

REPUBLIC OF THE PHILIPPINES
Department of Public Works and Highways
Department of Environment and Natural Resources
Department of the Interior and Local Government
Department of Transportation

JOINT MEMORANDUM CIRCULAR

No. 01
 Series of 2019

TO :

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 OFFICE OF THE SECRETARY
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SUBJECT : Guidelines on the Issuance of Clearance and/or Permit for Dredging Within Waterways or Other Inland Bodies of Water

1. PURPOSE

This Joint Memorandum Circular (JMC) is being issued for the information and guidance of a qualified person who wish to apply for a clearance/permit to dredge within rivers, river deltas and other inland bodies of water. It prescribes the procedure in the application for the said clearance and/or permit and sets the standard and technical requirements in the planning, design, and implementation of dredging activities defined in the following sections. Further, it defines the roles and responsibilities, and limits of authority of each concerned Office and personnel.

2. SCOPE

The guidelines prescribed in this Joint Memorandum Circular shall be the basis for the processing of applications for clearance and/or permit to conduct dredging where commercial utilization of the dredged materials by the Permittee/Contractor (may include LGUs and other government agencies except DPWH) is involved regardless of whether the proposed dredging is intended to help in the Government's flood control program or solely for material extraction. Likewise, it shall cover dredging projects for flood control and navigation funded and to be implemented by the DPWH or LGUs, either by administration or by contract.

3. LEGAL BASES

3.1 Republic Act 7942 s. 1995 entitled "the Philippine Mining Act of 1995"

Section 2. Declaration of Policy

All mineral resources in public and private lands within the territory and exclusive

 Date:

economic zone of the Republic of the Philippines are owned by the State. It shall be the responsibility of the State to promote their rational exploration, development, utilization and conservation through the combined efforts of the Government and private sector in order to enhance national growth in a way that effectively safeguards the environment and protects the rights of affected communities.

3.2 Executive Order No. 292, s. 1987 [Book IV/Title XIV-Environment and Natural Resources/Chapter 1-General Provisions]

Section 1. Declaration of Policy

- (1) The State shall ensure, for the benefit of the Filipino people, the full exploration and development as well as the judicious disposition, utilization, management, renewal and conservation of the country's forest, mineral, land, waters, fisheries, wildlife, off-shore areas and other natural resources, consistent with the necessity of maintaining a sound ecological balance and protecting and enhancing the quality of the environment and the objective of making the exploration, development and utilization of such natural resources equitably accessible to the different segments of the present as well as future generations.

Section 2. Mandate

- (1) The Department of Environment and Natural Resources shall be primarily responsible for the implementation of the foregoing policy.
- (2) It shall, subject to law and higher authority, be in charge of carrying out the State's constitutional mandate to control and supervise the exploration, development, utilization, and conservation of the country's natural resources.

3.3 Executive Order No. 292, s. 1987 [Book IV/ Title V-Public Works and Highways/ Chapter 1-General Provisions]

Section 1. Declaration of Policy

The State shall maintain an engineering and construction arm and continuously develop its technology, for the purposes of ensuring the safety of all infrastructure facilities and securing for all public works and highways the highest efficiency and the most appropriate quality in construction. The planning, design, construction and maintenance of infrastructure facilities, especially national highways, flood control and water resources development system, and other public works in accordance with national development objectives, shall be the responsibility of such an engineering and construction arm. However, the exercise of this responsibility shall be decentralized to the fullest extent feasible.

Section 2. Mandate

The Department of Public Works and Highways shall be the State's engineering and construction arm and is tasked to carry out the policy enunciated above.

Section 3. Powers and Functions

The Department, in order to carry out its mandate, shall:

- (2) Develop and implement effective codes, standards, and reasonable guidelines to ensure the safety of all public and private structures in the country and assure efficiency and proper quality in the construction of public works;
Ascertain that all public works plans and project implementation designs are consistent with current standards and guidelines.

