

## **“THE Mt.GANTONG/BROOKE’S POINT 2009 GEOTAGGED REPORT”**

### **MINING THREATS TO WATERSHEDS, CORE ZONES AND TO THE ANCESTRAL DOMAIN OF ISOLATED INDIGENOUS COMMUNITIES ON PALAWAN ISLAND (THE PHILIPPINES)**

*A joint field assessment of ALDAW (Ancestral Land/Domain Watch) and  
The Centre for Biocultural Diversity (CBCD) of the University of Kent (UK)  
with the support of the Christensen Fund (TCF)*

Between 12-19 July 2009, a joined International ALDAW/CBCD Mission<sup>1</sup> travelled to Brooke’s Point Municipality (Palawan) to carry out field reconnaissance and audio-visual documentation of the mountainous areas laying on the eastern side of the Gantong range, where the source of the Linau river (Ipilan barangay property) is found.

The province of Palawan is part of the “Man and Biosphere Reserve” program of UNESCO and hosts 49 animals and 56 botanical species found in the IUCN Red List of Threatened Species. The Gantong range is endowed with the same richness of biological diversity and endemism found in the recently proclaimed Mt. Mantalingahan Protected Area, the best recognized biodiversity hot spot in southern Palawan. A study commissioned by Conservation International-Philippines revealed that several endangered species listed by IUCN (The World Conservation Union) are found around the Mantalingahan Range.



<sup>1</sup> The mission was composed by Dr. Dario Novellino *PhD.* (Anthropologist of the CBCD, UKC - UK) and Visiting Research Associate of the Institute of Philippine Culture (IPC) of the Ateneo de Manila University, Mr. Julio Cusurichi Palacios (an indigenous advocate from Peru, and winner of the 2007 Goldman Prize), Mr. Artiso Mandawa (member of the National Anti-Poverty Commission and community organizer of NATRIPAL), Mr. Diosdado Corio (community organizer of Bangsa Palawan Philippines, Inc.) and by other indigenous supporters. ALDAW is an advocacy-campaign network of Indigenous Peoples jointly constituted by NATRIPAL (United Tribes of Palawan) and BANGSA PALAWAN PHILIPPINES, Inc. (Indigenous Alliance for Equity and Wellbeing) on August 2009.

The Gantong range is also the ancestral territory of vulnerable and isolated indigenous Palawan communities whose members are not yet listed in the municipal and national census. These watershed areas provide potable water for the local communities and irrigation for the lowland wet-rice farmers.

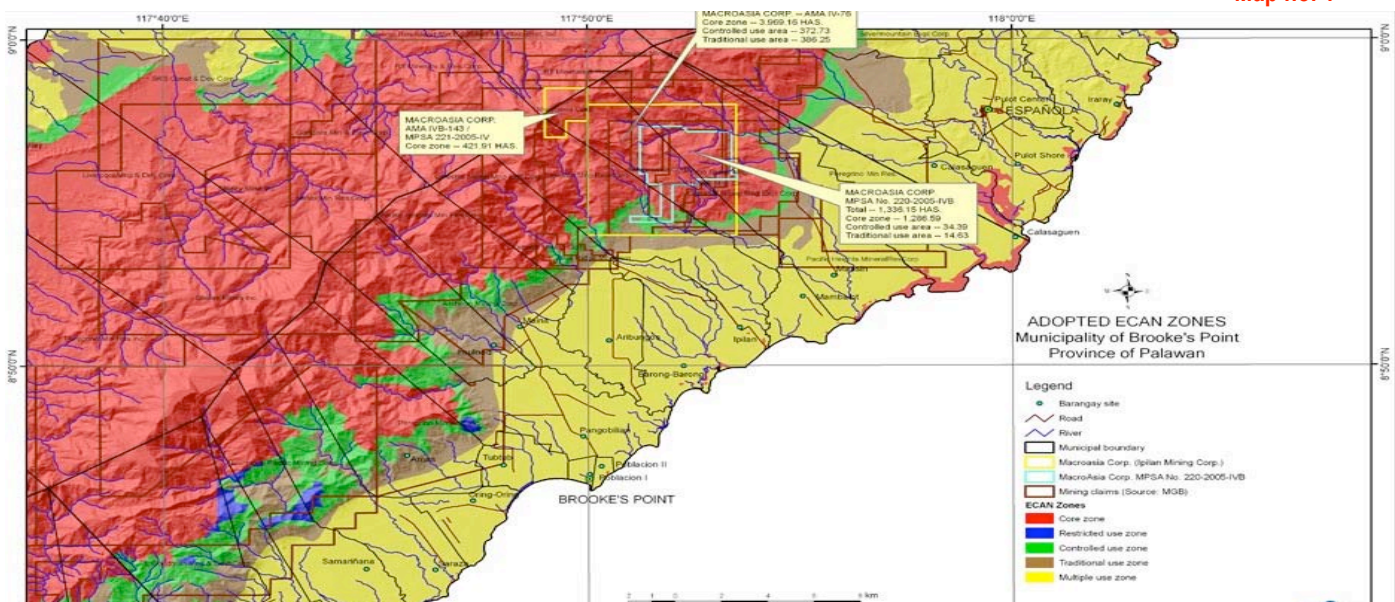
The 2009 ALDAW/CBCD mission was a follow up of a two months CBCD field documentation on the socio-ecological implications of mining in five Municipalities (Narra, Quezon, Brooke's Point, Bataraza) that took place on August/September 2008. The results of this mission have been condensed in a 34 minutes DVD titled: *"Palawan: Voices from the Lost Frontier"* which was shown in the context of two conferences organized both in Palawan and Manila with the special participation of Julio Cusurichi Palacios, an indigenous person from Peru and the 2007 winner of the prestigious international Goldman Prize. Specifically, the Gantong/Brooke's Point 2009 expedition, on which this report is based, is part of a two months ALDAW/CBCD investigation, which also covered other critical ecological areas and indigenous ancestral territories on Palawan island. Such areas are all threatened by mining exploration and operations, as well as by the expansion of oil palm plantations. The mission's primary aim was to provide communities with detailed information on the ecological and social impact of mining, in order to allow people to make informed decisions while confronting mining companies and government representatives.

The main scope of this report is to provide clear evidence on how the mining claims of MacroAsia corporation (see maps no 1) are actually overlapping with precious watersheds, intact forests, fragile ecosystem and, more importantly, with the ancestral territory on which hundreds of indigenous Palawan depend for their livelihood and cultural sustenance. Clearly as it appears, MacroAsia claims, as well as those of the neighboring Celestial Nickel Mining Exploration Corporation (CNMEC) are violating the main tenets of the Strategic Environmental Plan (SEP law), also known as Republic Act 7611. This law, enacted on June 1992, establishes the legal basis for the protection and management of Palawan environment.

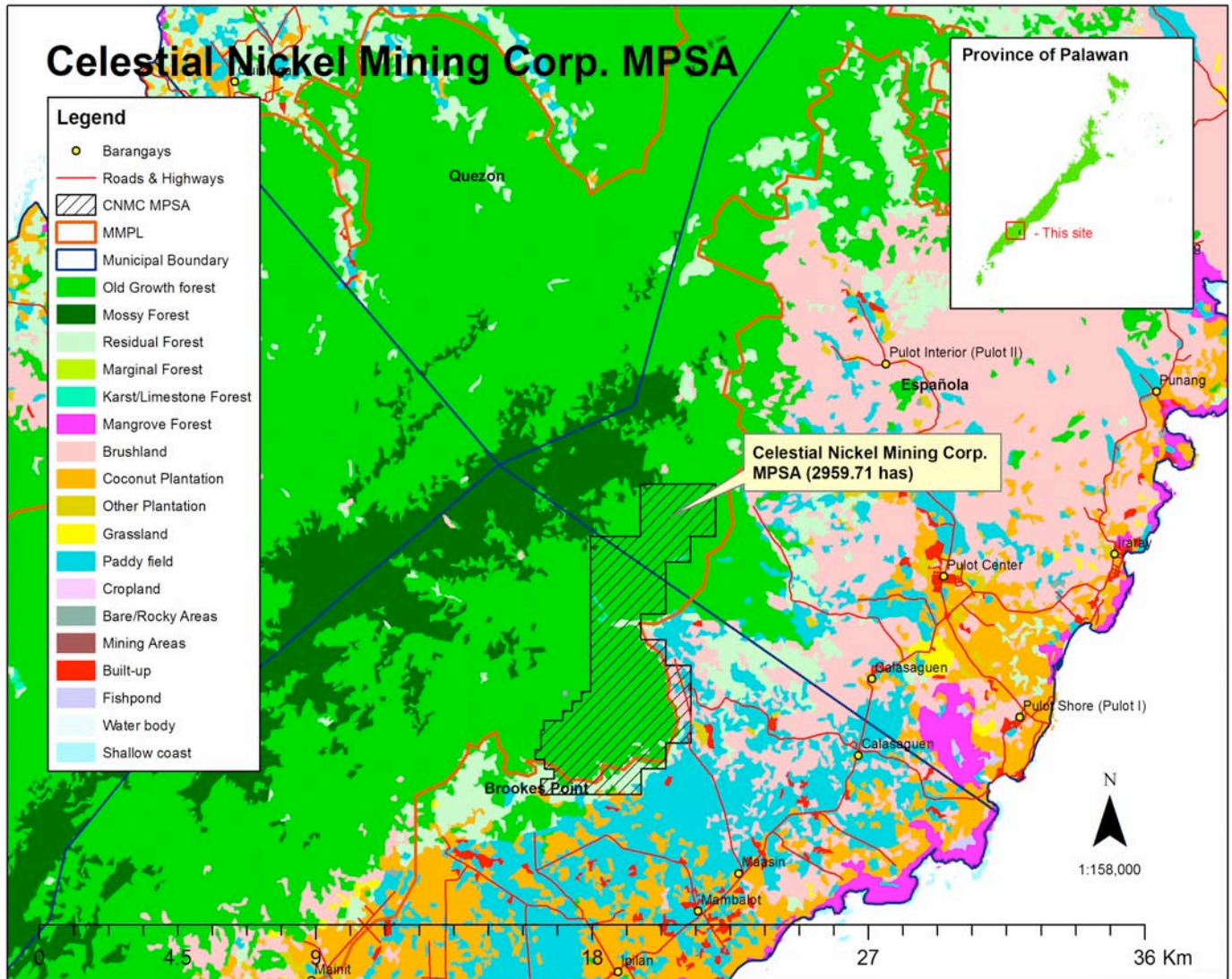
The mission's GPS findings, outlined in this report, consist of selected geo-tagged (or GPS geo-referenced) photos showing the exact location of ecologically fragile areas, which are being adversely threatened and impacted by mining activities. Evidence indicates that the Mineral Production Sharing Agreement (MPSA) areas of MacroAsia corporation overlaps with both 'core zones' and Palawan indigenous ancestral territories. It must be pointed out that the indigenous Palawan communities living in Barangays Maasin and Aribungos have existing ancestral domain claims, covering an approximate area of 4,600 and 10,000 hectares respectively.

Additional evidence – obtained during the 2008 CBCD mission – further indicates that also the MPSA area of Celestial Nickel Mining Exploration Corporation (CNMEC) - currently being operated by Ipilan Nickel Corporation (INC) – overlaps with areas of primary and secondary forest. All mission's findings will be compiled in a more comprehensive report on Mt. Gantong/Brooke's point Municipality to be finalized in the near future.

Map no. 1







Map no. 2

## A. BACKGROUND INFORMATION<sup>2</sup>

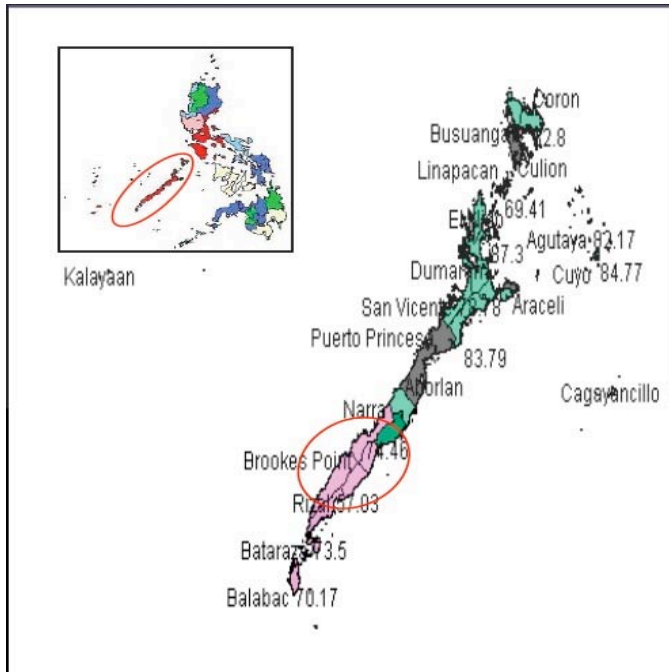
### a.1) The Municipality of Brooke's Point

The Municipality of Brooke's Point is situated in the southeastern portion of mainland Palawan at a latitude of 8°47' and longitude of 117°49'. It is bordered by the municipalities of Sofronio Espanola to the north; Bataraza, south; Rizal, west; and Sulu Sea to the east.

