



Philippine Hybrid Energy Systems, Inc.

29 April 2021

MA. LOURDES G. FERRER, CESO III

Regional Executive Director
DENR Region 4-B MIMAROPA
6th Flr. DENR by the Bay Bldg.
1515 Roxas Blvd., Ermita Manila

Subject: Request for Online Meeting for Discussion and Clarification of PHESI 1 FLAg Area

Dear Ma'am,

We write with regards to the approved amended FLAg 2014-01, which was granted to PHESI on 11 September 2019, and its final area where all power plant components should have been included.

On 15 February 2021, PHESI was invited by CENRO Socorro for a technical conference citing that "several transmission lines were erected across these areas (forest land) without a permit from DENR" (*see Annex A*). Having gone through a rigorous process in the FLAg amendment with several site visits and validation conducted by CENRO, PENRO, Regional Office, and the Forest Management Bureau, PHESI is under the impression that this issue has been settled.

We would like to summarize the process PHESI has undergone to obtain the amended FLAg.

CDO, Payment of Penalties and Resolution

On April 13, 2018, the DENR-MIMAROPA Region issued Notice of Suspension to PHESI for various legal grounds. DENR- MIMAROPA Region charged penalties to PHESI amounting to Php5,332,208.24 for violations of the Revised Forestry Code and other environmental laws and regulations. PHESI immediately act on this and on June 25, 2018, PHESI settled the penalty amounting to Five Million Three Hundred Thirty Two Thousand Two Hundred Eight and 24/100 pesos (Php5,332,208.24) issued by the DENR-MIMAROPA for the unlawful occupation and seedlings replacement (*see Annex B*). This area pertains to the transmission line which was excluded in the issued final amended FLAg.

PHESI Applied FLAg Area to FMB

Negotiations with a private lot owner proved challenging as months of negotiations did not result in the successful execution of any agreement with the said lot owner. PHESI was thus constrained to amend the design of the transmission line's route to avoid the property of the said lot owner. Since the new transmission line route would pass through the forest land area, PHESI filed on 12 October 2017 an application for amendment of the Forest Land Use Agreement to include the said area (*See Annex C*).

8F Unit 8A Inoza Tower
40th St., Bonifacio Global City, Taguig City,
Metro Manila, Philippines 1634
Telephone No.: (632) 893 3426

On 01 February 2019, a joint inspection and validation were conducted on the area by FMB, DENR MIMAROPA, CENRO, and PENRO personnel. Several inspections and meetings were done with the Regional office, PENRO, and CENRO, which pointed out that the area where our relocated transmission lines, located at the east of our substation, is outside of the property owned by Mr. Marcelino Llagas. (*Annex D*).

With all the inspections and validation conducted, CENRO endorsed FLAg amendment to the Regional office thru PENRO Calapan. The DENR Regional Office acted on the application, which on 10 July 2018, an approved map has been signed by Dr. Henry Adornardo, Regional Director, with PHESI's conformity (*see Annex E*).

DENR CENRO, PENRO, and Regional Offices endorsed FLAg Area

Comparing the approved FLAg area signed by DENR Regional Director and the approved area covered by the amended FLAg, there was a reduction in about 9.98 hectares. Most of the area excluded from the approved amended FLAg (*see Annex F*) is within the transmission lines, which PHESI was called by CENRO for a technical conference as mentioned above.

In view thereof, we are humbly requesting an online meeting to discuss further and clarify the following:

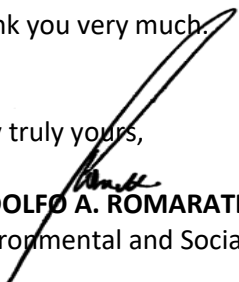
1. Exclusion of the portion of the transmission line from the final amended FLAg area. We would like to be enlightened on the disjoint of the approved FLAg area signed by the DENR Regional Director on 10 July 2018. The approved amended FLAg issued on September 11, 2019 included in the FLAg application of PHESI 1.
2. Resolution and way forward on this matter as this has led to confusion of DENR Offices and PHESI

Our proposed date is on **May 12, 2021 at 1:30 PM**. We will provide the meeting link upon the confirmation of your office. We are requesting this because of our confusion in the area of the FLAg, which we are hoping will fully enlighten us.