3.4 Amended IRR of the Water Code of the Philippines

Section 32. When Permit/Authority from the Department of Public Works and Highways is required

A permit/authority shall be secured from the Department of Public Works and Highways in the following instances:

- a) Construction of dams, bridges and other structures in navigable or floatable waterways;
- b) Cultivation of river beds, sand bars and tidal flats upon clearance from DENR;
- c) Construction of private levees, revetments and other flood control and river training works; and
- d) Restoration of river courses to former beds.

3.5 Mining Industry Coordinating Council Resolution No. 4 - "Adoption of Measures to Address the Black Sand Mining Operations in the Country" dated May 30, 2014, Item (c) of the dispositive portion

- c) That in the case of river and/or river delta dredging activities, the Department of Public Works and Highways as the mandated agency, shall have the direct control and supervision of said activities, and that only the same activities as supervised by the DPWH may be issued with MPPs by the DENR-MGB, for the processing and disposition of the dredged materials upon clearance by the DPWH and in accordance with the pertinent provisions of RA 7076: "People's Small-Scale mining Act of 1991", EO No 79 and other applicable laws, and rules and regulations.

4. ACRONYMS AND DEFINITION OF TERMS

4.1 Acronyms

- CNC - Certificate of Non-Coverage
CMRB - City Mining Regulatory Board

- DENR - Department of Environment and Natural Resources
- DILG - Department of the Interior and Local Government
- DOTr - Department of Transportation
- DPWH - Department of Public Works and Highways
- ECC - Environmental Compliance Certificate
- LGU - Local government unit
- MGB - Mines and Geosciences Bureau
- MPP - Mineral Processing Permit
- PMRB - Provincial Mining Regulatory Board
- PPE - Personal Protective Equipment

4.2 Definition of Terms

For the purpose of this JMC, the following definition of terms shall be adopted:

- Applicant - Qualified Person seeking a mining permit/contract and/or dredging clearance.
- Buffer Zone - A ten (10) meter easement measured from the toe of existing riverbanks and/or river structures, such as dikes, revetment, nose of spur dikes and other river training structures, towards the river main channel.
- Commercial Utilization - the act of trading the dredged materials to whatever purpose it may serve in the market
- Control Map - a map of geographic locations and limits of all proposed, on-going and completed dredging operations.
- Dredging - excavation operation done within waterways or other inland bodies of water with the purpose of gathering up bottom sediments and disposing them at a different location (for flood control, navigation, reclamation, beach nourishment, environmental remediation, mining and construction).
- Dredging Clearance - clearance issued by the DPWH to qualified persons who will conduct dredging with commercial utilization
- Dredging Permit - authority issued by DPWH to LGUs and other government agencies which will conduct dredging without commercial utilization of dredged materials.

- Dredged Materials** – refers to materials taken from the riverbed, lakebed and/or seabed.
- Mining Operations** – mining activities involving exploration, feasibility study, development and utilization.
- Mining Permits** – include Exploration, Quarry, Sand and Gravel (Commercial, Industrial and Exclusive), Gratuitous (Government or Private), Special Mineral Extraction Permit (SMEP), Guano, Gemstone Gathering and Small-Scale Mining Contracts.
- Permittee/ Contractor** – holder of mining permit/contract and/ or dredging permit.
- Qualified Person** – defined under Republic Act 7942 as any citizen of the Philippines with capacity to contract, or a corporation, partnership, association, or cooperative organized or authorized for the purpose of engaging in mining, with technical and financial capability to undertake mineral resources development and duly registered in accordance with law at least sixty per centum (60%) of the capital of which is owned by citizens of the Philippines: Provided that a legally organized foreign-owned corporation shall be deemed a qualified person for purposes of granting an exploration permit, financial or technical assistance agreement or mineral processing permit. For the purpose of this JMC, Qualified Person shall include LGUs.
- Quarrying** – the process of extracting, removing and disposing quarry resources found on or underneath the surface of private or public land.
- River delta** – coastal accumulations, both subaqueous and subaerial of river-derived sediments adjacent to, or in close proximity to the source stream, including the deposits that have been secondarily molded by various marine agents such as waves, currents, or tides
- Spoil Site** – an environmentally acceptable, open or confined, geographical area— inland or offshore, sustainable for the disposal, containment, and management of dredged materials.
- Standard Requirements** – general and technical requirements/conditions
- Statutory Requirements** – rules and regulations as prescribed by state existing laws and policies.

