and agricultural needs. Our lives and livelihood depend upon them!

We farm and raise livestock in Macambol. We have fishponds along the shores and fish in Pujada Bay. With appropriate support and technologies, we can develop them without nickel mining.

We want to develop our lives and our communities as much as others do theirs!

MMSAID
Barangay Macambol, Mati City
Davao Oriental, Philippines
20 October 2008
CAFOD’s Question\textsuperscript{21} addressed to Don Argus, Chair of BHP Billiton plc (UK) and BHP Billiton Ltd (Australia)

As you may be aware, CAFOD – the development agency of the Catholic Church in England and Wales – has today published research about BHPB’s Hallmark Nickel project in the Philippines. The project is worth $22.7 billion.

Our evidence reveals bribery by your joint venture partner, substantial flaws in the community consent process as well as risks to two environmentally protected areas. These raise serious questions about your social licence to operate which could pose serious material risks to the project, if not addressed.

In our view, this demonstrates evidence of failure on the part of BHPB management to ensure the highest standards of corporate behaviour are met by your partners.

Please can you tell us how you intend to address our concerns?

Sonya Maldar
CAFOD

CAFOD also delivered a copy of the agency’s report \textit{Kept In The Dark}\textsuperscript{22} to the Philippine Embassy in London.


\textsuperscript{22} http://www.cafod.org.uk/policy-papers/unearth-justice/panels/resources-to-download/unearth-justice-kept-in-the-dark
Sustainable Development and Mining Industry in Mt. Hamiguitan and Pujada Bay
Davao Oriental, Philippines

Mount Hamiguitan and Pujada Bay are important areas of extraordinary beauty and biodiversity. Mount Hamiguitan is home to the Philippine Eagle. It is categorized as “Hiyas ng Turismo” (Jewel of Tourism) with potential to be a national tourist attraction. The Ancestral Domain of the Mandaya tribe is located within the area.

The 6,800 hectare Mount Hamiguitan Range was declared a Protected Area (wildlife sanctuary) in July 2004, under Republic Act No. 9303 by President Arroyo. It is home to many endangered, rare and endemic species of plants, birds and animals, an old bonsai or “pygmy” forest, two 250-foot twin waterfalls and the unique Tinagong Dagat Lake. Many communities and farmers depend upon water from the water catchments for their crops and fish ponds.

Pujada Bay was declared a Protected Seascape and Landscape (21,000 ha) by Presidential Proclamation No. 431 in 1994. It is home to a number of endangered species including cetaceans, dugongs (sea cows), turtles and stingrays with priority areas for reefs, corals, mangroves, sea grasses, seaweeds, mollusks and reef fishes. It provides the major source of livelihood and protein for coastal communities of Mati and beyond.

Mining claims (mainly nickel and cobalt) cover approximately 17,573 hectares of which BHP Billiton and AMCOR are claiming 11,799-hectare. Mining is scheduled to begin in 2015 and shall last 30 years. National and International experts commissioned by the WGMIP visited the area in 2008. They produced a report “Philippines: Mining or Food?” and this map which clearly shows how the mines will overlap indigenous peoples’ lands, protected areas, watersheds, agricultural and fishing areas. Mining near the active “Pacific–Cordillera” fault line which flanks the watershed on the southwest and southeast will increase the risks.

The human rights of the Mandaya will be further affected by mining on their ancestral domain. They were given inadequate information on which to give Free Prior Informed Consent. Other stakeholders were also not adequately consulted. The legality of the 2004 FPIC process is questionable. The mine will displace some communities and adversely affect many others.

