

PRESIDENTIAL DECREE NO. 1067

December 31, 1976

THE WATER CODE OF THE PHILIPPINES

*A DECREE INSTITUTING A WATER CODE, THEREBY REVISING AND CONSOLIDATING THE LAWS GOVERNING THE OWNERSHIP, APPROPRIATION, UTILIZATION, EXPLOITATION, DEVELOPMENT, CONSERVATION AND PROTECTION OF WATER RESOURCES.*

*WHEREAS*, Article XIV, Section 8 of the New Constitution of the Philippines provides, *inter alia*, that all waters of the Philippines belong to the State;

*WHEREAS*, existing water legislations are piecemeal inadequate to cope with increasing scarcity of water and changing patterns of water use;

*WHEREAS*, there is a need for a Water Code based on rational concepts of integrated and multi-purpose management of water resources and sufficiently flexible to adequately meet future developments:

*WHEREAS*, water is vital national development and it has become increasingly necessary for government to intervene actively in improving the management of water resources;

*NOW, THEREFORE*, I, FERDINAND, E. MARCOS, President of the Philippines, by virtue of the powers in me vested by the Constitution, do hereby orders and decree the enactment of the water Code of the Philippines of 1976, as follows:

CHAPTER I

DECLARATION OF OBJECTIVES AND PRINCIPLES

Article 1. This Code shall be known as "*The Water Code of the Philippines.*"

Article 2. The objectives of this Code are:

a. To establish the basic principles and framework relating to the appropriation, control and conservation of water resources to achieve the optimum development and rational utilization of these resources;

b. To define the extent of the rights and obligation of water users and owners including the protection and regulation of such rights;

c. To adopt a basic law governing the ownership, appropriation, utilization, exploitation, development, conservation and protection of water resources and rights to land related thereto; and

d. To identify the administrative agencies which will enforce this Code.

Art. 3. The underlying principles of this code are:

a. All waters belong to the State.

b. All waters that belong to the state can not be the subject to acquisitive prescription.

c. The State may allow the use or development of waters by administration concession.

d. The utilization, exploitation, development, conservation and protection of water resources shall be subject to the control and regulation of the government through the National Water Resources Council, hereinafter referred to as the Council.

e. Preference in the use and development of waters shall consider current usages and be responsive to the changing needs of the country.

Art. 4. Waters, as used in this Code, refers to water under the grounds, water above the ground, water in the atmosphere and the waters of the sea within the territorial jurisdiction of the Philippines.

## CHAPTER II

### OWNERSHIP OF WATERS

Art. 5. The following belong to the state:

a. Rivers and their natural beds;

b. Continuous or intermittent waters of springs and brooks running in their natural beds and the beds themselves

c. Natural lakes and lagoons;

d. All other categories of surface waters such as water flowing over lands, water form rainfall whether natural or artificial, and water from agriculture runoff, seepage and drainage;

e. Atmospheric water;

f. subterranean or ground water; and

g. Seawater

Art. 6. The following waters found on private lands also belong to the States:

a. Continuous or intermittent waters rising on such lands;

b. Lakes and lagoons naturally waters rising on such lands;

c. Rain water and falling on such lands;

- d. Subterranean or ground waters; and,
- e. Waters in swamps and marshes.

The owner of the land where the water is found may use the same for domestic purposes without securing a permit, provided that such use shall have be registered, when required by the Council. The Council, however, may regulate such use when there is wastage, or in times of emergency.

Art. 7. Subject to the provisions of this Code, any person who captures or collects water by means of cisterns, tanks, or pools shall have exclusive control over such water and the right to dispose of the same.

Art. 8. Water legally appropriated shall be subject to the control of the appropriator from the moment it reaches the appropriator's canal or aqueduct leading to the place where the water will be used or stored and, thereafter, so long as it is being beneficially used for the purposes for which it was appropriated.

### CHAPTER III

#### APPROPRIATION OF WATERS

Art. 9. Waters may be appropriated and used in accordance with the provisions of this Code.

Appropriation of water, as used in this Code, is the acquisition of rights over the use of waters or the taking or diverting of waters from a natural source in the manner and for any purpose allowed by law.

