

CIRCULAR NO. : 2006-09

SUBJECT: Guidelines, Rules and Regulations Governing the Issuance of Land Use Permit, Watershed Area Clearance, Licenses /Authorities for Various Land Uses/Activities Inside NPC Managed Watershed Reservations and Landholdings Amending Memorandum Order Nos. 96-24 and 96-25

Pursuant to Executive Order Nos. 224 and 258, dated July 16, 1987 and July 10, 1995, respectively, and Ministry Order No. 83-01-13, dated November 22, 1982, the following rules, regulations, guidelines, terms and conditions governing the issuance of appropriate authority/clearance/permits for various land use activities inside the NPC managed watershed reservations are hereby issued for compliance and guidance of all concerned:

SECTION 1.0

DEFINITION OF TERMS

- 1.1 **Available Area** - area within the NPC watershed reservation which is approved and allowed by NPC for utilization or for establishment of any land use project;
- 1.2 **Abandoned Forest Products** – forest products left within forestlands, alienable and disposable lands and private lands, whose owners or claimants can not be identified or that which have been unclaimed for more than fifteen (15) days;
- 1.3 **Bonafide Resident** – is a person who has continuously resided in the place for at least six (6) months upon approval of this Order as certified by the Barangay Chairman in the locality;
- 1.4 **Corporation** – the National Power Corporation;
- 1.5 **Drifted Logs** – logs that are washed out by floods and/or water currents;
- 1.6 **Environmental Compliance Certificate (ECC)** – a document issued by the DENR Secretary signaling that a project can proceed because it has no unacceptable environmental impacts and has a satisfactory Environmental Management Plan;

- 1.7 **Environmentally Critical Area (ECA)** - an area that is considered ecologically sensitive;
- 1.8 **Environmentally Critical Project (ECP)** - development activities/project which has a high probability/potential for negative environmental impacts;
- 1.9 **Environmental Impacts** - effects/consequences of a development project (industrial, commercial, housing, etc.) on the environment and the surrounding community therein;
- 1.10 **Environmental Impact Assessment (EIA)** - document needed by a project that is within the definition of environmentally critical projects regardless of their location;
- 1.11 **Fire Damaged Trees** – trees damaged by forest fires, that are either dead or living but with nil chance of survival;
- 1.12 **Forest Products Gathering / Harvesting / Collecting Authority** – Refers to authority issued by the Manager, NPC-WMD to gather / collect / utilize **forest products** planted or grown within private/titled properties for personal use, livelihood purposes, government projects, and scientific use;
- 1.13 **Forest Products for Personal Use** – Refers to **forest products** which are granted for house construction/repair purposes;
- 1.14 **Forest Products for Livelihood** – Refers to **forest products** which are granted for the purpose of earning a living. This refers to the 4th and 3rd group species suitable for fuel wood or small scale cottage industries such as handicrafts, novelty items, etc;
- 1.15 **Forest Products for Government Projects** – Refers to **salvageable forest products** granted for the construction of government or semi-government infrastructure projects;
- 1.16 **Forest Products for Commercial Purposes** – Refers to trees, shrubs and other minor forest products cut/felled due to site preparation activity of an authorized long term land use/activity which shall be disposed commercially;
- 1.17 **Initial Environmental Examination (IEE)** - document required for projects located within ECA's;
- 1.18 **Land Use Activities** - any activity that involves utilization of land and its resources, e.g., agricultural, forestry, pasture, commercial, residential, industrial, public works and infrastructures, etc;

- 1.19 **Land Use Permit (LUP)** – a formal or legal document granted to qualified land use applicants who complied with the requirements and conditions set by the Watershed Management Department of the National Power Corporation, authorizing the conduct of specified land use activities **on public lands** inside watershed reservations and other areas under NPC control and jurisdiction;
- 1.20 **Private land/Titled Land** - land classified as alienable and disposable and which is owned and corroborated through a title by a private individual or institution;
- 1.21 **Public Land** - term generally used to describe the land of public domain that has not been subjected to private rights and is devoted for public use;
- 1.22 **Salvageable Forest Products** – Refers to dead/dying standing trees abandoned logs, drifted logs, sunken logs, uprooted and fire/typhoon damaged trees, tree stumps, tops and branches or fallen forest products;
- 1.23 **Special Tree Cutting Permit** - Refers to authority issued by the Manager, NPC-WMD to cut trees, shrubs and other minor forest products due to site preparation activity of an authorized long term land use/activity which shall be disposed commercially;
- 1.24 **Sunken Logs** – logs found at the bottom of a river/stream, lakes and other bodies of water;
- 1.25 **Typhoon Damaged Trees** – trees whose tops, branches and trunks were blown away or destroyed by strong wind that are either dead or living but with nil chance of survival;
- 1.26 **Unavailable Area** - portion inside the NPC watershed reservation where any land use activity cannot be allowed for purposes made for the interest of the Corporation.
- 1.27 **Uprooted Trees** – trees that were blown down due to natural causes, the roots of which are exposed above the ground and have a nil chance of survival;
- 1.28 **Watershed Area** - a land drained by a stream or fixed body of water and its tributaries having a common outlet for surface run-off;
- 1.29 **Watershed Area Clearance (WAC)** - a formal or legal document granted to qualified land use applicants who complied with the requirements and conditions set by the Watershed Management Department of the National Power Corporation, authorizing the conduct of specified land use activities **on private/titled lands** inside watershed reservations under NPC control and

