



HOUSE OF REPRESENTATIVES

H. No. 5838

BY REPRESENTATIVES LAGBAS, BANAAG, SALCEDA, CAGAS, FIGUEROA,
MALANYAON, VIRADOR, VELOSO AND MAGSAYSAY (M.), PER
COMMITTEE REPORT NO. 1992

AN ACT DECLARING THE MIMBILISAN WATERSHED LOCATED IN
THE MUNICIPALITIES OF BALINGOAN AND TALISAYAN,
PROVINCE OF MISAMIS ORIENTAL AS A PROTECTED AREA
UNDER THE CATEGORY OF PROTECTED LANDSCAPE,
PROVIDING FOR ITS MANAGEMENT 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 and cited as “The
2 Mimbilisan Protected Landscape Act”.

3 SEC. 2. *Declaration of Policy.* – It is the policy of the State to protect
4 and advance the right of the people to a balanced and healthful ecology in
5 accord with the rhythm and harmony of nature. For this purpose, the State
6 shall secure for the present and future generations of Filipinos the perpetual
7 existence of all native plants and animals within the Mimbilisan Watershed in
8 the municipalities of Talisayan and Balingoan, Province of Misamis Oriental,
9 through its establishment as a component of the National Integrated Protected

1 Areas System (NIPAS) under the category of protected landscape. The State
 2 shall likewise promote the participation of local communities in the
 3 management of the Mimbilisan Watershed and protect the way of life of the
 4 people living in and around the protected area.

5 *SEC. 3. Scope.* – The boundaries of the Mimbilisan Protected
 6 Landscape are as follows: Tie Line: Point 1 or Corner 1 on the map is S 37°
 7 W, approximately six thousand two hundred meters (6,200m.) from the MBM
 8 of the Municipality of Talisayan, Misamis Oriental.

| | <u>LINE</u> | <u>BEARING</u> | <u>DISTANCE</u> |
|----|-------------|----------------|-----------------|
| 9 | | | |
| 10 | 1 – 2 | S 55° 00'E | 310.00 meters |
| 11 | 2 – 3 | N 73° 00'E | 200.00 meters |
| 12 | 3 – 4 | S 52° 00'E | 200.00 meters |
| 13 | 4 – 5 | S 08° 20'E | 633.00 meters |
| 14 | 5 – 6 | S 55° 60'W | 200.00 meters |
| 15 | 6 – 7 | S 60° 60'W | 190.00 meters |
| 16 | 7 – 8 | N 68° 60'W | 220.00 meters |
| 17 | 8 – 9 | S 68° 60'W | 150.00 meters |
| 18 | 9 – 10 | N 09° 60'W | 390.00 meters |
| 19 | 10 – 11 | N 09° 60'E | 260.00 meters |
| 20 | 11 – 12 | N 34° 00'E | 110.00 meters |
| 21 | 12 – 13 | N 62° 60'W | 220.00 meters |
| 22 | 13 – 14 | N 19° 60'W | 170.00 meters |
| 23 | 14 – 15 | N 70° 00'E | 190.00 meters |
| 24 | 15 – 1 | S 86° 00'E | 110.00 meters |

25 The total land area of the Mimbilisan Protected Landscape is six
 26 hundred sixty thousand square meters (660,000 sq.m.) or sixty-six hectares

1 (66 has.), more or less, located within the territory of Barangay Mapua,
2 Municipality of Balingoan, Province of Misamis Oriental.

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

5 (a) “Biological Diversity or Biodiversity” shall refer to the wealth of
6 life forms found on earth, the millions of different plants, animals and
7 microorganisms, the genes they contain and the intricate ecosystem they form.

8 (b) “Buffer Zones” shall refer to identified areas outside the
9 boundaries of and immediately adjacent to designated protected areas that need
10 special development control in order to avoid or minimize harm to the
11 protected area.

12 (c) “General Management Plan” shall refer to the basic long-term
13 framework plan for the management of the protected area and serves as guide
14 in the preparation of the annual operations plan and budget.

15 (d) “General Management Planning Strategy (GMPS)” shall refer to a
16 guide in the formulation of site specific management plans, including buffer
17 zones.

18 (e) “Indigenous Peoples” shall refer to people sharing common bonds
19 of language, customs, traditions and other distinctive cultural traits and who
20 have since time immemorial occupied, possessed and utilized a territory.

