



Department of Environment and Natural Resources

MIMAROPA Region

PROVINCIAL ENVIRONMENT AND NATURAL RESOURCES OFFICE

Bgy. Sta. Monica, Puerto Princesa City, Palawan Telfax No. (048) 434 - 8791

Email Add: penropalawan@denr.gov.ph

March 9, 2023

MEMORANDUM

FOR

The Regional Executive Director

DENR MIMAROPA Region

1515 DENR By the Bay Building, Roxas Boulevard,

Barangay 668, Ermita, Manila

THRU

The OIC, ARD for Technical Services

FROM

The Provincial Environment and

Natural Resources Officer

SUBJECT

COMPLIANCE MONITORING OF APPROVED FOREST LAND USE AGREEMENT FOR TOURISM (FLAGT) PURPOSES OF TEN KNOTS PHILIPPINES INCORPORATED (TKPI) LOCATED AT MINILOC ISLAND, BARANGAY

BEBELADAN, EL NIDO, PALAWAN

Respectfully forwarded is the memorandum of CENRO Taytay, Palawan dated February 23, 2023 relative the above subject.

Per memorandum, CENRO Taytay conducted the compliance monitoring activitiy on February 1, 2023 on Forest Land Use Agreement for Tourism (FLAgT) with FLAgT No. 12302030-0005 located at Brgy. Bebeladan, El Nido, Palawan.

The proponent paid the Annual Government Share (AGS) for CY 2023 dated December 1, 2022 with O.R. No. 6391158 F amounting to Php73,050.00.

For information and further instruction.

FELIZARDO B. CAYATOC

Copy Furnished: CENRO Taytay, Palawan <cenrotaytay@denr.gov.ph> KVE/MES Doc. No. 2023-1934

DENR-PALAWAN
PENRO-RECORDS
RELEASED

By
Date: 11 MAR 2023 122-603

Republic of the Philippines Department of Environment and Natural Resources

Region IV- MIMAROPA

COMMUNITY ENVIRONMENT AND NATURAL RESOURCES OFFICE 5312 Taytay, Palawan

by the National Highway, Poblacion, Taytay, Palawan emailad:cenrotaytay@denr.gov.ph

Contact Nos: 0912-171-3889 (Talk and Text) 0926-505-9335 (TM)

PALAWAN RECORDS

February 23, 2023

MEMORANDUM

FOR

The Provincial and Natural Resources Officer-Palawan

FROM

The Community Environment and Natural Resources Officer

SUBJECT: ACCOMPLISHMENT REPORT ON ACTIVITY PER WFP

Compliance Monitoring of Approved Forest Land Use Agreement for Tourism (FLAgT) purposes of Ten Knots Philippines, Incorporated in Miniloc Island in Bgy. Bebeladan, El Nido,

Palawan

Activity: Compliance monitoring of tenure or permit holder

Performance Indicator: Monitoring report with recommendation/endorsed to the

Regional Office through the PENRO (FLAgT=8, SIFMA=1, and SAPA=2

Frequency of submission: 2 FLAgT for 1st Quarter; 3 FLAgT and 1 SAPA for second Ouarter; and 3 FLAgT, 1

SIFMA, and 1 SAPA for third Quarter

Current submission: Memorandum dated February 17, 2023 of the Compliance Monitoring Team led by the Unit Chief, Forester II Donna C. Tabernilla received as CN 1225 in the Edats with the recommendations.

Attachment: photo documentation, and the accomplished Compliance Monitoring Sheet for Forestry Tenure (FLAgT)

Gender and Female -2 LGBTQ+=0 Prefer not to say = 0 Male = 1Development (GaD) Note: The team was joined, however, by the CENRO, and two data representatives of Regional Office who were male and female. Age Grouping 60 and above 18-59 17 and below TOTAL 6 **Environmental** Compliant to 5S organization techniques (SORT – keep Management System

only necessary items, **SET IN ORDER** – arrange items to (EMS Compliance promote efficient workflow, SHINE - clean the work area so it is neat and tidy, STANDARDIZE, and SUSTAIN maintain and review standard)

✓ No single-use plastic waste during the whole activity

Recommendations

The team recommends the following to wit:

1. Advise the holder to submit their Annual Report for CY 2022

To issue a Show Cause Order why should not the suspension be imposed on FLAgT No. DENR IV-MIMAROPA-12302030-005

To reconcile the existing law and policies to come up with defined guidelines and endorsement to NWRB for evaluation and further action in regard to the construction of permanent structures within easement

This is our Means of Verification (MoV) on the activity. Please confirm your receipt hereof. Thank you.

