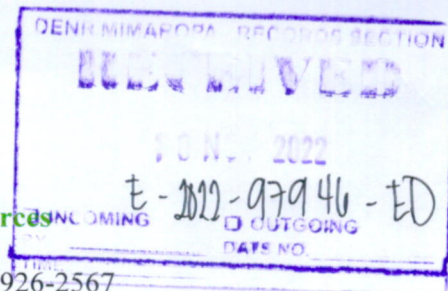




Republic of the Philippines
Department of Environment and Natural Resources
Visayas Avenue, Diliman, Quezon City
Tel Nos. (632) 929-6626 loc. 2113; 1070 Fax (632) 926-2567
E-mail: officeofuseccuna@denr.gov.ph; website www.denr.gov.ph



MEMORANDUM

TO : THE REGIONAL EXECUTIVE DIRECTOR
DENR-Region IV-B MIMAROPA
Roxas Blvd., Ermita, Manila

FROM : THE UNDERSECRETARY
Field Operations – Luzon, Visayas and Environment

SUBJECT : REQUEST OF MR. DEOGRACIAS VELASCO FOR ASSISTANCE TO
SUSPEND THE IMPLEMENTATION OF DENR ADMINISTRATIVE
ORDER NO. 2021-07 ENTITLED, “GUIDELINES ON THE
ESTABLISHMENT OF LEGAL EASEMENT ALONG THE SEAS,
RIVERS, LAKES, ESTEROS AND CREEKS,” ALLEGEDLY
AFFECTED THE TOURISM INDUSTRY IN PALAWAN

DATE : NOV 08 2022

This pertains to the Memorandum dated 02 November 2022 from the Undersecretary and Chief of Staff, endorsing the letter of the Presidential Management Staff, Office of the President, Manila addressed to the Honorable Secretary, referring the electronic mail of Mr. Deogracias Velasco, regarding the above-mentioned subject.

May we refer the matter for your appropriate action in accordance with the existing laws, rules and regulations. Kindly furnish this Office and the parties concerned of the action taken citing document tracking no. DENRCO-ASRMD-2022-024840 for record and monitoring purposes.

For compliance.


ATTY. JUAN MIGUEL T. CUNA, CESO I

Encls.: as stated

cc: Mr. Deogracias Velasco
Managing Director
Explore Nature Environment Management Consultancy
c/o dsvreality0322@gmail.com

Presidential Management Staff
Office of the President
Malacañang, Manila
PMS-202209-3471

Office of the Undersecretary and Chief of Staff
DENR



Republic of the Philippines
Department of Environment and Natural Resources
Visayas Avenue, Diliman, Quezon City
Tel Nos. 929-6626 to 29; 929-6633 to 35
929-7041 to 43; 929-6252; 929-1669
Website: <http://www.denr.gov.ph> E-mail: web@denr.gov.ph

MEMORANDUM

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

FROM : **The Undersecretary and Chief of Staff**

SUBJECT : **REQUEST OF MR. DEOGRACIAS VELASCO FOR
ASSISTANCE TO SUSPEND THE IMPLEMENTATION
OF ADMINISTRATIVE ORDER NO. 2021-07**

DATE : **NOV 02 2022**

Respectfully referred, for information and appropriate action, is the attached letter dated 04 October from Director Cherry Pie Felisse M. Maraya, Office for Facilitation of Presidential Assistance, Presidential Management Staff, Office of the President forwarding the request of Mr. Deogracias Velasco for assistance to suspend the implementation of Administrative Order No. 2021-07 (Guidelines on the Establishment of Legal Easements along the Seas, Rivers, Lakes, Esteros and Creeks), as the policy affects the tourism in Palawan.

Please inform party/ies concerned and the undersigned of the action taken on the matter.


