

MEMORANDUM

FOR : The Regional Executive Director
DENR-MIMAROPA Region

THRU : The OIC-Assistant Regional Director
For Technical Services

FROM : The OIC-PENR Officer

SUBJECT : **INSPECTION / INVESTIGATION REPORT RE:
UTILIZATION AND EXPLORATION OF THE NATURAL
DRIED RIVER BED OF THE BOAC RIVER AS PER
SANGGUNIANG BAYAN RESOLUTION NO. 2022-35**

DATE : December 01, 2022

Pursuant to the Memorandum dated September 09, 2022 seeking the technical assistance of DENR as per letter-request of Mayor Armi DC. Carreon of the Municipality of Boac over a parcel of dried river bed, this Office conducted an ocular inspection of the area and gathered the following information from our files, to wit:

BACKGROUND:

1. In a letter dated May 29, 2017, Hon. Roberto M. Madla, then Municipal Mayor of Boac, applied for a Special Patent over a portion of the dried river bed located in Poblacion, Boac, Marinduque which was since then reclaimed and covered by an approved Survey Plan (MR-04-00000/1) surveyed for the Municipality of Boac. Attached therewith is a Memorandum of Agreement which was signed between the Municipality of Boac and the Province of Marinduque on October 24, 2013, wherein the western portion of MR-04-000001 will be used for the construction of Marinduque Recreational Center and Sports Arena for a period of twenty-five years;
2. On June 19, 2017, the Provincial Government of Marinduque, as represented by then Governor Carmencita O. Reyes also applied for a tenurial instrument over the same lot which prompted then Mayor Madla to oppose said application through a letter dated July 4, 2017, a copy of which was furnished to this Office together with pertinent documents showing that the said dried river bed was allegedly owned, actually managed and utilized by the Municipality of Boac pursuant to several resolutions enacted by the Sangguniang Bayan ng Boac;
3. In 2019, OIC PENR Officer Imelda M. Diaz called for a Hearing between then Mayor Roberto M. Madla and then Gov. Carmencita O Reyes which was held at the Office of the PENRO and it was agreed to set aside the issue for the time being and to maintain the status quo;

4. In a letter dated September 9, 2022, Municipal Mayor of Boac, Hon. Armi DC. Carrion, requested the DENR-MIMAROPA Regional Office for technical assistance for the utilization and exploration of the dried river bed of Boac River through a Sangguniang Bayan Resolution No. 2022-35 which was forwarded to PENRO Marinduque on September 16, 2022.

FACTS/FINDINGS:

1. The approved Survey Plan (MR-04-000001) has a total land area of 43,144 sq. m. surveyed for the Municipality of Boac as Municipal Reservation, and is surveyed as an additional lot of Cad. 544-D, Boac Cadastre and **formerly a portion of the dried river bed of Boac River** as stated therein. Upon further inspection and investigation of the subject property, it was found that the said parcel of land is within the Alienable and Disposable (A & D) Zone of Boac, as per Project No. 1, L.C. Map 789 which was approved on November 22, 1928 (please refer to attached approved survey MR-04-000001).

Article 502 of the New Civil Code expressly declares that rivers and their natural beds are public dominion of the State, ergo, no public land can be acquired by private persons, thus, the occupation of public land in the concept of owner, no matter how long, cannot ripen into ownership and be registered as a title without any grant, express or implied, from the Government. Hence, pursuant to Section 5.1.1 of DENR Administrative Order No. 2020-16 (*Guidelines on the Disposition of Lands Formed by Accretion Adjacent to Agricultural Lands (A&D) and Management of Islets in River Channels, Dried Creeks and Dried River Beds*):

*“xxx On the other hand, dried creeks and **dried river beds** shall not be alienated since these **belong to the State as property of public dominion** pursuant to Article 520 of the Civil Code of the Philippines, and outside the commerce of man. Hence, these lands are **not susceptible to private appropriation and acquisitive prescription unless declared as open for disposition through a law enacted by the Congress or a Presidential Proclamation.**”*

2. That based on an ocular inspection conducted by the representatives of this Office together with Engr. Ricardo Nieva, the Municipal Assesor of Boac, it was observed that various structures are already constructed within the said subject land which includes the following:

- Provincial Grandstand and Arena
- Concrete Benches
- Bridge Approach
- Boac Expo Concrete Stall
- Provincial Covered Court
- Provincial Library
- On-going construction of Moriones Museum
- “Bagsakan ng Kalakalan ng Bayan” / Temporary PUV terminal

3. At present, there are no recorded incidents which would cause to undermine the stability of the area. However, as per assessment of the subject property's flood susceptibility, the land area is highly susceptible to flood which will need further study and assessment to be conducted by the Mines and Geosciences Bureau (MGB) to determine suitability to development and habitation, a copy of the Flood Susceptibility Overlay from the MGB is also attached herewith.

