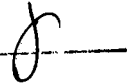


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SENATE
P.S. Resolution No. 747

RECEIVED



Introduced by Senator Cynthia A. Villar

RESOLUTION

DIRECTING THE SENATE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE CONDITION OF THE WASTE WATER TREATMENT IN METRO MANILA

1 **WHEREAS**, our 1987 Philippine Constitution provides that it is the policy of
2 the State *"to protect and advance the right of the people to a balanced and healthful*
3 *ecology in accord with the rhythm and harmony of nature"*¹;

4 **WHEREAS**, pursuant to the above-quoted policy of the State, laws have been
5 promulgated in the past decades aimed at existing or newly created national and
6 local government agencies and instrumentalities, as well as concerned private
7 entities, for the purpose of reinforcing their respective mandates of protecting the
8 environment, including the management of waste water;

9 **WHEREAS**, as early as 1970s, concerned government agencies and
10 instrumentalities were already given the task of managing the waste water being
11 discharged to the surrounding environment with the promulgation of Presidential
12 Decree ("PD") No. 1152 or the Philippine Environmental Code, which provides that
13 "the disposal, discharge and dumping of untreated wastewater, mine tailings and
14 other substances that may pollute any body of water of the Philippines resulting

¹ Article II, Section 16 of the 1987 Philippine Constitution

1 from normal operations of industries, water-borne sources, and other human
2 activities as well as those resulting from accidental spills and discharge shall be
3 regulated by appropriate government agencies pursuant to their respective charters
4 and enabling legislations"²;

5 **WHEREAS**, with particular regard to addressing the adverse effects of waste
6 water on the quality of Philippine water resources, Sections 17 and 20 of PD No.
7 1152 provide:

8 "Section 17. *Upgrading of Water Quality.* Where the quality
9 of water has deteriorated to a degree where its state will
10 adversely affect its best usage, the government agencies
11 concerned shall take such measures as may be necessary to
12 upgrade the quality of such water to meet the prescribed
13 water quality standards."

14 "Section 20. *Clean-up Operations.* It shall be the
15 responsibility of the polluter to contain, remove and clean up
16 water pollution incidents at his own expense. In case of his
17 failure to do so, the government agencies concerned shall
18 undertake containment, removal and clean-up operations
19 and expenses incurred in said operations shall be charged
20 against the persons and/or entities responsible for such
21 pollution."

22 **WHEREAS**, with the promulgation of PD No. 856 or the Code on Sanitation
23 of the Philippines in 1975, the Department of Health (DOH) became the primary
24 government agency given the task, among others, of ensuring that adequate
25 sewerage systems are installed in private and public establishments as the approval
26 of the Secretary of the Department of Health is needed for "plans for individual
27 sewage disposal system," "plans, design, data and specifications of a new or

² Section 19, PD No. 1152

1 existing sewerage system or sewage treatment plant," and the "discharge of effluent
2 of septic tanks and/or sewage treatment plants to bodies of water," among others³;

3 **WHEREAS**, Section 79 of PD No. 856 likewise gave all cities and
4 municipalities the responsibility to "provide and maintain in a sanitary state and in
5 good repair a satisfactory system of drainage in all inhabited areas where waste
6 water from building and premises could empty without causing nuisance to the
7 community and danger to the public health";

8 **WHEREAS**, Section 17 of RA No. 7160 or the Local Government Code of
9 1991 gave all municipalities, cities and provinces the responsibility of providing
10 drainage and sewerage facilities within their respective jurisdictions;

11 **WHEREAS**, Republic Act (RA) No. 9275 or the Philippine Clean Water Act of
12 2004, while amending PD No. 1152 and PD No. 856, designated the Department of
13 Environment and Natural Resources (DENR) as the lead agency responsible for the
14 implementation and enforcement of the said Act; and that among the responsibilities
15 given to the DENR are⁴:

16 (a) To prepare a National Water Quality Status Report within 24 months from
17 the effectivity of the Act, and thereafter review and revise and publish it
18 annually;

19 (b) To prepare an Integrated Water Quality Management Framework within 12
20 months from the completion of the status report;

21 (c) To prepare a 10-year Water Quality Management Plan, which should
22 include a sewerage and septic program, within 12 months following the
23 completion of the Water Quality Management Framework for each
24 designated water management area;

³ Sections 71 and 72, PD No. 856

⁴ Sections 4 (w), 4 (ss), 5 and 19, RA No. 9275.

