



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

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MEMORANDUM

FOR : **The OIC-Director**
Forest Management Bureau, in concurrent capacity

The OIC-Director
Biodiversity Management Bureau, in concurrent capacity

The OIC-Director
Mines and Geosciences Bureau

The Regional Executive Directors
DENR CAR, 1, 2, 4A-CALABARZON, 4B-MIMAROPA, 10, 11, 12,
and 13-CARAGA

FROM : The Director

SUBJECT : **MINUTES OF THE 3RD DENR-NCIP SUB-GROUP TECHNICAL
WORKING GROUP MEETING HELD LAST APRIL 26, 2023**

DATE : 26 MAY 2023

We are furnishing you a copy of the 3rd DENR NCIP meeting held last April 26, 2023 via in-person and virtual meeting. The following are the major agreements during the said meeting:

- LMB to revise the guidelines according to the agreements of the body. The revised guidelines shall be circulated to the participants for their comments in writing. If there are any minor comments/inputs that would need another discussion, an online meeting can be arranged. If there are major comments from the participants, these can be addressed by elevating it to the mother TWG.
- LMB Director to issue a letter to the LRA Administrator regarding the proposed segregation of titled lands and facilitative registration of CADT/CALTs. The LRA-Legal Division shall also be copy furnished in reference to the 3rd DENR-NCIP Sub-group TWG Meeting.

In line with the above-mentioned agreements, we are kindly requesting for your comments on the draft DENR-NCIP guidelines, if any. You may send your comments/inputs to the undersigned until **June 6, 2023**. Advance copies of your comments may also be sent to lppdpolicy@gmail.com, for consolidation. Attached is the latest copy of the draft guidelines for your reference.

For your information and consideration.

05/22/2023
PDS-LVG/aml-1


ATTY. EMELYNE V. TALABIS, CESO IV



**MINUTES OF THE 3rd SUB-GROUP MEETING ON TITLING OF LANDS AND
SECTION 56 OF VESTED RIGHTS
Brentwood Suites, Quezon Ave., Quezon City and Zoom
April 26, 2023 / 9:00 AM to 1:00 PM**

I. ATTENDEES

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| 1. Atty. Emelyne V. Talabis, LMB-Director | 15. Engr. John Jason Tumbaga, NCIP-ADO |
| 2. Engr. Romeo P. Verzosa, LMB-Assistant Director | 16. Atty. Danilo Uykieng, MGB-OIC Director |
| 3. Engr. Henry P. Pacis, LMB-LPPD | 17. Engr. Reynaldo Anfone, DAR-Internal Audit Division |
| 4. Mr. Alex C. Pascua, LMB-LMD | 18. Mila J. Garcia, DENR-CARAGA |
| 5. Atty. Elizabeth Pimentel, LMB-Legal | 19. Erma L. Dumalag, DENR-MIMAROPA |
| 6. Engr. Jesse Junco, LMB-GSD | 20. Crystelle Liberato, DENR-MIMAROPA |
| 7. Ms. Lovella Luzette V. Galindon, LMB-LPPD | 21. Engr. Anita L. Iringan, DENR-MIMAROPA (LPDD) |
| 8. Engr. Jewel Lyne M. Templonuevo, LMB-LPPD | 22. Karen Marie Castillejo, DENR Region 2 (LPDD) |
| 9. Ms. Angeline Marie B. Samillano, LMB-LPPD | 23. Ma. Rowena M. Caccam, DENR-CAR (LPDD) |
| 10. Ms. Nicole T. Ortega, LMB-LPPD | 24. Maribel Alicer, DENR Region 11 |
| 11. Ms. Alexandra M. Llabore, LMB-LPPD | 25. Benjamin A. Ventura, DENR-CAR |
| 12. Atty. Salvalente Thaddeus Elizalde, LRA-Legal | 26. Crizaldy Barcelo, DENR Region 1 |
| 13. Ms. Diana Rose Ilagan, LRA-Legal | 27. Rainier F. Laita, DENR-CAR (Legal) |
| 14. Engr. Shelley S. Calata, NCIP-ADO | 28. Atty. Ban Pacuribot, DENR Region 10 |

I. AGENDA

1. Finalization of the draft DENR-NCIP Guidelines on Titling of Lands and Section 56 of IPRA Law

II. DISCUSSION

The Chairperson of the Sub-group of Titling of Lands and Section 56 of IPRA Law opened the discussion by informing the body that an initial progress report has been submitted to the mother TWG chaired by Usec. Fragada. This has been rushed since this TWG was created last 2022. No format of the guidelines has been agreed upon yet. If there are provisions that cannot be resolved, those are going to be elevated to the mother TWG.

