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BIENVENIDO L. DEL ROSARIO
VERONICA G. DEL ROSARIO
JAY ARTHUR G. DEL ROSARIO

MEMO

DATE: 27 August 2015

FROM: Del Rosario & Del Rosario; Del Rosario Pandiphil, Inc.

SUBJECT: Collection of Provincial Coastwatch Environmental Monitoring System User Fee by the Province of Zambales, Philippines

A recent cause of concern for vessels passing through the territorial waters of or docking at any port in the Province of Zambales, Philippines is Ordinance No. 28 Series of 2015 (copy attached) which mandates the collection of a "Provincial Coastwatch Environmental Monitoring System User Fee." A number of Owners have already received a billing from the said provincial government beginning August 2015.

The ordinance appears to be aimed at monitoring entry of foreign vessels (e.g. Chinese fishing boats) in contested areas and avoid dumping of waste in Philippine waters. Further, it seems to be applicable to both international and domestic vessels and is likewise intended to prevent casualties, and monitor/enforce environmental laws.

The subject ordinance provides that:

- It applies to "any person or company who owns, leases, controls or operates a vessel."
- Area covered is the territorial waters of Zambales (West Philippine sea) within 15 km. to 100 km. from the baseline.
- The International Association of Marine Aids to Navigation and Lighthouse Authorities (IALA; composed of more than 80 member countries) provides for a "User Pays Principle" which allegedly covers vessels using coastal watch services. The same principle was adopted in the ordinance.

- Fees and charges in the use of the coastal watch system shall fall under the IALA's User Pays Principle and "shall be added to the usual and standard shipping fees and charges prescribed by law."
- The rates per GWT are as follows: US\$0.03580 foreign non-passenger, US\$0.04100 foreign passenger, US\$8.25 foreign fishing vessel and US\$12.57 other foreign commercial ships. For barges US\$6,325 (annual) and motorized coal/ore carriers US\$7,725 (annual). Domestic vessels are also subject to charges at lower rates.
- Ships docking at any port in Zambales that have "not paid the appropriate fees and charges after the given grace period shall not be allowed to leave, until such fees and charges are paid and clearance shall be issued by the Office of the Governor."
- A private entity Xanatos Philippines Corporation (which appears to be a subsidiary of a Canadian Firm, Xanatos Marine, Ltd.) has been tasked to collect the fees and charges for the Province of Zambales.
- There is also an "Emission Testing" requirement for all vessels with engine or boiler of 45 horsepower or higher docking at any sea port in Zambales. The Certificate of Emission Compliance ("CEC") issued by an accredited emission testing center is valid for 12 months renewable for the same period.

Based on its wordings, it is unclear whether the ordinance applies only to vessels docking at a Zambales port or even to vessels just passing through its territorial waters. If it applies to the latter case, said ordinance may run counter to a vessel's right of innocent passage under international laws/conventions. Apparently, the ordinance was patterned after similar regulations in other countries applying the IALA User Pays Principle.

We are currently verifying with local authorities the specific coverage of as well other material information about said ordinance. We also seek confirmation from the IG Clubs' local correspondents in other countries that there are indeed similar regulations so we can raise this in our discussions with the regulators.

We will revert with developments particularly with clarification on the coverage of the ordinance and manner of compliance by those so covered.

Del Rosario & Del Rosario

Republic of the Philippines
PROVINCE OF ZAMBALES
IBA



OFFICE OF THE SANGGUNIANG PANLALAWIGAN

EXCERPT FROM THE MINUTES OF THE REGULAR SESSION OF THE
SANGGUNIANG PANLALAWIGAN OF ZAMBALES HELD AT THE SESSION HALL,
CAPITOL, IBA, THIS PROVINCE, ON THE 8TH DAY OF JUNE, 2015

PRESENT:

Hon. Ramon G. Lacbain II, Vice Governor - *Presiding Officer*

REGULAR MEMBERS

FIRST DISTRICT:

Hon. Jonathan John F. Khonghun - SP Member
Hon. Jose Benedicto C. Felarca - SP Member
Hon. Jose M. Gutierrez, Jr. - SP Member

SECOND DISTRICT:

Hon. Jury E. Deloso - SP Member
Hon. Renato H. Collado - SP Member
Hon. Wilfredo Paul D. Pangan - SP Member
Hon. Samuel D. Ablola - SP Member
Hon. Sancho A. Abasta, Jr. - SP Member

EX-OFFICIO MEMBERS:

Hon. Noel S. Ferrer, PCL President - SP Member, Ex-Officio
Hon. Romelino R. Gojo, ABC President - SP Member, Ex-Officio

