

Presidential Decree no. 463

date: may 17, 1974

Providing for a modernized system of administration and disposition of mineral lands and to promote and encourage the development and exploitation thereof

WHEREAS, mineral production is a major support of the national economy, and therefore the intensified discovery, exploration, development and wise utilization of the country's mineral resources are urgently needed for national development.

WHEREAS, the existence of large undeveloped mineral areas and the proliferation of small mining claims deter modern development of the country's mineral resources and urgently require well-planned exploration, development and systematic exploitation of mineral lands to accelerate production and to bolster the national economy.

WHEREAS, effective and continuous mining operations require considerable outlays of capital and resources, and make it imperative that persons possessing the financial resources and technical skills for modern exploratory and development techniques be encouraged to undertake the exploration, development and exploitation of our mineral resources;

WHEREAS, the foregoing objectives cannot be achieved within the shortest possible time without removing the deficiencies and limitations of existing laws and improving the same in order to provide for a modernized administration and disposition of mineral lands and to promote and encourage the development and exploitation thereof.

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby issue this Decree revising Commonwealth Act No. 137 otherwise known as the Mining Act, as amended, as follows:

Chapter I

TITLE AND DEFINITIONS

Sec. 1. Short Title. - This Decree shall be known and may be cited as the Mineral Resources Development Decree of 1974.

Sec. 2. Definition of Terms. - As used in and for the purpose of this Decree, the following terms, whether in the singular or plural, unless the context indicates otherwise, shall have the following meanings:

(a) State means the Republic of the Philippines.

(b) President means the President of the Republic of the Philippines.

- (c) Government means the Government of the Republic of the Philippines.
- (d) Secretary means the Secretary of Natural Resources.
- (e) Director means the Director of Mines.
- (f) Minerals means all naturally occurring inorganic substances in solid, liquid or any intermediate state including coal. Soil which supports organic life, sand and gravel, guano, petroleum, geothermal energy and natural gas are included in this term but are governed by special laws.
- (g) Mineral Deposit means a natural deposit or accumulation of minerals.
- (h) Mineral Lands are those lands in which minerals exist in sufficient quantity and grade to justify the necessary expenditures in extracting and utilizing such minerals.
- (i) Quarry Resources means any common stone or other common mineral substances as the Director may declare to be quarry resources such as, but not restricted to, marl, marble, granite, volcanic cinders, basalt, tuff and rock phosphate, Provided they contain no metal or metals or other valuable minerals in economically workable quantities.
- (j) Exploration is the examination and investigation of lands supposed to contain valuable minerals, by drilling, trenching, shaft sinking, tunneling, test pitting and other means, for the purpose of probing the presence of mineral deposits and the extent thereof.
- (k) Development refers to steps necessarily taken to reach an orebody or mineral deposit so that it can be mined.
- (l) Exploitation means the extraction and utilization of mineral deposits.
- (m) Mining or to mine means to extract, remove, utilize minerals, and include operations necessary for that purpose.
- (n) Qualified person a Filipino citizen, of legal age with capacity to contract, or a corporation or partnership registered with the Securities and Exchange Commission at least 60% of the capital of which is owned by Filipino citizens.
- (o) Lessee may include a leaseholder, claim owner or operator as the context of the provisions of this Decree may indicate.
- (p) Regulations means the rules and administrative orders promulgated by the Secretary to implement the provisions of this Decree, or issued by the Director as to such matters as may be delegated to him by the Secretary.

Chapter II

OWNERSHIP OF MINERAL LANDS AND MINERAL DEPOSITS

Sec. 3. State Ownership of Mineral Deposits. - All mineral deposits in public or private lands within the territorial limits of the Philippines whether found in, on, or under the surface of dry lands, beds of creeks, rivers, lakes, or other submerged lands within the territorial waters or on the continental shelf or its analogue in an archipelago seaward from the shores of the Philippines which are not under the jurisdiction of other countries, belong to the State, inalienably and imprescriptively, and the administration, disposition and exploitation thereof shall be governed by this Decree and by rules and regulations promulgated thereunder and other laws.

Sec. 4. Minerals Excluded from other Rights to Lands. - The ownership or the right to use public or private lands whether exposed or submerged, for agricultural, logging, industrial, commercial, residential, petroleum exploration and/or exploitation or purposes or any purpose other than mining, does not include the ownership of, nor the right to develop, exploit or utilize, the mineral deposits found in, on or under the surface of such lands, except with respect to quarry resources as provided for this Decree.

Sec. 5. Mineral Deposits Open to Location and Lease. - Subject to any existing rights or reservations, all valuable mineral deposits in public land including timber or forest land as defined in Presidential Decree No. 389, otherwise known as the **Forestry Reform Code** or in private land not closed to mining location, and the land which they are found, shall be free and open to prospecting, occupation, location and lease.

Chapter III

MINERAL RESERVATIONS

Sec. 6. Establishment and Reversion of Mineral Reservations. - Upon the recommendation of the Secretary, based on the reports submitted by the Director, the President may set aside and establish an area of the public domain as a mineral reservation and prescribe the terms and conditions for its disposition and operation, or may also alter or modify the boundaries of any mineral reservation from time to time or revert any mineral reservation to the public domain without prejudice to any prior subsisting rights.

Sec. 7. Existing Claims in Reservation. - Whenever lands are reserved for purposes other than mining, the rights of the claimowners or lessees or valid mining claims existing within the reservation at that time of its establishment shall not be prejudiced or impaired.

Sec. 8. Exploration and Exploitation of Reserved Lands. - When lands within reservations, which have been established for purposes other than mining, are found to be more valuable for their mineral contents, they may, upon recommendation of the Secretary be withdrawn from such reservation by the President and established as a mineral reservation.

When practicable, prospecting and exploration of minerals in reserved lands may be undertaken by the Bureau of Mines or by any proper government

agency. Said reservation shall be opened to mining by the Government or its instrumentality or by any qualified person through competitive bidding under such terms and conditions as may be prescribed by the Secretary, or through contracts of service with any party or parties, domestic or foreign, duly qualified as to organization, finances, resources, experience and technical competence, subject in any case to the approval of the President.