For an in the absence of the CENRO:

Development/Management Officer IV In-charge, Office of the CENRO pursuant to DAO 2022-09, page 3



Republic of the Philippines Department of Environment and Natural Resources MIMA'ROPA Region

COMMUNITY ENVIRONMENT AND NATURAL RESOURCES OFFICE

by the National Highway, Poblacion, Taytay, Palawan 5312 Mobile: 0926-505-9335 ™ 0912-171-3889 TNT

Email: cenrotaytay@denr.gov.ph

February 17, 2023

MEMORANDUM

FOR

The Community Environment and

Natural Resources Officer

Taytay, Palawan

FROM

Compliance Monitoring Team

SUBJECT

.

COMPLIANCE MONITORING OF APPROVED FOREST LAND USE

AGREEMENT FOR TOURISM (FLAgT) PURPOSES OF MINILOC ISLAND LOCATED IN BARANGAY BEBELADAN, EL NIDO,

PALAWAN

This pertains to the target for monitoring and evaluation of the implementation of ENR programs and projects including compliance with the existing policies and agreements under formulation and monitoring of ENR sector policies, plans, programs, and projects including the monitoring of existing Forest Land Use Agreement For Tourism (FLAgT) Purposes of this Office.

In view hereof, please be informed that on February 1, 2023 the CENRO Taytay personnel with the assistance of the representatives of Ten Knots Philippines, Inc. (TKPI) monitored and evaluated the performance and effectiveness of the company's management over its Forest Land Use Agreement for Tourism (FLAgT) No. 12302030-0005 in Miniloc Island, Barangay Bebeladan, El Nido, Palawan based on the terms and conditions stipulated in the agreement and performance evaluation sheet for forestry tenure. Hereunder are the findings and observations of the team, as follows:

- 1. That pursuant to DENR Administrative Order No. 2004-28 dated August 25, 2004 and other related laws and regulations, the Forest Land Use Agreement for Tourism (FLAgT) No. 12302030-0005 (Bathing Establishment) was approved and awarded to Ten Knots Philippines Inc. on December 23, 2005 to be expired on December 30, 2030 covering an area of 48,700 square meters at Miniloc Island located in Bebeladan, El Nido, Palawan with Annual Government Share of Seventy-three thousand and fifty (Php 73,050.00) Pesos.
- 2. That as per Memorandum dated July 27, 2021 of the Regional Executive Director, this Office was instructed to implement the New Annual Government Share of FLAgT No. DENR IV-MIMAROPA-12302030-005 amounting to Php 2,313,250.00 based on the re-evaluated user's fee in accordance with DAO 2004-28.
- 3. That due to advent of COVID-19 Pandemic, the Office of the Secretary through Memorandum dated March 4, 2022 suspended the implementation of New Annual Government Share and directed to apply the previous appraisal value or rate in the collection of fees and charges to all tenure instrument holders involved in tourism/ecotourism development projects and other tourism-dependent business.
- 4. That holder is compliant in paying the annual government share. Based on records, the corporation paid the rental fee for Calendar Year 2023 dated December 1, 2022 with OR No. 6391158 F amounting to 73,050.00 Pesos (see Annex A).

- 5. That, as to the performance and effectiveness of management of the tenure holder, the following were strictly observed and implemented, to wit:
 - a. Ecological Solid Waste Management and Hazardous Waste the holder observed proper waste disposal. Hazardous waste such as used oils from cooking and engine are regularly collected by a partner agency/organization Bantay Kalikasan for proper disposal.
 - b. Sewage Treatment Plant (STP) the STP of the holder is satisfactory operating to treat wastewater from lavatories and kitchen to be re-used for flushing of lavatories.
 - c. Desalination Plant desalination facility is operational for daily water needs other than drinking.
 - d. Energy Source the holder has four (4) sets of generators but using two (2) sets at a time. For environmental compliance, an air scrubber was employed to minimize if not to eliminate the emission.
 - e. Corporate Social Responsibility and Sustainability Program the holder maintains conservation and protection over their approved area by conducting regular coastal cleanup and patrolling and/or mangrove or tree planting. As evidence of these Corporate Social Responsibility and Sustainability Program is the lush mountain surrounding the area that is being enjoyed by the tourists and the presence of wildlife like monitor lizard, long-tailed macaque, group of parrot fish spotted during the monitoring, an indicator of rich biodiversity.
- 6. That, as to facilities, the following were observed, to wit:
 - a. The structures such as villas, pathways, restaurants, and other facilities are within the forty (40) meters easement which is prohibited under Article No. 51 of Presidential Decree 1067 also known as the Water Code of the Philippines which provide "the banks of rivers and streams and the shores of the seas and lakes throughout their entire length and within a zone of three (3) meters in urban areas, twenty (20) meters in agricultural areas and forty (40) meters in forest areas, along their margins, are subject to the easement of public use in the interest of recreation, navigation, floatage, fishing and salvage. No person shall be allowed to stay in this zone longer than what is necessary for recreation, navigation, floatage, fishing or salvage or to build structures of any kind"

