

SENATE
OFFICE OF THE SECRETARY

FOURTEENTH CONGRESS)
OF THE REPUBLIC OF THE PHILIPPINES)
FIRST REGULAR SESSION)

7 JUN 30 P2:57

SENATE
Senate Bill No. 173

RECEIVED BY: JMY

Introduced by Sen. M.A. Madrigal

EXPLANATORY NOTE

The Mt. Balatukan Range covers an area in city of Gingoong and municipalities of Claveria, Medina, and Balingasag, all in the province of Misamis Oriental with an aggregate area of 30,965 hectares.

Mt. Balatukan Range is home to a diverse species of flora and fauna including the Philippine Eagle, Mindanao lorikeet (a type of bird endemic to Mindanao), tarsier, giant fruit bat, monitor lizard, and flying lemur. It is home to six species of bats, four of which are endemic. The Mindanao endemic Ptenochirus minor and the insect-eating Pipistrellus Javanicus can be also found in the area.

At 750 meters to 1,350 meters above sea level, lowland residual dipterocarp forest dominates the landscape, that is at this level, there is an abundance of very tall dipterocarp trees such as Lauan, Nato, Tanguile and Makaasim; while at about 1,350 meters, moss is noticeable on the main trunks and branches of trees; at 1,700 meters, giant ferns are abundant at this elevation; while at about 1,800 meters the trees become stunted and twisted.

Due to its biodiversity and ecological significance, the Mt. Balatukan Range was classified as Mt. Balatukan Range Natural Park and declared a protected area on 6 March 2007 through Presidential Proclamation No. 1249.

In line with the State's policy of securing for the Filipino people of present and future generations the perpetual existence of all native plants and animals, it is incumbent upon the Congress to enact a law to provide for the management, protection, sustainable development and rehabilitation of the Mt. Balatukan Range. This shall be established within the framework of the National Integrated Protected Area System (NIPAS) Act, or Republic Act of 7586, while considering the welfare and recognizing the rights of all the communities living therein especially the indigenous peoples.

Passage of this Bill is thus urgent before the treasures of Mt. Balatukan are lost to the Philippines and the world.


M.A. MADRIGAL

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AN ACT DECLARING THE MT. BALATUKAN RANGE LOCATED IN THE CITY OF GINGOOG AND IN THE MUNICIPALITIES OF CLAVERIA, MEDINA AND BALINGASAG, ALL IN THE PROVINCE OF MISAMIS ORIENTAL, AS A PROTECTED AREA AND ITS PERIPHERAL AREAS AS BUFFER ZONE, PROVIDING FOR ITS MANAGEMENT AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. *Title.* - This Act shall be known as the "Mt. Balatukan Range Natural Park Act".

SEC.2. *Declaration of Policy.* - Cognizant of the profound impact of man's activities on all components of the natural environment particularly the effect of increasing population, resource exploitation and industrial advancement, and recognizing' the critical importance of protecting and maintaining Mt. Balatukan Range's unique biological resources, its ecological and aesthetic importance to sustain human life and development, as well as plant and animal life, it is hereby declared the policy of the State to ensure its protection and conservation, and preserve and promote the culture and way of life of the communities therein in accord with the rhythm and harmony of nature. As such, the State shall ensure biological diversity, promote sustainable and participatory development, and honor and protect the interests of its legitimate inhabitants and their customary laws.

SEC. 3. *Category.* - Given the physical and natural features, and socio-cultural and economic importance that contribute to its valuable role as life support system for the people living within it, the Mt. Balatukan Range is hereby declared as a protected area under the category of natural park to be known as the Mt. Balatukan Range Natural Park, and the areas within its peripheral areas as its buffer zone. Such protected area and buffer zone shall become part of the National Integrated Protected Areas System (NIPAS), subject to such rights as are provided for in this Act.

