

To the Honorables:

1. President Of the Republik Indonesia in Jakarta
2. Ministry for Energy and Minerals in Jakarta
3. Ministry for Environment in Jakarta
4. Ministry for Home Affairs in Jakarta
5. Ministry for Foreign Affairs in Jakarta
6. Ministry for Public Roads and Traffic in Jakarta
7. Ministry for Education in Jakarta
8. National High Court in Jakarta
9. Chairman of the Judge Commission in Jakarta
10. Head of the National Police Force in Jakarta
11. Commission for Corruption in Jakarta
12. National Ombudsman Commission in Jakarta
13. Police Commission in Jakarta
14. Judge Commission in Jakarta
15. Commission for Human Rights in Jakarta
16. Commission for Women's Rights in Jakarta
17. Law Commission in Jakarta
18. Head of the Commission III DPR RI in Jakarta
19. Head of the Commission VII DPR RI in Jakarta
20. The Governor of the Province North Sulawesi in Manado
21. Head of the Provincial High Court Manado
22. Head of the Provincial Judge Commission in Manado
23. Head of the Provincial Police Force in Manado
24. Australian Embassy in Jakarta
25. British Embassy in Jakarta
26. Head and Members of the DPRD North Sulawesi in Manado
27. Head of The Regency North Minahasa in Airmadidi
28. Head and Members of the DPRD Regency North Minahasa in Airmadidi
29. Mayor of the City of Bitung
30. Head and Members of the Council of Bitung
31. Heads of the Religious Institutions of North Sulawesi

### The People of North Sulawesi reject the Operation of Gold Mining companies PT MSM dan PT TTN

Starting from early 2000 until now, the two gold mining companies PT Meares Soputan Mining (MSM – Australian Archipelago Resources Plc) and PT Tambang Tondano Nusajaya (TTN) have been increasingly disrupting the people of the Indonesian province of North Sulawesi, especially in North Minahasa Regency and Bitung municipality. As it is based on forgery, the company's statement that only highest technology on World Bank standards will be employed to process the gold, is not acceptable. **Ten billion metric tons of acid tailings which will be disposed of in a tailing storage facility (TSF) in Toka Tindung area in a hill area above coastal settlements and the industrial harbour city of Bitung which are home to several hundred thousand of people and the industrial heart of the area are deemed to be of high risk for the overall health and the economy of the province.** The gold mining activity which will modify the natural geography on a large scale in an area which is prone to earth and sea quakes and categorized as a high risk tsunami area in addition to the effects of global warming, is scientifically understood as **not suitable**. The potential to contaminate the food chain for the people of North Sulawesi is extremely high if MSM and TTN will operate their mine. **Summarized, if PT MSM and PT TTN are going to operate they most likely will create an environmental catastrophe for the people of North Sulawesi and all future generations.**

The Environmental Impact Assessment (EIA/AMDAL) of PT MSM and PT TTN has been denied firmly by the Governor of the Province of North Sulawesi, S.H. Sarundajang, in a letter to the Ministry Of Environment dated February 2nd 2007<sup>1</sup> because there is a high level of resistance among the people of North Sulawesi and potential of social unrest, also the imminent environmental risks. And, even more important, because it's not in accordance with the overall provincial economic development plan (Tata Ruang) – as it will have deteriorating effects on the viable sectors of fishery, agriculture and tourism.<sup>2</sup> **Thus the short-termed mining operation of a**

prognosed six years will only benefit a minority of people whereas it will most probably drive the province's overall economy into bankruptcy.

A small fraction of people who have vested interests in MSM and TTN, including several high government officials in Jakarta, force the people and government of North Sulawesi to receive an operation, although it is clear that it will bring an environmental catastrophe over the people. It is already proven several times that **PT MSM actively invites government officials to misuse their offices (mal-administration) for personal greediness, and also practices the politics of *divide et impera* within the society of North Sulawesi:**

