

The Successful Struggle against STD in Marinduque

Marinduque is a small island province 160 km south of Manila. The people of Marinduque fought a successful battle to keep tailings that were spilled into a river in a 1996 mine disaster from being piped into the sea through Submarine Tailings Disposal (STD). For Marinduqueños, this struggle to protect their sea was the latest in a long history of struggles against Placer Dome.

Brief Corporate Background: Placer Dome Inc. and Marcopper Mining Corporation

Placer Dome Inc. is based in Vancouver, British Columbia and is the third largest gold mining company in North America and fifth largest in the world. Placer Dome is involved in 15 mines in six countries on five continents. As early as 1956, Placer Dome, then Placer Development Limited, began exploration, geological mapping and drilling on Marinduque. Marcopper Mining Corporation became involved in 1964.

Placer Dome's involvement with Marcopper was long standing and core to decision-making at the mines.

- Since mining by Marcopper began in Marinduque in 1969, Placer Dome has owned 39.9% of the shares in Marcopper, the maximum amount of shares that could, until recently, be legally held by a foreign company in the Philippines.
- Placer Dome managed the two Marcopper mines on the island. All Presidents and Resident Managers of Marcopper, from 1969 until 1997, came from Placer Dome. This arrangement was established in agreements Placer Dome had with the banks. "Placer undertook the responsibility for open pit planning, design and construction . . ."¹



Photo: Catherine Coumans

Placer Dome's Marcopper mine in Marinduque in 1989.

- Placer Dome guaranteed the loans for two successive Marcopper copper mines on the island.
- Placer Dome provided the technical expertise for the two mines.
- Placer Dome was the only mining company invested in Marcopper from 1969-1994. Placer Dome's secret partner was Ferdinand Marco (50%) until 1986, when he was overthrown. After 1986, Marcos' shares were taken over and held by successive Philippine governments until 1994, when they were privatized.

- Placer Dome divested in 1997.

A 30-year History of Mining Disasters and Social Opposition

In 30 years of mining under Placer Dome's management, Marinduqueños endured one mining-related environmental disaster after another. For 16 years, from 1975 to 1991, Placer Dome oversaw the dumping of 200 million tons of mine waste (tailings) directly into the shallow waters of Calancan Bay, covering corals and seagrasses and the bottom of the bay with 80 square kilometers of tailings. The food security for the 12 fishing villages around the bay has been severely impacted for more than 25 years. These tailings are also leaching metals into the bay and are suspected to be the cause of lead contamination found in children from villages around the bay. Calancan Bay villagers, who protested the dumping for 16 years, were never asked permission and never compensated for losses. Dumping was not halted until the mine was depleted.

In 1991, an earthen dam was built in the mountainous headwaters of the Mogpog River to keep silt from a waste dump for the mine out of the Mogpog River. The people of the town of Mogpog actively opposed the building of the dam, fearing impacts on the river they use for food, watering animals, washing themselves and their clothes. In 1993, the dam burst, flooding downstream villages and the town of Mogpog so severely that houses were swept away, water buffaloes and other livestock killed and crops destroyed.

Marcopper's Resident Manager, Placer Dome's Steve Reid, denied any responsibility blaming an unusual rainfall. However, when the dam was rebuilt an overflow was added for the first time, in an implicit acknowledgement of faulty engineering. Within two years the toxic waste behind the dam was so high again that it flowed freely through the overflow into the river and it continues to do so today. As a result, a species of crab (called Bagtuk) that people used to eat has completely disappeared. According to a letter of August 23, 2001, by Vancouver-based engineering firm Klohn Crippen, "failure of the dam is a virtual certainty in the near term under current conditions." Failure of the dam will result in "significant downstream property damage" and "the potential for loss of life," said Crippen.

The Boac River Tailings Spill Disaster of 1996

On March 24, 1996, another massive tailings spill at the Marcopper Mine filled the Boac River with 3-4 million tons of metal enriched and acid generating tailings. The spill happened when a badly sealed drainage tunnel in an old mine pit burst. The mined-out pit, high in the central mountains of Marinduque, had been used as a storage place for tailings from an adjacent mine since 1992. An investigative team from the United Nations, which visited the island shortly after the tailings spill, noticed unrelated leaks in other mine structures and concluded, "It is evident that environmental management was not a high priority for Marcopper." The UN team also noted that had proper risk assessment's been done on the pit "it is possible . . . the present environmental disaster would not have occurred"²

Placer Promises Clean Up but Divests from Marcopper

The disastrous Boac River spill finally focused global attention on mining-related environmental problems in Marinduque. International scrutiny by organizations such as the United Nations put enormous pressure on Placer Dome, as did the immediate criminal indictment in the Philippines of Placer Dome's John Loney and Steve Reid (President and Resident Manager of Marcopper, respectively). The case is still pending.

Weeks after the disaster, as tailings continued to spew forth from the damaged tunnel, then-CEO of Placer Dome, John Willson, made a written commitment to then-President of the Philippines, Fidel Ramos, stating that "I have authorized the following com-

mitments by Placer Dome: The residents of Marinduque who have suffered personal inconvenience or damage to their property as a result of the Marcopper event will be quickly and fairly compensated. . . . Placer Dome recognizes its responsibility to rehabilitate all areas impacted by the tailings flow . . . This program will include: 1) the rehabilitation of the river system; 2) the remediation of off-river impacts; 6) the development and undertaking of a program of river and ocean rehabilitation." Placer Dome predicted the clean-up would be complete within six months of the spill. A wholly-owned subsidiary called Placer Dome Technical Services Ltd. was set up with offices in Manila and Marinduque to manage the clean-up and compensation arrangements.

Placer Dome dredged a wide channel at the ocean mouth of the Boac River to catch tailings flowing down from the river into the ocean. Large areas of coral coast had already been covered in tailings³ and continued to be impacted by new tailings coming from the river, even after the channel was dug, because the channel was full of tailings within months.

By August 1996, with the growing realization that the river clean-up was not going to be done in six months or even a year, Placer Dome announced that the company planned to divest from Marcopper, but would continue to take responsibility for the ongoing clean-up of the river.