<sup>2</sup> Information on mining companies and on Brooke's point municipality have been extracted from the case study prepared by the Environmental Legal Assistance Centre (ELAC) for the Ateneo School of Government: *The Mining Controversy and Dynamic of Conflict in Brooke's Point, Palawan* by Datu Abdelwin Sangkula and Marlon Tamsi, December 2007. Additional information on MacroAsia and Lucio Tan have been obtained through the following internet sources: <http://www.macroasiacorp.com/about.html>, <http://www.lycos.com/info/lucio-tan.html>, [accesspinoy.net](http://accesspinoy.net), [taipeitimes.com](http://taipeitimes.com), [robots.cnn.com](http://robots.cnn.com), [interactive.wsj.com](http://interactive.wsj.com), [robots.cnn.com](http://robots.cnn.com), [alumni.kellogg.northwestern.edu](http://alumni.kellogg.northwestern.edu).

It is located approximately 192 kilometers away from the City of Puerto Princesa, the provincial capital. Based on the 2005 Census and Survey, the population of Brooke's Point is 54,807, or 11,308 households, with a population density of 69 per square meter. This represents an increase of 20% compared to 57.5 in the year 2000. Of the total population, 29.11% or 15,956 (3,950 households) live in the six mining communities of Calasaquen, Ipilan, Mambalot, Maasin, Barong-Barong and Aribungos. Some reliable projections indicate that the total population of Brooke's Point is likely to reach 58,457 by the end of 2010.

The topography of Brooke's Point is generally hilly. Of the 85,064.90 hectares total land area, 63.67%



has a slope of 18% and above, and the remaining areas have a slope ranging from 0-18%. Based on the Municipal (CLUP) Comprehensive Land Use Plan (2000-2010) of the municipality, 27,949.67 hectares (or 92.98% of the manipulative/multiple use land) are devoted to agricultural purposes and are being utilized for production of major crops. This figure comprises around 32.86% of the municipality's total land area. However, the 2006 Socio-Economic Profile of the municipality shows a different figure, with only 17.87% or 15,205.21 hectares devoted to agricultural production. The CLUP further states that of the 27,949.67 hectares of agricultural land, around 20,546.25 hectares or 73.5% are considered to be "prime agricultural land" and therefore, part of the Network of Protected Agricultural Areas (NPAAs). These areas are considered as "restricted for conversion into non-agricultural uses" under Republic Act

8435, otherwise known as the Agriculture and Fishery Modernization Act (AFMA). In 2006 alone, around 3,873.45 hectares of rice fields yielded a harvest totaling 13,313.36 metric tons, or an average production of 2.92 metric tons per hectare.

## a.2) Mining Companies in Brookes' Point

Mining activities in Brooke's Point started in the 1970s when Nippon Mining Company of Japan (Nippon) and Infanta Mineral and Industrial Corporation (Infanta) undertook exploration activities in Barangays Ipilan and Mambalot. These two mining companies engaged only in exploration and did not proceed to large-scale mining operations. During those years, the two companies were, in fact, extensively engaged in logging activities, which resulted in the cutting down of thousands of forest trees such as *almaciga* (*Agathis philippinensis*), *ipil* (*Intsia bijuga*) and other premium tree species. It is noteworthy to point out that Brook's Point Municipality, as the entire province of Palawan, will no longer be the target of multiple and overlapping claims by small-scale mining companies. In fact, in late 2008, the provincial board of Palawan has passed a provincial resolution providing for a moratorium on small-scale mining for a period of 25 years. While this local legislative effort has been appreciated, it is not enough to prevent large-scale mining from plundering precious ecosystems in Brooke's Point, as well as in other Municipalities.

## CNMEC

Celestial Nickel Mining and Exploration Corporation (CNMEC) is the holder of MPSA-017-93-IV, granted on August 5, 1993 and amended on April 10, 2000. The MPSA covers an area of 2,835.06 hectares situated in Barangays Ipilan and Maasin. It started its mining exploration in 1993. The CNMEC nickel laterite property is now currently being operated by Ipilan Nickel Corporation (INC), a company partly owned by London-based Toledo Mining Corporation (TMC). TMC holds majority interest in the Celestial Nickel Project (CNP) and its



affiliates has stated that it has “defined 60 million tons of mineralization over a small footprint and it is expected that a similar tonnage of nickel laterite mineralization occurs in the MacroAsia property.” TMC co-owns the



**Evidence of Illegal Exploration activities by INC, Sept 08**

CNP in Brooke’s Point with Celestial Nickel Mining and Exploration Corporation (CNMEC or Celestial), holder of MPSA-017-93-IV, which covers an area of 2,835.06 hectares. Aside from pursuing its mining operations, Celestial was proposing for the establishment of a processing plant which, according to company’s sources “will produce briquette nickel and cobalt via sulfide precipitation and leaching, with specification grade ammonia sulfate as a by-product”.

Ipilan Nickel Corporation was incorporated and registered with the Securities and Exchange Commission (SEC) on July 22, 2005 and its principal activity is to explore, develop and mine the Celestial/Ipilan mineral properties. TMC has entered into a memorandum of understanding with MacroAsia, to enable both corporations to jointly “undertake studies that will cover possible collaboration in mine development and on-site value-added processing” in the two properties. As of now, the Mineral Production Sharing Agreement (MPSA) areas of MacroAsia and INC have an aggregate area of more or less 4,000 hectares.

### **MacroAsia**

MacroAsia was incorporated in the Philippines on February 16, 1970, originally under the name Infanta Mineral & Industrial Corporation, to engage in the business of geological exploration and development. As a mining firm, it had actually mined its leased areas in Brooke’s Point in the 1970’s. The corporation amended its Articles of Incorporation on two occasions. In January 1994, an amendment was made to change its primary purpose from geological exploration and development to engaging in the business of a holding company, and to change its corporate name to Cobertson Holdings Corporation. In November 1995, another amendment



**Julio Cusurichi from Peru and Katis from sitio Catelegyan showing a piece of *Almigra* resin collected from an *Agathis* tree grown after the massive Infanta logging operations in the 70s.**

was done to change its corporate name to its present name. On March 28, 2006, MacroAsia received from the government a Mineral Production Sharing Agreement (MPSA) covering 1,113.9836 hectares in Brooke’s Point, the same area that used to be mined by Infanta in the 1970s. In May 2007, the company received a second MPSA covering 410 hectares in another nearby area of Brooke’s Point. The purpose of this second MPSA is to provide for the rational exploration, development and commercial utilization of certain chromites, nickel and copper and other associated mineral deposits existing within the tenement area. The company is currently undertaking exploration activity in Barangays Ipilan, Mambalot and Maasin.

As of 2007, the company reported that it has already “collected a total of 3,348 meters of drill core samples based on its core drilling and test pitting over an area of approximately 300 hectares.” Overall, Lucio Tan’s owned MacroAsia Corporation is a holding company with diverse business portfolio in aviation support and logistics services. Its further growth and expansion is likely to take place in aviation services, and perhaps in the areas of cargo warehousing, airport fueling, airline contact center operations and the like. Further growth outside of the Company’s airport businesses may be driven in the long-term by the company’s interests in mining, as well as third-party logistics.

### a.3) The Man Behind the Scene



Lucio Tan is the Philippines’ richest man and one of the richest in Asia, with a personal net worth of at least \$1.5 billion, but he still has to pay the government P7.8 billion. He also has extensive investments in China and Hong Kong. The way in which he has made his billions

perfectly illustrates the crony capitalism that has plagued the Philippines over the past four decades. Indeed, he learned and succeeded to navigate the murky waters of business and politics under the late Philippine dictator Ferdinand Marcos. His first employment was at a cigarette factory. Very soon, he opened his own company, Himmel Industries, which thrived since it manufactured glycerine – an ingredient essential to tobacco, but was then being imported by the major cigarette companies.



Despite advice to the contrary, he put up a cigarette company of his own in 1965, Fortune Tobacco. With Fortune flourishing in the early ‘70s, Mr. Tan went full blast creating a diverse conglomerate. In 1970, he brought in from Taiwan advanced livestock-raising technology to set up Foremost Farms, one of the biggest hog farms in Asia. In 1992, the Ramos regime's privatization program allowed him to secretly take control of Philippines Airlines (PAL) through his 40% stake in PR Holdings, which had a controlling share in the national flag carrier. After a year, Tan increased his stake in PR Holdings to 50.03% by buying the shares of Andres Soriano. He then kicked out Antonio Cojuangco as PAL Chairman and, in 1994, eventually took over the position. After buying the Philippine Airlines (PAL) he has fought non-stop dogfights with rival investors, government officials, unions and creditors while suffering year after year of losses.

### a.4) Local Advocacy Against Mining



In the course of the ALDAW/CBCD mission, and specifically on August 27, 2009 a peaceful demonstration was organized in the Barangay proper of Brookes’ Point Municipality to protest against the possible endorsement of MACROASIA and Ipilan Nickel Corporation by the *Sangguniang Bayan* (Municipal Board). Clearly as it appears, the municipal government has bypassed local decision-making process, and a genuine consultation with the local farmers and indigenous communities has never taken place. The demonstration included



participants from 15 barangays, and specifically from Calasaguen, Maasin, Mambalot, Ipilan, Baro-Baron, Aribungos, Mainit, Pangobilian, Tugtub, Amas, Oring-Oring, Samarinian, Saraza, Salogon, Malis.

## B. THE VULNERABLE UPLAND INDIGENOUS COMMUNITIES

The Palawan is an Austronesian speaking ethnic group inhabiting the southern region of Palawan Island. They perceive themselves as divided into two major groupings: the Palawan of the uplands, *Pälawan ät bukid* or *Pälawan ät daja*, and the Palawan of the lowlands, *Pälawan ät napan*. Some isolated communities living in the Island's interior at the edge of the Mantalingahan and Gantong ranges have retained a higher degree of cultural autonomy and, as of now, have little contact with outsiders. The total number of Palawan amounts, approximately, to 10,000 people.



### b.1) How Do they Live?

The Palawan are swidden cultivators with a sophisticated knowledge of intercropping techniques. Before clearing a forest plot, they consult and appease various entities and interpret omens in dreams. Upland rice (*paräi*) is the most valued



crop and it is believed to be endowed with a human soul. Resin from *Agathis philippinensis* (*bäktik*), rattan canes (semi-woody climbing palms) and wild honey are collected for sale. They also collect starch (*natäk*) from wild palms and this represents an emergency source of energy.

Wild pig, *bjäk*, is the preferred game and its catch is usually preceded by a request to the 'master' of the animal game. Also bees are imagined to have their own master who dwells in the upper-world, and can only be seen by the *baljan* (shaman) during trance. The more settled Palawan also engage in the cultivation of wet rice, coconut for commercial purposes, raise domestic animals such as caws, buffalos and pigs.

## b.2) Their Ethics and Worldviews

Palawan do not have a religious system organized in terms of fixed codes of ethics and of a structured clergy. The key moral principle to which people appeal in their everyday life is known as *ingasiq* (literally compassion). This is the key term describing proper social behavior and thus one's ability to be generous, compassionate and to show sympathy and pity towards others.

Palawan ritual practices which include healing ceremonies, formulas and prayers and *deruhan* chanting as well as curing dances (*tarek*) are part and parcel of what the people defines as *adat et kegurangurungan* (the customs of the ancestors).



The shamans (*beljan*) are not regarded as superior or 'sacred' persons, nor do they enjoy any particular status. They are generally normal people who are believed to have better capacities to access the invisible world and to contact 'powerful super-human beings' (*taqaw kewasa* or *diwata*) either during trance or dream. Generally the shamans' distinctive quality is related to his ability of seeing (*memiriq*) and extracting from the patient's body those impurities causing sickness. Generally, they are also experts in the use of 'medicinal' plants. The latter are often collected and used after receiving permission from their mystical owners.

Occasionally, in his attempt of 'healing the world', the life-force of the shaman is believed to travel to the other levels of the universe (e.g. the underworld). The universe is perceived as vertically organized and divided in fourteen different layers.

According to the Palawan, humans possess multiple *kuruduwa* (souls or life-forces). The most important *kuruduwa* is believed to enter and fill the body through the whorl of the hair in the region of the fontanels (*bubun*). Only this *kuruduwa* at the crown of the head is associated with *näkam* (consciousness, discernment and judgment). The

*kuruduwa* of the head is also the focal point of Palawan curative treatments. According to people's worldview, human health depends on the integrity of the tangible (the body) and intangible component (the life force). Hence, the loss of the *kuruduwa* produces a bodily and intellectual loss of balance, a disturbance to the very core of the 'self.' It makes the human body vulnerable to illnesses and to attacks by malevolent entities. A newborn child is particularly vulnerable to sickness, as his soul is not yet firmly secured to the body, and specifically to the top of the head (*erimpuru*).

