

RULES ON PLEADING, PRACTICE AND PROCEDURE

before the PANEL OF ARBITRATORS and the MINES ADJUDICATION BOARD

The Mines Adjudication Board , pursuant to its powers and functions under Section 79 of Republic Act No. 7942, otherwise known as the Philippine Mining Act of 1995 (the "Act") and Section 202 and 207 of Department Administrative Order No. 96-40: the Revised Implementing Rules and Regulations of the Act (the "IRR"), RESOLVES to promulgate and adopt the following Rules on Pleading, Practice and Procedure in the adjudication of mining cases.

RULE 1 TITLE AND CONSTRUCTION

SECTION 1. TITLE OF THE RULES – These rules shall be known as the Rules on Pleading, Practice and Procedure before the Panel of Arbitrators and the Mines Adjudication Board.

SECTION 2. APPLICABILITY OF THE RULES – These Rules shall apply to all mining cases as delineated under Section 77 of the Act and Section 202 of the IRR.

SECTION 3. CONSTRUCTION OF THE RULES – These Rules shall be liberally construed in order to promote the public interest and to assist the parties in obtaining just, speedy and inexpensive disposition of mining cases.

SECTION 4 . NATURE OF THE PROCEEDINGS – Subject to the basic requirements of due process, proceedings before the Panel of Arbitrators and the Mines Adjudication Board shall be summary in nature. The technical rules on evidence obtaining in courts of law shall not be binding upon the same. In the absence of any applicable provision in these Rules and in order to effectuate the objectives of the Mining Act, the pertinent provisions of the Rules of Court may, in the interest of expeditious justice and only whenever practical and convenient, be applied by analogy or in a suppletory manner. Representation of a party in mining cases by legal counsel shall be optional.

RULE II DEFINITION OF TERMS

SECTION 1. DEFINITION OF TERMS - As used in these Rules:

- (a) "*Board* " refers to the Mines Adjudication Board created pursuant to Section 79 of the Act and Section 207 of the IRR;
- (b) "*Bureau*" refers to the Mines and Geosciences Bureau ;
- (c) "*Department*" or "*DENR*" refers to the Department of Environment and Natural Resources;

- (d) "*Director*" refers to the Director of the Bureau;
- (e) "*Panel*" refers to any of the regional Panels of Arbitrators created pursuant to Section 77 of the Act and Section 201 of the IRR;
- (f) "*Secretariat*" means the administrative support staff of the Board created pursuant to Section 208 of the IRR, and
- (g) "*Secretary*" refers to the Secretary of the Department.

The other terms and phrases defined in Section 3 of the Act and Section 5 of the IRR shall be given the same meanings when used herein, unless the context or intent clearly indicates otherwise.

RULE III PROCEEDINGS BEFORE THE PANEL

SECTION 1. COMPOSITION - There shall be a Panel of Arbitrators in the Legal Staff of the Regional Office of the MGB composed of three (3) members, two (2) of whom must be members of the Philippine Bar in good standing and one (1) licensed Mining Engineer, Geologist or a professional in a related fields, all duly designated by the Secretary as recommended by the Director. Those designated as members of the Panel shall serve as such in addition to their work in the Department without additional compensation. The Regional Office shall provide administrative support and structure to the Panel.

As far as practicable, the members of the Panel shall come from the different bureaus of the Department in the region the presiding officer thereof shall be selected by the drawing of lots. His/her tenure as presiding officer shall be on a yearly basis. The members of the Panel shall perform their duties and obligations in hearing and deciding cases until their designation is withdrawn or revoked by the Secretary.

SECTION 2. JURISDICTION - The Panel of Arbitrators shall have exclusive and original jurisdiction to hear and decide on the following :

- (a) Disputes involving rights to mining areas ;
- (b) Disputes involving mining permits, mineral agreements, financial or technical assistance agreement.
- (c) Disputes involving surface owners, occupants, and claimholders/ concessionaires; and
- (d) Disputes pending before the Regional Office and the Department at the date of the effectivity of the Act: *Provided*, That appealed cases before the Department shall be under the jurisdiction of the Board.

The litigation and disposition of cases before the Panel shall be governed by these Rules; *Provided*, that cases pending before the different Panels at the date of effectivity of these Rules may proceed in accordance with the rules individually promulgated thereby; *Provided, further*, that these Rules shall govern subsequent appeals from such cases, if any.

SECTION 3. VENUE - All cases which the Panel has authority to hear and decide may be filed in the Regional Office of the Bureau having jurisdiction over the area subject of the case.

Where two or more regional Panels have administrative jurisdiction over the area subject of a mining dispute, the Panel of the Regional Office where the disputed agreement or permit was filed, processed and/ or issued shall acquire jurisdiction over the case to the exclusion of all others.

When improper venue is not objected to before or at the time of the filing of appropriate pleadings, such question shall be deemed waived. In the absence or in-operation of a Panel in a Region, the Panel in the region nearest to the area of conflict shall acquire jurisdiction over a case.

SECTION 4. QUORUM AND VOTE - The presence of a majority of the Panel members shall be necessary to constitute a quorum to deliberate on and decide any matter before it. The vote or concurrence of majority of the Panel members shall be required for the adoption of a decision or resolution by the Board .

SECTION 5. PARTIES - Any person who has an interest in the subject of the action may be a party to a case or proceeding before the Panel Depending on the nature of the action, the party initiating the same shall be called the Complainant, Petitioner, Oppositor or Protestant, while the party against whom the action is commenced shall be called the Respondent or Protestee.

The full names of all the real parties in interest, whether natural or juridical persons or entities authorized by law, shall be stated in the caption of the complaint or petition as well as in the decisions, awards or judgments.

A party having more than one cause of action against the other party, arising out of the same relationship, shall join all of them in one complaint or petition.

