



HOUSE OF REPRESENTATIVES

H. No. 4705

BY REPRESENTATIVES GARAY, MATUGAS AND ABAYA, PER COMMITTEE
REPORT NO. 944

AN ACT DECLARING THE TINUY-AN FALLS AND ITS WATERSHED
AREAS WITHIN THE CITY OF BISLIG, SURIGAO DEL SUR AS A
PROTECTED AREA UNDER THE CATEGORY OF PROTECTED
LANDSCAPE PURSUANT TO REPUBLIC ACT NO. 7586,
OTHERWISE KNOWN AS THE "NATIONAL INTEGRATED
PROTECTED AREAS SYSTEM ACT OF 1992", PROVIDING FOR
ITS MANAGEMENT AND FOR OTHER PURPOSES

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

1 SECTION 1. *Short Title.* – This Act shall be known as the “Tinuy-an
2 Falls Protected Landscape (TFPL) Act of 2011”.

3 SEC. 2. *Declaration of Policy.* – It is the policy of the State to protect
4 and advance the right of the people to a balanced and healthful ecology in
5 accord with the rhythm and harmony of nature. Towards this end, the State
6 shall ensure the protection and conservation of the scenic, cultural and
7 historical features of the Tinuy-an Falls and its watershed areas and diverse
8 terrestrial ecosystem for the benefit of its people, both of the present and future
9 generations. The State shall maintain the high level of biodiversity through

1 sustainable and participatory development; regulate the utilization of wildlife
 2 resources, both flora and fauna, and other natural habitats found therein; and
 3 respect and protect the customs and interests of its legitimate inhabitants,
 4 migrants and indigenous peoples.

5 SEC. 3. *Scope and Coverage.* – The TFPL occupies certain areas of
 6 Bislig City, particularly in Barangay Burboanan and Barangay San Roque.
 7 The boundaries of the TFPL are more particularly described as follows:

8	<u>CORNER</u>	<u>EASTING</u>	<u>NORTHING</u>
9	1	195,180	905,345
10	2	195,150	904,500
11	3	195,125	903,000
12	4	192,719	902,642
13	5	188,036	904,988
14	6	187,025	905,570
15	7	186,023	906,047
16	8	185,623	906,326
17	9	184,991	906,900
18	10	183,445.72	908,632.96
19	11	185,450	910,279
20	12	187,025	909,010
21	13	187,400	908,720
22	14	188,090	908,800
23	15	188,675	907,770
24	16	189,675	907,975
25	17	190,800	908,000
26	18	190,880	907,727
27	19	191,285	906,412
28	20	191,725	906,305

1 The foregoing boundaries cover an approximate area of three thousand
2 nine hundred eleven (3,911) hectares subject to verification through a ground
3 survey to be conducted by the Department of Environment and Natural
4 Resources (DENR), within ninety (90) days after the effectivity of this Act.

5 Any modification of the boundaries due to changing ecological
6 situations, new scientific or archaeological findings or discovery of traditional
7 boundaries shall be made through an act of Congress after full consultation
8 with the affected public and concerned government agencies.

9 SEC. 4. *Land Classification.* – All lands and waters of the public
10 domain comprising the TFPL shall fall under the classification of national park
11 as provided for in the Philippine Constitution. Accordingly, the area whose
12 boundaries are defined in Section 3 hereof is hereby excised and excluded
13 from the concession area under Timber License Agreement No. 43 in favor of
14 PICOP Resources Inc. (PRI) and shall henceforth be administered and
15 managed in accordance with the provisions of this Act and the pertinent
16 provisions of Republic Act No. 7586, otherwise known as the “National
17 Integrated Protected Areas System Act of 1992”.

18 SEC. 5. *Definition of Terms.* – For purposes of this Act:

19 (a) *Biological diversity* shall refer to the variety and variability among
20 living organisms and the ecological complexes in which said organisms occur.