5. APPLICATION FOR CLEARANCE/PERMIT

To ensure timely and efficient action on applications for clearance and/or permit for dredging, the following procedure shall be followed:

5.1 Dredging with Commercial Utilization of Dredged Materials

- 1) Any qualified person who intends to apply for a mining permit for the commercial utilization of dredged materials shall seek endorsement (LGU Resolution) from the concerned LGU(s) that may be affected by the clearance/permit application. The 2 out of 3 rule shall be applied, e.g., endorsement of at least 2 of the 3 LGU levels (provincial, city/municipal and barangay).

In case area is covered by ancestral domain, free and prior informed consent shall be obtained from the NCIP.

- 2) Upon obtaining the required endorsement from the concerned LGUs, the Applicant shall file an application for mining permit with the complete set of requirements, including electronic file of survey data, together with the Work Program (MGB Form No. 5-4 or 6-2), required under Section 74 of DAO 2010-21 (IRR of RA 7942), with the:
 - a. Provincial/City Mining Regulatory Board for areas covering not more than five (5) hectares
 - b. MGB Regional Director for areas more than five (5) hectares but not more than twenty (20) hectares.
 - c. DENR Secretary for areas more than twenty (20) hectares but not more than one-hundred (100) hectares.

Provided further that only one permit shall be granted to a qualified person in a municipality at any one time under such terms and conditions.

Any application for mining permit that transcends into two (2) or more regions/provinces/cities shall be filed with the Regional Office/Provincial/City Mining Regulatory Board which has the largest area covered by the application, copy furnished the other Regional Office(s)/Provincial/City/Mining Regulatory Board concerned.

- 3) The concerned P/CMRB or the DENR-MGB Regional Office shall check in the control maps if the area is free/open for mining application. The "First time-in Principle" shall be strictly observed in receiving of dredging application based on the date and time of receipt of application. P/CMRB shall endorse the application to the MGB Regional Office for Area Status Clearance prior to processing the application. If the area is found to be within areas open to mining and has fully complied the mandatory requirements, the applicant shall pay the prescribed filing fee on the same working day or within eight (8) working hours.
- 4) The concerned P/CMRB or the DENR-MGB Regional Office shall endorse the application to the concerned DPWH District Engineering Office (DEO) to check if the area is covered by existing application for dredging permit/clearance or flood control project. The DPWH DEO after checking its control map shall inform the P/CMRB or the DENR-MGB Regional Office on the results of its evaluation.