SEC.4. *Scope and Coverage.* - The Mt. Balatukan Range Natural Park shall cover lands of the public domain located in the City of Gingoog and the municipalities of Claveria, Medina and Balingasag, all within the Province of Misamis Oriental. It shall have the following boundaries:

Beginning at a corner marked "I" which is located at 124°57'21" E and 8°47'35" N near the junction at Kihangad River. and a branch creek S 75°22'45" E, 950.79 m.:

| | | | |
|--------|-------------|------------|---------------------------|
| Thence | N 76°48' W | 1,683.50 m | to corner 2 |
| Thence | N81°36'W | 1,620.90 m | to corner 3 |
| Thence | N 30°20' W | 2,253.40 m | to corner4 |
| Thence | N 62°05' W | 1,667.00 m | to comer 5 |
| Thence | N 34°40' E | 2,012.90 m | to comer 6 |
| Thence | N 23°26' E | 1,253.60 m | to corner 7 |
| Thence | N 89°01' E | 2,227.20 m | to corner 8 |
| Thence | S 84°30' E | 933.50 m | to corner 9 |
| Thence | S 85°28' E | 1,791.40 m | to corner 10 |
| Thence | S 70°38' E | 1,889.60 m | to comer 11 |
| Thence | N 87°44' E | 647.80 m | to comer 12 |
| Thence | S18°42'E | 356.00 m | to corner 13 |
| Thence | S 15°45' W | 397.20 m | to comer 14 |
| Thence | S 03°03' E | 1,274.60 m | to comer 15 |
| Thence | S 18°39' E | 1,790.40 m | to corner 16 |
| Thence | S 71°27'.E | 1,348.60 m | to corner 17 |
| Thence | N 69°30' E | 696.20 m | to comer 18 |
| Thence | S 78°47' E | 748.20 m | to comer 19 |
| Thence | S 84°32' E | 647.80 m | to comer 20 |
| Thence | S 08° 17' E | 662.50 m | to corner 21 |
| Thence | S 36°59' E | 2,238.10 m | to comer 22 |
| Thence | S39°43'E | 1,335.30 m | to comer 23 |
| Thence | S 39°37' E | 931.80 m | to corner 24 |
| Thence | S 35°20' W | 407.80 m | to comer 25 |
| Thence | S71°44' W | 1,266.90 m | to corner 26 |
| Thence | S 40°40' W | 2,381.90 m | to corner 27 |
| Thence | N 65°10' W | 1,070.00 m | to corner 28 |
| Thence | N 49°50' W | 1,800.00 m | to corner 29 |
| Thence | N 76°00' W | 1,450.00 m | to corner 30 |
| Thence | N 58°12' W | 2,847.17 m | to comer 3 1 |
| Thence | N 76°25' W | 1,234.54 m | to corner 32 |
| Thence | N 10°20' E | 1,920.00 m | to corner 1, the point of |

beginning, containing an area of eight thousand four hundred twenty-four (8,424) hectares, more or less, subject to actual ground survey.

The buffer zone of the Mt. Balatukan Range Natural Park begins at corner "I" which is located at 124°57'00" E and 8°47'22" N, near the junction of Kihangad River, and a branch creek N 66°48'05" W, 456.94 m.:

| | | | |
|--------|-------------|------------|---------------------------|
| Thence | N 82°16' W | 3,266.70 m | to corner 2 |
| Thence | N 31°13' W | 2,428.20 m | to corner 3 |
| Thence | N 60°04' W | 1,820.10 m | to corner 4 |
| Thence | N 33°28' E | 2,178.00 m | to corner 5 |
| Thence | N 26°45' E | 1,428.50 m | to corner 6 |
| Thence | N 86°02' E | 1,725.70 m | to corner 7 |
| Thence | N 69°53' E | 1,962.40 m | to corner 8 |
| Thence | S 64°44' E | 2,046.20 m | to corner 9 |
| Thence | S 86°49' E | 721.80 m | to corner 10 |
| Thence | S 59° 11' E | 1,212.20 m | to corner 11 |
| Thence | Due east | 720.70 m | to corner 12 |
| Thence | S 31°51' E | 872.60 m | to corner 13 |
| Thence | S 07°35' W | 303.20 m | to corner 14 |
| Thence | S 27°42' W | 429.90 m | to corner 15 |
| Thence | S 03°01' W | 1,143.60 m | to corner 16 |
| Thence | S 18°02' E | 1,609.20 m | to corner 17 |
| Thence | S 78°25' E | 899.10 m | to corner 18 |
| Thence | N 31°49' E | 318.70 m | to corner 19 |
| Thence | S 77°57' E | 1,248.60 m | to corner 20 |
| Thence | S 82°30' E | 1,114.20 m | to corner 21 |
| Thence | S 04°45' W | 965.00 m | to corner 22 |
| Thence | S 34°37' E | 2,361.40 m | to corner 23 |
| Thence | S 31°14' E | 1,157.00 m | to corner 24 |
| Thence | S 37°20' E | 1,483.50 m | to corner 25 |
| Thence | S 56°48' W | 692.70 m | to corner 26 |
| Thence | S 15°17' E | 341.40 m | to corner 27 |
| Thence | S 71°25' W | 1,139.60 m | to corner 28 |
| Thence | S 31°28' E | 420.10 m | to corner 29 |
| Thence | S 34°50' W | 84.30 m | to corner 30 |
| Thence | S 24°55' E | 94.20 m | to corner 31 |
| Thence | S 71°14' W | 1,440.70 m | to corner 32 |
| Thence | N 61°59' W | 1,840.70 m | to corner 33 |
| Thence | N 50°32' W | 1,713.10 m | to corner 34 |
| Thence | N 7°1°06' W | 1,313.60 m | to corner 35 |
| Thence | N 52°44' W | 2,890.06 m | to corner 36 |
| Thence | N 73°02' W | 1,885.14 m | to corner 37 |
| Thence | N 19°31' E | 1,420.60 m | to corner 1, the point of |

