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DENR Administrative Order
No. 2016- 31

DEC 29 2016

**SUBJECT: PROCEDURE IN THE INVESTIGATION AND RESOLUTION
OF LAND CLAIMS AND CONFLICTS CASES**

Pursuant to Sections 4, 91 and 102 of Commonwealth Act No. 141 or the "Public Land Act" as amended, Executive Order No. 192 series of 1987 or the "Reorganization of the DENR," DENR Administrative Order (DAO) No. 2014-01 entitled "Adopting the New DENR Organizational Structure pursuant to E.O. 366" and the Rationalization Plan duly approved by the Department of Budget and Management (DBM), the following procedures in the resolution of land claims and conflicts cases are hereby promulgated and adopted:

Chapter I
General Provisions

Section 1. Objective. It is the mandate of the DENR to provide a comprehensive procedure and workflow for the expeditious investigation and resolution of land claims and conflicts cases and complaints for reversion under the new Organizational Structure of the Regional and Field Offices pursuant to DAO No. 2014-01.

Section 2. Scope and Coverage. This Order covers claims and conflicts involving:

- a. Public agricultural (alienable and disposable) lands subject of applications for issuance of agricultural free patents, special patents, residential free patents, miscellaneous sales patents, homestead patents, townsite sales and other adverse claims;
- b. Administratively titled lands where an investigation is to be conducted based on Sections 91, 120, 121, 122 and 123 of Commonwealth Act No. 141 as amended;
- c. Patrimonial properties, properties covered by Presidential Proclamations for disposition;
- d. Foreshore areas; and
- e. Other types of lands the disposition of which is vested in the DENR.

Chapter II

Procedure in the Resolution of Claims and Conflicts Involving Unpatented or Unregistered Land

Section 3. Commencement of Protest. All land claims and conflicts over unregistered and/or unpatented lands shall be commenced by filing a verified Protest by the claimant, aggrieved party or his/her duly authorized representative with a special power of attorney against another party.

The Protest shall be filed with the Community Environment and Natural Resources Office (CENRO) having jurisdiction over the subject land.

If Protest is in the DENR-National Capital Region (NCR), the Protest shall be filed directly with the Legal Division of the DENR-NCR.

In case of Implementing Provincial Environment and Natural Resources Offices (PENROs), the Protest shall be filed directly with the PENRO.

In cases where the same lot/s is/are the subject of two or more applications, the CENRO, the Legal Division of the DENR-NCR or the Implementing PENRO as the case may be, shall issue a Memorandum to Investigate to a designated Land Investigation Officer (LIO) to ascertain the actual condition of the lot/s, the improvements existing thereon, the occupants thereof and such other matters relevant to the investigation. This shall be referred to as *Office-Initiated Investigation*.

Section 4. Formal Requirements of a Protest. The Protest shall be written in clear, simple, brief and concise language either in Filipino or English and must contain the names of the parties, their addresses, the material allegations, the grounds relied upon, and the documentary and other forms of evidence to support the allegations.

The Protest must be accompanied by the following documents:

- a. Certificate to file action from the barangay concerned, if applicable;
- b. Verification and Certification of Non-Forum Shopping;
- c. Proof of payment of the Protest fee; and
- d. A recent 2x2 picture of the protestant and his or her duly authorized representative and the subject lot/s

The Protest and its supporting documents must be filed in three (3) copies.

Section 5. Evaluation. The CENRO shall determine within one (1) day from receipt of the Protest whether the same is in due form and is within those contemplated in Section 4 of this Order. If in due form, the CENRO shall evaluate and forward the Protest to the PENRO; otherwise, the CENRO shall return the protest and inform the protestant in writing of the deficiencies in the formal requirements for compliance.

The protestant shall have a non-extendible period of fifteen (15) days within which to comply with the aforesaid requirements. In case of non-compliance, the protest shall be dismissed without prejudice. The protestant shall be notified thereof in writing.

If the protest was filed at the Regional Office, the same shall be forwarded to the CENRO within one (1) day.

In NCR and Implementing PENROs, the Legal Division and the PENRO, respectively, shall evaluate the Protest.

Section 6. Order of Investigation. If the Protest is sufficient in form and in substance, the PENRO shall, within three (3) days from receipt thereof, issue an Order of Investigation addressed to the CENRO or to a designated LIO. The Order of Investigation issued by the PENRO shall contain the assignment of the case to an LIO from the PENRO or the CENRO, as the case may be, for the conduct of the actual investigation, ocular inspection and preparation of the report.