MARILOU G. ERNI

cc: **Mr. Deogracias Velasco**
Managing Director
Explore Nature Environmental Management Consultancy
c/o dsvrealty0322@gmail.com

Director Cherry Pie Felisse M. Maraya
Office for Facilitation of Presidential Assistance
Presidential Management Staff
Office of the President
PMS-202209-3471

The Regional Executive Director
DENR Region IVB (MIMAROPA)



Republic of the Philippines
Department of Environment and Natural Resources
Visayas Avenue, Diliman, Quezon City
Tel Nos. 929-6626 to 29; 929-6633 to 35
929-7041 to 43; 929-6252; 929-1669
Website: <http://www.denr.gov.ph> E-mail: web@denr.gov.ph

NOV 02 2022

MR. DEOGRACIAS VELASCO

Managing Director

Explore Nature Environmental Management Consultancy

c/o dsvrealty0322@gmail.com

Dear **Mr. Velasco**:

This is to acknowledge receipt of your letter, endorsed to DENR by Director Cherry Pie Felisse M. Maraya, Office for Facilitation of Presidential Assistance, Presidential Management Staff, Office of the President, requesting assistance to suspend the implementation of Administrative Order No. 2021-07 (Guidelines on the Establishment of Legal Easements along the Seas, Rivers, Lakes, Esteros and Creeks), as the policy affects the tourism in Palawan.

In this regard, please be informed that we have referred the matter to the Office of Undersecretary for Field Operations – Luzon, Visayas and Environment for appropriate action and to provide you with their actions taken on the subject matter. You may also directly coordinate with the said office at telephone numbers 8925-2328, 8926-2567 for the latest updates.

Thank you very much for your kind consideration.

Very truly yours,

MARILOU G. ERNI

Undersecretary and Chief of Staff

cc: **Director Cherry Pie Felisse M. Maraya**
Office for Facilitation of Presidential Assistance
Presidential Management Staff
Office of the President

The Regional Executive Director
DENR Region IVB (MIMAROPA)



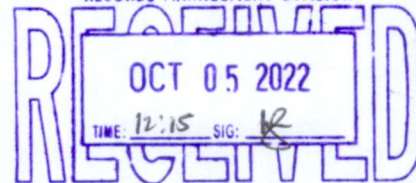
Office of the President of the Philippines
PRESIDENTIAL MANAGEMENT STAFF
Malacañang

DEPT. OF ENVIRONMENT AND NATURAL RESOURCES
RECORDS MANAGEMENT DIVISION

October 4, 2022

Secretary MA. ANTONIA YULO LOYZAGA

Department of Environment and Natural Resources (DENR)
DENR Building, Visayas Avenue
Diliman, Quezon City
osec@denr.gov.ph



Attention: Mr. CHITO B. REYES

Deputy Head, DENR Action Center/Hotline 8888
askyonkalis@denr.gov.ph

Dear **Madam**:


May we respectfully forward, for your appropriate action, the attached email of Mr. Deogracias Velasco requesting assistance on the issuance of a suspension order to prevent the implementation of Administrative Order No. 2021-07 of the Department of Environment and Natural Resources entitled, "Guidelines on the Establishment of Legal Easement Along the Seas, Rivers, Lakes, Esteros, and Creeks," which allegedly affected the tourism industry in Palawan.

Kindly evaluate the merits of the concern, *in accordance with your existing guidelines and applicable laws, rules, and regulations*. **Please note that this letter should not, in any way, be construed as an intercession for or against the letter-sender.**

Your office may provide updates to Mr. Velasco, copy furnished the Presidential Management Staff, citing tracking no. PMS-202209-3471 as reference.

Thank you and best regards.

Very truly yours,


CHERRY PIE FELISSE M. MARAYA

Director, Office for Facilitation of Presidential Assistance

cc: **Mr. DEOGRACIAS VELASCO**
Managing Director
Explore Nature Environmental Management Consultancy
c/o dsvrealty0322@gmail.com
0906-0134439/0961-0201861

DENR Tourism projects in Palawan province.

Deogracias Velasco <dsvrealty0322@gmail.com>

Thu 22/09/2022 3:53 PM

To: PMS Mails <info@pms.gov.ph>; pcc@malacanang.gov.ph <pcc@malacanang.gov.ph>

Cc: Deogracias Velasco <dsvrealty0322@gmail.com>; Flora Martinez <floral_fauna@yahoo.com>; gvm29@yahoo.com <gvm29@yahoo.com>; dennisaldrin.velasco@gmail.com <dennisaldrin.velasco@gmail.com>; Jolly Gomez <jollygomez5@gmail.com>; guymazzoni@gmail.com <guymazzoni@gmail.com>; j.oroceo@skylodgeresort.com.ph <j.oroceo@skylodgeresort.com.ph>; Urs Kradolfer <urs310@gmail.com>; Robert Luo <robertllc@yahoo.com>; Charles McCulloch <CHARLESMCCULLOCH@hotmail.com>; vince.perez@nextpartners.com <vince.perez@nextpartners.com>; FLORAL TRAVEL <floralpalawan@gmail.com>; Johan Viola <johan.viola@gmail.com>; Mark Worsdell <ceo.sprc@gmail.com>; Benedict Lim <Slim1500@gmail.com>

Ms. Naida Angping
Presidential Management Staff
Malacanang, Manila

Madam,

This has regards to my special concern specifically with the implementation of some rules with the DENR affecting the Tourism Industry in the Province of Palawan.