Mining pollution and siltation will severely damage biodiversity, water catchments, agricultural and marine resources and erode the area’s potential as an eco-tourism attraction. International mining companies will repatriate profits and add greater value overseas. Local communities and local government will carry most of the long term environmental and social costs.
ANNEX Entire Report Table of Contents

Foreword to Second Mining Report vii
Message from Senator Aquilino Pimentel Jr viii
Message from Bishop Zacarias C. Jimenez, DD ix

EXECUTIVE SUMMARY AND RECOMMENDATIONS xi

Summary recommendations to the Philippine Government xvi
Summary recommendations to Mining Corporations xxi
Summary recommendations to Development Agencies, NGOs, World Bank xxiii
Summary recommendations to the Investor Community xxv
Summary recommendations to Mining-Impacted Communities xxvii

INTRODUCTION 1

Chapter 1: Mining and Food Security 4
1.1 The Importance of Rice 4
1.2 The 2008 Food Price Frenzy 5
1.3 Peak Oil, Peak Food, Peak Phosphate, Peak Water & Peak Stable Climate 7
1.4 Why Does the Philippines Import Rice? 8
1.5 Reasons for Decreased Domestic Rice Production 9

Chapter 2: Mining and Forests 11
2.1 Deforestation Harms Rice and Fisheries 11
2.2 The Need for Watershed Conservation 13
2.3 Deforestation Increases Poverty 13
2.4 Indigenous Peoples and Forests 13
2.5 Rainforestation 14

Chapter 3: Mining and Marine Resources 15
3.1 Mining and Fisheries 15
3.2 Pollution From Mining 15

Chapter 4: Flawed Government Policy 18
4.1 Scale of the Mining Problem 18
4.2 Conflict of Interest 20
4.3 DENR Promotes Mining and Demotes Environment 20
4.4 Corruption in Environmental Governance 22
4.5 Philippine Mining Act, 1995 23
4.6 Separate Exploration from Exploitation 29
4.7 Post-Mining Rehabilitation Must Be Enforced 29
4.8 Government and Society Split on the Benefits of Mining 32

Chapter 5: Indigenous Peoples 36
5.1 Indigenous Peoples and the National Commission on Indigenous Peoples 36
5.2 The Role of the National Commission on Indigenous Peoples 37
5.3 Rights of Ownership and Ancestral Domain 38
5.4 Right to Develop Lands and Natural Resources 38
5.5 The Right to Benefits 38

142
5.6 Protections Afforded by Indigenous Peoples’ Rights Act 39
5.7 Free and Prior Informed Consent 39
5.8 FPIC and ESIA 41
5.9 Indigenous Peoples need Environmental and Social Impact Assessments 42

Chapter 6: Human Rights, Militarization and Mining 44
6.1 Human Rights and Mining 44
6.2 Official Reports Documenting Human Rights Violations 45
6.3 Human Rights, Civil Society and the Catholic Church 47
6.4 The Human Security Act 48
6.4 Further Militarization of Mining Projects and Investment Defense Forces 49
6.5 The Relationship Between DENR and NCIP 51
6.6 DENR Engulfs NCIP 51

Chapter 7: Philippine Mining Economics 53
7.1 Deficiencies in Mining Economics 53
7.2 Internalizing Currently Externalized Costs 54
7.3 Policy Options for Internalization 54
7.4 Benefit Allocation 55
7.5 The Resource Curse 55
7.6 Impact-Benefit Agreements 57
7.7 Assessment of Cost Externalization in Philippine Mining 59
7.8 Mining is the wrong Engine for Growth 61

Chapter 8: The Position of the International Agencies 70
8.1 The World Bank Group 70
8.2 International Development Assistance to DENR 72

FIELD TRIP CASE STUDIES 73

Case Study 1: Iron Ore & other Minerals, Midsalip, Zamboanga del Sur - Mindanao Island 75
Background 75
Water, Food and Livelihoods 77
The Threat of Mining in Midsalip 79
Potential Impacts and Opposition 82
Midsalip Visit 84
Midsalip Conclusion, Recommendation and Map 85

Case Study 2: Copper and Gold Mining Zamboanga del Norte - Mindanao Island 94
Background 94
Mining damage 95
Future plans? 98
Sibutad and Libay Visit 99
Sibutad and Libay Conclusion, Recommendation and Map 100

