

PRESIDENTIAL DECREE NO. 552

DATE: September 11, 1974

AMENDING CERTAIN SECTIONS OF REPUBLIC ACT NUMBERED THIRTY-SIX HUNDRED AND ONE, ENTITLED, AN ACT CREATING THE NATIONAL IRRIGATION ADMINISTRATION

WHEREAS, the enunciation policy is for a comprehensive development, utilization and conservation of water resources of the Philippines, and in pursuit of this policy, one of the primary objectives of the National Irrigation Administration is to effectuate an economic means of achieving the optimal and diversified utilization and control of water by undertaking integrated irrigation projects.

WHEREAS, the National Irrigation Administration assumes as its primary responsibility, the implementation of the irrigation integrated program of the government and the attainment of the Irrigation Age, as envisioned under Republic Act No. 3601;

WHEREAS, an effective means of implementing multiple-purpose projects in line with program-oriented and comprehensive water resources development necessitates broader powers and authority of the NIA to undertake concomitant projects such as flood control, drainage, land reclamation, hydraulic power development, domestic water supply, road or highway construction, reforestation and projects to maintain ecological balance, in coordination with the agencies concerned;

WHEREAS, the construction of multiple-purpose water resources projects involves substantial investment of government funds to increase agricultural production for the financial upliftment of the people for them to be able to assume and comply with their obligations and responsibilities to the government;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution do hereby amend certain sections or provisions of Republic Act Numbered Thirty-six Hundred and One, An Act Creating the National Irrigation Administration, to wit:

Sec. 1. Section 2, Republic Act Numbered Thirty-Six Hundred and One, is hereby amended to read as follows:

Sec. 2. Powers and Objectives. - The NIA shall have the following powers and objectives:

(a) To investigate and study all available and possible water resources in the Philippines, primarily for irrigation purposes; to plan, design, construct and/or improve all types of irrigation projects and appurtenant structures; to operate, maintain, and administer all national irrigation system; the authority to supervise the operation, maintenance and repair, or otherwise, administer temporarily, all communal and pump irrigation systems constructed, improved and/or repaired wholly or partially with government funds; and to delegate the partial or full management of national irrigation systems to duly organized cooperatives or associations, under such terms and conditions which the NIA Board of Directors may impose;

(b) To charge and collect from the beneficiaries of the water from all irrigation systems constructed by or under its administration, such fees or administration charges as may be necessary to cover the cost of operation, maintenance and insurance, and to recover the cost of construction within a reasonable period of time to the extent consistent with government policy; to recover funds or portions thereof expended for the construction and/or rehabilitation of communal irrigation systems which funds shall accrue to a special fund for irrigation development under section 2 hereof;

Unpaid irrigation fees or administration charges shall be preferred liens, first, upon the land benefited, and then on the crops raised thereon, which liens shall have preference over all other liens except for taxes on the land, and such preferred liens shall not be removed until all fees or administration charges are paid or the property is levied upon and sold by the National Irrigation Administration for the satisfaction thereof. Judicial actions for the collection of unpaid irrigation fees or charges, drainage fees or other charges which the National Irrigation Administration is authorized to impose and collect, shall henceforth be governed by the provisions of the Rules of Court of the Philippines for similar actions, the provisions of other laws to the contrary notwithstanding:

(c) To construct multiple-purpose water resources projects designed primarily for irrigation, and secondarily for hydraulic power development and/or other uses such as flood control, drainage, land reclamation, domestic water supply, roads and highway construction and reforestation, among others, provided, that the plans, designs and the construction thereof, shall be undertaken in coordination with the agencies concerned;

(d) To investigate, in coordination with the Bureau of Public Works, areas which are unproductive or less productive due to permanent or occasional submergence, and to plan, design and construct drainage facilities

and protective works for agricultural purposes to increase or maximize their productive yield, to collect drainage fees from landowners of areas benefited by the drainage facilities and protective works to recover the cost of operation and maintenance as well as a reasonable portion of the cost of the construction thereof, consistent with government policy;

(e) To acquire, by any mode of acquisition, real and personal properties, and all appurtenant rights, easements, concessions and privileges, whether the same are already devoted to private or public use in connection with the development of projects by the NIA;

The National Irrigation Administration is empowered to exercise the right of eminent domain in the manner provided by law for the institution of expropriation proceedings.

In the prosecution of its projects, the National Irrigation Administration is hereby given the right of way to construct and maintain such works and hydraulic structures over and throughout lands of the public domain, and in those owned by any branch of the government, political subdivision, and instrumentality. In case of private property, compensation for the use and occupancy thereof shall be paid and determined as follows:

(1) In case of the establishment of easement of aqueduct, abutment of dams, right of way for access roads and other similar works pertaining to irrigation projects and for facilities and works pertaining to multiple-purpose projects, the owners of the property shall be entitled to not more than ten percent (10%) of the market value of the property, based on the current tax declaration at the time of actual entry or the filing of the complaint for eminent domain, whichever is earlier.

