

Republic of the Philippines
Department of Agriculture and Natural Resources
BUREAU OF FISHERIES
Diliman, Quezon City

FISHERIES ADMINISTRATIVE)

:

February 8, 1960

ORDER NO. 59

SUBJECT: Establishing a government farm for pearl culture and production and reserving therefor a certain marine area in Samal Island, province of Davao.

1. Pursuant to the provisions of Act Numbered Four Thousand and three, otherwise known as the Fisheries Act, as amended, the marine area hereinbelow described is hereby reserved and set aside as a government farm to be used exclusively for pearl culture and production:

"A marine area adjacent to the western coastline of Samal Island, province of Davao, comprised within the following boundaries: Starting from Pahutan Point and following the general coastline in eastward direction to Pefiaplata Coastway; from there, following the coastline in southward direction to Maputian Point, and from there following a northward imaginary straight line, North 24°00 East, about 11,500 meters to the point of beginning (Pahutan Point); containing an area of 10.46 square miles, more or less."

2. The Director of Fisheries, under whose administration the above-described government farm is hereby placed, may equip, operate and/or maintain it exclusively for pearl culture and production in a manner he may deem proper: Provided, however, that in case there are no available funds and technical personnel to be used in the operation and/or maintenance of said farm, he may recommend to the Secretary of Agriculture and Natural Resources that the privilege to undertake the pearl culture and production in the aforesaid farm, be let under concession to any person, association or corporation qualified under the Fisheries Act to transact business in the Philippines.

3. The granting of concession for pearl culture and production in the government farm, established under this Order, shall be governed by the following rules and regulations:

RULES AND REGULATIONS

Rule 1. Pearl production concession. - The Secretary of Agriculture and Natural Resources, upon recommendation of the Director of Fisheries, may grant the concession for the

106

establishment and operation of pearl farm for pearl culture and production in the Government farm, to any applicant who is a citizen of the Philippines or the United States, or association or corporation duly registered or incorporated under the laws of the Philippines or of the United States or of any state thereof, and authorized to transact business in the Philippines and that at least sixty per cent of whose capital stock belongs wholly to citizens of the Philippines or of the United States, for a period of twenty years. Renewals may be granted, but the combined periods of the original grant and its renewals shall not exceed fifty years.

It is understood that the rights granted to citizens of the United States and to all forms of business enterprise owned or controlled, directly or indirectly, by citizens of the United States, in the exploration, exploitation, development, or utilization of the pearl farm established under this Administrative Order shall be subject to the provisions of the Ordinance appended to the Constitution in 1947.

It shall be unlawful for any person, association or corporation to engage in pearl culture and/or production on any portion of the government farm without first obtaining a concession therefor granted in accordance with this Order.

The words and terms used in this Order shall be constructed as follows:

"Concession" shall mean the granting of the privilege or the privilege itself of culturing and producing pearls, or the area covered by the concession under this Order.

"Pearl-Farm" shall mean not only the place or area in the concession where pearl is cultured or produced but also the buildings, wharves and other permanent improvements introduced by the concessionaire in the government farm.

"Person" includes association and corporation and their authorized representatives.

"Carrier" includes owners, operators and/or agents of land, air and water transportation.

"Pearl" shall mean the by-product of mollusks composed mostly of calcium carbonate held together by tenuous net-work of organic matter known as conchiolin which is formed through natural process when foreign material called "nucleus" is either incidentally or artificially introduced within the living mollusk.

"Pearl culture" shall mean the process of producing pearls in live mollusk, either in marine or fresh waters, which includes the taking or collecting of young oyster shells, raising, rearing or tending them in farms established and maintained for the purpose, extraction, grading and classification of pearls taken therefrom, and other acts or business associated with the culture and production of pearls.

Rule 2. Application for concession - All applications for concession shall be filed in triplicate with the Bureau of Fisheries in the forms to be prescribed therefor by the Director of said bureau, upon payment of an application fee of fifty pesos. Such application shall contain substantially the following information given under oath:

(a) Full name, age, civil status, citizenship and residence of the applicant, if he is an individual; if association or corporation, the business name under which it is registered and/or incorporated, the names, addresses of its officers, the place where its head or central office is located, and whether it is organized and registered under the laws of the Philippines or the United States of America; a statement of the board of directors authorizing the person who signs the application to file the same in accordance with this Order, and to bind the association or corporation to comply with the requirements of said Order and regulations promulgated thereunder.

(b) Area and location of the place covered by the concession applied for, clearly showing and designating the boundaries thereof in a plan or sketch prepared to the satisfaction of the Director of the Fisheries.

(c) Capital available for investment. In case of association or corporation, it must be stated in the application that at least sixty per cent of its capital stock or interest in said capital stock is owned wholly by citizens of the Philippines or of the United States.

(d) Such other pertinent information as may be required by the Secretary of Agriculture and Natural Resources or the Director of Fisheries.

Rule 3. Granting of concession. - The original and duplicate of the application shall be forwarded by the Director of Fisheries to the Secretary of Agriculture and Natural Resources who, if satisfied of the qualification and responsibility of the applicant and upon proof that the applicant has paid fifty pesos application fee required in this Order, may grant the concession subject to the following conditions:

(a) The concessionaire shall post a bond of five thousand pesos in favor of the Government of the Philippines, to be maintained in force throughout the duration of the concession, as a guaranty of good faith and for the satisfactory compliance with the terms and

104

conditions of the concession and the payment of fees and charges prescribed by this Order and regulations promulgated thereunder.

(b) The concessionaire shall not transfer the concession granted under this Order, except to qualified person, association or corporation, and upon previous approval of the Secretary of Agriculture and Natural Resources, who shall verify, in such case, whether the person, association or corporation to whom the concession is transferred is really qualified to assume the responsibility of a concessionaire under this Order. Any transfer of concession made against this provision shall be null and void ab initio.