The supreme being for the Palawan is known as *Empuq* (the Lord or the Owner) and he is perceived to be the creator of all things in the world. Other benevolent beings are believed to reside in the higher mountains, and in those portions of the terrestrial world, which remained untouched by the legendary flood. The forest is also believed to be the domain of a large number of demons such as *sejtan* and *lenggam*, the latter being the caretakers of poisonous and 'biting' animals (*rämu-rämu*) such as *älupjan* (centipede), *bäncanawa* (scorpion), *kätimamang kätimamang* (mygale), *säli* (snakes). These are taboo animals, of which



consumption and killing are forbidden. Any attack of *rämu-rämu* upon humans is said to be activated by the anger of their owners. The reasons why humans become vulnerable to *rämu-rämu* attacks include 'ecologically' unsound behavior such as over-hunting, harvesting of trees inhabited or guarded by certain entities, etc. Before clearing a forest plot, the Palawan consult and appease various entities, and interpret omens in dreams. Certain signs are placed in the area chosen for the swidden, to determine whether the 'entities' inhabiting that particular portion of the forest are willing to vacate it. The people believe that after trees have been felled, the swidden begins to be occupied or visited by different entities. Some of them are said to inhabit certain portions of the environment only for limited periods, and to return later to their place of origin. For instance, during the months of November and December, at sunset time, Palawan refrain from walking along rivers because this is the time when the *taqaw dumadatäng* (anthropomorphic creatures inhabiting the limits of the universe) are busy harvesting *tugbu* plants (*Saccharum spontaneum*), considered as the equivalent of rice for humans. Special offerings are performed to establish a friendly relationship with the 'newcomers'.

### b.3) Sociopolitical marginalization and lack of consultation

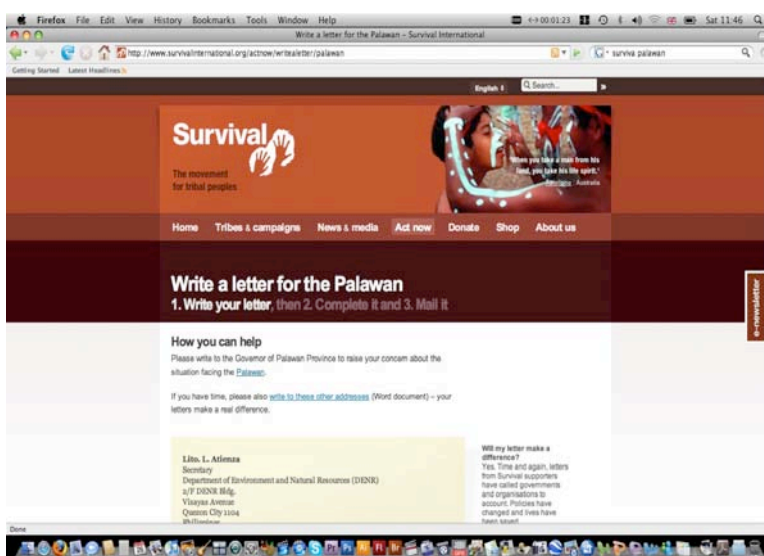
All Upland Palawan interviewed during the ALDAW/CBCD mission have declared that they have never been consulted about the entrance of mining companies in their traditional territories. The Palawan branch of the National Council for Indigenous Peoples (NCIP) – the government body mandated to 'protect and promote the interest and well-being of cultural communities' is actually siding with the mining companies. Local communities have been lured into believing that mining will bring prosperity to their life and they have been made to sign memorandums of agreement with the companies without being fully aware of their content. Overall there is lack of independent information regarding mining, except for that which is provided by mining companies.

## C. THE INTERNATIONAL CAMPAIGN FOR PALAWAN

In order to facilitate the circulation of information at the international level on the threats faced by indigenous Palawan communities, a dedicated page has been set up on the website of Survival International. The page is presently being updated with new information and will include short videos-clips.

Here is the link:

<http://www.survivalinternational.org/tribes/palawan>



More importantly, the webpage (see the *ACT NOW* section) includes a standard letter of concern that both private institutions and individuals can download, sign and send to the concerned government authorities in the Philippines, to request for the cancellation of all mining claims in those areas where indigenous communities live since time immemorial. The international Campaign for Palawan, initiated by Survival International on May 2009, has received support from members of various institutions (more than 15 organizations) as well as of individuals who are not necessarily members of scientific and advocacy institutions.

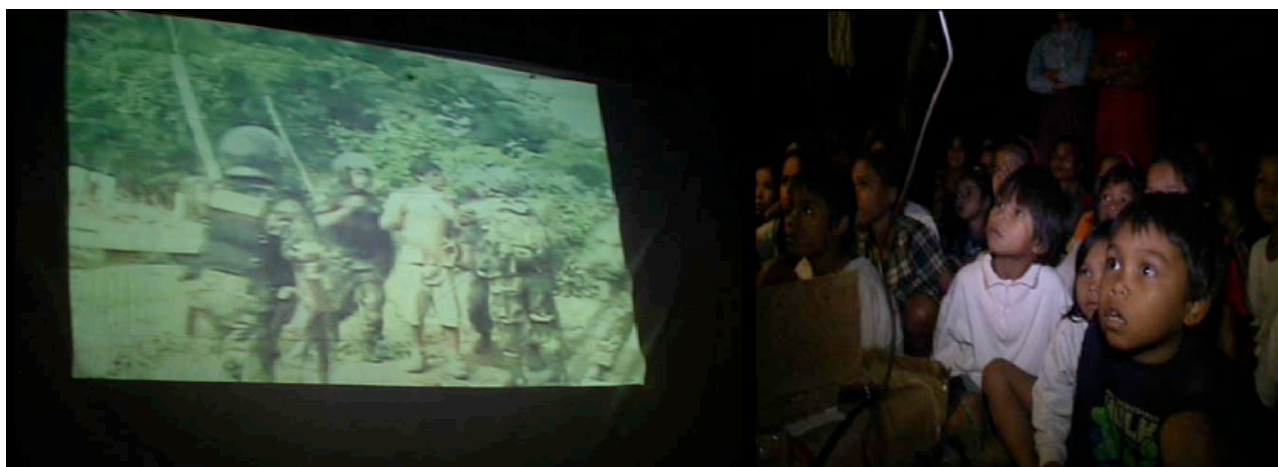
Some individuals supporting the campaign belong to the following institutions: FOREST PEOPLES PROGRAMME (UK), INTERNATIONAL WORK GROUP FOR INDIGENOUS AFFAIRS (DENMARK), PEOPLES AND PLANTS INTERNATIONAL (USA), THE ASSOCIATION FOR INTERNATIONAL SOLIDARITY IN ASIA (ITALY), THE FEYERABEND FOUNDATION (SWITZERLAND), THE COMMISSION ON ENVIRONMENTAL, ECONOMIC AND SOCIAL POLICY (CEESP) OF THE IUCN, THE EDEN PROJECT (UK), THE CNRS (FRANCE), THE PHILIPPINE INDIGENOUS PEOPLES LINK (UK), THE UNIVERSITY OF KENT (UK), THE ARIZONA STATE UNIVERSITY (USA), THE DEPARTMENT OF HUMAN ECOLOGY, RUTGERS UNIVERSITY (USA), UNIVERSITE' PARIS DESCARTES (FRANCE), THE MINORITY REFORMS CONSORTIUM (KENYA), THE ALLIANCE OF AURUNCI AND CIOCIARI SHEPHERDS (ITALY), etc.

After two months from the starting of the campaign, Mt Mantalingahan (an area of high biocultural diversity that had been included in several mining companies' applications) was designated as a protected area through Proclamation no.1815 dated June 23, 2009. In addition to the primary efforts of the local NGO community and of Conservation International-Philippines, the international campaign provided additional impetus to the coming into being of the Proclamation.

### **c.1) Building Solidarity between Palawan and Madre de Dios (Peru)**

On the international level, another achievement of the newly created ALDAW Network has been the establishment of solidarity links between the indigenous communities of Palawan and those of Madre de Dios (Peru) who have resisted and are resisting mining for more than two decades. The establishment of this linkage took place right at the time when indigenous peoples of the Amazonian Peru had begun various forms of open resistance against hydrocarbon extraction in their traditional territories. The solidarity link between the IPs of Peru and Palawan was facilitated through the collaboration of the Centre for Biocultural Diversity (CBCD), Peoples and Plants International (PPI) and, specifically, through the personal efforts of Dr. Miguel Alexiades and Dr. Dario Novellino. It was decided that such exchanges between Peru and Philippines should have promoted the sharing of experiences as a way of 1) fostering reflection and joint actions through the establishment of strategic alliances; and 2) addressing common problems regarding indigenous links, rights and claims over ancestral homelands and cultural landscapes. The envisaged goal was to enable the production of jointly produced video materials that could be used to exert pressure at a national and international policy level.

Julio Cusurichi, representing the indigenous organization COINBAMAD (*Consejo Indigena de la Cuenca Baja de Madre De Dios*) and winner of the well-known Goldman Prize (see <http://www.goldmanprize.org>) - arrived in the Philippines on July 2009, leaving the country after 21 days. He traveled to Palawan (Philippines) accompanied by Dr. Dario Novellino and the ALDAW staff - as part of an exchange aiming at establishing alliances between indigenous peoples affected by commercial mining and oil/gas exploration in Peru and the





Philippines.

In Palawan, local indigenous organizations (Bangsa Palawan Philippines and NATRIPAL) facilitated the dialogue between Julio and different Palawan communities, while Dario Novellino helped in the simultaneous translation from Spanish into Palawan language. During his stay, Julio met many indigenous leaders and communities' members (including women and children) and shared his experience and lessons regarding the impacts of mining and other forms of commercial extractivism upon cultural landscapes and ancestral homelands. Participatory videos showing the impact of mining and oil extraction in Madre de Dios (Peru), were shown also to the most isolated Palawan communities.



Through Julio's visit, a process of direct exchange between grassroots indigenous mobilization in Madre de Dios, Peru and local indigenous anti-mining movements in Palawan has been initiated. Before Julio's departure, this collaboration has been formalized in a Memorandum of Understanding. Video shootings made by Julio Cusurichi in Palawan have been taken back to Peru and will be shown to the Amazonian indigenous communities. A cross-visit of Palawan representatives to the Peruvian Amazon has been planned for the year 2010.

Overall, Julio's visit in Palawan has lasted three weeks, and much participatory video-documentation has been produced during this period. ALDAW is now editing this material, and will make it available on YouTube and through other advocacy/campaign channels.

#### D. GEO-REFERENCED MISSION'S FINDINGS

In a photographic context, *geotagging* is the process of associating photos with specific geographic locations using GPS coordinates. In this report, geotagging is used as a synonym for geocoding. GPS coordinates were obtained through the use of a professional device connected to the camera's hot shoe. Photos were taken during the entire mission's reconnaissance in the hinterlands of Ipilan (Brooke's Point) and around the eastern side of the Gantong range, whose highest peak (1758m) lies on the island's west coast. The mission's starting point was the Palawan community of sitio Linau, Barangay Ipilan (Brooke's Point Municipality). From here we reached a watershed area endowed with numerous creeks, springs and waterfalls providing potable water to the local indigenous communities. At an altitude of about 500m ASL we reached the first indigenous settlement inhabited by very traditional Palawan having limited contacts with the outside. They live in quite inaccessible areas and, from a purely bureaucratic point of view, most of them 'do not exist'. In fact, their names are not even listed in the municipal population census. Their sustenance totally depends on the available forest resources, and it consists of a heterogeneous economy where sustainable swidden cultivation is integrated with foraging and the collection of non-timber forest products (NTFPs). Overall, we moved from an elevation of a few meters ASL to an altitude of about 670m ASL, where one of the furthestmost Palawan settlements is located. This point also coincides with the highest elevation recorded during the mission. GPS positions were taken at intervals of several meters in order to reconstruct the mission's full itinerary, from different perspectives and orientations. The maps below show the upland mission's itinerary but do not include other visited lowland sites.

