



Republic of the Philippines
Department of Environment and Natural Resources
FOREST MANAGEMENT BUREAU
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MEMORANDUM

FOR : **The Regional Executive Director**
DENR MIMAROPA Region
1515 L&S Building, Roxas Boulevard, Ermita, Manila

FROM : The OIC Assistant Secretary for Field Operations –
Western Mindanao and Director, in concurrent capacity

SUBJECT : **REQUEST FOR CLARIFICATION ON THE APPROVING
AUTHORITY VIS-A-VIS THE TRANSFER OF MANAGEMENT AS
ONE (1) OF THE RIGHTS GRANTED TO THE HOLDER OF
FOREST LANDUSE AGREEMENT FOR TOURISM (FLAGT)**

DATE : **OCT 06 2023**

This refers to the above-stated subject being referred by the Forest Utilization Section, Licenses, Patents and Deeds Division (FUS-LPDD) of the DENR MIMAROPA Region to this Bureau as contained in the former's electronic mail dated 10 August 2023.

It is well to note the FUS-LPDD's manifestation that as to the approval of transfer of management concerning FLAgT, the DAO No. 2022-10 dated 30 May 2022, entitled, "*Revised DENR Manual of Authorities on Technical Matters*" is silent on the matter (i.e., *transfer of management*).

Considering that the approval of transfer of management of tenured areas (e.g., FLAgT/ FLAg) was not explicitly mentioned in DAO No. 2022-10, nevertheless, the *Section 61 [Transfers] of the PD No. 705, as amended*, or the "*Revised Forestry Code of the Philippines*" provides that "*Unless authorized by the Department Head, no licensee, lessee, or permittee may transfer, exchange, sell or convey his license agreement, license, lease or permit, or any of his rights or interests therein, or any of his assets used in connection therewith*".

"The licensee, lessee or permittee shall be allowed to transfer or convey his license agreement, license, lease or permit only if the license, lease or permit has been in existence for at least three (3) years; the licensee, lessee or permittee has not violated any forestry law, rule or regulation and has been faithfully complying with the terms and conditions of the license agreement, license, lease or permit; the transferee has all the qualifications and none of the disqualifications to hold a license agreement, license, lease or permit; there is no evidence that such transfer or conveyance is being made for purposes of speculation; and the transferee shall assume all the obligations of the transferor".

In addition, the following Sections of the DENR Administrative Order No. 2004-28, entitled, "*Rules and Regulations Governing the Use of Forest Lands for Tourism Purposes*", provides the following terms and conditions of a FLAgT:

Section 14.7 - To inform the RED or his duly authorized representative on any changes in the management, ownership or capital stock of the company or corporation or transfer of a majority of the stock or shares of the company or corporation as provided for in PD No. 705, as amended.

Section 14.9 – In case of death of individual FLaGT holder, their heir may apply for the transfer of FLaGT within ninety (90) days upon his death.

Section 18 – As provided in PD No. 705, as amended, a FLaGT holder may transfer, exchange, sell or convey the FLaGT or any rights therein or any assets used therewith, if authorized by the Secretary, and if:

18.1 - The FLaGT has been in existence for at least three years;

18.2 - The FLaGT holder has been faithfully complying with all the terms and conditions of the FLaGT including implementation of site management plan (SMP). The SMP is replaced by the comprehensive development and management plan (CDMP) per DAO No. 2009-16 dated 25 November 2009;

18.3 - The transferee has all the qualifications and none of the disqualifications to hold a FLaGT area; and

18.4 - The transferee shall assume all the obligations and responsibilities of the transferor specified in FLaGT, SMP and ECC.

With that, it is thus imperative to adhere with the pertinent provisions of the Section 61 of PD No. 705, as amended, and the pertinent provisions of DAO No. 2004-28 as mentioned above.

Likewise, kindly recognize the established system of rules for the correct conduct and procedures to be followed in formal situations, thus, please advise your staff (i.e., FUS-LPDD), as a matter of protocol you may refer the matter to the Legal Division of DENR MIMAROPA Region for appropriate action. Attached are the DENR CO Memorandum No. 2020-417 dated September 2020 (pertaining to request for legal opinion) and the subject electronic mail for your references.

Should the DENR MIMAROPA Region wishes to request the opinion of this Bureau (for any forestry-related endeavors/concerns, except legal matters), such request should be documented through a memorandum duly signed by the Regional Executive Director or his duly authorized representative.

FOR YOUR INFORMATION AND GUIDANCE.


ARLEIGH J. ADORABLE, CESO III

Cc: *The Undersecretary for Field Operations – Luzon, Visayas and Environment*



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Department of Environment and Natural Resources
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SEP 05 2020

MEMORANDUM

FOR : All Regional Executive Directors
All Bureau Directors
All Heads of Attached Agencies

FROM : The Undersecretary
Legal, Administration, Finance, Human Resources
and Information Systems

SUBJECT : REQUESTS FOR LEGAL OPINION TO DENR-LEGAL
AFFAIRS SERVICE

This pertains to requests for legal opinion received by the DENR-Legal Affairs Service (LAS) from the Regional Offices, Bureaus and Attached Agencies involving the interpretation of environmental laws, its relevance to the mandates, vision and mission of the Department, authority of DENR officials, and matters pertaining to the use of public funds and properties, among others.

A legal opinion is sought when there is a need to evaluate the effects and legal risks that may arise from the actions and other transactions of the Department, its officials, employees, Regional Offices, Bureaus and Attached Agencies.

This Office would like to remind all concerned officials and employees that with regard to legal opinions, the main function of the LAS is to assist the DENR-Central Office and the Office of the Secretary (OSec) with their concerns. Limiting the task of the LAS to these concerns will ensure the integrity of quasi-judicial proceedings in case issues coming from the Regions, Bureaus and Attached Agencies ripen into a future case. Hence, you are directed to seek legal opinions from your respective legal division/unit/officer.

For your information and compliance.

ATTY. EMMANUEL D. ADOBO, JR., CESO I

MEMO NO. 2020-437
Copy furnished:

The Assistant Secretary
Legal Affairs

Director
Legal Affairs Service



FRMD-FLUAS Forest Land Use and Allocation Section <frmd.fluas@fmb.denr.gov.ph>

REQUEST FOR CLARIFICATION- APPROVING AUTHORITY FOR TRANSFER OF MANAGEMENT OF FLAGT

2 messages

LPDD-FUS <forestsection2016@gmail.com>

Thu, Aug 10, 2023 at 10:36 AM

Reply-To: LPDD-FUS <forestsection2016@gmail.com>

To: DENR FMB Official <fmb@denr.gov.ph>, FRMD Forest Resources Management Division <frmd@fmb.denr.gov.ph>, FRMD-FLUAS Forest Land Use and Allocation Section <frmd.fluas@fmb.denr.gov.ph>

Good day!

May we request for guidance on the approving authority for **transfer of management of FLAgt** since the DENR 2022-10 is silent on the matter.

Thank you.

Forest Utilization Section
Licenses, Patents and Deeds Division
DENR MIMAROPA Region

1515 L & S Building, Roxas Boulevard, Ermita, Manila 1000

FRMD-FLUAS Forest Land Use and Allocation Section <frmd.fluas@fmb.denr.gov.ph>

Thu, Aug 10, 2023 at 1:22 PM

To: Amie Rabang <arabang@fmb.denr.gov.ph>



Forest Land Use and Allocation Section

Forest Resources Management Division

Forest Management Bureau

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[Quoted text hidden]