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PROTECTING DAVAO'S GROUNDWATER

How the local Water Code can efficiently manage the city's water sources

Dabawenyos are proud of their drinking water. Its quality has been rated as one of the best in the world by the World Health Organization. In Davao City, drinking tap water is considered normal. This is true even for local business establishments and eateries. They generally use tap water as service water instead of mineral or distilled bottled water.



Davao City owes its high quality drinking water to natural filtration in its aguifers. The aguifers contain groundwater, which is water coming from the surface and being filtered through different layers of soil, sand and rocks, resulting to clean and pristine waters. Natural filtration is a slow and patient process. The Davao City Water District (DCWD) has estimated that groundwater in the city's aquifers is a result of seventy years of filtration.

DCWD extracts groundwater in Talomo-Lipadas Watershed using 51 production wells located in Dumoy, Tugbok, Riverside, Toril, Lubogan, and Calinan water systems (see A-F highlighted below). However, high quality water comes only from the production wells in Talomo-Lipadas Watershed. Other water sources from Cabantian to Tibungco don't have the same quality but DCWD claims that these water sources are potable based on a series of water monitoring and testing.

Davao City Water District Production Wells (PWs)

- Dumoy System 38 PWs 150,000 water service connections
- Tugbok System- 6 PWs (same quality as Dumoy) 25,000 water service connections Riverside System 1 PW (same quality as Dumoy) 2,000 water service connections
- Toril System 2 PWs (same quality as Dumoy) 8,000 water service connections
- Lubogan System 2 PWs (same quality as Dumoy) 8,000 water service connections Calinan System-2 PWs (same quality as Dumoy) -3,500 water service connections Cabantian System 3 PWs (vellowish, but potable) 9,500 water service connections
- Panacan 4 PWs (yellowish but potable) 7,000 water service connections Tibungco 1 PW (yellowish but potable) -177 water service connections
- Malagos Surface Water 1,350 water service connections.
 - Note: High quality water refers to items A to F only located in Talomo-Lipadas Watershed.



Source: Davao City Water District

According to the city's annual water demand and supply presented by DCWD, the groundwaters will no longer be able to supply the increasing public demand for water in the next 10 years. It does not help that several industries and small-scale water extractors have taken up a great share of the groundwater, especially in the areas identified in the Water Resources Zone. As of December 2015, the NWRB has registered 27 industries and small-scale extractors operating at the Talomo-Lipadas Watershed.



Davao City's Water Code

The local government unit of Davao City, mindful of the competing and conflicting demands on its water resources, sought to take a more active role in managing its water resources.

The Water Code of Davao City or the Water Resource Management and Protection Ordinance of Davao City (Ordinance No. 117-01) was passed in 2001. Many considered this as a landmark ordinance for the city. It gave the LGU the opportunity to maximize its authority to monitor and regulate its own water sources. Before this was passed, only the National Water Resources Board (NWRB), based in Manila, had exclusive regulation powers, as mandated by law.

Implementing the ordinance, however, was a challenge. The NWRB said that there were some substantial provisions in the ordinance which

Features of the Davao City Water Code

conflicted with PD. No. 1067 or the Water Code of the Philippines. In a letter to Councilor Pilar Braga, author of the local ordinance, the NWRB said that the ordinance is inconsistent with PD No. 1067 because it duplicates the NWRB's regulation powers which are exclusive to the agency as mandated by the national law.

Until now, this issue has not been resolved, despite the series of meetings, consultations and dialogues between the Davao City LGU and the past officers of the NWRB. The City Legal Office, after a series of legal opinions, came up with a Memorandum of Agreement between NWRB and Davao City, but it has yet to be commented upon by the NRWB.

The creation of the Davao City Water Management and Protection Council¹ is one commendable provision found in the Water Code. The Council shall ensure implementation of the provisions of the Code and shall monitor all activities relative to the compliance or non-compliance of the Code and its implementing rules and regulations². With this, the Local Government of Davao City can properly exercise its authority to protect and conserve the water resource areas of the City for sustainable use.

