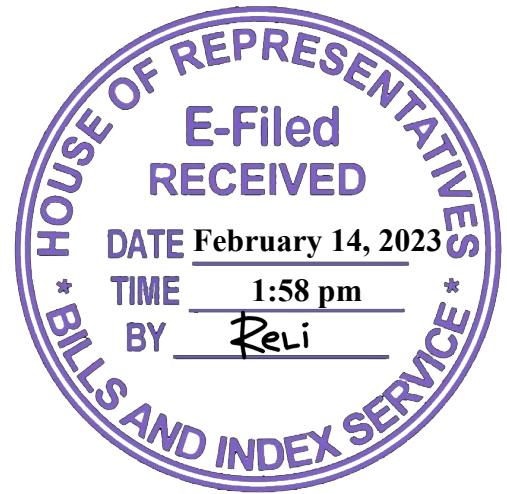


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

NINETEENTH CONGRESS
First Regular Session

House Resolution No. 778



Introduced by Representative Richard I. Gomez

A RESOLUTION URGING THE HOUSE COMMITTEE ON NATURAL RESOURCES TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, INTO THE GAPS AND INCONSISTENCIES OF LAND USE AND ENVIRONMENTAL MANAGEMENT LAWS AND SUBSEQUENT MISUSE AND ABUSE, LEADING TO GROSS SOIL, WATER AND AIR POLLUTION IN FORESTLANDS, WATERSHED AND BUFFER ZONES IN THE MUNICIPALITY OF PALOMPON, PROVINCE OF LEYTE

WHEREAS, on January 29, 1988, President Corazon C. Aquino signed Proclamation No. 212, Establishing as Palompon Watershed Forest Reserve (PWFR) a Parcel of Land of the Public Domain Situated in the Municipalities of Palompon and Villaba, Province of Leyte, Philippines,” which identified an area of 2,392 hectares, more or less, as a watershed forest reservation, to be administered and managed by the Department of Environment and Natural Resources, through the Forest Management Bureau, with the objective of maintaining its usefulness as a source of water for domestic use, agriculture and other forestry purposes;

WHEREAS, out of the total 2,392 hectares declared as PWFR, more or less 80% of the area is classified as Alienable and Disposable, and the balance is classified as Forestland and the PWFR provides the water needs of the Water Administration Services of Hinablayan, a public utility of Palompon that supplies the potable water of residents in more than 30 barangays, domestic water needs of the lowlands areas and other agricultural farms including that of the Mataka Irrigators Association and Agbanga Irrigators Association members and other farmers, for most of the major rivers and 43 natural springs in Palompon are within the PWFR;

WHEREAS, by virtue of Proclamation No 212, the land area identified as PWFR, is automatically considered an initial component of the National Integrated Protected Areas System (NIPAS), pursuant to R.A. 7586, as amended by R.A. 11038, which after specified studies and actions by the Department of Environment and Natural Resources may qualify for declaration as a protected area through an act of Congress;

WHEREAS, the land area identified as PWFR is not wholly public domain, and some portions were issued land titles, whether transfer certificate of title (TCT) or certificate of land ownership (CLOA) and tax declarations as well, as reflected in the cadastral map;

WHEREAS, Sections 16 and 37 of PD 705 provide that “forest lands where headwaters emanate” are areas needed for forest purposes and that “all measures shall be taken to protect the forest resources from destruction, impairment, and depletion and to sustain their capacity to serve as sources of water and maintain their natural functions;

WHEREAS, Section 6 of Commonwealth Act No. 141 of 1936, states that, “The President, upon the recommendation of the Secretary of Agriculture and Commerce, shall from time to time classify the lands of the public domain into — (a) Alienable or disposable; (b) Timber, and (c) Mineral lands, and may at any time and in a like manner transfer such lands from one class to another, for the purposes of their administration and disposition;”