The commitments made by Placer Dome's CEO to the Office of the Philippine President were ultimately reflected in legal agreements Placer Dome entered into with Marcopper, on February 28, 1997, a month before Placer Dome divested. These agreements are known as the Environmental Reclamation Agreement (ERA), the Tunnel and River Contract, and the Makulapnit Siltation Dam Agreement (MSDA). In entering into these agreements with Marcopper, Placer Dome stated its wish to "maintain its reputation for responsible environmental management and to maintain its ability to generate income from operations in the Philippines."⁴ Placer Dome also recognized the "near insolvent" state of Marcopper,⁵ and referred to the "technical capabilities and international expertise of PDI"⁶ with respect to the work that needed to be done.

In March of 1997, one year after the spill, Placer Dome divested from Marcopper. During the rallies on the first anniversary of the spill, the people in Marinduque summarized their feelings about the divestment by saying: "First Placer dumped its waste, then its shares and now its responsibility."

Placer Dome Decides on Submarine Tailings Disposal to "Clean Up" Spilled Tailings

In 1997, Placer Dome stated it would clean up the river by dumping the tailings into the sea using Submarine Tailings Disposal (STD). There was not yet much awareness among the people of Marinduque about this technology, but it was opposed by a core of local people who were concerned about the potential impacts on the sea.

On October 30, 1997, the Philippine Department of Environment and Natural Resources (DENR) turned down Placer Dome's first permit application to use STD. In his denial of the permit, then-Secretary of the DENR, Victor Ramos, noted that "under current laws and regulations, all the offshore and submarine areas of the country are considered to be Environmentally Critical Areas (ECA). . . . Hence, your application for the submarine placement of redredged channel tailings materials is hereby denied."

The department was concerned that rich fishing grounds in the nearby Tablas Strait would be severely harmed. The Secretary wrote, "[w]e would prefer a land-based option . . ." Boac's mayor Madla welcomed this decision and in a letter of December 1, 1997, to Secretary Ramos wrote: "On behalf of the people of the Municipality of Boac we are extending our sincerest gratitude for heeding our call to save Tablas Strait by not allowing [the company] to dump their contaminated mine tailings into the said Strait."

Placer Dome did not accept the ruling but appealed it. On March 23, 1998, the company won the right to prepare an Environmental Impact Assessment (EIA) that could include the STD option, but as DENR Secretary Ramos added, "[w]e strongly suggest however that alternative land-based disposal options of spilled tailings and a full rehabilitation proposal be made a major part of the study." Placer Dome hired Woodward-Clyde (Philippines) as their main consultants and set out to prepare an EIA for STD.

The offensive to influence government opinion and to win the "hearts and minds" of the people of Marinduque now also went into full force. Derek Ellis of the consulting firm Rescan Environmental Services Ltd. was brought in from Vancouver to give presentations for the officials at the DENR on STD.



Tailings from Placer Domes Marcopper mine in Marinduque entering the sea at Calancan Bay.

Placer Dome presented him as an academic and as an independent advisor.⁷ Officials from the DENR were not aware that he was also a long time member of a consulting firm that had specialized in STD since the 1970s and promoted the technology around the world. On the island, Placer Dome instituted village assistance programs. Survey forms were handed out and people's opinions of STD were polled. They were then asked to provide the reasons for their disapproval of STD.⁸ Placer Dome also brought in a consultant who met with villagers in Marinduque and told them that STD was a "proven technology," was "widely practiced" and "acceptable in Canada and practiced there."⁹ (See: **Canadian Legislation on Submarine Tailings Disposal STD Effectively Banned in Canada Since 1977**)

The Opposition in Marinduque

During the 1970s, while tailings were dumped into Calancan Bay, surrounding fishing villages were primarily aided in their attempts to stop the dumping by Franco Preclaro, an engineer from the nearby town and a Catholic nun from Manila, Sr. Aida Velasquez. Dumping was highlighted in the Manila media and that put pressure on regulatory authorities who eventually issued a "cease and desist order," which was overturned in 1981 by President Ferdinand Marcos.

In 1981, Marinduque became a diocese and received its first Bishop, Raphael Lim. Since then the local Roman Catholic Church has been the primary and most consistent local organization supporting all villagers affected by mining on the island through its Social Action Center. Sr. Aida Velasquez was instrumental in attracting international attention for the plight of the Calancan Bay fishing villages, which led, in the 1980s, to meetings in Canada between Placer Dome executives and NGOs. During the 1980s, there was shareholder action against Placer Dome in Canada on this issue. Legal action by the villagers led, in 1988, to another "cease and desist" order against the dumping. But again, the Office of the President overturned the order.

Protest against the mine was localized between 1975-1991 around the bay and the villagers there. Once the dumping into Calancan Bay stopped in 1991, much of the international focus on the mining-related environmental problems in Marinduque also faded, even though the bay was never rehabilitated and continued to affect livelihood and health.

The massive dam failure in Mogpog in 1993 and the ongoing environmental problems in the Mogpog River never received much attention although some villagers and local politicians tried to raise awareness about the environmental effects and Sr. Aida Velasquez and the local Roman Catholic Church brought this issue back to the awareness of Canadian NGOs in 1995.

Importantly, opposition to the mine was never supported by elected officials or town elite in Marinduque, with rare excep-

tions such as Franco Preclaro. Town residents wanted to keep the electricity the mine generated and sold locally. Many elected officials either benefited directly, through contracts, or believed the mine necessary for employment on this small island where employment is still largely based on fishing and farming.

With the massive tailings spill into the Boac River in 1996, opposition took on a new form. Villagers from Calancan Bay, Mogpog and Boac joined in solidarity with elected officials, local mayors (with the exception of the mayor in whose town the mine is located), provincial board members and eventually a new Congressman, elected in 1999, to take a stand against the clean up plans of Placer Dome.

Opposition locally was primarily led by the Roman Catholic Church through its umbrella organization, the Marinduque Council for Environmental Concerns (MACEC). Its members included other local NGOs, villagers and elected officials. The local chapter of the Philippine Rural Reconstruction Movement (PRRM) also became an active supporter of mining affected villagers after the spill and a member of MACEC.

This broad coalition was very effective in the years after the spill in making their voice heard in Manila through petitions, resolutions, demonstrations and yearly commemorative events on the anniversary of the spill. This coalition also took a firm stand against STD. They were conscious of the fact that deep sea disposal of mine waste was not yet an accepted practice in the Philippines. They also knew that many other mining companies were interested in using STD in the country. They saw their struggle as not only aimed at protecting their own coastal waters but also to avoid setting a precedent for STD in the Philippines.