jurisdiction and on other areas being managed by NPC by virtue of a MOA with other government agencies;

- 1.30 **WMD-H.O.** – Watershed Management Department, Head Office;
- 1.31 **Watershed Reservation** - a land reservation established to protect and improve the quality and condition of the water yield thereof or reduce sedimentation. This shall include all areas proclaimed or declared by law as national watershed reserves;
- 1.32 **Wood Recovery Permit** - refers to authority issued by the Manager, NPC-WMD to gather/collect/utilize/retrieve and dispose salvageable forest products;

SECTION 2.0

SCOPE

The Watershed Area Clearance (WAC) and Land Use Permit (LUP), whichever is applicable, may be issued to qualified applicants who wish to utilize private/titled and public land for various land use activities allowed to be undertaken inside proclaimed watershed reservation under the jurisdiction of the NPC covered by Executive Order Nos. 224 and 258 and other NPC managed watershed reservations for personal, commercial and industrial purposes/uses, public works/programs and other related activities. The authority granted in the case of **WAC** (see Annex D) and **Forest Products Gathering / Harvesting / Collecting Authority** (Annex F) shall only apply within titled/alienable and disposable lands inside areas covered by E.O. Nos. 224 and 258 and in public lands within watershed areas under NPC management by virtue of a MOA with other government agencies. In the case of **LUP** (see Annex E), the authority shall apply within public lands inside watershed areas and other landholdings under complete control and jurisdiction of the NPC. **Special Tree Cutting Permit** (see Annex G) and **Wood Recovery Permit** (see Annex H) shall be applicable in both public and private lands under NPC control and jurisdiction. The operations conducted on these areas shall be governed by pertinent rules, regulations and laws imposed inside the watershed reservation and the strict adherence to such.

SECTION 3.0

ISSUING AUTHORITY

The person(s) and/or official(s) authorized to issue approved Watershed Area Clearance (WAC), Land Use Permit (LUP), Forest Products Collecting/Gathering Authority, Special Tree Cutting Permit and Wood Recovery Permit shall be in accordance to the prescribed Issuing Authority indicated in the Memorandum Circular 96-23.

SECTION 4.0

DUTIES AND RESPONSIBILITIES

4.1 The Watershed Area Team

The respective Watershed Area Team shall be responsible for the following:

- a. Adopts specific measure for probing the credibility of the proposed development project applied for inside the watershed areas;
- b. Conducts initial inventory of affected forest resources (i. e. timber, and other minor forest products) to determine extent of possible damage and recommend appropriate mitigating measures;
- c. Monitors and regulates indiscriminate proliferation of land use/development projects inside their respective NPC watershed reservations;
- d. Conducts on the spot and/or regular monitoring and inspection of the compliance of the applicant to the terms/conditions/provisions/restrictions stipulated and set by the NPC-WMD;
- e. Investigate and subsequently report all incidents of violations made against the laws, rules and regulations pertinent to this undertaking;
- f. Checks and verifies compatibility of project/land-use activity to the existing condition of the reservation ;
- g. Checks the completeness of all necessary documents including recommendations from other agencies (if necessary) and endorses application documents of Land Use applicants for review and evaluation at the WMD H.O. ;
- h. Coordinates through formal writing with the concerned Independent Power Producers (IPP's) and contractors/operators of privatized power plants on their non-use of the area for power generation applied for by the applicant;
- i. Coordinates with WMD H.O. on the relevant watershed policies for the smooth implementation of Land Use projects ;

- j. Participates in the conduct of joint inspection activities with the WMD H.O. including the identification of every land use activities and assessment of the same using the corresponding specific conditions and parameters set by the WMD H.O.;

4.1 The Watershed Management Department

The Watershed Management Department shall be responsible for the following:

