



Republic of the Philippines
Department of Environment and Natural Resources
FOREST MANAGEMENT BUREAU

Visayas, Avenue, Diliman, 1100 Quezon City
Tel. No.: (632) 8925-2141 / (632) 8927-4788
E-mail Address: fmb@denr.gov.ph

Website: <https://www.forestry.denr.gov.ph>

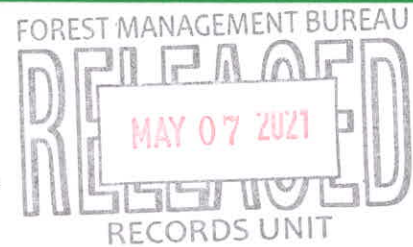
MEMORANDUM

FOR : The Regional Executive Director
DENR Region No. 4-B, MIMAROPA
L & S Bldg, 1515 Roxas Blvd.,
Ermita, Manila

FROM : The Assistant Secretary for Policy, Planning, and Foreign Assisted and
Special Projects, and Director, in concurrent capacity.

SUBJECT : **REQUEST OF ATTY. MARIA LIAVEL CHUA BADILLO FOR
ASSISTANCE IN CONNECTION WITH THE USE OF WATER
RESOURCES WITHIN AREAS COVERED BY THE JOINT
VENTURE AGREEMENT (JVA) AND SPECIAL LAND USE
PERMIT AWARDED TO LIONHEART FARMS (PHILIPPINES)
CORPORATION**

DATE : **MAY 06 2021**



Referred herewith is a copy of the letter dated 24 March 2021 of Atty. Maria Liavel Chua Badillo, Corporate Counsel of Lionheart Farms (Philippines) Corporation (LFPC) addressed to the CENRO Quezon, Palawan and PENRO, Palawan, copy furnished this Office, seeking assistance in connection with the use of water resources within the areas covered by the Joint Venture Agreement (JVA) and Special Land Use Permit (SLUP) awarded to the company. Accordingly, LFPC directed their queries with the National Water Resources Board (NWRB) but was advised to seek assistance from the DENR on the matter.

Records show that a JVA was entered into by and between LFPC and DENR on 29 October 2019 under the Upland Agroforestry Program (UAfP). Likewise, a SLUP No. 2020-001 for Processing Plant and Related Facilities was awarded by that Office on 18 December 2020 to support the company's operations.

Relative thereto, please be guided by the following relevant provisions of the Amended Implementing Rules and Regulations of Presidential Decree No. 1067 known as the "*Water Code of the Philippines*" adopted at the 29th meeting of the National Water Resources Board on 21 March 2005:

1. Section 1, Rule I on the **Appropriation and Utilization of Waters** provides the purposes and uses of water in descending order, to wit: *domestic, municipal, irrigation, power generation fisheries, livestock raising, industrial, recreational, and other purposes.*

The use of water for *irrigation* is defined as the *utilization of water for producing agricultural crops*; while the use of water for *industrial purposes* is the *utilization of water in factories, industrial plants and mines including the use of water as an ingredient of a finished product.*

2. Section 2. on **When Permit/Authority from the National Water Resources Board Must be Secured** states *a permit/ authority shall be secured from the Board in the following instances, among others:*
 - a. Appropriation of water for any purpose **stated under Section 1**, except for *purely domestic purpose*;
 - b. Change in purpose of the appropriation; and
 - c. Amendment of an existing permit, such as change in point or nature of diversion, amount of appropriation, period of use, etc;
3. Section 5 enumerates the ***application requirements for a Water Permit*** for the different uses of water.

Based on the foregoing provisions of the IRR of PD No. 1067, the abovementioned projects of LFPC fall under the *irrigation and industrial uses* of water, hence, a water permit is required.

In this regard, please coordinate with LFPC and extend the necessary assistance for the project. Attached is a copy of the Amended Implementing Rules and Regulations of Presidential Decree No. 1067, for your information and reference.

FOR INFORMATION AND FURTHER APPROPRIATE ACTION, PLEASE.


MARCIAL C. AMARO, JR., CESO III

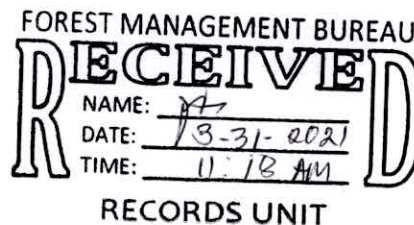
copy furnished:

The Undersecretary for Field Operations and Environment

24 MARCH 2021

HONORABLE LEONARD T. CALUYA
CENRO-DENR
Quezon, Palawan

HONORABLE ERIBERTO B. SANOS
PENRO-DENR
Puerto Princesa City, Palawan



Copy Furnished:

HON. MARIA LOURDES G. FERRER, CESO IV
Regional Executive Director
MIMAROPA
Manila

HONORABLE MARCIAL C. AMARO, JR., CESO III
FMB Director
Quezon City

Dear Sir,

GREETINGS! We write to your good office respectfully and formally seeking assistance in connection with the use of natural resources, specifically water use, within the approved **AGROFORESTRY DEVELOPMENT PROGRAM/JVA Area** and the approved **SPECIAL LAND USE PERMIT/SLUP** area. We shall attach the tenurial instruments as Annex 'A' and Annex 'B', respectively.

We have directed our queries previously with the *National Water Resources Board (NWRB)* regarding the same and we have been advised to seek assistance from DENR to apply for water permits for the above-mentioned areas.

With this, may we humbly request for your assistance in this matter. We truly believe that as partners, we can achieve this goal.

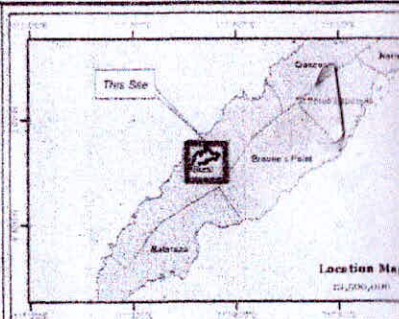
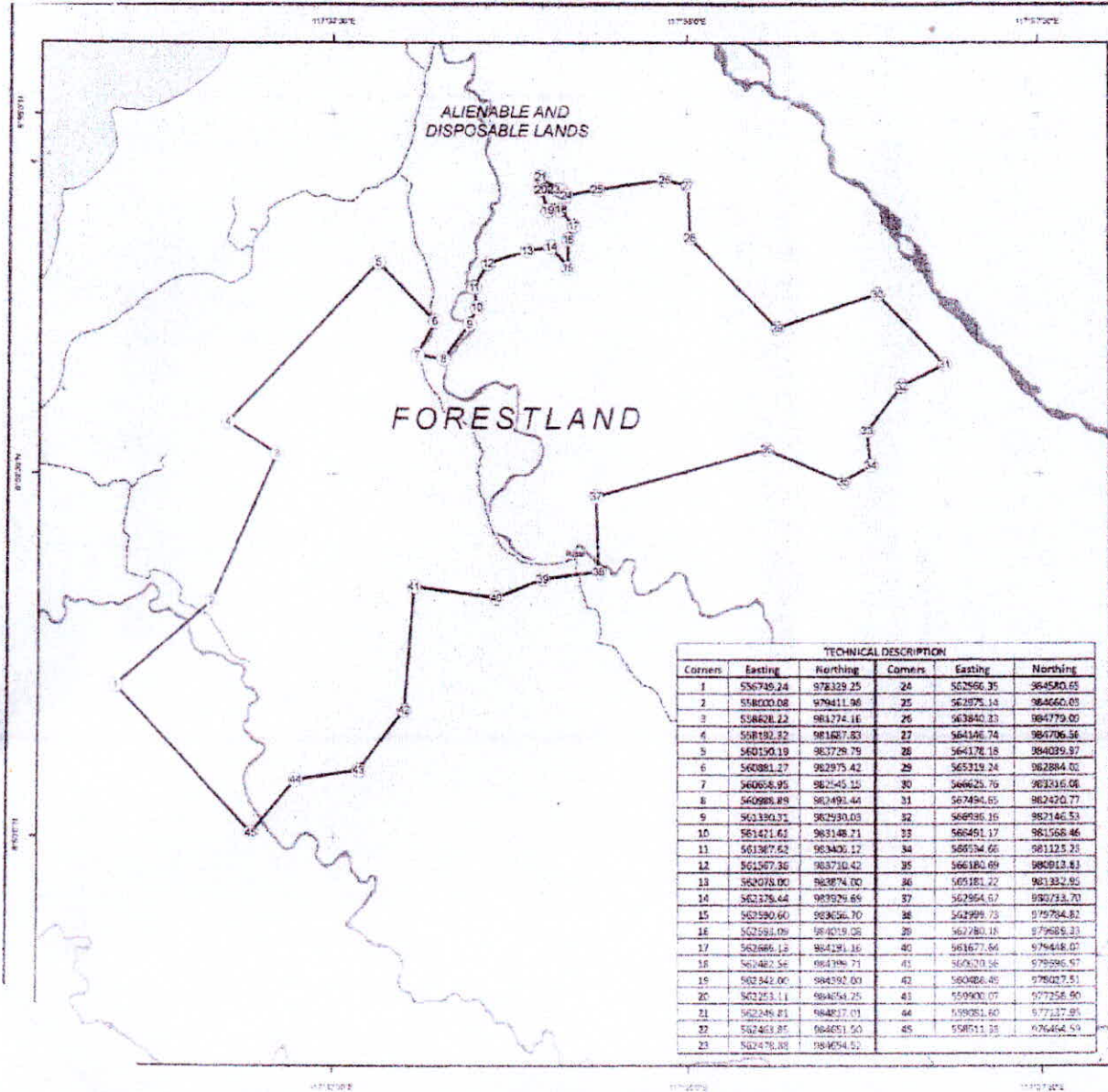
Thank you for taking time to consider this request and may God bless you and your family.

Very truly yours,


ATTY. MARIA LIAVEL CHUA BADILLO
Corporate Counsel-Director
HR Manager
Date: 24 MARCH 2021

2147546555

Annex A



AREA COVERED BY
MEMORANDUM OF AGREEMENT
UNDER THE UPLAND AGRO-FORESTRY PROGRAM
LIONHEART FARMS (PHILIPPINES)
CORPORATION

LOCATION: Barangay : Ransang and Candawagn
Municipality : Jose Rizal
Province : Palawan

Total Area: 3,500 Hectares

1:50,000

0 25 50 100
Kilometers

Projection : Universal Transverse Mercator (UTM), Zone 50 N
Horizontal Datum : Luzon 1911

Legend

Corner

Lionheart Farms Corp. Area

Road Network

Inland Water

Republic of the Philippines
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
FOREST MANAGEMENT BUREAU
Veeres Avenue, Diliman, Quezon City

CERTIFICATION

This is to certify that this is the true and correct map of the area for
UPLAND AGRO-FORESTRY PROGRAM of Lionheart Farms (Philippines)
Corporation as described herein.

This map was prepared based on the submitted maps, documents,
and other references available from this office.

Approved by:
For NORBERTO M. TINAY, CESO IV
Director

JOINT VENTURE AGREEMENT



KNOW ALL MEN BY THESE PRESENTS:

This Joint Venture Agreement (JVA) is entered into this 29th day of October 2018 at the Department of Environment and Natural Resources, Visayas Avenue, Diliman, Quezon City by and between:

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, a government agency existing under the laws of the Republic of the Philippines with office address at Visayas Avenue, Diliman, Quezon City, herein represented by its Undersecretary for Field Operations, **ATTY. JUAN MIGUEL T. CUNA**, hereinafter referred to as the "**DENR**";

- and -

LIONHEART FARMS (PHILIPPINES) CORPORATION, a corporation existing under the laws of the Republic of the Philippines with principal place of business at Barangay Punta Baja, Rizal, Palawan, herein represented by its President, **CARL CHRISTIAN MOELLER**, hereinafter referred to as "**LFPC**".