1. **PT MSM cannot be believed.** From the beginning (early 90-ies), PT MSM and PT TTN proposed in their Pra-Andal Studies to dispose of the tailings into the sea (submarine tailings disposal STD) because of the inherent risks for environment and health of the people - as they said then - of storing the tailings on land.<sup>3</sup> They explicitly mentioned the high frequency of earth quakes. Then, all of a sudden, after the Ministry for Environment, the Ministry for Energy and Minerals and the Amdal commission as well as the Provincial Parliament in March 2006 had denied permission for the STD, and they had to switch to TSF instead, both PT MSM and PT TTN very surprisingly asserted that the TSF they planned to impose held very little risk for the environment and the people's health as it was high technology according to the standards of the World Bank.<sup>4</sup> The processing plant they installed though is cheaply secondhand acquired from Chile's Barrick Company and only refurbished.<sup>5</sup>
2. There are strong indications that the voting in favor of MSM to be allowed to operate by a majority of 1 voice of the members who attended a North Minahasa regency cabinet's session on November 15th (Nomor 20 tahun 2007 tanggal 15 November 2007) has been a result of political interference by MSM and a result of bribing members of the cabinet, thus have to be seen as another case of mal-administration and betrayal of the people by bribed government officials misusing office. **We demand the foreign company to be suited as it actively intervenes into Indonesian politics and democratic political processes.**<sup>6</sup>
3. There are also strong indications that a pseudo - scientific survey conducted by the Provincial University under the auspices of head of university Prof Lucky Sondakh that states 80% of the people in the mining surroundings are supportive of the mine to be licenced, is a misuse of and prostitution of an Indonesian High Education institution. The study was published by Ir. Bonie Sondakh MS, a cousin of Lucky Sondakh and former provincial Governor A. Sondakh (alm.), all known to be members of a family clan that has extraordinarily benefitted from MSM and all members of the provincial GOLKAR party which also lobbies for MSM now. Prof Lucky Sondakh currently is interrogated by the Provincial Parliament for known corruption.<sup>7</sup>
4. **MSM has also succesfully split village and church communities by its politics of *divide et impera*, bribing village seniors.** The protestant GMIM Doulos church in Rinondoran village has seen a crack going right through the congregation when the local priest misused the chancel to persuade people to support the mining company. He even used threats to "convince" the members of his congregation. Now a majority of members administer services at home. **PT MSM uses, exploits and manipulates religion in order to achieve their aims.** In June 2006 a series of so called services to create a spirit in the sense of the church (Kebaktian Kebangunan Rohani (KKR)) was conducted by an institution hired by MSM and intimidated the people secularly by telling them that PT MSM dan PT TTN were accepted by the government (ESDM in fact), and as the government is the worldly representation of Allah and His very will, rejecting the mine would be a severe sin which would be followed by punishment through Allah Himself. (Lampiran KA-ANDAL PT MSM, Juli 2006): *"The government as cited in the Holy Bible is the representative of Allah in the world. For this reason every good citizen must follow and obey to the orders of the government which is the same as obeying to God. Those who oppose the decisions of the government are opposing God himself Tuhan and will be punished".*<sup>8</sup>
5. The case of illegal construction of a company jetty by PT MSM in Rinondoran has severely interrupted the local fishing economy and impoverished the fishermen of the villages of Kalinaun, Rinondoran and Batuputih (robbery of productive fishing grounds by MSM), see the letter by the Commission For Human Rights.<sup>9</sup>
6. Members of the National Police Forces have over years guarded the concession lands of PT MSM although in a Hearing with Commission III of the National Parliament DPR RI in March 2007 the Head of the National Police agreed that all members of the police shall be withdrawn. In fact until now they are serving. Since 2003 the Provincial parliament of North Sulawesi has recommended that all police force should be withdrawn from the MSM concession grounds as they have the potential to increase social unrest (see fotocopy attached). In Agustus 2007 several drunk members of the police hired by PT MSM have done violence to a youth of the village of Pinenek.<sup>10</sup>
7. MSM is deemed to have manipulated the treating of the police report filed by 52 villagers of Kalinaun who returning from a mass demonstration against MSM have been attacked by a bunch of men headed by an employee of MSM on July 13th 2006, see police report attached; In December 2006 a delegation

of members of the commission VII of the Indonesian Parliament DPR RI have been upheld by a bunch of rascals hired by MSM during a visit to the company grounds at Tokatindung on request of AMMALTA. The group of rascals had the delegates get off their cars and listen to their demands. The leader of the delegation, DR Sony Keraf, very much regretted this incident;

8. The query villagers filed to the Head of the Provincial Police on November 14th 2006, was never processed in a proper way. The people complained that MSM without holding a permit (EIA) had relocated a river (see fotocopy attached).
9. **People and environmental activist who protested against MSM have been criminalised and sentenced to prison of 1.6 years in a most unfair law process which is deemed to be "sponsored" by MSM. Revision is ongoing.**
10. **Social unrest in the villages of the mining surroundings is prone and known to be actively encouraged by MSM by hiring short-term workforce on high salaries promising long-term contracts and conducting so-called community development programmes which are more bribes towards supportive village elite than anything else.** The village heads who were taken to Jakarta to give false witness several times during 2007 are all known to be given large amounts of money as well as small scale sub-contracts by MSM until they dared to oppose the official governor's stand rejecting the mine. See the newspaper ad attached in which bribed village elites thank the provincial GOLKAR chairman for his support for the mine.<sup>11</sup>
11. **The legal scandal of robbing traditional land owners of their rights without proper compensation. The case was decided by the National High Court in favor of the locals but fought again by MSM.**