In the event that the proper government agencies cannot undertake the prospecting and exploration of minerals in the reserved lands, qualified persons or corporations may be permitted to undertake such prospecting and exploration in accordance with the rules and regulations promulgated by the Secretary. The right to exploit therein shall be awarded by the President under such terms and conditions as recommended by the Director and approved by the Secretary Provided, That the persons or corporations who undertook prospecting and exploration of said area shall be given priority.

Sec. 9. Reservation Closed to Mining Location. - Mineral reservations are closed to mining location; Provided, however, That the Government may, prospect, develop and exploit such reservations, through its agencies or instrumentalities or through an independent contractor selected by negotiated contract or after a public bidding which shall be conducted by the Secretary through the Director after proper notice duly published, subject in any case to the approval of the President.

Sec. 10. Offshore Areas Established as Mineral Reservation. - All submerged lands beneath the territorial waters and on the continental shelf or its analogue in an archipelago, are hereby established as mineral reservations subject to existing rights and the President may declare these reservations, or parts thereof, open or closed to mining location to be disposed of in the same manner as other mineral reservations. Submerged lands are those under water during low tide as determined by the Bureau of Coast and Geodetic Survey.

Chapter IV

LOCATION OF CLAIMS

Sec. 11. Locations in Public and Private Lands. - Only qualified persons may locate mining claims within public and private lands. However, a prospector may locate for another person: Provided, That he is first duly authorized by means of a public instrument registered with the mining recorder concerned before undertaking such location work.

Sec. 12. Entry to Public and Private Lands. - A person who desires to conduct prospecting or other mining operations within public lands covered by concessions or rights other than mining shall first obtain the written permission of the government official concerned before entering such lands. In the case of private lands, the written permission of the owner or possessor of the land must be obtained before entering such lands. In either case, if said permission is denied, the Director, at the request of the interested

person may intercede with the owner or possessor of the land. If the intercession fails, the interested person may bring suit in the Court of First Instance of the province where the land is situated. If the court finds the request justified, it shall issue an order granting the permission after fixing the amount of compensation and/or rental due the owner or possessor: Provided, That pending final adjudication of such amount, the court shall upon recommendation of the Director permit the interested person to enter, prospect and/or undertake other mining operations on the disputed land upon posting by such interested person of a bond with the court which the latter shall consider adequate to answer for any damage to the owner or possessor of the land resulting from such entry, prospecting or any other mining operations.

Sec. 13. Areas Closed to Mining Location. - No prospecting and location shall be allowed:

- (a) In military, mineral and other reservations, except by the Government;
- (b) In lands covered by valid and subsisting mining claims located under previous mining laws;
- (c) In lands covered by mining claims or leases acquired in accordance with the provisions of this Decree; and
- (d) Near or under buildings, cemeteries, bridges, highways, waterways, railroads, reservoirs, dams, or any other public or private works, unless otherwise authorized by the Department of Public Works, Transportation and Communications.

The Secretary shall, upon recommendation of the Director, prescribe in detail the regulations implementing the various restrictions under this Section.

Sec. 14. Size of Mining Claim. - For purposes of registration of a mining claim under this Decree, the Philippine territory and its shelf are hereby divided into meridional blocks or quadrangles of one-half minute (1/2) of latitude and longitude, each block or quadrangle containing area of eighty-one (81) hectares, more or less.

A mining shall cover one such block although a lesser area may be allowed if warranted by attendant circumstances, such as geographical and other justifiable considerations as may be determined by the Director: Provided, That in no case shall the locator be allowed to register twice the area allowed for lease under Section 43 hereof.

Sec. 15. Declaration of Location of a Mining Claim. - A qualified person may locate a mining claim by filing with the Director or his designated deputy, a declaration of location covering a meridional block or fraction thereof constituting his mining in a form prescribed for the purpose.

Sec. 16. Recording of Declaration of Location, Ministerial. - Upon payment of the required filing fee, recording of a duly accomplished and notarized declaration of location for a mining claim shall be ministerial on the part of the recorder concerned.

Sec. 17. Mining Register. - The Director shall cause a mining register to be kept in the Bureau of Mines, or in such other places as he may designate, on which all instruments concerning mining rights, such as acquisition, sub-lease, operating agreements, transfers, assignments, abandonment, cancellation and others, are recorded and registered in chronological order of receipt upon payment of the required fee. On each instrument recorded and registered, shall be annotated the date and time of filing, document number, page of register, register book number, year series, the amount of fee paid, and the official receipt number.

Sec. 18. System and Effect of Recording Mining Instruments. - All declarations of location, affidavits, authority, and other documents or instruments regarding affecting the possession of mining area or any right or title thereto, or interest or interest therein shall be recorded in the order of their receipt by the Mining Recorder after payment of the required fee, and from and after such recording, all documents or instruments in writing shall constitute notice to all persons and to the whole world of the contents of the same.

Sec. 19. Registration, Filing and Other Fees. - The Director is authorized to charge reasonable filing and other fees as he may prescribe by regulation for services to be rendered by the Bureau of Mines. The registration and filing fees shall accrue to the Mines Special Fund, and other fees to the Fiduciary Fund.

Sec. 20. Right Acquired by Registration of the Declaration of Location. - The recording of a declaration of location for a mining claim shall give the claim owner, his successor and assigns, the right to occupy, explore and develop said claim from the date of the recording thereof subject to the provisions of Section 12 hereof.

Sec. 21. Voluntary Abandonment of Mining Claim. - A claim owner may, at any time before a lease is granted, voluntarily abandon his mining claim by filing for record with the Director or his deputy, an affidavit of abandonment, and from the date of the recording of such affidavit all the rights and interests in such claim shall be deemed to have ceased: Provided, That the original locator or his successor or assigns shall not be allowed to relocate directly or indirectly the same claim.

Chapter V

MINING RECORDERS, DISTRICTS AND REGIONS

Sec. 22. Designation of Mining Recorders. - The Director shall be responsible for the proper recording of mining instruments and documents and he is

hereby authorized to designate such deputies in the Bureau of Mines whom he considers qualified to perform the duties of the mining recorder. Subject to the approval of the Secretary, the Director shall be issue rules and regulations to insure proper recording of mining instruments and documents.

Sec. 23. Mining Regions. - The existing mining regions with offices in Cebu, Baguio, Daet and Surigao shall be maintained. However, the Secretary, upon recommendation of the Director, may establish other mining regions as the need arises, the boundaries of the corresponding provinces. When local conditions require, two or more provinces may be included in the same mining region.