- 5) A Notice of Application for Mining Permit shall be issued by the P/CMRB or the DENR-MGB Regional Office. The applicant shall cause the publication of the Notice of Mining Application once in two (2) newspapers: one of general circulation published in Metro Manila and another published in the municipality or province where the proposed area is located.
- 6) The Applicant shall submit to the DPWH DEO all the documentary requirements prescribed under Section 6 of the JMC.
- 7) The DPWH District Engineer shall investigate each application filed with the DEO, and if necessary, conduct public hearings thereon and shall transmit his report and recommendation to the DPWH Regional Director who, after proper review, shall transmit the application with its supporting documents and recommendations to the DPWH Secretary or his duly authorized official for appropriate action. If deficiencies or non-conformities are found, the Applicant shall immediately be notified for rectification.
- 8) Upon evaluation and the application is found in order, the DPWH shall approve the dredging plans and issue a dredging clearance to the Applicant signed by the DPWH Secretary or his duly authorized official.
- 9) The Applicant shall secure the necessary Environmental Clearance (Certificate of Non-Coverage (CNC)/Environmental Compliance Certificate (ECC)).
- 10) The DENR-MGB Regional Office or Provincial/City Mining Regulatory Board concerned shall then approve/issue the mining permit after the issuance of the CNC/ECC and shall notify the Permittee/Contractor to cause the registration of the same within fifteen (15) working days from receipt of the written notice. Registration is effected only upon payment of the required fees, taxes and other charges. The DENR-MGB Regional Office concerned shall officially release the mining permit to the Permittee/Contractor after registration.
- 11) The DENR-MGB Regional Office concerned shall also furnish the duly registered mining permit to the concerned Provincial Governor and Municipal Mayor copy furnished the Barangay Chairman together with the approved work program and dredging plan.
- 12) The Permittee/Contractor shall notify the DPWH DEO/RO on its implementation schedule
- 13) The transport of dredged materials by a permit holder must be accompanied by an Ore Transport Permit (MGB Form No. 12-1) issued by the concerned P/CMRB and/or DENR-MGB Regional Director prior to the transport of dredged material pursuant to Chapter XII Section 117 of Administrative Order No. 2010 – 21.
- 14) If the dredged material shall be transported outside the Philippines, the applicant shall apply for a Mineral Ore Export Permit (MOEP) from the Office of the Provincial Governor or the DENR-MGB Regional Director concerned pursuant to the applicable provisions of DAO No. 2008 – 20 and DMO No. 2009 – 01.

5.2. DPWH Flood Control Dredging Projects

DPWH dredging projects for flood control involve the excavation, vertical transport and placement of the dredged materials into designated spoil site but without commercial utilization of the same. Such projects are implemented by the DPWH through its Unified Project Management Office for Flood Control Management Cluster (UPMO-FCMC), Regional Offices and/or District Engineering Offices, either by administration or by contract, and shall be in conformity with existing relevant DPWH guidelines and issuances.

- 1) The DPWH Implementing Office (IO) shall prepare all the documentary requirements prescribed under Section 6 of this JMC and other DPWH issuances.
- 2) Upon approval of the plans in accordance with the delegated authorities, the IO shall secure a CNC/ECC from the Environmental Management Bureau, DENR, attaching the approved plans to the application.

5.3. Dredging Projects for flood control, navigation and other purposes to be funded and implemented by the LGUs and other government agencies without commercial utilization

- 1) The Applicant after obtaining LGU Resolution, shall file an application for dredging permit before the DPWH DEO concerned.
- 2) The DPWH DEO shall check its control map if the proposed area is covered by existing application for dredging permit/clearance or approved flood control project. If the area upon is found clear of any dredging permit/clearance applications or flood control project, the DPWH shall advise the Applicant to prepare all the requirements under Section 6 of this JMC. Subsequently, the DPWH shall update its control map.
- 3) The complete set of requirements shall be submitted by the Applicant, to the DPWH DEO. The designated spoil site shall be evaluated and use of dredged materials clearly indicated. If deficiencies or non-conformities are found, the Applicant shall be immediately notified for compliance and rectification.
- 4) The applicant LGU and other government agencies i.e. DENR, Philippine Reclamation Authority and others, shall issue a certification that there is no commercial utilization of the dredged materials and that there is no intent to use the dredged materials other than that as specified in the application for permit.
- 5) The DPWH District Engineer shall investigate each application filed with the DEO, and if necessary, conduct public hearings thereon and shall transmit his report and recommendation to the DPWH Regional Director who, after proper review, shall transmit the application with its supporting documents and recommendations to the DPWH Secretary or his duly authorized official for appropriate action.
- 6) Upon evaluation and the application is found in order, the DPWH shall approve the dredging plans and require the Applicant to secure the necessary Environmental Clearance (Certificate of Non-Coverage (CNC) or Environmental Compliance Certificate (ECC)).

