

Public Participation and Environmental Impact Assessment: Findings from Four Case Studies

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Project Background and Objectives

The case studies were conducted as part of the project aimed at assisting the Environmental Management Bureau (EMB) to improve the process by which affected communities, NGOs, people's organizations (POs), academe, and the general public can participate meaningfully in Environmental Impact Assessment (EIA).

People's involvement is considered a key factor in strengthening EIA implementation. A decade of experience with the EIA system has shown that many problems associated with the EIA process are traceable to lack of adequate communication and understanding or appreciation of the social, cultural and political factors that affect EIA implementation. Recognizing this, the Department of Environment and Natural Resources (DENR) has actively promoted its policy of building friendship and partnership with NGOs and POs in protecting the environment.

The project thus addressed the problem of how public participation can be enhanced and made more effective. It sought to undertake a deeper analysis of the problems and issues identified thus far, particularly those that highlight the conflict of interest and the communication gaps that exist between keyplayers and stakeholders in the EIA system. On the basis of these studies and analyses as well as consultations with concerned publics, two manuals were prepared: a communication manual and an environmental monitoring manual which will provide needed information and directions for key participants in the EIA system.

Rationale and Background of the Study

The Philippine Environmental Impact System (EIS) is aimed primarily at:

- protecting the environment from damage;
- improving public participation and government decisions;
and
- attaining economic efficiency.

Compliance with the EIS system

At the outset, the EIS system was confronted with problems of poor compliance particularly during the first several years of its implementation. Institutional mechanisms were identified as a major obstacle:

"Implementation failed because the agencies responsible for compliance largely ignored the system's supposedly mandatory procedures; there was no effective mechanism to compel agencies to take the EIS system seriously. The NEPC, the agency in charge of overseeing the EIS system was both politically weak and inadequately staffed and therefore ineffective in enforcing the procedural requirements of the system" (Bracosa 1987:227).

Following the 1986 people's power revolution, the new government, as part of its reorganization of the entire bureaucracy, abolished the NEPC and NPCC and merged their functions under the EMB, one of the six bureaus under the reorganized DENR. The EMB is tasked with ensuring "the sustainable use, development, management, renewal and conservation of the country's forest, mineral lands, offshore areas and other natural resources, including the protection and enhancement of the quality of the environment".

Status of EIA Implementation in the 1980s

Of the approximately 5,231 environmental impact documents submitted to the EMB (the central implementing agency for EIA) about one-third (36.5%) were issued environmental compliance certificates, or ECC, (DENR-EMB, 1990; Supetran, 1989). The EMB issues the ECC for a specific program or project after its proponent has adequately shown through the EIA process that the program or project is not likely to cause unacceptable changes in the environment.

The ECC may impose specific measures to reduce or compensate for significant adverse impacts, enhance positive environmental impacts, or require certain modifications in the program/project design or activity. Thus far, however, compliance with ECC terms and conditions has not been adequately monitored. But it is generally believed that compliance with ECC has been minimal, or nil. A notable exception to the non-compliance norm has been the mining sector which registered a 54.2 percent compliance. Within this sector, 89 percent covered non-metallic projects, in particular sand and gravel quarrying.

Thus, experience over the last decade has shown that enforcement and implementation of the Philippine EIS system have not been successful.

Many factors have been identified as contributing to the limited success of the EIS system, chief among which are the following:

- o The usefulness and value of EIA have not been fully realized. Most project proponents view it as yet another regulatory imposition of government that has to be met. Generally, too, planners have still to accept the value of EIA and the environmental safeguards it prescribes.

- o The scope of the system resulted in implementational difficulties. Under the earlier decentralized process, the problem was in screening out small projects with insignificant impacts in the absence of clear guidelines of what "significant impacts" meant. Even with the centralized system, the problem remains since environmentally critical areas covered 80% of the country's geographical area, thus subjecting even small insignificant projects to the EIA requirement (DENR, 1990).

Whether the implementation, of EIA is centralized or decentralized to the regions, there are problems bound to arise in either case.

Because many of the early EIAs were conducted late in the planning stage, confrontations often arose between developer and regulatory agencies and between developer and public. Other key constraints to effective EIA implementation include:

- o inadequate training of EIA assessors and reviewers
- o shortage of experienced staff in government among project proponents
- o lack of baseline data
- o absence of governmental guidelines particularly on environmental zoning.
- o poor communication delivery system led to low acceptance of the EIA or to outright resistance

Lack of proper communication invariably led to insufficient or non-participation in the EIA process by local communities, non-governmental organizations (NGOs), the academe, and the general public. As a result, social acceptability of the EIA systems is either indeterminate or negative.

Others have contended (e.g., Yap 1992) that the EIA model transplanted to less developed countries may be inappropriate on social, cultural and political grounds or that the information gathering and processing "makes excessive demands on human and financial resources" and the modes of public participation, too technical and/or technocratic (Parenteua, 1988). For EIA to become an effective instrument for anticipatory environmental management, the framework and methodology must be adapted to the local and sociocultural context.

NGOs and Public Participation

A major feature of the sociopolitical environment in recent years is the vibrant NGO landscape. The Aquino administration had openly encouraged the growth and development of NGOs through the expansion of democratic space and the creation of a favorable policy environment. GO-NGO collaboration had been actively promoted and NGO desks have been formed in a number of government departments. The important role of NGOs and people's organizations (POs) in Philippine democracy and development is explicitly recognized in the 1987 Constitution. Furthermore, the new Local Government Code (enacted in 1992) operationalizes this Constitutional recognition of the NGOs' importance through a specific provision which requires NGO representation in development planning councils at municipal, provincial and regional levels.

Many NGOs have included environmental concerns in their social and political advocacy and action programs. Current listing by EMB of NGOs with related environmental concerns number 218.

Heightened awareness of environmental problems and issues has led government through EMB to initiate a series of consultations with different sectors. In 1988, a formal resolution was issued urging the adoption of a Philippine Strategy for Sustainable Development (PSSD). A conceptual framework formulated for the PSSD on November 29, 1989 was approved by the Aquino government. This framework, composed of ten

strategies is "aimed at resolving and reconciling the diverse and sometimes conflicting environmental, demographic, economic and natural resource uses". One of the ten strategies is strengthening of citizens' participation:

"NGOs will be employed to mobilize the citizenry and make them active participants in environmental management. The specific strategy to be employed is the formation of a network among NGOs and government organizations, to organize communities, conduct public information campaigns, conduct research/situation assessments; undertake environmental surveillance and monitoring and other similar activities".

This strategy keenly recognizes the major role NGOs and POs have played and will continue to exercise in environmental management and protection. The intense struggles and controversies generated during the Marcos rule were rooted primarily in the lack of people's participation, and the priority of economic development concerns over people's rights (particularly indigenous people's rights as in the Chico River Dam project and Cellophal Corporation estate which encroached upon ancestral lands). These controversies and confrontations in the past have given momentum to the emergence and growth of a less sporadic and more organized environmental activism. Perhaps no single issue has fueled this environmental protection fervor more than the building of the nuclear plant in Morong, Bataan. The issue joined a broad spectrum of support groups and advocates and was the key talking point in the first national environmental congress in 1979 which launched the Philippine Federation for Environmental Concerns (PFEC).

The large increase in the number of environment-related networks and alliances formed between 1986 and 1989 reflects the increased level of NGO concern for the environment. These years of the rapid growth of NGOs and POs pursuing environmental protection and advocacy drove home the message "that it makes long-term economic sense to pursue environmentally-sound policies" (Phil. Environment in the Eighties: DENR Report, 1990).

Approach and Methodology

Case Studies

Four case studies were conducted to analyze problems and issues in EIA implementation particularly those that highlight the conflicts of interest between stakeholders. The cases selected represent various types of environmentally critical projects in different regional settings. The case studies explore a number of critical issues in project planning, institutional implementation, conflict management and/or resolution.

Based on discussions with EMB officials and the Asian Development Bank (ADB), a number of criteria were identified in case study selection:

- o availability of documentation on the cases
- o accessibility and security of project areas/sites
- o EMB priorities
- o future applicability of learnings and insights from the cases to the country's environmental plans; and
- o presence of ethnic or cultural communities in affected sites.

The four cases selected were:

1. Benguet Corporation open-pit mining project in Antamok, Itogon, Benguet - Cordillera Autonomous Region
2. Calaca Coal-Fired Thermal Plant II in Calaca, Batangas - Region IV
3. Philippine Associated Smelting and Refinery Corporation (PASAR) Project in the Leyte Industrial Development Estate in Isabel, Leyte - Region VIII.

4. Mt. Apo Geothermal Plant in North Cotabato and Davao del Sur in South Central Mindanao - Region XI

Case Study Research

A combination of data-collection techniques was used for the case studies:

1. review of process documentation, records and materials on the cases, particularly proceedings of public hearings;
2. site visits and observations;
3. key informant interviews using semi-structured questionnaires; and
4. roundtable discussions or focused-group discussions with concerned sectors, whenever feasible.

The case study analyses focused on:

1. modes of contact at each step of the EIA: problem areas that have constrained or blocked effective communication with local communities and NGOs
2. timing and modes of early communication before and immediately after the preparation and submission of project description documents, environmental baseline survey stage
3. problems in understanding EIA reports among local people and NGOs
4. conduct of public hearings and the dynamics of the consultation
5. why confrontations occurred, how these were managed, resolved; who were the key actors in the conflict; what factors accounted for the controversies

Case No. 1

Benguet Corporation Open-Pit Mining Case

Chronology of Key Events

March 1989	People in barangays Tuding and Tocmo in Itogon file formal petition with Benguet Corporation (BC) to stop open-pit mining operations
April 1989	DENR-CAR acts on complaints: forms investigating team, sends notice of violation to BC, advises BC to secure ECC
May 1989	DENR-CAR RED issues suspension order of BC operations
June 1989	Pollution Adjudication Board issues Cease and Desist Order (CDO) to BC
July 1989	BC asks for reconsideration People protest construction of diversion tunnel in Antamok River
August 1989	Series of verifications are conducted and meetings are held on BC plans to mitigate pollution CDO lifted
November 1989	Cordillera Environmental Concerns Committee files formal petition against BC's Grand Antamok Project

February 6, 1990	Loakan residents dialogue w/ EMB's Asst. Dir.
February 24, 1990	Public Hearing in Baguio City on Grand Antamok and Tuding Gold Project of BC
March 5, 1990	EMB advises BC through DENR-CAR to stop construction of diversion tunnel as ECC has not been issued yet
March 9, 1990	People set up barricades and paralyze BC operations in Antamok Mines
April 20, 1990	EMB holds dialogues with BC, Itogon residents
May-June 1990	Meetings held with EMB, RED, LGUs, DENR-CAR, leaders of affected communities, Prov. Co.
June 7, 1990	Signing of the Memorandum of Agreement (MOA)
June 27, 1990	EMB issues ECC to BC's Antamok Mines Project
Sept. - Dec. 1990	Monitoring continues
December 18, 1990	Guidelines on setting up of Environmental Guarantee Fund Completed
January 1991 - February 1991	Multipartite Monitoring Team formed Hearing on the Clay Creek Waste Dump problem
July 9, 1991	LIMPMA pickets BC operations
July 12-13, 1991	Cease and Desist Orders issued and implemented
July-Dec. 1991	LIMPMA case and monitoring
Dec. 15, 1991 - Jan. 15, 1992	Public hearing by EMB of open-pit mining issues More meetings/investigations

Background

The Antamok Gold Project of Benguet Corporation (BC) runs an open-pit mine in Loakan, Antamok, Itogon, Benguet. Located 25 kms. from Baguio City, this project is an expansion of BC's 440 vein open-pit operations.

Having extracted most of the high grade gold ores in Antamok Mines after more than 80 years of underground mining (since 1903), BC decide, as early as 1986, to expand its operation at the surface of the Antamok gold vein deposits. This meant using large-scale open-pit mining methods to cut down production costs and maintain the company's level of profitability.