Chapter VI

ANNUAL WORK OBLIGATIONS

Sec. 24. Expenditure Required. - A claim owner under this Decree and under the Mining Act (Commonwealth Act No. 137) as amended, shall perform annual work obligations on his mining claim, the value of which shall not be less than the following amounts:

Before the lease contract is granted, per hectare per calendar year P 20.00

After the lease contract is granted, per hectare per calendar year P100.00

A holder of a patentable claim shall before the grant of the patent applied for, perform annual work obligations on his mining claim, the value of which shall not be less than two hundred fifty pesos (P250.00) per hectare per calendar year.

The annual work obligations for each mining claim shall start with the calendar year immediately following the date of recording of such mining claim, and in the case of patentable and other claims the annual work obligations shall start with the calendar year following the date of the approval of this Decree.

Sec. 25. Group Development. - The claim owner or lessee may concentrate all the annual work obligations on any one or more of several contiguous or geologically related mining claims in one province, if it can be shown to the Director that such concentration of work will be most advantageous and beneficial in the development and operation of said mining claims: Provided, That any expenditure in any calendar year in excess of the minimum amount required for work obligations per hectare may be carried forward and credited to the work obligations of the group claims for the succeeding year or years: Provided, further, That, if the expenditure incurred for any claim in less than that required in any year, the difference shall be paid to the Bureau of Mines which shall accrue to its Mines Special Fund.

Sec. 26. Legitimate Expenditure for Work Obligations. - Expenses for prospecting, exploration, and development work, including the cost of labor,

materials and equipment used, and the fees and charges paid for geodetic, geological, geophysical, geochemical and other related surveys and for laboratory and pilot plant testing shall be considered legitimate expenditures for work obligations. The cost of buildings, machinery, equipment, roadways or other works shall be considered expenditures for work obligations if it is clearly shown that they are essential to the exploration and development of, or will facilitate the extraction of minerals and from, mining claims.

Sec. 27. Proof of Annual Work Obligations. - The claim owner shall submit proof of compliance with the annual work obligations by filing a sworn statement with the Director with sixty (60) days from the end of the year in which the work obligation is required, in form to be prescribed by regulation. Failure of the claim owner to file such proof of compliance for two (2) consecutive years shall cause the forfeiture of all rights to his claim.

Chapter VII

LEASE SURVEY OF MINING CLAIMS

Sec. 28. Lease Surveys. - Application for the survey of mining claim for lease purposes shall be filed with the Director within one (1) year from the date of the recording thereof. The Director may reject such application for cause or issue the corresponding order for survey. Failure to file the said application within this period shall constitute automatic abandonment of the mining claims and the lands embraced therein shall thereupon be open to location by qualified persons other than the original locator, his heirs successors or assigns.

Sec. 29. Execution of Surveys. - Survey of mining claims may be performed by a duly licensed geodetic engineer; Provided, That no geodetic engineer shall perform surveys of mining claims for lease, patent or permit purposes without the prior authority of the Director. Geodetic engineers shall comply with additional conditions including the posting of a bond to answer for the faithful and diligent execution of the survey. The Director, may issue such rules and regulations governing the manner of execution and verification of surveys of mining claims. All expenses of the survey shall be for the account of the applicant.

Sec. 30. Adjustment to Astronomical Meridian. - In all surveys the astronomical meridian shall be made within the limits of accuracy prescribed by regulation. After the technical adjustments have been made, the resulting bearings and distances between consecutive corners as computed from the adjusted data shall be adopted and recognized.

Sec. 31. Monumenting of Surveys. - At the time of the survey, it shall be the responsibility of the geodetic engineer to mark the corners of mining claims with concrete monuments or with such other objects of as permanent nature as may be prescribed by regulations.

Sec. 32. Period for Submittal of Lease Survey Returns. - A geodetic engineer ordered to survey mining claims shall submit the survey returns to the Director within one (1) year after receipt of survey order. Failure to submit the survey returns within said period is sufficient cause for cancellation of the surveyor's surety bond and or cancellation of the survey order. No extension of period within which to submit survey returns shall be allowed unless for reasons of force majeure.

Sec. 33. Mines Temporary Permit. - Pending the issuance of the lease contract the claim owner may apply with the Director for a mines temporary permit to extract and dispose of the minerals from his claim, subject to the payment of taxes and royalties due and to the further condition that the claim owner has complied with his other obligations on the claim. This mines temporary permit may be issued by the Director for a period of one (1) year, renewable once only for a like period: Provided, That the claim owner shall file a surety bond in an amount to be fixed by the Director.

Notwithstanding the foregoing provisions of this section, the Director may allow the extraction and removal of representative samples for laboratory, scientific and test purposes, in such quantity as the Director may determine.

Chapter XVIII

LEASE OF MINING CLAIMS

Sec. 34. Time Limit to Apply for Lease. - Application for lease of mining claims shall be filed with the Director within two (2) years from the date of the recording thereof. Failure to file the said application within this period automatically constitutes absolute abandonment of the mining claims, and the land embraced therein shall be open to location by qualified persons other than the original locator, his heirs, successors and assigns.

Sec. 35. Application for Lease for Contiguous Claims. - A single application for lease may be filed and a single lease be granted covering adjoining or contiguous mining claims belonging to the same claim owner: Provided, That the total area under a single lease application shall not exceed the maximum number of hectares that may be held or leased in any one province by the applicant.

Sec. 36. Application Form. - All applications for mining lease shall be in the prescribed form and under oath, it shall state, among others, the full name, address, citizenship, civil status of the applicant, his place and date of birth. If the applicant is a partner or corporation, the application shall be accompanied by (1) certified copy of duly registered articles of partnership or incorporation, (2) a certified copy of the duly registered by-laws, (3) a statement under oath certifying to the percentage of ownership of the partnership or corporation by Filipinos and aliens, and (4) a certified list of the officers, directors and partners. There should be attached to each application a report prepared by a duly licensed geologist or mining engineer to the effect that the mining claim shows adequate mineralization.

Sec. 37. Qualification of Lease Applicant. - In addition to the qualifications required of a locator, an applicant for a mining lease shall present proof of the availability of technical competence and financial resources sufficient to develop the claim applied for. The regulations shall prescribe in detail the additional qualifications herein required.