beginning, containing an area of one thousand two hundred twenty-two (1,222) hectares, more or less, subject to actual ground survey and delineation.

SEC. 5. *Definition of Terms.* - The following terms are hereby defined for the purpose of this Act:

- (a) "Ancestral domain" refers to all lands and natural resources occupied or possessed by indigenous cultural communities, by themselves or through their ancestors, communally or individually, in accordance with their customs and traditions since time immemorial, continuously to the present except when interrupted by war, *force majeure*, or displacement

by force, deceit or stealth. It includes all adjacent areas generally belonging to them and which are necessary to ensure their economic, social and cultural welfare.

(b) "Indigenous cultural communities (ICC)" refers to a group of people sharing common bonds of language, customs and tradition and other distinct cultural traits, as further defined under Republic Act No. 8371 or the Indigenous People's Rights Act (IPRA.) of 1997.

(c) "National Integrated Protected Areas System (NIPAS)" refers to the classification and inclusion of all designated protected areas into one system, pursuant to Republic Act No. 7586 or the National Integrated Protected Areas, System (NIPAS) Act of 1992, to maintain essential ecological processes and life support systems, to preserve genetic diversity, to ensure sustainable use of resources found therein and to maintain their natural conditions to the greatest extent possible.

(d) "Nonrenewable resources" shall refer to those resources found within the protected area, the natural replenishment rate of which is either not known or takes more than twenty-five (25) years.

(e) "Buffer zone" refers to specific areas outside the boundaries of and immediately adjacent to designated areas that need special development control in order to avoid or minimize harm to the protected area.

(f) "Protected area" refers to the identified portions of land and water, set aside by reasons of their unique physical and biological significance, managed to enhance biological diversity and protected against destructive human exploitation.

(g) "Natural park" refers to the relatively large area not materially altered by human activity where extractive resource uses are not allowed, and maintained to protect outstanding natural and scenic uses of national or international significance for scientific, educational and recreational use.

(h) "Tenured migrants" refers to occupants within the protected area who have actually and continuously occupied such area for five years before the designation of the same as protected area and are solely dependent therein for subsistence.

(i) "Biodiversity" refers to the variety of life in all its forms found on earth.

(j) "Protected Area Management Board (PAMB)" refers to a multisectoral body tasked to adopt policies, promulgate rules and regulations, and undertake planning activities for the appropriate

management strategy to ensure resource protection and the general administration of the protected area.

(k) "Private rights" refers to the right of individual persons to own, under existing laws, and in the case of indigenous cultural communities, rights of possession since time immemorial, which possession may include places of abode and worship, burial grounds and well-defined territories.

(l) "Protected species" refers to any individual species of plants and animals that is or shall be declared as protected under Philippine laws, rules and regulations issued by the Department of Environment and Natural Resources (DENR), species listed as protected against trade, hunting and harvest under international conventions to which the Philippines is or will become a signatory, such as, but not limited to, the Convention on International Trade of Endangered Species (CITES). These include species which may be restricted for use under regulations issued by the PAMB or the DENR, and those particularly mentioned in the management plan.

(m) "Nongovernment organization (NGO)" refers to any CIVIC, developmental or philanthropic organization which is multisectoral in character.