We look forward to your favorable response and kind consideration of our request. For communication and should you have any further concerns, please do not hesitate to contact us at (+63) 9953809639 or e-mail at Nestor.Aquitania@PhesiHoldings.com

Thank you very much.

Very truly yours,


RODOLFO A. ROMARATE, II
Environmental and Social Compliance Manager

*Invited: PENRO
Forest Management Bureau
CENRO*

ANNEX A



Republic of the Philippines
Department of Environment and Natural Resources
MIMAROPA Region
Community Environment and Natural Resources Office

The Management

Philippine Hybrid Energy Systems, Inc. (PHESI)
Baclayan, Puerto Galera
Oriental Mindoro

Sir:



The DENR-CENRO based in Pasi, Socorro, Oriental Mindoro conducted an inventory on the constructed electric transmission lines within forestland under our area of jurisdiction. It was found out that several transmission lines were erected across these areas without any permit from DENR. The said transmission lines are located outside your approved FLAg area in Brgy. Baclayan, Puerto Galera. Please be informed that based on PD 705 Section 78 as amended. *"Unlawful occupation or destruction of forest land and grazing lands. – Any person enters and occupies or possesses or make kaingin for his own private use or for others, any forest land or grazing land without authority under a license agreement, lease, license or permit...shall, upon conviction, be fined in an amount of not less than Five Hundred pesos (P500.00) nor more than Twenty Thousand pesos (20,000.00) imprisoned for not less than six (6) months nor more than two (2) years for each such offense, and be liable to the payment of ten (10) times the rental fees and other charges which would have accrued had the occupation and use of the land been authorized under a license agreement, lease, license or permit"*.

In this regard, we are inviting you for a technical conference to be conducted in CENRO-Pasi, Socorro, Oriental Mindoro on February 24, 2021 at 10:00 o'clock in the morning. Please bring any document that will show the legality of the project.

Respectfully yours,


ANASTACIO A. SANTOS, RPF, MPA
OIC-CENR Officer

ANNEX B



Republic of the Philippines
Department of Environment and Natural Resources
MIMAROPA Region

The President
and/or **The Chief Operating Officer**
Philippine Hybrid Energy Systems, Inc. (PHESI)
8A Inoza Tower, 40th St., Bonifacio Global City, Taguig City

Sir:


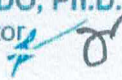
This refers to the Forest Land-Use Agreements granted to the company under FLAg Nos. 01-2014 and 05-2014 which were suspended by virtue of the Order of this Office dated April 13, 2018 for various legal grounds. This also refers to your standing request for amendment of the said FLAgs to include certain areas as sites of the company's towers, transmission lines, road-right-of-way and meteorological mast, etc. in the barangays of Tabinay and Baclayan, Puerto Galera, Oriental Mindoro.

Per official reports of the CENRO-Socorro, Oriental Mindoro and the PENRO in Calapan City, it was ascertained that the construction, development activities and the cutting of trees ancillary to your 16MW Wind Energy Power project has extended beyond the limits and boundaries of your permits and FLAg areas. Such acts, constitute violations of the Revised Forestry Code and other environmental laws, rules and regulations.

In this connection, and insofar as the number of trees that were cut without appropriate permit and for failure to produce the required replacement as provided by law, we attached hereto a detailed computation of the prescribed fees, surcharges and penalties chargeable against your company amounting to **FIVE MILLION THREE HUNDRED THIRTY TWO THOUSAND TWO HUNDRED EIGHT AND 24/100 PESOS (Php 5,332,208.24)**. Before we take action on your requests for the lifting of the suspension ORDER and for the amendment of your FLAg area, you will have to pay the prescribed amount. Otherwise, we shall be constrained to take appropriate legal action against you and/or the company that you represent.

