ISSUE NUMBER 01

THE WATERSHED

Mainstreaming Indigenous Peoples Participation in Environmental Governance (MIPPEG)









Foundation for the Philippine Environment Spearheads Initiative Pushing for Inclusionary Policy Reform on Controversial Energy Law

The Foundation for the Philippine Environment (FPE), through its Mainstreaming Indigenous Peoples Participation in Environmental Governance (MIPPEG) project, supported by the European Union (EU) and Fundacion Desarrollo Sostenido (Fundeso), staged a twoday event entitled, "National Consultation on ER 1-94 and UC-EC: Redefining Benefits and Revenues Sharing Mechanisms to Host Communities for Sustainable Watershed Management" on March 3 and 4, 2014 at the Sequoia Hotel in Quezon City. The dialogue engaged representatives from indigenous peoples' (IP) organizations, civil society

The participants of the first day of the National Consultation: ER1-94 as amended and UC-EC

ANTIONAL CONSULTATION: ER1-94, AS AMENDED AND UC-EC Communities for Sustainable Watershed Management March 3-4, 2014

Sequent Hold, Outcon Cay

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ANTIONAL CONSULTATION: ER1-94, AS AMENDED AND UC-EC CONSULTATION: ER

continued on page 2



NCIP COMMISSIONER Dionesia Banua joins the two-day consultation and supports FPE in turning over the draft policy guidelines to the government agencies on the last day.



WORKSHOP participants were grouped to discuss the proposal.



TURN OVER of the proposed guidelines to the different government agencies drafted by the consulting body with the help of FPE's Expert Advisory Panel (EAP).

groups, the academe, and the concerned agencies of the government to come up with reforms in the administrative guidelines on the utilization of funds generated from the Energy Regulation (ER) 1-94, as amended, and UC-EC (universal charge and environmental charge) provisions of the Electric Power Industry Reform Act of 2001 (EPIRA, or Republic Act No. 9136).

Acting upon the findings of the research study entitled, "Emerging Sustainability Mechanism Initiatives of the Bukidnon-Higaonon Tribe Association, Inc. (BUHITA)," the Foundation is seeking to propose policy amendments that will enable more inclusionary administrative guidelines that address the welfare and due benefits of indigenous communities residing within energy-generating watershed locales. The study, which was commissioned by FPE through its MIPPEG project and carried out with the help of the Tropical **Institute for Climate Studies** (TropICS) and the Center for Renewable Energy and Alternative Technologies (CREATE) of Ateneo de Davao University, has revealed

that current policy is limiting the
distribution of the financial gains
promised by the ER 1-94 and UC-EC
provisions of the EPIRA to the local
government units (LGUs) only
within which the energy-generating
trelevant IP (TIPON, ATSMT,
LIMPONG and LABATA) and civil
society organizations, the academ
community, and agencies such as
the Department of Energy (DOE),
facilities are hosted.

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The lack of a watershed perspective – i.e. recognizing both surrounding upland and lowland territories as part of the same ecological system – in present energy policy discourse, FPE maintains, is also preventing IP communities residing beyond these LGU boundaries from earning their rightful share of financial gains and subsidies, even though it is mostly through their efforts that these water and hydro power resources are protected and sustained.

Through the consultative gathering, FPE was able to present the findings of the research on BUHITA, as well as the initial policy proposals for the administrative guideline amendments. A workshop was held to thoroughly review and critique the proposed guidelines and address additional input of pertinent insights and improvements for the final guideline proposals.

About 60 participants, representing relevant IP (TIPON, ATSMT, LIMPONG and LABATA) and civil society organizations, the academic community, and agencies such as the Department of Energy (DOE), Energy Regulatory Commission (ERC), National Power Corporation (NPC), Power Sector Assets and Liabilities Management, Corp. (PSALM), discussed about the proposed reforms with FPE's Experts Advisory Panel (EAP) and drew out the final draft of the policy proposals.

