

DENR Administrative Order
No. 97-05
March 6, 1997

SUBJECT : Procedures in the Retention of Areas Within Certain Distances Along the Banks of Rivers, Streams, and Shores of Seas, Lakes and Oceans for Environmental Protection

In the interest of the service and in order to promote ecological balance and protection of the environment, the provisions of R.A. No. 1273, P.D. No. 705 (as amended) and P.D. No. 1067 shall be strictly implemented.

Section 1. **RATIONALE.** — It has been observed that in the processing and subsequent approval of isolated and cadastral surveys and patents, the provisions of R.A. No. 1273, P.D. No. 705 (as amended) and P.D. No. 1067 as regards to the retention of areas within certain distances along the banks of rivers, streams, and shores of seas, lakes and oceans, have not been followed. These areas are crucial to ensure environmental protection, hence, the following sections of the aforementioned laws are hereby quoted for strict observance of all concerned:

1.1 Section 1 of R.A. No. 1273 otherwise known as An Act to Amend Section Ninety of Commonwealth Act Numbered One Hundred and Forty-One, known as the "Public Land Act", mandates:

"Section 1. (I) That the applicant agrees that a strip of forty meters wide starting from the bank on each side of any river or

stream that may be found on the land applied for shall be demarcated and preserved as permanent timberland to be planted exclusively to trees of known economic value, and that he shall not make any clearing thereon or utilize the same for ordinary farming purposes even after patent shall have been issued to him or a contract lease shall have been executed in his favor."

- 1.2 Section 16, paragraphs 7 and 8, of P.D. No. 705 otherwise known as "Forestry Code", provides:

"Section 16. Areas needed for forest purposes . . .

- (7) Twenty-meter strips of land along the edge of the normal high waterline of rivers and streams with channels of at least five (5) meters wide;*
- (8) Strips of mangrove or swamplands at least twenty (20) meters wide, along shorelines facing oceans, lakes and other bodies of water and strips of land at least twenty (20) meters facing lakes; . . ."*

- 1.3 Article 51 of P.D. No. 1067 otherwise known as "Water Code of the Philippines" also provides:

"Article 51. The banks of rivers and streams and the shores of the seas, and throughout their entire length and within a zone of three (3) meters in urban areas, twenty (20) meters in agricultural areas and forty (40) meters in forest areas, along their margins, are subject to the easement of public use in the interest of recreation, navigation, floatage, fishing and salvage . . ."

- Section 2. **IMPLEMENTATION.** — To strictly observe the pertinent provisions of the laws herein stated, the following procedures are hereby promulgated:

2.1 In the case of previously surveyed and titled properties bordering rivers, streams, creeks, arroyos and esteros, or fronting the seas, oceans or other bodies of water.

2.1.1 When these lands are subdivided, certain areas as described in Sections 1.2 and 1.3 of this Order, shall be demarcated as separate lot and preserved for forest purposes. When these areas are bereft of trees, these shall be planted with trees. No permanent infrastructure shall be allowed on these areas, unless intended for erosion control or to enhance the aesthetic qualities of the area.

2.1.2 When these lands are consolidated and subdivided into residential/commercial/industrial subdivisions, certain areas as described in Sections 1.2 and 1.3 of this Order, shall also be demarcated as separate lot and to be retained as permanent forest. This may form part of the open space for parks and recreational areas which shall likewise be planted with trees.

2.1.3 When the surveys have been approved and subject of Public Land Applications which are being processed or covered by request for data for judicial titling, the survey plan shall be amended pursuant to R.A. No. 1273 so as to demarcate the three (3) meters, twenty (20) meters or forty (40) meters strips of land, as the case may be. This strip of land shall be indicated as separate lots clearly marked as permanent forest for stream or river bank protection.

The lot marked as permanent forest for stream or river bank protection shall be excluded from the patent to be issued under the public land application; provided however, that the name of the applicant shall be indicated on the plan. The plan and lot data to be issued for judicial titling shall state that this strip is for permanent forest for stream or river bank protection; provided however, that when the petition for judicial registration is being heard in court and publication has been made, the court shall be informed about the exclusion of this strip of land in accordance with the law.

- 2.2 In the case of private properties bordering rivers, streams, creeks, arroyos, esteros, and when the strips of land described in Sections 1.2 and 1.3 of this Order are included in the title.

2.2.1 When these properties are consolidated and subdivided into residential/commercial/industrial subdivisions, the same procedure as stated in Section 2.1.2 shall be observed; *provided further*, that these strips of land shall be treated as open spaces as required in P.D. No. 1216 and P.D. No. 957, and shall be planted with trees to form greenbelts in accordance with P.D. No. 953.

2.2.2 When these properties in urban and urbanizing areas are sold, certain areas as described in Sections 1.2 and 1.3 of this Order, shall not be included as these are non-alienable and non-buildable.

- 2.3 In lands to be surveyed, being surveyed, or surveyed but not yet approved, the provision of R.A. No. 1273 and P.D. No. 705 (as amended) shall be strictly observed.

2.3.1 The boundary lines of surveys shall be the line forty (40) meters in forest areas, twenty (20) meters in agricultural areas, and three (3) meters in urban areas measured landward from each side of the bank of river, stream, creek or arroyo, or shore of the sea. These boundary lines shall be clearly marked or blazed on the ground with permanent concrete monuments or any practicable sign to ensure protection and maintenance of the area. The strips of land shall be excluded from the survey claim. This shall be kept with vegetative cover and planted with trees.

2.3.2 The edge of the high waterline or banks of the rivers, streams, creeks, arroyos or esteros shall be located by direct measurements from a traverse station and the side shots must be clearly recorded in the field notes and shown on the plan in red-ink dotted lines.

2.3.3 Before a public land application is accepted or technical description is issued for judicial titling, an ocular inspection of the lot should be conducted to ensure that the three (3) meters, twenty (20) meters and the forty (40) meters strips of land for permanent forest for stream and river bank protection, are excluded.

2.3.4 The strip of land for stream or bank protection shall be kept with vegetative cover and planted with trees. Sufficient measures shall be undertaken to prevent soil erosion.

Section 3. **ADMINISTRATION.** — All practicing geodetic engineers (DENR and private practice) shall strictly observe these procedures.

To properly implement the provisions of this order:

- 3.1 All Regional Executive Directors shall implement these guidelines; deny the acceptance of surveys and/or subdivision surveys which are not in conformity with laws and these guidelines.
- 3.2 All Regional Executive Directors shall submit compliance reports to this Order on a quarterly basis to the Undersecretary for Field Operations for review and evaluation thereof. The USEC for Field Operation may initiate penal sanction against erring personnel as the review and evaluation may warrant.

Section 4. **PENAL SANCTIONS.** — Employees, officials, and other parties involved in the processing and subsequent approval of the surveys and issuance of patents that failed to observe provisions of this Order and pertinent laws or found conniving with the applicants or surveyors or committing fraud shall be dealt with administratively and criminally in accordance with the existing and applicable laws on the matter.

Section 5. **REPEALING CLAUSE.** — All orders, circulars, official instruction or parts thereof inconsistent herewith are hereby repealed or amended accordingly.

Section 6. **Effectivity.** — This Order shall take effect fifteen (15) days after publication in a newspaper of general circulation.

(SGD.) VICTOR O. RAMOS
Secretary

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