ANNOTATION TO THE RULES OF PROCEDURE FOR ENVIRONMENTAL CASES

The Rules of Procedure for Environmental Cases. The effort to formulate this separate set of rules is a response to the long felt need for more specific rules that can sufficiently address the procedural concerns that are peculiar to environmental cases. Most of the provisions included here are therefore remedies that are directed to the actual difficulties encountered at present by concerned government agencies, corporations, practitioners, people's organizations, non-governmental organizations, and public-interest groups handling environmental cases.

In order to shed light on specific provisions of these Rules, the Secretariat of the Sub-committee on these Rules developed this Annotation to the Rules to serve as guidelines for better understanding and application of the same.

PART I

RULE 1

GENERAL PROVISIONS

SECTION 1. *Title*. – These Rules shall be known as "*The Rules of Procedure for Environmental Cases*."

Environmental cases. These refer to those cases covered by Sec. 2 of these Rules, *infra*.

SEC. 2. *Scope*. – These Rules shall govern the procedure in civil, criminal and special civil actions before the Regional Trial Courts, Metropolitan Trial Courts, Municipal Trial Courts in Cities, Municipal Trial Courts and Municipal Circuit Trial Courts involving enforcement or violations of environmental and other related laws, rules and regulations such as but not limited to the following:

(a) Act No. 3572, Prohibition Against Cutting of Tindalo, Akli, and Molave Trees;

(b) P.D. No. 705, Revised Forestry Code;

(c) P.D. No. 856, Sanitation Code;

(d) P.D. No. 979, Marine Pollution Decree;

(e) P.D. No. 1067, Water Code;

(f) P.D. No. 1151, Philippine Environmental Policy of 1977;

(g) P.D. No. 1433, Plant Quarantine Law of 1978;

(h) P.D. No. 1586, Establishing an Environmental Impact Statement System Including Other Environmental Management Related Measures and for Other Purposes;

(i) R.A. No. 3571, Prohibition Against the Cutting, Destroying or Injuring of Planted or Growing Trees, Flowering Plants and Shrubs or Plants of Scenic Value along Public Roads, in Plazas, Parks, School Premises or in any Other Public Ground;

(j) R.A. No. 4850, Laguna Lake Development Authority Act;

(k) R.A. No. 6969, Toxic Substances and Hazardous Waste Act;

(l) R.A. No. 7076, People's Small-Scale Mining Act;

(m) R.A. No. 7586, National Integrated Protected Areas System Act including all laws, decrees, orders, proclamations and issuances establishing protected areas;

(n) R.A. No. 7611, Strategic Environmental Plan for Palawan Act;

(o) R.A. No. 7942, Philippine Mining Act;

(p) R.A. No. 8371, Indigenous Peoples Rights Act;

(q) R.A. No. 8550, Philippine Fisheries Code;

(r) R.A. No. 8749, Clean Air Act;

(s) R.A. No. 9003, Ecological Solid Waste Management Act;

(t) R.A. No. 9072, National Caves and Cave Resource Management Act;

(u) R.A. No. 9147, Wildlife Conservation and Protection Act;

(v) R.A. No. 9175, Chainsaw Act;

(w) R.A. No. 9275, Clean Water Act;

(x) R.A. No. 9483, Oil Spill Compensation Act of 2007; and

(y) Provisions in C.A. No. 141, The Public Land Act; R.A. No. 6657, Comprehensive Agrarian Reform Law of 1988; R.A. No. 7160, Local Government Code of 1991; R.A. No. 7161, Tax Laws Incorporated in the Revised Forestry Code and Other Environmental Laws (Amending the NIRC); R.A. No. 7308, Seed Industry Development Act of 1992; R.A. No. 7900, High-Value Crops Development Act; R.A. No. 8048, Coconut Preservation Act; R.A. No. 8435, Agriculture and Fisheries Modernization Act of 1997; R.A. No. 9522, The Philippine Archipelagic Baselines Law; R.A. No. 9593, Renewable Energy Act of 2008; R.A. No. 9637, Philippine Biofuels Act; and other existing laws that relate to the conservation, development, preservation, protection and utilization of the environment and natural resources.

Scope versus jurisdiction. It must be noted that the Rules remain consistent with prevailing jurisprudence regarding the doctrine of exhaustion of administrative remedies and primary jurisdiction.

Laws, rules and regulations. These Rules apply to environmental cases arising from laws that relate to the conservation, development, preservation, protection and utilization of the environment and natural resources. These may include environmental laws and those laws that may contain provisions that relate to the environment but are not environmental laws *per se* (e.g. C.A. No. 141, "The Public Land Act"; R.A. No. 7160, "The Local Government Code of 1990", etc...). While this section includes a list of such applicable laws, it is not meant to be exhaustive.

In addition, since this section covers "civil, criminal and special civil actions...***involving enforcement*** or violations of environmental and other related laws" (emphasis added), these Rules may apply in other suits not necessarily based on environmental laws or laws containing environmental provisions. Specifically, for example, if

a defendant in a civil damages or defamation suit (the case of which is governed by the regular rules of civil/criminal procedure) invokes a SLAPP defense (see Rule 6 and 19 *infra*.), then these Rules shall apply insofar as the SLAPP defense is concerned.

The courts referred to in this section are those designated as special courts to try hear, try and decide environmental cases under Administrative Order No. 23-2008[1] and those that may be designated as such thereafter.

SEC. 3. *Objectives*. – The objectives of these Rules are:

(a) To protect and advance the constitutional right of the people to a balanced and healthful ecology;

(b) To provide a simplified, speedy and inexpensive procedure for the enforcement of environmental rights and duties recognized under the Constitution, existing laws, rules and regulations, and international agreements;

(c) To introduce and adopt innovations and best practices ensuring the effective enforcement of remedies and redress for violation of environmental laws; and

(d) To enable the courts to monitor and exact compliance with orders and judgments in environmental cases.

Objectives. This section contains the principal objectives of the Rules and is not meant to be an exhaustive listing of objectives. This section states in very broad terms the basic principles and objectives animating the rules. They are likewise intended to be guideposts in construing the Rules. It re-affirms the Court's recognition of environmental rights and provides a backdrop for the construction of the provisions of contained herein.

Subparagraph (a) recognizes the right to "**a balanced and healthful ecology**" pursuant to Section 16, Article II of the Constitution.[2]

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[1] A.O. No. 23-2008, *Re: Designation of Special Courts to Hear, Try and Decide Environmental Cases*, January 28, 2008.

[2] CONSTITUTION, Article II, § 16 (emphasis supplied). The State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature.

Subparagraph (b) promotes access to justice by supporting the adoption of procedural mechanisms to ensure a simplified, speedy and inexpensive procedure for the enforcement of environmental rights. This subparagraph also enumerates the various sources for such rights.

Subparagraph (c) refers to innovative provisions of these Rules regarding the defense against strategic lawsuits against public participation (SLAPP) and the precautionary principle.

Finally, Subparagraph (d) gives emphasis to the means by which the courts carry their jurisdiction to effect. It pertains to the adoption of the writs of *kalikasan* and continuing *mandamus*, as well as the issuance of an Environmental Protection Order (EPO) and Temporary Environmental Protection Order (TEPO) to ensure the enforcement of court orders and judgments in environmental cases.

SEC. 4. ***Definition of Terms.*** **–**

(a) **By-product or derivatives means any part taken or substance extracted from wildlife, in raw or in processed form including stuffed animals and herbarium specimens.**

By-product or derivates. This definition was taken from Sec. 5 (b) of R.A. No. 9147, "The Wildlife Resources Conservation and Protection Act."

(b) ***Consent decree*** **refers to a judicially-approved settlement between concerned parties based on public interest and public policy to protect and preserve the environment.**

Consent decree. The designation of a consent decree as a mode of settlement gives emphasis to the public interest aspect in environmental cases and encourages the parties to expedite the resolution of litigation.

A consent decree derives its contractual nature from the fact of their being entered into by the parties themselves through which they arrive at a certain compromise with respect to the issues involved in the case, whereas their judicial feature is acquired through the approval of the

court. It has a number of advantages:[3]

(1) It encourages the parties (the government and the violators) to come up with comprehensive, mutually-acceptable solutions to the environmental problem, and since the agreement was arrived at voluntarily, there is a greater possibility of actual compliance;
(2) It is open to public scrutiny;
(3) It allows the parties to address issues other than those presented to the court; and
(4) It is still subject to judicial approval and can be enforced through a court order.

(c) ***Continuing mandamus* is a writ issued by a court in an environmental case directing any agency or instrumentality of the government or officer thereof to perform an act or series of acts decreed by final judgment which shall remain effective until judgment is fully satisfied.**

Continuing mandamus. The Philippine concept of a continuing mandamus traces its origin to the cases of *T.N. Godavarman v. Union of India & Ors*, 2 SCC 267 (1997), and *Vineet Narain v. Union of India*, 1 SCC 266 (1998). In the *Godavarman* case, the Supreme Court of India in the former case issued this novel writ to save the country's forests from rapid deterioration due to illegal logging, and in view of the nature of the case which requires the court to continuously monitor compliance with its orders. In the *Narain* case, the writ was issued for the enforcement of the court order to clean up the Ganges River. Comments made regarding such issuances harp upon how the judiciary took upon itself policy making functions, and as in any other jurisdiction where the principle of separation of powers is recognized, such judicial move received accolades as well as criticisms.

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[3] *See* Justice Consuelo Ynares-Santiago, *Framework for Strengthening Environmental Adjudication in the Philippines*, 52 Ateneo L.J. 744 (2008).

In Philippine jurisprudence, the concept of continuing *mandamus* was originally enunciated in the case of *Concerned Residents of Manila Bay v. MMDA*.[4] The Rules now codify the Writ of Continuing *Mandamus* as one of the principal remedies which may be availed of in environmental cases.

(d) ***Environmental protection order (EPO)*** **refers to an order issued by the court directing or enjoining any person or government agency to perform or desist from performing an act in order to protect, preserve or rehabilitate the environment.**

EPO. The EPO is one of the remedial measures adopted to ensure the effective enforcement of environmental laws.

(e) **Mineral refers to all naturally occurring inorganic substance in solid, gas, liquid, or any intermediate state excluding energy materials such as coal, petroleum, natural gas, radioactive materials and geothermal energy.**

Minerals. This definition was taken from Sec. 3 (aa) of R.A. No. 7942, "The Philippine Mining Act of 1995."

(f) ***Precautionary principle*** **states that when human activities may lead to threats of serious and irreversible damage to the environment that is scientifically plausible but uncertain, actions shall be taken to avoid or diminish that threat.**

Precautionary principle. The adoption of the precautionary principle as part of these Rules, specifically relating to evidence, recognizes that exceptional cases may require its application. The inclusion of a definition of this principle is an integral part of Part V, Rule on Evidence (*infra*.) in environmental cases in order to ease the burden on the part of ordinary plaintiffs to prove their cause of action.

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[4] G. R. Nos. 171947-98, December 18, 2008.

In its essence, the precautionary principle calls for the exercise of caution in the face of risk and uncertainty. While the principle can be applied in any setting in which risk and uncertainty are found, it has evolved predominantly in and today remains most closely associated with the environmental arena.

The Rules acknowledge the peculiar circumstances surrounding environmental cases in that "scientific evidence is usually insufficient, inconclusive or uncertain and preliminary scientific evaluation indicates that there are reasonable grounds for concern" that there are potentially dangerous effects on the environment, human, animal, or planet health. For this reason, principle requires those who have the means, knowledge, power, and resources to take action to prevent or mitigate the harm to the environment or to act when conclusively ascertained understanding by science is not yet available. In effect, the quantum of evidence to prove potentially hazardous effects on the environment is relaxed and the burden is shifted to proponents of an activity that may cause damage to the environment.

There are numerous formulations[5] of the precautionary principle and it is recited in many international declarations and treaties, so much so that "while not all scholars agree to its status as that of customary international law, many respected scholars do."[6]

In formulating the definition of the precautionary principle in the Rules, the definitions found in the Rio Declaration of 1992,[7] the 1999 Canadian Protection Act

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[5] Noted legal scholar Cass Sunstein has listed more than twenty definitions of this principle. See generally, Cass R. Sunstein, Irreversible and Catastrophic, Cornell L. Rev. 841 (2006).

[6] John O. McGinnis, *The Appropriate Hierarchy of Global Multilateralism and Customary International Law: The Example of the WTO*, 44 Va. J. Int'l L. 269 (2008), cited in Jonathan Remy Nash, *Essay: Standing and the Precautionary Principle*, 108 Colum. L. Rev. 494 (2003).

