



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

DEC 21 2023

MEMORANDUM

TO : The PENRO
Palawan

FROM : The OIC, Regional Executive Director

SUBJECT : **REPORT ON THE ABANDONED ONE (1) MOTORIZED BOAT AND ONE (1) SET OF TRAWL NET WITH BOARD APPREHENDED AT SITIO MALAYA, BARANGAY BANBANAN, TAYTAY, PALAWAN ON SEPTEMBER 20, 2023**

This is to acknowledge receipt of your memorandum dated November 6, 2023 submitting the report dated September 25, 2023 of PASU Clarissa P. Pador of Malampaya Sound Protected Landscape and Seascape (MSPLS) regarding the above mentioned subject.

Please be guided on the attached memorandum dated June 14, 2023 issued by then Regional Executive Director Lormelyn E. Claudio. Further, you are advised to coordinate with the BFAR for turning over the custody of the apprehended motorized boat and one set of trawl net with board to exercise their administrative authority to confiscate and dispose of the same pursuant to RA No. 8550, otherwise known as "The Philippine Fisheries Code of 1998," as amended by RA No. 10654.

For guidance and compliance.

FELIX S. MIRASOL, JR., CESO IV

*For and in the absence of the
Regional Executive Director:*


MAXIMO C. LANDRITO
OIC, Assistant Regional Director
for Technical Services

ED/MUO/12-19-23



Department of Environment
and Natural Resources
MIMAROPA Region



Doc ID: 123985



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

**DENR MIMAROPA
ENFORCEMENT DIVISION
RECEIVED**

07 AUG 2023

BY: JMTW DATS NO. _____
TIME: 2:09 PM

MEMORANDUM

TO : The PENR Officer
Palawan

ATTENTION : The CENR Officer
Taytay, Palawan

*The Protected Area Superintendent
Malampaya Sound Protected Landscape and Seascape*

THRU : The Assistant Regional Director for Technical Services

FROM : The Regional Executive Director

SUBJECT : **FINAL REPORT RE: ADMINISTRATIVE INVESTIGATION ON
THE APPREHENSION OF THREE (3) UNITS OF MOTORIZED
BOATS AND FISHING GEARS WITHIN THE MALAMPAYA
SOUND PROTECTED LANDSCAPE AND SEASCAPE,
TAYTAY, PALAWAN**

DATE : JUN 14 2023

CERTIFIED TRUE / PHOTO COPY

My 8.07.2023

MARLENE M. BADILLA
Admin. Asst. III / Records Officer-Designate
Legal Division, DENR MIMAROPA Region

This refers to the Memorandum dated September 4, 2020 of the PENRO Palawan regarding the Final Report on the Administrative Investigation dated August 17, 2020 submitted by the OIC, CENRO Taytay, Palawan on the apprehension of three (3) units of motorized boats and fishing gears within the Malampaya Sound Protected Landscape and Seascape (MSPLS).

The Hearing Officer recommended that the apprehended items be disposed pursuant to Paragraph 4 of Rule 12 of Rules of Procedure for Environmental Cases.

DAD 2019-05, or the *Implementing Rules and Regulations of Republic Act (R.A.) No. 7586, as amended by R.A. No. 11038*, provides in Section 11 that the composition of the Protected Area Management Board (PAMB) includes the Regional Director of the Department of Agriculture (DA), under which the Bureau of Fisheries and Aquatic Resources (BFAR) is a line bureau.

The BFAR is the implementing office of the Fisheries Code, and under the Code, the BFAR has the administrative authority to impose fines and confiscate items used in violation thereof. Further, violations of said Code are subject to the *Rules of Procedure for Environmental Cases (RPEC)*, which provide in Rule 12 thereof that:

**RULE 12. CUSTODY AND DISPOSITION OF SEIZED ITEMS, EQUIPMENT,
PARAPHERNALIA, CONVEYANCES AND INSTRUMENTS**

Section 1. Custody and disposition of seized items. - The custody and disposition of seized items shall be in accordance with the applicable laws or rules promulgated by the concerned government agency.