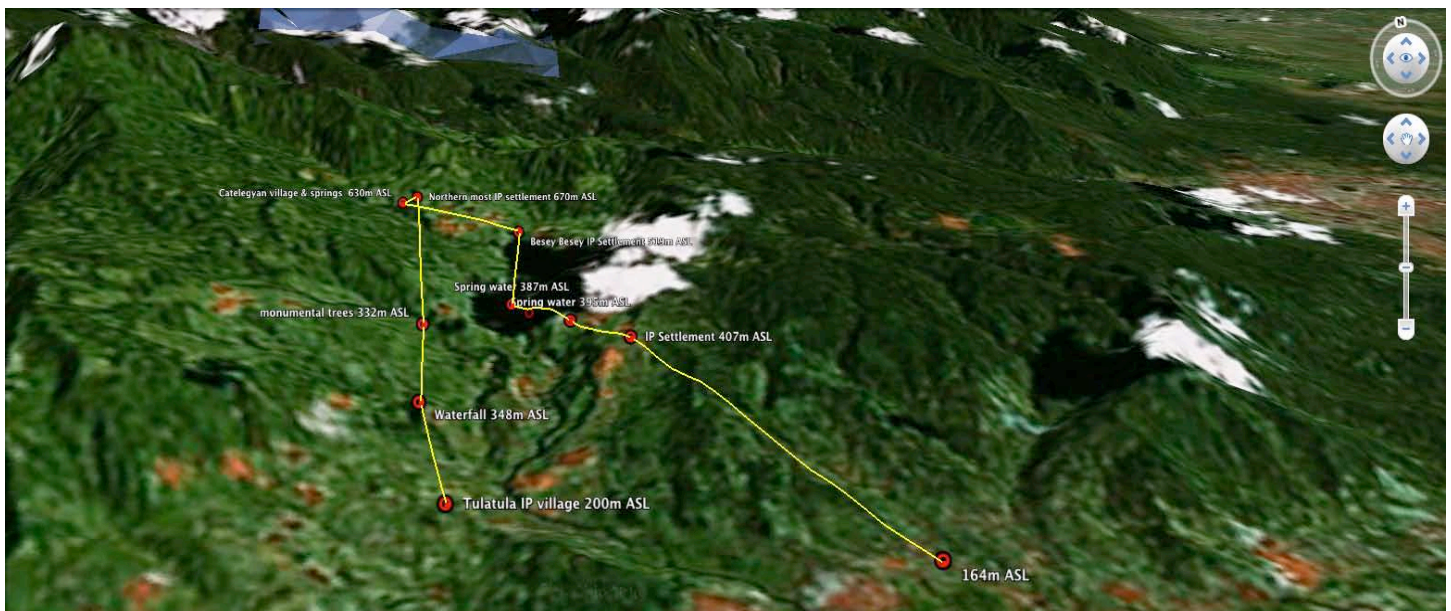
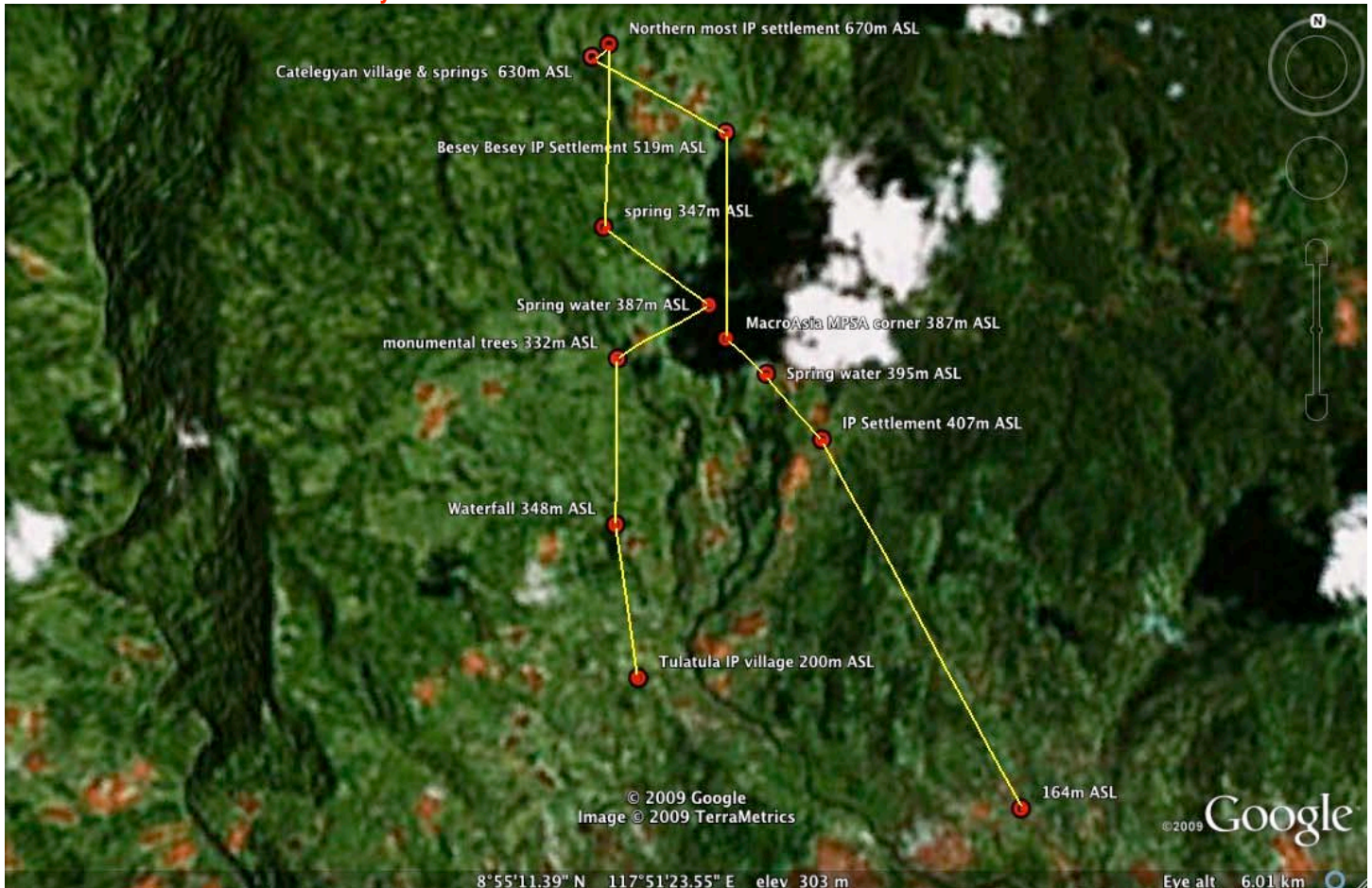
The geotagged images were loaded into a geo-aware application and displayed on satellite Google map. The actual 'matching' of GPS data to photographs has revealed that the MPSA areas of MacroAsia Corporation overlap not only with the traditional territory of the local indigenous communities but also with the so called 'Core Zones' of maximum protection. Under the ECAN Guidelines of the Strategic Environmental Plan for Palawan (Republic Act 7611) 'core zones' are defined as "areas above 1,000 meters in elevation,



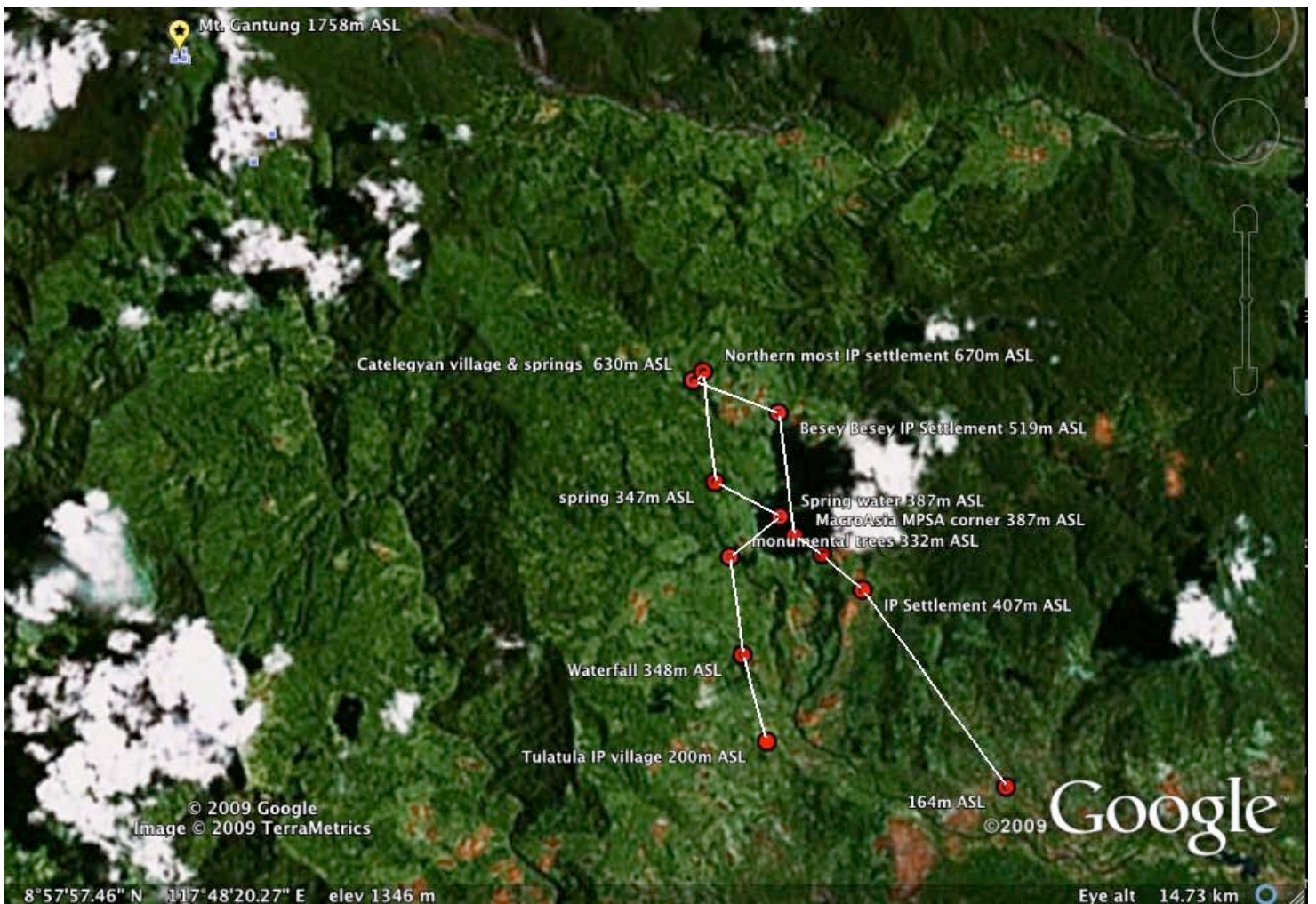
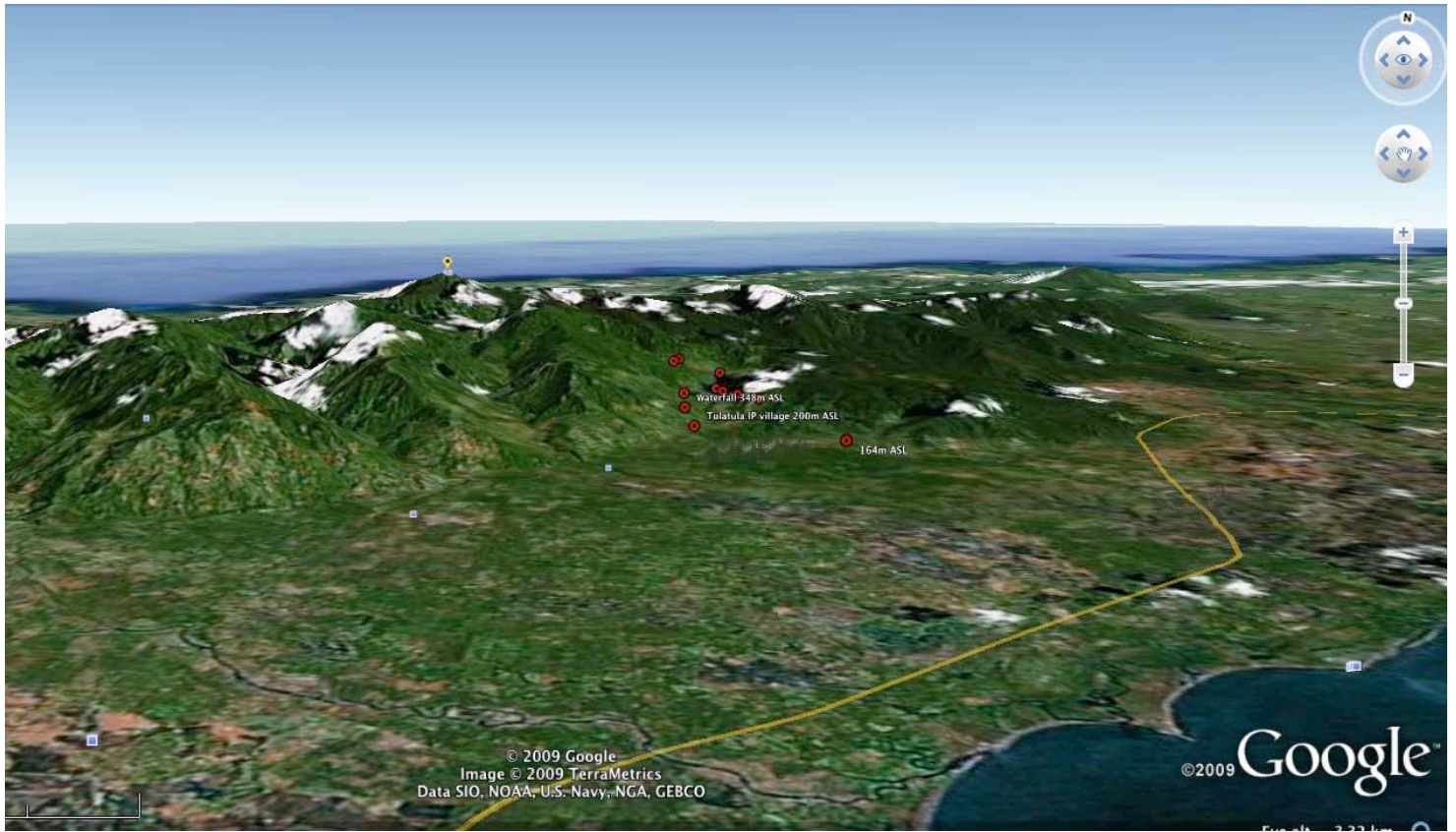
virgin forests or primary growth forests, areas with steep gradient (above 50% slope), and critically threatened/endangered habitats and habitats of rare endangered species or habitats of Palawan local endemic species of flora and fauna”.

Only a limited selection of the geotagged photographs taken during the mission has been included in this report. Individual photos have been inserted in thematic boxes containing basic descriptions and their positions on Google Earth satellite map.