(2) In case the property is acquired by purchase, the fair market value of the area actually occupied shall be paid, based on the current tax declaration at the time of actual entry or the filing of the complaint for eminent domain, whichever is earlier.

(3) In both instances under (1) and (2), the owners of the property shall be compensated for damages to improvements based on the valuation thereof appearing in the current tax declaration at the time of actual destruction or the filing of the complaint for eminent domain, whichever is earlier, provided, further, that if the improvements could be removed without substantial destruction and impairment of their use, the compensation shall be fifty per cent (50%) of the current value thereof; provided, finally that if the crops are harvested before actual destruction thereof, no compensation therefor shall be paid, notwithstanding the filing of the complaint for eminent domain.

All actions for the recovery of compensation and damages against the National Irrigation Administration under paragraphs (1), (2) and (3) hereof, shall be filed with a competent court within five (5) years from the date of entry of the land or destruction of the improvements of crops, after which period, the right of possession and/or ownership of the National Irrigation Administration shall be considered vested and absolute. All other actions for the recovery of compensation and damages to private property and improvements occasioned by the construction, operation and maintenance of irrigation facilities and other hydraulic structures under the administration of the National Irrigation Administration, which have accrued ten (10) or more years prior to the approval of this decree are deemed to have prescribed and are barred forever.

(f) To establish/create such services and facilities and other means of social and economic assistance to the community which might be adversely and directly affected by the construction of National Irrigation Administration projects, and to do all such other things, and to transact such business, as are directly or indirectly necessary, incidental or conducive to the attainment of the above powers and objectives, including the power to establish and maintain subsidiaries, and in general, to exercise all the powers of a corporation under the Corporation Law, insofar as they are not inconsistent with the provisions of this Act.

Sec. 2. Section 3, Republic Act Numbered Thirty-six Hundred and One is hereby repealed, except paragraphs one and eight thereof which are amended and a new paragraph which is added to read as follows:

Sec. 3. (a) Capitalization. - The capitalization of the National Irrigation Administration shall be two billion pesos, to be subscribed and paid entirely by the Government of the Republic of the Philippines which shall deliver annually to the NIA the sum of two hundred million pesos until its whole capitalization is fully paid.

(b) Operating Capital. - All amounts collected by NIA as irrigation fees, administration charges, drainage fees, equipment rentals, proceeds from the sale of unserviceable equipment and materials, sale of all reparation goods allocated to the defunct Irrigation Service Unit and the National Irrigation Administration, and all other income shall be added to its operating capital.

(c) Funds for general administration, current operating expenses, and operation, maintenance and administration expenses or irrigation systems, shall be included in the annual general appropriations decree/act. Over and above the requirements of operation, maintenance and administration expenses of irrigation systems of the National Irrigation Administration and of its central office and regional and provincial

offices, there shall be included in the annual general appropriations act an account not less than six million pesos a year to finance feasibility studies, investigations, surveys, and plans preparation for projects.

Sec. 3. Authority to incur foreign loans. - The National Irrigation Administration is authorized to contract loans, credits, in any convertible foreign currency or capital goods, and to incur indebtedness from time to time with foreign governments, or any international financial institutions or fund sources, the total outstanding amount of which, excluding interests, shall not exceed five hundred million United States dollars or the equivalent thereof in other currencies, on such terms and conditions as it shall deem appropriate for the accomplishment of its objectives, the provisions of existing laws to the contrary notwithstanding; and to enter into and execute contracts and other documents specifying such terms and conditions.

The President of the Philippines, by himself, or through his duly authorized representative, is hereby authorized to negotiate and contract with foreign governments or any international financial institution or fund sources in the name and on behalf of the National Irrigation Administration, one or several loans, for the purpose of promoting the irrigation program and the construction of multiple-purpose water resources projects.

The President of the Philippines, by himself, or through his duly authorized representative, is hereby further authorized to guarantee, absolutely and unconditionally, as primary obligor and not as mere surety, in the name and on behalf of the Republic of the Philippines, the payment of the loans, credits and indebtedness up to the amount herein authorized, over and above the amounts which the President of the Philippines is authorized to guarantee under existing laws, as well as the performance of all or any of the obligations undertaken by the National Irrigation Administration in the territory of the Republic of the Philippines pursuant to loan agreements entered into with foreign governments or any international financial institution or fund sources.

