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27 February, 2009

Norwegian OECD Contact Point
Ministry of Foreign Affairs
Department for Culture, Public Diplomacy and Protocol
Section for Economic and Commercial Affairs

Hand delivered

Your reference: 08/08468-

Attention: Are-Jostein Norheim

Dear Mr. Norheim,

Thank you for your letter dated 5 February 2009. Intex Resources appreciates very much the chance to address Framtiden i våre Hender's (FIVH's) concerns regarding the process behind the development of Mindoro Nickel.

Intex Resources is dedicated to the responsible development of the natural resources on Mindoro. We believe that private investment through modern mining, if done properly, can make a positive and long lasting difference to the people of Mindoro. Our company is already increasing the welfare of many through our community relations programs. We also have the opportunity to make a lasting victory in the fight against poverty if Mindoro Nickel proves to be technically, financially, environmentally and socially viable.

Legislation in the Philippines

Before we address FIVH's concerns, we would like to state that the mining industry in the Philippines is heavily regulated today. In 1995 a new Mining Act was passed, and in 1997 the Indigenous Peoples' Rights Act (also known as the IPRA Law) was passed. A major provision of the IPRA Law was the creation of the National Commission on Indigenous Peoples (NCIP), one of whose principal tasks is to formalize the borders of ancestral domain for the different Indigenous Peoples (IP) tribes - a task deemed as a necessity in order to protect the legitimate claims of IPs nationally.



We consider the Mining Act of 1995¹ to be one of the most modern and all encompassing pieces of mining legislation in the world today. It directly ties social and environmental needs to the permitting process, and is designed to allow only projects that will have a positive impact on their host communities. The legality of this Act has been challenged up to, and upheld by, the Supreme Court of the Philippines, so we are confident that it is robust.

The IPRA Law of 1997² is in line with the international trend of self determination for IPs. In our context, it ensures that the IPs that are directly affected by mining projects also benefit from them. This legislation has also been challenged up to the Supreme Court of the Philippines, where its members voted 7 for and 7 against, its constitutionality. Since there was an even vote and under Philippine jurisprudence, the Philippine Congress acted regularly in enacting the law. The IPRA Law is presumed valid. Since 1998, there have also been rules and regulations regarding the implementation of the IPRA³, and these have been updated from time to time by the NCIP. However, the rules in securing the free and prior informed consent (FPIC) were not comprehensive in the early days and it was only in 2006 through NCIP Administrative order No.1, Series of 2006⁴, that comprehensive and clearer rules evolved.

Treatment of Indigenous Peoples (IPs)

In addition to the comprehensive laws and institutions listed above, our treatment of those IPs that are directly affected by our activities has been scrutinized by a representative of the Norwegian Government.

In October 2007, the Norwegian Ambassador to the Philippines, Ståle T. Risa conducted an investigation into allegations against our activities in Mindoro. As part of his fact finding he conducted a meeting with the Mangyans who originally signed the MOA with Mindex in 1999. This meeting has been videotaped. In this meeting the leaders of Kabilogan, and Sadaki (most of its members were former Kabilogan who were signatories to the 1999 MOA), commented that they have been treated with respect by our company and that they understand the MOA that they signed in 1999.⁵

In 2008 Kabilogan and Sadaki signed an MOA for the remaining part of the Mindoro Nickel concession. This is a repeated endorsement of the process for the Mindoro Nickel Project, and the involvement of Intex Resources.

¹ Attachment 1

² Attachment 2

³ Attachment 3

⁴ Attachment 4

⁵ Attachment 5



Intex Breaches the OECD General Policies (Chapter 2)

Representation

We have tried our best to address FIVH's concerns regarding the 1999 process, however we must note that the manager who was in charge of the project at the time has not been with the company for many years, and has never represented Intex Resources.

