



**DENR ADMINISTRATIVE ORDER**  
**NO. 2010- 04**

**FEB 12 2010**

**SUBJECT : IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT NO. 9154 OR "THE MOUNT KANLA-ON NATURAL PARK (MKNP) ACT OF 2001"**

Pursuant to Section 23 of RA No. 9154, otherwise known as the MKNP Act of 2001, this Administrative Order setting for the rules and regulations governing the implementation of RA 9154 is hereby promulgated.

**OBJECTIVE**

The purpose of this Order is to set forth in detail the processes by which the Department of Environment and Natural Resources (DENR), the MKNP Management Board, the concerned Local Government Units (LGUs), Indigenous Cultural Communities/Indigenous People (ICC/IPs), Non-Government Organizations (NGOs), and other concerned institutions and agencies shall administer and manage the MKNP and its adjoining buffer zone to promote the policy declaration of the Act as herein specified.

The protection, conservation, and development of Mt. Kanla-on as a protected area shall be considered as priority thrusts of the State and shall be integrated in the short-term and long-term development plans of the DENR, the concerned LGUs and other institutions and the provisions of appropriate resources for its management.

**Chapter I**  
**BASIC POLICY**

**Section 1. Declaration of Policy** – In recognition of the diversity of Mt. Kanla-on's biological resources and its aesthetic, socio-cultural, economic, recreational, educational, scientific and other ecological importance to the Island of Negros, it is hereby declared the policy of the State to ensure its protection and conservation including its communities of people and their culture and way of life insofar as they are in harmony with nature. The protection and conservation of MKNP shall be pursued through participatory management and sustainable development advancing and protecting the interests of its legitimate inhabitants and respecting the customary laws in accordance with RA 7586 or the National Integrated Protected Areas System (NIPAS) Act of 1992, RA 8371 of the Indigenous People's Rights Act (IPRA) of 1997 and other related laws, and international conventions to which the Philippines is a signatory.



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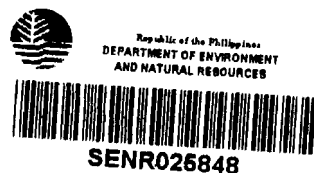


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## Chapter II DEFINITION OF TERMS

**Section 2. Definition of Terms** - As used in RA 9154 and this Order, the following terms are hereby defined as:

- a. **Actual Occupant** - refers to a person who is personally occupying, cultivating and/or developing his/her claimed portion of land at MKNP, and who is residing within or adjacent to the protected area.
- b. **Bioprospecting** - refers to the research, collection, and utilization of biological and genetic resources for purposes of applying the knowledge derived therefrom for scientific and/or commercial purposes.
- c. **Buffer Zone** - as defined in the NIPAS Act shall refer to identified areas outside the boundaries of and immediately adjacent to designated protected area that needs special development control in order to avoid or minimize harm to the protected area.
- d. **Commercial** - shall mean involving market sale in volume or value in excess of that required to maintain basic subsistence for workers and their dependents.
- e. **Commercial poultry** - shall refer to a farm claimed by one tenured migrant household with a total number of fowl heads exceeding as follows: game fowl - 100 corded head; broiler - 500 head; layers - 500 head; ducks - 200 head; and quails - 1,000 head.
- f. **Commercial livestock** - refer to a farm with a total number of livestock exceeding as follows: 5 for adult carabao, cattle and horse); 10 for young carabao, cattle and horse; 10 for adult hogs, goats and sheep); and 20 for young hogs, goats and sheep. Regardless on the kinds of animals to be maintained, the farm shall not exceed 20 head adult and 40 head young animals.
- g. **Commercial Grazing** - refers to the act of pasturing or open-field feeding of livestock such as cow, carabao, goat, sheep, and the like at the open-grassland and shall conform with the commercial livestock concept and guidelines pursuant to the provision of Section 2(f) hereof.
- h. **Continuous Occupation** - refers to the permanent and continuing occupation and/or cultivation and production over the MKNP with evidences as provided for in this Order.
- i. **DENR** - shall refer to the Department of Environment and Natural Resources.
- j. **Endemic Species** - means species or subspecies which is naturally occurring and found only within the biogeographic region of the MKNP.
- k. **Exotic Species**- shall refer to the species or subspecies that do not occur naturally within the biogeographic region of the MKNP at present or in historical time.



- l. **Indigenous Cultural Communities/Indigenous Peoples (ICCs/IPs)** - shall refer to the indigenous peoples as defined in R.A. 8371 or the IPRA of 1997, specifically, the Atis and Bukidnons of the MKNP. It shall also refer to a group of people of homogenous societies identified by self-ascription and ascription by others, who have continuously lived as organized community on communally bounded territory and who have, under claims of ownership since time immemorial, occupied, possessed and utilized such territories, sharing common bonds of language, customs traditions and other distinctive cultural traits, or who have, through resistance to political, social and cultural inroads of colonization-indigenous religions and cultures, became historically differentiated from the majority of Filipinos.

ICCs/IPs shall likewise include people who are regarded as indigenous on account of their descent from the colonization, or at the time of inroads of non indigenous religions and cultures, or the establishment of present state boundaries, who retain some or all of their own social, economic, cultural and political institutions, but who have been displaced from their traditional domains or who may have resettled outside their ancestral domains.

- m. **Natural Park** - is a relatively large area not materially altered by human activity, where extractive resource uses are not allowed, and maintained to protect outstanding natural and scenic areas of national or international significance for scientific, educational, and recreational use.
- n. **National Integrated Protected Areas System (NIPAS)** - is the classification and administration of all designated protected areas 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.
- o. **Non-Government Organization (NGO)** - shall refer to any civic, developmental, environmental or philanthropic non-stock, non-profit organization, duly registered, having by-laws, democratically-elected representative, and multi-sectoral in character.
- p. **Non-Renewable Resources** - shall refer to those resources found within the MKNP, the natural replenishment rate of which is not known.
- q. **Protected Area** – refers to the identified portions of land and water set aside by reason of their unique physical and biological significance, managed to enhance biological diversity and protected against destructive human exploitation.
- r. **PAMB** - pertains to the Protected Area Management Board as provided herein, otherwise known as the MKNP Management Board.
- s. **PASu** - refers to the Protected Area Superintendent as provided herein, otherwise known as MKNP Superintendent.
- t. **People's Organization (PO)** - shall refer to any group of people formed and organized to advance the interests of the sector they represent.



- u. **Permanent Danger Zone (PDZ)** -- a circular area with a 4 kilometer radius as reckoned from the present active vent of Mount Kanla-on and identified as immediately endanger at any time that an activity from the volcano may occur with no permanent habitation encouraged.
- v. **Protected Species** - shall refer to any plant or animal declared protected under Philippine laws. These shall include all species listed under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and all its Annexes, the Bonn Convention on Migratory Species, those specified under the Red List Category of the International Union for Conservation of Nature and Natural Resources (IUCN), or any plant or animal which the MKNP Management Board may deem necessary for conservation and preservation in the Park.
- w. **Solely dependent** - shall refer to a degree of dependency of a person over a certain portion of the MKNP where one derives subsistence. Further, this would mean that the occupancy of a person in the MKNP is the primary source of subsistence and survival.
- x. **Subsistence Use of Resources** – shall refer to the utilization of Park’s resources, except for protected species or whenever detrimental to the ecosystem to provide for the domestic and basic needs of the individual, family or community, like foods, shelter, clothing and security. The PAMB shall determine or set guideline/s, policy/s as to its degree of its allowable uses, volume and/or its regulations.
- y. **Sustainable** - shall mean not causing permanent or long term diminishment or qualitative degradation of biological and natural resources extracted or disturbed.
- z. **Traditional** - shall mean using non-powered machinery in extraction process of biological and natural resources and consistent with historically customary techniques of production.
- aa. **Traditional Use of Resources** – customary use of resources by the community like those related to local beliefs and practices; healing and health; foods, shelter and security, among others. Traditional use of resources in MKNP shall be attributed only to ICCs/IPs whose culture is anchored in their ancestral domain.
- bb. **Tenured Migrant** - are those members of households that have actually and continuously occupied the MKNP since June 1, 1987 and are solely dependent on the MKNP for their livelihood.

### Chapter III SCOPE AND COVERAGE

**Section 3. Extent and Boundary of the MKNP** - This Order shall cover the areas declared as Mt. Kanla-on Natural Park pursuant to Section 4 of R.A. 9154, Series of 2001 located in the Cities of Bago, La Carlota, and San Carlos and in the Municipalities of La Castellana and Murcia, all in the Province of Negros Occidental, and in the City of Canlaon and in the Municipality of Vallehermoso, both in the Province of Negros Oriental



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encompassing a total area of TWENTY-FOUR THOUSAND, THREE HUNDRED EIGHTY AND EIGHT (24,388) hectares.

The technical description of the boundary of MKNP as defined in Section 4 of the Act shall be demarcated on the ground with permanent and visible markers and concrete monuments by the DENR.

