

WATER CODE OF THE PHILIPPINES **Implementing Rules and Regulations**

Pursuant to the Water Code of the Philippines vesting upon the National Water Resources Council the administration and enforcement of the provisions thereof, the following rules and regulations are hereby promulgated:

RULE I

APPROPRIATION AND UTILIZATION OF WATERS

Section I. *When Permit/Authority from the National Water Resources Council Must be Secured.* — As required under the provisions of P.D. 1067, a permit/authority shall be secured from the Council in the following instances:

- a) Appropriation of water for any purpose stated under Article 10 of the Code except for family domestic purpose provided under Article 6;
- b) Change in purpose of the appropriation;
- c) Amendment of an existing permit/authority, such as change in point or nature of diversion, amount of appropriation, period of use, etc.;
- d) Transfer or lease of water right;
- e) Temporary appropriation and use of water;
- f) Developing a stream, lake, or spring for recreational purposes;
- g) Lowering or raising the level of the water of a lake, river or marsh, or draining the same;
- h) Transbasin diversion;
- i) Dumping of mine tailings or wastes into a river or a waterway,
- j) Such other instances that will require a permit/authority as determined by the Council.

In the following instances the granting of permit/authority required under the provisions of P.D. 1067, is delegated by the Council to the corresponding agencies indicated and permit/authority pertaining to any of these instances shall be secured from the agency delegated:

- a) Excavation for the emission of a hot spring — Ministry of Energy;
- b) Cloud seeding to induce rainfall — Philippine Atmospheric Geophysical & Astronomical Service Administration (PAGASA);
- c) Recharging ground water supplies — National Pollution Control Commission.

Whenever necessary the Council may exercise any of the above delegated authorities.

Section 2. *Qualification of Applicants for Permit/Authority.* — Only the following may file an application with the Council for permit/authority:

- a) Citizens of the Philippines;
- b) Associations, duly registered cooperatives or corporations organized under the laws of the Philippines, at least 60 percent of the capital of which is owned by the citizens of the Philippines;
- c) Government entities and instrumentalities, including government-owned and controlled corporations.

Section 3. *Place of Filing Applications.* - Except for those on cloud seeding, any application for permit/authority in Section 1 shall be filed with the Office of the Public Works District Engineer, the NIA Provincial Irrigation Engineer, NPC Regional Managers or the LWUA Water District General Manager whichever is designated as agent by the Council in the province where the point of diversion is situated in the case of appropriation of waters or where the project is located in all other cases.

Section 4. *Form and Requirements of Application.* — All applications shall be filed in the prescribed form, sworn to by the applicant and supported by the following:

- A. For a Water Permit for Agricultural Purposes —
 1. Any document of ownership/possession of the land to be developed such as:
 - a) Certificate of Title;
 - b) Tax Declaration;
 - c) Certificate of Land Transfer; or
 - d) Contract of lease, if applicant is a lessee.
 2. Location Plan of Area showing:
 - a) Point of Diversion determined graphically by its latitude and longitude;
 - b) Delineation of area indicating hectarage for which water will be used and adjoining lands and their corresponding owners duly indicated relative to the point of diversion;
 - c) Nature of diversion works, whether temporary or permanent; manner of appropriation, whether by gravity pump; kind of crop; and approximate location or conveyance canal or conduit; and
 - d) In case of appropriation of ground water, location and spacing of proposed drilling sites, kind of crop, and approximate location or conveyance canal or conduit in lieu of items (a) and (c) above.

- B. For a Water Permit for Hydraulic Power Development and Industrial Purposes, or for a Permit to Dump Mine Tailings or Wastes --
 - 1. Location and conceptual plans on convenient scale showing the source of water, layout of proposed works, and point of diversion determined graphically by its latitude and longitude;
 - 2. Brief description of project, including among others, how water will be used, amount of water needed for the purpose, power expected to be generated if applicable, amount of water to be discharged back to the source and measures to be taken to insure that such waters are not polluted, other relevant information;
 - 3. Articles of Incorporation or Articles of Partnership in case applicant is a private corporation or partnership, or certificate of registration in case of cooperatives; and
 - 4. When the application is for industrial use of ground water, the location and spacing of drilling well sites instead of diversion point should be indicated in the location plan.
- C. For a Water Permit for Municipal Purposes —
 - 1. Location, topographic and layout map showing the relative position of source area to be supplied, and diversion point determined graphically by its latitude and longitude;
 - 2. Brief description of the project, including nature and amount of water to be used, population and area to be served, and other pertinent facts and information;
 - 3. Articles of Incorporation or Articles of Partnership in case applicant is a private corporation or Partnership, or Certificate of Registration in case of cooperatives;
 - 4. When the application involves the use of groundwater, the location and spacing of drilling well sites determined graphically by latitude and longitude should be indicated in the location plan; and
 - 5. When it involves the reuse of waste water for human consumption, the application should be accompanied by a clearance from the Department of Health allowing the reuse of said waste water and setting forth the conditions therefor.
- D. For a Water Permit for Recreational, Fisheries and Other Purposes—
 - 1. Location and conceptual plan showing the relative location of the project with the body of water to be utilized for the purpose, determined graphically by its latitude and longitude;
 - 2. Brief description of the project including among others, how the water is to be used, area of water surface needed for the purpose or amount of water to be appropriated and location of diversion canal if diversion is to be made, scheme of development, and other relevant information; and

3. Articles of Incorporation or Articles of Partnership in case applicant is a private corporation or partnership, or Certificate of Registration in case of cooperatives.
- E. For a Permit for Drainage Purposes —
 1. Brief description of project for which drainage scheme is necessary;
 2. Location and layout maps of drainage works showing area to be drained, route of drainage canal and drainage outlet which should be a natural body of water or a natural waterway;
 3. Articles of Incorporation or Articles of Partnership in case applicant is a private corporation or partnership, or Certificate of Registration in case of cooperatives.
- F. Such other documents that may be required by the Council.

Section 5. — Other Requirements. — In addition to the requirements under Section 4, the following are required in the specific instances indicated:

- A. For Well Drilling — Except when manual well drilling will be employed, all applications involving extraction of ground water shall include the name of a duly licensed well driller who will undertake the drilling. Except for manual well drilling, no person shall engage in the business of drilling wells for the purpose of extracting ground water without first registering as a well driller with the Council.
- B. For Transfer of a Water Permit — Applications for the transfer of a water permit from one person to another shall include the reasons for the transfer.
- C. For Lease of a Water Permit — Applications for the lease of a water permit to another person shall be accompanied by a duly executed contract of lease subject to the approval of the Council. No contract of lease shall be for a continuous period exceeding five (5) years; otherwise the contract shall be treated as a transfer of permit in favor of the lessee.
- D. For all Applications to Appropriate Water — Water permit applications filed for any purpose shall be accompanied by a Certificate of tree planting, survival, or completion as the case may be in the name of the applicant as provided under P.D. 1153.