ABSENT:

Hon. Alfred S. Mendoza - SP Member

RESOLUTION NO. 2015-106

**ADOPTING ORDINANCE NO. 2015-28 AN ORDINANCE FOR
THE PROVINCIAL COAST WATCH SURVEILLANCE AND
ENVIRONMENT MONITORING SYSTEM IN THE PROVINCE
OF ZAMBALES**

Authored by: Board Member **SAMUEL D. ABLOLA** and
Board Member **RENATO H. COLLADO**

WHEREAS, there is an urgent need for the Province of Zambales to upgrade its coastal facilities and seaports to international standards, for the safety, security and optimal operations of these facilities and seaports;

WHEREAS, such facilities and equipment will result in greater income from marine and shipping operations to the Province of Zambales, by close monitoring of all sea craft both large and small, along the seas and coastal areas of the Province;

WHEREAS, the coast watch system to be provided by Zanatos Marine Ltd. is a tried and tested system, employed and installed in many parts of the world, and acts as a sea traffic controller, monitoring and controlling all sea traffic near or around the waters and coastal areas of the Province;

WHEREAS, this coast watch system can be used to aid sea navigation, rescue operations, prevent illegal fishing, stop piracy, accost drugs transported thru the sea, prevent sea collisions, identify all shipping and sea transport in the seas surrounding the Province, and prevent terrorist attacks by early warning;

WHEREAS, air pollution including maritime pollution has contributed much to global warming and climate change, resulting in severe environmental degradation, health problems and the spawning of destructive super typhoons such as Typhoon Yolanda, which claimed the lives of thousands of Filipinos and caused disastrous property damage in the billions; and the coast watch system can monitor ships, whose exhaust emissions are a significant contributor to air pollution and the creation of harmful gases such as NOx, Sox and Cox, and other pollutants such as particulate matter, harmful hydrocarbons and volatile organic compounds;

WHEREAS, in conjunction with the mandates in the Clean Air Act of 1999 (Republic Act 8749), pending House Bill 00099, Clean Air 10 Declaration, P.D. No. 474 Sec. 12 (a) of E.O. No. 125 as amended, Partnership for Clean Air and Clean Air Initiative-Asia Center, the mandates and programs of the International Maritime Organization against maritime pollution, and the MARPOL (International Convention for the Prevention of Pollution From Ships 73/78) and its annexes, the "Ligtas Hangin" campaign in 2009, among others: there is therefore an urgent need for the Philippines in general, and the Province of Zambales in particular, to do its part in lessening of pollution, particularly air pollution in its territorial seas and seaports;

WHEREAS, the installation of the coast watch system will increase income and economic activity in the Province, by assuring accurate count of vessel using the Province's seaports and coasts, and thus the correct shipping fees and charges;

WHEREAS, this coast watch system will increase travel and tourism in the Province, as a result of the safety and security of sea navigation it will bring to the Province;

WHEREAS, this coast watch system will aid and support the activities of the following government agencies: Philippine Navy, Philippine Ports Authority, Philippine Coast Guard, BIR, Bureau of Customs, Philippine Drug Enforcement Agency, Philippine National Police, Philippine National Red Cross, MARINA, NAMRIA, Department of Tourism, and Department of Fisheries, to name several;

WHEREAS, this coast watch system will be installed in all sea ports of the Province at no cost to the Province;

WHEREAS, the International Association of Lighthouse Authorities (IALA), of which the Philippines is a member, in its IALA Recommendation V-102, dated March 1998, allows the "User Pays Principle" for Vessel Traffic Services (VTS) for coastal, approach and port entry services, wherein user vessels pay for VTS for such services;

WHEREFORE, premises considered, **NOW THEREFORE, BE IT ENACTED, AS IT IS HEREBY ENACTED, BY THE SANGGUNILANG PANLALAWIGAN OF ZAMBALES IN A SESSION HEREIN ASSEMBLED, BY VIRTUE OF THE POWERS VESTED IN IT BY LAW, THAT:**

PROVINCIAL ORDINANCE NO. 28, Series of 2015

AN ORDINANCE FOR THE PROVINCIAL COAST WATCH SURVEILLANCE AND ENVIRONMENT MONITORING SYSTEM IN THE PROVINCE OF ZAMBALES

Chapter I

Section 1: Title – the Ordinance shall be known as “The installation of a provincial coastal-wide monitoring system of the territorial waters of the Province of Zambales, and the conduct of emission testing of all vessels docking in any sea port in the Province.”