- 7) The DPWH Secretary or his duly authorized official shall then approve/issue the dredging permit.
- 8) The Permittee shall notify the DPWH on its implementation schedule.

5.4 DENR River Restoration through Dredging Activities

DENR River Restoration through dredging activities in heavily silted river channels, including disposal of extracted materials, shall be covered by a separate Order to be Issued by the DENR in coordination with DPWH. Issuance of the dredging permit by the DPWH shall be based on the Detailed Engineering Design Plans. clearance

6. REQUIREMENTS FOR PLANNING AND DESIGN STAGE

6.1 Pre-dredging Survey

Pre-dredging survey shall be undertaken by the proponent to serve as basis for the computation of volume to be dredged, identification of appropriate equipment to be used, calculation of project duration, and establishment of necessary control measures. The survey works shall include topographic, hydrographic, bathymetric survey, and water quality surveys in accordance with the DPWH Design Guidelines, Criteria and Standards (DGCS) 2015, Volume 2B – Engineering Surveys.

- 1) In areas affected by tidal action (rise and fall of water) such as seabed, estuary, coastal area, etc., all elevations shall be referred to the mean lower low water (MLLW) datum, elev. 0.00.
- 2) In areas not affected by tidal action such as riverbed, floodway channel, creek or estero, etc., all elevations shall be referred to a bench mark (BM) of known coordinates and elevation based on mean sea level (MSL) established by the National Mapping and Resource Information Authority (NAMRIA).
- 3) Profile shall be taken along the centreline, left and right banks and deepest river bed of the river all through out the required stretch extending twice the length of the proposed limits on the upstream and downstream of the proposed dredging project.
- 4) All cross sections shall be taken facing downstream spaced as required in DPWH DGCS 2015 Volume 2B – Engineering Surveys and shall be properly indicated and noted in the plans. Cross sections shall be extended at least 20 meters from both banks to the land side.

6.2 Soil Investigation

In order to establish the representative riverbed material gradation as well as soil parameters at the banks, soil investigation and sediment transport analysis shall be conducted in accordance with DPWH DGCS 2015, Volume 2C – Geological & Geotechnical Investigations.

6.3 Design and Related Reports

- a. The design report shall contain the following:
 - Project Impact Analysis
 - Purpose and necessity of the dredging project
 - Methodology of the hydrologic, hydraulic, sediment yield and transport, scouring and slope stability analyses
 - Hydrologic analysis using HEC-HMS and/or other acceptable rainfall-runoff analysis software
 - Hydraulic analysis to determine the existing capacity of the river and water surface profile for with and without dredging works using HEC-RAS and/or other acceptable river hydraulic analysis software
 - Sediment yield and transport analysis
 - Scouring analysis
 - Slope stability analysis
- b. Geotechnical investigation report
- c. Detailed Quantity calculation report
- d. Methodology report which includes, among others but not limited to the mitigating measures to minimize if not avoid turbidity, spillage and other environmental impacts of dredging works
- e. Identification and designation of spoil site

Based on the surveys and analyses, the proponent shall come up with an optimum channel design profile which shall serve as reference for the execution of the dredging project.

The aforesaid requirements are not necessary if previous elevations of the riverbed are simply to be restored to maintain a certain flood conveyance capacity which will be supported by specific-gauge analysis method, or its equivalent, that assesses trends in river bed elevation changes.

6.4 Design Engineering Design Plan (to be attached to the Dredging Plan as Annex)

The Plan shall contain, but not limited to the following:

- Cover sheet
- Index of drawings
- Location map and vicinity map
- Plan showing location of spoil site for dredged materials
- General notes, legends/abbreviations and symbols and technical specifications
- Geotechnical investigation showing the Borehole Locations and Idealized Soil Profile
- Typical drawings
- Plan and longitudinal profile
- Cross-sections with tabulated estimated quantities

6.5 Dredging Reports

The Dredging Plan shall contain, but not limited to the following:

- Executive Summary
- General Project Information
- Site Description
- Equipment and Operations
- Dredge Positions and Dredging Operation
- Monitoring
- Target volume to be dredged
- List of equipment and other required resources
- Operational Cost Computation
- Timeline and Schedule
- Daily Operations Report
- PPE Needed
- Health and Safety Plan
- Quality Management Plan
- Activity Hazard Analysis
- Hazard and Damage Mitigation Plan

7. STANDARD REQUIREMENTS/TERMS

- 1) During the planning stage, the applicant must consider the Term of the Mining Permit being applied for in determining the minimum number of equipment to be deployed and in preparing the timeline and schedule of activities.
- 2) To ensure that the proposed dredging will be completed within the term of the Mining Permit, the applicant is required to attach a proof of technical and financial capability to its application. This shall contain the list of equipment, whether owned or leased, to be used for the proposed dredging, with their corresponding capacities and current location.
- 3) The extraction, removal and/or disposition of materials under the Permit shall be confined within the area specified therein, the boundaries of which, according to the application, are established on the ground with prominent marks;
- 4) Taxes and royalties shall be paid by the Permittee/Contractor to the appropriate Government agency.
- 5) The top edge of dredging works shall not go beyond the buffer zone. For narrow waterways with defined banks and/or existing bank protection on which the aforementioned cannot be applied, the stability of the slope shall be analyzed and the bottom elevation of dredging shall be set not deeper than the top of foot protection, e.g., cutoff wall or pile cap.

- 6) Dredging works within one (1) kilometer from bridges is prohibited unless prior clearance from the Government agency(ies) concerned is obtained and justification with corresponding analysis that the proposed dredging will not affect the overall stability of the subject bridge is submitted.
- 7) Allowance for over-dredging must be strictly observed in the design and execution of the dredging project, as specified in the DPWH Standard Specifications for Item 805 – Dredging.
- 8) The Government authorized representatives shall have the right to exercise visitorial powers over the area as well as to station representative(s) there at.

8. STATUTORY REQUIREMENTS

- 1) Except for areas allowed by DPWH based on the approved plan, the proposed dredging works shall comply with the existing rules and regulations of the Water Code of the Philippines and Section 79.a of DENR Administration Order (DAO) No. 2010-21.
- 2) The proposed dredging works shall likewise comply with Section 19.b of RA 7942 (Philippine Mining Act of 1995) and Section 15.b.2. of DENR Administration Order (DAO) No. 2010-21, pertaining to one of the areas closed to mining applications, which states "near or under public or private buildings, cemeteries, archaeological and historical sites, bridges, highways, waterways, railroads, dams or other infrastructure projects or public or private works including plantations or valuable crops except upon written consent of the Government agency or private entity concerned".
- 3) Pursuant to PD 1151, Philippine Environmental Policy, the proponent shall prepare, file and include in every action, project or undertaking which significantly affects the quality of the environment a detailed statement on:
 - a. the environmental impact of the proposed action, project and undertaking;
 - b. any adverse environmental effect which cannot be avoided should the proposal be implemented;
 - c. alternative to the proposed action;
 - d. a determination that the short-term uses of the resources of the environment are consistent with the maintenance and enhancement of the long- term productivity of the same; and
 - e. whenever a proposal involves the use of depletable or non-renewable resources, a finding must be made that such use and commitment are warranted.

The result of the Environmental Impact Assessment is documented and submitted to the Environmental Management Bureau, DENR, for review and evaluation as basis for issuance of Environmental Compliance Certificate.

- 4) In accordance with DAO No. 2010 – 21, if results of exploration reveal the presence of mineral deposits economically and technically feasible for mining operations, the Permittee shall, within the term of the Exploration Permit, file a declaration of mining project feasibility.
- 5) Insert "All dredging operations with mining permits shall comply with R.A. No. 7942, RA 7076, and their implementing rules and regulations, and other applicable laws, rules and regulations.")