Section 6. — Filing Fee. — there shall be imposed and collected a fee of One Hundred Pesos (P100.00) from every applicant, except government agencies, water districts, and duly organized associations or cooperatives for irrigation or rural water supply which shall be paid to the Council in postal money order thru the Office where the application is filed.

Section 7 Water Charges. — Except when the appropriation is for family domestic purpose or when the quantity of water appropriated for agricultural use is not more than 5 liters per second, all appropriators shall pay to the Council in the manner provided under Section 6 hereof, an annual water charge in accordance with the following schedule:

A. For the use of water when diverted/extracted from the natural source:

Rate of Withdrawal (liters/second)	Charge per liter/sec.
1) Not more than 30	₱0.50
2) More than 30 but not exceeding 50	0.75
3) More than 50	1.00

B. For the use of surface water at its natural location for fish culture:

- 1) For a surface area not to exceed 15 hectares — ₱20.00/ha.
- 2) For a surface area of more than 15 hectares — ₱300 plus ₱30/ha. of the excess over 15 hectares.

For this purpose a fraction of a hectare shall be considered as one hectare.

The Council may revise the above water charges or impose special water rates from time to time as the need arises taking into consideration, among others, the following:

- a) Intended use of water;
- b) Quantity/rate of water withdrawal vis-a-vis other users taking into account the water bearing potential of the source;
- c) Environmental effects;
- d) Extent to which water withdrawal will affect the source; and
- e) Development cost of bringing water from the source.

Section 8. Processing, Posting and Sending of Notices of Applications.

— Upon receipt of an application for water permit, the Office concerned shall process the same to determine compliance with the requirements prescribed in Section 4 hereof. If found in order, and upon payment of the filing fee, notices of the application shall be posted in a conspicuous place in said office and shall remain posted for a period of Sixty (60) days. Notices of application shall, likewise, be sent by the said office to the following for posting in a conspicuous place for the same period.

- a) Barangay Chairman of the place where the point of diversion is located;
- b) Municipal Secretary of the town where the point of diversion is located;

- c) The Secretary of the Sangguniang Panlalawigan of the province where the point of diversion is located;
- d) Public Works District Engineer or Provincial Irrigation Engineer as the case may be.

Copies of the notice of application shall, likewise, be furnished to concerned Regional Offices of the Ministry of Public Works, National Irrigation Administration, National Power Corporation and Ministry of Natural Resources and Local Water District Office, if any.

Section 9. Action After Posting of Notices for Appropriation of Surface Waters. —

A. Investigation and Studies

After seven (7) days from the first day of posting of notice at the office where the application is filed, the office concerned shall determine:

- 1) The approximate seasonal discharge of the water source;
- 2) The amount of water already appropriated for beneficial use;
- 3) The water requirement of the applicant as determined from standards of beneficial use prescribed by the Council;
- 4) Possible adverse effects on existing grantees/permittees or public/private interest;
- 5) Environmental effects;
- 6) Land-use economics;
- 7) Whether the area to be irrigated can be integrated with that of an existing or proposed irrigation association for common irrigation facilities and
- 8) Other relevant factors.

- B. Protests on Applications —** Any person who may be adversely affected by the proposed appropriation may file a verified protest with the Council or with any deputized agency investigating the application within sixty (60) days after posting of the Notice of Application in the office where the application was filed.

Protests to an application for water permit shall be governed by the rules prescribed for resolving water use controversies.

- C. Action on Application —** Within thirty (30) days from the first day of posting of notice, the Office investigating the application shall transmit the same together with all the records, findings of facts and its comments and recommendations, as well as those of other government agencies, if any, to the Council for final action through the Public Works Regional Director.

In cases of application for irrigation, the report shall also be coursed thru the Regional Irrigation Director who shall transmit the same to the Public Works Regional Director.

In cases of applications for hydraulic power, the Public Works Regional Director shall transmit the application, thru the Central Office of the National Power Corporation, Manila, which shall forward the same to the Council with its comments and recommendations within thirty (30) days from receipt thereof.

Section 10. Action After Posting of Notices for Appropriation of Ground Water. —

- A. Permit to Drill — The application to appropriate ground water shall be processed for adherence to requirements and shall be investigated in the field to determine any adverse effect to public or private interest. Protests on the application shall be governed by Section 9-B hereof. If the application meets the requirements and has been found not prejudicial to public or private interest it shall be transmitted, following the requirements of Section 9 hereof, to the Regional Director of the Ministry of Public Works who is hereby authorized to issue the permit to drill which shall be subject to the following conditions:
- 1) Drilling operations shall be in accordance with the rules provided herein;
 - 2) The rate of water withdrawal to be approved shall be determined after pumping tests and shall in no case exceed the rate stated in the application;
 - 3) A permit to drill shall remain valid for six (6) months, unless a longer period is allowed by the Council for reasonable grounds; and
 - 4) The permit to drill shall be regarded as a temporary permit, and the regular permit shall be issued after the rate of water withdrawal has been determined.
- B. Result of Drilling Operations — A report on the result of the drilling operations shall be submitted to the investigating office within the 6-month period stated in the preceding section. The report shall include a description of each drilling site, the drilling log, the yield of the well and the assessment of data obtained.
- C. Investigation and Studies — Upon receipt of the report on drilling operations, the investigating office shall consider the proposed withdrawal of ground water in relation to the following:
- 1) Safe yield of the source, reasonable or feasible pumping lift;
 - 2) Beneficial use;
 - 3) Adverse effects on existing lawful users of water or to public or private interest;

- 4) Effects on the environment;
 - 5) Danger of contamination of aquifers, deterioration of water quality or salt water intrusion;
 - 6) Adequacy of proposed well, works, plans and specifications towards meeting prescribed standards; and
 - 7) Comments and/or recommendations of other agencies.
- D. Final Action on Application — Within thirty (30) days from the first day of receipt of report of well drilling operations, the Office investigating the application shall transmit, through the Public Works Regional Director, to the Council, for final action the application for water permit, together with all the records, findings of facts and its comment and recommendations as well as those of other government agencies.

Section 11. Council Action. — The Council shall approve or disapprove applications for water permits, within sixty (60) days after receipt of recommendation of its deputized agent and other agencies requested to comment, unless a longer period is needed for the disposition of protests filed with the Council. In cases of application for industrial use or in cases of such other use where waters may become polluted, the Council shall refer the application to the National Pollution Control Commission for comment and recommendation. If deemed necessary, the Council shall refer the application to other agencies concerned as the case may be.