WITNESSETH: THAT -

WHEREAS, the **DENR** is the government agency mandated to manage, conserve, develop and protect the natural resources, including the forestlands and forest resources of the country, within the context of sustainable forest management;

WHEREAS, the **DENR** has launched the Upland Agro-forestry Program (UAF) pursuant to **DENR Administrative Order (DAO) No. 2005-25 Adopt-A-Mountain Program** **DENR Administrative Order No. 98-62** dated 17 November 2005,

WHEREAS, under the Program, collaborative efforts between the Government and the private sector are encouraged to reduce rural poverty by increasing productivity and employment in the uplands, enhance forest cover, ensure sufficient supply of agricultural and fruit tree crops, and improve the economic well-being of the upland communities through the development of upland agroforestry farms and plantations nationwide.

WHEREAS, in pursuance of the above-stated objectives of the Program, **LFPC** has formally submitted to the **DENR** its intention to venture into agroforestry farms, and tree plantation establishment for timber production and protection purposes, over areas covering 3,500 hectares of forestlands in Barangays Ransang, Candawaga and Culasian Municipality of Jose Rizal, Palawan, as shown in the Map hereto attached as **Annex "A"** which forms part of this JVA.

WHEREAS, as a manifestation of its *bona fide* intention to develop the area under the **UAF**, **LFPC** has submitted an Indicative Agroforestry Development Plan (**IADP**) for the project, hereto attached as **Annex "B"** and made an integral part of this JVA;

WHEREAS, the **DENR**, finding that **LFPC** is a corporation duly organized and existing under the Philippine laws, capable of providing the necessary technology and financing for agroforestry development, and track record in said business activities, is willing to enter into collaborative undertaking with **LFPC**.

NOW, THEREFORE, for and in consideration of the foregoing premises, the Parties hereby agree as follows:

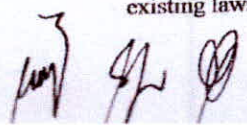
SECTION 1. UNDERTAKINGS OF LFPC AND THE DENR

A. LFPC shall:

1. prepare and submit within six (6) months from the execution of this JVA a Comprehensive Agroforestry Development Plan (CADP) for approval of the Secretary or his authorized representative;
2. undertake delineation of the Project Area through an actual ground survey with the assistance of the DENR within one (1) year from the execution of this JVA;
3. implement the Project by managing, maintaining and protecting the whole 3,500 hectares in accordance with the approved CADP;
4. not cut trees regardless of species, and protect the natural and protection forests, if any, within and adjacent the Project Area;
5. not devote any portion of the area to other uses other than those provided in the approved Plan;
6. strictly comply with the terms and conditions of the Environmental Compliance Certificate (ECC) to be issued by the DENR for the implementation of the Project;
7. give priority employment to qualified and eligible residents in the locality where the Project Area is located, consistent with the provisions of law of general application relating to labor, health and safety;
8. respect the rights of existing tenure holders, if any; except if the latter executes a waiver to their rights supported by legal documents;
9. not sublease the Project Area or any portion thereof;
10. maintain detailed technical records and accounts of its operations;
11. submit to the DENR an Annual Accomplishment Report containing, among others, the physical development of the Project Area and financial reports;
12. allow officials of the DENR reasonable access to financial accounts, books and records relating to Project operations upon prior written notice and during reasonable office hours; and

B. The DENR shall:

1. grant LFPC the exclusive right to use and develop the Project Area, including utilization of planted trees, (its fruits and by-products) and other agro-forestry crops, pursuant to the CADP, subject to existing ENR rules and regulations;
2. provide technical advice and assistance to LFPC to ensure adherence to the provisions of this JVA and applicable ENR laws, rules and regulations concerned; and
3. conduct periodic monitoring and annual assessment of the activities undertaken by LFPC to ensure compliance with the approved CADP, ECC and other existing laws, rules and regulations.



SECTION 2. GOVERNMENT SHARE (GS) AND OTHER APPLICABLE TAXES

LFPC shall annually pay to the DENR a government share (GS) which shall be equivalent to 5% from annual crops, 4% from biennial crops and 3% from perennial crops based on gross revenues and other benefits derived from the agroforestry undertaking as per approved CADP, which shall be remitted to the nearest DENR Office within the first month of the succeeding year. Failure to pay the GS on time shall mean a penalty of 8% per month of the computed GS, and failure to pay for two (2) consecutive years shall be a ground for the automatic cancellation of this Agreement.

In addition, any applicable taxes on developments introduced in the area imposed by the local government units in accordance with the Local Government Code shall be paid by LFPC.

SECTION 3. ARBITRATION

In the event of any dispute between the DENR and the LFPC that cannot be settled by mutual accord, the dispute may be submitted to arbitration in accordance with the rules provided in Republic Act No. 9285, otherwise known as the "Alternative Dispute Resolution Law," and the decision made in such arbitration proceedings shall be final and binding on both the DENR and LFPC.

SECTION 4. TRANSFERS

With prior authorization of the DENR Secretary or his authorized representative, any of the rights or interests of LFPC under this JVA, or any of its assets used in connection therewith may be assigned, transferred or conveyed by LFPC to other parties or entities, subject to the following conditions:

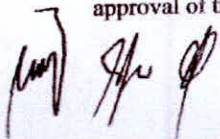
- 4.1 The JVA has been in existence for at least three (3) years
- 4.2 LFPC has been faithfully complying with the terms and conditions of this JVA and has not violated any ENR laws, rules and regulations;
- 4.3 The transferee has all the qualifications and none of the disqualification to be party to this JVA;
- 4.4 The transfer or conveyance is not being made for purposes of speculation;
- 4.5 The transferee shall assume all the obligations of LFPC specified in the JVA, CADP, ECC and Certification Precondition (CP) from the NCIP;
- 4.6 For areas in which development is being financed by loan funds, the consent of involved financing institutions has been obtained; and
- 4.7 Consultation has been held and agreement has been reached with all certified Ancestral Domain or Ancestral Land Claimants.

SECTION 5. AMENDMENTS

Any provision of this Agreement may be modified, altered, or supplemented subject to the mutual agreement in writing of both Parties.

SECTION 6. PENALTIES AND TERMINATION PROVISIONS

- 6.1 This Agreement may be suspended and a fine in an amount equivalent to one percent (1%) of the total government share shall be imposed upon LFPC for failure to commence the development of the Project Area within a period of six (6) months from the issuance of the ECC; and/or failure to submit the Agroforestry Development Plan within six (6) months from the execution of this JVA. The suspension shall be deemed automatically lifted upon payment of the fine and the commencement of the development of the Project Area, and/or approval of the CADP.



6.2 This Agreement may be terminated or cancelled on the following grounds;

- 6.2.1 Abandonment of the Project Area based on the performance evaluation/assessment conducted by the DENR;
 - 6.2.2 Violation of the terms and conditions and/or stipulations of this JVA, approved CADP, ECC, CP and relevant laws, rules and regulations;
 - 6.2.3 Non-payment of the government share including surcharges, if any, for two consecutive years;
 - 6.2.4 False statement or omission of material facts by LFPC in reports required under this JVA;
 - 6.2.5 Dissolution of the Corporation, whether voluntary or involuntary; and
 - 6.2.6 Any other cause or ground expressly provided under the Revised Forestry Code of the Philippines and other relevant environment and natural resources laws, rules and regulations;
- 6.3 Upon expiration of this JVA, all permanent improvements in the project area shall revert to and become the property of the government. However, LFPC may remove any temporary or semi-permanent structures without materially defacing the area, within 90 days upon expiration, otherwise the same shall be forfeited in favor of the Government;
- 6.4 Upon its cancellation on any of the grounds mentioned above, all existing improvements in the project area, whether temporary or permanent, shall be forfeited in favor of the Government without any obligation on the part of the DENR to indemnify LFPC.

SECTION 7. MISCELLANEOUS PROVISIONS

- 7.1 This JVA shall be governed by the provisions of DAO No. 2005-25 except Section 17 on Presidential Warranty.
- 7.2 The herein terms and conditions and/or stipulations shall be subjected to future changes/modifications if and when new/amendment of policies, rules and regulations that affect this AGREEMENT are promulgated by the DENR.

SECTION 8. EFFECTIVITY

This JVA shall be effective upon approval and signing by both parties and shall remain in force and effect for a period of twenty – five (25) years, unless otherwise sooner terminated by mutual agreement of both parties

The Agreement may be renewed for another twenty-five (25) years upon the filing of an application for renewal at least six (6) months prior to its expiration, subject to satisfactory compliance by the LFPC with the terms and conditions thereof which shall be determined through a comprehensive performance evaluation to be conducted by the DENR; *provided*, that if no renewal application is filed upon the expiration of this AGREEMENT, the area covered shall be considered vacant and its disposition shall be governed by the regulations current at the time.

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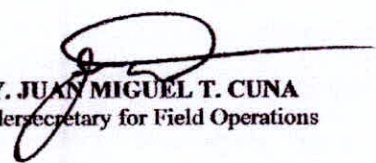
SECTION 9. SEPARABILITY

If any provision contained herein is invalid, illegal or unenforceable in any respect under any applicable law or decisions, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired in any way.

IN WITNESS WHEREOF, the parties herein have hereto affixed their signatures on the date and place written above.

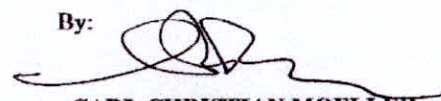
For the
**DEPARTMENT OF ENVIRONMENT
AND NATURAL RESOURCES**

By:



ATTY. JUAN MIGUEL T. CUNA
The Undersecretary for Field Operations

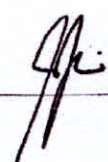
For the
**LIONHEART FARMS
(PHILIPPINES) CORPORATION.**

By:


CARL CHRISTIAN MOELLER
President

WITNESSES





ACKNOWLEDGEMENT

Republic of the Philippines)
Quezon City) S.S.
Metro Manila)

BEFORE ME, A NOTARY PUBLIC for and in Quezon City, Philippines, on this
29 OCT 2018, 2018, personally appeared:

NAME	COMM.TAX RECIEPT NO.	DATE/PLACED ISSUED
Juan Miguel T. Cuna	QSEC- DENRA-DEUSEC-1-1998	Quezon City 29/02/2016
Carl Christian Moeller	PASSPORT #208897118	København Kommune

known to me to be the same persons who executed the foregoing instrument and they
acknowledged to me that the same is their free and voluntary act and deed as well as that of the
Corporations/Entities represent.

The foregoing, which refers to as Joint Venture Agreement, consists of six (6) pages
including this page wherein this Acknowledgement is written, and has been signed by the
parties and witnesses on all pages.

IN WITNESS WHEREOF, I have hereunto set my hand and affix my notarial seal
this 29 day of OCT 2018

NOTARY PUBLIC

Doc No. 146
Page No. 30
Book No. 8
Series of 2018

Atty. RUBEN M. AZANES, JR.
Notary Public
Valid Until December 31 2018
PTR No. 5611098/01-09-2018 QC
Roll of Attorney's No. 4042
JEP No. AR001205 QC
Admin Matter No. 23
JCLE No. V-G024616/TIN140-394-b56
RRS CAMP CRAME, QUEZON CITY

Annex 'B'



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

SPECIAL LAND USE PERMIT
DENR MIMAROPA 2020-001

LIONHEART FARMS (PHILIPPINES) CORPORATION (LFPC)
(Proponent)

BARANGAY CULASIAN, JOSE RIZAL, PALAWAN
(Location of the Project Area)

Processing Plant
(Type of Special Use of Project)

Date of Approval: DEC 18 2020

In accordance with Section 57 (Other Special Uses of Forest Lands) of Presidential Decree No. 705, as amended, otherwise known as the Revised Forestry Code of the Philippines, DENR Administrative Order No. 2004-59 dated 31 August 2004 or the Rules and Regulations Governing the Special Uses of Forest Lands and DENR Memorandum No. 148 dated 10 April 2006, this permit is hereby granted to **LIONHEART FARMS (PHILIPPINES) CORPORATION (LFPC)** with business postal address at **Purok Pakpak-Lawin, Punta Baja, Rizal, Palawan** to occupy **2.9190 hectares** of public forest lands situated in **Barangay Culasian, Jose Rizal, Palawan** and the same is depicted on the attached map which forms part of this permit.