Sec. 38. Application Forms Part of Lease Contract. - All statements in the application and those submitted in support thereof shall be considered as conditions of the lease. Any falsehood made in these statements or omission which may alter, change or affect substantially the facts set forth therein shall constitute sufficient cause for denial of the application or the cancellation of the lease granted.

Sec. 39. Publication of Lease Application. - If the Director finds the application in order, he shall cause the publication of the notice of the application once a week for two (2) consecutive weeks in two (2) newspapers, one of general circulation published in Manila either in Pilipino or English and another published in the municipality or province where the mining claim situated, if there be such newspaper, otherwise in the newspaper published in the nearest municipality or province. The Director shall also cause posting of the said notice of the bulletin board of the Bureau of Mines for two (2) consecutive weeks and shall order the applicant to post for the same period the notice and a copy of the approved plan of the mining claims on the bulletin boards of the municipal building of the municipality, and the mines regional office where the mining claim is located. Immediately after the expiration of the period of publication, the applicant shall file with the Director an affidavit attesting to the fact that the required notices and approved plan have been posted at the required places and during the specified period.

Sec. 40. Issuance of Mining Lease Contract. - If no adverse claim is filed within fifteen (15) days after the first date of publication, it shall be conclusively presumed that no such adverse claim exists and thereafter no objection from third parties to the grant of the lease shall be heard, except protest pending at the time of publication, and the Secretary shall approve and issue the corresponding mining lease contract after the area has been verified as to its mineralization and the due execution of the lease survey, which contract shall be for a period not exceeding twenty-five (25) years, renewable under such terms and conditions as may be provided by law for another period not exceeding twenty-five (25) years. Upon the expiration of the lease, the operation of the mine may be undertaken by the Government through one of its agencies or through a qualified independent contractor. The contract for the operation of a mine by an independent contractor shall be awarded to the highest bidder in a public bidding held after due publication of the notice thereof: Provided, That the lease shall have the right to equal the highest bid upon reimbursement of all reasonable expenses of the highest bidder.

Sec. 41. Withdrawn from Lease. - The lessee may, at any time during the life of the lease, apply, for the cancellation of the lease contract due to force majeure or for the other causes which render continued mining operations no longer profitable.

Sec. 42. Mining Lease on Private Land. - A mining lease may be granted on mining claims located on private lands: Provided, That the applicant shall submit a written authority of the landowner. If the landowner refuses or fails to enter into an agreement with the applicant, the latter shall have the remedy provided for in Section 12 of this Decree.

Sec. 43. Maximum Lease Area Allowed. - The maximum area of mining claims which may be leased shall be as follows:

(1) In any one province:

(a) To individuals, Five Hundred Hectares;

(b) To Mining Partnerships or Corporations, Five Thousand Hectares;

(2) In the entire Philippines:

(a) To individuals, One Thousand Hectares;

(b) To Mining Partnerships or Corporations, Ten Thousand Hectares.

The foregoing provisions of this section notwithstanding, the Director with the approval of the Secretary, may allow an applicant to lease a larger area not exceeding 10,000 hectares in any one province, depending upon the nature of the deposit, the kind of minerals, located and other circumstances inherent in the operation of the mining claim justifying the grant.

Sec. 44. Mining Lease Rights. - A mining lease contract shall grant to the lessee, his heirs, successors, and assigns the right to extract all mineral deposits found on or underneath the surface of his mining claims covered by the lease, continued vertically downward; to remove, process, and otherwise utilize the mineral deposits for his own benefit; and to use the lands covered by the lease for the purpose or purposes specified therein: Provided, however, That the Secretary shall reverse the right to grant and use easements in, over, through, or upon the said claims as may be needed by other claim owners or lessees for right-of-way to enable them to have access to and/or facilitate the operation of, their mining claims: Provided, further, That in case of conflict of interest between claim owners for this purpose the Director is hereby authorized to mediate; Provided, furthermore, That in granting any lease under this Decree the Government reserves the right to lease, or otherwise dispose of the surface of the lands embraced within such lease which is not needed by the lessee in extracting and removing the mineral deposits from his mining claims, or in the beneficiation of the ores extracted therefrom: Provided, finally, That a lessee may on his own or through the Government, enter into a service contract with a qualified

domestic or foreign contractor for the exploration, development and exploitation of his claims and the processing and marketing of the product thereof, subject to the rules and regulations that shall be promulgated by the Director, with the approval of the Secretary, and on the condition that if the service contractor will provide the necessary financial and technical resources, he may be paid from the proceeds of the operation not exceeding forty per centum (40%) thereof. Service contracts shall be approved by the Secretary upon recommendation of the Director.

Sec. 45. Laws and Regulations Considered Part of Lease Contract. - All mining lease contracts shall contain a provision that the lessee shall comply with the provisions of this Decree and with all the rules and regulations promulgated concerning the safe operation and sanitary upkeep of the mines as well as pollution control laws and regulations.

Sec. 46. Termination of Lease Rights. - Immediately after a mining lease contract cancelled or otherwise terminated, the Director shall cause the same to be entered in the mining register and a notice thereof shall be posted on the bulletin board of the Bureau of Mines, and the lands covered thereby shall thereupon be open to location and lease by other qualified persons.

Sec. 47. Removal of Improvements. - The lessee shall within one (1) year from the abandonment, termination or cancellation of the lease, remove all improvements on the mining premises, except roads and bridges; otherwise said improvements shall become the property of the Government.

Chapter IX

PROTEST, ADVERSE CLAIMS AND APPEALS

Sec. 48. Protest and Adverse Claims. - Any protest or adverse claim of any nature whatsoever involving the right to possession, lease, exploration or exploitation of any mining claim in any part of the Philippines shall be filed with the Bureau of Mines for investigation and decision pursuant to the provisions of Presidential Decree No. 309 and Letter of Instructions No. 119, as amended by Letter of Instruction No. 135. The protest or adverse claim shall be accompanied by all plans, documents, and other data upon which the protest or adverse claim is based.