**Section 4. Coverage and Boundary of the MKNP Buffer Zone** – This Order shall also include the areas established as Buffer Zone of the MKNP with boundaries described in Section 5 of the Act containing a total area of ONE HUNDRED AND SIXTY-NINE (169) hectares. The Buffer Zone shall likewise be demarcated on the ground with permanent and visible markers and concrete monuments by the geothermal development project proponent as provided in the Act under the supervision of the DENR and the MKNP Management Board.

#### **Chapter IV MANAGEMENT PLAN PREPARATION, APPROVAL AND IMPLEMENTATION**

**Section 5. Management Plan Preparation** - The Management Plan of MKNP shall be prepared within one (1) year from the effectivity of this Order to provide a long term-basic framework on the Park's management, govern all activities therein, and serve as guide in the preparation of its annual operations and budget. Provided, that the preparation of the Management Plan shall be undertaken by the Office of the MKNP Superintendent under the supervision and guidance of the Management Board and in coordination and consultation with the concerned LGUs, ICCs/IPs, POs, NGOs, other government agencies, and other concerned stakeholders of the MKNP as well as experts who may offer their technical services and/or assistance. Provided, that the MKNP Management Plan shall include a Financing Plan that would serve as a mechanism to enable development partners, funding donors and the private sector to actively engage in the sustainable management of the MKNP. Provided, further that the preparation of the MKNP Management Plan shall be in accordance with the General Management Planning Strategy enunciated in the NIPAS Act of 1992 and consistent with the nature of the MKNP as a protected area under the category of a Natural Park. Provided, finally, that the Management Plan shall be prepared in English, Tagalog, Ilonggo, and Cebuano, plainly written, and available for public perusal at the Office of MKNP Superintendent.

The Management Plan of MKNP shall contain, among others, the following:

- I. Executive Summary of the Plan
- II. Introduction
- III. Profile of the MKNP
  - 3.1 Historical context and rationale for establishment
  - 3.2 Regional and Local Development Context
  - 3.3 Physical features of the MKNP



- 3.4 Biological features such as habitats and ecosystems, flora and fauna
  - 3.5 Social, economic and cultural profile such as demographic data, cultural profile of IPs, land uses, ownership and tenure, resource use practices, poverty levels, social indicators, etc
  - 3.6 Stakeholders of the MKNP
  - 3.7 Current and Proposed Projects in MKNP
  - 3.8 Current protected area management structures and management capabilities
- IV. Management and Development Issues and Concerns
  - V. The Management Plan
    - 5.1 The Vision, Mission, Goals and Objectives of the Management Plan
    - 5.2 Management Strategies
    - 5.3 Management Zones including the allowable uses and activities in each of the zone
    - 5.4 Management Programs to include law enforcement and protection, habitat and wildlife management, ecotourism, sustainable use management, infrastructure development and maintenance, fire prevention and pest control, mechanism for protection of ICCs/IPs and tenured migrants in the exercise of their sustainable and non-destructive livelihood activities, IEC, biodiversity monitoring and evaluation, among others
  - VI. Management Standard and Guidelines which shall include regulations in furtherance of the preservation and conservation objectives of the MKNP such as the issuance of permits, resource-use restrictions, among others
  - VII. Management Structure and Institutional Arrangement
  - VIII. Implementation Plan
  - IX. Budget and Financing Plan
  - IX. Monitoring and Evaluation Plan
  - XI. Annexes

**Section 6. Public Consultations and Hearings** - The Management Plan shall be subjected to public consultations and hearings with the various stakeholders of the MKNP to solicit additional inputs and at the same time support for its implementation. A consultative



meeting shall be organized at least once in every city and municipality covering the MKNP, providing a thirty (30) days' notice to the public prior to such meeting.

The Office of the MKNP Superintendent shall cause the publication of notices in a newspaper local circulation and the posting of such notices in the provincial, municipal/city and barangay halls of the local government units comprising the MKNP and in three (3) other conspicuous areas frequented by the general public.

The public consultation shall present and discuss the content of the Management Plan as well as its implications. A thirty (30) – day grace period reckoned from the last public consultation held shall be allocated by the Office of the MKNP Superintendent to allow sufficient time for the general public to react and submit additional comments, issues and recommendations on the Management Plan. Hence forth, the Office of the MKNP Superintendent shall evaluate the outputs and key issues discussed in the public consultations and consider them in the finalization of the Management Plan. Records of the public consultations and hearings as well as the names of the participants shall be documented by the Office of the MKNP Superintendent and shall be included as annex of the Management Plan.

**Section 7. Endorsement and Approval** - The Management Plan shall be reviewed and adopted for implementation by the MKNP Management Board through a resolution of the majority of its members. Subsequently, the Regional Executive Director of DENR Region VI as the Chairperson of the MKNP Management Board shall endorse the Management Plan to the DENR Secretary through PAWB for affirmation.

Should there be any amendment or revision on the Management Plan, the MKNP Management Board and the Office of the MKNP Superintendent shall ensure that such amendment or revision undergo the same process as provided in the above-mentioned Sections.

**Section 8. Review and Preparation of Management Plan** - The MKNP Management Plan shall cover a period of thirty (30) years subject to review and evaluation every five (5) years by the Management Board. The MKNP Management Board, upon the technical advice of the DENR, shall develop and adopt its own mechanism and strategies for the monitoring, review and evaluation of the implementation of the Management Plan. Results of such monitoring, review and evaluation aside from the best available new information on the status of the MKNP shall be considered important inputs for the preparation of the successor management plan. Provided that, a year before the expiration of the current management plan, the MKNP Management Board and the Superintendent shall initiate the preparation and publication of notices for the successor management plan following the procedures set forth in Sections 5 to 7 hereof.

**Section 9. Implementation** - Under the direction and guidance of the MKNP Management Board and the technical advice of the DENR, the Management Plan shall be implemented by the Office of the MKNP Superintendent. The Management Plan shall be translated into annual work and financial plan following the government budgetary cycle. The annual work and financial plan shall be approved by a majority of the appointed members of the MKNP Management Board and shall be incorporated in the annual work and financial program of the DENR.



Funding for the implementation of other activities may be sourced out from other institutions/agencies and donors that shall be consistent with the protocols indicated in the Section on Financing Plan of the MKNP Management Plan. Activities such as law enforcement and protection and similar logistical assistance should be coordinated with the DENR Field Units in the Island of Negros.

The MKNP Management Board shall encourage the LGU representatives to the Management Board to incorporate the Management Plan in their respective Municipal/City development plan or comprehensive land use plan in order to provide complementary protection and development efforts for the MKNP. The LGU representatives to the Management Board shall ensure that local ordinances and programs affecting the MKNP are consistent with RA 9154, RA 7586 and the Management Plan as herein provided.

The MKNP Superintendent shall regularly update the Management Board during its meetings on the status of the implementation of the Management Plan including the issues and concerns as well as lessons learned.

## **Chapter V**

### **MANAGEMENT ZONING OF MKNP AND ITS BUFFER ZONE**

**Section 10. Establishment of Management Zones** - Zoning of MKNP and its buffer zone shall be undertaken as part of its management planning process by the Office of the MKNP Superintendent. Such zoning shall be conducted to allow flexibility in the management of MKNP through identification and designation of appropriate management zone categories as defined in Section 11 hereof. Provided, that these zones shall be indicated in the MKNP Management Plan specifying among others, the management prescriptions and interventions, allowable uses and restrictions.

In the zoning of MKNP and its buffer zones, the management prescriptions shall recognize the rights of indigenous cultural communities to pursue traditional and sustainable means of livelihood within their ancestral domain unless they so concur. Furthermore, the MKNP Management Board shall adopt the necessary guidelines on the different land and other resource uses at the identified management zones of MKNP.

Provided further that the said management zoning shall take into consideration the needs of biodiversity conservation and protection of important habitats, fragile ecosystems and unique areas while addressing at the same time the socio-economic and cultural concerns of the local communities and ICCs/IPs. The MKNP Management Board and the Office of the MKNP Superintendent shall also take into account but not limited to the following:

- a. Existing land uses and vegetative cover
- b. Slope and elevation
- c. Current and future infrastructure development projects such as roads, bridges, communication/transmission lines, dams, among others
- d. Geo-hazard areas
- e. Soil characteristics



- f. Drainage and river system
- g. Settlement areas, private and tenure claims and other related information
- h. Management and other related issues

Provided finally, that the establishment of the management zones shall involve the participation of the concerned local communities, ICCs/IPs, LGUs and other stakeholders through dialogues, consultations and land and resource-use mapping with the aid of the Geographic Information System (GIS) and other latest information technology.

The management zones of MKNP shall be demarcated on the ground using conspicuous markers and permanent signages and indicated on the map of MKNP. The demarcation of management zones shall follow the standards and procedures prescribed by the Land Management Bureau/Sector (LMB/LMS). That, any modification or change in the designation of the management zones shall be subject to the best available new scientific information and consultations with the various stakeholders of the MKNP.

