



Republic of the Philippines  
Department of Environment and Natural Resources  
MIMAROPA Region 809

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September 5, 2022

**MEMORANDUM**

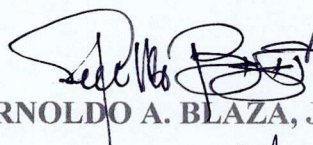

**FOR** : The Assistant Regional Director  
for Technical Services

**FROM** : The OIC PENR Officer

**SUBJECT** : **INDORSEMENT OF MAIL RECEIVED DATED  
SEPTEMBER 5, 2022 RE DOCKET NO. PMB-L-C-20-0075;  
OMB-L-A-20-0077**

Forwarding herewith the mail received by this office from the Office of the Ombudsman on September 5, 2022 re the above subject.

For information and further instructions.

  
ARNOLDO A. BLAZA, JR.  




Republic of the Philippines  
**OFFICE OF THE OMBUDSMAN**  
Office of the Deputy Ombudsman for Luzon  
Agham Road, Diliman, Quezon City 1104

**SHIRLEY YAP**  
**FERDINAND YAP**

*Complainants.*

-versus-

**OMB-L-C-20-0075**  
For: Violation of  
Section 3 (e) of R.A. No.  
3019

**OMB-L-A-20-0077**  
For: Conduct Prejudicial  
to the Best Interest of the  
Service; Gross Neglect  
of Duty; Grave Abuse of  
Authority and  
Misconduct

**MAXIMO CANO LANDRITO, SALARY GRADE 26**  
Provincial Environment and Natural Resources Officer  
Department of Environment and Natural Resources  
Provincial Environment and Natural Resources Office  
Odiongan, Romblon

**MALVIN R. ROCERO, SALARY GRADE 22**  
Officer-in-Charge-Sibuyan Sub-Station and Concurrent Protected  
Area Superintendent

**REBECCA M. DELGADO, SALARY GRADE 15**  
Ecosystem Management Specialist II

**ERNIE L. FORCADAS, SALARY GRADE 6**  
**RAMER F. MANALON, SALARY GRADE 6**  
Both Forest Technician I

**LUDWIN M. RUADO, SALARY GRADE 4**  
Forest Ranger

All of: DENR-PENRO Romblon-Sibuyan Sub-Station and  
Mt. Guiting-Guiting Protected Area Management Office  
Magdiwang, Romblon



**JOINT RESOLUTION**

*Shirley Yap, et al. vs. Maximo C. Landrito, et al.*

OMB-L-C-20-0075/OMB-L-A-20-0077

**FELIX OBORDO**

Barangay Kagawad

San Fernando, Romblon

*Respondents.*

X- - - - - X

**JOINT RESOLUTION**

This resolves the complaint<sup>1</sup> for violation of Section 3 (e)<sup>2</sup> of Republic Act (R.A.) No. 3019,<sup>3</sup> Conduct Prejudicial to the Best Interest of the Service,<sup>4</sup> Gross Neglect of Duty,<sup>5</sup> Grave Abuse of Authority<sup>6</sup> and Misconduct<sup>7</sup> filed on 03 February 2020 by spouses Shirley and Ferdinand Yap (complainants) against Provincial Environment and Natural Resources Officer (PENRO) Maximo C. Landrito (respondent Landrito), Officer-in-Charge (OIC) Sibuyan Sub-Station and Concurrent Protected Area Superintendent (PASu) Malvin R. Rocero (respondent Rocero), Ecosystem Management Specialist (ECOMS) Rebecca M. Delgado (respondent Delgado), Forest Technician Ernie L. Forcadas (respondent Forcadas), Forest Technician Ramer F. Manalon (respondent Manalon), Forest Ranger Ludwin M. Ruado (respondent Ruado) of Department of Environment and

<sup>1</sup> Records, Criminal and Administrative Case Folders, pp. 1-9.

<sup>2</sup> Sec. 3 (e) Causing any undue injury to any party, including the Government or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence.