Section 12. Water Permit. — Approved applications shall be issued water permits subject to such conditions as the Council may impose. Such permit must bear the seal of the Council and the signature of the Executive Director. A copy of said permit shall be furnished the Office where the application was filed. Disapproved applications shall be returned to applicants through the office where the same was filed, within thirty (30) days of such disapproval, stating the reasons therefor.

The Council shall, moreover, furnish periodically all PW Regional Directors, PW District Engineers, and N'A Regional Directors and Provincial Irrigation Engineers, a list of approved water permits granted within their respective areas of jurisdiction.

Section 13. Conditions in Permits. — Water Permits issued by the Council shall be subject to such terms, restrictions and limitations as it may deem proper to impose, and to any, or all of the following conditions:

- a) That within one (1) year from the receipt of the permit the applicant shall submit to the Council for approval, the plans and specifications for the diversion works, pump structure, water measuring device, and other required structures and in addition for private sector projects the implementing schedules of construction. No construction work or

private sector projects shall commence until the plans, specifications and implementing schedules are duly approved. When the diversion dam is temporary and less than two (2) meters high, the submission of plans for the dam may not be required.

- b) The construction of the necessary structures and diversion works shall begin within ninety (90) days from the date of receipt of the approved plans, specifications and implementing schedules and shall be completed within the approved schedule unless extended by the Council for valid or justifiable reasons: Provided, that water shall not be diverted, pumped or withdrawn until after such structures and works shall have been inspected and approved by the Council, unless otherwise allowed. Except in cases of emergency to save life or property or repairs in accordance with plans originally approved, the alteration or repair of these structures shall not be undertaken without the approval of the Council.
- c) The right of a permittee to the Amount of water allowed in the permit is only to the portion or extent that he can use beneficially for the purpose stated in the permit. The diversion of the water shall be from the source and for the purpose indicated in the permit and in no case should said use exceed the quantity and period indicated therein. In gravity diversions, regulating gates of the canal shall be closed when water is not needed.
- d) The Council may, after due notice and hearing, reduce at anytime the quantity of water or adopt a system of apportionment, distribution, or rotation thereof when the facts are circumstances in any situation would warrant the same in the interest of the public and/or legal appropriations.
- e) The Council may, after due notice and hearing, revoke the permit in favor of projects for greater beneficial use or for multi-purpose development, subject to compensation in proper cases.
- f) The Council shall revoke or suspend the permit if the permittee violates effluent/water quality standards as determined by the National Pollution Control Commission.
- g) At any time after completion of diversion works and necessary structures, non-use of the water for the purpose stipulated in the permit for a period of three consecutive years shall render said permit null and void, except as the Council may otherwise allow for reasons beyond the control of the permittee.
- h) Any person in control of a well shall prevent the waste of water therefrom and shall prevent water from flowing onto the surface of the land or into any surface water without being beneficially used, or into any porous stratum underneath the surface.

- i) Any person in control of a well shall prevent water containing mineral or other substances injurious to the health of humans or animals or to agriculture and vegetation from flowing onto the surface of the land or into any surface or into any other aquifer or porous stratum.

Section 14. *Periodic and Final Inspection of Project.* — The Council or its authorized agents who investigated the application may conduct periodic inspection while construction, alteration, or repair is in progress as well as final inspection thereof to ascertain whether or not the same is in accordance with approved plans and specifications.

A report of inspection within ten (10) days from date thereof shall be submitted to the Council thru the Public Works Regional Director.

Section 15. *Notice of Completed Structures/Diversion Works.* — The permittee shall inform the Council or its deputy concerned, that the necessary structures and diversion works required have been completed in accordance with approved plans and specifications.

In addition, in cases of appropriation of ground water the permittee shall inform the Council as to the depth and diameter of the well, the drilling log, the specifications and location of a casings, cementing, screens and perforations, and the results of tests of capacity, flow, drawdown, and shut-in pressure.

Section 16. *Inspection of Works.* — Inspection of the premises shall be conducted by any person deputized by the Council to determine compliance with the conditions imposed in the permit and such other order, rule or regulation the Council may issue.

Section 17. *Certificate of Compliance.* — The Council shall issue a certificate of compliance to the permittee/grantee after being satisfied that the construction of the necessary structures in connection with the water permit have been duly complied with. Such certificate shall bear the signature of the Executive Director.

Section 18. *Revocation of Permit.* — Any permit issued pursuant to these rules may be revoked by the Council, after due notice and hearing, for any of the grounds provided herein or in the Code.

Section 19. *Recurrent Water Shortage.* — For the purpose of Articles 22 and 26 of the Water Code, recurrent water shortage shall mean the natural periodic diminution of water in a source of supply to a volume or rate of flow insufficient to meet the water requirements of all legal appropriators therefrom.

Section 20. *Basic Diversion Requirements for Agricultural Use.* — Except when otherwise justified by type of irrigation system, soil conditions, kind of crop, topography and other factors, water permits for agricultural use shall be granted on the basis of one liter per second per hectare of land to be irrigated.

Section 21. *Construction/Repair of Other Structures.* — Apart from the structures required under Section 13 and except in cases of emergency to save life or property, or repairs in accordance with plans previously approved, the construction or repair of the following structures shall be undertaken only after plans and specifications therefor are approved by the Administrator of the National Irrigation Administration when the structure is for an irrigation project, or by the Minister of Public Works in all other case enumerated hereunder:

- a) Off-stream water impounding structures except earth-fill embankments less than 10 meters high from the natural ground surface;
- b) Barrages across natural waterways except temporary dams for irrigation less than two (2) meters high from the stream bed;
- c) Dikes, levees, revetments, bulkheads, piers, breakwaters and other similar structures or devices that affect the direction or level of materials in rivers, lakes, and in maritime waters; and

Other structures not included in the above enumeration shall be approved by the proper government agencies as may be designated by the Council.

The approving officials shall prescribe the procedure for filing, processing and approval of the plans and specifications. Structures required in water permits shall be approved as prescribed under Section 13 hereof.

Section 22. *Establishment of Easements.* — Actions for the establishment of easements under Article 25 of the Code shall be governed by the Rules of Court.

Section 23. *Establishment of Control Areas.* — When the Council deems it necessary to declare a control area, it shall publish same in three (3) newspapers of general circulation setting forth the purpose of the declaration, the geographic limits of the control areas, and the regulations necessary to achieve its objectives.

Section 24. *Coordinated Use of Waters in Control Areas.* — In control areas so declared for the coordinated development, protection, and utilization of ground and surface waters, the appropriation of surface water shall, in general, have preference over that of ground water and, except as otherwise allowed by the Council, a permit for the appropriation of ground water is valid only to the extent that it does not prejudice any surface water supply.