RECOMMENDATION/ACTION TO BE TAKEN:

In view of the foregoing, this Office, through the undersigned, respectfully submit the following recommendations:

1. That the concerned parties and/or claimants be advised to file a request for issuance of Presidential Proclamation to reserve the subject portion of the dried river bed of Boac River, a land of public domain, for government use so as to settle the issue on the rightful management and utilization thereof.
2. Due to the findings of this Office and in accordance with Sections 5.1.2 and 5.1.3 of DAO 2020-16, we highly recommend to request assistance from the Conservation and Development Division (CDD) and the Licenses, Patents and Deeds Division (LPDD) of the Region to jointly further identify and assess the biophysical conditions of the subject property. They shall also conduct an extensive evaluation and/or assessment of the same to determine the potential and most suitable use of the property, subject to existing laws, rules and regulations.

Anent thereto, this Office has already sent a request for technical assistance for further evaluation and assessment of the subject area to MGB – MIMAROPA Regional Director. Attached herewith is a copy of a Memorandum dated October 4, 2022 addressed to MGB-MIMAROPA Regional Director together with the geotagged photos of the subject lot which was taken during the initial inspection from the MGB for your reference.

For your information and approval.


IMELDA M. DIAZ

MEMORANDUM OF AGREEMENT

KNOW ALL MEN BY THESE PRESENTS:

This **MEMORANDUM OF AGREEMENT** is made and entered into this October 3, 2013 by and between:

The **PROVINCE OF MARINDUQUE** with official address at the Capitol Compound, Barangay Bangbangalon, Boac, Marinduque herein represented by the Provincial Governor, Honorable **CARMENCITA O. REYES**, hereinafter referred to as the "**FIRST PARTY**";

and

The **MUNICIPALITY OF BOAC**, with official address at the Municipal Hall, Barangay Isok 1, Boac, Marinduque herein represented by the Municipal Mayor, Honorable **ROBERTO M. MADLA**, hereinafter referred to as the "**SECOND PARTY**"

WITNESSETH:

WHEREAS, both the **FIRST PARTY** and the **SECOND PARTY** are legitimate and existing Local Government Units (LGUs) in relation and in pursuant to the existing laws and the 1987 Philippine Constitution;

WHEREAS, that the parcel of land is a Municipal Reservation based on the approved survey plan in favour of the Municipality of Boac issued on May 14, 1985 by the Regional Director of Bureau of Lands-Region IV, Ministry of Natural Resources, with the following technical descriptions:

"A parcel of Land(as shown on plan(Municipal Reservation) Mr-04-000001, LRC Rec. No.), situated at Poblacion, Municipality of Boac, Province of Marinduque, Island of Marinduque. Bounded on the S, along line 1-2 by lot 211, along line 2-3 by lot 212, on the SE, along line 3-4 by lot 215, along line 4-5 by lot 216, along line 5-6 by lot 217, all of Cad. 544-D, Boac, Marinduque, along line 6-7 by Road; along line 7-8 by lot 218, along line 8-9 by lot 224, both of Cad. 544-D, Boac, Marinduque, along 9-10 by Road; along line 10-11 by lot 225, along line 11-12 by lot 230, both Cad 544-D, Boac, Marinduque, along 12-13 by Road, along line 13-14 by lot 231, along line 14-15-16 by lot 234, along line 16-17 by lot 226, all of Cad. 544-D, Boac, Marinduque, on the SW, along line 17-18 by National Road (20.00m wide); on the SW, along 18-19 by lot 229, along line 19-20, by lot 331, along line 20-21 by lot 333, along line 21-22 by lot 335, all of Cad. 544-D, Boac, Marinduque; along line 22-23 by Road; along line 23-24 by lot 337 along line 24-25 by lot 339, along line 25-26 by lot 340 along line 25-27 by lot 342, along line 27-28 by lot 344, all of Cad. 544-D, Boac, Marinduque; on the NW & NE; along lines 28-29-30-31-32-33-34-35 by Boac River (Bank Protection 40.00m wide); and on the SE, along line 35-1 by lot 211, Cad. 544-D, Boac, Marinduque.