<sup>3</sup> *Anti Graft and Corrupt Practices Act.*

<sup>4</sup> Acts constitute Conduct Prejudicial to the Best Interest of the Service as long as they tarnish the image and integrity of his/her public office. (*Office of the Ombudsman-Visayas et al. Vs. Mary Ann T. Castro*, April 22, 2015, G.R. No. 172637)

<sup>5</sup> Gross Neglect of Duty denotes a flagrant and culpable refusal or unwillingness of a person to perform a duty. In contrast, Simple Neglect of Duty means the failure of an employee or official to give proper attention to a task expected of him or her, signifying a "disregard of a duty resulting from carelessness or indifference." (See *Office of the Ombudsman vs. De Leon*, G.R. No. 154083, February 27, 2013, 692 SCRA 27, 38-39).

<sup>6</sup> Grave Abuse of Authority/Oppression is a misdemeanor committed by a public officer, who under color of his office wrongfully inflicts upon any person any bodily harm, imprisonment or other injury. It is an act of cruelty, severity or excessive use of authority. (*Marcelo vs. Dalmacio-Joaquin*, A.M. No. MTJ-14-1839, 22 July 2015.)

<sup>7</sup> Misconduct has been defined as an intentional wrongdoing or a deliberate violation of a rule of law or standard of behavior especially by a government official. It is grave where the elements of corruption, clear intent to violate the law or flagrant disregard of established rule are present. (*Imperial vs. GSIS*, G.R. No. 191224, October 4, 2011).



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Natural Resources (DENR), Romblon; and Barangay Kagawad Felix Obordo (respondent Obordo) of Barangay Otod, San Fernando, Romblon.

Complainants aver that they have been engaged in the business of making wood furniture since 1998, registered as Wechan Furniture. Complainant Shirley is the registered owner while complainant Ferdinand oversees the daily operations.

In the morning of 12 November 2018, while complainant Shirley was loading her pieces of furniture into the pumpboat of Joel Borres (Borres) for shipment to Roxas City, two Coast Guard personnel arrived and asked where the furniture are heading. She explained and showed them her business documents. One of the coast guards, however, called the DENR- Sibuyan Sub-Station and reported the matter. In the afternoon, respondents Delgado, Ruado, Forcadas and Manalon arrived and asked complainants about their permits and other documents. When presented, respondent Delgado refused to acknowledge their documents and even shouted at them. Respondent Delgado confiscated the pieces of furniture and the Mayor's Clearance/Permit for Transport and Barangay Clearance. She also did not give them a copy of the Apprehension Report. The seized pieces of furniture were turned over to respondent Obordo whose house was just in front of complainants' shop.

The following day, complainants went to the DENR- Sibuyan Sub Station to show their papers and requested for the release of the furniture. Respondent Rocero told them to wait for the conduct of hearing while respondent Delgado refused to talk to them. They went back on 23 November 2018 to see respondent Delgado, who allegedly shouted at them in front of DENR employees.

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During the 16 January 2019 hearing, complainants showed their documents<sup>8</sup> but respondent Landrito did not even bother to look at them. He merely asked for the cutting permit of the narra trees and told them that they would schedule another hearing which did not happen. For several times, they tried to follow-up the release of the seized pieces of furniture but respondents merely told them to wait. Months passed and the furniture deteriorated due to exposure to the elements.

On 2 September 2019, complainants sought advice from the Public Attorney's Office (PAO). The PAO, through Atty. Emerson J. Felongco, sent a letter<sup>9</sup> to respondent Rocero asking explanation why the 15-day period to issue a decision under DAO 97-32 has not been complied. In his Reply dated 13 September 2019,<sup>10</sup> respondent Rocero said that since the seized items were in the possession of respondent Obordo and not with the DENR Officer designated as seizing officer, there is no administrative seizure to speak of. Respondent Rocero also stated that the matter has been forwarded to respondent Landrito who is yet to advise them of the action to be taken.

In an Order dated 15 February 2021,<sup>11</sup> respondents were directed to answer the charges.