SECTION 6. WHEN ACTION IS DEEMED COMMENCED - An action is deemed commenced upon the filing of an adverse claim, protest or opposition.

- (a) Directly with the Panel;
- (b) with the concerned Regional Office for endorsement and transmittal to the appropriate Panel;
or
- (c) with any concerned Provincial Environment and Natural Resources Office (PENRO) or Community Environment and Natural Resources Office (CENRO) of the Department for referral to the concerned Regional Office for the endorsement and transmittal to the appropriate Panel.

SECTION 7. FORM AND CONTENTS OF ADVERSE CLAIM, PROTEST OR OPPOSITION - No adverse claim, petition, protest or opposition involving mining rights shall be accepted for filing unless verified and accompanied by the prescribed docket fee and proof of service to the respondent(s), either personally or by registered mail, *Provided*, That the requirement for the payment of docket fees shall not be imposed on pauper litigants.

Likewise, no adverse claim, protest or opposition shall be entertained unless it contains a detailed statement in clear and concise language, whether in Filipino or English, of the ultimate facts relied upon, the grounds therefor, and an exhaustive discussion of the issues and arguments raised and the remedy or relief sought together with all supporting plans, documents, data and other documentary evidence and affidavits of all witnesses.

SECTION 8. DOCKET NUMBER AND CALENDAR OF CASES - All cases filed before the Panel shall be numbered and docketed consecutively and entered into an appropriate docket book in accordance with a system of numbering and docketing of cases adopted by the Panel or Regional Office.

SECTION 9. DISPOSITION OF CASES - As far as practicable, the members of the Panel shall have equivalent case loads as assigned to the Presiding Officer. When a case is assigned to the Presiding Officer or either of the members, the entire case and any or all incidents thereto shall be considered assigned to him.

SECTION 10. ISSUANCE OF SUMMONS - Immediately after receipt of an adverse claim, petition, protest or opposition, the Panel shall issue the required notification and summons, attaching thereto a copy of the adverse claim, protest or opposition.

SECTION 11. FILING AND SERVICE OF PLEADINGS - All pleadings in connection with the case shall be filed with the appropriate docketing unit of the Panel. Copies of subsequent pleadings shall be furnished by the party filing the same to the opposing party or parties in a manner provided for in these Rules with proof of service thereof.

SECTION 12. SERVICE OF NOTICES AND RESOLUTIONS - Notices or summons and copies of orders, resolution or decisions shall be served on the parties to the case personally by the bailiff or duly authorized public officer within three (3) days from receipt thereof or by registered mail; *provided*, that where a party is represented by counsel or authorized representative, service shall be made on such counsel or authorized representative. The bailiff serving the notice, order, resolution or decision shall submit his return within two (2) days from date of service thereof, stating legibly in his return his name, the names of the persons served and the date of receipt, which return shall immediately be attached and shall form part of the records of the case. If no service was effected, the serving officer shall state the reason therefore in the return.

The return is prima facie proof of the facts indicated therein. Service by registered mail is complete upon receipt by the addressee or his agent; but if the addressee fails to claim his mail from the post office within five (5) days from the date of first notice of the postmaster, service shall take effect after such time.

For purposes of computing the period of appeal, the same shall be counted from receipt of such decision, award or order by the counsel of record.

SECTION 13 APPEARANCES AUTHORITY TO BIND PARTY - An attorney appearing for a party is presumed to be properly authorized for that purpose. Appearance may be made orally or in writing. In both cases, the complete name and office address of both parties shall be made of record. The Panel shall be formally notified in writing of any change in the address of counsel or representative.

Attorneys and other representatives of parties shall have authority to bind their clients in all matters of procedure but they cannot, without a special power of attorney, enter into a compromise agreement with the opposing party in full or partial discharge of a party's claim.

SECTION 14. CONSOLIDATION OF CASES - When there are two or more cases pending before different Panels from different regions involving the same parties, the subsequent case or cases shall, as far as practicable, be consolidated with the first to avoid unnecessary costs or delay. Such consolidated cases shall be disposed of by the Panel to whom the first case was assigned. In case of objection to the consolidation, the same shall be summarily resolved by the Presiding Officer of said Panel.

SECTION 15. MANDATORY CONFERENCE/ CONCILIATION - Within seven (7) days from receipt of a case, the Panel shall summon the parties to a conference for the purpose of amicably settling the case upon a fair compromise or determining the real parties in interest, defining and simplifying the issues in the case, entering into admission and/or stipulations of facts and threshing out all other preliminary matters. The notice or summons shall specify the date, time and place of the preliminary conference/pretrial and shall be accompanied by a copy of the complaint.

Should the parties arrive at any agreement as to the whole or any part of the dispute, the same shall be reduced to writing and signed by the parties and their respective counsels, if any, before the Panel. The settlement shall be approved by the Panel after being satisfied that it was voluntarily entered into by the parties and after having explained to them the terms and consequences thereof.

A compromise agreement entered into by the parties not in the presence of the Panel before which the case is pending shall be approved by it if, after confronting the parties, particularly the complainants, it is satisfied that they understand the terms and conditions of the settlement and that the same was entered into freely and voluntarily by them and is not contrary to law, morals and public policy.

A compromise agreement duly entered into in accordance with this Section shall be final and binding upon the parties, and the Order approving it shall have the effect of a judgment rendered by the Panel in the final disposition of the case.

The number of conferences shall not exceed three (3) settings and shall be terminated within thirty days from the date of the first conference.

SECTION 16. SUBMISSION OF POSITION PAPERS / MEMORANDA - Should the parties fail to agree upon an amicable settlement, either in whole or in part during the conferences, the Panel shall

issue an order stating therein the matters taken up and agreed upon during the conferences and directing the parties to simultaneously file their respective verified position papers.