The loans, credits and indebtedness contracted under this section and the payments of the principal, interest and other charges thereon, as well as the importation of machinery, equipment, materials, supplies and services, by the National Irrigation Administration, paid from the proceeds of any loan, credit, or indebtedness incurred under this act, shall also be exempted from all direct and indirect taxes, fees, imposts, other charges and restrictions, including import restrictions previously and presently imposed, and to be imposed by the Republic of the Philippines, or any of its agencies and political subdivisions.

Sec. 4. Section 4, Republic Act Numbered Thirty-six Hundred and One, is hereby amended to read as follows:

Sec. 4. Board of Directors. - The powers and functions of the National Irrigation Administration shall be exercised by a Board of Directors composed of six members, to wit: The Secretary of Public Works, Transportation and Communications, who shall be the Chairman, the Administrator of the National Irrigation Administration, who shall be the Vice-Chairman, the Director General of the National Economic and Development Authority, the Secretary of Agriculture, the General Manager of the National Power Corporation, and one member who shall be appointed by the President of the Philippines on recommendation of any national rice and corn organization of good standing and who shall serve for a term of four years unless sooner removed.

In the case of failure of a member to attend meetings of the Board due to physical incapacity or any temporary disability, the Undersecretary or the Assistant Head of the office or agency to which the member concerned belongs, shall attend the meetings of the board, with the power to vote.

For actual attendance at regular meetings, each member of the Board or his representative as authorized in the preceding paragraph, shall receive a per diem of three hundred pesos, and one hundred pesos for special meetings, but the total amount of per diem that a member may receive in a month shall in no case exceed one thousand five hundred pesos. The Board shall fix the amount of representation and transportation allowances that the members may receive.

Sec. 5. Section 5, Republic Act Numbered Thirty-six Hundred and One, is hereby amended to read as follows:

Sec. 5. Powers and Duties of the Board of Directors. - The Board of Directors shall have the following powers and duties:

(a) To formulate and adopt policies for the management and operations of the National Irrigation Administration, and to prescribe, amend, and repeal, with the approval of the President of the Philippines, rules and regulations governing the manner in which the general business of the National Irrigation Administration may be conducted, including provisions for the formation of such committee or committees as the Board may deem necessary to facilitate its business;

(b) To recommend to the President of the Philippines the appointment of such number of Assistant Administrators as the exigencies of the service may require from a list of names submitted by the

Administrator; to fix the compensation of the Irrigation Administrator and his Assistant/s, and by at least two-thirds vote of all the members, to recommend the suspension and/or removal of the said officials for cause;

(c) To approve, subject to the final action of the President, the annual and/or supplemental budget of the NIA which may be submitted to the Board by the Irrigation Administrator from time to time; and

(d) To appoint and fix the compensation of a Board Secretary who shall hold office at the pleasure of the majority of the members of the Board.

Sec. 6. Section 6, Article III, Republic Act Numbered Thirty-six Hundred and One, is hereby amended to read as follows:

Sec. 6. Prohibition for Board Members. - The Chairman and other members of the Board of Directors, except the Irrigation Administrator, shall not at the same time serve in the NIA in any other capacity, unless so authorized by the President.

Sec. 7. Section 7, Article IV, Republic Act Numbered Thirty-six Hundred and One, is hereby amended to read as follows:

Sec. 7. Managing Head. - The management of the NIA shall be appointed by the President of the Philippines.

Sec. 8. Section 8(d), Article IV, Republic Act Numbered Thirty-six Hundred and One, is hereby amended to read as follows:

(d) With the approval of the Board, to determine the staffing pattern and the number of personnel of the National Irrigation Administration, to fix their salaries including other emoluments, and to define their powers and duties. For this purpose, the Irrigation Administrator shall recommend to the Board a staffing pattern and salary pay plans in other government corporations of the same category as the National Irrigation Administration, the provisions of existing rules and regulations on wage and position classification notwithstanding, especially with respect to technical and professional positions.

With the approval of the Board, to appoint and remove, suspend, or otherwise discipline, for cause, any subordinate employee of the National Irrigation Administration.

Sec. 9. Separability Clause. - The provisions of this Decree are hereby declared to be separable and if any clause, sentence, provision or section of this Decree or its application thereof to any person or circumstance should, for any reason, be held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or application of this Decree which can be given force and effect.

Sec. 10. Repealing Clause. - All laws, decrees, charters, executive orders, administrative orders, proclamations, rules and regulations, or parts thereof insofar as they are inconsistent with the provisions of this Decree are hereby repealed or modified accordingly.

Sec. 11. Effectivity. - This Decree shall take effect upon its approval.

Done in the City of Manila, this 11th day of September, in the year of Our Lord, nineteen hundred and seventy-four.