

# Republic of the Philippines

#### DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Visayas Avenue, Diliman, Quezon City Tel. No. 929-6626 to 29; 929-6633 to 35 926-7041 to 43; 929-6252; 929-1669

Website: https://www.denr.gov.ph/Email: web@denr.gov.ph

0 2 SEP 2022

#### **MEMORANDUM**

**FOR** 

The Regional Director

EMB MIMAROPA Region

6th Flr. DENR by the Bay Building 1515 Roxas Blvd., Ermita, Manila

**FROM** 

The Assistant Secretary

Legal Affairs

**SUBJECT** 

ENDORSEMENT OF CASE FILES ON CIVIL CASE NO.

6177 ENTITLED, "ROXANNE R. BARLAS, ET AL. V. DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS, REP. BY SEC. MANUEL M. BONOAN, DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES REP. BY

ACTING SEC. JIM O. SAMPULNA, ET AL."

This refers to the Letter<sup>1</sup> dated 15 August 2022 endorsing Civil Case No. 6177 entitled, "ROXANNE R. BARLAS, ET AL. V. DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS, REP. BY SEC. MANUEL M. BONOAN, DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES REP. BY ACTING SEC. JIM O. SAMPULNA, ET AL." to your Office.

#### The Letter provides:

On 28 July 2022, this Office endorsed the said case, together with all the pertinent documents, to the [Office of the Solicitor General] for legal representation through Assistant Solicitor General Arleen T. Reyes and State Solicitor Erika Frances S. Buluran-Monzon.

Considering that the EMB, through EMB MIMAROPA Region, issued the Certificate of Non-Coverage subject of the case, this Office hereby endorses the above-captioned case to your Office to provide technical assistance to OSG lawyers. Please provide regular updates to this Office on the matter.

In relation to the foregoing, this Office hereby endorses to your end the following documents:

- 1. Petition for Environmental Protection Order and Writ of Continuing Mandamus (With Application for the Issuance of Temporary Environmental Protection Order) dated 30 June 2022 with attachments;<sup>2</sup>
- 2. Omnibus Motion dated 22 July 2022 filed by private respondent PTK Group, Inc. / St. Timothy Construction Corp.;<sup>3</sup>
- 3. Manifestation filed by Petitioner dated 12 July 2022;4

<sup>&</sup>lt;sup>1</sup> Copy attached as ANNEX "A".

<sup>&</sup>lt;sup>2</sup> Copy attached as ANNEX "B".

<sup>&</sup>lt;sup>3</sup> Copy attached as ANNEX "C".

<sup>&</sup>lt;sup>4</sup> Copies of items 3-9 attached as ANNEX "D".

- 4. Affidavit of Service by Registered Mail dated 13 July 2022 filed by Petitioner's counsel;
- 5. Entry of Appearance by the OSG dated 25 July 2022;
- 6. Memorandum from the DENR MIMAROPA Regional Executive Director dated 28 July 2022;
- 7. Memorandum from Attorney III assigned at PENRO Palawan dated 14 July 2022;
- 8. Notice of Hearing dated 8 July 2022; and
- 9. Summons dated 8 July 2022.

For your appropriate action.

ATTY. MICHELLE ANGELICA JP. GO, CESO II

Copy furnished:

**The Director**Environmental Management Bureau

The Regional Executive Director DENR MIMAROPA Region DENR by the Bay 1515 L&S Building, Roxas Blvd., Manila ASG Arleen T. Reyes Atty. Erika Frances S. Buluran-Monzon Atty. Jocelyn Sarmiento Office of the Solicitor General atreyes@osg.gov.ph efsbmonzon@osg.gov.ph REPUBLIC OF THE PHILIPPINES

REGIONAL TRIAL COURT OF PALAWAN

4th JUDICIAL REGION BRANCH 51

**PUERTO PRINCESA CITY** 

ROXANNE R. BARLAS, ET. AL., Petitioners,

AND PUERTO PRINCESA CIT Department of Environment & Natural Resources Records Management Division AUG 02 2022 Received by: Time:

**CIVIL CASE NO. 6177** 

DEPARTMENT OF **PUBLIC** WORKS AND HIGHWAYS REP. SEC. MANUEL M. BONOAN, ET.

Respondents.

# **ENTRY OF APPEARANCE**

The OFFICE OF THE SOLICITOR GENERAL (OSG), respectfully enters its appearance as statutory counsel of respondent Secretary of Department of Public Works and Highways (DPWH). The Summons issued by this Honorable Court had been officially transmitted to the OSG on July 20, 2022. Hence, the required Answer is due for filing on or before August 20, 2022.

Copies of pleadings, orders, resolutions and Decisions and other court processes may be served upon the OSG at 134 Amorsolo Street, Legaspi Village, Makati City.

Makati City, for Puerto Princesa City, July 25, 2022.

#### **MENARDO I. GUEVARRA**

Solicitor General Roll No. 33957 IBP No. 177214; 02-07-2022, Bulacan MCLE Exemption No. VII-EXD000076, 08-13-2019

ARLEÉN T. REYES

Assistant Solicitor General Roll No. 41324 IBP Lifetime No. 1885 -05-17-00

MCLE Exemption No. VII-OSG003129-11-12-21

X-----X

ERIKA FRANCES S. BULURAN-MONZON

State Solicitor Roll No. 51809

IBP No. 153018/01-15-2021

MCLE Exemption No. VII-Acad003000-07-23-2021

#### OFFICE OF THE SOLICITOR GENERAL

134 Amorsolo Street, Legaspi Village Makati City Tel. No. 988-1674 loc. 797 efile@osq.qov.ph

#### **Copy Furnished:**

# Atty. Julius M. Concepcion

Counsel for the petitioners 25 Lomboy Street, San Jose, Puerto Princesa City

#### The Office of the Secretary

DPWH Central Office Bonifacio Drive, Port Area, Manila

# **DPWH Regional Office IV-B**

EDSA, Diliman, Quezon City

#### **Department of Environment and Natural Resources (DENR)**

Rep. by Acting Sec. Jim O. Sampulna Visayas Avenue, Quezon City

#### Palawan Council for Sustainable Development (PCSD)

Rep. by Exec. Director Teodoro Jose M. Matta Sta. Monica Heights, Puerto, Princesa City

#### Hon. Gerandy B. Danado

Office of Municipal Mayor, Municipal Hall Narra, Palawan

#### St. Timothy Construction Corporation/PTK Group, Inc.

and their Officers and Agents acting on their behalf 35 Tatco Compound Jacinto Streets 1600 Pasig City, Metro Manila

#### St. Timothy Construction Corporation/PTK Group, Inc.

and their Officers and Agents acting on their behalf Narra Avenue, Narra, Palawan



#### Republic of the Philippines Department of Environment and Natural Resources **Document Action Tracking System Document Routing Slip**

**Document No:** 

**DENRCO - AS RMD-2022-019384** 

Print Date:

Friday, August 05, 2022

Sender:

LORMELYN E. CLAUDIO

Address:

**DENR MIMAROPA REGION** 

Subject

MEMO DTD 07/28/2022 SUMMONS FOR CIVIL CASE NO. 6177 ENTITLED ROXANNE R. BARLAS ET AL., VS. DPWH ET AL., FOR ENVIRONMENTAL PROTECTION ORDER AND WRIT OF CONTINUING MANDAMUS WITH PRAYER FOR TEMPORARY ENVIRONMENTAL PROTECTION ORDER  $\cdot$ 

Addressee(s):

LAS - Office of the Director (DENRCO - LAS OD)

DEMI LEGAL AFFAIRS SERVICE

CC Addressee(s):

Date/Time Received:

08/04/2022 08:30:00 PM

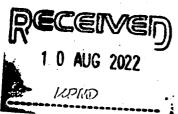
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Endorse to EMB.

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Encoder: Zipagan, Meligyn A.





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

JUL 2 8 2022

RECORDS MANAGEMENT DIVISION

#### **MEMORANDUM**

**FOR** 

The Undersecretary for Legal, Administration, Human

DEPT. OF ENVIRONMENT AND NATURAL RESOURCES

DEPT. OF ENVIRONMENT AND NATURAL RESOURCES

Resources and Legislative Affairs

ATTENTION:

The Director

Legal Affairs Service

**FROM** 

The Regional Executive Director

SUBJECT

SUMMONS FOR CIVIL CASE NO. 6177 ENTITLED "ROXANNE

R. DPWH. AL." BARLAS. VS. **ENVIRONMENTAL PROTECTION** ORDER AND WRIT **CONTINUING MANDAMUS FOR** WITH **PRAYER** 

TEMPORARY ENVIRONMENTAL PROTECTION ORDER

This refers to the attached Memorandum dated July 14, 2022 forwarding the Summons in the above-entitled case, for then Acting DENR Secretary Jim O. Sampulna, together with a copy of the Petition and its supporting documents.

The Summons and Petition, received by the PENRO Palawan on July 8, 2022, was in turn received by our Office on July 22, 2022. It is disclosed in the Memorandum that the copy for the DENR Secretary was served by the court's Process Server through the PENRO Palawan.

Further, a Notice of Hearing dated July 25, 2022 was received by this Office's Legal Division through email, indicating that a hearing on the case is scheduled on July 29, 2022 before the Regional Trial Court (RTC) Branch 51 in Puerto Princesa City.

Relative thereto, we are respectfully forwarding the attached records of the case for your Office's action on the Summons, Petition, and Notice of Hearing.

LORMELYN E. CLAUDIO. CESO IV





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

**Province of Palawan** 

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**3-POUNDER** 

19-Jul-22

TO: THE CHIEF, LEGAL DIVISION

DESTINATION	DATE OF DOCUMENT	SIGNATORY	KIND OF DOCUMENT	SUBJECT MATTER
ATTY. GANDHI GAGNI-FLORES THE CHIEF, LEGAL DIVISION		ATTY. JAZMIN D. ALTEA ATTY. III		SUMMONS FOR CIVIL CASE NO. 6177 ENTITLED "ROXANNE R. BARLAS, ET. AL, PETITIONER -VS- DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS REP. SEC. MANUEL M. BONOAN, ET. AL, RESPONDENT OF CIVIL CASE NO. 6177 FOR: ENVIRONMENTAL
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PREPARED BY:

JASMIN G. BACUEL
Office Support Assistance

NOTED BY:

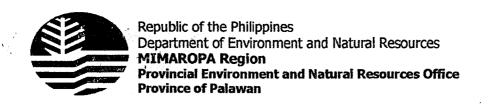
RHEALD WAS

Admin Ade VI (Storekeeper)/ Acting Records Officer

Send directly to

Atty. Ilac's Office (CO)

if possible daw po



July 14, 2022

**MEMORANDUM** 

**FOR** 

ATTY. GANDHI GAGNI-FLORES

DENR IV-B MIMAROPA Region

1515 L&S Bldg., Roxas Blvd.

Ermita, Manila 1000

**FROM** 

Atty. Jazmin D. Altea

Attorney III, assigned at PENRO Palawan

SUBJECT

SUMMONS FOR CIVIL CASE NO. 6177 ENTITLED

"ROXANNE R. BARLAS, ET. AL. VS. DPWH ET. AL FOR ENVIRONMENTAL PROTECTION ORDER AND WRIT OF CONTINUING MANDAMUS WITH PRAYER FOR

TEMPORARY PROTECTION ORDER

Respectfully forwarding the Summons addressed to DENR rep by Acting Sec. Jim O. Sampulna, together with the copy of the Petition and its supporting documents, which the DENR PENRO Palawan received on July 8, 2022. In the said Summons, the DENR rep by Acting Sec. Jim O. Sampulna, is directed to file its Answer to the Petition with the RTC Branch 51 within thirty (30) calendar days after receipt of Summons.

The DENR PENRO Palawan likewise received a Notice of Hearing on the extension of 72-Hour TEPO in the above-entitled case to be held on July 11, 2022, which the undersigned appeared by way of special appearance.

In addition, the undersigned discovered from the process server of RTC Branch 51 that the service made to the DENR Secretary was made through the DENR PENRO Palawan on July 8, 2022.

In line with this, kindly forward the same to the DENR Central Office, Legal Affairs Service for appropriate action.

ATTY. JAZMIN D. ALTEA

PENRO-RECORDS RELEASED

By
Date A JUL 2022 N 12- 176

Sta. Monica, Puerto Princesa City Tel/Fax: 433-5638 Email denrpalawan@yahoo.com Republic of the Philippines

#### REGIONAL TRIAL COURT OF PALAWAN 意思的意思 學問於原命 **AND PUERTO PRINCESA CITY**

Fourth Judicial Region **BRANCH 51** 

Puerto Princesa City Email: rtc1prp051@ judiciary.gov. ph +639084164058

ROXANNE R. BARLAS, ET. AL., Petitioners, CIVIL CASE NO. 6177

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for:

DEPARTMENT OF PUBLIC WORKS AND BONOAN, ET. AL.,

Respondent,

**ENVIRONMENTAL PROTECTION ORDER** HIGHWAYS REP. SEC. MANUEL M. AND WRIT OF CONTINUING MANDAMUS WITH PRAYER FOR PRAYER FOR TEMPORARY PROTECTIONO ORDER

#### **NOTICE OF HEARING**

TO:	Roxanne R. Barlas Brgy. C	alategas, Narra, Palawan
	Teofilo T. Tredez	do
	Cecille D. Garbino	do
	Reyland Rodriguez	do
	DPWH rep by Sec. Manuel M. Bonoan Bonifacio	Drive, Port Area, Manila
	DENR rep by Acting Sec. Jim O. Sampulna Visayas	Ave., Quezon City
	PCSD rep by Exec. Dir. Teodoro Jose M. Matta Sta. Mor	nica Heights, Pto. Prin. City
	Hon. Gerandy B. Danao Office of I Hall Nar	Municipal Mayor, Municipal ra, Palawan

#### **GREETINGS!**

You are hereby notified that the HEARING ON THE EXTENSION OF 72-HOUR TEPO of the above-entitled case will be heard at the sala of this Court at the Hall of Justice Building, Sta. Monica Heights, Puerto Princesa City on 11th day of July 2022 at 8:30 A. M at which place, date and time you should appear together with your witness.

At Puerto Princesa, this 8<sup>th</sup> day of July 2022.

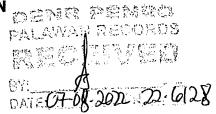
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Republic of the Philippines

## **REGIONAL TRIAL COURT OF PALAWAN** AND PUERTO PRINCESA CITY

Fourth Judicial Region **BRANCH 51** 

Puerto Princesa City Email: rtc1prp051@ judiciary.gov. ph +639084164058



ROXANNE R. BARLAS, ET. AL.,

Petitioners,

CIVIL CASE NO. 6177

-versus-

for:

DEPARTMENT OF PUBLIC WORKS AND ENVIRONMENTAL PROTECTION ORDER BONOAN, ET. AL.,

Respondent,

HIGHWAYS REP. SEC. MANUEL M. AND WRIT OF CONTINUING MANDAMUS WITH PRAYER FOR PRAYER FOR TEMPORARY PROTECTIONO ORDER

**SUMMONS** 

TO:

DPWH rep by Sec. Manuel M. Bonoan - - - - - Bonifacio Drive, Port Area, Manila

DENR rep by Acting Sec. Jim O. Sampulna- - - - - Visayas Ave., Quezon City

PCSD rep by Exec. Dir. Teodoro Jose M. Matta- - Sta. Monica Heights, Pto. Prin. City

Hon. Gerandy B. Danao - - - - - - - - - - - - - - - Office of Municipal Mayor, Municipal Hall Narra, Palawan

St. Timothy Construction Corp./PTK Group, Inc and their Officer and Agents acting on their behalf - - - - - - - - - - - 35 Tatco Compound Jacinto St., 1600 Pasig City, Metro Manila or/ Narra Ave., Narra, Palawan

#### **GREETINGS!**

You are hereby required, to file with this Branch of the Court in the aboveentitled case within (30) calendar days after the service of this summons upon you, exclusive of the day of such service, your Answer to the Petition of the petitioners, a copy of which is hereto attached and herewith served upon you, and to serve a copy of said Answer within the same period upon the petitioners. If you failed to answer within the time aforesaid, the petitioners will take judgment against you by default and demand from this Court the relief applied in the said Petition.

