



HOUSE OF REPRESENTATIVES

H. No. 4853

BY REPRESENTATIVES SINGSON, BANAAG, ANDAYA, DOMOGAN AND DUMPIT,
PER COMMITTEE REPORT NO. 1162

AN ACT DECLARING THE BESSANG PASS NATURAL MONUMENT
IN THE MUNICIPALITY OF CERVANTES, ILOCOS SUR AS A
PROTECTED AREA AND FOR OTHER PURPOSES

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

1 SECTION. 1. *Title.* – This Act shall be known as the “Bessang Pass
2 Protected Area Act of 2005.”

3 SEC. 2. *Declaration of Policy.* – It is the declared policy of the State,
4 pursuant to Republic Act No. 7586, otherwise known as the National
5 Integrated Protected Areas System Act of 1992 or NIPAS Act, to conserve and
6 regulate the utilization of wildlife resources and other natural resources, and to
7 protect and preserve the culture and indigenous knowledge of the people and
8 the integrity of historical sites to ensure their continued existence and
9 enjoyment by all. Towards this end, the State shall protect the endangered,
0 threatened, and rare species of flora and fauna, and preserve the scenic,
1 cultural and historical features of the Bessang Pass located in Cervantes,
2 Ilocos Sur, including the diverse terrestrial ecosystem thereof.

1 SEC. 3. *Category.* – The Bessang Pass, which is known for its intact
2 stand of pine forest in Region I and as the site of the historic Battle of Bessang
3 Pass during World War II, is hereby categorized pursuant to the NIPAS Act as
4 a natural monument and shall hereinafter be referred to as the Protected Area
5 (PA).

6 SEC. 4. *Scope.* – The boundaries of the Bessang Pass Natural
7 Monument are as follows:

8 PARCEL 1. Beginning at point mark "I" on the map, being S 66 deg. 00
9 min, W, 3,300 meters from corner 10, Project No. 13, block 23 of A & D, LC
10 Map No. 1276:

| | | | | |
|----|-------|----|-----------------|--------------|
| 11 | Point | 2 | N 20° 33' 16" E | 1,378.610 m. |
| 12 | Point | 3 | N 69° 26' 03" E | 748.684 m. |
| 13 | Point | 4 | S 78° 25' 37" E | 1,638.908 m. |
| 14 | Point | 5 | S 20° 56' 52" W | 3,398.480 m. |
| 15 | Point | 6 | N 61° 42' 05" W | 948.030 m. |
| 16 | Point | 7 | S 70° 33' 48" W | 631.166 m. |
| 17 | Point | 8 | N 46° 50' 14" W | 535.089 m. |
| 18 | Point | 9 | N 28° 01' 24" W | 292.903 m. |
| 19 | Point | 10 | N 64° 40' 35" W | 352.890 m. |
| 20 | Point | 11 | N 49° 26' 06" E | 490.845 m. |
| 21 | Point | 12 | N 64° 25' 41" E | 659.415 m. |
| 22 | Point | 1 | N 38° 54' 52" W | 424.160 m. |

23 containing an area of six hundred ninety-three and 3166/10000 (693.3166)
24 hectares, as PA.

25 PARCEL 2. Parcel 2 constitutes the buffer zone whose boundary
26 begins at the corner marked "I" on the map identical to corner "I" of Bessang
27 Pass Natural Monument:

| | | | | |
|----|-------|---|-----------------|------------|
| 28 | Point | 2 | S 39° 25' 33" E | 423.735 m. |
|----|-------|---|-----------------|------------|