21 (f) “Integrated Protected Areas Fund (IFAP)” shall refer to a trust fund
22 established for purposes of financing projects within a protected area.

23 (g) “Management Manual” shall refer to the individual management
24 plan containing basic background information, field inventory of the resources,
25 assessment of assets and limitations, regional interrelationships, particular
26 objectives for managing the area, appropriate division into management zones,
27 review of the boundaries and design of the management programs of the area.

1 (h) “National Integrated Protected Areas System (NIPAS)” shall refer
2 to the classification and administration of all designated protected areas
3 established pursuant to Republic Act No. 7586 to maintain essential ecological
4 processes and life-support systems, to preserve *genetic diversity*, to ensure
5 sustainable use of resources and to maintain the natural conditions to the
6 greatest extent possible.

7 (i) “Protected area (PA)” shall refer to identified portions of land and
8 water set aside by reasons of their unique physical and biological significance,
9 managed to enhance biological diversity, and protected against destructive
10 human exploitation.

11 (j) “Protected Area Management Board (PAMB)” shall refer to the site
12 based decision-making body responsible in the planning, resource protection
13 and general administration of the area in accordance with the approved
14 management plan.

15 (k) “Protected landscape” shall refer to an area of national significance
16 which is characterized by the harmonious interaction of man and land while
17 providing opportunities for public enjoyment through recreation and tourism
18 within the normal lifestyle and economic activity of the area.

19 (l) “Protected Area Superintendent (PASu)” shall refer to the chief
20 operating officer of the Department of Environment and Natural Resources
21 (DENR) for the Mimbilisan Protected Landscape.

22 (m) “Secretary” shall refer to the Secretary of the DENR.

23 (n) “Tenured migrants” shall refer to any person who has actually and
24 continuously occupied an area for five years prior to the designation of the
25 same as a PA in accordance with the provisions of Republic Act No. 7586 or
26 the NIPAS Act and are solely dependent therein for subsistence.

27 SEC. 5. *Management of the Mimbilisan Protected Landscape.* – The
28 management of the Mimbilisan Protected Landscape shall be vested in the

1 PAMB as herein provided, which shall serve as the highest policy-making
2 body for the PA. Through the PAMB, the management structure for the PA
3 shall promote partnership, participation, cooperation and coordination with
4 local communities and civil society organizations.

5 SEC. 6. *The Protected Area Management Board.* – The PAMB for the
6 Mimbilisan Protected Landscape shall be composed of:

7 (a) The regional executive director (RED) of the DENR-Region X, as
8 chairman;

9 (b) The mayors of the municipalities of Balingoan and Talisayan,
10 Province of Misamis Oriental or their authorized representatives;

11 (c) The barangay captains with territory inside and adjacent to the PA
12 or their authorized representatives;

13 (d) The regional director of the Department of Agriculture (DA)
14 Region X or his authorized representative;

15 (e) The Provincial Environment and Natural Resources Officer
16 (PENRO) of Misamis Oriental;

17 (f) The Community Environment and Natural Resources Officer
18 (CENRO) of Gingoog City;

19 (g) Two nongovernment organization/people's organization (NGO/PO)
20 representatives concerned with PA management, chosen from among the two
21 municipalities with territory inside the PA and duly accredited with the
22 municipality being represented; and

23 (h) The Provincial Planning and Development Officer (PPDO) of
24 Misamis Oriental, sitting as *ex officio* member, to be endorsed by the
25 provincial governor.

26 Each member of the PAMB shall serve for a term of five years and shall
27 be considered to represent and carry the vote of his or her sector in all matters.
28 The members who represent government officials or agencies shall serve

1 according to the term of office of their principals, unless sooner terminated by
2 such official/s.

3 SEC. 7. *Powers and Functions of the PAMB.* – The PAMB for the
4 Mimbilisan Protected Landscape shall exercise the following powers and
5 functions:

6 (a) Issue rules and regulations to implement the provisions of this Act
7 and promote the policy declaration herein set forth;

8 (b) Establish criteria and set fees for the issuance of permits for the
9 activities regulated by the Act or the approved management plan;

10 (c) Identify the buffer zone for the PA;

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

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

14 (f) Deputize interested individuals for the enforcement of the laws,
15 rules and regulations adopted pursuant to this Act;

16 (g) Accept donations, approve proposals for funding and budget
17 allocation and exercise accountability over all funds that may accrue to the PA;

18 (h) Coordinate with appropriate agencies for the regulation of flight
19 patterns of aircraft going over the area to set acceptable latitudinal limits and
20 emissions; and

21 (i) Retain legal counsel, either on a permanent or temporary basis, to
22 provide legal assistance to the PAMB and the PASu staff whenever they are
23 sued in connection with the performance of their duties under this Act.

