

## **DENR ADMINISTRATIVE ORDER NO. 2002-04**

January 22, 2002

**SUBJECT: RULES AND REGULATION GOVERNING THE ISSUANCE OF PERMITS FOR TREASURE HUNTING, SHIPWRECK/ SUNKEN VESSEL RECOVERY AND DISPOSITON OF RECOVERED TREASURES/ VALUABLE CARGOES, INCLUDING HOARDED HIDDEN TREASURES**

Pursuant to Section 4(8), Chapter 1, Title XIV, Book IV of the Administrative Code of 1987 and Executive Order No. 35, dated 17 September 2001 entitled, "Transferring the Function of Issuing Licenses or Permits for Treasure Hunting and Shipwreck Recovery from the Office of the President to the Department of Environment and Natural Resources", the following rules and regulations are hereby promulgated for the guidance of all concerned:

### **SECTION 1. DECLARATION OF POLICY**

It is hereby declared to be the policy of the state that the discovery/recovery of hidden treasures, shipwrecks/sunken vessels and/or the valuable cargoes found therein and their disposition shall be undertaken under the full control and supervision of the State in order to ensure the protection of interest of the Government, rehabilitation of disturbed areas and the preservation of important cultural properties and national cultural treasures.

### **SECTION 2. SCOPE AND COVERAGE**

The Administrative Order shall govern the issuance of Permits for the following:

- a. Treasure hunting activities in Government land or private land;
- b. Shipwreck/sunken vessel recovery activities; and
- c. Disposition of recovered hidden treasures or things of value hoarded in secret/undisclosed places prior to the effectivity of these rules and regulations. This includes the transport and/or sale of hoarded gold bars, gold coins, platinum, silver, nickel babbits, jewelries, gemstones, etc., or the so-called "Yamashita Treasures".

This Administrative Order, however, does not cover the issuance of Permits for the discovery/recovery of hidden treasures, shipwrecks/sunken vessels recovery exclusively for materials of cultural and historical values, such as object of arts, archeological artifacts, ecofacts, relics and other materials embodying the cultural and natural heritage of the Filipino nation, as well as those of foreign origin, which shall be governed by Republic Act No. 8492, otherwise known as the National Museum Act of 1998.

### **SECTION 3. OBJECTIVES**

The objectives of this Administrative Order are:

- a. To rationalize the system of evaluation of applications for Treasure Hunting and Shipwreck/Sunken vessel Recovery Permits; and
- b. To provide the appropriate guidelines for hunting the hidden treasures and disposition thereof, including recovery of shipwrecks/sunken vessels and valuable cargoes therein, to protect the interest of the Government and to preserve the cultural heritage of the Filipino people through the preservation and protection of national cultural treasures.

### **SECTION 4. DEFINITION OF TERMS**

As used in and for purposes of these rules and regulations, the following terms shall mean:

- a. Area Clearance – refers to a clearance issued by the concerned agency/ies allowing an applicant to conduct treasure hunting or shipwreck/sunken vessel recovery activities as shown in the submitted technical and environmental work programs.
- b. Artifacts – refers to articles that are products of human skills or workmanship, especially in the simple product of primitive arts or industry representing past eras or periods.
- c. Bureau – refers to the Mines and Geosciences Bureau.
- d. Department – refers to the Department of Environment and Natural Resources of the Republic of the Philippines.
- e. Digging - refers to the process or activities of excavating hidden treasures buried underground for years or centuries.
- f. Director – means the Director of the Mines and Geosciences bureau.
- g. Environmental Compliance Certificate – refers to a document issued by the Secretary or the concerned Regional Executive Director of the Department of Environment and Natural Resources certifying that based on the representation of the proponent and the preparer, the proposed project or undertaking will not cause significant negative environmental impact and that the proponent is committed to undertake all the mitigation measures stated in the Initial Environment Examination.