Placer Dome's Second Application for STD is turned down

Woodward Clyde completed the EIA studies and Placer again applied for a permit for STD. On February 16, 1999, Placer Dome's second request for an STD permit was turned down by then-DENR Secretary Antonio Cerilles, on the basis of "absence of social acceptability as evidenced by the consistent opposition from directly affected stakeholders of Marinduque . . ." ¹⁰ Cerilles ordered that a final river clean-up and rehabilitation program be submitted "within 30 days for immediate implementation by PDTs [Placer Dome Technical Services]."¹¹

Placer Dome did not accept the ruling and instead halted all further work on the river. Instead, the company focused on a campaign to prove the social acceptability of STD through an "Information Education Program" and by seeking endorsements from individual villages. Placer Dome eventually claimed various local groups were in support of STD, such as the "Marinduque Incurable Scuba Diving Addict Club, Inc.," which has never been heard of locally.¹²



Photo: Catherine Coumans

Activists from Marinduque and their supporters from LRC having dinner after a congressional inquiry against Placer Dome.

The Search for Independent Expert Advice

The people of Marinduque decided to take matters into their own hands after Placer Dome's refusal to abide by Secretary Cerilles' order for a river clean-up. They hired independent consultants to provide them with a sound scientific basis for various clean-up options. This demand had in fact been incorporated in DENR-Secretary Cerilles' February 16, 1999 letter. Cerilles ordered the "[h]iring of independent technical consultants by the provincial government to be funded by PDTs."¹³

The DENR offered the people of Marinduque the services of two "independent" consultants: Stuart Jones and David Gwyther. The DENR praised the credentials of these two men but left out the fact that these mining industry consultants were well-known advocates of STD. The consultants had been working for two of the major consulting firms promoting STD, NSR Consultants and Dames and Moore.¹⁴ Marinduqueños however, rejected the two consultants.

On May 25, 1999, a Congressional Inquiry was called by the Committee on Ecology to review complaints by Marinduqueños over the continued delay in the clean-up of the river. This inquiry investigated evidence of increasing toxicity and health concerns of villagers near the river, delays in compensation payments, and Placer Dome's continued insistence on STD as a clean-up option. The people of Marinduque reiterated their opposition to STD and demands for an independent assessment by a team of scientists of their choosing. After the inquiry, Congressman Edmund Reyes of Marinduque traveled to the United States in search of a team of scientists to come to Marinduque to review potential clean-up options for the tailings in the river. He met with NGOs, university departments, and members of the United States Geological Survey (USGS) who expressed an interest.

Placer Dome managed to convince the DENR to strike its own “independent review committee” to review Placer Dome’s STD plans. This committee became extremely controversial. The investigations of the most qualified person on the committee, its Chair, Dr. Zenaida Batac-Catalan whose specialization is Aquatic Ecology and Pollution, led her to conclude that STD was not an acceptable option based on Placer’s own studies. There was considerable tension over her position on the committee.¹⁵

On February 16, 2000, there was a meeting of the review committee for which Dr. Batac-Catalan had called in sick. During this meeting the decision was made to approve Placer Dome’s STD plans. Two other members of the committee never signed off on this decision. Dr. Batac-Catalan resigned from the review committee and wrote a letter to DENR Secretary Cerilles expressing her disappointment with the fact that a vote was taken in her absence. She argued that Placer Dome had not been able to sufficiently show that STD would not cause environmental harm and that tailings management, once the tailings had been placed into the ocean, would be impossible if anything went wrong. She also noted the need to protect the food web at the bottom of the ocean and expressed concern for health effects from **metal leaching** on Marinduqueños who rely on seafood.

The DENR never formally released the brief review committee decision. DENR officials agreed to await the review of the USGS before making a final decision on the issue of STD.

The United States Geological Survey Provides Independent Advice

On March 14, 2000, a Memorandum of Agreement (MOA) was struck between the DENR and the Provincial Government of Marinduque. This MOA requires the People of Marinduque, through the Provincial Governor, in consultation with the Provincial Board, to select a consultant to conduct an independent review and recommend a final remediation plan for the river. Placer Dome stated they would not pay for independent advisors chosen by the people.¹⁶

In May 2000, an independent USGS-led team spent a week in Marinduque and inspected all mining-related environmentally damaged areas. They reviewed all reports made available to them and consulted widely with the people of Marinduque. In fall of 2000, the USGS released its report concerning Marinduque’s mining-related impacts. The USGS report strongly recommends a “systems approach” to remediation on the island, insisting that the Boac River remediation cannot be separated from the need for island-wide remediation.

The USGS report documents large mounds of tailings left in the river and in the catchment area where the river enters the sea. The report states that these tailings “will be a long-term source of acid and metals into the environment, and are therefore in need of

remediation.”¹⁷ With respect to STD, the USGS warned that, “there is considerable potential that a highly acidic, metal-enriched, and environmentally detrimental plume would develop in the ocean around the tailings discharge point during tailings disposal . . .”¹⁸ Following the findings of the USGS report, the DENR assured Marinduqueños that STD would no longer be considered an option for disposal of the tailings in the Boac River.

In spring of 2001, Placer Dome appeared to accept this ruling, although the company continued to promote through media that STD was the best clean-up solution. Placer Dome started preparing a plan to return the tailings to the open mine pit.¹⁹ Marinduqueños, however, requested that the USGS conduct a thorough scientific review of all clean-up options before any action be taken. On February 19, 2001 the Provincial Board passed a resolution endorsing the USGS as their “qualified third party technical review consultants.”

Last Minute Back Room Deals

President Joseph Estrada increasingly came under attack for corruption and by the end of the year people were rallying in the streets in what was called People Power II after the peaceful revolution that ousted then-dictator Marcos in 1986. In the very last days of the regime, DENR Secretary Cerilles signed about 200 Environmental Compliance Certificates (ECC). One of these, dated January 18, 2001, barely a day before the regime fell, was an ECC for Placer Dome Technical Services permitting Placer Dome to implement STD to clean up the Boac River tailings.