Section 2: Purpose – to upgrade the monitoring capacity and facilities of the Province of Zambales over its territorial waters to international standards for national and local security, prevention of maritime crime and transportation of illegal substances, the improvement of port operations, and the maintenance and improvement of the maritime air environment of the Province.

Section 3: Coverage – the Ordinance shall cover all the ports and territorial waters of the Province of Zambales.

Section 4: Definition of Terms – As used in this Ordinance, the terms below shall have the meanings ascribed to them in this section. Any word or term not defined shall be customary meanings, unless the context requires otherwise, and shall be interpreted in a manner consistent with the purpose and spirit of this Ordinance.

1. **COASTAL WATCH** - the monitoring of territorial waters by the use of state-of-the-art equipment for real-time observation of sea traffic, events, activities and operations in these waters.
2. **IALA** – International Association of Marine Aids to Navigation and Lighthouse Authorities. It brings together representatives of the aids to navigation services of more than 80 member countries for technical coordination, information sharing and coordination of improvements to visual aids to navigation throughout the world.
3. **MARINA** – Maritime Industry Authority. It is a government agency created to integrated the development, promotion and regulation of the maritime industry in the country.
4. **NAMRIA** – The National Mapping and Resource Information Authority of the Philippines. It surveys and maps the land and water resources of the Philippines.
5. **PROVINCIAL TERRITORIAL WATERS** – is a belt of coastal waters extending from 15 km. to 100 km. from the baseline (usually the mean low-water mark) of a coastal state.

6. **USER PAYS PRINCIPLE** – the principle that a user of a service or resource pays directly for the amount used, rather than the cost being shared by all the users or a community equally. In this case it applies to ships using coastal watch services for their operations.
7. **VTS – Vessel Traffic Services** are shore-based systems which range from the provision of simple information messages to ships, such as position of other traffic or meteorological hazard warnings, to extensive management of traffic within a port or waterway.
8. **IMO – International Maritime Organization**, a specialized agency of the United Nations that is responsible for measures to improve the safety and security of international shipping and to prevent marine pollution from ships.
9. **MARPOL – MarPol 73/78** is the International Convention for the Prevention of Pollution from Ships, 1973 as modified by the Protocol of 1978. (“MarPol” is short for marine pollution and 73/78 short for the years 1973 and 1978.)
10. **AIR POLLUTION** – means any alteration of the physical, chemical and biological properties of the atmospheric air, or any discharge thereto of any liquid, gaseous or solid substances that will or is likely to create or to render the air resources of the country harmful, detrimental, or injurious to public health, safety or welfare or which will adversely affect their utilization for domestic, commercial, industrial, agricultural, recreational, or other legitimate purposes.
11. **ACCREDITED EMISSION TESTING CENTER (AETC)** – any Provincial accredited testing center tasked to conduct inspection, emission testing and other related tests on vessels as pre-requisite to registration.
12. **CERTIFICATE OF EMISSION COMPLIANCE (CEC)** – means a certificate issued by the AETC to a registered vessel certifying that a particular in use vessel meets the emission requirements of this ordinance.
13. **CERTIFICATE OF INSPECTION (CI)** – is a document issued by the MARINA to confirm that the ship has been checked and found to comply with documented specifications involving ship’s safety requirements and seaworthiness. It is issued to the owner of the inspected ship as proof that guidelines have been made.
14. **DOMESTIC WATERS** – shall refer to Philippine territorial waters.
15. **EMISSION** – means any release of substance, subject to control from ships into the atmosphere or sea.
16. **EMISSION TESTING** – a procedure that checks the levels of hazardous solid, liquid and gaseous materials coming from the vessels engines/boilers, to determine if they meet the standards set by the Province on maritime air pollution.
17. **FUEL ADDITIVES** – a fuel enhancer or catalyst added to the fuel to improve fuel combustion and reduces smoke emission.
18. **SHIP** – means a vessel of any type whatsoever operating in the maritime environment and includes hydrofoil boats, air-cushion vehicles, submersibles, floating craft and fixed or floating platforms.










19. SHIPOWNER – means any person or company who owns, leases, controls, or operates a vessel.

20. SHIP REGISTRATION – the process by which a *ship* is documented and given nationality of the country that the ship has been documented to. For purposes of this Ordinance, Ships with local registry are those registered in the Philippines. Ships with international registry are those registered in other countries.

Chapter II

Section 5: *Acquisition and Installation of the Coastwatch Surveillance and Monitoring System*

The Province of Zambales hereby approves the acquisition, and installation of the coast watch surveillance and monitoring system offered at no cost and capital on the part of the Province thru Xanatos Marine Ltd.

