

A CALL FOR GENUINE CONCERN & ACTION FOR SOCIAL & ENVIRONMENTAL JUSTICE FOR MARINDUQUE

This document contains the HIGHLIGHTS, UNITIES and CALLS addressed to the Provincial Government of Marinduque (PGM) and other concerned agencies, and organizations, arrived at during the RTD/Forum facilitated by the Marinduque Council for Environmental Concerns (MACEC) with the presence of Bishop Marcelino Antonio M. Maralit Jr. D.D. of the Diocese of Boac on September 8, 2016. It was participated by around 80 participants from different sectors: from the Catholic Church; the Provincial Government of Marinduque, the Municipal Governments mostly Sangguniang Bayan Members from the 6 municipalities; the Leagues of local government officials (PCL, Liga ng mga Barangay); various non-government organizations; media, academe and MACEC leaders.

MULTI-SECTORAL
FORUM/
ROUNDTABLE
DISCUSSION (RTD)
FOR THE
ENVIRONMENT

I. BACKGROUND:

The Round Table Discussion (RTD)/Environmental Forum was facilitated by the Marinduque Council for Environmental Concerns (MACEC) with Bishop Marcelino Antonio M. Maralit Jr. D.D. of the Diocese of Boac last September 8, 2016 at the Diocesan Pastoral Center. It was participated by around 80 participants/representatives from: the Catholic Church; the Provincial Government of Marinduque (PGM), the Municipal Governments mostly Sangguniang Bayan Members from the 6 municipalities; the Leagues of Local Government Officials (PCL, Liga ng mga Barangay); various Non-Government Organizations (NGOs); media, academe and leaders of MACEC.

Generally, its aim was to provide a venue for “levelling off”, joint discussions and forging partnerships on various environmental issues and concerns in the province of Marinduque with focus on mining and the peoples’ plight for environmental justice.

Specifically, it aimed among others to gather representatives from various sectors/stakeholders for info-sharing, discussion and setting of common direction on the issues of: 1] Major cases filed against Marcopper/PDI/Barrick Gold; and 2] “No Go Zone” Bill for Mining in Marinduque.

To level off participants, inputs were provided on: 1) Marinduque’s Journey in Search for Environmental Justice & Reclaiming the Integrity of Creation; 2) Characteristics of Marinduque as an Island Ecosystem; 3) Updates/Status of the cases filed against Marcopper/Placer Dome/Barrick Gold with focus on the case filed by the Provincial Government of Marinduque (PGM) in Nevada, USA, and the present options and prospects; and 4) Updates on the “No Go Zone Bill” for Marinduque.

To guide the participants in the Round Table Reflection and Discussion, an inspirational message was provided by Bishop Marcelino Antonio M. Maralit Jr. D.D.

II. HIGHLIGHTS OF THE MESSAGE OF BISHOP MARCELINO ANTONIO M. MARALIT JR.D.D., BISHOP OF THE DIOCESE OF BOAC

III.

Bishop Maralit reminded the participants to reflect/consider the following:

- If it took millions of years to form our island, it can take only decades to destroy it, thus we must stop the abuse to the environment, we must care for it, assist it and protect it. We were entrusted by God to act as STEWARDS of this island, and we must become trustworthy stewards of the same.

- It is our responsibility to take initiative in three fronts: PRESERVATION, IMPROVEMENT & JUSTICE. And we all play a role in these, especially those who are with authority and capacity.
- An island w/out a proper pro-active Environmental or Ecological Care Program is also destroying itself... we must also make programs for it.
- Do not forget the EMINENT THREAT that exists with the unmaintained and unrehabilitated mining structures (USGS- 2005 Report). It is of greater priority for our island to find a solution to this.
- Be wary of the continuous application for mining permits in our island
- We must continue the fight for that elusive justice for our beloved island versus the mining companies that destroyed so much of our eco-system and robbed us of so much.
- On the case to be taken to Canada vs Barrick Gold, it is important that we get lawyers /counsels who can deliver and are credible for the benefit of the province. Let their actions and the results of the same be the measure of their credibility as our counsels.

