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THE RULES ON PLEADINGS, PRACTICE AND PROCEDURE BEFORE THE NATIONAL WATER RESOURCES BOARD

NWRB, March 25, 1991

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Pursuant to the provisions of Presidential Decree No. 1067, otherwise known as the Water Code of the Philippines, and Commonwealth Act 146, as amended, the National Water Resources Board hereby adopts and promulgates the following rules on pleadings, practice and procedures before it:

Rules I
Title and Construction

SECTION 1. These rules shall be known and cited as the Rules on Pleadings, Practice and Procedure before the National Water Resources Board.

SECTION 2. Applicability – These rules shall apply to all cases brought before the National Water Resources Board in the exercise of its powers and functions under P.D. 424; P.D. 1067; P.D. 1206;, Sec. 11 paragraph (e); Sec. 63 of P.D. 198; C.A. 146 as amended; RA 6234 as amended by P.D. 425 and other related laws.

SECTION 3. Construction – These rules shall be liberally construed to protect and promote public interest and to assist the parties in ascertaining the truth in the most expeditious, just and inexpensive manner without necessarily adhering to the technical rules on evidence and procedure in judicial proceedings.

SECTION 4. Definitions – For purposes of these rules, the terms:

a. Code shall mean the Water Code of the Philippines;

b. Board shall refer to the National Water Resources Board;

c. Act shall refer to Commonwealth Act 146, as amended;

d. Chairman shall refer to the Chairman of the National Water Resources Board;

e. En Banc shall refer to the Board hearing or deciding cases by at least six(6) regular members;

f. Hearing Officer shall refer to such Attorneys and/or special investigators duly designated by the Board.

Rule II
Parties

SECTION 1. Complainant/Protestant and Respondent/Protestee - The person initiating the action shall be referred to as Complainant/ Protestant and the party against whom the action is made shall be referred to as Respondent/Protestee.

Rule III
Commencement of Action

SECTION 1. When Action is Deemed Commenced - An action is deemed commenced upon the filing of a

complaint/protest in accordance with these rules and upon payment of the docket/filing fee, unless the action is initiated by the Board motu propio..

SECTION 2. Caption and Title - In all cases filed with the Board, the full name of all parties, as far as they are known, shall be stated in the caption, motion, resolution, order, or decision, and in all summons, notices and processes to be served upon them. However, in cases where the parties are numerous that it is impracticable to include their names herein the phrase "et al" shall be used to denominate such parties.

If the action is initiated by any person other than the Board, the caption shall be as follows:

Republic of the Philippines
NATIONAL WATER RESOURCES BOARD
8th Floor, NIA Building. EDSA. Quezon City

_____

NWRB-WRC/WUC CASE NO. _____

Complainant

- versus -

FOR: _____

_____

Respondent

x - x

In case the action is initiated by the Board the caption shall be as follows:

Republic of the Philippines
NATIONAL WATER RESOURCES BOARD
8th Floor, NIA Building. EDSA, Quezon City

National Water NWRB-WRC/WUC CASE NO. _____

Resources Board

- versus - FOR: _____

(State the nature of Complaint)

_____

(Respondent)

x - x

The Complain/Protestant shall be assigned a docket number in the order of the date and time of filing thereof.

SECTION 3. Complaints - All complaints shall be in writing, sworn to by the Complainant/ Protestant and must contain the following:

1. Name, postal address and personal circumstances of Complainant/Protestant.

2. Name and postal address of Respondent/ Protestee;

3. Substance of the Complaint;

4. Grounds or causes of action;

5. Brief and concise statement of the pertinent facts and circumstances;

6. Relief sought; and

7. Names and postal addresses of witnesses to be summoned, if any.

In cases of protest against Water Permit Applications filed solely on the ground of adverse effects on the privilege to use water from any source, the same may not be entertained unless the Protestant is a water permittee.

SECTION 4. Place of Filing - Complaint/ Protest may be filed with the Board or the Office of the Public Works Regional Director or the Public Works District Engineer or NIA Provincial Irrigation Engineer, of the area where the source of water is subject of the controversy is located. Complaint/Protest on the use of water for hydraulic power development shall be filed with either the Board or the Office of the Public Works Regional Director.

However, complaint/protest involving the operation of water utilities/waterworks system shall be filed directly with the Board.

SECTION 5. Docket Fees, Docket Number and Calendar of Cases - There shall be imposed and collected a docket/filing fee of Two Hundred Pesos (P200.00) from every complainant/ protestant except from "pauper litigants" as defined in the Rules of Court.

The said fee shall be paid at the office where complaint/protest is filed in cash or in postal money order in the name of the Board.