Respondent Landrito<sup>12</sup> avers that administrative confiscation proceedings<sup>13</sup> were conducted by his office on 16 January 2019 which was attended by complainants and the pumpboat owner. An Administrative 

<sup>8</sup> Tax Declaration of Feloteo Yap; Clearance to Transport; Certificate of Tree Plantation Ownership; Memorandum dated May 19, 2006 signed by respondent Ludwin Ruado; Special Power of Attorney issued by Patricia Royo; Letter dated February 2, 2006; Certificate Verification dated February 2006; Certificate Verification dated September 13, 2004; Certificate Verification dated September 13, 2004; Certificate Verification dated September 29, 2011; Special Power of Attorney dated March 15, 2007; xerox copy of Original Certificate Title; Affidavit dated December 2, 1993; Special Private and Land Timber Permit; Official Receipt dated February 17, 1994; Death Certificate of Loreto Mangarin Royo dated August 15, 1993; Copy of Original Certificate of Title of Filoteo Yap, Annexes "K to "Y" of the Complaint Affidavit, *Supra* Note 1, pp. 22-39.

<sup>9</sup> *Id.*, p. 41.

<sup>10</sup> *Id.*, p. 42.

<sup>11</sup> *Id.*, p. 61.

<sup>12</sup> *Id.*, pp. 62-70.

<sup>13</sup> *Id.*, p. 71.



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Hearing Report dated 15 April 2019<sup>14</sup> was submitted to the Regional Executive Director (RED) of DENR-MIMAROPA on 3 May 2019. Contrary to complainants' claims, he did not schedule for another hearing as he merely mentioned the possibility of another one.

Based on Section 7 (4) of DENR Administrative Order (DAO) 1997-32,<sup>15</sup> it is the RED who is tasked to render a decision based on the recommendation of the hearing officer. Complainants were informed about it during the hearing<sup>16</sup> Hence, respondent Landrito asserts that he has no authority to release any of the seized items prior to the decision of the RED.

Meanwhile, respondent Rocero<sup>17</sup> avers that he received a call on 12 November 2018 from Philippine Coast Guard (PCG) personnel of Cajidiocan, Romblon informing him of their discovery of furniture items being loaded into a pumpboat in Barangay Otod, San Fernando, Romblon. Thus, he instructed respondents Delgado, Forcadas, Manalon and Ruado to respond to the report and proceed to the area. While respondents Delgado, et al and the PCG personnel were conducting verification, complainants appeared and admitted to them that they are the owners of the furniture items, and Borres is the owner of the pumpboat. Upon demand, complainants presented barangay clearance<sup>18</sup> dated 8 November 2018 issued in the name of complainant Shirley, sales invoice<sup>19</sup> under the name of Borres and municipal clearance to transport<sup>20</sup> dated 5 November 2018 with OR in *you*

<sup>14</sup> *Id.*, pp. 82-84.

<sup>15</sup> Sec. 7 Outline of Procedures for Summary Administrative Confiscation.

4. DECISION- The Decision shall be rendered by the RED upon recommendation of Hearing Officer. Substantial evidence shall suffice to sustain an administrative Decision adverse to interested party, failing which, a ruling shall be issued dismissing the case, and the controversy deemed closed and ordering that the seized items be returned forthwith. When the evidence so warrants, a ruling shall be issued declaring the seized items to be confiscated in favour of the Government, together with recommendations for further prosecution, if any x x x.

<sup>16</sup> Please see Transcript of Stenographic Notes, Annex "B" of Respondent Landrito's Counter-Affidavit, *Supra* Note 1, pp. 72- 78.

<sup>17</sup> *Id.*, pp. 122-136.

<sup>18</sup> *Id.*, p. 168.

<sup>19</sup> *Id.*, p. 171.

<sup>20</sup> *Id.*, pp. 169-170.



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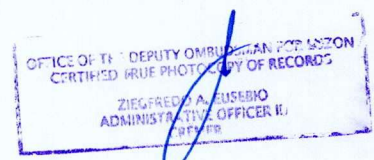
the name of Borres Furniture. Meanwhile, no document was presented as regards the pumpboat. It was just claimed that it was registered and confirmed by the PCG.