As far as Intex Resources can see, the 1999 process met the strict criteria of transparency where all parties, including anti-mining advocates like Fr. Edwin Gariguez, ALAMIN, were invited and present during a series of consultations. These were conducted publicly where even non-IPs were welcome to listen and participate. In one of the public consultation meetings, a translation of the final 1999 MOA draft into the Alangan-Mangyan language was given to Fr. Edwin Gariguez. Mr. Gariguez has since claimed that the agreement was only prepared in English.

The 1999 MOA, in both English and Tagalog, the main language of the Philippines, was signed twice, the first time in the Barangay Hall of Villa Cerveza, in the presence of many people including the representatives of NCIP and the barangay officials. A week later, a more formal and elaborate signing ceremony, also in both the English and Tagalog versions, was conducted at the Royal Traders Hotel in Manila and witnessed by then NCIP Chairman Atty. David Daoas. Please see both the English⁶ and Tagalog⁷ versions of the 1999 MOA.

When this MOA was negotiated in 1999, the company followed the rules and regulations prevailing at that time. This has been confirmed by the present leadership of the NCIP in the attached certification that states that the 1999 MOA is valid.⁸

By way of historical background, there were then two Mangyan organizations known as Sanama and Kamti. Neither of these groups were legally eligible to participate in the MOA consultations and negotiations as they did not reside in the impact or affected area⁹. Nonetheless, Mayor Salamat, the leader of the Tadyawan tribe and the head of the KPLN at that time, was invited and in fact attended the several public consultation meetings conducted by the NCIP.

⁶ Attachment 6

⁷ Attachment 7

⁸ Attachment 8

⁹ Rules and Regulations Implementing Republic Act No. 8371 (IPRA of 1997) Rule IV: Right to Self-Governance and Empowerment, Part III: Instrument of Empowerment, Section 4. Scope of ICCs/IPs whose Consent shall be Secured.

Separately, the Mangyans who were going to be directly affected by the Mindoro Nickel Project, because they lived on the project concession, decided to organise themselves into a group called Kabilogan¹⁰. The provincial arm of the NCIP helped these Mangyans to organise.

Agreement in Local Languages

Both the 1999 and 2008 MOAs were written in English and Tagalog, as mentioned earlier. Before imprinting their thumb marks on both the English and Tagalog versions of the MOA, the Mangyans were assisted by a Mangyan who translated the English version into both Tagalog and the Alangan-Mangyan dialect.

The 1999 MOA also had a written translation into Alangan-Mangyan as reflected in paragraph 15 of the MOA. The transparency of the 2008 process rendered it unnecessary to have a written translation into Alangan-Mangyan, as there was an oral translation and a written translation was not requested.

Current Activity

Regarding Intex Resources' current activity, it appears that many of FIVH's concerns mirror the issues and concerns in a position paper by Father Edwin A. Gariguez of the Mangyan Mission. This paper was entitled "Manufacturing the Indigenous Peoples' Free Prior and Informed Consent (FPIC) under the NCIP Guidelines (A.O. No. 1, Series of 2006): A Case Study of Mindoro Nickel Project of Crew Minerals/Intex Resources and Aglubang Mining Corporation", and it manifested Fr. Gariguez's opinions with reference to the Free and Prior Informed Consent (FPIC) process that was conducted in July 2008 by the Philippine Government's National Commission for Indigenous Peoples (NCIP).

On the basis of Fr. Gariguez's position paper, the NCIP – the Philippine government entity tasked with overseeing the interests of Philippine IPs and in this particular case, the FPIC process – caused the formation of a Fact-Finding Team to look into and investigate the allegations contained in the said position paper. On October 9 2008, this fact finding team submitted its findings and recommendations.¹¹

In summary, the NCIP Fact-Finding Team reported to the NCIP Commission that the Community Consultative Assembly (CCA) and consensus-building activities that were undertaken by Aglubang/Alag-Ag/Intex Resources in July 2008 were in

¹⁰ Rules and Regulations Implementing IPRA, Rule IV: Right to Self-Governance and Empowerment, Part I: Self-Governance and Political Leadership Systems, Section 7: Right to determine and decide own development and right to develop as Peoples. and Part II: Role of Peoples Organisations, Section 1: Right to Organise and Associate for Collective Actions.