At Puerto Princesa City, this 8<sup>th</sup> day of July, 2022.

ATTY. RIZAJÁNE B./PABLICO/ORTIZ

THE SHERIFF

RTC-Br. 51

NOTE:

Please served and return the original copy to this Court with proof of service thereof.

/amy



# Republic the Philippines DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES Visayas Avenue, Diliman, Quezon City Tel. No. 929-6626 to 29; 929-6633 to 35 926-7041 to 43; 929-6252; 929-1669

Website: https://www.denr.gov.ph / Email: web@denr.gov.ph

**MEMORANDUM** 

1 5 AUG 2022

FOR

The Director

Environmental Management Bureau

ATTENTION

The Regional Director EMB MIMAROPA Region

6th Fir. DENR by the Bay Building 1515 Roxas Blvd., Ermita, Manila

**FROM** 

The Assistant Secretary

Legal Affairs

SUBJECT

ENDORSEMENT OF CIVIL CASE NO. 6177 ENTITLED, "ROXANNE R. BARLAS, ET AL. V. DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS, REP. BY SEC. MANUEL M. BONOAN, DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES REP. BY ACTING SEC. JIM O. SAMPULNA, ET AL." TO THE ENVIRONMENTAL MANAGEMENT BUREAU (EMB)

This refers to the Travel Order dated 28 July 2022 issued by the Office of the Solicitor General (OSG) authorizing State Solicitor II Jocelyn P. Castillo-Sarmiento to conduct site inspection at the infrastructure project involved in Civil Case No. 6177 entitled, "ROXANNE R. BARLAS, ET AL. V. DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS, REP. BY SEC. MANUEL M. BONDAN, DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES REP. BY ACTING SEC. JIM O. SAMPULNA, ET AL."

The Travel Order provides:

State Solicitor II Castillo-Sarmiento is hereby authorized to leave for Narra and Puerto Prinsesa, Palawan on August 1, 2-22 and will return to Manila on August 2, 2022. It is understood that the Department of Environment and Natural Resources will shoulder her travel expenses. travel insurance, accommodation. (Underscoring and emphasis supplied.)

The Petition<sup>2</sup> for an Environmental Protection Order and Writ of Continuing Mandamus with Prayer for Temporary Environmental Protection Order (TEPO) attributes the environmental destruction in Brgy. Calategas, Narra, Palawan to the DENR-EMB RVI, to wit:

18.3 Respondent DENR's issuance of a Certificate of Non-Coverage, after classifying the project as an Environmental Enhancement or Direct Mitigation Project (Category C) and exempting it from the Philippine [Environmental Impact Assessment] System (PD 1586), fails to appreciate the environmental destruction resulting from the project and gross

<sup>&</sup>lt;sup>1</sup> Copy attached as ANNEX "A".
<sup>2</sup> Copy attached as ANNEX "B".

neglect of the performance of its duty to protect the environment enjoined as its duty resulting from its function in connection with the enforcement of FIA law

18.4 DENR-EMB RVI [sic] willfully and deliberately disregarded its duty to ensure that the environment is protected from harmful developmental projects because it performed only a cursory and superficial review of the documents submitted by Respondent St. Patrick for an ECC, automatically classifying the project as not covered by the EIS merely by the word "mitigation" in the project's name and subsequently granted it a Certificate of Non-Coverage.

On 28 July 2022, this Office endorsed<sup>8</sup> the said case, together with all the pertinent documents, to the OSG for legal representation through Assistant Solicitor General Arleen T. Reyes and State Solicitor Erika Frances S. Buluran-Monzon.

Considering that the EMB, through EMB MIMAROPA Region, issued the Certificate of Non-Coverage subject of the case, this Office hereby endorses the above-captioned case to your Office to provide technical assistance to OSG lawyers. Please provide regular updates to this Office on the matter.

For your consideration and appropriate action.

MICHELLE ANGELI

The Director

Financial Management Service

Copy furnished:

The Regional Executive Director DENR MIMAROPA Region DENR by the Bay 1515 L&S Building, Roxas Bivd., Manila

ASG Arleen T. Reyes Atty. Erika Frances S. Buluran-Monzon Office of the Solicitor General atreyes@osg.gov.ph gfsbmonzon@osg.gov.ph

<sup>&</sup>lt;sup>3</sup> Copy of endorsement letter and annexes attached as ANNEX "C".



#### Republic of the Philippines **Department of Environment and Natural Resources Document Action Tracking System Document Routing Slip**

**Document No:** 

DENRCO - AS RMD-2022-018698

Print Date:

Friday, July 29, 2022

Sender:

JULIUS M. CONCEPCION

Address:

MITRA ROAD BRGY, STA. MONICA PUERTO PRINCESA PALAWAN

Subject

LEGAL DTD 06/30/2022 CC PETITION FOR ENVIRONMENTAL PROTECTION ORDER AND WRIT OF CONTINUING MANDAMUS (WITH APPLICATION FOR THE ISSUANCE OF TEMPORARY ENVIRONMENTAL PROTECTION ORDER) CIVIL CASE NO. ROXANNE R. BARLAS, TEOFILO T. TREDEZ, CECILLE D. GARBINO AND REYLAND RODRIGUEZ, PETITIONERS VS. DPWH REP. BY SEC. MANUEL M. BONOAN, DENR REP. BY SEC. JIM O. SAMPULNA, PCSD REP. BY EXEC. DIR. TEODORO JOSE S. MATTA, MUNICIPALITY OF NARRA REP. BY HON. GERANDY B. DANAO: ST. TIMOTHY CONSTRUCTION CORP./PTK GROUP INC., AND THIER OFFICERS AND AGENTS ACTING ON THEIR BEHALF, RESPONDENTS (W/ ATTACHMENTS)

Addressee(s):

LAS - Office of the Director (DENRCO - LAS OD)

DENR LEGAL AFFAIRS SERVICE

CC Addressee(s):

Date/Time Received:

07/29/2022 10:33:00 AM

ICPMP DATE: 7-29-2022

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Republic of the Philippines Fourth Judicial Region

REGIONAL TRIAL COURT OF PALAWAN

Department of Environment & Natural Resources

Branch \_\_\_\_ Puerto Princesa City

ROXANNE R. BARLAS, TEOFILO T. TREDEZ, CECILLE D. GARBINO AND REYLAND RODRIGUEZ

Petitioners,

Department of Environment & Natural Resources
Records Management Division

JUL 28 2022

Received by: Time:

- Versus -

CIVIL CASE NO. \_\_\_\_\_
FOR: ENVIRONMENTAL
PROTECTION ORDER AND
WRIT OF CONTINUING
MANDAMUS With Prayer for
TEMPORARY PROTECTION
ORDER

DEPARTMENT OF PUBLIC WORKS
AND HIGHWAYS REP. BY SEC.
MANUEL M. BONOAN, DEPARTMENT OF
ENVIRONMENT AND NATURAL
RESOURCES REP. BY ACTING SEC.
JIM O. SAMPULNA, PALAWAN COUNCIL FOR
SUSTAINABLE DEVELOPMENT REP.
BY EXEC. DIR. TEODORO JOSE S.
MATTA, MUNICIPALITY OF NARRA
REP. BY HON. GERANDY B. DANAO;
ST. TIMOTHY CONSTRUCTION
CORP./PTK GROUP, INC., AND THEIR
OFFICERS AND AGENTS ACTING ON
THEIR BEHALF,

Respondents.

X - - - - - - - - - - - - X

# PETITION FOR ENVIRONMENTAL PROTECTION ORDER AND WRIT OF CONTINUING MANDAMUS

(WITH APPLICATION FOR THE ISSUANCE OF TEMPORARY ENVIRONMENTAL PROTECTION ORDER)

**PETITIONERS**, by counsel, most respectfully state the following:

NATURE OF THE PETITION

This petition for an **ENVIRONMENTAL PROTECTION ORDER AND WRIT OF CONTINUING MANDAMUS** is in the nature of a **CLASS SUIT** and an **ENVIRONMENTAL CASE** filed under A.M. 09-6-8-SC, seeking judgment commanding the respondents to CEASE AND DESIST from continuing the execution and construction of the Calategas Seawall and Access Road Project, REHABILITATE the mangrove area and shoreline destroyed caused by the said project until the judgment is fully satisfied, and to PAY nominal damages sustained by the petitioners by reason of the respondents' malicious neglect to perform their duties to prevent the continuing destruction of the Calategas shoreline under existing laws, rules or regulations (Rule 8, Section 1).<sup>1</sup>

## THE PARTIES

Petitioners ROXANNE R. BARLAS, TEOFILO T. TREDEZ, CECILLE D. GARBINO AND REYLAND RODRIGUEZ are Filipinos, of legal ages, married and single, and residents of Barangay Calategas, Narra, Palawan.

Petitioners are residents, constituents, inhabitants and taxpayers of Barangay Calategas, Municipality of Narra, Palawan. They are entitled to the full benefit, use and enjoyment of the natural resources, specifically the mangrove and seashore area in Brgy. Calategas, Narra, Palawan which is the source of their meager livelihood of fishing which is barely sufficient to support their families. The present petition is filed for themselves and others who are equally concerned about the preservation of the said natural resources and are affected by the construction of the seawall with access road but are so numerous that it is impracticable to bring them all before the Court.

All petitioners may be served with notices, orders and other processes of this Honorable Court through their counsel at the address given at the end portion of this petition.

<sup>&</sup>lt;sup>1</sup> When any agency or instrumentality of the government or officer thereof unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust or station in connection with the enforcement or violation of an environmental law rule or regulation or a right therein, or unlawfully excludes another from the use or enjoyment of such right and there is no other plain, speedy and adequate remedy in the ordinary course of law, the person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty, attaching thereto supporting evidence, specifying that the petition concerns an environmental law, rule or regulation, and praying that judgment be rendered commanding the respondent to do an act or series of acts until the judgment is fully satisfied, and to pay damages sustained by the petitioner by reason of the malicious neglect to perform the duties of the respondent, under the law, rules or regulations. The petition shall also contain a sworn certification of non-forum shopping.



Respondent **DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS** is a department of the executive branch of the national government tasked with the construction and maintenance of public works and highways and represented by its Secretary the **Hon. MANUEL M. BONOAN**, with principal address at Bonifacio Drive, Port Area, Manila where it may be served with summons, notices, orders and other processes of this Honorable Court;

Respondent **DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES** is a department of the executive branch of the national government tasked with the protection of the environment and the utilization of natural resources and represented by its Acting Secretary the **Hon. JIM O. SAMPULNA**, or the incumbent secretary, with principal address at Visayas Ave., Quezon City where it may be served with summons, notices, orders and other processes of this Honorable Court;

Respondent **PALAWAN COUNCIL FOR SUSTAINABLE DEVELOPMENT** is a multi-sectoral and inter-disciplinary body created by Republic Act (R.A.) No. 7611, which is charged with the governance, implementation and policy direction of the Strategic Environmental Plan (SEP) for Palawan represented by its Executive Director **TEODORO JOSE S. MATTA** with principal address at Sta. Monica Heights, Puerto Princesa City;

Respondent MUNICIPALITY  $\mathbf{OF}$ NARRA is a local government unit where the subject Road and Construction as well as the subject mangrove destruction is located which is represented by its Mayor, the HON. GERANDY B. DANAO with principal address at Poblacion, Narra, Palawan where it may be served with summons, notices, orders and other processes of this Honorable Court;

Respondents **ST. TIMOTHY CONSTRUCTION CORP.** and **PTK GROUP, INC.**, are private domestic corporations engaged in public works with principal addresses at 35 Tatco Compound, Jacinto St, 1600 Pasig City, Metro Manila, and locally at Narra Ave., Narra, Palawan where they may be served with summons, notices, orders and other processes of this Honorable Court.

#### STATEMENT OF FACTS

1. The Department of Public Works and Highways (DPWH) has funded a Flood Control Mitigation Structure or Seawall Project with an access road on a mangrove area in Calategas, Narra, Palawan, which is currently executed and constructed by



Respondent St. Timothy Construction Corporation and PTK Group Inc. and supposedly due to be finished by December 2021.

- 1.1 The DPWH was able to secure a Certificate of Non-Coverage from the Department of Environment and Natural Resources Environmental Management Bureau (DENR-EMB), which classified the project purportedly as an Environmental Enhancement or Direct Mitigation Project (Category C) thereby purportedly exempting it from the Philippine Environmental Impact Statement (EIS) System (PD 1586).
- 1.2 The DENR certification issued to DPWH Region IV-B was specifically for the construction of a flood mitigation structure (scan-rail) in Calategas, Narra, Palawan based on the Environmental Management Bureau's certification as a Category C (Environmental Enhancement or Direct Mitigation) project and not covered by the Philippine EIS System (PD. 1586).
- 1.3 The project includes an access road, traversing a mangrove area, connected to the barangay road and leading to the seawall project site. It is approximately 198 meters in length and 8 meters wide. Based on actual measurements conducted, 78 meters of the access road traversed into a mangrove stand.
- 1.4 As for the sea wall proper, Respondents have already established an embankment laid out with rocks and boulders measuring 158 meters in length along the shoreline. Copies of photographs at various stages of the execution of the project are shown and attached hereinbelow.
- 2. Due to Respondent DENR's Certificate of Non-Coverage and classification as an Environmental Enhancement or Direct Mitigation Project, the project's proponents did not bother to actually submit the same to public consultation/ hearing among the residents including herein Petitioners, mostly fishermen of Barangay Calategas and members of indigenous peoples (IPs) groups in the said barangay who find no need for the said project as there had been observed neither flooding nor sea surge prior to the execution of the project in their area which has adjacent coral reefs and mangrove areas as shown



in the study<sup>2</sup> by Dr. Jean Beth S. Jontila and Lyca Sandrea G. Castro (a copy of which is attached herewith and marked in anticipation of the pre-trial as **Exhibits "A" to "A-11"**).

- 2.1 Respondent DPWH, however, maintained that there were community consultations purportedly conducted on 23 April 2021 and 10 June 2021 long after the supposed approval and commencement of the project, and even refers to attendance sheets of barangay tanods and volunteers and not residents to support such claim. The latter, however, utterly fails to comply with requirements for consultations before, and not after, the approval of a project among the direct stakeholders and for their informed consent under the New Local Government Code, the Indigenous Peoples' Rights Act (IPRA) law, and the PD 1586.
- 2.2 The very first time that the residents learned about the project and came to know of the identity of the proponents thereof was at the very time when the respondent contractor arrived with its workers to commence the construction of the access road on the mangrove area and dumped filling materials along the shoreline without even making the necessary studies required by the EIS system and to apprise the residents in a consultation meeting of the basis of the security, safety, the total benefits of the project to the community, and its possible effects on their lives and marine resources from which they derive their livelihood.
- 2.3 The Calategas Barangay Council through the Barangay Captain, as the head recommender, miserably failed to officially convey to the residents and to the community as a whole the existence and imminence of the said project prior to its commencement.
- 2.4 The absence of such prior information and consultation resulted in the absence of the proper objectives and the execution of a Memorandum of Agreement (MOA) between the respondents and the community, specifically of those living in the area and are affected or as the beneficiary of the project:
- 3. The project did not have the necessary Strategic Environmental Plan (SEP) Clearance from the Palawan Council for Sustaianble Development (PCSD, as shown by the report of

<sup>&</sup>lt;sup>2</sup> Assessment of Impacts of Flood Control Mitigation Structure (Seawall) Project in Calategas, Narra, Palawan, p. 8 (Assessment of Seawall Project)



the Municipal Environment and Natural Resources Officer (MENRO) who made a finding in its Letter, dated 14 July 2021, that "In addition, no ECAN Board Endorsement was requested which is required to secure the SEP Clearance from the PCSDS" (a copy of which communication is referred to with its proper marking hereinbelow).