The annual government share or user's fee to be paid by the Permittee for its occupation and utilization of the area as **Processing Plant** shall be **P1,532,475.00** in accordance to the provisions of Section 18 of of DAO No. 2004-59, until otherwise amended. The user's fee shall be paid to the CENRO within thirty (30) days upon issuance of the permit.

The privilege granted under this permit for the use of the area solely by the above-named Permittee is for **Processing Plant and Related Facilities** only.

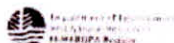
This permit is subject to existing forestry laws, policies, rules and regulations as well as those that may hereinafter be promulgated and to the terms and additional conditions stipulated in the attached sheet which forms part of this permit

This permit is **NON-TRANSFERRABLE** and **NON-NEGOTIABLE** except as provided in Section 61 (Transfers) of Presidential Decree No. 705, as amended, and EXPIRES on

DEC 18 2023

Approved by:


MARIA LOURDES G. FERRER, CESO IV
Regional Executive Director



Doc ID: 39244

DENR Iry the Bay Bldg., 1515 Roxas Boulevard, Ermita, Manila
DENR VOIP (02) 8248-3367/8249-3367 loc 2701
Website: <http://mimaropa.denr.gov.ph>
Email: mimaroparegion@denr.gov.ph

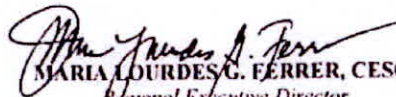


ADDITIONAL TERMS, CONDITIONS AND INSTRUCTIONS

1. The area granted in this Permit: (a) is a public forest land based on existing records; (b) shall not be used as security for any indebtedness of the Permittee, neither shall be involved in any private transaction.
2. The Permittee shall: (a) comply with the laws, rules and regulations and instructions now or hereinafter enforce for the proper use of the land; (b) respect any legal prior claims by settlement or occupation within the area granted; (c) conserve the corners and boundary lines of the area; (d) protect any spring, waterfalls or natural/historical/archeological sites in the area; (e) report to the nearest local forest officer(s) all forest violations in the area and adjacent lands; and (f) report to the concerned Regional Executive Director thru channels every six (6) months the kind, number and value of improvement(s) introduced in the area.
3. The Permittee shall: (a) not appropriate for himself the exclusive use of public trails traversing or adjoining the area or impede the use thereof by the public; (b) not sublease the area or any portion thereof; and (c) protect and conserve the unique, rare and endangered tree/plants/wildlife identified under existing rules and regulations.
4. No trees, regardless of species, shall be cut in the permitted area if found within twenty (20) meters from banks of rivers, creeks or streams and of public roads. In case the said 20-meter strip is bereft of trees, the same shall rehabilitated by the Permittee.
5. The Permittee shall strictly observe sanitary measures within the permit area to ensure protection of watershed values.
6. The Permittee shall protect the permitted area from forest fires and other forms of forest destruction.
7. The Permittee shall protect and conserve unique, rare and endangered flora and fauna, if any, within the permitted area pursuant to existing laws, rules and regulations.
8. Permanent improvements made in the area shall: (a) not give the Permittee any kind of right, claim or title over the permitted area or any right to claim reimbursements for expenses incurred on the improvements introduced; and (b) shall become the property of the government upon the expiration/cancellation of the permit.
9. Non-use of the area within four (4) months after it is granted may result in the cancellation of the permit.
10. The annual government share or user's fee shall be in accordance to the provisions of Section 18 of DAO No. 2004-59 dated 31 August 2004 and subject to change once a new user's fee for the special use of the forest land has been promulgated by the DENR.
11. The Permittee shall pay the remaining balance for BACK RENTAL for the year 2015-2020 amounting to four million five hundred sixty-one thousand two hundred fifty-five pesos (P 4,561,255.00) on or before June 2021.

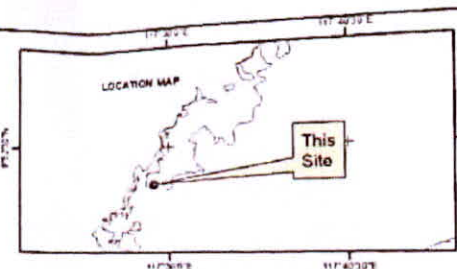
12. The Permittee shall post performance bond in accordance to the provisions of Item C (10) of DAO 2004-16 dated 15 June 2004 or the Revised Schedule of Forestry Administrative Fees, until otherwise amended. The performance bond in cash form shall be posted at the CENRO.
13. Violation or non-compliance of any of the terms and conditions of the permit or any forestry laws, rules and regulations shall be sufficient grounds for the cancellation thereof without prejudice to whatever legal action that may be taken.
12. This permit is non-renewable, however, should there be a need for extended use of the forest land, it can be converted into Forest Land Use Agreement (FLAg). The Permittee may opt to apply for the conversion of this permit into FLAg within six (6) months before the expiration of the 3-year validity of the same.

Approved by:


MARIA LOURDES G. FERRER, CESO IV
Regional Executive Director



TECHNICAL DESCRIPTION				
TIE POINT: Beginning at a point marked "I" on the plan being identical to 117°29'09.4"E, 08°50'12.5"N				
Corner	Distance (m.)	N/S	Bearing	E/W
1-2	130.32	S	26°31'06.0"	E
2-3	199.44	S	57°18'59.0"	W
3-4	152.34	N	24°58'30.0"	W
4-5	155.32	N	57°39'48.0"	E
5-6	15.57	S	78°42'22.0"	E
6-1	28.16	N	77°19'43.0"	E



SPECIAL LAND USE PERMIT (SLUP)
NO. DENR-MIMAROPA-2020-001 OF
LIONHEART FARMS (PHILIPPINES) CORPORATION

LOCATED IN:
 BARANGAY: CULASIAN
 MUNICIPALITY: RIZAL
 PROVINCE: PALAWAN

SCALE 1:2,500

TOTAL SLUP AREA: 2,919.0 HECTARES

Legend

• Corner ■ Area

Prepared by:

[Signature]
 DESAY E. CASTICIMO
 Designated Management Officer III
 Member, FLAG/FLAGT Regional Composite Team

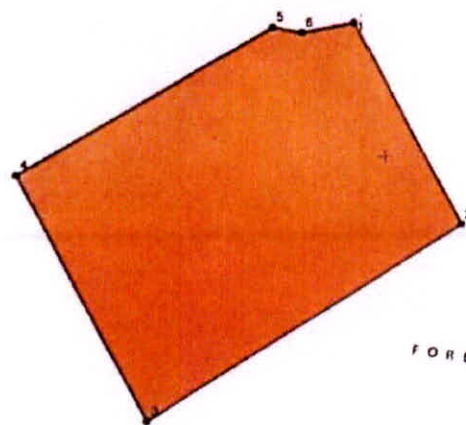
[Signature]
 ROBERT P. OOI
 O.C. LRO
 Designated Management Officer III
 Member, FLAG/FLAGT Regional Composite Team

[Signature]
 VICENTE B. TUDHO JR., Ph.D., CESO IV
 AND for Technical Services
 Chair, FLAG/FLAGT Review Committee

[Signature]
 LYNDES G. PERREA, CESO IV
 Regional Executive Director

Projection: Universal Transverse Mercator
 Zone 50 Luzon Datum

DATE: **OEC-1-8 2020**



NATIONAL WATER RESOURCES BOARD

WATER CODE OF THE PHILIPPINES
Amended Implementing Rules and Regulations

Pursuant to the Water Code of the Philippines (the "Water Code") vesting upon the National Water Resources Board (the NWRB) the administration and enforcement of the provisions thereof, the following rules and regulations are hereby promulgated:

RULE I

APPROPRIATION AND UTILIZATION OF WATERS

Section 1. *Water may be appropriated for the following descending purposes and uses:*

- a. Domestic
- b. Municipal
- c. Irrigation
- d. Power generation
- e. Fisheries
- f. Livestock raising
- g. Industrial
- h. Recreational, and
- i. Other purposes

Use of water for domestic purposes is the utilization of water directly drawn from a source by a household for drinking, washing, bathing, cooking, watering of gardens or animals and other domestic uses.

Use of water for municipal purposes is the utilization of water for supplying the water requirements of a community, whether by piped or bulk distribution for domestic and other uses, direct consumption, the drawer or abstractor of which being the national government, its subsidiary agencies, local government units, private persons, cooperatives or corporations.

Use of water for irrigation is the utilization of water for producing agricultural crops.

Use of water for power generation is the utilization of water for producing electrical or mechanical power.

Use of water for fisheries is the utilization of water for the propagation and culture of fish as a commercial enterprise or any other aqua-culture ventures.

Use of water for livestock raising is the utilization of water for large herds or flocks of animals raised as a commercial enterprise.

Use of water for industrial purposes is the utilization of water in factories, industrial plants and mines including the use of water as an ingredient of a finished product.

Use of water for recreational purposes is the utilization of water for swimming pools, bath houses, boating, water skiing, golf courses and other similar facilities in resorts and other places of recreation.

Section 2. *When Permit/Authority from the National Water Resources Board Must be Secured* – As required under the provisions of P. D. 1067, a permit/authority shall be secured from the Board in the following instances:

- a) Appropriation of water for any purpose stated under Section 1, except for "purely domestic

purpose”, provided that such use shall be registered with the Board. “Purely domestic purpose” as used in these rules is defined as the use of not more than 250 liters/capita/day of water by a single household;

- b) Change in purpose of the appropriation;
- c) Amendment of an existing permit, such as change in point or nature of diversion, amount of appropriation, period of use, etc;
- d) Transfer or lease of water right, as evidenced by a water permit;
- e) Temporary permit to appropriate and use of water;
- f) Developing a stream, lake or spring for recreational purposes;
- g) Lowering or raising the level of the water of a lake, river or marsh, or draining the same;
- h) Transbasin diversion;
- i) Dumping of mine tailings or wastes into a river or a waterway;
- j) Such other instances that will require a permit as determined by the Board.

In the following instances, the granting of permit required under the provisions of P.D. 1067 is delegated by the Board to the corresponding agencies indicated and permit pertaining to any of these instances shall be secured from such agency:

- a) Excavation for the emission of a hot spring – Department of Energy (DOE);
- b) Cloud seeding to induce rainfall – subject to other requirements by the Board in coordination with Philippine Atmospheric, Geophysical and Astronomical Services Administration (PAGASA).
- c) Recharging groundwater supplies – Department of Environment and Natural Resources (DENR)

Whenever necessary, the Board may exercise any of the above delegated authorities.

Section 3. *Qualification of Applicants for Permit/Authority* – Only the following may file an application with the Board for permit/authority:

- a) Citizens of the Philippines;
- b) Associations, duly registered cooperatives or corporations organized under the laws of the Philippines, at least 60 percent of the capital of which is owned by citizens of the Philippines;
- c) Government entities and instrumentalities, including government-owned and controlled corporations.

Section 4. *Place of Filing Applications* – Except as otherwise provided in these rules, application for water permit under Section 2 and permits to drill shall be filed directly with the Board or its deputized agents designated by the Board in the province where the point of diversion or abstraction is situated in the case of appropriation of waters or where the project is located in all other cases.