[7] Principle 15. In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or

(CEPA 1999),[8] and the World Commission on the Ethics of Scientific Knowledge and Technology (COMEST) 2005[9] were considered.

(g) ***Strategic lawsuit against public participation (SLAPP)*** **refers to an action whether civil, criminal or administrative, brought against any person, institution or any government agency or local government unit or its officials and employees, with the intent to harass, vex, exert undue pressure or stifle any legal recourse that such person, institution or government agency has taken or may take in the enforcement of environmental laws, protection of the environment or assertion of environmental rights.**

SLAPP. The SLAPP provisions under these Rules are innovations of the doctrine first introduced by Dr. George W. Pring,[10] as well as doctrines and practices in other jurisdictions. The main purpose of a SLAPP suit is to harass, vex, exert undue pressure or stifle any legal recourse on any person, including the government from enforcing environmental laws or protecting or asserting environmental rights.

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irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.

[8] The precautionary principle has been incorporated into CEPA 1999 in the "Preamble", "Administrative Duties" section and in the provisions with respect to controlling toxic substances. The principle is stated thus:

> Whereas the Government of Canada is committed to implementing the precautionary principle that, where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.

[9] Precautionary principle, a working definition. When human activities may lead to morally unacceptable harm that is scientifically plausible but uncertain, actions shall be taken to avoid or diminish that harm. Morally unacceptable harm refers to harm to humans or the environment that is (1) threatening to human life or health; (2) serious and effectively irreversible; (3) inequitable to present or future generations; or (4) imposed without adequate consideration of the human rights of those affected. *See* The Precautionary Principle, World Commission on the Ethics of Scientific Knowledge and Technology (COMEST), United Nations Educational, Scientific and Cultural Organizations (UNESCO) [2005], *available at* http://unesdoc.unesco.org/images/0013/001395/139578e.pdf (last accessed on July 11, 2009).

[10] George Pring and Penelope Canan, SLAPPS: Getting Sued and Speaking Out (1996).

This provision applies not only to suits that have been filed in the form of a countersuit, but also to suits that are about to be filed with the intention of discouraging the aggrieved person from bringing a valid environmental complaint before the court. Specific SLAPP provisions in these Rules are directed separately, against civil and criminal actions.[11] The Rules pertaining to each, however, are interrelated.

(h) **Wildlife means wild forms and varieties of flora and fauna, in all developmental stages including those which are in captivity or are being bred or propagated.**

Wildlife. This definition was taken from Sec. 5 (x) of R.A. No. 9147, the "Wildlife Resources Conservation and Protection Act."

PART II

CIVIL PROCEDURE

RULE 2

PLEADINGS AND PARTIES

SEC. 1. *Pleadings and motions allowed.* – The pleadings and motions that may be filed are complaint, answer which may include compulsory counterclaim and cross-claim, motion for intervention, motion for discovery and motion for reconsideration of the judgment.

Motion for postponement, motion for new trial and petition for relief from judgment shall be allowed in highly meritorious cases or to prevent a manifest miscarriage of justice.

Exclusive list. The enumeration in this section is exclusive and must be read in conjunction with the succeeding provision, *infra*.

SEC. 2. *Prohibited pleadings or motions*. – The following pleadings or motions shall not be allowed:

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[11] RULES OF PROCEDURE FOR ENVIRONMENTAL CASES, Rules 6 and 19.

(a) Motion to dismiss the complaint;

(b) Motion for a bill of particulars;

(c) Motion for extension of time to file pleadings, except to file answer, the extension not to exceed fifteen (15) days;

(d) Motion to declare the defendant in default;

(e) Reply and rejoinder; and

(f) Third party complaint.

Prohibited pleadings. While the enumeration of prohibited pleadings have been adopted in part from the Rule on Summary Procedure[12] in response to the question of delay which often accompanies regular cases, summary procedure is not adopted in its entirety given the complex and wide range of environmental cases. Procedural safeguards have been introduced for truly complex cases which may necessitate further evaluation from the court. Among these are the exclusion of the motions for postponement, new trial and reconsideration, as well as the petition for relief from the prohibition.

Motion for postponement, motion for new trial and petition for relief from judgment shall only be allowed in certain conditions –

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[12] Revised Rules on Summary Procedure, Sec. 19. This provision states:

Sec. 19. Prohibited pleadings and motions. — The following pleadings, motions or petitions shall not be allowed in the cases covered by this Rule:

(a) Motion to dismiss the complaint or to quash the complaint or information except on the ground of lack of jurisdiction over the subject matter, or failure to comply with the preceding section;

(b) Motion for a bill of particulars;

(c) Motion for new trial, or for reconsideration of a judgment, or for opening of trial;

(d) Petition for relief from judgment;

(e) Motion for extension of time to file pleadings, affidavits or any other paper;

(f) Memoranda;

(g) Petition for certiorari, mandamus, or prohibition against any interlocutory order issued by the court;

(h) Motion to declare the defendant in default;

(i) Dilatory motions for postponement;

(j) Reply;

(k) Third party complaints; and

(l) Interventions.

highly meritorious cases or to prevent a manifest miscarriage of justice. The satisfaction of these conditions is required since these motions are prone to abuse during litigation.

Motion for intervention is permitted in order to allow the public to participate in the filing and prosecution of environmental cases, which are imbued with public interest.

Petitions for *certiorari* are likewise permitted since these raise fundamentally questions of jurisdiction. Under the Constitution, the Supreme Court may not be deprived of its certiorari jurisdiction.[13]

SEC. 3. ***Verified complaint.*** **– The verified complaint shall contain the names of the parties, their addresses, the cause of action and the reliefs prayed for.**

The plaintiff shall attach to the verified complaint all evidence proving or supporting the cause of action consisting of the affidavits of witnesses, documentary evidence and if possible, object evidence. The affidavits shall be in question and answer form and shall comply with the rules of admissibility of evidence.

The complaint shall state that it is an environmental case and the law involved. The complaint shall also include a certification against forum shopping. If the complaint is not an environmental complaint, the presiding judge shall refer it to the executive judge for re-raffle.

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[13] CONSTITUTION, Article VIII, § 5(2). The Supreme Court shall have the following powers:

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(2) Review, revise, reverse, modify, or affirm on appeal or certiorari, as the law or the Rules of Court may provide, final judgments and orders of lower courts in:

(a) All cases in which the constitutionality or validity of any treaty, international or executive agreement, law, presidential decree, proclamation, order, instruction, ordinance, or regulation is in question.

(b) All cases involving the legality of any tax, impost, assessment, or toll, or any penalty imposed in relation thereto.

(c) All cases in which the jurisdiction of any lower court is in issue.

(d) All criminal cases in which the penalty imposed is reclusion perpetua or higher.

(e) All cases in which only an error or question of law is involved.

Evidence all in; complaint misfiled as an environmental complaint. The provision requires the attachment of all evidence then available. This is to facilitate complete presentation of facts by the parties. This likewise entails a relaxation of the technical rules on admissibility.

The appropriate action to be taken by the presiding judge if a complaint is misfiled as an environmental complaint is to refer the complaint to the executive judge for re-raffle, the complaint should not be dismissed.

SEC. 4. *Who may file*. – Any real party in interest, including the government and juridical entities authorized by law, may file a civil action involving the enforcement or violation of any environmental law.

Real party in interest. The phrase "real party in interest" in this provision retains the same meaning under the Rules of Civil Procedure[14] and jurisprudence.It must be understood, however, in conjunction with the nature of environmental rights, which are enjoyed in general by all individuals. Under this section, both a Filipino citizen and an alien can file a suit so long as they are able to show direct and personal injury. This provision on real party in interest must be read in conjunction with citizen suit provisions — Sec. 5 of this Rule[15] and Sec. 1, Rule 5.[16]

A person who suffers damage or injury arising from an environmental prejudice which is also the same subject of a citizen suit can file a separate action under this section to recover for his personal injury. In this instance, a citizen suit can take place simultaneously with the filing of an individual complaint.

SEC. 5. *Citizen suit*. – Any Filipino citizen in representation of others, including minors or generations yet unborn, may file an action to enforce rights or obligations under environmental

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[14] Rules of Court, Rule 3, Sec. 2. *Parties in interest*. — A real party in interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit. Unless otherwise authorized by law or these Rules, every action must be prosecuted or defended in the name of the real party in interest.

[15] RULES OF PROCEDURE FOR ENVIRONMENTAL CASES, Rule 2, Sec. 5.

[16] RULES OF PROCEDURE FOR ENVIRONMENTAL CASES, Rule 5, Sec. 1.

laws. Upon the filing of a citizen suit, the court shall issue an order which shall contain a brief description of the cause of action and the reliefs prayed for, requiring all interested parties to manifest their interest to intervene in the case within fifteen (15) days from notice thereof. The plaintiff may publish the order once in a newspaper of a general circulation in the Philippines or furnish all affected barangays copies of said order.

Citizen suits filed under R.A. No. 8749 and R.A. No. 9003 shall be governed by their respective provisions.

Citizen suit. To further encourage the protection of the environment, the Rules enable litigants enforcing environmental rights to file their cases as citizen suits. This provision liberalizes standing for all cases filed enforcing environmental laws and collapses the traditional rule on personal and direct interest, on the principle that humans are stewards of nature. The terminology of the text reflects the doctrine first enunciated in *Oposa v. Factoran*,[17] insofar as it refers to minors and generations yet unborn.

While the Rules liberalize the requirements for standing, in the case of non-government organizations (NGOs) and people's organizations (POs), proof of their juridical personality (i.e. accreditation, recognition or registration) given the relative ease by which a number of groups can loosely organize and label themselves as NGOs or POs. The same proof of juridical personality is also required in a petition for a writ of *kalikasan*.[18]

Unlike the previous section on real party in interest, Sec. 5 is a suit limited to Filipino citizens and one that is filed in the public interest hence, no proof of personal injury is required. A Filipino citizen may be an individual or a corporation so long as the requirements of Philippine citizenship are complied with. The reliefs that may be awarded in a citizen suit are discussed in Rule 5, Sec. 1, *infra*.

As a procedural device, citizen suits permit deferment of payment of filing fees until after the judgment.[19]

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[17] G.R. 101083, July 30, 1993.

[18] RULES OF PROCEDURE FOR ENVIRONMENTAL CASES, Rule 7, Sec. 1.

[19] RULES OF PROCEDURE FOR ENVIRONMENTAL CASES, Rule 2, Sec. 12.

The provision permits the plaintiff to publish the order containing a brief description of the action in order to allow other persons to join as co-plaintiffs and to sufficiently apprise the judge of persons interested to join as such, consistent with the public character of the citizen suit. This adopts the features of the general rule on publication found in cases in *rem*, and is meant to reflect the distinct nature of environmental cases. In this Rule, however, publication is permissive and non-jurisdictional and is meant only to encourage public participation.

Citizen suits may be filed for all types of environmental cases. In deference to the legislature, however, the provision adds as a caveat that citizen suits under the Clean Air Act of 1999) and the Ecological Solid Waste Management Act of 2000 shall be governed by their respective provisions.

SEC. 6. ***Service of the complaint on the government or its agencies.*** **– Upon the filing of the complaint, the plaintiff is required to furnish the government or the appropriate agency, although not a party, a copy of the complaint. Proof of service upon the government or the appropriate agency shall be attached to the complaint.**

Service of complaint upon government or its agencies. This provision makes it mandatory for plaintiffs to notify the concerned branch of government. Two agencies have been noted in particular: the Department of Environment and Natural Resources (DENR) and the Office of the Solicitor General (OSG). If their participation should prove unwarranted, they may file a manifestation to that effect.

The service of the complaint would apprise the government of the pendency of the case and the agencies may intervene if warranted. The government agency may thus employ its resources, as well as expertise, to successfully pursue the case.

SEC. 7. ***Assignment by raffle.*** **– If there is only one (1) designated branch in a multiple-sala court, the executive judge shall immediately refer the case to said branch. If there are two (2) or more designated branches, the executive judge shall conduct a special raffle on the day the complaint is filed.**

SEC. 8. ***Issuance of Temporary Environmental Protection Order (TEPO).*** **– If it appears from the verified complaint with a prayer for the issuance of an Environmental Protection Order (EPO) that the matter is of extreme urgency and the applicant will suffer grave injustice and irreparable injury, the executive judge of the multiple-sala court before raffle or the presiding judge of a single-sala court as the case may be, may issue *ex parte* a TEPO effective for only seventy-two (72) hours from date of the receipt of the TEPO by the party or person enjoined. Within said period, the court where the case is assigned, shall conduct a summary hearing to determine whether the TEPO may be extended until the termination of the case.**

The court where the case is assigned, shall periodically monitor the existence of acts that are the subject matter of the TEPO even if issued by the executive judge, and may lift the same at any time as circumstances may warrant.