Case Study 3: Copper and Gold Mining in Tampakan, South Cotabato – Mindanao Island 106
Background 106
Threat of a huge open-pit copper and gold mine 108
| Case Study 4: Nickel and Cobalt in Davao Oriental – Mindanao. The Hallmark Project |
|-----------------------------------------------|---|
| Background                                    | 126 |
| Proposed Mining                               | 127 |
| Environmental and Social Impacts              | 129 |
| Opposition and Deficiencies in Consultation   | 31  |
| Visit to Pujada Bay / Mt Hamiguitan           | 134 |
| Pujada Bay Conclusion, Recommendation and Map | 135 |

| Case Study 5: Nickel Mining – Mindoro Island |
|---------------------------------------------|---|
| Background                                  | 142 |
| Mining Proposal                             | 143 |
| Opposition                                  | 144 |
| Indigenous opposition                       | 145 |
| Visit to Mindoro                            | 148 |
| Company continues to plan                   | 149 |
| Governor Issues Order to Stop Mining Activities | 156 |
| Mindoro Conclusion, Recommendation and Map  | 161 |

| Case Study 6: Gold and Nickel Mining - Sibuyan Island |
|-------------------------------------------------------|---|
| Background                                             | 172 |
| Forest Resources Already Threatened                    | 173 |
| Proposed Industrial Mining                             | 173 |
| Opposition                                             | 175 |
| Visit to Sibuyan                                       | 176 |
| Sibuyan Island Conclusion, Recommendation and Map     | 177 |

| Recommendations to the Philippine Government          | 181 |
| Recommendations to Mining Corporations                | 191 |
| Recommendations to Development Agencies, NGOs & the World Bank Group | 196 |
| Recommendations to the Investor Community             | 199 |
| Recommendations to Mining-Impacted Communities        | 202 |

| Annex A: Church Declarations and Position Papers on Mining | 206 |
| Annex B: Civil Society Reports on Human Rights Violations | 212 |
| Annex C: Strategic Environmental Assessment (SEA)       | 213 |
| Annex D: Health Impact Assessment (HIA)                 | 217 |
| Annex E: Literature Cited and Guide to Further Information | 221 |
| Annex F: Mines and Communities (MAC): The London Mining Declaration | 246 |
| Annex G: Geohazards and Earthquakes in the Philippines  | 251 |
| Annex H: Philippine Biodiversity Conservation Priorities | 260 |
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Clive Wicks has 48 years of experience of working in engineering, agriculture and environment, specializing in the impact of extractive industries on the environment. He is a vice chair of IUCN-CEESP (IUCN’s Commission on Environmental, Economic and Social Policy) and co-chairs SEAPRISE (IUCN-CEESP’s Working Group on the Social and Environmental Accountability of the Private Sector). He worked in the international environmental movement for the last 24 years, mainly with WWF UK. He headed WWF UK’s African, Asian and Latin American programs, and represented WWF at G8, World Bank, International Finance Corporation, UNEP and UNDP meetings on extractive industries. (Clivewicks@googlemail.com)

.. Perhaps reluctantly we come to acknowledge that there are also scars which mark the surface of our earth: erosion, deforestation, the squandering of the world’s mineral and ocean resources in order to fuel an insatiable consumption. Some of you come from island nations whose very existence is threatened by rising water levels; others from nations suffering the effects of devastating drought. God’s wondrous creation is sometimes experienced as almost hostile to its stewards, even something dangerous. How can what is “good” appear so threatening? ...

My dear friends, God’s creation is one and it is good. The concerns for non-violence, sustainable development, justice and peace, and care for our environment are of vital importance for humanity.

His Holiness Pope Benedict XVI, 23rd World Youth Day, Sydney, Australia, July 12-21, 2008

Photos if the fact-finding trip can be found on:
http://workinggrouponmininginthephilippines.blogspot.com

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