- 4. The area is also part of ancestral domain of the Pala'wan tribe, who reportedly have not given their free and prior informed consent (FPIC) prior to the construction to the said project in compliance with the IPRA LAW, despite the finding that the area is alienable and disposable.
- 5. No personnel from the Respondent DPWH also ever came to conduct Survey Works, Site Investigations, Soil & Foundation Investigation and Construction Materials investigation on site thereby indicating the respondent project proponents' failure to comply with RA 9184 or the Government Procurement Reform Act, which specifically requires a Project Detailed Engineering Activities or PDEA to justify any government public works project.
- 6. Considering that the whole of Palawan is a Mangrove reserve under Presidential Proclamation 2152 and any destruction of it is similarly prohibited and punishable in both the Forestry and Fishery codes, PD 705 section 69, and RA 8550, as amended by RA 10654, section 99, the road construction resulting to the destruction of the mangrove area is a clear violation of the aforesaid laws, specifically Section 43 of P.D. 705 which states, to wit:

Strips of mangrove forest bordering numerous islands which protect the shoreline roads, and even coastal communities from the destructive force of the sea during high winds and typhoons shall be maintained and shall not be alienated. Such strips must be kept from artificial obstruction so that flood water will flow unimpeded to the sea to avoid flooding and inundation of cultivated areas in upstream. All mangrove swamps set aside for coast-protection purposes shall not be subject to clear cutting-operation (underlining for emphasis).

7. Additionally, the road constructed over a mangrove area is a reclaimed area and a government property. It, therefore, requires the necessary approval of the government agencies concerned prior to its construction and its present use. Despite such requirements, the Calategas Barangay Council

allowed the contractor to access and operate the reclaimed roadway.

- 8. The Constitutional and legal protection from and the prohibition against the construction of the subject seawall project is very obvious in view of the specific characteristics of the site of the project, such as the following:
- 8.1 As a coastline of Bgy. Calategas, Narra, Palawan, it is classified as a bay as it is a naturally-sheltered area, has a vast intertidal area covered by seagrasses, sand bars, and mangroves that serve as natural breakwaters or natural barriers or protection against strong wave actions ("A-3"). Seagrass beds also play a major role in dissipating waves and in preventing coastal erosions by stabilizing the sediments while mangroves filter run-offs and trap debris from the upland aside from the fact that seagrass beds and mangroves also serve as habitats, feeding, and breeding grounds of many marine organisms such as fishes and invertebrates including marine mammals like sea cows (Dugong dugon). Both ecosystems also sequester carbon, thereby mitigating pollution and global warming.
- 8.2 The coastline has mangroves on the left coast of the bay and at the mouth of the river towards the mainland (A-3-A");
- 8.3 It has a river with an inlet on the right side that traverses the back portion of the bay which also has fringing mangroves ("A-4-A").3
- 8.4 Beyond the seagrass beds are coral reefs that serve as fishing grounds of the community based on reports by the fishermen in the area.<sup>4</sup>
- 9. The national government's flood control mitigation structure or seawall project subject of this Petition includes an access road approximately measuring 10 meters with an area of 0.13 hectares cutting across the riverine-basin mangrove forest and flattened earth filings (rocks and boulders) for the construction of seawall (looks more like a road at its present state) covering an area of 0.76 has. along the coast and approximately 580 meters long.
- 10. Residents said that there was no public consultation conducted before the construction of the seawall project. They

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<sup>&</sup>lt;sup>3</sup> Ibid. par 1, p 3

<sup>&</sup>lt;sup>4</sup> Ibid. par 1, p 3

added that the Barangay Council only called them for a meeting when the project already started. Residents were also informed that the seawall project is purportedly for their benefit as protection against tsunamis and storm surges that might happen in the future.

- 11. Petitioners requested the assistance of the Environmental Legal Assistance Center to assist them in voicing out their objection to the subject flood control mitigation project, which center then sent communications to respondent DPWH and COA and then to the PENRO and PCSD (copies of which are attached herewith and marked in anticipation of the pre-trial as **Exhibits "B" and "C"**).
- 12. Petitioners also requested the assistance of the Palawan NGO Network (PNNI) in a letter, which also sent communications to the PENRO and PCSDS and another one to the DENR and DPWH (copies of which are attached herewith and marked in anticipation of the pre-trial as **Exhibits "D"**, and "E").
- 13. Petitioners also directly wrote the private contractor PTIK to stop the project (a copy of which letter is attached herewith and marked in anticipation of the pre-trial as **Exhibits "F"**).
- 14. Respondent DENR gave a response to the PNNI, the PCSDS to ELAC, the MENRO to ELAC, and the DPWH to ELAC (copies of which written communications are attached herewith and marked in anticipation of the pre-trial as **Exhibits "G", "H", "I" and "J"**), but which only supported the continuation of the project.
- 15. Realizing that their requests to the said government agencies were to no avail, as the said respondents justified and allowed the execution of the subject project, Petitioners consolidated all their documents and the responses of the said respondents in a Complaint-Affidavit which they filed with the PCSD to object against the project and oppose the issuance of the necessary SEP clearance (a copy of which is attached herewith and marked in anticipation of the pre-trial as **Exhibit** "K").

[The foregoing will be testified to by Petitioners CECILLE D. GARBINO, REYLAND RODRIGUEZ, ROXANNE R. BARLAS, and TEOFILO TORRANIO TREDEZ in their Judicial Affidavits

attached herewith and marked in anticipation of the pre-trial as Exhibits "M", "N", "O", and "P" .]

# GROUNDS FOR THE ALLOWANCE OF THE PETITION

I.

Respondents DENR, DPWH, PCSD, and MUNICIPALITY OF NARRA unlawfully failed and neglected to impose strict environmental protection requirements in the issuance of permits for the implementation and execution of the seawall with access road project at Brgy. Calategas, Narra, Palawan, especially the requirement for pubic consultations, transparency, and prior informed consent. The performance of such duties is specifically enjoined by the law and by virtue of Respondents' offices, trust or station in connection with the enforcement or violation of environmental laws, rules or regulations, or rights therein.

- 16. The landmark case of *Oposa v. Factoran*<sup>5</sup> defines the environmental right claimed by herein Petitioners as the right to a balanced and healthful ecology, in consonance with the "rhythm and harmony of nature." Nature means the created world in its entirety. Such rhythm and harmony indispensably include, *inter alia*, the judicious disposition, utilization, management, renewal and conservation of the country's forest, mineral, land, waters, fisheries, wildlife, off-shore areas and other natural resources to the end that their exploration, development and utilization be equitably accessible to the present as well as future generations. Needless to say, every generation has a responsibility to the next to preserve that rhythm and harmony for the full enjoyment of a balanced and healthful ecology.
- 16.1 Petitioner's right to a balanced and healthful ecology in consonance with the "rhythm and harmony of nature" was violated by the respondents' injudicious disposition, utilization, management, renewal and conservation of the Calategas' forest, land, waters, fisheries, wildlife, off-shore areas and other natural resources such that its exploration, development and utilization is not equitably accessible to the present as well as future generations of residents of the area, as will be shown hereinbelow.



<sup>&</sup>lt;sup>5</sup>G.R. No. 101083 July 30, 1993.

- 16.2 Respondents failed in their responsibility to both the present and the next generation to preserve that rhythm and harmony for the full enjoyment of a balanced and healthful ecology by the subject project implementation and continuation.
- 17. The Supreme Court further declares in its Decision in CORDILLERA GLOBAL NETWORK, ET AL. V. SECRETARY RAMON J.P. PAJE, ET AL. (G.R. No. 215988; April 10, 2019) that "the words in Article 11, Section 16 of the Constitution are not mere shibboleths, which section states, to wit:

SECTION 16. The State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature.

# The Court in the same Decision explains that:

While the provision does not contain a specific act required by the State, it certainly mandates the sensitivity of both the Department of Environment and Natural Resources and our courts to acquire a standpoint that is protective of our ecology. Shortcuts into the process through which the State assures minimal impact on the environment, weighed against the profits to be generated by businesses, must not be tolerated (underlining for emphasis).

- The foregoing Constitutional principles merely affirmed the then-existing PRESIDENTIAL DECREE No. (ESTABLISHING AN ENVIRONMENTAL IMPACT STATEMENT SYSTEM, INCLUDING OTHER ENVIRONMENTAL MANAGEMENT RELATED MEASURES AND FOR OTHER PURPOSES) which requires an environmental impact statement (EIS) from all agencies and instrumentalities of the national government, including government-owned or controlled corporations, as well as private corporations, firms, and entities, for every proposed project and undertaking, whether significantly affect the quality of the environment in section 2 thereof in the state's "pursuit of a comprehensive and integrated environmental protection program" which "necessitates the establishment and institutionalization of a system whereby the exigencies of socio-economic undertakings can be reconciled with the requirements of environmental quality;
- 18.1 As will be shown hereinbelow, respondent DENR failed to exercise sensitivity to act from "a standpoint that is protective of our ecology" when it decided not only to shortcut the process through which the State assures



- minimal impact on the environment, weighed against the profits to be generated by businesses, but closed its very eyes to the fact that the subject project will create havoc in the fragile balance between development and preservation.
- 18.2 Respondent DENR, for all its vaunted expertise in marine ecosystem conservation, refused to recognize that the project involves changes in the structure of the coastline that could contribute to the changes in the physical and biological characteristics of the same. Coastal structures such as seawalls destroy the finely-tuned connectivity necessary for maximum productivity between mangroves, seagrass beds, and coral reefs present in Calategas, Narra, Palawan aside from the fact that such project produces wave action that destroys by erosion the unprotective shoreline at both unprotected ends of the wall.
- 18.3 Respondent DENR's issuance of a Certificate of Non-Coverage, after classifying the project as an Environmental Enhancement or Direct Mitigation Project (Category C) and exempting it from the Philippine EIS System (PD 1586), fails to appreciate the environmental destruction resulting from the project and gross neglect of the performance of its duty to protect the environment enjoined as its duty resulting from its function in connection with the enforcement of the EIA law.
- 18.4 DENR-EMB RVI willfully and deliberately disregarded its duty to ensure that the environment is protected from harmful developmental projects because it performed only a cursory and superficial review of the documents submitted by the Respondent St. Patrick for an ECC, automatically classifying the project as not covered by the EIS merely by the word "mitigation" in the project's name and subsequently granted it a Certificate of Non-Coverage.
- 18.5 This is glaringly shown by the fact that Section 4 of EXECUTIVE ORDER NO. 746 requires reclamation projects such as the construction of the project's access road over a mangrove (aquatic) area and environmental compliance certificate stating, to wit:

<sup>&</sup>lt;sup>6</sup> (REPEALING EXECUTIVE ORDER NO. 798, S. 2009 AND EQ NO. 145 (5. 2013) TRANSFERRING THE PHILIPPINE RECLAMATION AUTHORITY (PRA) TO THE OFFICE OF THE PRESIDENT (OP), DELEGATING TO THE PRA GOVERNING BOARD THE POWER OF THE PRESIDENT TO APPROVE RECLAMATION PROJECTS, AND FOR OTHER PURPOSES



- Section 4. Environmental Compliance Certificate. No reclamation project shall be approved by the PRA without the required Area Clearance and Environmental Compliance Certificate to be issued by the DENR. The DENR shall ensure transparency and inclusivity in the conduct Environmental Impact Assessment which shall include public disclosure and multistakeholder engagement (underlining for emphasis).
- 18.6 Respondent DENR's classification of the seawall project, as not covered by the ECC requirement, does not exempt the access road over the mangrove area in the site from an EIA considering that it is a reclamation project. Even without the access road, the seawall project can also be considered a reclamation project due to its dumping of filling materials along the shore as the foundation of the seawall. As such section 6 of the said Executive Order No. 74 states, to wit:

Section 6. Holistic Approach to Reclamation. All proposals for reclamation projects shall be evaluated by the PRA based on their cumulative impacts rather than on a specific project basis. Every proposed reclamation project shall be accompanied by hydrodynamic. modeling, except for relatively small reclamation projects of less than five hectares, and detailed horizontal and vertical development plans.

- DPWH 18.7 Respondents DENR-EMB aided and abetted Respondent Municipality in ignoring the spirit and letter of the EMB Revised Procedural Manual which is intended to implement the various regulations governing Environmental Impact Assessments (EIAs) to ensure that developmental projects are in line with development of natural resources. Respondent immediately classified the project as not covered by the ECC requirement effortlessly and without any challenge.
- 18.8 While it is true that, as of now, the project has been issued a CNC, the entire project involves earth-moving activities in a mangrove area and a littoral zone, human activities that will modify water movements, and eventually destructive sedimentary movement and which should have been considered as a threat to the environment and resources of the project site.
- 18.9 As a project involving the destruction of mangrove areas and the littoral zone Respondent DENR should have required a full EIA (Environmental Impact Assessment) since the

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project is an environmentally critical one (ECP) which should be considered as such. Therefore, the Certificate of Non-Coverage and permit issued must be invalidated and cancelled.

- 19. Republic Act (R.A.) No. 7611 or the STRATEGIC ENVIRONMENTAL PLAN (SEP) FOR PALAWAN ACT adopted a Strategic Environmental Plan (SEP) for Palawan, *i.e.*, a comprehensive framework for the sustainable development of Palawan compatible with protecting and enhancing the natural resources and endangered environment of the province (Section 4, R.A. No. 7611).
- 19.1 R.A. 7611 serves as the framework to guide the government agencies concerned in the formulation of plans, programs and projects affecting the environment and natural resources of Palawan; seeks to pursue the State' policy of the to protect, develop and conserve its natural resources which, towards it shall assist and support implementation of plans, programs and projects formulated to preserve and enhance the environment, and at the same time pursue the socioeconomic development goals of the country, that it shall support and promote the sustainable development goals for the provinces through proper conservation, utilization and development of natural resources to provide optimum yields on a continuing basis.
- 19.2 The SEP has for its general philosophy the sustainable development of Palawan, which is the improvement in the quality of life of its people in the present and future generations through the use of complementary activities of development and conservation that protect life-support ecosystem and rehabilitate exploited areas to allow upcoming generations to sustain development growth. The SEP has the following features:
  - (1) Ecological viability The physical and biological cycles that maintain the productivity of natural ecosystems must always be kept intact.
  - (2) Social acceptability The people themselves, through participatory process, should be fully committed to support sustainable development activities by fostering equity in access to resources and the benefits derived from them.



- (3) Integrated approach This allows for a holistic view of problems and issues obtaining in the environment as well as opportunities for coordination and sharing that will eventually provide the resources and political will to actually implement and sustain SEP activities.
- 19.3 Pursuant to the foregoing, a proponent who intends to implement a project which may have a significant impact on the environment in Palawan is required to secure a clearance from the respondent Palawan Council for Sustainable Development (PCSD), the administrative body responsible for the governance, implementation and policy direction of the SEP, as provided in Section 16, Chapter V of RA 7611.
- 19.4 Respondents flouted the foregoing provisions when they commenced and implemented the seawall project with an access road through a mangrove area by failing to secure a clearance from the respondent Palawan Council for Sustainable Development (PCSD) in gross violation of Section 16, Chapter V of RA 7611.
- 19.5 The seawall project fails to meet the test of sustainable development because it fails to establish compatibility between the protection and enhancement of the natural resources and the endangered environment of the province.
- 19.6 It fails to contribute to the improvement of the quality of life of people, both in the present and future generations, by the failure to use the complementary activities of development and conservation to protect the life-support ecosystems of mangroves, seagrass beds, and coral reefs in Calategas, Narra, Palawan to allow the present and upcoming generations to sustain development growth.
- 19.7 The seawall project is not ecologically viable because it destroys the physical and biological cycles that maintain the productivity of the natural mangrove, seagrass, and coral reefs ecosystems which must always be kept intact.
- 19.8 The seawall project fails the test of social acceptability as respondents refused and continually refuses to recognize petitioners' right to established participatory processes and utterly manifest the absence of any commitment to support sustainable development activities when it denies



petitioners' right to equity in access to resources and to the benefits derived from them.