These structures and facilities were established prior to the conversion of Special Land Use Permit (SLUP) to Forest Land use Agreement for Tourism (FLAgT) purposes on December 23, 2005 and were reflected in their approved Comprehensive Development Management Plan (CDMP) approved by RED Vicente S. Parague, CESO III and Map signed and approved by PASu Loreto D. Rodriguez, Forester Gaudencio B. Valdeztamon, CENRO Samuel F. Cirilo and PENRO Virgilio B. Tiongson.

b. The boundaries of the FLAgT area have been delineated and marked on the ground on October 2, 2021 based on its approved Technical Description.

7. Other findings:

- a. The holder failed to present Annual Report for CY 2022 during the monitoring.
- b. That the holder introduced Globe repeater tower within the FLAgT area that provides the signal and connection within the island.

COMMENT AND RECOMMENDATION

On the above findings and observations, the structures and facilities within easement is the remarkable one. This is the same finding every year and the Office' recommendation is also the same, to notify the tenure holder of their violation on the provision of PD 1067, an issue to be addressed whether or not it is considered a violation.

On December 15, 2021, Regional Executive Director Maria Lourdes C. Ferrer clarified the policy concerning the construction of permanent structures within the offshore areas adjacent to forestlands and protected areas.

A memorandum dated February 21, 2022 of Assistant Secretary Marcial C. Amaro, Jr. responded to the matter, to wit;

- Section 16 of PD 705, or the Forestry Reform Code of the Philippines, states that twenty (20) meter strips of land along the edge of the normal high waterline of rivers and streams with channels of at least five (5) meters wide, and strips of mangrove or swamplands at least twenty (20) meters wide, along shorelines facing lakes are all needed for forest purposes. Furthermore, the Code, in Section 19, acknowledges that forest serve multiple uses but the "numerous beneficial uses of the timber, land, soil, water, wildlife, recreation value and grass of forest lands shall be evaluated and weighted before allowing the utilization, exploitation, occupation or possession thereof, or the conduct of any activity therein.
- Article No. 51 of Presidential Decree 1067 also known as the Water Code of the Philippines which provide "the banks of rivers and streams and the shores of the seas and lakes throughout their entire length and within a zone of three (3) meters in urban areas, twenty (20) meters in agricultural areas and forty (40) meters in forest areas, along their margins, are subject to the easement of public use in the interest of recreation, navigation, floatage, fishing and salvage. No person shall be allowed to stay in this zone longer than what is necessary for recreation, navigation, floatage, fishing or salvage or to build structures of any kind"
- Article 51 vis-à-vis Article 38 of PD 1067, it may be interpreted that the construction of any structures might be allowed in those areas as long as permits from proper offices will be obtained by the developers, and the conditions enumerated therein shall be complied with religiously.
- DAO 2004-28, provided guidelines on how sustainably manage forestlands for tourism purposes. With the effectivity of this regulation, some easements adjacent to forestlands nationwide are now being used as bathing establishment. Such establishments do not contravene PD 1067, Article 51, since one of the uses of water under Article 10 of the same law is recreation. To use water for recreational purposes, as defined by that law, is to utilize it "for swimming pools, bathhouses, boating, water skiing, and other similar facilities in resorts and other places of recreation".

The team deliberated also on the recommendation of Assistant Secretary for Policy, Planning Foreign-Assisted Special Project Marcial C. Amaro, Jr. stating that "concerned agencies who will issue permit for the use of the easement must determine through comprehensive evaluation that the said issuance is <u>inevitable for the project and shall benefit public interest and national development.</u>"

With this the team recommends the following:

- 1. Advise the tenure holder to submit their Annual Report for CY 2022;
- 2. The Office to issue to Show Cause Order why should not the suspension be imposed on FLAgT No. DENR IV-MIMAROPA-12302030-005 based on Section 17.1.4 of DAO 2004-28 "allowing unauthorized person/s to use the area or any portion thereof; or for using the area or any portion thereof for purposes other than what is specified in the management agreement"?
- 3. Reconciliation of the existing laws and policies to come up with defined guidelines and endorsement to the National Water Resources Board (NWRB) for the evaluation and further action in regard to the construction of permanent structures within easement/offshore area.