9. APPROVAL OF PLANS AND PERMITS

The Project Design Report and Plans for proposed dredging work shall be submitted to the concerned DPWH Regional Office for review and evaluation. Whereas, for dredging areas that transcend two or more regions, the requirements shall be submitted to the Office of the Secretary, DPWH. Approval of plans shall be in accordance with the delegated authorities for this JMC. The DPWH Secretary or his duly authorized official shall approve the dredging permit or clearance whichever is applicable.

Approval and issuance of appropriate mining permits/contracts shall be in accordance with the Philippine Mining Act of 1995 and its Implementing Rules and Regulations, and other relevant issuances.

10. IMPLEMENTATION AND MONITORING

- 1) Before any activity could be started on site, the DPWH and the DoTr, through the Bureau of Equipment of the DPWH and the Philippine Coast Guard, respectively, shall inspect and validate all equipment stated in the proof of technical capability of the Permittee.
- 2) As-Stacked plan shall be prepared by the Permittee after the conduct of pre-construction survey and shall comply with the provisions of DPWH Department Order (D.O.) No. 15, series of 2016 to verify the actual field conditions prior to commencement of the project.
- 3) Proper station markers must be established to delineate boundaries of the dredging area.
- 4) The dredging operation shall start at the downstream reaches going upstream as practicable as possible and shall be carried out to the specified depth within the

allowable over-dredging and limited to the scope of the project defined in the Project Design Report and Design Plan.

- 5) Dredging shall be conducted in a manner that will not adversely affect the safety of navigation and will ensure accommodation of other marine activities such as fishing, aquaculture, transportation, etc.
- 6) During the project execution, regular monitoring of actual accomplishment against the design profile, lines and grades shall be performed by the oversight agencies. The Permittee shall install water level gauges for ungauged rivers at representative locations to be determined by the DPWH, through the Bureau of Design, for monitoring, assessment and evaluation of the impacts of dredging works.
- 7) Hydrographic survey of the dredged area must be conducted by the Permittee quarterly, and proper documentation must be submitted to the oversight agencies. This includes the volume dredged, distance advanced, and safety and environmental compliance.
- 8) Upon reaching the required volume as per approved plan or validity of the permit, a post-dredging survey shall be jointly conducted by the Permittee and the oversight agencies which shall be the basis for the preparation of "As-Built" Plan by the Permittee. The copies of the said "As-Built" Plans by the Permittee shall be submitted to the DPWH Central Office to store for safekeeping and future reference. The DPWH shall verify the final channel profile based on the post-dredging survey against the design profile and shall be the basis for issuance of "close-out clearance". Dredging tolerances shall be carefully examined and necessary measures must be taken prior to project close-out.

11. CANCELLATION/REVOCATION/TERMINATION OF PERMIT

Any permit or clearance issued may be cancelled/revoked/terminated by the DENR Secretary or the DPWH Secretary based on the recommendation of any member of the Inter-Agency Monitoring Committee after due process based on any of the following grounds:

- a. Failure to comply with the terms and conditions of the Permit and/or ECC;
- b. Failure to pay fees, royalties and taxes due to the government without valid grounds;
- c. Falsehood or omission of facts in the application for permit/clearance which may alter, change or affect substantially the facts set forth in the said statements;
- d. Any violations on the standard requirements listed in Section 7, especially when the dredging operations threatens the stability of any public infrastructure; and
- e. Violation of existing laws, policies and regulations.

The DENR Regional Director may immediately issue an Interim Cease and Desist Order (CDO) where there is a prima facie evidence of the above grounds which shall be effective for a period not longer than seven (7) days. The Interim CDO shall be considered a regular CDO upon confirmation of the Board or the DENR Secretary, as the case may be. Such confirmation may only be made prior to the lapse of the Interim CDO.

12.INTER-AGENCY MONITORING COMMITTEE

An inter-agency monitoring committee composed of representatives from the DENR, DPWH, DILG and the Philippine Coast Guard shall be created to monitor the implementation of projects issued with permit guided by this JMC and ensure that all provisions of this JMC are strictly observed at all times.