21 (b) *Biological resources* shall refer to living natural resources,
22 including microorganisms, plants and animals, plus the environmental
23 resources to which the species contribute.

24 (c) *Buffer zones* shall refer to identified areas outside the boundaries of
25 and immediately adjacent to designated protected areas pursuant to Section 8
26 of Republic Act No. 7586 that need special development and control in order
27 to provide a layer around the TFPL where restrictions may apply and to be

1 managed according to the management plan and applicable rules and
2 regulations as provided for in this Act and related statutes.

3 (d) *Ecosystem* shall refer to the community of plants and animals, their
4 physical environment and the interaction between them.

5 (e) *Endangered species* shall refer to species and subspecies of wildlife
6 whose populations are in danger of extinction and whose survival is unlikely if
7 the causal factors continue to operate.

8 (f) *General Management Plan* shall refer to the basic long-term
9 framework plan for the management of a protected area, which shall serve as
10 guide in the preparation of the annual operational plans and budget.

11 (g) *General Management Planning Strategy* shall refer to the national
12 guide in the formulation of site-specific management plans, including buffer
13 zones.

14 (h) *Indigenous people* shall refer to people sharing common bonds of
15 language, customs, traditions and other distinctive cultural traits, and who have
16 since time immemorial occupied, possessed and utilized a territory.

17 (i) *Integrated Protected Area Fund (IPAF)* shall refer to a trust fund
18 established for purposes of financing the projects under the National Integrated
19 Protected Areas System (NIPAS).

20 (j) *Management manual* shall refer to an individual management plan,
21 basic background information, field inventory of the resources within the area,
22 an assessment of assets and limitations, regional interrelationships, particular
23 objectives for managing the area, appropriate division of the area into
24 management zones, a review of the boundaries of the area and a design of the
25 management programs.

26 (k) *Nongovernmental organization (NGO)* shall refer to any
27 development or philanthropic organization, which is multi-sectoral in
28 character.

1 (l) *People's organization (PO)* shall refer to a group of people or an
2 association, cooperative, federation or aggregation of individuals or groups
3 with an identifiable structure of decision-making and accountability, and
4 established to undertake collective action to address community concerns and
5 needs in relation to the protected area.

6 (m) *Protected area* shall refer to identifiable portions of land and water
7 set aside by reason of their unique physical and biological significance,
8 managed to enhance their biological diversity and protected against destructive
9 human exploitation.

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

14 (o) *Protected Area Superintendent (PASu)* shall refer to the chief
15 operating officer of the DENR at the protected area.

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

20 (q) *Sustainability or sustainable* shall refer to the environmental
21 management principle of using components of biological diversity in a way
22 and at a rate that do not lead to the decline of the species used, thereby
23 maintaining its potential to meet the needs and aspirations of the present and
24 future generations.

25 (r) *Secretary* shall refer to the Secretary of the DENR.

26 (s) *Tenured migrant* shall refer to any person who has actually and
27 continuously occupied an area for five (5) years prior to the designation of the

1 same as a protected area in accordance with the NIPAS Act and who is solely
2 dependent therein for subsistence.

3 SEC. 6. *Management Mechanism.* -- A PAMB for the TFPL is hereby
4 established, which shall have sole jurisdiction, power and authority such as, but
5 is not limited to, policy-making and permit granting, for all matters that may
6 affect biodiversity conservation, protection and sustainable development. It
7 shall be composed of:

8 (a) The Regional Executive Director (RED) of DENR Region XIII, as
9 chairperson;

10 (b) The Mayor of Bislig City, as co-chairperson;

11 (c) The Provincial Planning and Development Officer of Surigao del
12 Sur or his duly designated representative, as member;

13 (d) The barangay captains of barangays Burboanan and San Roque, as
14 members;

15 (e) One (1) representative from each tribal community, as member;

16 (f) Maximum of three (3) representatives from POs and NGOs, as
17 members;

18 (g) Representatives from government agencies involved in protected
19 area management, as members;

20 (h) A representative from the Bislig Water District, as member; and

21 (i) The member of the House of Representatives representing the
22 Second District of Surigao del Sur, as advisor.