24 The Secretary shall exercise authority over the PAMB to ensure that it
25 exercises its authority within the scope of its powers and functions. In case of
26 conflict between administrative orders of national application issued by the
27 DENR pursuant to the NIPAS Act and the rules and regulations issued by the
28 PAMB, the PAMB shall notify the Secretary who shall resolve such conflict.

1 The local government units (LGUs) of the municipalities of Balingoan
2 and Talisayan shall participate in the management of the PA through
3 representation in the PAMB as provided under Section 6 hereof. The LGUs
4 shall retain their power to adopt ordinances over the territory covered under
5 this Act, giving due consideration, however, to PA management objectives. If
6 a conflict between LGU and PA management objectives remain unresolved
7 within the PAMB, the Secretary shall resolve such issue with the concerned
8 LGU.

9 SEC. 8. *Mimibilisan Protected Landscape Superintendent Office.* –

10 There is hereby established a Protected Area Superintendent's Office in charge
11 of the management, protection and administration of the PA. The PASu shall
12 be supported by the existing personnel of the DENR. The head of office shall
13 be the chief operating officer of the Mimibilisan Protected Landscape or PA
14 and shall be accountable to the RED of the DENR-Region X and the PAMB.

15 The PASu shall have the following powers and functions:

- 16 (a) Prepare the management and successor plans as herein provided;
17 (b) Provide a secretariat for the PAMB to supply the latter with all
18 information necessary to make appropriate decisions;
19 (c) Hire and supervise the necessary personnel to support operations as
20 the budget made available by the PAMB may allow;
21 (d) Establish a productive partnership with the local community,
22 including groups interested in the achievement of the goals and objectives of
23 the PA and in the planning, protection and management thereof;
24 (e) Develop and implement a park information, education and visitor
25 program;
26 (f) Enforce the laws, rules and regulations relevant to the PA and assist
27 in the prosecution of offenses thereof;

1 (g) Monitor all activities within the PA for conformity with the
2 management plan; and

3 (h) Perform such other functions as the PAMB may assign.

4 The PASu shall prepare a Management Plan in coordination with the
5 appropriate offices of the DENR, LGUs, local communities and experts on
6 tribal communities who have experience in the particular cultures in the area.
7 The Management Plan shall be reviewed, approved and adopted by the PAMB
8 and certified to by the Secretary so that it conforms to all laws, rules and
9 regulations of national application. In no case shall the Management Plan be
10 revised or modified without prior consultation with the PAMB.

11 Within one year from the effectivity of this Act, the Management Plan
12 shall be put into effect in accordance with the NIPAS Act and the procedure
13 herein set forth. It shall contain, among others, the following:

14 (1) Period of applicability of the plan;

15 (2) Key management issues;

16 (3) Goals and objectives of management;

17 (4) Site management strategy;

18 (5) Major management activities such as, but not limited to,
19 enforcement of laws, habitat and wildlife management, sustainable use
20 management, infrastructure development and maintenance, fire and pest
21 control, etc;

22 (6) Zoning; and

23 (7) Visitor management programs.

24 The PASu shall prepare all successor plans two years before the
25 expiration of the existing plans and shall cause the publication of notices for
26 comments and suggestions on the next successor plan in a newspaper of local
27 circulation and the posting of such notices in the provincial, municipal and
28 barangay halls and in three other areas frequented by the public. Public

1 consultations may be conducted on the successor plan upon the written request
2 of any interested party. The proposed plan shall be made available to the
3 public during the period for comment and the final version shall be made
4 available for public perusal at the office of the PASu.

5 The zoning of the PA shall give primary consideration to cultural,
6 economic and social practices consistent with sustainable management
7 principles by tenured migrants and nearby communities for an appreciable
8 length of time unless such uses are deemed detrimental to biodiversity
9 conservation and the protection of the natural characteristics of the PA.