The applicant shall be exempted from the posting of a bond for the issuance of a TEPO.

TEPO. The temporary environmental protection order (TEPO) integrates both prohibitive and mandatory reliefs in order to appropriately address the factual circumstances surrounding the case. This is derived from the nature of an EPO, which, as defined, is an "order issued by the court directing or enjoining any person or government agency to perform or desist from performing an act in order to protect, preserve, or rehabilitate the environment."[20]

The procedure for the issuance of the TEPO stems from the same procedure for the issuance of a Temporary Restraining Order, as it appears in Sections 5[21] and 6[22] of Rule 58 of the Rules of Court.

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[20] RULES OF PROCEDURE FOR ENVIRONMENTAL CASES, Rule 1, Sec. 4 (d).

[21] Sec. 5. Preliminary injunction not granted without notice; exception. — No preliminary injunction shall be granted without hearing and prior notice to the party or person sought to be enjoined. If it shall appear from facts shown by affidavits or by the verified application that great or irreparable injury would result to the applicant before the matter can be heard on notice, the court to which the application for preliminary injunction was made, may issue ex parte a temporary restraining order to be effective only for a period of twenty (20) days from service on the party or person sought to be enjoined, except as herein provided. Within the said twenty-day period, the court must order said party or person to show cause, at a specified time and

The Rules provide that an applicant who files for the issuance of a TEPO is exempt from the posting of a bond, but the Rules also provide for safeguards for the possible pernicious effects upon the party or person sought to be enjoined by the TEPO:

1. A TEPO may only be issued in matters of extreme urgency and the applicant will suffer grave injustice and irreparable injury, the TEPO effective for only seventy-two (72) hours; and

2. The court should periodically monitor the existence of acts which are the subject matter of the TEPO, the TEPO

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place, why the injunction should not be granted, determine within the same period whether or not the preliminary injunction shall be granted, and accordingly issue the corresponding order.

However, and subject to the provisions of the preceding sections, if the matter is of extreme urgency and the applicant will suffer grave injustice and irreparable injury, the executive judge of a multiple-sala court or the presiding judge of a single-sala court may issue ex parte a temporary restraining order effective for only seventy-two (72) hours from issuance but he shall immediately comply with the provisions of the next preceding section as to service of summons and the documents to be served therewith. Thereafter, within the aforesaid seventy-two (72) hours, the judge before whom the case is pending shall conduct a summary hearing to determine whether the temporary restraining order shall be extended until the application for preliminary injunction can be heard. In no case shall the total period of effectivity of the temporary restraining order exceed twenty (20) days, including the original seventy-two hours provided herein.

In the event that the application for preliminary injunction is denied or not resolved within the said period, the temporary restraining order is deemed automatically vacated. The effectivity of a temporary restraining order is not extendible without need of any judicial declaration to that effect and no court shall have authority to extend or renew the same on the same ground for which it was issued.However, if issued by the Court of Appeals or a member thereof, the temporary restraining order shall be effective for sixty (60) days from service on the party or person sought to be enjoined. A restraining order issued by the Supreme Court or a member thereof shall be effective until further orders.

[22] SEC. 6. Grounds for objection to, or for motion of dissolution of, injunction or restraining order. — The application for injunction or restraining order may be denied, upon a showing of its insufficiency. The injunction or restraining order may also be denied, or, if granted, may be dissolved, on other grounds upon affidavits of the party or person enjoined, which may be opposed by the applicant also by affidavits. It may further be denied, or, if granted, may be dissolved, if it appears after hearing that although the applicant is entitled to the injunction or restraining order, the issuance or continuance thereof, as the case may be, would cause irreparable damage to the party or person enjoined while the applicant can be fully compensated for such damages as he may suffer, and the former files a bond in an amount fixed by the court conditioned that he will pay all damages which the applicant may suffer by the denial or the dissolution of the injunction or restraining order. If it appears that the extent of the preliminary injunction or restraining order granted is too great, it may be modified.

can being lifted anytime as the circumstances may warrant.

While the TEPO may be issued *ex parte*, this is more of the exception. The general rule on the conduct of a hearing, pursuant to due process, remains.

SEC. 9. ***Action on motion for dissolution of TEPO.*** **– The grounds for motion to dissolve a TEPO shall be supported by affidavits of the party or person enjoined which the applicant may oppose, also by affidavits.**

The TEPO may be dissolved if it appears after hearing that its issuance or continuance would cause irreparable damage to the party or person enjoined while the applicant may be fully compensated for such damages as he may suffer and subject to the posting of a sufficient bond by the party or person enjoined.

SEC. 10. ***Prohibition against temporary restraining order (TRO) and preliminary injunction.*** **– Except the Supreme Court, no court can issue a TRO or writ of preliminary injunction against lawful actions of government agencies that enforce environmental laws or prevent violations thereof.**

Prohibition against TRO and preliminary injunction. The formulation of this section is derived from the provisions of P.D. 605[23] and likewise covers the provisions of P.D. 1818.[24] To obviate

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[23] *Banning the Issuance by Courts of Preliminary Injunctions in Cases Involving Concessions, Licenses and Other Permits Issued by Public Administrative Officials or Bodies for the Exploitation of Natural Resources*:

Section 1. No court of the Philippines shall have jurisdiction to issue any restraining order, preliminary injunction or preliminary mandatory injunction in any case involving or growing out of the issuance, approval or disapproval, revocation or suspension of, or any action whatsoever by the proper administrative official or body on concessions, licenses, permits, patents, or public grants of any kind in connection with the disposition, exploitation, utilization, exploration, and/or development of the natural resources of the Philippines.

[24] *Prohibiting Courts From Issuing Restraining Orders or Preliminary Injunctions in Cases Involving Infrastructure and Natural Resources Development Projects Of and Public Utilities Operated by the Government*:

Section 1. No court in the Philippines shall have jurisdiction to issue any restraining order, preliminary injunction, or preliminary mandatory injunction in any case, dispute, or controversy involving an infrastructure project, or a mining, fishery, forest or other natural resource development project of the government, or any public utility operated by the government,

future conflict between the present provision and these two laws, the prohibition on the issuance of a TRO remains the general rule while its issuance is the exception. In availing of the exception, the movant must overcome the presumption of regularity in the performance of a duty by the respondent government agency or official. The judge must then require a higher standard and heavier burden of proof.

R.A. No. 8975 amended P.D. 605 and P.D. 1818.[25] Pursuant to the mandate of R.A. No. 8975,[26] only the Supreme Court has the authority to issue a temporary restraining order, preliminary injunction and preliminary mandatory injunction against the Government or any of its instrumentalities, officials and agencies in cases such as those filed by bidders or those claiming to have rights through such bidders involving such contract or project. R.A. No. 8975 prohibits lower courts from issuing injunctive orders in connection with the implementation of government infrastructure projects unless the case pertains to matters of extreme urgency involving constitutional issues such that unless a temporary restraining order is issued, grave injustice and irreparable injury will arise.[27]

This provision is distinct from the previous section on the issuance of a TEPO[28] where the latter is premised on the violation

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including among others public utilities for the transport of the goods or commodities, stevedoring and arrastre contracts, to prohibit any person or persons, entity or governmental official from proceeding with, or continuing the execution or implementation of any such project, or the operation of such public utility, or pursuing any lawful activity necessary for such execution, implementation or operation.

[25] R.A. 8975, *An Act to Ensure the Expeditious Implementation and Completion of Government Infrastructure Projects by Prohibiting Lower Courts from Issuing Temporary Restraining Orders, Preliminary Injunctions or Preliminary Mandatory Injunctions, Providing Penalties for Violations thereof, and for Other Purposes*, November 7, 2000. The provision states:

Section 9. *Repealing Clause*. - All laws, decrees, including Presidential Decree No. 605, 1818 and Republic Act No. 7160, as amended, orders, rules and regulations or parts thereof inconsistent with this Act are hereby repealed or amended accordingly.

[26] Section 3. Prohibition on the Issuance of Temporary Restraining Orders, Preliminary Mandatory Injunctions.

[27] *WT Construction, Inc. vs. Department of Public Works and Highways*, G.R. 163352, July 31, 2007.

[28] RULES OF PROCEDURE FOR ENVIRONMENTAL CASES, Rule 2, Sec. 8.

of an environmental law or a threatened damage or injury to the environment by any person, even the government and its agencies, the prohibition against the issuance of a TRO or preliminary injunction is premised on the presumption of regularity on the government and its agencies in enforcing environmental laws and protecting the environment. This section is formulated to support government and its agencies in their responsibilities and tasks. Therefore, in the absence of evidence overcoming this presumption of regularity, no court can issue a TRO or injunctive writ. It is only the Supreme Court which can issue a TRO or an injunctive writ in exceptional cases.

SEC. 11. ***Report on TEPO, EPO, TRO or preliminary injunction*****. – The judge shall report any action taken on a TEPO, EPO, TRO or a preliminary injunction, including its modification and dissolution, to the Supreme Court, through the Office of the Court Administrator, within ten (10) days from the action taken.**

Report on action taken. As an additional measure to ensure the proper issuance of such court orders, the Rules provide a requirement for the issuing judge to report any action taken on such court issuances. The report shall be submitted to the High Court through the Office of the Court Administrator within ten (10) days from the action taken.

SEC. 12. ***Payment of filing and other legal fees.*** **– The payment of filing and other legal fees by the plaintiff shall be deferred until after judgment unless the plaintiff is allowed to litigate as an indigent. It shall constitute a first lien on the judgment award.**

For a citizen suit, the court shall defer the payment of filing and other legal fees that shall serve as first lien on the judgment award.

SEC. 13. ***Service of summons, orders and other court processes*****. – The summons, orders and other court processes may be served by the sheriff, his deputy or other proper court officer or for justifiable reasons, by the counsel or representative of the plaintiff or any suitable person authorized or deputized by the court issuing the summons.**

Any private person who is authorized or deputized by the court to serve summons, orders and other court processes shall for that purpose be considered an officer of the court.

The summons shall be served on the defendant, together with a copy of an order informing all parties that they have fifteen (15) days from the filing of an answer, within which to avail of interrogatories to parties under Rule 25 of the Rules of Court and request for admission by adverse party under Rule 26, or at their discretion, make use of depositions under Rule 23 or other measures under Rules 27 and 28.

Should personal and substituted service fail, summons by publication shall be allowed. In the case of juridical entities, summons by publication shall be done by indicating the names of the officers or their duly authorized representatives.

Service by a suitable person. The "suitable person" indicated in the first paragraph of this section is required to perform the duties of a sheriff. The role is also similar to that of a process server. The next paragraph imposes the duties and responsibilities of an officer of the court on a private person authorized or deputized to serve summons.

Under the last paragraph, service by publication is deemed a sufficient compliance with the requirement of due process. The plaintiff, however, must file a motion in order to avail of this mode of service. This mode of service by publication is an innovation to the traditional rule on service of summons and applies to environmental cases.

SEC. 14. *Verified answer.* – Within fifteen (15) days from receipt of summons, the defendant shall file a verified answer to the complaint and serve a copy thereof on the plaintiff. The defendant shall attach affidavits of witnesses, reports, studies of experts and all evidence in support of the defense.

Affirmative and special defenses not pleaded shall be deemed waived, except lack of jurisdiction.

Cross-claims and compulsory counterclaims not asserted shall be considered barred. The answer to counterclaims or

cross-claims shall be filed and served within ten (10) days from service of the answer in which they are pleaded.

Attachment of all evidence in support of defense. The term "evidence" is used in its broad sense and is meant to be inclusive of all types of evidence peculiar to an environmental case. Evidence attached to the verified answer includes affidavits of witnesses, reports and studies of experts on a particular environmental theory.

SEC. 15. *Effect of failure to answer*. – Should the defendant fail to answer the complaint within the period provided, the court shall declare defendant in default and upon motion of the plaintiff, shall receive evidence *ex parte* and render judgment based thereon and the reliefs prayed for.

RULE 3

PRE-TRIAL

SEC. 1. *Notice of pre-trial*. – Within two (2) days from the filing of the answer to the counterclaim or cross-claim, if any, the branch clerk of court shall issue a notice of the pre-trial to be held not later than one (1) month from the filing of the last pleading.