23 Except for the government officials who shall serve as *ex officio* and
24 whose term of office as PAMB members are coterminous with their
25 employment in the agency being represented, the members of the PAMB shall
26 be appointed by the DENR Secretary and shall serve for a term of five (5)
27 years: *Provided*, That said PAMB members remain connected with the
28 organization being represented. Whenever a vacancy occurs during the term of

1 a PAMB member who is not a government agency representative, a new
2 member shall be chosen in the same manner as the original selection process:
3 *Provided, further,* That the substitute shall only serve for the remaining term.

4 The members of the PAMB shall not receive any compensation but shall
5 be entitled to reasonable *per diem* in accordance with existing accounting and
6 auditing rules and regulations.

7 The members of the PAMB shall be deemed to carry the vote of their
8 principals unless challenged in writing within five (5) days after the decision
9 being challenged is made known in writing to the members of the sector or
10 institution being represented.

11 In the selection of the representatives of POs and NGOs, preference
12 shall be accorded to those organizations that are involved in the conservation,
13 protection and development of the TFPL. Representation shall be by
14 institution and shall take into account geographic location.

15 The representatives from the local government units (LGUs) and
16 national agencies in the PAMB shall include, among their duties, the task of
17 informing their respective constituents, office or sector to ensure harmony with
18 the Local Government Code, other relevant statutes and ordinances, and local
19 and national development plans and projects. Failure to comply with the
20 foregoing shall subject the representatives to such disciplinary action as the
21 PAMB may provide.

22 *SEC. 7. Powers and Functions of the Protected Area Management*
23 *Board (PAMB).* – The PAMB shall have the following powers and functions:

24 (a) Issue rules and regulations to prohibit certain acts that may be
25 prejudicial to the protected area or subvert the policy declaration herein set
26 forth;

27 (b) Issue rules and regulations for the resolution of conflicts through
28 appropriate and effective means;

1 (c) Adopt rules and procedures in the conduct of business, including
2 the creation of committees to which its powers may be delegated;

3 (d) Approve the management plan and oversee the office of the PASu;

4 (e) Establish criteria and set fees for the issuance of permits for
5 activities regulated by this Act or the management plan;

6 (f) Recommend the deputation of qualified individuals who shall assist
7 in the enforcement of the laws, rules and regulations; and

8 (g) Approve proposals for funding and budget allocations and exercise
9 responsibility over all funds that may accrue to the TFPL.

10 The DENR, through the RED for Region XIII, shall oversee the PAMB
11 to ensure that the latter acts within the scope of its powers and functions. In
12 case of conflict between administrative orders issued by the DENR pursuant to
13 the NIPAS Act and other laws and the decisions and resolutions issued by the
14 PAMB, such conflict shall be referred by the PAMB to the Secretary, who
15 shall decide whether to apply the rule or withdraw its application in the TFPL.
16 The decision of the Secretary may be appealed to the Regional Trial Court that
17 has jurisdiction over the protected area.

18 SEC. 8. *The Tinuy-an Protected Landscape Management Plan.* –

19 Within one (1) year from the effectivity of this Act and in accordance with the
20 NIPAS general management planning strategy, a management plan shall be
21 prepared by the PASu, in consultation with the appropriate offices of the
22 DENR, LGUs, local communities, indigenous peoples, NGOs and POs, and
23 people who possess socioeconomic, anthropological and ecological expertise.
24 Such management plan shall contain, among others, the following:

25 (a) Category of the protected area;

26 (b) Period of applicability of the plan;

27 (c) Key management issues;

28 (d) Goals and objectives of management in support of Section 2 hereof;

1 (e) Site management strategy;

2 (f) Major management activities such as, but not limited to,
3 enforcement of laws, biodiversity conservation, habitat and wildlife
4 management, sustainable-use management, infrastructure development and
5 maintenance, and fire and pest control;

6 (g) Zoning, the primary consideration of which shall be accorded the
7 traditional zones that have been proven as sustainable and in consonance with
8 the biodiversity and protection of the natural characteristics of the area; and

9 (h) Visitor management programs.

