

MEMORANDUM ORDER NO. 96 – 26

SUBJECT: **GUIDELINES / PROCEDURES ON THE ARREST / APPREHENSION OF FOREST LAW VIOLATORS, CONFISCATION AND DISPOSITION OF ILLEGALLY CUT/GATHERED FOREST PRODUCTS AND VEHICLES, TOOLS AND EQUIPMENTS**

Pursuant to Executive Order Nos. 224 and 258 dated July 16, 1987 and July 10, 1995, respectively, "VESTING ON THE NATIONAL POWER CORPORATION THE COMPLETE JURISDICTION, CONTROL AND REGULATION OVER WATERSHED AREAS AND RESERVATIONS SURROUNDING ITS POWER GENERATING PLANTS AND PROPERTIES OF SAID CORPORATION ", and Ministry Order No. 83-01-13, dated November 22, 1982, the following guidelines/procedures on apprehension, arrest of forest violators, confiscation and disposition of illegally cut/gathered/transported and/or collected forest product/s and vehicle/s and equipment/s used are hereby issued for the information and guidance of all concerned:

SECTION 1.0 SCOPE

All Deputized Forest Officers of the National Power Corporation, Watershed Management Department (NPC-WMD) and other Officers deputized by the corporation in accordance with the provisions of Sec. 1, Rule III of Ministry Order No. 83-01-13 shall enforce and/or observe the provisions herein stated inside watershed reservations covered by Eos 224 and 258 or other watershed areas that may hereafter be proclaimed and placed under the jurisdiction of NPC by the President of the Philippines.

SECTION 2.0 APPREHENSION/ARREST OF FOREST LAW VIOLATOR/S

Upon suspicion of violation, the following procedures shall be done by the forest officer/s in coordination with PNP:

- 2.1 Present proper identification or deputization order/authority to the suspect;
- 2.2 Conduct preliminary investigation/questioning, records of which shall be used for the future reference;
- 2.3 Check completeness / authenticity of the following requirements / documents. All requirements and documents must be in original:
 - 2.3.1 Authority to cut/gather forest products issued by the Manager, NPC-WMD or his / her authorized representatives;
 - 2.3.2 Authority to Transport/Ship Forest Products issued by the Manager, NPC - WMD, or his/her authorized representatives. The authority shall include, among others: the type of forest products (e.g., logs, lumber, resin, bamboo, etc.);
 - 2.3.3 Certificate of Origin issued by the Supervising Watershed Forester NPC - WMD or his / her authorized representatives;

2.3.4 Official receipt evidencing payments of charge/fees or other obligations paid in accordance with the provisions of Revenue Regulation No. 2-81 dated November 18, 1980 and other fees and charges imposed by the NPC-WMD; and

2.3.5 NPC-WMD Hatchet Mark visibly stamped/chiseled on logs, lumber or other forest products.

2.4 If the requirements/documents are complete and authentic, the suspect/s shall be released immediately, otherwise, arrest or reasonable time sufficient to cover travel from the place of arrest/seizure if it was done in the forest; and

2.5 Immediately upon delivery of the arrested suspect to proper authority, a case shall be filed in Court in accordance with provisions of Section 6 hereof.

SECTION 3.0 SEIZURE / CONFISCATION AND RELEASED PROCEDURES

3.1 If the forest products are found to be illegally cut/gathered, seizure/confiscation of said products and vehicles, tools and equipment used shall be undertaken by the apprehending officer/s:

3.1.1 Take down sworn statement of the person/s involved in the illegal cutting/gathering and transporting of the forest products (Annex "A");

3.1.2 Take down affidavit of witnesses (Annex "B")

3.1.3 Take pictures of the seized and confiscated forest products together with all vehicle, tools and equipment and other necessary evidences;

3.1.4 Executive an affidavit surrounding the seizure/confiscation (Annex "C");

3.1.5 Issue Seizure Receipt (Annex "D"); and

3.1.6 Impound forest products, and vehicle, tools and equipment used at NPC_WMD authorized compound.

3.2 Confiscated vehicle, tools, equipment and other paraphernalia may be released under

SECTION 4.0 DISPOSITION PROCEDURES

the following conditions:

4.1 Case filed in Court If the case is filed in Court involving seized/confiscated forest products, vehicle, tools and equipment, the released/disposition of the same may only be effected upon Court's order. If the case is decided in favor of the government, the disposition shall proceed in accordance with item 4.2 of this Section.