Section 5. *Form and Requirements of Application* – All applications shall be filed in the prescribed form, sworn to by the applicant and supported by the following:

A. Water Permit for Municipal Use

1. Proof of land ownership of, legal title to, or right to use, the property on which the water source is situated;
2. Certificate of Registration from relevant agencies i.e Department of Trade and Industry (DTI), Cooperative Development Authority (CDA), Securities and Exchange Commission (SEC) with Articles of Incorporation (for Corporation or Association) including Corporate Secretary's Certification on present capital structure stating the citizenship and the number of shares of each stockholder;
3. Certificate of Conformance from LWUA (for Water Districts only);
4. Certificate of Registration (if Barangay Waterworks Association, Rural Waterworks and Sanitation Association);
5. Vicinity Map/Location Plan with scale 1:10,000 or 1:50,000 showing the exact location of the point of diversion;
6. Subdivision Plan (if applicable);
7. Well Drilling Data (in case of existing groundwater source authenticated by the well driller) including Physical and Chemical analysis of water;
8. Sangguniang Bayan/Regional Development Council endorsement (for LGU-managed water supply facilities);
9. Environmental Compliance Certificate (for projects considered as Environmentally Critical Projects or projects located in Environmentally Critical Areas) or Certificate of Non-Coverage from DENR -Regional Office; and
10. Such other documents that may be required by the Board.

B. Water Permit for Irrigation Use

1. Proof of land ownership of, legal title to, or right to use, the property on which the water source is situated;
2. Certificate of Registration from relevant agencies i.e Department of Trade and Industry (DTI), Cooperative Development Authority (CDA), Securities and Exchange Commission (SEC) with Articles of Incorporation (for Corporation or Association) including Corporate Secretary's Certification on present capital structure stating the citizenship and the number of shares of each stockholder;
3. Vicinity Map/Location Plan with scale 1:50,000 showing the exact location of the point of diversion;
4. General layout of the system, including delineation of area indicating hectareage for which water will be used and adjoining lands and their corresponding owners duly indicated relative to the point of diversion;
5. Well Drilling Data (in case of existing groundwater source);
6. Environmental Compliance Certificate (for projects considered as Environmentally Critical Projects or projects located in Environmentally Critical Areas) or Certificate of Non-Coverage from DENR -Regional Office; and
7. Such other documents that may be required by the Board.

C. Water Permit for Power Generation

1. Proof of land ownership of, legal title to, or right to use, the property on which the water source is situated;
2. Certificate of Registration from relevant agencies i.e Department of Trade and Industry (DTI), Cooperative Development Authority (CDA), Securities and Exchange Commission (SEC) with Articles of Incorporation (for Corporation or Association) including Corporate Secretary's Certification on present capital structure stating the citizenship and the number of shares of each stockholder;
3. Vicinity Map/Location Plan with scale 1:10,000 or 1:50,000 showing the exact location of the point of diversion;
4. Brief Description of the project stating among others, how water will be used, amount of water needed, power to be generated, etc.;
5. Environmental Compliance Certificate (for projects considered as Environmentally Critical Projects or projects located in Environmentally Critical Areas) or Certificate of Non-Coverage from DENR-Regional Office;
6. Initial Permit from DOE per R.A. 7156; and
7. Such other documents that may be required by the Board.

D. Water Permit for Fisheries

1. Proof of land ownership of, legal title to, or right to use, the property on which the water source is situated;
2. Certificate of Registration from relevant agencies i.e Department of Trade and Industry (DTI), Cooperative Development Authority (CDA), Securities and Exchange Commission (SEC) with Articles of Incorporation (for Corporation or Association) including Corporate Secretary's Certification on present capital structure stating the citizenship and the number of shares of each stockholder;
3. Vicinity Map/Location Plan with scale 1:10,000 or 1:50,000 showing the exact location of the point of diversion;
4. Brief Description of the project stating among others, how water will be used, amount of water needed, etc.;
5. Clearance from Laguna Lake Development Authority (LLDA), in case within watershed of Laguna Lake;
6. Well Drilling Data (in case of existing groundwater source);
7. Environmental Compliance Certificate (for projects considered as Environmentally Critical Projects or projects located in Environmentally Critical Areas) or Certificate of Non-Coverage from DENR -Regional Office;
8. Clearance from existing dam/reservoir operated by NIA, NPC and other government entities (for fisheries located upstream not within said existing dam/reservoir); and
9. Such other documents that may be required by the Board.

E. Water Permit for Livestock Raising

1. Proof of land ownership of, legal title to, or right to use, the property on which the water source is situated;
2. Certificate of Registration from relevant agencies i.e Department of Trade and Industry (DTI), Cooperative Development Authority (CDA), Securities and Exchange Commission (SEC) with Articles of Incorporation (for Corporation or Association) including Corporate Secretary's Certification on present capital structure stating the citizenship and the number of shares of each stockholder;
3. Vicinity Map/Location Plan with scale 1:10,000 or 1:50,000 showing the exact location of the point of diversion;
4. Well Drilling Data (in case of existing groundwater source);
5. Brief Description of the project stating among others, how water will be used, amount of water needed, etc.
6. Environmental Compliance Certificate (for projects considered as Environmentally Critical Projects or projects located in Environmentally Critical Areas) or Certificate of Non-Coverage from DENR-Regional Office; and
7. Such other documents that may be required by the Board.

F. Water Permit for Industrial Use

1. Proof of land ownership of, legal title to, or right to use, the property on which the water source is situated;
2. Certificate of Registration from relevant agencies i.e Department of Trade and Industry (DTI), Cooperative Development Authority (CDA), Securities and Exchange Commission (SEC) with Articles of Incorporation (for Corporation or Association) including Corporate Secretary's Certification on present capital structure stating the citizenship and the number of shares of each stockholder;
3. Vicinity Map/Location Plan with scale 1:10,000 or 1:50,000 showing the exact location of the point of diversion;
4. Brief Description of the project stating among others, how water will be used, amount of water needed, etc.
5. Well Drilling Data (in case of existing groundwater source);
6. Environmental Compliance Certificate (for projects considered as Environmentally Critical Projects or projects located in Environmentally Critical Areas) or Certificate of Non-Coverage from DENR-Regional Office; and
7. Such other documents that may be required by the Board.

G. Water Permit for Other Uses (Recreation, Commercial, Memorial Parks, Environmental etc.)

1. Proof of land ownership of, legal title to, or right to use, the property on which the water source is situated;
2. Certificate of Registration from relevant agencies i.e Department of Trade and Industry (DTI), Cooperative Development Authority (CDA), Securities and Exchange Commission (SEC) with Articles of Incorporation (for Corporation or Association) including Corporate

Secretary's Certification on present capital structure stating the citizenship and the number of shares of each stockholder;

3. Vicinity Map/Location Plan with scale 1:10,000 or 1:50,000 showing the exact location of the point of diversion;
4. Brief Description of the project stating among others, how water will be used, amount of water needed, etc.;
5. Well Drilling Data (in case of existing groundwater source);
6. Certificate of Potability (including Physical and Chemical Analysis of water), if applicable;
7. Environmental Compliance Certificate (for projects considered as Environmentally Critical Projects or projects located in Environmentally Critical Areas) or Certificate of Non-Coverage from DENR-Regional Office; and
8. Such other documents that may be required by the Board.

Section 6. Other Requirements – In addition to the requirements under Section 5, the following are required in the specific instances indicated:

- A. For Well Drilling – All applications involving extraction of groundwater shall include the name of a duly registered well driller who will undertake the drilling.
- B. For Transfer of a Water Permit – A verified petition for the transfer of a water permit shall state the reasons for the transfer and shall attach the contract or agreement for the transfer.
- C. For Lease of a Water Right – A verified petition for the lease of a water permit shall be accompanied by a duly executed contract of lease, *Provided* that no contract of lease shall be for a continuous period exceeding five (5) years, otherwise the contract shall be treated as a transfer of permit in favor of the lessee.

Section 7. Filing Fee – A filing fee, as may be fixed by the Board, shall be imposed and collected for all applications and petitions filed with the Board, which shall be paid directly to the Board or through its duly authorized collecting agents.

Section 8. Water Fees or Charges – Except when the appropriation is for purely domestic purpose as defined in Section 2 (a) hereof, all appropriators shall pay to the Board water fees or charges for water resources development.

The Board may revise the said water fees or charges or impose special water rates as the need arises, taking into consideration, among others, the following:

- a) Intended use of water;
- b) Quantity/rate of water withdrawal vis-à-vis other users taking into account the water bearing potential of the source;
- c) Environmental effects;
- d) Extent to which water withdrawal will affect the source; and
- e) Development cost of bringing water from the source.

The foregoing notwithstanding, the Board may decide to impose raw water charges based on the maximum volume of water that may be withdrawn using the facilities installed or on the actual volume withdrawn as reflected in the water abstraction meter in lieu of the existing water extraction

charges.

Section 9. *Processing, Posting and Sending of Notices of Applications/Petitions* – Upon receipt of an application or a petition, the Board shall process the same to determine completeness of the requirements prescribed in Section 5 hereof. Once completed, and upon payment of the filing fee, notices of the application/petition shall be posted in a conspicuous place in the office of the Board for a period of thirty (30) days. The Board shall also send notices to the following offices for posting in conspicuous places for the same period:

- a) Barangay Chairman of the place where the point of diversion is located;
- b) City or Municipal Secretary of the city or town where the point of diversion is located;
- c) The Secretary of the Sangguniang Panlalawigan of the province where the point of diversion is located;
- d) Department of Public Works and Highways (DPWH) District Engineer or National Irrigation Administration (NIA) Provincial Irrigation Officer as the case may be.

Copies of the notice of application shall, likewise, be furnished to concerned Regional Offices of the Department of Public Works and Highways, National Irrigation Administration, National Power Corporation, Department of Environment and Natural Resources, and Local Water District Office, if there is one and such other agencies as may be specified by the Board.

Section 10. *Action After Posting of Notices for Appropriation of Surface Waters*

A. Investigation and Studies

After seven (7) days from the first day of posting of notice at the office where the application is filed, the office concerned shall determine:

1. The approximate seasonal discharge of the water sources;
2. The amount of water already appropriated for beneficial use;
3. The water requirement of the applicant as determined from standards of beneficial use prescribed by the Board;
4. Possible adverse effects on existing grantees/permittees or public/private interest including mitigating measures;
5. Environmental effects;
6. Land-use economics;
7. Whether the area to be irrigated can be integrated with that of an existing or proposed irrigators association for common irrigation facilities, if the purpose is for irrigation only;
8. Climate conditions and changes; and
9. Other relevant factors.

B. Protest on Applications – Any person who may be adversely affected by the proposed appropriation may file a verified protest with the Board within thirty (30) days after the last day of posting of Notice.

Protests to an application for water permit shall be governed by the rules prescribed for

resolving water use controversies.

C. Action on Application

1. For applications filed directly with the Board

- a. Upon receipt of an application for water permit, the Board shall process the same in accordance with Section 9 hereof.

The Board shall then require interested parties including the concerned water district, private water company or franchisee, or registered irrigators association, company or cooperative to comment on the application within fifteen (15) working days from receipt of a copy of the water permit application which shall be furnished by the Board.

- b. If no protest or comment on the application is filed within the prescribed period, the Board shall immediately decide to approve or deny the permit within sixty (60) days from the date of application provided all the requirements under these rules are complied with.

If a protest has been filed within the above period, a hearing should immediately be set in accordance with the rules and procedures herein provided. Unless restrained by a competent court, protests shall be immediately resolved within sixty (60) days from the date of submission for resolution.

2. For applications filed with deputized agencies

Upon receipt of an application for water permit, the deputized agency concerned shall process the same in accordance with Section 9 hereof.