The proposals for improved administrative guidelines for the EPIRA provisions in question serves merely as the short-term target for FPE's advocacy on sustainable watershed management involving the said law. The Foundation envisions that success in this immediate goal will not only pave the way for IP communities to gain access to their due benefits and resources in light of their role in watershed protection, but also provide substantial input and momentum in the longer-termed pursuit of reforms in legislation dealing with the nation's power resource management.

ABOUT FPE





1992 2014 FPE collibrating 22 years of partnership for extern earl purple.

The Foundation for the Philippine Environment (FPE) is the first and largest grant facility for the environment in the Philippines dedicated to civil society organizations. Since its establishment in 1992, the Foundation has partnered with more than 1,000 non-profit organizations in conserving biodiversity and sustaining communities in more than 65 critical sites in the country. To date, FPE has funded more than 1,400 projects nationwide.

GUIDE QUESTIONS



QI: What is the operational definition of watershed for ER 1-94 and UC-FC?

Q2: What are the guidelines for approving RWMHEEF projects? (Eg. Environmental profiling, increasing the share of watershed management projects vis a vis infra projects)?

Q3: What can we do to ensure implementation on proposed guidelines (Eg. Inter-agency, lobbying, etc)?

Q4: What is the role of IPPs in contributing to UC-EC?

Q5: Conservation framework, of IPs (ie: exchange of benefits with responsibilities)

Q6: Guidelines for ERC approval of UC-EC?

Workshop Proper: Enhancement of the proposed guidelines and action planning



GROUP 1 RESULTS

QI: A watershed would mean the topographic and hydrological boundaries and should consider the closing point is the last scheme of water utilization, which is the hydro power plant

Q2: Conduct an socio-economic and environmental profiling of the watersheds;

Review and the harmonization of existing sectoral plans;

Formulation of an integrated watershed management plan (basic consideration - time frame)

Q3: Create Provincial watershed management councils and NCIP partnership with the LGU

Q4: Utilize IPPs corporate social responsibility programs

Q5: Family-based participation

Watershed protection and conservation framework and accountability should be included in the guidelines



Representatives from the House Committee on Energy, the NPC and Office of Senator Osmena joined the workshop.

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GROUP 2 RESULTS

Q1: Review existing definitions after EPIRA 2001 (e.g., Climate Change Act, etc.) = harmonize

- FPE as lead in coordination with other agencies
- include ECOSYSTEM perspective

Site specific needs = Environmental profiling/watershed characterization

Q2 and 3: Creation of localized Watershed Management Council

- guidelines in creating WMC: multisectoral

Integrated Watershed Management Plan

Integrate with ADSDPP (IPs), CLUP, FLUP, BDPs

LGU to coordinate with IPs on plans

Capacity building of LGUs, GAs on IP rights

Independent Monitoring and Evaluation Body

Q4: Review of IPPs contribution to UC-EC = appropriation ratio given to royalty + implications (is it going to be charged still to consumers?)

Q5: Highlight accountabilities of both IPs and LGUs

Review of guiding principle = "payment for protection of the environment" NOT recompense for destruction due to facilities development

Q6:Time specific approval – for projects to be more appropriate Technical support for ERC to fast track approvals - funding can be charged to UC-EC

Proposals from non-NPC areas can be submitted to ERC thru NPC

Directly earmark funds for IPs (identify actual percentage)



Representatives from PSALM, DOE, DENR and NEDA also joined the workshop.

This National Consultation is made possible with the support of Fundeso, The European Union, FPE and PAFID.





short term



How do we push forward the proposed guidelines?

What are the proposed activities?
Who will be the lead office/
agency?
What is the timeframe for the
activity?

long term



What are the possible next steps

Payment for Environmental Services (resource valuation, cost benefit analysis)

Endowment Fund

Impact evaluation of UC-EC and ER 1-94 projects

EPIRA amendments (expanding the definition of the host communities in terms of the mgmt., areas not management by the NPC)

Policy amendments

Group I

Follow through activity – NPC to come up with the guidelines for UC-EC in as far as accepting proposals

Capacity bldg. and awareness raising of IP communities

FPE to convene another forum for PES and endowment fund discussion

Third party impact evaluation of UC-EC and ER 1-94

FPE to submit a position paper backed by the proceedings of the consultation to the Committee on Energy (Congress) by the end of March

Group 2

Explore PES options Impact evaluation of projects funded through ER-I94 and UC-EC EPIRA Amendments

Provide specific allocation for watershed management (sharing arrangements with LGUs/Ips)

Mandatory share of IPs

Definition of host communities Support to ERC for technical review e.g., EMB, FMB, other technical agencies/ organizations + actively participate in hearings

WHAT IS THE MIPPEG PROJECT?