Water Resource Areas are those areas on top of identified location of principal source of drinking water of Davao City containing a huge volume of drinking water available for appropriation where Davao City Water District has existing planned/proposed production wells within 350 meter buffer areas provision³.

Under the Water Code of Davao City, the following were identified as Water Resource Areas⁴, to wit;

- a. Calinan to Dacudao-Latitude 7 deg. 12'30" N Longitude 125 deg. 28'45" E; thence to
- Calinan to Malagos-Latitude 7 deg. 10'00 N Longitude 125 deg. 25'35" E;
- c. Sirawan- Latitude 6 deg. 59'30 N Longitude 125 deg. 28'45N
- d. All other areas as the Council may hereinafter identify and declare as water resource areas.

The Davao City Water Code, as adopted in the Comprehensive Zoning Ordinance provides for the following prohibited acts⁵:

- 1. No person shall drill a free-flowing or artesian well within water resource areas.
- No person shall operate a water well within water resource areas or extract water from such well without installing an approved measuring device to determine the volume of water withdrawn and utilized therefrom.
- 3. Except for municipal and domestic use, no person shall commence drilling of a water well, altering existing wells or any related activity within water resource areas without first securing a clearance from the Council.
- 4. The drilling of a water well, altering existing wells or any activity in relation thereto within water resource areas shall be undertaken by a licensed well driller duly accredited by the Council.

- No water well dug for domestic purposes shall have a casing in excess of two (2) inches in diameter or a capacity of more than ten (10) gallons per minute (GPM) whichever is greater.
- 6. No person shall maintain a solid waste disposal system or garbage dump within the water resource areas.
- No underground oil storage tanks shall be constructed within water resource areas.
- No sanitary landfill or incinerator shall be located within water resource areas.
- 9. No person shall be allowed to extract, remove or dispose of quarry resources within water resource areas without first securing the written consent from the Council.
- 10. No programs, projects, development structures, or any other massive land activities affecting the appropriation, utilization, exploitation, development, control and conversion, or protection of water resources within water resource areas may be undertaken without prior consultation with the Council, and the holding of a public hearing.
- 11. Dumping, depositing or throwing of tailing or sediments from mining operations or chemical wastes from industries in water resource areas is strictly prohibited.
- 12. No cemetery or memorial park shall be located within water resource areas.



Issues and Concerns

Interface Development Interventions (IDIS), Davao City's lead watershed advocacy group, said that the passage of a local water code would go a long way towards addressing the issues caused by a centralized management set-up.

IDIS Policy Advocacy Specialist Mark Peñalver explained that the Philippine Constitution allows local government units a certain degree of autonomy in order to become more responsive and accountable to its citizens. By this token, Davao City is within its rights to enact a local law to respond more efficiently and effectively in protecting its water resources, with the long-term goal of improving the quality of life of its citizens.

Peñalver said that the centralized implementation set-up gave rise to gaps that pose a problem for LGUs in managing their resources. "For instance, since the NWRB is the sole authority to issue water permits, the local government does not keep records as to how many are extracting water within its jurisdiction. For all we know, the number of water extractors may have exceeded the aquifer's supply capacity, but the LGU will be unaware and unable to stop it."

He also pointed out that even the NWRB has been remiss in updating its records and sharing the data with the LGU. The NWRB also does not conduct field monitoring on the exact volume being extracted by operators in watersheds.

"The NWRB water permit is only applicable to large-scale water extractors. But there are lots of small-scale water extractors in the watershed which are not being monitored by any agency. There is also no inventory on the number of households using deep wells."

He further explained that the Water Resource Management Task Force (WRMTF), which is mandated to monitor any proposed project within the WRAs in the city has limited authority. "Its function is only limited to evaluating any proposed project based on prohibited acts within the WRAs, and if so, will recommend for its disapproval. However, the evaluation of applications for water extraction is still within the NWRB's authority."

"The NWRB is aware of their difficulty in monitoring legal and illegal water extractors given that they have limited human resources and they are situated in Manila. It is for this reason that they should consider delegating its powers to the LGUs."