The deputized agency shall require interested party including the concerned water district, private water company or franchisee, or registered irrigators association, company or cooperative to comment on the application within fifteen (15) working days from receipt of a copy of the water permit application which shall be furnished by the Board.

Within fifteen (15) days from the last day of posting of notice, the deputized agency before which the application was filed shall transmit the application to the Board together with all the records, findings of facts, comments of other government agencies, and recommendations. Upon receipt of the records, the Board shall proceed to act on the application in accordance with Section 10 (c) (1) (b).

In cases of application for irrigation, the report shall be coursed by the NIA Regional Director to the Board or any regional office that may be established by the Board.

In cases of application for hydraulic power, the DPWH Regional Director shall transmit the application and all the records to the National Power Corporation Central Office, which shall forward the same to the Board with its comments and recommendations within thirty (30) days from receipt thereof.

Section 11. *Registration of Water Wells/Sources used for Single Household Purposes* - Households using a water source for single household purpose shall register the same with the Board. The Board may impose a reasonable amount for such registration.

In case of conflict involving any right on a well/source used for domestic purpose, the same shall be resolved in accordance with the provisions of the Local Government Code.

Section 12. *Action After Posting of Notices for Appropriation of Groundwater*

A. Permit to Drill – The application to appropriate groundwater shall be processed for adherence to

requirements and shall be investigated in the field to determine any adverse effect to public or private interest. Protests on the application shall be governed by Section 10-B hereof. If the application meets the requirements and has been found not to be prejudicial to public or private interest, a permit to drill shall be issued by the Board subject to the following conditions:

1. Drilling operations shall be in accordance with the rules provided herein;
 2. The rate of water withdrawal to be approved shall be determined after pumping tests and shall in no case exceed the rate stated in the application;
 3. A permit to drill shall remain valid for six (6) months, unless a longer period is allowed by the Board for reasonable grounds; and
 4. The permit to drill shall be regarded as a temporary permit, and the regular permit shall be issued after the rate of water withdrawal has been determined.
- B. Result of Drilling Operations – A report on the result of the drilling operations shall be submitted to the Board within the 6-month period stated in the preceding section. The report shall include a description of each drilling site, the drilling log, the yield of the well and the assessment of the data obtained.
- C. Investigation and Studies – Upon receipt of the report on drilling operations, the investigating office shall consider the proposed withdrawal of groundwater in relation to the following:
1. Safe yield of the source, reasonable or feasible pumping lift;
 2. Beneficial use;
 3. Adverse effects on existing lawful users of water or to public or private interest;
 4. Effects on the environment;
 5. Danger of contamination of aquifers, deterioration of water quality or salt water intrusion;
 6. Adequacy of proposed well, works, plans and specifications towards meeting prescribed standards; and
 7. Comments and/or recommendations of other agencies.
- D. Final Action on Application – Within fifteen (15) days from receipt of the report of well drilling operations, the investigating office shall submit the records of the application directly to the Board.

Section 13. Board's Action – The Board shall approve or disapprove applications for water permits within thirty (30) days after receipt of the recommendation of the Board Secretariat, unless a longer period is needed for the disposition of protests.

Failure to claim any approved water permit within 6 months from notice of its approval by the Board shall cause the automatic revocation of the approved water permit.

Section 14. Water Permit – Approved applications shall be issued water permits subject to such conditions as the Board may impose. Such permit must bear the seal of the Board and the signature of the Executive Director. Disapproved applications shall be returned to applicants through the office where the same was filed within fifteen (15) days of such disapproval stating the reasons therefor.

Section 15. Conditions in Permits - Water permits issued by the Board shall be subject to such terms, restrictions and limitations as it may deem proper to impose, and including any, or all of the

following conditions:

- a) Within one (1) year from the receipt of the permit, the applicant shall submit to the Board for approval, the plans and specifications for the diversion works, pump structure, water measuring device, and other required structures, and the implementing schedules of construction for private sector projects. No construction work or private sector projects shall commence until the plans, specifications and implementing schedules are duly approved. When the diversion dam is temporary and less than two (2) meters high, the submission of plans for the dam may not be required.
- b) The construction of the necessary structures and diversion works shall begin within ninety (90) days from the date of receipt of the approved plans, specifications and implementing schedules and shall be completed within the approved schedule unless extended by the Board for valid or justifiable reasons, provided, that water shall not be diverted, pumped or withdrawn until after such structures and works shall have been inspected and approved by the Board, unless otherwise allowed. Except in cases of emergency to save life or property or repairs in accordance with the plans originally approved, the alteration or repair of these structures shall not be undertaken without the approval of the Board.
- c) The permittee shall inform the Board or its deputy concerned, that the necessary structures and diversion works required have been completed in accordance with approved plans and specifications. In addition, in cases of appropriation of groundwater, the Permittee shall inform the Board as to the depth and diameter of the well, the drilling log, the specifications and location of casings, cementing, screens and perforations, and the results of tests of capacity, flow, drawdown, and shut-in pressure.
- d) The right of a permittee to the amount of water allowed in the permit is only to the portion or extent that he can use beneficially for the purpose stated therein. The diversion of the water shall be from the source and only for the purpose indicated in the permit. In no case should the said use exceed the quantity and period indicated therein. In gravity diversions, regulating gates of the canal shall be closed when water is not needed.
- e) The Board may, after due notice and hearing, reduce the quantity of water or adopt a system of apportionment, distribution, or rotation thereof, when the facts and circumstances in any situation would warrant the same, subject to payment of compensation in proper cases, to serve the interest of the public/or legal appropriations.
- f) The Board may, after due notice and hearing, revoke the permit in favor of projects for greater beneficial use or for multi-purpose development, subject to compensation in proper cases.
- g) The Board shall revoke or suspend the permit if the permittee violates effluent/water quality standards as determined by the Department of Environment and Natural Resources.
- h) Non-use of the water for the purpose stipulated in the permit for a period of three consecutive years from date of issuance or completion of diversion works and necessary structures, shall render said permit null and void, except as the Board may otherwise allow for reasons beyond the control of the permittee.
- i) Any person in control of a well shall prevent the water waste therefrom and shall prevent water from flowing onto the surface of the land or into any surface water without being beneficially used, or any porous stratum underneath the surface.
- j) Any person in control of a well shall prevent water containing mineral or other substances injurious to the health of humans or animals or to agriculture and vegetation from flowing onto the surface of the land or into any surface or into any other aquifer or porous stratum.

- k) The water permit shall continue to be valid as long as water is beneficially used, however, it may be suspended on the ground of non-compliance with approved plans and specifications or schedule of water distribution; use of water for a purpose other than that for which it was granted; non-payment of water charges; wastage; failure to keep records of water diversion when required; and violation of any term or condition of any permit or of rules and regulations promulgated by the Board.
- l) The water permit may be revoked after due notice and hearing on ground of non-use; gross violation of the condition imposed in the permit; unauthorized sale of water; willful failure or refusal to comply with rules and regulations or any lawful order; pollution; public nuisance or act detrimental to public health and safety; when the appropriator is found to be disqualified under the law to exploit and develop natural resources of the Philippines; when, in the case of irrigation, the land is converted to non-agricultural purposes; and other similar grounds.
- m) The permittee shall allow the Board inspectors/investigators access to the source at any time upon notice to monitor compliance with the terms and conditions imposed in the permit. Failure to allow said inspectors/investigators access to the source shall cause the cancellation of the water permit issued to permittee.
- n) The permittee shall submit to the Board quarterly records of water withdrawal from the source. Non-compliance hereof shall be ground for the cancellation/revocation of the water permit issued to permittee.
- o) Wells which are no longer being used shall be properly plugged before abandonment to avoid contamination of the aquifer.

Section 16. Periodic and Final Inspection of Project – The Board, in coordination with its deputized agents who investigated the application/petition, may conduct inspection of the project during their construction, alteration, or repair or upon completion thereof to ascertain whether or not they are in accordance with approved plans and specifications.

A report of the inspection shall be submitted to the Board by the deputized agents within ten (10) days from the date of inspection.

Section 17. Notice of Completed Structures/Diversion Works – The permittee shall inform the Board or its deputy concerned, that the necessary structures and diversion works required have been completed in accordance with approved plans and specifications.

In cases of appropriation of groundwater, the permittee shall also inform the Board as to the depth and diameter of the well, the drilling log, the specifications and location of casings, cementing, screens and perforations, and the results of tests of capacity, flow, drawdown, and shut-in pressure.

Section 18. Inspection of Works – Inspection of the premises shall be conducted by the Board or its deputized agents to determine compliance with the conditions imposed in the permit and such other order, rule or regulation that the Board may issue.

Section 19. Certificate of Compliance – The Board shall issue a certificate of compliance to the permittee/grantee after being satisfied that the construction of the necessary structures in connection with the water permit have been duly complied with. Such certificate shall bear the signature of the Executive Director.

Section 20. Revocation of Permit – Any permit issued pursuant to the rules may be revoked by the Board, after due notice and hearing, for any of the grounds provided herein or in the Code.

Section 21. Recurrent Water Shortage – For purpose of Articles 22 and 26 of the Code, recurrent water shortage shall mean the natural diminution of water in a source of supply to a volume or rate of flow insufficient to meet the water requirements of all legal appropriators.

To prevent recurrent water shortage, the Board shall instruct the concerned appropriators to develop other source/s of water. In such case, the Board may recommend to the President to fast track the development of the identified source/s. Pending the development of the identified source/s, the Board may recommend to the President, necessary measures to augment/optimize the water supply to satisfy the demand, including the possible declaration of a water shortage or crisis.

Section 22. *Basic Diversion Requirements for Irrigation Use* – Except when otherwise justified by the type of irrigation system, soil conditions, kind of crop, topography and other factors, water permits for irrigation use shall be granted on the basis of not exceeding 1.5 liters per second per hectare of land to be irrigated.

Section 23. *Construction/Repair of Other Structures* – Apart from the structures required under Section 15, and except in cases of emergency to save life or property or repairs in accordance with plans previously approved, the construction or repair of the following structures shall be undertaken only after the plans and specifications therefore are approved by the Administrator of the National Irrigation Administration when the structure is for an irrigation project, or by the Secretary of the Department of Public Works and Highways or appropriate local government units in all other cases enumerated hereunder:

- a) Off-stream water impounding structures except earth-fill embankments less than ten (10) meters high from the natural ground surface;
- b) Barrages across natural waterways except temporary dams for irrigation less than two (2) meters high from the stream bed; and
- c) Dikes, levees, revetments, bulkheads, piers, breakwaters and other similar structures or devices that affect the direction or level of materials in rivers, lakes and in maritime waters.

Other structures not included in the above enumeration shall be approved by the proper government agencies as may be designated by the Board.

The approving officials shall prescribe the procedure for filing, processing and approval of the plans and specifications. Structures required in water permits shall be approved as prescribed under Section 15 hereof.

Section 24. *Establishment of Easements* – Actions for the establishment of easements under Article 25 of the Code shall be governed by the Rules of Court.

Section 25. *Establishment of Control Areas* – When the Board deems it necessary to declare a control area, it shall publish the same in three (3) newspapers of general circulation setting forth the purpose for the declaration, the geographic limits of the control areas, and the regulations necessary to achieve its objectives.

Section 26. *Coordinated Use of Waters in Control Areas* – In control areas so declared for the coordinated development, protection and utilization of ground and surface waters, the appropriation of surface water shall, in general, have preference over that of groundwater and, except as otherwise allowed by the Board, a permit for the appropriation of groundwater is valid only to the extent that it does not prejudice any surface water supply.

Section 27. *Registration of Wells in Control Areas* – In declared control areas, all wells without water permits, including those for domestic use, shall be registered with the Board within two (2) years from the declaration. Otherwise, any claim to a right on a well is considered waived and use of water therefrom shall be allowed only after a water permit is secured in accordance with Rule 1 hereof.