Section 25. _ *Registration of Wells in Control Areas.* — In declared control areas, all wells without water permits, including those for domestic use, shall be registered with the Council within two years from the declaration otherwise any claim to a right on a well is considered waived and use of water therefrom shall be allowed only after a water permit is secured in accordance with Rule 1 hereof.

Section 26. _ *Temporary Permits.* — The Council may grant temporary permits for the appropriation and use of water in situations such as the following.

- a) Irrigation of an area pending the construction of a larger system to be operated either by the government or by any irrigation association which will serve said area. Such permit shall automatically expire when water becomes available for the area from the larger system. In cases where the supply from the larger system is not adequate, the permit may be modified accordingly.
- b) When there is need to use water for municipal purposes in emergency situations pending the availability of an alternative source of supply as provided in Article 22 of the Code;
- c) For special research projects requiring the use of water for certain periods of time;
- d) For temporary use of water needed for the construction of roads, dikes, buildings, and other infrastructures; and
- e) When there are unforeseen delays in the approval of the application and appropriation of water is necessary pending the issuance of a water permit, unless the application is protested.

Temporary permits shall be granted by the Council on a case to case basis specifying the conditions and period under which the permit is valid. The Council may delegate the issuance of temporary permits for a period of not exceeding six (6) months and a quantity of not more than 200 liters per second.

RULE II

CONTROL, CONSERVATION AND PROTECTION OF WATERS, WATERSHEDS AND RELATED LAND RESOURCES

Section 27. *Prohibited Construction on Navigable or Flotable Waterways.* -- Except when allowed under these rules, the building of dams, dikes, or any structure or works or the introduction of fish contraptions or other devices which encroach into any public navigable or flutable river, stream, coastal waters, creeks, esteros or drainage channels or other navigable or flutable public waters, waterways, or bodies of water or which obstruct or impede the free passage thereof or cause inundation, shall be ordered removed by the Minister of Public Works as prohibited construction.

The rules and regulations of the Philippine Coast Guard pertaining to navigation shall be supplementary to these rules. Rivers, lakes and lagoons may be declared by the Council as navigable in whole or in part upon recommendation of the Philippine Coast Guard.

Section 28. *Determination of Easements.* -- All easements of public use prescribed for the banks or rivers and the shores of seas and lakes shall be reckoned from the line reached by the highest flood which does not cause inundation or the highest equinoctial tide whichever is higher. Any construction or structure that encroaches into such easement shall be ordered removed by the Minister of Public Works.

Section 29. *When Permit/Authority from the Minister of Public Works is Required.* -- A permit/authority shall be secured from the Minister of Public Works in the following instances:

- a) Construction of dams, bridges and other structures in navigable or flutable waterways;
- b) Cultivation of river beds, sand bars and tidal flats;
- c) Construction of private levees, revetments and other flood control and river training works; and
- d) Restoration of river courses to former beds.

Section 30. *Place of Filing Applications.* -- Applications for permit/authority under the next preceding section may be filed with the Public Works District Engineer's Office in the province where the project is to be undertaken.

Section 31. *Form and Contents of Applications.* -- All applications shall be filed in a prescribed form sworn to by the applicant and supported by the following:

- A. For Cultivation of River Beds, Sand Bars and Tidal Flats —
 - 1) Location plan showing the river bed, delineation of the area to be cultivated, the adjoining areas and the corresponding lessees/ permittees; and
 - 2) Information showing the crops to be planted and the cropping period.
- B. For Private Flood Control Works —
 - 1) Location plan showing the river channel, proposed control works and existing works, if any, in the vicinity;
 - 2) Cross-sections of the river channel in the site;
 - 3) Plans and specifications of control structures;
 - 4) Construction schedule; and
 - 5) Articles of Incorporation or Articles of Partnership in case applicant is a private corporation or partnership, or Certificate of Registration in case of cooperatives.
- C. For Restoration of River Courses to Former Beds —
 - 1) Affidavits of two disinterested persons attesting to the circumstances of the change in the course of the river or stream, including the date when such change occurred;
 - 2) Certified copies of the cadastral plans and technical description of the lots affected by the river or stream, showing the former course to which the river will be restored.
 - 3) A recent survey map of the area affected undertaken by a licensed geodetic engineer indicating the present river course as well as the old cadastral stream boundaries;
 - 4) Articles of Incorporation or Articles of Partnership in case applicant is a private corporation or partnership, or Certificate of Registration in case of cooperatives; and
 - 5) Scheme and schedule of restoration.
- D. For Construction of Dams, Bridges, and Other Structures in Navigable or Flotable Waterways —
 - 1) Vicinity map and location plan showing the river and the proposed structure;
 - 2) Cross-section of the structure with cross-section of the river at the location of the structure showing minimum water level, maximum flood level without structure, and maximum flood level with structure;
 - 3) Plan showing extent of maximum flooded area without structure and maximum flooded area with structure;
 - 4) Schemes and details of provisions for passage of watercraft;

- 5) Construction schedule; and
- 6) Articles of Incorporation or Articles of Partnership in case applicant is a private corporations or partnership, or Certificate of Registration in case of cooperatives.

Section 32. — *Action on Application.* — The Public Works District Engineer shall investigate each application filed with this Office and, if necessary, conduct public hearings thereon. He shall transmit his report and recommendation to the Public Works Regional Director who, after proper review, shall transmit the application with its supporting documents and his recommendations to the Minister of Public Works, for appropriate action.

Section 33. — *Limitation on Permits to Cultivate River Beds, Sand Bars and Tidal Flats.* — A permit to cultivate river beds, sand bars and tidal flats shall be non-transferable and shall not be construed as authorizing reclamation of the area covered by the permit, or as conferring upon the permittee a right of ownership thereof by acquisitive prescription.

Section 34. — *Construction and Completion of Work.* — The construction of private flood control works and dams, bridges and other structures in navigable rivers or streams shall be undertaken within the approved construction schedule; otherwise, the permit shall automatically be cancelled unless a longer period is allowed.

Work for the restoration of a river or stream to its former bed shall be commenced within the two (2) years from the date of change in the course of the river or stream and completed within one (1) year from start of construction.

Section 35. — *Establishment of Flood Control Areas.* — Whenever the Minister deems it necessary to declare flood control areas for the protection of flood plain lands, he shall publish the same in three (3) newspapers of general circulation setting forth the purpose of the declaration, the geographic limits of the declared control area, and the regulations necessary to achieve the objectives.

Section 36. — *Inter-Agency Flood Plain Management Committee.* — The minister shall form an Inter-agency Flood Plain Management Committee for each flood plain declared as flood control area, the members of which shall include, but not limited to, representatives from the following:

- a) Ministry of Public Works
- b) National Power Corporation;
- c) Ministry of Local Government;
- d) National Irrigation Administration; and

e) National Water Resources Council.

