



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

Sixteenth Congress
First Regular Session

HOUSE BILL NO. **3644**

Introduced by REP. JOSE CHRISTOPHER Y. BELMONTE

EXPLANATORY NOTE

The proposed bill aims to address the unfortunate phenomenon of orphaned or abandoned mines brought about by inadequate legislation prior to the passage of the Mining Act of 1995. Abandoned mines pose environmental, health, safety and socio-economic problems for communities, the mining industry, and government, both local and national.

Over the last three decades, some twenty-two (22) large-scale mines have shut down prematurely for varying reasons. These include the following:

1. Acoje Mining Company, Inc. (AMCI) in Sta. Cruz, Zambales (Chromite);
2. Barlo Mining Corporation (BMC) in Mabini, Pangasinan (Copper);
3. BatongBuhay Gold Mines Inc. in Pasil, Kalinga (Gold);
4. Antamok Mines (BC-BAGO) in Itogon, Benguet (Gold);
5. Benguet Consolidated Mining Corp. (BCMC) in Itogon, Benguet (Gold);
6. Benguet Corporation-Dizon Copper/ Gold Mines (BCD) in San Marcelino, Zambales (Copper);
7. Masinloc Chromite Mines-Benguet Corporation (MCM-BC) in Masinloc, Zambales (Refractory Chromite);
8. Benguet Exploration Mine (BEM) in Tuba, Benguet (Gold);
9. Black Mountain Inc. (BMI) in Tuba, Benguet (Gold);
10. Filminera Resources Corporation (FRC) formerly Banahaw Mining and Development Corp. in Rosario and Bunawan, Agusan del Sur (Gold);
11. CDCP-Basay Mine (CDCP-Basay) in Basay, Negros (Copper);
12. Ino and Capayang Mines (ICM) in Mogpog, Marinduque (Copper);
13. Heritage Mining Corp. (Alamag Processing Group) in Llorente, Eastern Samar (Chemical Chromite);
14. Hixbar Gold Mining (HIXBAR) in Rapu-Rapu Island, Albay (Gold);
15. Romblon Marble Mining (RMM) in Romblon (Marble);
16. Palawan Quicksilver Mines (PQM) in Palawan (Mercury);

17. Philippine Iron Mines (PIM) in Jose Panganiban, Camarines Norte (Iron);
18. Philippine Pyrite Corporation (PPC) in Bagacay, Samar (Pyrite);
19. Silica Sand Mine (SSM) in Palawan (Silica);
20. Surigao Consolidated Mining Co., Inc. (SURICON) in Siana and Mapawa, Surigao del Norte (Gold);
21. United Paragon Mining Corporation (UPMC) in Paracale, Camarines Norte (Gold); and,
22. Vulcan Mining Corporation (VMC) in Cordon, Isabela (Gold);

Due to the unplanned nature of their closure, these mines were effectively abandoned by their operators and left unrehabilitated. Unfortunately, government regulators at the time lacked the law to enforce remediation measures. These regulations came only in 1996, when guidelines on mine rehabilitation and decommissioning were incorporated in the implementing rules and regulations of the Mining Act of 1995. Today, modern large-scale mines operate in accordance with "best practices" techniques, and government regulation has greatly improved in monitoring both exploration and mining activities, as well regulating the final stages of decommissioning and mine closure.

Left unrehabilitated, abandoned mine sites may degrade to form hazards to human and animal life in the form of accessible adits, shafts and workings, as well as associated pollution, such as acid drainage, from old workings and stockpiles. Visual degradation is an issue in some areas, even if the site is not actively eroding. In some places, ongoing erosion can affect land stability, as well as impact re-vegetation efforts and groundwater quality.

The greatest challenge for government is funding rehabilitation efforts. The objective is to put a stable funding mechanism in place that can address the many issues posed by orphaned or abandoned mines. While tapping existing revenue streams generated by mining or creating a fund through a new levy on mining production are the most viable options, this bill also seeks to introduce the concept of Public-Private Partnership in the rehabilitation of abandoned mines. Effective partnerships will assist in dealing with the difficult issues posed by abandoned mine sites, including pollution/contamination, land ownership, liability issues, overlapping jurisdictions, and long-term management considerations. Public-Private Partnerships can facilitate the design of cleanup and rehabilitation strategies that address the foregoing concerns.

