

November 29, 2002

JOINT DENR-NCIP CIRCULAR NO. 01-02

SUBJECT : Joint DENR-NCIP Efforts on Policy Reconciliation of the National Integrated Protected Areas System (NIPAS) Act of 1992, Governing Protected Areas, and the Indigenous Peoples Rights Act (IPRA) of 1997, Covering Ancestral Domains/Lands and Rights Thereto of Indigenous Peoples/Indigenous Cultural Communities

1. PREFATORY STATEMENT

Section 38 of Republic Act No. 8371 (IPRA) provides that the National Commission on Indigenous Peoples (NCIP) is the primary government agency responsible for the formulation and implementation of policies, plans and programs to promote and protect the rights and well-being of the Indigenous People/Indigenous Cultural Communities (IP/ICC) and the recognition of their ancestral domains as well as their rights thereto. However, there are ancestral domains/lands which partially or totally included protected areas. Pursuant to Section 10 of Republic Act No. 7586 (NIPAS Act), the DENR has control and administration in protected areas in the Philippines. alcCTA

In view hereof, there is a need to clarify the jurisdiction, authority and responsibilities of the NCIP and DENR in protected areas partially or totally within ancestral domains/lands of IP/IC communities and review and harmonize the provisions of R.A. 7586 and R.A. 8371 and their related rules and regulations.

2. JOINT DENR-NCIP CONFERENCE

As a starting point, the NCIP and DENR held a conference at the Protected Areas and Wildlife Bureau (PAWB) Visitor Center, North Avenue, Quezon City, on 7 February 2002 to explore ways to harmonize the implementation of R.A. 8371 and RA. 7586.

The concerns of both the DENR and the NCIP as to their respective jurisdiction, extent of authority and responsibilities in protected areas which are totally or partially within ancestral domains/lands were identified and clarified.

3. CONSTITUTION OF JOINT WORKING GROUP

An agreement to constitute a Working Group composed of six (6) representatives from each agency was concurred in by the DENR and NCIP. The Working Group shall meet regularly in preparation for the drafting of a Memorandum of Understanding to be presented to and approved by the DENR and the NCIP. Resource persons may be invited by the Working Group to enlighten and guide them in their assigned task.

4. NATIONAL CONSULTATION

Prior to the approval of the draft Memorandum of Understanding, the same shall be presented before representatives of IP/IC communities and other sectors in national consultation which shall be called for that purpose.

5. CONFLICT IN PROTECTED AREAS

While the Joint Memorandum of Understanding is being formulated and pending its approval by the DENR and the NCIP, the following guidelines shall be observed by both parties:

- a) To identify the nature of the conflict;
- b) Where the conflict is within the exclusive jurisdiction of the NCIP, the same shall be resolved by the Commission. The decision of the Commission shall be appealable to the Court of Appeals or the Supreme Court in accordance with Rule 45 of the Rules of Court;
- c) Where the conflict is not within the exclusive jurisdiction of the NCIP, the conflict shall be resolved at the community level by way of conciliation or mediation with the assistance of the Joint DENR-NCIP Investigative Body;
- d) The parties must agree to submit the conflict to conciliation and mediation. Any amicable settlement agreed upon by the parties shall be immediately executory;
- e) Where the conflict in item (c) above cannot be resolved, the same shall be investigated by the Joint DENR-NCIP Investigative Body and submit their report and recommendation for resolution to a higher level composed of the Chairperson and Commissioners of the NCIP and the Secretary or designated officials of the DENR;

For purposes of investigation, there shall be constituted a Joint DENR-NCIP Investigative Body which shall be composed of five (5) members, two (2) coming from the DENR (1 from PAWB and 1 from Legal) and two (2) from NCIP (1 Commissioner and 1 Legal), and a Chairperson which shall be rotated between the DENR and the NCIP every six (6) months. The first Chairperson shall come from the NCIP who shall serve from the date of approval hereof up to six (6) months.

6. This Joint DENR-NCIP Circular is hereby issued for the information and guidance of all concerned.

Quezon City, this November 29, 2002.

(SGD.) HEHERSON T. ALVAREZ
Secretary Chairperson
Department of Environment
and Natural Resources

(SGD.) EVELYN S. DUNUAN
National Commission on
Indigenous Peoples