The Officer-in-Charge of the new administration cancelled all these so-called “midnight deals.” Marinduqueños became aware that an ECC for STD had been signed but were not overly concerned that this ECC held any validity. Nonetheless, on October 3, 2001, a delegation of elected officials from Marinduque met in Manila with PDTS president Ian Lewis to discuss their dissatisfaction with the long delayed compensation payments and with the lack of transparency about engineering studies by Klohn Crippen, which Placer Dome had commissioned to assess all dams and structures at the mine site.²⁰

At this meeting, Lewis informed the delegation that the Environmental Compliance Certificate for STD had been “hand delivered” to Placer Dome in August and that Placer Dome considered it valid. Ian Lewis also referred to the DENR “Review Committee” report never released by the DENR, as evidence that an independent assessment had approved the STD option. Lewis admitted that the new DENR Secretary Heherson Alvarez had “suspended” the ECC.

Placer Dome Pulls Out of Philippines and Leaves Clean-Up to Marcopper

On October 9, 2001, a Congressional Inquiry was held to review Placer Dome’s plans for the clean-up of the river, delays in com-

pensation, and the need for greater transparency around studies by Placer Dome. On the evening before the Congressional Inquiry a letter dated August 23, 2001 from Placer Dome's consultant Klohn Crippen was leaked. The letter highlights conclusions from Klohn Crippen's June 14, 2001 report that five structures at the mine site need urgent repairs and that two structures (the dam at the top of the Mogpog River and the pit containing mine waste), are in such bad shape that "failure is a near certainty in the near term under current conditions."

The Klohn Crippen letter refers twice to potential for "loss of life" downstream as a result of collapse of these two structures and notes that collapse of the pit "would threaten the safety of any mine personnel that might be in the vicinity when the failure occurred." This is the same unstable pit that Placer Dome had

been considering as an alternative disposal site when STD no longer seemed an acceptable option.

On October 11, 2001, the DENR ordered Placer Dome, its subsidiary PDTS, and Marcopper to immediately fix the dangerous dams and structures or face criminal action should a disaster occur. In December 2001, without warning or consultation, PDTS closed its office in Marinduque and its office in Manila and pulled out of the Philippines leaving behind toxic mine tailings in the Boac River, the threat of five dangerously unstable mine structures, and the incomplete compensation of Marinduqueños affected by the 1996 spill.

Prepared by Catherine Coumans and Marinduque Council for Environmental Concerns (MACEC)

¹ Philippine Mining Journal, October 1969:38.

² UNEP, September 1996. Final Report of the United Nations Expert Assessment Mission to Marinduque Island, Philippines. Pp's 68-69.

³ UNEP, September 1996. Final Report of the United Nations Expert Assessment Mission to Marinduque Island, Philippines. P. 70.

⁴ Makulapnit Siltation Dam Agreement, 1997.

⁵ Environmental Reclamation Agreement, 1997.

⁶ Makulapnit Siltation Dam Agreement, 1997.

⁷ Personal communication of Catherine Coumans with official in the DENR, November 1998.

⁸ In a personal communication with Catherine Coumans, Christopher Sheldon, Manager Stakeholder Partnership, for Placer Pacific Asia PTE.Ltd, who was based in Manila and heading up the village assistance programs in Marinduque, said that the poll was a mistake and had been carried out by an employee without consultation

with Sheldon. November 1998.

⁹ Personal communication of Catherine Coumans with villagers in Marinduque. November 1998. In response, Catherine Coumans circulated a brief two page fact sheet (December 1, 1998) that, among other things, explained the laws in Canada effectively banning STD since 1975, the unpredicted consequences STD had had in Canada, and the fact that the only mine using STD was one that had started before these laws went into effect and so was allowed to continue. In response, the DENR hired NSR Consultants to refute the fact sheet by Coumans and circulated a 12-page NSR document in Marinduque. The DENR followed up in April 2000 with another document, based on the NSR document, again refuting Coumans's claims. Coumans responded in writing to each point made by the DENR on April 27, 2000 and distributed this document in Marinduque.

¹⁰ Cerilles, Antonio. February 16, 1999.

¹¹ Ibid.

¹² Placer Dome Technical Services, March 1999. Restoring the Boac River. pp. 19-20.

¹³ Cerilles, Antonio. February 16, 1999.

¹⁴ David Gwyther has since joined NSR Consultants.

¹⁵ Personal communication with Catherine Coumans. December 1999 and January 2000.

¹⁶ Personal Communication by Catherine Coumans with a DENR official. April 2000.

¹⁷ <http://geology.cr.usgs.gov/pub/open-file-reports/ofr-00-0397/> p.2.

¹⁸ Ibid.

¹⁹ Jim Robertson, May 10, 2001. Personal Communication with Catherine Coumans.

²⁰ Authors of this paper were present at this meeting.

The Successful Struggle Against STD in Mindoro

On the Philippine island of Mindoro, a broad coalition of grassroots organizations, established institutions and some key elected government officials came together to oppose a Nickel mine proposed by the Canadian mining company Crew Development Corporation (Crew). Crew planned to use Submarine Tailings Disposal (STD) to dispose of its mine waste. Opposition to disposal of mine waste into the fertile fishing grounds of Tablas Strait was a key factor in the struggle against the mine.

The coalition's organizing paid off when, on January 28, 2002, the Provincial Board of Oriental Mindoro passed a 25-year Mining Moratorium, proposed by ALAMIN (one of the local non-governmental organizations) and endorsed by Governor Bart Marasigan. In a landmark decision, ten provincial board members voted in favour and three against the moratorium.

Over the years, numerous official resolutions were passed against the mine by elected government bodies in Mindoro, which were submitted to authorities at various levels. These include four resolutions against the mine from the provincial board, resolutions against the mine from the city council of the provincial capital of Calapan and from municipal councils of six municipalities of the province, as well as from the League of Municipal Mayors, the League of Municipal Councilors, and the League of Barangay (village) Chairmen.

In 2001, the Mindoro Roman Catholic Diocesan Clergy, supported by the Bishop of Mindoro, appealed to President Arroyo not to allow the mine to proceed. There were people's petitions, letters of protest, and at least 25,000 signatures collected against the mine, as well as large rallies and demonstrations (mobilizing upwards of 50,000 Mindoreños) against the mine in the province.