The functions of this Committee shall be:

- a) To establish close liaison among national and local government entities and promote the best interest and the coordinated protection and management of flood plain lands for the mitigation of flood damages viewed in a larger context to include other aspects such as environmental quality and public health, safety and welfare;
- b) To provide guidelines for local governments in the formulation of regulatory ordinances regarding flood plain use and occupancy;
- c) To draft and recommend guidelines for flood plain management in a particular flood control area in order to achieve the goals and objectives thereof; and
- d) To perform such other functions as the Minister may direct.

Section 37. — *Storage and Rafting of Logs.* — The Council, through its deputies, may prohibit or control the rafting or storage of logs and other objects on rivers and lakes when:

- a) It causes pollution of waters used for domestic municipal purposes; and
- b) It causes danger to structures such as those for irrigation, power and flood control.

Section 38. — *Prohibitions and Requirements on Water Impoundment.* The Council shall, upon recommendation of the Ministry of Health, prohibit the impounding of water in ponds or reservoirs when:

- a) The water is found to contain excessive pollutants;
- b) It will degrade its quality;
- c) Public health is endangered; and
- d) Such other similar situations.

Existing ponds or reservoirs falling under the aforementioned cases shall be ordered drained by the Council or controlled by other approved methods.

Section 39. — *Reservoir Operations.* — Owners or persons in control of a reservoir shall submit to the Council the reservoir operation rule curve for approval which shall be followed except during periods of extreme drought and when public interest so requires, wherein the Council may change the operation during the period after due notice and hearing.

The Council shall review periodically the rule curve for possible revisions.

A rule curve is a diagram showing the minimum water level requirement in the reservoir at a specific time to meet the particular needs for which the reservoir is designed.

Furthermore anyone who operates a reservoir shall submit to the Council his plan for handling maximum discharges with a view to avoiding damage to life and property.

Section 40. — *Employment of Engineer in Dam Operations.* — All operators of storage dams exceeding 10 meters high or overflow dams exceeding 2 meters high from the stream bed shall make arrangements for the periodic inspection of said structures and its operating equipment by a registered civil engineer for the purpose of identifying conditions which may adversely affect the safety of these structures and giving advice to the operator on the proper maintenance and operation thereof.

Section 41. — *Qualification of Well Drillers.* — No person shall be permitted to undertake well drilling work unless he is duly registered with the Council as a well driller. No person shall be registered by the Council as a well driller unless he has at least any of the following qualifications:

- a) Graduation from high school with three (3) years experience in well drilling work duly certified by another well driller registered with the Council; or
- b) A holder of a bachelor's degree in geology or engineering with one (1) year experience in actual drilling work.

Section 42. — *Permit to Drill a Well.* — Except for domestic use, no person shall drill any well for the extraction of ground water or make any alteration to any existing well without securing a permit from the Council.

For this purpose, only wells with casings not exceeding 75 millimeters in diameter may be allowed for domestic use.

Section 43. — *Requirements for Drilled Wells.* — Drilling of deep wells for the extraction of ground water shall conform with the following requirements:

- a) The well shall be so designed and constructed that it will seal off contaminated water-bearing formations or formations which have undesirable characteristics;
- b) There shall be no unsealed openings around the well which may conduct surface water or contaminated or undesirable ground water vertically to the intake portion of the well;
- c) All parts of a permanent well shall be of durable materials;
- d) Wells constructed in a sand or gravel aquifer shall be provided with a water-tight casing to a depth of 1.5 meters or more below the lowest expected pumping level, provided that where the pumping level is less than ten (10) meters from the surface, the casing shall extend three (3) meters below the lowest pumping level,

- e) Casings of wells constructed in sandstone aquifers where the overburden consists of unconsolidated materials shall be grouted to a minimum depth of ten (10) meters, provided, that should there be an additional overlying formation of creviced or fractured rock, the casing shall be grouted to its full depth;
- f) Casings of wells constructed in limestone, granite or quartzite where the overburden consists of drift materials shall be extended to a depth of at least fifteen (15) meters, and firmly seated in rock formation, provided, that where the overburden is less than fifteen (15) meters, the casing shall be extended three (3) meters into uncreviced rock, provided, finally, that in no case shall the casing be less than 15 meters;
- g) Wells for domestic and municipal water supply shall be constructed in accordance with sound public health engineering practice;
- h) The extent of pumping and extraction of ground water shall take into consideration the possibility of salt water intrusion, land subsidence and mining of ground water;
- i) Unless otherwise allowed by the Council, an abandoned well shall be properly plugged or sealed to prevent pollution of ground water, to conserve aquifer yield and artesian head, and to prevent poor-quality water from one aquifer entering another;
- j) Free-flowing wells shall be provided with control valves or other similar devices to control and regulate the flow of water from such wells for conservation purposes;
- k) Well sites shall be provided with drainage facilities for the proper disposal/conveyance of surface water flow from the site;
- l) In general, spacing requirements except for wells less than 30 meters deep, shall be in accordance with the table below:

RATE OF WITHDRAWAL IN LITERS PER SECOND	MINIMUM DISTANCE BETWEEN WELLS IN METERS
2 — 10	200
More than 10 — 20	400
More than 20 — 40	600
More than 40	1000

The Council, may increase or decrease the above spacing requirements under any of the following circumstances:

- a) for low-income housing development projects where home lot size will limit available spacing between homeowners' wells;
- b) where the geologic formation may warrant closer or farther spacing between wells; and

- c) where assessment of pumping test records on yields, drawdown, circle of influence, seasonal fluctuations in water table and other technical data on ground water wells, drilling and operation indicate possible closer or farther spacing between wells.

In modifying the spacing requirements the following criteria shall be applied:

- a) No new well shall cause more than 2 meters of additional drawdown to any existing well;
- b) If the rate of withdrawal applied for a well will cause additional drawdown of more than 2 meters to any existing well the rate of withdrawal applied for shall be reduced to satisfy the drawdown limit.
- c) The Council shall prescribe the maximum pump size and horsepower in the water permit so that the rate of withdrawal shall not exceed that authorized;
- d) Groundwater mining may be allowed provided that the life of the groundwater reservoir system is maintained for at least 50 years.

Section 44. — *Minimum Stream Flows and Water Levels.* — When the Council deems it necessary to establish minimum stream flows for rivers and streams and/or minimum water levels for lakes as provided under Article 66 of the Code, it shall notify the public through newspapers that a public hearing shall be conducted for such purpose. In the conduct of the hearing, the following shall be considered:

- a) Adverse effects on legal appropriators;
- b) Priorities that may be altered on the basis of greater beneficial use and/or multi-purpose use;
- c) Protection of the environment, control of pollution, navigation, prevention of salt water damage and general public use; and
- d) Other factors relevant to the situation.