These verified position papers shall cover only those claims and causes of action raised in the complaint excluding those that may have been amicably settled, and shall be accompanied by all supporting documents including the affidavits of their respective witnesses which shall take the place of the latter's direct testimony. The parties shall thereafter not be allowed to allege facts or present evidence to prove facts, not referred to any cause or causes of action not included in the complaint or position papers, affidavits and other documents. Unless otherwise requested in writing by both parties, the Panel shall direct them to submit simultaneously the position papers/memoranda with the supporting documents and affidavits within fifteen (15) calendar days from the date of the last conference, with proof of having furnished each other copies thereof.

SECTION 17. DETERMINATION OF NECESSITY OF HEARING - Immediately after the submission by the parties of their position papers or memoranda as provided in the immediately preceding section, the Panel shall, *motu proprio*, determine whether there is a need for a formal trial or hearing. At this stage, it may, at its discretion and for the purpose of making such determination ask classificatory questions to further elicit facts or information including but not limited to the subpoena of relevant documentary evidence, if any, from any party or witness.

SECTION 18. PERIOD TO DECIDE CASE -

SECTION 3. VENUE - All cases which the Panel has authority to hear and decide may be filed in the Regional Office of the Bureau having jurisdiction over the area subject of the case.

Where two or more regional Panels have administrative jurisdiction over the area subject of a mining dispute, the Panel of the Regional Office where the disputed agreement or permit was filed, processed and/ or issued shall acquire jurisdiction over the case to the exclusion of all others.

When improper venue is not objected to before or at the time of the filing of appropriate pleadings, such question shall be deemed waived. In the absence or in-operation of a Panel in a Region, the Panel in the region nearest to the area of conflict shall acquire jurisdiction over a case.

SECTION 4. QUORUM AND VOTE - The presence of a majority of the Panel members shall be necessary to constitute a quorum to deliberate on and decide any matter before it. The vote or concurrence of majority of the Panel members shall be required for the adoption of a decision or resolution by the Board .

SECTION 5. PARTIES - Any person who has an interest in the subject of the action may be a party to a case or proceeding before the Panel Depending on the nature of the action, the party initiating the same shall be called the Complainant, Petitioner, Oppositor or Protestant, while the party against whom the action is commenced shall be called the Respondent or Protestee.

The full names of all the real parties in interest, whether natural or juridical persons or entities authorized by law, shall be stated in the caption of the complaint or petition as well as in the decisions, awards or judgments.

A party having more than one cause of action against the other party, arising out of the same relationship, shall join all of them in one complaint or petition.

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Likewise, no adverse claim, protest or opposition shall be entertained unless it contains a detailed statement in clear and concise language, whether in Filipino or English, of the ultimate facts relied upon, the grounds therefor, and an exhaustive discussion of the issues and arguments raised and the remedy or relief sought together with all supporting plans, documents, data and other documentary evidence and affidavits of all witnesses.

SECTION 8. DOCKET NUMBER AND CALENDAR OF CASES - All cases filed before the Panel shall be numbered and docketed consecutively and entered into an appropriate docket book in accordance with a system of numbering and docketing of cases adopted by the Panel or Regional Office.

SECTION 9. DISPOSITION OF CASES - As far as practicable, the members of the Panel shall have equivalent case loads as assigned to the Presiding Officer. When a case is assigned to the Presiding Officer or either of the members, the entire case and any or all incidents thereto shall be considered assigned to him.

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SECTION 11. FILING AND SERVICE OF PLEADINGS - All pleadings in connection with the case shall be filed with the appropriate docketing unit of the Panel. Copies of subsequent pleadings shall be furnished by the party filing the same to the opposing party or parties in a manner provided for in these Rules with proof of service thereof.

SECTION 12. SERVICE OF NOTICES AND RESOLUTIONS - Notices or summons and copies of orders, resolution or decisions shall be served on the parties to the case personally by the bailiff or duly authorized public officer within three (3) days from receipt thereof or by registered mail; *provided*, that where a party is represented by counsel or authorized representative, service shall be made on such counsel or authorized representative. The bailiff serving the notice, order, resolution or decision shall submit his return within two (2) days from date of service thereof, stating legibly in his return his name, the names of the persons served and the date of receipt, which return shall immediately be attached and shall form part of the records of the case. If no service was effected, the serving officer shall state the reason therefore in the return.

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For purposes of computing the period of appeal, the same shall be counted from receipt of such decision, award or order by the counsel of record.

SECTION 13. APPEARANCES AUTHORITY TO BIND PARTY - An attorney appearing for a party is presumed to be properly authorized for that purpose. Appearance may be made orally or in writing. In both cases, the complete name and office address of both parties shall be made of record. The Panel shall be formally notified in writing of any change in the address of counsel or representative.

Attorneys and other representatives of parties shall have authority to bind their clients in all matters of procedure but they cannot, without a special power of attorney, enter into a compromise agreement with the opposing party in full or partial discharge of a party's claim.

SECTION 14. CONSOLIDATION OF CASES - When there are two or more cases pending before different Panels from different regions involving the same parties, the subsequent case or cases shall, as far as practicable, be consolidated with the first to avoid unnecessary costs or delay. Such consolidated cases shall be disposed of by the Panel to whom the first case was assigned. In case of objection to the consolidation, the same shall be summarily resolved by the Presiding Officer of said Panel.

SECTION 15. MANDATORY CONFERENCE/ CONCILIATION - Within seven (7) days from receipt of a case, the Panel shall summon the parties to a conference for the purpose of amicably settling the case upon a fair compromise or determining the real parties in interest, defining and simplifying the issues in the case, entering into admission and/or stipulations of facts and threshing out

all other preliminary matters. The notice or summons shall specify the date, time and place of the preliminary conference/pretrial and shall be accompanied by a copy of the complaint.