In the case of an adverse claim against a lease application, filed under Section 34 hereof, such adverse claim shall be filed within fifteen (15) days after the first date publication of the notice of lease application if such claim was not previously investigated and decided under Presidential Decree No. 309. When an adverse is filed under this paragraph, all proceedings, except the publication of the notice of application for lease, the submittal of the affidavit in connection therewith and the processing of applications for temporary permit, shall be stayed until the controversy is settled or decided by the Director: Provided, That the operations and production under a mines temporary permit issued prior to the adverse claim shall be allowed to

continue subject to the provisions of Section 33 concerning the posting of bonds.

Sec. 49. Priority Rights. - In case of conflict of mining claims, priority of recording shall determine the right to the area, notwithstanding any defect in form or technically as provided for in Presidential Decree No. 99-A: Provided, That in case of discrepancy between the area described in the declaration of location and the actual area occupied on the ground, the former shall prevail, subject to any question as to having complied with all the requirements of this Decree.

Sec. 50. Appeals. - Any part not satisfied with the decision or order of the Director may, within five (5) days from receipt thereof, appeal to the Secretary. Decisions of the Secretary are likewise appealable within five (5) days from receipts thereof by the affected party to the President of the Philippines whose decision shall be final and executory.

In all cases, the decision, or order of the Director and the Secretary shall be immediately executory notwithstanding the appeal, unless the President of the Philippines directs otherwise, and the prevailing party has the right to immediately take possession, exploration and exploitation of the mining claims: Provided, however, That the rules and regulations embodied in Mines Administrative Order No. 50, pertaining to the deposit in escrow of the prescribed percentage of the proceeds of the gross sales of the mines produced, shall be complied with for the protection of the interest of the party to whom the mining claim are ultimately and finally awarded.

Chapter X

FISCAL PROVISIONS

Sec. 51. Occupation Fees, Rentals, Royalties and Taxes. - The claim owner shall pay the occupation fees, rentals, royalties and taxes on his mining claims and on the minerals extracted therefrom as provided for in the National Internal Revenue Code, as amended: Provided, That the failure to pay all taxes and fees due the government for two (2) consecutive years shall cause the cancellation of the mining claim and the reopening of the same for relocation by other parties.

Sec. 52. Power to Levy Taxes on Mines, Mining Operations and Mineral Products. - Any law to the contrary notwithstanding no province, city, municipality, barrio or municipal district shall levy and collect taxes, fees, rentals, royalties or charges of any kind whatsoever on mines, mining claims, mineral products, or on any operation, process or activity connected therewith.

Sec. 53. Tax Exemptions. - Machineries, equipment, tools for production, plants to convert mineral ores into saleable form, spare parts, supplies, materials, accessories, explosives, chemicals and transportation and communication facilities imported by any for the use of new mines and old

mines which resume operation, when certified as such by the Secretary upon recommendation of the Director, are exempt from the payment of customs duties and all taxes except income tax for a period starting from exploration and ending five (5) years from the first date of actual commercial production of saleable mineral products: Provided, That such articles are not locally available in reasonable quantity, quality and price and are necessary or incidental in the proper operation of the mine.

Any tax-exempt article acquired under this section shall not be sold, transferred or otherwise disposed of within a period of five (5) years from the time of such acquisition: Provided, That any such sale, transfer or other disposal of such articles within the aforesaid period shall be subject to the payment of all taxes and duties which shall have been due at the time of such acquisition, together with all interests and surcharges with amount shall constitute a lien on the articles sold.

All mining claims, improvements thereon and mineral products derived therefrom shall likewise be exempt from the payment of all taxes, except income tax, for the same period provided for in the first paragraph of this section.

The exemption provided for in this section shall be subject to such rules and regulations that shall be issued by the Director and approved by the Secretary.

Sec. 54. Notice of Revenue Payments to Director. - Within thirty (30) days from the date of the payment of the rentals or royalties due on any mining lease or minerals extracted therefrom, the lessee submit to the Director copies of receipt of such payment, and the names of the mining claims, lease number, and the names of persons, partnerships or corporations for which such payment has been made. Failure to submit copies of such receipt, information or document shall be deemed as non-payment of same and may cause the cancellation of the lease contract. The Director shall keep a record of receipt of such information.

Sec. 55. Unpaid Rentals and Royalties. - If a mining lease contract is cancelled or otherwise terminated, the lessee shall be liable for all unpaid rentals and royalties due up to the time of the termination or cancellation of the lease.

Chapter XI

AUXILIARY MINING RIGHTS

SEC. 56. Mine's Timber Rights. - Any provision of law to the contrary notwithstanding, a claim owner shall have the right to cut trees or timber within his mining claims, subject to the rules and regulations of the Bureau of Forest Development, as may be necessary for the exploration, development, exploitation, utilization or operation of his mining claims: Provided, That if the land covered by such mining claims are already covered by existing

timber concessions, the amount of timber needed and the manner of cutting and removal thereof shall be determined by the Director, the claim owner and the timber concessionaire: Provided, further, That in case no agreement can be reached between the claim owner and the timber concessionaire, the matter shall be submitted to the Secretary whose decision shall be final.

The claim owner granted a timber right shall be obligated to perform reforestation work within the mining claims in accordance with regulations of the Bureau of Forest Development.

Sec. 57. Miner's Water Rights. - A claim owner shall also have water rights for the development or operation of his mining claims upon application filed with the Director of the Bureau of Public Works in accordance with the existing laws of water and the rules and regulations promulgated thereunder: Provided, That water rights already granted or vested through long use, recognized and acknowledged by the local customs, laws and decisions of courts, shall not thereby be impaired: Provided, further, That the Government reserves the right to regulate water rights and the reasonable and equitable distribution of water supply so as to prevent the monopoly of the use thereof.

Sec. 58. Easement Rights. - When mining claims are so situated that for purposes of more convenient exploration, development, exploitation, utilization and operation thereof by the claim owner or lessee, it is necessary to build, construct or install on mining claims or lands owned, occupied or leased by other person, roads, railroads, mills, waste dumpsites, warehouses, and port facilities, tramways, electric transportation thereto or therefrom, dams, and their normal flood areas, ditches, canals, pipelines, flumes, cuts, shafts or tunnel to drain or convey water, ore waste, or tailings therefrom, shafts or tunnels for mining purposes, use or benefit, the hereby declared to be for public purpose, use or benefit, the claim owner or lessee upon payment of just compensation shall be entitled to the right to enter and occupy the said mining claims or land.