(n) "People's organization (PO)" refers to any grouping of people formed to advance the interests of the sector being represented: *Provided*, That such sector is marginalized, poor or disempowered.

(o) "Public consultation" refers to a meeting or dialogue between or among concerned or affected individuals within and outside the protected area designed to identify and resolve issues and problems affecting them.

(p) "Secretary" refers to the Secretary of the DENR.

SEC. 6. *Institutional Mechanisms.* - The following administrative and policy-making mechanisms shall apply:

(a) There shall be a PAMB which shall be the policy-making body of the protected area. It shall be composed of:

(1) The Regional Executive Director (RED) of the DENR-Region X, who shall act as chairman;

(2) The provincial governor of Misamis Oriental as cochairman;

(3) The respective mayors of the municipalities and city with territory inside the protected area or their authorized representatives, as members;

(4) One representative from each barangay with territory inside the protected area or their authorized representatives, to be appointed by the concerned barangay legislative councils, as members;

(5) One representative from each indigenous cultural community within the protected area chosen using customary practices, as members;

(6) At least three representatives from local NGOs operating within the protected area, chosen from among the representatives of the organizations in an election duly called for the purpose, as members;

(7) A representative from each municipality and from the City of Gingoog, representing people's organizations, chosen from among themselves in an election duly called for the purpose, as members;

(8) Representatives from other national government agencies with projects within the protected area, to be appointed by the DENR Secretary upon the recommendation of the concerned head of office, as members; and

(9) The provincial planning and development officer and the provincial Department of the Interior and Local Government (DILG) officer, sitting as *ex officio* members.

Each member of the PAMS shall serve for a term of five years and shall be considered to represent and carry the vote of such sector in all matters. In the case of government officials, the tenure of their membership in the PAMB shall be attached to the office held.

(b) The PAMB, by majority vote, shall approve or take necessary actions on:

(1) Matters relating to planning, resource protection and general administration of the area through the adoption of a management plan;

(2) Proposals, work plans, action plans and guidelines including agreements and other related documents for the management of the protected area in accordance with the approved management plan;

(3) Delineation and demarcation of boundaries of the protected area, management zones, buffer zones and ancestral domains, and

recognition of rights and privileges of indigenous communities under the provisions of this Act and the IPRA;

(4) Rules and regulations to promote development of programs and projects on biodiversity conservation and sustainable development consistent with the management plan;

(5) Implementation of programs as prescribed in the management plan;

(6) Control and regulation on the construction, operation and maintenance of roads, trails, waterworks, sewerage, fire protection and sanitation system and other public utilities within the protected area;

(7) Monitoring and evaluating the performance of protected area personnel and compliance of partners to the terms and conditions of any undertaking, contract or agreement;

(8) Setting the criteria and fees for the issuance of permits for activities regulated by this Act or the management plan;

(9) Donations, proposals for funding, budget allocations and accountability over all funds that may accrue to the Mt. Balatukan Range Natural Park;

(10) Retaining legal counsel, either in a permanent or temporary basis, to defend cases against the PAMB and personnel of the office of the Protected Area Superintendent (PASu) whenever they are sued in connection with the performance of their duties under this Act; and

(11) Identifying tenured migrants and recommending the issuance of corresponding appropriate tenurial instruments.

The DENR, through the RED of the DENR-Region X or any duly authorized official, shall exercise authority to oversee the PAMB to ensure that it is acting within the scope of its powers and functions. In case of conflict between administrative orders of national application issued by the DENR pursuant to the NIPAS Act and the rules and regulations issued by the PAMB, the RED shall notify the Secretary who shall decide whether to apply the rule or withdraw its application in the Mt. Balatukan Range Natural Park.