Section/Provision	Discussion	Agreement
<p>B. For Areas with Issued CALTs/CADTs but not yet Registered</p> <p>B.3. Upon consultation with the concerned NCIP accredited/registered IPs, all A&D lands shall be segregated from the CADT/CALT and shall be correspondingly amended to facilitate the registration thereof. The segregation survey shall be approved by the DENR. The claim of the IPs within A&D lands shall be applied under CA 141, as amended, and other applicable laws, rules and regulations. (Proposal: DENR to shoulder the survey cost)</p>	<ul style="list-style-type: none"> • Atty. Talabis shared that the segregation of A&D lands from the CADT/CALTs was suggested to be included in the proposed guidelines in order for the registration of the former to proceed. According to Dir. Ortega of NCIP, this idea is practical but he also reiterated that the IPs have the right to self-delineate. Given that there are many complications in the titling of lands within CADT/CALT areas, the option for culling out the A&D land within the CADT/CALTs is going to solve those problems as long as the segregation is going to be explained properly to the IPs. For those A&D Lands segregated from the CADT/CALT areas, the option for IPs/ICCs to apply for a title under CA 141 as provided in Section 12 of RA 8371. However, the said provision has already expired since it can only be exercised twenty (20) years from the approval of the IPRA Law. Engr. Pacis added that this provision can still be revived, so that IPs/ICCs can still have their land, even if classified as A&D, titled under their name. Engr. Pacis said that for the consultation with concerned IPs, a good communication plan/rapport shall be built, but the agreement of IPs is still not guaranteed. • Atty. Pacuribot asked why the discussion still revolves on the culling out of A&D block from the ADs/ALs, when NCIP has already stated the same in their Administrative Order No. 1 s. 2020. However, Atty. Talabis answered that scenario B are those CADTs/CALTs that are still pending at the LRA due to the non-issuance of CNO on the part of DENR. Section 59 was not implemented religiously, which resulted in DENR's non-issuance of CNO. Both DENR and NCIP had issues in the issuance of CNO and implementation of Sec. 59 of AO No. 1 s. 2020 respectively, and as a consequence, the IPs shouldered the 	

	<p>burden of not being able to register the CADTs/CALTs.</p> <ul style="list-style-type: none"> • Engr. Calata of NCIP shared their discussion with Dir. Ortega regarding the segregation of A&D blocks, wherein they also think it is a practical idea for both DENR and NCIP. However, they are emphasizing the importance of the IP Communities on the said segregation since NCIP doesn't have the authority to decide on their behalf. She suggested that for B.3., consultation with IPs on the segregation of A&D block from their claims. If the IPs agrees on this, options on how they can register the segregated A&D block shall be presented to them as well (application through other modes i.e. CA 141) • Atty. Talabis suggested adding another sentence on this provision, stating that the option of segregating the A&D block to the CADT/CALT shall be presented to the IPs for their consent. However, she asked if the consultation with IPs is going to be done per CADT/CALT claim or should they make a general mechanism for this consultation. • Engr. Calata said that as raised by Dir. Ortega during the previous meetings, there are two scenarios after consulting with the concerned IPs: (1) IPs agree to segregate the A&D block and inform them that they can apply for patent through CA 141 and (2) IPs object with the segregation and other options can be presented to them in order for their CADT/CALT be processed and registered. • Atty. Talabis suggested having Region 11 present their best practices specifically on how they were able to communicate the available options with IPs. Those best practices can also be adopted by other regions. • Atty. Pacuribot suggested that it may be better to specify this section for untitled A&D lands only, since those titled A&D lands should be respected. Engr. Pacis explained that the mentioned consultation will only be for IPs, to explain the situation and offer them options so their CADT/CALT registration will be streamlined; for forestlands to be registered to IPs, and the identified A&D block can also be claimed by the IPs through CA 141. However, as mentioned by Engr. Calata, if IPs have doubts on the titled A&D lands, there will be a different mechanism for that scenario. On the other hand, Atty. Pacuribot shared that 	
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they have received an informal request for confirmation of delineation survey where even titled lands were included in the said survey. He added that title holders may file a complaint against DENR on being a part of the delineation process when in fact there is already a title issued to the clients. He emphasized that the non-IPs should also be given due process in their claim. In this scenario, LRA comes into the picture where they protect the integrity of the Torrens System. Once a Torrens Title has been issued, the rights of the title holder should not be questioned.

- In relation to Atty. Pacuribot's query, Engr. Pacis said that the issue that they may have to look into are those DENR-issued patents but were not registered in their RoDs (CADT were registered first before the DENR-issued patents in the LRA). With this issue, Atty. Talabis said that this may be included in the transitory provision instead, since these are issued patents but were not registered to LRA. She added that this is already an existing situation; the solution is to unclog the pending patents in the custody of LRA, and section B.4 may be transferred to the Transitory provision of this proposed guidelines. She also added that they can include a process for all pending patents for registration at the LRA. For this particular transitory provision, it shall be clear that the A&D block within the CADT/CALTs pending for registration with the LRA shall be segregated from the ADs/ALs subject to the consent of the ICC. Titled lands shall also be segregated from the AD/AL. With that segregation, the Technical Description of the CADT/CALT shall be amended accordingly.
- Engr. Calata asked for a clarification on the phrase "The segregation survey shall be approved by the DENR.", since NCIP is also doing an amendment to their segregation surveys. Engr. Pacis said that DENR is okay with NCIP approving amended plans, as long as the former is furnished with a copy of the amended plan for projection. For section B.3., the provision shall be added:

"The segregation survey shall be approved by the NCIP and the amended CADT/CALT shall be resubmitted to LRA for registration".

The addition of this provision means that there will be no CNO needed, as the amended plan will serve as the CNO.