- 19.9 The seawall project fails the test and requirement of an integrated approach to sustainable development. seawall project fails to express a holistic view of the perceived problems and issues (i.e. need for mitigation) obtained in the locality as well as opportunities for all stakeholders' coordination and sharing such dissipates the local resources and political will to actually implement and sustain SEP activities.
- The PCSD also adopted the Revised Guidelines in the Implementation of SEP Clearance System (PCSD Administrative Order No. 06, October 24, 2014) which was to guide all projects being or intended to be implemented in Palawan and shall serve as a guide for all government instrumentalities mandated to issue permits. contracts, or agreements and other similar instruments.
- 20.1 Section 3 of the Revised PCSD Administrative Order No. 06 s. 20147 covers "Any person or proponent, natural or juridical, who intends to implement a project in Palawan", thereby making no exemption for Respondent's seawall project with access road. In fact all projects fall into any of the four (4) categories, depending upon the location and expected environmental impact of which Respondents' project has very serious ones, under section 4 of the said Administrative Order.8 Even projects located outside of Environmentally Critical Areas but are pollutive, such as Respondents' project due to the sediment produced by the filling materials of both access road and seawall,9 and those with minimal impact, granted such is the case with the said project, must secure such SEP clearance.
- 20.2 After receiving protests over the project from Petitioners, Respondent PCSD through its executive arm conducted their own investigation and found the absence of any clearance from its office. There was belated recommendation to procure such clearance from Respondent PCSD which, if granted, will make our

<sup>&</sup>lt;sup>8</sup> Section 4. Project Category. For purposes of this Administrative Order, projects shall be grouped into four categories, namely: Category A, Category B, Category C and Category D. All other projects not included in any of the categories herein below listed shall be considered as falling under Category A. <sup>9</sup> Section 4.1. Category A.



<sup>&</sup>lt;sup>7</sup> Revised Guidelines in the Implementation of the SEP Clearance System

environmental monitoring and protection systems ineffective and virtually useless.

21. All reclamation projects must be under a Reclamation Development Plan to which a reclamation project must be managed with the additional requirement of public consultations. Respondents' seawall project has no choice but to comply with such requirement under Section 7 of E.O. 74 which provides, to wit:

Section 7. Reclamation and Development Plan (RDP). The PRA, in coordination with the DENR, NEDA and affected local government units (LGUs), shall craft a National and/or Regional RDPs which take into consideration the environmental, social, and economic impacts of proposed reclamation projects. All RDPs shall undergo public consultation and shall be consistent with the greater public interest.

All proposals for reclamation projects covered by this Order must be compliant with these RDPs and the relevant master plan of the concerned national government agency. 10

22. Section 26 of Republic Act No. 7160 (Local Government Code of 1991) imposes on national government agencies implementing and executing projects that affect the environment and natural resources in a locality the duty to conduct consultation activities with all stakeholders, to wit:

Section 26. Duty of National Government Agencies in the Maintenance of Ecological Balance. - It shall be the duty of every national agency or government-owned or controlled corporation authorizing or involved in the planning and implementation of any project or program that may cause pollution, climatic change, depletion of non-renewable resources, loss of cropland, rangeland, or forest cover, and extinction of animal or plant species, to consult with the local government units, non-governmental organizations, and other sectors concerned and explain the goals and objectives of the project or program, its impact upon the people and the community in terms of environmental or ecological balance, and the measures that will be undertaken to prevent or minimize the adverse effects thereof (underlining for emphasis).

22.1 The requirement carries with it such strictness that no such project shall be executed without the requisite consultations, to wit:

Section 27. Prior Consultations Required. - No project or program shall be implemented by government authorities unless the consultations mentioned in Sections 2 (c) and 26



<sup>&</sup>lt;sup>10</sup> Executive Order No. 74 s.2019

hereof are complied with, and prior approval of the sanggunian concerned is obtained: Provided, That occupants in areas where such projects are to be implemented shall not be evicted unless appropriate relocation sites have been provided, in accordance with the provisions of the Constitution (underlining for emphasis).

- 22.2 Petitioners, as the most significantly-affected stakeholders in the matter involved, are clothed with participatory rights so as to ensure their involvement in matters that bear an impact on their health, environment, and ecology.
- 22.3 Respondent Municipality of Narra not only ignored Petitioners' opposition expressed as early as May 2021 but also presented a false public consultation meeting report with the attendance of people therein as the purported proof of the community's consent on April 23, 2021 after a Certificate of Non-Coverage has already been issued by Respondent DENR. Such was not a consultation but mere "project presentations".
- 22.4 Respondents failed in their Constitutional and legal duty as national agencies authorizing or involved in the planning and implementation of the seawall project which causes possible pollution, depletion of non-renewable resources, loss of mangrove forest cover, and extinction of animal or plant species, to consult with petitioners as stakeholders and sectors concerned and explain the goals and objectives of the seawall project, its impact upon the people and the community in terms of environmental or ecological balance, and the measures that will be undertaken to prevent or minimize the adverse effects thereof.
- 23. Section 58 of Republic Act No. 8371 (IPRA)<sup>11</sup> mandates that areas necessary for resources conservation and environmental protection identified by government agencies shall be managed with the full participation of the resident indigenous peoples thereby necessitating their "free and prior informed and written consent" similar to that required in programs referred to in sections 29 to 37 of the same legislation. Section 58 reads thus, to wit:

Section 58. Environmental Consideration. - Ancestral domains or portion thereof, which are found necessary for critical watersheds, mangroves wildlife sanctuaries, wilderness, protected areas, forest cover, or reforestation as determined by the appropriate agencies with the full participation of the ICCs/IPs concerned shall be



<sup>&</sup>lt;sup>11</sup> (AN ACT TO RECOGNIZE, PROTECT AND PROMOTE THE RIGHTS OF INDIGENOUS CULTURAL COMMUNITIES/INDIGENOUS PEOPLE)

maintained, managed and developed for such purposes. The ICCs/IPs concerned shall be given the responsibility to maintain, develop, protect and conserve such areas with the full and effective assistance of the government agencies. Should the ICCs/IPs decide to transfer the responsibility over the areas, said decision must be made in writing. The consent of the ICCs/IPs should be arrived at in accordance with its customary laws without prejudice to the basic requirement of the existing laws on free and prior informed consent: Provided, That the transfer shall be temporary and will ultimately revert to the ICCs/IPs in accordance with a program for technology transfer: Provided, further, That no ICCs/IPs shall be displaced or relocated for the purpose enumerated under this section without the written consent of the specific persons authorized to give consent (underlining for emphasis).

- 23.1 Pursuant to the aforementioned provisions, a full barangay-wide discussion and interaction on the matter, aimed at having extensive local consultation involving all stakeholders so that the residents of the Barangay may have a direct voice in the action of the Sangguniang Barangay as part of the local process in granting permits to environmentally sensitive projects, is absolutely necessary without exemption.
- 23.2 The absence of any such public consultation involving the petitioners is an utter disregard of the petitioners' environmental rights because the respondent government officers and local government units shut down the required participatory process and turned a blind eye to the obviously harmful effects of the proposed seawall with access road through a mangrove area that the residents, inhabitants and other stakeholders in the area have been protesting against despite the fact that they only learned of the project when respondents arrived with their manpower and equipment to execute the subject project.
- 24. Republic Act No. 9184 (MODERNIZATION. STANDARIZATION AND REGULATION OF PROCUREMENT ACTIVITIES OF THE GOVERNMENT amended), expressed in Section 17.6, Rule VI its Implementing Rules and Regulations requires detailed engineering investigations, surveys, and designs, to wit:

RULE VI - PREPARATION OF BIDDING DOCUMENTS Section 17. Form and Contents of Bidding Documents

17.6. Detailed Engineering for the Procurement of Infrastructure Projects. No bidding and award of contract for infrastructure projects shall be made unless the detailed engineering investigations, surveys and designs except for



design and build schemes wherein bidders shall be allowed to submit its detailed engineering designs as part of its bid, including the acquisition of the ROW, for the project have been sufficiently carried out and duly approved in accordance with the standards and specifications prescribed by the head of the procuring entity concerned or his duly authorized representative, and in accordance with the provisions of Annex "A" of this IRR-A.

- 24.1 In the present case there was no such detailed engineering investigation, as far as Petitioners are concerned, because Respondents' manpower and equipment were sighted in the vicinity on the very day that they commenced the execution of the project.
- 24.2 There was also no one among the residents who witnessed such investigations if indeed there was one. For such reason, Respondents have violated the foregoing provisions.
- 25. Section 99 of the Amended Fisheries Code (RA 8550 amended by RA 10654) prohibits the illegal conversion of mangroves for any purpose stating, to wit:
  - **SEC.** 99. Conversion of Mangroves. It shall be unlawful for any person to convert mangroves into fishponds or for any other purpose.

Upon a summary finding of administrative liability, the offender shall be penalized with a fine equivalent to the ecological value of a hectare of mangrove based on available studies or administrative fine of Ten million pesos (P10,000,000.00) per hectare, whichever is higher: Provided, That if the area requires rehabilitation or restoration as determined by the Department, the offender shall also be required to restore or pay for the restoration of the damaged area.

Upon conviction by a court of law, the offender shall pay a base fine of Eighty thousand pesos (P80,000.00), a fine equivalent to the administrative penalties, and shall suffer the penalty of imprisonment of six (6) months and one (1) day to twelve (12) years: Provided, That if the area requires rehabilitation or restoration as determined by the court, the offender shall also be required to restore or pay for the restoration of the damage. The offender shall be liable for environmental damages computed at Five hundred thousand pesos (P500,000.00) per hectare per year until the area is restored. (aa)

25.1 Respondents' construction of an access road over a mangrove area is covered by the foregoing prohibition which even carries with it a penalty, including the restoration of the area to its former state.

II.

Respondents unlawfully excluded Petitioners from the use or enjoyment of their rights to a healthy environment,



specifically, a healthy mangrove area, littoral (seashore) zone, and coral reefs, and caused Petitioners to sustain incalculable damage to their fishing area and environment which must be shouldered by respondents.

- 26. The subject access road and seawall project will result and has already resulted, in the following adverse impacts to the community as reported by the findings of the WPU study on the project (**Exhibit "A"**), to be testified on by DR. JEAN BETH S. JONTILA, Ph.D., copy of which is attached herewith and marked in anticipation of the pre-trial as **Exhibit** . "R".
- 26.1 **Flooding**. Ironic to the flood control objective of the subject project, residents of Barangay Calategas have reported that they are presently experiencing floods with several houses submerged in water during extreme hightide and rainy days because the passage of water has been blocked by the access road, which flooding they have not experienced prior to the construction of the access road. This is shown by photographs in Purok Tabing Dagat, Bgy. Calategas, Narra, Palawan after the access road blocked the water passage, copies of which are attached herewith and marked in anticipation of the pre-trial as **Exhibit "A-4-B" and "A-4-C"**.
- 26.2 **Obstruction** to the resident fishermen's daily fishing activities. Fisherfolks can no longer bring their boats inshore for safety during stormy weather (such as during the recent Typhoon Odette where they had to seek refuge on another island for four days with much difficulty), regular repair, and construction because the seawall already blocked the beach area, as shown by a photograph after the commencement of the project showing the seawall making Fishermen it impossible for fishermen to bring their boats inshore and another photograph taken prior to the construction of the seawall when fishers can still bring their boats close to shore and photographs as of February 2022 (copies of which are attached herewith and marked in anticipation of the pre-trial as Exhibits "A-5-C" and Exhibits "A-5-B" ). It is also difficult and hazardous for fishers now to bring their catch inshore, of fetching seawater and hauling nets inshore for cleaning and repair as they have to exert more effort in climbing the slippery rocks and boulders.
- 26.3 **Destruction of the mangrove forest** for the construction of the access road. The 2018 imagery of Google Earth shows



that the current access road was covered with mangroves before, a copy of which google earth photograph is attached herewith and marked in anticipation of the pre-trial as **Exhibits "A-6-A"**, which condition was also confirmed by residents with a photograph taken on 31 August 2021 with both sides of the access road have intact mangrove forest when the access road was just recently constructed. This is contrary to the claim by Respondent DENR in its letter (**Exh. "G"**) and Respondent PCSDS' technical report (**Exh. "L"**) which deny the existence of such mangrove area.

- 26.3.1 Residents have also observed the destruction of some of the mangroves after they were covered with filling materials such as rocks and boulders by Respondent ST. TIMOTHY CONSTRUCTION CORP./ PTK GROUP, INC. for the construction of the access road as shown by the photographs which are contrary to the PCSDS findings that some parts of the mangrove area became sparse in 2018 and 2020 and that starting in 2016 there were no more mangrove forest in the entire stretch of the area. Petitioners stand with the photos they have taken during the construction of the access road showing by plain view the flourishing mangrove trees on both sides of the road which seems to have been deliberately missed by both the PCSDS and MENRO personnel. The latter agency specifically made the unbelievable finding in its report ("L") that no mangroves were cut and that only 'branches' were destroyed by the road construction.
- **26.4 Limited or blocked flow of seawater** in the inner mangrove swamp blocks the migration, affects the recruitment and reproduction of marine organisms and decreased fish production in the area. The installation by
- 26. 5 Disappearance of fishes and shells (bivalves and univalves) due to the blocking by the access road of the entire mangrove area ecosystem. Certain species of mangrove trees, such as *Rhizophora spp*. which is common in the area, die when no longer hydrated by seawater similar to that resulting from the practice in some areas to remove and destroy mangrove forests via "natural death" before converting them to fish ponds. The seeming recruitment or sprouting of seeds and seedlings of mangroves (*Avicennia sp.*) spotted in some areas along the seawall (shown in a photo of sparsely scattered seedlings of mangrove *Avicennia spp.* sprouting along the beach covered by the seawall

mangrove seedlings, a copy of which is attached herewith and marked in anticipation of the pre-trial as **Exhibit "A-8-A"**) cannot replace the loss of old mangrove stands in the original areas as the seedlings will likely die if seawater could no longer freely flow.

- 26.6 Blocking of sea turtle nesting grounds. Portions of the bay near the estuary that was already covered by the mounds of rocks and boulders used to be the nesting grounds of sea turtles. This is truly unfortunate considering that all species of marine turtles are threatened and requires the protection of their nesting ground as these are very vital for their existence.
- 26.7 Scouring and sand shifting. Alteration of the natural flow of the seawater will result in the scouring of the tide to cause lateral shore erosion that will not only alter the current terrain of the coast but diminish the land area of Barangay Calategas. The proposed project is only 595.35 meters long while the shoreline of Barangay Calategas is more or less 1500 meters. The project will result to severe coastal erosion in the areas adjacent to the seawall;
- 26.8 Impairment of marine ecosystem services. Marine ecosystems such as mangroves, seagrass, and coral reefs provide provisioning, regulation and maintenance, and cultural services that support the coastal communities that are reliant on such marine resources for living. The resulting disruption among the three vital ecosystems caused by the project, with their connectivity now blocked by the seawall and its access road, will create an existential threat to the food security of the small fisherfolk communities in the area.
- 26.9 The **loss of the beach** where children used to freely and safely swim is now covered by the seawall depriving them of an important part of their childhood and development as human beings.
- 26.10 The beach area where they built structures for drying and settlements was not there back in the 1980s. The sand present in the area was found to have just accumulated over the years proving that the bay is a sand deposition site.