I have worked with the DENR for the past 26 years and even become a CENR-Officer in two DENR Offices in the Province as in Brookes Point, Palawan and in Roxas, Palawan.

I have also worked as an Executive Assistant V, Office of the Governor for the past 5 years during the term of Governor Jose Ch. Alvarez.

Right now I am running a Consultancy service in Environmental Mgt. Consultancy doing documentation of Forest Land Users such as: Forest Land Use Agreement for tourism (FLAgT) purposes; Forest Land Use Agreement for Other Lawful purposes (FLAg-OLP); Other Forest Land Uses as in Plantation Projects; SIFMA; Land Titling and etc.

My concern now Madam is the so much delay in processing in some concerned Agencies, Like in the National Commission on Indigenous People (NCIP) where it takes 2 to 3 years before any NCIP clearance would be issued. Sometimes delay also on some attached agencies to the DENR, the Palawan Council for Sustainable Development (PCSD) in the issuance also of SEP clearance; The ECAN Board from each of the Municipal Council will also take some delay depending on slated ECAN Board meeting. But most of it Madam, is the new Administrative Order from the DENR issued by then former Secretary Roy A.Cimatu, DENR Adm. Order 2021-07, GUIDELINES IN THE ISSUANCE OF LEGAL EASEMENTS ALONG THE SEAS, RIVERS, LAKES, ESTEROS, AND CREEKS wherein Tourism projects in our Province is the most affected and that most projects are within Timber land in status where the 40 meters legal easement onwards measured from the highest tide level is being implemented.

We know for a fact that in the Northern Palawan, most of the Tourism projects or Resorts were built in Islands where it is being categorized or assessed as Tourism Zone/Multiple Use Zone based on the ECAN Zoning of the PCSD. The Problem now is that most Islands were measured only at an average of 40 m, 50 m, and the least of 80-100 meters width measured from both sides from sea shores. So if you remove 40 meters both sides from the shore then it will become (**0 area for 40 meters Island width; 0 area for 50 meters Island width; 0 area for 80 meters width**; therefore,

you can only establish a structure within 90 meters width Island for a **measurement of 10 meters in the middle** and **20 meters for Islands having 100 meters** width. One thing is that some Islands have only portions that can be feasible in building a structure (around 20% of the area) since most Islands in the North are rocky, cliffs with bigger islands were already occupied by communities.

Here comes another problem Madam, most resorts in Palawan especially in the North were established prior to the implementation of such Administrative Order, where most of my clients now that are applying for FLAgT or Tourism Resorts and likewise the Department of Tourism in every Municipality had been alarmed by the implementation of such Administrative Order where these resort had already been notified by concerned CENRO's to voluntarily dismantled all permanent structures within the 40 meters easement.

Initially, only this Month, I advised my clients to coordinate with the Provincial/Municipal Tourism Officers to file a Position paper to the DENR to temporarily suspend the implementation of such Administrative Order and to conduct further study with regards to the distance of easement from 40 meters to a shorter distance the possibility of limiting to only 3-5 meters as in the limitation on titled properties/urban areas which is 3 meters.

In view of the above, and speaking on behalf of the Tourism Industry in the Province, and Resort Operators in the Province, may we request through your Office Madam, to please assist us in initiating this move to the DENR Secretary for the issuance of Suspension Order on the implementation of such Administrative Order and for the DENR to make further study or better regulation for the purpose.