- a. Verifies, reviews and evaluates the merits of the project and checks the completeness and veracity of the documents submitted, paying close attention to the authenticity of the Land Title, Tax Declaration and other proof of ownership , and all other pertinent legal documents and clearances issued by other agencies prior to the issuance of the LUP / WAC and other authority/licenses;
- b. Instructs the area team to advise the applicant to pay the needed Filing and Inspection Fees;
- c. Undertakes the joint field inspection and prepares the inspection report thereafter validating the recommendation/action on the land use petition;
- d. Furnishes copies of inspection report to other attached agencies, IPP's, and other pertinent offices ;
- e. Responsible for the preparation and issuance of LUP/WAC and other authority/licenses;
- f. Should there be any violation, jointly make necessary recommendations with the area team for any appropriate legal action for the act committed.

SECTION 5.0

QUALIFIED APPLICANT

The following individual(s) or group(s) may be qualified to apply for land-use activity(ies) inside the areas prescribed in Section 2.0 of this Circular:

- 1) For an individual, he/she should be of legal age upon application;
- 2) No pending administrative or criminal charge(s);
- 3) Bonafide resident(s) of the municipality where land use activity/project will be undertaken;
- 4) Owner(s) of titled land(s) or his/her duly authorized representative(s);
- 5) Government/semi-government/private group/institution and authorized representative;
- 6) Owner(s) of corporation(s), association, business organizations and/or duly authorized representative(s)

SECTION 6.0

TERMS AND CONDITIONS

Prior to the implementation of any land use activity inside the reservation covered by EO 224 and 258 and all other NPC managed watershed reservations, a combination thereof or all of the following initial requirements, as required by specific land use/activity, shall be submitted to the Manager , Watershed Management Department of the National Power Corporation .

6.1 Initial Requirements

- 1) Three (3) copies of duly accomplished application forms (Annex B), secured from respective watershed field units or WMD-HO;
- 2) Payment of Application fee depending on the specific land use activity applied for as determined by existing schedule of fees being adopted by other agencies and as prescribed in the herein attached Revised Schedule of Fees and Charges (Annex K);
- 3) Payment of Inspection/Survey fee depending on the specific land use activity applied for as determined by NPC-WMD and as prescribed in the herein attached Revised Schedule of Fees and Charges (Annex K);
- 4) Income Tax Return (ITR) of the applicant for the preceding year;
- 5) Clearance from other attached agencies, IPPs and other concerned entities as so required stating among others that the site applied for is not

affected by any present planned development project of their agency concerned;

- 6) Location map of the area applied for within the reservation , drawn to scale at least 1:10,000 or preferably larger and topographic map (drawn to scale at least 1:1,000 or larger);
- 7) Photograph of the area applied for within the reservation;
- 8) A feasibility study/operational plan of the proposed land use/activity to be undertaken (as may be required);
- 9) Authenticated copy of Land title/certificate;
- 10) Copy of the preceding year's real property and tax declaration and receipt of realty paid;
- 11) Inventory Report if tree cutting and forest products harvesting/utilization is involved;
- 12) When found necessary, an Initial Environmental Examination (IEE)/Environmental Impact Assessment (EIA), depending on the magnitude of impacts of the proposed land use activity to the environment.

6.2 Final Requirements

- 1) Inspection report (Annex C) jointly undertaken by the applicant and NPC-WMD using appropriate procedures and forms for the specific land use/activity applied for;
- 2) Payment of appropriate fees and charges to authorized collection agents;
- 3) Detailed environmental management/development plan to be undertaken including financial plan and drawn to scale of 1:10,000 map of the area;
- 4) When found necessary, an Environmental Compliance Certificate (ECC).

SECTION 7.0

RESTRICTIONS

In accordance with existing forestry laws, rules and regulations, the establishment of development projects within watershed areas shall be regulated and subject for review and evaluation.

For this purpose, development projects inside the NPC watershed reservations and landholdings without proper clearance and or permit shall not be allowed. This includes any development activity on areas declared as alienable and disposable lands. Any form of development/construction activities such as quarrying/mining, establishment of industries, and the like, without the appropriate Area Clearance/Permit/Authority (as in the case of existing establishments) shall be considered unlawful.