¹¹ Attachment 9



accordance with FPIC guidelines and the affected areas and IPs, whose consent needed to be obtained, were properly identified.

Having made this conclusion, the NCIP Fact-Finding Team recommended that “the Ancestral Domains Office (ADO) evaluate the endorsed documents and Memorandum of Agreement re. the Aglubang and Alag-ag FPIC and CP (Certificate of Pre-Condition) application and submit its recommendation to the Commission en banc for their deliberation.”

On this basis, the NCIP Commission en banc approved the issuance of the requisite Certificate of Pre-Condition that essentially validates the legality of the FPIC process and ratifies the Memorandum of Agreement between the legitimate IPs in the impact tenement area and Aglubang/Alag-ag/Intex Resources.

We are making a strong point about the legality and correctness of the legal procedure that Intex Resources had to undergo in its application for a Certificate of Pre-Condition.

The leadership of the Mangyans who live on the project concession have also written a letter to the NCIP Chairman stating that they support the 2008 FPIC process.¹² This letter also details the Mangyan leaders’ position on other issues that have been questioned by FIVH.

Intex Breaches OECD Guidelines on Fighting Corruption (Chapter 6)

P2-million Budget Allocation

The reference to a P2-million donation to the NCIP is a misinterpretation of a disclosure made by Mr. Andy Pestaño, Community Relations Manager of Intex Resources, to the attendees of the CCA on July 3, 2008.

Mr. Pestaño clearly said that Intex Resources earmarked a budget allocation of P2-million for logistics needed to undertake a survey leading to the completion of and issuance of the Certificate of Ancestral Domain Title (CADT) applications of the Mangyan community.

The entire proceedings of the CCA were recorded on both video and audio to supplement the standard manual transcription and there is nothing at all on the record to indicate a reference to a P2-million donation.

¹² Attachment 10



The official records are with the NCIP and any entity who wishes to challenge the facts can access the original records. The audio recordings are available at Intex Resources' Oslo office.

Intex Resources is legally obliged to provide for such logistical support under the 1999 MOA that it has with the Mangyans residing in the direct impact areas. We refer to Section 3.2(1) of the 1999 MOA between the Kabilogan ng Mangyan and Mindex Resources Development, Inc. – the predecessor-in-interest of Crew Minerals/Intex Resources.

This provision was specifically requested from Mindex Resources by the Mangyans to help prevent unauthorized intrusion of Mindoro lowlanders into their ancestral domain. Officially titling their ancestral lands under the name of their community, thus, ranked among the top priorities of Mangyans, who made a follow-up of this request in November 2007.

Additionally, we wish to point out that the P2-million budget allocation was not turned over either to the NCIP or the Mangyans. Intex Resources had full control and management of drawdowns from this budgetary allocation – which was based on a plan drawn up with the NCIP.

In all, only P901,399.60 out of the entire P2-million budget allocation was actually spent in accordance with a Work and Financial Plan (WFP) that was prepared by the NCIP.

The fact that it was subsequently learned that the WFP was not signed by authorized NCIP officials does not detract from the completion of the FPIC in accordance with established guidelines. During this time, the former Regional Director on top of the process died of heart attack and the document was lost in translation. The report of the NCIP Fact-Finding Team took note of the non-signing of the WFP and recommended that the accountable NCIP personnel who had a hand in Intex's disbursement of the funds should be made to explain.

P10-million River Dike

Regarding a comment of a P10-million that was supposedly donated to the village of Alcate for the construction of a river dike. We would like to emphasize that the repair of the river dike is totally unconnected with the FPIC process. The company has been open about this activity, and has had information detailing its involvement on its website since May 2008.¹³

¹³ Attachment 11



Local barangay officials of Alcate requested assistance from Intex due to the unavailability of government funding. The request carried with it an urgency considering the fact that the rainy season in Alcate can be as long as seven months and this town is flood-prone.