SEC. 7. The Protected Area Superintendent (PASu) Office. - There is hereby established a protected area superintendent's office in charge of the management, protection and administration of the Mt. Balatukan Range Natural Park. The PASu shall be supported by the existing personnel of the DENR. The head of office shall be the chief operating officer of the Mt. Balatukan Range or the

protected area and shall be accountable to the RED of the DENR-Region X and the PAMB. The PASu shall have the following powers and functions:

(a) Enforce rules and regulations to protect the area and its resources from trespassers, damage, vandalism and illegal occupancy;

(b) Seize and assume custody of apprehended items after issuance of appropriate seizure receipts in accordance with DENR Administrative Order No. 97-32;

(c) Upon prior clearance and approval of the PAMB, recommend to the concerned Community Environment and Natural Resources Office (CENRO) the disposal of confiscated cultural and natural resources such as artifacts, forests products, wild flora and fauna, marine fishery and mineral resources; except those resources held under *custodia legis*, those that are the subject of donation, those that must be deposited with appropriate government agency, and resources that will be utilized for the infrastructure needs of the DENR;

(d) Issue special-use permit for game fishing, camping and other short-term and low-impact recreational activities to be undertaken for not more than one week;

(e) Recommend to the PAMB the zoning classification of certain areas in accordance with the approved management manual;

(f) Recommend to the RED of the DENR-Region X the issuance of cutting permits for planted trees in multiple-use and buffer zones for a volume up to five cubic meters per applicant per year, for traditional and subsistence use only: *Provided*, That the issuance of said permits is in accordance with the management plan, duly endorsed by the PAMB, and shall not adversely affect the ecological balance of the area;

(g) Recommend to the RED of the DENR-Region X, with the endorsement of the PAMB after determining the ecological implications, the issuance of cutting permits only for planted trees in established buffer zones for volume of five cubic meters but not to exceed twenty (20) cubic meters per applicant per year for commercial purposes;

(h) Recommend the issuance of certificate of origin, discharge and transport permits, and other relevant permits for natural resources and other products collected/gathered from the protected area in accordance with the approved research agreements, gratuitous permits and memorandum of agreements approved by the PAMB and the DENR, where applicable;

(i) Recommend the issuance or renewal of special-use permits on public infrastructure projects in designated multiple-use zones and established

buffer zones where no timber cutting is involved, subject to the approved management plan of the area: *Provided*, That the issuance of a special permit is subject to the submission by the applicant of the required Environmental Compliance certificate (ECC) for the project: *Provided, further*, That special-use permit shall be renewed only upon determination by the appropriate DENR office that no condition of the previous ECC for the project has been violated;

(j) Assist the appropriate DENR office in the review of the Environmental Impact Statement (EIS) for proposed projects to be implemented;

(k) Establish a productive partnership with the local community particularly with the groups concerned in the planning, protection and management of the protected area;

(l) Integrate the roles of the NGOs, other government agencies and the DENR in the operation of the protected area;

(m) Coordinate the implementation of all relevant activities related to tenured migrants and the ancestral domains claims, subject to the IPRA and related issuances;

(n) Take the lead in the implementation of the management plan of the protected area specifically in the implementation, monitoring and evaluation of research studies, survey and inventory, information, education and communication, eco-tourism, restoration, rehabilitation and alternative livelihood activities within the appropriate management zones and other projects of the protected area and its buffer zone;

(o) Take the lead in the implementation of various activities related to the management of the protected area;

(p) Evaluate the performance of staff based on the prescribed evaluation system;

(q) Recommend the designation of staff to perform functions other than those inherent to their position;

(r) Approve the application for leave of absence of the staff of the office of the PASu with or without commutation;

(s) Approve local travel of the staff of the office of the PASu outside the protected area and/or established buffer zone not exceeding thirty (30) days;

(t) Serve as head of the secretariat to the PAMB;

(u) Submit reportorial requirements regularly to the concerned Provincial Environment and Natural Resources Office (PENRO) and to the PAMB, and observe and comply with the proper flow of PAO documents;

(v) Collect and/or receive pertinent fees, charges, donations and other income: *Provided*, That such. fees, charges, donations and other income collected shall be reported quarterly to the PAMB: *Provided, further*, That a book of accounts shall be maintained, which shall be certified by the accountant of the DENR-Region X or the nearest PENRO in accordance with DENR Administrative Order No. 96-22;

(w) Recommend the approval of payrolls, contracts, disbursement vouchers, request and issuance vouchers, purchase orders and other expenses;

(x) Prepare and recommend, for approval of the PAMB, the annual work and financial plans of the protected area; and

(y) Such other functions which may be assigned by the PAMB.

The PASu shall be directly responsible to the PAMB and the RED of the DENR-Region X.

SEC. 8. *Ancestral Lands and Domains.* - For the purpose of this Act, the following shall govern over ancestral lands and domains in the protected area:

(a) The rights of indigenous peoples to their ancestral domains are hereby fully recognized. Traditional property regimes exercised by indigenous cultural communities in accordance with their customary laws shall govern the relationship of all individuals within their communities with respect to all land and resources found within ancestral lands.