Section 28. *Temporary Permits* – The Board may grant temporary permits for the appropriation and use of water in situations such as the following:

- a) Irrigation of an area pending the construction of a larger system to be operated either by the government or by any irrigation association which will serve said area. Such permit shall automatically expire when water becomes available for the area from the larger system. In cases where the supply from the larger system is not adequate, the permit may be modified accordingly;
- b) When there is need to use water for municipal purposes in emergency situations pending the availability of an alternative source of supply as provided in Article 22 of the Code;
- c) For special research projects requiring the use of water for certain periods of time;
- d) For temporary use of water needed for the construction of roads, dikes, buildings and other infrastructures; and
- e) When there are unforeseen delays in the approval of the application and appropriation of water is necessary pending the issuance of a water permit, unless the application is protested.
- f) Pending the submission of plans and specifications of diversion works, pump structure, water measuring device, and other required structures and in addition for private sector projects, the implementing schedules of construction and any additional requirements as may be required by the Board.

Temporary permits shall specify the conditions and the period within which the permit is valid.

RULE II

CONTROL, CONSERVATION AND PROTECTION OF WATERS, WATERSHEDS AND RELATED LAND RESOURCES

Section 29. *Watershed Management, Protection and Rehabilitation* - The NWRB, DENR and other appropriate agencies involved in watershed management shall undertake watershed conservation, protection and rehabilitation and shall adopt appropriate soil and water conservation, and protection measures to safeguard the hydrological integrity of watersheds and help sustain the protection of water for various purposes and uses. (i.e. DENR/ Forest Management Bureau (FMB), Bureau of Soils and Water Management (BSWM), Local Government Units (LGUs), Water District (WD), private sector, etc.)

Section 30. *Prohibited Construction on Navigable or Floatable Waterways* - Except when allowed under these rules, the Board shall recommend to the DPWH, Department of the Interior and Local Government (DILG) or appropriate government agency or local government unit the removal of dams, dikes, or any structure or works or devices that encroach into any public navigable or floatable rivers, streams, coastal waters, waterways, bodies of water, or obstruct or impede the free passage of water or cause inundation.

The rules and regulations of the Philippine Coast Guards pertaining to navigation shall be suppletory to these rules. Rivers, lakes and lagoons may be declared by the Board as navigable in whole or in part upon recommendation of the Philippine Coast Guard.

Section 31. *Determination of Easements* - For purposes of Article 51 of the Code, all easements of public use prescribed for the banks or rivers and the shores of seas and lakes shall be reckoned from the line reached by the highest flood which does not cause inundation or the highest equinoctial tide whichever is higher.

Any construction or structure that encroaches into such easement shall be ordered removed or cause to be removed by the Board in coordination with DPWH, LGU or appropriate government

agency or local government unit.

Section 32. *When Permit/Authority from the Department of Public Works and Highways is Required* – A permit/authority shall be secured from the Department of Public Works and Highways in the following instances:

- a) Construction of dams, bridges and other structures in navigable or floatable waterways;
- b) Cultivation of river beds, sand bars and tidal flats upon clearance from DENR;
- c) Construction of private levees, revetments and other flood control and river training works; and
- d) Restoration of river courses to former beds.

Section 33. *Place of Filing Applications of Permit/Authority* – Applications for permit/authority under the next preceding section may be filed with the Department of Public Works and Highways District Engineering Office in the province where the project is to be undertaken.

Section 34. *Form and Contents of Applications* – All applications shall be filed in a prescribed form sworn to by the applicant and supported by the following:

A. For Cultivation of River Beds, Sand Bars and Tidal Flats

- 1) Location plan showing the river bed, delineation of the area to be cultivated, the adjoining areas and the corresponding lessees/permittees; and
- 2) Information showing the crops to be planted and the cropping period.

B. For Private Flood Control Works

- 1) Location plan showing the river channel, proposed control works and existing works, if any, in the vicinity;
- 2) Cross-sections of the river channel in the site;
- 3) Plans and specifications of control structures;
- 4) Construction schedule; and
- 5) Articles of Incorporation or Articles of Partnership in case applicant is a private corporation or partnership, or Certificate of Registration in case of cooperatives.

C. For Restoration of River Courses to Former Beds

- 1) Affidavits of two disinterested persons attesting to the circumstances of the changes in the course of the river or stream, including the date when such change occurred;
- 2) Certified copies of the cadastral plans and technical description of the lots affected by the river or stream, showing the former course to which the river will be restored;
- 3) A recent survey map of the area affected undertaken by a licensed geodetic engineer indicating the present river course as well as the old cadastral stream boundaries;
- 4) Articles of Incorporation or Articles of Partnership in case applicant is a private corporation or partnership, or Certificate of Registration in case of cooperatives; and
- 5) Scheme and schedule of restoration.

D. For Construction of Dams, Bridges, and Other Structures in Navigable or Floatable Waterways

- 1) Vicinity map and location plan showing the river and the proposed structure;
- 2) Cross-section of the structure with cross-section of the river at the location of the structure showing minimum water level, maximum flood level without structure, and maximum flood level with structure;
- 3) Plan showing extent of maximum flooded area without structure and maximum flooded area with structure;
- 4) Schemes and details of provisions for passage of watercraft;
- 5) Construction schedule; and
- 6) Articles of Incorporation or Articles of Partnership in case applicant is a private corporation or partnership, or Certificate of Registration in case of cooperatives.

Section 35. Action on Application – In relation to Section 32, the DPWH District Engineer shall investigate each application filed with the District's Engineering Office, and if necessary, conduct public hearings thereon and shall transmit his report and recommendation to the DPWH Regional Director who, after proper review, shall transmit the application with its supporting documents and recommendations to the DPWH Secretary for appropriate action.

Section 36. Limitation on Permits to Cultivate River Beds, Sand Bars and Tidal Flats – A permit to cultivate river beds, sand bars and tidal flats shall be non-transferable and shall not be construed as authorizing reclamation of the area covered by the permit, or as conferring upon the permittee a right of ownership thereof by acquisitive prescription.

Section 37. Construction and Completion of Work – The construction of private flood control works and dams, bridges and other structures in navigable rivers or streams shall be undertaken within the approved construction schedule; otherwise, the permit shall automatically be cancelled unless a longer period is allowed.

Work for the restoration of a river or stream to its former bed shall be commenced within the two (2) years from the date of change in the course of the river or stream and completed within one (1) year from start of construction.

Section 38. Establishment of Flood Control Areas – Whenever the DPWH Secretary deems it necessary to declare flood control areas for the protection of flood plain lands, he shall publish the same in three (3) newspapers of general circulation setting forth the purpose of the declaration, the geographic limits of the declared control area, and the regulations necessary to achieve the objectives.

Section 39. Inter-Agency Flood Plain Management Committee – The Secretary of DPWH shall form an Inter-Agency Flood Plain Management Committee for each flood plain declared as flood control area, the members of which shall include, but not limited to, representatives from the following:

- a) Department of Public Works and Highways;
- b) Department of Environment and Natural Resources;
- c) National Disaster Coordinating Council through the Office of Civil Defense;
- d) Department of the Interior and Local Government;
- e) National Economic and Development Authority;

- f) National Hydraulic Research Center;
- g) Department of Agriculture;
- h) Philippine Atmospheric, Geophysical and Astronomical Services Administration;
- i) Concerned Local Government Unit/s;
- j) National Water Resources Board

The functions of this Committee shall be:

- a) To establish close liaison among national and local government entities and promote the best interest and the coordinated protection and management of flood plain lands for the mitigation of flood damages viewed in a larger context to include other aspects such as environmental quality and public health, safety and welfare;
- b) To provide guidelines for local governments in the formulation of regulatory ordinances regarding flood plain use and occupancy;
- c) To draft and recommend guidelines for flood plain management in a particular flood control area in order to achieve the goals and objectives thereof; and
- d) To perform such other functions as the Secretary may direct.

Section 40. *Storage and Rafting of Logs* – The Board, through its deputies, may prohibit or control the rafting or storage of logs and other objects on rivers and lakes when:

- a) It causes pollution of waters used for domestic municipal purposes; and
- b) It causes danger to structures such as those for irrigation, power and flood control.

Section 41. *Prohibitions and Requirements on Water Impoundment* – The Board shall, upon recommendation of the Department of Health, prohibit the impounding of water in ponds or reservoirs when:

- a) The water is found to contain excessive pollutants;
- b) It will degrade its quality;
- c) Public health is endangered; and
- d) Such other similar situations.

Existing ponds or reservoirs falling under the aforementioned cases shall be ordered drained by the Board or controlled by other approved methods.

Section 42. *Reservoir Operations* – Owners or persons in control of a reservoir shall submit to the Board the proposed reservoir operation rule curve together with all pertinent data for approval which shall be followed except during periods of extreme drought and when public interest so requires, wherein the Board may change the operation during the period after due notice and hearing.

The Board shall review periodically or whenever necessary the rule curve for possible revisions.

A rule curve is a diagram showing the minimum water level requirement in the reservoir at a specific time to meet the particular needs for which the reservoir is designed.

Furthermore anyone who operates a reservoir shall submit to the Board his plan for handling

maximum discharges with a view to avoiding damage to life and property.

Section 43. *Employment of Engineer in Dam Operations* – All operators of storage dams exceeding 10 meters high or overflow dams exceeding 2 meters high from the stream bed shall make arrangements for the periodic inspection of said structures and its operating equipment by a registered engineer (civil/structural/dam).

A multipartite monitoring team shall be formed to monitor activities such as status/conditions of dam structure for the purpose of identifying conditions which may adversely affect the safety of the structures in giving advice to the operator on the proper maintenance and operation thereof.

Section 44. *Qualifications and Requirements of Well Drillers* – No person or entity shall be permitted to undertake well drilling work unless he is duly registered with the Board as a well driller. No person or entity (including for domestic family use) shall be registered by the Board as a well driller unless he has at least any of the following qualifications:

I. For Manual Well Drillers:

- a) Three (3) years experience in manual well drilling, as certified by a duly registered well driller;
- b) Certificate of Registration of Business Name issued by the Department of Trade and Industry (DTI) or business permit issued by the local government unit;

II. For Mechanized Well Drillers:

- a) Certificate of Registration of Business Name issued by DTI or certificate of registration from Securities and Exchange Commission (SEC);
- b) Name/s of personnel with three (3) years experience in mechanized well drilling work as certified by duly registered mechanized well driller; or a holder of a bachelor's degree in geology, civil, mechanical, or other related engineering courses with one (1) year experience in actual drilling work;
- c) Contractor's license issued by the Philippine Contractor's Accreditation Board (PCAB), if available;
- d) Financial Statement
- e) List of completed and on-going projects

Section 45. *Permit to Drill a Well* – Except for drilling of wells intended for purely domestic purpose, no person shall drill any well for the extraction of groundwater or make any alteration to any existing well without securing a permit from the Board.

For this purpose, only wells with casings not exceeding 75 millimeters in diameter may be allowed for single household domestic use.