Section 6: *Cooperation from other Government Agencies*

All government agencies and instrumentalities are directed to cooperate in the speedy and timely approval of the requisite permits and licenses for the installation and operation of said coastal watch system.

Section 7: *Implementation and Commissioning of the Provincial Coastwatch Surveillance and Environment Monitoring System*

Under this ordinance, and by the virtue of the MOA between the Province of Zambales and Xanatos Marine Ltd., signed on April 13, 2015, Xanatos Marine Ltd. is hereby commissioned to undertake and ensure the full implementation of the project under such terms of this Ordinance and the MOA such as, but not limited to:

1. Establishment of all the monitoring sites in different strategic parts of the province;
2. Ensure the efficient operation and maintenance of the system;
3. Prepare a daily monitoring report to the Governor or to his official representative;
4. Ensure confidentiality of all the reports, data and monitoring documentation;
5. Prepare monthly billing for all shipping agents covered by this project;
6. Maintain close coordination with the Office of the Governor as to documentation and operation; and
7. Establish, appoint and empower its local representative Xanatos Philippines Corporation for the sole purpose of maintaining proper coordination between the parties, billing and accepting payments.

Section 8: *User Pays Principle*

Such fees and charges in the use of this coastal watch system shall fall under IALA's User Pay Service scheme, and shall be added to the usual and standard shipping fees and charges prescribed by law, and that the collection of such fees and charges be done by the Province of Zambales thru Xanatos Philippines Corporation duly authorized in accordance with the Memorandum of Agreement (MOA) entered into by the Province of Zambales and Xanatos Marine Ltd.

Section 9: Fees and Charges/Payments Remittance

The following fees and charges using the User Pays Principle shall be implemented in accordance with this ordinance.

Ship Type	CHARGE TYPE
FOREIGN	Per GWT
Foreign Non Passenger	\$ 0.03580 USD
Foreign Passenger	\$ 0.04100 USD
FOREIGN	Per Meter
Foreign Fishing	\$ 8.2500 USD
Other Foreign Commercial Ships	\$ 12.5700 USD
DOMESTIC	Per GWT
Philippine Non-Passenger	\$ 0.02840 USD
Philippine Passenger	\$ 0.02000 USD
DOMESTIC	Per Meter
Other Philippine Commercial Ships	\$ 6.950 USD
OTHER VESSELS	Annual
Barges	\$ 6,325.00 USD
Motorized Coal/Ore Carriers	\$ 7,725.00 USD

Section 10: Revenue Sharing

The net profit after deducting all expenses, fees and taxes, shall be divided in accordance with the contract or memorandum of agreement entered into by the Province and Xanatos Marine Ltd.

Section 11: Penalty Clause

Ships docking at any port in Zambales that has not pay the appropriate fees and charges after the given grace period shall not be allowed to leave, until such fees and charges are paid and clearance shall be issued by the Office of the Governor. A penalty of 20% a month shall be billed for unpaid fees on the total billing including such other surcharges as may be provided by law or ordinance.

Chapter III

Section 12: Emission Testing Requirement

All ships with an engine and/or boiler capacity of forty-five (45) horsepower and above docking at any sea port of the Province of Zambales, shall be required to undergo an emission test from an emission testing center duly accredited by the Province. This requirement applies to ships of local and international registry. Failure to comply the emission standard established by the Province shall be obliged to adopt any available emission reduction methods specified in Section 15.

Section 13: Accreditation of Emission Testing Center

All companies/entities engaged in emission testing center service shall apply for accreditation with the Province. Only those who have the requisite professional staff and equipment to measure accurately air pollutants according to standards established by the Province, shall be accredited and authorized to engage in and transact business as Accredited Emission Testing Centers (AETC) for ships of both local and foreign registry.

These AETC's are hence authorized to issue a Certificate of Emission Compliance (CEC). The Province accreditation is valid for three (3) years, at the end of which the emission testing centers concerned shall have to apply for reaccreditation with the Province.

Section 14: Validity of CEC

For ships of local registry, the CEC is valid for twelve (12) months after issue, and needs renewal thereafter with an AETC. The CEC is also a pre-requisite for the issuance of the annual Certificate of Inspection (CI) from MARINA. For ships of international registry, the CEC is valid for thirty (30) days after issuance.

Section 15: Emission Reduction Methods

The Province shall allow the use of emission reduction methods that are duly registered and are not harmful to health, the ship engines/boilers, and to the environment.

