

MEMORANDUM OF AGREEMENT

KNOW ALL MEN BY THESE PRESENTS:

This Memorandum of Agreement executed and entered into this day of August 1999 in Fort Bonifacio, Taguig, Metro Manila, Philippines by and between:

The **DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES** created and duly organized pursuant to Executive Order No. 192, Series of 1987, with principal office address at Visayas Ave., Diliman, Quezon City, represented herein by its Secretary, **ANTONIO H. CERILLES**, hereinafter referred to as DENR;

-and-

The **DEPARTMENT OF ENERGY** created and duly organized pursuant to Republic Act 7638 with principal office at Energy Center, Merritt Road, Fort Bonifacio, Taguig, Metro Manila, represented herein by its Secretary, **MARIO V. TIAOQUI** hereinafter referred to as DOE;

WITNESSETH THAT:

WHEREAS, the DOE and the DENR are fully cognizant of the need for a close coordinative effort on the current Environmental Impact Statement EIS System administrative set-up and permitting system with regard to the Environmental Compliance Certificate (ECC) applications of all energy projects;

WHEREAS, Presidential Decree 1151, otherwise known as the Philippine Environmental Policy Act requires all agencies and instrumentalities of the National Government, including government owned and controlled corporations (GOCCs), as well as private corporations, firms and entities to undertake an Environmental Impact Assessment (EIA) of their project activities or undertakings which may significantly affect the quality of the environment;

WHEREAS, Presidential Decree No. 1 586, otherwise known as the Philippine Environmental Impact Statement (EIS) System provides for the establishment of an Environmental Impact Statement System;

WHEREAS, DENR Administrative Order No. 37, Series of 1996, provides that: a) An Environmental Critical Project shall be required an EIS to be submitted to the Environmental Management Bureau (EMB) of the DENR; and b) Projects that are not environmentally critical but within Environmentally Critical Areas (ECAs) shall be required an Initial Environmental Examination (IEE), to be submitted to the concerned DENR Regional Office without prejudice to the submission of an EIS as may be further required by the Regional Executive Director (REED);

WHEREAS, Section 23 of Republic. Act No. 7638, otherwise known as the Department of Energy Act of 1992, provides that: the DOE and its priority projects shall enjoy preferential attention from the DENR relative to the exploration, development, exploitation and extraction of petroleum, coal and geothermal resources, and in the matter of providing technical support necessary for the establishment of power generating plants;

WHEREAS, Section 3 of Executive Order No. 291, Series of 1996, requires the environmental units of national government agencies and GOCCs to assist in the preparation of the EIS, ensure that their respective agencies/GOCCs meet the procedural requirements of the EIS system, facilitate the screening of the Environmental Compliance Certificate (ECC) and ensure the project's compliance with the conditionalities of the ECC;

WHEREAS, the DOE through specialized units in its Bureaus and its Environmental Protection and Monitoring Division (EPMD), has the capability to assist the DENR in facilitating the processing and issuance of ECCs for energy projects.

NOW, THEREFORE, for and in consideration of the foregoing and the terms and conditions hereinafter set forth, it is hereby agreed and declared as follows:

GENERAL PROVISIONS

1. Pursuant to DENR Administrative Order No. 37, Series of 1996, proponent of energy projects shall be required to submit an EIS, IEE or obtain a certificate of non-coverage. For purposes of this Agreement, energy projects shall mean activities or projects relative to the exploration, development, extraction, production, importation, exportation, processing, transportation, marketing, distribution, utilization, conservation, stockpiling, or storage of all forms of energy products and resources and power generating facilities.

2. The DENR and IDOE agree on the following:

2.1. ENERGY PROJECTS NOT COVERED BY THE EIS SYSTEM

- 2.1.1 Energy projects involving seismic survey, gravity survey, geoscientific, geophysical surveys, reconnaissance, exploration, feasibility studies, piloting, core drilling/sampling research and development activities, and all other activities that do not involve significant earth moving and ecological/vegetative disturbance activities using mechanical equipment that affect the environment.
- 2.1.2 All demonstration and pilot energy projects, power plants with capacity that is less than or equal to one (1) MW as long as social acceptability guidelines have been complied pursuant to DENR and the Local Government Code requirements;
- 2.1.3 Substations/switchyard only (up to 220 kV).
- 2.1.4 All retesting of old/existing wells in indigenous energy resource locations for purposes of data gathering and/or verification of validity of historical energy resource information, subject to acquisition of relevant DENR regional environmental and/or forestry permits;

2.2. ENERGY PROJECTS TO BE COVERED BY THE EIS SYSTEM

2.2.1 Energy Projects Requiring an IEE Checklist.

IEE Checklist - a simplified form, in lieu of the standard EIS document that is submitted to the DENR, which has been designed to cater to the needs and situation of proponents in terms of meeting the requirements and following the guidelines of the new EIS System under DAO 96-37

- a. All renewable energy projects and power plants such as ocean, solar, wind, waste to energy, biogas, and tidal power, fuel cell and geothermal with rated capacity from greater than one (1) to ten (w0) megawatts;
- b. All Gasoline Stations;
- c. Power Transmission System and Substations;
- d. Mini-hydro projects with rated capacity that is greater than one up to ten (10) megawatts; or with less than twenty (20) million cu. m. water impoundment;
- e. Power barges with capacity that is greater than one up to ten (1 0) megawatts, and;
- f. LNG/LPG refilling centers