Should the parties arrive at any agreement as to the whole or any part of the dispute, the same shall be reduced to writing and signed by the parties and their respective counsels, if any, before the Panel. The settlement shall be approved by the Panel after being satisfied that it was voluntarily entered into by the parties and after having explained to them the terms and consequences thereof.

A compromise agreement entered into by the parties not in the presence of the Panel before which the case is pending shall be approved by it if, after confronting the parties, particularly the complainants, it is satisfied that they understand the terms and conditions of the settlement and that the same was entered into freely and voluntarily by them and is not contrary to law, morals and public policy.

A compromise agreement duly entered into in accordance with this Section shall be final and binding upon the parties, and the Order approving it shall have the effect of a judgment rendered by the Panel in the final disposition of the case.

The number of conferences shall not exceed three (3) settings and shall be terminated within thirty days from the date of the first conference.

SECTION 16. SUBMISSION OF POSITION PAPERS / MEMORANDA - Should the parties fail to agree upon an amicable settlement, either in whole or in part during the conferences, the Panel shall issue an order stating therein the matters taken up and agreed upon during the conferences and directing the parties to simultaneously file their respective verified position papers.

These verified position papers shall cover only those claims and causes of action raised in the complaint excluding those that may have been amicably settled, and shall be accompanied by all supporting documents including the affidavits of their respective witnesses which shall take the place of the latter's direct testimony. The parties shall thereafter not be allowed to allege facts or present evidence to prove facts, not referred to any cause or causes of action not included in the complaint or position papers, affidavits and other documents. Unless otherwise requested in writing by both parties, the Panel shall direct them to submit simultaneously the position papers/memoranda with the supporting documents and affidavits within fifteen (15) calendar days from the date of the last conference, with proof of having furnished each other copies thereof.

SECTION 17. DETERMINATION OF NECESSITY OF HEARING - Immediately after the submission by the parties of their position papers or memoranda as provided in the immediately preceding section, the Panel shall, *motu proprio*, determine whether there is a need for a formal trial or hearing. At this stage, it may, at its discretion and for the purpose of making such determination ask classificatory questions to further elicit facts or information including but not limited to the subpoena of relevant documentary evidence, if any, from any party or witness.

- (a) Should the Panel find it necessary to conduct a hearing , it shall issue an order to that effect setting the date or dates for the same which shall be terminated within ninety (90) days from initial hearing, at which time the parties shall be given ten (10) days to submit their respective Draft Decisions to the Panel. The Panel shall render its decision within thirty (30) working days, without extension, after receipt of the Draft Decisions and submission of the case by the parties for decision even in the absence of stenographic notes.
- (b) If the Panel finds no necessity of further hearing after the parties have submitted their position papers and supporting documents, it shall issue an Order to that effect informing the parties, stating the reasons therefor, and requiring them to file their respective Draft Decisions within ten (10) days from receipt of such Order. The Panel shall render its decision in the case within the same period provided in paragraph (a) hereof.

SECTION 19. CONCILIATION - In all cases and at any stage of the proceedings, the Panel shall exert all efforts and take positive steps toward resolving the dispute through conciliation.

SECTION 20. TECHNICAL RULES NOT BINDING - The rules of procedure and evidence prevailing in courts of law and equity shall not be controlling and it is the spirit and intention of these Rules that the Panel shall use every and all reasonable means to ascertain the facts in each case speedily and objectively and without regard to technicalities of law or procedure, all in the interest of due process.

SECTION 21. CONDUCT OF PROCEEDINGS - The Panel shall collegially conduct the conferences/hearing . The Presiding Officer shall determine the order of presentation of evidence by the parties, subject to the requirements of due process and reasonableness. He shall take full control of the proceedings, examine the parties and their witnesses to satisfy the Panel with respect to the matters at issue and may allow the parties or their counsel to ask question only for the purpose of clarifying points of law or fact involved in the case. He shall limit the presentation of evidence to matters relevant to the issues before him which are necessary for a just and speedy disposition of the case. Notwithstanding the foregoing, the Party initiating the case shall be the first to present his evidence to support his case. In the cross-examination of witnesses, only relevant, pertinent and material questions necessary to enlighten the Panel shall be allowed.

SECTION 22. NON-APPEARANCE OF PARTIES AT CONFERENCE/HEARINGS - Two (2) successive absences at a conference or hearing by the complainant, petitioner, protestant or oppositor who was duly notified thereof may be sufficient cause to dismiss the case without prejudice. Where proper justification is shown, however, by proper motion to warrant the reopening of the case, the Panel shall call a second hearing and continue the proceedings until the case is finally decided. Dismissal of the case for the second time due to the unjustified non-appearance of the complainant who was duly notified thereof shall be with prejudice.

In case of two (2) successive non-appearances by the respondent despite due notice, the complainant shall be allowed to present evidence ex parte, subject to cross-examination by the

respondent, where proper, at the next hearing. Upon completion of such presentation of evidence for the complainant, another notice of hearing for the receipt of the respondent's evidence shall be issued with a warning that failure of the respondent to appear shall be construed as submission by him of the case for resolution without presenting his evidence.

In case two (2) successive unjustified nonappearances by the respondent during his turn to present evidence, despite due notice, the case shall be considered submitted for decision on the basis of the evidence presented thus far.

SECTION 23. REVIVAL/REOPENING OF DISMISSED CASE - A party may file with the Panel a petition to revive or reopen a case dismissed without prejudice within ten (10) calendar days from receipt of notice of the order dismissing the same; otherwise his only remedy shall be to re-file the case.