(b) The following presumptions shall govern unless proven to be contrary to documented or oral custom by clear and convincing evidence in the proper administrative or judicial proceeding providing due hearing to all parties concerned:

(1) All lands occupied by indigenous cultural communities since time immemorial shall be presumed to be ancestral lands. Rights and obligations within ancestral lands are presumed to be governed by customary laws;

(2) Rights and obligations within ancestral lands governed by customary laws are presumed to be held collectively by the community;

(3) Rights and obligations within ancestral lands proven to be held by individuals under customary law are presumed to be held in trust by such individuals for the whole community; and

(4) The continued practice of traditional and sustainable living shall be sufficient consideration for the State in place of the payment of taxes on ancestral domains. Owing to differences in cultural and social worldview, the provisions of this Act shall be liberally construed in favor of indigenous cultural communities and their members.

SEC.9. *Tenured Migrants and Transient Farmers.* - Tenured migrants are members of households that have actually and continuously occupied the Mt. Balatukan Range Natural Park since June 1, 1987, basing the data from the 1999 Survey and Registration of the Protected Area Occupants (SRPAO) and are substantially dependent on the protected area for their livelihood. For purposes of official documentation of rights and extent of occupation within the protected area, a tenured migrant household shall be issued a tenure instrument over such areas as have been occupied or cultivated since June 1, 1987 or earlier. Tenured migrants may occupy and use the area specified in the instrument of a term of twenty-five (25) years renewable for another twenty-five (25) years. The holder of the instrument, upon the lapse of this period, may negotiate for a new instrument and his occupancy shall be evaluated by the PAMB for purposes of such renewal. If despite consideration paid to current practices, areas occupied by tenured migrants are designated as zones in which no occupation or other activities are allowed, a provision for their transfer to multiple-use zones or buffer zones shall be accomplished using humanitarian considerations. Persons who have been cultivating within the protected area since June 1, 1987 are considered to be occupying such lands and shall be entitled to a tenure instrument restricted to cultivation: *Provided*, that the rights under such can only be transferred to direct descendants. Tenured migrant instruments may be cancelled for violation of the terms and conditions specified therein, upon the holder's repeated refusal to comply with the management plan or the regulations set by the PAMB, or upon voluntary surrender of rights. Upon cancellation of a tenured migrant instrument, the PASu shall take immediate steps to rehabilitate the area to return to its natural state prior to the cultivation or other act by the transient or tenured migrant. Tenured migrant instruments are transferable only to the nearest of kin: *Provided*, That if the land is left idle for a minimum of five years, the PAMB shall initiate cancellation proceedings of the tenured migrant instrument.

SEC. 10. *Prohibited Acts.* - The followingshall be the prohibitions and, penalties applicable to the Mt. Balatukan Range Natural Park:

(a) The penalties in Article 309 and Article 310 of the Revised Penal Code and/or Section 21 of Republic Act No. 7586, depending on the value of the resources taken, damaged or destroyed, shall be imposed upon any person found guilty by competent court of:

(1) Hunting, destroying, trapping, disturbing or possessing of any wild plants or animals or products derived there from anywhere within the Mt. Balatukan Range Natural Park without a permit from the PAMB: *Provided*, That permit for these activities shall only be given for scientific purposes necessary for protected area management;

(2) Cutting, gathering, collecting or removing timber or forest products without permits: *Provided*, that such permits shall only be given for scientific purposes necessary for protected area management;

(3) Entry to the protected area or possessing outside the protected area any wild plants or animals or products derived therefrom, which came from the protected area without a permit issued by the PAMB;

(4) Mineral exploration or extraction, drilling or prospecting for minerals within the Mt. Balatukan Range Natural Park; and

(5) Constructing or maintaining any kind of road, structure, fence or enclosure without a permit from the PAMB: *Provided*, That structures within ancestral domains used by the indigenous cultural communities need not be covered by a permit from the PAMB. Valuation from the damage shall take into account biodiversity and conservation consideration as well as aesthetic and scenic value. The commission of these acts likewise shall carry the penalty of eviction from the protected area and the forfeiture of all transportation, structures and building materials, equipment, devices and weapons used for the commission of the offense as well as the protected area resources caught in the possession of the accused. The local government unit responsible for the imposition of the penalties herein and the arrest and confiscation of the materials shall have a fifty percent (50%) share in the proceeds from the disposition thereof while the rest shall accrue to the PAMB.