Interestingly, for all the perceived dangers posed by abandoned mines, people living in the vicinity of these mines still favour their reopening. After all, these mines had provided employment for residents of the host communities when they were in operation, as well as for those in nearby areas. Mining companies were seen as stable sources of income compared to farming and fishing, which were among the more common means of livelihood of towns that also had mining sites.

In view of the foregoing, immediate approval of this bill is earnestly sought.



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(a)	<i>Abandoned Mine</i>	refers to a mine covered by a mining lease contract or any of the mineral agreements defined under this Act, which is closed without proper decommissioning or has not been in actual operation for a reasonable period of time, and whose mining contractor cannot be found or for which the mining contractor is unable or unwilling to carry out rehabilitation and/or remediation works.
(b)	<i>Ancestral lands</i>	xxx xxx xxx.
(c)	<i>Block or meridional block</i>	xxx xxx xxx.
(d)	<i>Bureau</i>	xxx xxx xxx.
(e)	<i>Carrying capacity</i>	xxx xxx xxx.
(f)	<i>Contiguous zone</i>	xxx xxx xxx.
(g)	<i>Contract area</i>	xxx xxx xxx.
(h)	<i>Contractor</i>	xxx xxx xxx.
(i)	<i>Co-production agreement (CA)</i>	xxx xxx xxx.

- (j) *Decommissioning* refers to the activity or process that begins after cessation of prospecting activities or mineral production, including metallurgical plant production. It involves, among others, the removal of unwanted infrastructure, making excavations and waste repositories safe and stable and surface rehabilitation with a view to negate or minimize any adverse environmental impacts remaining after cessation of mineral production. It includes the after-care or maintenance that may be needed.
- (k) *Department* xxx xxx xxx.
- (l) *Development* xxx xxx xxx.
- (m) *Director* xxx xxx xxx.
- (n) *Ecological profile or eco-profile* xxx xxx xxx.
- (o) *Environmental Compliance Certificate (ECC)* xxx xxx
xxx.
- (p) *Environmental Impact Statement (EIS)* xxx xxx xxx.
- (q) *Exclusive economic zone* xxx xxx xxx.
- (r) *Existing mining/quarrying right* xxx xxx xxx.
- (s) *Exploration* xxx xxx xxx.
- (t) *Financial or technical assistance agreement* xxx xxx
xxx.
- (u) *Force majeure* xxx xxx xxx.
- (v) *Foreign-owned corporation* xxx xxx xxx.
- (w) *Government* xxx xxx xxx.
- (x) *Gross output* xxx xxx xxx.
- (y) *Indigenous cultural community* xxx xxx xxx.
- (z) *Joint Venture Agreement (JVA)* xxx xxx xxx.
- (aa) *Mineral processing* xxx xxx xxx.
- (ab) *Mine Rehabilitation* refers to the process used to repair the impacts of mining on the environment. The long-term objectives of rehabilitation can vary from simply converting an area to a safe and stable condition to restoring the pre-mining conditions as closely as possible with all the area's environmental values intact and establishing a land use capability that is functional and proximate to the land use prior to the disturbance of the mine area.
- (ac) *Mine wastes and tailings* xxx xxx xxx.
- (ad) *Minerals* xxx xxx xxx.
- (ae) *Mineral agreement* xxx xxx xxx.
- (af) *Mineral land* xxx xxx xxx.
- (ag) *Mineral resource* xxx xxx xxx.
- (ah) *Mining area* xxx xxx xxx.
- (ai) *Mining operation* xxx xxx xxx.
- (aj) *Nongovernmental Organization (NGO)* xxx xxx xxx.
- (ak) *Net assets* xxx xxx xxx.
- (al) *Offshore* xxx xxx xxx.
- (am) *Onshore* xxx xxx xxx.
- (an) *Ore* xxx xxx xxx.
- (ao) *Permittee* xxx xxx xxx.
- (ap) *Pollution control and infrastructure devices* xxx xxx
xxx.
- (aq) *President* xxx xxx xxx.