Sec. 59. Eminent Domain. - When the claim owner or an occupant or owner of private lands refuses to grant to another claim owner or lessee the right to build, construct or install any of the facilities mentioned in the next preceding section, the claim owner or lessee may prosecute an action for eminent domain under the Rules of Court in the Court of First Instance of the province where the mining claims involved are situated. In the determination of the just compensation due the claim owner or owner or occupant of the land, the court shall appoint at least one duly qualified mining engineer or geologist to be recommended by the Director as one of the commissioners.

Chapter XII

MINES PERSONNEL, INSPECTION AND SAFETY

Sec. 60. Employment of Filipinos. - Lessees under this Decree are obligated to give preference to Philippine citizens in all types of mining employment

within the country, insofar as such citizens are qualified to perform the corresponding work with reasonable efficiency and without hazard to the safety of the operations; and are obligated likewise to maintain effective programs of training and advancement commensurate with the demonstrated abilities of such citizens to perform satisfactorily the various types of operations involved. The lessee, however, shall not be hindered from using employees of their own selection, subject to the provisions of Commonwealth Act Numbered Six Hundred Thirteen, as amended, for technical and specialized work which, in their judgment and with the approval of the Director, requires highly specialized training or long experience in exploration, development or exploitation of the mining claim: Provided, That in no case shall each employment exceed five (5) years: Provided, further, That no foreigner shall be employed as mine manager, vice-president for operations or equivalent managerial position, in charge of mining, milling, quarrying or drilling operation without passing the appropriate or pertinent government licensing examination or unless in special cases permitted by the Director for a period not exceeding one (1) year.

Sec. 61. Mine Labor. - No person under sixteen (16) years of age may employed in any phase of mining operations, and no person under (18) years of age may be employed underground in a mine.

Sec. 62. Mine Supervision. - All mining quarrying developing and exploitation operations shall be directed and/or supervised by a person or persons in accordance with the provisions of Section 25 of Republic Act Numbered Forty-two Engineering Law of the Philippines.

Sec. 63. Mine Inspection. - Only the Director or his duly authorized representative, at reasonable hours of the day or night and in a manner, which will not impede or obstruct work in progress, may inquire into or inspect the activities of a lessee regarding safety inspection of all installation, surface or underground, within the mining claim or lease, mine safety, mineral conservation, problem of pollution and compliance with the terms and conditions of the lease.

Sec. 64. Remedy for Dangerous Practices. - If the Director or his duly authorized representative finds any practice connected with prospecting, mining or processing to be dangerous or defective or not in accordance with the anti-pollution laws and regulations, he shall give notice in writing thereof to the claim owner or to his agent in charge of the operations and shall require the same to be remedied forthwith or within such time as he may specify, and may in case of danger is removed.

Sec. 65. Report of Accident. - In case of any accident causing loss or serious personal injuries, the person in charge of prospecting, mining, quarrying or processing operations shall immediately report the same to the Director by the fastest means of communications, and shall promptly report in writing the facts of the accident to the mayor of the municipality where the works are situated and to the nearest regional office of the Bureau of Mines.

Chapter XIII

QUARRY RESOURCES

Sec. 66. Exploitation of Quarry Resources. - Quarry resources may be exploited only through permits on privately-owned lands through licenses public lands.

Sec. 67. Preferential Right of Private Landowner. - The owner of private lands shall have the preferential right to exploit the quarry resources found therein: Provided, That he shall not be required to secure a permit to extract or remove quarry resources on his land for his personal use.

Sec. 68. Applications for Quarry Rights. - Applications for quarry permits or licenses shall be filed with the Director or with the Mines Regional Officer in the form and manner prescribed for the purpose after paying the required filing fee as prescribed by the regulations. The Director shall grant the permit or license after the applicant has complied with all the requirements as prescribed by the regulations.

Sec. 69. Maximum Area of Quarry License. - Notwithstanding the provisions of Section 14 hereof, a quarry license shall cover any area of not more than one hundred (100) hectares in any one province and not more than one thousand (1000) hectares in the entire Philippines.

Sec. 70. Survey of Area Applied For. - An applicant for a quarry license shall cause the survey of the areas applied for within thirty (30) days from the filing of the application. In the case of areas applied for quarry permits, the survey thereof previously made and approved by proper authorities may be considered as sufficient compliance with the survey requirement provided herein. Failure on the part of an applicant for a quarry license to have the areas surveyed within the said period shall cause the rejection of the application.

Sec. 71. Rights of Permittee or Licensee. - A holder of a valid quarry permit or license shall have the right to extract, remove and dispose of all the quarry resources found on or underneath the surface of the area embraced in his permit or license, subject to existing laws, rules and regulations promulgated thereunder, and the term and conditions of said permit or license.

Sec. 72. Term of Permit or License. - A quarry permit or license shall be for a term of five (5) years counted from the date of its issuance. Upon application filed before the expiry date thereof, and the permittee or licensee having complied with the requirements, a permit or license may be renewed for one or more terms but in no case to exceed twenty-five (25) years. Pending the issuance of a quarry license, an applicant therefor may be granted special permit to extract quarry resources for test and experimental purposes at such quantity as the Director may determine: Provide, That for commercial purposes Section 33 shall apply.

Sec. 73. Quarry Fee and Royalty. - A permittee or licensee shall pay during the term of his permit or license a quarry fee fifty pesos (P50.00) per hectare. The licensee or permittee shall also pay to the Government a royalty of two per centum (2%) of the actual market value of the gross output of the quarry resources extracted from the area of his permit or license.

Sec. 74. Cancellation of Quarry Permit or License. - A permit or license for quarry resources may be cancelled by the Director for violations of the provisions of this Decree and of all applicable regulations: Provided, That before the cancellation of such license or permit the holder thereof shall be given an opportunity to be heard in an investigation to be conducted for the purpose.

Chapter XIV

PENAL PROVISIONS

Sec. 75. False Statements. - Any person who, knowingly presents or causes to be presented any false application, declaration, or evidence to the Government or publishes, or causes to be published any prospectus or other information containing any false statement relating to mines, mining operations, mining claims or lease, shall be guilty of perjury if such statement is made under oath, and shall be punished upon conviction in accordance with the provisions of the Revised Penal Code. If such false statement is not made under oath, he shall be punished, upon conviction, by a fine not exceeding one thousand pesos (P1,000.00).