This means that the movement of seawater or current is slow enough to allow the sediments or sand to settle and accumulate as shown by the several sand bars seen across the bay during low tide. The construction of the seawall will disrupt and destroy the slow accumulation of sand which is very important to the maintenance of the vital ecosystems present in the area.

27. Due to Respondents' acts of allowing the construction of the seawall with access road project Petitioners sustained incalculable damages to their economic, cultural, and personal lives as shown by the damage to their fishing area, the difficulty of their day-to-day lives as fishermen, the damage to their homes brought about by floodings as a result of the project structures, and the loss of the area where they beach their boats for repairs and refuge from the storms and where their children can engage in leisure and relaxation as an important part of a happy childhood they deserve. Respondents must bear the burden of such loss, to be determined by the Honorable Court during the trial, on the part of Petitioners.

#### III.

There is no other plain, speedy and adequate remedy available to the Petitioners in the ordinary course of law to stop the execution of the subject flood mitigation project (seawall and access road).

- 28. Despite all the protests and opposition by Petitioners (**Exhibit** "**M** to P") as shown in the responses to such protests (**Exhibits** "**G"** to "**J"**), Respondents' sea wall and access road project is now wreaking havoc in this rich rhythm and harmony of nature in Narra, Palawan as shown in the most recent photographs of the project and the difficulties it has resulted in the Petitioner's lives (copies of which are attached herewith as Exhibits "Q" to "Q-3") and their judicial affidavits attached herewith. Respondents even challenged Petitioners to procure a stoppage order if they can, callously ignoring the latter's just opposition.
- 29. Not having had the opportunity to resort to representations before all of the respondents to oppose the issuance of their permits, due to the absence of public consultations and not being privy to the respondent contractor's applications until its permits and clearances were long issued, Petitioners clearly have no other plain, speedy and adequate remedy



available to the Petitioners in the ordinary course of law to stop the execution of the subject flood mitigation project. Hence, the necessity of the present Petition.

- 30. Consequently, there is a necessity for the Executive Judge of this Honorable Court to immediately issue a 72-hour Temporary Environmental Protection Order (TEPO), under Section 8, Rule 2 of A.M. 09-6-8-SC, to enjoin the respondents, and ordering them to desist, from proceeding with the execution of the subject seawall project and to parties to maintain the status quo ante, that is, to order the hold in abeyance Respondent St. Patrick's application for SEP Clearance with PCSD, to stop the ongoing construction of the seawall at Calategas, Narra pending the resolution of the prayer for the issuance of Environmental Protection Order (EPO), and to extend such TEPO until the termination of this case, in accordance also with Section 8 of Rule 2 of A.M. 09-6-8-SC.
- 31. For the same reasons and disquisition pleaded above, it is also hereby prayed that after due proceedings, the TEPO issued be made permanent, in accordance with Section 3 of Rule 5 of A.M. 09-6-8-SC.

## Prayer

**WHEREFORE,** the foregoing duly considered, it is most respectfully prayed of this Honorable Court that:

- 1. A 72-hour Temporary Environmental Protection Order (TEPO) be immediately issued directing the respondent **ST. TIMOTHY CONSTRUCTION CORP./ PTK GROUP, INC.** to **TEMPORARILY CEASE AND DESIST** from implementing its execution of the seawall project and consequently, ordering the maintenance of the *status quo* wherein such resolution has not been yet issued.
- 2. A 72-hour Temporary Environmental Protection Order (TEPO) be immediately issued directing the respondent Palawan Council for Sustainable Development (PCSD) to **TEMPORARILY CEASE AND DESIST** from acting upon any application for SEP Clearance by the respondent DMCI Power Corporation; and consequently, ordering the maintenance of the *status quo* wherein such application is held in abeyance.



- 3. A summary hearing be conducted in accordance with Section 8 of Rule 2 of A.M. No. 09-6-8-SC for the **extension** of the TEPO until the termination of the case.
- 4. After due proceedings, a **DECISION** be rendered:
  - 4.1. Converting the TEPO to be issued into a permanent Environmental Protection Order;
  - 4.2. **DECLARING NULL AND VOID** Respondent Department of Environment and Natural Resources Environmental Management Bureau (DENR-EMB)'s issuance of Certificate of Non-Coverage, as a Category C (Environmental Enhancement or Direct Mitigation) project and not covered by the Philippine EIS System (PD. 1586) and Respondent DPWH's approval of funding the Flood Control Mitigation Structure or Seawall Project with an access road on a mangrove area in Calategas, Narra, Palawan;
  - 4.3. **ORDERING** the respondent Palawan Council for Sustainable Development (PCSD) to permanently **CEASE and DESIST** from approving respondent St. Patrick's application for Strategic Environmental Plan (SEP) Clearance and to direct the said agency to impose the necessary penalties, fines and dues for violating the regulations requiring the issuance of SEP Clearance prior to the execution and implementation of all development projects in Palawan.
  - 4.4. Ordering respondents to **PAY** petitioners an amount corresponding to the damages sustained by the Petitioners due to the project to their economic, cultural, and personal lives.

Other reliefs and remedies just and equitable under the premises are likewise prayed for.

Puerto Princesa City, 30 June 2022.

JULIUS M. CONCEPCION

Counsel for the Petitioners

25 Lomboy St., San Jose, PPC

E-mail: justifiedmaderighteous@yahoo.com

MOBILE NO. 09190005220 IBP Roll No. 38779 TIN 165-595-572 IBP NO. 154663;1.22.2021; IBP Main PTR NO. 1631421; 1.06.22 PPC MCLE Exemption No. VI-002706

## Manifestation/Explanation

Pursuant to Section 6 of the Rules of Procedure on Environmental Cases, a copy of this petition has been furnished the Department of Environment and Natural Resources (DENR) through registered mail.

JULIUS M CONCEPCION

## VERIFICATION AND CERTIFICATION OF NON-FORUM SHOPPING

WE, ROXANNE R. BARLAS, TEOFILO T. TREDEZ, CECILLE D. GARBINO, AND REYLAND RODRIGUEZ, Filipinos, of legal ages, married and single, respectibely, and residents of Barangay Calategas, Narra, Palawan, after having been duly sworn in accordance with law hereby state that:

- 1. We are the Petitioners in the foregoing Petition against the DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS, et al.; we have caused the preparation, signed, and have fully read and understood the allegations therein which allegations are true and correct based on our **personal knowledge and on authentic documents/records** in our possession;
- 2. The pleading is not filed to harass, cause unnecessary delay, or needlessly increase the cost of litigation: and
- 3. The factual allegations therein have evidentiary support or, if specifically so identified, will likewise have evidentiary support after a reasonable opportunity for discovery.
- 4. Further, we certify that we have not commenced any action or proceeding involving the same issue in the Supreme Court, the Court of Appeals or any other tribunal or agency; that to the best of my knowledge, no such action or proceeding is pending in the Supreme Court, the Court of Appeals or any other tribunal or agency, and that if we should learn thereafter that a similar action or proceeding has been filed or is pending before these courts or tribunal or agency, we undertake to report that fact to the Court within five (5) days therefrom.

Puerto Princesa City, 30 June 2022.

## ROXANNE R. BARLAS

**Affiant** 

Barangay Calategas ID No. CAL-011-389 Issued by: Barangay Calategas, Narra, Palawan TEOFIEOT. TREDEZ

Affiant

VIN: 5315-0062A-G1166TTT10000 Issued by: Commission on Elections

## CECILLE D. GARBINO

Affiant

VIN: 5315-0065A-H0681CDG20000 Issued by: Commission on Elections **REYLAND RODRIGUEZ** 

Affiant

ID No: CAL-008-033 Issued by: Barangay Calategas, Narra, Palawan

SUBSCRIBED AND SWORN to before me this 30 June 2022 at Puerto Princesa City, Affiants exhibiting to me their means of identification.

Doc. No.
Page No.
Book No. XXXVII:
Series of 2022

JULIUS M. CONCEPCION

Notary Jublic for Puerto Princesa
Until 30 June 2022
25 Lomboy St., San Jose, PPC

Mobile NO. 0919 000 5220

E-mail: justifiedmaderighteous@ye

E-mail: justifiedmaderighteous@yahoo.com IBP Roll No. 38779

IBP NO. 184236; 2.3.2022; IBP Main PTR NO. 1631421; 1.06.22 PPC



# Assessment of Impacts of Flood Control Mitigation Structure (Seawall) Project in Calategas, Narra, Palawan



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Exhibit "A-1"

## Assessment of Impacts of Flood Control Mitigation Structure (Seawall) Project in Calategas, Narra, Palawan

Jean Beth S. Jontila and Lyca Sandrea G. Castro
College of Fisheries and Aquatic Sciences, Western Philippines University
Puerto Princesa Campus, Puerto Princesa City, Philippines
jbjontila@gmail.com, lycasandrea.castro@wpu.edu.ph

## **Executive Summary**

An ocular survey and interview with key informants and residents of Calategas, Narra, Palawan were conducted last August 31, 2021 to verify the adverse impacts of the seawall project reported by the residents. The location and topography of the area were also studied to determine if the seawall is really needed or at least beneficial to the community.

It was found that the coastal area of Bgy. Calategas, Narra, Palawan is a bay with a vast intertidal area (~ 1km), covered by seagrasses and sand bars that serve as natural wave breakers. Adverse impacts of the access road and seawall were noted on mangrove forest, beach area, and daily activities of the residents. The portions of the mangrove forests covered by the access road has caused flooding in the inner parts of the swamps with houses because the natural flow of the water was blocked. In the long run, mangroves in inner portions will no longer be inundated by the seawater and will die along with other marine organisms in the swamp due to lack of water and potential sediment deposition. The beach area where fishers lay their nets for cleaning and repair had been covered too by the seawall, which made the beach impassable. Fishers can no longer bring their boats inshore during stormy days, or when repair is needed. The boulders and rocks made it difficult and hazardous for fishers to fetch seawater and carry their catch inshore, and the children can no longer freely and safely swim on the beach. In an interview, it was also found out that some portions near the estuary covered by the seawall were nesting grounds of sea turtles. Residents added that they do not support the construction of the seawall and that they were not consulted before its implementation. They were only called for a meeting after the project has

In conclusion, the seawall is not needed because the site is a bay and is naturally protected from strong wave actions. It is in fact the very reason why fishers chose the area as their settlement. Also, there was no incidence of floods on the site, thus, a flood control structure or seawall has no basis at all. It is therefore strongly recommended to remove the boulders and rocks dumped for the access road and seawall, and restore the beach to its original state at the soonest possible time.

Exhibit "A-2"

## I. Introduction

The Department of Public Works and Highway (DPWH) has funded a Flood Control Mitigation Structure or Seawall Project in Calategas, Narra, Palawan, which is currently constructed by St. Timothy Construction Corporation and PTK Group Inc. The DPWH was able to secure a Certificate of Non-Coverage from the Department of Environment and Natural Resources -Environmental Management Bureau (DENR-EMB), which classified the project as an Environmental Enhancement or Direct Mitigation Project (Category C) thereby exempting it from the Philippine EIS System (PD 1586).

A seawall is built to prevent the sea from encroaching on or eroding a portion of land, to protect the coast against strong wave actions, and avoid damages to properties and lives. Yet after its construction, the residents reported that they are experiencing flooding during extreme high tide as the natural passage of water has been blocked by the access road. There were also reports of hazards to daily fishing activities of the residents brought by the structure, which they do not support. Thus this study, through the request of Environmental Legal Assistance Center, Inc. (ELAC, Inc.), was conducted to assess the area and determine the adverse impacts of the seawall project on coastal communities and the surrounding ecosystems.

## II. Methodology

On August 31, 2021, an ocular survey was conducted at the project site. The general profile of the area and the stretch of the seawall were determined by taking photographs and coordinates. The latter were overlayed in Google Earth for mapping. The surrounding marine ecosystems and resources affected by the seawall were also identified and photographed. Likewise, impacts on communities and their daily activities were determined via direct observations and random interviews with key informants (residents for more than 20 years) and fisherfolks in the area.

#### III. Results

The findings of this study are presented in the following sections:

## A. General profile of the coast of Bgy. Calategas

The coast of Bgy. Calategas can be classified as a bay, which is naturally a sheltered area. Its coastline has a vast intertidal area covered by seagrasses and sand bars that serve as natural barriers or protection against strong wave actions (Fig. 1).

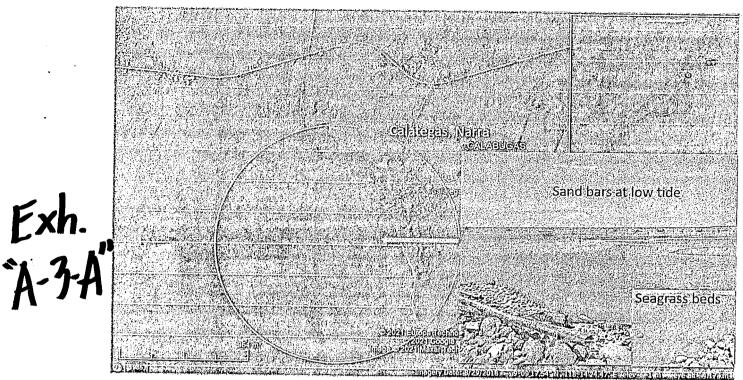


Figure 1. Map of Bgy. Calategas highlighting its coastal area with seagrass beds and sand bars that serve as natural barriers against strong waves.

There are also mangroves on the left coast of the bay and in the mouth of the river towards the mainland (Fig. 1). The river's inlet on the right side that traverses the back portion of the bay also has fringing mangroves (indicated by a red line in Fig.2). Seagrass beds and mangroves are known as habitats, feeding, and breeding grounds of many marine organisms such as fishes and invertebrates including marine mammals like sea cows (Dugong dugon). Seagrass beds also play a major role in dissipating waves and in preventing coastal erosions by stabilizing the sediments while mangroves filter run-offs and trap debris from the upland. Both ecosystems also sequester carbon, thereby mitigating pollution and global warming. Beyond the seagrass beds are coral reefs that serve as fishing grounds of the community according to fishers.

## B. Current status of the flood control mitigation structure or seawall project

Figure 2 shows the present status of the seawall project. An access road approximately measuring 10 meters with an area of 0.13 has, cut across the riverine-basin mangrove forest. Along the coast were flattened earth filings (rocks and boulders) for construction of seawall (looks more like a road at its present state) covering an area of 0.76 has, and approximately 580 meters long.

Exhibit "A4"

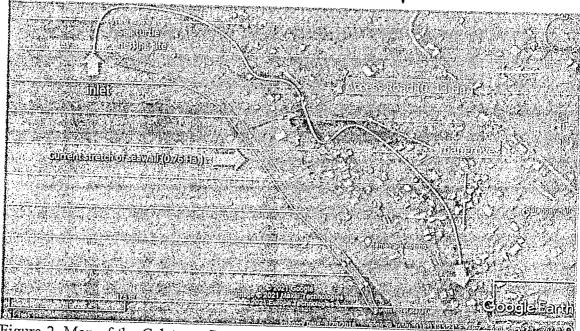


Figure 2. Map of the Calategas Bay area showing the current stretch of access road and seawall.

## C. Adverse impacts of access road and seawall on community

#### a. Flood

The residents reported that they are now experiencing floods (Fig.3). Many houses were submerged in water during extreme hightide and rainy days because the passage of water has been blocked by the access road. They added that they have not experienced such before, only after the construction of the access road.