**Section 11. Categories of MKNP Management Zones** - The MKNP shall be subdivided into one or more of the following management zone categories based on the considerations as specified in Section 10 hereof:

- a. **Strict Protection Zone** - an area with high biodiversity value and vital to the ecosystem which shall be closed to all human activities except for the protection and monitoring function of the MKNP personnel and duly supervised volunteer groups, PAMB approved scientific studies and/or ceremonial or religious use of the ICCs/IPs of MKNP in so far as they are in harmony with nature and be duly notified to the PAMB identifying the place and the activity before and after the ritual through the PASU office for coordinative purposes. The primary management objective of this zone is the conservation and protection of the high biodiversity of MKNP which shall include important critical habitats of wildlife.
- b. **Recreational/Ecotourism Zone** - an area of high recreational, tourism, educational, or environmental awareness values where sustainable eco-tourism, recreational, conservation education or public awareness activities may be allowed as prescribed in the MKNP Management Plan. Development and/or activities in recreation/ecotourism zones shall promote the participation of tenured migrants and shall conform with the concepts and standards on ecotourism as provided in the relevant national policies, rules and regulations. Recreational/Ecotourism areas covered in the MKNP Management Plan and are existing mountaineering trails, camp sites or areas and the like are included in this zone.
- c. **Multiple-Use Zone** - an area where settlement, traditional and/or sustainable land uses, including agriculture, agro-forestry, other resource utilization activities and income generating or livelihood activities, may be allowed to the extent prescribed in the MKNP Management Plan. Land tenure may be granted to tenured migrants whether members of the ICCs/IPs or local communities.



The MKNP Management Board may adopt the following sub-zones of the Multiple Use Zone:

- c.1. Sustainable Use Zone - a natural area where the habitat and its associated biodiversity shall be conserved, however, use of this zone and its biological and physical resources may be allowed as long as it is consistent with the MKNP Management Plan and with approval of the Management Board. Provided, that the members of ICCs/IPs and/or tenured migrants including the residents of the buffer zone may be allowed to collect and utilize natural resources using traditional and sustainable methods that are not in conflict with biodiversity conservation requirements. Provided further that scientific researches including the reintroduction of indigenous species, may be undertaken. However, no collection shall be done during breeding seasons and that only the male of the species may be allowed for collection subject to the permitting system to be adopted by the MKNP Management Board and to the national policies, rules and regulations pertinent thereto. Provided finally that MKNP visitors may be allowed limited use, however, no clearing, farming, settlement, commercial utilization or other development activities detrimental to biodiversity conservation shall be undertaken.
- c.2. Restoration Zone – an area of degraded or partly degraded habitat where the long-term goal shall be to restore the natural habitat with its associated biodiversity and to rezone the area to a more protection level. Initially, natural regeneration will be assisted through such human intervention as fire control, cogon/grass communities' suppression and the planting of native species including indigenous pioneer tree species as well as climax species. Existing houses and agricultural developments may be allowed to remain initially but phase out mechanisms shall be undertaken in consultation with the affected households. Tenured migrants occupying the restoration zone shall be accorded with relocation area in the multiple-use zone of the MKNP.
- c.3. Habitat Management Zone - area with significant habitat and species values where management practices are required periodically to maintain and/or improved habitat types or conditions required by rare, threatened or endangered species. Examples are secondary growth forest with planted coffee for the tube-nosed fruit bat and flame-templed babbler. Human settlement and sustainable use may be allowed only if they play a habitat management role.
- c.4. Cultural Zone - an area with significant cultural, religious, spiritual or anthropological values where traditional rights exist and ceremonies and/or cultural practices take place. This may include areas covered by the tenurial rights of the ICCs/IPs.
- c.5. Special Use Zone - an area containing existing installations of national significance such as telecommunication facilities, irrigation canals or



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electric power lines, among others. Such installations may be retained subject to the mutual agreement among the concerned parties and the MKNP Management Board. Proponents of the said facilities, if allowed to exist, shall execute an agreement with the MKNP Management Board identifying the terms and conditions of their operations. These facilities may also be subjected to users' fee as may be determined by the MKNP Management Board in accordance with the provisions hereof.

- c.6. Permanent Danger Zone (PDZ) – a circular area with a 4 kilometer radius as reckoned from the present active vent of Mount Kanla-on and identified as immediately endanger at any time that an activity from the volcano may occur with no permanent habitation encouraged.

Other categories of management zones, where applicable, may be adopted in the Management Plan by the MKNP Management Board.

For specialized uses in any of the above-mentioned management zone categories of the MKNP such as for academic and scientific purposes, a Committee of four (4) representatives from the MKNP Management Board and four (4) representatives from the concerned LGUs having territorial jurisdiction over the MKNP and other experts who may be able to provide technical inputs to the Management Board for decision-making, shall be created by the Regional Executive Director of DENR Region VI. The said Committee shall conduct consultations with the affected local communities to serve as one of the bases for recommendation to the Management Board. The Management Board representatives in the Committee, however, shall not come from any of the involved LGU/s.

## **Chapter VI MANAGEMENT OF MKNP BUFFER ZONE**

### **Section 12. Administration and Jurisdiction Over the MKNP Buffer Zone -**

Pursuant to Section 5 of RA 9154, the buffer zone of the MKNP is hereby established for the exploration, development, and utilization of geothermal energy resources as well as other exploration activities containing an area of 169 hectares, more or less.

In the event that the National Government determines the need of the buffer zone for energy and power security of the Negros Island, the proponent of the geothermal project shall assess and determine the extent of the area actually needed for geothermal exploration, development and utilization. Such area shall become the final geothermal block within the buffer zone. Provided that if within a timberland area, the proponent shall secure permits for such projects and development which shall be pursuant to relevant forestry and environmental regulations. Provided that areas *within the buffer zone* which shall not be used directly for the development and utilization of geothermal energy resources shall remain under the control and jurisdiction of the MKNP Management Board set forth in the Act and in this Order. Provided further that any geothermal exploration for or development energy or mineral resources *within the MKNP* shall be prohibited except by an act of Congress.



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**Section 13. Buffer Zone Management Plan and Implementation.** The MKNP buffer zone shall be an integral part of the Park pursuant to the RA 7586 and RA 9154. As such, the Buffer Zone Management Plan shall be prepared by the MKNP Management Board, the geothermal project proponent and the concerned stakeholders. The Buffer Zone Management Plan shall include as a component the development program for the geothermal block which shall be prepared and implemented by the project proponent. It shall include among others, the resource protection and law enforcement, habitat conservation, restoration and rehabilitation, biodiversity monitoring, ecotourism development, watershed development and programs related to socio-cultural and economic development of the tenured migrants and other affected communities. It may also consider the possibility of dividing the Buffer Zone into sub-zones, defining its specific character, allowable uses and restrictions, similar to the MKNP Management Plan as enunciated in Sections 5 to 8 and 12 hereof.

The implementation of the buffer zone management plan outside the coverage of the geothermal block shall be done by the MKNP Management Board in coordination with the proponent of the geothermal project and other concerned stakeholders.

**Section 14. Payment of Fees and Contribution to the MKNP Fund -** The proponent of the geothermal energy project at the buffer zone shall pay the corresponding user fees to the MKNP Fund as specified in Section 47 hereof. Provided that the determination of such fees shall be based on the study of ecological system losses, the users' fee guidelines and/or any other appropriate system and guidelines agreed upon mutually by the DENR, MKNP Management Board and the project proponent. Moreover, all proceeds derived from forest products that maybe affected by the geothermal development such as road network and well pad clearings of the project proponent shall be salvaged and subjected to public auction/bidding, the proceeds of which shall accrue to the MKNP Fund.

**Section 15. Monitoring and Evaluation of the Buffer Zone -** The MKNP Management Board shall create a Technical Working Committee to oversee and monitor the operations of the geothermal development project and other related development activities at the buffer zone to include, among others, the biodiversity monitoring in coordination with the concerned stakeholders, to provide updated report to the MKNP Management Board en-banc and to represent the MKNP Management Board in the multi-partite environmental monitoring committee for geothermal energy development project in the area. The Office of the MKNP Superintendent and the Environmental Management Bureau of the DENR Region VI as well as the concerned DENR Field Offices shall provide technical assistance to the operations of the Committee.

## **Chapter VII ADMINISTRATION OF THE MKNP**

**Section 16. Composition of the MKNP Management Board -** Pursuant to Section 11 of the RA 7586 and Section 10 (A) of the RA 9154, the MKNP Management Board is hereby created to serve as the policy-making body and to provide the vehicle for the participatory management of the Park.

The MKNP Management Board shall be composed of the following:

- a. The Regional Executive Director (RED) of DENR Regions VI and VII with the RED of Region VI as Chairperson;



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- b. The Governors of Negros Occidental and Negros Oriental, or their respective duly authorized regular representatives;
- c. The mayors of the municipalities and cities with territory within the MKNP, or their respective duly authorized regular representatives;
- d. All barangay chairpersons with territory within MKNP or their respective duly authorized regular representatives;
- e. Three (3) representatives from NGOs based in Negros Occidental and one (1) NGO from Negros Oriental which are accredited with the DENR and the concerned LGUs within the MKNP and with tangible or related projects inside or immediately adjacent to the Park at the time of their membership in the Management Board;
- f. A Peoples Organizations representative chosen from among themselves for each municipality and city with territory within the MKNP. Provided, that the POs are accredited with the DENR and the concerned LGUs within the MKNP and with tangible projects at the time of their membership in the Management Board;
- g. The Provincial Planning and Development Officers (PPDO) of Negros Occidental and Negros Oriental;
- h. An ICC/IP representative for each tribal community within the MKNP; and
- i. A duly authorized representative with environmental expertise of the Philippine National Oil Company – Energy Development Corporation (PNOC-EDC).