(ar)	<i>Private land</i>	xxx	xxx	xxx.
(as)	<i>Public land</i>	xxx	xxx	xxx.
(at)	<i>Qualified person</i>	xxx	xxx	xxx.
(au)	<i>Quarrying</i>	xxx	xxx	xxx.
(av)	<i>Quarry permit</i>	xxx	xxx	xxx.
(aw)	<i>Quarry resources</i>	xxx	xxx	xxx.
(ax)	<i>Regional director</i>	xxx	xxx	xxx.
(ay)	<i>Regional office</i>	xxx	xxx	xxx.
(az)	<i>Remining</i> refers to maximizing and recovering the remaining minerals from the rejects or wastes of abandoned or decommissioned mines or mining operations;			
(ba)	<i>Secretary</i>	xxx	xxx	xxx.
(bb)	<i>Special allowance</i>	xxx	xxx	xxx.
(bc)	<i>State</i>	xxx	xxx	xxx.
(bd)	<i>Utilization</i>	xxx	xxx	xxx."

SEC. 2. Chapter XI Section 63 of Republic Act No. 7942, otherwise known as the Philippine Mining Act of 1995, is hereby amended as follows:

"Sec. 63. *Mines Safety and Environmental Protection.* All contractors and permittees shall strictly comply with all the mines safety rules and regulations as may be promulgated by the Secretary concerning the safe and sanitary upkeep of the mining operations and achieve waste-free and efficient mine development [Personnel of the Department involved in the implementation of mines safety, health and environmental rules and regulations shall be covered under Republic Act No. 7305.] SUBJECT BUT NOT LIMITED, TO THE FOLLOWING RULES:

- (a) *TAILINGS IMPOUNDMENT.* A CONTRACTOR MUST, AS FAR AS PRACTICABLE, BUILD ITS TAILINGS IMPOUNDMENT FACILITY AWAY FROM CRITICAL WATERSHED DRAINAGE AREAS AND ENSURE THAT THE IMPOUNDMENT FACILITY WILL NOT ENDANGER CRITICAL WATERSHED AREAS OR LOW LYING VALLEYS IN THE EVENT OF EXTRAORDINARY CLIMATE OR WEATHER CONDITIONS. TAILING IMPOUNDMENTS AND DAMS MUST MEET INTERNATIONAL STANDARDS FOR LARGE DAMS AT ALL TIMES, AND TAKE INTO CONSIDERATION THE FOLLOWING KEY SITE SELECTION PARAMETERS:
- (1) THE STORAGE CAPACITY REQUIRED OF THE FACILITY;
 - (2) THE SITE AVAILABILITY, GEOTECHNICAL AND GEOLOGICAL CONDITIONS, THE HYDROLOGY OF THE AREA, AND THE EASE OF THE DAY TO DAY OPERATIONS;
 - (3) LAND OWNERSHIP, RIGHTS AND BOUNDARIES;
 - (4) RARE OR PROTECTED FLORA AND FAUNA;
 - (5) BORROW MATERIALS AVAILABLE AND LOCALITY;
 - (6) SURFACE WATER MANAGEMENT AND FLOOD/RIVER DIVERSION;
 - (7) ENVIRONMENTAL HAZARDS;
 - (8) PROXIMITY TO LOCAL RESIDENTS/INFRASTRUCTURE;
 - (9) PROXIMITY TO LOCAL DRINKING WATER;