SEC. 11. *Validity of Contracts over Lands within the Mt. Balatukan Range Natural Park.* - The purchase, sale, encumbrance, mortgage, usufruct or lease of lands within the protected area to persons outside the protected area not otherwise qualified to hold lands therein shall be null and void *ab initio*.

SEC. 12. *Special Prosecutors.* - Within thirty (30) days from the effectivity of this Act, the Department of Justice (DOJ) shall designate a special prosecutor to whom all cases of violation of laws, rules and regulations in the protected area shall be assigned. Such special prosecutor shall coordinate with the PAMB and the PASu in the performance of his/her duties and assist in the training of wardens and rangers in arrest and criminal procedure. The PAMB may appoint a

special private prosecutor on a case-to-case basis to assist the public prosecutor in the enforcement of protected area laws.

SEC. 13. *Local Government Units (LGUs).* - The LGUs shall participate in the management of the Mt. Balatukan Range Natural Park through representation in the PAMB as provided under Section 6(a). The LGUs shall retain their ordinance-making powers over their respective territories covered under this Act but with due consideration to protected area management objectives. If a conflict between the LGU and the protected area management objectives remain unresolved within the PAMB, it shall be resolved through meditation.

SEC. 14. *The Aft. Balatukan Protected Area Fund (MBPAF).* - There is hereby established a trust fund to be known as the Mt. Balatukan Protected Area Fund for purposes of financing projects of the system. All income generated from the operation of the system or management of wild flora and fauna in the protected area shall accrue to the fund. These income shall be derived from visitors/tourists fee, fees from permitted sale and export of flora and fauna and other resources from the protected area, proceeds from the registration and lease of multiple-use areas, including tourism concessions, contributions from industries and facilities directly benefiting from the protected area, and such other fees and income derived from the operation of the protected area.

The fund may be augmented by grants, donations, endowment from various sources, domestic or foreign, for purposes related to their functions: *Provided,* That the fund shall be deposited as a special account in the National Treasury and disbursements therefrom shall be made solely for the protection, maintenance, administration and management of the system, and duly approved projects endorsed by the PAMB in accordance with the existing accounting and budgeting rules and regulations: *Provided, further,* That the fund shall not be used to cover personal services expenditures.

The LGUs shall continue to impose and collect all other fees not enumerated herein which they have traditionally collected, such as business permits, property tax and rentals of LGU facilities. Furthermore, the LGUs may charge add-ons to fees imposed by the PAMB: *Provided,* That such add-ons shall be determined based on the contribution of the LGUs in the maintenance and protection of the protected area.

SEC. 15. *Utilization of Nonrenewable Resources.* - Any exploration for, exploitation or utilization of nonrenewable resources within the protected area shall not be allowed. Energy projects, whether renewable or otherwise, shall be permitted only through an act of Congress..

SEC. 16. *Appropriations.* - The Secretary of the DENR shall immediately include in the Department's program the implementation of this Act, the funding of which shall be included in the annual General Appropriations Act.

SEC. 17. *Construction.* - The provisions of this Act shall be construed liberally in favor of tenured migrants and indigenous cultural communities, and with due consideration to the protection of biodiversity. The NIPAS Act shall have supplementary effect in the implementation of this Act.

SEC. 18. *Transitory Provision.* - All persons who do not qualify as tenured migrants or transient farmers within the protected area shall be allowed to harvest fruits or crops planted before the effectivity of this Act. Thereafter, all crops planted by such unqualified persons shall be confiscated and the proceeds thereof shall accrue to the protected area fund.

SEC. 19. *Separability Clause.* - If any part or section of this Act is declared by the courts as unconstitutional, such declaration shall not affect the other parts or sections hereof.

SEC. 20. *Repealing Clause.* - The prohibitions and penalties under the NIPAS Act, which are not inconsistent herewith, shall continue to apply. For the purpose of the Mt. Balatukan Range Natural Park, all laws, rules and regulations inconsistent herewith are modified accordingly.

SEC. 21. *Effectivity Clause.* - This Act shall take effect upon its approval.

Approved,