10 The management plan shall be reviewed, approved and adopted by the
11 PAMB and certified to by the Secretary, which shall be mandatory, and shall
12 declare that the management plan conforms to all laws, rules and regulations
13 issued by the DENR. The DENR shall refrain from revising or modifying the
14 management plan without consulting the PAMB.

15 The PASu, in coordination with all concerned offices, shall prepare all
16 successor plans. One (1) year before the expiration of the management plan,
17 the PASu shall cause the publication of notices for comments and suggestions
18 on the proposed successor plan in a newspaper of local circulation and the
19 posting of such notices in the city, provincial, municipal and barangay halls, as
20 well as in three (3) other areas frequented by the public. Public hearings may
21 be conducted on the successor plan upon the written request of any interested
22 party.

23 The finalized management plan shall be written in a language
24 understandable in the area and made available for comments of the general
25 public at the PASu Office.

26 SEC. 9. *The Protected Area Superintendent (PASu) Office.* – There is
27 hereby established a PASu Office in charge of the management, protection and
28 administration of the TFPL. The PASu shall be supported by the existing

1 personnel of the DENR. The head of office shall be the chief operating officer
2 of the TFPL and shall be accountable to the RED of the DENR-CARAGA
3 Region and the PAMB. The PASu shall have the following powers and
4 functions:

- 5 (a) Prepare the management and successor plans;
- 6 (b) Provide a secretariat for the PAMB, which shall supply the PAMB
7 with timely and necessary information for appropriate action;
- 8 (c) Establish a productive partnership with the local community,
9 including groups interested in the achievement of the goals and objectives of
10 the protected area, and in the planning, protection and management thereof;
- 11 (d) Develop and implement a park information, education and visitor
12 program;
- 13 (e) Enforce the laws, rules and regulations relevant to the protected
14 area, institute and file legal action independently or in collaboration with other
15 government agencies or organizations and assist in the prosecution of offenses
16 committed in violation of this Act;
- 17 (f) Monitor all activities within the protected area to ensure conformity
18 with the management plan;
- 19 (g) Issue protected area permits based on terms, conditions and criteria
20 established by the PAMB; and
- 21 (h) Perform such other functions as the PAMB may delegate.

22 SEC. 10. *The Tinuy-an Falls Protected Landscape Fund.* – There is
23 hereby established a trust fund to be known as the TFPL Fund for the purpose
24 of financing projects of the system. All income generated from the operation
25 of the system or management of wild flora and fauna in the TFPL shall accrue
26 to the fund. These income shall be derived from visitors/tourists fees, fees
27 from permitted sale and export of flora and fauna and other resources from the
28 protected areas, proceeds from registration and lease of multiple-use areas,

1 including tourism concessions, contributions from industries and facilities
2 directly benefiting from the protected area; and such other fees and income
3 derived from the operation of the protected area.

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

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

18 SEC. 11. *Tenured Migrants and Private Rights.* – Tenured migrants
19 shall be eligible to become stewards of portions of lands within the allowed
20 and designated zones. The PAMB shall identify, verify and review all tenure
21 instruments, land claims and issuances of permits for resource use within the
22 TFPL and *recommend the issuance of the appropriate tenure instrument*
23 *consistent with the land classification, proper and allowed use of the resources*
24 *found therein and zoning provided in the management plan.*

25 Nothing herein shall be construed to mean any diminution of accrued
26 rights earned by tenured migrants. In areas occupied by tenured migrants that
27 are designated as zones in which no occupation or other activities are allowed
28 pursuant to the attainment of sustainable development, provisions for the

1 transfer of said tenured migrants to multiple-use zones or buffer zones shall be
2 accomplished through just and humane means.