**Section 17. The Powers and Functions of the MKNP Management Board** - The Management Board shall manage and administer the MKNP with technical supervision of the DENR and shall be fully accountable for any action or any untoward incident within the MKNP. The MKNP Management Board through its Chairperson shall report regularly to the DENR Secretary on the progress and development of the Park's operations.

The MKNP Management Board shall decide by a majority of vote of its appointed members and shall have the following powers and functions:

- a. Issue all rules and regulations to prohibit and regulate acts that may be prejudicial to the MKNP pursuant to the policy declarations herein set forth;
- b. Issue all necessary permits within the MKNP and its buffer zone in accordance with the Management Plan and pertinent environment and natural resources laws, rules and regulations. This authority may be delegated by the MKNP Management Board to the PASu upon its prior determination of the conditions and qualifications necessary for the issuance thereof;
- c. Validate and recommend issuance of special permits/tenurial instruments to DENR.



- d. Recommend to the DENR Secretary the criteria on fees for the issuance of permits for activities regulated by the Act, NIPAS Law or the MKNP Management Plan;
- e. Evaluate and approve project or program proposals to be implemented within the MKNP;
- f. Adopt rules of procedures for the conduct of business, including the creation of committee to whom its powers may be delegated;
- g. Approve the MKNP Management Plan and through its Chairperson, oversee the Office of the MKNP Superintendent;
- h. Deputize through the MKNP Superintendent, interested individuals for the enforcement of the laws, rules and regulations governing conduct within the MKNP and prescribe the necessary qualifications therefore;
- i. Accept donations, approve proposals for funding, budget allocations and exercise accountability over all funds that may accrue to the MKNP;
- j. Coordinate with the appropriate agencies of the government, such as the regulation of flight patterns of aircraft going over the area in terms of altitudinal limits and emissions;
- k. Retain legal counsel, either on a permanent or temporary basis, to defend cases against the MKNP Management Board, the Office of the MKNP Superintendent and staff, and deputized individuals whenever they are sued in connection with the performance of their duties under the Act and the NIPAS Law, and to assist in other legal matters of the MKNP Management Board; and
- l. Evaluate, approve disposition/donation of confiscated or recovered Park resources products to the local government unit/s (LGUs) and other requesting institution/s.

The DENR through the Regional Executive Director of Region VI, shall ensure that the MKNP Management Board acts within the scope of its powers and functions. In case of conflict between administrative orders issued by the DENR pursuant to the NIPAS Act and the rules and regulations or resolutions issued by the MKNP Management Board, the DENR Secretary shall decide whether to apply the rule or withdraw its application from the MKNP.

**Section 18. Confirmation of Members of the MKNP Management Board** – The members of the MKNP Management Board are as identified and qualified members in Section 10 of the MKNP Law. The Management Board members shall be confirmed by the DENR Secretary. The members and prospective members of the Management Board shall submit through the Office of the MKNP Superintendent their respective credentials and other supporting documents for processing and endorsement by the DENR Region VI to the Protected Areas and Wildlife Bureau which in turn shall be recommended for confirmation by the DENR Secretary.

The Provincial Governors, Mayors and Barangay Chairpersons as mentioned in Section 10 of the Act shall officially notify the DENR Regional Executive Director of DENR



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Region VI of their intention to sit as member of the MKNP Management Board. In cases where the qualified PAMB members opted to designate their respective duly authorized regular representative/s, such designations shall be determined by the concerned PAMB member/s and their official authorization/document/s be submitted to the PAMB Chairperson/Regional Executive Director of DENR Region 6 through the Office of MKNP Superintendent.

In the selection of NGO/PO representatives to the MKNP Management Board, the following shall be considered in addition to the qualifications as follows: a. known to be with interest, integrity and commitment to the conservation of natural resources; b. reputable and socially acceptable to the concerned or affected communities; c. preferably locally-based in operation or which have established interest in the management of MKNP and/or conservation of its biological diversity; d. with capability related to community management; and, e. having at least three (3) years of experience in handling environmental and other related programs. The representatives of NGOs/POs shall be endorsed by the respective head of organizations supported by a resolution of its Board of Directors/Trustees, if applicable. In case there are NGO/PO consortia in MKNP, each consortium shall be entitled to one (1) representative to the Management Board, provided that the qualified NGOs/POs shall choose from among themselves which organizations will sit in the MKNP Management Board.

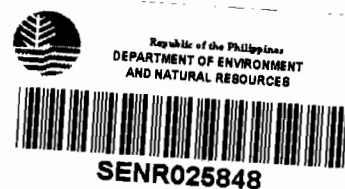
For the ICC/IP representatives, each tribal community within the Park shall nominate its representative to the MKNP Management Board following their customary laws and practices. They shall also secure endorsement from their respective tribal council or Council of Elders on their membership. Such nomination shall be validated and confirmed by the National Commission on Indigenous People (NCIP).

In the same manner, the Board of Directors or the President of the PNOC-EDC shall officially notify the DENR of its representative to the MKNP Management Board.

**Section 19. Terms of Office and Compensation of the MKNP Management Board** - As per provisions of MKNP Law, except for the DENR Regional Executive Directors Region VI and VII and the Provincial Planning and Development Officers of Negros Occidental and Negros Oriental who shall serve *ex officio*, every member of the MKNP Management Board shall serve for a term of five (5) years. Provided, that the member remains connected with the sector he/she is representing and has not incurred any of the grounds for removal as member of MKNP Management Board stated in Section 20 hereof.

In the case of elective officials, the term of office as member of the MKNP Management Board is co-terminus with the position. Provided, that the incoming elective official declares the continuity of the representation through an approval and adoption of a Sangguniang Bayan and/or Sangguniang Barangay Resolution and the MKNP Management Board decrees the same through a Management Board resolution. Provided further, that such continuity of representation shall be communicated officially to the MKNP Management Board through the DENR Regional Executive Director of Region VI which may be decided upon by a majority of vote of appointed members.

Whenever a vacancy occurs, the appointment of new member shall follow the same requirements and procedure as specified in Section 18 hereof. The newly appointed member shall only serve the remaining term of office of the previous member.



Renewal of appointments of the members of MKNP Management Board shall follow the same requirements and procedure as provided in Section 18 hereof. The Office of the MKNP Superintendent and the DENR Regional Executive Director of Region VI shall ensure that the endorsement for new and/or renewal of appointment of members are transmitted to the Office of the Secretary through the Protected Areas and Wildlife Bureau two (2) months prior to the expiration of their respective Certificates of Appointment.

The members of the MKNP Management Board shall serve their term without compensation. However, they shall be entitled to reimbursement of actual travelling expenses incurred in attending the meetings of the PAMB or its committees and in the performance of their duties and responsibilities subject to the availability of funds and to the existing government accounting and budgeting rules and regulations. These expenses shall be included in the annual work and financial plan of the MKNP to be prepared by the MKNP Superintendent.

**Section 20. Removal of Membership to the MKNP Management Board** - As per provisions of MKNP Law and sec.27 of DAO 25, S1992, a member of the MKNP Management Board shall be removed or terminated for cause due to the following:

- a. More than three (3) unexcused absences during regularly scheduled meetings of the Management Boards;
- b. Commission of acts prejudicial to protected area management as embodied in Section 20 of R.A. 7586 and/or other existing rules and regulations governing protected areas;
- c. Disassociation from the office or organization being represented;
- d. Dissolution of the office or organization being represented;
- e. Proven graft and corruption; or
- f. Conviction by final judgment of any criminal act.

**Section 21. Executive Committee (Exe-Com) and other Committees of the MKNP Management Board** - The MKNP Management Board shall create an Executive Committee to whom it may delegate some of its powers and functions. It shall be composed of the following:

- a. The Regional Executive Director of DENR Region VI as Chairperson. The Regional Executive Director may designate duly authorized regular representative to act as Presiding Officer during meetings of the Executive Committee. Provided, however, that the minutes of meetings of the Executive Committee shall be reviewed and approved by the RED as the Chairperson;
- b. The Governors of Negros Occidental and Negros Oriental, or their respective duly authorized regular representatives;



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- c. Two (2) Mayor representatives, one each from the Provinces of Negros Occidental and Negros Oriental to be chosen from among themselves, or their respective authorized regular representatives;
- d. Two (2) Barangay Captain representatives, one each from the Provinces of Negros Occidental and Negros Oriental, to be chosen from among themselves, or their respective authorized regular representatives;
- e. Two (2) NGO representatives, one (1) from the Provinces of Negros Occidental and Negros Oriental, to be chosen from among themselves, or their respective authorized regular representatives;
- f. Two (2) PO representatives, one each from the Provinces of Negros Occidental and Negros Oriental to be chosen from among themselves or their respective authorized regular representatives;
- g. One (1) from the ICC/IP representative; and
- h. One (1) from the PNOC-EDC

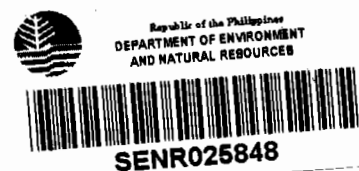
The Exe-Com shall approve projects and program proposals, which are in conformity with the PAMB approved policies, regulations, guidelines and the general management plan. It shall also exercise its other functions as may be delegated by the MKNP Management Board.

