

P.S. RES. NO. 35

Introduced by Senator M. A. Madrigal

RESOLUTION

DIRECTING THE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES TO INQUIRE, IN AID OF LEGISLATION, INTO THE IMPLICATIONS OF THE RECENT PRONOUNCEMENT BY PRESIDENT GLORIA MACAPAGAL-ARROYO DECLARING THE LA MESA WATERSHED AS A PROTECTED AREA "SUBJECT TO PRIVATE RIGHTS" AS THIS COULD PAVE THE WAY FOR THE CONSTRUCTION OF A CONTROVERSIAL HOUSING PROJECT, ENDANGER THE PRIMARY SOURCE OF METRO MANILA'S WATER SUPPLY AND PREJUDICE THE LEGAL DECLARATION OF THIS ENVIRONMENTALLY-CRITICAL AREA AS A "STRICT PROTECTION ZONE"

Whereas, centrally located in the heart of Metro Manila is the La Mesa watershed reservation covering a total land area of 2,700 hectares that straddles Quezon City, Caloocan City and Rizal province and which includes a man-made lake about 700 hectares in size;

Whereas, the lake portion of La Mesa is basically an earth dam, built in 1929, which serves as the holding reservoir of water coming from the trans-basins of the Umiray, Angat and Ipo watersheds in Bulacan. In 1959, its storage capacity was raised to 50.5 million cubic meters to accommodate and safeguard the water from Angat Dam and Ipo Dam, along with the water from La Mesa's own watershed;

Whereas, sources indicate that about 1.5 million liters of water pass daily through the treatment plants located within La Mesa compound, for which reason La Mesa serves as the primary source of drinking water for Metro Manila's 12 million inhabitants and is considered to be among the top three of the largest sources of safe drinking water in the whole of Southeast Asia;

Whereas, La Mesa watershed is also the last forest of its size in Metro Manila, with 2,000 hectares of forest lands comprising of a variety of ecosystems that is home to many indigenous species of flora and fauna which, according to an initial Protected Area Sustainability Assessment (PASA) on the area, include endemic species that are now critically endangered and vulnerable;

Whereas, despite La Mesa's unique ecological and biological significance, the entire area remains unprotected even as the Umiray, Angat and Ipo network has been formally declared watershed reservations to protect them from pollution, contamination and depletion;

Whereas, the failure to formally declare La Mesa as a watershed reservation, forest reserve or protected area either by executive or legislative action has resulted in illegal logging, unauthorized agricultural conversion and rampant squatting in the area, hastening the loss of the watershed's diversity and half its forest cover and threatening the potable water supply of Metro Manila;

Whereas, such problems prompted the Bantay Kalikasan program of the ABS-CBN Foundation Inc. (AFI) to step in and offer its support in 1999 to rehabilitate the entire La Mesa reservation, with the AFI and the Metropolitan Waterworks and Sewerage System (MWSS) signing, in November 2001, a 15-year Memorandum of Understanding (MOU) granting AFI full project management status over "reforestation, species re-introduction and biodiversity programs";

Whereas, any headway that has since been made in the private effort towards reforesting and otherwise safeguarding the ecological balance in the watershed may now be put in quandary with the proclamation on July 18, 2007 by President Gloria Macapagal-Arroyo declaring the La Mesa watershed as a protected area under the National Integrated Protected Areas Systems Law (R.A. 7586), "subject to private rights";

Whereas, such presidential proviso sparks much controversy in the light of the proposed housing project covering 58 hectares within the La Mesa watershed pursuant to the collective bargaining agreement executed in 1968 between the MWSS' precursor, the National Waterworks and Sewerage Authority (NAWASA), and its two labor unions that have since been disbanded;

Whereas, the site of the said housing project was transferred on July 29, 1976, under Letter of Instruction No. 440, by then President Ferdinand Marcos to a 60-hectare parcel of land then being leased by Capitol Hills Golf Club. Sometime in 1989, the housing project was again transferred to the present site, which is situation on the upstream of the water reservoir;

Whereas, on February 25, 2006, the MWSS executed the Deed of Sale for the 58-hectare parcel of land in the amount of P3,091,400.00, which amount was paid through Congressman Edcel Lagman (1st District, Albay), who also received the corresponding land title allegedly on behalf of the beneficiaries;