### The Mission's Itinerary









## THEMATIC PHOTOS WITH GPS COORDINATES

Load GPS Data and Photos
Edit Photo Data

**Pictures**

- IMG\_7950
- IMG\_7952
- IMG\_7958

Remove Picture

Change file names to:

Change

Latitude:  N

Longitude:  E

Altitude:

City:


Province/State:

Country:

Description:

Comments:

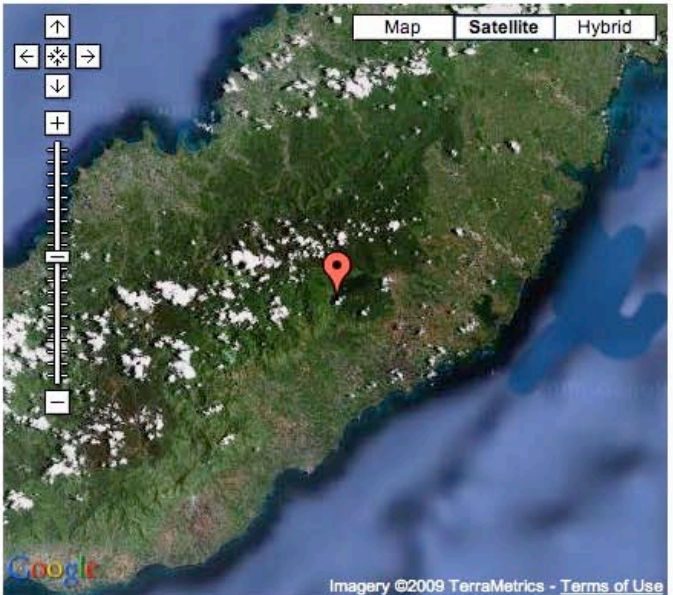
Full View



IMG\_7958  
Mon 13 Jul 2009 12:32:06

CPS Store
Camera Store
Prints

Map
Satellite
Hybrid



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Load GPS Data and Photos
Edit Photo Data

**Pictures**

- IMG\_7950
- IMG\_7952
- IMG\_7958
- IMG\_7961

Remove Picture

Change file names to:

Change

Latitude:  N

Longitude:  E

Altitude:

City:

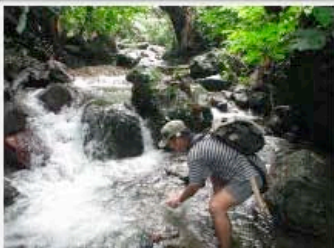
Province/State:

Country:

Description:

Comments:

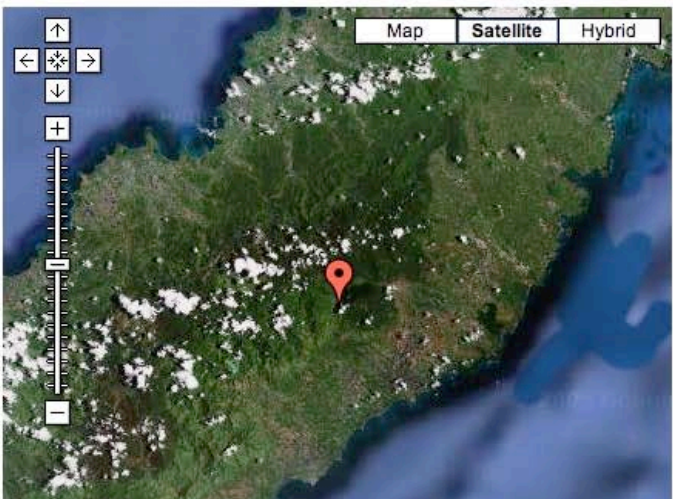
Full View



IMG\_7961  
Mon 13 Jul 2009 12:36:33

CPS Store
Camera Store
Prints

Map
Satellite
Hybrid





Load GPS Data and Photos

Edit Photo Data

Pictures

IMG\_7950

IMG\_7952

Latitude

+8.92325974

N

Longitude

+117.85955811

E

Altitude

395

City

Brooke's Point

Province/State

Province of Palawan

Country

Philippines

Description

Spring water

Comments

This watershed area is extremely rich in clean sources of water. Practically, all springs we encountered during the mission are used by the local indigenous communities. Due to the presence of pure clean water in this area, intestinal pathologies such as dysentery, typhoid, etc. are extremely rare.

Remove Picture

Change file names to:

Change

Load Pictures

Full View

IMG\_7952

Mon 13 Jul 2009 12:14:37

CPS Store

Camera Store

Prints

Map

Satellite

Hybrid

Imagery ©2009 TerraMetrics - Terms of Use



|                 |                          |
|-----------------|--------------------------|
| Name:           | IMG_7950.JPG             |
| Photo Time:     | Jul 13, 2009 11:52:18 AM |
| GPS (UTC) Time: | Jul 14, 2009 2:48:12 AM  |
| Latitude:       | 8.920449                 |
| Longitude:      | 117.862118               |
| Altitude:       | 407 m                    |
| Address Line 1: |                          |
| Address Line 2: | Brooke's Point           |
| Address Line 3: | Province of Palawan      |
| Country:        | Philippines              |

| POI | Distance (m) | Category |
|-----|--------------|----------|
|     |              |          |

The mission reaching an indigenous Palawan settlement located at about 400m ASL



Load GPS Data and Photos

Edit Photo Data

Pictures

IMG\_7950  
 IMG\_7952  
 IMG\_7958  
 IMG\_7961  
 IMG\_7970

Latitude

+8.93392181

N

Longitude

+117.85686493

E

Altitude

519

City

Brooke's Point

Province/State

Province of Palawan

Country

Philippines

Description

Unregistered Palawan Communities

Comments

The Palawan settlement of Besey besey is located above 500m. This traditional community has limited contacts with the outside and have not yet been registered in the population census. Like other remote communities living in the uplands of Brooke's Point, they have never been consulted or involved in any genuine FPIC process in conjunction with MacroAsia mining claims.

Remove Picture

Change file names to:

Change



Full View

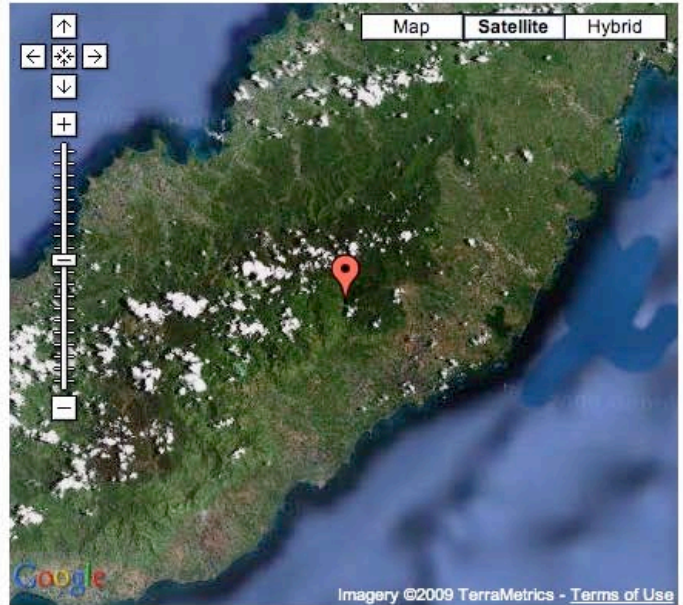
IMG\_7970

Mon 13 Jul 2009 13:17:54

GPS Store

Camera Store

Prints



Name: IMG\_7968.JPG

Photo Time: Jul 13, 2009 1:17:29 PM

GPS (UTC) Time: Jul 14, 2009 4:12:38 AM

Latitude: 8.933921

Longitude: 117.856865

Altitude: 519 m

Address Line 1:

Address Line 2: Brooke's Point

Address Line 3: Province of Palawan

Country: Philippines

POI

Distance (m)

Category

Add

Remove

Move Up

Move Down



Load GPS Data and Photos

Edit Photo Data

## Pictures

IMG\_7950  
 IMG\_7952  
 IMG\_7958  
 IMG\_7961  
 IMG\_7970  
 IMG\_8022

## Latitude

+8.93675137

N

## Longitude

+117.85243988

E

## Altitude

642

## City

Brooke's Point

## Province/State

Province of Palawan

## Country

Philippines

## Description

ISOLATED PALAWAN COMMUNITY

## Comments

The Palawan community of Catelegyan is composed of vulnerable people who have decided to limit their contacts with the outside to the minimum. Nevertheless, because of the abundance of natural resources and clean water in the area, children, in this community, are very healthy. This group entirely depends on the forest, and any mining operation in this area will have a devastating effect on both their cultural integrity and survival.

Remove Picture

Change file names to:

Change

Load Pictures



Full View

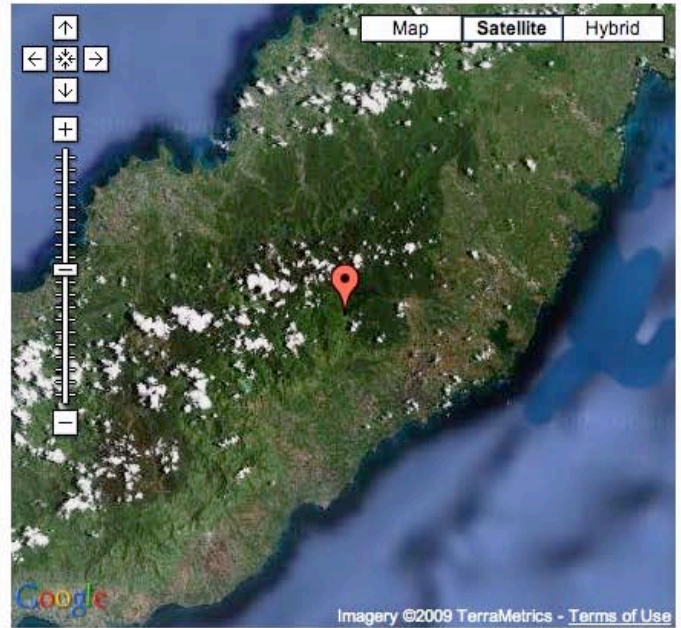
IMG\_8022

Tue 14 Jul 2009 18:36:41

GPS Store

Camera Store

Prints



Name: IMG\_8021.JPG

Photo Time: Jul 14, 2009 6:36:37 PM

GPS (UTC) Time: Jul 15, 2009 3:48:12 AM

Latitude: 8.936751

Longitude: 117.852443

Altitude: 642 m

Address Line 1:

Address Line 2: Brooke's Point

Address Line 3: Province of Palawan

Country: Philippines

| POI           | Distance (m) | Category     |
|---------------|--------------|--------------|
| Mount Gantung | 4,645        | Scenic areas |

Add

Remove

Move Up

Move Down

Ok



Load GPS Data and Photos

Edit Photo Data

## Pictures

IMG\_7950  
 IMG\_7952  
 IMG\_7958  
 IMG\_7961  
 IMG\_7970  
 IMG\_8022  
 IMG\_8017

## Latitude

+8.93675327

N

## Longitude

+117.85237122

E

## Altitude

673

## City

Brooke's Point

## Province/State

Province of Palawan

## Country

Philippines

## Description

Palawan settlement at 670m ASL

## Comments

A bit further up from Calategyan, we encountered another household of upland Palawan. Located at about 670m ASL, this is one, if not the closest indigenous settlements to Mt. Gantung, on the Brooke's point side. Members of this group do not walk to the seashore, and have very rare contacts with outsiders.

Remove Picture

Change file names to:

Change

Full View

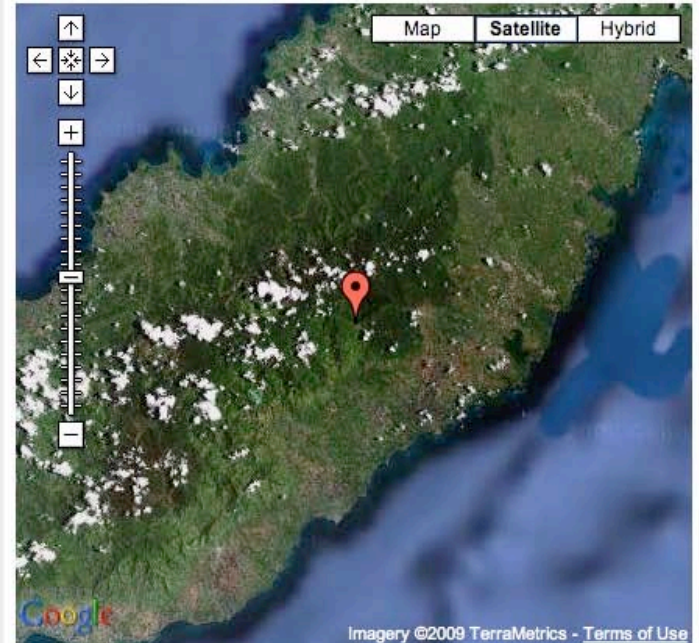
IMG\_8017

Tue 14 Jul 2009 12:52:03

GPS Store

Camera Store

Prints



Name: IMG\_8004.JPG

Photo Time: Jul 14, 2009 12:45:39 PM

GPS (UTC) Time: Jul 15, 2009 3:47:55 AM

Latitude: 8.936753

Longitude: 117.85237

Altitude: 673 m

Address Line 1:

Address Line 2: Brooke's Point

Address Line 3: Province of Palawan

Country: Philippines

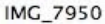
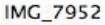
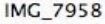
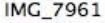
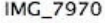
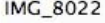
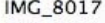
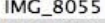

| POI           | Distance (m) | Category     |
|---------------|--------------|--------------|
| Mount Gantung | 4,638        | Scenic areas |



Load GPS Data and Photos

Edit Photo Data

Pictures

Latitude

+8.91710854

N

Longitude

+117.85469818

E

Altitude

348

City

Brooke's Point

Province/State

Province of Palawan

Country

Philippines

Description

Small waterfall

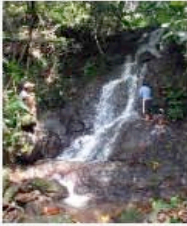
Comments

Small waterfalls are common in this area.