Section 46. *Requirements for Drilled Wells* – Drilling of deep wells for the extraction of groundwater shall conform with the following requirements:

- a) The well shall be so designed and constructed that it will seal off contaminated water-bearing formations or formations which have undesirable characteristics;
- b) There shall be no unsealed openings around the well which may channel surface water or contaminated or undesirable groundwater vertically to the intake portion of the well;

- c) All parts of a permanent well shall be of durable materials;
- d) Wells constructed in a sand or gravel aquifer shall be provided with a water-tight casing to a depth of 1.5 meters or more below the lowest expected pumping level, provided that where the pumping level is less than ten (10) meters from the surface, the casing shall extend three (3) meters below the lowest pumping level;
- e) Casing of wells constructed in sandstone aquifers where the overburden consists of unconsolidated materials shall be grouted to a minimum depth of ten (10) meters, provided, that should there be an additional overlying formation of creviced or fractured rock, the casing shall be grouted to its full depth;
- f) Casings of wells constructed in limestone, granite or quartzite where the overburden consists of drift materials shall be extended to a depth of at least fifteen (15) meters, and firmly seated in rock formation, provided, that where the overburden is less than fifteen (15) meters, the casing shall be extended three (3) meters into uncreviced rock, provided, finally, that in no case shall the casing be less than 15 meters;
- g) Wells for domestic and municipal water supply shall be constructed in accordance with sound public health engineering practice;
- h) The extent of pumping and extraction of groundwater shall take into consideration the possibility of salt water intrusion, land subsidence and mining of groundwater;
- i) An abandoned well shall be properly plugged or sealed to prevent pollution of groundwater, to conserve aquifer yield and artesian head, and to prevent poor-quality water from one aquifer entering another.
- j) Free-flowing wells shall be provided with control valves or other similar devices to control and regulate the flow of water from such wells for conservation purposes;
- k) Well sites shall be provided with drainage facilities for the proper disposal/conveyance of surface water flow from the site;
- l) In general, spacing requirements except for wells less than 30 meters deep, shall be in accordance with the table below:

RATE OF WITHDRAWAL IN LITERS PER SECOND		MINIMUM DISTANCE BETWEEN WELLS IN METERS
	2 – 10	200
More than	10 – 20	400
More than	20 – 40	600
More than	40	1000

The Board may increase or decrease the above spacing requirements under any of the following circumstances:

- a) for low-income housing development projects where home lot size will limit available spacing between homeowners' wells;
- b) where the geologic formation may warrant closer or farther spacing between wells; and
- c) where assessment of pumping test records on yields, drawdown, circle of influence, seasonal fluctuations in water table and other technical data on groundwater wells, drilling and operation indicate possible closer or farther spacing between wells.

In modifying the spacing requirements the following criteria shall be applied:

- a) No new well shall cause more than 2 meters of additional drawdown to any existing well;
- b) If the rate of withdrawal applied for a well will cause additional drawdown of more than 2 meters to any existing well the rate of withdrawal applied for shall be reduced to satisfy the drawdown limit;
- c) The Board shall prescribe the maximum pump size and horsepower in the water permit so that the rate of withdrawal shall not exceed that authorized;
- d) Groundwater mining may be allowed provided that the life of the groundwater reservoir system is maintained for at least 50 years.

Section 47. *Minimum Stream Flows and Water Levels* – When the Board deems it necessary to establish minimum streamflows for rivers and streams and/or minimum water levels for lakes as provided under Article 66 of the Code, it shall notify the public through newspapers that a public hearing shall be conducted for such purpose. In the conduct of the hearing, the following shall be considered:

- a) Adverse effects on legal appropriators;
- b) Priorities that may be altered on the basis of greater beneficial use and/or multi-purpose use;
- c) Protection of the environment, control of pollution, navigation, prevention of salt water damage and general public use; and
- d) Other factors relevant to the situation.

In general, the Board shall consider the following criteria in the establishment of minimum streamflows of rivers and streams and minimum water levels of lakes:

- a) For water quality and environmental protection, the minimum stream flow or lake water level shall be estimated based on the threshold concentration of pollutant and environmental requirements in cooperation with the DENR;
- b) For navigation purposes, the minimum flow or water level to be provided shall be such that the resulting streamflow or water level shall remain navigable to the existing vessels that ply the river or lake;
- c) For fish conservation, consideration shall be made such that the resulting streamflow or lake level will not adversely affect the existing fish habitat. The minimum flow/water level to be provided shall be determined by the Board in consultation with BFAR; and
- d) In any case the minimum requirement shall be the observed or estimated absolute minimum streamflow or lake level.

Section 48. *Protection of Water Supply Sources* – No person shall discharge into any source of water supply any domestic sewage, industrial waste, or pollutant not meeting the effluent standards set by the Department of Environment and Natural Resources.

Section 49. *Mine Tailings Disposal* – Water discharged with mine tailings or wastes shall not contain minerals or other substances injurious to man, animal, aquatic life, agriculture or vegetation in concentrations exceeding the maximum prescribed by the Department of Environment and Natural Resources.

Tailing dams, ponds or similar control structures located along the river beds whenever required shall be strong enough to withstand the forces in the river during typhoons and flash floods.

Mine operators shall undertake appropriate erosion control measures in their mining areas to minimize the amount of sediments therein that will be carried to river systems.

Section 50. *Complaint on Drainage System Construction* – Any complaint pertaining to the construction of a drainage system under the provisions of Article 44 of the Code shall be treated under Rule III thereof.

RULE III

ADMINISTRATION AND ENFORCEMENT

Section 51. *General Guidelines for Water Resources Development Projects/Programs* – As a general rule, a water resources project/program, may be implemented if it is in accordance with the national socio-economic development goals and objectives or necessary for the national security or protection of life and property. Any project/program involving the appropriation of water shall be directed towards the optimum single and/or multi-purpose utilization thereof. Whenever practicable, projects shall be conceived and viewed according to multi-purpose water resources planning concepts within the area unit of a river basin. In the case of small scale water development projects not readily covered by large-scale water development projects, development planning of the latter shall proceed alongside the implementation of the former.

Section 52. *Specific Guidelines* – The size and time phase of projects/programs shall satisfy appropriate socio-economic indicators, more particularly the benefit-cost and/or cost-effectiveness criteria, their supplementary and complementary roles to the projects/program of other government sectoral plans, and their ecological effects.

Section 53. *Water Resources Projects/Programs By Government Sector* – Government water resources and related projects/programs shall, prior to its implementation, be submitted by the proponent agencies to the Board for evaluation and approval in accordance with the above guidelines. If necessary, the Board may refer the matter to NEDA Board's Investment Coordination Committee (ICC) and other concerned agencies for comment.

Section 54. *Water Resources Projects/Programs By Private Sector* – Any private interested party may propose any water resources project to the Board or through appropriate government agencies who shall forward the same to the Board with their comments. The Board, before approving the project, may, if necessary, refer or consult with other appropriate government agencies.

Section 55. *Requirements of Water Resources Projects/Programs* – Project/program proposals shall contain indicators of socio-economic justification, relationship to the National Development Plan, impact statement on the sector's project/program supports and complement, regional impact statement, environmental impact statement, and such as other information as the Board may require, including the submission of a project study or pre-feasibility study for that matter. Projects, such as artesian wells, spring development and barangay waterworks for purely domestic and municipal use, and such other small-scale projects as the Board may determine, shall be exempted from this requirement.

Section 56. *Resolution of Conflict Arising from Project* – Any conflict involving the use of water that may arise from the project/program proposal shall be resolved on the basis of national/regional priority and needs, e.g., need for power generation in multipurpose project shall be reckoned on the quantity and time of such need on a grid basis rather than on a single project basis alone.

Any conflict which adversely affects a particular segment of society, group of individuals or small community, may be resolved after a public hearing/consultation has been conducted by the Board or its proper deputies.

Section 57. *Deputies* – The Board may appoint a deputy for each or a combination of the following functional areas related to water resources:

- a) hydrologic and meteorologic data;
- b) flooding areas and inland waterways;
- c) lakes and marshes;
- d) watersheds;
- e) water supply and sewerage;
- f) water accounting within watersheds;
- g) other water resources activities

Each deputy shall gather and organize data in accordance with their assigned functions for submission to the Board. The Board shall determine the frequency and type of data to be gathered.

Section 58. Information Assessment – The Board shall collate and analyze technical data. It shall also develop an indexing system for all its publications indicating the date published, water resource basin involved, basic environmental indicator, and such other related indices.

Studies based on data retrieved from and/or submitted by the deputies may be undertaken by any party provided that he shall furnish the Board the result of such studies.

The Board shall undertake a study of the manpower requirements of a water resource sector which may be considered in setting up and implementing appropriate manpower development measures.

It shall also establish a position classification system for employment purposes in coordination with water-oriented agencies and the Compensation and Position Classification Board.

The Board shall initiate and undertake studies of water consumption patterns along the different purposes provided in the Code particularly that of industry.

Section 59. Agents – The Board may appoint agents to perform specific functions such as investigation of water permit applications, water rights controversies and other activities as it may assign.

Section 60. Committee on Arbitration – The Board may create and authorize a Committee on Arbitration for purposes of determining the rate of just compensation in instances provided under the Code. Such committee shall be composed of the Board's Deputy/Agent who must be a professional technical man as Chairman, the Provincial/City Assessor and the Provincial/City Development Officer of the province/city where the subject premises is situated together with the representative of each of the parties involved, as members.

The Committee shall take action on any claim referred to it by the Board for evaluation and submit report thereon within thirty (30) days from receipt of notice of formation of the Committee unless a longer period is required, in which case extension may be granted upon authority of the Board.

Section 61. Review and Approval of Rules and Regulations Involving Water – Rules and regulations issued by other government agencies involving policies on the utilization, exploitation, development, control, conservation or protection of water resources shall be reviewed and approved by the Board, unless the charter of such agency provides that the same shall be approved by the President, in which case the proposed rules shall first be referred to the Board for comment.

Section 62. Agreements Involving Water – Any agreement involving the use of water for irrigation, hydro-power, industrial, domestic and municipal water supply shall, in all cases, be subject to review and approval of the Board. In the review of such agreements, the Board may consult the

parties and other government agencies concerned.

Section 63. *Disposition of Funds Collected* – All income of the Board from fees and charges shall be remitted to the National Treasury and treated as a special account under the General Fund to the credit of the Board. The operational and maintenance expenses of the deputies and agents of the Board shall be financed under this account in accordance with a special budget to be submitted to the Department of Budget and Management. Any generated surplus shall be invested for water resources development purposes including but not limited to the purposes envisioned under Article 81 as may be recommended by the Board.

RULE IV

PROCEDURE IN CONFLICT RESOLUTION

Section 64. *Parties in Water Use Conflicts/Controversies* – The complaining party shall be referred to as Complainant/Protestant and the party against whom the complaint is filed shall be referred to as Respondent/Protestee.

Section 65. *Complaints* – All complaints shall be in writing, sworn to by the complainant/protestant and must contain the following:

- a) Name, postal address and personal circumstances of complainant/protestant;
- b) Name, postal address of respondent/protestee;
- c) Substance of the complaint;
- d) Grounds or causes of action;
- e) Brief and concise statement of the pertinent facts and circumstances;
- f) Relief sought; and
- g) Names and postal address of witness to be summoned, if any.

All complaints shall be accompanied by affidavits of witnesses as well as supporting documents, if any.

However, complaints/protests filed solely on the ground of adverse effects on the privileges to use water from any source shall not be entertained unless the complainant/protestant has a legal right over the water source as recognized under existing laws.

Section 66. *Place of Filing* – All complaints/protests regarding utilization, exploitation, allocation and all other aspects of water resource management may be filed directly to the Board.

Section 67. *Filing Fee* – There shall be imposed and collected a filing fee, as may be determined by the Board from every complainant/protestant except from pauper litigants in accordance with the Rules of Court.

Section 68. *Answer* – Upon receipt of a complaint/protest, the Board shall furnish the respondent/protestee with a copy of the complaint/protest and such accompanying documents and require him to answer in writing within ten (10) days from receipt thereof.

Should respondent/protestee fail to answer within the period provided herein, the Board shall proceed ex-parte to receive the evidence and testimony of the complainant/protestant and his witnesses.

Section 69. *Preliminary Conference* – Upon receipt of respondent/protestees' answer, the Hearing Officer shall direct the parties and their attorneys to appear before him for conference to

consider the possibility of an amicable settlement, or arriving at stipulation of facts to simplify the issues.