The MKNP Management Board may also create other working committees as may be necessary to implement and accomplish its mandated tasks and responsibilities. The composition of the said working committees shall be based on the expertise of the members. Provided, however, that the different sectors comprising the MKNP Management Board shall be represented in the said working committees.

The MKNP Management Board may formulate/adopt additional functions of the Exe-Com and/or its working Committees through its house rules/operation's manual to provide standard operating procedures for its daily operations, defining the scope, coverage, protocols and/or functions of its Exe-Com, committees and/or working group/s.

**Section 22. Secretariat of the MKNP Management Board** - The MKNP staff led by the PASu shall serve as the Secretariat to the MKNP Management Board. The MKNP Superintendent shall be the head of the Secretariat and shall be responsible in preparing and distributing the notices of meetings, documenting and preparing the proceedings of meetings as well as draft resolutions, safekeeping of the official records of the Management Board and its working committees, and other related secretariat services. The Secretariat shall likewise provide the Management Board with updates or progress on the operations of the MKNP.

**Section 23. Meetings of the MKNP Management Board** - The MKNP Management Board en-banc shall hold its regular meetings at least once a year. The Exe-Com shall hold its regular meetings at least twice a year. Special meetings may be convened upon proper notice of the Secretariat as the need arises. The working committees which may be created shall also hold its regular meetings depending on the schedule agreed upon by the members.



The MKNP Management Board Chairperson or the PASu with authority from the Chairperson, shall call the regular meeting at least ten (10) working days before the scheduled meeting. Special meetings may be called for urgent matters and as the need arises. The PASu or any member of the MKNP Management Board may propose the agenda subject to the approval of the Management Board, Exe-Com or the working committees, as the case may be, during its actual meeting.

Proceedings of the meetings and the resolutions adopted by the MKNP Management Board and the Exe-Com shall be documented by the Secretariat of the Management Board. Such minutes of meeting shall be presented in the next meeting of the Management Board or the Exe-Com for approval. Provided, that the Protected Areas and Wildlife Bureau shall be furnished with a copy of the minutes of meeting fifteen (15) days after each meeting for information, monitoring and evaluation purposes. Decisions of the MKNP Management Board shall be presented in the form of resolutions. The MKNP Superintendent shall attest to every resolution issued by the Management Board and shall be approved by the Chairperson. Thereafter, copy of resolutions duly signed by the Chairperson shall be furnished to the Bureau for monitoring purposes. The PASu should furnish Board members advanced copy of the minutes for approval in the next meeting.

The Chairperson of the MKNP Management Board shall call the meeting to order only if it meets the required quorum which is 50% + 1 of the MKNP Management Boards' qualified members as enumerated in Section 10 of the Act. Consensus building shall be adopted by the Management Board in decision-making, however, in the event that the issue or concern cannot be resolved in unanimous decision, then the Chairperson or the Presiding Officer shall call for a vote. Majority (50% +1) positive votes of the qualified MKNP Management Board members or their representative comprising the quorum is needed to approve the decision. The Chairperson or the Presiding Officer shall exercise the right to vote only to break the tie.

**Section 24. Delegation of Authority of the DENR Regional Executive Director -** In the event, however, that the Regional Executive Director cannot attend such meeting, the MKNP Management Board members who are present shall choose from among themselves the presiding officer. The minutes of meeting and decision made during the said meeting shall be subject to further review and approval of the Regional Executive Director as the Chairperson of the Management Board or the Exe-Com, whichever is applicable, and shall be made accountable of whatever action and/or decision made during the said meeting.

The Management Board shall develop rules and guidelines on the issue of voting powers.

**Section 25. Settlement of Disputes and Claims –** The MKNP Management Board shall promulgate internal rules governing the resolution of any dispute or claim filed before them. All decisions of the MKNP Management Board may be appealed before the Secretary through the Director of the Protected Areas and Wildlife Bureau. Provided, that the Secretary can reverse or modify the decision of the Management Board only on the grounds that the same violates existing laws, DENR rules and regulations or is contrary to the MKNP Management Plan.

**Chapter VIII**  
**OFFICE OF THE MKNP SUPERINTENDENT**

**Section 26. Creation of the Office of the MKNP Superintendent** - There shall be an Office of the MKNP Superintendent created within the DENR to be headed by the Superintendent who shall serve as the Chief Operating Officer of the MKNP.

The MKNP Superintendent shall possess the qualifications required for the appointment to the position of the Provincial Environment and Natural Resources Officer (PENRO) in the DENR. The appointment of the MKNP Superintendent shall become a regular item in the plantilla of positions of DENR Region VI.

The MKNP Superintendent shall be directly accountable to the Management Board and to the Regional Executive Director of DENR Region VI.

**Section 27. Powers and Functions of the MKNP Superintendent** - The MKNP Superintendent shall exercise the following powers and functions:

- a. Prepare the MKNP Management Plan as herein provided under the direction of the Management Board and technical supervision of the DENR Regional Executive Director of Region VI;
- b. Serve as the head of the Secretariat for the MKNP Management Board with the duty, among others, to provide the Management Board with all information necessary for it to make appropriate decisions;
- c. Hire the necessary personnel to support the operations of the MKNP which shall be included in the annual work and financial plan of the DENR; Appointment of staff should be confirmed by the MKNP Management Board.
- d. Supervise the necessary personnel to support the operations of the MKNP which shall be included in the annual work and financial plan of the DENR;
- e. Establish a productive partnership with the local communities including groups interested in the achievement of the goals and objectives of the MKNP, and in the planning, protection and management thereof;
- f. Develop and implement information, education and visitor management programs for the Park as specified in the MKNP Management Plan;
- g. Enforce laws, rules and regulations relevant to the MKNP in coordination with the DENR field units and assist in the prosecution of offenses;
- h. Monitor and evaluate all activities within the MKNP to ensure conformity with the Management Plan; and,
- i. Perform such other functions as the MKNP Management Board and/or the DENR Regional Executive Director of Region VI may assign and as may be authorized under the NIPAS Act, its Implementing Rules and Regulations, and other relevant policy guidelines.



**Section 28. Other Protected Area Staff** - The MKNP Superintendent shall be supported by a sufficient number of staff and personnel to be designated by the RED upon recommendation of MKNP Management Board based on the Management Plan, subject to existing laws. To provide flexibility, staffing pattern should be included in the Management Plan.

**Section 29. Official Station, Budget, Facilities, and Allowances of the Protected Area Staff** - The official station of the MKNP Management Board and the Office of the MKNP Superintendent shall be located at the MKNP Administration Center in Sitio Calapnagan, Barangay, Biak na Bato in La Castellana, Negros Occidental. The PASu may also establish other sub-stations in strategic areas within the MKNP and its Buffer Zone as deemed necessary to effectively carry out its management and protection activities.

The DENR shall include in its annual appropriation the budget for the operations of the Office of the Protected Area Superintendent. It shall include but not limited to the budget for salaries, wages and other benefits, maintenance and other operating expenditures, and capital outlays to carry out the management activities of MKNP. The staff and personnel assigned to the MKNP shall be provided with the following benefits, which shall be incorporated in the annual work and financial plan of the DENR subject to the availability of funds and in accordance with applicable budgeting, accounting, and auditing rules and regulations:

- a. Uniforms as may be appropriate and practical replaceable annually;
- b. Accommodation facilities to the staff and personnel assigned inside the MKNP;
- c. Hardship allowances equivalent to twenty five percent (25%) of their salary for those staff and personnel assigned inside the MKNP;
- d. Hazard pay equivalent to twenty percent (20%) of their salary for those staff and personnel assigned within the Park in recognition of the nature and character of Mt. Kanla-on as an active volcano; and
- e. Other facilities and allowances as may be necessary and as recommended by the MKNP Management Board.

## **Chapter IX INDIGENOUS CULTURAL COMMUNITIES/INDIGENOUS**

**Section 30. Recognition of Ancestral Lands/Domains within MKNP** – The rights of ICCs/IPs to their ancestral lands/domains within the MKNP shall be recognized in accordance with Sec. 7 of R.A. 8371, subject to existing and prior vested rights pursuant to the MKNP Law, NIPAS Act and R.A. 8371. Traditional property regimes exercised by IPs/ICCs in accordance with their customary laws shall govern the relationship of all individuals within their communities with respect to all lands and other resources found within their ancestral lands and domains.