	<ul style="list-style-type: none"> Engr. Calata further asked for a clarification on the area limitation for IPs claim on the segregated A&D land (if the CADT is 5 hectares, the IPs can only apply for 7 hectares of the A&D land?). Engr. Pacis answered that the IPs overall CADT/CALT area will be different from their A&D claim. In effect, the IPs still have a 12-hectare claim, regardless of their registered CADT/CALT area. Atty. Elizalde agreed to this, but he also added that since there are many members of a community claiming the A&D land, this can be interpreted that the area limitation shall not apply to them. Engr. Calata suggested revising the term “concerned NCIP accredited/registered IPs” into “concerned community as represented by their Indigenous Political Structure (IPS)/Traditional Leader in the absence of their IPS”. These IPS are already existing, and some are still in the process of confirmation and accreditation. Atty. Talabis asked if the consultation with IPs is going to be done by DENR or jointly by both DENR and NCIP. Engr. Pacis said that NCIP shall be supported by the DENR field office during the consultation process. 	
<p>B. For Areas with Issued CALTs/CADTs but not yet Registered</p> <p>B.4. All pending and new public land applications and survey activities upon the effectivity of these guidelines shall be given due course.</p>	<ul style="list-style-type: none"> Engr. Calata asked for a clarification on this provision as it pertains to all pending and new PLAs, to which Engr. Pacis suggested revising this provision by adding the consent of IPs on the segregation of A&D portion. 	<p>B.4. If the A&D portion is segregated with the consent of the community, all pending and new public land applications and survey activities (within A&D) upon the effectivity of these guidelines shall be given due course.</p>
<p>B.5. For new applications and surveyed parcels, a notification shall be submitted to NCIP for issuance of an Omnibus Clearance within 60 days, (except in NCR, Region 8, and Highly Urbanized Cities), including those potential lots for titling identified under the Rapid Land Tenure Appraisal</p>	<ul style="list-style-type: none"> For the Omnibus Clearance, Engr. Pacis asked if the issuance of the same is still applicable if the IPs have agreed to segregate the A&D block. He added that DENR will only simply notify NCIP that there are titling activities on the segregated A&D land. Engr. Calata answered that it may be better to still issue an Omnibus Clearance for double checking on the part of NCIP. She also suggested revising the provision to “For new applications and surveyed parcels, a notification shall be submitted to NCIP for evaluation and issuance of an Omnibus Clearance within 60 days, if warranted”. Engr. Pacis agreed to her suggestion. 	<p>B.5. For new applications and surveyed parcels, a notification shall be submitted to NCIP for evaluation and issuance of an Omnibus Clearance within 60 days, if warranted (except in NCR, Region 8, and Highly Urbanized Cities), including those potential lots for titling identified under the</p>

<p>(RLTA). Otherwise, regular processing of applications by the DENR shall proceed.</p>	<ul style="list-style-type: none"> • Atty. Pacuribot asked if B.5. will have an effect on the IRR of RA 11573 in terms of requirements for Agricultural Free Patent Applications. Engr. Pacis answered yes, but this shall not come in the way of the 120-day processing period. Additionally, the Omnibus Clearance will be a requirement to be provided by the DENR according to Mr. Pascua. • Atty. Talabis asked for a clarification if those potential lots identified through RLTA are included in the Omnibus Clearance, since they have already put remarks in the land tenure profile of the identified potential lots that are within a CADT/CALT. Ms. Pascua of LPPD answered that there is already a remark on the CCM of the potential lot if it is under a CADT/CALT. The same also goes for its land tenure profile, thus no longer subject for administrative titling. With that information, Atty. Talabis said that those potential lots identified under RLTA shall no longer be included in the omnibus clearance since those are already cleared and can be titled administratively. They shall only include those non-workable lots due to being within a CADT/CALT. She also asked the treatment for those lots within a CADT/CALT claim only. Ms. Pascua answered that A&D lots within a CADT/CALT claim are not included in the RLTA. • In the event that the NCIP hasn't issued an Omnibus clearance within 60 days after being notified by the DENR, Engr. Pacis asked NCIP if they can proceed with the processing of new applications. However, another issue he raised is their ways forward if NCIP releases a position that the IPs still have a claim on the segregated A&D block. Atty. Talabis suggested that if no Omnibus Clearance was issued, then any protest will be treated as a dispute in order to stop the patent processing of DENR. However, it is a different issue if the DENR notification was "unacted" by NCIP, for 60 days may be too short. Mr. Pascua added that Dir. Ortega mentioned in the other sub-group meeting that the process of issuing an Omnibus Clearance is tedious, and will require a budget for consultations with IPs. He asked if posting of notice done by the DENR will be sufficient instead of a clearance. Posting of notices shall no longer be limited to conspicuous places only. Further, even after the period of posting has already lapsed, any adverse party can still file for a protest. Atty. Talabis also suggested that DENR can send a notification to NCIP regional offices per application just so they are also informed. On the other hand, Engr. Calata said 	<p>Rapid Land Tenure Appraisal (RLTA). Otherwise, regular processing of applications by the DENR shall proceed.</p>
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	<p>that in relation to B.3. (consultation with Communities), since both NCIP and DENR will be present during the consultation, it would be better to also include all claims within the CADT/CALT areas (patent application, titled lands, A&D lands) in the presentation so that the communities know which areas can they file a protest for. In effect, the Omnibus Clearance will be replaced by notification to NCIP and posting of notices. However, Engr. Calata raised a concern as to the amount of information DENR will disclose during the consultation. Thus, she suggested the Omnibus shall still be retained, but if NCIP does not issue a clearance then the protest shall set in. If no protest in due form is received by DENR, then the same shall continue processing patents administratively.</p> <ul style="list-style-type: none"> • As raised by Mr. Pascua, the issuance of Omnibus Clearance will be needing funds, as the lots being notified to NCIP will be projected. In order to operationalize the provisions of this proposed guidelines, budget is needed especially in the projection of lots. Engr. Calata answered that this can be solved if there are autoCAD or shape files, since it will be easier for them to overlay it with their existing files of unregistered CADT/CALTs. Atty. Talabis agreed on this, but she clarifies that the posting of notice will just be the list of patent applications. The e-copy of autoCAD files will be sent directly to NCIP for their reference. • ARD Alicer of Region 11 also asked, since they have already segregated the A&D block from the claim, if they should still issue an omnibus clearance even after Region 11 has already submitted a CNO to NCIP. Engr. Pacis answered that Region 11's case is an exemption to this, since they have already finished with the segregation of A&D blocks. Thus, they shall proceed with the administrative titling of the segregated A&D block. Atty. Talabis said that they should add a provision in this guideline that Region 11 is exempted to the issuance of Omnibus Clearance. 	
<p>A.For Areas with Registered CALTs/CADTs</p> <p>A.2. Patents issued from November 22, 1997 until the registration of the</p>	<ul style="list-style-type: none"> • Engr. Calata commented that this provision falls under scenario B due to the term "until the registration of CADT/CALT, as it implies that the CADT/CALT is still not yet registered. Engr. Pacis answered that there are situations where CADTs/CALTs were already registered but at the same time, there is a patent 	