SECTION 24. POSTPONEMENT OR CONTINUANCES OF HEARING - The parties and their counsels or representatives appearing before a Panel shall be prepared for continuous hearings. Postponements or continuances of hearing shall be allowed only upon meritorious grounds and subject always to the requirement of expeditious disposition of cases and the termination of hearings within ninety (90) days from the initial hearing. In the event of such postponements or continuances, the Panel shall set two or more dates for hearings in advance.

SECTION 25. RECORDS OF PROCEEDINGS - The proceedings before the Panel need not be recorded by stenographers. The Panel may make a written summary of the proceedings including the substance of the evidence presented, in consultation with the parties. The written summary shall be signed by the parties and shall form part of the records.

SECTION 26. MOTION TO DISMISS; OTHER MOTIONS - On or before the date set for the conference, the respondent may file a motion to dismiss. Any motion to dismiss on the ground of lack of jurisdiction, improper venue or that the cause of action is barred by prior judgment or by prescription shall be summarily resolved by the Panel by a written order within ten (10) days from receipt of the same. An order denying the motion to dismiss or suspending its resolution until the final determination of the case is not appealable.

Oppositions to a motion of one party may not be filed by the adverse party beyond five (5) days from receipt of the same. All other motions shall likewise be summarily resolved by the Panel by a written order within ten (10) days from receipt of the same.

SECTION 27. CONTENTS OF DECISION - The decision of the Panel shall be clear and concise and shall include a brief statement of the facts of the case, the issues involved, the applicable law or rules, conclusions and the reasons therefor, and the specific remedy or relief granted.

In case involving monetary awards the decisions or orders of the Panel must contain the amount rewarded.

SECTION 28. MOTIONS FOR RECONSIDERATION - The filing of a motion for reconsideration of any order or decision of the Panel shall be allowed only once within fifteen (15) days from receipt of such order or decision.

The implementation of any order issued by the Panel other than a final order, decision or resolution which disposes of the main case, shall not be stayed by the filing of a motion for reconsideration by the party aggrieved thereby.

The filing of such motion for reconsideration of a final order, decision or resolution shall interrupt the running of the period within which to file an appeal. In the event of denial of the same, the aggrieved party may file an appeal within the remainder of the original fifteen (15)-day period.

RULE IV APPEAL

SECTION 1. PERIOD OF APPEAL - The decision of the Panel of Arbitrators shall become final and executory after the lapse of (15) days from receipt of the notice of decision by the aggrieved party, unless the latter appeals to the Board within the same period. Where an appeal is filed, the concerned Panel shall transmit the notice thereof together with the records of the case within five (5) days from notice of such filing to the Board.

Upon the finality of the decision of the Panel, no appeal having been taken therefrom, the Presiding Officer of the Panel of Arbitrators shall issue a writ of execution directing the Sheriff of the Regional Trial Courts, with jurisdiction over the area, to implement and execute the writ

SECTION 2. GROUNDS - The appeal may be entertained only on any of the following grounds:

- (a) If there is prima facie evidence of abuse of discretion on the part of the Panel;
- (b) If the Decision, Order or award was secured through fraud, coercion including graft and corruption, and the appellant has the necessary evidence to support such allegation;
- (c) If made purely on questions of law; and
- (d) If serious errors in the finding of facts are raised which, if not corrected, would cause grave or irreparable damage or injury to the appellant.

SECTION 3. REQUISITES FOR PERFECTION OF APPEAL - The appeal shall be filed within the reglementary period as provided in Section 1 of this Rule with the Executive Officer of the Secretariat at the Central Office of the MGB, copy furnished the concerned Panel and opposing party/ies. It shall be under oath stating the date when appellant received the decision or order appealed from with proof of payment of the required appeal fee, proof of service on the party and, where applicable, the posting of a cash or surety bond as provided in Section 5 of this Rule. It shall be accompanied by a memorandum of appeal which shall state the grounds relied upon, the arguments in support thereof and the relief prayed for.

A mere notice of appeal without complying with the aforesaid requisites shall not stop the running of the period for perfecting the appeal.

The appellee may file with the Board, copy furnished the concerned Panel, his/her answer or reply to appellant's Memorandum not later than ten (10) calendar days from receipt thereof. Failure on the part of the appellee who was properly furnished with a copy of the appeal to file his answer or reply within the said period may be construed as a waiver on his part to file the same.

.Once the appeal is perfected in accordance with these Rules, the Board may limit itself to reviewing and deciding specific issues that were elevated on appeal. For this purpose, the Board may require the parties to submit such pleadings and memoranda as may be deemed necessary.

SECTION 4. APPEAL FEE - The appellant shall pay an appeal fee at the Central Office of the MGB and the official receipt of such payment shall be attached to the records of the case.

SECTION 5. BOND - In case the decision of the Panel involves a monetary award, an appeal by the aggrieved party shall be perfected only upon the posting of a cash or surety bond issued by a reputable bonding company duly accredited by the Board or the Supreme Court in an amount equivalent to the monetary award.

The Board may, in meritorious cases and upon motion of the appellant, reduce the amount of the bond. Nothing herein, however, shall be construed as extending the period of appeal.

SECTION 6. NO EXTENSION OF PERIOD - No motion or request for extension of the period within which to perfect an appeal shall be allowed.

SECTION 7. IMMEDIATE TRANSMITTAL OF RECORDS - Within five (5) days after the filing of the reply or opposition of the appellee, or after the expiration of the period to file the same, the entire records of the case shall be transmitted by the Presiding Officer of the concerned Panel to the Secretariat.

Records of the case shall contain, among others, a complete narration of what transpired before the Panel in the form of minutes including all original pleadings, notices, transcript of stenographic notes, if any, proof of service of the decision, order or award and other document which shall be chronologically arranged and appropriately paged.

