

QUESTIONNAIRE III (Country Report III – For Session 2)

- Water Right System in participant’s countries

1. Do you have any special question 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)

No questions so far.

| ITEMS                                      | CONTENTS   | REMARKS |
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| 1. Legal backgrounds of water right system | <p>Art. 13 (Water Code of the Philippines) – Except as otherwise herein provided, no person, including government instrumentalities or government owned or controlled corporation, shall appropriate water without a water right, which shall be evidenced by a document known as a water permit.</p> <p>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.</p> |         |
| 2. Ownership of water                      | Art. 3 par. (a) - All waters belong to the State   |         |
| 3. Character of water right                | Water Right is a privilege granted by the government to appropriate and use water.   |         |

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| 4. Contents of Right              | <p>In the Philippines, Water Permit contains the following information:</p> <ul style="list-style-type: none"> <li>- Purpose of use of water</li> <li>- Point or points of diversion</li> <li>- Method of diversion or extraction (ex. pump, gravity, etc.)</li> <li>- Maximum amount of water to be appropriated</li> <li>- Time or times during the year when water may be diverted</li> <li>- Terms and conditions of the permit</li> <li>- Annual water charges</li> </ul>   |  |
| 5. Necessity or not of permission | <p>Necessary (Art. 13) However, subject to the provisions of the Water Code concerning the control, protection, conservation and regulation of the appropriation and use of waters, any person may appropriate or use natural bodies of water without securing a water permit for any of the following:</p> <ul style="list-style-type: none"> <li>- Appropriation of water by means of receptacles; and</li> <li>- Bathing or washing, watering or dipping of domestic or farm animals, and navigation of water crafts or transportation of logs and other object of floatation. (Art. 14)</li> </ul> |  |
| 6. Permitter                      | <p>The granting of permits and imposition of penalties for administrative violations are vested in the National Water Resources Board (NWRB)</p>   |  |

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| 7. Limitation of water right holder | <p>Art. 20. The measure and limit of appropriation of waters shall be beneficial use.</p> <p>Art. 28. Water Permits shall continue to be valid as long as water is beneficially used; however, it may be suspended on the grounds of non-compliance with approved plans and specifications or schedules of water distribution; use of water for a purpose other than that for which it was granted; non-payment of water charges; wastage; failure to keep records of water diversion, when required; and violation of any term and condition of any permit or of rules and regulations promulgated by the Board.</p> |  |
| 8. Charges for water use            | <p>Art. 83. The Board is authorized to impose and collect reasonable fees and charges from water users except for purely domestic purpose.</p>  |  |

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| 9. Permitted period             | <p>No limitation or period is imposed (Art. 28)</p>  |  |
| 10. Register of river water use | <p>In the Philippines, it is the National Water Resources Board (BOARD) thru the Water Rights Division, which is responsible for the registration of river water use. Under Art. 81 (Water Code) - The Board shall provide a continuing program for data collection, research and manpower development needed for the appropriation, utilization, conservation and protection of the water resources of the country.</p> |  |

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| 11. Priority of water use | <p>Art. 22. Between two or more appropriators of water from the same source of supply, priority in time of appropriation shall give the better right except that in times of emergency, the use of water for domestic and municipal purposes shall have a better right over all other uses.</p> |  |
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| <p>12. Compulsory measure</p>                    | <p>Art. 91 provides for a fine not exceeding Three Thousand Pesos or imprisonment for not more than three (3) years or both such fine and imprisonment upon any person who appropriate water without a water permit.</p> <p>Any violation of the terms and conditions set in the MOA shall be sufficient ground for the rescission of the agreement and the automatic revocation of the authority granted. An administrative fine of Php 5,000 shall be imposed for each violation plus the cost of lake water abstracted at the rate of five times the present rate.</p>  |  |
| <p>13. Procedure of permission for water use</p> | <p>Sections 8, 9, 10 and 11 of the Implementing Rules and Regulations of the Water Code provides for the processing of water permit applications which consists of the following:</p> <ol style="list-style-type: none"> <li>1. Securing Water Permit Application Forms</li> <li>2. Payment of Filing Fee (P500.00)</li> <li>3. Posting of application for 30 days <ul style="list-style-type: none"> <li>- barangay of the place where the point of diversion is located.</li> <li>- Municipal Secretary</li> <li>- Provincial Secretary</li> <li>- District Office of DPWH</li> <li>- Provincial Irrigation Office</li> <li>- Regional offices of DPWH, NIA, NPC, DENR and Local Water Districts, if any.</li> </ul> </li> <li>4. Investigation and studies <ul style="list-style-type: none"> <li>- Approximate seasonal discharge of the water source</li> <li>- Amount of water already appropriated</li> <li>- Water requirement of the applicant</li> <li>- Possible adverse effects or existing permittees</li> <li>- Environment effects</li> <li>- Land use economics</li> <li>- Other relevant factors</li> </ul> </li> </ol> |  |