Please consider this as our DEMAND LETTER for you to settle the said obligation with the government thru the Licenses, Patents and Deeds Division (LPDD) of this Office within **thirty (30) days** upon receipt hereof.

Very truly yours,


HENRY A. ADORNADO, Ph.D.
Regional Director 

Enclosure: As stated

FN: tpdd/bvm

1515 L & S Building, Roxas Boulevard, Ermita, Manila 1000
DENR VOIP (632) 7553300/7553330 loc. 2700/2701
Direct Line: (632) 4050157; Facsimile: (632) 4050046

Annex "A"

I. Forest Charges

a. Road Right-of-Way	- 255,518.25
b. Transmission Line	- 37,209.58
c. Meteorological Mast	- 4,679.48
d. STCEBP (WEP)	- 13,550.93

= Php 310,958.24

II. Seedling Replacement

	No. of Trees	No. of Saplings
a. Road Right-of-Way	- 99	120
b. Transmission Line	- 758	1,542
c. Meteorological Mast	- 32	1,117
d. Approved Tree Cutting	- 230	143

1,119 2,922

$1,119 \div 2,922 = 4,041 \times 100 = 404,100$ seedlings x 12 pesos per seedling

= Php 4,849,200.00

III. Unlawful Occupation

	Area Damage (ha.)
a. Area damage on Road Right-of-Way	- 3.34
b. Transmission Line	- 1.07
c. Meteorological Mast	- 1.12
d. Temporary Road	- 0.075
e. Trail	- 0.13

5.735 hectares

$5.735 \text{ hectares} \times 3,000.00 \text{ per hectare (Annual Rental)} = 17,205.00$

$17,205.00 \times 10 = \text{Php } 172,050.00$

IV. TOTAL CHARGES

a. Unlawful Occupation	- 172,050.00
b. Forest Charges	- 310,958.24
c. Seedling Replacement	- 4,849,200.00

= Php 5,332,208.24

Prepared by:

MA. VICTORIA D. SARIO
ECOMS II


CARMEN RAMINA S. TUBAL
Sr. ECOMS

Reviewed by:


FELICIANO M. RUEDA
DMO II/ Chief, Forest Utilization Section

References:

GOVERNMENT SHARE AND PENALTY COMPUTATION

***DAO 2004-16** "Prescribing the Revised Schedule of Forestry Administrative Fees", E. 4. "Annual Rental fee for Special Use of Forestland for Energy Project, P 3,000.00/ha and fraction thereof and to be increased cumulatively by 10% every year. That in the case of an offender found guilty of making kaingin, the penalty shall be imprisoned for not less than two (2) nor more than (4) years and a fine equal to eight (8) times the regular forest charges due on the forest products destroyed, without prejudice to the

****Section 78. Unlawful occupation or destruction of forest lands.** Any person who enters and occupies or possesses, or makes kaingin for his own private use or for others any forest land without authority under a license agreement, lease, license or permit, or in any manner destroys such forest land or part thereof, or causes any damage to the timber stand and other products and forest growths found therein, or who assists, aids or abets any other person to do so, or sets a fire, or negligently permits a fire to be set in any forest land shall, upon conviction, be fined in an amount of not less than five hundred pesos (P500.00) nor more than twenty thousand pesos (P20,000.00) and imprisoned for not less than six (6) months nor more than two (2) years for each such offense, and be liable to the payment of ten (10) times the rental fees and other charges which would have been accrued had the occupation and use of the land been authorized under a license agreement, lease, license or permit. Provided, payment of the full cost of restoration of the occupied area as determined by the Bureau.

