



MEMORANDUM

FOR : ATTY. JONAS R. LEONES, CESO I
Undersecretary for Policy, Planning and International Affairs

FROM : THE REGIONAL EXECUTIVE DIRECTOR

SUBJECT : REPORT ON THE TEN KNOTS PHILIPPINES INC. (TKPI) FOREST LANDUSE AGREEMENT FOR TOURISM PURPOSES (FLAgT No. DENR-IV-MIMAROPA-12302030-0010) LOCATED IN CADLAO ISLAND, BARANGAY BUENA SUERTE, EL NIDO, PALAWAN

DATE : 28 November 2022

In compliance to your Memorandum dated 24 November 2022 and received on 25 November 2022, please find hereunder the Completed Staff Work (CSW) including the land survey map, actions taken and way forward measures.

A. BACKGROUND

On 06 November 1998, the Special Use Permit (SUP) No. DENR-IV-PENRO-110699-0006 for Bathing Establishment signed by then PENRO Palawan Danilo R. Querijero was awarded to Ten Knots Development Corporation (Ten Knots Philippines, Inc.) covering 5.0 hectares located in Cadlao Island, Brgy. Buena Suerte, El Nido, Palawan. The SUP expired on 06 November 1999.

On 27 December 2005, the SUP area was applied for Forest Land Use Agreement for Tourism Purposes (FLAgT) particularly for Bathing Establishment with No. DENR IV-MIMAROPA-12302030-0010 located in Cadlao Island, Barangay Buena Suerte, El Nido, Palawan by TKPI. The FLAgT was approved by then OIC, Assistant Secretary for Field Operations and Concurrent Regional Executive Director of DENR IV – MIMAROPA Region Vicente S. Paragas, CESO III (**ANNEX 1**) and the same will expire on 30 December 2030. The FLAgT area was reduced to 3.206 hectares. As stated in the FLAgT, the corresponding Annual Government Share (AGS) amounts to PhP 48,090.00.

B. ISSUES AND CONCERNS AND ACTIONS TAKEN

| ISSUES AND CONCERNS | ACTIONS TAKEN |
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| <p>1. Erroneous Projection of FLAgT Area</p> <p>On 05 October 2016, the then PENRO of Palawan Juan C. Dela Cruz, submitted a Memorandum regarding the Ocular Inspection and Verification of Lot 285, CAD 1037-D (portion) in which it was found that the coordinates of the area when plotted fall largely on offshore of Bacuit Bay (ANNEX 2).</p> <p>Then PENRO Juan C. Dela Cruz recommended to amend the erroneous polygon of the said FLAgT and adopt the polygon of the actual occupied area of TKPI which was known to the TKPI as its FLAgT area since 2005.</p> | <p>After evaluation of the PENRO's recommendation, the Surveys and Mapping Division (SMD) of the Regional Office denied the proposed rectification or amendment of the FLAgT polygon since the same overlaps with A&D/Agricultural Land under Blk VI per LC Map 1187, Project 5-A, Block VI, certified on September 7, 1935</p> |
| <p>2. FLAgT Area Covers A&D and Titled Area within a Forestland</p> <p>The actual/claimed FLAgT area covers 25,543.90 square meters. However, when the coordinates were plotted on the LC Map, the area overlaps with A & D land covering 9,302.37 square meters and a titled forestland covering 8,692.79 square meters. As such, only 6,729.23 sq. m. remain as the actual FLAgT area of TKPI (ANNEX 3).</p> | <p>On 10 April 2017, TKPI was required to submit an explanation on why the FLAgT should not be cancelled per letter signed by then RD Natividad T. Bernardino (ANNEX 4).</p> <p>On 05 May 2017, the same was disputed by TKPI as they alleged that their occupation in the area was open, exclusive, continuous, uninterrupted and the said area was fenced and secured by guards (ANNEX 5).</p> |
| <p>3. Issuance of Titles Over a FLAgT Area</p> <p>The FLAgT was approved on 27 December 2005. Based on records at hand, the A & D land which overlaps with the FLAgT were issued with Free Patents on 23 April 2015 (ANNEX 6), ten (10) years after the issuance of the FLAgT.</p> | <p>During the virtual meeting on 13 January 2022, it was agreed by representatives from TKPI, former Regional Executive Director Maria Lourdes G. Ferrer, CESO III, Assistant Regional Director for Technical Services (ARDTs) Vicente B. Tuddao, Jr., Ph.D., CESO IV, Engr. Allan Valle, CENRO of Taytay, and members of DENR MIMAROPA Regional FLAgT Committee – composite team that an investigation will be undertaken wherein</p> |