SECTION 8. FRIVOLOUS OR DILATORY APPEALS- To discourage, frivolous or dilatory appeals, the Board may impose a reasonable penalty including fine or censure upon the erring parties, in cases where it is reasonably apparent from the circumstances that a party is committing the prescribed mischief

RULE V

PROCEEDINGS BEFORE THE BOARD

SECTION 1. COMPOSITION – The Board shall be composed of three (3) members. The Secretary shall be the Chairman with the Director and the DENR Undersecretary for Field Operations as members thereof.

The Chairman shall preside over all sessions of the Board. In case of the effective absence or incapacity of the Chairman, the Director shall be the Acting Chairman.

The Chairman, aided by the Executive Officer of the Secretariat, shall have administrative supervision over the Board and the various regional Panels.

SECTION 2. JURISDICTION, POWERS AND FUNCTIONS - The Board shall have exclusive appellate jurisdiction over all cases decided by the Panel. It shall have the following powers and functions:

- (a) To promulgate rules and regulations governing the hearing and disposition of cases before the Panel and the Board, as well as those pertaining to the Board's internal functions, and such rules and regulations as may be necessary to carry out its functions ;
- (b) To administer oaths, summon the parties to a controversy, issues subpoenas requiring the attendance and testimony of witnesses or the production of such books, papers, contracts, records, statements of account, agreements and other documents as may be material to a just determination of the matter under investigation and to testify in any investigation or hearing conducted ;
- (c) To conduct hearing on all matters within its jurisdiction, proceed to hear and determine the disputes in the absence of any party thereto who has been summoned or served with notice to appear, conduct its proceedings or any part thereof in public or in private, adjourn its hearing at any time and place, refer technical matters or accounts to an expert and to accept his/ her report as evidence after hearing of the parties upon due notice, direct parties to be joined in or excluded from the proceedings, correct, amend or waive any error , defect or irregularity, whether in substance or in form, give all such directions as it may deem necessary or expedient in the determination of the dispute before it and dismiss the mining dispute as part thereof, where it is trivial or where further proceedings by the Board are not necessary or desirable ;
- (d) To hold any person in contempt, directly or indirectly, and impose appropriate penalties therefor; and
- (e) To enjoin any or all acts involving or arising from any case pending before it which, if not restrained forthwith, may cause grave or irreparable damage to any of the parties to the case or seriously affect social and economic stability.

SECTION 3 . VENUE – The hearing or deliberation of cases by the Board shall be held at the main office of the Department or in such other place as may be fixed by the Board.

SECTION 4. QUORUM AND VOTE – The presence of a majority of the members of the Board shall be necessary to constitute a quorum to deliberate on and decide any matter before it. The vote or

concurrence of the majority of the members of the Board shall be required for the adoption of a decision or resolution by the Board.

To ensure a quorum in meetings of the Board, the Secretary may designate officials of the Department who shall take the place of members of the Board during their absence. Such designated officials shall have the same power and authority as the regular members during their period of designation.

SECTION 5. INHIBITION - Any member of the Board may inhibit himself from the consideration and resolution of any case or matter before the Board and shall so state in writing the legal or justifiable grounds therefor.

SECTION 6. CONSOLIDATION OF CASES - Appealed cases involving the same parties, issues or related questions of facts or of law shall be consolidated. Notice of the consolidation shall be given by the Executive Officer to all the parties concerned.

SECTION 7. TECHNICAL RULES NOT BINDING – The rules of procedure and evidence prevailing in courts of law and equity shall not be controlling and it is the spirit and intention of these Rules that the Board shall use every and all reasonable means to ascertain the facts in each case speedily and objectively and without regard to technicalities of law or procedure, all in the interest of due process.

SECTION 8. PERIOD TO RESOLVE APPEAL – Upon the filing of the last pleading or memorandum required, the Board shall issue an order instructing the parties to submit their respective draft decisions within thirty (30) calendar days from receipt of such order. Upon receipt by the Board of such draft decisions, the case shall be deemed submitted for resolution by the Board.

SECTION 9. FORM OF DECISION/RESOLUTION/ ORDER - The Decision, Resolution or Order shall state clearly and distinctly the findings of facts, issues and conclusions of law on which it is based and the relief granted, if any. If the Decision, Resolution or Order Involves a monetary award, the same shall contain the specific amount awarded as of the date the Decision, Resolution or Order is rendered.

SECTION 10. FINALITY OF DECISIONS OF THE BOARD - The decisions, resolutions or orders of the Board shall become final and executory after thirty (30) calendar days from receipt of the same.

The Board, in cases involving monetary awards, shall embody in its decision or Order the detailed and full amount awarded.

SECTION 11. MOTIONS FOR RECONSIDERATION – Motions for reconsideration of any order, resolution or decision of the Board shall not be entertained except when based on palpable or patent errors, provided that the motion is under oath and filed within ten (10) days from receipt of the Decision, Resolution or Order with proof of service that a copy of the same has been furnished the adverse party within the reglementary period and provided further, that only one such motion from the same party shall be entertained.

SECTION 12. EFFECT OF THE FILING OF A MOTION FOR RECONSIDERATION - Should there be a motion for reconsideration entertained pursuant to Section 11 of the Rule, the decision shall become final and executory after thirty (30) days from receipt of the resolution on such motions.

SECTION 13. PETITION FOR REVIEW BY CERTIORARI – A decision, resolution or award of the Board may be reviewed by filing a petition for review with the Supreme Court within thirty (30) days from receipt of the same.

RULE VI EXECUTION

SECTION 1. ISSUANCE OF WRIT - Execution shall issue only upon an order, resolution or decision that finally disposes of the action or proceedings after the counsels of record and the parties have been furnished with copies of such order, decision or resolution in accordance with these Rules but only after the expiration of the period of appeal, if no appeal has been duly perfected.