A History of Struggle

In 1997, Mindex ASA began exploring for gold, sparking government opposition at all levels in Mindoro Oriental. The company had not received approval from local government units or local affected communities and concerned sectors in the province were protesting. Ignoring local protest, Mindex claimed in an August 1998 press release that "the local population welcomes this project."¹



Photo: Catherine Coumans
Governor Marasigan of Mindoro speaking out at an anti-STD symposium on Oct 5, 2001 in Calapan, Mindoro.

In November 1998, Aglubang Mining Corporation (a subsidiary of Mindex) applied for a Mineral Production Sharing Agreement (MPSA). In 1999, the original exploration permit was renewed and Crew Development Corporation started a merger with Mindex. In May of 1999, the broad-based protest alliance ALAMIN was established.

In response to social opposition, Mindex/Crew engaged in tactics that enraged the local community and strengthened their resolve.

Among the tactics were direct and indirect bribery, gathering thousands of signatures under false pretenses and then presenting them as being from people in favour of the mine, forging key signatures, and setting up a local media bureau with the specific aim of promoting the proposed mine.^{2 3}

Manipulation of Indigenous Mangyans

Father Edwin A. Gariguez, who works directly with Mangyan people in Mindoro, provided documentation to Secretary Howard Dee, Presidential Assistant on the Indigenous Peoples, on how opposition to the mine was circumvented. The Indigenous People Rights Act (IPRA) of 1997 provides that a mining proponent has to undertake consultations with affected indigenous communities to secure their free, prior and informed consent before any mining activity, including exploration, may be conducted. Opposition to the project by Mangyan communities was already well established by 1999. The Alangans and Tadyawan, both of which have established certificates of Ancestral Domain Claims overlapping the Mindex/Crew Concession area, had filed resolutions against the proposed mine. Nonetheless, exploration activity was ongoing.

In order to comply with the IPRA provisions, Mindex sought the certification of the National Commission on the Indigenous Peoples (NCIP). The NCIP suggested that a new Mangyan organization be set up consisting only of tribal members from six villages inside the concession area, even though the tribes these villagers belong to extend outside the boundaries of the concession area.

This new tribal organization, called Kabilogan ng mga Mangyan, was set up in May 1999 and consisted mainly of Mindex employees, including the elected chairman. Kabilogan was initiated by the NCIP, not by the Mangyan themselves, and it represented only a small number of indigenous Mangyan (about 50 families). Mindex arranged and held the election of officers in the Mindex compound. On January 12, 1999 the NCIP issued a Certification of Free and Informed Consent to AMC Aglubang Mining Corporation (a Subsidiary of Mindex/Crew) three months before Kabilogan issued a written position on the proposed mine, on April 18, 1999.

Some members of Kabilogan explained that they were experiencing lengthy delays in the processing of their Certificate of Ancestral Domain Claims (CADC) and that they were told by the NCIP that these would be expedited if they formed a new tribal organization. They complained that they had only formed Kabilogan to expedite their land claims, not to support the mine project.

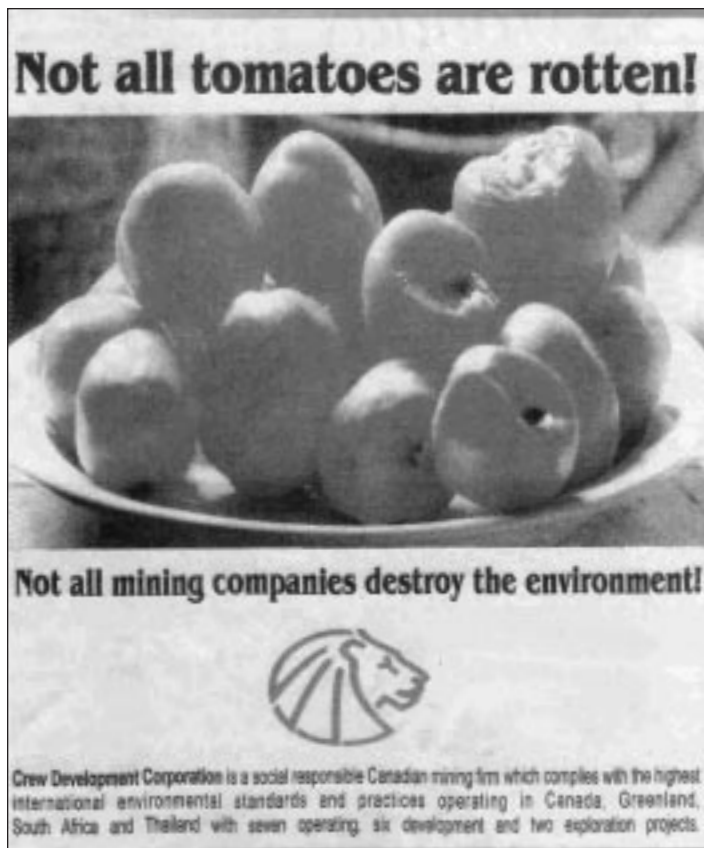
They also admitted to receiving substantial “rewards” from the company including “monthly cash allowances, carabaos and agricultural equipment.”⁴ Fr. Gariguez documented these manipulations and they have been protested in letters by the Mindoro Diocesan Clergy Association to President Gloria Macapagal Arroyo (September 18, 2001) and by Governor-Elect Bartolome L. Marasigan to Canadian Ambassador Robert Collette (June 25, 2001).

Submarine Tailings Disposal

A major source of concern for Mindoreños opposing the mine is the controversial proposal to dispose of mine waste, some estimated 4 million tons of waste per year, into the waters of Tablas Strait using Submarine Tailings Disposal (STD). The system calls for a pipeline to deposit the **tailings** 4 kilometers from the shoreline of the village of Pili at a depth of 200 meters below sea level. The sea floor declines sharply in this area to about 600 meters.

Mindex names the Titania mine in the Joessing Fjord in Norway as a model example of STD. Bard Bergfall of the environmental advisory company Haaland, Berfall & Co points out that the Titania mine was stopped from dumping mine waste into the fjord in the early 1990s because of the environmental destruction it caused.⁵

Tablas Strait is rich fishing ground and the route for a species of migratory tuna known as Auxis thazard. Reports of whales and



Crew’s paid advertisement in national and local newspapers. (Manila Bulletin 10/03/01)

dolphins sightings are common. Sea turtles have also been seen laying their eggs on the shore at Pili. The Pinamalayan municipality has a population of almost 74,000 people and is considered a provincial growth center. There are 931 registered fishing households, most of them residing along the coastline (average household size is 5.1).⁶

In addition to various fish species there are crabs, clams, lobsters, shrimps, squids, edible seaweeds, turtles, dolphins, octopus, eel, stingrays and many other species.⁷ The yield of fish in 1999 was 350 tonnes a year, sufficient to meet the town’s requirement.