Art. 10. Water may be appropriated for the following purposes:

- a. Domestic;
- b. Municipal;
- c. Irrigation;
- d. Power generation;
- e. Fisheries;
- f. Livestock raising;
- g. Industrial;
- h. Recreational; and
- i. Other purposes;

Use of water for domestic purposes is the utilization of water for drinking, washing, bathing, cooking or other household needs, home gardens, and watering or lawns or domestic animals.

Use of water for municipal purposes is the utilization of water for supplying the water requirements of the community.

Use of water for irrigation is the utilization of water for producing agricultural crops.

Use of water for power generation is the utilization of water for producing electrical or mechanical power.

Use of water for power fisheries is the utilization of water for the propagation and culture of fish as a commercial enterprise

Use of water for livestock raising is the utilization of water for large herds or flocks of animals raised as a commercial enterprise.

Use of water for industrial purposes is the utilization of water in factories, industrial plants and mines, including the use of water as an ingredient of a finished product.

Use of water for recreational purposes is the utilization of water for swimming pools, bath houses, boating, water skiing, golf courses and other similar facilities in resorts and other places of recreation.

Art. 11. The state, for reasons of public policy, may declare waters not previously appropriated, in whole or in part, exempt from appropriation for any or all purposes and, thereupon, such waters may not be appropriated for those purposes.

Art. 12. Waters appropriated for a particular purpose may be applied for another purpose only upon prior approval of the Council and on condition that the new use does not unduly prejudice the rights of other permittees, or require an increase in the volume of water.

Art. 13. Except as otherwise herein provided, no person, including government instrumentalities or government-owned or controlled corporations, shall appropriate water without a water right, which shall be evidenced by a document known as a water permit.

Water rights is the privilege granted by the government to appropriate and use water.

Art. 14. Subject to the provisions of this Code concerning the control, protection, conservation, and regulation of the appropriation and use of waters, any person may appropriate or use natural bodies of water without securing a water permit for any of the following.

- a. Appropriation of water by means of hand carried receptacles; and
- b. Bathing or washing, watering or dipping of domestic or farm animals, and navigation of watercrafts or transportation of logs and other objects by flotation.

Art. 15. Only citizens of the Philippines, of legal age, as well as juridical persons, who are duly qualified by law to exploit and develop water resources, may apply for water permits.

Art. 16. Any person who desires to obtain a water permit shall file an application with the Council who shall make known said application to the public for any protests.

In determining whether to grant or deny an application, the Council shall consider the following: protests filed, if any; prior permits granted; the availability of water; the water supply need for beneficial use; possible adverse effects; land-use economics; and other relevant factors.

Upon approval of an application, a water permit shall be issued and recorded.

Art. 17. The right to the use of water is deemed acquired as of the date of filing of the application for a water permit in case of approved permits, or as of the date of actual use in a case where no permit is required.

Art. 18. All water permits granted shall be subject to conditions of beneficial use, adequate standards of design and construction, and such other terms and conditions as may be imposed by the Council.

Such permits shall specify the maximum amount of water which may be diverted or withdrawn, the maximum rate diversion or withdrawal, the time or times during the year when water may be diverted or withdrawn, the points or points of diversion or location of wells, the place of use, the purpose for which water may be used and such other requirements the Council deems desirable.

Art. 19. Water rights may be lent or transferred in whole or in part to another person with prior approval of the Council, after due notice and hearing.

Art. 20. The measure and limit of appropriation of water shall be beneficial use.

Beneficial use of water is the utilization of water in the right amount during the period that the water is needed for producing the benefits for which the water is appropriated.

Art. 21. Standards of beneficial use shall be prescribed by the council for the appropriator of water for different purposes and conditions, and the use of waters which are appropriated shall be measured and controlled in accordance therewith.

Excepting those for domestic use, every appropriator of water shall maintain water control and measuring devices, and keep records or water withdrawal. When required by the council, all appropriators of water shall furnish information on water use.

Art. 22. Between two or more appropriation of water from the same sources of supply, priority in time of appropriation shall give the better right, except that in times of emergency, the use of water for domestic and municipal purposes shall have a better fight over all other uses; Provided, That where water shortage is recurrent and the appropriator for municipal use has a lower priority in time of appropriation, them it shall be his duty to find an alternative source of supply in accordance with conditions prescribed by the Council.