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| | <p>a Regional and Field Office Composite Team with the Legal Division will be created. On 02 March 2022, the team conducted the investigation on the deemed FLAgT area of TKPI.</p> <p>On 08 September 2022, an Order of Investigation (ANNEX 7) was issued to PENRO Palawan directing to assign a Land Investigation Officer (LIO) to act on the matter in accordance with Sections 33 and 34 of DAO 2016-31 and submit the corresponding investigation report, secure certified copies of the Original Certificate of Title and derivative title/s of Lot Nos. 9, 10, and 11, Sgs-4b-00172-D identical to Lot Nos. 12184, 12185 and 12186, Cad 1037-D.</p> <p>On 24 November 2022, the undersigned instructed the CENR Officer of Taytay, Palawan thru a Memorandum (ANNEX 8) to submit updated certification on the land classification status of Lot 9, Sga-4b-000172-D identical to Lot 12184, Cad.841-D covering a total area of 37,791 square meters and certified true copies of the public land application and its attachments covering Lot No. 12184, Cad.841-D.</p> |
| 4. Payment of Annual Government Share (AGS) by TKPI for the deemed FLAgT area including titled areas within A&D and forestland | <p>Based on old zonal valuation at Php 140.00 per square meter, the AGS amounting to PHP 48,090 being paid by TKPI since 2005 covers only 6,729.23 sq. m. which is the actual occupied area of TKPI within untitled timberland. The notion that TKPI was paying for the titled areas owned by other entities within A & D and forest land is wrong. In fact, if the new zonal value be applied which is Php 17,500 per sq.m. on the actual occupied area of TKPI within untitled timberland effective year 2017, TKPI still need to pay additional AGS.</p> |
| <p>5.Heated situation in the FLAgT/contested area</p> <p>As reported by Mr. Javier D. Hernandez, President and CEO of Ten Knots Development Corporation, 6 security personnel of TKPI were overthrown from</p> | <p>Earlier, on 16 November 2022 and in response to a text message of Ms. Mariglo Laririt, Focal Person of TKPI in Palawan, the undersigned advised her to report the matter to the barangay and to the nearest Police Station as the heated</p> |

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| the FLAgT area by 10 armed men in guard uniforms and 10 others in civilian clothes. Said armed men dismantled their guard post and threw out their guard's belongings. In addition, he wrote that their assets were physically demolished by the Gomez/Lhuiller Group and fenced the area within their occupied/deemed FLAgT. | situation is a police matter and that the CENRO and this Office would be furnished copy of the Police Blotter. As agreed during the meeting with the Undersecretaries, the undersigned coordinated with Hon. Edna Lim, Mayor of El Nido, Palawan and requested for the LGU to initiate a meeting between TKPI and Gomez/Lhuiller Group tentatively scheduled within next week. |
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C. DECISION POINTS AND WAYS FORWARD