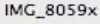
Remove Picture

Change file names to:

Change



Full View



Wed 15 Jul 2009 11:36:26

GPS Store

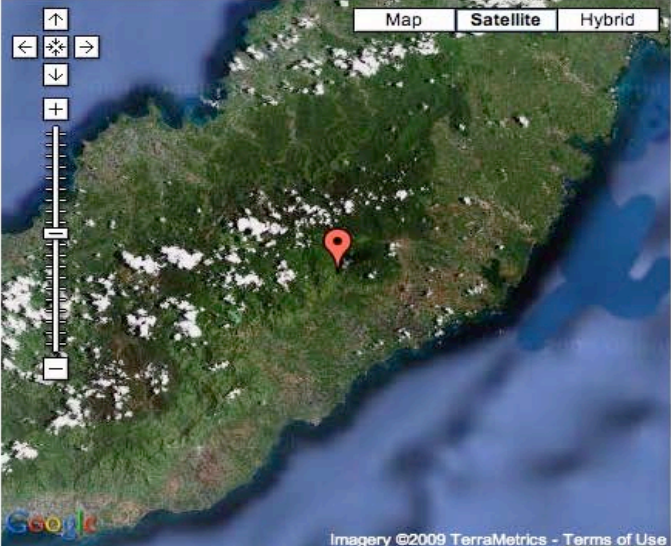
Camera Store

Prints

Map

Satellite

Hybrid

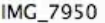
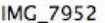
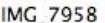
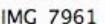
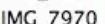
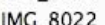
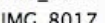
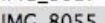


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Edit Photo Data

Pictures

Latitude

+8.92383289

N

Longitude

+117.85366821

E

Altitude

341

City

Brooke's Point

Province/State

Province of Palawan

Country

Philippines

Description

Monumental trees in watershed area


Comments

Monumental centuries old Tabigi trees are found in this area. The local Palawan highly protect this watershed area from illegal logging and from other forms of exploitation. Any mining activity in this area will be strongly opposed by the traditional indigenous inhabitants.


Remove Picture

Change file names to:

Change



Full View



Wed 15 Jul 2009 10:49:13

GPS Store

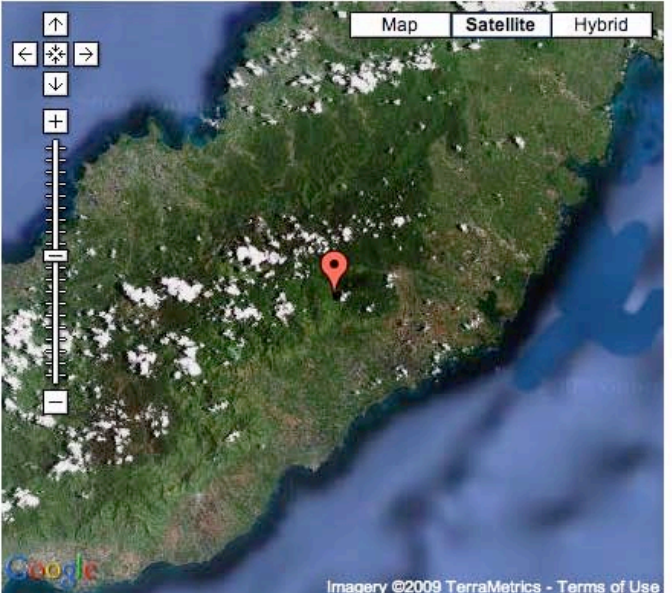
Camera Store

Prints

Map

Satellite

Hybrid



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Edit Photo Data

Pictures

IMG\_7950  
 IMG\_7952  
 IMG\_7958  
 IMG\_7961  
 IMG\_7970  
 IMG\_8022  
 IMG\_8017  
 IMG\_8047

Latitude

+8.92984104

N

Longitude

+117.85294342

E

Altitude

334

City

Brooke's Point

Province/State

Province of Palawan

Country

Philippines

Description

Spring water

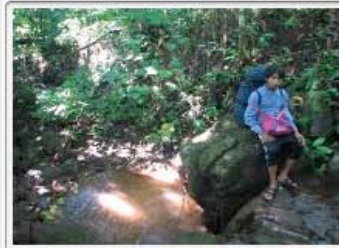
Comments

Moving down from Catelegyan to the larger Palawan settlement of Tulatula we crossed a watershed area where creeks, waterfalls and other sources of clean drinking water are abundant. It is clear that any eventual mining operation in this area will have a very adverse impact on the ecosystem and on the livelihood of local communities.

Remove Picture

Change file names to:

Change



Full View

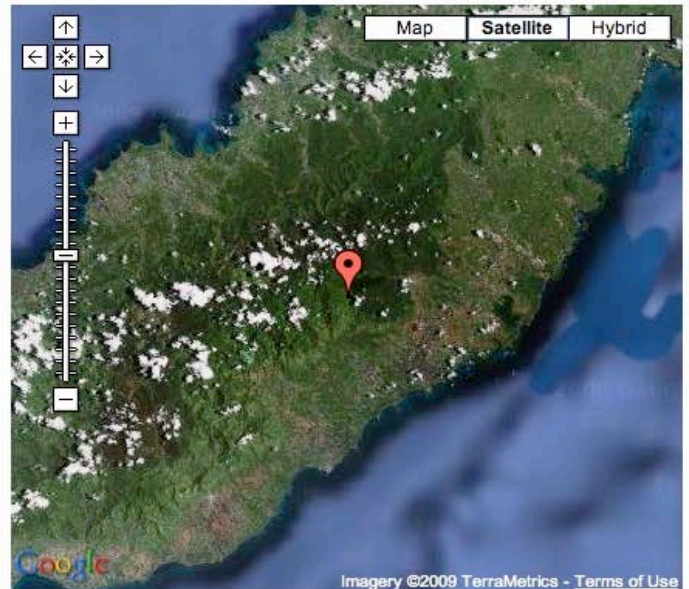
IMG\_8047

Wed 15 Jul 2009 09:53:13

GPS Store

Camera Store

Prints



Load GPS Data and Photos

Edit Photo Data

Pictures

IMG\_7950  
 IMG\_7952  
 IMG\_7958  
 IMG\_7961  
 IMG\_7970  
 IMG\_8022  
 IMG\_8017  
 IMG\_8055  
 IMG\_8059x  
 IMG\_8088

Latitude

+8.90933609

N

Longitude

+117.85509491

E

Altitude

149

City

Brooke's Point

Province/State

Province of Palawan

Country

Philippines

Description

IP Members from Tulatula village

Comments

More acculturated Palawan people such as those of Tulatula live around and at the base of those areas where MacroAsia mining operations are being planned. Thus, they will be amongst those who will likely pay the highest environmental and human costs.

Remove Picture

Change file names to:

Change



Full View

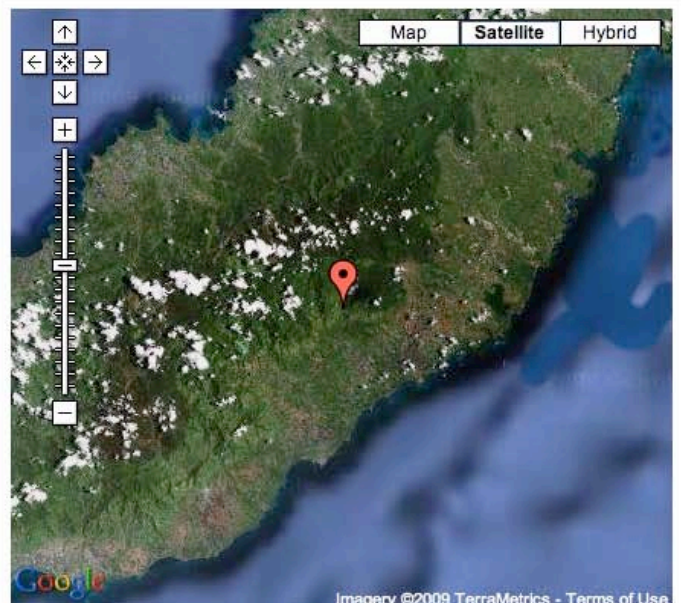
IMG\_8088

Thu 16 Jul 2009 10:17:56

GPS Store

Camera Store

Prints







Palawan children in the community of Tulatula

|                        |                         |
|------------------------|-------------------------|
| <b>Name:</b>           | IMG_8074.JPG            |
| <b>Photo Time:</b>     | Jul 15, 2009 6:41:34 PM |
| <b>GPS (UTC) Time:</b> | Jul 16, 2009 9:41:32 AM |
| <b>Latitude:</b>       | 8.909338                |
| <b>Longitude:</b>      | 117.855146              |
| <b>Altitude:</b>       | 210 m                   |
| <b>Address Line 1:</b> |                         |
| <b>Address Line 2:</b> | Brooke's Point          |
| <b>Address Line 3:</b> | Province of Palawan     |
| <b>Country:</b>        | Philippines             |

| POI | Distance (m) | Category |
|-----|--------------|----------|
|     |              |          |

Load GPS Data and Photos [Edit Photo Data](#)

#### Pictures

IMG\_7950  
 IMG\_7952  
 IMG\_7958  
 IMG\_7961  
 IMG\_7970  
 IMG\_8022  
 IMG\_8017  
 IMG\_8055  
 IMG\_8059x  
 IMG\_8088  
 IMG\_8106  
 IMG\_8132

#### Latitude

+8.88611984 N

#### Longitude

+117.90470123 E

#### Altitude

29

#### City

Brooke's Point

#### Province/State

Province of Palawan

#### Country

Philippines

#### Description

Wetland rice fields under threat

#### Comments

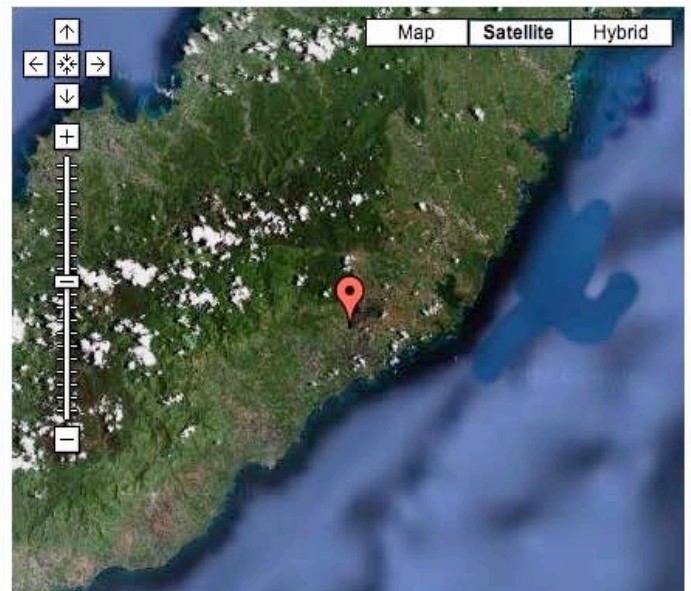
In Rizal (Brooke's point Municipality) there is a high percentage of rice fields and, in fact, rice production represents an important source of local income. Any future mining activity in the upland areas is likely to jeopardize rice production and the livelihood of hundred of farmers' families.

Change file names to:



[Full View](#)

IMG\_8132  
 Fri 17 Jul 2009 11:23:55



## E. CONCLUSIONS AND RECCOMANDATIONS

While the so-called ‘responsible mining’ rhetoric is being promoted, the ongoing destruction of Palawan’s natural forests, protected areas and ancestral domains bluntly violates the SEP (Strategic Environmental Plan), IPRA (Indigenous Peoples’ Right Act) and other national laws, as well as those universally agreed principles and provisions contained in well-know conventions ratified by the Philippine Government.

Undoubtedly, the implementation of mining activities in the uplands of Brooke’s Point is threatening the integrity of precious landscapes that are very valuable from both a cultural and biological point of view. Those territories included in the MPSA areas of MacroAsia and Ipilan Nickel Corporation possess sacred and worship sites that are regarded by the local indigenous people as physical evidence of mythological events and are associated with important cosmological principles. The local inhabitants perceive the destruction of these historical and natural landmarks as an obliteration of their history and collective memories of the past.

Mining operations in steep mountainous regions will have predictable adverse consequences for the food production capacity of both indigenous communities and migrant farmers and will increase the risk of landslides to an unprecedented level. Unless water catchments are protected, it has been estimated that at least 50% of Brooke’s point sustainable agriculture, which requires irrigation, will be lost. Mining operations will also affect indigenous peoples’ resilience and ability to cope with seasonal food shortage, decreasing agricultural productivity and climate change. Moreover, also the eco-tourism potential of the area is likely to be jeopardized.