Sec. 76. Intentional Overlapping. - Any person who shall locate an area as a mining claim and/or overlap any mining claim knowing fully well that the area is already, covered by another locator's valid and existing registered claim, shall be guilty of falsification of public document punishable under the Revised Penal Code.

Sec. 77. Destruction of Claim Monuments, Marks, etc. - Any person who willfully and maliciously defaces, removes, or disturbs, any stake, post, monument, boundary line or any other mark lawfully placed on mining claims, or destroys, injures or defaces any rules or notices required to be posted under this Decree, shall be punished upon conviction, by a fine not exceeding five hundred pesos (P500.00), besides paying compensation for the expenses incurred in replacing the defaced altered, removed, or disturbed, stakes, posts, monuments, boundary lines, notices, or any other mark.

Sec. 78. Theft of Minerals. - Any person who, without a mining lease or a temporary permit to mine, shall extract, remove, and/or dispose of minerals for commercial purposes belonging to the Government or from a mining claim or claims leased, held, or owned by other persons, without the written permission contemplated in Section 12, shall be deemed to have stolen the ores or the products thereof from the mines or mills. He shall, upon conviction, be imprisoned from six months to six years or pay a fine from one

hundred pesos to ten thousand pesos, or both, in the discretion of the court, besides paying compensation for the minerals extracted and disposed of, the royalty and the damage caused thereby.

Sec. 79. Fraudulent Conveyance of Mining Interest. - Any person who, with intent of gain, knowingly sells, transfers or conveys any false mining claim or claims or any false right, title or interest in such mining claims which were not actually located on the ground and do not exist as such claims shall be guilty of estafa and shall be punished, upon conviction, in accordance with the provisions of the Revised Penal Code.

Sec. 80. Salting of Mineral Lands and Minerals. - Any person, who knowingly places or deposits, or becomes accessory to the placing or depositing of, any mineral in any land for the purpose of salting or misleading other persons as to the value of the mineral deposits in such land, or who, knowingly co-mingles or causes to be co-mingled samples of minerals with any other substances whatsoever which increases the value or in any way changes the nature of said minerals for the purpose of deceiving, cheating, or defrauding any person, shall be punished, upon conviction, by imprisonment not exceeding a period of five (5) years besides paying compensation for the damage which have been caused thereby.

Sec. 81. Pollution from Mine Wastes and Mill Tailings. - Any person who willfully cause or permits sludge or tailings and other mine and mill wastes to accumulate in, or flow from his mining claims so as to cause danger, injury, or obstruction to any public road, rivers, or streams or other public property shall be punished, upon conviction, by a fine not exceeding five thousand pesos (P5,000.00) or imprisonment not exceeding six (6) years, or both in the discretion of the court besides paying compensation for the damage caused thereby.

Sec. 82. Interference with Mine Water Rights. - Any person who willfully takes water from a mine, mill, dam, reservoir, or from any other form of deposit, or prevents the water from entering said mine, mill, dam, reservoir, or in any way interferes with the full enjoyment of water rights previously granted and lawfully held by another person shall be punished, upon conviction, by a fine exceeding five hundred pesos (P500.00) or imprisonment not exceeding six (6) months or both, at the discretion of the court.

Sec. 83. Destruction of Mining Claim Structures. - Any person who willfully destroys or damages structure in or on mining claims or on mill sites shall be punished, upon conviction, by imprisonment not to exceed five (5) years besides paying compensation for the damages which may have been caused thereby.

Sec. 84. Mines Arson. - Any person who willfully sets fire to any mineral stockpile, mine, or workings, fittings, or a mine shall be guilty of arson and shall be punished, upon conviction, in accordance with the provisions of the

Revised Penal Code, besides paying compensation for the damage caused thereby.

Sec. 85. Willfull Damage to a Mine. - Any person who willfully damages a mine unlawfully causes water to run into a mine, or obstructs any shaft or passage to a mine, or renders useless, damages, or destroys any machines, appliance, apparatus, rope, chain, tackle or any other thing which is used in a mine, shall be punished, upon conviction, by imprisonment not exceeding a period of five (5) years besides paying compensation for the damages caused thereby.

Sec. 86. Illegal Obstruction to Government Officials. - Any person who willfully obstructs, harasses, and/or threatens the Director or any of his subordinates or representatives, in the performance of their duties pursuant to this Decree shall be punished, upon conviction, by a fine not exceeding one thousand pesos (P1,000.00), or by imprisonment of not more than one (1) year, or both, at the discretion of the court.

Sec. 87. Illegal Obstruction to Lessee, or Permittee. - Any person who, without justifiable cause, prevents or obstructs the holder of a mining claim, any lessee, licensee or permittee under this Decree from undertaking prospecting, or development and exploitation operations in any mining claim shall be punished by a fine of not more than one thousand pesos (P1,000.00) or by imprisonment of not more than one (1) year or both, at the discretion of the court.

Sec. 88. Delay in the Payment of Tax or Rental or Royalty. - Where the amount of tax, rental or royalty provided for by this Decree or by the terms and conditions of the lease contract or permit or license granted under this Decree is not paid on due date, there shall be collected as part of the amount due, a surcharge of three per centum, (3%) thereof per month from the due date until paid, such surcharges to accrue to the Mines Special Fund.

Sec. 89. Offenses by Corporation. - Whenever any of the offenses mentioned in this chapter is committed by a corporation, partnership or association, the President and each of the Director or managers of said corporation, partnership or association or its agent or representative in the Philippines in case of a foreign corporation or association who shall have directed or induced the commission of the said offense shall be criminally liable as principal thereof.

Chapter XV

GENERAL PROVISIONS

Sec. 90. Executive Officer. - The Secretary, through the Director, shall be the Executive Officer charged with carrying out of the provisions of this Decree. Except as herein provided the Secretary, upon recommendation of the Director, shall issue the rules, regulations and orders necessary to carry out the provisions and purposes of this Decree.

Sec. 91. Conservation Measures. - All lessees under this Decree shall take appropriate measures and undertake researches in accordance with the most modern practices to maximize recovery and wise utilization of minerals and stop or prevent wastes in mining and milling operations. Rules and regulations may be issued which shall require mine operators to utilize in their exploration, development, exploitation and utilization, the latest and most improved methods and devices to prevent wastes, or from causing pollution or otherwise damaging streams, surface or underground water supply, and valuable mineral deposits.