The LIO shall be selected by the PENRO or CENRO from the pool of LIOs designated by the Regional Director (RD) by virtue of a Special Order issued in accordance with the prevailing DENR Manual of Authorities. In case the Protest is directly filed with the DENR-NCR, the RD shall be the one to select the Investigating Officer from the said pool of LIO's.

Each Order of Investigation or Memorandum to Investigate shall be posted in the PENRO's website or in the case of the DENR-NCR, it shall be posted in its website. Such posting shall be updated on a monthly basis.

Section 7. Notice and Summons. Within five (5) days from receipt of the Order of Investigation, the LIO assigned to the case shall cause the issuance of summons, together with a copy of the protest and the annexes, upon the protestee or his duly authorized representative, requiring the latter to file his/her Answer within fifteen (15) days from receipt thereof.

Section 8. Answer. The Answer shall be in writing, verified and shall contain material facts which may either be in specific denial or affirmation of the allegations in the Protest. It shall be accompanied by supporting proof including a list of the witnesses and their individual addresses.

The Answer shall be filed in three (3) copies, either personally or by registered mail. The protestant shall also be furnished a copy thereof.

For meritorious reasons, the LIO may extend, upon motion, the period for filing of the Answer by the protestee for another fifteen (15) days, which period shall not be further extended. An Order granting or denying said Motion shall be issued.

Section 9. Prohibited Pleadings. The following pleadings or motions shall not be allowed:

- (a) Motion to dismiss the Protest;
- (b) Motion for a bill of particulars;
- (c) Motion for extension of time to file pleadings, except to file an Answer, the extension not to exceed fifteen (15) days;
- (d) Reply and Rejoinder; and
- (e) Dilatory motion for postponement

Section 10. Default. Except for meritorious reasons, any party who fails to file his/her Answer within the allowed period shall be considered in default. A party in default shall lose his/her right to present evidence to

support his/her claim but shall not lose the right to be notified of any and all actions in the proceedings. An order of default shall be issued by the PENRO or the RD in the case of the DENR-NCR. Thereafter, the case shall proceed *ex-parte*.

A party declared in default may move to set aside the order of default by filing a motion at any time after notice thereof and before judgment, and upon proper showing that the failure to answer was due to fraud, accident, mistake or excusable negligence and that he/she has a meritorious defense. In such case, the order of default may be set aside on such terms and conditions as the PENRO or the RD may impose in the interest of justice.

Section 11. Preliminary Conference. Within ten (10) days from the receipt of the Answer or upon expiration of the period for filing an Answer, the LIO shall call for a preliminary conference between or among the parties to consider the following:

- a. Possibilities of an amicable settlement;
- b. Defining and simplifying the issues of the case;
- c. Identification of witnesses;
- d. Scheduling of the Ocular Inspection;
- e. Scheduling the dates of the other hearings, if any;
- f. Threshing out any other matters -which are relevant to the case that may aid in the early resolution thereof;
- g. Marking of exhibits; and
- h. Submission of Affidavits in the form of question and answer.

The preliminary conference shall be completed in two (2) hearing dates within a thirty (30) - day period. A Preliminary Conference Order detailing the agreements on the above matters shall be issued by the LIO ten (10) days after the conference. The parties shall be given a period of five (5) days within which to file their request for the amendment of the Preliminary Conference Order.

Section 12. Mandatory Ocular Inspection. A mandatory ocular inspection of the lot/s subject of the controversy shall be conducted within fifteen (15) days after the termination of the preliminary conference. All parties, as well as the barangay chairperson of the barangay concerned or his/her duly authorized representative, shall be notified during the preliminary conference to attend the ocular inspection, but any of the parties may waive his/her presence during the ocular inspection. If one of the issues being raised involves questions on the survey of the land and the LIO deems it necessary, a geodetic engineer from the DENR must be present. The result of the ground survey shall be binding on the parties and shall form part of the records of the case.

The LIO shall take geotagged photographs and take video recording of the ocular inspection, ensuring that all participating parties, including the barangay chairman or his duly authorized representative, are reflected in such photographs and/or video recording. The absence of the barangay chairman or his duly authorized representative, with justifiable reasons, shall not however preclude the conduct or continuation of the ocular inspection. The photographs and/or video recording shall form part of the records of the case.

Section 13. Mandatory Referral of Case for Alternative Dispute Resolution (ADR). After the issues have been joined, an ocular inspection shall be scheduled and conducted. Thereafter, the case shall be referred for Alternative Dispute Resolution (ADR). The LIO may be designated as the

mediator if there are no other qualified and trained DENR personnel available. The entire ADR process shall not be more than thirty (30) days.