Marinduque; on the NW & NE, along lines 28-29-30-31-32-33-34-35 by Boac River (Bank protection 40.00m wide), and on the SE, along line 35-1 by lot 211, Cad. 544-D, Boac, Marinduque.

Beginning at a point marked "1" on plan being N 32 deg 13' E, 163.30m from BLLM, Cad 544-D, Boac, Marinduque

thence N. 88 deg 09'W.,	25.49 m to point 2;
thence S. 89 deg. 02'W.,	13.74 m to point 3;
thence S. 83 deg. 28'W.,	6.68 m to point 4;
thence S. 80 deg. 06'W.,	7.56 m to point 5;
thence S. 82 deg. 26'W.,	13.06 m to point 6;
thence S. 75 deg. 31'W.,	6.43 m to point 7;
thence S. 81 deg. 45'W.,	18.05 m to point 8;
thence S. 83 deg. 26'W.,	12.40 m to point 9;
thence S. 78 deg. 28'W.,	7.65 m to point 10;
thence S. 85 deg. 28'W.,	14.58 m to point 11;
thence S. 82 deg. 23'W.,	11.84 m to point 12;
thence S. 87 deg. 23'W.,	7.69 m to point 13;
thence S. 82 deg. 29'W.,	24.18 m to point 14;
thence S. 79 deg. 57'W.,	4.12 m to point 15;
thence N. 78 deg. 55'W.,	15.03 m to point 16;
thence S. 78 deg. 52'W.,	6.16 m to point 17;
thence N. 81 deg. 54'W.,	190.30 m to point 18;
thence N. 59 deg. 20'W.,	17.74 m to point 19;
thence N. 61 deg. 52'W.,	14.40 m to point 20;
thence N. 59 deg. 58'W.,	7.77 m to point 21;
thence N. 78 deg. 07'W.,	14.66 m to point 22;
thence N. 65 deg. 13'W.,	2.43 m to point 23;
thence N. 52 deg. 09'W.,	27.02 m to point 24;
thence N. 62 deg. 04'W.,	7.11 m to point 25;
thence N. 71 deg. 32'W.,	10.83 m to point 26;
thence N. 67 deg. 16'W.,	15.73 m to point 27;
thence N. 67 deg. 06'W.,	3.21 m to point 28;
thence N. 63 deg. 56'E.,	81.69 m to point 29;
thence N. 66 deg. 46'E.,	26.06 m to point 30;
thence N. 77 deg. 30'E.,	68.47 m to point 31;
thence S. 85 deg. 57'E.,	48.66 m to point 32;
thence S. 80 deg. 33'E.,	51.39 m to point 33;
thence S. 70 deg. 59'E.,	129.97 m to point 34;
thence S. 66 deg. 37'W.,	115.41 m to point 35;
thence S. 10 deg. 20'W.,	26.81m

to the point of beginning containing an area of FORTY THREE THOUSAND THREE HUNDRED SIXTY TWO (43,362) square meters. All points referred to are indicated on the plan and are marked on the ground by P.S. Cyl. Conc. Mors. 15x60cm; Bearings grid; data of original survey, date of survey October 10, 1984 and approved on May 14, 1985."