After payment of the docket/filing fee, the case shall be forwarded to the Board together with the postal money order. Upon receipt thereof, the case shall be numbered and docketed accordingly. The Board shall post in appropriate places the schedules for hearing and conference of docketed cases.

SECTION 6. Raffle and Assignment of Cases - All docketed cases shall be referred to the Executive Director for raffle and assignment to hearing officers. A Hearing Officer may inhibit himself from hearing a case, provided that he shall state in writing the reasonable grounds which shall be addressed to the Sound discretion of the Executive Director. In case of inhibition, the Executive Director shall re-raffle the same.

SECTION 7. Answer - Upon assignment of a case to a Hearing Officer, the Board shall furnish the party a copy of the complaint/ protest and require him to answer in writing within ten (10) days from receipt thereof.

Should Respondent/Protestee fail to answer within the period, the Hearing Officer shall proceed ex-parte to receive the evidence of the complainant/protestant and shall submit his report to the Board based on the facts and evidence presented.

SECTION 8. Effects of Withdrawal of Complaint/Opposition - The withdrawal of a complaint/opposition shall not have the effect of automatic dismissal of the proceedings thereon. The Board may motu proprio continue the same if it deems appropriate in the interest of the public.

Rule IV
Preliminary Conference/Hearing

SECTION 1. Preliminary Conference/Hearing - Upon receipt of Respondents/Protestee's answer, the Hearing Officer shall direct the parties and their attorneys to appear before him for preliminary conference to consider the following:

1. Possible settlement of the case;

2. Simplification of the issues;

3. Advisability of amendment to pleadings;

4. Possibility of stipulations of facts;

5. Admissibility and authenticity of documents proposed to be submitted by a party;

6. Possible limitation on the number of witnesses to be presented;

7. Such other matters as may aid in the speedy disposition of the case.

The proceedings during the conference shall be conducted informally in nature and the hearing officer shall take appropriate steps towards a peaceful and equitable settlement of the issues.

SECTION 2. 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 recommendation shall be submitted to the Board for consideration. However, such amicable settlement shall not bind the Board if it finds that there is a prima facie violation of the law and its implementing rules and regulations, in which case, the legal action against the erring party shall proceed.

SECTION 3. Failure to Appear at Preheating Conference - A party who fails to appear at a preliminary conference may be non-suited or considered as in default.

SECTION 4. Judgment on the Pleadings and Summary Judgment - If the Complaint/Protest does not raise a question of fact and involves purely a question of law, the Hearing Officer shall dispose of the case based on the pleadings and evidence submitted. In cases of first impression, the parties, aside from the pleadings filed, maybe required to submit their respective position papers or memoranda. However, the Hearing Officer may call the parties to a hearing to answer clarificatory questions after the submission of their respective position papers or memoranda.

Rule V
Proceedings Before
the Hearing Officer

SECTION 1. Authority/Powers of the Hearing Officer - The duly designated Hearing Officer shall have the following authority/powers:

1. To hear cases consistent with these rules and to exercise full and active control of the proceedings at any stage thereof;

2. To administer oath to witnesses, take depositions and secure the attendance of witnesses and/or production of relevant documents thru the compulsory process of subpoena and/or subpoena duces tecum. However, the contending parties may avail of such processes only by filing a formal written request with the Hearing Officer.

3. To hear and resolve all motions;

4. To conduct physical or ocular inspection of the premises and for that purpose, the Hearing Officer and the parties shall have authority to enter upon private lands with previous notice to the owners thereof. The ocular inspection/ investigation report shall be furnished to the parties and shall form part of the record of the case;

5. To conduct ex-parte investigation/hearing if circumstances so warrant; and

6. To cite and/or declare any person in contempt in accordance with the provisions of the Rules of Court.

SECTION 2. Venue - Should the parties fail to agree during the preliminary conference, the Hearing Officer shall immediately hear the case in the place 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 Hearing Officer.

However, notwithstanding agreement of the parties as to venue, the Executive Director may change/transfer on meritorious grounds the venue of the hearing of the case.

SECTION 3. Presentation of Evidence - The party initiating the case shall be the first to present his evidence to support his case. If the case is initiated by the Board, the Hearing Officer shall proceed directly with the presentation of ocular investigation report after which the respondent shall present his evidence. The respondent may also be afforded the right to cross-examine the investigator.

In the cross-examination of witnesses, only relevant, pertinent and material questions necessary to enlighten the Hearing Officer shall be allowed.

SECTION 4. Orders/Rulings - Interlocutory orders/rulings during the proceedings are not appealable.