| | | | | |
|----|----------------------------------------------------------------------------|----|-----------------|--------------|
| 1 | Point | 3 | S 64° 36' 26" W | 594.362 m. |
| 2 | Point | 4 | S 49° 28' 50" W | 486.421 m. |
| 3 | Point | 5 | S 65° 09' 42" E | 353.941 m. |
| 4 | Point | 6 | S 28° 30' 53" E | 282.047 m. |
| 5 | Point | 7 | S 47° 21' 05" E | 535.216 m. |
| 6 | Point | 8 | N 70° 20' 13" E | 636.297 m. |
| 7 | Point | 9 | S 62° 11' 41" E | 950.432 m. |
| 8 | Point | 10 | N 21° 09' 16" E | 3,426.934 m. |
| 9 | Point | 11 | S 78° 00' 50" E | 505.805 m. |
| 10 | Point | 12 | S 19° 50' 34" W | 4,012.372 m. |
| 11 | Point | 13 | N 61° 48' 02" W | 1,255.922 m. |
| 12 | Point | 14 | S 69° 39' 22" W | 623.725 m. |
| 13 | Point | 15 | N 46° 38' 29" W | 910.980 m. |
| 14 | Point | 16 | N 27° 28' 38" W | 218.409 m. |
| 15 | Point | 17 | N 64° 50' 04" W | 355.949 m. |
| 16 | Point | 18 | N 64° 50' 04" W | 514.149 m. |
| 17 | Point | 19 | N 50° 30' 41" E | 1,178.639 m. |
| 18 | Point | 20 | N 38° 33' 59" W | 376.642 m. |
| 19 | Point | 21 | N 21° 39' 12" E | 952.021 m. |
| 20 | Point | 22 | S 74° 03' 35" E | 505.782 m. |
| 21 | Point | 1 | S 20° 20' 38" W | 838.323 m. |
| 22 | containing an area of four hundred twenty-seven and 7917/10000 (427.7917) | | | |
| 23 | hectares, as buffer zone. | | | |
| 24 | Parcels 1 and 2 shall have a total aggregate area of one thousand one | | | |
| 25 | hundred twenty-one and 1083/10000 (1,121.1083) hectares, subject to actual | | | |
| 26 | ground survey. | | | |

1 Both the PA and the buffer zone shall be under the administrative
2 jurisdiction of the Department of Environment and Natural Resources (DENR)
3 and shall be administered in accordance with the provisions of the NIPAS Act.

4 SEC. 5. *Definition of Terms.* – For purposes of this Act, the following
5 terms shall be defined as follows:

6 (a) “Protected Area Management Board (PAMB)” refers to the site-
7 based decision-making body responsible in the planning, resource protection
8 and general administration of the PA.

9 (b) “General Management Plan” refers to the basic long-term
10 framework plan to attain the objectives of conserving and protecting the PA
11 and serves as guide in the preparation of the annual operations plan and
12 budget.

13 (c) “Management manual” refers to an individual management plan
14 containing basic background information, field inventory of the resources, an
15 assessment of assets and limitations, regional interrelationships, particular
16 objectives for managing the area, appropriate division of the area into
17 management zones, a review of the boundaries and a design of the
18 management programs.

19 (d) “General Management Planning Strategy” refers to the general
20 guide in the formulation of site specific management plans, including the
21 buffer zones.

22 (e) “Integrated Protected Area Fund (IPAF)” refers to the trust fund
23 established for purposes of financing projects of the NIPAS.

24 (f) “Indigenous Peoples (IPs)” refers to people defined as such in
25 Republic Act No. 8371, otherwise known as the “Indigenous People’s Rights
26 Act (IPRA) of 1997”.

27 (g) “Tenured migrants” refers to any person who has actually and
28 continuously occupied an area for five years prior to the designation of the

1 same as PA in accordance with the NIPAS Act and are solely dependent
2 therein for subsistence.

3 (h) "Protected Area Superintendent (PASu)" refers to the chief
4 operating DENR officer in the PA.

5 (i) "Natural monument" refers to a relatively small area focused on
6 protection of small features to protect or preserve nationally significant natural
7 and historical features on account of their special interest or unique
8 characteristics.

9 (j) "Buffer zone" refers to *identified areas* outside the boundaries of
10 and immediately adjacent to designated PAs pursuant to Section 8 of the
11 NIPAS Act that need special development control in order to avoid or
12 minimize harm to the PA.

13 (k) "Endangered species" refers to species and subspecies of wildlife
14 whose population is in danger of extinction and whose survival is unlikely if
15 the causal factors or threats continue to exist.

16 (l) "Nongovernment organization (NGO)" refers to any civic,
17 development or philanthropic organization which is multi-sectoral in
18 character.

19 (m) "Protected area (PA)" refers to any *identified portions of land and*
20 *water set aside by reason of their unique physical and biological significance,*
21 *managed to enhance biological diversity and protected against destructive*
22 *human exploitation.*

23 (n) "Biological resources" refers to living natural resources, including
24 microorganisms, plants and animals, plus the environmental resources to
25 which the species contribute.