Upon further inquiry, Borres admitted that the subject furniture items are owned by complainants. Likewise, complainants were informed that a mayor or barangay clearance is not a sufficient basis and authority to transport wooden furniture items. Due to time and weather constraints and lack of space in the barangay hall, the apprehending team decided that the apprehended furniture items<sup>21</sup> be kept in the area of respondent Obordo.

Respondent Rocero goes on by saying that in administrative proceedings regarding violation of environmental laws, the PENRO's role is only to conduct administrative hearing and submit the report and recommendation. Based on Sec. 7 (4) of DAO 1997-32, the RED shall render a decision based on the recommendation of the hearing officer. In this case, there was already an administrative hearing conducted wherein the complainants were given the full opportunity to attend and be heard and then a report was forwarded to the RED. Hence, it is premature to say that the apprehension was illegal.

Nonetheless, respondent Rocero insists that complainants do not have their own documents to justify their transport of the furniture items. They only showed Barangay Clearance in the name of complainant Shirley and the accompanying OR; Sales Invoice and Municipal Clearance, both in the name of Borres. Also, Borres should have presented documents of ownership, business permits and certificate of public conveyance since he was the pumpboat owner. Respondent Rocero admits that complainants had

<sup>21</sup> (a) 1 set dining table (8 sitter) assorted species of manga, balite, acasia and dita; (b) 1 set dining table (6 sitter) assorted species of manga, balite and acacia; (c) 3 sets of love set (1 long bench and 2 short bench, 1 center table and 2 side tables assorted species of narra, acasia, santol and manga; and (d) 1 set Cleopatra ( 1 long bench, 2 shorts bench, 1 center table and 2 side tables) assorted species of narra, acacia, santol and manga.



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Mayor's Permit, Certification from the BIR, Sanitary Permit and others for the operation of furniture business which, however, do not exempt them from complying the requirements of DAO No. 58, dated September 30, 1993, as follows:

Section 11. Transport Requirements. Each shipment of finished, semi-finished and knocked-down Narra based wood products being transported must be accompanied by a certification issued by the CENRO concerned, certifying the legitimacy of its origin. In case of raw Narra lumber subject for allocation to the member manufacturers of an association or cooperative, a Certificate of Origin issued by the CENRO concerned must be presented. Information sheet bearing volume of Narra lumber allocated per manufacturer must likewise presented.

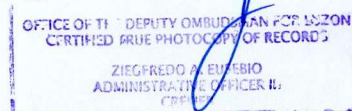
He argues that the business permit/ mayor's permit and BIR permit are requirements to make the furniture business legal while the cutting permit, certification issued by the CENRO concerned certifying the legitimacy of its origin and sales invoice and/or delivery receipts are required to make the possession, sale and transport/delivery of wooden furniture legal, failing on which justifies its apprehension, confiscation and eventual forfeiture as what had happened in the present case.<sup>22</sup>

Respondent Rocero likewise points out that the documents complainants presented refer to different wood species. The confiscated furniture items were made of manga, balite, acacia dita, santol and narra. The documents they presented, however, mentioned acacia, maganhop, mahogany, bangkal, lumboy, bugo and gmelina.<sup>23</sup> They also did not submit cutting permits.

Moreover, respondent Obordo was not the one who seized nor was he allowed to seize the subject items. *yw*

<sup>22</sup> Per DENR A.O. No. 58 dated September 30, 1993.

<sup>23</sup> Please see annexes "Q" and "R" series of complaint-affidavit, *Supra Note 1*, pp. 25, 27-30.



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As to the apprehension receipt,<sup>24</sup> a temporary one was prepared since it was onsite and there was no way to immediately prepare a formal one. It was presented to complainant Shirley but she refused to receive it. Upon arrival at the office, the formal apprehension receipt was prepared.

As regards the confiscation, the DENR is clothed with the authority to apprehend, seize and confiscate forest products that are illegally cut, gathered and possessed in violation of the Revised Forestry Code.

