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DAY Wednesday

DENR

IN THE NEWS



THE EXPONENTIAL OF PHILIPPINE PROGRESS SINCE 1898
MANILA BULLETIN
THE NATION'S LEADING NEWSPAPER

MAN-MADE LAGOONS – Environment and Natural Resources Secretary Gina Lopez takes a photo of one SR Metals, Inc.'s man-made lagoons during a visit March 3 in Tubay, Agusan del Norte. The lagoons serve as the last stop of various siltation ponds located in the mine site before the filtered water reaches the river. (SRMI Facebook Page)

SR Metals passes gov't audit, tagged as among model mining companies

SR Metals, Inc. (SRMI) has passed the industry-wide audit of the Department of Environment and Natural

Resources (DENR) on the companies' compliance with various laws related to mining.

The mining audit focused on safety and health, mine environmental management, social

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Abante

UNA SA BALITA

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STRATEGIC COMMUNICATION AND INITIATIVES SERVICE



Nag-thumbs-up ang iba't ibang lider ng mga makakalikasan kahapon sa isinagawang forum sa UP Diliman, Quezon City bilang pagpapakita ng kanilang suporta kay DENR Secretary Gina Lopez sa kampanya nito na isara ang mga minahan na nakakasira ng kalikasan.

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SR Metals passes...

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development, mining tenement, Clean Air Act, Clean Water Act, hazardous waste, and solid waste.

Under the DENR Memorandum Order No. 2016-01 issued on July 8 last year, the audit team was composed of representatives from the DENR Central and regional offices, Mines and Geosciences Bureau, Ecosystems Research and Development Bureau, Department of Health, Department of Agriculture, and civil society organizations.

Of the 41 mines audited, only 13 have

passed, including SRMI.

SRMI was a recipient of the Presidential Mineral Industry and Environmental Award for 2015 and 2016 in recognition of its outstanding levels of dedication, initiatives, innovation, in the pursuit of excellence in environmental protection, safety and health management, and community development.

SRMI has obtained the ISO certification in 2013, at the time when it was not yet a mandatory requirement to all mining companies.

No mine has closed shop —MGB exec

NOT a single mining company has been closed even if Environment Secretary Gina Lopez issued a closure order against at least 22 mining companies for various violations of the mining law, an official of the Mines and Geosciences Bureau (MGB) said Tuesday.

MGB Assistant Director Danilo Uykieng said the closure orders were not implemented because these were questioned at the Office of the President.

"The closure orders had been stayed because the companies can still file an MR (Motion for Reconsideration) before the Office of the President, so no mine has been closed," Uykieng said during the congressional investigation on the mining closure orders.

Rep. Carlos Zarate of Bayan Muna who heads the House Committee on Natural Resources called on mining companies to stop giving the impression that they have fallen victims to Lopez's whims when they have not stopped their operations.

"As we speak now, these mining companies are still in operation. They haven't lost anything while their violation and destruction of the environment continues," Zarate said.

"The Secretary may be unorthodox, but for the first time, somebody of her stature called out these mining companies."

Rep. Ariel Casilao of Anakpawis shared Zarate's sentiments.

"A lot has been said about these closures, including that we stand to lose P70 billion. Well, that's only a calculation. They are still in operation," Casilao pointed out.

Nickel Asia Vice President for Corporate Communications JB Baylon questioned Lopez's decision, arguing that a significant number of the large-scale mining companies have secured ISO 140001 certification—the highest environmental management standard.

"That ISO certification means that our mining activities are done without damage to the environment. Our argument here is that

this ISO 140001 is already the highest certification so why the need for another audit?" Baylon said in an interview.

One of the mining companies ordered closed by Lopez is the Hinatuan Mining Corporation, a subsidiary of Nickel Asia.

"We have 30 million hectares of mining areas in the country. Of this number, nine million hectares are highly mineralized. Of the nine million, only 270,000 hectares have mining permits. And of the 270,000, only 81,000 hectares are being mined. How can 81,000 hectares destroy the 30 million?" he added.

At the Senate, the Finance department on Tuesday admitted that it would be difficult for the government to immediately recover from the revenue shortfall should mining operations be halted.

Secretary Carlos "Sonny" Dominguez 3rd said Congress will have to come up with more revenue generating measures to recover the expected loss from the closure of mining companies.

According to him, annual taxes collected from mining posted a steady increase from P20.6 billion in 2012 to P29.57 billion in 2015.

