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MEMORANDUM

FOR/TO : **The Undersecretary**
Legal and Administration
Organizational Transformation and Human Resources

The Directors
Forest Management Bureau
Biodiversity Management Bureau
Land Management Bureau
Environmental Management Bureau
Mines and Geosciences Bureau
Legal Affairs Service
Foreign Assisted and Special Projects Service
IP Concerns – Mindanao & BARMM Affairs

FROM : **The Undersecretary**
Field Operations – Mindanao

SUBJECT : **POLICY AND OPERATIONAL ISSUES RAISED BY DENR-XI IN A MEETING LAST MARCH 10, 2023**

DATE : 11 APR 2023

This is to inform you that a meeting was held last March 10, 2023 in the DENR-XI conference room during the undersigned's official visit in the Region. The meeting served as an avenue for the DENR-XI to present their policy and operational issues encountered in field operations as well as to discuss possible way forwards in resolving the same.

Anent the above, this Office is furnishing your respective offices the matrix of the instructions and agreements made during the meeting. You are requested to take appropriate action and inform the undersigned of any updates relative to the topics raised concerning your respective offices. Furthermore, the undersigned recommends including said updates in your presentation and discussion during the 1st Field Operations Management Conference.

For information, reference and appropriate action.

JOSELIN MARCUS E. FRAGADA, CESO III

Copy furnished:

- Office of the Secretary
- Office of the Assistant Secretary for Field Operations – Eastern Mindanao
- Office of the Assistant Secretary for Field Operations – Western Mindanao
- The OIC Director, Policy and Planning Service

**POLICY / OPERATIONAL ISSUES AND CONCERNS RAISED DURING THE MEETING WITH THE UNDERSECRETARY FOR FIELD OPERATIONS
MARCH 10, 2023, DENR XI CONFERENCE ROOM, LANANG, DAVAO CITY**

| Topics/Issues/Concerns | Updates / Actions Taken | Concerned Office | Recommendation |
|--|---|---|---|
| Clarification on the implementation of DMO 2023-01, "Additional Guidelines for Projects Applying for an Environmental Compliance Certificate (ECC) which are within or with close proximity to Protected Areas and/or Ramsar Sites, as to whether the mandatory requirement for a resource person in the EIARC will be coming from Central Office FMB/BMB or the regional counterpart. | Forwarded memorandum to EMB Central office on February 1, 2023 EMB Central Office already replied to clarify the said concern last March 9, 2023, stating that, "The EMB RO shall invite representatives from the BMB and FMB CO, whether physical or thru virtual meeting platforms to attend the EIARC Review Meeting." | FMB | Reconciliation of policies for the forestry sector in relation to projects and activities within the Protected Areas through series of meetings/conference. Invite Asec Secretary/FMB Director Arleigh Adorable and the Assistant Secretary for Policy, Planning and Foreign Assisted and Special Projects, Asec. Marcial C. Amaro, CESO II during the said conference |
| Allocated funds for the initial activities in the establishment of Waste to Energy in Davao City is lodged in EMB XI without the approval of the NEDA-IDC and necessary guidelines for the releasing / utilization of the said fund. | EMB tried to revert the funds back to the DBM but was declined. | EMB & FASPS | EMB-XI To set a meeting with Mayor Sebastian Duterte to discuss the ff: a. Express our willingness to help for the realization of the WTE Project in Davao City b. Find alternatives to utilize the budget in a way that gives more control to the National Government c. Download Funds directly to LGU of Davao City with more specific parameters on fund monitoring. |
| Pending ECC applications of the LGU for sanitary landfills – for approval of the Central Office | Continuous follow-up for the issuance of the approved ECC from the Central Office | EMB | |
| Requirement of FPIC by NCIP in certain areas (i.e Caraga, Davao Oriental) when implementing programs (e.g Geologic Mapping and Geohazard Assessment) within CADT Area | Forwarded concern to MGB CO last May 11, 2022 The issue was already raised during Management Meetings and recently during the Geoscience Workshop held last February 2023 | MGB and Office Indigenous Peoples Concerns - Mindanao and Bangsamoro Autonomous Region in Muslim Mindanao Affairs | Sit down with NCIP National with the assistance of Director Khalil S. Bayam and clarify the policy on FPIC. Recommend exemption of government projects that does not entail any land development/infra from FPIC requirement |