“I was born and raised here, and I’ve made a living from fishing since I was a young boy. Here we also fish deep-water fish, which is valuable to us. If they discharge millions of tons of waste a year, we are bound to lose our way of income,” says Juanito Palermo from Barangay Pili, a 75-year old resident of Pili.⁸

The proposed location of the Pressure Acid Leach processing plant and the STD system is also in an area that is known for its pristine white beaches. The coastal villages of Pili, Ranzo and Banilad all boast beautiful beaches and are a prime location for the development of eco-tourism.

Mindoreños became aware of the international controversy surrounding STD and became concerned that while STD is effectively banned in Canada, it was being proposed as a disposal option for Mindoro. Mindoreños were also keenly aware of the struggle of their neighbors on the island of Marinduque to stop STD from being used for mine waste disposal by another Canadian mining company, Placer Dome, into the same waters of Tablas Strait.

A very important development in their struggle to protect their coast and coastal waters came when the a 1998 feasibility study of the deposit, done by Kvaerner Metals inadvertently made its way into the hands of Mindoreños. The Kvaerner report declared the project to be among the cheapest in the world, but it also identified a long list of environmental impacts and risks associated with the project. Among these, Kvaerner identified the risk to marine resources from Submarine Tailings Disposal.⁹

Governor Marasigan refers to the Kvaerner report in a letter to Canadian Ambassador Robert Collette “the same report also identifies the ‘risks of degradation of fishery resources from the submarine tailings disposal.’ The fishery sector is one of the pillars of the provincial economy.”¹⁰

People from the village of Pili organized and brought their case to the International Conference on Submarine Tailings Disposal in Indonesia in April 2001 and held a follow-up seminar on STD in Pili based on what they had learned at the conference in Indonesia. Later in the year, on October 5, Alamin and Mahal organized a seminar on STD in the provincial capital of Calapan.

Brief Corporate Background: Crew Development Corporation

Crew Minerals is a mid-tier mining company based in Vancouver with projects in Norway, Canada, Greenland, Philippines, and Africa¹¹. Following a year of significant losses, a management crisis in March 2002 led to the resignation of long-time CEO John Darch, as well as four other directors including long-time financial advisor Peter Barnes. The new CEO is Jan Vestrum.

Locally the External Affairs Director is Zonito Torrevillas and there is no country manager. Prior to major lay-offs following the loss of Crew’s exploration permit in 2001, the country manager was Arne Isberg.

In 1999, Crew started a merger with the Norwegian company Mindex Resources Development Inc. (Mindex). Final acquisition was completed May 23, 2000 and Mindex became a wholly owned subsidiary of Crew. Mindex had mineral exploration rights to 9,720 hectares in Mindoro, Philippines since 1997. The Mindoro prospect was to be the company’s first mine in the country and they planned to use sulphur from their mine in Pamplona on Negros Island for their High Pressure Acid Leach (HPAL) extraction process in Mindoro.

Facts about the proposed mine at Mindoro

- The concession area consists of 9,720 hectares straddling the provinces of Oriental and Occidental Mindoro on the Island of Mindoro. The concession area is divided into three sections and is in the municipality of Victoria, centered in the village of Villa Cerveza, high in the central mountains of Mindoro.
- The concession area largely overlaps with land that falls under recognized Ancestral Domain Claims of the Indigenous Mangyan Peoples.
- One significant section of the concession, 2,291 hectares, is held by a Crew subsidiary, Aglubang. This section received a Mineral Production Sharing Agreement (MPSA) in December 2000, granting Crew the right to explore, develop and utilize any minerals in the contract area for a period of 25 years. This MPSA was given in the midst of chaos related to the fall of the Estrada Government through a People Power revolt. The Philippine Department of Environment and Natural Resources (DENR) of the Arroyo Government subsequently revoked the MPSA on July 16, 2001. The decision to revoke the MPSA was upheld by President Gloria Macapagal Arroyo in November of 2001, following an appeal to the Office of the President by Crew and by Ambassador Collette of the Canadian Embassy. Crew is still attempting to re-establish tenure and has threatened to do so through the Philippine courts and by invoking the Foreign Investment Protection agreement signed between Canada and the Philippines in 1995.
- Metals to be mined are nickel (40,000 tonnes) and cobalt (3,050 tonnes) annually, from a **laterite ore body**. The nickel content is almost 1% in ore and the cobalt about 0.06 %. Approximately 4 million tons of waste per year would be produced.
- According to Crew’s plan, ore slurry is to be pumped through pipes 43 km to the municipality of Pinamalayan and the coastal village of Pili to a processing plant, a large port, and a Submarine Tailings Disposal system to dump the mine waste (tailings) into the sea at Tablas Strait.
- The extraction process for the nickel and cobalt was to be HPAL (High Pressure Acid Leach) using sulphuric acid.

Local Opposition

ALAMIN (Alyansa Laban sa Mina “Alliance opposed to the mine”) – This organization was formed in May of 1999 as a broad coalition of Mindoreños opposed to the mine. It includes civil society groups, Roman Catholic and Protestant church leaders, NGOs, POs (peoples’ organizations), schools, teachers and students, mountaineers and environmentalists, peasant groups, human rights activists, Mangyan federations (representing Indigenous Peoples), elected officials at various levels of government, and villagers. It is a major voice of opposition to Crew’s proposed mine in the province.