MIPPEG or Mainstreaming Indigenous Peoples

Participation is a 4-year (2010-2014) project with substantial support from the European Union (EU) worth 729,894.00 EURO (67% of the total amount of the project), Fundacion Desarrollo Sostenido (FUNDESO) and FPE with PAFID as implementing partner. The project aims to empower the IP communities and providing livelihood options and other sustainability mechanisms both at the household and community level. Working in partnership with four IP communities which include the Maeng tribe of Tubo, Abra, Sibuyan Mangyan Tagabukid of Sibuyan, Romblon, the Bukidnon Higaonon tribe in Malaybalay and CAbanglasan, Bukidnon, the Mandaya and Mansaka tribes in Maragusan, Compostela Valley.

Redefining Benefits and Revenues Sharing Mechanisms to Host Communities for Sustainable Watershed Management

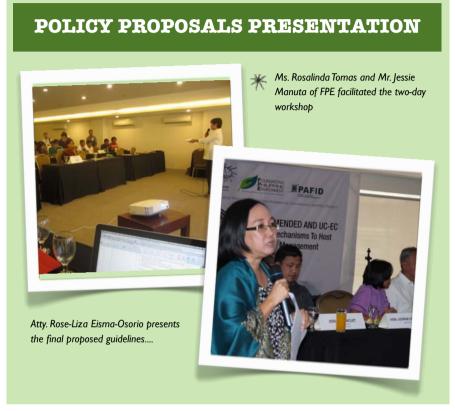
a presentation of Atty. Liza Eisma-Osorio, Secretary of the Board of Trustees, FPE

After laying down the draft of the proposed guidelines and after conducting the workshop to draw out the final comments and suggestions on the presented guidelines, Atty. Rose-Liza Eisma-Osorio, head writer of proposal and Secretary of the Board of Trustees of FPE presented the final draft to the consulting body. This presentation aims to turn over the draft policy to the members of the government agencies present during the two-day consultation.

Atty. Osorio said that the sustainability of the watersheds in the country is critical and that most of the watersheds are located in the ancestral domains of the indigenous people's communities who are the stewards of the sites. Most healthy forests are traditionally managed by the IP communities as well. Section 7a of the Indigenous Peoples Rights Act (RA 8371) or IPRA provides that rights to ownership and possession of ICCs/IPs to their ancestral domain shall be recognized and protected including bodies of water traditionally and actually occupied by ICCs/IPs.

WATERSHEDS AND THE INDIGENOUS PEOPLE

According to Atty. Osorio, findings by the World Bank Independent Review in 2009 showed that 'traditional resource management



practices of ICCs are more effective in protecting the forest than strict protection of government alone.

In 2011, the Center for International Forestry Research found out that low levels of forest destruction occur in areas that had been declared as strict protection parks by the government compared to traditionally protected areas by ICCs'.

IMPROVING THE SUSTAINABILITY OF WATERSHEDS

Watersheds have been the source of energy to many communities in the country. One of the main gaps of ER 1-94 and UC- EC is the lack of

enabling mechanism for IPs to access from these revenues. Only the LGU or barangay hosting the energy facility can tap the funds or the revenues.

As proposed during the workshops, the consulting body seeks to enhance policy guidelines that will enable more inclusionary administrative guidelines that address the due benefits of IPs residing within energy-generating watershed locales

EXPANDING THE OPERATIONAL DEFINITION OF HOST COMMUNITIES

The consulting body also proposes to expand the definition of host

communities to include not only LGUs but IP communities as well.

It is also best to integrate a watershed perspective in the current ER 1-94 regulation in order to bridge the gap in its implementation. Host communities should be construed to mean not only the LGUs but also upstream IP communities protecting the headwaters and downstream communities where the water is utilized by hydro/geothermal power plant. Preferential treatment shall be given to IP communities protecting the headwaters as target host communities.