In general, the Council shall consider the following criteria in the establishment of minimum stream flows of rivers and streams and minimum water levels of lakes:

- a) For water quality and environmental protection the minimum stream flow or lake water level shall be estimated based on the threshold concentration of pollutant and environmental requirements in cooperation with the NPCC and NEPC.
- b) For navigation purposes, the minimum flow or water level to be provided shall be such that the resulting stream flow or water level shall remain navigable to the existing vessels that ply the river or lake;

- c) For fish conservation, consideration shall be made such that the resulting streamflow or lake level will not adversely affect the existing fish habitat. The minimum flow/water level to be provided shall be determined by the Council in consultation with BFAR.
- d) In any case the minimum requirement shall be the observed or estimated absolute minimum stream flow or lake level.

Section 45. _ Protection of Water Supply Sources. — No person shall discharge into any source of water supply any domestic sewage, industrial waste, or pollutant not meeting the effluent standards set by the National Pollution Control Commission.

Section 46. _ Mine Tailings Disposal. — Water discharged with mine tailings or wastes shall not contain minerals or other substances injurious to man, animal, aquatic life, agriculture or vegetation in concentrations exceeding the maximum prescribed by the National Pollution Control Commission.

Tailings dams, ponds or similar control structures located along river beds whenever required shall be strong enough to withstand the forces in the river during typhoons and flash floods.

Mine operators shall undertake appropriate erosion control measures in their mining areas to minimize the amount of sediments therein that will be carried to river systems.

Section 47. _ Complaint on Drainage System Construction. — Any complaint pertaining to the construction of a drainage system under the provisions of Article 44 of the Code shall be treated under Rule III hereof.

RULE III

ADMINISTRATION AND ENFORCEMENT

Section 48. *General Guidelines for Water Resources Development Projects/Programs.* — As a general rule, a water resources project/program may be implemented only if it is in accordance with the national socio-economic development goals and objectives or necessary for the national security or protection of life and property. Any project/program involving the appropriation of water shall be directed towards the optimum single and/or multi-purpose utilization thereof. Whenever practicable, projects shall be conceived and viewed according to multi-purpose water resource planning concepts within the area unit of a river basin. In the case of small scale water development projects not readily covered by large-scale water development projects, development planning of the latter shall proceed alongside the implementation of the former.

Section 49. *Specific Guidelines.* — The size and time phase of projects/programs shall satisfy appropriate socio-economic indicators, more particularly the benefit-cost and/or cost-effectiveness criteria, their supplementary and complementary roles to the projects program of other government sectoral plans, and their ecological effects.

Section 50. *Water Resources Projects/Programs By Government Sector.* — Government water resources and related projects/programs shall be submitted by the proponent agencies to the Council, which may, if necessary, refer the matter to the proper deputies or concerned agencies for evaluation and comment in accordance with the above guidelines before approving the same.

Section 51. *Water Resources Projects/Programs By Private Sector.* — Any private interested party may propose any water resources project through the appropriate agencies and/or deputies who shall forward the same to the Council after evaluating and commenting with respect to the above guidelines. The Council, before approving the project, may, if necessary, refer or consult with other appropriate deputies and/or concerned government agencies.

Section 52. *Requirements of Water Resources Projects/Programs.* — Project/Program proposals shall contain indicators of socio-economic justification, relationship to the National Development Plan, impact statement on the sector's project/program supports and complement, regional impact statement, environmental impact statement, and such other information as the Council may require. Projects, such as artesian wells, spring development and barangay waterworks for purely domestic and municipal use, and such other small-scale projects as the Council may determine, shall be exempted from this requirement.

Section 53. — Resolution of Conflict Arising from Project. — Any conflict involving the use of water that may arise from the project/program proposal shall be resolved on the basis of national/regional priority and needs, i.e., need for power generation in multipurpose project shall be reckoned on the quantity and time of such needs on a grid basis rather than on a single project basis alone.

Any conflict which adversely affects a particular segment of society, group of individuals or small community, may be resolved after a public hearing has been conducted by the Council or its proper deputies.

Section 54. — Deputies. — The Council may appoint a deputy for each or a combination of the following functional areas related to water resources:

- a) hydrologic and meteorologic data;
- b) flooding areas and inland waterways;
- c) lakes and marshes;
- d) watersheds;
- e) water supply and sewerage;
- f) water accounting within watersheds;
- g) other water resources activities

Each deputy shall gather and organize data in accordance with their assigned functions for submission to the Council. The Council shall determine the frequency and type of data to be gathered.

Section 55. Information Assessment. — The Council shall collate and analyze technical data. It shall also develop an indexing system for all its publications indicating the date published, water resource basin involved, basic environmental indicator, and such other related indices.

Studies based on data retrieved from and/or submitted by the deputies may be undertaken by any party provided that he shall furnish the Council the result of such studies.

The Council shall undertake a study of the manpower requirements of a water resource sector which may be considered in setting up and implementing appropriate manpower development measures.

It shall also establish a position classification system for employment purposes in coordination with water oriented agencies and the Office of Compensation and Position Classification.

The Council shall initiate and undertake studies of water consumption patterns along the different purposes provided in the Code particularly that of industry.

Section 56. *_ Agents.* — The Council may appoint agents to perform specific functions such as investigation of water permit applications, water rights controversies and other activities as it may assign.

Section 57. *_ Committee on Arbitration.* — The Council may create and authorize a Committee on Arbitration for purposes of determining the rate of just compensation in instances provided under the Code. Such committee shall be composed of the Council Deputy/Agent who must be a professional technical man as Chairman, the Provincial Assessor, and the Provincial Development Officer of the province where the subject premises is situated together with the representative of each of the parties involved, as members.

The Committee shall take action on any claim referred to it by the Council for evaluation and submit a report thereon within thirty (30) days from receipt of notice of formation of the Committee unless a longer period is required, in which case extension may be granted upon authority of the Council.

Section 58. *_ Review and Approval of Rules and Regulations Involving Water.* — Rules and regulations by any government agency involving policies on the utilization, exploitation, development, control, conservation or protection of water resources shall be reviewed and approved by the Council, unless the charter of such agency provides that the same shall be approved by the President, in which case the proposed rules shall first be referred to the Council for comment.

Section 59. *_ Agreements Involving Water.* — Any agreement among government agencies involving the use of water for irrigation, hydro-power, industrial, domestic and municipal water supply shall, in all cases, be subject to review and approval of the Council. In the review of such agreements, the Council may consult the parties and other government agencies concerned.

Section 60. *_ Disposition of Funds Collected.* — All income of the Council from fees and charges shall be remitted to the National Treasury and treated as a special account under the General Fund to the credit of the Council. The operational and maintenance expenses of the deputies and agents of the Council shall be financed under this account in accordance with a special budget to be submitted to the Budget Commission. Any generated surplus shall be invested for water resources development purposes including but not limited to the purposes envisioned under Article 81 as may be recommended by the Council.