Early experiments with open-pit methods in the "440 vein" had shown positive economic returns. In 1989 BC completed its feasibility study on how to extract low grade ores which are abundant in the area (Ramos & Ramos). The plan was to first mine the "440 vein" and later the "camote" and "breccia" gold veins. To extract the ore deposits this operation would mean stripping the mountains of 93 million metric tons of rock and soil with bulldozers and other earth movers. The project would include:

1. setting up a carbon-in-pulp plant to process the low grade ore
2. a tailings dam to contain solid waste from the mining and milling operations
3. a 12x12 diversion tunnel measuring 1,600 meters, to divert the Antamok River by passing the open-pit and pond area
4. an open channel which will connect the outlet of the diversion tunnels to the original course of the Antamok River

According to the EIS prepared by BC, anticipated major impacts of this project are: water pollution, siltation due to mining operations and wasted dump, the alteration of land forms, diversion of the Antamok River and displacement of the community.

In the third quarter of 1989, BC started the construction of some of the major engineering work components without an environmental clearance certificate.

The Issues and the Key Players' Positions

The People

The people living within and adjacent to BC's open-pit mining areas strongly opposed the project for the destruction wrought by past operations on their environment, alledging that BC's operations "have destroyed the natural water system, impaired the ecological balance and displaced large numbers of people".

Apart from these adverse impacts, most of them are dependent on small scale pocket mining, tolerated for years by the company itself. The company's open-pit mining project will deprive them of their main source of livelihood. Thus, they petitioned BC formally to stop any new/planned operations and called on DENR-CAR to do something. An investigating team was constituted to look into people's complaints and BC was advised to secure an ECC for their open-pit operations in Little Corporal and Calhorr Mines. The investigation also confirmed the violations of anti-pollution laws. People were not formally informed: *"there was no public consultation. The bulldozers just rolled by, wrecking my parents' garden. We couldn't do anything about it - the dust, the noise was unbearable... We were treated like we had no rights at all".*

These were the sentiments of a schoolteacher and member of the United Concerned Citizens of Ucab (UCCU).

Others talked about the blasting operations that destroyed 16 houses. Still others worried about the springs that were destroyed and the serious water problem they now face. As Carino (1992: 6-7) put it: *the physical displacement of the people from their ancestral land and sources of livelihood is witnessed as BC's bulldozers and other heavy equipment eat away their homes, small scale mines, swidden farms and watershed. Similarly, there is the grim prospect that a diverted Antamok River shall wash away or inundate other lands that shall be spared by the company's bulldozers. In addition, the threat of retrenchment resulting from lower labor requirements due to mechanized open-pit mining methods, faces those employed by BC as underground mine workers"*

Other environmental consequences have been identified such as: depletion and destruction of water resources for domestic and irrigation use, siltation caused by mining wastes, extensive surface destruction and denudation, pollution due to mine tailings and other activities related to open-pit mining. Moreover, heavy dynamite blasting has caused injury to people in the area. Displacement of people could likewise "undermine the social institutions and patterns of the local population".

The Benguet Corporation

The shift from underground, narrow-vein mining to open-pit, wide-vein bulk mining was dictated by economic considerations and the need to be competitive in the world market. BC President Belmonte averred that: *"We are forced to sell at a price that even falls below our production costs"*.

To assure continued operation of the mines and employment of its present work-force of about 5,300 persons with prospects for employing more, the open-pit operations were conceived. BC argues that adverse

environmental effects can be mitigated by the project's design which include: a technical design (D-Factor), a control and containment mechanism (C-Factor), rehabilitation and reconstruction program (R-Factor). A carbon-in-pulp mill to treat the ores will be set up near the pit and a reservoir downstream will contain the mine tailings of the pit. These major structures will be constructed: a tailings dam, spillway, run-off tunnel, penstocks, diversion tunnel and an open channel.

Water pollution, siltation due to mining operations and waste dumps, alteration of land forms, reduction and alteration of Antamok River flow will thus be addressed through a number of mitigating and preventive measures.

DENR

The DENR recognizes the significant contribution of the mining industry to the Philippine economy (1.45% to country's GDP in 1989) despite fluctuating economic trends, foreign exchange earnings (10.6% of total export receipts in 1990), taxes and employment (Ramos & Ramos, 1992).

Thus, the problem was defined as how "to strike a balance between the effects of enforcing stringent environmental requirements and the effects of such action on the economy" (Ramos & Ramos, 1992).

The adoption of the Philippine Strategy for Sustainable Development in 1988 provided the framework for the DENR's pursuit of "optimum development of mineral resources that can give long-term economic benefits" with equal protection of the environment and the people. Mining operations must not be pursued at the expense of the environment. Mining operations and other environmentally critical projects are subject to laws and regulations being enforced by the DENR.

The DENR, in response to people's petitions and complaints against BC's open-pit operations in three areas, investigated and subsequently found

BC guilty of violating anti-pollution laws. BC's operations were suspended. DENR lifted the ban only after BC agreed to a number of conditions set by the Pollution Adjudication Board. These included: submission of Performance Bond, written commitment to construct waste dumps (with detailed design and time frame) and the formation of a monitoring group to ensure compliance.

The LGU

The municipal government gave full support to the small miners' struggles. It adopted resolutions which endorsed people's petitions, statements and other forms of protest action against the expansion of BC's open-pit mining operations.

Among the resolutions formally adopted by the municipal governments' Sangguniang Bayan (SB) during this period were:

- SB # 165, S 1989 : urged DENR to cancel all permits granted and to revoke all applications for surface mining within Itogon

- SB # 11, S 1990 : adopted position paper of SB Committee on Environment re: BC GAP and Tuding Gold Projects

- SB # 46, S 1990 : adopted an ordinance providing for abatement of certain mining activities that are injurious to the health and safety of the community and will damage the environment (enacted April 17, 1990)

- SB # 94, S 1991 : requested the DENR Secretary to suspend resumption of open-pit mining operations at Key Stone Vein, Ucab and Itogon

On July 20, 1991 Mayor Fianza formally called a referendum on the mining issue. The people voted overwhelmingly against the continuation of BC's open-pit mining operations.

The NGOs

In the early stage of the struggle, people kept away from NGOs who were perceived to be left-leaning and/or identified with the New People's Army. This attitude changed as the struggle against open-pit mining intensified. The people realized the need for all-out support from all sectors. A number of NGOs working with mining communities eventually formed a coordinating committee to mobilize support for people's organizations (POs) and affected communities. The Mining Communities Coordinating Committee (MCCC) brought together such NGOs as the Mining Communities Development Center (MCDC), the Women Workers' Program (WWP) and POs like Cordillera People's Alliance (CPA).

MCCC, its affiliate groups and other NGOs like the Center for Development Programs in the Cordillera (CDPC) and the Alliance of Concerned Teachers (ACT) adopted on August 30, 1991 a resolution of full support to the Itogon People's Struggle against open-pit mining and "all forms of development aggression in the Cordillera".

Forging the MOA

After more than a year of the conflict which pitted small scale pocket miners against corporate giant BC, the situation appeared to have worsened. After numerous investigations, consultations, meetings, dialogues, petitions and resolutions, CDOs, rallies and barricades, the solution was nowhere in sight.

The protesters had by now gained public support for their causes. Technical investigations had validated their complaints against the company's operations. Decisive actions had been taken. DENR-EMB officials had

halted BC operations and fined the company for proceeding without prior environmental clearance. BC, in turn, took legal action. A restraining order was issued by the court to stop barricaders from disrupting company operations, naming 28 picketing miners as respondents. The Benguet provincial commander personally served the order and miners complained of military harassment.

BC pursued another strategy. A public relations campaign was launched - house to house visits were made explaining the BC side, BC also persuaded some leaders that "workers" interests could be best served if the Benguet Gold Operations (BGO) survived; that the BGO's survival rested on renewed profitability of operations".

Some leaders of the protesting miners' associations changed their positions and were willing to endorse petitions for BC to resume operations. Some sources claim these were brought about by inducement such as contracts from BC and other concrete economic benefits.

The DENR regional office took a major role in negotiating a resolution of the conflict, as mediator/intercessor. It was as expected, a difficult role to play, putting DENR-CAR in a tenuous and critical situation - accused of partiality and being "*kakampi*" of BC.

RED Ramos was aware of the climate of distrust that had developed. Promises and verbal agreements had been broken in the past, and people no longer took these seriously. As Alinsky, the radical organizer once stressed: "*People only understand things in terms of their own experience*". RED Ramos adapted a strategy based on his review of earlier approaches - "*to erase doubts and apprehensions it was decided that whatever negotiations or agreements are entered into by the concerned parties or their representatives, shall be made binding by a Memorandum of Agreement*". This, he pointed out, is the first of its kind in the history of resolving conflicts among miners.

The time was ripe for forging such a memorandum. As Alinsky at one time

pointed "it is only when the other party is concerned or feels threatened that it will listen - in the arena of action, a threat or crisis becomes a precondition for communication". Ramos proposed the MOA in May 1990 as "a compromise agreement which would allow the resumption of open-pit mining in exchange for corporate reparations". It provided for the lifting of barricades by the local residents and the dropping of the court suits filed by BC against the leaders of the group.

The MOA also addressed the issues raised by the local residents. These included identification of relocation sites, payment for damaged properties, priority in company employment, improvements in the domestic water supply system, road system, electrification and awarding of labor contracts to qualified residents.

The MOA also required BC to submit a Comprehensive Environmental Rehabilitation Plan - as a condition for issuing an ECC. The MOA itself was to form part of the ECC which would additionally, provide an Environmental Guarantee Fund to ensure compliance.

The MOA was signed on June 7, 1990 by BC, some community leaders and the DENR. This then paved the way for the granting of the ECC on June 27, 1990.

Created on January 11, 1991 was a Tripartite Monitoring Team composed of representatives from DENR, the affected communities and the BC to monitor compliance with the conditions of the MOA and the ECC. A Technical Assessment Committee was likewise formed to investigate and inspect whatever damages BC operations would bring about.

Postscript

Cariño reports in her case study that local residents resumed their protest a month after the signing of the MOA. Allegations were made that the community leaders who signed had been "coopted by the company" and did

not represent the people. On July 1, 1990 the people hosted a *canao* or native ritual "to exhort the gods and ancestral spirits to protect them from Antamok Gold Project (AGP)". Copies of the MOA were burned as a sign of their continuing protest.

New people's organizations were set up such as the United Concerned Citizens of Ucab (UCCU). An inter-barangay alliance now unites these groups. They continue to resist open-pit mining (Cariño 1992).

Both the team formed by DENR and the team of independent peoples organizations and the NGOs which have formed the Mining Community Coordinating Committee, continue monitoring.

The International Water Tribunal in a hearing held in Amsterdam last February 17-21, 1992 rendered a guilty verdict on BC for destroying the water system of Itogon and polluting the Agno River through its use of open-pit mining (Cariño, 1992). MCDC brought the case before the tribunal composed of an international jury of respected persons who make judgments on complaints concerning water problems in Asia, Africa and Latin America.

Last October 19-24, 1992, the Benguet case was also brought to the Permanent Peoples Tribunal which held hearings in Bhopal India. The Philippine case is entitled "Environmental Damage by Open-pit Mining" (Dayo, MC 1992).

Case No. 2

The PASAR EXPANSION/ MODERNIZATION PROJECT

Chronology of Events

- August 10, 1990 - PASAR and DENR sign a Memorandum of Agreement (MOA)
- March 1, 1991 - EIS is completed and submitted to EMB
- April 4, 1991 - EIA Review Committee (REC) meet on PASAR EIS
- April 12-13, 1991 - EMB and EIA-RC visit PASAR-LIDE in Isabel, Leyte
- June 4, 1994 - Technical Conference to consider additional information from PASAR
- June 10, 1991 - Groundbreaking ceremony at LIDE . . . for new PASAR facilities
- July 11, 1991 - EIA-RC recommends issuance of ECC; ECC is drafted and finalized for submission/ approval by Asst. Sec. Delfin Ganapin, Jr.
- July 16, 1994 - SOS EARTH Chair Jose Alfaro sends a letter to DENR Secretary informing him of the June 10 groundbreaking ceremony at LIDE

- July-August 1991 - EMB receives letters of complaints and position papers on the PASAR Project requesting DENR to defer granting of ECC until after a public hearing

- July 19, 1991 - DENR and PASAR meet to discuss the dispersed "mercury analysis" results in the Final Report of the LIDE Multipartite Monitoring Team

- August 2, 1991 - RED Goze sends telegram to EMB Director re: EIA-RC recommendation to reclassify the class SD coastal waters around LIDE; informing him that current discussions are ongoing; decision should not be made unilaterally, consultations with all sectors imperative

- September 5, 1991 - PASAR files formal complaint re: Multipartite Monitoring Team results

- September 9, 1994 - Public Hearing on the PASAR expansion project at Isabel, Leyte

- September 24, 1991 - EMB-EIA meeting with Asst. Sec. Ganapin

- September 30, 1991 - ECC granted - Ganapin writes to PASAR President A. San Miguel about ECC approval and permit to proceed with project implementation

The Project

In 1990 PASAR¹ applied for an ECC for the modernization/expansion of its existing plant facilities at LIDE, Isabel, Leyte. This expansion would include an additional oxygen plant, electrostatic precipitator and electrolytic cells and modifications in some of the equipment - improvements designed to optimize plant capacity and increase its efficiency.