Revised Implementing Rules and Regulations

In August 2016, following President Rodrigo Duterte's mandate to streamline the processing in government agencies, the NWRB revised its implementing rules and regulations. According to Peñalver, while there were revisions that were satisfactory, there were also some provisions, which were a step backward from the intent of the law.

"To facilitate easier processing, the NWRB cut down the number of days for application processing. The Implementing Rules & Regulations (IRR) also no longer required level 1 and 2 water projects to get an Environmental Compliance Certificate (ECC). They're not even required to have a Certificate of Non-Coverage, which is, I believe, goes against that

which is provided under the Philippine Environmental Impact Statement System (PEISS)," he said.

For environmental advocates, such a revision implies that the strictness of the law may be sacrificed for expediency's sake.

"The NWRB has also left out proposals for the sharing of autonomy with LGUs with regards to managing their water resources. Given the problems with centralized set-up of the bureaucracy, the NWRB will never be able to fully solve the problem of how to sustainably manage the entire archipelago's water resources."

Salient features of the Revised Implementing Rules and Regulations

The NWRB has approved the revisions of the amended Implementing Rules and Regulations of the Water Code of the Philippines relative to water permit application processing.

One notable provision in the revised IRR is the provision on the issuance of a Conditional Water Permit to approved applications for Water Permit. The provision states:

"Section 13. Board's Action – The Board shall approve or disapprove applications for water permits within thirty (30) days after receipt of the recommendation of the Board Secretariat, unless a longer period is needed.

Approved applications shall be issued Conditional Water Permits subject to such conditions imposed therein. The CWP is valid for a period of one (1) year and may be extended for a period of six (6) months. However, CWPs issued for Hydropower purpose is valid for two (2) years but may be extended for a period not exceeding one (1) year.

The failure of the grantee to comply with the conditions of the CWP shall cause the automatic revocation of the issued CWP. Disapproved applications shall be returned to applicants through the office where the same was filed within fifteen (15) days of such disapproval stating the reasons therefor."

Policy Recommendations

IDIS maintains its view that the NWRB should seriously consider delegating some of its administrative and enforcement authority to local government units.

"The authority to issue water permits, monitor, and revoke them if needed should be decentralized to LGUs because they are the ones who are at the forefront in the management of their water resources. They also have the requisite resources to efficiently carry out this function," Peñalver said.

Such administrative decentralization would also be timely given that LGUs are now keen on making their cities resilient from the negative effects of climate change, he pointed out.

"It is important for Davao City to continue with the implementation of its Local Water Code. While this is a momentary setback, the drafting of the IRR should continue in order to empower the WRTF."



Excerpts from Councilor Pilar C. Braga's Speech "An Open Letter to the President"

Privilege Speech at Sanguniang Panglungsod last November 29, 2016

"This matter should be considered with utmost urgency because water is a vital as the air we breathe. Furthermore the IRR was drafted to enable the LGU to efficiently monitor and manage the water extraction in the aquifer of the Talomo-Lipadas Watershed.

Last August 2016, the National Water Resource Board (NWRB) conducted a consultation to amend the IRR of the Philippine Water Code but the decentralization of its administration (eg. the issurances, monitoring, and revoking of water permits) was not even discussed during the consultation.

Mr. President, there is a great need to decentralize NWRB to LGU's to streamline government agencies and unburden the NWRB of the time and resources to conduct the monitoring and evaluation of these water extractors.

And so Mr. President, at the proper time, allow me to pass a resolution to decentralized the function of National Water Resource Board (NWRB) in order to fast tract the full Implementation of provisions entailed in the Water Resource Management and Protection Code of Davao City."

Endnotes

- Article 21, Ordinance No. 117-01 otherwise known as "Water Management and Protection Code of Davao City"
- 2. Article 26, Ibid.
- Section 7(7.1), Article VI, Ordinance No. 0546-13 otherwise known as "The Comprehensive Zoning Ordinance of Davao City".
- Article 6, Article 21, Ordinance No. 117-01 otherwise known as "Water Management and Protection Code of Davao City".
- 5. Articles 7-20, Ibid.

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