If an appeal has been perfected, execution shall issue only upon an order, resolution or decision that finally disposes of the action or proceedings with the Board after the counsels of record and the parties have been furnished with copies of such order, decision or resolution in accordance with these Rules.

The Panel of origin shall, *motu proprio* or upon motion of any interested party, issue a writ of execution on a judgment within five (5) days from the date it becomes final and executory, so requiring the sheriff or a duly deputized officer to execute the same. No motion for execution shall be entertained nor a writ be issued unless the Panel is in possession of the records of the case which shall include an entry of judgment.

SECTION 2. EXECUTION PENDING APPEAL – On motion of the prevailing party with notice to the adverse party and the concerned Panel, the Board may, in its discretion, order execution to issue even during the pendency of an appeal, upon good reasons to be stated in an order issued for that purpose.

SECTION 3. STAY OF EXECUTION PENDING APPEAL - Execution issued pending appeal may be stayed upon approval by the Board of a sufficient supersedes bond filed by the appellant, conditioned upon the performance of the judgment or order appealed from in case it be affirmed wholly or in part. The bond thus given may be proceeded against on motion, with notice to the surety.

SECTION 4. DESIGNATION OF SPECIAL SHERIFFS AND IMPOSITION OF FINES - The Chairman of the board may designate special sheriffs and take any measure under existing laws to ensure compliance with their decisions, orders or awards and those of the Panel, the imposition of administrative fines and penalties; the fine shall not be less than One Thousand Pesos (P 1,000.00) for

every day of non-compliance, while the penalty shall be a declaration of indirect contempt against the offender in accordance with the procedure under the Revised Rules of Court.

RULE VII CONTEMPT

SECTION 1. DIRECT CONTEMPT - The Chairman of the Board or the Presiding Officer of the Panel may summarily adjudge guilty of direct contempt any person committing any act of misbehavior in the presence or so near the Chairman or any Panel as to obstruct or interrupt the proceedings before the same, including disrespect toward said officials, offensive acts towards others, or refusal to be sworn or to answer as a witness or to subscribe to an affidavit or deposition when lawfully required to do so. If the offense is committed against the Board or any member thereof, the same shall be punished by a fine not exceeding Five Thousand Pesos (P 5,000.00) or imprisonment not exceeding five (5) days, or both. If the offense is committed against a Panel or any member thereof, the same shall be punished by a fine not exceeding One Thousand Pesos (P 1,000.00) or imprisonment not exceeding one (1) day, or both.

Any person adjudged guilty of direct contempt by a Panel may, within a period of five (5) calendar days from notice of judgment, appeal the same to the Board and the execution of the said judgement shall be suspended pending resolution of the appeal upon the filing by said person of a bond on condition that he will abide by and perform the judgment should the appeal be decided against him. A judgment of the Board on direct contempt shall be immediately executory and unappealable.

SECTION 2. INDIRECT CONTEMPT – The Board or any Panel may also cite any person for indirect contempt upon grounds and in the manner prescribed under the Revised Rules of Court.

RULE VIII INJUNCTION

SECTION 1. PRELIMINARY INJUNCTION/ RESTRAINING ORDER - A preliminary injunction or a restraining order may be granted by the Board when it is established on the basis of the sworn allegations in the petition supported by testimony under oath or affidavits of the petitioners' witnesses that the act or acts complained of involving or arising from any appealed case before the Board which, if not restrained or performed forthwith, may cause grave or irreparable damage to any party or render ineffectual any decision in favor of such party.

The foregoing ancillary power may be exercised by the Panel only as an incident to the cases pending before them in order to preserve the rights of the parties during the pendency of the cases.

SECTION 2. EFFECTIVITY OF A TEMPORARY RESTRAINING ORDER - A temporary restraining order shall be effective for no longer than twenty (20) days. During the said period, the parties shall be required to present evidence to substantiate their respective positions in the main petition.

SECTION 3. PERMANENT INJUNCTION - A permanent injunction may be granted by the Board only after hearing the testimony of witnesses and with opportunity for cross-examination in support of

the allegations of the petition made under oath and testimony by way of opposition thereto, if offered, and only after a finding of fact by the Board that:

- (a) prohibited or unlawful acts have been threatened and will be committed unless restrained, but no injunction or temporary restraining order shall be issued by reason of any threat, prohibited or unlawful act if the petitioner actually authorized or ratified the same after knowledge thereof;
- (b) substantial and irreparable injury to petitioner's property will follow;
- (c) acts which, if not restrained forthwith, will seriously affect social and economic stability;
- (d) as to each item of relief to be granted, greater injury will be inflicted upon the petitioner by the denial of relief than will be inflicted upon defendants by the granting of relief;
- (e) petitioner has no adequate remedy at law; and/or
- (f) the public officers charged with the duty to protect petitioner's property are unable or unwilling to furnish adequate protection; and

SECTION 4. HEARING ; NOTICE THEREOF - Such hearing shall be held after due and personal notice thereof has been served, in such manner as the Board shall direct to all known persons against whom relief is sought and also to the Chief Executive and other public officials of the province or city within which the unlawful acts have been threatened or committed, and such public officials are charged with the duty to protect petitioner's property.

SECTION 5. SURETY BOND - No temporary restraining order or injunction shall be issued except on condition that complainant shall first file an undertaking with adequate security in an amount to be fixed by the Board, which in no case shall be less than ten thousand pesos to recompense those enjoined for any loss, expense or damage caused by the improvident or erroneous issuance of such order or injunction including all reasonable costs, together with a reasonable attorney's fees, and expense of defense against the order or against the granting of any injunctive relief sought in the same proceeding and subsequently denied by the Board .