26 SEC. 6. *Control and Supervision.* – The DENR shall be the lead
27 agency tasked to implement the provisions of this Act through the PAMB.

1 The participation of the local government units (LGUs), other government
2 agencies and NGOs shall be through their membership to the PAMB.

3 SEC. 7. *Management of the Protected Area.* – The PAMB shall be the
4 highest policy-making body of the PA and shall be composed of the following:

5 (1) The regional executive director (RED) of the DENR I, as
6 chairman;

7 (2) The provincial planning and development officer (PPDO);

8 (3) One representative from the municipal government of Cervantes,
9 Ilocos Sur, to be appointed by the sangguniang bayan of Cervantes;

10 (4) One representative from Barangay Malaya, Cervantes, Ilocos Sur,
11 to be appointed by the barangay council of Malaya;

12 (5) At least three representatives from nongovernment
13 organizations/local community organizations involved in PA management
14 based at Cervantes, Ilocos Sur, and duly accredited by the municipal
15 government, to be chosen in an election exclusively called for the purpose by
16 the DENR in coordination with concerned LGUs;

17 (6) One representative from each tribal community to be chosen in an
18 election to be conducted by the DENR in coordination with the National
19 Commission on Indigenous Peoples (NCIP); and

20 (7) One representative from other national government agencies, to be
21 chosen through election called for the purpose by the DENR among the
22 representatives of all national government agencies involved in PA
23 management in the Municipality of Cervantes.

24 Members of the PAMB shall represent their sectors and shall be
25 deemed to carry the vote of the sector being represented unless challenged by
26 any member of the sector in writing five days after the decision being
27 challenged is made known to the members through written information. In

1 such cases, the sector shall inform the PAMB whether it affirms or overrules
2 the vote of its representative.

3 The PAMB shall have the following powers and functions:

4 (1) Issue all rules and regulations to prohibit acts that may be
5 prejudicial to the PA and the policy declaration herein set forth as well as
6 established criteria;

7 (2) Set fees for the issuance of permits for activities regulated by this
8 Act or the management plan;

9 (3) Issue rules and regulations for the resolution of conflict through
10 appropriate culturally sensitive and effective means;

11 (4) Adopt rules and procedures for the conduct of business, including
12 the creation of committees to whom its powers may be delegated;

13 (5) Approve the management plan and oversee the office of the PASu;

14 (6) Deputize interested individuals for the enforcement of the laws,
15 rules and regulations governing conduct in the PA and its buffer zone; and

16 (7) Approve proposals for funding and budget allocation and exercise
17 responsibility over all funds that may accrue to the Bessang Pass Natural
18 Monument.

19 The DENR, through the RED shall exercise the authority to oversee the
20 PAMB to ensure that it acts within the scope of its powers and functions. In
21 case of a conflict between administrative orders of national application issued
22 by the DENR pursuant to the NIPAS Act and the rules and regulations issued
23 by the PAMB, the PAMB shall notify the Secretary of the DENR who shall
24 decide whether to apply the rule or withdraw its application in the PA. The
25 decision of the Secretary shall be guided by a preference to local initiative and
26 specific policies enacted by the PAMB. The decision of the Secretary may be
27 appealed to the regional trial court who has jurisdiction over the PA.

1 Within one year from the effectivity of this Act, a management plan
2 shall have been put into effect following the GMPS provided under the NIPAS
3 Act and according to the procedures herein set forth. It shall contain, among
4 others, the following:

- 5 (a) the category of the PA;
- 6 (b) period of applicability of the plan;
- 7 (c) key management issues;
- 8 (d) goals and objectives of management in support of Section 2 hereof;
- 9 (e) site management strategy;
- 10 (f) major management activities such as, but not limited to,
11 enforcement of laws, habitat and wildlife management, sustainable use
12 management, infrastructure development and maintenance, fire and pest
13 control;
- 14 (g) zoning; and
- 15 (h) visitor management programs.