From the perspective of Intex Resources, the construction of the river dike was equally important since Alcate is the lone and most direct access route to the project concession. To repair the road was therefore a necessity to access the concession area for the company's employees. An additional benefit is that two villages which would otherwise have been isolated were able to secure access to the outside world.

Intex Resources wishes to stress that the P10-million is not a donation but a financial assistance program subject to the following conditions:

- The amount disbursed would be credited as part of future social benefits that Intex Resources would be required to undertake once the mine becomes operational
- The allocated amount was fully controlled by Intex Resources such that disbursements were directly paid to the contractor after a certification was issued by both the representatives of Intex and the barangay that the billing was based on an actual and verified accomplishment; and
- The role of the local government unit of Alcate was to ensure that the repair would be in conformity with the agreed work plan in coordination with the representative of Intex.

Invitations and Transport to the Consultative Community Assembly (CCA) Meeting

Intex Resources was not involved with the invitations for the CCA meeting, as this is the responsibility of the NCIP under the FPIC guidelines.

Much has been said about the different Mangyan organizations such as Kabilogan, Sadaki, Sanama, KAMT and Sasama. Mangyan membership in any of these organizations is irrelevant under the legal framework for the Philippine FPIC process.

Regardless of a Mangyan's organizational affiliation, the only test for being invited to the Consultative Community Assembly meeting is specified in Section 26 (b) of the FPIC Guidelines of 2006 which reads as follows:

"b. Consultative Community Assembly. The participants to the CCA are the elders or leaders, the representatives of IP households/families within the area affected, the representatives from the applicant, the FPIC Team, the representatives from

development NGOs duly accredited by the NCIP and authorized by the Community present within the ancestral domain area, if there are any...”

On this note, the NCIP correctly observed this provision of the FPIC guidelines. However, in the spirit of transparency, the NCIP also invited a broad spectrum of other stakeholders who were not required to be invited for the CCA. Among those who received special invitations were the LGU (local government unit) officials of Sablayan, LGUs and representatives of national government agencies, and even the NCIP office of Oriental Mindoro (which was represented by Mr. Roberto Almonte, OIC of the Legal Office).

We are not aware that the Mangyan Mission has been authorized by the Mangyans to represent their interests but we wish to note that the NCIP nonetheless invited the Mangyan Mission to the CCA and was in fact represented by Fr. Gariguez, among others.

A related issue that was raised by Fr. Gariguez is the claim that there were Mangyans who were unable to attend the CCA because of the selective invitation and consequently, were unable to present their anti-mining opposition.

However, based on the official records of the NCIP, all the representatives of Mangyans in the affected area were invited and present during the Consultative Community Assembly on July 3, 2008.

We also wish to point out that the CCA is neither the venue nor the forum to thresh out pro- or anti-mining views.

A CCA is required by law to be organized by the NCIP to ensure that the free and prior informed consent of indigenous peoples in the impact areas is obtained under the most transparent of circumstances.

With reference to the propriety of providing transportation facilities to Mangyans, Intex Resources wishes to stress that this is neither illegal nor irregular. In fact, current laws and their implementing rules and regulations actually require FPIC applicants to ensure that residents of impacted areas have a means of attending the CCA.

It is in the spirit of such law – specifically Section 6 of the Implementing Rules and Regulations of the IPRA Act – that Intex Resources made arrangements for transportation facilities for Mangyan residents in the tenement areas.

We wish to note that transportation facilities were also provided to Mangyans with anti-mining advocacies. Unfortunately, their presence at the CCA was irrelevant

since the decision-making for the FPIC process is limited to residents of the impact areas.

We wish to express our deep concern over the manner by which oppositors to the Mindoro Nickel Project bussed the anti-mining Mangyans to the venue of the CCA. Buses that were used to transport anti-mining Mangyans were observed to have been overcrowded way beyond the rated seating and (even standing) capacity. Quite a number of the anti-mining Mangyan passengers were even positioned on the roof of the vehicle – unnecessarily endangering the Mangyans' lives.