The Court shall further order the eviction of the offender from the land and the forfeiture to the Government of all improvements made and all vehicles, domestic animals and equipment of any kind used in the commission of the offense. If not suitable for use by the Bureau, said vehicles shall be sold at public auction, the proceeds of which shall accrue to the Development Fund of the Bureau.

In case the offender is a government official or employee, he shall, in addition to the above penalties, be deemed automatically dismissed from office and permanently disqualified from holding any elective or appointive position.

A. Cutting gathering and/or collecting timber or other products without license

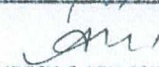
***Section 77.** Cutting gathering and/or collecting timber or other products without license. – Any person who shall cut, gather, collect, [or] remove timber or other forest product from any forest land, or timber from alienable or disposable public lands, or from private lands, without any authority, OR POSSESS TIMBER OR OTHER FOREST PRODUCTS WITHOUT THE LEGAL DOCUMENTS AS REQUIRED UNDER EXISTING FOREST LAWS AND REGULATIONS, SHALL BE PUNISHED WITH THE PENALTIES IMPOSED [under a license agreement, lease, license or permit, shall be guilty of qualified theft as defined and punished] under Article 309 and 310 of the Revised Penal Code. Provided, That in the case of partnership, association or corporation, the officers who ordered the cutting, gathering, COLLECTION OR POSSESSION [or collecting] shall be liable, and if such officers are aliens, they shall, in addition to the penalty, be deported without further proceedings on the part of the Commission on Immigration and Deportation.

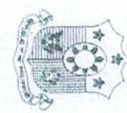

The court shall further order the confiscation in favor of the government of the timber or ANY forest products cut, gathered, collected, [or] removed OR POSSESSED, AS WELL AS [and] the machinery, equipment, implements and tools ILLEGALLY used IN THE AREA WHERE THE TIMBER OR FOREST PRODUCTS ARE FOUND.

****DAO 1995-19 "Rates of Forest Charges Pursuant to Republic Act No. 7161 (R.A. 7161) and based on FOB Market Price of Forest Products"**

*****DAO 1987-80 "Regulations Governing the Measurement, Assessment and Payment of Forest Charges on Timber and Other Forest Products", Section 7.1.** For illegal cutting – When forest products are unlawfully cut or gathered without license/permit, the same shall be subject to confiscation including the tools/implements and conveyances used in the commission of the offense without prejudice to the filing of criminal complaint against the offender. In addition thereto a 300% surcharge shall be imposed thereof.

2018-06-3158

Republic of the Philippines DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES MIMAROPA Region			
ORDER OF PAYMENT			
FOR	The Cashier	Date	Monday, June 25, 2018
FROM	The Chief, Accountant Section		
Please received the amount of . . .		Php	5,332,208.24
Covering the remittances describes below,			
Name of Remitter	Philippine Hybrid Energy Systems, Inc. (PHESI)	FIVE MILLION THREE HUNDRED THIRTY TWO THOUSAND TWO HUNDRED EIGHT AND 24/100 PESOS	
Purpose of payment: FOREST UTILIZATION SECTION (GENERAL FUND)			
	Amount		
Forest Charges	Php. 310,958.24	Cash	O.R. No. 7464482
Seedling Replacement	4,849,200.00	Checks	Date: 6/25/18
Unlawful occupation	172050.00	PMO	Amount: 5,332,208.24
TOTAL	Php. 5,332,208.24	 MAUREEN C. VILLANUEVA OJC, Chief, Accounting Section	
Forest Utilization Transaction	FLAGT No. DENR IV-MIMAROPA-11302030-0002		

 Official Receipt of the Republic of the Philippines			
No. 7464482 T		Date 6/25/18	
Agency	DENR-MIMAROPA	Fund	
Payor	Philippine Hybrid Energy Systems, Inc.		
Nature of Collection	Account Code	Amount	
Forest Charges		510,958.24	
Seedling Replacement		4,849,200.00	
Unlawful Occupation		172,050.00	
TOTAL		5,332,208.24	
Amount in Words	Five million three hundred thirty two thousand two hundred eight and 24/100		
<input type="checkbox"/> Cash	Drawee Bank	Number	Date
<input checked="" type="checkbox"/> Check	Security Bank	000000380	June 27, 2018
<input type="checkbox"/> Money Order			
Received the amount stated above  MICHELLE S. ARLAN COLLECTING AND DISBURSING OFFICER			
NOTE: Write the number and date of this receipt on the back of check or money order received.			