WHEREAS, copies of the Survey Plan approved on May 14, 1985 by the Regional Director of the Bureau of Lands- Region IV, Ministry of Natural Resources and the Technical Descriptions duly certified and found correct by the Officer-In-Charge of the Regional Survey Division, Land Management Bureau-MIMAROPA, are herewith attached and marked as Annex "A" & Annex "B" respectively;

WHEREAS, an area on the said parcel of land, specifically on the western portion of the road leading to Barangay Tabi situated at Barangay Murallon, this municipality, has been officially declared and is being utilized by the **SECOND PARTY** as its Central Parking Station by virtue of Municipal Ordinance No. 93-037, a portion within that same area has also been officially named and declared as "*Liwasan ng mga Kabataang Boakeño*" by virtue of Municipal Ordinance no. 02-077 otherwise known as the Code for Heraldic Items, Local History, Culture and the Arts of 2002 while that same area has been alternately used as the center of some sports activities in the province and in the municipality thereby emphasizing the importance of the same:

WHEREAS, the **FIRST PARTY**, in its vision of finally creating a structure/facility towards such goal of making the area a place for sports and recreation without neglecting the needs of the other sectors of the society particularly that of transport and youth sectors, has introduced several improvements on the same area described in the preceding clause;

WHEREAS, the **FIRST PARTY** is now willing to construct in the aforesaid area a proposed **MARINDUQUE RECREATIONAL CENTER and SPORTS ARENA** to which the **SECOND PARTY** herewith agrees for the construction of aforesaid facility based on the agreed **SITE DEVELOPMENT MASTERPLAN** which is herewith attached and marked as Annex "C";

WHEREAS, the **SECOND PARTY** sharing the goal of the **FIRST PARTY** has given its consent under the terms and conditions herein agreed and made by both parties;

WHEREAS, both parties are duly authorized by their respective Sanggunian to sign and execute the herein **MEMORANDUM OF AGREEMENT** thru appropriate resolutions;

NOW THEREFORE, for and in consideration of the foregoing premises and of the covenants and stipulations hereunder set forth and agreed, the parties do hereby agree on the following terms and conditions:

1. The **SECOND PARTY** hereby allows the use and utilization of an area specifically located on the western portion of the road leading to Barangay Tabi situated at Barangay Murallon, this municipality and as indicated on Annex "C", for the use and utilization of the **FIRST PARTY** allowing thereby the **FIRST PARTY** to construct the proposed **MARINDUQUE RECREATIONAL CENTER AND SPORTS ARENA** on the land area herein described;
2. Both parties herein acknowledge that the use and utilization of the aforesaid area as granted by the **SECOND PARTY** shall be for a period of twenty five (25) years that may be renewed for another period of twenty five (25) years after which the ownership of the facility shall be subsequently turned over to the **SECOND PARTY**;
3. That the Phase One (1) of the design and built construction of the aforesaid facility shall cover the erection of an Olympic Size Track and Field Oval and Grandstand under the budget and full expenditure of the **FIRST PARTY** pursuant to and in accordance with the general plans and specifications as agreed to by both parties which are herewith attached and marked as Annex "D";
4. The **SECOND PARTY** shall undertake to facilitate the construction of a multi-level parking at the rear portion of the grandstand in accordance with the **SITE DEVELOPMENT MASTERPLAN** as herein agreed to by both parties;
5. Both parties herein acknowledge that future enhancements and future improvements in the aforesaid facility shall be covered by the herein Memorandum of Agreement and shall be based on the agreed **SITE DEVELOPMENT MASTERPLAN** hereunto attached, otherwise, improvements and enhancements not covered by the same shall be subject to future negotiations and mutual agreement by both parties. The **Site Development Master Plan** shall be submitted by the **FIRST PARTY** for conformity of the **SECOND PARTY**.
6. The terms and conditions for the use of the facility shall be based on the following basic principles:

6.1 The management, operation, and maintenance of the Track and Field Oval shall be the responsibility of the **FIRST PARTY**;

6.2 The management, operation and maintenance of the Multi-Level Parking and the Parking Area shall be the responsibility of the **SECOND PARTY**;

6.3 The garbage collection in the area shall be the responsibility of the **SECOND PARTY**;

6.4 The **SECOND PARTY** shall be allowed to use all the facilities within the area free of charge;

6.5 That the **SECOND PARTY** shall use a portion of the sports facility as an alternate parking area until such time that the multi-level parking and the parking area described on the **Master Development Plan** have been constructed and become operational;

6.6 Income derived from the operation of the sports facilities shall be covered by subsequent policies as shall be determined by both parties.