Information on the Environment

In reference to FIVH's concern that insufficient information was given at the CCA meeting, in particular that no information was given on the disadvantages and negative effects on the environment, soft copies of both the audio and video coverage of the meeting have been given to the NCIP.

The transcripts and audio/video files clearly show the comprehensiveness of our presentation – covering a basic mining module, nickel and its uses, the mining process, Intex initiatives in areas to be affected by the project, the plant process, the materials management area, the pier, the rehabilitation and decommissioning, the mitigating measures, the relevant mining laws, the legal rights of IPs, the monetary benefits that would accrue to IPs.

To ensure a meaningful understanding of the presentation, Mr. Pestaño spoke in Tagalog (the primary Philippine language/dialect) and opened the presentation by asking the attendees if there was anyone who does not understand Tagalog. Mr. Pestaño further asked if there was anyone who preferred to have a translator into the Mangyan dialect. That these questions were asked is a display of our candour and desire to be fully transparent.

Moreover, the legal framework in the Philippines does not bestow upon the NCIP during the FPIC process the full resolution of all environmental issues, as this is tackled in the EIA/EIS process where the Mangyans are one of the stakeholders who would be required to attend public consultations and eventually, the public hearing prior to the issuance of the ECC.

A list of elders/chiefs must be compiled

Both the NCIP and Intex compiled a list of elders/chiefs who were presented at the CCA meeting.

Under the FPIC guidelines, a project proponent is required to consult affected IPs and undertake an FPIC process to obtain the consent of IPs in the impact area. Along this line, the initial determination of the affected area was made during the field-based investigation (FBI) conducted by the NCIP Provincial Office.¹⁴

The outcome of the FBI showed that the impact areas are all within Sablayan, Occidental Mindoro. With the finding of the impact and affected areas, the NCIP identified during the FBI the IPs whose consent was to be obtained. A census of all households within the contract area was also undertaken. Please see the results of this census attached.¹⁵

The NCIP team also used data on the identified and validated list of elders/leaders who were convened during the April 22-28, 2008 genealogical study and verification and validation of elders/leaders for the CADC 24 conversion process. Please see the attached lists.¹⁶

The same elders/leaders who were identified and validated during the conduct of activities for their CADC 24 conversion, were recognized during the early part of the CCA. They were, however, disturbed because of the unruly behaviour of NGOs, other IPs and visitors present during the Assembly. In fact, the audio/video coverage of the CCA provides an interesting insight into Fr. Gariguez's comportment during the assembly.

With reference to other Mangyans/IPs who were complaining that they should also have been consulted since they are within the affected area, findings showed that they are from another community located in the island of Mindoro, but in another province (Oriental Mindoro).

There were also some IP/Mangyan claimants/beneficiaries of CADC 024 but validation showed that they are not within the portion of the ancestral domain affected by the Mindoro Nickel Project.

Lack of Respect for the Local Community

Intex Resources ensures that all of its corporate activities are legal, transparent and beneficial to all the affected stakeholders of the Mindoro Nickel Project.

As part of our transparency and governance, Intex Resources has been in correspondence with local government units on Mindoro Island.

¹⁴ The Free and Prior Informed Consent (FPIC) Guidelines of 2006, Section 24. Validation of the List of Elders/leaders; When and How. Except in ancestral domain areas where the elders/leaders are already identified and recognized by the NCIP...

¹⁵ Attachments 12 & 13

¹⁶ Attachments 14 & 15



We have specifically written a letter to Oriental Mindoro Governor Arnan Panaligan – who’s Provincial Council enacted the 25-year moratorium on mining activities – and informed him that Intex is mindful of the said Provincial Ordinance.

As a guiding rule, all of Intex’s actions are guided by the legal opinions rendered by the appropriate Philippine national government agencies in the executive branch, all of which have consistently established the supremacy of national laws and policies over local ordinances. Our legal advisors have advised us that the 25-year moratorium is not legally binding since it was enacted after Intex Resources had entered into a partnership with the Philippine National Government.

