



DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
KAGAWARAN NG KAPALIGIRAN AT LIKAS YAMAN



MEMORANDUM

TO : The Assistant Directors
Biodiversity Management Bureau
Ecosystems Research and Development Bureau
Environmental Management Bureau
Forest Management Bureau
Land Management Bureau
Mines and Geosciences Bureau
The Chief, Policy and Program Division,
National Water Resources Board
Representative, River Basin Control Office
Representative, Legal Affairs Service
Representative, Office of the Undersecretary for Field
Operations – Luzon, Visayas and Environment
Representative, Office of the Undersecretary for Field
Operations – Mindanao
Representative, Legislative Liaison Office
Representative, Water Resource Management Office
Representative, PPD, PMED

FROM : The OIC Director
Policy and Planning Service

SUBJECT: **HIGHLIGHTS OF THE CONSULTATIVE MEETINGS ON THE PROPOSED SECTORAL CODES UNDER THE CODIFICATION OF ENVIRONMENT AND NATURAL RESOURCES (ENR) LAWS (PHASE 1)**

DATE : **24 JAN 2024**

This refers to the conduct of the Consultative Meetings on the Proposed Sectoral Codes under the Codification of ENR Laws (Phase 1), held on January 10 and 12, 2024 and February 2024. The meetings were presided over by the undersigned and participated in by the members of the TWG and consultants/staff of the Center for Environmental Law and Policy Advocacy Inc. (CELPA), the consulting firm procured for the project.

The conduct of the sectoral consultative meetings was agreed upon during the 3rd TWG Meeting held on 11 December 2023 at the FASPS Conference Room.

Herewith are the highlights of the discussions and agreements per sector and the general agreements:

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Sector/Date of Consultative Meeting	Highlights and Agreements
10 January 2024	
Biodiversity	<ul style="list-style-type: none"> • Dr. Florentino Tesoro presented a brief background, Biodiversity laws reviewed, significant findings, and the draft Biodiversity Code • Gaps and conflicts were discussed. These include the disposition of public lands for fishpond purposes, banning fish cages in lakes and reversion of mangroves. Thus, there were recommendations on including RA 10654 which amends RA 8550 (Fisheries Code) in the review of laws. The provision on banning fish cages is not enforced but not yet overturned and remains a gray area. President Marcos, Jr. also issued a directive on the assessment of abandoned fishponds to both DENR and DA-BFAR. Guidelines have been drafted and discussed on the assessment, reversion, and use of these fishponds. • The gap on administrative fines will be addressed by the draft policy being developed by BMB. As to allowing hunting for tenured migrants, Mr. Joeboy Gelera clarified that the only exception granted is for Indigenous Peoples as this is provided for by the Indigenous Peoples Rights Act (IPRA). • Mr. Manuel Gerochi raised the lack of governance in some Protected Areas which supplanted the governance system in the forestry sector. For. Diane Lanugan supported defining the limits of protection areas and to possibly address this in the Code. She also pointed out that only the term National Park is included in the 1987 Constitution as a land classification and does not include Protected Area and this should be addressed in the Code. This also gives rise to the question of whether PAMBs should be established in Protected Areas that are not yet legislated. The term "protected area" should be clarified in terms of legal classification. Mr. Gelera clarified that Protected Area refers to land-use and not land classification and that the PAMB is established to address the protection of identified PAs. Atty. Oliva said there should be an effort to disestablish areas within the NIPAS and to open communications with FMB. • Mr. Gelera commented that in Section 20 of the NIPAS Act, as amended, the occupation of LGUs within Protected Areas shall be respected. However, they encounter some LGUs that encroach and expand outside of their original areas. Atty. Roberto Oliva remarked that this should be reflected in the Protected Area Management Plan and that DENR should be very knowledgeable about our maps and policies. Mr. Gerochi stated that the townsites should be excluded from the bounds of the PA. • Other gaps include the lack of provisions for migratory species in Biodiversity laws, capacity of Wildlife

	<p>Enforcement Officers, determination of the bond for bioprospecting and biopiracy.</p> <ul style="list-style-type: none"> • The following corrections were made on the draft Biodiversity Code <ul style="list-style-type: none"> ➢ inclusion of the Precautionary Principle in Section 2 ➢ omitting “wildlife” in Section 3 since biodiversity is an all-encompassing term ➢ under Section 4, “speleogem” should be spelled as “speleogen”; there should only be one definition of “biodiversity” and “protected area”; and specifying the term “Secretary”. ➢ under Section 5, Scope of Application, Critical Habitat is not under NIPAS; remove references to republic Acts; review application of shall and will ➢ be consistent with the format as presented in the Forestry Sector. • Further review and refinement is needed for the Biodiversity Code. With respect to differentiating between Initial Components and Legislated PAs, The undersigned informed the body of the Secretary’s instruction to facilitate the assessment of the 121 remaining initial components. Additionally, the undersigned recommended agreeing on what should be the coverage of the Biodiversity Code and noted that the Biodiversity Sector may be too diverse and may not be able to be codified. This may be one of the possible recommendations of CELPA. • It was agreed that the BMB shall submit its written comments to CELPA copy furnished PPS. A separate meeting may be convened.
Forestry	<ul style="list-style-type: none"> • Atty. Oliva provided a brief review of the status of Philippine Forestry, assessment of existing ENR laws of the sector, identified gaps and conflicts including the recommended interventions and lastly, the proposed simplified Sustainable Forest Management Act. • In the discussion of gaps and conflicts on ENR laws, CELPA highlighted that in the manner of exploration and development of the country’s national resources including forest lands as stated in the 1987 Philippine Constitution, the government is only entering through joint venture agreement. Thus, there is a recommendation to consider the production sharing agreement scheme to be adopted in the Forestry Sector and may refer to the Mineral Product Sharing Agreement (MPSA). • The undersigned recommended updating the draft ENR Code on Forestry Sector based on the new issuances of the Department. The draft code shall be an input to the priority policies of FMB for FY 2024- 2027. • Also, on the recommended interventions through administrative issuances, under item c, FMB requested CELPA to clarify the use of the term “vegetables” which refers to planted tree species. • The undersigned also recommended highlighting in the discussion of gaps, the absence of the law on final forest