- (10) SEEPAGE CONTROL;
- (11) GEOLOGY AND SEISMIC CONDITIONS;
- (b) *PRESERVATION OF TOPSOIL.* THE REMOVED TOPSOIL OR THE MORE PRODUCTIVE HORIZONS OF THE SOIL SHALL BE PRESERVED FOR OTHER USES.
- (c) *RECYCLING OF WATER RESOURCES.* WATER USED IN MINING OPERATIONS SHALL BE RECYCLED. MINING CONTRACTORS SHALL BE REQUIRED TO PROVIDE FOR THE METHODS OR EQUIPMENT FOR THE RECYCLING OR REUSE OF WATER. RELEASED CONTAMINATED WATER SHALL BE TREATED ACCORDINGLY TO MEET NATIONAL STANDARDS. RELEASED WATER MUST AT LEAST BE EQUIVALENT IN QUALITY TO THE BASELINE WATER QUALITY.
- (d) *PROHIBITION FROM USING ACID-GENERATING WASTE ROCK TO BUILD ROADS OR DAMS.* TO PREVENT OR MITIGATE ACID MINE DRAINAGE, THERE SHALL BE A PROHIBITION AGAINST USING ACID-GENERATING WASTE ROCK TO BUILD ROADS OR DAMS OR OTHER INFRASTRUCTURES. THE USE OF SUCH MATERIALS SHALL ONLY BE USED AFTER TREATMENT TO NEUTRALIZE THE EFFECT OF ACID MINE DRAINAGE.
- (e) *REHABILITATION OF ABANDONED MINES.* ALL ABANDONED MINES, SHALL, UPON IDENTIFICATION AND RECOMMENDATION BY THE MINES AND GEO-SCIENCES BUREAU (MGB) BE DECLARED OPEN FOR MINING APPLICATION, AND ALL PRIOR MINING RIGHTS OR CONTRACTS OVER THE SAME SHALL BE RESCINDED, WITHOUT PREJUDICE TO ANY LEGAL ACTION FOR BREACH OF CONTRACT OR DAMAGES THAT THE NATIONAL GOVERNMENT MAY HAVE AGAINST THE CONTRACTOR THAT ABANDONED THE PROJECT.

FOR THIS PURPOSE, THE MGB SHALL CONDUCT THE FOLLOWING ACTIVITIES:

- (1) CONDUCT A SCOPING STUDIES OF ALL ABANDONED MINES AND MINERAL PROCESSING IMPACT AREAS;
- (2) CREATE AN INVENTORY LIST OF ABANDONED MINES;
- (3) PROVIDE THE INFORMATION NECESSARY TO ASSES AND CHARACTERIZE THE SITE;
- (4) DEFINE THE COSTS AND RISKS; AND
- (5) DEVELOP A REHABILITATION PROGRAM TO PRIORITIZE THE AREAS TO BE REHABILITATED TO MITIGATE OBSERVED AND POTENTIAL THREATS TO HUMAN HEALTH AND THE ENVIRONMENT.

MINE SITE REHABILITATION PLANS SHALL AIM TO ESTABLISH A LAND USE CAPABILITY THAT IS FUNCTIONAL AND

PROXIMATE TO THE LAND USE PRIOR TO THE DISTURBANCE OF THE MINE AREA, UNLESS OTHER MORE BENEFICIAL LAND USES ARE PREDETERMINED AND AGREED IN PARTNERSHIP WITH LOCAL COMMUNITIES AND LGUS.

WHERE FEASIBLE, ABANDONED MINES SHALL BE REOPENED TO MINING APPLICATION BY QUALIFIED PERSONS TO MAXIMIZE ITS MINERAL POTENTIAL, RECOVER THE REMAINING MINERALS FROM THE MINE OR ITS WASTE, AND FUND ITS FINAL DECOMMISSIONING AND REHABILITATION. PROVIDED, HOWEVER, THAT IN CASE THE ABANDONED MINE IS REOPENED FOR MINING OPERATIONS, FIFTY PERCENT (50%) OF THE NET MINING REVENUE, CORRESPONDING TO THE GOVERNMENT'S SHARE THEREIN, SHALL BE SET ASIDE TO FUND THE FINAL MINE REHABILITATION AND DECOMMISSIONING PLAN (FMRDP)."

SEC. 3. Chapter XV Section 89 of Republic Act No. 7942, otherwise known as the Philippine Mining Act of 1995, is hereby amended as follows:

"Sec. 89. *REHABILITATION FEE, Filing Fees and other Charges.* ALL CONTRACTORS WITH ACTIVE MPSA AND FTAA SHALL PAY TO THE NATIONAL TREASURY, FOR DEPOSIT IN A FUND, A REHABILITATION FEE EQUIVALENT TO THE MINE WASTES AND TAILINGS FEE AS PROVIDED FOR IN THIS ACT. SUCH FEE SHALL BE PAID NO LATER THAN THIRTY DAYS AFTER THE END OF EACH CALENDAR QUARTER BEGINNING WITH THE FIRST CALENDAR QUARTER OCCURRING AFTER DECEMBER 31, 2014, AND ENDING DECEMBER 31, 2024.

The Secretary is also authorized to charge reasonable filing fees and other charges as he may prescribe in accordance with the implementing rules and regulations."

