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RECEIVED BY: 

INTRODUCED BY SENATOR JUAN PONCE ENRILE

A RESOLUTION

DIRECTING THE PROPER SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, INTO THE ALLEGED QUESTIONABLE ACTS OF GOVERNMENT AGENCIES IN THEIR AIM TO REACTIVATE THE WAWA WATER SYSTEM AS AN ALTERNATIVE WATER SUPPLY SOURCE WITH THE END IN VIEW OF IMPROVING THE REGULATORY FRAMEWORK IN THE WATER SECTOR AND ULTIMATELY PROVIDING THE BEST AND MOST AFFORDABLE SERVICE TO WATER END-USERS AND CONSUMERS

WHEREAS, the Philippines is a country rich in water resources with 421 principal river basins. Twenty (20) of these are considered major river basins, each of which is at least 990 km² in basin area. There are also sixteen (16) major lakes and a vast coastal bay and water cover which hosts of the world's most diverse marine ecosystem.

WHEREAS, during the rainy season, the country also experiences an average annual rainfall of up to 2,400 mm, of which 1,000 mm to 2,000 mm is collected as run-off by natural topography of river basins, natural lakes and streams;

WHEREAS, by virtue of Presidential Decree No. 424, the National Water Resources Board (NWRB) was designated in 1974 as the lead agency in charge of the comprehensive development, utilization, conservation and protection of water resources through the issuance of water permits for water abstraction. NWRB's mandate was eventually expanded to include economic regulation of waterworks operators except those falling under the jurisdiction of the Metropolitan Waterworks and Sewerage System (MWSS) and the Local Water Utilities Administration (LWUA);

WHEREAS, MWSS was created under Republic Act No. 6234 and was henceforth made responsible for supplying water and providing wastewater services in Metro Manila, the province of Rizal and selected municipalities in the neighboring provinces of Bulacan and Cavite;

WHEREAS, as a result of the water crisis in 1995, MWSS entered into a 25-year concession contract in 1997 with two private concessionaires, namely, the Manila Water Company Inc. (MWCI) and the Maynilad Water Services, Inc. (MWSI) for the east zone and the west zone, respectively, thereby transferring operational and capital development responsibilities thereto;

WHEREAS, according to the Water Supply and Sanitation Master Plan for Metro Manila, there is a need to increase water supply by up to 1,600 million liters per day (mld), to augment the existing capacity of 4,000 mld, in order to meet the 5,600 mld expected demand by 2015. It is therefore necessary to identify and develop new water supply sources aside from the Angat Dam, which currently serves as the only water source for Metro Manila, in order to meet the projected increasing demand;

WHEREAS, cognizant of this compelling need to develop alternative water supply sources, the San Lorenzo Ruiz Builders (SLRBs) applied with NWRB for a permit to develop Wawa Dam at no cost to the government in 1993. However, it was only after more than a



decade that the NWRB approved SLRB's water application but only for a limited right covering only 3.48 cubic meter per second (cms), much lower than their original application for 40 cms;

WHEREAS, based on the studies by SLRB, Wawa Dam is the most feasible water source located just in the outskirts of Metro Manila. Angat Dam is already over-stretched and could no longer supply the requirements of Metro Manila and Bulacan farmers. Moreover, it sits on top of an earthquake fault, and needs repair on cracks in its structure.;

WHEREAS, other interested parties have reportedly been blocking, or were otherwise behind the delay in the approval of SLRB's application to develop and, consequently, reactivate the Wawa Water System. Reports alleged the connivance among NWRB, MWSS and Manila Water Company Incorporated (MWCI), suggesting that they themselves were interested in the reactivation of the Wawa Water System as evidenced in the presence of such project proposals in their respective water resource portfolio or business plans even though it seemed that they did not have water rights covering the said area;

WHEREAS, MWSS previously secured two Technical Assistance Loans from the Asian Development Bank, namely, the Manila North East Water Supply Project in 1992 and Marikina River Water Supply Augmentation Project in 2004, supposedly for the study of the Wawa River Reactivation Project. The cost of these loans was paid for by the government using taxpayer's money. However, until now, no development has ever been undertaken on the Wawa River System;

WHEREAS, it was later reported that in 2004, MWSS was also granted by NWRB water rights covering the same area as applied for by SLRB. Anent to these water rights, MWSS authorized MWCI to make advance collection of P732 Million from its consumers supposedly to develop the Wawa Dam Project;