- h. Environmental Impact Assessment – refers to a process of predicting the likely environmental consequences of implementing a project or undertaking and designing appropriate preventive, mitigating and enhancement measures.
- i. Environmental Work Program – refers to a comprehensive and strategic management plan to achieve the environmental objectives, criteria and commitments including protection and rehabilitation of the disturbed environment during and after the treasure hunting or shipwreck/sunken vessel recovery.
- j. Hidden Treasures – refers to any hidden and unknown deposit of mineral products, money, jewelry, or other precious object, the lawful ownership of which does not appear.
- k. Initial Environment Impact Examination (IEE) - refers to the document required of proponents describing the environmental impact of and mitigation and enhancement measures for projects or undertakings located in an Environmentally Critical Area.
- l. Permit – refers to the Permit issued for Treasure Hunting or Shipwreck/Sunken Vessel Recovery.
- m. Permit Holder – refers to a holder of a Permit for Treasure Hunting or Shipwreck Recovery.
- n. Private Land – refers to the titled land belonging to any private person or entity which includes alienable and disposable land being claimed by a holder, claimant or occupant who has already acquired a vested right thereto under the law, although the corresponding certificate or evidence of title or patent has not been actually issued.
- o. Relics – refers to objects possessing cultural properties which, either as a whole or in fragments, are left behind after the destruction or decay of the rest of its part and which are intimately associated with important beliefs, practices, customs and traditions, periods and personages.
- p. Secretary – refers to the Secretary of the Department of Environment and Natural Resources.
- q. Shipwreck – refers to a sunken vessel due to acts of war or of rough sea conditions or maritime accident which possesses treasures and valuable cargoes.
- r. Shipwreck Recovery – involves any and all underwater activities such as but not limited to surveying, locating and exploring, salvaging and recovery of sunken vessels and all cargoes and other valuable items therein, including the process of securing, preservation, documentation and disposition of the salvaged or recovered valuables.

- s. Technical Work Program – refers to a detailed outline of activities and financial plan to be followed in the treasure hunting or shipwreck/sunken vessels recovery.
- t. Treasure Hunting – refers to any and all inland activities such as but not limited to locating, digging or excavating, securing, transporting and disposition of recovered treasures.
- u. Site – refers to the actual ground location of diggings, excavations or shipwreck/sunken vessel recovery activities.

## **Section 5. Qualification of Applicants**

The following persons may apply for a Treasure Hunting or Shipwreck/Sunken Vessel Recovery Permit:

- a. a. In case of an individual – must be a Filipino citizen, of legal age, with capacity to enter into contract and capable of conducting Treasure Hunting or Shipwreck/Sunken Vessel Recovery activities.
- b. b. In case of partnership, association or corporation – must be organized or authorized for the purpose of engaging in Treasure Hunting or Shipwreck/Sunken Vessel Recovery, duly registered in accordance with law, and with technical and financial capability to undertake Treasure Hunting or Shipwreck/Sunken Vessel Recovery activities.

## **Section 6. Filling of Application**

All applications for Treasure Hunting or Shipwreck/Sunken Vessel Recovery Permit shall be made under oath and shall be filed with the Bureau where all legal, technical, financial and operational requirements shall be evaluated. An application fee in the amount of Ten Thousand Pesos (PhP 10,000.00) shall be paid to the Bureau.

## **Section 7. Requirements**

All applications shall be accompanied by the following:

- a. a. Legal and Administrative
  - 1. 1. Prescribed Personal and/or Corporate Information Sheet;
  - 2. 2. For partnerships, associations or corporations:
    - 2.1 Certified true copy of Certificate of Registration issued by the Securities and Exchange Commission (SEC) or concerned authorized Government agency;
    - 2.2 Certified true copy of Articles of Incorporation/ Partnership/ Association and By-laws; and

### 2.3 Organizational and Operational Structure.

3. 3. Consent of landowner(s) concerned, when the activities are bound to affect private lands or consent of the concerned Government agency, when the activities affect Government buildings, dams, watersheds and other areas or sites reserved or used for purposes affecting vital national interest, military or naval camps, bases and reservations, shrines and other hallowed places; or consent of concessionaires when the permit area affects aquaculture or fishery projects or beach/marine recreational areas, if applicable;
  4. 4. Area Clearance from concerned Government Agency, when the activities affect public land or if the area applied for is located near submarine cables, pipelines, ports and harbors, or within protected seascape/areas or marine parks, if applicable;
  5. 5. Certified true copy of Joint Venture Agreement(s), if any; and
  6. 6. Free and prior informed consent of indigenous cultural community in areas covered by ancestral land/domain.
- b. b. Technical
1. 1. Technical description of the site expressed in terms of latitude and longitude, which shall not be more than one (1) hectare of land or twenty (20) hectares for bodies of water accompanied by a vicinity and location map duly prepared and certified by a licensed Geodetic Engineer: Provided, That a larger area may be allowed on a case to case basis subject to prior approval by the Secretary;
  2. 2. Technical Work Program, including appropriate technology, manpower, equipment and cost estimates;
  3. 3. Environmental Work Program, including the nature and extent of predicted damages to the environment, if any, and the proposed restoration/rehabilitation program and budgetary requirements. This shall be the basis for the assessment of the required surety bond for the restoration/rehabilitation works;
  4. 4. ECG, if applicable; and
  5. 5. Curriculum vitae of technical person/s who shall undertake the Technical and Environmental Work Programs.
- c. c. Financial