Because of the reasons given above we firmly state as follows:

1. **Resolutely reject the operation of the gold mining companies PT Meares Sopotan Mining (MSM) and PT Tambang Tondano Nusajaya (TTN) in the Province North Sulawesi;**
2. Demand that the Ministry for Energy and Minerals cancels **all permits granted to** PT MSM and PT TTN in North Sulawesi, and have them declare that the two companies are not suitable to operate in North Sulawesi as they don't hold an official EIA (Environmental Impact Assessment), and are rejected by the People of North Sulawesi;
3. Urge the Ministry of Home Affairs and the Commission Against Corruption to **deal with the members of the regional parliament of North Minahasa regency who in November 2007 misused their mandate and office to support PT MSM to be allowed to operate;**
4. Demand the Ministry of Foreign Affairs to remind PT MSM and PT TTN via the embassies of Australia and Britain that foreign individuals/companies **are forbidden to intervent home politics in Indonesia;**
5. Urge the Ministry for Environment and the Governor of North Sulawesi **to file a lawsuit against PT MSM** because it has caused environmental damage by modifying the geography without permit (violating § 41 (1) Constitutional Law number 23/1997 relating to management of environment) as well as redirecting a river without permit (violating § 24 UU number 7/2004 relating to water resources) nor holding a valid EIA;
6. Urge the Ministry of Public Works and Traffic and the Governor of the province North Sulawesi to order the landing quay built by MSM without permit to be disassembled as it severely disturbs the traditional fishing rights of the fishing communities in the area.
7. Pressurize the National Commission of Police Forces and the Head of the Indonesian Police to investigate and firmly deal with the members of the Provincial Police Forces who misused their office by having police guarding the company premises of PT MSM and PT TTN in Likupang/North Sulawesi, as well as for abandoning the report of maltreatment/violence against 52 civilians of the village of Kalinaun by rascals who were guided by an employee of PT MSM; Also demand that the Highest Judge decidedly deals with members of the Municipal Court Bitung who abandoned the report of 52 villagers of Kalinaun.
8. Urge the regency governments of North Minahasa and Bitung municipality to **recall the village and sub village heads of the villages in the mining surroundings of MSM who declared their support for the mine misusing their office by stating they represent their people as there are strong indications of receiving bribes and objections from the people they claim to represent.**
9. Urge the Ministry for Education and the Provincial Parliament DPRD of North Sulawesi **to investigate a pseudo survey** pretently conducted by the Provincial University (Unsrat) that claimed that 80 % of the people in the mining operation surroundings would support PT MSM;
10. Pressurize the Congregation of Protestant Churches in Minahasa (GMIM) and other church congregations in North Sulawesi to **sanction the priests and lay priests who have misused their role in the community for greedy purposes ( and received bribes from the mining company);**
11. Pressurize the National Highcourt to **admonish the Provincial Court and the Municipal Court Manado to receive and process all law suits filed by the people against PT. MSM and PT. TNT,**

deal with them comprehensively and not partially, on the background of common justice and the unprejudiced *sense of justice*;

This declaration is signed by the following institutions and individuals:

1. People's Alliance Against Mining Tailings (AMMALTA)
2. People's Representative from Batu Putih Atas village
3. People's Representative from Batu Putih Bawah
4. People's Representative from Rinondoran village
5. People's Representative from Kalinaun village
6. People's Representative from Marinsow village
7. People's Representative from Pulisan village
8. People's Representative from Wineru village
9. People's Representative from Winuri village
10. People's Representative from Likupang II
11. People's Representative from Likupang I
12. People's Representative from Kampung Ambon/Likupang
13. People's Representative from Lihunu village
14. People's Representative from Kahuku village
15. People's Representative from Libas village
16. People's Representative from Lumpias village
17. People's Representative from Kokoleh village
18. Yayasan Suara Nurani
19. WALHI Sulut
20. KELOLA
21. Traditional Council of the Minahasa People
22. AMAN Sulut
23. YDRI

Manado, March 25<sup>th</sup>, 2008

References as cited can be provided on request (Indonesian language)