According to PASAR, the project will be environmentally beneficial since the addition of electrostatic precipitator will improve dust collection from the off-gas system. Furthermore, oxygen enrichment will reduce the total volume of exhaust gases from the smelting furnace. Modification in the acid plant will improve the conversion efficiency of SO₂ gas into sulfuric acid. All these improvements will result in cleaner gas emissions. A modification in waste water neutralization plant will also improve the quality of the affluent.

Since the proposed plant expansion include the installation of additional state-of-the-art anti-pollution devices, PASAR did not anticipate any disturbances in the existing ecological system. PASAR officials expected in fact : "an improvement in the environmental situation in the locality".

The EIA studies focused on:

- 1) the effects of the project on the quality of the plant's air emissions and water residues; and
- 2) inventory survey of the marine resources in the immediate coastal waters surrounding LIDE, specifically sea weeds, sea grasses and the mangroves. A private consulting group (Test Consultants, Inc.) undertook this inventory, plus a climatology and atmospheric investigation.

¹ PASAR means Philippine Associated Smelting and Refinery Corporation

PASAR/LIDE: A Background

PASAR owns and operates the only copper smelting and refining facility in the Philippines. A private corporation, it is owned jointly by the Philippine government through the National Development Company (majority ownership), a group of Philippine mining companies and the International Finance Corporation.

Registered on June 9, 1977 with the Board of Investments as a pioneer export project under the Export Incentive Act (RA 6135), PASAR was among the core of companies, together with Philippine Phosphate, Inc. and Lepanto Consolidated Mining Co., that located in the Leyte Industrial Development Estate (LIDE), a program intended to spur the development of Region VIII.² Former President Marcos issued Letter of Instruction No. 962 on November 23, 1979, declaring 400 hectares in Isabel, Leyte as part of LIDE.

The EIS

On February 18, 1991 PASAR submitted its EIS and requested issuance of the ECC. In his letter requesting for the ECC, Pres. San Miguel, Jr. of PASAR informed EMB of the Memorandum of Agreement (MOA) between PASAR and DENR signed on August 10, 1990, and indicated that "the project has already gained the approval of the Philippine government's NEDA Investment Coordinating Committee, the Monetary Board, Central Bank, and the Board of Investments. . ."

In addition, he pointed out that "by virtue of the Philippine government's approval of the same, the major portion of the project has been awarded, through public bidding to a contractor, Outokumpu Oy (OKO) of Finland on turn-key basis - the contract for the turn-key project between OKO and PASAR was already signed and made effective, including the loan agreement, starting last February 1, 1991".

² PASAR originally planned that its plant be located in San Juan, Batangas. The citizens opposed the project, and the plant site was moved to Isabel, Leyte, home province of Mrs. Marcos. A lone oppositor, Mr. Hernandez of Leyte Forum did not receive public support.

It appears then that even prior to the granting of the ECC, contracts for the expansion of PASAR facilities had been negotiated and awarded. PASAR's president further assured EMB that the project was not only financially but also environmentally sound and beneficial to people.

There was no forewarning of the tempest that was to ensue.

EMB's Officer-In-Charge called for a meeting of the EIA Review Committee (EIA-RC) to assess en banc the EIS. Comments were made by the committee members during that April 4, 1991 meeting, and a site visit was scheduled for April 12-13, 1991.

The Committee's main comments were related to both the substantive content and methodology of the socioeconomic study (e.g., health data such as rates and causes of morbidity and mortality for specific years, perception/awareness of hazards and approval of expansion, need for directed question on environmental hazards and pollution, types of responses, i.e., most are LIDE employees, etc.). Moreover, the analysis of data by relevant factors and concerns was needed. The sampling was faulty and the presentation of data needed improvements.

The conflict revolves around the claim of LIDE firms that coastal waters around LIDE be classified as SD or water for industrial uses. DENR and the NGOs insist on an SC classification which would make the waters suitable as fish and wildlife sanctuaries.

Other disputes arose from the results of the water analysis by the multipartite monitoring team for December 26-28, 1990 which differs from PASAR's own monitoring.

On June 4, 1991, a technical conference was held to consider additional information from PASAR, based on EIA-RC comments and requirements. The meeting was attended by the following:

1. PASAR representatives (N = 5)
The President, the legal counsel (now Vice-President), medical officer, company engineer and pollution control officer
2. EIA-RC (N= 3)
Three out of five members: an engineer, sociologist, and a philosophy professor
3. Region 8 representative was Engr. Panaligan (now RTD OIC)
4. EMB (N = 2)
R. Tarray, who presided in the absence of the Director/Assistant Director/EIA Unit Head, and Engr. E. Sajul

From the above representation in the meeting, it must be noted that PASAR considered the meeting to be a crucial one. (It was later disclosed that a June 10, 1991 groundbreaking ceremony had been scheduled and it was imperative that an ECC be issued. It cannot be ascertained from the documents whether EMB had prior knowledge of this event).³

Based on the minutes of the EIA-RC meeting, the members had no inkling of the controversy that was about to erupt.

The Region 8 representative suggested the holding of a public hearing before recommending ECC approval, but the group did not endorse the suggestion, saying it was not necessary. Instead, they directed PASAR, the proponent, to conduct an intensive public information program, which would be included as an ECC conditionality.

³ In an August 23, 1991 EIA office memorandum, the monitoring team in Tacloban was asked by EMB to determine the veracity of the report made by an NGO, J. ALFARO.

The group also decided to approve the classification of coastal waters around LIDE as class SD (i.e., industrial waters, not fit for fishing).

It must be noted that the reclassification remains an unresolved issue, and is still under study.

Based on positive evaluation by the EIA-RC, an ECC was recommended, drafted and finalized for approval by Asst. Secretary Ganapin, Jr. on July 11, 1991.

On July 16, Mr. Jose Alfaro, President of SOS EARTH in Ormoc City, wrote then DENR Secretary Factoran, Jr. that the groundbreaking ceremony for PASAR's expansion project had already been held (on July 10, 1991) and that the DENR was represented in the affair by Asst. Sec. de Rueda and Regional Executive Director (RED) Goze. Moreover, he informed Factoran of the progress of the work of the multipartite monitoring team formed based on the recommendation of a congressional fact-finding team that visited LIDE on October 19, 1990. The team had completed their sampling of effluents in the three LIDE companies, after "an uphill fight to enter LIDE premises". According to Alfaro, PASAR refused to guarantee the safety of the monitoring team who came to sample the smoke stack exhaust.⁴ Alfaro wondered whether PASAR had been given the go signal, though monitoring was still in progress and the results not yet determined.

It seemed that neither the regional DENR officers, nor the mayor of Isabel, had copies of the EIS. Alfaro wondered why a public hearing was not being scheduled, considering the critical environmental stress caused by the operations of the LIDE companies.

⁴ PASAR Vice President in an interview and in a written communication pointed out the reason -- a worker's strike was in progress.

In his letter, he stressed that they are "not after the closure of the LIDE companies", but proper and effective utilization of the companies' anti-pollution devices" to ensure protection for the environment. The problem of proper disposal of solid wastes needs to be addressed. An ECC was not warranted at this stage, and he urged DENR to listen to what the community had to say.

The Environmentally-Concerned NGOs

The companies of LIDE had come under fire from environmental groups for their non-compliance with pollution control standards set by law. These NGOs identified gaseous emissions and discharge of effluents in the foreshore areas and coastal waters in the LIDE vicinity as the main environmental problems.

On July 19, 1991, a multipartite conference was held in Tacloban to discuss the problems and arrive at solutions to the pollution issue. A concrete result of the meeting was the forging of a Memorandum of Agreement (MOA).

This MOA among the LIDE companies, DENR, the LGU and NGOs would allow the multipartite representatives to conduct sampling inside the companies, within the LIDE premises, and foreshore areas and coastal waters for monitoring purposes.

From July to August 1991, EMB received a number of letters and complaints from representatives of the NGOs and peoples' organizations as well as from experts and environmentalists, who had become involved in the issue and had reviewed the EIS.

These prompted the EMB to conduct a public hearing on September 9, 1991 in Isabel, Leyte to air the positions and arguments of the different groups.

The Public Hearing

As a "fact-finding" exercise, the hearing was organized along the following procedure:

1. EMB representative describes the purpose for the hearing.
2. Project proponent or the EIS study leader details the impacts of the projects and the measures taken to mitigate adverse effects.
3. Open forum with all participating groups/individuals articulating concerns and positions. Responses will be required, if deemed necessary.
4. Documentation of proceedings will be prepared and circulated to all participants.

The Oppositors

Some NGOs and members of academe opposed the granting of the ECC to PASAR on the following grounds:

1. ***Environmental Factors***

LIDE companies have not adequately handled their solid wastes. The various "mountains" (black, white, red) all over LIDE area indicate that an expansion will serve to worsen the solid waste problem.s

5 Mr. Albarece, PASAR Vice-President, explained that PASAR is only one of three occupants in the LIDE complex. People however, invariably blamed pollution and related environmental problems on PASAR, its "celebrity" occupant.

2. ***Technical Infirmities/Flaws***

EIS studies conducted by Test Consultants were found inadequate. The inventory survey of the marine resources in the immediate coastal waters around LIDE, specifically sea weeds, seagrasses, and the mangrove community, did not detail the results in the report.

An earlier study (1990) was made of the marine coastal environment including water and sediment, seaweeds, seagrasses, and mangrove, and coral and fish communities in Isabel, Leyte. According to Dr. Dayrit of the Ateneo University, PASAR cited only a small portion - only that which had to do with seaweeds, seagrasses, mangroves, but did not include the studies on water and sediment, and coral and fish communities. It appeared to the oppositors that important but damaging information was withheld from the public.

3. ***Community Interests***

The communities surrounding LIDE are traditional fishing villages. Thus, the need to classify waters of Matlang and Dupon Bay as SD is imperative. To classify coastal waters in the LIDE vicinity as SD (which PASAR proposes) "makes meaningless the requirements for levels of metals in the water since there are no limits set for metals around class SD". "Only by giving the waters proper classification can the fishing communities be accorded legal protection and assurance of their livelihood".

4. ***EIS Studies are Inadequate***

Most statements are rather sweeping and systematic and comprehensive studies are needed.

The EIS, according to the oppositors, mentioned "routine arrival of ocean-going vessels" which allow for the regular influx of transient foreigners of various nationalities. It does not probe into "what happens with this influx". Prostitution has been on the rise and may "transform Isabel into a possible backdoor for the dreaded AIDS disease".

The health impacts have not been monitored thoroughly.

The survey design of the EIS used a purposive sample, consisting of a sample of PASAR workers, as well as key informants. Results can not be generalized to the entire population of Isabel. Municipal government officers and Test Consultants "served as witnesses" in the survey.

The community has not benefited much from PASAR. Only a few residents are employed by the company. Safety devices used by employees are paid for by the workers. Smoke coming from the plant adversely affects people's health.

5. ***No Benefits to the Community***

Some oppositors claim that among those dislocated by LIDE, the compensation received for the land was not adequate. Before LIDE, they claim: *"We had enough to eat because we planted the land and harvested crops for our food. Shellfish could be picked up from the shores"*. Now, they complain, *"we don't have land, no work, and nothing for our families; we can't use the hospital unless guaranteed by a worker in PASAR"*.

Life has not improved for many; in fact it has deteriorated. Oppositors aver that PASAR should prove that present situation is not caused by pollution.

6. *Effects on Women*

Some oppositors claimed they have received some assistance from the Embassy of Australia, but not from PASAR. Only males have been employed; even laundry jobs are not for Isabel.

