



Republic of the Philippines
Department of Environment and Natural Resources
MINES AND GEOSCIENCES BUREAU

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DENR - Mines and Geosciences Bureau
 Regional Office No. XIII
 MMD - MTES

POSTED

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May 22, 2013

IN RE: APPEAL OF PDEP, INC. IN
 CONNECTION WITH THE
 DENIAL OF ITS APPLICATION
 FOR EXPLORATION PERMIT
 DENOMINATED AS EXPA-
 000084-XIII

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NOTICE OF ISSUANCE OF AN ORDER

THE PRESIDENT
 PDEP, Inc.
 2nd Flr. Corinthian Plaza
 121 Paseo de Roxas, Legaspi Village
 Makati City

Reg. Mail

THE REGIONAL DIRECTOR
 Mines and Geosciences Bureau
 Regional Office No. XIII
 Km. 2, National Highway
 Surigao City

Reg. Mail

GREETINGS:

Please be informed that an **ORDER** was issued on May 22, 2013 on the subject, a copy of which is attached.

By Authority of the Director:

LEVY G. TEODORO
 Officer-In-Charge

Mining Tenements Management Division

File: lenovo/Data CMT/Appeal Case Title PDEP EXPA-000084-XIII

**"MINING SHALL BE PRO-PEOPLE AND PRO-ENVIRONMENT
 IN SUSTAINING WEALTH CREATION AND IMPROVED QUALITY OF LIFE"**



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ITS APPLICATION FOR
EXPLORATION PERMIT
DENOMINATED AS EXPA-000084-XIII

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ORDER

WHEREAS, on April 20, 2005, PDEP, Inc. (PDEP, for brevity) filed its application for Exploration Permit (EP) denominated as EXPA-000084-XIII in the Mines and Geosciences Bureau (MGB) Regional Office (RO) No. XIII covering 16,150 hectares located in Talacogon, Loreto and La Paz, Agusan del Sur;

WHEREAS, on March 12, 2010, Department of Environment and Natural Resources (DENR) Memorandum Order (DMO) No. 2010-04 was issued, providing, among others, for policy directives in cleansing mining applications in all the Regional Offices of the MGB;

WHEREAS, DMO No. 2010-04 took effect on April 1, 2010 after publication in a newspaper of general circulation and registration in the Office of the National Administrative Register;

WHEREAS, Section B of DMO No. 2010-04 provides the grounds for the denial of mining applications, as follows:

"1. Strict implementation of the Three (3) Letters-Notice Policy:

The maximum time interval of 30 days between Letter-Notice shall be strictly followed in the implementation of the Three (3) Letters-Notice Policy in exacting compliance with the requirements for the grant of mining tenements and as ground for denial of mining applications.

2. Denial of mining applications due to rejection of the request for Free and Prior Informed Consent:

The rejection of a request for Free and Prior Informed Consent by the rightful Indigenous Peoples concerned as certified by the National Commission on Indigenous Peoples (NCIP) shall be a ground for denial of the mining application concerned: Provided, that such rejection is carried out in accordance with the NCIP's procedural guidelines on securing the Free and Prior Informed Consent.

Subject to the aforesaid guidelines, the mining applicant concerned shall be allowed a maximum of two (2) attempts to secure the Free and Prior Informed Consent from the Indigenous Peoples concerned.

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3. *Grounds for denial of mining applications:*

Mining applications that have not complied with any of the following requirements shall also be denied:

- a. Securing the NCIP Certificate of Non-Overlap within 1 year and NCIP Certification Precondition (Compliance Certificate) within 3 years from the date of NCIP's receipt of the pertinent letter-request from MGB.*
- b. Securing the proof of consultation with the Sanggunian concerned within 2 years from the date of acceptance of the mining application.*
- c. Completion of the publication, posting and radio announcement requirements within 1 year from the date of acceptance of the mining application.”;*

WHEREAS, on April 18, 2012, MGB RO No. XIII issued the Order denying EXPA-000084-XIII for failure of PDEP to fully comply with the provisions of Section B.3 above of said DMO No. 2010-04;

WHEREAS, PDEP filed its Omnibus Motion for Reconsideration in connection with the Order dated April 18, 2012 of MGB RO No. XIII, which was denied thru the Order dated July 6, 2012 of the said Office;”

WHEREAS, on November 11, 2012, PDEP submitted to this Office its Appeal dated July 26, 2012 from the said April 18, 2012 Order of MGB RO No. XIII;

WHEREAS, this Office sent the Letter dated November 28, 2012 to PDEP thru registered mail requiring to pay the Appeal Fee within 7 days from receipt thereof in the amount of Php5,000.00 and Php20.00 for P.D. No. 1856, pursuant to DENR Administrative Order No. 2005-08 in re: *“Providing for New Fees and Charges for Various Services of the Mines and Geosciences Bureau;”*

WHEREAS, the registry receipt of the Postal Office concerned shows that the said Letter of November 28, 2012 was delivered to PDEP;

WHEREAS, the records of this Office show that up to now, despite the said Letter, PDEP failed to pay the required Appeal Fee;

WHEREAS, this Office considers as completed the mailing of the said Letter in view of the Supreme Court ruling in the cases of Gorospe, et al. vs. Court of Appeals, et al. , G.R. No. L-11443, September 30, 1959 and Yangco vs. Milan, 57 Phil. 761, that *“when the service is to be made by registered mail, that service is deemed complete and effective upon actual receipt by the addressee, as shown by the registry return card. However, if the addressee is so negligent that he fails to claim his mail from the post office within five (5) days from the date of the first notice sent to him by the postmaster, the service is deemed complete and effective at the expiration of such time;”* 4

WHEREAS, the Appeal of PDEP is deemed not perfected because of its failure to pay the required Appeal Fee;

NOW, WHEREFORE, the foregoing premises considered, the Appeal dated July 26, 2012 of PDEP, Inc. is hereby **DENIED** and the Order dated April 18, 2012 of the Mines and Geosciences Bureau Regional Office No. XIII **AFFIRMED**.

SO ORDERED.

Quezon City, Philippines, MAY 22 2013.

By the Authority of the Director:



LEVY G. TEODORO
OIC, Mining Tenements Management Division

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