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| Mining Tenements overlapping the Mt. Hamiguitan Range Wildlife Sanctuary (MHRWS) Expansion Area and its Buffer Zone | <p>MGB RO No. XI has already sought the advice of MGB Central Office on the Mining Tenements overlapping the MHRWS Expansion Area and its Buffer Zone wherein there will be 7 Mining Applications, one (1) Exploration Permit, and one (1) Mineral Production Sharing Agreements affected by the expansion.</p> <p>MGB Central Office issued a Memorandum as response on the inquiry of MGB RO No. XI citing the Section 15 of DENR Administrative Order No. 2010-21 and Section 10, Article III of the 1987 Philippine Constitution.</p> | MGB and BMB | <p>DENR to provide a position regarding the Expansion of MHRWS to the UNESCO Inscriptions whether the area is closed to mining considering that it was not included in the Proclamation pursuant to Republic Act No. 9303 entitled "AN ACT DECLARING MT. HAMIGUITAN RANGE AND ITS VICINITIES AS PROTECTED AREA UNDER THE CATEGORY OF WILDLIFE SANCTUARY AND ITS PERIPHERAL AREAS AS BUFFER ZONE AND APPROPRIATING FUNDS THEREFOR".</p> <p>The inscription/international treaty will be the basis of the policy and shall be followed.</p> |
| To facilitate the Foreshore Lease Application received by the Regional Office | Submitted the FLA Application to Regional Office and consequently to CO | LMB | |
| SIDC connector bridge project is now implementing the preliminary activities for the construction after securing the Writ of Possession (WoP) from the court in the expropriation of private lots at the Samal bridge landing site. | DENR XI is assisting the DPWH for the amendment of FLA contract of EL Paril as El Paril's FLA will be affected by the landing area of the project. Amendment has to be approved by the Grantor of the said FLA. | LMB and LAS | To ask for the assistance of LMB & LAS on this concern. |
| Lack of policy and guidelines on the market value of agarwood species, the absence of which resulted to: Confusion in the implementation of enforcement activities and during filing of cases, as well as its disposition; Dismissal of cases on the basis of technicalities due to lack of legal reference for market value With the increasing demand, there is a proliferation on harvesting inside the natural forest | <p>In the interim, apprehensions of agarwood species is treated as a violation of RA 9147 in relation to DAO 2017-11 or the Updated National List of Threatened Philippine Plants and Their Categories listing the agarwood with scientific name <i>Aquilaria malaccensis</i> Lam. as an Endangered Species.</p> <p>Effect: Lower penalties are imposed against violators despite the high value of the apprehended agarwood chips</p> <p>On recent apprehension in Tagum City, courtesy request to the courts and RSOG for inspection by DENR Region, PENRO, CENRO and ERDB-ARDEC have been sent. Still awaiting response.</p> | FMB | To request the FMB to issue standard costing of each species. |

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| <p>Proposed Pantaron Range as PA. There are areas already with established structures (highland resorts). These resorts are already applying CALOM and ADLA with the NCIP. Pantaron Range is already declared as CADT. This effort is supported by the NCIP Regions 11 and 10, except 13. Thus, the proposal only included areas under NCIP 11 and 10.</p> <p>Most of these structures did not secure geo-hazard clearance from the MGB.</p> <p>A number of apprehensions by CENRO New Corella is coming from Region 13.</p> | <p>Conducted Protected Area Suitability Assessment (PASA) in the proposed Mt. Pantaron Range as a requirement for the establishment of Protected Area under the ENIPAS Act</p> | <p>BMB & ODIR-IPMBARMMA</p> <p>MGB</p> | <p>If the proposed area is already a CADT area and is already populated with several establishment then the region should no longer propose it as a protected area</p> |
| <p>Patrimonial Properties/ NAFCO Agricultural Lands</p> <p>NAFCO Lands (NAFCO) previously administered by the then Board of Liquidators (BOL), now by the Privatization Management Office (PMO)</p> | <p>Draft Joint Administrative Order between PMO and DENR, Re: Procedures in the disposition of lands under the administration of the Privatization Management Office (PMO) of the Department of Finance</p> <p>DENR XI already forwarded to LMB comments/recommendations on the draft JAO.</p> <p>The JAO will serve as a guide and reference in the course of the processing of applications for the issuance of patents of NAFCO Agricultural Lands.</p> <p>Only minimal budget allocated for the processing and issuance of patent (MSA/Residential, SA/Agricultural)</p> <p>We seek assistance from your Office in following up with the LMB for updates in the finalization of the JAO.</p> | <p>LMB</p> | <p>To refer this issue to the LMB Director</p> |