1. 1. Latest income/corporate tax return, if applicable;
2. 2. Certified true copies of latest audited financial statement, if applicable; and
3. 3. Bank guarantees/references, credit lines, cash deposits, and other proofs or evidence of the sources of funding.

### **Section 8. Evaluation and Approval**

Within (30) working days upon payment of a non-refundable application fee and submission of the complete requirements to the Bureau, the application shall be processed and evaluated by the Technical Review Committee, the members of which shall be constituted by the Director.

The Technical Review Committee shall assist the Director on the following:

- a. a. Plotting of area applied for in control map(s);
- b. b. Evaluation and review of application;
- c. c. Determination of the amount of surety bond to be posted;
- d. d. Monitoring of compliance with the permitting terms and conditions;
- e. Recommendation of any measure in connection with authorized activities; and
- f. Preparation of progress report on the said activities.

If necessary, the evaluation shall include a field assessment/verification of the location, public or private structures that may be affected based on the submitted Technical and Environmental Work Programs. The corresponding field verification fee of Two Thousand (PhP 2,00.00) per man per day shall be paid by the applicant.

The Director shall endorse the results of the Technical evaluation of the application to the Secretary for consideration and approval, including the recommendation for the amount of surely bond to be posted by the Applicant.

After the approval, the Permit shall be forwarded to the Bureau for numbering and releasing.

### **Section 9. Posting of Bond Releasing of Permit**

A surety bond shall be posted by the Applicant upon approval but before the release of the Permit, to answer for and guarantee payment to whatever actual damages that may be incurred during locating, digging and excavating activities. The Applicant shall post the bond in the Government Service Insurance System (GSIS) or any reputable bonding company in case of the former's failure to provide the same. The proof of posting of the surely bond shall then be submitted to the Bureau, prior to numbering and release of the Permit to the Applicant.

## **Section 10. Term of the Permit**

The Permit shall have a term of one (1) year renewable once for a period of one (1) year.

In case exploration is required for Shipwreck/Sunken Vessel Recovery with an applied area of more than twenty (20) hectares, the Permit shall have a term of two (2) years. The first year thereof shall be allotted for exploration while the second year shall be allotted for the Shipwreck/Sunken Vessel Recovery activities: Provided, That the area for the Shipwreck/Sunken Vessel Recovery activities shall be reduced to not more than twenty (20) hectares after the first year of exploration.

## **Section 11. Terms and Conditions of the permit**

The Permit shall contain the following terms and conditions:

- a. The Permit for Treasure Hunting and/or Shipwreck/Sunken Vessel Recovery shall be for the exclusive use and benefit of the Permit Holder and shall not be transferred or assigned.
- b. The Permit Area may be inspected and examined any time by the Secretary or his authorized representative(s). Other concerned agencies may also undertake inspection in the Permit Area in coordination with the Department/Bureau.
- c. The boundaries of the Permit Area for Shipwreck/Sunken Vessel Recovery shall be properly marked with buoys or beacons visible at reasonable distance to prevent maritime accident.
- d. The Permit Holder shall commence its activities within three (3) months from the issuance of the Permit.
- e. The Permit Holder shall not destroy any building or structure erected on the Permit Area without the consent of the owner.
- f. The Permit holder shall submit a quarterly activity report detailing thereon the accomplishment/progress of work as per submitted and approved Technical Work and Environmental Work Programs not later than ten (10) days after the end of each quarter.
- g. The Permit Holder shall immediately notify the Department/Bureau within twenty-four (24) hours upon discovery of valuable items in the area applied for.
- h. The Permit Holder shall assume full responsibility and be liable for damages that may be occasioned by its operation under the Permit.