The court shall schedule the pre-trial and set as many pre-trial conferences as may be necessary within a period of two (2) months counted from the date of the first pre-trial conference.

Issuance of notice of pre-trial. A time limit to the issuance of the notice of pre-trial inasmuch as the setting of pre-trial sets the entire proceedings in motion.

SEC. 2. *Pre-trial brief*. – At least three (3) days before the pre-trial, the parties shall submit pre-trial briefs containing the following:

- **(a) A statement of their willingness to enter into an amicable settlement indicating the desired terms thereof or to submit the case to any of the alternative modes of dispute resolution;**
- **(b) A summary of admitted facts and proposed stipulation of facts;**

(c) The legal and factual issues to be tried or resolved. For each factual issue, the parties shall state all evidence to support their positions thereon. For each legal issue, parties shall state the applicable law and jurisprudence supporting their respective positions thereon;

(d) The documents or exhibits to be presented, including depositions, answers to interrogatories and answers to written request for admission by adverse party, stating the purpose thereof;

(e) A manifestation of their having availed of discovery procedures or their intention to avail themselves of referral to a commissioner or panel of experts;

(f) The number and names of the witnesses and the substance of their affidavits;

(g) Clarificatory questions from the parties; and

(h) List of cases arising out of the same facts pending before other courts or administrative agencies.

Failure to comply with the required contents of a pre-trial brief may be a ground for contempt.

Failure to file the pre-trial brief shall have the same effect as failure to appear at the pre-trial.

Contents of pre-trial brief. The contents of a pre-trial brief was generally taken from A.M. No. 03-1-09-SC, "*Rule on Guidelines to be Observed by Trial Court Judges and Clerks of Court in the Conduct of Pre-Trial and Use of Deposition-Discovery Measures*" (Guidelines on Pre-trial).[29]

Sanctions. The last paragraph imposes a sanction on the failure to file a pre-trial brief. Nevertheless, the judge may proceed in setting the pre-trial, to keep the case docketed. A show-cause order may likewise be issued seeking an explanation as to why either or both the parties failed at pre-trial. The Rules provide a more lenient approach to a party who fails to file a pre-trial brief since it is important for evidence to be submitted given the peculiar nature

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[29] August 16, 2004.

of an environmental case and the complex character of evidence involved.

SEC. 3. ***Referral to mediation.*** **– At the start of the pre-trial conference, the court shall inquire from the parties if they have settled the dispute; otherwise, the court shall immediately refer the parties or their counsel, if authorized by their clients, to the Philippine Mediation Center (PMC) unit for purposes of mediation. If not available, the court shall refer the case to the clerk of court or legal researcher for mediation.**

Mediation must be conducted within a non-extendible period of thirty (30) days from receipt of notice of referral to mediation.

The mediation report must be submitted within ten (10) days from the expiration of the 30-day period.

Mediation. If the parties have not settled their dispute at this stage, the provision makes it mandatory for the judge to refer the parties to mediation. Another innovation in the provision is the availability of the services of the legal researcher for the conduct of mediation in the absence of the PMC or the clerk of court. This is in recognition of the fact the mediation services by the PMC is not available in some areas and the heavy workload of the clerk of court may not permit the latter's participation in mediation proceedings.

SEC. 4. ***Preliminary conference.*** **– If mediation fails, the court will schedule the continuance of the pre-trial. Before the scheduled date of continuance, the court may refer the case to the branch clerk of court for a preliminary conference for the following purposes:**

(a) To assist the parties in reaching a settlement;

(b) To mark the documents or exhibits to be presented by the parties and copies thereof to be attached to the records after comparison with the originals;

(c) To ascertain from the parties the undisputed facts and admissions on the genuineness and due execution of the documents marked as exhibits;

(d) To require the parties to submit the depositions taken under Rule 23 of the Rules of Court, the answers to

written interrogatories under Rule 25, and the answers to request for admissions by the adverse party under Rule 26;

(e) To require the production of documents or things requested by a party under Rule 27 and the results of the physical and mental examination of persons under Rule 28;

(f) To consider such other matters as may aid in its prompt disposition;

(g) To record the proceedings in the "Minutes of Preliminary Conference" to be signed by both parties or their counsels;

(h) To mark the affidavits of witnesses which shall be in question and answer form and shall constitute the direct examination of the witnesses; and

(i) To attach the minutes together with the marked exhibits before the pre-trial proper.

The parties or their counsel must submit to the branch clerk of court the names, addresses and contact numbers of the affiants.

During the preliminary conference, the branch clerk of court shall also require the parties to submit the depositions taken under Rule 23 of the Rules of Court, the answers to written interrogatories under Rule 25 and the answers to request for admissions by the adverse party under Rule 26. The branch clerk of court may also require the production of documents or things requested by a party under Rule 27 and the results of the physical and mental examination of persons under Rule 28.

Use of depositions. The sole purpose for the use of depositions at pre-trial is to obtain admissions. This excludes the presentation of evidence.

SEC. 5. *Pre-trial conference; consent decree*. – The judge shall put the parties and their counsels under oath, and they shall remain under oath in all pre-trial conferences.

The judge shall exert best efforts to persuade the parties to arrive at a settlement of the dispute. The judge may issue a

consent decree approving the agreement between the parties in accordance with law, morals, public order and public policy to protect the right of the people to a balanced and healthful ecology.

Evidence not presented during the pre-trial, except newly-discovered evidence, shall be deemed waived.

Consent decree. This section encourages parties to reach an agreement regarding settlement through a consent decree, which gives emphasis to the public interest aspect in the assertion of the right to a balanced and healthful ecology.

SEC. 6. *Failure to settle*. – If there is no full settlement, the judge shall:

(a) Adopt the minutes of the preliminary conference as part of the pre-trial proceedings and confirm the markings of exhibits or substituted photocopies and admissions on the genuineness and due execution of documents;

(b) Determine if there are cases arising out of the same facts pending before other courts and order its consolidation if warranted;

(c) Determine if the pleadings are in order and if not, order the amendments if necessary;

(d) Determine if interlocutory issues are involved and resolve the same;

(e) Consider the adding or dropping of parties;

(f) Scrutinize every single allegation of the complaint, answer and other pleadings and attachments thereto, and the contents of documents and all other evidence identified and pre-marked during pre-trial in determining further admissions;

(g) Obtain admissions based on the affidavits of witnesses and evidence attached to the pleadings or submitted during pre-trial;

(h) Define and simplify the factual and legal issues arising from the pleadings and evidence. Uncontroverted issues and frivolous claims or defenses should be eliminated;

(i) Discuss the propriety of rendering a summary judgment or a judgment based on the pleadings, evidence and admissions made during pre-trial;

(j) Observe the Most Important Witness Rule in limiting the number of witnesses, determining the facts to be proved by each witness and fixing the approximate number of hours per witness;

(k) Encourage referral of the case to a trial by commissioner under Rule 32 of the Rules of Court or to a mediator or arbitrator under any of the alternative modes of dispute resolution governed by the Special Rules of Court on Alternative Dispute Resolution;

(l) Determine the necessity of engaging the services of a qualified expert as a friend of the court (*amicus curiae*); and

(m) Ask parties to agree on the specific trial dates for continuous trial, comply with the one-day examination of witness rule, adhere to the case flow chart determined by the court which shall contain the different stages of the proceedings up to the promulgation of the decision and use the time frame for each stage in setting the trial dates.

Amicus curiae. The engagement of an *amicus curiae* involves a prior determination by the court that the person summoned is an expert. There is no requirement that the *amicus curiae* be qualified as an expert. In selecting an expert, the court may take into consideration, in addition to or in lieu of formal education the expert's skill, experience and other factors. The expert, however, is subject to cross examination.

SEC. 7. *Effect of failure to appear at pre-trial.* – The court shall not dismiss the complaint, except upon repeated and unjustified failure of the plaintiff to appear. The dismissal shall be without prejudice, and the court may proceed with the counterclaim.

If the defendant fails to appear at the pre-trial, the court shall receive evidence *ex parte*.

Failure to appear at pre-trial. Some leeway is provided for the plaintiff in an environmental case insofar as the complaint is not immediately dismissed on account of a single failure to appear at pre-trial. The dismissal of the case to judicial discretion as to the number of absences involved. In fairness to the defendant, the counterclaim filed shall be allowed to proceed, unless the counterclaim is determined to be a SLAPP.

SEC. 8. *Minutes of pre-trial*. – The minutes of each pre-trial conference shall contain matters taken up therein, more particularly admissions of facts and exhibits, and shall be signed by the parties and their counsel.

SEC. 9. *Pre-trial order*. – Within ten (10) days after the termination of the pre-trial, the court shall issue a pre-trial order setting forth the actions taken during the pre-trial conference, the facts stipulated, the admissions made, the evidence marked, the number of witnesses to be presented and the schedule of trial. Said order shall bind the parties, limit the trial to matters not disposed of and control the course of action during the trial.

SEC. 10. *Efforts to settle*. – The court shall endeavor to make the parties agree to compromise or settle in accordance with law at any stage of the proceedings before rendition of judgment.

Power of the court to impose participation and cooperation in pre-trial. Alternative modes of dispute resolution should be encouraged because of the nature of environment cases which require broader settlements that are more appropriate to negotiation or agency action. In recognition of this, the Rules emphasize the court's role to encourage participation and cooperation between the parties during pre-trial.

RULE 4

TRIAL

SEC. 1. *Continuous trial*. – The judge shall conduct continuous trial which shall not exceed two (2) months from the date of the issuance of the pre-trial order.

Before the expiration of the two-month period, the judge may ask the Supreme Court for the extension of the trial period for justifiable cause.

Continuous trial. One of the key features of the Rules is the abbreviated timeline available and permitted to the courts in resolving environmental cases. This appears prominently in the provisions on trial, which traditionally occupies the greater amount of time in litigation.

This section provides for the conduct of continuous trial. This, however, does not warrant the conduct of trial on a day-to-day basis. Emphasis is simply made on the timeframe within which the trial must be conducted.

SEC. 2. ***Affidavits in lieu of direct examination.*** **– In lieu of direct examination, affidavits marked during the pre-trial shall be presented as direct examination of affiants subject to cross-examination by the adverse party.**

Affidavits in lieu of direct examination. Affidavits are employed in lieu of direct examination in order to obviate delays in procedure which have been identified and known to accompany direct examinations. The preparation of affidavits narrows the scope of examination, as well as focuses the inquiry on the very merits of the controversy. Prior to their presentation as evidence, this provision presupposes that the admissibility of the affidavits have already been considered at pre-trial.

SEC. 3. ***One-day examination of witness rule.*** **– The court shall strictly adhere to the rule that a witness has to be fully examined in one (1) day, subject to the court's discretion of extending the examination for justifiable reason. After the presentation of the last witness, only oral offer of evidence shall be allowed, and the opposing party shall immediately interpose his objections. The judge shall forthwith rule on the offer of evidence in open court.**

SEC. 4. ***Submission of case for decision; filing of memoranda.*** **– After the last party has rested its case, the court shall issue an order submitting the case for decision.**

The court may require the parties to submit their respective memoranda, if possible in electronic form, within a non-extendible period of thirty (30) days from the date the case is submitted for decision.

The court shall have a period of sixty (60) days to decide the case from the date the case is submitted for decision.

Submission of memoranda. The section provides for the submission of the memoranda in electronic form. This is in response to developments in information technology and in anticipation of further developments in the legal system with respect to the use of computers and the internet.

The court has a disposition period of sixty (60) days from the date that the case is submitted for decision. The period applies with or without a memorandum being filed.

SEC. 5. *Period to try and decide*. – The court shall have a period of one (1) year from the filing of the complaint to try and decide the case. Before the expiration of the one-year period, the court may petition the Supreme Court for the extension of the period for justifiable cause.

The court shall prioritize the adjudication of environmental cases.

Prioritization of environmental cases. The designated environmental courts will try and decide environmental cases on top of their other caseload.

RULE 5

JUDGMENT AND EXECUTION

SEC. 1. *Reliefs in a citizen suit.* – If warranted, the court may grant to the plaintiff proper reliefs which shall include the protection, preservation or rehabilitation of the environment and the payment of attorney's fees, costs of suit and other litigation expenses. It may also require the violator to submit a program of rehabilitation or restoration of the environment, the costs of which shall be borne by the violator, or to contribute to a special trust fund for that purpose subject to the control of the court.