On the other hand, the following conditions shall also hold true to all proposed and existing land use activity/projects within NPC watershed reservations:

1. Any land use activity undertaken/implemented inside the reservations, with prior authority from the President, NPC, shall be subject to specific guidelines/procedures and terms and conditions which will form part of the granted authority for the guidelines of all concerned;
2. When needed for public interest, the President, through NPC-WMD may make available certain unavailable areas within the reservations for specific land use(s) or activity(ies);
3. Any clearance/permit/authority granted by the President, NPC, to develop/utilize area(s) within the reservations for specific land use(s) or activity(ies) is non-transferable and/or shall not be used for any other purpose(s) unless otherwise authorized by President, NPC;
4. Areas covered by present or planned energy development project(s)/activity(ies) of the Corporation shall not be available for any land use activity unless authorized by the NPC President;
5. That the grantee understands that exploration of indigenous energy is still a priority in the area and in the event of its need for energy exploration, the applicant shall, without objection or cause unnecessary delay, allow the government's expropriation of land and its development for the purpose of national development;
6. That the NPC shall not be held liable to any untoward incident that may occur during the operation of the land use activity(ies);
7. That the grantee shall conduct the specific proposed development activity only in the applied area;
8. That any falsification and false manipulation of documents submitted shall be sufficient ground for revocation of the clearance/permit granted without

prejudice to possible legal actions that may be imposed on the involved individual/parties;

9. That the NPC thru the WMD and its Area/Field Offices shall have the right to conduct on-site investigation and inspection anytime it warrants to determine compliance with terms and conditions of pertinent laws, policies, rules and regulations governing watershed management;
10. That the NPC is not liable for any cases/suits that may evolve resulting from the operations of the proponent.

SECTION 8.0

PROCEDURES AND PROCESS FLOW

The following standard procedures and process flow (see Annex A) shall be followed and observed for the implementation of any land use/activity inside the reservations covered by Executive Order Nos. 224 and 258 and other NPC managed watershed reservations and landholdings:

- 1) Applicant submits all the initial requirements to NPC-WMD field office concerned. The latter shall issue receiving form (see Annex I), check and verify the completeness of the preliminary requirements submitted using a checklist prepared for this purpose;
- 2) NPC-WMD Field/Area Team and Head Office Staff, together with the applicant or his duly authorized representative(s) shall conduct physical inspection of the project area;
- 3) NPC-WMD H.O. and Field Staff prepares the inspection report and re-checks preliminary requirements submitted;
- 4) NPC-WMD H.O. Staff evaluates the merits of the application and sees to it that all vital documents were submitted. All requirements are then evaluated for their authenticity, accuracy and completeness. Should there be documents lacking, WMD Staff advises the applicant to comply with all the requirements;
- 5) If the documents are completed, the H.O. staff makes a final review and evaluation of the application. If found not in conflict with existing land uses, recommends same for ocular inspection;
- 6) The applicant is advised to pay the necessary/prescribed Inspection and Filing Fees based on the Land Use Charges Assessment Form (Annex J), as

prescribed in the herein attached Revised Schedule of Fees and Charges (Annex K);

- 7) If the limits of authority so requires, the WMD Manager endorses the recommendation made by the Inspection Team to the NPC President for his approval of the application;
- 8) In situations where the proposed project is not allowed, the H.O. advises in formal writing the disapproval of the application

SECTION 9.0

INSPECTION AND MONITORING

The inspection activities shall be conducted for both proposed and existing development projects. An initial inspection shall be done prior to the commencement of any development activity. The projects/establishments shall be inspected and eventually evaluated based on specific standards and parameters set by the WMD. Each proposed project shall be assessed based on the degree of its environmental impact and the weight of its merits commensurate to the interest of the NPC to protect and conserve the watersheds under its jurisdiction.

Inspection activities shall be conducted using a standard Inspection Form containing some basic information about the project, including some data describing its existing environmental condition. A written report of the inspection activity shall be prepared and submitted to WMD to serve as a preliminary basis in the evaluation of the proposed project. A confirmation report that the proposed project area shall not be used for power generation from the IPP's and other similar agency which operates on the area shall have to be secured prior to the issuance of an area clearance/permit/authority and said shall be attached to the clearance/permit/authority.

An on site and random inspection shall be undertaken to verify the compliance of the applicant on the prescribed conditionalities set forth in the clearance/permit/authority.

SECTION 10.0

PENAL PROVISION

Should there be violations on the stated restrictions and conditionalities, penalties shall be meted on the applicant depending on the nature of the violations. Fines and penalties shall be based on existing laws, rules and regulations which include but is not limited to PD No. 705, as amended, Ministry Order No. 83-01-13 (series of 1982) and "The Revised Penal Code of the Philippines."

SECTION 11.0

REPEALING CLAUSE

Other existing issuances, memoranda and circulars which are not consistent herewith are hereby repealed, amended or modified accordingly.

SECTION 12.0

EFFECTIVITY

This Circular shall take effect immediately.