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Moreover, the preservation of ancestral domain and customary rights within the MKNP shall be considered as a management objective and must be consistent with MKNP Act.

**Section 31. Identification and Determination of Indigenous Cultural Communities/Indigenous People and their Ancestral Lands/Domains -**

As provided for under Sections 51, 52 and 53, Chapter VIII of R.A. 8371, relevant provisions of R.A. 8371, its Implementing Rules and Regulations (IRR), and/or NCIP rules/regulations and administrative orders, the NCIP has the mandate and in authority to delineate and recognize ancestral lands/domains subject to prior consultation, coordination and approval of the MKNP PAMB. In this regard, within sixty (60) days from the effectivity of this Implementing Rules and Regulations (IRR), the NCIP and PAMB shall formulate administrative mechanisms/guidelines for effective and efficient implementation with respect to the delineation and recognition of ancestral lands/domains.

Provided, however, that the same rights and/or privileges of the tenured migrants' claims as determined by the MKNP Management Board shall also be recognized, considered and respected.

**Section 32. Conflict Resolution on Ancestral Land/Domain Claims -** Conflicts within the MKNP shall be resolved in the following modes:

- a. Conflicts between and among ICCs/IPs concerning their ancestral domain shall be resolved in accordance with their customary laws. Otherwise, the NCIP may take jurisdiction in accordance with its Rules on Pleadings, Practice and Procedure; and,
- b. Conflicts between and among ICCs/IPs and tenured migrant/non ICCs/IPs outside the jurisdiction of NCIP shall be resolved in accordance with existing/applicable DENR, MKNP PAMB laws, rules regulations and/or Joint Memorandum Circulars and agreements harmonizing the ICCs/IPs and non- ICCs/IPs conflicts within MKNP.

Relative thereto, the NCIP and PAMB shall coordinate in resolving any conflicts in order to promote harmonious relationships between and among the ICCs/IPs and tenured migrants/non ICCs/IPs within the MKNP.

**Section 33. Other Forms of Land Tenure -** Members of the ICCs/IPs may avail of other forms of land tenure in accordance with the existing policies, rules and regulations relevant thereto if they are interested and so qualify. Availment of these alternative modes shall not diminish their rights to their ancestral domains.

**Chapter X  
TENURED MIGRANTS**

**Section 34. Recognition of Tenured Migrants –** Pursuant to Section 14 of the Act, tenured migrants shall consist of those members of households who have actually and continuously occupied MKNP since 01 June 1987 and are solely dependent on the MKNP for their livelihood. A tenured migrant has the following qualifications:

- a. Personally occupying, cultivating and/or developing a portion of the MKNP and is residing within or adjacent to the Park;
- b. Has permanent and continued occupancy, cultivation, and/or production over the area with evidences of occupancy enumerated in Section 35 hereof and;
- c. Use of the area and its resources as the primary source of subsistence and survival.

Tenured migrants shall be eligible to become steward of a portion of land within multiple-use zone from which they may develop in a sustainable manner. The MKNP Management Board shall be guided by the requirements and procedure for the recognition of tenured migrants as provided in the existing guidelines, rules and regulations on the NIPAS Act, MKNP Act and this guideline.

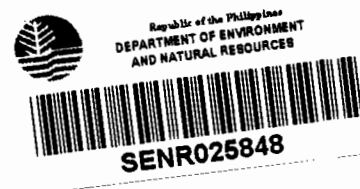
**Section 35. Evidences of Occupancy** - The MKNP Management Board shall consider the following as evidences for the occupancy of tenured migrants:

- a. cultivated trees at their fruit-bearing stage;
- b. physical structures in the area that indicate prolonged occupancy;
- c. certification from the concerned Barangay Chairperson or any two respected members of the nearest community attesting to occupancy; and
- d. other relevant data/evidences (e.g. previous census reports) that may be accepted by the MKNP Management Board.

**Section 36. Land Tenure Instrument** – Qualified tenured migrants shall be issued a Protected Area Community-Based Resource Management Agreement (PACBRMA) over such area of the MKNP that they may utilize for twenty-five (25) years and may be renewed for another twenty-five (25) years. Such Agreement shall be community-based, limited solely to the multiple use zones, and promote clustering and compliance with the zoning of MKNP as provided in the Management Plan.

Areas covered by PACBRMA may be divided among the different members of the PO who have legitimate and valid claims but not to exceed a maximum of three (3) hectares per household. In cases where a tenured migrant occupies an area designated as zones in which no occupation or other activities are allowed, they shall be transferred to the multiple-use zones of the MKNP providing humanitarian considerations where they can avail land tenure security. Provided that only those qualified MKNP occupants as specified in Section 34 hereof shall be issued the PACBRMA and avail the privileges and benefits provided for in the agreement. Provided further that those occupants who do not qualify as tenured migrants shall be relocated outside of the MKNP where they can avail other forms of land tenure or apply for ownership titles, as may be appropriate and applicable.

Supplementary policy/guidelines may be issued by the MKNP Management Board to ensure a smooth implementation of the land tenure instrument scheme appropriate to MKNP situation consistent with the MKNP Act and relevant laws, policies and guidelines.



**Section 37. Application for Land Tenure Instrument** – Consistent with the Section 5 of DAO 32, Series of 2004, organized tenured migrants and/or interested ICCs/IPs may apply for PACBRMA or land tenure security agreement by filing an application to the Office of the MKNP Superintendent together with the following requirements:

- a. Accomplished application form;
- b. Certificate of Registration of the PO;
- c. List of officers or in the case of indigenous people, list of council of elders or other similar indigenous governing body in the area;
- d. List of members, including address and complete name of spouse, if any, duly certified by the MKNP Management Board as qualified tenured migrants; and,
- e. Resolution from the members of the PO allowing its president or head to file the PACBRMA application or in the case of indigenous peoples, proof of consent from the council of elders or other similar indigenous governing body of their interest to apply for the PACBRMA.
- f. No previous violation of any laws, rules and regulations. The DENR shall issue a Certification of Good Standing.

**Section 38. Processing and Approval of the PACBRMA** – Consistent with the Section 5 of DAO 32, Series of 2004, the MKNP Superintendent, within thirty (30) working days upon receipt of the application form and other requirements, shall evaluate the application of the tenured migrants/IPs and reflect the proposed area to the community-based projects map of MKNP and endorse it to the Management Board. The Management Board, within thirty (30) working days upon receipt of the documents, shall convene and discuss with the concerned tenured migrants/IPs the terms and conditions of the agreement. The Management Board may also include other conditions to the agreement to ensure proper use, protection, conservation and development of the area applied by the tenured migrants/IPs.

The MKNP Management Board shall endorse such application to the DENR Regional Executive Director for approval of the PACBRMA for areas not exceeding 15,000 hectares. The DENR Secretary shall approve PACBRMA with areas covering more than 15,000 hectares.

**Section 39. The Community Resource Management Plan (CRMP)** – Within a year after the approval of PACBRMA, the holder of the PACBRMA shall prepare a Community Resource Management Plan with the assistance of the MKNP Superintendent and/or with other concerned institutions. The CRMP shall be consistent with the MKNP Management Plan and with the rules and regulations issued by the Management Board and other relevant policies issued by the DENR and joint agreements of which the DENR is a signatory.

The CRMP shall be approved by the MKNP Management Board and affirmed by the DENR Regional Executive Director of Region 6, Iloilo City.



**Section 40. Privileges and Obligations of the PACBRMA Holder** - The rights, interests and activities of tenured migrants within MKNP shall be governed by the principles of biodiversity conservation and sustainable development and by the guidelines prescribed in the Management Plan as well as the prohibitions set forth in Section 15 of the Act. Provided that all plans, policies and guidelines affecting tenured migrants, indigenous peoples/indigenous cultural communities shall be developed and implemented in partnership with them.

The holder of the PACBRMA consistent with the provisions as in Annex 1 of DAO 32, Series of 2004 as supplementary guidelines in this Order, shall have the following privileges:

- a. Use and develop the areas over the period covered and under the terms and conditions of the Agreement, NIPAS and MKNP Act;
- b. Participate in the decision making process involving the development and the allocation of the resources;
- c. Allocate the entire or portion of the area to its members not to exceed 3 hectares without creating any vested right therein and subject to regulation of the Management Board on the use and sustainable development of the resources therein;
- d. Have preferential access to all available assistance provided by the Management Board and DENR in the preparation and implementation of the CRMP;
- e. Receive all or portion of income and proceeds from the sustainable utilization of resources within the area;
- f. Be informed of and consulted on projects to be implemented in the area.