Meanwhile, respondents Delgado, Forcadas, Manalon and Ruado<sup>25</sup> merely reiterated the arguments of respondent Rocero. Respondent Delgado denies that she refused to acknowledge complainants' documents and shouted at them. She explains that she informed complainants that the sales invoice and municipal clearance to transport that they presented were not in their names but in the name of Borres. She could not grant their request for the release of their confiscated items because a report<sup>26</sup> was already submitted to respondent Rocero and the apprehending team has no authority to release the same.

Respondent Obordo,<sup>27</sup> on the other hand, asserts that he was only requested to use his place as storage area but denies being an apprehending officer. He had no participation in the confiscation of the subject items.

In their Reply,<sup>28</sup> complainants argue that in the apprehension receipt and onsite report, respondents included in the list the pumpboat Yamada 2 engines owned by Borres but the same was not seized and was returned to the owner. Respondent Obordo should have likewise informed the DENR to take custody of the items since his possession was merely temporary. It is also not true that they were given opportunity to be heard.

<sup>24</sup> *Id.*, p. 161.

<sup>25</sup> *Id.*, pp. 141-156.

<sup>26</sup> *Id.*, pp. 157-160.

<sup>27</sup> *Id.*, pp. 200-202.

<sup>28</sup> *Id.*, pp. 178-181, 191-197.



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By Order dated 15 February 2021,<sup>29</sup> the parties were ordered to file their respective position papers.

Complainants<sup>30</sup> posit that the procedure lay down by DAO 97-32 were not complied with, particularly the issuance of on-site apprehension receipt. Respondents did not prepare an onsite record to be signed by complainants and they allowed the release of Borres' pumpboat. It was only on 26 September 2021 or after the present case was filed with this Office that respondents confiscated the pumpboat and took custody of the subject items from respondent Obordo and placed them at the DENR office.

Respondents,<sup>31</sup> except Obordo, stress that the present case must be dismissed since an Order from the DENR-MIMAROPA RED had been issued on 11 October 2021 resolving that there was no irregularity in the apprehension process and ordered the confiscation of the subject furniture. Also, a criminal case for violation of P.D. 705 or Forestry Code had been filed against complainants before the Provincial Prosecutor's Office of Romblon.

Respondent Obordo did not file his position paper.

The complaint lacks merit.

Records show that indeed complainants tried to transport the subject furniture items through Borres' pumpboat but without legal documents. Contrary to complainants' claim, the apprehending team (respondents Delgado *et al.*) checked their documents but found the same to be not in their names but under Borres name. Also, the documents they presented were not the required documents for sale and transport of the subject items. *yw*

<sup>29</sup> Administrative Case Records, p.218.

<sup>30</sup> *Id.*, pp. 257-271.

<sup>31</sup> *Id.*, pp. 421-444.



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They also failed to present cutting permits for the woods they used for the furniture and the documents presented different wood species. Thus, there is basis for the confiscation of the subject items.

Records likewise disprove complainants' claim that there was no apprehension report. The confiscation was actually properly documented by the existence of a report<sup>32</sup> to the PENRO of respondent Rocero and report<sup>33</sup> by respondents Delgado et al. who were the apprehending officers. Also on record is a handwritten apprehension receipt<sup>34</sup> which complainants refused to sign and an onsite report,<sup>35</sup> onsite record<sup>36</sup> and photos<sup>37</sup> taken during the confiscation.

Moreover, in an Order<sup>38</sup> dated 11 October 2021 issued by RED Ma. Lourdes G. Ferrer, she validated respondents' report and found substantial evidence against complainants for violation of Sec. 77 of PD 705 and ordered the permanent confiscation of the subject items in favor of the government.

On such basis, the charge for violation of Section 3 (e)<sup>39</sup> of R.A. 3019 must be dismissed as complainant failed to show that respondents, in the exercise of their functions, had acted with evident bad faith, manifest partiality or gross inexcusable negligence which caused undue injury to them. Complainants' claims lack factual and legal bases. In fact, they admitted during the confiscation hearing that they used the official receipts *yw*

<sup>32</sup> *Supra* Note 1, pp. 157-160.

<sup>33</sup> *Id.*, pp. 158-160.