10 The Management Plan shall be prepared in a language understandable
11 in the area, plainly written and available for perusal anytime to the general
12 public at the PASu Office.

13 *SEC. 9. Existing Facilities within the PA.* – Existing facilities allowed
14 to remain within the PA may be charged a reasonable fee by the PAMB, which
15 shall be embodied in a Memorandum of Agreement to be entered into with the
16 owner of the facility. All incomes derived from such fees shall accrue to the
17 Mimbilisan Protected Area Fund established pursuant to this Act.

18 In setting the user fees on man-made facilities managed by private
19 entities, the rates shall be determined by the private entity but shall be
20 comparable to the fees charged for similar facilities in a PA. For all other
21 facilities, the user fees therein shall be determined in consultation with the
22 PAMB.

23 *SEC. 10. Utilization of Non-renewable Resources.* – Any exploration
24 for and exploitation or utilization of non-renewable resources within the PA
25 shall not be allowed. Energy projects, renewable or otherwise, shall be
26 permitted only through an act of Congress: *Provided,* That exploitation of
27 renewable energy up to three megawatts capacity shall be exempt from such
28 requirement.

1 SEC. 11. *Prohibited Acts.* – (A) The penalties prescribed for theft under
2 Articles 309 and 310 of the Revised Penal Code shall be imposed upon any
3 person found guilty of:

4 (1) *Hunting, destroying, trapping, disturbing or possessing anywhere*
5 *within the PA of any wild plant or animal or products derived therefrom*
6 *without a permit from the PAMB: Provided, That such permit shall only be*
7 *given for scientific purposes necessary to promote PA management;*

8 (2) *Cutting, gathering, collecting or removing timber or forest*
9 *products without permit: Provided, That such permit shall only be given for*
10 *scientific purposes necessary for PA management;*

11 (3) *Possessing outside the PA any wild plant or animal or products*
12 *derived therefrom which came from the PA;*

13 (4) *Mineral exploration or extraction, drilling or prospecting for*
14 *minerals within the PA;*

15 (5) *Constructing or maintaining any kind of road, structure, fence or*
16 *enclosure without permit from the PAMB: Provided, That structures within*
17 *ancestral domains used by indigenous cultural communities shall not need a*
18 *permit from the PAMB; and*

19 (6) *Altering, mutilating, excavating, removing, destroying or defacing*
20 *boundaries, marks or signs, natural formation, burial grounds, religious sites,*
21 *artifacts, objects belonging to indigenous cultural communities and other*
22 *objects of natural and scenic value or affixing marks or signs on trees.*

23 (B) A fine of not less than One hundred thousand pesos (P100,000.00)
24 nor more than Five hundred thousand pesos (P500,000.00) and/or
25 imprisonment of not less than one year and not more than five years shall be
26 imposed upon:

1 (1) Any person or persons found guilty of grazing and/or causing
2 livestock to graze or raising poultry within the PA without a permit from the
3 PAMB; and

4 (2) Any public officer or officer of the law, who, in dereliction of the
5 duties of his office, shall maliciously refrain from instituting acts necessary to
6 prosecute the violators of this Act or shall tolerate the commission of offenses
7 herein provided. Conviction for this offense shall also carry the penalty of
8 perpetual disqualification from public office.

9 (C) A fine of not less than One hundred thousand pesos (P100,000.00)
10 but not more than Five hundred thousand pesos (P500,000.00) and/or
11 imprisonment of not less than one year and not more than five years and the
12 restoration and rehabilitation of the damage shall be imposed upon any person
13 who commits the following acts:

14 (1) Violating any rules and regulations in the Management Plan or by
15 the PAMB or agreements reached before the PAMB in the exercise of its
16 adjudicative functions;

17 (2) Dumping, burning or disposing of any waste products, vegetation
18 or materials within the PA to the detriment of inhabitants, plants or animals
19 therein;

20 (3) Use of motorized equipment without a permit except motorized
21 vehicles within the national highway, provincial road or other public
22 thoroughfare traversing the park: *Provided*, That such thoroughfares were
23 legally constructed;

24 (4) Occupying any portion of land inside the PA without a permit
25 from the PAMB: *Provided*, That such occupation shall be of such a nature as
26 to last more than ten (10) days in the particular portion of the PA; and

27 (5) Entering the PA without a permit from the PAMB.