Reliefs in a citizen suit. The Rule provides for a number of broad reliefs in a citizen suit which are not confined to monetary awards, these include the protection, preservation or rehabilitation of the environment and the payment of attorney's fees, costs of suit and other litigation expenses. The broad range of reliefs provided under the Rules is in line with the ruling in the *Manila Bay* case where the respondents were ordered to maintain a fund for the restoration and rehabilitation of Manila Bay. The Court in the *Manila Bay* case did not specify an amount for restoration, but instead ordered the respondents to restore and rehabilitation Manila Bay whatever the costs. The Court's decision in the *Manila Bay* case is also reflected in Article 1167 of the Civil Code, the first paragraph of which states, "If a person obliged to do something fails to do it, the same shall be executed at his cost."[30]

The phrase "litigation expenses" in this provision encompasses expenses for preparation of witnesses, witness fees and other fees which cannot be paid for under the present rules.

No damages can be awarded in a citizen suit. This measure is in line with the policy that a citizen suit is filed in the public interest, and in effect, it is the environment which is vindicated in the action. Hence, a party or person who suffers damage or injury arising from an environment prejudice which is also the same subject of citizen suit cannot claim for damages in a citizen suit since it is the environment that is vindicated in the action. The only recourse of a party or person who wishes to recover damages for injury suffered is to file a separate action under Sec. 4, Rule 2.

SEC. 2. *Judgment not stayed by appeal.* – Any judgment directing the performance of acts for the protection, preservation or rehabilitation of the environment shall be executory pending appeal unless restrained by the appellate court.

Judgment immediately executory. A judgment rendered pursuant to these Rules is immediately executory. It may not be

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[30] Civil Code of the Philippines, Title I. Obligations, Chapter 1, Article 1167. If a person obliged to do something fails to do it, the same shall be executed at his cost.

This same rule shall be observed if he does it in contravention of the tenor of his obligation. Furthermore, it may be decreed that what has been poorly done be undone.

stayed by the posting of a bond under Rule 39 of the Rules of Court and the sole remedy lies with the appellate court. The appellate court can issue a TRO to restrain the execution of the judgment and should the appellate court act with grave abuse of discretion in refusing to act on the application for a TRO, a petition for *certiorari* under Rule 65 can be brought before the Supreme Court.

SEC. 3. *Permanent EPO*; *writ of continuing mandamus*. – In the judgment, the court may convert the TEPO to a permanent EPO or issue a writ of continuing *mandamus* directing the performance of acts which shall be effective until the judgment is fully satisfied.

The court may, by itself or through the appropriate government agency, monitor the execution of the judgment and require the party concerned to submit written reports on a quarterly basis or sooner as may be necessary, detailing the progress of the execution and satisfaction of the judgment. The other party may, at its option, submit its comments or observations on the execution of the judgment.

Conversion of a TEPO to a permanent EPO or a writ of continuing mandamus. In this provision, continuing *mandamus* is made available as a final relief. As a remedy, continuing *mandamus* is decidedly an attractive relief. Nevertheless, the monitoring function attached to the writ is decidedly taxing upon the court. Thus, it is meant to be an exceptional remedy. Among others, the nature of the case in which the judgment is issued will be a decisive factor in determining whether to issue a writ of continuing *mandamus*.

A TEPO may be converted into a writ of continuing *mandamus* should the circumstances warrant.

SEC. 4. *Monitoring of compliance with judgment and orders of the court by a commissioner*. – The court may *motu proprio*, or upon motion of the prevailing party, order that the enforcement of the judgment or order be referred to a commissioner to be appointed by the court. The commissioner shall file with the court written progress reports on a quarterly basis or more frequently when necessary.

SEC. 5. *Return of writ of execution*. – The process of execution shall terminate upon a sufficient showing that the

decision or order has been implemented to the satisfaction of the court in accordance with Section 14, Rule 39 of the Rules of Court.

RULE 6

STRATEGIC LAWSUIT AGAINST PUBLIC PARTICIPATION

SEC. 1. ***Strategic lawsuit against public participation (SLAPP).*** **– A legal action filed to harass, vex, exert undue pressure or stifle any legal recourse that any person, institution or the government has taken or may take in the enforcement of environmental laws, protection of the environment or assertion of environmental rights shall be treated as a SLAPP and shall be governed by these Rules.**

SLAPP. These sections on SLAPP are the distillation of existing provisions of Philippine law and analgous provisions from several jurisdictions.

The Rules recognize that formidable legal challenges may be mounted against those who seek to enforce environmental law, or to assert environmental rights. These legal challenges may be pre-emptive in character and may be done in order to "chill" the latter. In light of this, the Rules make available a formidable defense in these provisions.

This section identifies the legal action that constitutes a SLAPP. The constitutional rights to freedom of speech, expression and assembly (and in certain cases, the right to petition the government for redress of grievances) in relation to the right to a balanced and healthful ecology are affected by a SLAPP.

SEC. 2. ***SLAPP as a defense; how alleged.*** **– In a SLAPP filed against a person involved in the enforcement of environmental laws, protection of the environment, or assertion of environmental rights, the defendant may file an answer interposing as a defense that the case is a SLAPP and shall be supported by documents, affidavits, papers and other evidence; and, by way of counterclaim, pray for damages, attorney's fees and costs of suit.**

The court shall direct the plaintiff or adverse party to file an opposition showing the suit is not a SLAPP, attaching evidence in support thereof, within a non-extendible period of five (5) days from receipt of notice that an answer has been filed.

The defense of a SLAPP shall be set for hearing by the court after issuance of the order to file an opposition within fifteen (15) days from filing of the comment or the lapse of the period.

Countering a SLAPP suit; answer. Once the defense of SLAPP is alleged in an answer for a civil case outside the coverage of these Rules, this Rule will apply insofar as the determination of whether such is a SLAPP is concerned. A SLAPP suit is in every sense a harassment suit and the affront against constitutional rights is the very reason why no pending legal action is required to counter a SLAPP suit. In the context of environmental rights protection, a SLAPP suit may occur in the following scenarios, among others:

1. X files a complaint in an environmental case against A (violator of environmental laws) and the A retaliates by filing a complaint for damages against X;
2. X is a witness in a pending environmental case against A and the latter retaliates by filing a complaint for damages or libel against X; or
3. X is an environmental advocate who rallies for the protection of environmental rights and a complaint for damages is filed against him by A.

Since a motion to dismiss is a prohibited pleading,[31] SLAPP as an affirmative defense should be raised in an answer along with other defenses that may be raised in the case alleged to be a SLAPP.

SEC. 3. *Summary hearing*. – The hearing on the defense of a SLAPP shall be summary in nature. The parties must submit all available evidence in support of their respective positions. The party seeking the dismissal of the case must prove by substantial evidence that his acts for the enforcement of environmental law is a legitimate action for the protection,

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[31] RULES OF PROCEDURE FOR ENVIRONMENTAL CASES, Rule 2, Sec. 2.

preservation and rehabilitation of the environment. The party filing the action assailed as a SLAPP shall prove by preponderance of evidence that the action is not a SLAPP and is a valid claim.

Summary hearing. The hearing for the defense of a SLAPP is summary to expedite the proceedings. The party seeking the dismissal of the case alleged to be a SLAPP may easily assert this defense and prove it only with substantial evidence. If the court finds a SLAPP defense valid, the plaintiff is required to prove the following: (1) that the case is not a SLAPP; and (2) the merits of the case. The quantum of evidence, preponderance of evidence, in proving the two abovementioned remains the same as in other civil cases.

SEC. 4. *Resolution of the defense of a SLAPP*. – The affirmative defense of a SLAPP shall be resolved within thirty (30) days after the summary hearing. If the court dismisses the action, the court may award damages, attorney's fees and costs of suit under a counterclaim if such has been filed. The dismissal shall be with prejudice.

If the court rejects the defense of a SLAPP, the evidence adduced during the summary hearing shall be treated as evidence of the parties on the merits of the case. The action shall proceed in accordance with the Rules of Court.

Prioritization on the hearing and resolution of a SLAPP defense. While a SLAPP defense is raised in an answer along with other defenses, the court is required to prioritize the hearing and resolution of a SLAPP defense. The prioritization in hearing a SLAPP defense is another mode of expediting the proceedings.

Effect of the court's resolution in the hearing. The dismissal of a SLAPP suit constitutes *res judicata* and is a bar to the refiling of a similar case. On the other hand, the denial of a SLAPP defense allows the action to proceed in accordance with the Rules of Court. Since the evidence adduced in the hearing of a SLAPP defense remains on record, the plaintiff is not required to offer the evidence already adduced again.

PART III

SPECIAL CIVIL ACTIONS

RULE 7

WRIT OF *KALIKASAN*

SEC. 1. ***Nature of the writ.*** **– The writ is a remedy available to a natural or juridical person, entity authorized by law, people's organization, non-governmental organization, or any public interest group accredited by or registered with any government agency, on behalf of persons whose constitutional right to a balanced and healthful ecology is violated, or threatened with violation by an unlawful act or omission of a public official or employee, or private individual or entity, involving environmental damage of such magnitude as to prejudice the life, health or property of inhabitants in two or more cities or provinces.**

Extraordinary remedy. The underlying emphasis in the Writ of *Kalikasan* is magnitude as it deals with damage that transcends political and territorial boundaries. Magnitude is thus measured according to the qualification set forth in this Rule — when there is environmental damage that prejudices the life, health or property of inhabitants in two or more cities or provinces.

Who may avail of the writ. The petition for the issuance of a Writ of *Kalikasan* can be filed by any of the following: (1) a natural or juridical person; (2) entity authorized by law; or (3) people's organization, non-governmental organization, or any public interest group accredited by or registered with any government agency "***on behalf of persons*** whose constitutional right to a balanced and healthful ecology is violated... involving environmental damage of such magnitude as to prejudice the life, health or property of inhabitants in two or more cities or provinces." Those who may file for this remedy must represent the inhabitants prejudiced by the environmental damage subject of the writ. The requirement of accreditation of a group or organization is for the purpose of verifying its existence. The accreditation is a mechanism to prevent "fly by night" groups from abusing the writ.

Acts covered by the writ. The Writ of *Kalikasan* is a special remedy available against an unlawful act or omission of a public

official or employee, or private individual or entity, involving environmental damage of such magnitude as to prejudice the life, health or property of inhabitants in two or more cities or provinces.

SEC. 2. ***Contents of the petition*****. – The verified petition shall contain the following:**

(a) The personal circumstances of the petitioner;

(b) The name and personal circumstances of the respondent or if the name and personal circumstances are unknown and uncertain, the respondent may be described by an assumed appellation;

(c) The environmental law, rule or regulation violated or threatened to be violated, the act or omission complained of, and the environmental damage of such magnitude as to prejudice the life, health or property of inhabitants in two or more cities or provinces.

(d) All relevant and material evidence consisting of the affidavits of witnesses, documentary evidence, scientific or other expert studies, and if possible, object evidence;

(e) The certification of petitioner under oath that: (1) petitioner has not commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency, and no such other action or claim is pending therein; (2) if there is such other pending action or claim, a complete statement of its present status; (3) if petitioner should learn that the same or similar action or claim has been filed or is pending, petitioner shall report to the court that fact within five (5) days therefrom; and

(f) The reliefs prayed for which may include a prayer for the issuance of a TEPO.

Contents of the petition. The petition is required to allege the extent of the magnitude of the environmental damage. All relevant and material evidence must be attached to the petition to allow the court to determine whether the immediate issuance of the writ is warranted. TEPO is a relief available, as in the Writ of Continuing *Mandamus*.

SEC. 3. ***Where to file.*** **– The petition shall be filed with the Supreme Court or with any of the stations of the Court of Appeals.**

Venue. The magnitude of the environmental damage is the reason for limiting where the writ may be filed, to the Supreme Court or Court of Appeals whose jurisdiction is national in scope.

SEC. 4. ***No docket fees.*** **– The petitioner shall be exempt from the payment of docket fees.**

Exemption from payment of docket fees. The exemption from payment of docket fees is consistent with the character of the reliefs available under the writ, which excludes damages for personal injuries. This exemption also encourages public participation in availing of the remedy.

SEC. 5. ***Issuance of the writ.*** **– Within three (3) days from the date of filing of the petition, if the petition is sufficient in form and substance, the court shall give an order: (a) issuing the writ; and (b) requiring the respondent to file a verified return as provided in Section 8 of this Rule. The clerk of court shall forthwith issue the writ under the seal of the court including the issuance of a cease and desist order and other temporary reliefs effective until further order.**

SEC. 6. ***How the writ is served.*** **– The writ shall be served upon the respondent by a court officer or any person deputized by the court, who shall retain a copy on which to make a return of service. In case the writ cannot be served personally, the rule on substituted service shall apply.**

Manner of service. The writ should be served against the respondent, preferably in person. If personal service cannot be made, the rules on substituted service shall apply.