Art. 23. Priorities may be altered on grounds of greater beneficial use, multi-purpose use, and other similar grounds after due notice and hearing, subject to payment of compensation in proper cases.

Art. 24. A water right shall be exercised in such a manner that rights of third persons or of other appropriators are not prejudiced thereby.

Art. 25. A holder of a water permit may demand the establishment of easements necessary for the construction and maintenance of the works and facilities needed for the beneficial use of the waters to be appropriated subject to the requirements of just compensation and to the following conditions:

a. That he is the owner, lessee, mortgagee or one having real right over the land upon which he purposes to use water; and

b. That the proposed easement is the most convenient and the least onerous to the servient estate.

Easement relating to the appropriation and use of waters may be modified by agreement of the contracting parties provided the same is not contrary to law or prejudicial to third persons.

Art. 26. Where water shortage is recurrent, the use of the water pursuant to a permit may, in the interest of equitable distribution of benefits among legal appropriators, be reduced after due notice and hearing.

Art. 27. Water users shall bear the diminution of any water supply due to natural causes or force majeure.

Art. 28. Water permits shall continue to be valid as long as water is beneficially used; however, it may be suspended on the grounds of non-compliance with approved plans and specifications or schedules of water distribution; use of water for a purpose other than that for which it was granted; non-payment of water charges, wastage; failure to keep records of water diversion, when required; and violation of any term or condition of any permit or of rules and regulations promulgated by the Council.

Temporary permits may be issued for the appropriation and use of water for short periods under special circumstances.

Art. 29. Water permits may be revoked after due notice and hearing on grounds of non-use; gross violation of the conditions imposed in the permit; unauthorized sale of water; willful failure or refusal to comply with rules and regulations or any lawful order; pollution, public nuisance or acts detrimental to public health and safety; when the appropriator is found to be disqualified under the law to exploit and develop natural resources of the Philippines; when, in the case of irrigation, the land is converted to non-agricultural purposes; and other similar grounds.

Art. 30. All water permits are subject to modification or cancellation by the Council, after due notice and hearing, in favor of a project of greater beneficial use or for multi-purpose

development, and a water permittee who suffers thereby shall be duly compensated by the entity or person in whose favor the cancellation was made.

## CHAPTER IV

### UTILIZATION OF WATERS

Art. 31. Preference in the development of water resources shall consider security of the State, multiple use, beneficial effects, adverse effects and cost of development.

Art. 32. The utilization of subterranean or ground water shall be coordinated with that of surface waters such as rivers, streams, springs and lakes, so that a superior right in one is not adversely affected by an inferior right in the other.

For this purpose, the Council shall promulgate rules and regulations and declare the existence of control areas for the coordinated development, protection, and utilization of subterranean or ground water and surface waters.

Control area is an area of land where subterranean or ground water and surface water are so interrelated that withdrawal and use in one similarly affects the other. The boundary of a control area may be altered from time to time, as circumstances warrant.

Art. 33. Water contained in open canals, aqueducts or reservoirs of private persons may be used by any person for domestic purpose or for watering plants as long as the water withdrawn by manual methods without checking the stream or damaging the canal, aqueduct or reservoir; Provided, That this right may be restricted by the owner should it result in loss or injury to him.

Art. 34. A water permittee or appropriator may use any watercourse to convey water to another point in the watercourse for the purpose stated in a permit and such water may be diverted or recaptured at that point by said permittee in the same amount less allowance for normal losses in transit

Art. 35. Works for the storage, diversion, distribution and utilization of water resources shall contain adequate provision for the prevention and control of diseases that may be induced or spread by such works when required by the Council.

Art. 36. When the reuse of waste water is feasible, it shall limited as much as possible to such uses other than direction human consumption. No person or agency shall distribute such water for public consumption until it is demonstrated that such consumption will not adversely affect the health and safety of the public.

Art. 37. In the construction and operation of hydraulic works, due consideration shall be given to the preservation of scenic places and historical relics and in addition to the provisions of existing laws, no works that would required the destruction or removal of such places or relics shall be undertaken without showing that the destruction or removal is necessary and unavoidable.