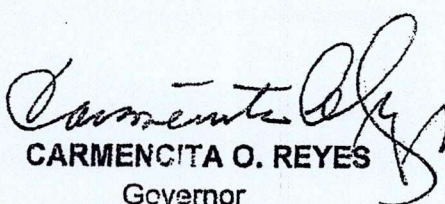
IN WITNESS WHEREOF, the parties hereto, through their respective duly authorized representatives, have hereunto set their hands on _____ at Boac, Marinduque.

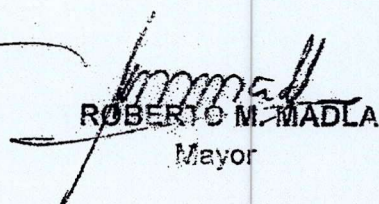
PROVINCE OF MARINDUQUE

MUNICIPALITY OF BOAC

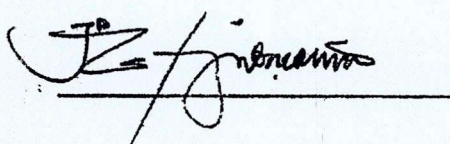
By:

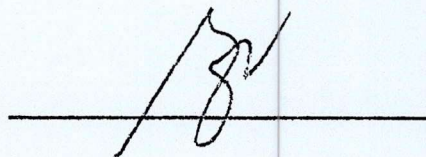
By:


CARMENCITA O. REYES
Governor


ROBERTO M. MADLA
Mayor

Signed in the presence of :





ACKNOWLEDGEMENT

Republic of the Philippines) S.S.
Province of Marinduque)

24 OCT 2013

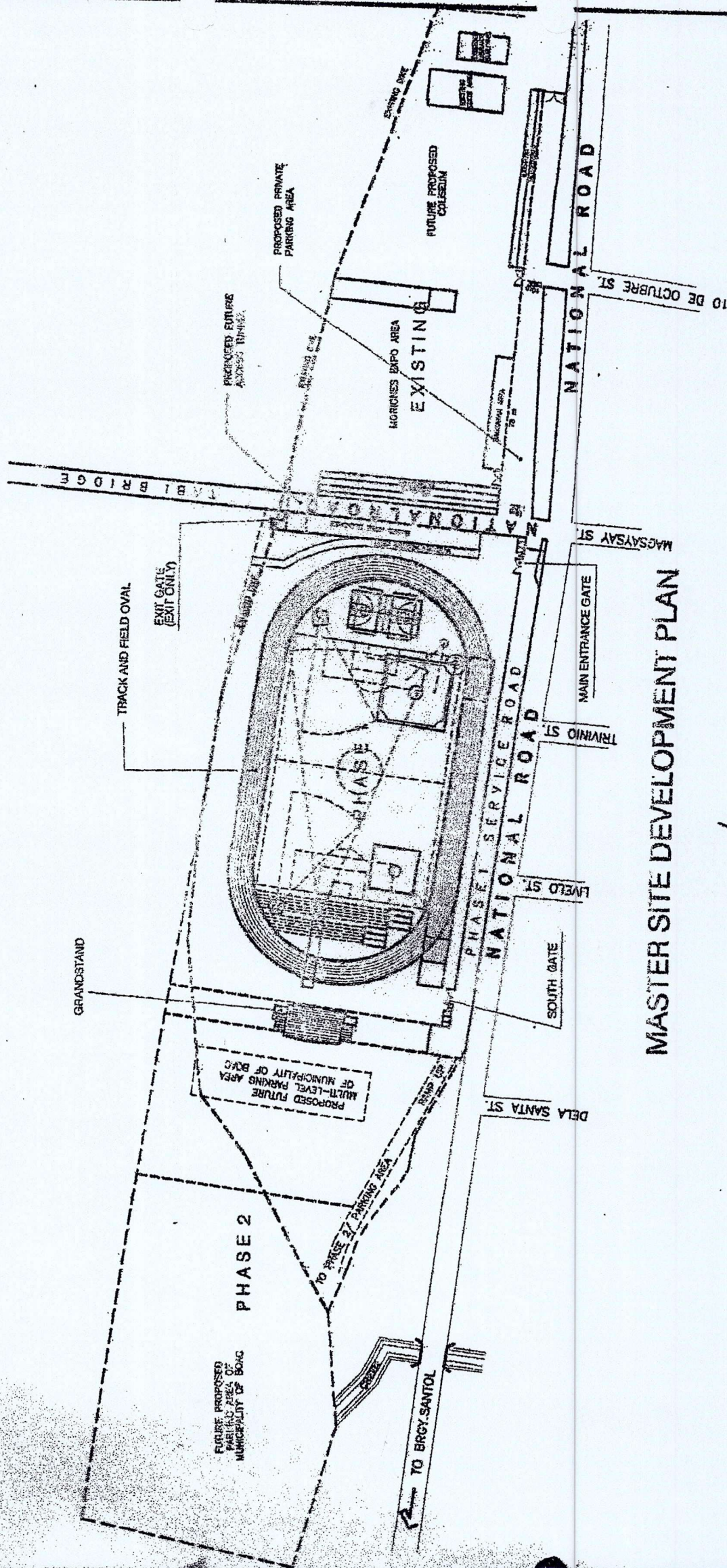
BEFORE ME, a Notary Public for the Province of Marinduque this ___ day of _____ personally appear Hon. CARMENCITA O. REYES, with residence certificate no. 339-116-28 issued in Lupac, Ecoc on January 15, 2013 and Hon. ROBERTO M. MADLA, with residence certificate no. 339-144-93 issued in Buliasin, Ecoc on February 1, 2013 known to me and to me known to be the same persons who executed the foregoing instrument and who acknowledged to me that the same are their free and voluntary acts and deeds and that of the local government units which they respectively represent.