# Kronologi Mal Administrasi Ijin Operasi PT MSM dan PT TTN

Dokumen Amdal PT MSM dan PT TTN, secara resmi ditolak Gubernur Sulawesi Utara tanggal 2 Februari 2007 Nomor: 660/209/Sekr. Surat Gubernur tersebut dilakukan untuk menjawab surat permintaan tanggapan dari Kementerian Negara Lingkungan Hidup tanggal 8 Desember 2006 Nomor: B-8382/Dep.I/LH/12/2006. Pada tanggal 11 April 2007, Menteri LH menerbitkan Surat tentang penolakan Amdal PT MSM/TTN. Kedua surat tersebut adalah kelengkapan untuk memenuhi ketentuan Peraturan Pemerintah Nomor 27 Tahun 1999 tentang Amdal.

Pada Maret 2008, Departemen ESDM, telah menerbitkan ijin operasi PT MSM dan PT TTN yang ditandatangani oleh Dirjen Mineral & Panas Bumi (Minerba) Simon Sembiring. Dasar hukumnya, menurut Dirjen Minerba adalah pasal 20 ayat (1) dan (2) PP Nomor 27 Tahun 1999, yaitu batas waktu selambat-lambatnya 75 hari sejak Amdal dinyatakan diterima, Surat Menteri LH sudah harus diterima oleh Dep. ESDM. Surat Menteri LH tanggal 11 April 2007, dianggap menyalahi ketentuan ini.

Ijin Dirjen Minerba ESDM adalah bentuk mal administrasi negara, karena dilakukan dengan menafsirkan secara keliru pasal 20 ayat (1) dan (2) PP Nomor 27 Tahun 1999 dan secara sengaja mengabaikan penolakan Gubernur Sulut dan penolakan Menteri Lingkungan Hidup yaitu dianggap tidak pernah ada. Amdal MSM/TTN dianggap otomatis sah jika Menteri LH terlambat memberitahu Dep ESDM (lewat 75 hari).

Selain itu, ijin Dep ESDM tersebut bertentangan dengan konstitusi negara RI yaitu Undang-undang Dasar 1945 pasal 17 ayat (3), pasal 18 ayat (2), pasal 18 ayat (2), pasal 18.B ayat (1), pasal 28.H ayat (1), pasal 28.I ayat (3) dan (4), pasal 32 ayat (1), dan pasal 33 ayat (1) dan (4). Juga bertentangan dengan Undang-Undang Nomor 32 tentang Otonomi Daerah dan Undang-undang Nomor 23 tentang Pengelolaan Lingkungan Hidup, serta bertentangan dengan jiwa dan semangat PP 27 tahun 1999 tentang Amdal.

Di tingkat daerah (Provinsi Sulawesi Utara), ijin Dep ESDM tersebut bertentangan dengan Rencana Pembangunan Sulut Jangka Menengah (RPJM), serta bertentangan dengan Tata Ruang Sulut. Selain itu, memicu instabilitas wilayah Sulut karena merupakan politik *divide et impera* (adu domba) ke masyarakat pro dan kontra).

PT MSM memang memiliki karakter dan reputasi yang cenderung mendorong pejabat negara di Indonesia untuk melakukan perbuatan mal administrasi dan penyalahgunaan wewenang, contohnya dermaga ilegal di Teluk Rinondoran yang merampas hak atas mata pencaharian nelayan, puluhan perkara tanah di Pengadilan Negeri Manado yang timbul karena PT MSM menguasai tanah masyarakat secara melawan hukum, kriminalisasi masyarakat dan aktivis lingkungan karena menentang operasi ilegal PT MSM, penganiayaan masyarakat dengan menggunakan preman sewaan, dan lain-lainnya. Bahkan ketika Komisi VII DPR RI meninjau lokasi Tokatindung (2006), MSM menyewa ratusan preman untuk menghadang rombongan Komisi VII di depan lokasi proyeknya.

Sebagai referensi, Departemen ESDM, memang terkenal di Indonesia sebagai instansi perusak lingkungan yang paling tidak bertanggung jawab. Antara lainnya, Departemen ESDM sebagai pemberi ijin PT Lapindo Brantas, ternyata sama sekali tidak menunjukkan tanggung jawab ketika lumpur panas mulai menenggelamkan Provinsi Jawa Timur dimana puluhan ribu orang kehilangan rumah, sekolah, dsb.

Manado, 23 Maret 2008.

**Yayasan Suara Nurani (YSN)**

**Aliansi Masyarakat Menolak Limbah Tambang (Ammalta) Sulut**