SECTION 5. Offer of Compromise - In cases where offender, at anytime before the execution of the order or decision, offers in writing to pay the fine imposed instead of having his permit/ grant suspended for a given period, the Board may, if the circumstances and the public interest so warrant, accept such offer of compromise. However, if the penalty imposed is both fine and suspension of the permit/grant, the offer shall necessarily include the amount of the fine imposed as well as such amount as may be determined by the Board corresponding to the period for which the permit should have been suspended.

SECTION 6. Intervention by an Interested Party - Any party who claims to have interest or may be adversely affected by the proceedings before the Board may file a motion for intervention stating the grounds relied upon and the remedy sought, serving a copy of the same to the respondents and the complainant. The motion shall be filed prior to the promulgation of an order or decision.

SECTION 7. Submission of Memoranda - The Board or Hearing Officer may allow the parties upon petition to submit their respective memorandum and/or position papers not later than ten (10) days from the termination of the hearing.

SECTION 8. Report of Hearing - The Hearing Officer shall, within thirty (30) days from the termination of the hearing, submit to the Board the entire records of the case, together with his report indicating the material findings of facts, the acts constituting specific violations of the law and the implementing rules and regulations, and his

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recommendations.

SECTION 9. Consolidation - The Board, on its own initiative or upon motion by a party, may hold a joint hearing in proceedings involving common question of laws or facts. However, upon motion of the interested party, a separate hearing may be held on issues peculiar only to the movant.

Rule VI
Motion

SECTION 1. Form - Unless made in the course of a hearing, all motions shall be in writing and copies thereof shall be served upon all parties at least three (3) working days before the hearing thereof. Motions during the hearing may be stated orally upon the record, unless the Hearing Officer requires that such motion be reduced in writing and filed separately.

SECTION 2. Postponements - Motion 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 Hearing Officer, 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.

SECTION 3. Ex-parte Motions - Ex-parte motions shall be acted upon by the Board thru the Hearing Officer and only upon showing of urgent necessity therefore and provided further that the rights of the opposing party are not substantially impaired. However, the movant shall furnish copies of said motion to the opposing party.

Rule VII
Filing, Service of Pleadings,
and Other Documents

SECTION 1. Filing - All pleadings, motions, documents and other papers shall be filed with the Board.

Only pleadings, motions, documents and other papers which conform to the formal requirements of these rules shall be accepted for filing.

SECTION 2. Service Upon Parties - All pleadings, documents, and other papers filed with the Board shall show proof of service thereof upon all parties to the case. Such service shall be made by personal delivery or by registered mail, properly addressed with postage prepaid, of one (1) confirmed copy to each party together with all annexes attached thereto.

SECTION 3. Service Upon Parties Represented by Counsel - When a party has appeared by counsel, service upon him shall be made upon his counsel of record.

SECTION 4. Proof of Service - Decisions, resolutions or orders of the Board shall be furnished to the parties, or thru counsel if represented, by personal or substituted service or by registered mail with return card. Personal or 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 decisions, resolutions or orders, 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 Board, 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 5. Extention of Time - Whenever by order of the Board, a pleading, motion or document is required to be filed within a fixed period, the Board may, for a good cause shown extend the period upon motion made before the expiration of the period fixed. The Board may, upon such terms as may be just, allow any pleading/document to be filed after the time fixed by these rules.

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Rule VIII
Application

SECTION 1. Application for Water Permit -The provisions of the implementing rules and regulations of the Water Code which are consistent with this rules shall govern the procedure for water permit application.

SECTION 2. Application for Certificate of Public Convenience; Certificate of Public Convenience and Necessity; and Others Certificate of Public Convenience/Certificate of Public Convenience and Necessity or any form of authorization under the Act and/or P.D. 1206, Sec. 11 par. (e) shall be commenced by the filing of the corresponding application and the payment of the required fees.

SECTION 3. Issuance of Notices of Hearing of Application for Certificate of Public Convenience/Certificate of Public Convenience and Necessity and Other Forms of Authorizations - After the filing of the application and payment of the required fees, the application shall be docketed and the Executive Director shall cause the issuance of the notice of hearing furnishing the list of affected parties, if any, to the applicants for compliance with the Board's jurisdictional requirements.

The applicant shall publish the notice of hearing once in one newspaper of general circulation at least ten (10) days before the date of hearing. Provided, however, that when the application covers one Region, publication in the local newspaper of general circulation within that Region will suffice, and copies of the same together with copies of applications shall be served by the applicant to all listed affected parties.