The undertaking herein mentioned shall be understood to constitute an agreement entered into by the petitioner and the surety upon which an order may be rendered in the same suit or proceeding against said complainant and surety, upon a hearing to assess damages, of which hearing petitioners and surety shall have reasonable notice, the said petitioner and surety submitting themselves to the jurisdiction of the Board for the purpose.

SECTION 6. ORDINARY REMEDY IN LAW OR IN EQUITY – Nothing herein contained in these Rules shall deprive any party having a claim or cause of action under or upon such undertaking from electing to pursue his ordinary remedy by suit at law or in equity.

SECTION 7. RECEPTION OF EVIDENCE DELEGATION - The reception of evidence for application of a writ of injunction may be delegated by the Board, in which case such hearing in such places as may be determined to be accessible to the parties and their witnesses. A report to the Board shall be submitted within fifteen (15) days from such delegation.

SECTION 8. OCULAR INSPECTION - The Chairman of the Board , Presiding Officer of the Panel or their duly authorized representatives may, at any time during working hours, conduct an ocular inspection on any property or establishment and ask any employee, laborer or person as the case may be, for any information or data concerning any matter or question relative to the object of the petition.

The ocular inspection report shall be submitted to the Board or concerned Panel, as the case may be, within twenty-four hours from the conduct thereof..

SECTION 9. EFFECTS OF DEFIANCE - In case of noncompliance with an Order or Resolution of the Board enjoining the commission of illegal acts, the Board shall impose such sanction and/or issue such orders as may be necessary to implement the said Order or Resolution , including the enlistment of law enforcement agencies having jurisdiction over the area for the purpose of enforcing the same.

RULE VIII

SEAL AND RECORDS OF THE BOARD AND DUTIES OF THE SECRETARIAT

SECTION 1. SEAL OF THE COMMISSION – The seal of the Board shall be a standard size, circular, with the inscription, running from left to right on the upper outside edge, of the words “MINES ADJUDICATION BOARD”, and the lower outside edge, the words “Republic of the Philippines,” with a design at the center containing the coat of arms of the Department.

SECTION 2. SECRETARIAT – The Board shall appoint the members of the Secretariat, at least half of whom shall come from the MGB. The Secretariat members must possess the necessary legal, technical and administrative skills to assist the Board in the exercise of its powers and functions. The Executive Officer of the Secretariat shall be designated from among those staff members originating from the MGB. The Secretariat of the Board shall be provided with permanent and full time administrative support with sufficient funding in its annual budget appropriation.

SECTION 3. DUTIES AND FUNCTIONS OF THE SECRETARIAT -

- (a) Custody of Seal and Books - It shall in its care and custody the Seal of the Board together with all the books necessary for the recording of the proceedings of the Board, including the records, files and exhibits;
- (b) Filing of Pleadings.- It shall receive and file all cases/pleadings and documents indicating thereon the date and time files. All pleadings shall be filed in four (4) legibly typewritten copies in legal size;
- (c) Service of Processes, Orders, Decisions - It shall serve all parties and counsels processes, notices of hearings, copies of Decisions/ Resolutions/Orders issued by the Board by mail or by personal service and immediately attach the returns thereof to the records;
- (d) Board Calendar/Minutes Book – It shall prepare the Board calendars of sessions, attend such sessions and immediately prepare the Minutes thereof, for which purpose a Minutes Book shall be kept;

- (e) General Docket – The Executive Officer of the Secretariat shall keep a General Docket for the Board, each page of which shall be numbered and prepare for receiving all the entries in single page, and shall enter therein all appealed cases before it, numbered consecutively in the order in which they were received and under the heading of each case, the date and hour of each pleading filed, or each order, decision or resolution entered, and of each other step or action taken in the case; so that, by reference to any single page, the history of the case may be known;
- (f) Promulgation Book – the Executive Officer of the Secretariat shall promulgate decisions or final resolutions on the same date it is filed and indicate the date and time of promulgation and attest the same by his signature on the first page thereof. He shall immediately furnish the Chairman of the Board with a copy of such decision/resolution/order with a summary of the nature thereof and the issue involved therein. He shall keep a Promulgation Book which indicates the date and time of promulgation, the case number, title of the case, the nature of the decision and the action taken by the Board by quoting the dispositive portion thereof. Notices of said Decisions/Resolutions/Orders shall be sent in sealed envelopes to parties/counsels within forty-eight (48) hours from promulgations;
- (g) Entry of Judgement – the Executive Officer of the Secretariat shall keep a Book of Entry of Judgement, Orders, Resolutions, and Decisions containing in chronological order the entries of all final Orders, Decisions and Resolutions of the Board. No entry of judgement shall be made in case the Decision is appealed to the Supreme Court;
- (h) Disposition/Remand of Records – Upon entry of judgement, the records of the case shall be immediately remanded to the Panel of origin. The Records Section shall immediately post said records without delay within two (2) working days;
- (i) Quarterly Accomplishment Reports – The Executive Officer of the Secretariat shall submit a Quarterly Accomplishment Report of the Board not later than the 10th day of the month following the end of each quarter; and
- (j) Other Functions – The Secretariat shall perform other functions as directed by the Chairman of the Board.

RULE IX FINAL PROVISIONS

SECTION 1. SEPARABILITY CLAUSE – If any section or provision of these Rules, or any part thereof, is declared unconstitutional or invalid, the other sections or provision thereof which are not affected thereby shall continue in full force and effect.

SECTION 2. EFFECTIVITY – These Rules shall take effect fifteen (15) days after their publication in two (2) newspapers of general circulation .

Quezon City , Philippines, 1997.

(Sgd.) VICTOR O. RAMOS
Chairman

(Sgd.) HORACIO C. RAMOS

Member

(Sgd.) VIRGILIO Q . MARCELO

Member