Residents recall that earlier promises of employment failed to materialize; the eviction of 600 families at "gunpoint" and their relocation "to a barren area". They were given some housing materials and paid P 0.50 per square meter for their land.

According to a survey of one woman's organization, 34% of women left to look for other jobs elsewhere. Despite the beautiful municipal hall, cemented roads, the town's residents remain unemployed.

Rethinking PASAR's Relations With The Community

The public hearing unearthed negative community feedback and past hurts about PASAR and its operations, and proved to be a sobering experience for management. For some time now, people apparently had harbored resentments and grievances against PASAR, and the public hearing served as the floodgates to release pent-up sentiments of the community. PASAR and other LIDE occupants, rather than being regarded as generous benefactors, were perceived as "too high and mighty", an image that was perhaps unwittingly conveyed during the Marcos administration.

Some recalled how, during the construction of LIDE in the late 1970s, some 600 families were forcibly ejected from their homes, with the aid of the military. LIDE, with PASAR as the principal occupant, was then regarded as a showcase project of the Marcos regime and of Mrs. Marcos in particular, whose home province is Leyte.

It will also be recalled that Isabel, Leyte was selected as an alternative site by Mrs. Marcos and government technocrats after concerned citizens of San Juan, Batangas (the original and preferred site of PASAR) protested against construction of a copper smelting plant in their locality. This protest is considered a landmark event in the history of successful people's protest during the Marcos dictatorship.

Being a favored project in the past, PASAR did not see the need to engage in any public relations or information campaign to gain people's support. "Access to PASAR was very difficult: not even wives of employees, until we waged our public information campaign, had seen the inside of PASAR. PASAR had this aura of mystery to most people in Isabel. It was there, but people did not quite know what it did. So we opened the gates of PASAR (to the wives first, who were shocked to see molten metals). We didn't realize the extent to which people, including our employees, had misperceived PASAR. So we showed them our laboratories; we brought people in - municipal officials, students, teachers; held lectures, film showings to disabuse peoples minds about the negative information that had circulated about PASAR (e.g., that *plutonium* was being kept in the premises).⁶

Some Issues

Last November 25, 1992, we visited Isabel and had a dialogue with the members of the Sanggunian and community residents in a meeting presided by Vice Mayor Basilio Dignos.

They recalled the public hearing on PASAR expansion which became an occasion for airing grievances and an expression of things people did not like about PASAR and LIDE companies.

6 Interview with PASAR vice-President Mario Albarece and the other officers

The concensus was that people were not adequately informed about many plans and decisions that would ultimately affect them.

Even the LGU was not informed, nor were notices issued. The mayor and Sanggunian member did not receive any notices. Without prior notification, people saw the construction, and simply reacted and complained. For instance, the barangay captain was not informed about the construction of Gypsum Pond No. 8.

It was thus recommended that DENR inform the LGU about any proposed project, and that LGUs must receive copies of ECC, so that local authorities and the constituency they represent will be given a sense of due importance and respect.

Results of studies must be known to the public. The medical doctor who was a member of the monitoring team, claimed they could not enter PASAR, although Philphos and Lepanto were more hospitable.

It is also suggested that DENR must have their own instruments and equipment for monitoring, instead of borrowing from LIDE companies or from other agencies.

In this dialogue, it was also learned that the LGU plans to hire a chemist to conduct its own monitoring and environmental surveillance.

In an interview on Nov. 26, 1992 Mr. Jose Alfaro of SOS EARTH expressed his own frustration at not receiving any results of the September public hearing where he participated. ("*Show lang ba?* It seemed like an exercise in futility, there was no feedback, we didn't know the results").

Sometimes NGOs and POs are frustrated over the slow dissemination of information about important events. There are also instances when meetings are held in remote places, like HLURB hearings held in Tacloban, instead of in nearby Ormoc.

Before approval of expansion, PASAR or Philphos should solve problems of storage of solid waste, disposal of liquid waste and industrial pollution.⁷

Our informants also offered suggestions and recommendations.

Every person concerned and especially community residents must be vigilant and help in monitoring the cumulative effects of industrial companies. Leyte NGOs, Western Visayas Coalition, and academic institutions like VISCA must study the marine life and ecological balance in the area. A comprehensive monitoring scheme is necessary, and an Environmental Guarantee Fund (EGF) to finance the monitoring effort must be set up.

Government must provide support to marine biological studies. Information dissemination must be enhanced, and although NGO-DENR links in the area have been strengthened, liaison with the people have been done selectively.

One central lesson underlying the PASAR case is the need to inform and involve people at the very inception of the project. A public hearing should be held up front, prior to project designing to determine the public's concern, increase awareness about the proposed project, engender support and promote its acceptability with the relevant and affected publics. Thus, consultations and public hearings should be occasions to elicit concrete suggestions from people and generate support for specific actions, instead of being used as a grievance session or a confrontational meetings.

It would be inadvisable to delay a public hearing or wait until complaints or negative feelings are aired before calling a public hearing. By then, the positions of various interest groups may have hardened, and resolution of conflicts might prove very difficult.

⁷ Proceedings of public hearings are not given to key participants, nor information about DENR-EMB decision

Our regional DENR informant averred that NGOs have been rather adversarial and too negative in their approach towards government. Although criticism has not been very helpful, they have served as watchdogs in the monitoring effort, so that short cuts are not resorted to, thus lending credence to the results. However, NGOs must be more knowledgeable in the technical aspects of environmental monitoring, so they can raise questions and help the team in the monitoring process. Some NGOs have developed the capability for monitoring.

Special attention must also be given to the media, because unless properly briefed, and adequately informed, they can be inaccurate in their reporting.

Case No. 3

The Batangas Coal-Fire Thermal Power Plant (BCFTPP) II Project in Calaca

A Chronology of Events

- 1984 BCFTPP I operations start: initial technical, environmental and social problems are encountered, people complain
- 1987 NPC applies for ECC for its expansion project, i.e., Unit II submits EIS
- Sept. 25, 1987 Phil. government signs a loan agreement with OECF Japan for foreign exchange cost of Unit II
- 1988 to early 1990 NPC makes no follow-ups on ECC application
- 1990 Formal complaints on NPC Calaca I operations are lodged with DENR by residents; DENR sends investigating/monitoring team to Calaca; cites NPC for violations of anti-pollution laws; NPC contests decision
- Feb. 8 1991 Sangguniang Bayan of Calaca passes Resolution objecting to construction of Unit II
- 1991 Residents, LGU officers and NGOs mount protest against Calaca II
- April 16, 1991 Mayor of Calaca and 536 residents file a petition with EMB, objecting to the expansion

- April 18, 1991 EMB holds public hearing on Calaca II
- June 1991 NPC awards contracts on Calaca II construction
- July 1991 Meetings are held by DENR-EMB, NPC, LGUs, NGOs and NEDA to discuss issues; Presidential Management Staff in Malacanang also call concerned groups to a meeting
- Oct. 1991 NPC submits "Environmental Improvements for BCFTPP II Project" as required by OECF Japan, a condition for loan approval
- April 24, 1992 DENR-EMB issues ECC for Calaca II, subject to a number of conditions
- Sept. 14, 1992 MOA signed between NPC and Calaca Municipality; Regional Development Council in Region IV endorses project
- Oct. and Dec. 1992 Japanese Government sends two missions on power project

Project Description and Background

The Batangas Coal-Fired Thermal Power Plant I (BCFTPP) II is a 300 MW power plant designed to use semirara coal as primary fuel. It will be constructed beside BCFTPP-I and will share common facilities (e.g., pier facilities, intake/discharges, service buildings, etc.) with Unit I.

Both units were planned in the 1970s following the world oil crisis and the Philippine government's resolve to develop and/or utilize its indigenous resources. Unit I facilities were contracted out in September 1981 to Mutsui and Co. of Japan as main contractor, with Foster Wheeler (Japan) as turbine generator and balance of plants supplier. It was completed and commissioned on Sept. 11, 1984.

Calaca II construction was planned to start in mid-1989; test and commissioning from Dec. 1991 - March 1992 and commercial operation in early 1992.

Three alternative sites were earlier considered by the National Power Corporation (NPC): 1) Calaca; 2) PNPP I; 3) Kabayo Point, Bagac, Bataan. Eight physical and technical factors served as criteria for assessment, i.e. proximity to coal deposits, topography, elevation, foundation condition, etc. No social or cultural factors were included in the assessment. Calaca emerged as best rank (No. 1) scoring more points over the two other sites on the eight factors.

The construction of Calaca I encountered problems related to resettlement of displaced residents of Brgy. San Rafael, Calaca, the project site and the right-of-way issues. But these problems were not fully ventilated due to the prevailing political climate. The initial operation of the plant was plagued with design-related problems: the basis for the design was imported coal which differed significantly from that locally available (semirara). A blending of local and imported coal had to be done.

Coal was stored and stocked in the plant coalyard - overstocked in fact owing to the "lift or pay" provision of the coal supply contract with Semirara Coal Company. NAPOCOR stocked 960,000 metric tons of coal for a year when only 600,000 metric tons were needed. This prolonged storage resulted in spontaneous combustion and emission of foul odor which reached barangays located two kilometers from the plant. In addition, coal unloading and stocking/reclaiming operations produced dust reaching barangays close to the power plant.

These and other complaints by residents of Calaca were filed with the Pollution Adjudication Board of the DENR which promptly constituted an investigating and monitoring team for Calaca I.

The ECC for Calaca II: Public Protests Mount

The EIS was submitted to EMB in 1987 but no action was taken until four years later, due to delays in funding for the expansion program.

With the Nuclear Plant mothballed and energy requirements increasing with the economic upsurge in 1987, the Philippine Government signed a 40.4 billion yen loan agreement on Sept. 25, 1987 with the Overseas Economic Cooperation Fund (OECF) of Japan for the foreign exchange cost of the project. The agreement stipulated that the major aspects of project implementation must be approved by the OECF.

From 1988 to early 1990, NPC made no follow-up with the EMB on the environmental clearance, which is required before project implementation. In 1990, the DENR cited the NPC Calaca Plant for violating effluent standards due to ash. This came after they performed a stack and ambient flue gas and air quality monitoring⁹ and found that NPC has exceeded the 300 mg/scm standard for particulate emissions standard. A Cease and Desist Order (CDO) was issued but NPC contested the order.

⁹ An unscheduled, surprise monitoring visit

On February 8, 1991 the Sangguniang Bayan (SB) of Calaca passed Resolution # 91-12 strongly opposing the proposed Unit II in view of their "sad experience" with the existing unit which has "created havoc and disarray" in their town and displaced almost an entire community. They complained about the "unbearable odor" coming from the plant, fly-ash all over their houses and "countless persons afflicted with respiratory diseases."

These complaints had been filed earlier, but the DENR investigating teams had difficulties validating these due to irregular monitoring schedules, non-random sampling of emissions and inadequate data and statistics on health.

With the EMB announcement of the public hearing on Calaca II, all concerned sectors mobilized their constituents and support groups to mount an all-out protest against NPC.

The Mayor of Calaca transmitted on April 16 - or two days before the scheduled public hearing on April 18 - a petition signed by 536 residents of Calaca expressing strong objections to the plant expansion. They complained of dust pollution, loss of livelihood sources, diminished agricultural productivity, sea water contamination, increased salinity of water from deep wells, noise, dwindling fish catch, NPC's non-payment of taxes and absence of anti-pollution devices in the plant.

Eleven organizations - NGOs and POs - at local and regional/national levels, joined forces with LGUs to protest the NPC expansion. These included organizations like Environmental Legal Assistance Center (ELAC), Philippine Environmental Action Network (PEAN), Action Network on CALABARZON (ANC), Alyansa ng Mangingisda sa Baybayin (AMB).

A local NGO - the Citizens' Movement for a Better Calaca (CMBC) - led the groups in the struggle to stop the construction of a new unit.

The public hearing on April 18, 1991 in Calaca, became an occasion for airing people's grievances against NPC's operations. The residents demanded that the NPC address the pollution and social problems of Unit I, pay taxes and extend assistance to residents (partly as reparation for damages done) and scrap Calaca II.

EMB was quite alarmed by the resistance to the expansion of the plant and instructed NPC in its July 9, 1991 letter to respond to the complaints and submit a verified report on the project's social acceptability.