The BFAR has *Rules of Procedure for the Adjudication of Fisheries Law Cases* which provide for the administrative confiscation and disposition of fish and other aquatic resources as well as the property, boat, gear, equipment and other paraphernalia used in the commission of violations of the Fisheries Code.

On the other hand, Section 11-B of DAO 2019-05 establishes the Protected Area Management Office (PAMO) headed by a Protected Area Superintendent (PASu), one of whose functions include the following:

(f) Enforce the laws, rules and regulations relevant to the protected area, commence and institute administrative and legal actions in collaboration with other government agencies or organizations, and assist in the prosecution of offenses committed in violation of this Act.

However, DAO 2019-05 does not expressly provide for rules on administrative confiscation or disposition of fish, fishing gear and equipment for violations of RA No. 7586, as amended by RA No. 11038, such as those stated in Section 20 (e) and (g). Nevertheless, as the commission of such prohibited acts are also violations of the Fisheries Code, Rule 12 of the RPEC shall be applied, thus, the fish, fishing gear and equipment, as well as the motorized boats are subject to the administrative authority of the BFAR to confiscate and dispose

To sum up, hereunder are the violations:

A. Under the provisions of RA No. 7586, as amended by RA No. 11038:

Section 20. Prohibited Acts. - Except as may be allowed by the nature of their categories and pursuant to rules and regulations governing the same, the following acts are prohibited within protected areas:

(e) Using any fishing or harvesting gear and practices or any of their variations that destroys coral reefs, seagrass beds or other marine life and their associated habitats or terrestrial habitat as may be determined by the DA or the DENR; *Provided, That* mere possession of such gears within the protected areas shall be *prima facie* evidence of their use;

(g) Operating any motorized conveyance within the protected area without permit from the PAMB, except when the use of such motorized conveyance is the only practical means of transportation of IPs/ICCs in accessing their ancestral domain/land.

B Under the provisions of RA No. No. 8550, otherwise known as "The Philippine Fisheries Code of 1998," as amended by RA No. 10654:

Section 86. Unauthorized Fishing. - (a) It shall be unlawful for any person to capture or gather or to cause the capture or gathering of fish, fry or fingerlings of any fishery species or fishery products without license or permit from the Department or LGU.

Except in cases specified under this Code, it shall also be unlawful for any commercial fishing vessel to fish in municipal waters.

CERTIFIED TRUE / PHOTO COPY

8.07.2023

MARLENE M. BADILI
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Legal Division, DENR MIMAROPA Reg

The discovery of any person in possession of a fishing gear or operating a fishing vessel in a fishing area where he has no license or permit shall constitute & prima facie presumption that the person is engaged in unauthorized fishing: Provided, That fishing for daily food sustenance or for leisure which is not for commercial, occupation or livelihood purposes may be allowed.

Section 93. Use of Fine Mesh Net. – It shall be unlawful to engage in fishing using nets with mesh smaller than that which may be determined by the Department: Provided, That the prohibition on the use of fine mesh net shall not apply to the gathering of fry, glass eels, elvers, tabios, and alamang and other species that by their nature are small but already mature, as identified in the implementing rules and regulations by the Department.

The discovery of a fine mesh net in a fishing vessel shall constitute a prima facie presumption that the person or fishing vessel is engaged in fishing with the use of fine mesh net.

In view of the foregoing, you are advised to coordinate with the BFAR for purposes of turning over the custody of the apprehended three (3) units of motorized boats and fishing gears for the BFAR's exercise of their administrative authority to confiscate and dispose of the same. Further, submit an update whether there is already a case filed for this incident of apprehension, in accordance with RA No. 7586, as amended by RA No. 11038, and/or RA No. 8550, as amended by RA No. 10654.

For your guidance and compliance.


LORMELYN E. CLAUDIO, CESO IV

Copy furnished

The Chief, Conservation and Development Division

The Chief, Enforcement Division

CERTIFIED TRUE / PHOTO COPY

M 8.07.2023

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Legal Division, DENR MIMAROPA Region



Department of Environment
and Natural Resources
MIMAROPA Region



Doc ID: 36131