4.2 No Case Filed in Court If no case is filed in Court due to the absence of claimant/s fifteen (15) days after seized/confiscated forest product/s, vehicle/s,

tool/s and equipment may be disposed of the of the NPC-WMD in accordance with the following priorities and procedures:

- 4.2.1 First priority for NPC- Projects/Infrastructure;
- 4.2.2 Second priority for other government/semi-government project/ Infrastructure;
- 4.2.3 Provided that, written request to use confiscated materials shall be submitted to the Manage, NPC-WMD. The request shall include. Among others: name/nature and address of the project where the forest product, vehicles, tools and equipment will be used; name (if any) contractor/developer of the project; volume quantity of timber, logs or other forest product/s being requested;
- 4.2.4 A Certification of the Presence of Duly Confiscated forest Products, vehicle, tools and equipment shall be secured from NPC-WMD or its authorized representative (Annex "E"); and
- 4.2.5 If a request is granted, an Authority to utilize/disposed/used confiscated forest products, vehicles, tools and

Equipment may be issued by the Manager NPC-WMD (Annex "F").

4.3 For Public Auction Confiscated forest products and tools and equipment, not needed by NPC and other government/semi-government agencies for infrastructure and other development projects may be disposed of thru public auction in accordance with the following procedures, terms and conditions.

4.3.1 Constitution of a Committee A Committee on Bids and Awards for Confiscated Forest Products and Tools and Equipment shall be constituted by the Manager, NPC_WMD acting as its Chairman with members from NPC Legal Department and WMD Site Office.

4.3.2 Invitation to Bid If confiscated forest products, tools and equipment are available for public auction, the Committee shall prepare and issue an invitation to Bid (Annex "G")

4.3.3 Posting The invitation to Bid and Notice of Auction (Annex "H") shall be posted at least three (3) conspicuous and appropriate places for at least fifteen (15) days.

4.3.4 Accreditation of Bidders Bidders shall first submit an application under oath to the Committee Chairman containing the following:

4.3.4.1 Name and Address

4.3.4.2 Residence Certificate Number, Date and Place of Issue and Tax Account Number;

4.3.4.3 Nature of Business (attach proof of registration with SEC/NACIDA/;

4.3.4.4 Citizenship

4.3.4.5 Statement that he/she has not committed any of the following grounds for disqualification:

- a. Conviction of a crime related to business commerce and trade as well as hoarding, profiteering, etc.;
- b. Smuggling/conniving with smugglers of forest and/or other forest products; and
- c. Deliberate error, omissions or commissions of the bid tender.

4.3.5 Pre-Bid Conference If necessary, the Committee may hold a "Pre-Bid Conference" to clarify or explain doubts or ambiguities on the specifications or conditions on the Invitation to Bid. The Pre-Bid Conference, however shall not be used as an occasion for amending modifying or revising advertised specifications and conditions.

4.3.6 Postponement No opening of any bid shall be postponed by the Committee, however, when date set for the opening of bids fall on a declared holiday, the bids shall be opened on the following working day at the same time and place specified in the Invitation to Bid.

4.3.7 Opening of Bids All sealed bids shall be received by the Committee on Bids and Awards for confiscated forest products, tools and equipments before the date set for opening the sealed bids. The received sealed bids shall be kept in a locked box or safe. All bids shall be approved by the Committee, meeting en banc, at the date time and place stated in the Invitation to Bid. Bidders or authorized representatives may witness the proceedings.

4.3.8 Late Bids, Invalid Bids, Defective Bids Bids submitted after the scheduled time of opening shall not be accepted by the Committee. Bids submitted which are not signed or covered by the required bond or does not meet all the requirements shall be declared as "Invalid Bids" to be signed by the Committee. Bids which are not in consonance with the terms and conditions set forth by the Committee shall be declared as "Defective Bids" to be signed by the Committee.