"It will be very difficult for us to immediately cover this shortfall," Dominguez told the members of the committee on environment and natural resources of the Commission on Appointments (CA).

Dominguez, also a co-chairman of the Mining Industry Coordinating Council (MICC), noted that if the government would push through with the closure order against mining companies, congress will have to come up with

more revenue measures.

The official said local government units dependent on mining operations will be affected.

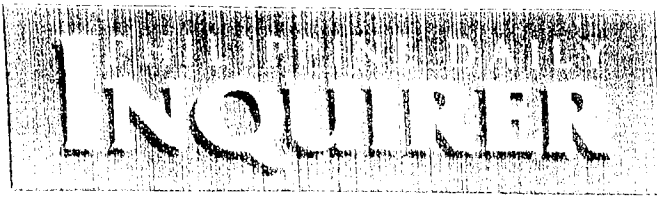
"What will happen to the services provided by the LGUs to the senior citizens, health care, infant care?" he asked.

The possible lay off of some 200,000 employees directly working for mining companies should also be taken into consideration, Dominguez said.

President Rodrigo Duterte will have to reappoint Lopez as Environment Secretary because the CA bypassed her appointment.

Sen. Manny Pacquiao however said that even if Lopez is reappointed, her chance of being confirmed by the CA is 50-50.

**LLANESCA T. PANTI
AND JEFFERSON ANTIPORDA**



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GINA FACES BYPASS

STORY BY TARRA QUISMUNDO AND DJ YAP

■ **Lawmakers defer vote on Environment Secretary Lopez's nomination, as she is out of PH**

■ **Senator Pacquiao says Lopez has 50-50 chance of getting Congress' nod**

■ **Opposition solon calls President's claim of ouster efforts by miners 'crazy'** **A2**

Gina faces CA bypass

FROM A1

By Tarra Quismundo
and DJ Yap
@Team_Inquirer

The congressional Commission on Appointments (CA) on Tuesday deferred a decision whether to confirm or reject the nomination of Environment Secretary Gina Lopez, stoking uncertainty over the outlook for mining in the Philippines, the world's top nickel ore supplier.

Lopez was in the United States and failed to attend her confirmation hearing.

But that did not save her from being skewered in both houses of Congress, where lawmakers—and officials raked her over the coals for her “highly illegal” and “whimsical” orders to shut or suspend mines.

Lopez last month ordered 23 mines located in watersheds shut and five others suspended.

She also canceled 75 contracts for mining projects located in watersheds.

Her decisions provoked the ire of the mining industry and its dependents, whose representatives vehemently opposed her nomination at her first confirmation hearing last week.

Absent

On Tuesday, as Lopez was not there to face another round of questioning from lawmakers, the CA deferred a vote on her nomination, as the legislators could not reach a clear decision without more information.

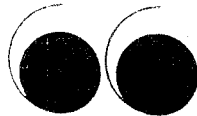
Sen. Manny Pacquiao, chair of the CA committee on environment and natural resources, said Lopez would be bypassed, as her nomination would remain pending as Congress will hold a final session today before going on a break.

“In May, we will [re]open the hearing. We still have a lot of questions for her,” he said.

Pacquiao, however, held out hope for Lopez's confirmation.

“She has a chance, but it's 50-50,” Pacquiao told reporters after emerging from a caucus of his committee.

The bypassing of Lopez means President Duterte can reappoint her to his Cabinet, or



**In May, we
will [re]open
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it's 50-50**

Manny Pacquiao
Senator

name someone else to the Department of Environment and Natural Resources.

Pacquiao said he was sure Mr. Duterte would reappoint Lopez.

Someone 'more moderate'

The Chamber of Mines of the Philippines (COMP), which groups large-scale miners, said it was unfortunate that the CA had failed to vote and that it hoped Mr. Duterte would not reappoint Lopez, instead finding somebody “more moderate.”

“Our call is for the President to choose somebody that [the] government and [the] industry can work with, because Secretary Lopez has caused so much division,” said COMP official Ronald Recidoro.

Pacquiao said his committee would give Lopez a transcript of Tuesday's proceedings, during which the panel heard from Finance Secretary Carlos Dominguez, cochair of the Mining Industry Coordinating Council (MICC), which is reviewing the audit that led to Lopez's closure orders.

Dominguez said Lopez violated due process when she ordered the closure of 23 mines and the suspension of five others last month.

“Dole (Department of Labor and Employment) said they were not consulted. I believe the DSWD (Department of Social Welfare and Development) also said they were not consulted,” Dominguez told the lawmakers.