SEC. 7. ***Penalty for refusing to issue or serve the writ.*** **– A clerk of court who unduly delays or refuses to issue the writ after its allowance or a court officer or deputized person who unduly delays or refuses to serve the same shall be punished by the court for contempt without prejudice to other civil, criminal or administrative actions.**

Penalties. This section is similar to Sec. 7 of the Rule on the Writ of *Amparo*.

SEC. 8. ***Return of respondent; contents.*** **– Within a non-extendible period of ten (10) days after service of the writ, the respondent shall file a verified return which shall contain all defenses to show that respondent did not violate or threaten to violate, or allow the violation of any environmental law, rule or regulation or commit any act resulting to environmental damage of such magnitude as to prejudice the life, health or property of inhabitants in two or more cities or provinces.**

All defenses not raised in the return shall be deemed waived.

The return shall include affidavits of witnesses, documentary evidence, scientific or other expert studies, and if possible, object evidence, in support of the defense of the respondent.

A general denial of allegations in the petition shall be considered as an admission thereof.

No general denial. This requirement is consistent with the policy to submit all relevant and material evidence.

SEC. 9. ***Prohibited pleadings and motions.*** **– The following pleadings and motions are prohibited:**

(a) Motion to dismiss;
(b) Motion for extension of time to file return;
(c) Motion for postponement;
(d) Motion for a bill of particulars;
(e) Counterclaim or cross-claim;
(f) Third-party complaint;
(g) Reply; and
(h) Motion to declare respondent in default.

Prohibited pleadings and motions. The enumerated pleadings and motions are prohibited to expedite the hearing of the petition. A motion for intervention is excluded from this enumeration. Allowing this motion is a reaffirmation of the public participation aspect in the Writ of *Kalikasan* since there may be a large, qualified pool of possible representatives interested in availing of the remedy.

SEC. 10. ***Effect of failure to file return.*** **– In case the respondent fails to file a return, the court shall proceed to hear the petition *ex parte*.**

Failure to file return. Due to the urgency of the need for the issuance of the writ, the failure to file a return is not a bar to the court to hear the petition.

SEC. 11. *Hearing*. – Upon receipt of the return of the respondent, the court may call a preliminary conference to simplify the issues, determine the possibility of obtaining stipulations or admissions from the parties, and set the petition for hearing.

The hearing including the preliminary conference shall not extend beyond sixty (60) days and shall be given the same priority as petitions for the writs of *habeas corpus, amparo* and *habeas data.*

Hearing. The environmental damage subject of the writ may involve issues that are of a complex character, and for this reason, the hearing is not summary. The abbreviated time frame required, however, insures that the proceedings are expedited.

SEC. 12. *Discovery Measures*. — A party may file a verified motion for the following reliefs:

(a) ***Ocular Inspection; order* — The motion must show that an ocular inspection order is necessary to establish the magnitude of the violation or the threat as to prejudice the life, health or property of inhabitants in two or more cities or provinces. It shall state in detail the place or places to be inspected. It shall be supported by affidavits of witnesses having personal knowledge of the violation or threatened violation of environmental law.**

After hearing, the court may order any person in possession or control of a designated land or other property to permit entry for the purpose of inspecting or photographing the property or any relevant object or operation thereon.

The order shall specify the person or persons authorized to make the inspection and the date, time, place and manner of making the inspection and may prescribe other conditions to protect the constitutional rights of all parties.

(b) ***Production or inspection of documents or things; order*** **– The motion must show that a production order is necessary to establish the magnitude of the violation or the threat as to prejudice the life, health or property of inhabitants in two or more cities or provinces.**

After hearing, the court may order any person in possession, custody or control of any designated documents, papers, books, accounts, letters, photographs, objects or tangible things, or objects in digitized or electronic form, which constitute or contain evidence relevant to the petition or the return, to produce and permit their inspection, copying or photographing by or on behalf of the movant.

The production order shall specify the person or persons authorized to make the production and the date, time, place and manner of making the inspection or production and may prescribe other conditions to protect the constitutional rights of all parties.

Discovery measures. The discovery measures are available to all parties to the writ. Considering that these measures are invasive, the court may prescribe conditions in any order granting such measures to safeguard constitutional rights.

SEC. 13. ***Contempt.*** **– The court may after hearing punish the respondent who refuses or unduly delays the filing of a return, or who makes a false return, or any person who disobeys or resists a lawful process or order of the court for indirect contempt under Rule 71 of the Rules of Court.**

Contempt. This section is similar to Sec. 16 of the Rule on the Writ of *Amparo*.

SEC. 14. ***Submission of case for decision; filing of memoranda.*** **– After hearing, the court shall issue an order submitting the case for decision. The court may require the filing of memoranda and if possible, in its electronic form, within a non-extendible period of thirty (30) days from the date the petition is submitted for decision.**

Filing of memoranda. The court's discretion in requiring the filing of memoranda in electronic form if possible is for the purpose of expediting the proceedings.

SEC. 15. *Judgment*. – Within sixty (60) days from the time the petition is submitted for decision, the court shall render judgment granting or denying the privilege of the writ of *kalikasan*.

The reliefs that may be granted under the writ are the following:

(a) Directing respondent to permanently cease and desist from committing acts or neglecting the performance of a duty in violation of environmental laws resulting in environmental destruction or damage;

(b) Directing the respondent public official, government agency, private person or entity to protect, preserve, rehabilitate or restore the environment;

(c) Directing the respondent public official, government agency, private person or entity to monitor strict compliance with the decision and orders of the court;

(d) Directing the respondent public official, government agency, or private person or entity to make periodic reports on the execution of the final judgment; and

(e) Such other reliefs which relate to the right of the people to a balanced and healthful ecology or to the protection, preservation, rehabilitation or restoration of the environment, except the award of damages to individual petitioners.

Damages for personal injury. A person who avails of the Writ of *Kalikasan* may also file a separate suit for the recovery of damages for injury suffered. This is consistent with Sec.17, *Institution of separate actions*.

Reliefs. The reliefs that may be granted under the writ are broad, comprehensive and non-exclusive. The reliefs regarding monitoring and periodic reports ensure enforcement of the judgment of the court.

SEC. 16. ***Appeal.*** **– Within fifteen (15) days from the date of notice of the adverse judgment or denial of motion for reconsideration, any party may appeal to the Supreme Court under Rule 45 of the Rules of Court. The appeal may raise questions of fact.**

Appeal may raise questions of fact. Given the extraordinary nature of circumstances surrounding the issuance of a Writ of *Kalikasan*, this section allows an appeal to raise questions of fact and thus constitutes an exception to Rule 45 of the Rules of Court, such as Sec. 19 of the Rule on the Writ of *Amparo*.

SEC. 17. ***Institution of separate actions.*** **– The filing of a petition for the issuance of the writ of *kalikasan* shall not preclude the filing of separate civil, criminal or administrative actions.**

Separate actions. A petitioner in the Writ of *Kalikasan* may subsequently file a separate civil, criminal or administrative action. Civil, criminal or administrative actions are allowed to proceed separately from the petition for the issuance of the writ since they are different actions with different objectives.

RULE 8

WRIT OF CONTINUING *MANDAMUS*

SEC. 1. ***Petition for continuing mandamus.*** **– When any agency or instrumentality of the government or officer thereof unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust or station in connection with the enforcement or violation of an environmental law rule or regulation or a right therein, or unlawfully excludes another from the use or enjoyment of such right and there is no other plain, speedy and adequate remedy in the ordinary course of law, the person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty, attaching thereto supporting evidence, specifying that the petition concerns an environmental law, rule or regulation, and praying that judgment be rendered commanding the respondent to do an act or series of acts until the judgment is fully satisfied, and to pay damages sustained by the petitioner by reason of the malicious neglect to perform the duties of the**

respondent, under the law, rules or regulations. The petition shall also contain a sworn certification of non-forum shopping.

SEC. 2. ***Where to file the petition.*** **– The petition shall be filed with the Regional Trial Court exercising jurisdiction over the territory where the actionable neglect or omission occurred or with the Court of Appeals or the Supreme Court.**

SEC. 3. ***No docket fees.*** **– The petitioner shall be exempt from the payment of docket fees.**

Sec. 4. ***Order to comment.*** **– If the petition is sufficient in form and substance, the court shall issue the writ and require the respondent to comment on the petition within ten (10) days from receipt of a copy thereof. Such order shall be served on the respondents in such manner as the court may direct, together with a copy of the petition and any annexes thereto.**

Sec. 5. ***Expediting proceedings*****;** ***TEPO.*** **– The court in which the petition is filed may issue such orders to expedite the proceedings, and it may also grant a TEPO for the preservation of the rights of the parties pending such proceedings.**

Sec. 6. ***Proceedings after comment is filed.*** **– After the comment is filed or the time for the filing thereof has expired, the court may hear the case which shall be summary in nature or require the parties to submit memoranda. The petition shall be resolved without delay within sixty (60) days from the date of the submission of the petition for resolution.**

SEC. 7. ***Judgment.*** **– If warranted, the court shall grant the privilege of the writ of continuing *mandamus* requiring respondent to perform an act or series of acts until the judgment is fully satisfied and to grant such other reliefs as may be warranted resulting from the wrongful or illegal acts of the respondent. The court shall require the respondent to submit periodic reports detailing the progress and execution of the judgment, and the court may, by itself or through a commissioner or the appropriate government agency, evaluate and monitor compliance. The petitioner may submit its comments or observations on the execution of the judgment.**

Sec. 8. *Return of the writ*. – The periodic reports submitted by the respondent detailing compliance with the judgment shall be contained in partial returns of the writ.

Upon full satisfaction of the judgment, a final return of the writ shall be made to the court by the respondent. If the court finds that the judgment has been fully implemented, the satisfaction of judgment shall be entered in the court docket.

Writ of Continuing Mandamus. This rule integrates the ruling in *Concerned Residents of Manila Bay v. MMDA* and the existing rule on the issuance of the writ of *mandamus*.[32] Procedurally, its filing before the courts is similar to the filing of an ordinary writ of mandamus. However, the issuance of a Temporary Environmental Protection Order is made available as an auxiliary remedy prior to the issuance of the writ itself.

As a special civil action, the Writ of Continuing *Mandamus* may be availed of to compel the performance of an act specifically enjoined by law. It permits the court to retain jurisdiction after judgment in order to ensure the successful implementation of the reliefs mandated under the court's decision. For this purpose, the court may compel the submission of compliance reports from the respondent government agencies as well as avail of other means to monitor compliance with its decision.

Its availability as a special civil action likewise complements its role as a final relief in environmental civil cases and in the Writ of *Kalikasan*, where continuing mandamus may likewise be issued should the facts merit such a relief.

The section on TEPO is similar to Section 7, Rule 65 of the Rules of Court.

Writ of Continuing Mandamus versus Writ of Kalikasan. Some main differences between the Writ of Continuing *Mandamus* and the Writ of *Kalikasan* are:

(1) *Subject matter*. A Writ of Continuing *Mandamus* is directed against (a) the unlawful neglect in the performance of an act which the law specifically enjoins as a duty resulting from an office, trust or station in connection with the

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[32] Rules of Court, Rule 65.

enforcement or violation of an environmental law rule or regulation or a right therein; or (b) the unlawfully exclusion of another from the use or enjoyment of such right and in both instances, there is no other plain, speedy and adequate remedy in the ordinary course of law.

A Writ of *Kalikasan* is available against an unlawful act or omission of a public official or employee, or private individual or entity, involving environmental damage of such magnitude as to prejudice the life, health or property of inhabitants in two or more cities or provinces.[33]

In addition, magnitude of environmental damage is a condition *sine qua non* in a petition for the issuance of a Writ of *Kalikasan* and must be contained in the verified petition.[34]

(2) *Who may file*. A Writ of Continuing *Mandamus* is available only to one who is personally aggrieved by the unlawful act or omission.

On the other hand, a petition for the issuance of a Writ of *Kalikasan* is available to a broad range of persons such as natural or juridical person, entity authorized by law, people's organization, non-governmental organization, or any public interest group accredited by or registered with any government agency, on behalf of persons whose right to a balanced and healthful ecology is violated or threatened to be violated.

(3) *Respondent*. The respondent in a petition for continuing *mandamus* is only the government or its officers, unlike in a petition for a Writ of *Kalikasan*, where the respondent may be a private individual or entity.

(4) *Exemption from docket fees*. The application for either petition is exempted from the payment of docket fees.