16 The PASu shall prepare the management plan in consultation with the
17 appropriate offices of the DENR and local experts who may donate their
18 services including, but not limited to, people's organizations, NGOs and local
19 government agencies. The management plan shall be reviewed, approved and
20 adopted by the PAMB and shall be certified by the Secretary of the DENR.
21 Such certification shall declare that the management plan conforms to all laws,
22 rules and regulations of national application issued by the DENR. In no case
23 shall the DENR revise or modify the management plan without prior
24 consultation with the PAMB.

25 The PASu, in coordination with all concerned offices, shall likewise
26 prepare all successor plans. One year before the expiration of the period of
27 applicability of the plan in effect, the PASu shall cause publication of notices
28 for comments and suggestions on the next successor plan in a newspaper of

1 local circulation and the posting of such notices in the provincial, municipal
2 and barangay halls, and in three other areas frequented by the public. Public
3 hearings may be conducted on the successor plan upon the written request of
4 any interested party. The final plan shall be made available for public
5 comment at the office of the PASu upon its approval by the PAMB.

6 The zoning of the PA shall give primary consideration to the traditional
7 zones used and recognized by indigenous peoples and tenured migrants unless
8 such uses are deemed detrimental to biodiversity and the protection of the
9 natural characteristics of the PA.

10 The plan shall be prepared in a language understandable in the area,
11 plainly written and available for comments to the general public at the PASu
12 office.

13 *SEC. 8. Special Prosecution.* – Within thirty (30) days from the
14 effectivity of this Act, the Secretary of the Department of Justice shall appoint
15 a special prosecutor to whom all cases for violation of laws, rules and
16 regulations in the PA shall be assigned. Such special prosecutor shall
17 coordinate with the PAMB and the PASu in the performance of his/her duties
18 and assist in the training of wardens and rangers in arrest and criminal
19 procedures.

20 *SEC. 9. Bessang Pass Protected Area Fund.* – There is hereby
21 established a trust fund to be known as the Bessang Pass Protected Area Fund
22 for purposes of financing projects of the system. All income generated from
23 the operation of the system or management of wild flora and fauna in the PA
24 shall accrue to the fund. These income shall be derived from visitors/tourists
25 fees, fees from permitted sale and export of flora and fauna and other
26 resources from the PA, proceeds from registration and lease of multiple-use
27 areas including tourism concessions, contributions from industries and

1 facilities directly benefiting from the PA, and such other fees and incomes
2 derived from the operation of the PA.

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

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

17 *SEC. 10. Existing Facilities Within Protected Area.* – Within sixty (60)
18 days from the effectivity of this Act, major existing facilities such as roads,
19 buildings, water systems, transmission lines, communication facilities, heavy
20 equipment and irrigation facilities within the boundaries of the PA shall submit
21 a project description to the PAMB through the PASu.

22 The PAMB, with the help of the DENR, shall determine whether the
23 present and future existence, operations and plans of a facility is detrimental to
24 the PA or whether conditions for its operation shall be imposed. If any of such
25 conditions, once imposed, are violated, the owner of the facility shall be liable
26 to pay a fine of Five thousand pesos (P5,000.00) for every violation. Upon
27 reaching a total fine of Five hundred thousand pesos (P500,000.00), the

1 PAMB through the PASu, and deputizing other government entities, shall
2 cause the cessation and demolition of the facility at the cost of its owner.

3 Existing facilities allowed to remain within the PA may be charged a
4 reasonable royalty by the DENR. All income from such royalty shall accrue to
5 the IPAF.

6 SEC. 11. *Utilization of Non-renewable Resources.* – Any exploitation
7 and utilization of non-renewable resources within the PA shall be allowed only
8 upon the approval of the PAMB and shall be subject to the Environmental
9 Impact Assessment (EIA) System.

10 SEC. 12. *Indigenous People's Rights.* – Ancestral domains and other
11 customary rights and interests of indigenous communities within the PA shall
12 be accorded due recognition. The preservation of ancestral domain and
13 customary rights shall be considered as one of the management objectives.

14 The PA staff shall be tasked to locate any indigenous cultural
15 communities that may exist or near the site, which is identifiable by the tribal
16 leaders.

17 The evaluation of ancestral domain claims within the PA shall be
18 conducted in accordance with the IPRA law, in coordination with the DENR
19 and other concerned groups.