Attached are the geotagged photos, map, and filled-out monitoring and evaluation form of the activity.

For information and record.

FOR. PHEHARD M. PARIÑAS

Grest Ranger

ELVIE G. BASE

Land Management Officer II

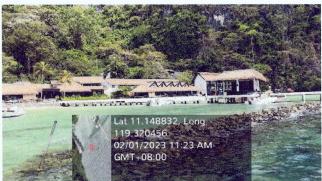
FOR. DONNA C. TABERNILLA

Forester II/ Chief, Compliance & Monitoring Unit

PHOTO DOCUMENTATION

Site Inspection









Solid Waste Storage





Storage of used Engines and cooking oil





Desalination Plant





Energy Source







Sewage Treatment Plant (STP)







Evaluation of the Documents











COMPLIANCE MONITORING SHEET FOR FORESTRY TENURE (FLAgT)

Monitoring Date: February 1, 2023	Monitoring Time: 2:12 PM

A. BASIC INFORMATION:

Name of Company: Ten Knots Philippines Incorporated (TKPI)	
Location of Area (Sitio, Brgy, Mun): Miniloc Island, Bebeladan, El Nido	Area in Sq. Meter: 48,7000
Business Address: (email, messenger acct. & contact number) mlaririt@tenk	nots.com
Amount of Annual Government Share: 73,050.00	Date Paid/OR No. 12/01/2022/6391158 F
Year of last evaluation (Per Section 16 of DAO 2002-28):	
Nature of Land-use (Per Section 4 of DAO 2004-28: Bathing Establishment	
Tenure Instrument Number: DENR 4B-MIMAROPA-12302030-0005	Date of Issuance: 12/23/2005
Kind of Tenure Instrument: FLAgT	Expiry Date: 12/30/2030
Contact Person/Designation: Mariglo Laririt, Executive Director	
Name of Pollution Control Officer (PCO): None	
PCO Accreditation No.	Effectivity:
Contact No.	Email:

B. COMPLIANCE TO EXISTING ENR LAWS, RULES AND REGULATIONS:

D. COMI EMITCE TO EXISTING ENTREMOS, ROBES AND R		101100	T	
Conditions		No	Remarks	
1. NCIP/Cert. of Pre-Condition/ Date Issued		/		
2. Free and Prior Informed Consent/ Date Issued		/		
1. Compliant to ECC – PD 1586, Philippine Environmental Impact Assessment/ DAO 2003-30	/			
 Compliant to RA 6969, Toxic and Hazardous Waste Act of 1999/ DAO 1992-29 	/			
3. Compliant to RA 8749, Clean Air Act of 1999/ DAO 2000-81	/			
4. Compliant to RA 9003, Ecological Solid Waste Management Act of 2000/ DAO 2001-34	/			
5. Compliant to RA 9275 Clean Water Act of 2004/ DAO 2005- 10	/			
6. Compliant to PD 705, Forestry Reform Code of the Philippines	/	,		
7. Compliant to Water Code of the Phil./ Article No. 51-PD 1067 (No Permanent Structures within Easement Zones)			Hotels and Villas falls within the 40 meters easement zone.	
a) Within 3 meters in Urban Areas		/		
b) Within 20 meters in Agricultural (A&D) Areas				
c) Within 40 meters in Timberland Areas				

C. COMPLIANCE PURSUANT TO DENR ADMINISTRATIVE ORDER NO. 2004-28

		Response	
Terms and Conditions	Yes or No	Remarks	
14.1. The boundaries of the FLAgT area was delineated and marked on the ground within within six (6) months from the issuance of the agreement?	YES		
14.2. The FLAgT holder submitted the Site Management Plan for the protection of the environment and conservation of the area within 3 months from issuance.	YES		