It is also the obligation of the PACBRMA holder to:

- a. Immediately assume responsibility for the protection of the entire area CBP covered against illegal activities under R.A. No. 7586, R.A. No. 9154 and other related environmental laws;
- b. Observe all duly promulgated laws, rules, and regulations pertaining to MKNP and other environmental laws;
- c. Prepare and implement the CRMP with assistance from the DENR through the Office of the MKNP Superintendent, Management Board, DENR Field Offices and other concerned institutions consistent with the Management Plan and MKNP Law, rules and regulations;
- d. Formulate and implement an agreed equitable benefit-sharing schemes among its members;
- e. Pay the required charges and other imposed resource use fees which shall accrue to the MKNP IPAF;





- f. With the concurrence of the Secretary thru the Regional Executive Director of DENR Region 6, may enter into an agreement with the government entities and civil society for developmental activities endorsed by the MKNP Management Board consistent with the Management Plan and the CRMP.
- g. May execute an assignment, designation or allocation only among its individual members, families or groups, thereof, who are likewise qualified tenured migrants under the Republic Act No. 7586. All such assignments, designation or allocation shall, however, be subject to the PACBRMA and must comply with pertinent environmental laws, rules and regulations.

**Section 41. Termination or Cancellation of PACBRMA or Land Tenure Instruments** - Any violation of the terms and conditions of the PACBRMA or land tenure instruments or any provisions of the MKNP Act and the NIPAS Law or abandonment by tenured migrants shall constitute sufficient ground for the revocation, termination or cancellation of the tenurial right over the area issued within the MKNP.

Upon termination or cancellation of the PACBRMA or land tenure instrument by voluntary surrender of rights, the MKNP Superintendent shall take immediate steps to rehabilitate the area in order to return it to its natural state prior to cultivation or other act by the tenured migrants. However, if the termination or cancellation is for cause, the corresponding penalty shall be duly accorded.

The provisions of DAO 32, Series of 2004 and other relevant and applicable laws, policies or regulations shall be supplementary guidelines in this policy unless otherwise amended, modified or repealed.

## **Chapter XI SPECIAL USES AND CONCERNS**

**Section 42. Geothermal Energy Resources Exploration, Development and Utilization** - The proponent of the geothermal project shall prepare a geothermal development plan upon where all geothermal exploration, development and utilization shall be based pursuant to the prescriptions and conditions on the Environmental Compliance Certificate (ECC) issued to the project.

Geothermal energy exploration and development within the buffer zone of the MKNP shall be undertaken pursuant to the relevant forestry and environmental regulations specifically Presidential Decree No. 1586 or the Environmental Impact Statement System and its Implementing Rules and Regulations. Permits for geothermal operations within the buffer zone of MKNP shall be issued by the DENR with prior consultation and endorsement of the MKNP Management Board.

Prior to any geothermal energy development in the buffer zone, the proponent of the project shall conduct ecological profiling or study in areas that would likely be affected by its operations. The study shall focus on species, ecosystem, habitat and other ecological components such as endemism, ecological succession and ecological system losses, among others. The scope of the study shall be discussed and endorsed by the MKNP Management Board to the DENR for approval. Based on the study, the proponent shall identify the



possible impacts of the geothermal project on the ecological system of the area and provide the necessary mitigating measures to address the identified impacts that would likely occur. The mitigating measures shall then be presented to the MKNP Management Board for approval. Any geothermal development in the buffer zone of MKNP shall be undertaken with utmost considerations to the biodiversity of the area.

Any geothermal exploration or development of energy or mineral resources within the MKNP shall not be allowed except by an act of Congress.

**Section 43. Existing Facilities Within the MKNP** - The MKNP Management Board through the PASu shall conduct inventory of all private, government, commercial and other facilities found in the MKNP. This inventory shall form the baseline data for the assessment of all facilities and structures found within the MKNP in accordance with the guidelines set forth in the NIPAS Act, RA 9154 and in consonance with the MKNP Management Plan. Provided that within ninety (90) days from the effectivity of this Order, all commercial facilities existing within the MKNP with a total capitalization of not less than One Hundred Thousand Pesos (Php 100,000) shall submit to the MKNP Management Board through the PASu a sworn statement containing the following information:

- a. Potential for the disturbance of protected species and other habitats, reproductive cycles, nesting and feeding grounds and migratory paths;
- b. Noise levels at all stages of operation;
- c. Emission and effluent at all stage of operation;
- d. Energy requirements and sources of energy;
- e. Water supply requirements and sources of water;
- f. Volume of resources extracted from the MKNP, if applicable; and
- g. Plans for the next five years.

Based on the information provided, the MKNP Management Board with the assistance of the DENR shall determine whether the existence of such facilities and its future use shall be detrimental to the MKNP. Failure to submit the required information shall constitute violation of the Act and shall be subject to the penalties imposed under Section 15 (B) thereof.

The MKNP Management Board may prescribe further conditions for the operation of such facilities and structures to ensure that they do not contradict the management objectives of the MKNP. Without the prejudice to the filing of the necessary case under Section 15 (B) (1) of the Act if such conditions are violated, an administrative fine of Five Thousand Pesos (Php 5,000.00) for every day violation shall be imposed upon the owners of such facility but not to exceed a total of Five Hundred Thousand pesos (Php 500,000.00). At any time whenever necessary, the MKNP Management Board, through the PASu or other government entities shall cause the cessation and demolition of the facility at the cost of its owners.

Existing facilities that rely heavily on the resources of the MKNP which are allowed to remain within the area shall be charged reasonable fees or subject to reasonable conditions



by the MKNP Management Board. All income derived from such fees shall accrue to the MKNP Fund.

**Section 44. Utilization of Resources of MKNP** - Except for protected species or whenever detrimental to the ecosystems or habitats as declared by the MKNP Management Board, tenured migrants and ICCs/IPs may use the resources, provided, that such use shall be solely for their domestic or subsistence only, consistent with the terms and conditions of the Tenorial Instrument issued/awarded, and subject to the following conditions:

- a. No exploration, exploitation or utilization of non-renewal resources within the MKNP for commercial purposes or by non-tenured migrants or non-ICCs/IPs shall be allowed. Commercial utilization of resources by the tenured migrants and ICCs/IPs shall be allowed only upon the prior approval of the MKNP Management Board and in accordance with the Management Plan;
- b. Livelihood activities requiring the use of resources from the MKNP shall be allowed only when sustainable and consistent with the Management Plan and only upon prior PAMB approval. Only non-timber products can be used for livelihood; and
- c. The commercial exploitation of water resources within the MKNP shall require prior approval of the MKNP Management Board, must be in accordance with the Management Plan and shall undergo the Environmental Impact Statement (EIA) Assessment.

Provided further that any development activities may be allowed only in the appropriate management zones of the Park and the same is consistent with the Management Plan of the MKNP and subject to approval of the Management Board.

Provided finally that the ecotourism development of MKNP shall embrace the principles and ethics of ecotourism taking into consideration the biodiversity conservation and carrying capacity, promotion of environmental education and cultural development and invoke community participation and benefits.

**Section 45. Environmental Impact Assessment** – Any proposed projects and activities within the MKNP which are outside the scope of the Management Plan shall be subject to an EIS before they are adopted, and results thereof shall be taken into consideration in the decision making process of the Management Board and the DENR. No actual implementation of such activities shall be allowed without the required ECC under the Philippine Environmental Impact System. In instances where such activities are allowed to be undertaken, the proponent shall plan and carry them out in such a manner as to minimize any adverse effects and take preventive and remedial actions whenever appropriate. The proponent shall be liable for any damage due to lack of caution or indiscretion.

## CHAPTER XII INTEGRATED PROTECTED AREA FUND (IPAF) FOR THE MKNP

**Section 46. Creation of the MKNP Fund** - The IPAF for the MKNP, a trust fund for the purposes of promoting the sustained financing of programs and projects of MKNP is hereby created and to be known as the MKNP Fund. The MKNP Management Board,



through the PASu shall open a special account in the name of MKNP in duly designated government depository bank. Seventy-five percent (75%) of the income derived from the operation of MKNP shall accrue to the Fund for the development and maintenance of the MKNP and utilized subject to the IPAF Board guidelines as provided in the NIPAS Act, with the remaining twenty-five percent (25%) being remitted to the Central IPAF Fund.

**Section 47. Sources of Income** - The following proceeds and fees shall accrue to the MKNP Fund:

- a. Proceeds from the permitted sale and export of flora and fauna and other resources from the MKNP and its buffer zone other than the protected species as may be set by the DENR and the MKNP Management Board;
- b. Proceeds from lease and/or use of multiple-use zones and buffer zone including tourism concessions and geothermal energy development;
- c. Contributions from industries and facilities directly or indirectly benefiting from the MKNP such as the geothermal energy projects;
- d. Fines collected from violations of RA 9154 and other related laws;
- e. Fees and charges collected and derived from the operations of MKNP;
- f. Contributions, donations, endowments and grants from any source; and
- g. Such other revenues as may be derived from the operations of the MKNP.

Current sources of revenue of the local government units shall be excluded from the IPAF.

**Section 48. Fixing of Fees and Charges** - The MKNP Management Board shall fix and prescribe reasonable fees and charges to be collected from any person, firm or entity deriving benefits from the MKNP subject to the affirmation by the NEDA upon the recommendation of the DENR Secretary.

**Section 49. Collection of Monies** - The MKNP Management Board through the MKNP Superintendent or his duly authorized representative/s shall collect pertinent fees, charges, and donations at the site subject to pertinent Accounting rules and regulations.