IN WITNESS WHEREOF, I have set my hand and affixed my seal on the date and place first above-written.

ATTY. ALFREDO L. DE LUNA
NOTARY PUBLIC
PURSUANT TO R.A. 9406

Doc. No. 4548
Page No. 13
Book No. 06
Series of 2013

ANNEX "C"



MASTER SITE DEVELOPMENT PLAN

	DEVELOPMENT PROJECT OF PROVINCE OF MARIKINA AND MUNICIPALITY OF BOAC	PROJECT TITLE MASTER SITE DEVELOPMENT PLAN	DRAWN & CHECKED BY ARCH. JESDA AARON MAGTURO REVIEWED BY 	RECOMMENDING AGENCY ENGR. CIRILLO S. MONILLA SR., CE. PERMIT TO CONSTRUCT ENGR. JESDA AARON MAGTURO	APPROVED BY HON. CARMENCITA REYES	COPIES 1
	SHEET NO. 1 OF 1					

TECHNICAL DESCRIPTIONS

Mr-04-000001
Municipality of Boac

ANNEX "B"

A parcel of Land (as shown on plan (Municipal Reservation) Mr-04-000001, IRC Rec. No.), situated at Poblacion, Municipality of Boac, Province of Marinduque, Island of Marinduque. Bounded on the S., along line 1-2 by lot 211, along line 2-3 by lot 212, on the SE., along line 3-4 by lot 215, along line 4-5 by lot 216, along line 5-6 by lot 217, all of Cad. 544-D, Boac, Marinduque, along line 6-7 by Road, along line 7-8 by lot 218, along line 8-9 by lot 224, both of Cad. 544-D, Boac, Marinduque, along line 9-10 by Road, along line 10-11 by lot 225, along line 11-12 by lot 230, both of Cad. 544-D, Boac, Marinduque, along line 12-13 by Road, along line 13-14 by lot 231, along lines 14-15-16 by lot 234, along line 16-17 by lot 236, all of Cad. 544-D, Boac, Marinduque, on the SW., along line 17-18 by National Road (20.00 m. wide); on the SW., along line 18-19 by lot 229, along line 19-20, by lot 331, along line 20-21 by lot 338, along line 21-22 by lot 335, all of Cad. 544-D, Boac, Marinduque, along line 22-23 by Road, along line 23-24 by lot 337, along line 24-25 by lot 339, along line 25-26 by lot 340, along line 26-27 by lot 342, along line 27-28 by lot 344, all of Cad. 544-D, Boac, Marinduque; on the NW & NE., along lines 28-29-30-31-32-33-34-35 by Boac River (Bank Protection 40.00 m, wide); and on the SE., along line 35-1 by lot 211, Cad. 544-D, Boac, Marinduque.