Exhibit. \*A-4-A

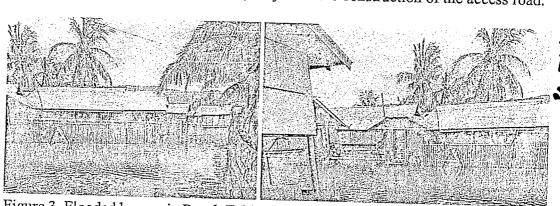


Figure 3. Flooded houses in Purok Tabing Dagat, Bgy. Calategas, Narra, Palawan after the access road blocked the water passage (Photo credit to concerned resident).

Exhibit "A-5"

## b. Obstruction to daily fishing activities

Fishers can no longer bring their boats inshore for safety during stormy weather, repair, and construction because the seawall already blocked the beach area (Fig. 4).

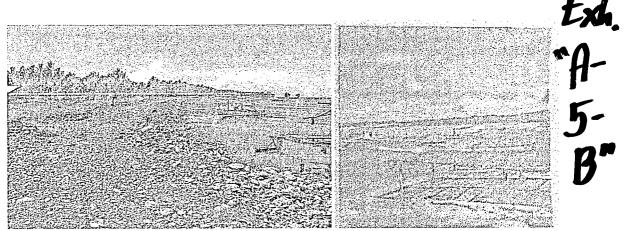


Figure 4. Left photo showing how the seawall made it impossible for fishers to bring their boats inshore. Photo at the right was taken prior to the construction of the seawall when fishers can still bring their boats close to shore (Photo credit to concerned resident).

It is also difficult and hazardous for fishers now to bring their catch inshore as they have to exert more effort in climbing the slippery rocks and boulders (Fig. 5). The same when fetching seawater and hauling nets inshore for cleaning and repair.

# Exhibit "A-5-C"

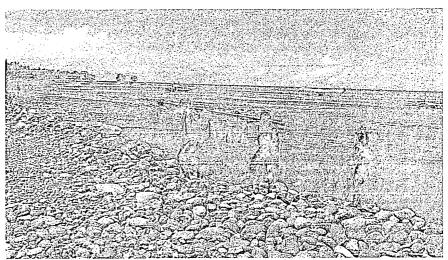


Figure 5. Photo showing how hard it is for fishers to bring their catch inshore when crossing the seawall.

Exhibit A6

## c. Impacts on Marine Ecosystems and Resources

Cleared/covered mangrove forest for the construction of access road

The 2018 imagery of Google Earth shows that the current access road has mangroves before (Fig. 6). Residents also confirmed that the area was previously covered with mangroves, which is contrary to the claim that no mangrove trees were affected and only branches were damaged during the construction of the access road. Residents have also taken geotagged photos of some of the mangroves destroyed and covered during the filing of rocks and boulders for the access road (Fig. 7). The inset photo taken last August 31, 2021 also shows that both sides of the access road have intact mangrove forest.



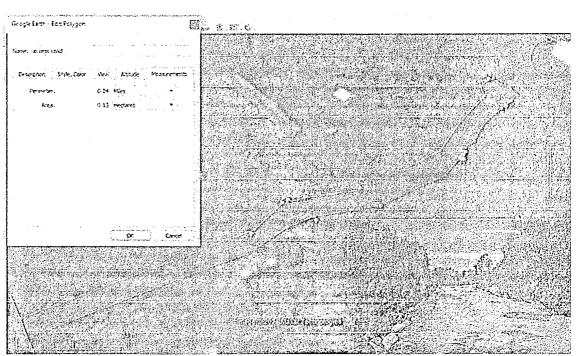


Figure 6. The current stretch of access road overlaid on 2018 image of the site from Google Earth. Inset photo taken on August 31, 2021.

## Exhibit "A-7"

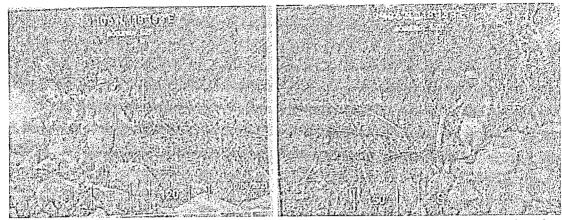


Figure 7. Geotagged photos taken by a concerned resident last June 10, 2021, showing the mangroves cleared during the construction of the access road. (Photo credit to concerned resident)

In addition to the destruction of portions of mangrove forest, the access road and seawall will also have devastating impacts on the following:

- Limited or blocked flow of seawater in the inner mangrove swamp
  - o Recruitment and reproduction of marine organisms will be affected as their migration route is blocked. Although there were four small culverts installed (Fig. 8), those were not enough and were probably covered with mud and debris thereby preventing the natural flow of water.



Figure 8. Location of the installed culverts along the access road which blocked the natural flow of water to the mangrove swamp and back into the sea.

• Potential death and disappearance of fishes, shells (bivalves and univalves), and the entire mangrove ecosystem blocked by the access road. Certain species of mangroves, like *Rhizophora* spp. which is common in the area, die when no longer inundated by seawater. This has been the practice in some areas to remove the mangrove forest via "natural death" before converting to fish ponds.

## • Recruitment of mangroves

o Sprouting seeds and seedlings of mangroves (*Avicennia* sp.) were spotted in some areas along the seawall (Fig. 9). However, they will likely die if seawater could no longer freely flow.



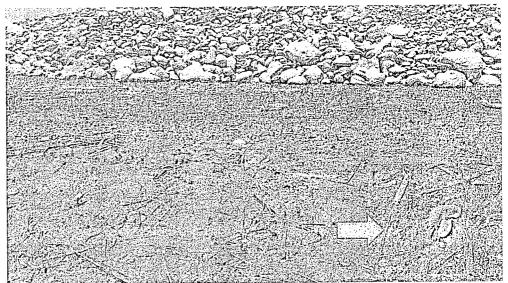


Figure 9. Seedlings of mangrove Avicennia spp. sprouting along the beach covered by the seawall.

#### • Blocking of sea turtle nesting grounds

o In an interview, fishers said that portions of the bay near the estuary that was already covered by the mounds of rocks and boulders were used to be the nesting grounds of sea turtles (Fig.2). In the Philippines, all species of marine turtles are threatened, thus protection of their nesting ground is very vital for their existence.

#### · Scouring and sand shifting

O Since the natural flow of the seawater is altered, the scour of the tide may cause lateral erosion that will alter the current terrain of the coast.

Exhibit "A-10"

## V. Recommendations

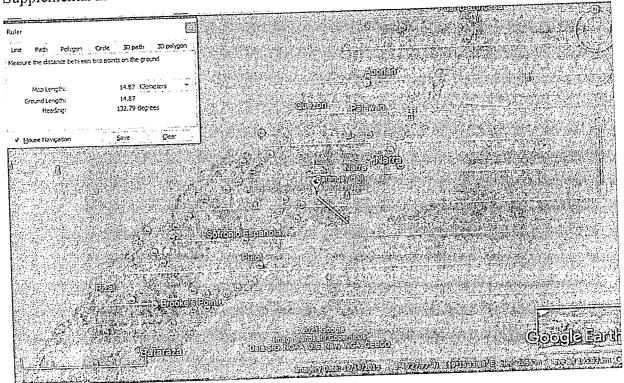
- Stop the project as it is not needed
- Remove the boulders or structure in the area
- Restore the beach to its original state, and
- Rehabilitate cleared mangrove forest.

Prepared by:

Jean Beth S. Jontila, PhD

Lyca Sanorea G. Castro, PhD cand., EnP

## Supplemental material



A map showing that the offshore site of Bgy. Calategas has around 15 km of shallow sites (yellow line). Dark blue colored areas near the coast are shallow basins.





## ENVIRONMENTAL LEGAL ASSISTANCE CENTER, INC.

Carlos P. Sayang Compound, Mitra Road, Bgy. Sta. Monica, Puerto Princesa City 5300 Palawan Telefax (48) 433-5183; Email: <u>elacpalawan@gmail.com</u>

July 14, 2021

Director Yolanda L. Tangco Regional Director Department of Public Works and Highways (DPWH) MIMAROPA region

Ms. Lynflor M. Adolfo Director IV COA MIMAROPA Region

> Re: Construction of SEAWALL in Barangay Calategas, Municipality of Narra, Province of Palawan

Dear Directors Tangco and Adolfo:

Greetings!

This is to follow-up our letter of 1 July 2021 concerning the above-captioned matter. In such communication, we sought an immediate investigation on the above-captioned infrastructure project in Barangay Calategas, Municipality of Narra, Province of Palawan and requested your good offices to order the stoppage of such project owing to the project proponent's failure to comply with the legal requirements under existing laws.

Our office has received verbal reports and complaints from community residents of Barangay Calategas that the construction activities related to the seawall project has caused them much inconvenience. Certain houses were inundated with water even during low tide.

In connection with the proponent and the project's failure to comply with RA 9184 or the Government Procurement Reform Act, specifically, activities related to the Project Detailed Engineering Activities or PDEA, the residents of Barangay Calategas have executed a sworn statement certifying that the PDEA activities were not conducted. We are sharing this with you for your reference.

We therefore reiterate our request for your immediate investigation and the issuance of an order to stop the seawall project.

We trust that this letter-request will merit your preferential attention even as we kindly remind you that the Anti-Red Tape requires you to respond to our letter-request within 5 to 10 days.

Very truly yours,

GRIZELDA MAYO-ANDA

Executive Director

REGINA BELLA A. DIOSO Legal Officer

Copy furnished:

Secretary Mark Villar DPWH Secretary

Mr. Michael G. Aguinaldo. Chairperson Commission on Audit

Ombudsman Samuel Martires Office of the Ombudsman

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Carlos P. Sayang Compound, Mitra Road, Bgy. Sta. Monica,

Puerto Princesa City 5300 Palawan Telefax (48) 433-5183; Email: elacpalawan@gmail.com

Exhibit "

June 28, 2021

BY: 00-363eq

MR. ERIBERTO B. SANOS, CESE DENR-PENRO, Palawan

ATTY. TEODORO JOSE S. MATTA

Executive Director

Palawan Council for Sustainable Development

Enp. SHIELA S. NALDA

OIC, MENRO Municipal Environment and Natural Resources Office Narra, Palawan

MR. MARIO BASAYA
Provincial Fisheries Officer
DA-BFAR
Province of Palawan

Re: Urgent Enforcement Actions in relation to the Illegal Road and Seawall Construction as well as Mangrove Destruction in Barangay Calategas, Narra

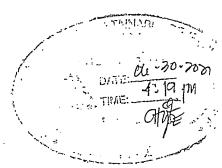
Dear Honorable Officials:

Greetings!

We have learned from our colleagues in the Palawan NGO Network, Inc. (PNNI) that the Department of Environment and Natural Resources (DENR) Provincial Environment and Natural Resources Office (PENRO) and the Palawan Council for Sustainable Development (PCSD) have received communications in connection with the above-captioned matter. In PNNI's letter of 24 May 202, the network has requested for the expedient issuance of a Cease and Desist Order (CDO) from the DENR and PCSD.

Community residents from Barangay Calategas have sought our help in view of the continuing construction activities related to the seawall project despite the absence of the pertinent requirements (Environmental Compliance Certificate, Strategic Environmental Plan, Preliminary Detailed Engineering Activities, among others). Their key concerns are the absence of feasibility studies, environmental impact assessment (EIA), community consultations on the appropriateness and necessity of the seawall project, as well as the adverse impact of the construction on the coastal zone, mangroves and livelihood activities of the fisherfolk. Many residents find the P115 million seawall project unnecessary since the said area is not prone to flood and there has been no experience of any tsunami or storm surge owing to the presence of mangroves planted in the coastal area. There is also concern that the opening of a mangrove area as part of the road construction can lead to further destruction of the mangroves.





Very truly yours,

*SWI UMWAA)* GRIZELDA MAYO-ANDA

Executive Director

REGINA BELIA A. DIOSO Legal Officer

Copy furnished:

Secretary Mark Villar DPWH Secretary

Mr. Michael G. Aguinaldo Chairperson Commission on Audit

Ombudsman Samuel Martires Office of the Ombudsman

Customer's Copy

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May 24, 2024

ERIBERTO B. SANOS, CESE DENR-PENRO

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**TEODORO JOSE S. MATTA** 

Executive Director PCSDS

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PALAWAN NGO NETWORK, INC.

Exhibit "D"

Our community members in Barangay Calategas, Narra have sought our help in their discovery of an unlawful construction of a road that traverses through a heavily-forested mangrove area in Purok Pinag-isa (annex A).

From our initial reports, the alleged illegal road construction is purportedly for the construction of a seawall over the area and has already dumped rocks and boulders over 50 meters of mangroves, with an estimated 150 meters more to open up and run over. This has left both us and residents in the area puzzled because mangroves are supposed to be natural break waters, nullifying the necessity for a seawall project.

The area is also part of ancestral domain of the Pala'wan tribe, who have reportedly given no free, informed, and prior consent to the said project.

The whole of Palawan is Mangrove reserve under Presidential Proclamation 2152. And any destruction of it is similarly prohibited and punishable in both the Forestry and Fishery codes, PD 705 section 69, and RA 8550 section 94, as amended, respectively.

May we inquire as to the existence of any ECC or SEP clearance issued to this project by your respective offices. And in the event of its absence, may we request for the expedient issuance of a Cease and Desist Order by your respective offices, in order to save the existing mangroves resources, if not to avert Climate Crisis, then for food security of our small fisherfolk communities.

May we request for a more resolute action on this matter.

Yours in Christ,

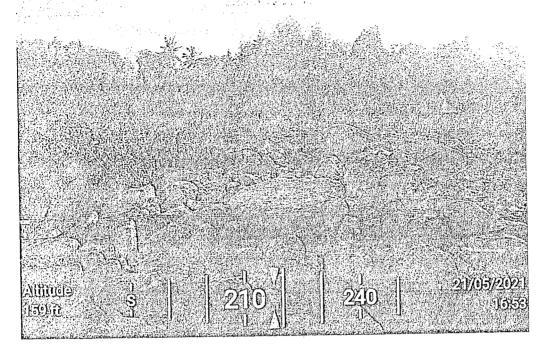
ATTY. ROBERT A. CHAN

**Executive Director** 

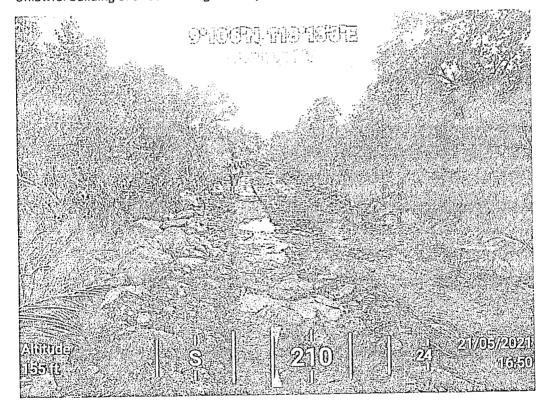
CC: PCSD Council members (NGO & Private Sector rep, etc.)

## Annex-A

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Unlawful building of a road through heavily forested mangroves in Barangay Calategas, Narra, Palawan.



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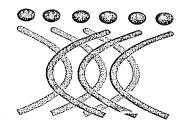
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June 16, 2021

ROY CIMATU SECRETARY DENR

MARK VILLAR SECRETARY DPWH



PALAWAN NGO NETWORK, INC.

Exhibit "E"

Last May 24, 2021, our NGO wrote the PENRO of Palawan, as well as PCSD (Palawan Council for Sustainable Development), regarding a road that ran through a mangrove area in Barangay Calategas, Narra, Palawan, purportedly for the building of a sea wall in the area. In our correspondence, we inquired on the ECC and SEP clearances of this project from their respective offices, and requested the issuance of a Cease and Desist Order, should these be absent, in order to save the existing mangroves from the furtherance of the road construction.