Art. 38. Authority for the construction of dams, bridges and other structures across of which may interfere with the flow of navigable or floatable waterways shall first be secured from the Department of Public Works, Transportation and Communications.

Art. 39. Except in cases of emergency to save life or property, the construction or repair of the following works shall be undertaken only after the plans and specifications therefore, as may be required by the Council, are approved by the proper government agency; dams for the diversion or storage of water; structures for the use of water power; installations for the utilization of subterranean or ground water and other structures for utilization of water resources.

Art 40. No excavation for the purpose of emission of a hot spring or for the enlargement of the existing opening thereof shall be made without prior permit.

Any person or agency who intends to develop a hot spring for human consumption must first obtain a permit from the Department of Health.

Art. 41. No person shall develop a stream, lake, or spring for recreational purposes without first securing a permit from the council.

Art. 42. Unless otherwise ordered by the President of the Philippines and only in times of national calamity or emergency, no person shall induce or restrain rainfall by any method such as cloud seeding without a permit from the proper government agency.

Art. 43. No person shall raise or lower the water level of a river, stream, lake, lagoon or marsh nor drain the same without a permit.

Art. 44. Drainage systems shall be so constructed that their outlets are rivers, lakes, the sea, natural bodies of water, such other water course as any be approved by the proper government agency.

Art. 45. When a drainage channel is constructed by a number of persons for their common benefit, cost of construction and maintenance of the channel be borne by each in proportion to the benefits derived.

Art. 46. When artificial means are employed to drain water from higher to lower land, the owner of the higher land shall select the routes and methods of drainage that will cause the minimum damage to the lower lands, subject to the requirements of just compensation.

Art. 47. When the use, conveyance or storage of water results in damage to another, the person responsible for the damage shall pay compensation.

Art. 48. When a water resources project interferes with the access of landowner to a portion of his property or with the conveyance of irrigation or drainage water, the person or agency constructing the project shall bear the cost of construction and maintenance of the bridges, flumes and other structures necessary for maintaining access, irrigation, or drainage in addition to paying compensation for land and incidental damages.



Art. 49. Any person having an easement for an aqueduct may enter upon the servient land for the purpose of cleaning, repairing or replacing the aqueduct or the removal of obstructions therefrom.

Art. 50. Lower estates are obliged to receive the waters which naturally and without the intervention of man flow from the higher estates, as well as the stones or earth which they carry with them.

The owner of the lower estate can not construct works which will impede this natural flow, unless he provides an alternative method of drainage; neither can the owner of the higher estate make works which will increase this natural flow.

Art. 51. The banks or rivers and streams and the shores of the seas and lakes throughout their entire length and within a zone of three (3) meters in urban areas, twenty (20) meters in agricultural areas and forty (40) meters in forest areas, along their margins, are subject to the easement of public use in the interest of recreation, navigation, flottage, fishing and salvage. No person shall be allowed to stay in this zone longer than what is necessary for recreation, navigation, flottage, fishing or salvage or to build structures of any kind.

Art. 52. The establishment, extent, from, and conditions of easement of water not expressly determined by the provisions of this Code shall be governed by the provisions of the Civil Code.

## CHAPTER V

### CONTROL OF WATERS

Art. 53. To promote the best interest and the coordinated protection of flood plain lands, the Secretary of Public Works, Transportation and Communications may declare flood control areas and promulgate guidelines for governing flood plain management plans in these areas.

Art. 54. In declaring flood control areas, rules and regulations may be promulgated to prohibit or control activities that may damage or cause deterioration of lakes and dikes, obstruct the flow of water, change the natural flow of the river, increase flood losses or aggravate flood problems.

Art. 55. The government may construct necessary flood control structures in declared flood control areas, and for this purpose it shall have a legal easement as wide as may be needed along and adjacent to the river bank and outside the bed or channel of the river.

Art. 56. River beds, sand bars and tidal flats may not be cultivated except upon prior permission from the Secretary of the Department of Public Works, Transportation and Communication and such permission shall not be granted where such cultivation obstructs the flow of water or increases flood levels so as to cause damage to other areas.

Art. 57. Any person may erect levees or revetments to protect his property from flood, encroachment by the river or change in the course of the river, provided that such constructions do not cause damage to the property of another.

