



Republic of the Philippines
(Republic Act No. 7611)

PALAWAN COUNCIL FOR SUSTAINABLE DEVELOPMENT STAFF

April 27, 2022

MS. ANGELIQUE SONGCO

PASu

Tubbataha Reefs Natural Park

Dear Ms. Songco:

This refers to your previous email dated January 27, 2022 asking for a review of the draft Hope Spot Agreement to be executed between you and the Sylvia Earle Alliance DBA Mission Blue for the identification and protection of Hope Spots to be established. The undersigned commends this initiative to further the protection of our marine ecosystem and contribute to our efforts towards ocean conservation.

The said agreement is reasonable, save for the following comments, suggestions and queries which must be considered to ensure faithful compliance with our existing laws and administrative issuances:

- a.) In this Agreement, you are the designated Hope Spot Champion in your capacity as the Park Superintendent of Tubbataha Reefs Natural Park (TRNP). The Hope Spot being made subject to this agreement is TRNP. There is a need to revisit the mandates of the Tubbataha Management Office (TMO) and the PASu to ascertain that authority has been granted to enter into agreements of this nature;
- b.) There is a need to determine whether a separate guideline is provided for Hope Spot Champions representing government agencies. In the guidelines provided by Mission Blue, it only stated that a Hope Spot Champion could either be a representative of a non-governmental organization (NGO) or one who does not represent a NGO but is recommended to partner with one or a scientific organization for the purpose of filling up scientific questions and to be scientific partners if the Hope Spot nominated is eventually designated.
- c.) To better understand the terms and expressions used in the Agreement, a Definition of Terms should be included herein.
- d.) In item **1. Providing Hope Spot Champion Material**, it is provided that *"At least annually, Hope Spot Champion shall review the public information made available by Mission Blue and advise Mission Blue on any corrections, adjustments, or additions."*

Instead of at least annually, it is appropriate that the public information pertaining to the Hope Spot Champion and the identified Hope Spot must be reviewed and approved by both parties before the same is shared to the public through the various platforms maintained by Mission Blue.

- e.) The Tubbataha Management Office which is mandated to manage TRNP is recognized as a government agency. Therefore, materials submitted by the Hope Spot Champion as a representative of a government agency is considered as government materials and are therefore

Vision: Palawan, an innovative and dynamic global center of sustainable development.

Mission: PCSDS as the driver of environmental conservation and inclusive development in Palawan, a biosphere reserve and science-for-sustainability site, guided by the Strategic Environmental Plan.

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not copyrightable and may be shared for the purposes stated in the agreement¹.

- f.) In item 4 of the agreement pertaining to **Licenses to Mission Blue**, it is stated therein that *"Hope Spot Champion agrees to grant- and hereby does grant- to Mission Blue and its successors, licensees and sublicensees, assigns, and third party service providers, a worldwide, non-exclusive, perpetual, irrevocable, royalty-free, fully paid, sublicensable, and transferable license to use, reproduce, modify, create derivative works based on, distribute, publicly display and publicly perform the Hosted Hope Spot Champion Content..."*

On the provision on the **Right to Publicity Release**, it also stated that *"This grant includes, without limitation the right for Mission Blue to edit, abridge, augment, title, or create a compilation from Hope Spot Champion Appearance, in whole or part, as Mission Blue may elect in its discretion."*

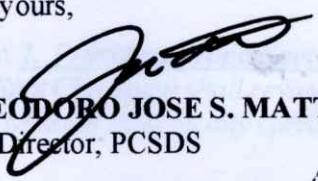
While it is true that government issued materials are not copyrightable, Mission Blue does not enjoy absolute authority to edit, modify and create derivative works of the materials submitted by the Hope Spot Champion in its own discretion. Permission from the Hope Spot Champion must first be obtained therefor.

- g.) In its miscellaneous provisions, the item pertaining to **Enforcement** provides that *"The parties expressly agree that this Agreement shall be interpreted according to the laws of the State of California, without reference to conflicts or choice of law principles. Any action or proceeding brought to enforce the terms of the Agreement or to adjudicate any dispute arising hereunder shall be brought in the courts of the County of San Francisco, State of California (if under state law), or the Northern District of California (if under Federal law, or under Federal and State law). Each of the parties hereby submits itself to the exclusive jurisdiction and venue of such courts, as the sole and exclusive forum for purposes of such action."*

The Rules of Court provides that parties may agree in writing before the filing of the action on the exclusive venue thereof. However, considering the fact that the TMO is a government agency and the Tubbataha Reefs Natural Park is a Marine Protected Area governed by pertinent national laws such as Republic Act No. 100676², Republic Act No. 7586³, and Republic Act No. 7611⁴, it is only proper that the Agreement be interpreted in accordance with Philippine laws.

Thank you very much.

Very truly yours,


ATTY. TEODORO JOSE S. MATIA
Executive Director, PCSDS

¹ Section 176.1 Intellectual Property Law

² Tubbataha Reefs Natural Park (TRNP) Act of 2009

³ National Integrated Protected Areas System Act of 1992

⁴ Strategic Environmental Plan (SEP) for Palawan Act