Promptly, the PENRO, thru its CENRO, investigated the same, coming up with a finding that no mangroves were cut and that only 'branches' were destroyed by the road construction (annex A). While we laud the expedient action of the DENR-PENRO, we have difficulty accepting this finding vis-à-vis the photos we have received from community residents protesting the said road (annex B). By plain view, the mangrove on both left and right sides of the road are representations of what the area once was (annex B-1). And if that should not suffice, perhaps they missed these cut/ broken mangrove trees during their inspection (annex B-2).

It was also discovered that this 115 million peso project did not undergo public consultation/hearing according to the petition of residents, mostly fishermen, of Barangay Calategas, who claim they never experienced any need for it, as there had been no flooding nor sea surge in their area which is coral and mangrove laden (annexes C and D). Mind you, proponents may proffer an attendance sheet for an April 2021 barangay hearing, but any consultation, to meet the standards of the Local Government Code, must be *before* and not *after* the approval of a project.

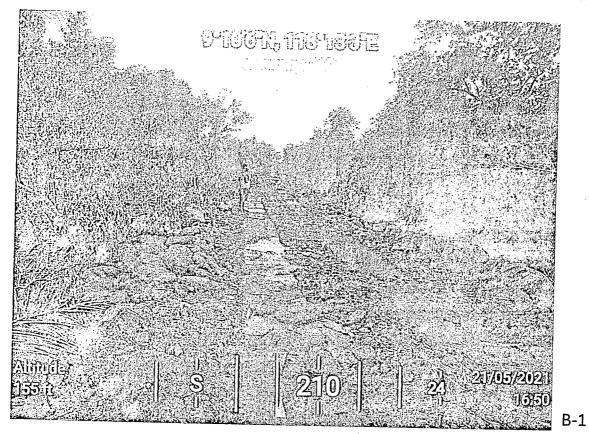
At present, no Cease and Desist Order had been issued by either DENR or PCSD, despite the lack of any ECC and/or SEP clearance. On behalf of the fishermen of Barangay Calategas, We earnestly seek your intervention on this matter.

Yours in Christ,

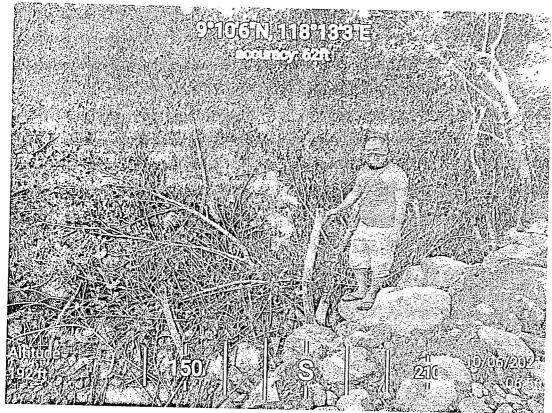
ATTY. ROBERT A. CHAN

**Executive Director** 

CC: PCSD Council members (NGO & Private Sector rep, etc.)



Untrue CENRO finding of NO cutting of mangroves in access road for seawall project in Calategas, Narra.



Att. Robert Booby, the Executive Bright Western Paymon (Bo Network Inc.

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July 13, 2021

TO: PTK TRADING AND CONSTRUCTION

Narra Avenue . 5303 Narra, Palawan – Philippines

Madam/Sir

Ang sulat na ito ay kaugnay sa inyong proyekto na CONSTRUCTION OF FLOOD MITIGATION STRUCTURE (SEAWALL) sa BRGY CALATEGAS, NARRA PALAWAN.

Kami po ay ang mga tumututol na mga residente ng Brgy Calategas, Narra, Palawan na maaapektuhan sa nasabing proyekto ay humihiling na pansamantala munang ipatigil ang pag-sasagawa ng inyong proyekto sa aming dalampasigan habang wala pa kayong kaukulang permit na nangagaling sa ibat-ibang ahensya tulad ng SEP Clearance galing sa PCSD at iba pa. Dahil ito po ay labag sa batas na nakapaloob sa Repuclic. Act 76 11 at sa aming pagkakaalam hindi lang ang SEP law ang inyong nilabag kung hindi pati narin ang Philippine Environmental Impact Statement System (PEISS) sa ilalim ng Presidential Decree No. 1586 at ang Indigenous Peoples' Rights Act or IPRA na RA 8371. Kami ay umaasa na tugunan ninyo ang aming hiling.

Lubos na gumagalang;

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## ATTY. ROBERT CHAN Executive Director, PNNI Unit 9, Sanzibar Building Rizal Avenue, Puerto Princesa City 5300 Palawan, Philippines

Dear Atty. Chan.

This pertains to your letters dated May 24, 2021 and June 16, 2021 addressed to the DENR Secretary Roy A. Cimatu, DPWH Secretary Mark Villar, and PENRO Palawan, respectively, requesting for intervention on the alleged construction of a road network that traverses through a Mangrove area purportedly for the building of a sea wall located in Barangay Calategas, Narra, Palawan, without any clearances/permits from concerned government agencies.

Be informed that the DENR-Environmental Management Bureau (EMB) had already issued a CNC-No. R4B-0321-0082 dated March 23, 2021 to the DPWH Region IV-B for the Construction of Flood Mitigation Structure (Seawall) (copy attached).

Further, the Investigation report of CENRO-Quezon revealed the following:

- 1. The construction of the access road caused only minimal damage particularly branches of trees alongside the road, while several trees alongside the road are leaning due to the filling of earth materials;
- 2. It cannot be ascertained if the several stumps along the access road were done during the construction since there were residential houses nearby, and the traces of damage caused by construction is usually broken branches and trunks;
- 3. The Investigating Team determined that no trees were cut or covered during the construction as evidenced by geotagged photographs of the area which were taken before and after the activity, and;
- 4. Most of the residents expressed favorable support on the ongoing project since it will benefit the community in the area.

We hope that we have enlightened you on this matter. Nevertheless, we are grateful for your continued and unwavering support in environmental protection and conservation.

Very truly yours.

FERRER, CESO III rional/Executive Director

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Atty, Grizelda Mavo-Anda Executive Director, FLAC claspalewas a great con-

The CENRO Quezen





Republic of the Philippines (Republic Act No. 7611)



## PALAWAN COUNCIL FOR SUSTAINABLE DEVELOPMENT STAFF

July 7, 2021

#### ATTY. GRIZELDA MAYO-ANDA

Executive Director
Environmental Legal Assistance Center, Inc.
Carlos P. Sayang Compound, Mitra Road,
Barangay. Sta. Monica, Puerto Princesa City, Palawan
elacpalawan@gmail.com

#### ATTY. REGINA BELLA DIOSO

Legal Officer Environmental Legal Assistance Center, Inc.

Dear Atty. Anda and Atty. Dioso:

Greetings from the Palawan Council for Sustainable Development Staff!

This pertains to your letter dated June 28, 2021 requesting our office, among other agencies, to undertake appropriate measures regarding the alleged illegal construction of the road and seawall project in Barangay Calategas, Municipality of Narra, Palawan.

We would like to respectfully inform you that after receiving reports and information regarding the said construction project, we instructed our staff to conduct an investigation on the matter as soon as possible. Due to the absence of PCSDS staff assigned in the Municipality of Narra, Palawan, our staff resorted to asking for the assistance of the ECAN Board of Narra in order to quickly act on the report and verify the allegations.

On May 31, 2021, the ECAN Board focal person and some employees of the local Municipal Environmental and Natural Resources Office (MENRO) conducted a field inspection in the subject area. Indeed, they have found that there was an ongoing construction of an access road towards the project site of the seawall. They have found that mangroves in the said barangay were affected by the road construction. They also took it upon themselves to strongly advise the person in charge to stop their operations and secure first the necessary documents from the concerned government agencies.

Upon receiving the report from our staff, the undersigned immediately contacted the officials of the Department of Public Works and Highways (DPWH) Regional Office IV-B to discuss the aforementioned seawall project. We demanded that they first secure the proper permits and clearances before implementing any construction project, particularly the seawall project in Calategas, Narra. As they should, they agreed to suspend their construction operations in the area while they still do not have the necessary permits from the concerned government agencies. In addition, we forwarded a copy of the inspection report of the ECAN Board focal person to the office of the DENR-CENRO Quezon, Palawan on June 11, 2021.

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

HEAD OFFICE

PCSD Building, Sports Complex Road
Santa Monica Heights, Puerto Princesa City, Palawan, Philippines

(+6348) 434-4235 Trunkline \* (+6348) 434 4234 Telefax
Email: oed@pcsd.gov.ph \* Website: www.posd.gov.ph | www.pkp.pcsd.gov.ph





## Republic of the Philippines (Republic Act No. 7611)

## PALAWAN COUNCIL FOR SUSTAINABLE DEVELOPMENT STAFF

At the present time, the DPWH Regional Office IV-B already has a pending application for an ECAN Zoning Certification (EZC) at our agency which is a prerequisite for the issuance of a Strategic Environmental Plan (SEP) Clearance. As part of our regular procedure in the processing of EZC applications, our technical staff conducted a field inspection of the project site on July 6, 2021.

Based on their report, the local government unit of Barangay Calategas has a copy of a DENR certification issued to DPWH Region IV-B for the construction of the flood mitigation structure (seawall) in Calategas, Narra, Palawan, which was certified as a Category C (Environmental Enhancement or Direct Mitigation) project and not covered by the Philippine EIS System (P.D. 1586). They also found that there is a newly opened access road connected to the barangay road and leading to the seawall project site. It is approximately 198 meters in length and 8 meters wide. Based on actual measurements conducted, 78 meters of the access road traversed into a mangrove stand. They also found an embankment laid out with rocks and boulders measuring 158 meters in length along the shoreline.

In view of the foregoing, this matter has been forwarded to our Operations Unit and Legal Services Unit. for their further study, review and recommendation. Rest assured that we will continue to effectively perform our mandate to protect the environment and our natural resources.

We hope we have enlightened you on this matter.

Thank you very much.

Very truly yours,

ATTY. TEODORO JOSES. MATTA

Executive Director

Copy furnished:

Hon. Crispin O. Lumba, Jr.

Acting Mayor, Municipality of Narra, Palawan

Ms. Ma. Lourdes G. Ferrer

Regional Executive Director, DENR MIMAROPA Region

Hon. Roy A. Cimatu Secretary, DENR

Office of the Ombudsman

Agham Road, Diliman, Quezon City

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

HEAD OFFICE: PCSD Building, Sports Complex Road Santa Monica Heights, Puerto Princesa City, Palawan, Philippines ≅ (+6348) 434-4235 Trunkline • (+6348) 434 4234 Telefax Email: oed@pcsd.gov.ph • Website: www.pcsd.gov.ph [ www.pkp.pcsd.gov.ph



Republic of the Philippines
Province of Palawan
Municipality of Narra

## MENRO | Narra



July 14, 2021

ATTY. GRIZELDA MAYO-ANDA Executive Director

ATTY. REGINA NELLA DIOSO Legal Officer

Environmental Legal Assistance Center, Inc.
Carlos P. Sayang Compound, Mitra Road
Brgy. Sta. Monica, Puerto Princesa City, Palawan
elacpalawan@gmail.com

Dear Atty. Anda and Atty. Dioso:

Environmental greetings from the Municipal Government Unit of Narra!

This is in connection to your letter dated 28 June 2021 received by this office last 06 July 2021 seeking Urgent Enforcement Actions in relation to the (allegedly) Illegal Road and Seawall Construction as well as Mangrove Destruction in Barangay Calategas.

I was informed that a joint investigation by the MENRO staffs and the PCSDS Focal Person was already conducted in compliance to the PCSDS' instruction last 31 May 2021 to quickly act on a report and verify the allegations. In addition, the PCSDS Focal Person informed the undersigned that PCSDS already submitted their response to your office for the same letter.

Nonetheless, since this letter was recently received by the newly appointed MENRO, this office immediately conducted another investigation last 13 July 2021 upon return to work of its staffs due to compliance with the Local Inter-Agency Task Force home quarantine protocols. The following are the findings of the team during the said activity:

On the issue of acquiring an Environmental Compliance Certificate (ECC), Strategic Environmental Plan (SEP) Public Consultation and other pertinent documents from the concerned agencies:

- Upon investigation, the contractor informed the team that the project proponent (Department of Public Works and Highways) was able to acquire a Certificate of Non-Coverage (CNC) for the proposed Construction of Seawall, hence, the absence of the ECC. The project falls under Category C or an Environmental Enhancement or Direct Mitigation Project;
  - DPWH claimed that the road in question leading to the project site is not part of their CNC application;
- Further, Hon. Julie A. Burlaos presented to the team a CNC for a proposed 80 meters Access Road from Purok Pinag-isa to Bayside Calategas, Narra, Palawan dated 08 July 2021. It is classified as Infrastructure Project/Roads and Bridges/Roads, New Construction/Provincial Road or Other type of Roads (declared 0.8 kilometers with no critical slope);

3. Hon. Burlaos also informed us that they, the BLGU, already have a pending application for the issuance of the SEP Clearance as advised by the PCSDS.

## On the issue of the access road that allegedly leads to the destruction of a mangrove area:

- Hon. Julie Burlaos, Barangay Chairman of Brgy. Calategas, claimed that it is him and the Barangay Council who requested from and suggested to the contractor to assist the BLGU to facilitate the construction of the access road in question going to the coastal area, which is an easier access going to the seawall project;
- 2. An all-weather (made of rocks and boulders) access road obviously traversed a mangrove area, but relying only to actual and physical checking, it is not clear if there was indeed a damage to the mangrove tree during the construction. Hon. Burlaos claimed that the curving course of the road was intentional to avoid any damage to the mangrove trees. He said that only branches were trimmed to clear the way;
- Hon. Burlaos claimed that no mangrove trees were destroyed during the construction of the road which compliments the claim of PENRO, CENRO and the CENRO-Narra;
- 4. Upon inquiry with some residents near and around the mangrove area and the alleged illegal road, no bakaw was damaged during the road construction;
- As per report of the CENRO/CENRO-Narra, no cut trees were observed but some branches of mangrove trees along the edge of the constructed road were damaged;
- 6. As per inquiry with the EMB MIMAROPA, a Notice of Violation (NOV) was issued against the Barangay LGU due to its operation at the access road site without the proper permit/clearance.

#### As for the issue of community consultation:

- According to Hon. Burlaos, an IEC and public consultation was conducted on 23 April 2021 and on 10 June 2021. He furnished the team a copy of the minutes, photos and attendance form (only for the June 10 activity) for the two separate events.
- 2. A copy of the Resolution supporting the construction of the seawall project (Resolution no. 23 s'2021) and a *Sulat ng Pagsuporta ng Barangay Council, Lahat ng Barangay Volunteer Workers, Opisyales ng Purok at Lahat ng Residente ng Barangay Calategas* together with a document signed by individuals were also furnished to the investigating team;

#### As for the concern of the Municipal LGU:

- 1. The proponent was able to secure a Certificate of No Objection (CNO) and a Zoning Certification (ZC) from the Municipal Planning and Development Office (MPDO). The CNO was issued signifying that the LGU have no objection on the proposed project since it is intended to address the ensuing problems in the location (storm surge and flooding). Likewise, it was issued with the assumption that it will be used to secure pertinent permits and clearances from other government agencies prior to its implementation;
- 2. No coordination with the Municipal Engineering was taken by the DPWH prior to the operation of the project.
- Upon inquiry to the previous Officer-in-charge of this office, no certification, permit or clearance was requested from the MENRO related to the proposed seawall project.
- 4. In addition, no ECAN Board Endorsement was requested which is required to secure the SEP Clearance from the PCSDS.