As of now, there are controversial issues that government agencies, at all levels, as well as mining companies, should resolve and – seriously - attend to. The failure of these institutions and commercial enterprises to adhere to and respect the provisions of applicable laws, have seriously undermined their ‘credibility’. The inconsiderate decisions made by government authorities (LGUs, DENR, PCSD and NCIP) to endorse, support and approve mining explorations and operations stand as a tangible proof of how these institutions have clearly failed to carry out their own mandates. The following facts should be seriously taken into account.

### The Local Government

In late 2005, the *Sangguniang Bayan* of Brooke’s Point endorsed the mining exploration of MacroAsia in a single session without observing the regular legislative process and, thus, without calling first for public consultations. As a result, this decision was strongly criticized by farmers, indigenous communities, concerned citizens and NGOs.

In endorsing the mining exploration of both MacroAsia and INC, the *Sangguniang Bayan* acted in contradiction with its own Municipal Comprehensive Land Use Plan (CLUP) for 2000-2010, in which mining was never considered as a development strategy. The CLUP - adopted under Municipal Ordinance No. 04, series of 2001 and approved by the *Sangguniang Panlalawigan*, through Resolution No. 4786, series of 2001 - clearly specifies that the municipality’s land and resource uses should be largely targeted for agro-forestry development, watershed protection and forest management. Interestingly enough, the area that the CLUP identifies as municipal “Communal Forest” is now covered by the 2,835.06 hectares-MPSA area of CNMEC in Barangays Maasin and Ipilan. Moreover, the CLUP recites that “protection and production forests which cover approximately 54,099 hectares or 63.60% of the municipal land area be maintained” as such. Clearly as it appears, the endorsements to MacroAsia and INC are in contradiction with the Municipal CLUP.

Also the barangay government has approved mining operations, bypassing all forms of consultations with their constituents. In 2007 the *sangguniang* Barangay of Ipilan has passed two resolutions endorsing the operation of MacroAsia in Bgy. Ipilan. This is in clear violation of Section of Article XIII of the Philippine Constitution. It mandates (section 16) that: “The right of the people and their organizations to effective and reasonable participation at all levels of social, political, and economic decision-making shall not be abridged. The State shall, by law, facilitate the establishment of adequate consultation mechanisms”.



Moreover, in passing the said resolutions, the *sangguniang* Barangay of Ipilan, likewise, abrogated the important requirement of the Local Government Code (RA 7160) regarding their duty to consult their constituency on any project or program that may cause pollution, climate change, depletion of non renewable resources, amongst others, and its possible impact to the people and community in terms of environment or ecological balance.

The exclusion of the concerned barangay residents (indigenous peoples, migrant farmers, etc.) is also in contradiction with Section 27 of the Local Government Code stating: “No project program shall be implemented by government authorities unless the consultations mentioned in section 2(c) and 26 hereof are complied with, and prior approval of the *sangguniang* concerned is obtained: provided, that occupants in areas where such projects are to be implemented shall not be evicted unless appropriate relocation sites have been provided, in accordance with the Provisions of the Constitution”.

### **The Palawan Council for Sustainable Development (PCSD)**

PCSD is a unique government body formed by Republic Act 7611 with a mandate for the protection of the environment within the province. Indigenous interests are very poorly represented within the council whose decisions clearly express the views of and interests of those in power. As a policy-making body, PCSD is guided by the principle of sustainable development, which itself defines as “the improvement in the quality of life of its people in the present and future generations through the use of complementary activities of development and conservation that protect life-support ecosystem and rehabilitate exploited areas to allow upcoming generations to sustain development growth.”

Under PCSD Administrative Order No. 6 series of 2000, permits, licenses or similar instruments must have prior clearance from PCSD. The SEP Clearance is, therefore, a prerequisite to any development project or program in the province. In issuing a SEP Clearance, PCSD is mandated to implement Section 9 of the SEP Law, which specifically states:

**SEC. 9.** Terrestrial Component; Management Scheme and Zonation. — The terrestrial component may be further subdivided into smaller management components for a more efficient supervision. These management components, in turn, shall each be further subdivided into the following zones:

**1. Area of maximum protection or core zone** — “This zone shall be fully and strictly protected and maintained free of human disruption. Included here are all types of natural forest which include first growth forest, residual forest and edges of intact forest, areas above one thousand (1,000) meters elevation, peaks of mountains or other areas with very steep gradients, and endangered habitats and habitats of endangered and rare species. Exceptions, however, may be granted to traditional uses of tribal communities of these areas for minimal and soft impact gathering of forest species for ceremonial and medicinal purposes”.

**2. Buffer zone** — This area permits regulated use and may be further subdivided into three (3) sub-zones:

**a. Restricted use area.** — “Generally surrounds the core zone and provides a protective barrier. Limited and non consumptive activities may be allowed in this area”; **b. Controlled use area.** — “Encircles and provides the outer barrier to the core and restricted use areas. Controlled forest extraction, like the collecting of minor forest products, and strictly controlled logging and mining may be allowed”; and, **c. Traditional use area.** — “Edges of intact forests where traditional land use is already stabilized or is being stabilized. Management and control shall be carried out with the other supporting programs of the SEP”.

**3. Multiple/manipulative use area.** — This is the area “where the landscape has been modified for different forms of land use such as intensive timber extraction, grazing and pastures, agriculture and infrastructure development. Control and management shall be strictly integrated with the other supporting programs of the SEP and other similar programs of the Government”.

On 24 June 2005, in spite of the SEP provisions mentioned above, MacroAsia was able to secure a SEP Clearance from the PCSD for its mineral exploration project in Barangays Ipilan, Mambalot and Maasin. This was done regardless of the opposition raised by various sectors of the civil society. As of now, PCSD has not yet provided a plausible explanation on why and, on which basis, a SEP Clearance was issued to MacroAsia and INC for their mining explorations. PCSD decision of issuing a clearance is, in fact, in violation of the SEP law, which the Council should implement with rigor.

### **The Department of Environment and Natural Resources (DENR)**

The Department is mandated to be “the primary agency responsible for the conservation, management, development, and proper use of the country’s environment and natural resources”.

All proponents of development projects, such as mining, must undergo comprehensive review and evaluation, which are being undertaken by the EIA Review Committee (EIARC) prior to issuance of the Environmental Compliance Certificate (ECC). The EIARC is an independent group composed of experts in different fields (i.e. air, land, water, communities, etc.) commissioned by the DENR-Environment Management Bureau. The EIA serves as a planning and decision-making tool of which the findings and recommendations for consideration of other government agencies and LGU shall be transmitted thru the ECC. In order to address mining concerns of various stakeholders, the DENR, through the Mines and Geosciences Bureau (MGB), adheres to the policy that mining shall be undertaken in a technically, financially and environmentally responsible manner to promote the general welfare and wellbeing of all stakeholders. This adherence should translate in the submission of various requirements on the part of the mining companies: Environmental Work Program (EnWP), Environmental Protection and Enhancement Program (EPEP), Annual Rehabilitation and/or Decommissioning Plan (FMR/DP) that will deal with exploration, development, utilization, rehabilitation, regeneration, reforestation, slope stabilization of mined out areas, waste-dumps, water conservation, socio-economic development, etc. Moreover, under Section 5 of DENR Administrative Order no. 2004-09, mining applicants are required to consult with all the *Sangguniang Panlalawigan/Bayan/Panglunsod/Barangay* concerned in support of mining applications and/or in the implementation of mining projects. Provided that in the case of a mining application intended for exploration thru an Exploration Permit (EP), Mineral Agreement (MA) or Financial and Technical Assistance Agreement (FTAA), the proof of consultation and /or project presentation shall be in the form of the following:

- a) Copies of the pertinent Exploration and Environmental Work Programs duly received by the Secretary of all the *Sangguniang* concerned or Office of all the Vice-Governor/Vice-Mayor concerned, or
- b) A certification of project presentation by all the Provincial Governor, Vice-Governor, Municipal/City Mayor or Vice-Mayor concerned, or the Secretary of all the *Sangguniang* concerned.

Provided, further, that prior approval or endorsement in the form of a Resolution or Certification by the majority of the *Sangguniang* concerned shall be required in support of mining applications for approval of Declaration of Mining Project Feasibility under the Development and Construction/Operating Periods of MAs and FTAAAs.

It is worth noting that in a memorandum dated 18 May 2009, the Hon. Jose L. Atienza, secretary of the Department of Environment and Natural Resources (DENR) directed the Mines and Geosciences Bureau (MGB) to “deny all mining applications that have been rejected by the concerned IP, duly certified by the NCIP” and that “no application shall be accepted over the areas covered by denied applications, except those duly reviewed/validated by the Office of the Secretary and endorsed by the concerned IPs”.

In spite of the above recommendations and of the stringent requirements provided by the law, evidence shows that MPSAs of MacroAsia and INC have been granted by DENR, without the full compliance with existing legislation.



## The National Council of Indigenous Peoples (NCIP)

The National Council of Indigenous Peoples (NCIP) is the national body in charge of implementing the IPRA (Indigenous Peoples Right Act of 1997 or Republic Act no. 8371) which recognizes, protects and promotes the rights of indigenous cultural communities. Since its creation, the NCIP has been marred by political squabbles and chairmanship positions within the organizations have often been approved against the wishes of the indigenous peoples' advocate groups.

It is important to point out that the NCIP does not have sufficient funds to carry out its own mandate, and most of the money for the delineation, registration and approval of indigenous claims to their ancestral land/domain need to be covered by external funds through NGOs and international support.

The ALDAW/CBCD mission has collected sufficient video-recordings to show that NCIP, in Palawan, is siding with the mining companies rather than supporting the interests of its indigenous constituents. Numerous testimonials have been collected on the ambiguous and distorted way in which NCIP Palawan officers implement and operationalize the Free and Prior Informed Consent (FPIC) with reference to indigenous communities' endorsement of mining operations. Most common accusations of indigenous communities members against NCIP, include the followings:

### 1) Fake and manipulative FPIC processes

In Section 3(g) of the IPRA law, FPIC is defined as:

“the **consensus** of all members of the Indigenous Cultural Communities/Indigenous Peoples (ICCs/IPs) to be determined in accordance with their respective customary laws and practices, free from any external manipulation, interference coercion, and obtained after fully disclosing the intent and scope of the activity, in a language and process understandable to the community”. Testimonials from many indigenous leaders interviewed during the ALDAW/CBCD mission suggest that the FPIC undertaken by the NCIP was inconsistent with the spirit of “consensus”. Mission members have been told that communities were split by NCIP in ‘yes/pro-mining groups’ and ‘no/anti-mining groups’ and that final decision were not taken through consensus, but by counting the members of each group and validating their decision according to the majority principle. On the other hand, the pro-mining groups were not really knowledgeable about the real consequences of mining and their decisions were often obtained through unethical means, which included bribery, the offering of money and various form of psychological manipulation. The mission received information that, in some occasions, people's signatures found in the attendance sheets of meeting with the mining companies was later issues as a form of endorsement to mining operations. Additional testimonies from indigenous people also pointed out that some community leaders were offered money, in order to take a pro-mining stand and influence their constituents to vote in favor of mining.

### 2) NCIP has created ‘indigenous organizations’ to override and bypass community-based decision making processes

Brooke's Point Federation of Tribal Councils (BROFETRICS) is a federation allegedly composed of tribal chieftains from Brooke's Point Municipality, and it was organized by NCIP in 2000. However, according to genuine representatives and leaders of several Palawan communities interviewed during the mission, BROFETRIC is instrumentally used by NCIP to weak local indigenous resistance against mining and to promote the activities of MacroAsia and Ipilan Nickel Corporation. In fact, BROFETRICS is known to have a strong pro-mining stand. However, its views do not reflect the real sentiments and opinions of most Palawan communities found in the Municipality. It is important to point out that BIOFETRIC's so called ‘tribal chieftains’ have largely been appointed by NCIP, rather than through genuine community consensus-based processes. And yet, these appointed ‘leaders’ are used by NCIP to exercise political power and act as true communities' representatives, hence bypassing the opinions of traditional Palawan leaders (*panglima*), as well as customary

decision-making processes. When and whether the NCIP controversy will be resolved remains an open question.

### **MacroAsia and IN/Celestial**

In Brooke's point municipality, and especially in the concession area of Celestial, sites mined in previous years have been left un-rehabilitated and are now subject to various degrees of erosion. There is a strong concern amongst the local farmers and indigenous population that bad mining practices will be replicated by both MacroAsia and INC.