IV. HIGHLIGHTS OF DISCUSSIONS:

1. Updates from BM Allan Nepomuceno, SP Chairman on Environment and the Direction of the Provincial Government

BM Nepomuceno shared with the group the following information:

- That Diamond McCarthy (DM) through Atty. Walter “Skipp” Scott presented to the Sangguniang Panlalawigan their initial plan to bring the case to Canada with Lax O’Sullivan Lisus Gottlieb Law Firm (LOLG) as Canadian partner to litigate the case and with Parabellum Capital LLC., as litigation funder.
- That Diamond McCarthy and their Canadian legal partner saw that the case is strong and winnable; that Parabellum’s initial allotment is \$12M for 3 years litigation.
- That the Governor and the Sangguniang Panlalawigan is open to accept proposals from other law firms (he said 3 firms is ideal according to the governor) including Trudel, Johnston & Lesperance (TJL) which already made initial visit to the province last January, 2016.
- The initial target is to file case in November, 2016 but since they will open invitation to other firms, it may be extended to early next year to put the process of invitation to other firms in place and for the provincial officials to make the decision-making process.

2. **Participants' votes favoring the termination of engagement with Diamond McCarthy/ Atty. Walter "Skipp" Scott related on the case/claim.** As reaction to the sharing of BM Nepomuceno that they were informed that if the Province will get another lawyer (not DM/Scott), it may be sued even if they do not have the authority to practice in Canada, many participants particularly the SB officials from Mogpog manifested their disgust and reiterated their past frustrations on DM specially Atty. Scott's behavior on many occasions that threatened its clients, and offended the Marinduque community including its elected leaders, and in ways that as if he was lawyering for Barrick and not for the PGM/province. The participants voted favorably to recommend the termination of Diamond McCarthy/Atty. Walter "Skipp" Scott's service related to the case without prejudice to their/his being fairly compensated for past services through proper process. *(Note: Not even one from participants' present manifested support to continue their service).*
3. **Information from the representative of Cong. Lord Allan Q. Velasco about the congressman's intention to file a new Bill** for Marinduque to be declared "No Go Zone for Mining Province".
4. **Participants' continuous commitment** to responsibly get involved in the search for social and environmental justice related to the massive damage caused to the people of Marinduque and its environment by previous mining operation of Marcopper/Placer Dome Inc., and the **UNITIES/CALLS directed to identified concerned offices/agencies/organizations and sectors.**

UNITIES/CALLS:

THE RTD/FORUM PARTICIPANTS, RECOGNIZING THAT CARING FOR THE ENVIRONMENT, WORKING FOR SOCIAL AND ENVIRONMENTAL JUSTICE FOR THE DAMAGED ECOSYSTEMS AND PEOPLE OF MARINDUQUE AND IN THE GENERAL MISSION OF RECLAIMING THE INTEGRITY OF CREATION, IS A JOINT AND COMMON RESPONSIBILITY OF EVERYONE WITH GREATER RESPONSIBILITY FROM ALL ACCOUNTABLE OFFICIALS AND AGENCIES, HAD THE FOLLOWING UNITIES AND CALLS:

1. TO THE PROVINCIAL GOVERNMENT OFFICIALS:

- **TO DECIDE BASED ON WHAT IS MOST FAVORABLE AND ADVANTAGEOUS TO THE PROVINCE AND NOT TO BE THREATENED** by the deceiving remarks of being sued

if Diamond McCarthy (DM) and Atty. Walter “Skipp” Scott will not be engaged to continue the case in Canada.