Terms and Conditions	Response	
Terms and Conditions	Yes or No	Remarks
14.3. The holder secured the required Environmental Compliance Certificate (ECC) and other necessary permits prior the conduct of any activity in the area?	YES	
14.4. The holder utilized the area only for the purpose for which the FLAgT was granted. If the area was utilized for other purpose/s other than what was approved, is prior approval secured from the Secretary of his duly authorized representative?	YES	
14.5. In all instances, cutting of trees within the FLAgT area shall be subject to prior clearance by the DENR in accordance with existing rules and regulations. If there are cutting of trees, is prior clearance secured from DENR Secretary of his duly authorized representative?	YES	
14.6. Is the practice of Ecological Solid Waste Management properly observed and implemented? Is the Clean Water Act observed and followed (STP, Water Discharge Permit, etc)?	YES	
14.7. Is biodiversity in the area especially those identified as unique, rare and endangered species of flora and fauna strictly protected?	YES	
14.8. Is there 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 705, as amended? If so, did the proponent immediately informed the RED or his/her duly authorized representative?	NO	No changes in the management and ownership
14.9. The holder are willing to surrender to the RED of his/ her duly authorized representative the agreement if not to be renewed on the date of expiration, or if the holder is no longer interested in the area, or in case of cancellation, immediately after the effectivity of its cancellation?	YES	
14.10. Is the holder fully aware that in case of death of individual FLAgT holder, the heir(s) may apply for the transfer of FLAgT within ninety (90) days upon his/ her death?	YES	
14.11. Is the tenure holder aware that the FLAgT shall not be construed as permit to obstruct the free navigation of any stream, creek or river or marine coastal area adjoining or flowing through the area or to prohibit or interfere with the passage of people along such streams, creeks or rivers or banks thereof? Or to impeded the flow and ebb of the tide to and from the interior of the swamps?	YES	

D. IMPROVEMENTS INTRODUCED:

Type of Improvement Introduced	Approximate Value of Improvement	STATUS (permanent or temporary)	REMARKS
A. Current Year 2023			
1. Land	No data		
2. Buildings	No data		
3. Infra/Machineries	No data		
4. Plantation	N/A		
5. Other Improvements	N/A		
B. Previous Years			
1. Land	No data		
2. Buildings	No data		
3. Infra/Machineries	No data		
4. Plantation	N/A		
5. Other Improvements	N/A		

E. PAYMENT OF ANNUAL GOVERNMENT SHARE/ RENTAL/ FOREST FEES: (O.R. copy hereto attached)

Particulars	Amount	Official Receipt No.	Date Issued	Remarks (Indicate if updated or not)
Government Share/Rental	73,050.00	6391158 F	December 1, 2022	Updated
Performance Bond				
Forest Charges				
Surcharges				

F. Other environmental, social activities by the holder (e.g. tree planting, coastal clean up, gift giving etc)

The management is regularly conducting coastal clean-up and patrolling.

G. FINDINGS AND RECOMMENDATIONS

The holder failed to present Annual Report for CY 2022 during the monitoring.

The holder introduced Globe repeater tower within the FLAgT area that provides the signal and connection within the island.

The structures such as villas, pathways, restaurants, and other facilities are within the forty (40) meters easement which is prohibited under Article No. 51 of Presidential Decree 1067 also known as the Water Code of the Philippines

In view of the above findings and observations, the undersigned recommends the following:

- Advise the tenure holder to submit their Annual Report for CY 2022;
- The Office to issue to Show Cause Order why should not the suspension be imposed on FLAgT No. DENR IV-MIMAROPA-12302030-005 based on Section 17.1.4 of DAO 2004-28 "allowing unauthorized person/s to use the area or any portion thereof; or for using the area or any portion thereof for purposes other than what is specified in the management agreement"?
- Reconciliation of the existing laws and policies to come up with defined guidelines and endorsement to the National Water Resources Board (NWRB) for the evaluation and further action in regards to the construction of permanent structures within easement/offshore area

H. DETAILS AND SIGNATURE OF MONITORING TEAM

WE HEREBY CERTIFY to the correctness of the data and information as contained herein to the best of our knowledge and belief.

Name	Position/Designation/Office	Signature
DONNA C. TABERNILLA	Forester II/Chief, Compliance and Monitoring	- Shumoo
ELVIE G. BASE	Land Management Officer II	_
RICHARD M. PARIÑAS	Forest Ranger	- Anim