A series of meetings were held by DENR-EMB with NPC, NGOs, LGUs and NEDA and an agreement was made to constitute a multi-partite monitoring team for Calaca I operations, on a long-term basis. The team will monitor air quality, ground water quality, volume of fish catch, mortality and morbidity, pulmonary function tests and resettlers situation in one barangay.

The Presidential Management Staff (PMS) in Malacanang also stepped in and called the groups to a meeting to discuss the issues and demands which the Calaca group had presented to the NPC. These demands included: payment of realty taxes to the municipality, installation of anti-pollution devices, electrification of 14 barangays, lighted posts along the seashore, construction of a social hall and a health clinic, donation of scrap poles and drums and provision of water for upland barangays.

In response, the NPC offered a program that addressed these issues and concerns. These are environmental protection measures, community development assistance and municipal taxes.

The NPC proceeded with the bidding of Calaca II, with contracts awarded and signed in June 1991.¹⁰ Protests by NGOs against Calaca had mounted and had gained support from national and international NGOs. A popular TV program, *"Magandang Gabi, Bayan"*,

¹⁰ Prior to issuance of ECC

produced a documentary on the case and aired this nationwide, giving high visibility and media attention. OECF, aware of the mounting public opposition, decided not to act on the contracts until NPC got the ECC from DENR.

The Outcomes: The Role of OECF and International NGOs

OECF required NPC to re-assess and upgrade its environmental control measures before approving the loan for Calaca II. In response, NPC prepared and submitted in October 1991, a detailed specification of these improvements to ensure public acceptability.

On the basis of this report, DENR issued on April 24, 1992 an ECC with several conditionalities. These included among others:

1. a plant and management system which conforms with the specified "Environmental Improvements for BCFTPP II"
2. a risk assessment study and contingency plan
3. setting up an Environmental Guarantee Fund to cover expenses for environmental monitoring
4. indemnification of damages, compensation of parties affected and rehabilitation of environmental damages resulting from NPC activities

The ECC also stipulated a number of mitigating measures for:

1. water quality, N - 7; and
2. air quality, N - 7
detailing further ten ways of avoiding spontaneous combustion and airborne coal dust .

In addition, there will be a Memorandum of Agreement on the NPC assistances to the community and compensation and resettlement program for displaced residents.

Finally, a multipartite monitoring team will be created to monitor the environmental conditions in Calaca, assess compliance with ECC conditions, and supervise environmental studies to be undertaken particularly on agricultural and marine productivity and rain water quality.

All these measures and provisions were identified by the people of Calaca, the NGOs and LGUs that had mounted the community-wide protest against NPC. The protests had caught the attention of international NGOs and the Japanese government and prompted the OECF to withhold approval until the requirements are met.

The NPC

Though the NPC had agreed to fund the environmental improvement program and community development assistances to obtain the loan for Calaca II, it did not agree with the NGOs' reason for it - i.e. reparation for destruction to environment and damage brought upon the residents. Rather, they were willing to grant these "as a gesture of cooperation and respect for the people of Calaca" and to redeem the trust which had been lost. This was how the LGUs put it - and NPC seemed happy with it.

NPC felt that Japanese NGOs working with their local counterparts had strongly influenced the Japanese government to impose additional requirements which are not necessary. For example, a flue gas desulfurization facility is not required by DENR nor Japan for its other country recipients similarly situated as the Philippines.¹¹

¹¹ Calaca has a lower population density than a similar Japanese city ranked number 13. This means a desulfurization facility is not needed.

NPC President Malixi informed the President in his August 18, 1992 letter that this facility is redundant¹² and costly. The Japanese, he added, are sole manufacturer and supplier of this facility which is estimated to cost US\$65,000,000. Moreover, this was not required by the OECF Japan but by Japanese trade officials and NGOs.

The LGUs and the MOA

The municipal officials of Calaca, both past and incumbent, had strongly protested the construction of the second coal-powered facility, having suffered the adverse effects of Calaca I. Together with the NGOs they succeeded in getting NPC to listen and act on their complaints and provide the solutions to their problems in exchange for their acceptance of the NPC project. With the support and representations of environmental NGOs at the international level they were able to convince the Japanese government to withhold approval of the loan to NPC.

Their acceptance of the project had become a condition to loan approval. This was conveyed to NPC by the Japanese government missions to the Philippines in October and December 1992.

With consultations and negotiations occurring on many fronts, the LGUs pressed their demand and got everything - and more from the NPC.

Four MOAs have been forged as a result of consultations and discussions among the key groups/players in the Calaca II project, including the Presidential Management Staff in Malacanang.

1. ***MOA between the LGU (municipal level) and the NPC, DENR, and NEDA*** on the environmental measures and community development assistances. This agreement entered into with the past municipal administration was not signed by the previous mayor. The incumbent

¹² NPC will utilize coal with a maximum 1% sulfur content, way below the ambient air standard set by DENR (Malixi, 1991).

mayor requested a supplemental agreement dated September 14, 1992 and asked for more assistances.

2. **MOA between NPC and the Barangay Captains of Calaca** regarding socio-economic assistance. Thirty-nine out of 40 captains have already signed the MOA. The last one will sign as soon as the construction of a 70-meter fence is completed.
3. **MOA between NPC and the National Electrification Administration (NEA)** on the electrification of 12 barangays of Calaca. Signed July 14, 1992.
4. **MOA between NPC, Calaca Municipality and the Department of Public Works and Highways (DPWH)** for the installation of potable water system for upland barangays. This was turned over to said barangay on June 4, 1992.

These MOAs enumerate various requests - from infrastructure projects (footbridge, roofing sheets, waiting sheds, etc.), community development assistance (livelihood, artificial coral reefs, empty drums, employment, etc.), additional requests of the newly-elected mayor (construction of public market, gymnasium, etc., rehabilitation of municipal hall, cellular phones, computers, etc.) that have been approved by all parties concerned as necessary conditions to granting the ECC. The Japanese Government missions to the country had specified "public acceptability" as a condition to loan approval.

This was operationalized as: 100% LGU support to the project; assurance from DENR that a desulfurization facility is not required and formation of a multipartite monitoring team and submission of monitoring results to the government of Japan.

All these direct benefits to the people and the communities have been obtained through organized participation by the concerned groups.

Case No. 4

Mt. Apo Geothermal Project

Chronology of Events

- | | |
|----------------|--|
| 1983 | PNOC requests for exploration permit from Bureau of Forest Development is denied |
| 1985 | PNOC obtains an exploration permit from Bureau of Energy Development |
| 1986 | PNOC is issued an ECC by the National Environmental Protection Council (NEPC) for exploratory phase only |
| May 1987 | PNOC builds roads to project sites |
| Sept. 1987 | DENR-EMB suspends ECC |
| July 1988 | Tribal peoples and church leaders complain |
| July 28, 1988 | DENR Secretary advises President Aquino to segregate geothermal area from National Park through Presidential Declaration (two exploratory wells established) |
| Oct. 27, 1988 | Eight datus and 600 residents in project site file formally with the Office of the President, a petition to stop PNOC project |
| Dec. 22, 1988 | PNOC pulls out of project site |
| 1988 | PNOC requests EMB for ECC |
| April 13, 1989 | A caravan to Mt. Apo where tribal peoples perform a <i>dyandi</i> - a blood compact to defend Mt Apo, a multi-sectoral group led by church leaders and NGOs witness ceremony |
| May 1989 | Senate Hearings on Mt. Apo case |

- June 9, 1989 KIDMACO Bishops send out letters and mobilize citizens' support to preserve Mt. Apo as National Park
- June 27, 1989 Association of Major Religious Superiors sends letter of support for tribals' cause
- Aug. 25, 1989 Catholic Bishops Conference of the Philippines (CBCP) sends letter of support for tribals' cause
- Jan-Nov 1989 PNOC also conducts own info drive on geothermal report

1990

- May 31, 1990 Office of Southern Cultural Communities formally decides to support project
- June 29, 1990 PNOC Consultation with Regional Development Council XI
- July 6, 1990 PNOC consultation with Regional Development Council XII
- Nov. 20, 29, 1990 PNOC Consultation with tribal groups within and outside project areas, at the Ateneo de Davao Campus

1991

- Jan. 21, 1991 PNOC submits EIS to EMB
- Jan 21-May 14 1991 Review of EIS; PNOC disseminates 76 copies
- Feb-May 14 1991 PNOC reports holding 28 meetings for information campaign
- April 10 1991 EMB holds formal public hearing in Kidapawan, Cotabato
- July 3 1991 DENR Sec. writes to Bishop Pueblos de Dios explaining procedures and decision to grant ECC

1992

- Jan. 14 1992 DENR-EMB issues the ECC to PNOC subject to a number of conditions - some to be covered by MOA
- March 10 1992 PNOC holds a PAMAAS at Sayaban, Ilomavis, Kidapawan as part of the ECC conditions

The Setting

Mt. Apo was proclaimed a National Park on May 9, 1936 by then President Manuel L. Quezon. It covers 72,814 hectares straddling parts of Davao City, Davao del Sur and North Cotabato. Mt. Apo's peak of 10,311 feet makes it the country's highest mountain with a diversity of flora and fauna. The ASEAN Declaration on Heritage Parks and Reserves named Mt. Apo as one of the ASEAN Heritage sites.

Several tribal Filipinos consider it their ancestral domain, the burial place of Apo Sandawa's forebears and a sacred place for the Lumads.

It is the source of 28 rivers and the watershed of several provinces in Mindanao. It is also the abode of endangered species like the Philippine eagle and other forms of 'wildlife', 84 species of birds and nine species of mammals. Mt. Apo is thus a national treasure of water resources, and exotic forms of plants and wildlife.

Background

In 1983, PNOC requested the Ministry of Natural Resources (MNR) for a permit for geothermal exploration of Mt. Apo in Davao, but was denied by the MNR's Bureau of Forest Development since P.D. 705 prohibits exploration and other activities in national parks.

In February 1985, the PNOC obtained a non-exclusive six month exploration permit from the Bureau of Energy Development (BED) under the Ministry of Energy (ME). With this permit, PNOC started exploratory activities without obtaining an ECC, which P.D. No. 1586 required of all corporations undertaking environmentally critical projects.

The BED demanded a service contract with PNOC after the expiration of PNOC's exploration permit. PNOC interpreted this as authority for further explorations.

On December 4, 1986, PNOC reapplied for a permit with the MNR, and was advised to secure an ECC from the National Environmental Protection Council (NEPC). NEPC issued an ECC which covered the exploratory phase of the project.

In May 1987 to January 1988, PNOC's geothermal exploration activities had cleared an area of 10.6 hectares or 0.01% of the park. Over seven (7) hectares of this total area are sited within kaingin areas which predominate in the project area, with the rest located within secondary forest growth.

The PNOC also reported having stabilized 75% of the area covered by the project through checkdams along erosion-prone sections of the PNOC-constructed roads and staked 6,800 madre de cacao and 28,000 sunflower poles. DENR Secretary Factoran advised President Aquino in a July 28, 1988 memo to segregate this area from the National Park by Presidential Proclamation. By then two exploratory wells had been established. Moreover, 1.44 hectares within the park had been cleared and an 8.15 km. 6-8 meter road had been built along the Matingao River clearing a total of 7.9 hectares.

By mid-1988 Church and people's groups began to mount their protests against the project. On October 27, 1988, eight datu led by Datu Sauro Pontongan, Chair of *Katigatunan Ka Sandawa* c/o Tribal Filipino Center for Development in Kidapawan and 600 other residents filed a petition with the Office of the President to stop the PNOC project in Mt. Apo. The petitioners consider themselves the descendants of the indigenous people who have inhabited Mt. Apo since time immemorial and protected by Constitutional provision on ancestral domain.

On December 22, 1988, PNOC completed its exploration activities and pulled out of the sites. The protest against the geothermal project intensified in 1989 and 1990, drawing into the debates and militant struggles not only the individuals and organizations in the affected provinces but also national and international groups.

The Issues and Key Players

Protection of the Environment and Ecological Balance

"We must protect what remains of our forests, rivers, and corals, and heal, whatever we can, the damage which has already been done . . ."

"Tribal Filipinos remind us that the exploitative approach to the natural world is foreign to our Filipino culture . . ."