<p>CADT/CALT shall be respected. These patents shall be annotated on the registered CADTs/CALTs.</p>	<p>registered prior to the CADT registration.</p> <ul style="list-style-type: none"> After the approval of IPRA Law in 1997, DENR continued issuing patents since they have no idea where the IPs land claim starts and ends. In order to address this issue, it is being proposed that they should review the records if there are patents issued prior to the registration of CADTs/CALTs. However, this will have implications in the LRA process of registration. Atty. Elizalde of LRA said that the sub-group can proceed with crafting this guideline and LRA can submit their comment/proposal. 	
<p>C.1. The NCIP shall provide the DENR with all approved ADS but not yet issued with CADT/CALT. The DENR Regional Office shall project the ADS on the Land Classification Map to determine if there are areas within A&D. The result of which shall be immediately submitted to the NCIP for consultation with the concerned IPS/ICCs on the segregation of A&D lands, if any, and on the option to apply for patents under CA 141, as amended, and other applicable laws, rules and regulations.</p>	<ul style="list-style-type: none"> As agreed upon earlier, there should be a provision on the consent of the concerned IPS or their communities' traditional leader in the absence of IPS. Engr. Calata also suggested that they shall include the term "possible segregation", since this is still not an outright segregation of the A&D block. 	
<p>D.2. The DENR Regional Office shall provide the concerned Regional NCIP Office a copy of the Land Classification Map to be used as reference in the segregation of A&D areas in the conduct of survey of the AD/AL, in consultation with the concerned ICCs.</p>	<ul style="list-style-type: none"> Inclusion of the phrase "upon the consent of concerned IPS or their traditional leaders". Engr. Calata also requested to specify in this provision that the LC Maps shall be in autoCAD file for easier overlaying on their existing autocad files. She also suggested putting a timeframe for DENR to submit the requested LC maps. Engr. Pacis agreed to her suggestion, but the number of days is still subject for discussion on DENR's part. With regards the LC Maps, Engr. Pacis asked Engr. Junco of LMB-GSD on the availability of LC Maps in their custody. Engr. Junco answered that they only have scanned copies of the LC Maps, but they are not sure if those are complete. He said that they 	