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| <p>Port Facilities existing within the foreshore area covered by an expired lease of 50 years</p> <p>Sec 38 and Sec 64e of CA 141 - Upon final expiration of the lease, all building and other permanent improvements made by the lessee, his heirs, executors, administrators, successor and assigned shall become the property of the government</p> | <p>Memorandum dated May 26, 2021 of RED to the USEC for Legal, Administration, Human Resources, and Legislative Affairs requesting assistance to initiate for a possible dialogue with the Department of Justice so that DENR XI can address the concerns of several concerned parties as to the conflict between the jurisdiction/authority of DENR and PPA with respect to port facilities.</p> <p>To follow-up with DOJ on the arbitration filed by PPA dated Nov. 03, 2017 and inquiry of the proposed Memorandum of Agreement (MOA) on the administrative of foreshore.</p> | <p>Office of the Undersecretary for Legal and Administration</p> | <p>To follow-up on the Memorandum dated May 26, 2021 of RED to the USEC for Legal, Administration, Human Resources, and Legislative Affairs requesting assistance to initiate for a possible dialogue with the Department of Justice so that DENR XI can address the concerns of several concerned parties as to the conflict between the jurisdiction/authority of DENR and PPA with respect to port facilities</p> |
| <p>Titled properties invaded by the sea or submerged by the tides "When private property is "invaded" by the sea and is submerged in the tides, such as it becomes foreshore land such property passes into the public domain" (Republic of the Philippines vs. Court of Appeals, et al., G.R. No. 100709, November 14, 1997);</p> <p>"It remains public domain even if subsequent reclamation by the government causes the property to resurface." (Government vs. Cabangis, 53 Phil.112);</p> | <p>Memorandum of the RED to LMB, requesting comment and guidance on the ff:</p> <p>a. Inquire/clarify status of the invaded/ submerged portion of the titled property;</p> <p>b. Given that the property or portion thereof is reverted back to the mass of the public domain by operation of law, can this be utilized and issued a permit;</p> <p>c. If a reversion proceedings is required before disposal of the area/portion through other modes provided by law, who will initiate filing of the petition for reversion and segregation of the portion/shoulder the survey expenses incurred</p> | <p>LMB</p> | <p>To seek the assistance of LMB relative to this concern.</p> |
| <p>Deeds of Conveyance (DoCs) involving parcels of Land within the Regional Government Center (RGC) 17 Signed DoCs 23 Endorsed to OSEC for signature 8 Returned for correction of tabular Technical Description 7 DoCs not yet submitted to DENR</p> | <p>23 DoCs forwarded by LMB to OSEC for approval and signature on December 21, 2022;</p> <p>LMB returned 8 DoCs to Regional Office for correction of tabular Technical Description</p> <p>In compliance with LMB's instruction, Regional Office submitted to LMB the 8 corrected Tabular Technical Descriptions for validation by the Geodetic Surveys Division of LMB before reprinting the DoCs to be signed by the representatives of the concerned NGAs</p> | <p>LMB</p> | |

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| <p>Guidelines on the harvesting of NGP within untenured areas:</p> <p>FMB has already issued DAO2021-20; however, the DAO did not clearly specify and/or provide the guidelines on the harvesting /utilization of the forest products (forest trees) in the untenured areas.</p> <p>On other graduated sites (fruit-bearing trees, coffee, etc). Indeed, there are guidelines that are vague in terms of the adaption.</p> | | <p align="center">DENR XI</p> <p align="center">FMB</p> | <p>CDD to prepare for a justification for the proposed harvesting of the forest products (Timber)</p> <p>FMB to come up with a more accurate instruction</p> |
| <p>Necessity to revisit FMB's parameters in identification of hotspot areas which is generally based on incidents of apprehension</p> <p><u>FMB Parameters</u></p> <p>a. As to frequency: Several or many incidents of apprehensions As to source: from the natural and residual forest and government reforestation projects</p> <p>b. As to manner: illegally-cut, gathered or transported forest products</p> <p>c. As to quantity: (in commercial quantity)</p> <p>*. Naturally growing species : at least 1,000 bd.ft. of lumber or a gross volume of 2.35 cu.m. for logs</p> <p>*. Plantation Species :at least 2,000 bd.ft. of lumber or 9 cu.m. in logs</p> | <p>Re-activation of the Multi-Sectoral Joint Monitoring Station in Brgy Ferdinand, Loreto, ADS which is along the boundary of Laak and Loreto</p> <p>Establishment of Monitoring Stations in Boston, DO</p> <p>Joint monthly patrolling of CENRO Bislig and CENRO Baganga</p> <p>Creation of the Inter-Regional Task Force of all DENR Mindanao Regions</p> | <p align="center">FMB</p> | <p>FMB to review and recommend revisiting the parameters in the identification of hotspot areas including the definition of a hotspot area.</p> |
| <p>Request for plantilla positions for the Protected Area Management Office (PAMO)</p> | <p>Submitted the request on April 19, 2021 to the Office of the Undersecretary for Legal, Administration, Human Resources and Legislative Affairs.</p> | <p>The Undersecretary for Legal and Administration & The Undersecretary for Organizational Transformation and Human Resources</p> | <p>To follow up on the submitted request on April 19, 2021 to the Office of the Undersecretary for Legal, Administration, Human Resources, and Legislative Affairs</p> |