WHEREAS, in May 2018, certain portions of the same land area identified as PWFR, including forest lands of the public domain located in Barangays San Joaquin and Cambacbac, their surrounding buffer zone areas, and lands distributed to agrarian reform beneficiaries pursuant to Republic Act No. 6657, were re-zoned as “agro-industrial”, though the color code consistently indicated it as “industrial,” as provided for in the comprehensive land use plan (CLUP) and its implementing instrument, the zoning ordinance (ZO) of the Municipality of Palompon covering the period 2018-2027;

WHEREAS, the preceding action violated the following laws and regulations:

- (a) Section 6 of Commonwealth Act No. 141 of 1936,
- (b) Sections 69, 71, 74, and 75 of Presidential Decree No 705 or the Revised Forestry Code of the Philippines,
- (c) Section 20 of Republic Act No 7586 as amended by Republic Act No 11038
- (d) Section 20, (a) and (c) of Republic Act No. 7160 or the Local Government Code of 1991,
- (e) DENR-DILG Joint Memorandum Circular 98-01, DENR-DILG Joint Memorandum Circular 2003-01,
- (f) DAO 2019-05, DENR Administrative Order No. 2013-21, DAO 2004-28,
- (g) Land re-classification and re-zoning of the protected area and forestlands without the duly legitimized and approved Forest Land Use Plan (FLUP) pursuant to Section 2.6.6 Executive Order No. 318 s., 2004 “Promoting Sustainable Forest Management in the Philippines,”
- (h) Section 27 (a) of Republic Act 9275, or the Clean Water Act,
- (i) Republic Act 8749, or the Clean Air Act,
- (j) Republic Act 9003, or the Ecological Solid Waste Management Act;

WHEREAS, in the same CLUP, the PWFR was not presented explicitly in any map, but the incorrectly-plotted shape and coverage as shown in the “Surface Drainage Map

(2017),” purportedly using data from the DENR and National Mapping and Resource Information Authority (NAMRIA) was instead made available to falsely illustrate the location and extent of the watershed forest reserve of Palompon, conveniently omitting the Barangays in the adjacent town of Matag-ob and Villaba, and the upland barangays of Mabini, Santiago, San Joaquin and Cambacbac;

WHEREAS, on August 29, 2018, the Office of the Municipal Planning and Development Coordinator of Palompon, issued a Locational Clearance to Lourdes A. Oñate, spouse of incumbent Mayor Ramon Oñate, and both owners of DBSN Farms Agriventures Corporation, for the construction of a large-scale 98,000-breeder hen farm on Lot No. 5143, in Barangay San Joaquin, a parcel of land located immediately adjacent to the PWFR and inside the newly reclassified “agro-industrial / industrial” zone;

WHEREAS, on October 17, 2018, Lot No. 5143, a parcel of land with an area of approximately 19.69 hectares, with a Certificate of Land Ownership under R.A. No. 6657, was acquired by DBSN Farms Agriventures Corporation, or DBSN Farms, through the issuance of Transfer Certificate of Title No. 115-2018002932;

WHEREAS, on July 19, 2018, just about two months after CLUP and ZO of Palompon were approved, the DENR Region VIII issued an Environmental Compliance Certificate (ECC) (ECC-OL-R08-2018-0098) to Ms. Lourdes A. Oñate of DBSN Farms;

WHEREAS, in 2020, some concerned residents of Albura and Palompon, and later on joined by more than a hundred local residents of Barangay San Joaquin, filed a formal complaint against DBSN Farms, a sub-contractor of San Miguel Corporation, through ENVI Case No. R-PAL-20-0001-ENVI in Regional Trial Court No. 17, for illegally and indiscriminately dumping chicken sludge, infectious wastes, and sewage wastes allegedly from the dressing plant of DBSN Farms, located in Antipolo, Albura and unlawfully transported to and buried in San Joaquin, particularly in the land adjacent to the breeding farm, that is, Lot No. 5150, classified as forestland area and located within the PWFR;

WHEREAS, the DBSN Farms-owned dressing plant started its operations sometime in 2015, and local residents of Antipolo, Albura complained against the pollutive practices of the corporation, with several letters sent to and have been received by the Environmental Management Bureau (EMB) Regional Office VIII alleging that the dressing plant of DBSN Farms has been dumping wastes into their drainage canal, that offensive odor is emitted and the wastewater was discharged to the nearby river and into the sea waters;