During the productive operation of any mine or leased minerals lands, the operator or lessee shall take necessary measures to provide for the growth and development of any industry suitable for the area, other than mining in order that when the mine is exhausted or becomes no longer profitable for mining purposes the people residing therein or those who used to work for the mine will have a substitute industry or business activity to provide their means of livelihood. Furthermore, the mine or leased area shall be placed in a condition suitable for habitation or agriculture, and free from danger of cave-ins, slides, and other risks brought about by the mining operations.

Sec. 92. Fixed Taxes and Work Obligations. - Work obligations, special taxes and royalties which are fixed by the provisions of this Decree are considered as inherent in all mining leases granted hereunder, and shall remain at the rates and levels in force at the time such leases were issued. Any increase in the amount or rate of such work obligations, special, taxes or royalties shall apply only to mining leases granted subsequent to the effectivity of any such increase.

Sec. 93. Fixed Causes of Cancellation. - The causes of cancellation provided in this Decree shall be considered as inherent in all mining leases or other rights hereunder, and no new cause or modification of such causes shall apply to any lease or right existing at the time such new or modified causes are made effective.

Sec. 94. Mine Evaluation. - The appraisal or reappraisal valuation or re-evaluation of any mine, mining claim or claims with or without improvements thereon, whether patented, leased or otherwise, for the purpose of raising capital for the formation or organization of a partnership or corporation or for determining the present net value of the mines, shall be made by the Director or his duly authorized representative. No mine, mining claim or claims with or without improvements thereon, whether patented, leased or otherwise, shall be accepted as or basis of any asset in any formation or organization of a partnership or corporation without the value thereof having been first appraised or determined by the Director as herein provided.

Sec. 95. Drilling and Exploration by the Bureau of Mines on Registered Mining Claims. - In accordance with the mineral policy of the Government, the Bureau of Mines shall give priority to the exploration, development and exploitation of critical and/or valuable commercial minerals needed to meet

urgent national demands and economic development, and for this purpose, the Bureau of Mines may conduct exploration and drilling work not only in public lands and government reservations, but also within claims located and recorded by private parties and using for such purpose its funds, personnel and equipment. In the latter case, in the event that commercial deposits are proven by such exploration and drilling work, such private parties shall reimburse the Bureau of Mines of all the expenses it incurred in exploring and drilling said mining claims, or part thereof, based on a schedule of reimbursement approved by the Secretary upon recommendation of the Director. The lease which may be granted covering the area so explored and drilled shall contain stipulations as to the term of the payment five (5) years from the date of the lease, and with surcharges not exceeding twelve per centum (12%) per centum on the total expenses incurred by the Bureau of Mines.

The declaration of location from to be used in locating and recording mining claims, shall contain a proviso recognizing the authority of the Director of his representative to enter the mining claims located and recorded by private parties, and may conduct such exploration work within the area when in his opinion it is to the best interest of the country that the Bureau of Mines undertake such work.

Sec. 96. Minerals Not Included in Land Grants. - Land grant to provinces, districts or municipalities to aid in the construction of roads, or for other public purposes, shall not include mineral therein.

Sec. 97. Assignment of Mining Rights. - A mining lease contract or any interest therein shall not be transferred, assigned, or subleased without the prior approval of the Secretary: Provided, That such transfer, assignment or sublease may be made only to a qualified person possessing the resources and capability to continue the mining operations of the lessee and that the assignor has complied with all the obligations of the lease: Provided, further, That such transfer or assignment shall be duly registered with the office of the mining recorder concerned.

Sec. 98. Maps of Mine Workings Required. - Lessees undertaking underground operation shall prepare and maintain a map or maps of convenient scale showing their workings which shall be updated and made available to the Director or his representative upon demand.

Chapter XVI

TRANSITORY AND FINAL PROVISIONS

Sec. 99. Non-impairment of Vested or Acquired Substantive Rights. - Changes made and new provisions and rules laid down by this Decree which may prejudice or impair vested or acquired rights in accordance with order mining laws previously in force shall have no retroactive effect. Provided, That the provisions of this Decree which are procedural in nature shall prevail.

Sec. 100. Old Valid Mining Rights May Come Under This Decree. - Holders of valid and subsisting mining locations and other rights under other laws, irrespective of the areas covered, may avail of the rights and privileges granted under this Decree by making the necessary application therefor and approval thereof by the Director within a period of two (2) years from the date of approval of this Decree.

Sec. 101. Recognition and Survey of Old Subsisting Mining Claims. - All mining grants patents, locations, leases and permits subsisting at the time of the approval of this Decree shall be recognized if registered pursuant to Section 100 hereof: Provided, That Spanish Royal Grants and unpatented mining claims located and registered under the Act of the United States Congress of July 1, 1902, as amended, otherwise known as the Philippine Bill, as shall be surveyed within one (1) year from the approval of this Decree: Provided, further, That no such mining rights shall be recognized if there is failure to comply with the fundamental requirements of the respective grants: And provided, finally, That such grants, patents, locations, leases or permits as may be recognized by the Director after proper investigation shall comply with the applicable provisions of this Decree, more particularly with the annual work obligations, submittal of reports, fiscal provisions and other obligations.

Sec. 102. Conditional Mining Acts and Contracts. - Acts and contracts made or executed with a condition or period under previous mining laws, if valid in accordance therewith, shall continue as such, but the revocation or modification of these acts and contracts after the effectivity of this Decree shall be subject to the provisions hereof.

Sec. 103. Right of Applicant to Areas Abandoned. - The lessee under this Decree has the preferential right to apply for the inclusion of any and all areas within the perimeter of his claim which are covered by abandoned or expired right granted under other mining laws.

Sec. 104. Separability Clause. - If any section or provision of this Decree is held or declared unconstitutional or invalid by a competent court, the other sections or provisions hereof shall continue to be in force as if the sections or provisions so annulled or voided had never been incorporated in this Decree.

Sec. 105. Repealing Clause. - All laws, decrees, rules and regulations, or part thereof in conflict or inconsistent with any of the provisions of this Decree are hereby repealed or modified accordingly.

Sec. 106. Effectivity Date. - This Decree shall take effect immediately.

Done in the City of Manila, this 17th day of May, in the year of Our Lord, nineteen hundred and seventy-four.