	<p>can request copies of missing maps from NAMRIA if needed. Engr. Verzosa suggested that there shall be a designated focal person from DENR and NCIP for the data sharing (this may be on a regional level, depending on the data that would be needed to be shared). Atty. Talabis said that this suggestion can be submitted to the Data Sharing TWG for their consideration.</p> <ul style="list-style-type: none"> • In line with this, Engr. Pacis mentioned the technical workshop to be conducted to level off with the projection process using the agreed format of maps of all agencies concerned. 	
<p>E. For Unsurveyed/Undelineated and Areas Unclaimed</p> <p>E.1. The DENR shall proceed with its survey and titling activities accordingly without the need to notify the NCIP. The posting of notice of application for titling will suffice.</p>	<ul style="list-style-type: none"> • Engr. Calata asked how DENR will be confirming if it is an unclaimed area. The confirmation shall come from NCIP to be sure that those areas really are unclaimed by IPs. Engr. Pacis said that this section means that there are totally no claims on the area from NCIP's list, unless they are still anticipating claims from IPs that they are not aware of. This means that areas under this section don't have any claims as cleared by NCIP. To address this, Atty. Talabis said that they have included a provision where some areas are no longer subject to any AD/AL claims, such as HUCs and NCR. Those identified areas no longer subject for AD/AL claims shall proceed to administrative titling under DENR. She requested that NCIP may provide DENR a list of areas that may be exempted to AD/AL claims. If there are claims after the approval of this guidelines, these can be processed under other provisions of the same. On the other hand, Atty. Elizalde suggested that the title of Section E shall be "Unsurveyed/Undelineated and Areas Not Subject to Claim", so the treatment for such claims will fall under the other provision of this guidelines. 	
<p>Other Provisions</p>	<ul style="list-style-type: none"> • With the suggestion of Atty. Elizalde, another scenario shall be added in this section, where they will identify areas that are no longer subject for AD/AL claims such as NCR, Region 8 and other HUCs (to be identified based on the city/municipality classification). These areas are still subject to the confirmation of NCIP. Claims that will fall under this provision shall not be given due course. 	
<p>Transitory Provisions</p>	<ul style="list-style-type: none"> • Engr. Pacis suggested that they can also include the creation of the Technical Working Group and the training/workshop to level off with concerned 	<p>Since the approval of this guidelines will take some time, the LMB Director and the</p>

<p>In order to immediately address the above perspectives of both agencies on the provisions of CA 141, as amended and RA 8371, and realities on the ground, an issuance will be signed jointly by the LMB Director and the NCIP Executive Director on the following:</p>	<p>agencies in terms of the projection of the maps.</p> <ul style="list-style-type: none"> • Engr. Calata added that Director Ortega wants to add a provision on the concurrence of both LMB Director and NCIP: "The concurrence of the OIC-Executive Director and LMB Director does not constitute the approval of this guidelines, but is merely an approval intended to authorize both parties to proceed with the processing and crafting of this guidelines". Atty. Talabis said that this can be added in the transmittal of the guidelines since it is only a proposal by the sub-group level to be reviewed by the mother TWG. For the transitory provisions, she suggested that LMB and NCIP can have a joint issuance within the mandate of the NCIP executive director. However, Atty. Talabis said that if the transitory provisions are still subject for review of the en banc, it may not be binding for both parties. To address this, it is recommended issuing the transitory provision as a separate joint memorandum. 	<p>NCIP Executive Director shall issue a joint memorandum regarding the transitory provisions of the same. A disclaimer shall be included in the said memorandum stating that the issuance of the same shall not be construed as the approval of the whole guidelines.</p>
<p>Transitory Provisions</p> <p>1. The NCIP shall officially submit their updated datasets, shapefiles of plans of the registered, issued CADTs/CALTs, and survey claims to the concerned DENR Regional Offices, including excel files of areas of claims not yet delineated within _____ days upon effectivity of this guidelines.</p>	<ul style="list-style-type: none"> • Engr. Calata suggested adding a phrase that DENR shall also provide shapefiles needed to streamline the projection of the same. 	<p>The NCIP shall officially submit their updated datasets, shapefiles of plans of the registered, issued CADTs/CALTs, and survey claims to the concerned DENR Regional Offices, including excel files of areas of claims not yet delineated within _____ days upon effectivity of this guidelines, similarly, the DENR shall also provide necessary datasets, plans, and maps to the NCIP;</p>
<p>Transitory Provisions</p> <p>3. DENR maintains that the best option to facilitate the registration of CADTs/CALTs is to segregate the entire A&D portion within the claim.</p>	<ul style="list-style-type: none"> • It was suggested that this provision be in section B.3. instead. 	<p>This provision is now added in Section B.3, which now reads as follows:</p> <p>Upon consultation with the concerned community as represented by their</p>