I. ATTACHMENT/S

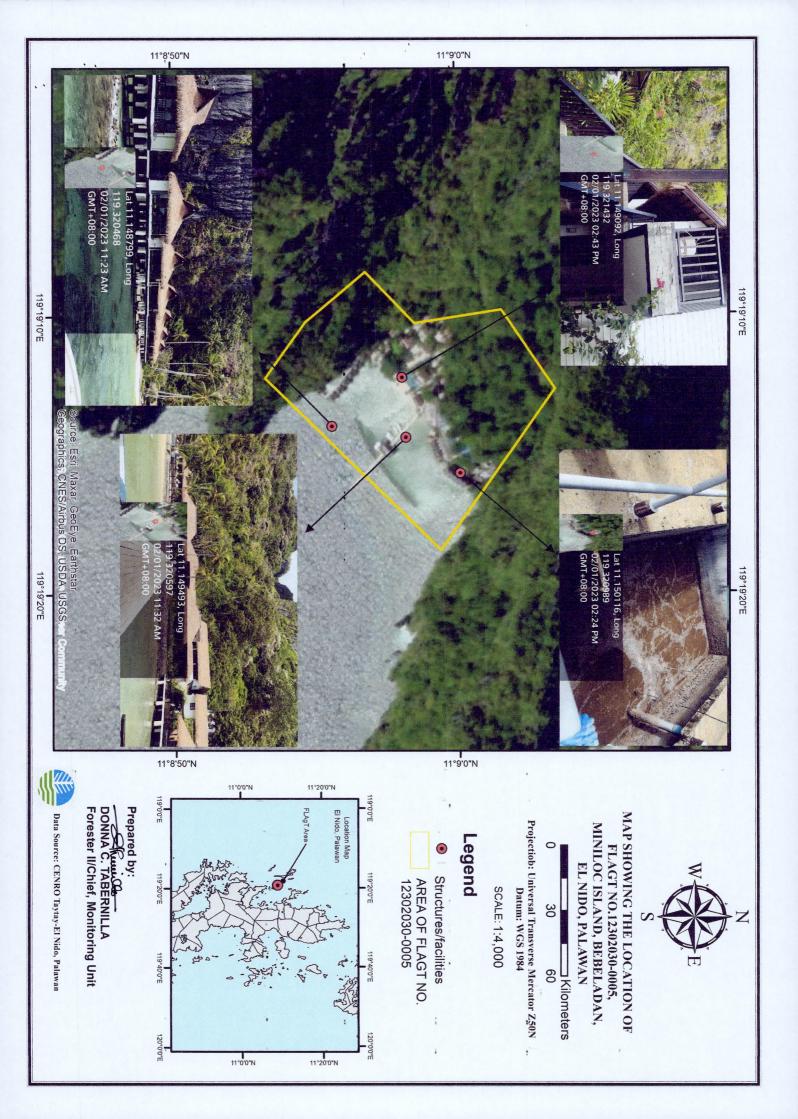
(See attached photo or geo-tagged/map/and other documentations)

SUBSCRIBED AND SWORN to before me this 21th day of February 2023 at Poblacion, Taytay, Palawan.

CONRADO M. CORPUZ

CENRO

Authorized Person to Administer Oath



evised January, 19	Official Receipt of the Republic of the Philippines			
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COMMUNITY ENVIRONMENT AND NATURAL RESOURCES OFFICE

by the National Highway, Poblacion, Taytay, Palawan 5312 Mobile: 0926-505-9335 TM 0912-171-3889 TNT

Email: cenrotavtay@denr gov.ph

January 16, 2023

MS. MARIGLO LARIRIT

Executive Director Ten Knots Philippines, Inc. Masagana, El Nido, Palawan

Madam.

Environmental Greetings!

Please be informed that a team from Regional Office will conduct an inspection, monitoring, and performance evaluation of the areas covered by the approved Forest Land Use Agreement for Tourism (FLAgT) Purposes within the jurisdiction of this Office on February 1-3, 2023.

On the same date, the CENRO Compliance Monitoring team of this office will simultaneously inspect, monitor, and evaluate the area covered by the FLAgT areas as part of the annual target on compliance monitoring of Forest tenurial instruments. The team will be headed by Chief of Compliance, Monitoring and Investigation Section DMO III Bibiana Lyn T. Aguha along with eight (8) others.

Moreover, respectfully requests the following documents during the inspection to wit;

- Approved Comprehensive Development Management Plan (CDMP) 1.
- Annual Report (CY 2022); 2.
- Name/ Accreditation No./Date of Effectivity/Contact Number/Email of assigned 3. Pollution Control Officer;
- Updated Tax Declaration; and 4.
- List of environmental and social activities by the holder. 5

This is a courtesy notice and we will also be glad to receive a response from you. For clarification and queries please contact Forester Donna C. Tabernilla at the numbers above.

Thank you.

Yours,

CONRADO-M. CORPUZ

Community of Environment of Natural

Resources Officer

JAN 16 2023