Very truly yours,

Forester Deogracias Velasco
Managing Director
Explore Nature Environmental Mgt. Consultancy
Contact No. 09060134439/09610201861
Email Add: dsvrealty0322@gmail.com



Republic of the Philippines
Department of Environment and Natural Resources
Visayas Avenue, Diliman, Quezon City
Tel Nos. (632) 929-66-26 to 29 · (632) 929-62-52
Website: <http://www.denr.gov.ph> / E-mail: web@denrgov.ph

APR 28 2021

DENR ADMINISTRATIVE ORDER
NO. 2021 - 07

SUBJECT : GUIDELINES ON THE ESTABLISHMENT OF LEGAL EASEMENTS ALONG THE SEAS, RIVERS, LAKES, ESTEROS, AND CREEKS

Pursuant to the provisions of Articles 634 and 638 of the Civil Code of the Philippines, Article 51 of Presidential Decree (P.D.) 1067 or the Water Code of the Philippines, P.D. 705 or the Revised Forestry Code, as amended, Commonwealth Act (C.A.) 141 or the Public Land Act, as amended, Executive Order (E.O.) 192 or the Reorganization Act of the DENR, Republic Act (R.A.) 7586, as amended by R.A. 11038 otherwise known as the ENIPAS Act, DENR Administrative Order (DAO) No. 99-21, DAO No. 2007-29 or the Revised Regulations on Land Surveys, and DENR Memorandum Circular (DMC) No. 2010-13 or the Manual on Land Survey Procedures, the following guidelines is hereby issued for the guidance of all concerned:

SECTION 1. Basic Policy. It is the policy of the State to ensure that the country's environment and natural resources are conserved, managed, developed and properly used including the protection of the people. As such, the State shall establish safeguard measures on the establishment of salvage zones and legal easements along seas, rivers, lakes, esteros, creeks, and other wetland areas.

SECTION 2. Objective. This Order aims to provide guidelines on the establishment of legal easement for public use in the interest of recreation, navigation, floatage, fishing and salvage in accordance with the existing laws and regulations.

SECTION 3. Scope and Coverage. This Order shall apply to all lands adjoining seas, rivers, lakes, creeks, esteros and other wetland areas.

SECTION 4. Definition of Terms. As used in this Order, the following terms shall be defined as follows:

- 4.1 **Creek** - a stream of water longer than a brook or small stream that empties into the rivers.
- 4.2 **Estero** - any bed or channel through which stagnant, dirty or salt water flows under the influence of the tide.
- 4.3 **Lake** - an expanded part of a river or an inland body of standing water.
- 4.4 **Legal Easement** - an easement by necessity constituted by law which has for its object either for public use or the interest of private persons.

- 4.5 **Mean high water level** – the average of all the high-water levels at a given location over a period of years.
- 4.6 **National Park** – lands of the public domain classified as such in the Constitution which includes all areas under the NIPAS pursuant to R.A. 11038, primarily designated for the conservation of plants and animals, their associated habitats and cultural diversity.
- 4.7 **Protected Area** – identified portions of land and/or water set aside by reason of their unique physical and biological significance, managed to enhance biological diversity and protected against destructive human exploitation.
- 4.8 **Reclaimed areas** – land that was under the sea or was in a very poor condition, but has been improved so that it can be used for farming or building on.
- 4.9 **River** – any wide natural bed or channel through which water flows continuously or intermittently throughout the year.
- 4.10 **Rural areas** – areas not identified as urban as defined in this Order.
- 4.11 **Salvage Zone** – lands measuring twenty (20) meters measured landward from the interior limit of the shoreline for easement purposes.
- 4.12 **Urban areas** – all cities regardless of their population density and municipalities with a population density of at least five hundred (500) persons per square kilometer pursuant to R.A. 7279 or the Urban Development and Housing Act of 1992, regardless of the declaration of Local Government Units (LGUs) except in Metro cities.
- 4.13 **Wetland** – a wide variety of inland habitats such as marshes, peatlands, floodplains, rivers and lakes, and coastal areas such as saltmarshes, mangroves, intertidal mudflats and seagrass beds, and also coral reefs and other marine areas no deeper than six (6) meters at low tide, as well as human-made wetlands such as dams, reservoirs, rice paddies and wastewater treatment ponds and lagoons.

SECTION 5. Determination of the Required Legal Easement. The following rules shall be applied in determining legal easements.

5.1 For Urban Areas

All cities and urban municipalities shall adopt a 3-meter easement zone over those areas classified as agricultural lands. Forest lands shall adopt a 40-meter easement zone, even if it is part of an urban area.

5.2 For Rural Areas

Rural municipalities shall adopt a 20-meter easement zone for agricultural lands, and 40-meter easement zone on forest lands.