ACCOUNTABLE FORM No. 51-C
 Revised January, 1992 (ORIGINAL)

ACCOUNT NO.

402-821100-608

MANAGER'S CHECK

CHECK NO.

0000000380

SERIAL

01014
1519

INTER-BANK ONLY

PAY TO THE
ORDER OF

DENR MINAROPA

380
DATE

June 25, 2018

P

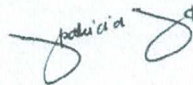
5,332,208.24

PESOS **FIVE MILLION THREE HUNDRED THIRTY TWO THOUSAND TWO HUNDRED EIGHT AND 24/100 ONLY**

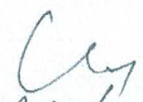
I / We allow the electronic clearing of this check and hereby waive the presentation for payment of this original to Security Bank

 **SECURITY BANK**

FORT-FAIRWAYS TOWER BRANCH
G/F FAIRWAYS TOWER, MC KINLEY COR 5TH AVENUE,
BGC, TAGUIG, METRO MANILA



⑈0000000380⑈⑈01014⑈⑈1519⑈⑈402821100608⑈⑈000


Mary P. Salazar
6/25/18
DENR-MINAROPA

ANNEX C



Philippine Hybrid Energy Systems, Inc.

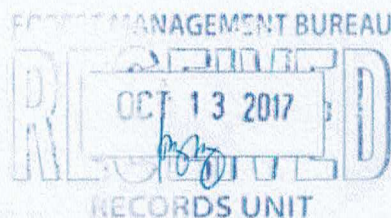
12 October 2017

Forester ORLANDO A. PANGANIBAN

Division Chief, Forest Resources Management Division

Forest Management Bureau

Visayas Ave., Diliman, Quezon City



Dear Sir,

We refer to the Forest Land Use Agreement Nos. 01-2014 and 05-2014 issued in the name of Philippine Hybrid Energy Systems, Inc. (PHESI) for the 16 MW Puerto Galera Wind Energy Power System Project in Puerto Galera, Oriental Mindoro (the "Project").

Please be informed that the Project is currently in the construction stage, and PHESI has started building the transmission line. Due to right-of-way negotiation issues, however, PHESI was constrained to reassess its existing transmission line route and to divert it. The updated transmission line route will now traverse a portion of the forestland. Furthermore, a portion of the transmission line will be constructed along the road covered by FLAg No. 05-2014. Aside from the transmission line, the company will also erect a meteorological mast for wind monitoring, which will be located at approximately 300 meters from the end portion of the tower area covered by FLAg No. 01-2014. The base of the meteorological mast and poles will be a one meter by one meter concrete foundation. A foot trail going to the mast and a narrow rough road going to the poles for transmission line will also be constructed. Please find attached map showing the location of these structures within the forestland area as well as details and specifications of the structures.

In this connection, may we therefore request your office for the amendment of our present Forest Land Use Agreements to include the construction of the transmission line along the updated route and the construction of meteorological mast at approximately 300 meters away from FLAg area.

Thank you for your continued support for the Project. We look forward to your favorable reply.