Art. 58. When a river or stream suddenly changes its course to traverse private lands, the owners or the affected lands may not compel the government to restore the river to its former bed; nor can they restrain the government from taking steps to revert the river or stream to its former course. The owners of the lands thus affected are not entitled to compensation for any damage sustained thereby. However, the former owners of the new bed shall be the owners of the abandoned bed proportion to the area lost by each.

The owners of the affected lands may undertake to return the river or stream to its old bed at their own expense; Provided, That a permit therefore is secured from the Secretary of Public Works, Transportation and Communication and work pertaining thereto are commenced within two years from the changes in the course of the river or stream.

Art. 59. Rivers, lakes and lagoons may, upon the recommendation of the Philippines Coast Guard, be declared navigable either in whole or in part.

Art. 60. The rafting of logs and other objects on rivers and lakes which are floatable may be controlled or prohibited during designated season of the year with due regard to the needs of irrigation and domestic water supply and other uses of water.

Art. 61. The impounding of water in ponds or reservoirs may be prohibited by the Council upon consultation with the Department of Health if it is dangerous to public health, or it may order that such pond or reservoirs be drained if such is necessary for the protection of public health.

Art. 62. Waters of a stream may be stored in a reservoir by a permittee in such amount as will not prejudices the right of any permittee downstream. Whoever operates the reservoir shall, when required, release water for minimum stream flow.

All reservoir operations shall be subject to rules and regulations issued by the Council or any proper government agency.

Art. 63. The operator of a dam for the storage of water may be required to employ an engineer possessing qualifications prescribed for the proper operations, maintenance and administration of the dam.

Art. 64. The Council shall approve the manner, location, depth, and spacing in which borings for subterranean or ground water may be made, determine the requirements for the registration of every boring or alteration to existing borings as well as other control measures for the exploitation of subterranean or ground water resources, and in coordination with the Professional Regulation Commission prescribe the qualifications of those who would drill such borings.

No person shall drill a well without prior permission from the Council.

Art. 65. Water from one river basin may be transferred to another river basin only with approval of the Council. In considering any request for such transfer, the Council shall take into account the full costs of the transfer, the benefits that would accrue to the basin of origin

without the transfer, the benefits would accrue to the receiving basin on account of the transfer, alternative schemes for supplying water to the receiving basin, and other relevant favors.

## CHAPTER VI

### CONSERVATION AND PROTECTION OF WATERS AND WATERSHEDS AND RELATED LAND RESOURCES

Art. 66. After due notice and hearing when warranted by circumstances, minimum stream flows for rivers and streams and minimum water levels for lakes may be established by the Council under such conditions as may be necessary for the protection of the environment, control of pollution, navigation, prevention of salt damage, and general public use.

Art. 67. Any watershed or any area of land adjacent to any surface water or overlying any ground water may be declared by the Department of Natural Resources (DENR) as a protected area. Rules and regulations may be promulgated by such Department to prohibit or control such activities by the owners or occupants thereof within the protected area which may damage or cause the deterioration of the surface water or ground water or interfere with the investigation, use, control, protection, management or administration of such waters.

Art. 68. It shall be the duty of any person in control of a well to prevent the water from flowing on the surface of the land, or into any surface water, or any porous stratum underneath the surface without being beneficially used.

Art. 69. It shall be the duty of any person in control of a well containing water with minerals or other substances injurious to man, animals, agriculture, and vegetation to prevent such waters from flowing on the surface of the land or into any surface water or into any other aquifer or porous stratum.

Art. 70. No person shall utilize an existing well or pond or spread waters for recharging subterranean or ground water supplies without prior permission of the Council.

Art. 71. To promote better water conservation and usage for irrigation purposes, the merger of irrigation associations and the appropriation of waters by associations instead of by individuals shall be encouraged.

No water permit shall be granted to an individual when his water requirement can be supplied through an irrigation association.

Art. 72. In the consideration of a proposed water resource project, due regard shall be given to ecological changes resulting from the construction of the project in order to balance the needs of development and the protection of the environment.

Art. 73. The conservation of fish and wild life shall receive proper consideration and shall be coordinated with other features of water resources development programs to insure that fish and wildlife values receive equal attention with other project purposes.

Art. 74. Swamps and marshes which are owned by the State and which have a primary value for waterfowl propagation or other wildlife purposes may be reserved and protected from drainage operations and development.