Section 61. *_ Parties in Water Use Conflicts/controversies.* — The complaining party shall be referred to as Complainant/Protestant and the party against whom the complaint is filed shall be referred to as Respondent/Protestee.

Section 62. *Complaints.* — All complaints shall be in writing, sworn to by the complainant/protestant and must contain the following:

- a) Name, postal address and personal circumstances of complainant/protestant;
- b) Name and postal address of respondent/protestee;
- c) Substance of the complaint;
- d) Grounds or causes of action;
- e) Brief and concise statement of the pertinent facts and circumstances;
- f) Relief sought; and
- g) Names and postal addresses of witnesses to be summoned, if any.

All complaints shall be accompanied by affidavits of witnesses as well as supporting documents, if any.

However, complaints/protests filed solely on the ground of adverse effects on the privileges to use water from any source shall not be entertained unless the complainant/protestant is a water permittee.

Section 63. *Place of Filing.* — Complaints/Protests may be filed with the Council or the Office of the Public Works Regional Director or the Public Works District Engineer or NIA Provincial Irrigation Engineer, of the place where the source of water subject of the controversy is located. Complaints/protests on the use of water for hydraulic power development shall be filed with either the Council or the Office of the Public Works Regional Director.

Section 64. *Filing Fee.* — There shall be imposed and collected a filing fee of One Hundred (P100.00) Pesos from every complainant/protestant except from pauper litigants in accordance with the Rules of Court. The said fee shall be paid to the office where the complaint/protest is filed in the manner provided under Section 6 of Rule I.

Section 65. *Answer.* — Upon receipt of a complaint/protest, the agency/office concerned shall furnish the respondent/protestee a copy and such documents accompanying the complaint, and require him to answer in writing within ten (10) days from receipt thereof.

Should respondent/protestee fail to answer within the period provided herein, the investigator shall proceed ex-parte to receive the evidence and testimony of the complainant/protestant and his witnesses, and shall submit his report to the Council based on the facts and evidence adduced.

Section 66. *Preliminary Conference.* — Upon receipt of respondent/protestees' answer, the investigator shall direct the parties and their attorneys to appear before him for conference to consider the possibility of an amicable settlement.

The proceedings during the preliminary conference shall be summary in nature and shall be conducted informally without the investigator being bound to follow strictly the technical rules of evidence. He shall take appropriate steps towards a peaceful and equitable settlement of the dispute.

Section 67. *Amicable Settlement.* — Amicable settlement shall, in all cases, be reduced in writing and signed by the parties. Within fifteen (15) days from the signing thereof, a report with comments and recommendations shall be submitted to the Council for approval.

Section 68. *Venue of Investigation/Hearing.* — Should the parties fail to agree during the preliminary conference, the investigator shall immediately hear the case in the barrio, municipality or province where the subject of the controversy is located or at any other place agreed upon by both parties. Any disagreement as to venue shall be resolved by the Investigator whose decision is final.

Section 69. *Order of Proceedings.* — The investigator shall hear first the testimony of the complainant/protestant and his witnesses and next the testimony of the respondent/protestee. During the proceedings, the parties shall have the right to confront and cross-examine the opposing party on the submitted affidavits. After the presentation of the evidence by the parties, they may at their option submit a memorandum/memoranda in support of their claim/defense in lieu of an oral argument.

Section 70. *Authority/Functions of Hearing Officer.* — The Investigator shall be duly authorized to administer oath to witnesses, take depositions and secure the attendance of witnesses and/or production of relevant documents through the compulsory process of subpoena and/or subpoena duces tecum. The contending parties may avail of such processes by filing a formal written request with the Investigator.

The proceedings shall be duly recorded and shall include a physical or ocular inspection of the premises and for the purpose, the Investigator and the parties shall have authority to enter upon private lands with previous notice to the owners thereof.

The Investigator may conduct ex-parte investigation/hearing if circumstances so warrant.

Section 71. *Orders/Rulings.* — Interlocutory orders/rulings made during the proceedings are not appealable.

Motions for postponement or continuance shall be based on valid and reasonable grounds and the grant or denial thereof rests upon the sound discretion of the Investigator, provided that not more than three (3) postponements may be given to either party or a total of six (6) postponements in a given case, regardless of the number of parties and provided further, that in no case shall any postponement last for more than three (3) calendar days.

Section 72. *Investigation Report.* — The Investigation shall transmit to the Council within fifteen (15) days from the date of termination of the proceedings, his report with the complete record of the case with a comprehensive sketch of the premises involved. The report shall contain the following:

- a) Names and postal addresses of the parties;
- b) Nature of the controversy;
- c) Summary of the allegations and proofs presented by parties;
- d) Clear and concise statement of the findings of facts borne by the evidence and/or revealed in the ocular inspections;
- e) The law and rules involved; and
- f) Conclusion, comment and recommendation.

Section 73. *Decision.* — All disputes shall be decided within sixty (60) days after the parties submit the same for decision or resolution. Decisions shall be in writing, stating clearly and concisely the cause or causes of action, findings of facts and the law or rules upon which they are based.

The Council shall have the power to issue writs of execution and enforce its decisions with the assistance of national or local law enforcement agencies subject to prior notice to the party concerned in accordance with Article 84 of the Code.

Section 74. *Proof of Service.* — Decisions, resolutions or orders of the Council shall be furnished to the contending parties thru their counsel if represented, or by personal/substituted service or registered mail with return card. Personal/substituted service to the parties shall be acknowledged in writing, indicating the date of receipt and the name of the person serving. Should any person refuse to receive the decision, resolution or order, a written statement to such effect duly signed by the person serving shall be submitted. Decisions, resolutions or orders coursed through the deputies/agents of the Council, shall in all cases, be served upon counsel, if represented, or to the party within five (5) days from the date of receipt by the Office concerned.

Section 75. *Appeal/Petition for Reconsideration and/or Reinvestigation.* —

- A) Appeal from the decision of the Council in accordance with Article 89 of the Code shall be made by the party adversely affected within fifteen (15) days from receipt of the decision unless a petition for reconsideration or reinvestigation is filed with the Council within the same period. The filing of said petition suspends the running of the 15-day period within which to file an appeal with the Court.
- B) Petition for reconsideration/reinvestigation shall be based on any of the following grounds:

- 1) Fraud, accident, mistake or excusable negligence which ordinary prudence could not have guarded against and by reason of which the aggrieved party has probably been impaired in his rights;
- 2) Newly discovered evidence which petitioner could not, with reasonable diligence, have discovered, and produced at the investigation and which if presented would probably alter the result; and
- 3) Palpable errors in the findings of facts and conclusions of law or decisions that are not supported by the evidence adduced in the investigation.