Lawyers in representation of their clients shall not be allowed during the ADR proper.

The RD shall create a pool of trained mediators who will conduct the ADR.

Section 14. Amicable Settlement. If at any time during the proceedings, the parties agree to settle the case amicably, the LIO or mediator through the CENRO, shall prepare or draft the compromise agreement and submit the same to the PENRO or RD of the DENR-NCR as the case may be. The compromise agreement shall state the identity of the subject lot/s such as the lot number, the area, the adjoining lands and the location. The PENRO or RD of the DENR-NCR shall have fifteen (15) days from the termination of the ADR process referred to in section 13 within which to determine if the agreement is not contrary to existing rules and regulations. If the PENRO or RD of the DENR-NCR finds the agreement not contrary to existing rules and regulations, he/she shall issue a decision approving the same, and such approval shall terminate the case.

If the PENRO or RD of the DENR-NCR does not approve the compromise agreement for being contrary to law, morals, customs, public order or public policy, the case shall be remanded to the LIO for continuation of the proceedings.

Section 15. Submission of Position Papers with Attachments. After the ocular inspection and the parties do not enter into a compromise agreement, the proceedings shall be terminated and the parties shall submit their respective position papers within a non-extendible period of thirty (30) days from the termination of the ocular inspection.

Section 16. Final Investigation Report of the LIO. Within thirty (30) days after submission of position papers or the termination of the clarificatory hearing, the LIO shall submit to the PENRO, through the CENRO, a final investigation report on factual findings, taking into consideration the results of the investigation, the pleadings and documents submitted by the parties. The complete records of the case shall be included in the transmittal. The PENRO shall evaluate the final investigation report and thereafter forward the same to the Office of the RD.

In the case of the DENR-NCR, the LIO shall submit the report together with the complete records of the case to the Legal Division.

The final investigation report may contain the following:

1. Caption and title of the case;
2. Statement as to how the case arose and by virtue of whose authority investigation was conducted;
3. Statement that the notices have been sent to the parties and how they were notified;
4. Statement as to when and where formal investigation was conducted;
5. Parties appearing thereat including the counsel representing them, if any, and their addresses;

6. Findings in the ocular inspection including the description of improvements and sketch showing the portion of the contestant and statement that efforts had been exerted to settle the case amicably between the parties;
7. Summary of the testimony of the parties and witnesses and enumeration and substance of the documentary evidence submitted by them; and
8. Categorical recommendations.

Section 17. Forwarding of the Final Investigation Report by RD to the Legal Division. Upon receipt of the final investigation report from the PENRO, the RD shall forward the investigation report to the Legal Division. The latter may opt to submit the final investigation report to the Assistant Regional Director (ARD) for Technical Services for his/her technical evaluation. Thereafter, the Legal Division shall evaluate the case and prepare the draft Decision.

Section 18. Forwarding of the Decision by the Legal Division to the ARD for Management. The Legal Division shall forward the draft Decision and all the documents including the investigation report to the ARD for Management, who will then transmit the same to the RD.

Section 19. Decision of the RD. Within thirty (30) days from receipt of the draft Decision, the RD may modify, affirm or overturn it, taking into consideration all pleadings and documents submitted. The RD shall render a Decision therefor.

Section 20. Motion for Reconsideration. Any of the parties may file a Motion for Reconsideration (MR) of the Decision of the RD within fifteen (15) days from the receipt thereof. Only one MR shall be allowed. The RD shall have fifteen (15) days to act on the MR.

If no MR is filed, or if filed outside the reglementary period, the Decision of the RD shall become final and executory.

In case of failure to serve by registered mail, the CENRO or the Regional Office in the case of the DENR-NCR and the barangay chairman of the barangay concerned, shall exert earnest efforts to personally serve a copy of the decision to the parties in their last known address and shall certify under oath the fact of such service within five (5) days.

In case the registry receipt of the parties were not returned, the CENRO or the Regional Office in the case of the DENR-NCR, shall secure a certification to that effect from the post office, otherwise, the decision shall become final and executory.

Section 21. Writ of Execution. Once the decision of the RD becomes final and executory in any of the instances provided in the preceding section, the prevailing party, on motion within one (1) year from its finality, can have it executed as a matter of right, and the granting of a writ of execution becomes a ministerial duty of the CENRO/PENRO or the Regional Office in the case of the DENR-NCR.