With the foregoing, the undersigned immediately reported to the Local Chief Executive, as the Local ECAN Board Chairman, and recommended the following:

- 1. That a Letter should be addressed to DENR-EMB and PCSDS to seek for their appropriate actions on the matter at hand if they indeed violated any environmental law or policies;
  - a. Since separate Certificate of Non-Coverage were issued to both Proposed Seawall Project and the Access Road, it is the EMB who have the jurisdiction to revoke it or issue the Stop Order to the projects in question.
  - b. If there is a violation with regards to the acquisition of the Strategic Environmental Plan (SEP), it is the mandate of the PCSDS to issue the NOV and/or stop order.
  - pertinent documents from the LGU will be secured as requirements for the above document
- 2. That a consultative meeting amongst DPWH, LGU-Narra, BLGU Calategas, DENR, PENRO, CENRO, CENRO-Narra, MENRO, PCSDS, PNNI and ELAC be immediately conducted to come-up with a resolution to avoid and mitigate further prejudice arising the project.

We hope that this could help enlighten you with the issue at hand.

Environmentally yours,

Noted by

HON. CRISPIN O. LUMBA, JR.

Acting Municipal Mayor

Copy furnished: Mayor's Office

Hon. Clarito D. Demaala, IV Acting Vie Mayor, Municipality of Narra, Palawan

Hon. Arnold Verano SB Committee Chairman on Environment

Ms. Ma. Lourdes G. Ferrer Regional Executive Director, DENR MIMAROPA Region

Hon. Roy A. Cimatu Secretary, DENR

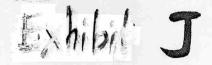
Office of the Ombudsman Agham Road, Diliman, Quezon City



## Republic of the Philippines DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS REGIONAL OFFICE IV-B EDSA, Diliman, Quezon City



August 5, 2021



Environmental Legal Assistance Center, Inc. Carlos P. Sayang Compound, Mitra Road, Brgy. Sta. Monica, Puerto Princesa City, Palawan

## Greetings:

This is in connection with your correspondence dated July 1, 2021 regarding your request to conduct an immediate investigation on the alleged violations of the project proponent on the Construction of SEAWALL in Brgy. Calategas, Narra, Palawan.

Please be informed that Revised Manual for DENR Administrative Order No. 30 series of 2003 (DAO 03-30) provides that the outcome of the Environmental Impact Assessment (EIA) Process within the system administered by the DENR is the issuance of decision documents. Decision documents may either be an ECC, CNC or a Denial Letter. A CNC was issued to the abovementioned project; thus, EIA process was faithfully complied with. The Certification (CNC-R4B-0321-0082) that was issued by the Department of Environment and Natural Resources-Environmental Management Bureau, dated March 8, 2021, certified that said project is an Environmental Enhancement or Direct Mitigation Project (Category C) and is not covered by Philippine EIS System under P.D.1586. Hence, obtaining an Environmental Compliance Certificate (ECC) is no longer necessary.

As to the issue of lack of community consultation, please note that the Office of the Punong Barangay of Barangay Calategas, Narra, Palawan has issued Resolution No. 23 series of 2021, attesting to the fact that community consultations were conducted on April 23, 2021 and June 10, 2021. Said resolution embodies the sentiments of the community of how grateful they were, and that they believe that said project could help protect their lives and livelihood. Clearly, majority of the citizens of Brgy. Calategas support the construction of the project. Also, the Municipal Planning and Development Office of Narra, Palawan has issued a Certificate of No Objection to the Calategas Sea Wall Project. Said Certification would suffice as the Office serves as the backbone of the Local Government Unit with mandates and functions that promote people participation in development planning. The issuance of such Certification enjoys the presumption of regularity which may only be overcome before the regular courts and administrative bodies having jurisdiction of the same.

As to the allegation of construction of an access road for the implementation of the Project, which transverse a mangrove swamp area, the Community Environment and Natural Resources Office (CENRO) has inspected the same and discovered that the affected area is within the alienable and disposable land classification under Project No. 10-H of Land Classification Map No. 1742 certified on March 23, 1954. Again, administrative agencies, in the exercise of their official functions, enjoys the presumption of regularity.

ENVIRONMENTAL LEGAL ASSIGNANCE CENTER INC. (ELA)

With regards to the issue of absence of Strategic Environmental Plan (SEP), please be advised that this Regional Office has already applied for the issuance of the same before the Palawan Council for Sustainable Development (PCSD) and this Office has yet to receive any response the same.

We hope that the foregoing shed light on your concerns.

Very truly yours,

ARTHUR D. PASCUAL, JR.

Officer-In-Charge

Office of the Regional Director

Cc: MARK A. VILLAR, Secretary, Department of Public Works and Highways
ROBERTO R. BERNARDO, CESO I, Undersecretary for Operations in Visayas, NCR and Region IV-B
ATTY. EDUARDO S. RAMOS JR., Undersecretary for Legal Service and Office of the Secretary

R4B.8/SCG/CSC/FLC/



# Republic of the Philippines DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS REGIONAL OFFICE IV-B EDSA, Diliman, Quezon City

August 5, 2021

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ARTHUR D. PASCUAL, JR.

Officer-In-Charge

Office of the Regional Director

Cc: MARK A. VILLAR, Secretary, Department of Public Works and Highways
ROBERTO R. BERNARDO, CESO I, Undersecretary for Operations in Visayas, NCR and Region IV-B
ATTY. EDUARDO S. RAMOS JR., Undersecretary for Legal Service and Office of the Secretary

R4B.8/SCG/CSC/FLC/



## Republic of the Philippines DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS OFFICE OF THE SECRETARY MANILA

July 13, 2021

## MEMORANDUM

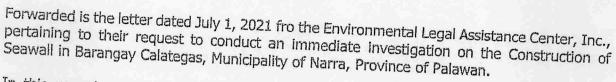
TO

: OIC-Regional Director ARTHUR D. PASCUAL, JR.

DPWH Regional Office IV-B

SUBJECT

: Construction of Seawall in Barangay Calategas, Municipality of Narra, Province of Palawan

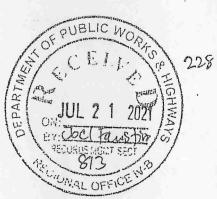


In this regard, you are directed to evaluate the request based on the existing rules and guidelines and provide your feedback directly to the concerned party, copy furnished Secretary

For your information and appropriate action.

ROBERTO R. BERNARDO, CESO I Undersecretary for Operations in Visayas, NCR, and Region IV-B

2.6 KRVA/APJ/RRB





ENVIRONMENTAL LEGAL ASSISTANCE CENTER, INC.

Carlos P. Sayang Compound, Mitra Road, Bgy. Sta. Monica, Puerto Princesa City 5300 Palawan Telefax (48) 433-5183; Email: <u>elacpalawan@gmail.com</u>

July 1, 2021

Director Yolanda L. Tangco Regional Director Department of Public Works and Highways (DPWH) MIMAROPA Region

> Re: Construction of SEAWALL in Barangay Calategas, Municipality of Narra, Province of Palawan

Dear Director Tangco:

Greetings!

We write to request your good office to conduct an immediate investigation on the above-captioned infrastructure project in Barangay Calategas, Municipality of Narra, Province of Palawan and to order its stoppage owing to the project proponent's failure to comply with the legal requirements under existing laws.

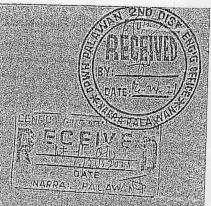
Community residents from Barangay Calategas are concerned that construction activities on the aforementioned project have continued despite the absence of an Environmental Compliance Certificate (ECC)<sup>1</sup>, Strategic Environmental Plan (SEP) Clearance<sup>2</sup>, Preliminary Detailed Engineering Activities (PDEA)<sup>3</sup>. Their key concerns are the absence of feasibility studies, environmental impact assessment (EIA), community consultations on the appropriateness and necessity of the seawall project, as well as the adverse impact of the construction on the coastal zone, mangroves and livelihood activities of the fisherfolk. (For your ready reference, we have attached the community petition and letters from civil society groups.)

Many residents find the P115 million seawall project unnecessary since the said area is not prone to flood and there has been no experience of any tsunami or storm surge owing to the presence of mangroves planted in the coastal area. There is also concern that the opening of a mangrove area as part of the road construction can lead to further destruction of the mangroves. The destruction of mangroves is clearly prohibited under the Amended Fisheries Code and other environmental laws.

<sup>&</sup>lt;sup>1</sup>This is required under Presidential Decree No. 1586 or the Philippine Environmental Impact Statement System (PEISS) because the project is an environmentally critical project and the site is an environmentally critical area. <sup>2</sup>Under the existing rules and regulations implementing the Republic Act No. 7611 or the Strategic Environmental Plan for Palawan law, an SEP clearance is required for the aforementioned project. <sup>3</sup>RA 9184 or the Government Procurement Reform Act provides for, among others, the conduct of preliminary detailed engineering activities or PDEA as part of infrastructure development projects.

Republic of the Philippines Province of Palawan Municipality of Narra

From: REOPLE OF CALATEGAS. NARRA PALSAMAN.
Collectively referred to as REO EIVED S
CONCERNED CITIZENS OF TIME: 1.21m DATE: 6/24/2.
BARANGAY CALATEGAS



WE, the undersigned Individuals, resident of Barangay Calategas, Multi-sectoral Organizations, Church People, and Business Groups, join the mounting clamor to stop the planned construction of a 593:35 Seawall Project in Bgy Calategas, Narra Palawan.

## PETITION REQUESTING TO STOP THE SEAWALL PROJECT IN CALATEGAS, NARRA, PALAWAN

- 1.) The proposed project is only 595.35 meters, the shoreline of Barangay Calategas Is more or less 1500 meters, severe coastal erosion might happen to areas which don't have access to Seawall;
- 2.) The project don't have necessary permits/certificates e.g. ECC, SEP Clearance and no proper consent from IP's prior to construction/operation;
- 3.) Violation of P.D. 705 Section 43 "Strips of mangrove forest bordering numerous islands which protect the shoreline roads, and even coastal communities from the destructive force of the sea during high winds and typhoons shall be maintained and shall not be alienated. Such strips must be kept from artificial obstruction so that flood water will flow unimpeded to the sea to avoid flooding and inundation of cultivated areas in the upstream. All mangroves swamps set aside for coast-protection purposes shall not be subject to clear cutting-operation";
- 4.) Failure of the office of CENRO/DENR on proper investigation. The result is not acceptable, since there are enough evidence, supporting violation, of Proposent;
- 5.) The transparency of the project is questionable to the public with no presentation of the Structural plan; inclusion of the land area and road construction map;

6.) No proper public hearing or consultation to the public and computity of Barangay Calategas has been conducted;

Received

tate: 6-11-2019

FOR CHATCHE

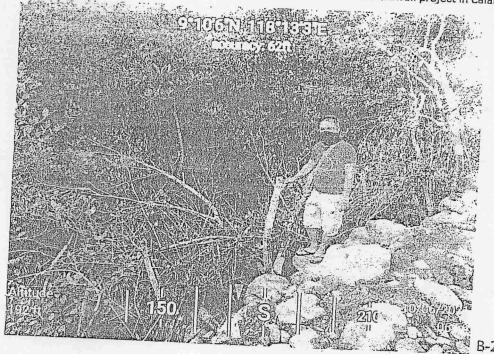
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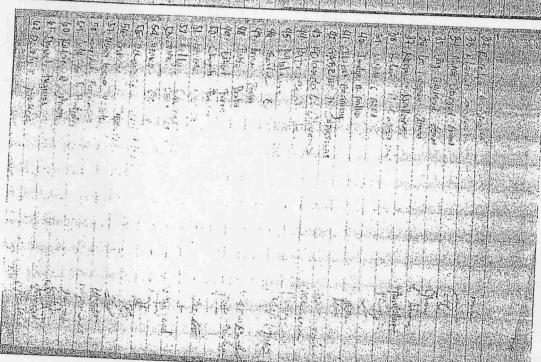
AnnexB



Untrue CENRO finding of NO cutting of mangroves in access road for seawall project in Calategas, Narra.



Annual Designation of the second of the seco



May 24, 202

ERIBERTO B. SANOS, CESE DENR-PENRO Palawan

TEODORO JOSE S. MATTA Executive Director PCSDS



PALAWAN NGO NETWORK, INC.

Our community members in Barangay Calategas, Narra have sought our help in their discovery of an unlawful construction of a road that traverses through a heavily-forested mangrove area in Purok Pinag-isa (annex A).

From our initial reports, the alleged illegal road construction is purportedly for the construction of a seawall over the area and has already dumped rocks and boulders over 50 meters of mangroves, with an estimated 150 meters more to open up and run over. This has left both us and residents in the area puzzled because mangroves are supposed to be natural break waters, nullifying the necessity for a seawall project.

The area is also part of ancestral domain of the Pala'wan tribe, who have reportedly given no free, informed, and prior consent to the said project.

The whole of Palawan is Mangrove reserve under Presidential Proclamation 2152. And any destruction of it is similarly prohibited and punishable in both the Forestry and Fishery codes, PD 705 section 69, and RA 8550 section 94, as amended, respectively.

May we inquire as to the existence of any ECC or SEP clearance issued to this project by your respective offices. And in the event of its absence, may we request for the expedient issuance of a Cease and Desist Order by your respective offices, in order to save the existing mangroves resources, if not to avert Climate Crisis, then for food security of our small fisherfolk communities.

May we request for a more resolute action on this matter.

Yours in Christ,

ATTY, ROBERT A. CHAN Executive Director

CC: PCSD Council members (NGO & Private Sector rep, etc.)



# Republic of the Philippines DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS PALAWAN 2<sup>MD</sup> DISTRICT ENGINEERING OFFICE REGIONAL OFFICE IVB Nama, Palawan

July 2, 2021

MEMORANDUM

FOR

: Arthur D. Pascual, Ir.

Officer-in-Charge

Office of the Regional Director

SUBJECT

: PETITION REQUESTING TO STOP THE CONSTRUCTION OF FLOOD

Control Mitigation Structure (Seawall), Calategas, Narra,

PALAWAN FROM THE 'CONCERNED CITIZENS' OF BARANGAY

CALATEGAS

Forwarding herewith is the copy of the above-mentioned subject together with the Project Engineer's Report pertaining to the construction of the Contract ID No. 21E00016 - Construction Of Flood Control Mitigation Structure (Seawall), Sta. 60+600.00-Sta. 60+595.35 Calabagas, Narra/Palawan.

For your information and further instruction.

NOEL LEVENTEBELLA District Engineer





304-47,794

## **Document Action Tracking System Document Routing Slip**

**Document No:** 

DENRCO - AS RMD-2022-019133

**Print Date:** 

Wednesday, August 03, 2022

Sender:

ARLEEN T. REYES / ERIKA FRANCES S. BULURAN-MONZON

Address:

OSG BUILDING, 134 AMORSOLO ST., LEGASPI VILLAGE MAKATI CITY 1229

Subject

LEGAL DTD 07/25/2022 CC ENTRY OF APPEARANCE CIVIL CASE NO. 6177 ROXANNE R. BARLAS ET AL., PETITIONER DPWH REP. BY SEC. MANUEL M. BONOAN ET AL., RESPONDENTS

Addressee(s):

LAS - Office of the Director (DENRCO - LAS OD)

DENIP ! TO AL AFFAIRS SERVICE

Please respond to the letter within the prescribed period.

CC Addressee(s):

Date/Time Received:

08/03/2022 11:52:00 AM

DATE 8-3-2022 4:15 P

Instruction/s:

1 Others: .

] For review/evaluation. Pinformation/reference/file.

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ROUTING AND ACTION INFORMATION						
FROM	DATE/TIME RECEIVED	FOR/TO	DATE/TIME RELEASED	ACCEPTANCE REMARKS/ACTION REQUIRED/TAKEN REMARKS/STATUS		
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