A joint multi-sectoral investigation by PCSDS and ELAC was conducted in September 2000 to investigate the complaints of the residents of Barangays Calasaguen, Maasin, Mambalot and Ipilan (Brooke's Point Municipality) on the mining activities and future refinery plant proposed by Celestial. The following findings - also listed in a recent report (ELAC 2007) - were discovered and emphasized:

- All test pits seen were left open making it hazardous/dangerous to human beings, animals and wildlife;
- Excavated materials that were left on the surface could be subject to severe erosion that might be toxic to plants and animals on the lower grounds;
- Traces of mineral elements were observed along tributaries and waterways draining to the lowlands particularly on streams, rivers and rice-field areas;
- Maintenance of the access road - particularly on providing necessary canals, stabilizing side cut thru reducing slopes and rip rapping measures, and providing/adopting dense vegetative cover to control erosion - were poorly undertaken;
- Large-scale cutting of standing trees sawn into lumber, some of which were premium or banned species within the mine-claim area, were observed;
- The Environmental Work Program as submitted is inadequate and incomplete to mitigate foreseen environmental impacts due to mineral exploration at the higher ground, particularly on the watershed/drainage area of a medium scale irrigation system;
- The company failed on their social obligation to provide the correct and necessary information to the host and neighboring communities.

In 2004, residents of Brgy. Maasin continued to rise complains about illegal exploration activities carried out by Celestial. The truthfulness of such complaints was verified on May 12, 2004 by the DENR-Community Environment and Natural Resources Office (CENRO) which conducted its own investigation and found out that the exploration/drilling activities undertaken by Celestial was occurring both in violation of Republic Act no.7942, as well as of the terms and conditions stipulated in the approved MPSA.

Between August and September 2008, a subsequent CBCD mission in the MPSA of MacroAsia and INC confirmed previous findings by ELAC/PCSD and later by CENRO. Particularly, it was noted that exploration activities carried out by MacroAsia and INC included the opening of multiple trails inside secondary and primary forest for the transportation of drilling machines and other heavy equipments. In turn, this was the primary cause of deforestation and removal of tree species during the construction of the trails. Furthermore, the CBCD mission found evidence of illegal logging practices along such trails. Later, interviews to members of local indigenous communities revealed that deforestation had in fact been encouraged by the same mining companies, which had an interest in causing degradation of the forest cover before pushing through with their mining operations.



## e.1) Preliminary Recommendations

### The Local Government (LGU) of Brooke's Point

The LGU should ensure that all mining related decisions which are likely to affect local communities and their environment, be discussed with an independent committee formed by indigenous peoples, local farmers, NGOs and IPs organizations' representatives in order to enhance transparency and accountability in decision making process. The ALDAW Network could be in charge of facilitating the creation of such committee, and the preparation of a specific memorandum of agreement to be signed between farmers, indigenous peoples' organizations/representatives and the Municipal Government of Brooke's Point.

Moreover, the LGU of Brooke's point should stick to its Municipal Comprehensive Land Use Plan (CLUP) for 2000-2010 adopted under Municipal Ordinance No. 04, series of 2001 and approved by the *Sangguniang Panlalawigan*, through Resolution No. 4786, series of 2001. Such CLUP does not identify mining as one of the economic options for the sustainable development of the municipality, rather it focuses on forestry, marine and fisheries, agriculture, tourism, commerce, trade and industry with a special attention to agro-forestry development, watershed protection and forest management.

The LGU of Brooke's Point should also implement with rigor Chapter VI, Article 67 of Presidential Decree 1067 or the Water Code of the Philippines stating that "any watershed or any area of the land adjacent to any surface water or overlying any ground water may be declared by the Department of Natural Resources as a protected area". Surprisingly, these watershed areas (e.g. Gantong and Maasin watersheds) are already included into the MPSA areas of MacroAsia and INC.

### The Palawan Council for Sustainable Development

The PCSD should stop issuing permits to mining companies to operate in ecologically precious and/or fragile areas, since this is in violation with the agency's own mandate. Both the mining claims of MacroAsia and INC are partly located within core and restricted use zones of Mantalingahan Range, which are considered as "non-allowable areas", based on the updated 2005 ECAN map of the municipality.

Before, issuing such permits the PCSD should have consulted the indigenous and farmers organizations representing the affected communities in the targeted mining areas. As soon as possible, an open dialogue between PCSD and all parties involved (IPs Organizations, NGOs, Civil Society, etc.) should be initiated.

### The Department of Environment and Natural Resources (DENR)

The DENR should make watersheds off-limits to mining, as well as those areas of high biodiversity and endemism, to include Indigenous Peoples' Ancestral Domains. It should further ensure that MacroAsia and INC adhere strictly to the Strategic Environmental Plan (SEP) for Palawan. Obviously, this should lead to the cancellation of the existing MPSA of both companies. DENR should also reject any eventual request, on the part of the local government of Brooke's Point, to change the category and status of ECAN core zones into multiple use zones, in order to allow mining.

The DENR, should also work with an independent body of scientists and local NGOs representatives to carry out water analysis under different weather conditions. The overall leading principle for evaluating such analysis should be the following: water quality below a mine should not be inferior to upstream water quality.

Ultimately, the DENR should solve and overcome its inherent conflict of interest caused by its dual functions: on one hand protecting the environment and the indigenous peoples and, on the other, promoting mining. Therefore, it is suggested that the responsibility related to the issuing of mining licenses should be dealt with by the Department of Mines, Hydrocarbons and Geosciences.

## The NCIP

On the basis of the very critical reports received by the ALDAW/CBCD mission on the bad deeds of the local Palawan NCIP officers, the NCIP National should carry out serious in-depth investigations to determine whether, and to what extent, the provincial officers can still perform their duties in a way that reflects the mandate and priorities of NCIP. Ultimately, those officers who have abused their power and conspired with mining companies should be removed immediately from their positions.

NCIP should also ensure that all FPIC processes carried out in conjunction with mining issues are evaluated by an independent body formed by indigenous leaders elected by their own communities, by representatives of indigenous organizations and, if the latter require so, by members (researchers, journalists, advocates, etc) of foreign institutions. This implies that locations and dates for carrying out FPIC processes should be communicated to this external evaluating body at least 15 days in advance, in order to allow evaluators to make adequate arrangements in order to observe NCIP's FPIC procedures in practices.

## MacroAsia and Ipilan Nickel Corporation

The mining companies should comply with the revised ECAN guidelines and thus cease all mining activities in the uplands of Brooke's Point municipality. They should further adhere to the provisions contained in the Mining Code, which ban mining development from key environmental zones and ancestral lands of indigenous peoples. In addition, they should adhere to the main tenets of the IPRA law (Indigenous Peoples Rights Act).

Furthermore, mining companies should implement transparent procedures for disclosing objective data on the real impact of mining operations, rather than inducing local communities to believe that mining activities will bring prosperity through the implementation of livelihood projects, scholarships and sanitary assistance. These arguments, used as a tool for propaganda, are often misleading. When mining companies present their arguments to local communities, they should invite representatives of NGOs and indigenous organizations to participate in an open dialogue where different and contrasting views are shared to allow concerned communities to gain a more balanced understanding of mining related issues.

More importantly, mining companies should present a detailed budget and complete plan, listing all the funds needed and set aside for the rehabilitation, restoration and clean up of the mining area, etc. This budget should be approved and agreed by DENR and other concerned bodies before any permit is issued.

## The National Government

The National Government should call for an immediate halt of mining operations in the forested upland and watersheds of Brooke's Point Municipality, since such activities contravene those provisions contained in well-known conventions [e.g. *The Convention on Biological Diversity* (CBD)].

The CBD is a key instrument for the conservation, sustainable use, fair and equitable sharing of benefits arising out of the utilization of genetic resources. In this regard, the principle of Free Prior and Informed Consent (FPIC) is an important element of the CBD provisions on access to genetic resources and fair and equitable sharing of benefits. It is also essential to the implementation of a number of provisions of the Convention, which are of particular importance to indigenous and local communities. The CBD was launched at 1992 United Nations Conference on Environment and Development, together with the non-legally binding Forest Principles and Agenda 21, that – in chapter 11 – focuses on 'Combating deforestation'. The commitments made under this convention form some of the strongest government statements of their own responsibilities towards the protection and promotion of traditional knowledge and respect for holders of such knowledge. A key standard on indigenous peoples established under the conventions is set in article 8(j) mandating that Each Contracting Party shall, as far as possible and as appropriate:



“Respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices”.

These principles are further listed in the *UN Declaration on the Rights of Indigenous Peoples* (especially articles 1, 12, 20, 27 and 30) adopted and signed by the Philippine government on September 14, 2007. In the UNDD it is stated that “indigenous people have the right to determine and develop priorities and strategies for the development or use of their lands, territories and other resources, including the right to require the states obtain their free and informed consent prior to the approval of any project affecting their lands, territories and other resources, particularly in connection with the development, utilization or exploitation of miner, water or other resources”.

Moreover, the endorsement of mining operations in areas of high ecological and cultural diversity, such as the uplands of Brooke’s Point, further contradicts other conventions that the Philippine Government has ratified such as **1)** The Convention concerning the Protection of the World Cultural and Natural Heritage and **2)** the Convention for the Safeguarding of the Intangible Cultural Heritage.

The inclusion of precious habitats, such as watersheds and biodiversity hotspots in the MPSA area of MacroAsia and Ipilan Nickel Corporation is also in contradiction with the Revised IUCN Protected Area Category System and, undoubtedly, it jeopardizes the integrity between ecological, biological, cultural and scenic values in the Municipality of Brooke’s Point.

The commitments made by the Philippine state under these conventions form some of the strongest government statements of its own responsibility towards the protection of environment and the well being of its inhabitants. In consideration of the above points, the National Government should include the Gantong watersheds and upland areas of Brookes’ Point Municipality as integral portions of the newly approved Mantalingahan protected area (proclamation no.1815 dated June 23, 2009). These areas, which constitute the northern fringe of the Mt. Mantalingahan range share with the latter the same biological and cultural features/diversity, and thus should receive the same level of protection and ‘legislative privileges’.

Ultimately, the National Government should revoke the 1995 mining act and issue a new act placing more emphasis on human rights and ecological balance, while regulating mining for the public interest.

## **The Provincial Government**

In late 2008, the provincial board of Palawan has passed a provincial resolution providing for a moratorium on small-scale mining for a period of 25 years. This local legislative effort is not enough to prevent large scale and exploration activities in the province. The Provincial Government should play a less passive and ‘submissive’ role in relation to Malacañang decisions on mining revitalization. It should rather prove and demonstrate to the National Government that the revitalization of the mining industry is not compatible with the very special environmental status of Palawan Island, nor with the Province’s primary goal of achieving sustainable development in accordance with the Strategic Environmental Plan (RA 7611).

## **The EU, foreign donors and international agencies**

International agencies should assist in establishing and funding an independent scientific mission composed of botanists, zoologists, ethnobiologists and anthropologists in charge of carry out a detailed biocultural survey of the upland and watershed areas of Brookes’ point Municipality which are being claimed by MacroAsia and Ipilan Nickel Corporation. Until such studies are completed and submitted to National, Provincial and local governments, no mining activities (to include exploration) should be carried out in the targeted area.

## The UNESCO

It is Palawan's diversity which served as the basis for declaring Palawan as a "Game Refuge and Bird Sanctuary" in 1967 and as a Mangrove Reserve in 1981. Having established Palawan as a "Man and Biosphere Reserve" the UNESCO should play a more incisive role, specifically when national governments, such as the Philippines, violate the condition for which such 'prestigious awards' had been granted. Therefore, the UNESCO, through its Indonesia office, should support ongoing advocacy efforts in Palawan, which oppose the entry of commercial mining in the province. Overall, the UNESCO should make its voice to be heard at both the Philippine national and provincial levels.



### Table of Abbreviations

BROFETRICS - Brooke's Point Federation of Tribal Councils  
 CADT - Certificate of Ancestral Domain Title  
 CI-P - Conservation International-Philippines  
 CNMEC/Celestial - Celestial Nickel and Mining Exploration Corporation  
 CNP - Celestial Nickel Project  
 CLUP - Comprehensive Land Use Plan  
 DENR - Department of Environment and Natural Resources  
 ECAN - Environmentally Critical Area Network  
 ECC - Environmental Compliance Certificate  
 EIARC – EIA Review Committee  
 ELAC - Environmental Legal Assistance Center  
 EnWP - Environmental Work Program  
 EP - Exploration Permit  
 EPEP - Environmental Protection and Enhancement Program  
 FMR/DP - Rehabilitation and/or Decommissioning Plan  
 FPIC – Free Prior and Informed Consent  
 FTAA - Financial and Technical Assistance Agreement  
 INC - Ipilan Nickel Corporation  
 INFANTA - Infanta Mineral and Industrial Corporation  
 IP -Indigenous People  
 IPRA - Indigenous People's Rights Act  
 IPO - Indigenous People's Organization  
 IUCN -International Union for the Conservation of Nature  
 LGC -Local Government Code  
 LGU - Local Government Unit  
 MA - Mineral Agreement  
 MAC/MacroAsia - MacroAsia Corporation  
 MCLUP - Municipal Comprehensive Land Use Plan  
 MGB - Mines and Geosciences Bureau  
 MPSA - Mineral Production Sharing Agreement  
 NCIP - National Commission on Indigenous Peoples  
 NGO -Non-Governmental Organization  
 NIPAS - National Integrated Protected Area System  
 NIPPON - Nippon Mining Company of Japan  
 PA - Protected Area  
 PCSD - Palawan Council for Sustainable Development  
 PNNI - Palawan NGO Network, Inc.  
 PO - People's Organization  
 RA - Republic Act  
 SEP - Strategic Environmental Plan  
 TMC – Toledo Mining Corporation  
 UNESCO – United Nations Educational, Scientific and Cultural Organization



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