Section 22. Appeal. Any aggrieved party may take an appeal to the Office of the Secretary by filing a notice of appeal and paying the appeal fee to the Office of the RD within fifteen (15) days from receipt of the Order or

Resolution/Decision of the case. The appeal shall be perfected after filing of the notice of appeal and payment of appeal fee within the prescribed period.

The Office of the RD which rendered the Decision loses jurisdiction over the case upon the perfection of the appeal filed in due time and the expiration of the time to appeal of the other parties.

Section 23. Transmittal or Dismissal of Appeal. Prior to the transmittal of the case records to the Office of the Secretary, the Office of the RD may *motu proprio* or on motion, issue an Order transmitting the case to the Office of the Secretary, through the Assistant Secretary for Legal Affairs, stating therein that the appeal was filed on time and there was payment of appeal fee. If the appeal is not perfected, an Order shall also be issued dismissing the same.

Section 24. Action of the Secretary. The resolution-making process shall be completed at the Office of the Secretary within One Hundred Twenty (120) days from the date the Appeal is submitted for resolution.

No ocular inspection and further investigation as to facts and circumstances surrounding the case shall be done at the level of the Appeal unless authorized by the Secretary or his duly authorized representative.

Section 25. Appeal in the Office of the President / Court of Appeals/ Supreme Court. The appeal process before the Office of the President, the Court of Appeals and the Supreme Court shall be governed by existing regulations.

Chapter III **Procedure in the Investigation of Petitions** **Involving Registered Patents**

Section 26. Nature of the investigation. The proceeding under this Chapter shall be merely investigative in nature which will be conducted as a fact-finding/recommendatory procedure to determine the propriety of initiating reversion proceedings.

Section 27. Who may initiate. The investigation may be initiated by the RD *motu proprio* (office-initiated investigation) or upon the filing of a Petition by any other person.

Letter-Complaints and/or Anonymous Complaints may be acted upon as basis of an office-initiated investigation.

Section 28. Grounds. The allegations in the Petition shall admit State ownership of the land in controversy. The Petition shall also set forth any or a combination of the following grounds:

1. The holder of the title has not occupied, possessed and cultivated the land applied for the required period of time in the concept of an owner and in the manner required by law, meaning, openly, publicly, notoriously, continuously and adversely in cases of free patent;
2. The land has not been subjected to classification and/or a public forest;

3. The land is classified as forest or timberland;
4. The land is part of a military or civil reservation;
5. The land is a foreshore or swampland;
6. The land is a salvage zone or public easement;
7. The land is part of navigable river, stream or creek;
8. The land is part of a street or public highway;
9. The applicant has no absolute title nor an incomplete or imperfect right which could be registered and confirmed under Act 496, P.D. 1529 and C.A. 141;
10. The plan of the land differs from the documentary evidence of the applicant;
11. The patent was procured through fraud and/or misrepresentation;
12. The land covers or is part of an expanded area brought about by a series of subdivision surveys; and
13. The acquisition, conveyance, alienation, transfer or contract is in violation of Sections 118, 121, 122 and 123 of C.A. 141.

Section 29. Petition. The Petition shall be in writing and verified by the petitioner or his or her duly authorized representative.

All petitions involving registered patents shall be filed with the PENRO having jurisdiction thereof. If the petition is filed in the office of the RD or the CENRO, it shall be referred to the PENRO within one (1) day.

In the case of the DENR-NCR, the petition shall be filed at the Legal Division.

Section 30. Formal Requirements of a Petition. The Petition shall be written in clear, simple, brief and concise language and must contain the name of the holder of the title, his or her address, the material allegations, the law and the grounds/basis/es of the petition, and the documentary and other forms of evidence to support the allegations.

The Petition must be supported by the following documents:

- a. Certificate to file action from the barangay concerned;
- b. Verification and Certification of Non-Forum Shopping;
- c. Proof of payment of the Petition fee;
- d. Certified true copy of the title or patent; and
- e. A recent 2x2 picture of the petitioner and his/her duly authorized representative and the subject lot/s.

The Petition and its supporting documents shall be filed in three (3) copies. The respondent shall also be furnished a copy thereof.

Petitions executed in Filipino shall be accepted.

The requirements under this section and the preceding section shall apply only to grounds 1 and 11 of Section 28.

Section 31. Preliminary Evaluation. Within one (1) day from receipt of the Petition, the PENRO shall assign it to the Conservation, Development and Licensing Section (CDLS) for preliminary evaluation and determination if the requirements under Sections 29 and 30 are complied with. Otherwise, the PENRO may dismiss it without prejudice.