WHEREAS, the advance collections for the project were already made and factored in the water tariff of consumers beginning January 2003 even before MWSS was grant of water rights and even though the implementation of the Wawa Dam project has not even commenced. Based on the Front Loading Capital Expenditure Report of MWCI in 2007, they were granted a tariff adjustment for the Wawa River System Reactivation Project as follows:

(Per Cu. M)	2003	2004	2005	2006	2007
Wawa Water System Project	0.13	0.13	0.18	0.19	0.21

WHEREAS, when questions were raised as to who has the legal water rights on Wawa Dam, the project was aborted. The P732 Million collected by MWCI was instead used to finance the accelerated implementation of the following projects: a) P127 Million for Curayao Well Field; b) P169 Million for 600mm Pipe Extension; c) P36 Million for San Rafael – 10MLD; and, d) P383 Million for Accelerated Non-Revenue Water (NRW) Reduction;

WHEREAS, given that the consumers were made to pay for the advances collected by MWCI as allowed by MWSS, there is now an urgent need to review whether there was an abuse of discretion was committed on the part of the MWSS in allowing such advance collections. Both the MWSS and the MWCI must disclose the timeframe within which these advances were collected from consumers, whether the new projects for which the advance collections were used actually resulted in the improvement in the delivery of water service or if, unfortunately, it became another undue burden being shouldered by the consumers;

WHEREAS, there is also a need to investigate the circumstances surrounding the unreasonable delay in the grant of water rights to SLRB, on one hand, and, on the other, the haste by which MWSS' application was approved. Appropriate and equal standards and requirements should be formulated on which the approving authority or authorities should base the consideration, approval or disapproval of applications, requests and motions of interested parties;

WHEREAS, similar to the power sector, laws regulating water resources should be reviewed and restructured to separate the supply of water resources from distribution operations, to prevent monopoly in the water sector. In the case of the Wawa Project, it appears that MWSS

has also allowed MWCI, a water distributor, to develop and engage in the supply of its own water needs;

WHEREAS, the NWRB, although independent as far as its regulatory and quasi-judicial functions are concerned, has a membership that includes officers from other government agencies whose expertise are not on water resources development and distribution. Thus, it relies mainly on recommendations provided by MWSS;

WHEREAS, the excessive bonuses and emoluments being awarded by MWSS to its executives and employees, including the MWSS Regulatory Office, should also be taken into account as these come from concession fees paid by its concessionaires and are eventually passed on to the consumers. A creation of a new Regulatory Board independent of any terms and conditions of any concession agreement should likewise be contemplated;

WHEREAS, the MWSS should also be made to explain what representations it made to ADB in securing the technical assistance loans and, more importantly, explain the accomplishments, if any, that were achieved under said loans;

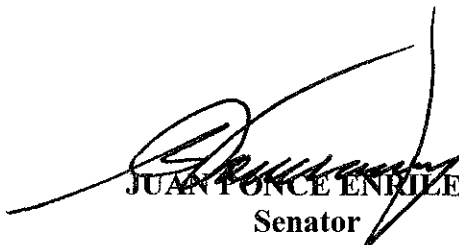
WHEREAS, the regulatory responsibility in the water sector is highly fragmented that the responsibility is devolved to several government agencies. There is therefore a lack of adequate or unifying legal provisions for regulation resulting in differing and conflicting positions in the enforcement of water laws. Also, due to the number of government agencies in the water sector, there exists several water sector development plans leaving the country with no comprehensive plan for water resource development and utilization;

WHEREAS, it is ultimately the consuming public who bears the consequences of the alleged anomalies and inefficiencies perpetuated by the concerned agencies who want to exact profits, whether legal or otherwise, even at the expense of the consumers. Provision of water, similar to power, is a public service and water end-users should be entitled to the least cost of service.

WHEREAS, the water sector is also a possible area where the government can explore public-private partnership especially if such arrangement will yield an efficient environment in the water sector, ultimately providing utility costs that are least expensive and least burdensome to the consuming public;

THEREFORE, BE IT RESOLVED AS IT IS HEREBY RESOLVED BY THE PHILIPPINE SENATE, that the proper Senate committees are directed to conduct an inquiry, in aid of legislation, into the alleged questionable acts of government agencies in their aim to reactivate the Wawa Water System as an alternative water supply source with the end in view of improving the regulatory framework in the water sector and ultimately providing the best and affordable service to water end-users and consumers.

ADOPTED,


JUAN PONCE ENRILE
Senator