

PRESIDENTIAL DECREE NO. 1442

AN ACT TO PROMOTE THE EXPLORATION AND DEVELOPMENT OF GEOTHERMAL RESOURCES

WHEREAS, it is necessary for the economic and industrial development of the country to reduce our dependence on imported on imported energy supplies and accelerate the development of geothermal resources which have been identified as a viable and untapped economical source of energy;

WHEREAS, it is in the national interest to allow service contracts for financial, technical, management or other forms of assistance with qualified domestic and foreign entities, for the exploration, development, exploitation, or utilization of the country's geothermal resources;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution of the Philippines, do hereby order and decree as follows:

SECTION 1. *Exploration of Development of Geothermal Resources by the Government.* Subject to existing private rights, the Government may directly explore for exploit and develop geothermal resources. It may also indirectly undertake the same under service contracts awarded through public bidding or concluded through negotiation, with a domestic or foreign contractor who must be technically and financially capable of undertaking the operations required in the service contract; Provided, that if the service contractor shall furnish the necessary services, technology and financially, the service contractor may be paid a fee not exceeding forty per centum (40%) of the balance of the gross value of the geothermal operations after deducting the necessary expenses incurred in the operations; Provided, further, that the execution of the activities and operations subject of the service contract, including the implementation of the work program and accounting procedures agreed upon, shall at all times be subject to direct supervision of the Government, through the Bureau of Energy Development.

Service contracts as above authorized shall be subject to approval of the Secretary of Energy.

Geothermal resources mean (a) all products of geothermal processes, embracing indigenous steam, hot water and hot brines; (b) steam and other gases, hot water and hot brines resulting from water, gas, or other fluids artificially introduced into geothermal formations; (c) heat or other associated energy found in geothermal formations; and (d) any by-product derived from them.

SECTION 2. *Geothermal Contract Areas.* – Service contracts, as herein authorized, may cover public lands, government geothermal reservations, including those presently administered or unappropriated areas, as well as areas covered by exploration permits or leases granted under Republic Act No. 5092.

Service contracts for exploration and development of geothermal resources may also cover private lands, or other lands subject of agricultural, mining, petroleum or other rights or devoted to purposes other than the exploration or use of geothermal energy; Provided, that the right to enter private lands, and to establish easements over such lands shall, in the absence of a voluntary agreement with the private landowner, upon application of the contractor to the Court of First Instance of the province or the municipal court or the municipality where the land is situated, and upon posting of the necessary bond as may be fixed by said court, be allowed by the court subject to payment of reasonable compensation.

SECTION 3. *Conversion of Geothermal Exploration Permits and Leases to Service Contractor.* Holders of valid and subsisting geothermal exploration permits and geothermal leases granted by the Government prior to January 17, 1973, pursuant to Republic Act No. 5092, shall enter into service contracts as herein provided relative to the areas covered by their respective permits or leases within six months from the effective date of this Decree; and, in default thereof, the geothermal exploration permits and geothermal leases shall be deemed automatically cancelled and the area covered thereby shall revert back to the State.

All geothermal exploration permit applications filed under Republic Act No. 5092 shall be deemed withdrawn and of no effect as of the effective date of this Decree.

SECTION 4. *Privileges of Service Contractors.* The provisions of any law to the contrary notwithstanding, a service contract executed under this Act may provide that the contractor shall have the following privileges:

- a) Exemption from payment of tariff duties and compensating tax on the importation of machinery and equipment and spare parts and all materials required for geothermal operations subject to such conditions as may be imposed by the Director of Energy Development; Provided, that should the contractor or its sub-contractor sell, transfer, or dispose of these machinery, equipment, spare parts or materials without the prior consent of the Bureau of Energy Development, it shall pay twice the amount of the taxes and duties not paid because of the exemption granted;
- b) Entry, upon the sole approval of the Bureau of Energy Development which shall not be unreasonably withheld, and subject to such conditions as it may impose of alien technical and specialized personnel (including the immediate members of their families), who may exercise their professions solely for the operations of the contractor as prescribed in its contract with the Government under this Act;
- c) Subject to the regulations of the Central Bank, repatriation of capital investment and remittance of earnings derived from its service contract operations, as well as such sums as may be necessary to cover principal and interest of foreign obligations incurred for the geothermal operations.
- d) Other privileges provided in Section 12 of Presidential Decree No. 87 as may be applied to the geothermal operations.

SECTION 5. *Exploitation Permits.* In cases where discovered geothermal resources are deemed inappropriate for service contract arrangements in view of economic and/or technical reasons, the Bureau of Energy Development may issue development and exploitation permits for such resources and formulate the applicable rules and regulations to govern the same.

SECTION 6. *Rules and Regulations.* The Director of Energy Development shall be vested with authority to promulgate such rules and regulations as may be necessary to implement the provisions of this Act, subject to approval by the Secretary of Energy.

SECTION 7. *Repealing Clause.* The provisions of Republic Act No. 5092 and other laws, rules and regulations inconsistent with this Decree are hereby repealed.

SECTION 8. *Effective.* This Decree shall take effect immediately upon approval.

(Sgd.) FERDINAND E. MARCOS
President

By the President:

(Sgd.) JACOBO C. CLAVE
Presidential Executive Assistant