Rule IX
Order to Show Cause

SECTION 1. When Applicable - Based on the Official report of an agent or any person deputized in writing by the Board, or the credible sworn statement of any offended party, the Board instead of acting according to the procedure indicated for complaints, may, when public interest requires, issue an order directing the respondent to appear before the Board within ten (10) days from receipt of the order and show cause why a cease and desist order shall not be issued pursuant to Section 5 of this rule.

This summary proceedings shall apply only in cases where the respondent is reported to have or will continue to cause death, physical injuries, defraudation of public utility users, or wilfully or contumaciously refuse to comply with the orders, rules or regulations of the Board, or any provision of the Water Code and the Public Service Act.

The Board may, prior to the hearing, suspend any certificate or the exercise of any right or authority issued or granted whenever it is necessary to avoid the causes mentioned in the preceeding paragraph.

SECTION 2. Contents - The Order to show cause shall include a statement in substance of the violation reported or complained of and, whenever practicable, there shall be appended to it a copy of the report or complaint upon which the order is based.

SECTION 3. Non-Appearance - Whenever the respondent failed to appear on the date and hour specified in the show cause order, the Board shall issue an order requiring such respondent to explain why he should not be declared in contempt of the Board.

SECTION 4. Explanation Without Appearance - Whenever the respondent mentioned in the immediately preceeding Sections failed to appear but filed a written explanation whether or not supported by any documentary evidence, the show cause order against respondent shall be deemed submitted for resolution based on the available evidence without further arguments.

SECTION 5. Cease and Desist Order - If the Board is satisfied on the basis of the evidence adduced thereto that

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there exists a violation, the Board may issue a cease and desist order against the person responsible for the act.

Rule X
Decisions and Orders

SECTION 1. Decisions and Orders - All orders, rulings, decisions and resolutions disposing of the merits of the case shall be rendered by the Board with the concurrence of the majority of the regular members present at the meeting where the same is deliberated.

SECTION 2. Form and Contents - The decision, ruling, resolution or order of the Board determining the merits of a case shall be in writing stating clearly and distinctly the findings of facts, issues, and conclusions of law upon which it is based and the relief granted, if any.

SECTION 3. Period to Decide/Resolve; Certification thereto - All cases shall be decided within sixty (60) days after the parties submit the same for decision or resolution.

In the event that a case has not been decided/ resolved within the prescribed period, the Executive Director shall certify why a decision cannot be promulgated within the period and a copy thereof served upon the parties.

SECTION 4. Execution - The decision of the Board shall be immediately executory and enforcement may be suspended only when a bond, in an amount fixed by the Board to answer for damages occasioned by the suspension or stay of execution, shall have been filed by the appealing party, except when the suspension is by virtue of an order of a competent court.

The Board shall issue writs of execution to enforce its decision with the assistance of the local or national police agencies.

SECTION 5. Finality of an Order or Decision - Any order or decision of the Board, in the absence of appeal therefrom, shall become final and executory after fifteen (15) days from the date of receipt thereof.

SECTION 6. Compilation and Publication of Decisions -The Executive Director shall compile all final decisions and resolution of the Board, and shall cause them to be printed by the Bureau of Printing in bound and numbered volumes.

Rule XI
Motion for Reconsideration and Appeal

SECTION 1. Appeal/Petition for Reconsideration - The decision of the Board shall be appealed to the Regional Trial Court of the Province where the subject matter of the controversy is situated. Appeal from the decision of the Board shall be made by any party within fifteen (15) days from receipt of the decision unless a petition for reconsideration is filed within the same period. The filing of said petition suspends the running of the fifteen (15) day period within which to file an appeal with the court.

Appeal or Motion for reconsideration shall be based on any of the following grounds:

1. Fraud, accident, mistake or excusable negligence which 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.

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The party interested in upholding the order, award, resolution, or decision of the Board may file his opposition to the motion for reconsideration at least three (3) days before the scheduled hearing thereof, provided, that not more than one motion for reconsideration shall be allowed.

Rule XII
Miscellaneous Provision

SECTION 1. Applicability of the Rules of Court - The provisions of the Rules of Court which are not inconsistent with these rules shall apply in an analogous and suppletory character.

SECTION 2. Repeal -All prior rules, regulations or procedures heretofore followed in the Board, which are inconsistent with these rules, are hereto repealed.

SECTION 3. Effectivity - These rules shall take effect fifteen (15) days after publication in two (2) newspapers of general circulation.

x x x

Unanimously opted at the 84th regular meeting of the National Water Resources Board, ib 25 March 1991 per Resolution No. 04-0391.

Adopted: 25 Mar. 1991

(SGD.) EDMUNDO V. MIR
Undersecretary
Chairman

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