
MULTI-SECTORAL APPROACH TO COMPLIANCE MONITORING

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SUMMARY

The growing awareness of environmental impacts associated with development projects coupled with the increasing demand for public participation in managing such impacts, calls for deliberate efforts to continuously involve various stakeholders in the overall strategy on environmental protection. In the Philippines, public participation is pursued not only in planning for environment friendly development but is greatly prioritized in the actual implementation of such development. The Philippine Environmental Impact Statement System, in particular, provides participatory mechanisms for various stakeholders not only during the review process but as well as after the Environmental Compliance Certificate had been issued. Ensuring public participation in compliance monitoring gives greater credibility to the Environmental Impact Statement System.

The Multi-Partite Monitoring Team is a required mechanism under the System. Its creation aims to encourage public participation and greater stakeholders' vigilance, and to provide appropriate check and balance mechanisms in compliance monitoring of development project implementation. This multi-sectoral approach delegates roles and functions to identified stakeholders (local executives, community leaders, non-government organization, indigenous people, etc.) regarding monitoring compliance, handling of complaints, dissemination of information and preparation of reports. While the Multi-Partite Monitoring Team creation does not absolve both the regulator and the industry of monitoring responsibilities, its effective operation provides strong basis for regulatory and management decision-making processes.

The Multi-Partite Monitoring Team is seen as comprehensive tool to address biophysical and socioeconomic monitoring of a particular development. Its approved environmental monitoring plan systematizes its monitoring work. An environmental monitoring fund put up by the project proponent is established to support the Multi-Partite Monitoring Team. In cases of damages due to accidents and the necessary rehabilitation, an environmental guarantee fund is likewise established.

Documented case studies show the effectiveness of this multi-sectoral approach especially when there is limited monitoring capability on the part of the regulator and a strong effort to promote local environmental governance.

1 BACKGROUND

The present state of the Philippine environment calls for the integration of environmental considerations in development planning. Towards this end, the Philippine Environmental Impact Statement System is believed to be one of the most powerful tools to achieve sustainable development, a development that meets the needs of present

generation without compromising the ability of future generations to meet their own needs (1992 Earth Summit). In the Philippines, the successful implementation of the Environmental Impact Statement System is considerably dependent on how effectively public (stakeholders) participation is pursued. Lack of public participation usually results to a low social acceptability while extensive public participation often guarantees high social acceptability. Despite meeting the technical requirements of the Environmental Impact Statement System, many development projects are delayed by strong opposition that is largely due to failure in public participation. This may, however, positively demonstrate the extent of public awareness and consciousness of development-environment interactions and the need to involve various sectors in sustainable development planning.

2 SOME LEGAL CONSIDERATIONS

While the Philippine Environmental Impact Statement System was actually implemented in the early 1980's, it was only in the 1990's that public participation became significant in the Environmental Impact Assessment process. The latest implementing rules and regulations of the Environmental Impact Statement System Law "enhances maximum public participation in the Environmental Impact Assessment process to validate the social acceptability of the project or undertaking so as to ensure the fullest consideration of the environmental impact of such project or undertaking".

While the task of protecting the environment is primarily given to one department, in reality, a number of government agencies, both at the national and local levels impinge on this task, qualifying them as partners.

The Local Government Code of 1991 provides for the devolution of some environmental functions from the national government agencies to the local government units. This particular law gives local executives the mandate to manage their local environs. Thus, their participation is not only desired but also required.

In addition, there is a strong effort among organized communities, peoples' groups and other marginalized sectors to participate in environmental protection efforts.

3 PUBLIC PARTICIPATION DEFINED

The environment involves not only the biophysical aspect but also the socioeconomic dimension of development projects. People are part of the environment and are often affected by development projects. Public participation therefore becomes crucial in making decisions that affect their lives and their environment. It also recognized that people possess intimate knowledge about their environment, have needs and aspirations for socioeconomic uplifting and are recipients of benefits or environmental stress arising from development projects. Public participation gives citizens the opportunity to influence major decisions that affect them. In the Environmental Impact Assessment process, the goal of public participation is to enable citizens to take responsibility for environmental protection and management through active involvement in decision making.

Public participation is the most effective process to determine social acceptability of a project or undertaking. In addition, it offers the following added values and benefits:

- Helps to identify and address concerns of stakeholders.

- Focuses planning on issues or concerns.
- Provides alternatives for planning consideration.
- Provides added sources of expertise.
- Reduces level of misinformation and distrust.
- Improves decision making.
- Empowers the citizen to take responsibility in environmental protection.