"The spirit of God who breathed over the waters, and originally brought life from chaos is now prompting men and women to dedicate their lives to enhancing and protecting the integrity of Creation . . ."

"All the living systems around us are being ruthlessly exploited . . ."

"The attack on the natural world is endangering its fruitfulness for future generations ."

"We are convinced that this assault on creation is sinful . . ."

"The government must not pursue short-term economic gains at the expense of long-term ecological damage . . . (it must) advocate measures designed to support ecologically sustainable development".

These excerpts from "A Pastoral Letter on Ecology of the Catholic Bishops' Conference of the Philippines" issued on Jan. 1988 sum up the position taken by the Church and tribal peoples against the geothermal project at Mt. Apo. This position emanates from the church's realization that full human development can only be attained in "freedom and solidarity" respectful of rights and culture of different groups, classes, and tribes. These social concerns, elaborated in the Feb. 19, 1988 Encyclical letters of Pope John Paul II, find support in the 1986 Philippine Constitution which ensures environmental protection as advancement on the "right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature " (Art. II, Sec. 16).

As the key players in the struggle against the geothermal project at Mt. Apo, the church and the tribal people view the PNOC activities at Mt. Apo - admittedly "the nerve center of the ecological system of Mindanao . . ." as tantamount to "rape" as expressed in their August 3, 1988 open letter of concern. They claim support for their position in the July 25, 1988 action of DENR Secretary Factoran denying the PNOC request for a permit to explore the geothermal resources at Mt. Apo because it is a National Park and an ASEAN Heritage site. PNOC activities were subsequently ordered suspended pending further studies and action.

Some 423 tribal Filipinos and 372 non-tribal supporters signed a petition dated October 27, 1988 to declare Mt. Apo National Park ancestral domain of the tribes and to stop PNOC activities. In coordination with ALUHAMAD (or Alliance of Lumands in Southern Mindanao Alang sa Demokrasya), the tribal petitioners led a caravan to Mt. Apo to perform **dyandi** or a blood compact "to defend to the last drop of our blood" the ancestral lands inherited from their forebears. Land and life are gifts from *Magbaraya*.¹³ The compact was signed by 21 datus representing nine Southern Lumad tribes on April 15, 1989 at Kidapawan, North Cotabato.

The affair was witnessed by the Bishop and church people, the local, national, and international media, major ecological and tribal organizations.¹⁴

Church Groups

KIDMACO or the Catholic Church Dioceses of Kidapawan, Marbel and Cotabato through their bishops, Juan de Dios Pueblos, Dinualdo Gutierrez, and Philip Smith, including Archbishop Orlando Quevedo of Vigan, Ilocos Sur led the Church groups in mobilizing support to stop PNOC operations in Mt. Apo and "to preserve the site for the future generation". On June 9, 1989 they called for citizens' support through letters and telegrams to the President and the DENR.

¹³ These are the Bagobo, Ubo, Manobo, Aromanen, Kaulo Kilangan, Bilaan, Tiboli and Tiruray tribes.

¹⁴ Among them, Haribon Foundation, TABAK, Kinaiyahan Foundation, ECTF, PAFID.

On June 27, 1989 the AMRSP or the Association of Major Religious Superiors in the Philippines (based in Quezon City) sent a letter to then Senator Estrada (now Vice President) who endorsed the Lumads' demands that PNOC stop operation in Mt. Apo, and enjoined respect for the right of tribal Filipinos to be heard, and urged the preservation of the remaining rain forests of the country.

The CBCP or the Catholic Bishops Conference of the Philippines Commission on Social Action, Justice and Peace also sent to President Aquino on August 25, 1989 a letter of support for the Lumads' struggle to preserve Mt. Apo as a sacred place, and urged her to stop PNOC operations.

CBCP's Episcopal Commission on Tribal Filipinos (ECTF) and 92 delegates to the 12th ECTF-TFA National Convention from regions of Northern Luzon and Mindanao (on September 4-7, 1990) also declared their support for the KIDMACO move to save Mt. Apo. They declared their commitment to the preservation of natural resources and the ecosystem.

The PNOC

From the proponents' perspective, the three goals of national parks protection, energy development for socioeconomic development, and protection of ancestral lands and cultural communities are "not mutually exclusive".

Energy project, PNOC believes, "can be undertaken in ancestral lands for the benefit of a great number of people without prejudice to tribal rights and cultures".

PNOC mounted its own multi-sectoral information drive in 1989. Several meetings were held with the Kidapawan diocese, the ALUHAMAD group, tribal organizations, academic institutions and government agencies (PNOC recorded seven such formal meetings). In May 1989, PNOC was asked to participate in Senate hearings. In 1990 it held consultations with the Regional Development Councils (RDCs) in Region XI and XII and with tribal peoples residing within and outside the project site, at the Ateneo de Davao campus.

On December 4, 1986, PNOC reapplied for a permit with the MNR, and was advised to secure an ECC from the National Environmental Protection Council (NEPC). NEPC issued an ECC which covered the exploratory phase of the project.

Officers of PNOC responded to all the issues raised by the opposing groups and explained the geothermal technology and mitigating measures to protect the environment. Information materials disseminated included: a geothermal information sheet, an open letter, a chronology of events, highlights of the MOA, the EIA study results, list of project endorsements, summary of answers to issues against the program, PAMAAS Rites and flyers about geothermal energy.

In a July 2, 1990 letter to President Aquino, the Office of Southern Cultural Communities or OSCC stated that, *if tribal groups in the communities directly affected by the project favor and support it, then it should continue*. After a tribal dialogue at Ilomavis, Kidapawan, Cotabato on May 31, 1990 (with 100-150 people attending) they decided to support the PNOC Project because they will directly benefit from it - easier transport of goods to market, employment in PNOC projects, other livelihood projects promised by PNOC (animal dispersal program, vegetable crop production, etc.).

Other tribal associations that had earlier opposed the project withdrew their objections after being assured that PNOC will compensate for their losses owing to displacement, plus benefits in terms of the share they would get from the proceeds of the project.

PNOC also agreed to hold a PAMAAS in Sayaban, Ilomavis, Kidapawan - a ritual offering to appease Apo Sandawa, ask for peace and counter ill wishes and other negative external and evil forces. This was held on March 10, 1992 at the foot of Mt. Apo. Senator Alvarez attended this ceremony and stressed the fact that PNOC could only proceed if it adopts adequate safeguards for the environment. Tribal leaders and barangay officials assured those present that their constituents now supported the project. Opposition to the project, however, has remained strong among tribal groups from Bukidnon, South Cotabato, Sultan Kudarat, Davao del Norte.

The Senate

The Senate Committees on Natural Resources and Public Services and the Committee on Cultural Communities conducted inquiries and public hearings on the Mt. Apo case in early 1990, based on three resolutions:

- P.S. Resolution No. 327 inquiring about the violations of existing laws and defiance of order by PNOC - authored by Senator Hersherson Alvarez.

- P.S. Resolution No. 550 urging President Aquino to suspend all activities of PNOC at Mt. Apo - authored by Senator Joseph Estrada.

- P.S. Resolution No. 551 examining the ecological and cultural implications of geothermal exploration at Mt. Apo authored by Senator Santanina Rasul.

The findings of the Committee on Cultural Communities chaired by Senator Estrada, with Senator Rasul as Vice-Chair confirmed that:

1. the cultural communities had not been fully consulted by PNOC about the geothermal project. They were merely informed by PNOC after they had entered Mt. Apo. Thus, the indigenous communities had no opportunity to present their position before the start of PNOC's exploration activities. However, "after the exploratory activities were questioned by the people, PNOC conducted extensive information campaigns near its drilling wells, as well as those found near the access roads to the wells".¹⁵

¹⁵ These activities included: media dialogue with OSCC (Oct. 5, 1987); general assembly of local officials line agencies, concerned citizens (Sept. 5, 1988); orientation of fact finding team of Governor Charito Diaz (Jan. 5-7, 1989); participation in regional science conferences (Jan. 14-24, 1989); dialogue with the Kidapawan dioceses (May 5-6, 1989); dialgoue with ALUHAMAD (May 18, 1989).

2. PNOC's exploration activities were not authorized. An environmental consultant also testified that wastewaters from the wells contained high amounts of chemical substances which can adversely affect the environment.

The Committee recommended conducting more extensive tribal consultations and obtaining from indigenous communities concerned, written consents or agreements about PNOC activities. DENR was likewise urged to impose penalties and institute legal action against PNOC for violating environmental laws.

The report by the Committee on Natural Resources and Ecology, chaired by Senator Alvarez, with Senator Angara and Senator Estrada as Vice-Chair, also confirmed PNOC violations of existing environmental laws and recommended "immediate termination of PNOC's geothermal activities within the area".

The Committee also objected to DENR's proposal to set aside a portion of Mt. Apo to accommodate the PNOC project. This is "tantamount to a circumvention of the law". What DENR should do is to "prepare a Conservation Management Plan for Mt. Apo delineating core zones into "no touch" zones, restricted or controlled use zones, and multi-purpose zones where tourism and agro-forestry projects can be implemented.

Moreover, the Committee recommended the development of Mt. Apo as a research and learning center where the following can be undertaken: a comprehensive inventory of flora and fauna; setting up gene pools of endangered or near extinct species; set up research and monitoring stations for endangered flora and fauna and "cultural" community/anthropology center for academic institutions.

NGOs

Strong support came from a number of NGOs and NGO networks operating at both local/regional and national levels. These included NGOs

engaged in environmental, tribal, church-related, educational, and professional concerns and issues.

Task Force Apo Sandawa was formed by different NGO networks to continue opposing the geothermal project, as part of its broader concern of pushing for the recognition of the ancestral domain rights of indigenous people. Twelve NGOs/networks form its core with TABAK as its secretariat. The Task Force disseminates information, lobbies, communicates and coordinates with international environmental and indigenous groups to generate support for protest actions, facilitates fact-finding missions and does film and video documentation.

The Davao Ecology Movement with multisectoral membership also spearheaded the information campaign against the PNOC project, disseminating statements and positions to all relevant public and influentials including World Bank officials, the Duke of Edinburgh, ASEAN Heads of State, Prime Minister of Japan, England President of the U.S.A. and Greenpeace.

The LGUs

The LGUs made their own investigations, fact-finding missions and site visits to geothermal plants in Leyte and Negros before forming their own position on the issues raised against the Mt. Apo project. The barangay, municipal and provincial councils adopted a number of resolutions endorsing the resumption of the geothermal project for the "tremendous benefit" that will accrue to the LGUs in terms of taxes, employment, reliable power source, and royalty share.

The endorsement by the LGUs was contingent on a number of environmental conditions and the forging of a Memorandum of Agreement (MOA) which specified the agreements reached.

The Public Hearing

EMB called a formal public hearing on the Mt. Apo Project on April 10, 1991 at Kidapawan, Cotabato. This hearing was a culmination, after six or seven previous hearings conducted under the auspices of various groups.

After three years of highly charged debates, information and signature campaigns mounted by both groups, the April Kidapawan hearing was to consolidate the positions taken by the different keyplayers and groups.

EMB classified the participants into 1) those who support the project, 2) those who support under certain conditions (critical "Yes"), and 3) those against the project.

The records show that "pros" composed of LGU councils, associations of Kidapawan, Antipas, Makilala, and Magpet, Cotabato - N=7; NGOs/Tribals - 5; civic/religious organizations - 5; Evangelical Churches, government committees and others - 4. With the exception of the Mindanao Highlanders Association which is in Davao City, all "pros" are based in Cotabato, with a majority from Kidapawan.

Critical "Yes" group includes 31 barangays, governmental and semi-governmental associations and councils (e.g. RDC, OSCC). EMB lists 18 such groups based in Kidapawan with the sprinkling of outside groups.

Opposing the project are 15 member NGOs under Task Force Apo Sandawa, mainly based in Metro Manila, the KIDMACO (Catholic Church) NGO networks based in Davao City, the ALUHAMAD Tribal Association with members from Davao and Cotabato, two government officials and Congress Representative Gregorio Andolana and Cotabato Vice-Governor Tuburan.

Seventeen individuals and representatives of organizations spoke alternately for and against the Project (8 "Yes", 8 "No" and one not ascertained). All sectors and interest groups had a chance to be heard; tribals, NGOs, church leaders, LGUs, academics, project proponent.