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|   | <p>5. Protest filed, if any.</p> <p>6. Acton on application (approval/disapproval)</p>  |  |
| <p>14. Documents which has to be attached with application</p>                  | <p>Section 4 of IRR (Water Code) provides for the requirement of Water Permit Applications:</p> <ul style="list-style-type: none"> <li>- Proof of ownership of the land to be developed (Title, Contract of lease, etc)</li> <li>- Location Plan of area showing point of diversion, nature of diversion works, etc.</li> <li>- Brief description of the project</li> <li>- Articles of Incorporation (Corporation, Partnership)</li> <li>- Certificate of Registration in case of cooperative, associations</li> <li>- Other documents to be required by the Board.</li> </ul>   |  |
| <p>15. Coordination among stakeholders in the procedural flow of permission</p> | <p>Sec. 8 Upon receipt of an application for water permit the same shall be processed to determine compliance with the requirements. Notices of application are sent to the following stakeholders for posting, possible protest and for comments.</p> <ul style="list-style-type: none"> <li>a) Barangay Chairman of the place where the point of diversion is located.</li> <li>b) Municipal Secretary of the town where the point of diversion is located.</li> <li>c) Secretary of the Sangguniang Panlalawigan of the Province where the point of diversion is located.</li> <li>d) Public Works District Engineer/ Provincial Irrigation Officer.</li> <li>e) Regional Offices of the Department of Public Works &amp; Highways, National Irrigation Administration, National Power Corporation, Department of Environment &amp; Natural Resources and Local Water Districts office.</li> </ul> |  |

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| 16. Criteria for permission       | <p>Article 16. In determining whether to grant or deny an application, the Board shall consider the following:</p> <ul style="list-style-type: none"> <li>- Protest filed, if any</li> <li>- Prior permits granted</li> <li>- The availability of water</li> <li>- Water supply needed for beneficial use</li> <li>- Possible adverse effects</li> <li>- Land use economics</li> <li>- Other relevant factors</li> </ul>  |  |
| 17. Transfer of water right       | <p>Article 19. Water rights may be leased or transferred in whole or in part to another person with prior approval of the Board, after due notice and hearing.</p> <p>The permit, consents, authorities, rights and interests granted to private abstractor under the MoA are exclusive and non-assignable.</p>   |  |
| 18. Concept of environmental flow | <p>In consideration of a proposed water resource project, due regard shall be given to ecological changes resulting from the construction of the project in order to balance the needs of development and the protection of the environment. (Art. 72)</p> <p>The conservation of fish and wildlife shall receive proper consideration and shall be coordinated with other features of water resources development program to ensure that fish and wildlife values receive equal attention with other project purposes. (Art. 73)</p> <p>Water discharge with mine tailings or wastes shall not contain minerals or other substances injurious to men, animal, aquatic life, agriculture or vegetation in concentrations exceeding the maximum prescribed by the National Pollution Control Commission (Section 46)</p> <p>Mine operators shall undertake appropriate erosion control measures in their mining areas to minimize the amount of sediment</p> |  |

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|  | therein that will be carried to river systems. (Sec. 46) |  |
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| 19. Coordination of water use in drought term | <p>In the Philippines, there is no provision in the Water Code which specifically provides for water utilization in case of drought. By implication, drought may be considered as “times of emergency” where there is water shortage. The water code only provides for priority in use of water during such emergency. The use of water for domestic and municipal use are given priority. (Art. 22)</p> <p>Likewise, Art. 26 – provides – where water shortage is recurrent, the use of water pursuant to a permit may, in the interest of equitable distribution of benefits among legal appropriators, be reduced after due notice and hearing.</p> |  |
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| 20. Customary Water Right | <p>With regard to the right to the use of water existed prior to the enactment of Water Code or existing on or before December 31, 1974; all claims for a right to use water shall be registered with the Board within two (2) years from the promulgation of the Code. the Board shall confirm said rights in accordance with the provisions of the Water Code and shall set their respective priorities. Any claim not registered within said period shall be considered waived and the use of the water deemed abandoned, and the water shall thereupon be available for disposition as unappropriated waters in accordance with the provisions of the Water Code (art. 95).</p> |  |
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| <p>21. Issues on water right system 1</p>  | <p>Conflict between new water users and existing water users.</p> <p>Conflict derived from increasing water demand.</p> <p>Recurring seawater intrusion resulting to higher chloride concentration rendering the lake unsuitable for irrigation domestic water supply but suitable for fishery purposes.</p>  |  |
| <p>22. Issues on water right system 2.</p> | <p>Conflict among different users of the lake.</p> <p>The presence of heavy metals and other hazardous and toxic chemicals in the lake water renders the lake inappropriate source of domestic water supply.</p>  |  |
| <p>23. Other information 1</p>             | <p>In the Philippines, the Water Code applies to all sources of water whether groundwater, surface water, rain or sea water. The code, however, does not provide for any provision regarding drought management. Only provisions relating to water shortage or times of emergency are provided but only very limited.</p> <p>A comprehensive and integrated water resource, development, management and regulation in the Philippines is currently being formulated along with the strengthening of NWRB, which is mandated by the Philippine Water Code to coordinate water resources management.</p> <p>LLDA is the only functioning river basin institution in the Philippines. However, 12 River Basin institutions will be established all over the country until 2010 to complement NWRBs resources management and regulatory powers.</p> |  |