WHEREAS, the DENR EMB VIII issued three (3) Notices of Violations (NOV) against DBSN, dated May 15, 2017, July 2, 2018, and July 14, 2020, respectively, for failing to comply with DENR standards pursuant to RA 9275 and RA 8749;

WHEREAS, on August 30, 2022, DBSN Farms was issued two (2) NOV's, by DENR VIII, containing a total of seven (7) violations including non-submission of compliance-monitoring reports for three (3) semesters, (b) failure to secure DENR I.D. as Hazardous Waste Generator and Wastewater Discharge Permit, among others;

WHEREAS, in January 2023, DENR VIII, issued a decision pertaining to the said seven (7) violations of DBSN Farms, which despite findings of hazardous waste and wastewater discharge within the PWFR and along its buffer zone, the report simply reiterated the violations and imposed a fine of eighty-five thousand pesos (**PHP 85,000.00**) for all seven violations;

WHEREAS, also on August 30, 2022, DBSN Farms was issued another notice of violation by the DENR Pollution Adjudication Board (PAB) pertaining to the operation of its facility without the required discharge permit resulting in water pollution since April 8, 2022;

WHEREAS, also in January 2023, DENR PAB issued a ruling that DBSN Farms indeed violated Section 27 (c) of Republic Act 9275 or “Philippine Clean Water Act of 2004,” and in fact, cited the penalty for such violation as “not less than Ten Thousand Pesos (Php 10,000.00) but not more than Two Hundred Thousand Pesos (Php 200,000.00) per day of violation, as stated in Section 28 of R.A. 9275;

WHEREAS, despite the gross finding in the same report, DENR PAB Order significantly departed from the administrative fines and penalties for polluters provided in Section 28 of R.A. 9275, and imposed an incongruously low fine of twenty-three thousand five hundred seventy-nine pesos and forty-eight centavos (**PHP 23,579.48**), which is the adjusted amount charged “to pay a discharge permit annually,” for every year of violation, which brought the effective and measly fine of roughly ninety pesos (**PHP 90.00**) per day of violation;

WHEREAS, on January 17, 2023, the National Bureau of Investigation (NBI) Environmental Crime Division and the DENR VIII Enforcement Division conducted an investigation of the operation of Zachary Farm, a poultry farm located in Lot No. 6580 in Barangay Lat-osan, Palompon, Province of Leyte, which was issued with Tax Declaration No. 08-31026-00161 R13 and was granted an agricultural free patent on September 14, 2005, by the Provincial Environment and Natural Resources Office (PENRO) Leyte and, barely four (4) days thereafter, was registered, approved and issued with Original Certificate of Title No. P-50882 on September 19, 2005, in the name of spouses incumbent Mayor Ramon Oñate and Lourdes A. Oñate, resulting in the arrest of seven (7) individuals for illegal occupation inside Palompon Forestland;

WHEREAS, Lot No. 6580, with an area of 3.451 hectares, is located inside the Palompon Forestlands, as shown in the Land Classification Map 647, part of public domain, and hence, the issuance of Original Certificate of Title (OCT) is illegal, void *ab initio*, and consequently, the construction of structures, occupation, and operation of a poultry farm are all likewise illegal, pursuant to Section 69 of P.D. 705, the Forestry Reform Code of the Philippines;

WHEREAS, Section 69 of P.D. 705 further states that, “ xxx In case the offender is a government official or employee, he shall, in addition to the above penalties, be deemed

automatically dismissed from office and permanently disqualified from holding any elective or appointive position;”

WHEREAS, the OCT for Lot No. 6580 bears a series of entries in the “Memorandum of Encumbrances” portion, noting an increasing trend of mortgage loan amounts from the Land Bank of the Philippines, as follows:

- (a) PHP 5,500,000.00 (2006), increased to
- (b) PHP 6,000,000.00 (2008), increased to
- (c) PHP 6,900,000.00 (2011) increased to
- (d) PHP 11,000,000.00 (2013) increased to
- (e) PHP 15,000,000.00 (May 2014) increased to
- (f) PHP 28,000,000.00 (June 2014), and finally increased to
- (g) PHP 50,000,000.00 (April 2019);

WHEREAS, Zachary Farm, a contract poultry grower of San Miguel Corporation, was issued an Environmental Compliance Certificate No. 08-010725-0155 on August 16, 2001 with a capacity of 20,000 chicken heads, which was amended to 50,000 heads in July 2005, further amended in March 2014 to 90,000 heads, and finally amended to transfer name from Lourdes A. Oñate to her own sibling, Zacarias A. Astillero Jr.;

WHEREAS, on January 18, 2023, DENR VIII certified that no Forest Landuse Agreement (FLaG) nor a Special Land Use Permit (SLUP) or any form of tenurial instruments was issued to Zachary Farm, located in Barangay Lat-osan, Palompon, Leyte;

WHEREAS, in the DENR EMB VIII Validation/Inspection Report dated January 23, 2023, indicated the following in its remarks, as follows:

“IV. Remarks

33. Upon perusal of the available Office records, the project had not applied for a wastewater discharge permit for its project operation but applied for a Permit to Operate Air Pollution Source and Control Installation on 06 September 2021, however the application was reverted to the project proponent for further action but was not complied with hence, the non-issuance of the valid permit to operate.

34. The poultry project has failed to register online for a DENR ID as a Hazardous Waste Generator for its used engine oil, oil-contaminated materials, busted bulbs, used batteries, containers previously containing toxic chemical substances, and waste electrical and electronic equipment (WEEE), which is a patent violation of RA 6969's Implementing Rules and Regulations.

35. The project personnel have yet to provide proof of compliance with ECC pre-operation condition no. 1. In relation to pre-operation condition number 2, a zoning map was presented in support of classification that the project site is an Agro-Industrial Area, proof of ownership in the form of an Original Certificate of Title issued by the Land Registration Authority on September 14, 2005 was likewise presented. xxx;”

WHEREAS, instead of issuing a cease-and-desist order (CDO), despite the gravity and glaring environmental violations committed by the farm operator, the same DENR EMB VIII Validation/Inspection Report, resorted to mere issuances of nine (9) notices of violation (NOV) indicated in its recommendations, with the following highlights:

- (a) Issuance of NOV for discharging water pollutants without the required wastewater discharge permit since July 2005,
- (b) Issuance of NOV for discharging untreated or partially treated wastewater into the nearby water bodies,
- (c) Issuance of NOV for the installation of a wastewater treatment facility without the required permit to operate the same;

WHEREAS, Section 8 of PAB Resolution No. 04, Series of 2021 states that “Where there is prima facie evidence that the emission or discharge of pollutants constitutes an immediate threat to life, public health, safety or welfare, or to animal or plant life, or greatly exceeds the allowable DENR Standards ... the Regional Director may immediately issue an Interim CDO pursuant to the provisions of the applicable law, which shall be effective for a period not longer than seven (7) days. The Interim CDO shall in all respect be considered as a regular CDO if it is subsequently confirmed by the Board or the Secretary, as the case may be...and pursuant to RA 9275 the PAB may, among others, recommend to the Secretary or its duly authorized representative the issuance of CDO for acts of omission prohibited under Section 27, or even the closure or cessation of operations...or filing of criminal charges for violations of acts prohibited by Section 28...or, revoke or suspend a discharge permit, or determine liability for clean up;”

NOW THEREFORE BE IT RESOLVED, by the House of Representatives through the Committee on Natural Resources to conduct an inquiry, in aid of legislation, into the gaps, and inconsistencies of land use and environmental management laws and subsequent misuse and abuse, leading to gross soil, water, and air pollution and causing grave environmental damage in the forestland, watershed, and buffer zones in the Municipality of Palompon and certain areas in the Municipality of Albura, Province of Leyte, thus impairing the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature as enshrined in Article II of the Philippines Constitution.

Adopted,


RICHARD I. GOMEZ, DPA