Only one petitioner for reconsideration/reinvestigation accompanied by proof of service upon the other party shall be entertained. Resolution or petitions for reconsideration/reinvestigation shall be served upon the parties concerned in accordance with Section 73 hereof.

Section 76. *Stay of Execution.* — The filing of petition for reconsideration and/or reinvestigation under the preceding section or an appeal with the Court of First Instance under Article 89 of the Code shall not stay the execution of the decision, resolution or order of the Council unless a bond as provided for in Article 88 shall have been posted.

Section 77. *Light Offenses.* — A fine of not more than Two Hundred (₱200.00) Pesos and/or suspension of the permit/grant for a period of not more than sixty (60) days shall be imposed for any of the following violations:

- a) illegal taking or diversion of water in an open canal or reservoir;
- b) unauthorized utilization of an existing well or ponding or spreading of water for recharging subterranean or ground water supplies;
- c) appropriation of subterranean or ground water for domestic use by an overlying landowner without the registration when required by the Council;
- d) failure of the appropriator to keep a record of water withdrawal when required by the Council or by the rules and regulations of other water oriented agencies such as Water Districts created pursuant to Presidential Decree No. 198, as amended, provided that such rules and regulations have been approved by the Council;
- e) repair without permission of hydraulic works or structures involving alteration of its hydraulic or structural features as originally approved; and
- f) such other infractions as the Council may determine.

Section 78. *Less Grave Offenses.* — A fine of more than Two Hundred (P200.00) Pesos but not exceeding Five Hundred (P500.00) Pesos and/or suspension of the water permit/grant for a period of one hundred twenty (120) days shall be imposed for the following violations:

- a) unauthorized sale, lease or transfer of water permits and/or water rights;
- b) failure to install a regulating and measuring device for the control of the volume of water appropriated when required;
- c) non-payment of water charges; and
- d) violation of or non-compliance with any order, rule or regulation of the Council.

Section 79. *Grave Offenses.* — A fine of more than Five Hundred (P500.00) Pesos but not exceeding One Thousand (P1,000) Pesos and/or revocation of the water permit/grant of any other right to the use of water shall be imposed for any of the following violations:

- a) drilling of a well without permit or with expired permit;
- b) failure to provide adequate facilities to prevent or control disease whenever required in the construction of any work for the storage, diversion, distribution and utilization of water;
- c) construction of any hydraulic work or structure without duly approved plans and specifications;
- d) failure to comply with any of the terms or conditions in a water permit or water rights grant not covered by the preceding sections;
- e) non-observance of any standard for the beneficial use of water and/or schedule of water distribution;
- f) use of water for a purpose other than that for which a right or permit was granted;
- g) malicious destructions of hydraulic works or structure valued at not exceeding Five Thousand (P5,000.00) Pesos;
- h) unauthorized sale of water in violation of the permit; and
- i) such other serious violations as the Council may determine.

Section 80. *Penalties for Delinquency.* — Where the penalty imposed is a fine and the offender fails to pay the same within the given period, he shall be liable, in addition, to pay Five (P5.00) Pesos per day of delay but in no case to exceed One Thousand (P1,000.00) Pesos. However, if the penalty imposed is suspension of the water permit/grant, the counting of the period shall begin from the time the original copy of the water permit/grant certificate is surrendered to the Council or any of its deputies/agents. Such grant/permit/certificate shall be surrendered within fifteen (15) days from receipt of the

Council's order or decision and any delay in the surrender thereof will be meted a penalty of Five (P5.00) Pesos each day.

Section 81. *Violations by Juridical Persons.* — In cases where the offender is a corporation, firm, partnership or association, the penalty shall be imposed upon the guilty officers mentioned in Article 92 of the Code.

Section 82. *Violations by Non-Permittees.* — In cases where the violator is not a permittee or grantee or has no right to use the water whatsoever, the Council thru its deputies or authorized representatives shall cause the stoppage of the use of the water either by plugging or sealing of the well if the same involves ground water appropriation or demolition of the dam or hydraulic structures if the same involves surface water, without prejudice to the institution of a criminal/civil action as the facts and circumstances may warrant.

Section 83. *Violations by Non-Owners.* — In cases where the violator is not the owner of the well or structure, he shall be penalized twice as much as the fine imposed on the owner of such well or structure without prejudice to the inclusion of his name as a party defendant in any action filed. Proper representations in this regard shall be made with the appropriate agency for the cancellation or suspension of his license/certificates of registration.

Section 84. *Offer of Compromise.* — In cases where offender, at any time before the execution of the order or decision, offers in writing to pay the fine imposed instead of having his/her permit/grant suspended for a given period, the Council may, if the circumstances so warrant, accept such offer or compromise. However, if the penalty imposed is both fine and suspension of the permit for a given period, the offer shall necessarily include the amount of the fine imposed as well as such amount as maybe determined by the Council corresponding to the period for which the permit should have been suspended.

Section 85. *Summary Revocation/Suspension.* — Water permits or other rights to use the water may be revoked or suspended summarily by the Council if any of the following facts and/or conditions exists:

- a) That the suspension/revocation will redound to greater public interest, public health and safety;
- b) That the acts complained of are grossly illegal per se;
- c) That the violative act is the second offense on record involving the same infraction;
- d) That the non-observance of or non-compliance with the rules, order or regulation is willful and deliberate;
- e) When there is a prima facie showing that the non-observance of any standard for the beneficial use of water or non-compliance with any

of the terms or conditions in a water permit or water rights grant is prejudicial to the life and property of third person;

- f) When the suspension or revocation thereof is sought by an injured party, provided he files a bond to cover any damage which maybe sustained by the permittee or grantee arising from such summary revocation/suspension;
- g) In times of emergency, where there is a prima facie showing that the use of water by the permittee/grantee is wasteful;
- h) When health authorities so recommend to prevent or control the spread of disease due to inadequate facilities;
- i) When in a decision of a competent court the revocation or suspension of the water permit or grant is ordered or recommended; and
- j) Such other serious offenses or gross violations and infractions as the Council may decide.

Section 86. *Applicability of the New Rules of Court and Related Laws.* — The provisions of the New Rules of Court, Presidential Decree Nos. 77 and 911 on preliminary investigation shall have suppletory effect on matters not specifically covered by these rules.

Section 87. *Appeal of Council Decisions.* — The decisions of the Council concerning policies on the utilization, exploitation, development, control, conservation and protection of water resources may be appealed to the President.

Section 88. — These rules shall take effect fifteen (15) days after publication in three (3) newspapers of general circulation.

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UNANIMOUSLY ADOPTED AT THE 119th MEETING OF THE
NATIONAL WATER RESOURCES COUNCIL ON JUNE 11, 1979


ALFREDO L. JUINIO
Chairman