<sup>34</sup> *Id.*, p. 167-168.

<sup>35</sup> *Id.*, pp. 162-163.

<sup>36</sup> *Id.*, p. 163.

<sup>37</sup> *Id.*, pp. 104-166.

<sup>38</sup> *Id.*, pp. 233-234.

<sup>39</sup>For one to be held liable for violation of Section 3 (e) of R. A. No. 3019, the following elements must concur: (1) The accused must be a public officer discharging administrative, judicial or official functions; (2) He must have acted with manifest partiality, evident bad faith or inexcusable negligence; and (3) That his action caused any undue injury to any party, including the government, or giving any private party unwarranted benefits, advantage or preference in the discharge of his functions. (*Cabrera, et al., vs. People*, G.R. Nos. 191611-14, 29 July 2019).

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of Borres as theirs were already expired.<sup>40</sup> They were also aware that their act of transporting the said goods without the required documents is illegal. They even beg for its release. Thus, their accusation of illegal confiscation is an afterthought and without basis.

As to respondent Obordo, the records show that he merely took custody of the confiscated items in behalf of the DENR and only for safekeeping purposes due to financial and time constraints for handling.<sup>41</sup> Moreover, complainants failed to allege, much more prove, any other act that might implicate respondent Obordo to any irregularity relative to the complained apprehension.

Based on the foregoing, the criminal complaint for violation of R.A. 3019 should be dismissed for failure of the records on hand to support a finding of probable cause.

In the same vein, the administrative charges should likewise be dismissed. Respondents could not have committed Gross Neglect of Duty as their acts are, in fact, within the border of law and rules. The presumption of regularity in the performance of one's official duty could well be appreciated in favor of respondents. There is also no factual or legal basis to hold respondents administratively liable for Conduct Prejudicial to the Best Interest of the Service. Complainants have not clearly established the circumstances how public respondents tarnished the image and integrity of their respective offices. Grave Abuse of Authority is also dismissed for lack of substantial evidence that respondents abused their positions during the process of confiscation and investigation. Respondents could not have committed Misconduct as there was no deliberate intent to violate a law or rule. Their acts are, in fact, within the purview of law and rules and regulations.

<sup>40</sup> Please see Transcript of Stenographic Notes, *Supra* Note 1, p. 75.

<sup>41</sup> Please see Memorandum dated 17 December 2018 of respondent Rocero, *Id.* p. 157.



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**WHEREFORE**, the complaint against **Maximo C. Landrito, Malvin R. Rocero, Rebecca M. Delgado, Ernie L. Forcadas, Ramer F. Manalon, Ludwin M. Ruado and Felix Obordo** is dismissed for lack of merit.

**SO ORDERED.**

Quezon City, Philippines, 27 June 2022.

*Yasmin Soraya A. Masukat* 7/7/22

**YASMIN SORAYA A. MASUKAT**  
Graft Investigation and Prosecution Officer II

Reviewed by:

*Margie G. Fernandez-Calpatura* 7/7/22  
**MARGIE G. FERNANDEZ-CALPATURA**

Director, Preliminary Investigation, Administrative. Adjudication  
and Prosecution Bureau-C (PIAAPB-C)

Recommending Approval:

*Adoracion A. Agbada* 7/14/2022  
**ADORACION A. AGBADA**

Acting Assistant Ombudsman

(Per Office Order. No. 086-L, series of 2018)



**APPROVED/DISAPPROVED:**

*Cornelio L. Somido*  
**CORNELIO L. SOMIDO**

Deputy Ombudsman for Luzon

(Designated as final approving authority  
per Office Circular No. 5 dated 07 February 2020)



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Copy furnished:

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**FERDINAND YAP**

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**MAXIMO CANO LANDRITO**

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**MALVIN R. ROCERO**

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Area Superintendent

**REBECCA M. DELGADO**

Ecosystem Management Specialist II

**ERNIE L. FORCADAS**

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**RAMER F. MANALON**

Forest Technician I

**LUDWIN M. RUADO**

Forest Ranger

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**FELIX OBORDO**

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