20 SEC. 13. *Tenured Migrants.* – Persons who have actually and
21 continuously occupied a portion of the forest land within the PA five years
22 before the effectivity of this Act and are solely dependent on that area for their
23 livelihood shall be considered as tenured migrants within the PA.

24 For the purpose of official documentation of rights and extent of
25 occupation within the PA, a tenured migrant shall be issued a tenurial
26 instrument over such area as has been occupied or cultivated five years before
27 the effectivity of the NIPAS Act. For areas occupied by tenured migrants that
28 are designated as zones in which no occupation or other human activities are

1 allowed, a provision for the transfer of the tenured migrants to multiple-use
2 zones or the buffer zone shall be undertaken using humanitarian consideration.

3 Upon the cancellation of a tenured migrant instrument for cause,
4 abandonment or by voluntary surrender of rights, the PASu shall take
5 immediate steps to rehabilitate the area in order to return it to its natural state
6 prior to the cultivation or other activity by the tenured migrant.

7 SEC. 14. *Appropriations.* – The Secretary of the DENR shall
8 immediately include in the Department's program the implementation of this
9 Act, the funding of which shall be included in the annual General
10 Appropriations Act.

11 SEC. 15. *Prohibited Acts and Penalties.* – The following acts are
12 hereby prohibited within the PA:

13 (a) Hunting, destroying, disturbing or mere possession of any plant or
14 animal or product derived therefrom without a permit from the PAMB;

15 (b) Dumping of any waste products detrimental to the PA, or to the
16 plants and animals or inhabitants therein;

17 (c) Use of any motorized equipment without a permit from the PAMB;

18 (d) Mutilating, defacing or destroying objects of natural beauty, or
19 objects of interest to cultural communities;

20 (e) Damaging and leaving roads and trails in a damaged condition;

21 (f) Squatting, mineral location or otherwise occupying any land;

22 (g) Constructing or maintaining any kind of structure, fence or
23 enclosure, or conducting any business enterprise without a permit from the
24 PAMB;

25 (h) Leaving in exposed or unsanitary condition refuse or debris, or
26 depositing the same in ground or in bodies of water; and

27 (i) Altering, removing, destroying or defacing boundary marks or
28 signs.

1 SEC. 16. *Penalties.* – Whoever violates this Act or any rules and
2 regulations issued by the DENR or the PAMB pursuant to this Act or whoever
3 is found guilty by a competent court of justice of any of the offenses in the
4 preceding section shall be fined in the amount of not less than Five thousand
5 pesos (P5,000.00) nor more than Five hundred thousand pesos (P500,000.00),
6 exclusive of the value of the thing damaged or imprisonment for not less than
7 one year but not more than six years, or both, as determined by the court:
8 *Provided,* That if the area requires rehabilitation or restoration as determined
9 by the court, the offender shall also be required to restore or compensate for
10 the restoration to the damage: *Provided, further,* That the court shall order the
11 eviction of the offender from the area and the forfeiture in favor of the
12 government of all minerals, timber or any species collected or removed,
13 including all equipment, devices, and firearms used in connection therewith
14 and any construction or improvement made thereon by the offender. If the
15 offender is an association or corporation, the president or manager shall be
16 directly responsible for the act of his employees and laborers: *Provided,*
17 *finally,* That the DENR may impose administrative fines and penalties
18 consistent with this Act.

19 SEC. 17. *Reporting Responsibility.* – The PASu, through the PAMB
20 shall be responsible in the preparation of accomplishment reports on the
21 activities undertaken in the PA for submission to the Secretary of the DENR.

22 SEC. 18. *Separability Clause.* – If any part or section of this Act is
23 declared by the court as unconstitutional, such declaration shall not affect the
24 other parts or sections hereof.

25 SEC. 19. *Repealing Clause.* – The provisions of the NIPAS Act are
26 hereby modified in accordance with the provisions herein. All other laws,
27 rules and regulations inconsistent with this Act are hereby repealed or
28 modified accordingly.

1 SEC. 20. *Effectivity Clause.* – Copies of this Act shall be posted in a
2 conspicuous place in the provincial, municipal and barangay halls within the
3 areas as well as in three other places frequented by the public. This Act shall
4 take effect fifteen (15) days after its complete publication in the *Official*
5 *Gazette* or in two newspapers of general circulation.

Approved,

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