<p>While this may be practical, NCIP maintains that this should be done in consultation and agreement with the ICCs. Hence, at this stage, such consultation may be conducted to avoid the tedious process of identifying patents within the claim and facilitate the registration of CADTs/CALTs. The option for those IPs occupying A&D lands to apply for patents shall be a significant component of the consultation.</p>		<p>IPS/traditional leaders, all A&D lands shall be segregated from the CADT/CALT and shall be correspondingly amended to facilitate the registration thereof. The segregation survey shall be approved by the NCIP and the amended CADT/CALT shall be re-submitted to LRA for registration. The approved amended plan shall be furnished by the NCIP to the DENR for projection. The claim of the IPs within A&D lands shall be applied under CA 141, as amended, and other applicable laws, rules and regulations. (Proposal: DENR to shoulder the survey cost)</p> <p>DENR maintains that the best option to facilitate the registration of CADTs/CALTs is to segregate the entire A&D portion within the claim.</p> <p>While this may be practical, NCIP maintains that this should be done in consultation and agreement with the ICCs. Hence, at this stage, such consultation may be conducted to avoid the tedious process of identifying patents within the claim and facilitate the registration of CADTs/CALTs. The option for those IPs occupying A&D lands to apply for patents shall be a significant component of the consultation.</p> <p>To the effect of the segregation of the A&D portion/block, the options shall be</p>
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		<p>presented to the Indigenous Political Structure (IPS)/ICCs for their consent. <i>(additional statement)</i></p> <p>*two scenarios:</p> <p>Scenario 1: No objection from the IPS/ICC</p> <p>Scenario 2: With objection from the IPS/ICC</p>
Issuance of CNO	<ul style="list-style-type: none">• If the community agrees on the segregation of identified A&D block to facilitate the CADT/CALT registration, NCIP will be amending their survey plan to be submitted to LRA for projection. If LRA is okay with it, they will be issuing a CNO. Engr. Calata asked if DENR and DAR are okay with it. On the other hand, Atty. Elizalde clarified that there will no longer be a CNO issuance, since the amended plan will constitute the segregated A&D block. He suggested that this will be a part of the transitory provision. With that suggestion, Engr. Calata asked how will they move forward with their CADT/CALT registration since CNO is one of the requirements of RoDs. Atty. Elizalde said that they shall present a proposal to the LRA Administrator, that in lieu of a CNO, the resurvey or amended plan of NCIP will be submitted since the A&D land and titled property is already segregated and reflected in the plan. In effect, this shall streamline the process since DENR already has a recommendation that the A&D land shall be segregated since IPs can still apply for it administratively. There may be a colatilla in the amended plan, or it can be presumed since there is already an agreement through this guideline. If this guideline is approved and the LRA administrator agrees with this, they can issue a circular regarding the new documents they can submit in lieu of a CNO.	

	<ul style="list-style-type: none"> • ARD Mirasol of Region 11 asked if NCIP does ground validation when an A&D land was segregated from the CADT/CALT as reflected on the amended plan. She shared that there are instances where the segregation of A&D land was reflected on the amended plan but the IPs are not yet aware that the A&D land has been segregated. Sge suggested that once the A&D land is segregated from the CADT/CALT, NCIP can furnish DENR a copy of the amended plan so they can validate if the A&D land is really segregated on the ground in order to avoid dispute between IPs and Non-IPs. Engr. Calata answered that the amended plan is presented to the community and they will have the authorized community leader sign the amended map. However, NCIP is not conducting a ground validation such as mojon placement after the A&D segregation, given that they are not yet finished with their titling. ARD Mirasol suggested that NCIP can do a ground validation of these A&D segregation with DENR. Atty. Talabis said that they can include that in section B, wherein they have to go back and validate those segregated A&D lands. 	
	<ul style="list-style-type: none"> • Atty. Elizalde said that he will be reporting to the LRA Administrator regarding the segregation of titled lands from the CADT/CALT and other suggestions made during this meeting. If this proposed guideline is approved, then LRA shall make the necessary steps in operationalizing the provisions of the same. Atty. Talabis said that she will also be issuing a letter to LRA regarding the proposals made in this guideline to further support Atty. Elizalde's report, for consideration of the Administrator. The content of the letter shall include the segregation of titled lands and facilitative registration of CADT/CALTs. The LRA-Legal Division shall also be copy furnished in reference to the 3rd DENR-NCIP Sub-group TWG Meeting. 	

III. WAYS FORWARD

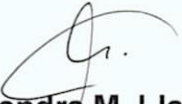
- LMB to revise the guidelines according to the agreements of the body. The revised guidelines shall be circulated to the participants for their comments in writing. If there are any minor comments/inputs that would need another discussion, an online meeting can be arranged. If there are major comments from the participants, these can be addressed by elevating it to the mother TWG.

- LMB Director to issue a letter to the LRA Administrator regarding the segregation of titled lands and facilitative registration of CADT/CALTs. The LRA-Legal Division shall also be copy furnished in reference to the 3rd DENR-NCIP Sub-group TWG Meeting.

IV. ADJOURNMENT

There being no other concerns, the meeting was adjourned at 12:49 PM.

Prepared by:



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Draft DENR-NCIP Guidelines in Processing Patent and CADT/CALT Applications and Issuance of Certificate of Non-Overlap (CNO)

Section 1. Rationale

Section 56 of Republic Act No. 8731 (Indigenous Peoples Rights Act) states that *“property rights within the ancestral domains already existing and/or vested upon effectivity of this Act, shall be recognized and respected.”* The Department of Environment and Natural Resources (DENR) and the National Commission on Indigenous Peoples (NCIP) have different interpretations of or reckoning of vested rights.

The main basis of all policies of the DENR on land disposition is Commonwealth Act No. 141 (Public Land Act) as amended. Titling of agricultural lands through Free Patent is covered under the provisions of Chapter VI, where vested right sets in upon compliance by the occupants of the required period of possession of 30 years. This was reduced to 20 years under the recently enacted RA 11573.

It has been ruled in the case of the Director of Lands, petitioner, versus the Court of Appeals and Gloria Cabral Franco, respondents^[1], citing the case of Medina vs. Pineda Vda. de Sonza, et al.^[2], the Supreme Court held that “where all the necessary requirements for a grant by the government are complied with, the possessor is deemed to have already acquired by operation of law not only a right to a grant, but a grant of the government, for it is not necessary that a certificate of title be issued in order that said grant may be sanctioned by the courts.