**Section 50. MKNP Fund Administration and Disbursement-** The MKNP Management Board shall be solely responsible in the administration of the MKNP Fund. The Management Board may create a Finance and Resource Generation Committee to act on matters pertaining to the MKNP Fund and to recommend to the Management Board fund allocation for the operation of the MKNP. The Committee shall also recommend to the Management Board appropriate policies and guidelines for the proper administration and disbursement of the MKNP Fund.

All disbursements of the Fund shall be made solely for the protection, maintenance, administration and management of MKNP and duly approved projects and activities by the MKNP Management Board. Provided, that such disbursements shall be in accordance with



the existing accounting and budgeting rules and regulations of the government. Provided further that no amount shall be disbursed for the operating expenses of the DENR and other concerned agencies and local government units. The PASu shall recommend the disbursement of the MKNP Fund through the work and financial plan prepared by the Office of the MKNP Superintendent and duly approved by the MKNP Management Board.

### **Chapter XIII PROHIBITED ACTS AND PENALTIES**

**Section 51. Prohibited Acts and Penalties** - The following shall be the prohibitions and penalties applicable within the MKNP:

- a. A fine of not less than Five Thousand Pesos (Php 5,000.00) but not more than Five Hundred Thousand Pesos (Php 500,000.00) and imprisonment of not less than six (6) years and one (1) day but not more than twelve (12) years shall be imposed upon any person who:
  - a.1. Hunts, collects, destroys, traps, disturbs or possess anywhere within the MKNP any wild plant or animal product derived therefrom without prior permit from the Management Board.
  - a.2. Possesses without a permit from the Management Board any wild plant or animal or product derived therefrom outside the MKNP or any zone of MKNP where the species is not endemic.
  - a.3. Cuts, gathers, collects or removes timber or other forest products as well as undertakes any activity not compatible with the use of the respective zones within the MKNP without prior permit from the Management Board: Provided that any permit issued shall be valid for only one month from the date of issue either to tenured migrants within sustainable, monitored, and controlled quotas or for scientific purposes necessary for protected area management in accordance with existing guidelines and outside the strict protection zones.
  - a.4. Establishes or introduces exotic species within the MKNP with allelopathic effect or those detrimental to endemic species, or without prior permit from the Management Board.
  - a.5. Engages in kaingin or any activity that causes forest fire inside the MKNP.
- b. A fine of not less than Five Thousand Pesos (PhP 5,000.00) but not more than Two Hundred and Fifty Thousand Pesos (PhP 250,000.00) and/or imprisonment of not less than six (6) months but not more than six (6) years and the restoration and rehabilitation of the damage shall be imposed upon any person who:
  - b.1. Violates the Management Plan, or any resolution issued by the MKNP Management Board.



- b.2. Vandalizes, mutilates, transports, destroys, excavates, or in any manner intentionally damages any natural formation or object of natural beauty inside the MKNP, or the burial or religious sites including artifacts and other objects belonging to the ICCs/IPs of the Park.
  - b.3. Dumps, burns or otherwise disposes of any substance deleterious to the ecosystem, plants, and animals, or human inhabitants in the protected area or committing the same in buffer and multiple use areas without appropriate authority or permit.
  - b.4. Uses or possesses a motorized equipment anywhere within the Strict Protection Zone of the MKNP without a prior permit from the Management Board.
  - b.5. Uses or possesses chainsaws and band saws without prior permit from the Management Board; Provided, that permits may only be issued for the multiple-use zones of the Park.
  - b.6. Grazing or raising of poultry and other livestock for commercial purpose within the MKNP: Provided, that existing grazing or poultry and other livestock farms within the MKNP shall be phased out within five (5) years.
  - b.7. Damaging or leaving roads and trails in damaged condition.
  - b.8. Occupies any portion of land inside the MKNP without a prior permit from the Management Board. Clearing, construction of residence or any introduction of improvements shall constitute prima facie evidence of occupation or settlement.
  - b.9. Altering, removing, destroying or defacing boundaries, marks or signs.
  - b.10. Constructs and maintains a building, edifice or any kind of structure or conducts any business enterprise within the MKNP without prior permit from the Management Board.
  - b.11. Enters the MKNP without prior permit from the Management Board for purposes of trekking, mountain climbing, camping, spelunking, and the like.
  - b.12. Conducts bioprospecting within the MKNP without prior permit from the Management Board in violation of the existing guidelines, rules and regulations.
  - b.13. Engages in treasure hunting within the MKNP.
- c. A fine of not less than One Hundred Thousand Pesos (PhP 100,000.00) but not more than Five Hundred Thousand Pesos (PhP 500,000.00) and/or imprisonment of not less than six (6) months but not more than six (6) years shall be imposed upon any public officer, or officer of law, who, in dereliction



of the duties of his Office shall maliciously refrain from instituting prosecution for the punishment of violators of the law, or shall tolerate the commission of offenses. Conviction of this offense shall also carry the penalty of perpetual disqualification from public office.

- d. Any provision to the contrary notwithstanding, the commission of any lawful act enumerated under Section 15(A) of the Act and Section 51(A) hereof shall carry the penalty of imprisonment of not less than twelve (12) years and one day but not more than twenty (20) years and a fine of not less than Five Hundred Thousand Pesos (PhP 500,000,00) to One Million Pesos (PhP 1M) in addition to the accessory penalties provided in the immediately succeeding paragraph in case the species involved is a protected species as defined herein. Furthermore, any citizen may institute the necessary charge against the offender for the commission of the acts enumerated under Section 15 (A) of the Act and Section 51 (A) hereof involving protected species.
- e. A conviction under this Section shall likewise carry the penalty of eviction from the MKNP, payment of damages for rehabilitation and restoration, and the forfeiture of all equipment, device weapon/s used in the commission of the offense as well as the resources of the MKNP caught in the possession of the accused. In case the offender is not a citizen of the Philippines, he/she shall be immediately deported to his/her country of origin after service of his/her sentence. If the offender is an association or corporation, the president or manager shall be directly responsible for the act of his/her employees and laborers.
- f. The MKNP Superintendent or his/her duly deputized personnel may arrest even without a warrant any person who has committed or is committing in his/her presence any of the offenses defined in this Section. He/She may also seize and confiscate in favor of the Government, the tools and equipment used in committing the offense and the resources caught in the possession of the offender and file the necessary charges therefore: Provided, that the DENR may impose administrative fines and penalties in accordance with law.
- g. In case of conviction, the penalty consisting of fines and damages shall directly accrue to the MKNP Fund as provided herein.

**Section 52. Special Prosecutors** - Pursuant to RA No. 9154, the Department of Justice shall designate a special prosecutor to whom all cases of violation of laws, rules and regulations in the MKNP shall be assigned. Such special prosecutor shall coordinate with the MKNP Management Board and the PASu in the performance of his/her duties and assist in the training of MKNP staff in arrest and criminal procedures. MKNP Management Board and MKNP Superintendent shall be the one to coordinate with the Special Prosecutor.

#### **CHAPTER XIV TRANSITORY AND MISCELLANEOUS PROVISIONS**

**Section 53. Appropriations** - The DENR Secretary shall include in its program the implementation of the Act and this Order, the funding of which shall be charged against the MKNP Fund pursuant to Section 17 of the Act and from the appropriations authorized under



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the annual General Appropriations Act (GAA). The budget for MKNP shall be included in the Annual Work and Financial Plan of the DENR Region VI comprising of the salaries, wages and benefits of the MKNP staff and personnel as provided hereof, the operations of the MKNP Management Board, the Office of the MKNP Superintendent, and other expenditures that are necessary to implement the Act and this Order.

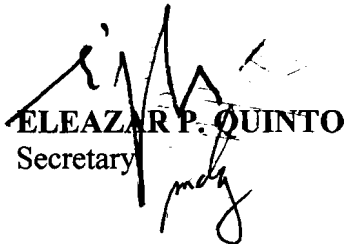
**Section 54. Separability Clause** – If any part or Section of the Act and this Order is declared unconstitutional, such declaration shall not affect the other parts or section hereof.

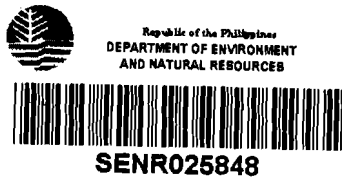
**Section 55. Transitory Provision** – Pending the organization of the new MKNP Management Board in accordance with the Act, the incumbent members of the Management Board shall continue to hold office until the new members have been convened three (3) of the MKNP Superintendent shall be retained until such time that the regular plantilla positions provided for in this Order are approved.

**Section 56. Amendment** – This Order may be amended wholly or in part by the DENR Secretary through public notification. Any amendment of this Order, however, shall be properly endorsed and approved by the MKNP Management Board.

**Section 57. Repealing Clause** – All previous orders, memoranda, circulars and other issuances inconsistent herewith are deemed amended accordingly.

**Section 58. Effectivity Clause** – This Implementing Rules and Regulations shall take effect 15 days after its publication in the Office of the National Administrative Register and/or in a national newspaper of general circulation.

  
**ELEAZAR P. QUINTO**  
Secretary



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Malaya

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