(c) The concessionaire shall pay to the Government of the Philippines a yearly concession fee at the rate of not exceeding five hundred pesos per square kilometer covered by the concession, payable in advance or in quarterly installments.

(d) The concessionaire may freely take or gather oysters of any kind from the sea bottom or reefs exclusively for pearl culture and production purposes. Said concessionaire shall not however take or gather or cause or consent to be taken from the said area fish, shells, sponges, and other sea products for commercial purposes.

(e) The concessionaire shall keep complete record of the quantity and quality of culture pearls in his concession.

(f) The area covered by the concession, the buildings and other constructions, apparatuses, machinery, books, and papers pertaining to the operation of said concession, shall be subject to periodical inspections of the Secretary of Agriculture and Natural Resources or the Director of Fisheries, or their respective representatives who shall be provided with written authority wherein shall be stated, among other things, the purpose of the inspection. The concessionaire shall, in such case, give all the necessary facilities to the inspecting officials.

(g) The concessionaire, immediately after the approval of his application, shall mark every corner of the entire area of the concession with properly anchored buoys or other visible and permanent marks or signs which shall be maintained therein throughout the duration of the concession.

(h) The concessionaire shall thoroughly train or cause to be trained at least three (3) Filipinos to be designated by the Bureau of Fisheries, in the techniques of pearl culture and production, including the essential laboratory work on how to cause or provoke the formation of pearl in a living oyster or mollusk by, among other ways, the insertion or putting in of nucleus or nuclei in said living oyster or mollusk. Such trainees, who shall be chosen from among the technicians or qualified employees of the Bureau of Fish-

eries, shall be entitled to free quarters to be provided by the concessionaire in the compound of the concession during the entire period of training, which shall be one year, renewable for another year in the discretion of the Director of Fisheries.

Non-compliance by the concessionaire of any of the foregoing conditions shall be sufficient cause for the cancellation of the concession, and the confiscation of the bond posted in accordance with this Order.

Rule 4. Privilege to build plant and other constructions. - The concessionaire shall have the privilege of erecting a plant and other necessary constructions such as landings, houses, corrals, etcetera, on the part of the shore most convenient to the concession for the development and exploitation of his concession, subject to the limitations provided by law for the use of shores.

Rule 5. Priority right of the applicants. - When two or more applications are filed for an unoccupied area of government farm, the first applicant shall have the right of preference thereto, provided that said applicant is qualified to hold the concession applied for under this Order. When two or more applications are filed for an unoccupied area of government farm, the first applicant shall have the right of preference thereto, provided that said applicant is qualified to hold the concession applied for under this Order. When two or more applications are filed at the same time, for the same area, the applicant who can best meet the requirements of this Order and regulations promulgated thereunder shall have the right of preference thereto. The recommendation of the Director of Fisheries shall be taken into consideration in determining who is the applicant best qualified to hold the concession.

Rule 6. Termination of the concession. - Upon the termination of the concession for any cause or reason whatsoever, the concessionaire shall be duty bound to vacate and turn over to the Director of Fisheries the area covered by his concession. In such case, all permanent improvements made therein by the said concessionaire shall automatically become the property of the government.

Rule 7. Reports. - The concessionaire operating under this Order shall submit to the Secretary of Agriculture and Natural Resources, thru the Director of Fisheries, such reports of the operation and progress of his concession as may be required by regulations promulgated in accordance with this Order.

Rule 8. Promulgation of additional rules and regulations. - The Secretary of Agriculture and Natural Resources, upon recommendation of the Director of Fisheries, may promulgate such additional rules and regulations as may be necessary to carry into effect the purposes of this Order.

Rule 9. Certificate of release of pearls. -

No pearls produced by any concessionaire shall be shipped, removed or exported from the Philippines unless the same have been inspected by an authorized representative of the Bureau of Fisheries. The inspecting representative of said Bureau shall issue a certificate of release, if he finds that the pearls are properly graded, classified and priced for exportation purposes, in accordance with the existing regulations. The exporter or carrier who exports or carries pearls without the certificate of release herein-required shall be held responsible for such violation and shall be penalized in accordance with the provision of Section 83 of the Fisheries Act.

Rule 10. The removal of oysters from pearl farms or other areas for the purpose of extracting the pearl therefrom, shall be subject to the same restrictions imposed by Section thirty-six of the Fisheries Act and regulations promulgated thereunder, as far as the minimum size of pearl oysters shells is concerned. Pearl oysters divers and collectors, as well as the boats used for the purpose shall also be subject to the same requirements prescribed by the Fisheries Act, for shell divers and shell-collecting boats.

4. All fees authorized to be collected under this Order and accruing to the National Government shall be paid to the Director of Fisheries.

5. Penalty. - Violation of any provision of this Order shall subject the offender to the penalty prescribed by Section 83 of the Fisheries Act, or a fine not exceeding two hundred pesos or imprisonment not exceeding six months or both, in the discretion of the court. The court, upon request of the Secretary of Agriculture and Natural Resources, may also order the confiscation in favor of the Government of the bond posted by the concessionaire under rule 3 (a) of this Order.

6. Repealing clause. - All Orders or regulations or parts thereof which are inconsistent with the provisions of this Order, are hereby repealed.

7. Effectivity. - This Order shall take effect upon its approval.

(SGD.) JOSE M. TRINIDAD
Acting Secretary of Agriculture
and Natural Resources

RECOMMENDED:

(SGD.) HERACLIO R. MONTALBAN

APPROVED: Director of Fisheries

APPROVED:

By authority of the President:

(SGD.) NATALIO P. CASTILLO
Executive Secretary

true copy: 4-3-61/asm

101