Also, the Supreme Court stated that *“A vested right is some right or interest in property that has become fixed and established and is no longer open to doubt or controversy. Rights are vested when the right to enjoyment present or prospective, has become the property of some person as present interest”*.

On the other hand, subject to Section 56 of the IPRA law, ancestral domains refer to *“lands, inland waters, coastal areas and natural resources therein, held under a claim of ownership, occupied or possessed by ICCs/IPs, by themselves or through their ancestors, communally or individually since time immemorial”*. The indigenous concept of ownership generally holds that ancestral domains are the ICC's/IP's **PRIVATE but community property which belongs to all generations and therefore cannot be sold, disposed, or destroyed**. It likewise covers sustainable traditional resource rights. Thus, the ICCs/IPs have been entitled with a Native Title. The Native Title refers to pre-conquest rights to lands and domains which, as far back as memory reaches, have been **held under a claim of private ownership by ICCs/IPs**, have never been public lands and are thus **indisputably presumed to have been held that way since before the Spanish Conquest**.

In Benguet Consolidated Mining Co. v. Pineda ^[3], this Court explained that a vested right is *“some right or interest in the property which has become fixed and*

[1] G.R. No. L-52491, January 29, 1990

[2] L-14722, May 25, 1960

established, and is no longer open to doubt or controversy"; it is an "immediate fixed right of present and future enjoyment"; it is to be contradistinguished from a right that is "expectant or contingent." The Benguet case continued on to quote from 16 C.J.S. 214-215, as follows:

"Rights are vested when the right to enjoyment, present or prospective, has become the property of some particular person or persons as a present interest. **The right must be absolute, complete and unconditional, independent of a contingency, and a mere expectancy of future benefit,** or a contingent interest in property founded on anticipated continuance of existing laws, does not constitute a vested right. So, inchoate rights which have not been acted on are not vested."

The premise of CA 141, as amended, is that the subject land is a public land while Native Titles presumes that the land claimed by the ICCs/IPs is a private land. This is where the interpretation and definition of vested rights of DENR and NCIP diverge.

With the given mandates of both agencies in providing tenure securities to Filipinos, DENR continues to issue patents (agricultural, homestead, residential) and approve surveys in Agricultural A&D lands, awaiting submission of surveys by the NCIP.

The NCIP on the other hand experienced delays in the delineation of the IP claims due to budgetary constraint. They have so far identified 966 ancestral domains/lands nationwide, of which, only 59 CADTs/CALTs have been approved and registered while 198 were delineated and issued CADTs/CALTs but are still pending for registration by the Registry of Deeds. Another major challenge for NCIP is the registration of their CADTs and CALTs. DENR, DAR, and LRA did not fully implement and comply with the provision of JAO 2012-01 on the issuance of Certificate of Non-Overlap (CNO). The delayed issuance of CNO from the three agencies caused the non-registration of many approved CADTs and CALTs. This is one of the many reasons for their withdrawal from the JAO 2012-01 and the Joint National Committee.

The Way Forward

While the right to self-delineation as provided for in the IPRA Law is fully respected, its operationalization has been more than complicated in areas classified as agricultural (A&D), where the jurisdiction to issue patent titles is given to DENR and has been ongoing for over a hundred years before IPRA. This has caused the apparent conflict and competition, as well as delayed action on the required clearances from both agencies.

The most practical solution agreed in these guidelines is to **segregate the portion falling within the A&D, and those valid titles that may fall within the forest land.** This is considered for the following reason:

1. This will avoid a prolonged legal battle if DENR opts to proposed an amendment on IPRA to congress.

2. It will minimize if not totally avoid claims and conflict on the ground and promote cooperation between DENR and NCIP on the survey and titling activities.
3. It will simplify and facilitate registration of CADTs/CALTs with LRA.

In addition to the vast forest areas in the claim of the IP, **those areas they actually occupy within the agricultural A&D land may also be titled to them through CA 141 and RA 10023 and RA 11573 procedures.**

This will obviously necessitate a comprehensive consultation work for both agencies with the IPs. Nevertheless, its anticipated benefits are seen to be worth the effort.

Section 2. Objective. This guideline aims to standardize the process of registering CADT/CALT and issuance of patents by the DENR.

Section 3. Scope and Coverage. This guideline shall cover all areas with AD/AL claims and those that have CADT/CALT for registration that is within alienable and disposable lands except National Capital Region (NCR), Region 8, highly urbanized areas, and Region 11. *(subject to confirmation of NCIP)*

Section 4. Guidelines on the Management of Issued Patents and Processing of New Public Land Applications within IP Claims.

Upon projection by the DENR Regional offices of the submitted survey plans by the NCIP, the following will govern the action on different scenarios under the DENR land survey and titling activities within A&D lands:

4.1 For Areas with Registered CALTs/CADTs

1. Patents issued before November 22, 1997 shall be respected and shall be annotated on the registered CADTs/CALTs.
2. Patents issued from November 22, 1997 until the registration of the CADT/CALT shall be respected. These patents shall be annotated on the registered CADTs/CALTs.
3. Patents issued after the registration of CADTs, if any, may enter into an arrangement with the NCIP/ICCs on possessory rights (Certificate of Actual Land Occupancy for Migrants (CALOM)).
4. Any new or unprocessed applications identified within the registered CADT/CALT shall be denied and applicants may enter into an arrangement with the NCIP/ICCs on the possessory rights (CALOM).
5. All previously approved survey plans projected to be inside the registered CADT/CALT shall be canceled *motu proprio* through a corresponding Order of Cancellation with prior notice to the survey claimant.
6. No new requests for Survey Order/Authority and approval of surveys pertaining to titling shall be accepted and processed.