The arguments for and against the project revolved around 1) environmental issues and concerns, as presented in the EIS Studies with critique on substance and methodology; 2) tribal rights and ancestral domain; and 3) economic imperatives - the need for power and the growth this will spur.

The Memorandum of Agreement

A major condition for the granting of the ECC to the project was the establishment of an Environmental and Tribal Welfare Trust Fund to be funded annually by the PNOC and the NPC. Both corporations will contribute the amount of one centavo per kilowatt hour, based on net sales on power generated, plus 20% of the royalty share of the LGUs and the fund components of the annual environmental management funds of PNOC and NPC that can be placed under the trust fund. PNOC will also seek to commit additional funds from grants or loan agreements with the project's funding institution.

For this, a Memorandum of Agreement will be made between PNOC, NPC, the Tribal Councils, concerned LGUs, environmental NGOs, on the mechanism of fund management to be finalized within 30 days of the release of the ECC.

On February 12, 1992 the MOA was signed by the PNOC, NPC, Cotabato Tribal Consultative Council and the LGUs of Cotabato at provincial, municipal and barangay levels.¹⁶ This agreement specified the formation of a Multi-sectoral Management Group which will plan, manage, and monitor the programs and the fund.

The Decision

The DENR issued the ECC to PNOC on January 14, 1992, after approximately four years of public consultations, hearings, negotiations, militant actions, and various forms/levels of participation, decision-making.

¹⁶ No environmental NGOs became party to the MOA.

Individuals, groups, institutions and organizations, and functional and geographic communities drawn into the struggle mobilized their own forces either supporting or opposing the project. Participation has been intense, utilizing all forms (letters, petitions, resolutions, consultations/dialogues, public hearings, rallies, camp-outs, caravans, rituals, etc.) to achieve specific objectives and goals.

On July 3, 1991, Secretary Factoran wrote Bishop Pueblos explaining the DENR position on the issue and the processes observed in arriving at a decision. He stressed that it had taken more than two years since the first EIS submission, for the DENR to arrive at a decision on the granting of an environmental clearance . . . "(Our) guiding principle in searching for the solution to the impasse is sustainable development within the context of (our) country's economic needs".

The imperatives of generating power for industrialization ("to provide employment, to save our people from poverty and degradation") in light of an acute power shortage in Mindanao¹⁷ and the rest of the country, was a major factor in the final decision to allow PNOC to proceed with the geothermal project in Mt. Apo.

The DENR decision according to Factoran was also based on environmental and safety concerns; "We are not ready to gamble on nuclear power . . . the global issue of climatological change also dictates that we must now veer away from the use of fossil fuel which is the largest contributor to global warming". We are fortunate to have geothermal energy available to us.¹⁸

17 Mindanao is dependent on the Agus Hydroelectric Power Plant which could not be operated with full capacity due to reduced water levels.

18 The Alvarez report considers the Mt. Apo Geothermal Project as a classic case of conflict between "the national policy thrusts of energy development utilizing indigenous resources, the preservation of national parks to protect its biodiversity and the protection of ancestral lands and cultural communities".

What clinched the decision for PNOC and its supporters was the endorsement by the tribal peoples and the local government units of the affected communities. The changes in the positions taken by erstwhile oppositors came after a series of negotiations and granting of concessions and benefits to the tribal peoples and the affected communities. One condition in the ECC was the establishment of an Environmental and Tribal Welfare Trust Fund to be funded annually by PNOC (one centavo per kilowatt hour plus 20% of the royalty share of the local government units) plus other funds for environmental management. A MOA would be executed for this purpose and would form part of the conditionalities for the approval of the project.

Framework for Analyzing Public Participation in the EIA Process

For many people, decades of development have not achieved the desired improvements in their lives. As a consequence, questions about the effectiveness of elite-centered planning and decision-making have arise. Continuing people's struggles and political redemocratization in many parts of the developing world have highlighted the role that "ordinary people" play in their own development. As J. Nyerere puts it: *"People cannot be developed, they can only be developed by themselves . . ."*

This means ordinary people must get involved in their own transformation, by becoming subjects (not objects) of development and shaping their own destiny and future (Freire).

This affirmation of the value of public participation in bringing about authentic development, where ordinary people (not only elites) benefit from development policies and strategies had led to significant shifts in the orientation and methodology of planning and policy-making in the last few years.

In operational terms, participation is defined as "the organized efforts to increase control over resources and regulative institutions in given social situations, on the part of groups and movements hitherto excluded from such control" (Marshall Wolfe, 1983).

An earlier and popular model is Arnstein's (1969) eight-rung ladder of citizen participation, which is based on a definition of participation as the "redistribution of power that enables the have-not citizens presently excluded from the political and economic process to be deliberately included in the future" (See Figure 1).

Figure 1

Typology of Citizens' Participation

8	Citizen Control	
7	Delegated Power	--- degrees of citizen of power
6	Partnership	
5	Placation	
4	Consultation	--- degrees of tokenism
3	Informing	
2	Therapy	
1	Manipulation	--- non-participation

Eight Rungs on the Ladder of Citizen Participation

Source: Sherry Arnstein, 1969

In this model, the goal of participation is empowerment. At higher levels of participation, citizens enter into a partnership with the elites enabling them to negotiate and engage in trade-offs with traditional power holders. At the highest level of delegated power and citizen control, ordinary citizens attain the greatest degree of empowerment. To Arnstein, these levels represent genuine participation.

The lower rungs in the participation ladder can be viewed as gradations to people's participation if they lead to empowerment. If information, consultation and representation are used merely as window-dressing to assure planners that people are being involved, then such modes of participation may become just another form of legitimization of programs designed by the elites for people. Furthermore, people power advocates stress that

genuine or full participation would be difficult to attain if the existing imbalance in the power structures are not rectified. Redressing this social imbalance through organization of people and communities becomes the key to successful collective action designed to change the structures.

This perspective has greatly influenced community organizing practice in the Philippines and Latin America in the 1970s and 1980s. The NGOs and POs formed during this period (i.e., Marcos regime) espoused authentic development and genuine participation as their main concerns. The methodology for structural analysis and conscientization and organization of disadvantaged/grassroots sectors were seen as the key to their eventual empowerment.

Eidsvik's (1978) analytic grid indicating the different forms and levels of public participation in decision-making further amplifies this framework.

Figure 2

Forms of Participation

Coordinating Agencies' Decision-Making Power

<i>Information</i>	<i>Persuasion</i>	<i>Consultation</i>	<i>Cooperation</i>	<i>Control</i>
the decision is made and the public is informed	the decision is made and an effort is made to convince the public	the problem is submitted, opinions are collected, the decision is made	the limits are defined, the decision is shared with and made together with the public	the decision is made by the public, which assumes a role of public responsibility

Source: Eidsvik (1978) in Parenteau

**Public Participation
in Decision**

Another approach is to view the different forms of participation along several axes (Goulet, 1988):

1. *whether participation is taken as a goal or as a means*

In practice, Goulet observes, "participation is never prized exclusively as a goal; over time the goal necessarily ceases to be valuable unless it manifests some instrumental merit as a means".

2. *according to the scope of the arena in which it operates*

Does participation occur in small arenas (i.e., domestic affairs of the family) or in many aspects in life in society . . . work, education, health, etc.?

3. *participation's originating agent*

Is it induced from above by some authority or expert, generated from below by the non-expert populace itself, or catalytically promoted by some external third agent?

4. *according to the moment at which it is introduced, i.e. at the*

- initial diagnosis of the problem
- selection of possible courses of action
- selection of one course of action
- implementation of selected action
- evaluation in course of implementation
- debating the merits of further mobilization or organization

Parenteau (1988) reviewed studies of participation in the context of environmental decision-making and classified these in terms of 1) the way the public is brought into the process and 2) the types of decisions reviewed under the process. These include 1) participation through election or

appointment as public representative, 2) participation in judicial review of administrative decisions - restricting participation to those with direct interest in the case, 3) participation in communication and dialogue. Mechanisms usually include public consultations and public hearings.

Emond (1975) distinguishes types of actions and decisions addressed by different forms of participation. These are 1) those related to policy-making - e.g., the legislature is the forum for public participation, 2) decisions concerning regulatory measures in response to requests from concerned citizens. Here, formal quasi-judicial procedures and arbitration provide the most effective arenas for public participation.

Within these contexts, Parenteau suggests that participation performs two functions, i.e., 1) to bring the public into the decision-making process and 2) to obtain public support for decisions.

In a synthesis of various frameworks on public participation in environmental decision-making, Parenteau notes that: *"on the whole participation is a voluntary action by which a responsible authority formally involves affected citizens in the decision-making process when a decision is pending on an already formulated policy, program or project. For there to be formal participation, the procedure must be made public, specified in advance, and followed. The issues must be clear or clarified at the outset. Participation must take account of both the immediate interests of citizens directly affected and community development considerations"*.

In assessing public participation, it is important to consider the originating agent, since this affects the course of participation. Goulet suggests this framework of assessment.

Who originates or initiates participation?

1. induced from above by some authority or expert
2. generated from below by the people themselves
3. catalytically promoted by a third party

Characteristics by Originating Agent

Induced from Above:

Focuses on inputs from those who participate: authorities view participation as a way of getting subordinates to help them achieve their own purposes.

Generated from Below: (i.e., "spontaneously generated")

"Usually, participation springs from below during a crisis and in response to some threat to a community's identity, survival or values. With no prior plan, perhaps even with no precedent, some hitherto passive group mobilized itself to protest, to resist, to say "No".

"To say "No" is to open up possibilities for saying YES in a multitude of ways . . . Thus, even the spontaneous mobilization of a powerless group to defend itself against destruction bears within it latent seeds of organization for multiple new developmental action".

"Bottom-up participation may also result from deliberate initiatives taken by members of a community because of a need to obtain, or pressure others to obtain, some benefit from society at large or some group therein". This type of participation usually seeks a greater "share of pie" i.e., increase of benefits.

Third Party Action (i.e., by community organizers, NGOs, other militant and support groups)

They act as "facilitators" for group action and "disappear after the people awaken to their dormant capacities to decide and act themselves". Third party intervention usually aims at "empowering hitherto powerless people to make demands for goods, not to contribute their resources to someone else's purposes".

Usually facilitators want to organize for long-term purposes... to make people realize their strength and to engage in collective actions to improve their situation (Table 1).

Table 1

Characteristics of Participation by Originating Agent*

<i>Originating Agent</i>	<i>Characteristics</i>
> induced from above by some authority or agent	> focus on inputs from participants; highly instrumental: participants help achieve objectives set by authorities
> generated from below people themselves	> spontaneous response to CRISIS or by THREAT to community's identity, survival or values
	> result from deliberate initiatives taken by members of a "community of need" to obtain or pressure others to obtain some benefits
	> aim is to seek more benefits for selves/ community
> promoted by third party action (e.g., NGOs, COs)	> facilitators of group action mobilizers - lead to organized/collective action; aim is to help EMPOWER people

* Adapted from: Dennnis Goulet "Participation: The Road to Equity in Development", 1988.

A Cross-Case Analysis: Findings and Recommendations

The Public Hearing

The formal mechanism for public participation in the EIA process is the public hearing. It is undertaken "to gather facts and thresh out all issues, concerns, and apprehensions, and at the same time provide the project proponent with the opportunity to present the project to the people/community who could be affected" by the project (DENR A.O. 21, 1992 series).

The objective is to involve "a wide spectrum of concerned sectors and the adjacent communities in the exchange of views and information, to effect projects that are **beneficial** and **acceptable** to the community".

It is recommended that hearings be conducted after the review and evaluation of the EIS by the EMB or the regional offices, and initiated by the DENR if many people will be affected by the project or when there is "mounting opposition against the project".

In all four projects studied, the public hearings were called **after** the review and evaluation of the EIS. For the PASAR project the Review Committee felt it was not necessary: instead, they required the proponent to conduct an information campaign as a condition to granting an ECC. The Regional representative recommended a hearing, but did not push hard enough for it. Only after EMB received formal letters of complaints against PASAR including critical commentaries on the EIS by academicians/scientists and NGO leaders, did the director decide to hold a public hearing.

On the other hand, the Mt. Apo project was the subject of several public hearings and formal consultations. The EMB-sponsored hearing was one of many (six or seven, according to one informant) and served to summarize and consolidate positions that had firmed up after close to four years of

actions for or against the project. The case had received extensive media coverage and the protagonists had marshalled information, scientific findings and other supporting evidence for their respective positions. Issues raised were promptly answered.