Whereas, this development prompted AFI's environmental arm, Bantay Kalikasan, to call on the Department of Environment and Natural Resources to reconsider the issuance of an Environmental Compliance Certificate (ECC) in favor of the claimants because "past and present preservation efforts" to protect La Mesa "will all go to waste" and the "quality of clean drinking water for Filipinos residing

in Metro Manila will also be affected”;

Whereas, the MWSS itself had commissioned in 2003 the National Hydraulic Research Center of the UP College of Engineering to undertake a study on the effects of the proposed housing project on the La Mesa watershed, which report concluded thus: **“It will be in the best interest of MWSS and the general public who eventually utilize for drinking the water in the La Mesa Reservoir that the 58 hectares of the La Mesa watershed area being proposed for the MWSS Housing project shall remain a protected watershed area and not be converted to a housing project area”**;

Whereas, the official findings of the study stated that there is no way that the proposed housing units can be allowed inside the watershed since existing mitigating measures or technologies are not sufficient to arrest their adverse impact. Most notable of these problems is the potential contamination of the water from the reservoir due to soil erosion caused by rainfall-induced runoff from the top of the soil’s layer. Groundwater seepage and movement of pollutants from potential spill areas inside the proposed housing area into the watershed areas leading to the reservoir can further contaminate water used by the public;

Whereas, the UP-NHRC study further cited the huge costs of employing such mitigating measures – around P50 million with annual operation cost of almost P18 million and annual depreciation cost at almost P2 million;

Whereas, in view of the potential deleterious effects of such a housing project to the water quality and quantity of the La Mesa watershed, it is important to note that what the Supreme Court affirmed in its 1975 decision was the collective bargaining contract with the former NAWASA management for a housing project, which however may not necessarily or compulsorily be located within the La Mesa watershed but maybe placed in any other MWSS property;

Whereas, in this regard, the “private rights” of the 1,411 employees-beneficiaries to a housing project will neither be violated by immediate conservation measures nor the passage of a law formally protecting La Mesa as their right over the proposed site of the housing project within the La Mesa watershed is not absolute as shown by the fact that after the ruling of the Supreme Court, the location of such site changed twice, first in 1976 and the second, in 1989;

Whereas, the employees-beneficiaries’ “private rights” over the proposed housing site must be weighed against the heavier general public interest, a principle that is confirmed by the abovementioned Deed of Sale which is subject to the condition that “the VENDEES undertake to secure for their account the requisite Environmental Compliance Certificate (ECC) prior to the actual ground implementation of the Housing Project” and that “in the event, the requisite ECC for the ground implementation of the Housing Project will not be issued by the appropriate government agency, the parties hereby agree to execute such deeds, instruments or agreements as would provide for an alternative means by which the rights and interests of both parties shall be equally protected and effectively carried

out;"

Whereas, due to the critical ecological and biological importance of La Mesa to the country and especially to the 12 million Metro Manila residents who all rely on it as their primary source of potable drinking water, there is an urgent need to protect and conserve the entire La Mesa watershed and to pass a law declaring this as a "strict protection zone" in accordance with the National Integrated Protected Areas Systems Law;

Whereas, the safety of the water quality and quantity of the Philippines can never be compromised because access to potable water is itself a human right that must be respected at all times and in all places and it is an essential prerequisite for the realization of the right to life. It is hence imperative that water must also be free of polluting elements that could constitute a threat to human health;

Whereas, the passage of a law declaring La Mesa watershed as a "strict protection zone" will put *finis* to any controversy involving La Mesa and will allay the fears of Metro Manila residents that they will soon be drinking contaminated water because of the construction of a housing project on the current proposed site;

Whereas, the recent pronouncement of President Arroyo conditioning the proclamation of La Mesa watershed "subject to private rights" may however prejudice or impinge on any appropriate legislative measures that should be adopted to protect and conserve La Mesa's water resources from adverse intervention by public or private actors;

NOW THEREFORE, BE IT RESOLVED, AS IT IS HEREBY RESOLVED, that, the Committee on Environment and Natural Resources inquire, in aid of legislation, into the implications of the recent pronouncement by President Gloria Macapagal-Arroyo declaring the La Mesa watershed as a protected area that is however "subject to private rights" as this could pave the way for the construction of a controversial housing project, endanger the primary source of Metro Manila's water supply and prejudice the legal declaration of this environmentally-critical area as a "strict protection zone."

Adopted,

M. A. MADRIGAL