Art. 75. No person shall, without prior permission from the National Pollution Control Commission, build any works that may produce dangerous or noxious substance or perform any act which may result in the introduction of sewage, industrial waste, or any pollutant into any source of water supply.

Water pollution is the impairment of the quality of water beyond a certain standard. This standard may vary according to the use of the water and shall be set by the National Pollution Control Commission.

Art. 76. The establishment of cemeteries and waste disposal areas that may affect the source of a water supply or a reservoir for domestic or municipal use shall be subject to the rules and regulations promulgated by the Department of Health.

Art. 77. Tailings from mining operations and sediments from placer mining shall not be dumped into rivers and waterways without prior permission from the Council upon recommendation by the National Pollution Control Commission.

Art. 78. The application of agriculture fertilizers and pesticides may be prohibited or regulated by the National Pollution Control Commission in areas where such application may cause pollution of a source of water supply.

## CHAPTER VII

### ADMINISTRATION OF WATERS AND ENFORCEMENT

#### OF THE PROVISIONS OF THIS CODE

Art. 79. The Administration and enforcement of the provisions of this Code, including the granting of permits and the imposition of penalties for administrative violations hereof, are hereby vested in the council, and except in regard to those functions which under this Code are specifically conferred upon other agencies of the government, the Council is hereby empowered to make all decisions and determinations provided for in this Code.

Art. 80. The Council may deputize any official or agency of the government to perform any of its specific functions or activities.

Art. 81. The Council shall provide a continuing program for data collection, research and manpower development need for the appropriation, utilization, exploitation, conservation, and protection of the water resources of the country.

Art. 82. In the implementation of the provisions of this Code, the Council shall promulgate the necessary rules and regulations which may provide for penalties consisting of a fine not exceeding One thousand Pesos (P1,000.00) and/or suspension or revocation of the water permit or other right to the use of water. Violations of such rules and regulations may be administratively dealt with by the Council.

Such rules and regulations shall take effect fifteen (15) days after publication in newspapers of general circulation.

Rules and regulations prescribed by any government agency that pertain to the utilization, exploitation, development, control, conservation, or protection of water resources shall, if the council so requires, be subject to its approval.

Art. 83. The Council is hereby authorized to impose and collect reasonable fees or charges for water resources development from water appropriators, except when it is for purely domestic purpose.

Art. 84. The Council and other agencies authorized to enforce this Code are empowered to enter upon private lands, with previous notice to the owner, for the purpose of conducting surveys and hydrologic investigations, and to perform such other acts as are necessary in carrying out their functions including the power to exercise the right of eminent domain.

Art. 85. No program or project involving the appropriation, utilization, exploitation, development, control, conservation, or protection of water resources may be undertaken without prior approval of the Council, except those which the council may, in its discretion, exempt.

The Council may require consultation with the public prior to the implementation of certain water resources development projects.

Art. 86. When plans and specifications of a hydraulic structure are submitted for approval, the government agency whose functions embrace the type of project for which the structure is intended, shall review the plans and specifications and recommend to the Council proper action thereon and the latter shall approve the same only when they are in conformity with the requirements of this Code and the rules and regulations promulgated by the Council. Notwithstanding such approval, neither the engineer who drew up the plans and specifications of the hydraulic structure, nor the constructor who built it, shall be relieved of his liability for damages in case of failure thereof by reason of defect in plans and specifications, or failure due to defect in plan construction, within ten (10) years from the completion of the structure.

Any action recover such damages must be brought within five (5) years following such failure.

Art. 87. The Council or its duly authorized representatives, in the exercise of its power to investigate and decide cases brought to its cognizance, shall have the power to administer oaths, compel the attendance of witnesses be *subpoena duces tecum*.

Non-compliance or violation of such orders or *subpoena* and *subpoena duces tecum* shall be punished in the same manner as indirect contempt of an inferior court upon application by the aggrieved party with the proper Court of First Instance in accordance with the provisions of Rule 71 of the Rules of Court.

Art. 88. The Council shall have original jurisdiction over all disputes relating to appropriation, utilization, exploitation, development, control, conservation and protection of waters within the meaning and context of the provisions of this Code.