(5) *Venue*. A petition for the issuance of a Writ of Continuing *Mandamus* may be filed in the following: (a) the Regional

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[33] RULES OF PROCEDURE FOR ENVIRONMENTAL CASES, Rule 7, Sec. 1.

[34] RULES OF PROCEDURE FOR ENVIRONMENTAL CASES, Rule 7, Sec. 2.

Trial Court exercising jurisdiction over the territory where the actionable neglect or omission occurred; (b) the Court of Appeals; or (c) the Supreme Court.

Given the magnitude of the damage, the application for the issuance of a Writ of *Kalikasan* can only be filed the in Supreme Court or any of the stations of the Court of Appeals.[35]

(6) *Discovery measures*. The Rule on the Writ of Continuing *Mandamus* does not contain any provision for discovery measures, unlike the Rule on the Writ of *Kalikasan* which incorporates the procedural environmental right of access to information through the use of discovery measures such as ocular inspection order and production order.[36]

(7) *Damages for personal injury*. The Writ of Continuing *Mandamus* allows damages for the malicious neglect of the performance of the legal duty of the respondent, identical to Rule 65, Rules of Court.

In contrast, no damages may be awarded in a petition for the issuance of a Writ of *Kalikasan* consistent with the public-interest character of the petition. A party who avails of this petition but who also wishes to be indemnified for injuries suffered may file another suit for the recovery of damages since the Rule on the Writ of *Kalikasan* allows for the institution of separate actions.[37]

PART IV

CRIMINAL PROCEDURE

RULE 9

PROSECUTION OF OFFENSES

SEC. 1. *Who may file*. – Any offended party, peace officer or any public officer charged with the enforcement of an

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[35] RULES OF PROCEDURE FOR ENVIRONMENTAL CASES, Rule 7, Sec. 3.

[36] RULES OF PROCEDURE FOR ENVIRONMENTAL CASES, Rule 7, Sec. 12.

[37] RULES OF PROCEDURE FOR ENVIRONMENTAL CASES, Rule 7, Sec. 17.

environmental law may file a complaint before the proper officer in accordance with the Rules of Court.

Who may file. The following persons may file a criminal complaint for the prosecution of an environmental case: (a) any offended party; (b) peace officer; or (c) any public officer charged with the enforcement of an environmental law.

SEC. 2. *Filing of the information*. – An information, charging a person with a violation of an environmental law and subscribed by the prosecutor, shall be filed with the court.

SEC. 3. *Special prosecutor*. – In criminal cases, where there is no private offended party, a counsel whose services are offered by any person or organization may be allowed by the court as special prosecutor, with the consent of and subject to the control and supervision of the public prosecutor.

Special prosecutor. This provision aims to encourage public participation in criminal litigation by permitting the appearance of a special prosecutor. Unlike the general rule subsisting under the Rules of Criminal Procedure, this provision recognizes the possibility of intervention from a special prosecutor even in the absence of a private offended party. The special prosecutor complements the public prosecutor in advancing public interest in environmental cases.

In deference to the executive department's prerogative to prosecute cases, the intervention by the special prosecutor shall be subject to the consent and control of the public prosecutor.

This provision thus applies to those instances of "victimless offenses," where there is no private offended party who has a direct or material interest to prosecute a criminal action. Most environmental cases involve violations of environmental law or damage to the environment without an injured private person (i.e. dynamite fishing in marine sanctuaries, illegal logging in forests, etc...). These situations are likened to public interest environmental litigation prevalent in foreign jurisdictions where it is usually a concerned people's organization, non-governmental organization or citizen's group that pursues the criminal case.

RULE 10

PROSECUTION OF CIVIL ACTIONS

SEC. 1. ***Institution of criminal and civil actions.*** **– When a criminal action is instituted, the civil action for the recovery of civil liability arising from the offense charged, shall be deemed instituted with the criminal action unless the complainant waives the civil action, reserves the right to institute it separately or institutes the civil action prior to the criminal action.**

Unless the civil action has been instituted prior to the criminal action, the reservation of the right to institute separately the civil action shall be made during arraignment.

In case civil liability is imposed or damages are awarded, the filing and other legal fees shall be imposed on said award in accordance with Rule 141 of the Rules of Court, and the fees shall constitute a first lien on the judgment award. The damages awarded in cases where there is no private offended party, less the filing fees, shall accrue to the funds of the agency charged with the implementation of the environmental law violated. The award shall be used for the restoration and rehabilitation of the environment adversely affected.

Institution of actions. This provision departs from the traditional rule on institution of civil actions under Rule 111 of the Rules on Criminal Procedure in that it provides for an applicable rule on the disposition of damages where there is no private offended party. The provision likewise codifies the essence of restorative justice when it requires that the award shall be given to the concerned government agency. This is restorative justice transposed into the context of environmental law.

RULE 11

ARREST

SEC. 1. ***Arrest without warrant; when lawful.*** **– A peace officer or an individual deputized by the proper government agency may, without a warrant, arrest a person:**

(a) When, in his presence, the person to be arrested has committed, is actually committing or is attempting to commit an offense; or

(b) When an offense has just been committed, and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it.

Individuals deputized by the proper government agency who are enforcing environmental laws shall enjoy the presumption of regularity under Section 3(m), Rule 131 of the Rules of Court when effecting arrests for violations of environmental laws.

Arrest; hot pursuit. In order to validly effect warrantless arrest, the arrest must be done immediately after the commission of the offense.

Warrantless arrest. Deputized individuals, effecting citizen's arrest, enjoy the presumption of regularity traditionally given to public officers under this provision. The process of deputization shall continue to be governed by the respective laws and regulations promulgated by the appropriate government agency governing deputization. The "proper government agency" is one tasked to enforce environmental laws. To enjoy the presumption of regularity, proper documents pertaining to deputization must be made available, if feasible, to the individual about to be arrested.

A specific reference to the Rules on Evidence in the Rules of Court[38] is made to indicate the source of the presumption of regularity attributed to deputized individuals.

SEC. 2. *Warrant of arrest.* – All warrants of arrest issued by the court shall be accompanied by a certified true copy of the information filed with the issuing court.

Warrant of arrest; bail. The attachment of a certified true copy the information to the warrant of arrest is deemed a notice to the accused of the charges against him. This provision must likewise be read in conjunction with the provisions on Bail, Rule 14, Section 2, *infra.*

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[38] Section 3(m), Rule 131.

RULE 12

CUSTODY AND DISPOSITION OF SEIZED ITEMS, EQUIPMENT, PARAPHERNALIA, CONVEYANCES AND INSTRUMENTS

SEC. 1. ***Custody and disposition of seized items.*** **– The custody and disposition of seized items shall be in accordance with the applicable laws or rules promulgated by the concerned government agency.**

Custody by administrative agency. Under this provision, the administrative agency which has authority under law to regulate the item subject of seizure likewise retains authority to assume custody over and dispose of seized items, should their existing rules provide for such. This is without prejudice to the applicability of the next succeeding section, *infra*.

SEC. 2. ***Procedure.*** **– In the absence of applicable laws or rules promulgated by the concerned government agency, the following procedure shall be observed:**

(a) The apprehending officer having initial custody and control of the seized items, equipment, paraphernalia, conveyances and instruments shall physically inventory and whenever practicable, photograph the same in the presence of the person from whom such items were seized.

(b) Thereafter, the apprehending officer shall submit to the issuing court the return of the search warrant within five (5) days from date of seizure or in case of warrantless arrest, submit within five (5) days from date of seizure, the inventory report, compliance report, photographs, representative samples and other pertinent documents to the public prosecutor for appropriate action.

(c) Upon motion by any interested party, the court may direct the auction sale of seized items, equipment, paraphernalia, tools or instruments of the crime. The court shall, after hearing, fix the minimum bid price based on the recommendation of the concerned

government agency. The sheriff shall conduct the auction.

(d) The auction sale shall be with notice to the accused, the person from whom the items were seized, or the owner thereof and the concerned government agency.

(e) The notice of auction shall be posted in three conspicuous places in the city or municipality where the items, equipment, paraphernalia, tools or instruments of the crime were seized.

(f) The proceeds shall be held in trust and deposited with the government depository bank for disposition according to the judgment.

Seizure. The foregoing provisions concern two aspects of seizure. The first aspect concerns the chain of custody of the seized items, equipment, paraphernalia, conveyances, and instruments. Subparagraphs (a) and (b) are meant to assure the integrity of the evidence after seizure, for later presentation at the trial.

The second aspect deals with the disposition of the seized materials. This addresses the concern of deterioration of the materials, most of which are perishable, while in *custodia legis*. The provision contains procedural safeguards to assure the preservation of the value of the seized materials, should the case eventually be decided in favor of their owner or possessor.

Subparagraph (b) makes the provision cover both seizures with warrant and warrantless seizures.

The motion to direct the auction sale under subparagraph (c) may be filed by "any interested party" to obviate any oppressive use of seizure to the prejudice of any party.

RULE 13

PROVISIONAL REMEDIES

SEC. 1. ***Attachment in environmental cases.*** **– The provisional remedy of attachment under Rule 127 of the Rules of Court may be availed of in environmental cases.**

SEC. 2. ***Environmental Protection Order (EPO); Temporary Environmental Protection Order (TEPO) in criminal cases.*** **– The**

procedure for and issuance of EPO and TEPO shall be governed by Rule 2 of these Rules.

Applicability of TEPO. This portion of the rule provides for the applicability of TEPO in appropriate situations in criminal prosecution. This procedural remedy is in recognition of the fact that criminal cases, although principally for the prosecution of individuals for criminal liability, may have considerable impact on the environment; thus, necessitating judicial intervention.

RULE 14

BAIL

SEC. 1. ***Bail, where filed.*** **– Bail in the amount fixed may be filed with the court where the case is pending, or in the absence or unavailability of the judge thereof, with any regional trial judge, metropolitan trial judge, municipal trial judge or municipal circuit trial judge in the province, city or municipality. If the accused is arrested in a province, city or municipality other than where the case is pending, bail may also be filed with any Regional Trial Court of said place, or if no judge thereof is available, with any metropolitan trial judge, municipal trial judge or municipal circuit trial judge therein. If the court grants bail, the court may issue a hold-departure order in appropriate cases.**

Bail; hold-departure order. This section makes available to the accused the privilege of bail from any court, within and outside the jurisdiction of the court which issued the warrant of arrest. The immediate availability of bail is intended to obviate long periods of detention.

SEC. 2. ***Duties of the court.*** **– Before granting the application for bail, the judge must read the information in a language known to and understood by the accused and require the accused to sign a written undertaking, as follows:**

(a) To appear before the court that issued the warrant of arrest for arraignment purposes on the date scheduled, and if the accused fails to appear without justification on the date of arraignment, accused waives the reading of the information and authorizes the court to enter a

plea of not guilty on behalf of the accused and to set the case for trial;

(b) To appear whenever required by the court where the case is pending; and

(c) To waive the right of the accused to be present at the trial, and upon failure of the accused to appear without justification and despite due notice, the trial may proceed *in absentia*.

Execution of undertaking by the accused. A key innovation in this section is the execution of an undertaking by the accused and counsel, empowering the judge to enter a plea of not guilty, in the event the accused fails to appear at the arraignment. This authorization permits the court to try the case *in absentia*, within the period provided under these Rules. This addresses a fundamental concern surrounding the prosecution of criminal cases in general, where the accused jumps bail and the court unable to proceed with the disposition of the case in view of the absence of the accused and the failure to arraign the latter.

RULE 15

ARRAIGNMENT AND PLEA

SEC. 1. *Arraignment.* – The court shall set the arraignment of the accused within fifteen (15) days from the time it acquires jurisdiction over the accused, with notice to the public prosecutor and offended party or concerned government agency that it will entertain plea-bargaining on the date of the arraignment.

Notice. Notice to the concerned government agency is given in this section in order to permit its intervention in plea-bargaining. This is consistent with the public interest inherent in environmental cases, represented by the government agency concerned.

SEC. 2. *Plea-bargaining.* – On the scheduled date of arraignment, the court shall consider plea-bargaining arrangements. Where the prosecution and offended party or concerned government agency agree to the plea offered by the accused, the court shall:

(a) Issue an order which contains the plea-bargaining arrived at;

(b) Proceed to receive evidence on the civil aspect of the case, if any; and

(c) Render and promulgate judgment of conviction, including the civil liability for damages.

Consent. The provision requires the consent of the prosecutor, the offended party or concerned government agency in order to successfully arrive at a valid plea-bargaining agreement. Plea-bargaining is considered at arraignment in order to avoid the situation where an initial plea is changed in the course of the trial in view of a successful plea bargain.