4.3.9 Basis, Approval and Notification of Award The highest bidder from among the accepted sealed bids covering the auctioned forest products, tools, and equipments is authorized to buy and transport said materials. The committee shall prepare and send the award order or notification (Annex "K") shall be issued by the Manager, NPC-WMD.

4.3.10 Issuance of Auxiliary Invoice NPC-WMD or its authorized representatives shall prepare the necessary endorsement form indicating the species quantity, dimension, volume and the amount of specific taxes and penalties due thereon. The winning

bidder shall proceed to the BIR Office and Pay the corresponding taxes and penalties due thereon. The Revenue Officer issues Auxiliary Invoice to the winning bidder. The winning bidder submits copies of Auxiliary Invoice to NPC-WMD or its authorized representatives. NPC-WMD or its authorized representative shall issue Authority to Transport/Ship Auctioned Forest Products, tools and equipments (Annex "L") and Certificate of Origin (Annex "M").

4.3.11 Recording The Committee shall keep records of all awarded bids.

4.3.12 Fund Accrual In the absence of an official opinion from the Department of Finance as to the awful remittance procedure on proceeds (i.e., fees, charges, proceeds from disposition of confiscated forest products, etc.) and a Memorandum of Agreement between NPC and DENR on regulatory matters, any amount/proceeds incidental to the Management of Watershed reservations (covered under Eos 224 and 258, shall be temporarily deposited in an amount which shall be made available for remittance upon the release of said opinion and/or Memorandum of Agreement.

SECTION 5.0

All forest products abandoned/felled cut due to development and other projects, natural and other calamities shall be disposed of following the above stated priorities and conditions/procedures thereon.

3.2.1 Owner formally requested the released of the vehicle tools, equipment and other paraphernalia attaching to it an Affidavit of Understanding stating, among others his willingness to produce the materials when so required by the government; and

3.2.2 Owner posted a bond equivalent to fifty percent (50%) of the market value of the confiscated materials. If the aforementioned conditions are not satisfied/complied with, the subject vehicle, tools, equipment and other paraphernalia shall be impounded at NPC - WMD authorized compound until order released by the Manager, NPC-WMD, or if the case is filed in Court, upon Courts Order.

SECTION 6.0 **FILING OF GENERAL COMPLAINT/CHARGES IN COURT**

6.1 Criminal Complaints/charges shall be filed in Court in the name of People of the

Philippines versus the accused for violation of Paragraph "A" of Section 4.0, Rule III of Ministry order No. 83-01-13 as implemented by Eos 224 and 258, as amended (see Annex "N").

6.2 The following document/supporting papers shall be executed and attached to the criminal complaint:

- 6.2.1 Sworn Statement of the Accused (Annex "B");
 - 6.2.2 Affidavit of witnesses who have actual knowledge of the commission of the violation/crime (Annex "C");
 - 6.2.3 Statement describing seized/confiscated forest products, vehicles, tools and equipment used (Annex "F");
 - 6.2.4 Copy of seizure receipt describing the above;
 - 6.2.5 Affidavit of the apprehending or investigating officer/s who took custody of the seize/confiscated forest products, vehicles, tools, and equipment (Annex "D");
 - 6.2.6 Photo exhibits/evidences;
 - 6.2.7 "Manifestation and Motion" (Annex "O") to the effect that the forest products, tools and equipment used in the commission of the violation/crime should not be released by the Court; and
 - 6.2.8 Other document/s related to the case.
- 6.3 If the accused is under arrest and to avoid being liable to arbitrary detention, complaints must be filed:
- 6.3.1 Within eighteen (18) hours from apprehension if the value of the forest products illegally cut / gathered/transported exceeds twelve thousand pesos (P12,000.00); or
 - 6.3.2 Within nine (9) hours from apprehension if the value of the forest products illegally/gathered/transported does not exceed twelve thousand pesos (P12,000.00).
- 6.4 If the vehicle is released by a Court Order due to unknown reason/s file an urgent motion for reconsideration.
- 6.5 If motion for reconsideration is denied by the Court inform WMD Central Office, After which NPC Legal Department shall take necessary action to retrieve the subject vehicle.

SECTION 6.0 EFFECTIVITY

This Order shall take effect this _____ day of _____, 1994.

(SGD) **GUIDO ALFREDO A. DELGADO**
President