SEC. 4. *Establishment of an Abandoned Mine Rehabilitation Trust Fund (AMRTF).* There is hereby created an Abandoned Mine Rehabilitation Trust Fund (AMRTF) to fund rehabilitation of abandoned mines, which fund shall be administered by the Secretary of the Department of Environment and Natural Resources. The fund shall consist of amounts deposited in the fund, from time to time derived from:

- (a) The rehabilitation fees levied under Section 89 of this Act;
- (b) Any user charge imposed on contractors for land reopened to mining operations under Section 76 (c), after allowed expenditures have been deducted;
- (c) Recovered money as provided for under this title;
- (d) Interest income earned by the AMRTF; and
- (e) Donations by persons, corporations, association and foundations for the purpose of this chapter.

SEC. 5. *Use of the AMRTF.* The AMRTF may be used for the following purposes:

- (a) Reclamation and restoration of land and water resources adversely affected by past mining operations, including but not limited to reclamation and restoration of

abandoned surface mine areas, abandoned processing areas, and abandoned mine waste storage areas; planting of land adversely affected by past mining to prevent erosion and sedimentation; prevention, abatement, treatment, and control of water pollution created by mine drainage including restoration of stream beds, and construction and operation of water treatment plants; prevention, abatement, and control of mine subsidence; and establishment of self-sustaining programs to insure private property against damages caused by land subsidence resulting from underground mining;

- (b) Acquisition and filling of voids and sealing of abandoned mine tunnels, shafts and entryways;
- (c) Acquisition of land as may be necessary to properly rehabilitate and reclaim an abandoned mine;
- (d) All other necessary expenses to accomplish the purpose of this Act.

SEC. 6. *The Abandoned Mine Rehabilitation Trust Fund (AMRTF) Committee.* An AMRTF Committee shall be created and shall have the following duties and responsibilities:

- (a) Set priorities of abandoned and orphaned mines for rehabilitation;
- (b) Manage, operate, monitor, and administer the AMRTF that shall be established and deposited in a Government depository bank in accordance with the provisions of these implementing rules and regulations;
- (c) Resolve issues involving rehabilitation programs that shall be implemented;
- (d) Hire credible experts to do independent studies and researches on the environmental, engineering and sociocultural impacts of the projects in order to assist it in making judicious decisions;
- (e) Deputize an MMT to serve as its monitoring arm with the regional Office concerned taking the lead role;
- (f) Maintain independent and specific books of records for all transactions of the AMRTF;

SEC. 7. *Composition of the AMRTF Committee.* The AMRTF Committee shall be composed of the following:

- (a) The Secretary of Environment and Natural Resources as Chair;
- (b) The secretary of Interior and Local Government as Co-Chair;
- (c) The Director of the Mines and Geo-Sciences Bureau as Member;
- (d) The Director of the EMB as Member;
- (e) A Representative from the LGU as Member;
- (f) A Representative from the NGOs and community organizations, including People's Organizations, church or civic organizations, as Member; and,
- (g) A Representative from the mining industry as Member.

In case the Chair and/or Co-Chair cannot personally attend a meeting or function of the AMRTF Committee, he/she shall designate or appoint a representative who shall be duly authorized in writing to have full power and authority to act in his/her behalf.

The MGB shall provide the technical, secretariat and administrative supports, as may be deemed necessary, to the Committee.

SEC. 8. *Meetings of the AMRTF Committee.* The Committee shall hold quarterly meetings: *Provided*, That any member of the Committee may call a special meeting as he/she may deem necessary: *Provided, further*, That notices of the meetings stating the date, time, place and

agenda therefore shall be sent by the Committee Chair or Co-Chair to all members at least ten (10) working days before the intended date of the meetings. In all meetings, the presence of at least four (4) members shall constitute a quorum to conduct business. The meetings shall be presided by the Chair or, in his/her absence, by the Co-Chair. In the absence of the Chair and the Co-Chair, the meetings shall be presided by either of their representatives. Unless otherwise provided herein, a majority vote of the members present in the meeting shall be required to give effect to any resolutions or decisions of the Committee. The presiding officer of the meeting shall not vote in any matter brought before the Committee except in case of a tie.