If the requirements have been complied with, the PENRO shall forward the Petition to the RD. The latter will then forward it to the Legal Division for an early evaluation whether the Petition has sufficient basis. The Legal Division, within three (3) days, shall recommend for the outright dismissal of the Petition if it has no sufficient basis; otherwise, it shall be forwarded to the RD for the issuance of an Order of Investigation.

If the Petition is filed in the DENR-NCR, the Legal Division shall conduct the preliminary evaluation.

Section 32. Order of Investigation. Upon determination that the Petition is in due form and has sufficient basis, the RD shall issue the Order of Investigation directing the LIO for the conduct of the actual investigation, ocular inspection and preparation of report.

Section 33. Summons. The PENRO or the RD in the case of the DENR-NCR, within seven (7) days, shall issue summons to the registered owner and the petitioner, accompanied by a copy of the Petition, requesting the parties-in-interest to attend a meeting for the purpose of discussing the Petition.

If the registered owner does not attend the meeting, the LIO shall proceed with the ocular inspection and the review of the documentary pieces of evidence and registration documents.

If the registered owner attends the meeting, then a hearing shall be set and an ocular inspection shall be conducted. Thereafter, the documentary pieces of evidence and registration documents shall be review and evaluated.

All meetings, reviews and ocular inspections shall be concluded within ninety (90) days.

Section 34. Investigation Report. After the termination of meeting/s and ocular inspection/s, the LIO shall submit an investigation report to the RD within thirty (30) days, taking into consideration the results of the investigation, meeting/s, ocular inspection/s and the pleadings and documents and other evidence submitted by the party/ies. The investigation report shall contain the factual findings on the case and the recommended appropriate action. The recommendation must be responsive to the issue/s thereon.

Section 35. Forwarding of the Investigation Report by RD to the Legal Division. Upon receipt of the investigation report, the RD, within one (1) day shall forward it to the Legal Division for evaluation and the preparation of the appropriate action document affirming or denying the recommendation in the investigation report.

Section 36. Memorandum Order. The Legal Division shall draft a Memorandum Order if there is basis to initiate a reversion case. The Memorandum Order shall be addressed to the DENR Secretary, through the Assistant Secretary for Legal Service, which shall contain the facts and the legal bases thereof.

The Legal Division shall also draft a complaint for reversion case signed by the RD. It shall be attached in the Memorandum Order.

Section 37. Resolution dismissing the Petition. The Legal Division shall draft a Resolution dismissing the Petition if there is no sufficient basis for the initiation of a reversion case. The draft Resolution shall state the reasons and grounds relied upon.

Section 38. Recommendation of ARD for Management to the RD. The Legal Division shall forward the draft Memorandum Order or Resolution to the ARD for Management, who shall forward the same to the RD.

Section 39. Resolution of the RD. The RD shall act on the recommendation within thirty (30) days from receipt thereof.

If the RD decides that a case for reversion should be filed, he/she shall approve the Memorandum Order and shall forward the case together with the draft complaint for reversion to the DENR Central Office for the latter's evaluation. If the RD's decision is affirmed, the DENR Central Office shall evaluate and forward the case folder to the Office of the Solicitor General (OSG) together with the draft complaint for reversion.

If the RD's decision is not to file a case for reversion, he shall approve the draft Resolution dismissing the petition, furnishing a copy thereof to all parties concerned.

Chapter IV Common Provisions

Section 40. Case Records. The entire records of the proceedings and all documents submitted by the parties and used as bases for the resolution of the case shall be forwarded to the Office of the Secretary upon perfection of the appeal. Copies shall likewise be sent via electronic mail and electronic media such as compact discs or USB drives. An electronic copy shall be retained at the Regional Office. The scanning of case records shall be done using the LAMS unit.

Chapter V Final Provisions

Section 41. Application. The Rules of Court shall be applied by analogy only or in a suppletory character and whenever practicable or convenient.

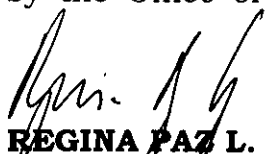
Section 42. Separability Clause. If for any reason, any section or provision of this order is declared null and void, no other section, provision, or part thereof shall be affected and the same shall remain in full force and effect.

Section 43. Repealing Clause. All orders, circulars, memoranda and other issuances inconsistent herewith are hereby repealed and/or modified accordingly.

Section 44. Effectivity Clause. This Order shall take effect fifteen (15) days after its publication - in a newspaper of general circulation and upon acknowledgment of the receipt of copy thereof by the Office of the National Administrative Register (ONAR).

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REGINA PAZ L. LOPEZ
Secretary