In cases where rural municipalities are upgraded into urban, their easements shall be adjusted consistent with Section 5.1 of this Order upon approval of their new Comprehensive Land Use Plans (CLUPs). The existing easements as reflected in the old DENR Cadastral Map shall likewise be updated.

5.3 For National Parks/Protected Areas

All National Parks/Protected Areas, whether in urban or rural areas, shall adopt a 40-meter easement zone, taking into consideration the provisions of Section 18 (v) of R.A. 11038 or the ENIPAS Law, and Section 24.4 of DAO No. 2019-05.

5.4 In case of Reclaimed Areas

All reclamation projects, whether in urban or rural areas, shall adopt a 40-meter easement zone. The easement shall be measured from the banks or the edge of the reclaimed portion.

If warranted under the circumstances and in order to safeguard and conserve land, the LGU, through an ordinance may impose a wider easement subject to the rights of private persons owning a titled land, who may be affected by the imposition of wider easements under Article II, Section 9 of the 1987 Constitution.

SECTION 6. Measurement of Legal Easement. For the purpose of measuring or establishing the salvage zone and legal easements, the following rules shall be applied:

- 6.1 Lands bordering the seas, gulfs, bays or ports shall be subjected to *easement of salvage zone* of twenty (20) meters in agricultural lands and forty (40) meters in forest lands measured landward from the Mean High Water line or interior limit of the shoreline.
- 6.2 Banks of rivers and streams with channels at least five (5) meters wide or continuously flowing rivers and streams even with less than five (5) meters width, creeks, arroyos or esteros shall be subjected to legal easement of three (3) meters in urban areas, twenty (20) meters in agricultural lands and forty (40) meters in forest lands, measured landward from the edge of the normal high waterline.
- 6.3 Lands along the shore of lakes shall also be subjected to the same legal easement in Section 6.2 above, measured from the edge of the normal high water marks made at the lake's greatest water depth, except those under the jurisdiction of the Laguna Lake Development Authority (LLDA) and other government agencies.

The measurement of easement along seas and coastal areas shall be based on the mean high-water level with reference to the tide table as published by the NAMRIA.

The provisions of Section 2 of DAO No. 99-21 and Section 84 of DMC No. 2010-13 on the survey of legal easements shall be followed. All existing easements as identified in the old Cadastral Survey and those within forest lands and National Parks/Protected Areas shall be updated every ten (10) years and reflected or indicated in the corresponding map through dotted lines.

The lands formed from the forces of nature resulting in recession of the water level shall be preserved as easement and shall not be subjected to disposition until it is classified. On the other hand, lands submerged as a result of the sea level rise or subject of erosion shall be accordingly reduced in the map. If a private or titled land is affected, no new easement shall be required.

SECTION 7. Monitoring. The DENR Regional Offices, through their Enforcement Division shall monitor the establishment of easements in accordance with the provisions of this Order. In case the area concerned is within a National Park/Protected Areas, the Protected Area Management Board (PAMB) shall be included in the monitoring.

A database of shape files of all the established easements shall be created in the Regional Office. This shall be maintained and updated from time to time or when necessary.

SECTION 8. Enforcement. All individuals or group entities owning or managing the establishments and structures which are found to be in violation of the rules on the establishment of salvage zones and legal easements, whether private or owned by the government, shall be subjected to possible relocation and demolition, if warranted.

All violators shall be notified by the Region to comply with the rules. Those individuals or group entities that are subject to relocation but with existing Environmental Compliance Certificate (ECC) shall be required to apply for a new one since the previously issued Certificate is based on the impact areas identified in their earlier submitted Environmental Impact Assessment (EIA) studies.

The enforcement of legal easements within Protected Areas shall be guided by the provisions of Section 24 of DAO No. 2019-05.

SECTION 9. 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 10. Repealing Clause. All Orders and other similar issuances inconsistent herewith are hereby revoked, amended, or modified accordingly.

SECTION 11. Effectivity Clause. This Order shall take effect fifteen (15) days after its publication in a newspaper of general circulation and upon acknowledgment of the receipt of the copy thereof by the Office of the National Administrative Register (ONAR).

Publication: Daily Tribune
June 16, 2021

Acknowledgement: U. P. Law Center
June 17, 2021

ROY A. CIMATU
Secretary