“So I think there was some

kind of failure in the charge of due process,” he said.

Finance Undersecretary Bayani Agabin told the panel that the MICC review may take three months for the 28 mines that Lopez had ordered shut or suspended and “two to three years” for all the 311 mines in the Philippines.

Lopez has questioned the review. But Dominguez said he was after the proper enforcement of the law.

Dominguez said lapses in the observance of due process could expose the government to legal risks, including the possibility of costly international arbitration proceedings.

Agabin said the mines remained operating. The Office of the President, he said, has set no specific timetable within which to resolve appeals from the affected mining companies.

In the House of Representatives, Surigao del Sur Rep. Johnny Pimentel, chair of the committee on good government and public accountability, said Lopez did not follow the recommendation of her own audit team to penalize erring mines according to their violations and instead decided to summarily close the mines.

“So, if we study it, this is only on the whim of Secretary Lopez who overruled the technical committee, ‘No, this is not right.’ It's not an objective view, but the subjective view of Secretary Lopez, and that is highly illegal,” Pimentel said.

Sole industry

Surigao del Norte Rep. Robert Barbers assailed the “arbitrary” closure orders and questioned the composition of the mining audit team.

“Nobody knows who the mining audit team members are. I was told one of the members of the audit team was a personality coming from an NGO that is anti-mining. How can that be aboveboard? How was the mining audit conducted? Did they go to the site? Did they bring technical people [there]?” he said.

Barbers opposed the closure orders, saying there was only one industry in his district—mining.

“We will lose thousands of jobs in my district. We have no other industry except mining,” he said. —WITH A REPORT FROM REUTERS

THE PHILIPPINE STAR

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Destabilization fund? Mining group unaware

By LOUISE MAUREEN SIMEON
and MARVIN SY

The Chamber of Mines of the Philippines (COMP) is unaware of any mining company behind destabilization efforts against the administration, saying its members fully support President Duterte and "condemn" such moves.

"We... reaffirm our commitment to work with this administration, and to follow the law and the Constitution," the chamber said.

However, the chamber warned the administration that it might have to face a \$16-billion international arbitration case should stakeholders decide to sue the government for the cancellation of mining contracts. The \$16 billion will cover compensation and damages for the mines ordered closed or suspended.

The industry reiterated that like the President, it is also committed to responsible mining and to ensuring that mining is done under the highest standards using the best technology available.

"Illegal mining is a scourge that must be eliminated and we are committed to help government achieve this objective in any way we can," the chamber added.

The industry also slammed anti-mining advocates and non-government organizations for spreading misinformation.

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following the release of photographs shown by the President in Baguio City where he attended the Philippine Military Academy graduation rites on Sunday and during a press conference on Monday.

"The pictures given to the President show active mining areas and do not present a complete picture of responsible mining. Like any project still under construction, an active mine does not look green or pleasing to the eye. However, mining areas, once completed, are rehabilitated, planted with local species and made useable for agriculture or forestry, or preserved as an eco-tourism site," the chamber said.

"We will happily enter into a dialogue with the President, together with the MICC, on the review of all mining operations and the possibility of amending some policies to better enhance mineral resources development in the country," the industry added. MICC refers to the Mining Industry Coordinating Council.

Duterte alleged mining firms were funding the "opposite side" to destabilize him but maintained he would not

bow to their pressure to reverse the decision of Environment Secretary Gina Lopez.

An official of the Department of Environment and Natural Resources (DENR) refuted the claims of representatives of the mining industry that Lopez did not accord due process when she ordered the suspension and closure of several mines.

DENR Undersecretary Maria Paz Luna branded as "baseless" the allegation of COMP, which filed a complaint against Lopez before the Office of the Ombudsman on Monday for having violated Republic Act 3019 or the Anti-Graft and Corrupt Practices Act when she "skirted" due process at the expense of the mining firms.

The audits began in July 2016 and took eight months, Luna explained, noting the mining firms were given opportunity to respond to the findings of the DENR.

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Destabilization fund Mining group in Manila

"The mining companies knew of these audits; they allowed these audits. After the audits were done by the teams, the DENR sent them the audit reports," said Luna, who heads the department's legal office.

Last resort

"Arbitration cases may be filed by the mining companies as a result of the MPSA (mineral production sharing agreements) cancellations announced by Lopez. The government is a party to the agreement contracts in the development of the country's mineral resources as provided in the Philippine Mining Act," he chamber said.