A number of governmental authorities have furthermore disputed the legality of the 25-year moratorium since it is in conflict with Philippine national policies, although it remains a political issue. Some of the legal opinions rendered include:

- Department of Interior & Local Government (DILG) Opinion No. 39, Series of 2002;
- Department of Justice (DOJ) Opinion No. 8, Series of 2005;
- Department of Environment and Natural Resources Opinion dated May 20, 1999 on the Query of Hon. Demetrio Sonza; and
- Department of Environment and Natural Resources Opinion on the Agusan Petroleum FTAA dated October 8, 2008.

Intex Resources is a guest in the Philippines and more specifically on the island of Mindoro. Any final decision made by the relevant Philippine authority will be respected by the company. We respect and acknowledge political initiatives in various levels of the national and regional administrations. The said moratorium is considered controversial by some, and could be challenged. Our stand is that Intex Resources is acting in accordance with laws and regulations. We believe we are acting on good legal ground but also respect legal decisions and legislative requirements. The Mineral Production Sharing Agreement (MPSA) should be considered as establishing Intex as the contractor of the national government. The Intex counterpart – the national government – has explicitly stated that we are in line with the relevant legal framework.

With respect to the claim of Intex Resources’ inability to build confidence and mutual trust, it would be premature to even assume such a sweeping conclusion.

The company has been conducting education and information campaigns before various stakeholder groups and this year, will move on to a campaign to enlist social acceptance for Mindoro Nickel Project.



To date, the Municipal Councils of two municipalities in Oriental Mindoro have signed a Memorandum of Agreement with Intex Resources, indicating their full support for the project. This development directly belies the claim that the project does not have the support of local stakeholders.

Intex Resources recognizes that a lot more ground would be needed to raise the level of social acceptance for the Mindoro Nickel Project. Beyond doubt, there is today a growing wave of support as manifested by the documented MOAs with the municipalities of San Teodoro and Pola. Thus, it would be more accurate to state that Fr. Gariguez/Mangyan Mission are attempting to present the proponents for mining as less than they actually are today.

The Mangyan Mission's claimed representation of the interests of the affected IPs/Mangyans is ironic. The facts show that the affected Mangyans/IPs unanimously voted in favour of a Memorandum of Agreement with Intex Resources – a tribal decision which is incongruent with the anti-mining advocacy being pursued by the Mangyan Mission.

The direct conflict of interest of the Mangyan Mission versus the wish of Mangyans in the impact or affected areas to allow mining activities, has compelled the NCIP Fact-Finding Team to recommend that NGOs wishing to represent IPs should be equally required to undertake an FPIC process before they can be accredited to undertake advocacy work for IPs.

FPIC Breach on Environmental Consequences

This concern stems from a fundamental misunderstanding of Philippine laws on mining and on the FPIC process.

The FPIC guidelines of the NCIP state clearly that the ultimate findings on the Environmental Impact Assessment/Statement – which is an on-going work-in-progress – are not a pre-requisite to the FPIC process. Neither is the potential impact of mining operations a pre-condition to the FPIC process.

It is the right of an IP group to undergo an FPIC with a project proponent even before the completion of the EIA/EIS. In fact, it is impossible to have a completed EIA without an approved FPIC. This is because an EIA on ancestral land can be undertaken only after an FPIC approval by an IP group. It is the FPIC approval which will allow Intex Resources access to Mangyan ancestral land and undertake field investigations and environmental studies.

Nonetheless, the rights of the Mangyans to informed consent are not prejudiced by having permitted the FPIC process to precede the completion of the EIA/EIS.



It is clear that the EIA/EIS is a pre-requisite for the issuance of an Environmental Clearance Certificate (ECC). However, the Department of Environment and Natural Resources (DENR) will still require a project proponent to undertake a public hearing prior to the final issuance of the ECC. The public hearing should cover all stakeholders. Any objection from the public or from the affected IPs will be considered for further study. The ECC will not be issued until the objections or issues are eventually resolved.