2.2.2 Energy Projects Requiring an IEE Document

- a. Bunker, diesel-fired and natural gas-fired power plants with capacity less than or equal to ten (10) megawatt; and
- b. Submarine Cables;
- c. Oil and gas pipelines and coal slurry pipelines less than or equal to twenty (20) km.;
- d. Power barges with capacity equal to ten (10) up to thirty two (32) megawatts, and;
- e. Petrochemical/Coal/Oil/Natural Gas Depots;
- f. All refineries with designed capacities less than 30,000 barrels of petroleum per year;

2.2.3 Energy Projects Requiring an EIS Document

- a. Any energy resource exploration activity or portion of any energy project for oil, gas, coal, geothermal and hydro that requires significant mechanical earth moving and ecological/vegetative disturbance activities;
- b. All production and development systems of petroleum, gas, geothermal, coal, and hydro energy resources, refineries;
- c. Energy generation projects involving the use of petroleum, coal, geothermal and renewable energy resources with capacity greater than ten (10) megawatts;
- d. Energy generation projects involving the use of hydro energy resources with capacity greater than ten (10) megawatts; or with water impoundment greater than 20 million cu. m.

- e. Petrochemical/Coal/Oil and Natural Gas Terminals, and;
- f. Power barges with capacity greater than thirty two (32) megawatts

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- g. All refineries with designed capacities equal or greater than 30,000 barrels of petroleum per year.
 - h. All petrochemical industry projects with designed annual rated capacities greater than 30,000 tons; and
 - i. Oil, natural gas and coal slurry pipelines greater than twenty (20) km.
3. The DENR and the DOE shall jointly exert efforts in the formulation of policies, standards and guidelines, conduct of trainings, information dissemination, researches and other activities necessary for the proper implementation and integration of the EIA systems and procedures.
 4. The DENR and DOE shall issue operational procedures and instructions to their respective regional offices for the implementation of these guidelines.
 5. Energy projects covered by an IEE Checklist or IEE document but are located in national waters/territory (~15 kms. offshore) shall be submitted to the DENR- EMB for processing. If assessed to be complying to the DAO 96-37 Review Criteria, ECC shall be issued by the DENR Secretary.
 6. An official flow chart for the application of its requirement is attached as Annex of this Agreement.

II. RESPONSIBILITIES OF THE DENR

The DENR shall:

1. Train DOE officials/staff in the implementation of the Philippine EIS System as provided for by PD 1586 and DAO 96-37;
2. Update the DOE on the current policies on the implementation of the Philippine EIS System, laws rules and regulations, environmental standards and monitoring of ECC compliance;
3. Invite technical expert/s from the DOE to serve as Member of the EIA Review Committee in the conduct of the scoping, substantive review and evaluation of the IEE/EIS and IEE checklist of energy projects;
4. Decide on the ECCs application of energy projects within the specified timeframe as provided for under DAO 96-37;
5. Coordinate with the DOE on the establishment and operationalization of the Environmental Monitoring Fund (EMF) and Environmental Guarantee Fund (EGF) as provided for by DENR Administrative Order 96-37 as one of the conditionalities of an ECC; and
6. Advise the DOE on the status of ECC compliance of each energy project relative to any administrative or legal measures/remedies that may be necessary to , enforce the compliance with PD 1586 and DAO 96-37 and other pertinent laws.

III. RESPONSIBILITIES OF THE DOE

The DOE shall:

1. Assist the DENR in the implementation of the Philippine EIS System;

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2. Provide the necessary funds and facilities in the conduct of training for DOE Officials/Staff on the implementation of the EIS System;
3. Provide the necessary inputs to the scoping and substantive review of the IEE/EIS documents particularly to energy projects;
4. Coordinate with the DENR in the establishment and operationalization of the EGF and the EMF;
5. Assist the DENR in ensuring compliance by project proponents with the ECC conditions of energy projects; and
6. Coordinate with the IDENR in the formulation and review of any environmental policy, guidelines or procedures which may affect the planning and implementation of energy programs and projects;

IV. AMENDMENTS

1. No modifications of this Memorandum of Agreement (MOA) or any part thereof shall be made except upon execution of a written instrument duly signed by both parties;
2. Should circumstances necessitate the revision of the agreements embodied in this MOA, the concerned parties shall, prior to such revision, coordinate in the process of revision and grant a reasonable grace period of implementation of such revision.

V. EFFECTIVITY

This Memorandum of Agreement shall take effect upon signing by the Parties to the Agreement.

IN WITNESS WHEREOF, the Parties, have hereunto affixed their signatures on the date and place herein above-mentioned.

(sgd.) ANTONIO H. CERILLES
Secretary, DENR

(sgd.) MARIO V. TIAOQUI
Secretary, DOE

Witnesses:

(sgd.) RAMON J. P. PAJE
Undersecretary, DENR

(sgd.) BEN-HUR C. SALCEDO
Undersecretary, DOE

(sgd.) PETER ANTHONY O. ABAYA
Director, EMB-DENR

(sgd.) CYRIL C. DEL CALLAR
Undersecretary, DOE