- i. Upon the recommendation of the Director, the Secretary may at any time suspend or revoke the Permit when in his opinion, public interest so requires or upon failure of the Permit Holder to comply with the terms and conditions thereof or of relevant laws, rules and regulations and local ordinances without any responsibility on the part of the Government as to the expenditures that might have been incurred or as to other damages that might have been suffered by the Permit Holder.
- j. The Permit Holder shall conform to applicable laws, rules and regulations.
- k. Withdrawal by the Permit Holder from the Permit Area shall not release it from any and all financial, environmental, legal and/or other obligations.
- l. The Permit Holder shall comply with any additional terms and conditions which the Secretary or Director may impose, or requirements that the Department or Bureau may thereafter prescribe.

## **Section 12. Valuation and Disposition of Recovered Treasure/Valuable Cargoes**

Upon discovery of valuable items such as monies, things and article of value, resulting from Treasure Hunting and Shipwreck/Sunken Vessel Recovery activities, the National Museum shall be called upon to determine whether or not they are considered to have cultural and/or historical value. In the event that the items are considered to have historical and cultural value, it shall be turned over to the National Museum for appropriate action. Otherwise, the same be turned over to the Oversight Committee for valuation and disposition.

All treasures found shall be allowed for export only upon the approval of the National Heritage Commission and other concerned Government agencies.

## **Section 13. Oversight Committee**

An Oversight Committee shall be created within thirty (30) days from the date of effectivity of these rules and regulations to oversee all the diggings, excavations and/or shipwreck recoveries; and to take possession for valuation and eventual disposition of all monies, things and articles of value without historical and cultural values. The Committee shall be composed of the Secretary or his duly authorized representative as the Chairperson; technical personnel from the MGB, National Museum, Central Bank and the Permit Holder or his representative as members. A representative from the Philippine Coast Guard will be added as a member of the Oversight Committee if the activity involves Shipwreck/Sunken Vessel Recovery.

## **Section 14. Sharing**

After an audited report of expenses has been evaluated and approved by the Oversight Committee, the sharing of the net proceeds shall be as follows:



- a. a. For Treasure Hunting within Public Lands – Seventy-five percent (75%) to the Government and twenty-five (25%) to the Permit Holder;
- b. b. For Treasure Hunting in Private Lands – to be agreed upon among the Government, Permit Holder and Landowner(s); and
- c. c. For Shipwreck/Sunken Vessel Recovery – Fifty percent (50%) to the Government and Fifty percent (50%) to the Permit Holder.

### **Section 15. Government Rights**

All intellectual property rights arising from the documentation or recording of the discovery; recovery and other such activities pertaining to Treasure Hunting and/or Shipwreck Recovery by means of still photography, film, video or other forms of electronic media, publication of the images generated thereby and other forms of reproduction or dissemination of the same, belong to the Government and shall be governed by appropriate laws.

### **Section 16. Confidentiality of Information**

All information submitted by the applicants in support of their applications and other data supplied by the Permit Holder shall be treated as confidential by the Government from the time they are submitted/supplied to the Bureau, Department and/or Oversight Committee up to a period of two (2) years from the expiration of the Permit.

### **Section 17. Penal Provision**

Any violation on the provisions of these rules and regulation shall be penalized in accordance with existing applicable laws, rules and regulations.

### **Section 18. Transitory and Miscellaneous Provisions**

All existing Treasure Hunting and Shipwreck/Sunken Vessel Recovery Permits previously issued by the Office of the President of the Secretary shall remain valid, shall not be impaired and shall be recognized by the Government: Provided, That all pending new and renewal applications shall be endorsed to the Bureau for processing, evaluation and approval by the Secretary.

### **Section 19. Separability Clause**

If any provision of these rules and regulations is held or declared to be unconstitutional or invalid by a competent court, the other provisions hereof shall continue to be in force as if the provision so annulled or voided had never been incorporated in these rules and regulations.

**Section 20. Repealing and Amending Clause**

This Administrative Order amends and/or revokes other orders, rules and regulations inconsistent herewith.

**Section 21. Effectivity**

This Administrative Order shall take effect fifteen (15) days after its complete publication in a newspaper of general circulation and fifteen days after registration with the Office of the National Administrative Register.

(Sgd.) HEHERSON T. ALVAREZ  
Secretary