- **TO TERMINATE THE SERVICE OF ATTY. WALTER “SKIP” SCOTT/DIAMOND MCCARTHY on matters related to the case without prejudice to their being fairly compensated for services rendered through proper process.**
- In partnership with Multi-stakeholders, to **SET CRITERIA and MAKE A PERFORMANCE EVALUATION OF DIAMOND MCCARTHY/ATTY. WALTER “SKIPP” SCOTT as its Outside Legal Counsel for many years and to identify/study possible grounds sufficient to terminate Diamond McCarthy/Atty. Walter “Skipp” Scott “for cause”** given their past performance, acts and behavior that put their integrity and clients’ confidence to them as PGM lawyers in question as manifested in many multi-stakeholders and official meetings. These include the counsel’s dispositions on the “reimbursable fund/escrow fund” originally identified to be \$12M and was already available in the Philippines for the river clean-up, but which is now with Barrick Gold already (*as confirmed by Scott himself last September 2, 2016 hearing at the SP*) and became part of the \$20M settlement offer to the Provincial Government of Marinduque before. This is a disadvantageous arrangement for the province which was not timely divulged by Diamond McCarthy/Atty. Walter “Skipp” Scott to the province.
- To immediately **SET-UP/IMPLEMENT THE PROCESS** to formally implement the invitation to other law-firms in Canada including Trudel Johnston & Lesperance (TJL) to submit detailed proposals to the province given their timetable. (*Note: BM Nepomuceno and Board Members present gave commitment on this*)
- To **MAKE A COMPARATIVE STUDY/ANALYSIS OF ALL PROPOSALS AND ENGAGE WITH LAW FIRMS ON CONTINGENCY BASIS AND FUNDERS THAT CAN PROVIDE TERMS MOST BENEFICIAL AND ADVANTAGEOUS TO THE PROVINCE.**
- **TO CONVENE AND ACTIVATE** the formal MULTI-STAKEHOLDERS’ COUNCIL AND TECHNICAL WORKING GROUP (TWG) as partner of the PGM in studying and deciding on issues and concerns related to the case.
- In partnership with the National Government and other sectors to **FACILITATE/STEER THE CONDUCT A RESOURCE VALUATION AND OF AN UPDATED AND COMPREHENSIVE IMPACT ASSESSMENT and HEALTH STUDY** related to the mining activity of Marcopper/Placer Dome in the province.

2. TO CONG. LORD ALLAN VELASCO

- **TO FILE A BILL** for Marinduque to be a “No Go Zone for Mining” Province.
- **TO ASSIST** in the ongoing Marinduque’s search for environmental justice through the courts.

3. TO THE DIFFERENT LGUS (Municipal/Barangay)

- **TO SUPPORT THE UNITIES/CALLS** agreed during this RTD/Forum and **the pass needed resolution/position paper to the provincial government** supporting the Filing of Case in Canada with new outside legal counsel.
- **TO PASS NEEDED RESOLUTION addressed to the Cong. Lord Allan Velasco** encouraging him to file a Bill in Congress for Marinduque to be declared “No Go Zone for Mining Province”.

4. TO THE DENR AND THE OFFICE OF SEC. GINA LOPEZ

- **TO REACTIVATE the Criminal Case, it filed against Marcopper Officials relative to the 1996 Mine spill among others.**

5. TO THE CIVIL SOCIETY ORGANIZATIONS (CSOs):

- **TO MONITOR DEVELOPMENTS ON THE ISSUES** and responsibly participate in related discussions for transparent and participatory process for decision-making.
- To help develop an informed Marinduque community by **disseminating related information** using various media.

6. TO THE MUNICIPAL GOVERNMENT/ SANGGUNIANG BAYAN OF STA. CRUZ

- **TO SUPPORT THROUGH AN ORDINANCE OR RESOLUTION THE POSITION FOR MINING MORATORIUM** in the province of Marinduque which is already the position of the province and of all 5 other municipalities as embodied in related Resolutions/Ordinance.

7. OTHER RECOMMENDATIONS:

- For all concerned government offices (province/municipal) and MACEC to **REQUEST FOR REGULAR MONITORING REPORT** of monitoring agencies (DENR, Disaster Coordinating Councils, Regional Development Council Multi-Disciplinary Team etc.) on the status of mine-related structures (dams etc.), affected ecosystems and areas including the mine site, affected, river, bays, estuarine among others.
- **PROVIDE REGULAR UPDATES** on the various cases filed and provide support/seek assistance as maybe needed specially for the Rita Natal et. al case; and the Calancan Bay Fisherfolks case.

- **For the SP Committee on Environment Chaired by BM Nepomuceno** to revise its draft Committee Report to include the RTD information and recommendation including the need to extend the time for the filing to the case in Canada among others to give way to a meaningful invitation to other Canadian law firms and meaningful decision on the issue. *(Note: BM Nepomuceno gave his commitment to include this in their Committee recommendation).*

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