1 (d) To designate Water Quality Management Areas (WQMAs) that will be
2 governed by a Board chaired by the Secretary of the DENR and composed
3 of representatives of the concerned local government units and relevant
4 national government agencies that is supposed to formulate "strategies for
5 the effective implementation of this Act in accordance with those
6 established in the framework and monitor the compliance with the action
7 plan;" and

8 (e) To "exercise supervision and control over all aspects of water quality
9 management";

10 **WHEREAS**, Section 7 of RA No. 9275 gave the Department of Public Works
11 and Highways (DPWH), in coordination with the DENR, local government units and
12 other concerned agencies, the task of preparing within 12 months from the
13 effectivity of the said Act a National Sewerage and Septage Management Program in
14 connection with Section 8 thereof;

15 **WHEREAS**, Section 8 of RA No. 9275 gave a period of 5 years from the
16 effectivity of the said Act within which "the Agency vested to provide water supply
17 and sewerage facilities and/or concessionaires in Metro Manila and other highly
18 urbanized cities (HUCs) . . . to connect the existing sewage line found in all
19 subdivisions, condominiums, commercial centers, hotels, sports and recreational
20 facilities, hospitals, market places, public buildings, industrial complex and other
21 similar establishments including households to available sewerage system . . . ;"

22 **WHEREAS**, Section 9 of RA No. 9275 established a National Water Quality
23 Fund that will be administered by the DENR and will be used to "finance
24 containment and clean-up operations of the government in water pollution cases,"
25 "guarantee restoration of ecosystems and rehabilitation of water pollution areas,"
26 and "for other disbursements made solely for the prevention, control or abatement
27 of water pollution and management and administration of the management areas in
28 the amounts authorized by the Department," among others;

1 **WHEREAS**, Section 10 of RA No. 9275 established the Area Water Quality
2 Management Funds "for the maintenance and upkeep of the water bodies in a water
3 quality management area" and to "be utilized for the grant of rewards and incentives
4 for entities whose effluent discharges are better than the water quality criteria of the
5 target classification of the receiving body of water, loans for acquisitions and repairs
6 of facilities to reduce quantity and improve quality of wastewater discharges, and
7 regular maintenance of the water bodies within the management area";

8 **WHEREAS**, the Agency referred to in Section 8 of Ra No. 9275 is the
9 Metropolitan Waterworks and Sewerage System (MWSS), a government owned and
10 controlled corporation created in 1971 through Republic Act No. 6234, which gave
11 MWSS the responsibilities, among others, to "assist in the establishment, operation
12 and maintenance of waterworks and sewerage systems within its jurisdiction under
13 cooperative basis" and to "approve and regulate the establishment and construction
14 of waterworks and sewerage systems in privately owned subdivisions within its
15 jurisdiction";

16 **WHEREAS**, in line with the privatization of the waterworks and sewerage
17 systems of the MWSS, Concession Agreements were executed by MWSS in 1997
18 with the Manila Water Company Inc. ("Manila Water") and Maynilad Water Services
19 Inc. ("Maynilad") giving the said concessionaires originally a period of 25 years not
20 only to operate but also to expand the supply of water coverage and sewerage
21 services of the MWSS;

22 **WHEREAS**, in 2008, the Supreme Court rendered its landmark decision in
23 "*MMDA, et al. vs. Concerned Residents of Manila Bay*"⁵, which in essence ordered
24 the concerned government agencies and local government units "to clean up,
25 rehabilitate, and preserve Manila Bay" and to comply with the laws pertaining to
26 environment protection, waste management and pollution prevention and cleaning
27 up of waterways and *esteros*; and with respect to the MWSS, ordering it "to provide,
28 install, operate, and maintain the necessary adequate waste water treatment

⁵ G.R.No. 171947-48 dated 18 December 2008

1 facilities in Metro Manila, Rizal, and Cavite where needed at the earliest possible
2 time."⁶

3 **WHEREAS**, in 2009, the Concession Agreements of MWSS with Manila
4 Water and Maynilad were extended for a period of fifteen (15) years, or until 2037,
5 essentially for the reason that due to the enactment of the Philippine Clean Water
6 Act of 2004 and MWSS' mandate under the continuing writ of mandamus for the
7 clean up of Manila Bay issued by the Supreme Court, Manila Water and Maynilad
8 will increase their investments and operational expenses in order to accelerate their
9 sanitation and sewerage projects, which will result in an increase of the tariff or
10 water rates, and the extension of the Concession Agreements will mitigate the tariff
11 or water rates as the concessionaires' recovery of their investments will be spread
12 over a longer period of time⁷;

13 **WHEREAS**, the current situation at Boracay island, which is now closed for a
14 period of six months by reason, among others, of its inadequate waste water
15 management and treatment facilities and in order to give way to its rehabilitation,
16 has revealed that the laws that are supposed to ensure the provision of adequate
17 sanitation, drainage and sewerage facilities are not effectively implemented and
18 enforced not only at Boracay island but also most probably in the entire country;

19 **WHEREAS**, the DENR website reported that according to Boracay Island
20 Water Corp., one of the two water concessionaires in Boracay and the operator of
21 the island's sewerage infrastructure, 195 of its 578 business customers are not
22 connected to the sewer lines, while only 5 percent of their 4,331 residential
23 customers are connected to the sewers⁸;

24 **WHEREAS**, the Chief Regulator of MWSS has stated that the lack of
25 sewerage facilities in Metro Manila is "ten times worse" than Boracay as Metro

⁶ G.R.No. 171947-48 dated 18 December 2008

⁷ See Resolution No. 2009-072 dated April 16, 2009 and Resolution No. 2009-180 dated September 10, 2009 of the MWSS Board of Trustees.