Identification of stakeholders is crucial to effective public participation. Stakeholders are persons who may be significantly affected by a project or undertaking such as, but not limited to members of the local community, industry, local government units, non-government organizations and peoples organizations.

Public participation can be elicited in the following stages of the Environmental Impact Assessment Process:

- Scoping.
- Baseline studies, ecoprofiling or validation.
- Impact identification and prediction.
- Validation of impact identification/prediction and impact evaluation.
- Negotiation and dispute or conflict resolution.
- Public hearing.
- Environmental Management Planning.
- Environmental monitoring.
- Implementation of sanctions or penalties.

4 PUBLIC PARTICIPATION IN COMPLIANCE MONITORING

All projects covered by the Environmental Impact Statement System and issued an Environmental Compliance Certificate are subject to periodic monitoring by the Department of Environment and Natural Resources. As a minimum requirement in compliance monitoring, the activities to be monitored by the Department of Environment and Natural Resources shall correspond to the conditions provided in the Environmental Compliance Certificate. In addition, compliance with the Environmental Management Plan and other applicable laws, rules and regulations shall also be monitored. Further, the industry is required by law to monitor its own compliance. The Department of Environment and Natural Resources have established a self-monitoring system to guide the industry.

The primary purpose of monitoring is to ensure the judicious implementation of sound environmental management. Specifically, it aims to:

- Monitor project compliance with the conditions set in the Environmental Compliance Certificate.
- Monitor compliance with the Environmental Management Plan and with applicable laws, rules and regulations.

- Provide a basis for timely decision-making and effective planning and management of environmental measures through the monitoring of actual project impacts vis-à-vis the predicted impacts.

To promote public participation and in the light of limited resources and capability for monitoring the Department of Environment and Natural Resources has initiated a multi-sectoral approach to compliance monitoring especially for environmentally-critical projects. This mechanism calls for the organization of the Multi-Partite Monitoring Team by the project's proponent as early as possible prior to the construction/implementation phase of the project. This, however, does not preclude the Department of Environment and Natural Resources or the proponent from conducting its own monitoring, as deemed necessary.

The purposes for organizing the Multi-Partite Monitoring Team are to encourage public participation and greater stakeholders vigilance and to provide appropriate check and balance mechanisms in the monitoring of project implementation. The Multi-Partite Monitoring Team shall:

- Monitor project compliance with the Environmental Management Plan, Environmental Compliance Certificate conditions and other related permits.
- Gather relevant information to facilitate determination of causes of damages and validity of complaints or concerns about the project.
- Prepare, integrate and disseminate monitoring reports and submit recommendation to the Department of Environment and Natural Resources.
- Monitor community information, education and communication activities.

The composition of the Multi-Partite Monitoring Team and their responsibilities shall be provided in a Memorandum of Agreement negotiated by the proponent, the Department of Environment and Natural Resources and the major stakeholders. In all cases, the Multi-Partite Monitoring Team shall be composed of representatives of the proponent and of a broad spectrum of stakeholder groups including representatives from the local government's units, non-government organizations, and peoples organizations, the community, the women's sector and whenever necessary, the academic, relevant government agencies and other sectors. Criteria for the selection of representatives to the Multi-Partite Monitoring Team should consider capability in monitoring, credibility and stature in the community, commitment with a high sense of civic duty and availability for regular monitoring activities.

The Multi-Partite Monitoring Team is operationalized through the formulation of an annualized monitoring plan that covers air and water quality, biophysical and socioeconomic monitoring activities. It may engage the assistance of experts in its monitoring activities in cases when such expertise cannot be provided within the Multi-Partite Monitoring Team.

5 FUNDING REQUIREMENTS

To support the Multi-Partite Monitoring Team operation, the proponent commits to establish an Environmental Monitoring Fund. The amount to be allocated for the Environmental Monitoring Fund is determined on the basis of the estimated cost of approved environmental monitoring plan.

An Environmental Guarantee Fund is likewise established for projects that have been determined by the Department of Environment and Natural Resources to pose a significant public risk or where the project requires rehabilitation or restoration. The Environmental Monitoring Fund may be used for the following purposes:

- Immediate rehabilitation of areas affected by damages in the environment and the resulting deterioration of environmental quality as a direct consequence of project construction, operation and abandonment.
- Just compensation of parties and communities effected by the negative impacts of the project.
- Conduct of scientific or research studies will aid as maybe needed to carry out the purposes of the fund.

