

## **Questionnaire II (Country Report II) – For Session 1**

- Events or cases of troubles related to water allocation in participants' countries (Except for drought)

### **1. Please describe the legal and institutional framework of water allocation in your country simply.**

In the Philippines, Presidential Decree No. 1067 otherwise known as the Water Code of the Philippines is the basic law governing the ownership, appropriation, utilization, exploitation, development, conservation and protection of water resources. It establishes the basic principles and framework relating to the appropriation, control and conservation of water resources to achieve the optimum development and rational utilization of these resources. It also defines the extent of the rights and obligations of water users and owners including the protection and regulation of such rights. (Art. 2)

The Administrative and enforcement of the provisions of the Water Code including the granting of permits and the imposition of penalties for administrative violations are vested in the National Water Resources Board, and except in regard to those functions which under the Code are specifically conferred upon other agencies of the government, the Board is empowered to make all decisions and determinations provided in the Code. (Art. 79)

As used in the Code, water refers to water under the ground, water above the ground, water in the atmosphere and the waters of the sea within the territorial jurisdiction of the Philippines. (Art. 4)

The Code recognizes administrative concessions as a mode of acquiring rights to the use of water. It, however, sets limitations by prescribing qualifications to those desiring to appropriate water. Only citizens of the Philippines, of legal age, as well as juridical persons who are duly qualified by law to exploit and develop water resources may apply for water permits. (Art. 15) The phrase "juridical persons who are qualified by law" refers to associations duly organized under the law of the Philippines sixty percent of the capital of which is owned by citizens of the Philippines.

Preference in the use and development of water shall consider current usages and be responsive to the changing needs of the country. To ensure the balanced-beneficial use according to importance, demand, the State's Socio-economic, ecological, aesthetic and political policies, the Water Code sets an order of preference for the guidance of the Board in the allocation of water rights.

Appropriation of water is the acquisition of rights over the use of water from natural resource in the manner and for any purpose allowed by law. Water may be appropriated for the following purposes: a. Domestic b. Municipal c. Irrigation d. Power Generation e. Fisheries f. Livestock raising g. Industrial h. Recreational and i. Other purposes.

Water permit, however, may be revoked after due notice and hearing on grounds of non-beneficial use; gross violation of conditions imposed in the permit; unauthorized sale of water; willful failure or refusal to comply with rules and regulations or any lawful

order; pollutions; public health and safety; when appropriator is found to be disqualified under the law to exploit and develop natural resources of the Philippines; when in the case of irrigation, the land is converted to non-agricultural purpose; and other similar grounds.

Water rights may be leased or transferred in whole in part to another person with prior approval of the Board after due notice and hearing.

Another government organization responsible for water resources planning, development or management is the Laguna Lake Development Authority (LLDA). Republic Act. 4850 as amended by PD 81R and Executive Order No. 927 has given the LLDA a wide array of mandates.

As regards water allocation within the jurisdiction of LLDA, Section 3k of PD 813 as amended and Section 2 of EO 927 give LLDA exclusive jurisdiction within the Laguna de Bay basin to issue permits for the use of the surface waters for any project or activity which may affect the lake, to impose necessary safeguards to control and manage the lake water quality and to collect necessary fees for said activities and projects.

## **2. Please describe events or cases of troubles related to water allocation.**

### **Case 1. Water conflict between new water user and existing water user.**

**A** is a water permittee to appropriate water from a source (river) for irrigation purpose. **B**, a local Water District wishes to appropriate water from the same source to be used to supply water to the community. When **B** applied for a water permit, **A** interposes an objection or protest against the application of **B** on the ground that the new appropriation will adversely affect the volume of water he needs for his farm. **B** contended that he has priority in the use of water from the source because his purpose is to supply the water requirements of the community which, under the law, has preference over other uses. Besides, the capacity of the river is more than enough to supply the water requirements of **A**.

ISSUE: To whom should the water be allocated to **A** or **B**?

### **Case 2. Conflict among different users of the lake.**

The 12 million people living in the watershed comprising different sectors (fishermen, farmers, NGOs, Gov. agencies, industries, academe, developers, regulators, etc.) are the main users of the resource. Each with different interest, need and demand.

The most notable conflict with regards to water management is the need of the fishery sector versus the need of water abstractors for domestic water supply. The Fishery Sector demands for a continuous inflow of seawater to increase production of plankton and eventually increase fish production. Chlorides help in suspending particles thereby increasing lake transparency. The higher the transparency, the higher is the growth of algae that serves as a natural food of the fish. On the other hand, Water Abstractors object the entry of seawater because it necessitates expensive treatment of raw water. This kind of conflict occurs during dry months when seawater flows to the Laguna de Bay due to backflow from Manila Bay through the Pasig River and the

Napindan Channel. On this occasion, the Chloride concentration sometimes exceed 1,000 mg/l which is 35% higher than water quality standard for Class C criterion. The backflow not only carries seawater but also the heavily polluted water from Pasig River that sometimes result to fish kills.

ISSUE: How to address the problem of salinity intrusion and pollution into the lake.

### **3. Please describe your idea about the cause/reason of the troubles.**

**For Case 1 – Water conflict between new water user and existing water user.**

ISSUE: To whom should the water be allocated, **A** or **B**?

Cause of Trouble: \*Lack of knowledge or information about institutional framework (Water Code)

In the Philippines, when a water permit is granted to an appropriator to use water from the river, that does not give the permittee the exclusive right to use water from the said source. As always the case, the permittee believed that because he has a permit to appropriate water from the source, no other person maybe allowed to appropriate the water from the same source. That is not what is provided for in the Water Code. Under the Code, the right of **A** to appropriate water from the river is limited only to the amount of water granted to him under his permit. He cannot appropriate more than the amount of water given to him under his permit. So that is the capacity of the river is more than the volume of water granted to him, the excess of the volume of water from the river may be applied for by other appropriator in need of water. It is, therefore, possible that several appropriators may be given permits to use water from the same source depending on the capacity of the source and the water requirements of the appropriators. Had **A** been properly informed or has knowledge of the institutional framework, he would not have filed protest against the application of **B**.

### **Case No. 2. Conflict among different users of the lake.**

Issue: How to address the problem of salinity intrusion and pollution into the lake to resolve the conflict among different users of the lake.

#### **Cause of Conflict: Shift of Policy Direction.**

Shift of policy direction from fishery to water supply as dominant use of the lake. Because of the adoption of the water supply dominant use policy, structural measures such as the construction of NHCS was constructed to upgrade the lake water quality. However, this effort created negative reactions to the fishermen sector due to adverse ecological implications such as decreased turbidity because of a decrease in chloride concentration. The dominant use of the lake for fishery should be maintained to harmonize with the lake's natural ecological events. The multiple use concept of utilizing the lake should be maintained to balance the interests of all surface water users.

**4. Do you have any special questions for other participants including NARBO Secretariat? Or, do you have what you want to discuss related to water allocation issues? If, so, please describe them freely.**

**(Country Name: PHILIPPINES)**

None so far.