	<p>limits and its effect on the management of forest lands and protected areas.</p> <ul style="list-style-type: none"> • It was also noted that the Bureaus and Offices' effort on the establishment of corridors shall be consolidated and supported by research from ERDB. • The identification standard parameters/criteria of hotspot areas, revisiting the definition of Protected Areas to define the management regime of the DENR were also recommended. • FMB will submit its comments to CELPA, copy furnished PSD. • CELPA requested a separate meeting with FMB regarding the draft ENR Code on the Forestry Sector.
12 January 2024	
Lands	<ul style="list-style-type: none"> • Atty. Oliva discussed the land administration and management in the country, the review of various land laws, land tenure in the Philippines, agricultural lands (alienable and disposable lands), conflicts and gaps in responsible land governance, way forward, and thereafter, presented the proposed codified Land Act. • The comments/recommendations on the proposed Land Act are as follows: consider the law of supply and demand on lands which is the root cause of squatting and review the laws on housing, e.g., RA 11201, EO No. 90, s. 1992, etc. as these espouse land reform in urban areas; look into the provisions of CA 141 that are no longer relevant vis-à-vis the 1987 Constitution and take into consideration the amendments thereof; revisit the proposal on cadastral proceedings since this is no longer feasible/relevant and that the cadastral surveys have been completed, and look into the laws/policies regarding reclamation, e.g., PD No. 1084 or the PEA Law. • Additionally, CELPA, Inc. should clarify the difference between the National Land Council to be created under the proposed Land Act and the National Land Use Council (NLUC) and how these will interface. Include also in the assessment and proposal the issue on land classification, i.e., only two (2) land classifications are reflected in the LC map. • It was also suggested that CELPA, Inc. consider in its assessment the LMB's enhanced Land Sector Development Framework (LSDF) as this lays down the direction and strategies for an effective, efficient and holistic land administration and management, including the proposed Land Administration Reform Act (LARA) which aims to address conflicts/institutional issues in land administration. • The draft Land Act should cover land administration, management, possession of land or private ownership, and land supply and demand. The focus of the proposal should be on agricultural/A & D lands. • On the proposed National Land Use Act, the LLO informed that this remains pending at the HOR

	Committee, and that NEDA is drafting an EO on the same.
Mines and Geosciences	<ul style="list-style-type: none"> • Atty. Althea E. Acas of CELPA, Inc. discussed the current situation of the Mining Sector in the Philippines, highlighting results from the review of relevant laws, and presented the proposed draft codified Mining Act which aims to enhance the overall legal framework governing mining activities in the country. • In the discussion of the challenges faced by the mining regulatory framework in the country, CELPA mentioned that the presence of conflicting laws, weak enforcement, and lack of clarity in specific areas have resulted in environmental damage, community conflicts, and missed economic opportunities. • On the lack of legislation for specific areas, it was noted that there is no direct regulation for offshore mining and black sand mining, creating potential environmental risk, and the need for a comprehensive plan to expand the mining industry to include mineral processing. • On the issue of the missing conflict resolution mechanism, MGB clarified that there is a Panel of Arbitrators and Mining Adjudication Board in place as per provisions of RA 7942 and its Implementing Rules and Regulations. • The comments/recommendations on the proposed Codified Mining Act are as follows: Consider the policy directives on mining and geosciences such as the development of a critical mineral strategy roadmap that can be used for low carbon technology, clear policy direction on dredging and quarrying; establishment of a legal framework for seabed quarrying; rehabilitation of abandoned mines, and to incorporate climate change into mining regulations. • It was also suggested to include in the review of laws, the amendment of RA 7942 or the Philippine Mining Act of 1995, and RA 7076 or the People's Small Scale Mining Act of 1991. • MGB to review the draft code, submit written comments to CELPA copy furnished PPS, and participate in small meetings organized by CELPA to finalize the draft ENR Code for the mining sector. • The PPS and LLO shall discuss the follow-up of pending bills at the Congress/Senate.

General Agreements / Ways Forward:

1. CELPA, Inc. shall revise the assessment reports and draft sectoral codes based on the comments/recommendations of the TWG and submit to the PPS all the revised outputs by 30 January 2024.
2. All the sectors shall submit their written comments to CELPA, copy furnished the PPS, for the revision of the draft sectoral codes. Additionally, the sectors shall conduct a follow-up Sub-TWG meeting with CELPA for the enhancement of the outputs.

3. Once finalized, the draft sectoral codes shall be endorsed by the PPS to LLO.
4. For the proposed administrative actions, the Bureaus/sectors shall be the ones to draft the policy. They may submit research questions to the ERDB for the conduct of an appropriate study in support of the proposed policy.
5. In view of time constraints and conflicting schedules, the supposed sectoral consultative meeting for the environment and water resources sector will no longer push through. As such, the offices concerned are requested to submit their comments on the draft sectoral codes to CELPA, Inc. copy furnished this office.

For your information and/or appropriate action, please.


CHERYL LOISE T. LEAL

PHOTO DOCUMENTATION