The roles and responsibilities are as follows:

12.1 Department of Environment and Natural Resources (DENR)

- a. The DENR shall monitor the compliance of the dredging operation to the terms and conditions of the ECC and the Mining Permit/Contract.
- b. It shall ensure that only the quantity of materials allowed in the mining permit/contract are extracted and/or transported, and that taxes and royalties are paid by the Permittee/Contractor.

12.2 Department of Public Works and Highways (DPWH)

- a. The DPWH shall regularly monitor and check conformance of the dredging operation with the Dredging Permit/Clearance, Dredging Plan and approved design specifications.
- b. In addition, the DPWH shall check if the equipment on-site conform/s with the equipment declared by the Permittee in the proof of technical and financial capability and pledged by the Permittee for the project.
- c. The DPWH shall recommend the suspension/revocation of the permit for the operation should the Permittee fail to declare all the equipment used for the actual operation, or should the Permittee lack the necessary equipment to accomplish the project within the term of the permit.
- d. The DPWH shall also maintain and update a control map delineating the boundaries of areas covered by approved dredging permit/clearance or with application for such permit. The control map shall contain also the ongoing flood control projects of the DPWH as well as projects programmed for the following five (5) years.

12.3 Department of the Interior and Local Government (DILG)

- a. Ensure the compliance of all LGU in enforcing this circular and other applicable laws
- b. Ensure that all LGUs comply with the existing environmental laws and regulations.

12.4 Department of Transportation (DoTr)

- a. The DoTr, through the Philippine Coast Guard, shall monitor and ensure that the vessels employed by the Permittee are fit for purpose, and that measures are taken in order to ensure the protection of the environment and personnel during the operation of these vessels.

13. PENAL PROVISION

Pursuant to Sec. 102 of RA 7942, any person undertaking exploration work without the necessary permit shall, upon conviction, be penalized by a fine of not exceeding Fifty Thousand Pesos (P50,000.00). Hence, any dredging operation undertaken with intent to *transport the dredged material either for utilization or commercial disposition without the appropriate permit* shall be penalized accordingly.

In addition, pursuant to Sec. 103 of RA 7942, any person extracting minerals and disposing the same without a mining agreement, lease permit, license, or steals minerals and ores or the products thereof from mines or mills or processing plants, shall, upon conviction, be imprisoned from six (6) months to six (6) years or pay a fine from Ten Thousand pesos (P10,000.00) to Twenty Thousand Pesos (P20,000.00), or both, at the discretion of the appropriate court. In addition, he shall be liable to pay damages or compensation for the minerals removed, extracted, and disposed of. In the case of associations, partnerships, or corporations, the president and each of the directors thereof shall be responsible for the acts committed by such association, partnership, or corporation. Penal provisions under mining act shall apply for mining contracts/permits.

14. TRANSITORY PROVISION

All entities issued with mining permit/contract on or before the signing of this Joint Memorandum Circular, but did not undergo DPWH evaluation, may continue their operation until the expiration of the term of the permit. Renewal or extension of the Permit/Contract shall be covered by these guidelines.

15. SEPARABILITY CLAUSE

If any clause, sentence, section or provision of these implementing rules and regulations is held or declared to be unconstitutional or invalid by a competent court, the remaining parts of these implementing rules and regulations shall not be affected thereby.

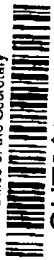
16. REPEALING AND AMENDING CLAUSE

All issuances inconsistent with or contrary to the provisions of these Joint Memorandum Circular are hereby repealed or modified accordingly.

17. EFFECTIVITY

This Joint Memorandum Circular shall take effect fifteen (15) days following its complete publication in two newspapers of general circulation, and fifteen (15) days after registration with the office of the National Administrative Register.

Department of Public Works and Highways
Office of the Secretary



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