3 In the event of termination of a tenure instrument for cause or by
4 voluntary surrender of rights, the PASu shall take immediate steps to
5 rehabilitate the area in order to return it to its approximate natural state prior to
6 the cultivation or other act by the tenured migrant.

7 All private rights within the TFPL shall be protected in accordance with
8 existing law.

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

14 The PASu Office shall identify the location of indigenous cultural
15 communities within or near the site, which is identifiable by the tribal leaders.

16 The evaluation of ancestral domain claims within the TFPL shall be
17 conducted by the National Commission on Indigenous Peoples (NCIP)
18 pursuant to the provisions of Republic Act No. 8371, otherwise known as “The
19 Indigenous Peoples Rights Act of 1997” or the IPRA Law, and its
20 implementing rules and regulations, in coordination with the PAMB.

21 SEC. 13. *Existing Facilities Within the Protected Area.* – Within sixty
22 (60) days from the effectivity of this Act, the owner or the heads of institutions
23 responsible for the management or implementation of major existing facilities
24 such as roads, buildings, water systems, transmission lines, communication
25 facilities, heavy equipment and irrigation facilities existing within the
26 boundaries of the protected area shall submit the project description to the
27 PAMB through the PASu.

1 The PAMB, with the assistance of the DENR, shall determine whether
2 the existence of any facility and its future plan and operation will be
3 detrimental to the protected area and whether conditions shall be imposed for
4 its continued operation. If such conditions are violated, the owner of the
5 facility shall be liable to pay a fine of Five thousand pesos (P5,000.00) for
6 every violation. Upon reaching a total fine of Five hundred thousand pesos
7 (P500,000.00), the PAMB, through the PASu, and deputizing other
8 government entities, shall cause the cessation and demolition of the facility at
9 the cost of its owner.

10 Existing facilities allowed to remain within the TFPL may be charged a
11 reasonable royalty by the PAMB. All income from such royalty shall accrue to
12 the TFPL Integrated Protected Area Fund (IPAF).

13 SEC. 14. *Utilization of Non-Renewable Resources.* – Any exploitation
14 and utilization of non-renewable resources within the TFPL shall be allowed
15 only through the approval of the PAMB and said activities shall be subjected
16 to the Environmental Impact Assessment System (EIAS).

17 SEC. 15. *Special Prosecutor.* – Within thirty (30) days from the
18 effectivity of this Act, the Department of Justice (DOJ) shall appoint a special
19 prosecutor to whom all cases of violations of laws, rules and regulations in the
20 TFPL shall be assigned. Such special prosecutor shall coordinate with the
21 PAMB and the PASu in the performance of one's duties and assist in the
22 training of wardens and rangers in conducting arrests and criminal procedures.

23 SEC. 16. *Prohibited Acts.* – The following shall be the prohibitions
24 and penalties applicable to the protected area:

25 (a) The penalties and qualifications prescribed in Article 309 and
26 Article 310 of the Revised Penal Code, depending on the value of the
27 resources involved in connection with the prohibited act, shall be imposed on
28 any person who:

1 (1) Hunts, takes, destroys, disturbs or possesses any wild terrestrial or
2 aquatic plants, animals, flora or fauna, or products derived therefrom, within
3 particularly identified, regulated or prohibited zones in the protected area,
4 including private lands, without the necessary protected area permit,
5 authorization or exemption, as issued or promulgated by the PAMB;

6 (2) Cuts, gathers, removes or collects timber or any forest product
7 within particularly identified, regulated or prohibited areas or zones in the
8 protected area, including private lands, without the necessary protected area
9 permit, authorization or exemption, as issued or promulgated by the PAMB;

10 (3) Possesses outside the protected area any timber, forest product,
11 *wild terrestrial or aquatic plants, animals, flora or fauna so prohibited by the*
12 *PAMB, or products derived therefrom which is ascertained to have been taken*
13 *from the protected area. It shall be presumed to have been taken from the*
14 *protected area if the subject plants, animals, flora or fauna is found in*
15 *possession of the person or in conveyances that have traveled to the protected*
16 *area within the past seventy-two (72) hours;*