1. The cancellation of FLAgT area of TKPI covering 3.206 hectares is necessary since the technical description of the same is erroneous. Further, based on available records, the awarding of the FLAgT on 27 December 2005 to TKPI was not in accordance with DENR Administrative Order No. 2004-28, *"Rules and Regulations Governing The Use of Forestlands for Tourism Purposes"* signed by then Secretary Elisea G. Gozun and took effect on September 27, 2004. It did not go through the prescribed competitive bidding mode of awarding FLAgT. Pursuant to Section 9.2, Chapter III, the supposedly formed composite team from the Regional Office, PENRO, CENRO, LGU/s concerned and the Regional Office of the Department of Tourism should have determined the metes and bounds of the FLAgT area, defined by the technical description and final map at a scale of 1:20,000 and geo-referenced to the Philippine Reference System (PRS) 92. It was only after ten (10) years or in 2015 that the technical description was plotted and in 2016, reported for rectification of the FLAgT's polygon.

2. Out of 3.206 hectares deemed FLAgT area by TKPI, only 0.67 hectare (**6,729.23 sq. m.**) which is the actual occupied area of TKPI within untitled timberland is suited for the issuance of tenurial instrument in the form of Special Use Agreement in Protected Areas (SAPA) since the area is within El Nido-Taytay Managed Resource Protected Area (ENTMRPA), which has been declared as a protected area by Presidential Proclamation No. 32 dated 08 October 1998.

3. As pointed out above, the TKPI did not incur any loss for its payment of PHP 47,104.61 AGS.

4. Investigation on illegal titling of forestland issued to the following is ongoing for filing of reversion cases:

Noel Tampe for its lot covering **23,454** square meters of forestland
Lot 260 allegedly owned by TKPI covering **27,531** square meters of forestland

5. The Management Service - Legal Division of this Office was tasked to investigate on the apparent issuance of titles in 2015 by then PENRO Juan C. dela Cruz of Palawan when the same area was already issued with FLAgT in 2005.
6. The undersigned takes this opportunity to report that in MIMAROPA Region, there are thirty two (32) FLAgT areas and twenty five (25) of these are in Palawan. Allegedly, most of these when plotted on LC Map fall on waterbodies/offshore. As such, five (5) composite teams will be formed from the Surveys and Mapping Division, Geodetic Engineers from PENROs and CENROs and other technical staff from PCSDS including NAMRIA to conduct investigation of FLAgT areas using RTK and drone units in Palawan starting January next year.
5. Further, it is urgently requested that the NAMRIA will spearhead in correcting the errors on LC Maps with the use of latest technology and approach on survey, mapping and monitoring of tenurial Instruments.

FLAgT is only one of the types of many tenurial instruments on forestlands and foreshore areas. As the agency mainly responsible for the conservation, management, development and proper use of the country's environment and natural resources, the Department should now make use of new technologies to address the overlaps, duplication, discrepancies and conflict areas within tenurial instruments. Capacitation of our personnel on the use of new survey equipment and applications is also needed to strengthen tenurial instrument monitoring, assessment and reporting.

Furthermore, this is to inform you that TKPI has four (4) approved FLAgTs in Pangulasian, Lagen, Miniloc and Cadlao Islands and thirteen (13) pending SAPA applications for bathing establishment/resort covering a total area of approximately 19.87 hectares and 63.534088 hectares, respectively. Several communications since April 28, 2020 have been served for their compliance to the submission of requirements for the applied tenurial instruments. Three (3) applied areas have been issued with Notice of Violation and Order to Vacate pursuant to Section 20 (o) (v) of RA 11038 and PD 1067. To date, complete requirements for TKPI SAPA application are not yet submitted to El Nido-Taytay Managed Resource Protected Area (ENTMRPA) Protected Area Management Office (PAMO).

Please find the attached Chronology of Events, the survey map and annexes and pertinent documents for your information, reference and further instruction, if any.



LORMELYN E. CLAUDIO, CESO IV



CC: ATTY. JUAN MIGUEL T. CUNA, CESO I
Undersecretary for Field Operations – Luzon, Visayas
and Environment

ENGR. GILBERT U. GONZALES, CESO III
OIC-Assistant Secretary for Field Operations – Luzon and Visayas