Hence, even though the FPIC or MOA with the Mangyans now allows Intex Resources to undertake activities up to mining itself, no mining development or operation can be authorized to proceed without the issuance of the final ECC. And a final ECC will not be approved and issued until the negative impact/studies are resolved.

Thus, while the FPIC process is an important requisite for the Mindoro Nickel Project, it is by no means the single requirement for the whole mining operation to proceed. There are other equally important procedural requirements that can make or unmake a project.

Interestingly, the MOA between Intex Resources and the Mangyans contain a provision for an active and continuing dialogue about the whole mining process so that negative impacts can be anticipated, mitigated or eliminated.

For a comprehensive appreciation of the FPIC process that Intex Resources undertook, attached is a timeline that details the tasks for the whole process which spanned a period of 21 months beginning February 2007 until October 2008.¹⁷

Conservation of the Environment – consequences and plans (Chapter 5)

Intex is currently conducting environmental and social baseline studies within the Project area for its environmental database as a requisite to the preparation and submission of the Project's Environmental Impact Statement (EIS) and acquiring an Environmental Compliance Certificate (ECC).

As a rule, the environmental database that will be generated from the studies shall be the baseline information for the preparation of the Project's EIS. The EIS is a document that contains the effects and impacts (positive and negative) of the project to the people and the environment. It also contains the Environmental Management Program and the Environmental Monitoring Program that will be implemented by Intex to address the negative impacts of the project.

¹⁷ Attachment 16



The allegation in this complaint is baseless. Under the prevailing provisions of the Philippine EIS System, DAO 2003-30 of PD 1586, the consultation process must be conducted by the proponent Intex to all stakeholders in the Project's direct impact area to get the issues and concerns about the proposed project.

Since the early part of 1999, Intex Resources and its predecessors have conducted a series of consultations with the different stakeholders, including the indigenous peoples within the direct impact areas (as prescribed in the IPRA law and identified in the stakeholders list). In compliance with the provision of the IPRA law, Intex has had to secure a Certificate Pre-Condition (CP) from the directly affected IPs to be issued by the NCIP prior to the conduct of any activity inside the IP area. The permit to conduct environmental and social baseline studies can only be started after securing the CP from the directly affected IPs. This condition of the IPRA law has been observed by Intex.

The company recognizes the importance of watershed development. With the understanding of the importance of the watershed, Intex Resources has unilaterally undertaken reforestation and rehabilitation of degraded mountain slopes even prior to the actual mining operation to enhance the water quantity and improve the water quality of the water sources in the area.

The Mindoro Nickel Project will provide a watershed development program to address and prevent illegal logging/tree cutting activities and present solutions to soil erosion and landslides that is causing the siltation of major river systems and waterways in the area. The siltation of rivers is causing the flooding of rice lands downstream. The application of bio-engineering technology can provide a lasting solution to the problem of massive soil erosion problem upstream of the Aglubang, Ibolo and the Mag-asawang Tubig rivers.

In support of its watershed development program, Intex Resources has established four forest nurseries strategically located in the communities near the proposed planting areas to provide the required planting materials. The result of the terrestrial flora and fauna studies will assist the Company in determining the appropriate species for its watershed development program. Likewise, forest rangers are hired to provide patrol and secure the tenement area from any illegal activities.

Negative impact is always associated with development projects such as mining. However, mitigating measures to avert the negative effect of mining operations on the environment can be developed and implemented. Details of the mitigating measures are provided in the EIS to be submitted for approval by DENR-EMB. These measures include the program on pollution prevention and



control. Intex policy is to abide by the provisions of applicable Philippine and International laws on the protection and enhancement of the environment and the people where it operates.