17 (4) Engages in mineral exploration or extraction in whatever scale
18 within the protected area without the necessary protected area permit or
19 authorization from the PAMB;

20 (5) Engages in quarrying of sand, gravel, guano, limestone or any
21 material within the protected area without an environmental clearance
22 certificate duly issued by the DENR and authenticated by the PAMB; and

23 (6) Hunts, collects, removes or destroys endangered or protected
24 species, except when the purpose of such collection or removal is for scientific
25 research and exempted from the prohibition by the PAMB;

26 (b) A fine of not less than Five thousand pesos (P5,000.00) but not
27 more than Two hundred fifty thousand pesos (P250,000.00) and/or
28 imprisonment of not less than one (1) year nor more than five (5) years plus the

1 restoration and the rehabilitation of damages shall be imposed upon any person
2 who destroys or defaces for no useful purpose any natural formation within the
3 protected area: *Provided*, That the useful purpose thereof is defined or
4 provided for in the management plan or is approved as such by the PAMB
5 prior to the commission of the act;

6 (c) A fine of not less than Five thousand pesos (P5,000.00) but not
7 more than Two hundred fifty thousand pesos (P250,000.00) and/or
8 imprisonment of not less than one (1) year nor more than five (5) years shall be
9 imposed upon any public officer, prosecutor or officer of the law who, in
10 dereliction of the duties of his office, shall, without legal justification, refrain
11 from initiating prosecutions for the punishment of violators of the law, or shall
12 tolerate the commission of offenses. Conviction of this offense shall also carry
13 the penalty of perpetual disqualification from public office.

14 Valuation of the damage resulting from any violation of this Act shall
15 take into account biodiversity and conservation considerations as well as
16 aesthetic and scenic values. Valuation assessed by the DENR or the concerned
17 government agency shall be presumed correct unless proven otherwise by
18 preponderant evidence.

19 Any person who shall induce another or conspire to commit any of the
20 acts prohibited in this Act, or suffer their workers to commit any of the same,
21 shall be liable in the same manner as the one actually performing the deed.

22 All conveyances, vessels, equipment, paraphernalia, implements, gear,
23 tools and similar devices shall be subject to immediate and administrative
24 confiscation, independent of the judicial proceedings conducted by the PASu
25 Office, subject however to due process and substantial evidence requirements.
26 However, when legal action is filed before the regular courts, the said
27 conveyances, vessels, equipment, paraphernalia, implements, gear, tools and
28 similar devices shall not be released until after final judgment has been

1 rendered. Proceeds from the sale of all objects administratively or judicially
2 confiscated pursuant hereto accrue to the IPAF for the TFPL. The procedure
3 for the sale hereof shall be promulgated by the PAMB.

4 SEC. 17. *Reporting Responsibility.* – The PASu, through the PAMB,
5 shall submit an annual accomplishment report to the Secretary, detailing
6 therein the activities undertaken in the TFPL.

7 SEC. 18. *Appropriations.* – The Secretary of the DENR shall
8 immediately include in the Department's program the implementation of this
9 Act, the funding of which shall be included in the annual General
10 Appropriations Act.

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

14 SEC. 20. *Repealing Clause.* – For the purpose of this Act, the
15 provisions of the NIPAS Act are hereby modified in accordance with the
16 provisions herein. All other laws, proclamations, rules and regulations
17 inconsistent with this Act are hereby repealed or modified accordingly.

18 SEC. 21. *Effectivity Clause.* – This Act shall take effect fifteen (15)
19 days after its complete publication in the *Official Gazette* or in a newspaper of
20 general circulation. Copies of this Act shall be posted in a conspicuous place
21 in the provincial, municipal and barangay halls of the area, as well as in three
22 (3) other places frequented by the public.

Approved,

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