The proceedings during the preliminary conference shall be summary in nature and shall be conducted informally without the Hearing Officer being bound to follow strictly the technical rules of evidence. He shall take appropriate steps towards a peaceful and equitable settlement of the dispute.

Should a formal hearing pursue, the proceedings shall be properly recorded and transcript of stenographic notes taken.

Section 70. Amicable Settlement – Amicable settlement shall be reduced in writing and signed by the parties. Within fifteen (15) days from submission thereof, the Board shall issue a resolution based on the amicable settlement unless the same is contrary to law or public policy.

Section 71. Venue of Hearings – Hearings shall be conducted in the office of the Board or in the place where the controversy is located as may be agreed upon by the parties.

Section 72. Order of Proceedings – The Hearing Officer shall hear first the testimony of the complainant/protestant and his witnesses and next the testimony of the respondent/protestee and his witnesses. During the proceedings, the parties shall have the right to cross-examine the witnesses presented. After the presentation of the evidence by the parties, they may at their option submit memorandum/memoranda in support of their claim/defense in lieu of oral argument.

Insofar as it is applicable, hearings may be conducted in accordance with the Rules of Summary Procedure as established under the Rules of Court. The parties may be allowed to present affidavits in lieu of oral testimony, subject to the right to cross examination by the other party.

Section 73. Authority/Functions of Hearing Officer – The Hearing Officer shall be duly authorized to administer oath to witnesses, and secure the attendance of witnesses and/or production of relevant documents through the compulsory process of subpoena and/or subpoena duces tecum. The contending parties may avail of such processes by filing a formal written request with the Hearing Officer.

The proceedings shall be duly recorded and shall include a physical or ocular inspection of the premises and for the purpose, the Hearing Officer and the parties shall have authority to enter upon private property with previous notice to owners thereof.

If any party fails to appear despite due notice, the Hearing Officer may proceed with the reception of evidence in the absence of such party.

Section 74. Orders/Rulings – Interlocutory orders/rulings made during the proceedings are not appealable.

Motions for postponements or continuance shall be based on valid and reasonable grounds and the grant or denial thereof rests upon the sound discretion of the Hearing Officer, provided that not more than three (3) postponements may be given to either party or a total of six (6) postponements in a given case, regardless of the number of parties and provided further, that in no case shall any postponement last for more than thirty (30) calendar days.

Section 75. Investigation Report – The hearing officer shall transmit to the Board within thirty (30) days from the date of termination of the proceedings, his report with the complete record of the case and a comprehensive sketch of the premises involved. The report shall contain the following:

- a) Names and postal addresses of the parties;
- b) Nature of the controversy;
- c) Summary of the allegations and proofs presented by parties;

- d) Clear and concise statement of the findings of facts borne by the evidence and/or revealed in the ocular inspections;
- e) The law and rules involved; and
- f) Conclusion, comment and recommendation.

Section 76. Decision – All disputes shall be decided within sixty days (60) days after the parties submit the same for decision or resolution. Decisions shall be in writing, stating clearly and concisely the cause or causes of action, findings of facts and the law or rules upon which they are based.

The Board shall have the power to issue writs of execution and enforce its decisions with the assistance of national or local law enforcement agencies subject to prior notice to the party concerned in accordance with Article 84 of the Code.

Section 77. Proof of Service – Decisions, resolutions or orders of the Board shall be furnished to the contending parties through their counsel if represented, or by personal/substituted service or registered mail with return card. Personal/substituted service to the parties shall be acknowledged in writing, indicating the date or receipt and the name of the person receiving. Should any person refuse to receive the decision, resolution or order, a written statement to such effect duly signed by the person serving shall be submitted. Decisions, resolutions or orders coursed through the deputies/agents of the Board, shall in all cases, be served upon counsel, if represented, or to the party within five (5) days from the date of receipt by the Office concerned.

Section 78. Appeal/Motion for Reconsideration and/or Reinvestigation

- A. Appeal from the decision of the Board in accordance with Article 89 of the Code shall be made by the party adversely affected by filing a Notice of Appeal with the Board and payment of appeal fee in an amount to be prescribed by the Board within fifteen (15) days from receipt of the decision unless a motion for reconsideration or reinvestigation is filed with the Board within the same period. The filing of said motion suspends the running of the 15-day period within which to file an appeal with the Court.
- B. Motion for reconsideration/reinvestigation shall be based on any of the following grounds:
 - a) Fraud, accident, mistake or excusable negligence which ordinary prudence could not have guarded against and by reason of which the aggrieved party has probably been impaired in his rights;
 - b) Newly discovered evidence which petitioner could not, with reasonable diligence, have discovered, and produced at the investigation and which if presented would probably alter the result; and
 - c) Palpable errors in the findings of facts and conclusions of law or decisions that are not supported by the evidence adduced in the investigation.

Only one motion for reconsideration/reinvestigation accompanied by proof of service upon the other party shall be entertained. Resolution of motion for reconsideration/reinvestigation shall be served upon the parties concerned in accordance with Section 76 hereof.

Section 79. Stay of Execution – The filing of motion for reconsideration and/or reinvestigation under the preceding section or an appeal with the Regional Trial Court under Article 89 of the Code shall not stay the execution of the decision, resolution or order of the Board unless a bond as provided for in Article 88 shall have been posted.

RULE V

FINES AND PENALTIES

Section 80. *Light Offenses* – A fine of not more than Five Hundred (P500.00) Pesos per day of violation and/or suspension of the permit/grant for a period of not more than sixty (60) days shall be imposed for any of the following violations:

- a) appropriation of subterranean or groundwater for domestic use by an overlying landowner without the registration when required by the Board;
- b) failure of the appropriator to keep a record of monthly water withdrawals for submission to the Board on a quarterly basis;
- c) repair without permission of hydraulic works or structures involving alteration of its hydraulic or structural features as originally approved;
- d) violation of or non-compliance with any order, rule or regulation of the Board; and
- e) failure to comply with any of the terms or conditions in a water permit or water rights grant not covered by the succeeding sections;

Section 81. *Less Grave Offenses* – A fine of more than Five Hundred (P500.00) Pesos but not exceeding Eight Hundred (P800.00) Pesos per day of violation and/or suspension of the water permit/grant for a period of one hundred twenty (120) days shall be imposed for the following violations:

- a) illegal taking or diversion of water in an open canal or reservoir;
- b) unauthorized utilization of an existing well or ponding or spreading of water for recharging subterranean or groundwater supplies;

Section 82. *Grave Offenses* – A fine of more than Eight Hundred (P800.00) Pesos but not exceeding One Thousand (P1,000.00) Pesos per day of violation and/or revocation of the water permit/grant of any other right to the use of water shall be imposed for any of the following violations:

- a) unauthorized sale, lease or transfer of water permits and/or water rights;
- b) failure to install a regulating and measuring device for the control of the volume of water appropriated when required;
- c) drilling of a well without permit or with expired permit;
- d) failure to provide adequate facilities to prevent or control disease whenever required in the construction of any work for the storage, diversion, distribution and utilization of water;
- e) construction of any hydraulic work or structure without duly approved plans and specifications;
- f) non-observance of any standard for the beneficial use of water and/or schedule of water distribution;
- g) use of water for a purpose other than that for which a right or permit was granted;
- h) malicious destruction of hydraulic works or structures;
- i) unauthorized sale of water in violation of the permit;
- j) abandonment of wells without proper plugging. In this case, the owner of the property where the abandoned well is located shall be presumed to be the owner of the abandoned well unless

proven otherwise;

- k) unauthorized construction within the legal easements as provided under *Section 31* of the Code; and
- l) appropriation of water without a permit.

Section 83. *Non-Payment of Annual Water Charge* – A fine/penalty of fifty percent (50%) of due per year or fraction thereof plus additional interest for delinquency under *Section 84* shall be imposed.

Section 84. *Penalties for Delinquency* – Where the penalty imposed is a fine and the offender fails to pay the same within the given period, he shall be liable, in addition, to pay a penalty interest equivalent to two (2) percent per month of delay or a fraction thereof until fully paid.

Section 85. *Violation by Juridical Persons* – In cases where the offender is a corporation, firm, partnership or association, the penalty shall be imposed upon the guilty officers mentioned in *Article 92* of the Code.

Section 86. *Violation of Non-Permittees* – In cases where the violators is not a permittee or grantee or has no right to use the water whatsoever, the Board through its deputies or authorized representatives shall, in addition to the imposition of appropriate fines and penalties, cause the stoppage of the use of water either by plugging or sealing of the well if the same involves groundwater appropriation or demolition of the dam or hydraulic structures if the same involves surface water, without prejudice to the institution of a criminal/civil action as the facts and circumstances may warrant.

Section 87. *Violations by Non-Owners* – In cases where the violator is not the owner of the well or structure, he shall be penalized twice as much as the fine imposed on the owner of such well or structure without prejudice to the inclusion of his name as a party defendant in any action filed. Proper representations in this regard shall be made with the appropriate agency for the cancellation or suspension of his license/certificates of registration.

Section 88. *Offer of Compromise* – In cases where offender, at any time after the issuance of notice of violation/s but before the execution of the order or decision, offers in writing to pay the fine imposed instead of having his/her permit/grant suspended, the Board may, if the circumstances so warrant, accept such offer of compromise. However, if the penalty imposed is both fine and suspension of the permit, the offer shall necessarily include the amount of the fine imposed as well as such amount as may be determined by the Board corresponding to the period of which the permit should have been suspended.

Section 89. *Summary Revocation/Suspension* – Water permits or other rights to use the water may be revoked or suspended summarily by the Board if any of the following facts and/or conditions exists:

- a) That the suspension/revocation will redound to greater public interest, public health and safety;
- b) That the acts complained of are grossly illegal per se;
- c) That the violative act is the second offense on record involving the same infraction;
- d) That the non-observance of or non-compliance with the rules, order or regulation is willful and deliberate;
- e) When there is a prima facie showing that the non-observance of any standard for the beneficial use of water or non-compliance with any of the terms or conditions in a water permit or water rights grant is prejudicial to the life and property of third person;
- f) When the suspension or revocation thereof is sought by an injured party, provided he files a

bond to cover any damage which maybe sustained by the permittee or grantee arising from such summary revocation/suspension;

- g) In times of emergency, where there is a prima facie showing that the use of water by the permittee/grantee is wasteful;
- h) When health authorities so recommend to prevent or control the spread of disease due to inadequate facilities;
- i) When in a decision of a competent court, the revocation or suspension of the water permit or grant is ordered or recommended; and
- j) Such other serious offenses or gross violations and infractions as the Board may decide.

Section 90. *Applicability of the New Rules of Court and Related Laws* – The provisions of the New Rules of Court, Presidential Decree Nos. 77 and 911 on preliminary investigation shall have suppletory effect on matters not specifically covered by these rules.

Section 91. *Appeal of Board Decisions* – The decisions of the Board concerning policies on the utilization, exploitation, development, control, conservation and protection of water resources may be appealed to the President.

Section 92. *Services of DOJ/OSG Lawyers and prosecutor* – The Board may secure the services of Department of Justice (DOJ)/Office of the Solicitor General (OSG) lawyers and prosecutor to assist in the prosecution of violations of the Water Code.

Section 93. The Board may, from time to time, pass resolutions amending specific provisions of these rules, which shall take effect 15 days after its publication in a national newspaper of general circulation.

Section 94. These rules shall take effect fifteen (15) days after publication in the Official Gazette and a newspaper of national circulation.

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UNANIMOUSLY ADOPTED AT THE 29th MEETING OF THE NATIONAL WATER RESOURCES BOARD ON MARCH 21, 2005.


HON. MICHAEL T. DEFENSOR
Chairman