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## Ninth Circuit Puts Mining Company Back on the Hook in Philippine Pollution Case

By Andrew Longstreth

September 30, 2009

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As we've learned from the endlessly unfolding environmental contamination litigation against Chevron in Ecuador, suits attempting to hold multinational companies responsible for pollution abroad are bitterly contested. A case filed by the Philippine province of Marinduque against the mining company Barrick Gold is no exception. On Tuesday the Filipinos scored a victory when the U.S. Court of Appeals for the Ninth Circuit reversed a district court ruling that had dismissed the case on forum non conveniens grounds. The appeals court ordered the case to be sent back to Nevada state court, where it was originally filed.

It was a big win for Marinduque and its three law firms: Diamond McCarthy, Snell & Wilmer, and Zambrano & Gruba of Manila. The province's suit, first filed in 2005, alleges that 30 years of mining operations by a Barrick predecessor caused widespread health, environmental, and economic damages in Marinduque, an island province. In a particularly juicy part of the complaint, the province claims that former Philippine President Ferdinand Marcos eased environmental restrictions on the Barrick predecessor in exchange for a stake in the company.

Barrick succeeded in removing the suit to federal court, where Reno federal district court judge Brian Sandoval—who is now a Republican candidate for governor of Nevada—ruled that it was better suited for a court in Canada. In reversing Judge Sandoval's decision, the appellate court found he did not have subject-matter jurisdiction over the suit, which the Ninth Circuit said had been improperly removed to federal court.

Jim McCarthy of Diamond McCarthy argued the Ninth Circuit appeal for Marinduque. His partner Skip Scott said in a statement: "You cannot come away from Marinduque without being deeply moved and incensed by the sheer devastation and callous disregard for life and property. The people there deserve justice. Now the door is open to pursue justice for Marinduque in the Nevada state court."

Barrick is represented by Morris Pickering & Peterson and Howrey. We left a message with Howrey's Jerrold Ganzfried, who argued the appeal, but haven't heard back from him or from a Barrick spokesperson we also contacted.

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