1 Any person who shall induce or conspire with another person to commit
2 any of the acts prohibited in this section or cause his workers to commit any of
3 such acts shall be liable in the same manner as the one actually performing the
4 act.

5 The valuation of the damage resulting from any of the acts prohibited
6 herein shall take into account biodiversity and conservation consideration as
7 well as aesthetic and scenic values. Conviction for any of these acts shall
8 likewise carry the penalty of eviction from the PA and forfeiture in favor of the
9 government of transportation facilities, structures, building materials,
10 equipment, devices and weapons used in the commission of the offense.

11 The LGU responsible for the arrest of a violator and the confiscation of
12 materials used in the commission of the offense shall have a fifty percent
13 (50%) share from the proceeds in the disposition of confiscated materials. The
14 other fifty percent (50%) shall accrue to the Mimbilisan Protected Area Fund.

15 The above prohibitions shall not include activities identified in the
16 Management Plans and such other measures as are necessary for protection,
17 preservation and PA management, which shall be undertaken by the PASu or
18 other persons deputized by the PAMB. The certified customs and traditional
19 practices of indigenous cultural communities are also allowable activities over
20 which the above prohibitions shall not apply.

21 SEC. 12. *Special Prosecutors.* – Within thirty (30) days from the
22 effectivity of this Act, the Department of Justice (DOJ) shall designate a
23 special prosecutor to whom all cases of violation of laws, rules and regulations
24 in the PA shall be assigned. Such special prosecutor shall coordinate with the
25 PAMB and the PASu in the performance of his/her duties and assist in the
26 training of wardens and rangers in arresting and prosecuting violators of this
27 Act. The PAMB may appoint a special private prosecutor on a case-to-case
28 basis, to assist the public prosecutor.

1 SEC. 13. *Mimbilisan Protected Area Fund.* – There is hereby
2 established a trust fund to be known as the Mimbilisan Protected Area Fund for
3 purposes of financing projects for the PA. All income generated from the
4 operation of the PA or management of wild flora and fauna in the PA shall
5 accrue to the Fund. These income shall be derived from visitors/tourist fee,
6 fees from permitted sale and export of flora and fauna and other resources from
7 the PA, proceeds from registration and lease of multiple-use areas, including
8 tourism concessions, contributions from industries and facilities directly
9 benefiting from the PA; and such other fees and income derived from the
10 operation of the PA.

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

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

25 SEC. 14. *Appropriations.* – The Secretary of the DENR shall
26 immediately include in the Department's program the implementation of this
27 Act, the funding of which shall be included in the annual General
28 Appropriations Act.

1 SEC. 15. *Construction.* – The provisions of this Act shall be construed
2 liberally in favor of the protection and rehabilitation of the Mimbilisan
3 watershed and water resources and the conservation and restoration of
4 biological diversity, taking into account the needs and interests of qualified
5 tenured migrants, for present and future Filipino generations. The NIPAS Act
6 shall have supplementary effect in the implementation of this Act.

7 This Act shall not be deemed to resolve or used as basis for the
8 resolution of any existing boundary conflict between the municipalities of
9 Balingoan and Talisayan.

10 SEC. 16. *Transitory Provision.* – In order to ensure the sustainability
11 and integrity of the watershed and water resources, the recovery and restoration
12 of biological diversity, and to develop sustainable livelihood opportunities for
13 tenured migrants, the DENR shall henceforth cease to issue concessions,
14 licenses, permits, clearances, compliance documents or any other instrument
15 that allows exploitation and utilization of resources within the PA until the
16 Management Plan shall have been put into effect.

17 SEC. 17. *Separability Clause.* – If any part or section of this Act is
18 declared by the courts as unconstitutional, such declaration shall not affect the
19 other parts or sections hereof.

20 SEC. 18. *Repealing Clause.* – All laws, rules and regulations
21 inconsistent herewith are modified accordingly.

22 SEC. 19. *Effectivity Clause.* – This Act shall take effect fifteen (15)
23 days after publication in the *Official Gazette* or in a newspaper of general
24 circulation readily available in and around the scope specified herein. It shall
25 likewise be posted in a conspicuous place in the provincial, municipal and
26 barangay halls within the area as well as in three other places frequented by the
27 public.

Approved,