Under the Philippine EIS System, the consultation process does not stop until the project decommissioning stage has been completed. Consultation with all project stakeholders is a continuing process. It starts during the pre-development phase, development phase, operation phase, rehabilitation and project decommissioning phase. A public hearing to be initiated by the DENR - Environmental Management Bureau with all the stakeholders who have interest in the project are invited to attend and present their side about the project. For the convenience of all project stakeholders, this hearing will be held at the project site. Invitations will be announced and published in a newspaper with national circulation to inform all parties to attend. Therefore, the consultation in a wider scope is still to be announced.

In closing, Intex Resources steadfastly maintains a transparent stance with reference to plans for the placement of waste, consequences for the environment and mitigation of risks.

Even as baseline studies and an Environmental Impact Assessment (EIA) study are currently being undertaken, Intex Resources will continue to disclose in its public information campaigns the latest material information on environmental risks and mitigating measures with respect to the Mindoro Nickel Project.

The environmental baseline studies and the EIA are to be viewed as a work-in-progress and the Company's position is for prompt disclosure of the latest available facts to stakeholders as soon as the information becomes available.

As a concrete example and manifestation of the Company's sensitivity to stakeholder concerns, we take this opportunity to note FIVH's comment that Intex Resources has provided different information on how deposits will be made – whether it will be marine or land-based.

In this regard, we would like to point out that the choice of whether to go marine or land hinges on two critical criteria:

- It should be socially acceptable
- It should be environmentally sustainable.

Essentially both marine and land-based deposits of process residue entail acceptable risks that, however, can be offset by mitigating measures.



Initially, the preference was for a marine-based deposit, which is environmentally sustainable. But because this mode was not socially acceptable, Intex Resources has deferred to the sentiments of its stakeholders and is now studying land-based deposit of mine waste.

Intex Resources recognizes that its stakeholders will raise more questions and more clarifications. The Company will address these concerns as they are received and will be part and parcel of the EIA.

Along this line, the Company wishes to stress that the consultation process with its stakeholders is similarly a continuing work-in-progress.

With the completion of the EIA in 2009, Intex Resources will once again undertake public hearings to apprise stakeholders of the detailed and comprehensive disclosure of the environmental consequences of the Mindoro Nickel Project, along with the mitigating measures to be undertaken. The public hearings will reach out to as many stakeholders as possible.

The Company expects further comments and questions to be generated at these future public hearings. Intex Resources reassures its stakeholders that it will take note and address such concerns. For it is only after satisfying and addressing stakeholder concerns that the DENR will issue an ECC.

Integrity, Compassion, Dedication

We hope that this document demonstrates our corporate values of Integrity, Compassion and Dedication. We are dedicated to the responsible development of the natural resources on Mindoro. We understand that many stakeholders have questions about our project, and we are following a well regulated process in order to determine whether Mindoro Nickel is technically, financially, environmentally and socially viable.

We appreciate very much the chance to address FIVH's concerns regarding the process behind the development of Mindoro Nickel. If further clarification is required on any of the issues please let us know.

Yours truly,

A handwritten signature in blue ink that reads "E. Grimstad".

for

Erlend Grimstad

President & CEO
Intex Resources



List of Attachments

1. Philippine Mining Act of 1995
2. The Indigenous Peoples Rights Act of 1997 (IPRA)
3. Rules and Regulations Implementing IPRA, 1998
4. The Free and Prior Informed Consent (FPIC) Guidelines of 2006
5. Tjenestereiserapport, Ståle Torstein Risa, 11 October 2007, Møte 5, page 3
6. 1999 Memorandum of Agreement (MOA) – English
7. 1999 Memorandum of Agreement (MOA) – Tagalog
8. NCIP Certificate of 1999 MOA Validation, 17 January 2008
9. NCIP Fact Finding Team Report, 9 October 2008
10. KMI-SADAKI Petition Letter to NCIP, 1 August 2008, Original & English Translation
11. Press Release from the Philippines, 16 May 2008
12. KMI Census of Households
13. SADAKI Census of Households
14. KMI Validated List of Leaders
15. SADAKI Validated List of Leaders
16. FPIC Timeline