

[PRESIDENTIAL DECREE NO. 972, July 28, 1976]

PROMULGATING AN ACT TO PROMOTE AN ACCELERATED EXPLORATION, DEVELOPMENT, EXPLOITATION, PRODUCTION AND UTILIZATION OF COAL

WHEREAS, the increasing cost of imported crude oil imposes an unduly heavy demand on the country's international reserves thereby making it imperative for the government to pursue actively the exploration, development and exploitation of indigenous energy resources;

WHEREAS, while coal has been identified as a fossil fuel known to exist in mineable quantities in the country which could provide a viable energy source for some vital industries, large tracts of coal bearing lands have not been explored and mined in a manner and to an extent adequate to meet the needs of the economy;

WHEREAS, the proliferation of fragmented coal permits and leases has prevented, or deterred, the adequate and speedy exploration, development, exploitation and production of indigenous coal resources;

WHEREAS, to develop, achieve and implement a well-planned, systematic and meaningful exploration, development, exploitation and production of local coal resources, participation of the private sector with sufficient capital, technical and managerial resources must be encouraged and the technical and financial capabilities of the coal industry upgraded;

WHEREAS, hand in hand with an accelerated coal exploration, development, exploitation and production program, it is essential that the market for domestic coal production be developed by granting incentives to prospective coal users to convert their facilities for coal utilization;

WHEREAS, to realize the above, it is necessary to amend and/or supplement existing legislation relating to coal;

WHEREAS, Article XVII, Section 12 of the Constitution of the Philippines provides in part that when the National interest so requires the incumbent President of the Philippines or the interim Prime Minister may review all contracts, concessions, permits or other forms or privileges for the exploration, development, exploitation or utilization of natural resources entered into, granted, issued or acquired before the ratification of the Constitution;

NOW, THEREFORE, I, FERDINAND E. MARCOS, by virtue of the powers vested in me by the Constitution of the Philippines, do hereby decree and declare as part of the law of the land the following:

SECTION 1. *Short Title.* — This Act shall be known and may be cited as "The Coal Development Act of 1976."

SECTION 2. *Declaration of Policy.* — It is hereby declared to be the policy of the state to immediately accelerate the exploration, development, exploitation production and utilization of the country's coal resources. A coal development program is therefore promulgated and established by this Decree. acd

SECTION 3. *Coal Development Program.* — The country shall be divided into coal regions and exploration and exploitation programs shall be instituted and implemented pursuant to this Decree.

These programs shall be geared towards the promotion and development of the necessary technical and financial capability to undertake a work program to effectively explore exploit coal resources.

In recognition, however, of the social constraints that may be encountered in effecting the establishment of coal units in regions where there is high concentration of small coal miners, a special coal program shall be formulated and implemented in coordination with the appropriate government agency/agencies to meet the particular needs of such regions.

SECTION 4. *Government to Undertake Coal Exploration Development and Production.* — The Government, through the Energy Development Board, its successors or assigns, shall undertake by itself the active exploration, development and production of coal resources. It may also execute coal operating contracts as hereafter defined. The active exploration and exploitation of coal resources by the Government or through coal operating contracts may cover public lands, any unreserved or unappropriated coal bearing lands, claims located and recorded by private parties areas covered by valid and subsisting coal revocable permits, coal leases and other existing rights granted by the Government for the exploration and exploitation of coal lands, government mineral reservations, coal areas/mines whose leases or permits are presently owned or operated or held by government-owned or controlled corporations and coal mineable areas operated or held by government agencies.

SECTION 5. *Blocking System.* — The Energy Development Board shall establish coal regions delimiting its extent and boundaries after taking into consideration the various coal bearing lands of the Philippines. Each coal region shall be divided into meridional blocks or quadrangles of two minutes (2') of latitude and one and one-half minutes (1-1/2) of longitude, each block containing an area of one thousand (1,000) hectares, more or less, the boundaries thereof to coincide with the full two minutes and one and one-half minutes of latitude and longitude, respectively, based on the Philippine Coast and Geodetic Survey Map, scale of 1:50,000.

SECTION 6. *Coal Contract Area.* — In conformity with the blocking system herein established, the Energy Development Board shall determine in each coal region what areas are available for coal operating contracts. In opening such contract areas, the Energy Development Board may resort to either of the following alternative procedures:

- a. By offering an area or areas for bids, specifying the minimum requirements and conditions in accordance with this Decree: or aisa dc
- b. By negotiating with a qualified party for a coal operating contract under the terms and conditions provided in this Decree.

No person shall be entitled to more than fifteen (15) blocks of coal lands in any one coal region.

SECTION 7. *Existing Permittees/Leaseholders.* — All valid and subsisting holders of coal revocable permits, coal leases and other existing rights granted by the

government for the exploration and exploitation of coal lands or the operators thereof duly approved by the appropriate government agency, shall be given preference in the grant of coal operating contract over the area covered by their permits, leases or other rights subjects to their compliance with the following conditions and guidelines:

a) Those whose areas fall within a block as described in Section 5 hereof shall organize or consolidate themselves into a coal unit, singly or jointly with valid and subsisting holders of coal revocable permits, coal leases and other existing coal rights or the duly approved operator thereof, of contiguous blocks provided that a coal unit shall not be entitled to more than fifteen (15) blocks of coal lands in any coal region.

b) Consolidation of areas into coal unit which shall require approval by the Energy Development Board must be completed within a period of six (6) months from the effectivity of this Decree.

c) In order to qualify for consolidation into coal units, permittees, leaseholders or operators must have complied with the requirements of their existing permits, leases and/or rights as defined under existing laws, rules and regulations.