Based on the Philippine Mining Act, contractors are entitled to the basic rights and guarantees provided in the Constitution and recognized by the government, including repatriation of investments, remittance of earnings, foreign loans and contracts, freedom from expropriation and requisition of investment.

A good number of the mines ordered closed or suspended have bilateral investment treaties (BIT).

The BIT asks host countries to provide certain protections for foreign investments, such as limiting expropriation of investments without due regard for international law standards.

Affected foreign investors, under the BIT, could claim prompt, adequate and effective compensation for their capital investments, liabilities, other investments and advances stemming from the arbitrary cancellation of the MPSAs.

Stakeholders earlier maintained that the current state of the industry might cost the government "several billion dollars" since contractors are entitled to investment guarantees.

The chamber said stakeholders would consider full reimbursement of mining contracts and not mere compensation.

Despite this, the industry remains optimistic that the

planned review of the MICC will prevent arbitration cases from being filed.

To date, no mining company has filed an arbitration case against the government as the industry considers it a last resort.

Last month, Lopez announced her decision to cancel 75 MPSAs of mining operations within watershed areas after she ordered the closure and suspension of 28 mining firms.

An MPSA is an agreement wherein the government shares in the production of the contractor, whether in kind or in value, as owner of the minerals, and the contractor gets the rest. In return, the contractor provides the necessary financing, technology, management and personnel for the mining project.

Lopez's fate

Finance Secretary Carlos Dominguez III told the Commission on Appointments (CA) yesterday the DENR failed to observe due process when it ordered the closure and suspension of 28 mining firms.

Dominguez was invited by Sen. Manny Pacquiao, chairman of the CA's committee on environment and natural resources, to attend the meeting on Lopez's fate. The committee was supposed to have a closed-door meeting on whether Lopez would be confirmed or rejected by the CA.

She has been deemed bypassed as her confirmation hearing was no longer scheduled for today, the last day of session before Congress goes on a break. Duterte will have to appoint Lopez if he wants

the position as DENR chief.

Dominguez briefed Pacquiao's committee on the review being done by the MICC, which he co-chairs with Lopez, on the mines' closure and suspension.

Lopez was not around to face Dominguez since she is currently in the US on a retreat, which was questioned by Senate Minority Leader Franklin Drilon and Sen. Loren Legarda.

Dominguez explained that the MICC has the mandate of reviewing and assessing all mining-related laws, rules and regulations, issuances and agreements, and to ensure the continuing dialogue and coordination among all stakeholders in the mining industry.

Last February, the MICC approved a resolution forming a multi-stakeholder committee that will review and advise the DENR on mining companies in the country.

Dominguez lamented that Lopez agreed to the review and even brought a lawyer with her, only to change her mind later. "I don't know what to say," the finance chief said.

During yesterday's hearing, Dominguez, brother of Paul Dominguez, who is involved in the \$5.9-billion Tampakan copper-gold project in South Cotabato of Sagittarius Mines Inc., affirmed the claims made



Dominguez

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Destabilization - - -

by the mining industry players and noted that the Union of Local Authorities of the Philippines, the Department of Labor and Employment and the Department of Social Welfare and Development have all noted that they too were not consulted on the decision against mining firms.

"Quite frankly, my job is to make sure that deficiencies of others are covered," Dominguez said.

"As also a responsible member of the Cabinet, I had to make sure that the potential liabilities of the government are covered. So if it takes us to do a proper due process so that the mines stay closed and we do not have any potential damage claims, I have to make sure that this is done. This is the job of the MICC," he added.

Like the COMP, Dominguez warned that closing mining operations without due process could lead to the filing of cases

against the government, which would cost "a heck of a lot of money" if these reach international arbitral tribunals.

"It's my job to make sure that our expenses are for the benefit of the people and not for paying for somebody's mistakes," he said.

Asked by Drilon about the statements made by Duterte last Monday supporting the position of Lopez on the imposition of a mining ban, Dominguez said that he "can't read the mind of the President."

"I don't know what he meant but there are procedures that must be followed," Dominguez said, adding that he knows the President as a stickler for rules and procedures.

A number of the affected mining firms have filed their respective appeals to the order of Lopez before the Office of the President. Dominguez said

that until the President signs the closure orders, the issue remains unresolved.

Dominguez stressed Lopez's post "requires more than a crusader" as he noted the mining industry's importance and contributions to the economy - providing raw materials for cellphones and cars, without which "we all go back to stone age."