Beginning at a point marked "1" on plan being N. 32 deg. 18'E., 163.30 m.
From BLM 1, Cad. 544-D, Boac, Marinduque

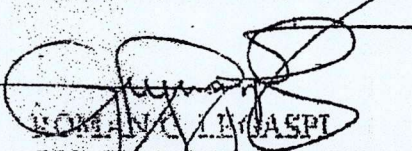
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thence	S. 79 deg. 57'W.	4.12 m. to point 15;
thence	N. 78 deg. 55'W.	15.03 m. to point 16;

see page 2

VERIFIED AND FOUND CORRECT:

Manila, 1-4-2011.

For the Regional Technical Director:


ROMAN C. GASPI
OIC Regional Survey Division

TECHNICAL DESCRIPTIONS

MR-04-000001

Municipality of Boac

thence	S. 76 deg. 52'W.,	6.16 m. to point 17;
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thence	N. 59 deg. 20'W.,	17.74 m. to point 19;
thence	N. 61 deg. 52'W.,	14.40 m. to point 20;
thence	N. 59 deg. 58'W.,	7.77 m. to point 21;
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thence	N. 77 deg. 30'E.,	68.47 m. to point 31;
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thence	S. 10 deg. 22'W.,	26.81 m. to the point of

Beginning containing an area of **FOURTY THREE THOUSAND THREE HUNDRED SIXTY TWO (43,362)**

Square meters. All points referred to are indicated on the plan and are marked on the ground by P.S. Cyl. Conc. Mons. 15x60cm.

Bearings grid, date of original survey.

date of survey, October 10, 1984

And approved on May 14, 1985

CERTIFIED AND FOUND CORRECT:

Manila, 1-4-2011

For the Regional Technical Director:

R. MAR G. LEGASPI

OIC, Regional Surveys Division

By:

NOTE: This technical descriptions is based from the Records on file in this office as certified by the Records Officer II ALAN AZUL dated

Requested by Mayor Roberto Madla,

Verf. fee of ID paid under

OR No. 6699664

dated 1-4-2011

Researched by

Checked by

Verified by

Google Earth Satellite Image with Mines and Geosciences Bureau Flood Susceptibility Overlay

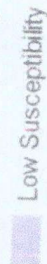
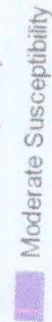
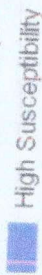


1:5000

Geographic Coordinate System
Luzon 1911 Datum



Flood Susceptibility Category





Republic of the Philippines
Department of Environment and Natural Resources
PENRO Marinduque

MEMORANDUM

FOR : The Regional Director
Mines and Geosciences Bureau
MIMAROPA Region

FROM : The OIC-PENR Officer

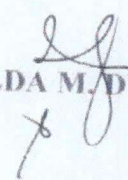
SUBJECT : **REQUEST FOR ASSISTANCE FOR FURTHER
EVALUATION/ASSESSMENT OF DRIED RIVER
BED/RECLAIMED LAND ALONG BOAC RIVER IN
BRGY. MURALLON, BOAC, MARINDUQUE**

DATE : October 4, 2022

This refers to the letter dated September 9, 2022, of the Municipal Mayor of Boac, Marinduque, Hon. Armi Carrion, requesting the DENR-MIMAROPA Regional Office for technical assistance in the utilization and exploration of the natural accretion of Boac River as per Sangguniang Bayan Resolution No. 2022-35 which was forwarded to PENRO Marinduque on September 16, 2022.

In connection with this, and as per recommendation in the report of the Inspection Team dated September 30, 2022, may we request your assistance in conducting further evaluation/assessment to determine the suitability and safety for development and habitation of the abovementioned dried river bed/reclaimed land since it is considered as an unstable formation of land.

For information and consideration.


IMELDA M. DIAZ

BOAC CADASTRE

ACCRETION LOCATED AT POBLACION, BOAC, MARINDUQUE



Google Earth

Image © 2022 CNES / Airbus

Map data © 2022 Mapbox

Madrigal St

Boac Post Office

Boac Post Office

National Museum - Marinduque-Rombon

Petron

M. Kaslag St

Legends



Geotagged photos of an allegedly accreted/reclaimed land applied for Special Patent by the Municipality of Boac



51 P 874124 1487151

accuracy: 4m



51 P 874177 1487126

accuracy: 4m