d) Members of the coal unit shall agree on the form, terms and extent of participation of its individual members. All holders of valid and subsisting coal revocable permits, coal leases and other existing rights granted by the government for the exploration, development and exploitation of coal lands shall be given percentage interest in the unit or payments out of production under such terms and conditions as may be agreed by the members of the unit and approved by the Energy Development Board.

e) In order to give holders of valid and subsisting coal revocable permits, coal leases and other existing rights granted by the government for the exploration and exploitation of coal lands or the operators thereof duly approved by the appropriate government agency, sufficient time to upgrade their financial and technical capabilities to develop a viable work program to be embodied in a coal operating contract, the deadline for entering and concluding a duly executed coal operating contract is extended from July 27, 1977 to January 27, 1978; Provided, that the extension shall apply only to those who have complied with the requirements of unitization; Provided, further, that those who have unitized may be granted by the Board during the extension period special operating permits in order not to disrupt existing coal operations; Provided, finally, that no further extension shall be allowed after the extension granted in this decree, and coal permits, leases and other rights not converted to coal operating contract for any cause by January 27, 1978 shall be deemed automatically cancelled and the area thereby shall be open for coal operating contract in accordance with Section 6 thereof. cdtai

Coal revocable permits, coal leases and other existing rights granted by the government for the exploration and exploitation of coal lands shall be deemed automatically cancelled and the area covered thereby shall revert back to the State for failure of the holders or the qualified operators thereof for any cause whatsoever

to consolidate their areas into coal units or secure a coal operating contract within the period specified in this section.

SECTION 8. *Coal Operating Contract.* — Each coal operating contract herein authorized shall, subject to the approval of the President, be executed by the Energy Development Board.

In a coal operating contract, service, technology and financing are furnished by the operator for which it shall be entitled to the stipulated fee and reimbursement of operating expenses. Accordingly, the operator must be technically competent and financially capable as determined by the Energy Development Board to undertake the coal operations as required in the contract.

SECTION 9. *Obligations of Operator in Coal Operating Contract.* — The operator under a coal operating contract shall undertake, manage and execute the coal operations which shall include: c)asia

- a) The examination and investigation of lands supposed to contain coal, by detailed surface geologic mapping, core drilling, trenching, test pitting and other appropriate means, for the purpose of probing the presence of coal deposits and the extent thereof;
- b) Steps necessary to reach the coal deposits so that can be mined, including but not limited to shaft sinking and tunnelling; and
- c) The extraction and utilization of coal deposits.

The Government shall oversee the management of operation contemplated in the coal operating contract and in this connection, shall require the operator to:

- a) Provide all the necessary service and technology;
- b) Provide the requisite financing;
- c) Perform the work obligations and program prescribed in the coal operating contract which shall be less than those prescribed in this Decree;
- d) Operate the area on behalf of the Government in accordance with good coal mining practices using modern methods appropriate for the geological conditions of the area to enable maximum economic production of coal, avoiding hazards to life, health and property, avoiding pollution of air, land and waters, and pursuant to an efficient and economic program of operation;
- e) Furnish the Energy Development Board promptly with all information, data and reports which it may require;
- f) Maintain detailed technical records and account of its expenditures;
- g) Maintain detailed technical records and account of safety demarcation of agreement acreage and work areas, non-interference with the rights of the other petroleum, mineral and natural resources operators;
- h) Maintain all necessary equipment in good order and allow access to these as well as to the exploration, development and production sites and

operations to inspectors authorized by the Energy Development Board;

i) Allow representatives authorized by the Energy Development Board full access to their accounts, books and records for tax and other fiscal purposes;

On the other hand, the Energy Development Board shall:

a) On behalf of the Government, reimburse the operator for all operating expenses not exceeding ninety percent (90%) of the gross proceeds from production in any year; Provided, that if in any year, the operating expenses exceed ninety percent (90%) of the gross proceeds from production, then the unrecovered expenses shall be recovered from the operation of succeeding years. Operating expenses mean the total expenditures for coal operation incurred by the operator as provided in a coal operating contract.

b) Pay the operator a fee, the net amount of which shall not exceed forty per cent (40%) of the balance of the gross income after deducting all operating expenses;

c) Reimburse operating expenses and pay the operator's fee in such form and manner as provided for in the coal operating contract. acd

SECTION 10. *Additional Fee.* — All valid and subsisting holders of local revocable permits, leases and other existing rights granted by the government for the exploration and exploitation of coal lands or the duly qualified operators thereof who have organized their area into a coal unit, may, subject to conditions imposed by the Energy Development Board, be granted in the coal operating contract, in addition to the operator's fee provided in Section 9, a special allowance, the amount of which shall not exceed forty percent (40%) of the balance of the gross income after deducting all operating expenses.

Coal operating contracts entered into with Philippine citizens or corporations except those already covered under the preceding paragraph, shall be granted a special allowance, the amount of which shall not exceed thirty per cent (30%) of the balance of the gross income after deducting all operating expenses; Provided, that coal operating contracts in which Philippine citizens or corporations have a minimum participating interest of forty percent (40%) in the contract area may, subject to reasonable conditions imposed by the Energy Development Board, be granted a special allowance not exceeding twenty percent (20%) of the balance of the gross income after deducting all operating expenses.

For the purpose of this section, a Philippine corporation means a corporation organized under Philippine laws at least sixty percent (60%) of the capital of which, including the voting shares, is owned and held by citizens of the Philippines.

SECTION 11. *Minimum Terms and Conditions.* — In addition to those elsewhere provided in this Decree, every coal operating contract executed in pursuance hereof shall contain the following minimum terms and conditions:

a) Every operator shall be obliged to spend in direct prosecution of exploration work not less than the amounts provided for in the coal operating contract and these amounts shall not be less than the total obtained by multiplying the number of coal blocks covered by the