⁸ <http://caraga.denr.gov.ph/index.php/96-region-news-items/latest-news/749-denr-to-strictly-enforce-sewerage-connection-in-boracay>

1 Manila "has only met 14 percent of its required number of sewerage treatment
2 plants, which remove contaminants from the wastewater before it is dumped in
3 rivers and bays"⁹;

4 **WHEREAS**, despite the mandate given to the MWSS way back in 1971 and
5 the responsibilities given to its concessionaires more than 20 years ago, Metro
6 Manila is still far from having adequate sewerage facilities, which is an indication
7 that there is a failure of implementation and enforcement of the laws with respect to
8 the provision of adequate sanitation, drainage and sewerage facilities even in Metro
9 Manila; and this amounts to a violation of the "right of the people to a balanced and
10 healthful ecology" as the people's health continues to be in peril;

11 **WHEREAS**, given that the people's health and right to a balanced and
12 healthful ecology are paramount, there is a need to determine what the MWSS and
13 its concessionaires are doing or planning to do in speeding up the pace of the
14 installation of sewerage treatment plants and other sewerage facilities in Metro
15 Manila as waiting for them to complete their job for the next 19 years may be too
16 late as the sewerage problem may already become irreversible, as well as to
17 determine whether or not the concessionaires are actually collecting and using the
18 water utility charges, including the environmental and sewerage charges, from their
19 respective consumers in order to fund the concessionaires' sewerage projects;

20 **WHEREAS**, there is also a need to determine what the other government
21 agencies designated by the aforementioned laws, as well as the local government
22 units, have done and currently doing pursuant to their duties and responsibilities in
23 addressing the sewerage problem in Metro Manila, such as the provision of
24 sanitation, drainage and sewerage facilities, the annual preparation of the National
25 Water Quality Status Report, the preparation Water Quality Management Framework,
26 and the preparation of the Water Quality Management Frameworks or Water Quality
27 Management Area Action Plans;

⁹ <http://news.abs-cbn.com/news/03/21/18/metro-sewerage-problem-10-times-worse-than-boracays-mwss>

1 **WHEREAS**, there is also a need to determine if the National Water Quality
2 Fund, which is mainly sourced from the permit fees, fines and penalties being
3 collected by the Pollution Adjudication Board (PAB)¹⁰, and the Area Water Quality
4 Management Fund/s, which are sourced from the wastewater discharge fees being
5 collected pursuant to the waste water charge system established under Section 13 of
6 RA No. 9275, among others, and supposed to be "for the maintenance and upkeep
7 of the water bodies in a water quality management area", are being effectively
8 utilized in addressing the sewerage problems in Metro Manila, particularly in the
9 WQMAs therein such as the San Juan River System¹¹ and portions of Laguna de Bay
10 Region adjacent to Metro Manila¹²;

11 **WHEREFORE, BE IT RESOLVED**, as it is hereby resolved by the Senate of
12 the Philippines, to direct the Senate Committee on Environment and Natural
13 Resources to conduct an inquiry, in aid of legislation, on the condition of the waste
14 water treatment in Metro Manila and the measures being done and needed to be
15 done by the Department of Environment and Natural Resources, Department of
16 Public Works and Highways, Department of Health, together with their concerned
17 attached agencies, the concerned Local Government Units, as well as the
18 Metropolitan Waterworks and Sewerage System, together with its concessionaires,
19 pursuant to their respective duties and functions under the relevant laws, with the

¹⁰ The PAB is an agency under the Office of the Secretary of the DENR created by virtue of Executive Order No. 192, Series of 1987, which reorganized the DENR.

¹¹ Through its AO No. 2012-04 dated August 22, 2012, the DENR designated the San Juan River System, which traverses the cities of Manila, Quezon and San Juan, as a WQMA and created the San Juan River System WQMA Governing Board, composed of the Executive Director of National Water Resources Board (NWRB), Chairperson, Metro Manila Development Authority (MMDA), the General Manager of the Laguna Lake Development Authority (LLDA) and the Mayors of Quezon City, Mandaluyong City, San Juan City and Manila City, among others.

¹² The areas under the jurisdiction of the Laguna Lake Development Authority (LLDA) were identified as a WQMA in Section 5 of RA No. 9275. The LLDA, through its Board Resolution No. 304, Series of 2006, established the Laguna de Bay Region Water Quality Management Area (LDBR WQMA) Governing Board composed of the LLDA Board of Governors, a representative of the water utilities in LDBR and a representative of the Federation of River Councils.

1 end in view of improving the waste water treatment and sewerage facilities in Metro
2 Manila pursuant to the protection and advancement of the right of the people to a
3 balanced and healthful ecology.

4 Adopted,

5



CYNTHIA A. VILLAR