The consulting body proposed that operational meaning of watersheds in the context of access to ER 1-94 and UC –EC then, would be the topographic and hydrological boundaries that starts from the highest ridge, where surface runoff starts to flow, to the point of the last scheme of water utilization, which is the hydro or geothermal power plant

PROPOSED GUIDING PRINCIPLES

Watershed management projects

should emanate from an IWRM plan specific to the needs of the watershed after the conduct of appropriate socio-economic and environmental profiling of the watersheds and/or watershed characterization as well as review and harmonization of existing sectoral plans (i.e., ADSDPP, CLUP, FLUP, BDPs) within the site.

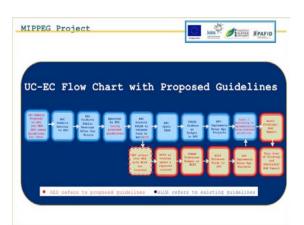
A localized, multi-sectoral Watershed Management Council should be established to foster partnerships towards improved and integrated watershed resource management activities. Watershed conservation framework and accountabilities of beneficiaries, IPOs and/or LGUs, shall be given emphasis especially in the utilization of UC-EC funds for watershed projects. Statements of Responsibilities and Accountabilities shall be articulated and properly documented upon the release of funds.

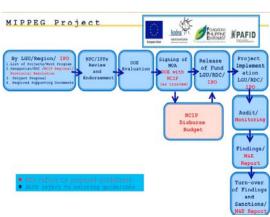
According to FPE's Chairperson Mr.

Nestor Carbonera, while it is clear that the amendment of the EPIRA is being backed by concerned groups and sectors to "strengthen the market power of the electric

cooperatives", "develop an overall plan on where power plants should be...", and "abolition of wholesale electricity spot market for its alleged failure to lower power cost," among other recommendations; FPE, on the other hand is supporting the amendment to benefit the real stewards of our watersheds and ensure that this source of water and energy is seriously protected and holistically managed. Therefore the long term proposals of the consulting body to EPIRA is to amend the definition of host communities, provide specific allocation for watershed management(sharing arrangement w/LGUs and IPs), provide the mandatory share of IPs and support the ERC for a technical review in looking at the basis for P.002 Environmental Fund.

It was also proposed that a position paper backed by proceedings of the National Consultation will be submitted to the Committee on Energy in the House of Representatives. Aside from these, a third party impact evaluation of the UC-EC and ER 1-94 has also been suggested.





Government Agencies' Response





"WE WELCOME THE PROPOSALS"

The government agencies headed by the Chairperson of the House Committee on Energy Congressman Reynaldo Umali, together with ERC Director Atty. Francis Juan accepted the turned over policy proposals from FPE's Chairperson Mr. Nestor Carbonera, supported by the NCIP Chairperson Atty. Leonor Quintayo. Among the government agencies present and who joined the two day activity were DOE Representative Mr. Josue Balacuit, Mr. Emmanuel Umali, Manager of the Watershed Management Department, Ms. Lourdes Alzona of PSALM, Mr. Mark Amor of the office of Senator

Osmena and Ms. Rebeca Aguda of the Department of Environment and Natural Resources.

"To immediately address our concern in the watershed, we will coordinate with communities to encourage proposals in maintaining and developing watershed management," Mr. Josue Balacuit of the DOE said.

Cong. Reynaldo Umali said that he commends the group for coming up with the recommendations. "We can factor this in in the EPIRA amendments. It is important that

we have regulations that are clear and transparent so everyone knows the rules and everyone can participate. With clear and transparent rules, we can better plan and better participate," Cong. Umali added.



Dr. Lourdes Simpol is presented with a plaque of appreciation by FPE Chairperson Mr. Nestor Carbonera.

CONTACT US

Mainstreaming Indigenous Peoples Participation in Environmental Governance (MIPPEG)

Foundation for the Philippine Environment (FPE)

Contact Number: 09178145428

Email: lvida@fpe.ph