The decisions of the Council on water rights controversies shall be immediately executory and the enforcement thereof may be suspended only then a bond, in a amount fixed by the Council to answer for damages occasioned by the suspension or stay of execution, shall have been filed by the appealing party, unless the suspension is by virtue of an order of a competent court.

All dispute shall be decide within sixty (60) days after the parties submit the same for decision or resolution.

The Council shall have the power to issue writs of execution and enforce its decisions with the assistance of local or national police agencies.

Art. 89. The decisions of the Council on water rights controversies may be appealed to the court of first Instance of the province where the subject matter of the controversy is situated within fifteen (15) days from the date the party appealing receives a copy of the decision, of any of the following grounds: (1) grave abuse of discretion; (2) question of law; (3) questions of fact and law.

## CHAPTER VIII

### PENAL PROVISIONS

Art. 90. The following acts shall be penalized by suspension or revocation of the violator's water permit or other right to the use of water and/or a fine of not exceeding One thousand Pesos (P1,000.00), in the discretion of the Council :

- a. Appropriation of subterranean or ground water for domestic use by an overlying landowner without registration required by the Council;
- b. Non-observance of any standard of beneficial use of water.
- c. Failure of the appropriator to keep a record of water withdrawal when required.
- d. Failure to comply with any of the terms or conditions in a water permit or a water rights grant.
- e. Unauthorized use of water for a purpose other than that for which a right or permit was granted.

- f. Construction or repair of any hydraulic work or structure without duly approved plans and specifications, when required.
- g. Failure to install a regulating and measuring device for the control volume of water appropriated, when required.
- h. Unauthorized sale, lease, or transfer of water and/or water rights.
- i. Failure to provide adequate facilities to prevent or control diseases when required by the Council in the construction of any work for the storage, diversion, distribution and utilization of water.
- j. Drilling of a well without permission of the Council.
- k. Utilization of an existing well or ponding or spreading of water for recharging subterranean or ground water supplies without permission of the Council.
- l. Violation of or non-compliance with any order, rules and regulation of the Council.
- m. Illegal taking or diversion of water in an open canal, aqueduct or reservoir.
- n. Malicious destruction of hydraulic works or structures valued at not exceeding P5,000.00.

Art. 91. A. A fine of not exceeding Three Thousand Pesos (P3,000.00) or imprisonment for not more than three (3) years, or both such fine and imprisonment, in the discretion of the Court, shall be imposed upon any person who commits any of the following acts:

- 1. Appropriation of water without a water permit, unless such person is expressly exempted from securing a permit by the provisions of this code;
- 2. Unauthorized obstruction of an irrigation canal.
- 3. Cultivation of river bed, sand bar or tidal flat without permission.
- 4. Malicious destruction of hydraulic works or structure valued at not exceeding Twenty-Five Thousand Pesos (P25,000.00)

B. A fine exceeding Three Thousand Pesos (P3,000.00) but not more than Six Thousand Pesos (P6,000.00) or imprisonment exceeding three years (3) years but not more than (6) years or both such fine and imprisonment in the discretion of the Court, shall be imposed on any person who commits any of the following acts:

- 1. Distribution for public consumption of water which adversely affects the health and safety of the public.
- 2. Excavation or enlargement of the opening of a hot spring without permission.
- 3. Unauthorized obstruction of a river or waterway, or occupancy of a river bank or seashore without permission.

4. Establishment of a cemetery or a waste disposal area near a source of water supply or reservoir for domestic or municipal use without permission.
5. Constructing, without prior permission of the government agency concerned, works that produce dangerous or noxious substances, or performing acts that result in the introduction of sewage, industrial waste, or any substance that pollutes a source of water supply.
6. Dumping mine tailings and sediments into rivers or waterways without permission.
7. Malicious destruction of hydraulic works or structure valued more than Twenty-five Thousand (P25,000.00) but not exceeding One Hundred Thousand Pesos (P100,000.00)

C. A fine exceeding Six Thousand Pesos (P6,000.00) but not more than ten Thousand Pesos (P10,000.00) or imprisonment exceeding six (6) years but not more than twelve (12) years, or both such fine and imprisonment, in the discretion of the Court, shall be imposed upon any person who commits any of the following acts:

1. Misrepresentation of citizenship in order to qualify for water permit.
2. Malicious destruction of a hydraulic works or structure, valued at more than One Hundred Thousand Pesos (P100,000.00).