RULE 16

PRE-TRIAL

SEC. 1. *Setting of pre-trial conference*. – After the arraignment, the court shall set the pre-trial conference within thirty (30) days. It may refer the case to the branch clerk of court, if warranted, for a preliminary conference to be set at least three (3) days prior to the pre-trial.

SEC. 2. *Preliminary conference*. – The preliminary conference shall be for the following purposes:

(a) To assist the parties in reaching a settlement of the civil aspect of the case;

(b) To mark the documents to be presented as exhibits;

(c) To attach copies thereof to the records after comparison with the originals;

(d) To ascertain from the parties the undisputed facts and admissions on the genuineness and due execution of documents marked as exhibits;

(e) To consider such other matters as may aid in the prompt disposition of the case;

(f) To record the proceedings during the preliminary conference in the Minutes of Preliminary Conference to be signed by the parties and counsel;

(g) To mark the affidavits of witnesses which shall be in question and answer form and shall constitute the direct examination of the witnesses; and

(h) To attach the Minutes and marked exhibits to the case record before the pre-trial proper.

The parties or their counsel must submit to the branch clerk of court the names, addresses and contact numbers of the affiants.

SEC. 3. ***Pre-trial duty of the judge.*** **– During the pre-trial, the court shall:**

(a) Place the parties and their counsels under oath;

(b) Adopt the minutes of the preliminary conference as part of the pre-trial proceedings, confirm markings of exhibits or substituted photocopies and admissions on the genuineness and due execution of documents, and list object and testimonial evidence;

(c) Scrutinize the information and the statements in the affidavits and other documents which form part of the record of the preliminary investigation together with other documents identified and marked as exhibits to determine further admissions of facts as to:

i. The court's territorial jurisdiction relative to the offense(s) charged;

ii. Qualification of expert witnesses; and

iii. Amount of damages;

(d) Define factual and legal issues;

(e) Ask parties to agree on the specific trial dates and adhere to the flow chart determined by the court which shall contain the time frames for the different stages of the proceeding up to promulgation of decision;

(f) Require the parties to submit to the branch clerk of court the names, addresses and contact numbers of witnesses that need to be summoned by subpoena; and

(g) Consider modification of order of trial if the accused admits the charge but interposes a lawful defense.

SEC. 4. ***Manner of questioning.*** **– All questions or statements must be directed to the court.**

SEC. 5. ***Agreements or admissions.*** **– All agreements or**

admissions made or entered during the pre-trial conference shall be reduced in writing and signed by the accused and counsel; otherwise, they cannot be used against the accused. The agreements covering the matters referred to in Section 1, Rule 118 of the Rules of Court shall be approved by the court.

SEC. 6. *Record of proceedings*. – All proceedings during the pre-trial shall be recorded, the transcripts prepared and the minutes signed by the parties or their counsels.

SEC. 7. *Pre-trial order*. – The court shall issue a pre-trial order within ten (10) days after the termination of the pre-trial, setting forth the actions taken during the pre-trial conference, the facts stipulated, the admissions made, evidence marked, the number of witnesses to be presented and the schedule of trial. The order shall bind the parties and control the course of action during the trial.

Pre-trial in criminal procedure. The rule on pre-trial has been detailed in this portion in order to guide the courts in conducting the same. Pre-trial receives ample attention under these Rules in order to facilitate the organization of the trial and the early identification and simplification of the issues which shall be resolved at trial.

Much emphasis is given on pre-trial in light of the priority assigned to environmental cases. All means for expediting the case must be resorted to prior to trial in order to shorten the period for resolution of the controversy.

Oath. Parties are required to be under oath in pre-trial in order to obviate the use of false or misleading statements at this stage.

RULE 17

TRIAL

SEC. 1. *Continuous trial*. – The court shall endeavor to conduct continuous trial which shall not exceed three (3) months from the date of the issuance of the pre-trial order.

Continuous trial. The general period for the resolution of cases has been adopted for the portion of the present Rules pertaining to criminal procedure. It is with the qualification, however, that trial

shall be conducted on a continuous basis, consistent with the thrust of the Rules for a speedy resolution of environmental cases and subject to the provisions of Section 4, *infra*.

SEC. 2. ***Affidavit in lieu of direct examination.*** **– Affidavit in lieu of direct examination shall be used, subject to cross-examination and the right to object to inadmissible portions of the affidavit.**

Affidavit in lieu of direct examination. To address the delay posed by the traditional method for eliciting testimonial evidence, the Rules adopt this innovation. It focuses the extent of direct examination only to matters covered by the affidavit, thus narrowing the scope of inquiry only to the most pertinent issues at hand.

Cross-examination. Consistent with the constitutional right of the accused to confront the witnesses against him, the cross-examination shall still be conducted face-to-face.

SEC. 3. ***Submission of memoranda.*** **– The court may require the parties to submit their respective memoranda and if possible, in electronic form, within a non-extendible period of thirty (30) days from the date the case is submitted for decision.**

With or without any memoranda filed, the court shall have a period of sixty (60) days to decide the case counted from the last day of the 30-day period to file the memoranda.

Periods. The foregoing section enumerates 2 specific periods prior to final adjudication of the case. The first period pertains to the submission of memoranda by the parties. In recognition of advances in information technology, the provision permits the submission of memoranda in electronic form, in order to allow the faster evaluation of its contents.

The second period pertains to the period within which the court must decide. Both periods are unextendible, subject to a subsequent request by the judge concerned before the Supreme Court for an extension of the period to resolve the case.

SEC. 4. ***Disposition period.*** **– The court shall dispose the case within a period of ten (10) months from the date of arraignment.**

Time limit for disposition of environmental cases. Consistent with the priority assigned by the Rules for environmental cases, the foregoing section places a time limit to the disposition of cases. For clarity, the time limit is placed from the time the judiciary takes cognizance of the case, i.e. at arraignment.

SEC. 5. *Pro bono lawyers.* – If the accused cannot afford the services of counsel or there is no available public attorney, the court shall require the Integrated Bar of the Philippines to provide *pro bono* lawyers for the accused.

Indigent accused. This section takes into account the possibility of having an indigent accused who may not have the financial capacity to provide for his own defense.

RULE 18

SUBSIDIARY LIABILITY

SEC. 1. *Subsidiary liability.* – In case of conviction of the accused and subsidiary liability is allowed by law, the court may, by motion of the person entitled to recover under judgment, enforce such subsidiary liability against a person or corporation subsidiarily liable under Article 102 and Article 103 of the Revised Penal Code.

Annotation. This provision codifies the *ratio decidendi* in *Philippine Rabbit Bus Lines v. Court of Appeals*[39] and applies the principle therein to environmental criminal cases, to facilitate recovery of damages and other relief from persons subsidiarily liable in the event of insolvency of the accused.

The phrase "person entitled to recover" was employed in this provision to indicate that other parties apart from the prevailing party may be entitled to recover.

RULE 19

STRATEGIC LAWSUIT AGAINST PUBLIC PARTICIPATION IN CRIMINAL CASES

SEC. 1. *Motion to dismiss.* – Upon the filing of an information in court and before arraignment, the accused may file a motion

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[39] G.R. No. 147703, April 14, 2004

to dismiss on the ground that the criminal action is a SLAPP.

SLAPP as criminal cases; motion to dismiss. This section pertains pertain to SLAPP filed as criminal cases.

The manner by which to allege that a criminal action is a SLAPP is through a motion to dismiss rather than a motion to quash. A motion to dismiss allows the action to be challenged as a SLAPP, while a motion to quash is directed at the Information. Moreover, granting a motion to dismiss bars the refiling of a SLAPP in accordance with the law of the case. In contrast, the grant of a motion to quash does not bar the filing of a subsequent Information.

There is no provision on prohibited pleadings under criminal procedure in environmental cases (Part IV) as such the defense of SLAPP can be validly raised in a motion to dismiss. Under Part II, Civil Procedure in environmental cases, a motion to dismiss is a prohibited pleading so the defense of a SLAPP can only be raised through an answer.[40]

A summary hearing has likewise been provided for in order to facilitate the speedy resolution of the case assailed as SLAPP.

SEC. 2. *Summary hearing*. — The hearing on the defense of a SLAPP shall be summary in nature. The parties must submit all the available evidence in support of their respective positions. The party seeking the dismissal of the case must prove by substantial evidence that his acts for the enforcement of environmental law is a legitimate action for the protection, preservation and rehabilitation of the environment. The party filing the action assailed as a SLAPP shall prove by preponderance of evidence that the action is not a SLAPP.

Summary hearing. This section is identical to Sec. 3, Rule 6 of these Rules.

SEC. 3. *Resolution*. – The court shall grant the motion if the accused establishes in the summary hearing that the criminal case has been filed with intent to harass, vex, exert undue pressure or stifle any legal recourse that any person, institution

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[40] RULES OF PROCEDURE FOR ENVIRONMENTAL CASES, Rule 2, Sec. 2.

or the government has taken or may take in the enforcement of environmental laws, protection of the environment or assertion of environmental rights.

If the court denies the motion, the court shall immediately proceed with the arraignment of the accused.

PART V

EVIDENCE

RULE 20

PRECAUTIONARY PRINCIPLE

SEC. 1. ***Applicability*** **– When there is a lack of full scientific certainty in establishing a causal link between human activity and environmental effect, the court shall apply the precautionary principle in resolving the case before it.**

The constitutional right of the people to a balanced and healthful ecology shall be given the benefit of the doubt.

Margin of safety in all decision-making. The precautionary principle finds application in judicial adjudication under this Rule. More specifically, within this context, the precautionary principle finds direct application in the evaluation of evidence in cases before the courts. The precautionary principle bridges the gap in cases where scientific certainty in factual findings cannot be achieved. By applying the precautionary principle, the court may construe a set of facts as warranting either judicial action or inaction, with the goal of preserving and protecting the environment. This may be further evinced from the second paragraph where bias is created in favor of the constitutional right the people to a balanced and healthful ecology. In effect, the precautionary principle shifts the burden of evidence of harm away from those likely to suffer harm and onto those desiring to change the status quo. An application of the precautionary principle to the rules on evidence will enable courts to tackle future environmental problems before ironclad scientific consensus emerges.

For purposes of evidence, the precautionary principle should be treated as a principle of last resort, where application of the

regular Rules of Evidence would cause in an inequitable result for the environmental plaintiff — (a) settings in which the risks of harm are uncertain; (b) settings in which harm might be irreversible and what is lost is irreplaceable; and (c) settings in which the harm that might result would be serious. When these features — **uncertainty**, the **possibility of irreversible harm**, and the **possibility of serious harm** — coincide, the case for the precautionary principle is strongest. When in doubt, cases must be resolved in favor of the constitutional right to a balanced and healthful ecology.

Parenthetically, judicial adjudication is one of the strongest fora in which the precautionary principle may find applicability.

SEC. 2. ***Standards for application*** **– In applying the precautionary principle, the following factors, among others, may be considered: (1) threats to human life or health; (2) inequity to present or future generations; or (3) prejudice to the environment without legal consideration of the environmental rights of those affected.**

Judicial standards for application. Section 2 of this Rule enumerates judicial standards for applying the precautionary principle. While its phraseology is couched in general terms, thus permitting ample judicial discretion in its application, the application of the precautionary principle is **limited in cases where there is truly a doubt in the evidence available**. (*Supra*, Sec. 1)

RULE 21

DOCUMENTARY EVIDENCE

SEC. 1. ***Photographic, video and similar evidence.*** **– Photographs, videos and similar evidence of events, acts, transactions of wildlife, wildlife by-products or derivatives, forest products or mineral resources subject of a case shall be admissible when authenticated by the person who took the same, by some other person present when said evidence was taken, or by any other person competent to testify on the accuracy thereof.**

SEC. 2. ***Entries in official records.*** **– Entries in official records made in the performance of his duty by a public officer of the Philippines, or by a person in performance of a duty**

specially enjoined by law, are *prima facie* evidence of the facts therein stated.

Evidentiary matters in environmental cases. These provisions seek to address specific evidentiary concerns in environmental litigation, where evidence is often difficult to obtain and preserve. They supplement the main Rules on Evidence, which have full applicability to environmental cases.

RULE 22

FINAL PROVISIONS

SEC. 1. *Effectivity*. – These Rules shall take effect within fifteen (15) days following publication once in a newspaper of general circulation.

SEC. 2. *Application of the Rules of Court*. – The Rules of Court shall apply in a suppletory manner, except as otherwise provided herein.