Chairperson: Evelyn Cacha – evscacha@yahoo.com

MAHAL (Mindoro Assistance for Human Advancement through Linkages, Inc.) – Formed in 1988, MAHAL is a non-profit grassroots organization committed to poverty alleviation. MAHAL works with local level communities on small-scale environmentally friendly development projects. MAHAL considers the mine proposed by Crew to be environmentally unsustainable and fears it will ultimately contribute to greater poverty. MAHAL hosts an important web site with information on the struggle against Crew. See <http://communities.msn.com/ALAM-INMAHAL>

Executive Director: Ned de Guzman – mahal@catsi.net.ph

Kafcode (Kaunsayan Formation for Community Development) – Kafcode is a social development NGO who first convened a forum on the mining issue attended by many of the organizations that formed ALAMIN as well as grassroots communities that Kafcode works with. Doris Melgar, Kafcode’s executive director, holds the advocacy and networking desk at ALAMIN and through membership in CODE-NGO, a network of 2,000 development NGOs nationwide, she was able to project the issue to civil society groups at the national level. Kafcode’s strong links to communities also helps in disseminating information and gathering people for rallies.

Roman Catholic Church – The Roman Catholic Church in the Philippines has warned of the threat that large-scale mining poses to people’s ability to feed themselves from “the bounty of nature.”¹² The Roman Catholic Church in Mindoro gave its full support to the struggle through its network of institutions and parishes. Bishop Warlito I. Cajandig wrote to President Macapagal-Arroyo asking her to uphold the cancellation of Crew’s MPSA license to mine. A key leader in this struggle has been Fr. Edwin Gariguez who heads the Peasant Empowerment and Advocacy Network, or Peasant-Net, and works with the local Organized Movement of Indigenous People, Peasant and Fisherfolk.

Father Edwin A. Gariguez – pesante97@yahoo.com

Mindoro Conference – The Mindoro Conference is a network of Christian Churches in Mindoro that also passed a resolution against Crew’s project.

Elected Officials – Oriental Mindoro has been fortunate to have elected officials who have taken an active interest in the mining issue. Both Governor Rodolfo G. Valencia and Vice Governor Bartolome Marasigan have been vocal in their opposition to the Crew mine on the basis of environmental concerns and social unacceptability. They also charged that MINDEX had initiated exploration activities without seeking the approval of local government units. Opposition to the mine has also been actively supported by mayors, elected village officials and by members of the provincial board in numerous resolutions.

Mangyan Tribes – There are seven Mangyan tribes in Oriental Mindoro. There is an organization called KPLN, which represents them. In 1999 this organization passed a resolution against the project. Two member tribes of KPLN, the Alangan and the Tadyawan, are located in the concession area and have filed separate resolutions against the mine. The Alangan and Tadyawan started to process claims for their Certificate of Ancestral Domain Claim in 1994 and had these claims approved in 1996 and 1997, respectively. Other indigenous communities, specifically those with members living in the immediate location where the mine is to be located have seen their claims delayed. (See: **Social Concerns and A History of Struggle** in this chapter.)

Kalipunan ng Makabayang Mindoreño (Association of Nationalist Mindoreños) – This is an alliance of peasant, Mangyan, urban poor, women, youth and human rights organizations committed to working for social justice and economic equity. Affiliated with BAYAN (Bagong Alyansang Makabayan/New Patriotic Alliance), Kalipunan was one of the convening organizations for ALAMIN and also co-convenor of STEAM (Southern Tagalog Environmental Action Movement).

BAYAN and Bayan Muna – BAYAN is a nationwide left-wing movement committed to social justice and economic equity. Bayan Muna is a new national political party that grew out of BAYAN. Bayan Muna candidates, in the last election, promised to come out against the mine.

CPP-NPA-NDF (Communist Party of the Philippines – New People’s Army – National Democratic Front) – These inter-related organizations have also expressed opposition to the mine. Local units of the communist guerilla army (NPA) expressed opposition to the mine by burning down one of the office buildings at the mine site.

Issues Fueling Opposition

Environmental and Socio-Economic Concerns:

- The proposed mine would be constructed within a critical watershed for four major rivers systems (Ibulu, Aglubang, Buraboy and Mag-asawang Tubig) that support two main irrigation systems for 70% of the lucrative rice fields and fruit tree plantations in the lower lying regions. Mindoro Oriental ranks as the third largest food-producing province in the Philippines, and is considered the “foodbasket” for the Southern Tagalog and Metro Manila regions. Mindoro Oriental provides 20% of the total agricultural production for these regions and 12 billion pesos worth of agricultural products annually.¹³
- There is the threat of deforestation of mountainous slopes with concerns about siltation and flooding of rivers threatening loss of life and contamination of fertile rice growing valley land.

- Contamination of ground and surface water used for drinking water, irrigation, and water for animals.
- There is concern over the threat to endangered species. Mindoro has a significant unique endemic flora (at least 74 species) and fauna (at least 79 species) and significant deforestation. Mindoro, as a single bio-diversity zone is one of the top bio-diversity priorities in the world.
- Naujan Lake, located in Naujan Lake National Park, is considered threatened by the mine. Tributary rivers from the proposed mine site drain to the lake. The lake is an important source of food and income from fishing for local villagers and is also home to the Mindoro crocodile and a route for migratory birds from China.
- Air contamination (CO₂) could occur, caused by the process to neutralize sulphuric acid used in the extraction process.
- There is uncertainty about the Pressure Acid Leach technology method to extract nickel because it is still new, unproven and has had environmental problems in Australia, where it has also not lived up to economic predictions.
- Earthquake fault links create a risk of leakages in a 43-kilometer pipeline that would carry slurry to the processing plant and transporting tailings into the sea.
- There is concern over the effects of using Submarine Tailings Disposal to dump four million tons of mine waste a year into the rich fishing grounds of Tablas Strait.

Social Concerns:

There is concern over displacement, socio-cultural and economic impacts of mining on Indigenous Mangyan Peoples. The government has taken part in manipulation and corruption of the “free and informed consent” process and the Certificate of Ancestral Domain process with respect to the Mangyan Peoples.

Peace and order:

Citizens are wary of increased violence related to conflict over the proposed mine. There has been one alleged NPA (New People’s Army, a communist guerrilla movement) killing of a village leader who was suspected of being in favour of the mine. Two people were killed in 2001 by the Philippine army, one was thought to be a NPA member, the other was not; both were believed to be opposed to the mine.

Recent Events in the Struggle

In spite of massive opposition, Secretary Antonio Cerilles of the Department of Environment and Natural Resources (DENR) granted Aglubang Mining Corp./Crew the Mineral Production Sharing Agreement (MPSA) on December 7, 2000. In January of 2001, President Estrada fell to a people power revolution and

in April 2001, a huge protest erupted in Mindoro against the MPSA, in the midst of which Canadian Ambassador, Robert Collette, visited Mindoro with members of the Bureau of Investments in a public show of support for Crew.