4.2 For Areas with Issued CALTs/CADTs but not yet Registered

1. Patents issued before November 22, 1997 shall be respected.
2. Patents issued from November 22, 1997 until the effectivity of these guidelines shall be respected.
3. Conduct of Consultation.

Pursuant to Sec III of this guidelines, a joint Communication plan shall be developed by DENR and NCIP which will be uniformly followed in the consultation with the concerned IPs in each claim.

The primary objective is to secure consensus from the IPs to segregate the A & D portion of the claim and file applications under CA 141 for the same.

If this is not possible, the option to still segregate and A&D portion to facilitate registration of the claims within forest land shall still be pursued, and the option to settle the claim in the A&D portion through ADR proceedings shall be explored.

4. If the A&D portion is segregated with the consent of the community, all pending and new public land applications and survey activities (within A&D) upon the effectivity of these guidelines shall be given due course.
5. For new applications and surveyed parcels, a notification shall be submitted to NCIP for evaluation and issuance of an Omnibus Clearance within 60 days, if warranted (except in NCR, Region 8, and Highly Urbanized Cities), including those potential lots for titling identified under the Rapid Land Tenure Appraisal (RLTA). Otherwise, regular processing of applications by the DENR shall proceed.

5.1. In case NCIP issues a clearance, all requests for subsequent surveys shall be given due course.

5.2. Otherwise, all new applications shall be put on hold. The applicants may enter into an agreement with NCIP/ICC on the possessory rights.

5.3 If the NCIP is unable to issue an Omnibus Clearance within 60 days, any protest will be elevated and subject to the dispute resolution

4.3 For Areas with Delineated Claims with Approved Ancestral Domain Survey (ADS)

1. The NCIP shall provide the DENR with all approved ADS but have not been issued with CADT/CALT. The DENR Regional Office shall project the ADS on the Land Classification Map to determine if there are areas

within A&D. The result of which shall be immediately submitted to the NCIP for consultation following Section III .B.3

2. If the primary objective is secured, all survey and titling activities shall proceed accordingly.

4.4 For Unsurveyed/Undelineated Areas with Claims

1. The NCIP shall request the DENR Regional Office for copies of the Land Classification maps within the AD/AL claims.
2. The DENR Regional Office shall provide the concerned Regional NCIP Office a copy of the Land Classification Map to be used as reference in the segregation of A&D areas in the conduct of survey of the AD/AL, in consultation with the concerned ICCs following Section III.B.3 of this guidelines.
3. Hence, all new applications shall be processed accordingly including survey activities.

4.5 For Unsurveyed/Undelineated and Areas Not subject to claim

1. The DENR shall proceed with its survey and titling activities accordingly without the need to notify the NCIP. The posting of notice of application for titling will suffice.

Section 5. Designation of DENR Regional Focal Persons. A focal person from the DENR Regional Office shall be designated who shall be responsible and shall lead in the data sharing activities. The Regional Executive Director shall issue a Special Order designating this focal person.

Section 6. Transitory Provision. In order to immediately address the above perspectives of both agencies on the provisions of CA 141, as amended, and RA 8371, and realities on the ground, an issuance will be signed jointly by the LMB Director and the NCIP Executive Director on the following:

The concurrence of the LMB Director and the NCIP Executive Director does not constitute an approval of this guidelines but is merely intended to authorize both parties to proceed further with processing and crafting of this guidelines. *(to be included in the transmittal of the draft guidelines)*

1. The NCIP shall officially submit their updated datasets, shapefiles of plans of the registered, issued CADTs/CALTs, and survey claims to the concerned DENR Regional Offices, including excel files of areas of claims not yet delineated within ____ days upon effectivity of this guidelines, similarly, the DENR shall also provide necessary datasets, plans, and maps to the NCIP;

2. The DENR shall prioritize the projection of these plans (CADTs/CALTs) to harmonize with the DCDB cleansing activities;
3. For those CADTs/CALTs pending for registration with the LRA through the Registries of Deeds, the titled areas (within A&D and forestlands) shall be segregated from the ancestral domain/land subject to the validation and consent of the ICC.
4. Once all titled lots and A&D portion are segregated from the CADT/CALT and the amended survey plan is approved by the NCIP, the CNO from DENR shall no longer be required.

Section 6. Separability Clause. If any provision of this Order shall be held invalid or unconstitutional, the other portions or provisions hereof which are not affected shall continue in full force and effect.

Section 7. Repealing Clause. All Orders and other similar issuances inconsistent herewith are hereby revoked, amended, or modified accordingly.

Section 8. Effectivity. This Order shall take effect fifteen (15) days after its publication in a newspaper of general circulation and upon acknowledgement of receipt of the copy thereof by the Office of the National Administrative Register (ONAR).