The EMB hearing was a culminating activity: previous hearings had been called by the LGU, the provincial government, the regional development councils, the "pros", the "cons" and the Senate Committees. EMB planned it well, guided by the imperatives of sobriety, rationality and objectivity. The presentations were balance - the "pros" and the "cons" spoke alternately (*"walang lamangan"*). Even the physical/seating arrangement did not escape EMB's attention.

In the PASAR and CALACA cases the public hearings were conducted in a relatively charged atmosphere - with past grievances aired and hostilities ventilated, in addition to criticisms on the technical and sociocultural aspects of the EIS reports.

In the Antamok, Benguet case, the DENR-CAR was perceived and accused by the people as being partial to the proponent (one informant used as an indicator of this partiality - the propensity of DENR-CAR representatives to answer questions for the project proponent). In a sense, people expected DENR-CAR to serve as moderator, not an advocate of any position.

In a recent hearing of a smelting case in Cainta, Rizal which had started operations even before a public hearing was held on the EIS, the exchanges were accusatory not informational. Moreover, the show of "people power" on the part of the proponent (during the public hearing hundreds of workers employed by the company came to show support for the "proposed" project) heightened the tensions.¹⁹

¹⁹ The ECC was not granted to this company and a CDO was issued for violation of the law.

Where issues have been previously ventilated in other fora, assemblies and hearings sponsored by other groups and agencies, the EMB-sponsored public hearing such as in the Mt. Apo case, achieves the objective of final consolidation and synthesis, helpful to decision-making.

This would suggest that various forms of consultations and/or public hearings are necessary at different stages of the EIA process. These can be organized by different groups at different levels to achieve specific objectives. Various strategies may be devised to achieve maximum results.

In the four cases studied, the project proponent neither informed nor consulted the "affected publics". The project was conceived, feasibility studies made, or explorations started without the public's knowledge (in some cases, perhaps just a few influentials or leaders and experts know about it). This phase is often considered by the proponent, as too technical for ordinary people to understand. *"Wala naman silang alam sa mga bagay-bagay na ito"*.

In the PASAR and CALACA I cases, for instance, the original projects were conceived, designed and implemented during the Marcos period, before the full implementation of the EIS system.

The EIS studies for these projects also followed prescribed formats with no extensive discussion of information needs. Thus, no formal scoping which involves interested or concerned public is done. Since these studies are reviewed by a technical committee, there are no compelling reasons for disseminating the results to a wider public. Copies are submitted to the EMB and interested groups may get copies from the office. No notice, however, is given to the public that these copies are available for perusal. Only PNOC distributed copies to concerned sectors, since the case had generated much interest and controversy. PNOC reports submitting/disseminating 76 copies of their eight-volume report.

It is not clear whether the proponent or EMB has the responsibility of disseminating the information to the public. Some questions may be raised

at this point. *Will dissemination serve the best interests of the proponent? Who will interpret the results to ordinary people? With limited editions of this technical EIS, where should these copies be placed so that interested people will have access to these materials? Who should inform the public of these materials?*

These questions suggest the importance of informing publics about the project and the necessity of preparing people to meaningfully participate in the EIA process. Preparation may take the form of training, consciousness-raising and other forms of popular education which NGOs and academic institutions are currently undertaking.²⁰

What factors facilitated people's participation in the EIA process?

In the Antamok Benguet case, the reason was survival. BC's open-pit mining operations deprived a number of small-scale and pocket-miners of their main source of livelihood. The community was also adversely affected by the construction, as many would be displaced, and the blasting operations, and the pollution resulting from the operations threatened their lives. Similarly, residents of Calaca, particularly those closest to the existing plant, suffered the ill effects of the power plant. In Isabel, Leyte, the pollution caused by LIDE plants affected the fisherfolk in the communities. Air and water pollution, aggravated by the perceived lack of direct benefits to the townspeople were major factors. These, plus the social distance of the company made PASAR unpopular. *"Maraming hinanakit sa PASAR"*, as some people put it.

The Mt. Apo case demonstrated basic philosophical and conceptual differences in the protagonists' interpretation of sustainable development. This basic difference intensified the conflict. Authentic people must live in harmony with nature. Mt. Apo is a sacred place. A geothermal plant will

²⁰ The Philippine Federation for Environmental Concerns is undertaking a training project for community EIA.

desecrate the place, etc. These and other reasons, including anxieties and fears of possible cataclysmic consequences, could not be answered by highly scientific, technical explanations. Thus, the protagonists appeared to be communicating on different wavelengths - and resolutions as well as militant actions did not resolve the conflict.

Participants/Stakeholders

Figures 1-4 summarize the key participants in the EIA process.

Figure 1
Stakeholder/Key Players
Antamok, Benguet

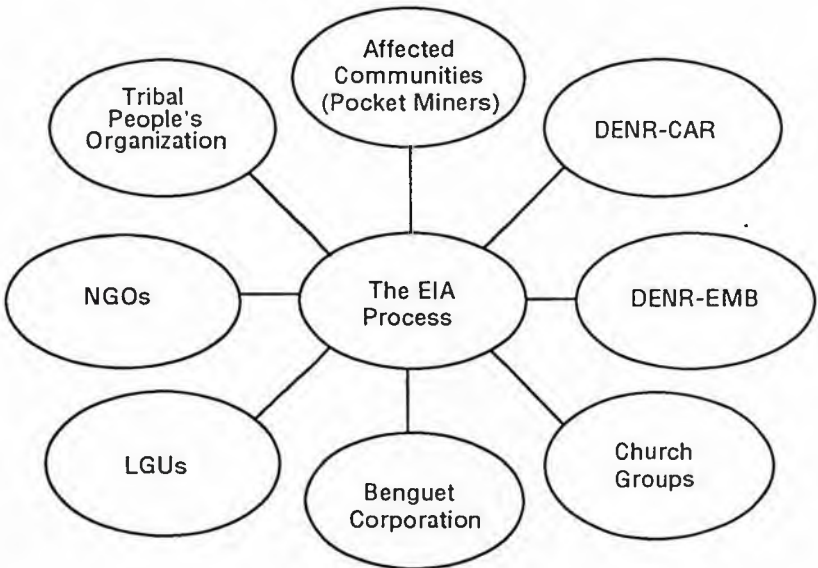


Figure 2
Stakeholder/Key Players
PASAR Case



Figure 3
Stakeholders
Calaca II Project

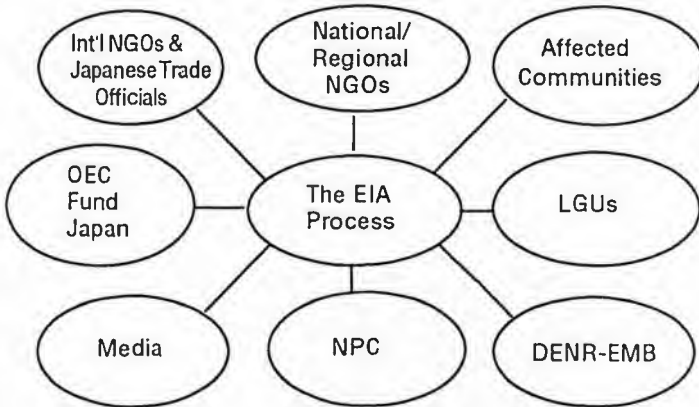
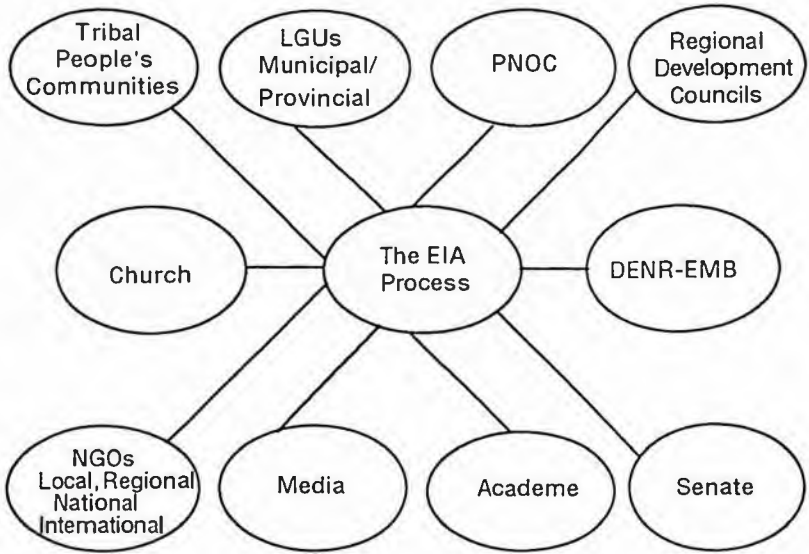


Figure 4
Stakeholders/Key Players
Mt. Apo Geothermal Project



In all those cases studied, people's organizations, NGOs, LGUs played major roles. The international NGOs and OECF, Japan played decisive roles in pressuring NPC to comply with Calaca people's demands. Church leaders and NGOs supporting the tribal people's demands for *ancestral domain* protection heightened and sustained the opposition to the Mt. Apo geothermal project. Academics played central roles, too, in the technical/scientific and sociocultural discussion of the Mt. Apo project. Media gave prominence to the tribal issues and sustained interest in the case. Apart from the fact that many different groups were involved in the Mt. Apo case - including school children in Davao - the leaders were highly influential people in the community.

The techniques used in mobilizing support for their cause were diverse:

1. signature campaign supporting statements/letters of concern, petitions, resolutions
2. consultations, dialogues, assemblies, public hearings, "kapihan"
3. Senate hearings

4. rallies, pickets, barricades
5. legal actions
6. information campaigns using primers, posters, exhibits 95
7. mobilization activities using networks and alliances, at national and international levels
8. site visits sponsored by proponents
9. film and video documentary shows
10. rituals like *dyandi*, *pamaas* (Mt. Apo); *canao* (Benguet)

11. rosary processions, candle lighting, caravans
12. environmental project demonstration such as Project Raintree - aerial seeding of denuded areas and elementary school children committing the interest on their bank deposits to Project Raintree. This was done to dramatize concern for Mt. Apo's preservation.

Among all the four cases, the public-oppositors in the Mt. Apo case, had the widest representation and participation and showed the most variety and creativity of communication and mobilization techniques.

The MOAs

Did participation increase the concerned publics' control over resources and regulative institutions?

Using the analytic grid proposed by Eidsvik, we find that the different "publics" are really being **informed** and **persuaded** only - at most **consulted** on decisions already made about the project. To a certain extent, even EMB's latitude of decision-making has also been limited by past decisions of the proponent and the agency itself. Thus, the possibility of cooperation and control would appear to be problematic. In Arnsteins's framework the most the public could achieve would be various degrees of "token participation - informing, consulting, placating".

The results, however, demonstrated the power of organized public participation - inspired by the spirit of EDSA's people power phenomenon in 1986. The democratic space had given peoples' groups and NGOs wider

maneuvering space and DENR-EMB's own strategy of citizen's participation provided the concrete mechanisms for involving people in the EIA.

The groups protested, brought their case to the proper authorities, mobilized their allies and networks and other international support groups, drew attention to their plight - in short, applied the strategies and techniques learned through two decades of protest and militant action under an authoritarian regime.

Although the final decision was to grant an ECC, this ECC specified conditionalities which accommodated the community's demand - and the number of conditionalities increased with the length of the struggle and the emergence of *impasse* if demands are not granted. The forging of Memoranda of Agreements (MOAs) with several mitigating measures - general or specific - addressing technical, environmental and social concerns, drawn up to the parties's satisfaction, represents an innovation in the Philippine context which appears to address concrete realities and problems.²¹ Though some sectors criticize this as damage-reduction due to a *fait accompli*, the exercise has nevertheless obtained concrete benefits for the people themselves and had compelled project proponents to seriously consider environmental protection and public participation.

The struggle for genuine public participation continues - the gains have been quite exhilarating, despite many setbacks. To attain the level of cooperation and sharing of decision-making powers requires more reorientation in both concepts and methods of public participation in EIA.

²¹According to Ganapin, former EMB Director and DENR Asst. Secretary, the strategy was to produce a "win-win" situation.

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