1. For fuel additives and biofuels, the technology must be registered to Department of Energy (DOE) and Department of Environment and Natural Resources (DENR). The product must be verified by the Department of Science and Technology through Environment Technology Verification for the protection of the users. The manufacturing company and product design must be ISO (International Standard Organization) certified, and its product must have been proven and tested and used by the local shipping companies for at least five (5) years; and
2. Materials, appliances or apparatus to be fitted in a ship, and procedures intended to reduce emissions, must all be verified by the Department of Science and Technology through Environment Technology Verification for the protection of the users. The Companies manufacturing these products must likewise be certified by the ISO. And these shall have been proven and tested and used by the local shipping companies for at least five (5) years.

Section 16: Random Tests

At its option, the Province may conduct random tests on AETC's to ascertain current compliance with the Province standards for personnel and equipment. The Province may also cause emission testing of ships that may have a valid and current CEC, but are emitting perceived air pollution into the atmosphere.

Section 17: Fees and Charges for Emission Testing

The following shall be the standard fees and charges by any accredited emission testing center (AETC) for the conduct of actual emission testing and for the issuance of the Certificate of Emission Compliance (CEC).

<u>ENGINE/BOILER CAPACITY</u>	<u>TESTING FEE</u>	
1. 45HP to 100 HP) For vessels	Php 5,000.00/unit	
2. Over 100HP to 500HP) engaged in	10,000.00/unit	
) the carriage of	
) goods and/or	
) passenger for hire	
3. Over 500HP to 2,500HP	15,000.00/unit	
4. Over 2,500HP to 5,000HP	20,000.00/unit	
5. Over 5,000HP to 10,000HP	25,000.00/unit	
6. Over 10,000HP to 25,000HP	30,000.00/unit	
7. Over 25,000HP	40,000.00/unit	

Section 18: Fines and Penalties for Violations

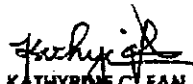
Violation of this chapter such as:

1. Operation of an emission test center without or with expired provincial accreditation;
2. Operation of a ship without the valid and current CEC from an AETC;
3. Emission of solid, liquid and gaseous materials into the atmosphere beyond Provincial, National and International Standards, even if the ship possesses a valid CEC;

shall be fined in the amount of Php100,000.00 and cancellation of accreditation for emission testing, while ships shall not be allowed to leave the ports of Zambales unless the fine imposed shall have been paid.

ADOPTED this 8th day of June, 2015.

We hereby certify to the correctness of the foregoing resolution which was duly adopted by the Sangguniang Panlalawigan during its regular session held on June 08, 2015.

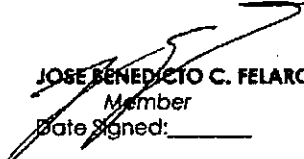

KATHRYNE C. FAN
Secretary to the S.P.
Date Signed: _____



**REGULAR MEMBERS
FIRST DISTRICT**


JONATHAN JOHN F. KHONGHUN
Member
Date Signed: _____




JOSE BENEDICTO C. FELARCA
Member
Date Signed: _____



JOSE M. GUTIERREZ, JR.
Member
Date Signed: _____




SECOND DISTRICT


JIRY E. DEOSO
Member
Date Signed: _____


RENATO H. COLADOC
Member
Date Signed: _____


WILFREDO PAUL D. PANGAN
Member
Date Signed: _____


SAMUEL D. ABLOLA
Member
Date Signed: _____

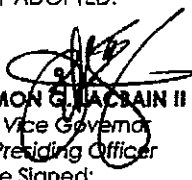

SANCHO A. ABASTA, JR.
Member
Date Signed: _____

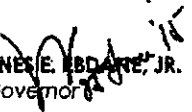
EX-OFFICIO MEMBERS

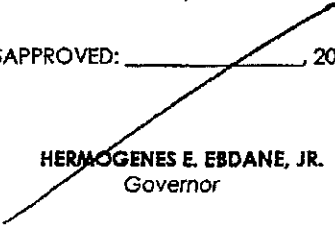

NOEL S. FERRER
PCL President
Date Signed: _____


ROMELINO R. GOJO
ABC President
Date Signed: _____

ATTESTED AND CERTIFIED
TO BE DULY ADOPTED:


RAMON G. JACSAIN II
Vice Governor
Presiding Officer
Date Signed: _____

APPROVED: _____, 2015

HERMOGENES E. EBDANE, JR.
Governor

DISAPPROVED: _____, 2015

HERMOGENES E. EBDANE, JR.
Governor