Very truly yours,

Philippine Hybrid Energy Systems, Inc.

for : 

RODOLFO A. ROMARATE, II

Environmental and Social Compliance Manager

cc:

Ms. Mary June Maypa, PENRO-Calapan City

Mr. Leo Capon, CENRO-Calapan City

ANNEX D

Photos taken during joint inspection and validation of FLAG Area by FMB, DENR Mimaropa, PENRO and CENRO



ANNEX E



MAP

SHOWING THE AMENDED AREA COVERED BY THE
FOREST LAND USE AGREEMENTS
(FLAG Nos. 01-2014 and 05-2014)

OF
PHILIPPINE HYBRID ENERGY SYSTEMS, INC.
FOR WIND ENERGY PROJECT
ROAD-RIGHT-OF-WAY AND TRANSMISSION LINE

Total Area - 54.85 Hectares

Barangays: Tabinay, Baclayan and Balatero
Municipality: Puerto Galera
Province: Oriental Mindoro

Scale 1 : 10, 000

Projection: Universal Transvers Mercator, Luzon Excluding Mindanao

Republic of the Philippines
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
MIMAROPA REGION

CERTIFICATION

This is to certify that this is the true and correct map of the amended area
covered by the FOREST LANDUSE AGREEMENT
for Wind Power Plant Site, Road-Right-Of-Way and Transmission Line
of PHILIPPINE HYBRID ENERGY SYSTEM, INC.

Prepared By:

DELFIN T. CASTICIMO

Development Management Officer III

SMD, Rep. FLAG/FLAGT Regional Composite Team

Attested By:

BAYANI V. MANTUBIG, CESE

Chief, LPDD

Team Leader, FLAG/FLAGT

Regional Composite Team

Recommending Approval:

VICENTE B. TUDDAO, JR., Ph.D., CESO IV

ARD for Technical Services

Chair, FLAG/FLAGT Review Committee

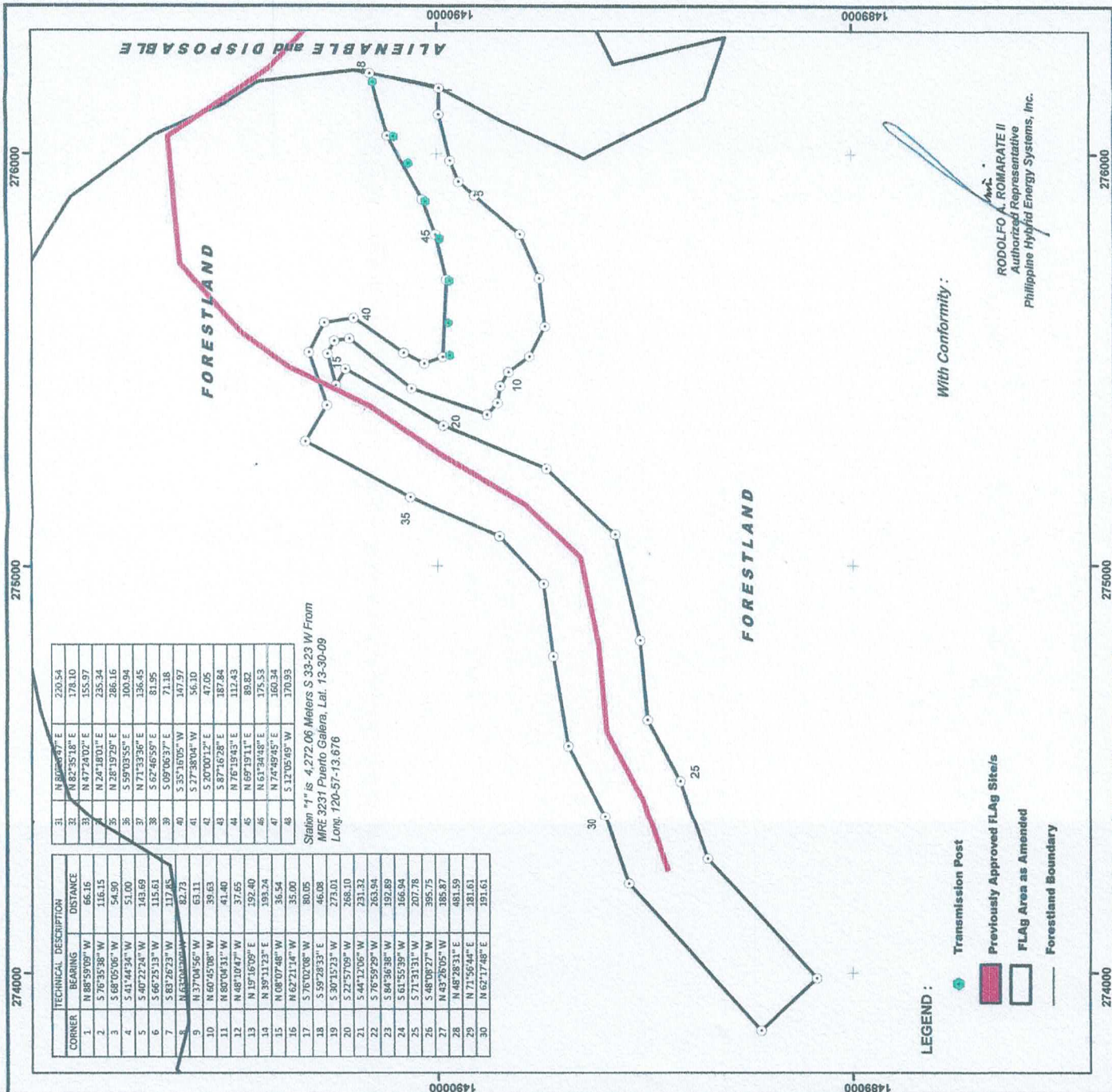
Approved By:

HENRY A. ADORNADO, Ph.D.

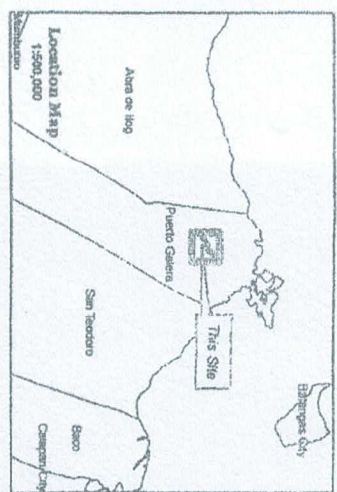
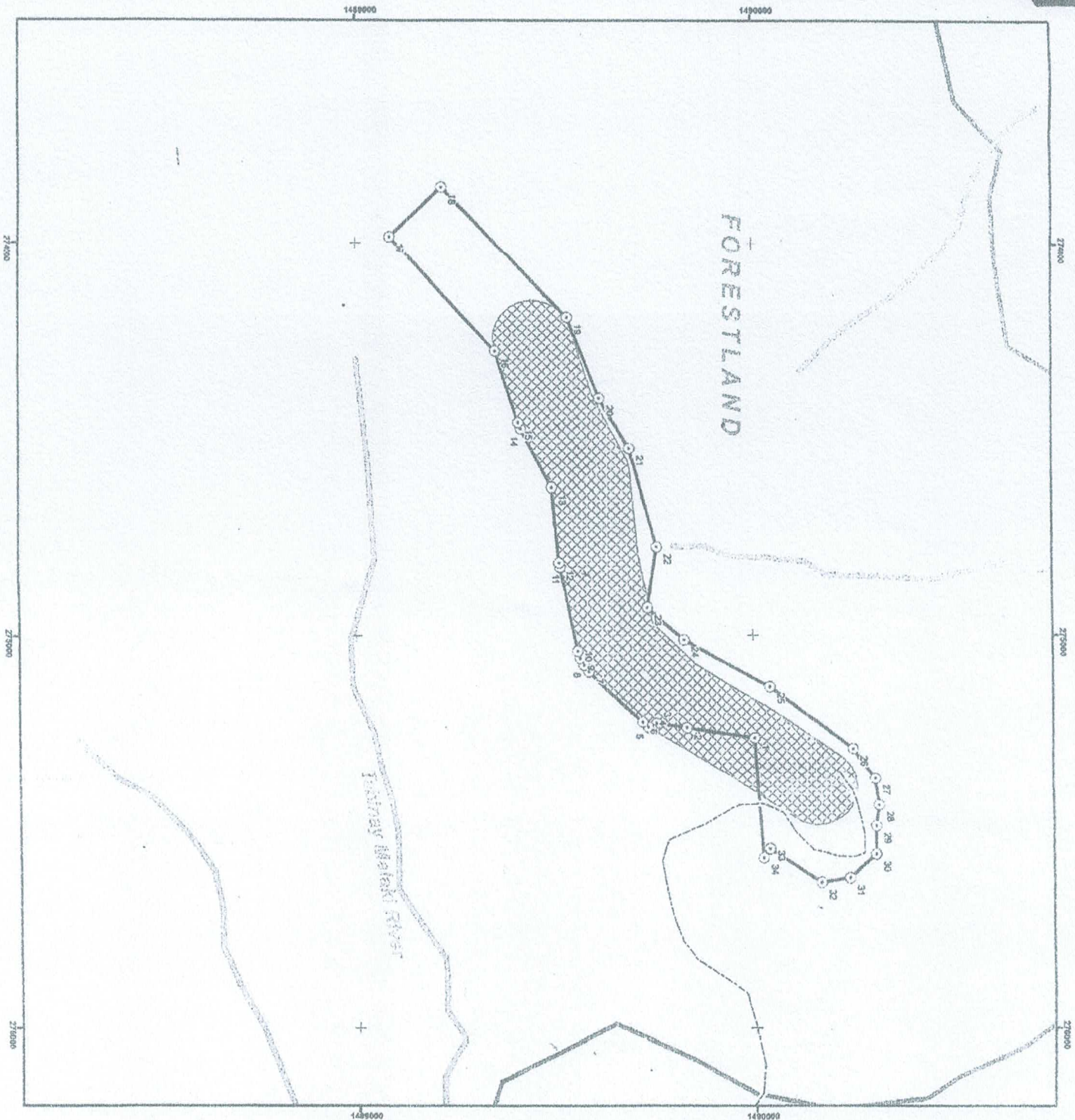
Regional Director

Date Approved : M92...FLAG...2018 -001

JUL 10 2018



ANNEX F



AMENDED AREA COVERED BY THE FOREST LAND USE AGREEMENT (FLUA) No. 01-2014 (OTHER LAWFUL PURPOSES/WIND ENERGY POWER) OF

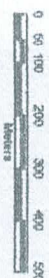
PHILIPPINE HYBRID ENERGY SYSTEMS, INC. (PHESI)

LOCATION:

Barangay : Balete, Tainay vs Sto Niño
Municipality : Puerto Galera
Province : Oriental Mindoro

Approximate Area: 44.87 Hectares

Scale 1:10,000



Projection: Universal Transverse Mercator (UTM), Zone 51N
Horizontal Datum: Luzon 1911

Legend

- Corner
- Road Network
- Rivers/Creek
- ▨ Forestland
- ▨ FLAG Amendment Area (44.87 Ha.)
- ▨ Original FLAG 01-2014 (31.77 Ha.)



Department of Environment and Natural Resources
FOREST MANAGEMENT BUREAU
F2008-APPEND

Republic of the Philippines

Vesgas Avenue, Diliman, Quezon City

CERTIFICATION

This is to certify that this is the true and correct map of the area under
Forest Land Use Agreement (FLUA) No. 01-2014 of Philippine Hybrid Energy
Systems, Inc. (PHESI) as described herein.

This map was prepared based on the submitted map, documents,
Technical Description and other references available from the Office.

Approved by:

For: NORRITO M. TAYAYO, CESO IV

Director