SEC. 9. *The Multipartite Monitoring Team (MMT)*. An MMT shall be deputized by the AMRTF Committee to serve as the monitoring arm of said Committee and shall be composed of the following:

- (a) A Representative from Regional Office as Head;
- (b) A Representative from Department Regional Office as Member;
- (c) A Representative from the EMB Regional Office as Member;
- (d) A Representative of the Contractor/Permit Holder as Member.
- (e) A Representative from the affected community(ies) as Member;
- (f) A Representative from the affected ICCs, if any, as Member; and,
- (g) A Representative from an environmental NGO.

The MMT may request the AMRTF Committee for technical assistance when deemed necessary. The Head of the MMT shall submit to the AMRTF Committee, at least five (5) working days before the scheduled regular meetings of the latter, a report on the status and/or result of its monitoring activities.

SEC. 10. *Authorized Person to carry out rehabilitation activities*. In the case of abandoned mines where no mining application has been filed or approved, the AMRTF Committee may authorize a person to carry out all or any of the rehabilitation activities enumerated under Section 78 of this Act on land on which an abandoned mine exists.

SEC. 11. *Notice of entry*. (a) An Authorized Person entering land under this part must give the owner and the occupier of the land written notice of the entry—

- (1) if the carrying out of rehabilitation activities is necessary to preserve life or property—within 10 business days after the entry is made; or
 - (2) otherwise—before entering the land.
- (b) The written notice must state the following—
- (1) when the entry was, or is to be, made;
 - (2) the purpose of the entry;
 - (3) that the Authorized Person is permitted under this Act to enter the land without consent or a warrant;
 - (4) the rehabilitation activities carried out or proposed to be carried out.

SEC. 12. *Obligation of authorized person in carrying out rehabilitation activities*. An authorized person who enters land under this part—

- (a) must not cause, or contribute to, unnecessary damage to any structure or works on the land; and,
- (b) must take all reasonable steps to ensure the person causes as little inconvenience, and does as little other damage, as is practicable in the circumstances.

SEC. 13. *Final Relinquishment of Rehabilitated Areas.* The Contractor/Authorized Person shall prepare and submit a Final Rehabilitation Report (FRR) with third party Environmental Audit (EA) for approval by the AMRTF Committee, if, based on the assessment of the Contractor/Permit Holder, that the objectives of rehabilitation have been achieved.

The AMRTF Committee may, after due review and evaluation of the FRR with EA, conduct field validation of the reported accomplishments, recommend revision/s to the submitted report, and/or require additional rehabilitation works to be undertaken: *Provided*, That if residual care is still needed, the Contractor/Permit Holder shall submit a Site Management Plan detailing how the identified residual rehabilitation commitments are to be managed: *Provided further*, That the AMRTF Committee shall issue a Certificate of Final Relinquishment to the Contractor/Authorized Person signifying approval of the FRR with EA and freeing the Contractor/Authorized Person from any further obligations in so far as the rehabilitated area/s are concerned.

SEC. 14. *Penalties.* Any person, corporate officer, agent or director, on behalf of a mining contractor, who knowingly makes any false statement, representation or certification, or knowingly fails to make any statement, representation or certification required in this section shall, upon conviction, be punished by a fine of not more than One Million Pesos (Php1,000,000.00) or by imprisonment for not more than one year, or both.

The MGB shall conduct such audits of mineral production and the payment of fees under this subchapter as may be necessary to ensure full compliance with the provisions of this chapter. For purposes of performing such audits the MGB shall, at all reasonable times, upon request, have access to, and may copy, all books, papers, and other documents of any person subject to the provisions of this chapter. The MGB may at any time conduct audits of any mining and reclamation operation, including without limitation, processing plants, as may be necessary in the judgment of the MGB to ensure full and complete payment of the fees under this subchapter.

SEC.15. *Separability Clause.* If any of the provision of this Act is held or declared to be unconstitutional or invalid by a competent court, the other provisions hereof shall continue to be in force as if the provisions so annulled or voided had never been incorporated in this Act.

SEC. 16. *Repealing and Amending Clause.* All laws, executive orders, presidential decrees, rules and regulations, or parts thereof which are inconsistent with any of the provisions of this Act are hereby repealed or amended accordingly.

SEC. 17. *Effectivity Clause.* This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in two (2) national newspapers of general circulation.

Approved,