Sen. Alan Peter Cayetano indicated Lopez may have been more "arbitrary" than strict.

In a presentation prepared for the CA, Finance Undersecretary Bayani Agabin noted that the closure of the mining firms, if it pushes through, would cost the host local government units around P821 million annually.

Agabin said eight LGUs in particular stand to lose over 50 percent of their revenues if the mining firms are closed because they rely heavily on these operations to prop up the local economy.

Philex praised

In a press conference in Malacañang on Monday night with Senate President Aquilino Pimentel III and Speaker Pantaleon Alvarez, Duterte cited the need for a no-nonsense dialogue with the mining industry to address the urgent concerns raised by environment groups.

He had also said he was not totally anti-mining and cited Philex Mining Corp. for its responsible industry practices that could be emulated by other firms to help protect the environment.

He mentioned the rehabilitation work done by a Philex company in its gold mine in Sibutad, Zamboanga del Norte when it closed in 1999.

Philex's final mine rehabilitation and/or decommissioning plan for Sibutad covered hundreds of hectares with over half a million trees of different species, even if only 38 hect-

ares had been used for actual mining operations.

Duterte also cited Philex's P1-billion rehabilitation and clean-up of Balog Creek following an accident in the firm's operations in its Padcal Mine in Benguet in 2012.

"So I'd like to say thank you to these two companies. I do not know them but if you're like them - there is denudation and you immediately reforest, then the Filipino people will be happy, especially if you plant trees. It takes about 30 years to grow a tree," Duterte said.

He exhorted Filipinos to undertake massive tree planting as "our payback" to the environment.

Dominguez also cited Philex's "excellent record" in dealing with accidents, referring to the Padcal mine.

No effects yet

Amid the hullabaloo, not a single mine has actually been closed. Danilo Uykieng, Mines and Geosciences Bureau (MGB) assistant director, told the House committee on good government.

"It's business as usual for them. Nothing has changed. All of the 41 companies that have been audited are operating normally. They get the transport and export permits they need," he said.

Former MGB director Leo Jasareno, a consultant of Lopez, informed the committee that based on the agency's mining audit, the secretary had ordered the closure of 22 mines and the suspension of four others for various violations of laws.

"But all of these companies are operating because they have pending appeals with the department or Malacañang. Their decision to appeal temporarily stayed Secretary Lopez's closure and suspension orders," he said.

- With Paolo Romero, Jess Diaz, Rhodina Villanueva

PUBLIC AFFAIRS OFFICE NEWS CLIPPINGS

LOPEZ BYPASSED NA!

TULUYAN nang na-bypass ng makapangyarihang Commission on Ap-
pointments (CA) ang nominasyon ni Secretary Gina Lopez sa Depart-
ment of Environment and Natural Resources (DENR). /Pahina 6

LOPEZ...

From Page 1

Matapos na hindi dumalo sa pagdinig ng panel ng CA ng committee on environment na pinamunuan ni Senador Manny Pacquiao, napagkasunduan ng mga miyembro nito na i-bypass ang kumpirmasyon ni Lopez.

Avon kay Pacquiao, hindi maaaring magbo-

tohan ang mga miyembro ng CA kung kukumpirmahin o hindi dahil wala ang kalihim.

"Secretary Lopez's ad interim appointment is considered bypassed," ani Pacquiao.

"In May, we will reopen the hearing. We still have a lot of questions for her," dagdag pa nito.

Nakatakda na ang recess ng session sa March 18 ng Kongreso bilang Holy Week break kung

saan hindi na rin makakarating ang kalihim dahil nagtungo ito sa Estados Unidos sa isang official visit.

Subalit iginiit ni Pacquiao na maaari naman na ire-appoint ni Pangulong Duterte si Lopez at muli itong isalang sa CA sa pagbabalik ng sesyon sa Mayo 2.

Dalawang beses nang humarap sa confirmation hearing si Lopez noong isang linggo. Umami ng

batikos si Lopez makaraang ipag-utos nito na isara o suspendihin ang 28 mihan at bantang kanselahin ang 75 pang kontrata.

Sa panayam, sinabihin ni Pacquiao na nirespeto at pinatubaya ng Pangulo ang desisyon sa miyembro ng CA para sa kumpirmasyon ni Lopez at hindi sila dinidiktahan ng pangulo pabor sa kalihim.

**with Aleyah
Linatoc & Michelle
Tupas (OJT)**