Later that month, word came that the incoming Secretary of the DENR, Heherson Alvarez, had submitted a memo to President Macapagal-Arroyo recommending that the MPSA be revoked. On July 16, 2001 DENR Secretary Heherson Alvarez officially revoked the MPSA. On July 18, 2001, Canadian Ambassador Robert Collette wrote a letter to President Gloria Macapagal-Arroyo, via Executive Secretary Romulo, protesting the revocation and noting that Aglubang/Crew was “reviewing its options under Philippine law, as well as under the Foreign Investment Protection Agreement signed by our respective governments in 1995.” Aglubang/Crew filed a formal motion for reconsideration directly with President Macapagal-Arroyo.

On August 2, 2001, Ambassador Colette and Crew’s CEO John Darch visited Governor Marasigan to discuss his opposition to the mine. A large public meeting was held and according to a member of Alamin, “we kept silent so as not to embarrass the new Governor in front of the Ambassador so we just hung up our protest banners. We felt insulted by the presentation of Crew, it was as though we do not understand the project or that our concerns are not valid.”¹⁴ On August 21, 2001, John Darch, Crew CEO wrote to Governor Marasigan to offer him trips to other Crew mines to see the operations. To the great relief of the people of Mindoro, President Arroyo upheld the MPSA revocation by the DENR, on November 1, 2001.

DENR Secretary Alvarez explained his decision in an editorial in the Philippine Star as being based on the need to protect critical watersheds, to protect the food security of Mindoreños, and to respect the social unacceptability of the project:

“The Mindoro Nickel Project is one case where sustainability is bound to fail . . . President Macapagal is fully aware of the situation. Her administration is committed to create wealth without sacrificing the integrity and vitality of Mindoro’s natural systems . . . what does it gain the nation to be shortsighted and merely think of money, when an irreparable damage to the environment will cost human lives, health, and livelihood capacity of our farmers and fisherfolk, endangering the food security of our people,” said Alvarez.¹⁵

Its Never Over Till Its Over . . .

Since President Macapagal upheld the revocation of the MPSA in November 2001, Crew has been on an aggressive campaign to win, or as ALAMIN members put it “buy” social acceptability. According to members of ALAMIN Crew, under the name Crew Foundation, is offering soft loans of thousands of pesos to villagers at the proposed mine site and is supporting crab-prawn farms in the lowlands.

The Secrets of Their Success

The success of the movement against the mine in Mindoro was due to:

- Significant donations of time and resources from members of the upper middle class.
- A history of other successful environmental campaigns, both against large-scale logging and against illegal quarrying.
- Good communications systems and international outreach. MAHAL provided an excellent web site and international connections provided legislative and scientific information on STD.
- Passing knowledge and information on at local level community meetings, as well as in informing political leaders at all levels of the issues.
- The inclusiveness, diversity of membership, careful attention to the need to support and enhance grassroots leadership, and participation of directly affected people in the alliance against the mine.
- The fortuitous acquisition of the Kvaerner pre-feasibility study. This played a critical role in informing local activists, providing “legitimate, scientific” support for their con-

tentions, and convening local political leaders. This illustrates the importance of independent environmental assessments and underscores the need for greater transparency in general around risk. It is rare that these consultant reports are made available to the public in their original form and this should be a focus of international pressure.

- Mindoreños have been blessed with some excellent political leaders. Both former Governor Valencia and current Governor Marasigan have worked closely with the broad coalition of groups opposing the mine and have been willing to take difficult but principled positions with respect to the mine.

“The Provincial Government and the people of Oriental Mindoro will not gamble the agricultural sustainability and environmental integrity of the province . . . We strongly believe that the people of Oriental Mindoro and the Canadian people share a common vision of a world where the integrity of creation and the will of the people are being respected and upheld,” wrote Governor Marasigan to Canadian Ambassador Collette, in a letter dated June 25, 2001.

Prepared by Catherine Coumans and MAHAL, ALAMIN, Fr. Edwin Gariguez, Kalipunan ng Makabayang Mindoreño

¹ E, Gariguez. *The Mangyans and the Mindoro Nickel Project of Mindex/Crew/Aglubang Mining Corporation: A Case of Deception and Manipulation in Obtaining Free, Prior and Informed Consent*. no date.

² E, Gariguez. *The Mangyans and the Mindoro Nickel Project of Mindex/Crew/Aglubang Mining Corporation: A Case of Deception and Manipulation in Obtaining Free, Prior and Informed Consent*. no date.

³ Eraker, H. Online <http://communities.msn.com/ALAMINMAHAL/norwatchonmindoronickelproject.msnw>

⁴ E, Gariguez. *The Mangyans and the Mindoro Nickel Project of Mindex/Crew/Aglubang Mining*

Corporation: A Case of Deception and Manipulation in Obtaining Free, Prior and Informed Consent. no date

⁵ Eraker, H. Online: <http://communities.msn.com/ALAMINMAHAL/norwatchonmindoronickelproject.msnw>

⁶ Maralit, E. Paper presented at the International Conference on Submarine Tailings Disposal in Indonesia April 23-30, 2001.

⁷ Ibid.

⁸ Eraker, H. Online: <http://communities.msn.com/ALAMINMAHAL/norwatchonmindoronickelproject.msnw>

⁹ Kvaerner Metals. *Pre-feasibility Study for Mindoro Nickel Project*. 1998.

¹⁰ Marasigan, B. Letter to Canadian Ambassador Robert Collette. June 25, 2001.

¹¹ www.crewdev.com

¹² Pastoral Letter Catholic Bishops Conference of the Philippines, *A Statement of Concern on the Mining Act of 1995*, February 28, 1998.

¹³ Maliwanag, Orlando. *A Policy Recommendation: Ensuring Biodiversity and Agricultural Sustainability. A need for a Mining Moratorium in Oriental Mindoro Province*. July 16, 2001.

¹⁴ Cacha, Evelyn. Personal Communication with Catherine Coumans. October 5, 2001.

¹⁵ Alvarez, Heherson. *Philippine Star*, November 13, 2001.