Art. 92. If the offense is committed by a corporation, trust, firm, partnership, association or any other juridical person, the penalty shall be imposed upon the President, General Manager, and other guilty officer or officers of such corporation, trust, firm, partnership, association or entity, without prejudice to the filing of a civil action against said juridical person. If the offender is an alien, he shall be deported after serving his sentence, without further proceedings.

After final judgment of conviction, the Court upon petition of the prosecution attorney in the same proceedings, and after due hearing, may when the public interest so requires, order the suspension of or dissolution of such corporation, trust, firm, partnership association or juridical person.

Art. 93. All actions for offenses punishable under Article 91 of this code shall be brought before the proper court.

Art. 94. Actions for offenses punishable under this Code by a fine of not more than Three Thousand (P3,000.00) or by an imprisonment of not more than three (3) years, or both such fine and imprisonment, shall prescribed in five (5) years; those punishable by a fine exceeding Three Thousand Pesos ( 3,000.00) but not more than six thousand Pesos (P6,000.00) or imprisonment exceeding three (3) years but not more than six years (6) years or both such fine and imprisonment, shall prescribe in seven (7) years; and those punishable by a fine exceeding Six Thousand Pesos (P6,000.00) but not more than Ten Thousand Pesos (P10,000.00) or an imprisonment exceeding Six (6) years but not more than Twelve (12) years, or both such fine and imprisonment, shall prescribe in ten (10) years.

## CHAPTER IX



## TRANSITORY AND FINAL PROVISIONS

Art. 95. Within two (2) years from the promulgation of this code, all claims for a right to use water existing on or before December 31, 1974 shall be registered with the council which shall confirm said rights in accordance with the provisions of this Code, and shall set their respective priorities.

When priority in time of appropriation from a certain source of supply cannot be determined, the order of preference in the use of the waters shall be as follows :

- a. Domestic and municipal use;
- b. Irrigation;
- c. Power generation;
- d. Fisheries;
- e. Livestock raising;
- f. Industrial use; and
- g. Other uses.

Any claim not registered within said period shall be considered waived and the use of the water deemed abandoned, and the water shall thereupon be available for disposition as unappropriated waters in accordance with the provisions of this code.

Art. 96. No vested or acquired right to the use of water can arise from acts or omissions which are against the law or which infringe upon the rights of others.

Art. 97. Acts and contracts under the regime of old laws, if they are valid in accordance therewith, shall be respected, subject to the limitations established in this Code. Any modification or extension of these acts and contracts after the promulgation of this code, shall be subject to the provisions hereof.

Art. 98. Interim rules and regulations promulgated by the Council shall continue to have binding force and effect, when not in conflict with the provisions of this Code.

Art. 99. If any provision or part of this Code, or the application thereof to any person or circumstance, is declared unconstitutional or invalid for any reason, the other provisions of parts therein shall not be affected.

Art. 100. The following laws, parts and/or provisions of laws are hereby repealed:

- a. The provisions of the Spanish law of waters of August 3, 1866, the Civil Code of Spain of 1889 and the Civil Code of the Philippines (R. A. 386) on ownership of waters, easement relating to waters, use of public waters which are inconsistent with the provision of the Code;

b. The provisions of R. A. 6395, otherwise known as the Revised Charter of the National Power Corporation, particularly section 3, paragraph (f), and section 12, so far as they relate to the appropriation of waters and the grant thereof;

c. The provisions of Act. No. 2152 as amended, otherwise known as the Irrigation Act, section 3, paragraphs (k) and (m) of P.D. No. 813, R. A. 2056; Section 90, C. A. 137; and

d. All Decrees, Laws, Acts, parts of Acts, Rules of Court, executive orders, and administrative regulations which are contrary to or inconsistent with the provisions of this Code.

Art. 101. This Code shall take effect upon its promulgation.

Done in the City of Manila, this 31st day of December, Nineteen Hundred and Seventy-Six.

FERDINAND E. MARCOS

President of the Philippines

*By the President:*

JACOBO C. CLAVE

Presidential Executive Assistant