NATIONAL ADMINISTRATIVE REGISTER · SEPTEMBER 12, 2003

IMPLEMENTING PCSD RESOLUTION NO. 03-217, ADOPTING AND REVISING THE DENR RULES AND REGULATIONS OF THE NATIONAL CAVES AND CAVE RESOURCES MANAGEMENT AND PROTECTION ACT AS APPLICABL...

PCSD ADMINISTRATIVE ORDER NO. 08, S. 2003, September 12, 2003

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Pursuant to Section 11 of Republic Act No. 9072, this Administrative Order providing for the rules and regulations governing the implementation of the "National Cave and Caves Resources Management and Protection Act" and PCSD Resolution No. 03-217, is hereby promulgated for the compliance and guidance of all concerned in the Province of Palawan.

SECTION 1. Basic Policy - It is the policy of the State to conserve, protect and manage caves and cave resources as part of the country's natural wealth. Towards this end, the State shall strengthen cooperation and exchange of information between government authorities and users of caves and cave resources for scientific, educational, recreational, tourism and other purposes. It shall also promote the widest participation of the different sectors of the society in planning, implementing, monitoring and evaluation of cave activities.

SECTION 2. Scope and Coverage - This Administrative Order is issued pursuant to the policy declared in Republic Act No. 9072 and its objectives as stated. It shall cover all caves and cave resources within public domain and private lands, excluding manmade excavation, vug, mine tunnel and aqueducts in the province of Palawan.

SECTION 3. Definition of Terms - For the purpose of this Order, the following terms shall be defined as follows:

3.1 Ancestral domains - shall refer to all areas generally belonging to indigenous peoples comprising lands, inland waters, coastal areas, and natural resources therein, held under a claim of ownerships, occupied or possessed by indigenous peoples, by themselves or through their ancestors, communally or individually since time immemorial, continuously to the present except when interrupted by war, force majeure or displacement by force, deceit, stealth or as a consequence of government projects or any other voluntary dealings entered into by government and private individuals/corporations, and which are necessary to ensure their economic, social, and cultural welfare. It shall include ancestral lands, forests, pasture, residential, agricultural, and other lands individually owned whether alienable and disposable or otherwise, hunting grounds, burial grounds, worship areas, bodies of water, mineral and other natural resources, and lands which may no longer be exclusively occupied by indigenous peoples but from which they traditionally had access to for their subsistence and traditional activities, particularly the home ranges of indigenous peoples who are still nomadic and/or shifting cultivators.

3.2 Archaeology - shall refer to the scientific study of material remains such as fossils, relics, artifacts, features and monuments, of past human life and activities, and cultural remains;

3.3 Aqueduct - shall refer to a man-made channel designed to transport water over long distances usually by gravity; an elevated structure supporting a channel or canal passing over a river of low ground;

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3.4 Cave - shall refer to any naturally occurring void, cavity, recess or system of interconnected passages beneath the surface of the earth or within a cliff or ledge and which is large enough to permit an individual to enter, whether or not the entrance, located either on private or public land is naturally formed or man-made. It shall include any natural pit, sinkhole, or other features therein but not any vug, mine tunnel, aqueduct or other man-made excavation;

3.5 Cave resources - shall refer to any material or substance occurring naturally in caves, such as animal life, plant life, including paleontological and archaeological deposits, cultural artifacts, or products of human activities, sediments, minerals, speleogens, and speleothems. These shall also include animal derivatives such as, but not limited to edible birds' nests and guano;

3.6 Derivative - shall refer to a substance/material extracted or taken from wildlife such as but not limited to blood, saliva, honey, wine, serum, excreta and the like; a compound directly or indirectly produced from wildlife and/or products produced from wildlife and wildlife products;

3.7 Geology - shall refer to the science that deals with the composition and structures of the earth and the changes it has undergone or is undergoing including the study of life and the environment which existed as recorded in the different rock sequences;

3.8 Indigenous people - shall refer to a group of people or homogenous societies identified by self-ascription and ascription by others, who have continously lived as organized community on communally bounded and defined 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, non-indigenous religions and cultures, become historically differentiated from the majority of Filipinos. Indigenous peoples shall likewise include peoples who are regarded as indigenous on account of their descent from the populations which inhabited the country, at the time of conquest or colonization or at the 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 may have been displaced from their traditional domains or who may have resettled outside their ancestral domains;

3.9 Mineral resources - shall refer to any concentration of mineral rocks or rocks with potential economic value;

3.10 PCMPCB - shall refer to the Palawan Cave Management, Protection and Conservation Board;

3.11 PCSD - shall refer to the Palawan Council for Sustainable Development created under Section 16 of Republic Act 7611;

3.12 PCSDS - shall refer to the Palawan Council for Sustainable Development Staff as provided under Section 20 of Republic Act 7611;

3.13 Paleontology - shall refer to the science dealing with the life of past geological periods as known from fossil remains;

3.14 Significant Cave - shall refer to a cave, which contains materials or possesses features that have archaeological, cultural, ecological, historical or scientific value as determined by the PCSD in coordination with the scientific community and the academe;

3.15 Sinkhole - shall refer to a depression in the land surface generally in a limestone region communicating with subterranean passages developed by solution;

3.16 Speleogen - shall refer to relief features on the walls, ceilings and floors of any cave or lava tube which are or part of the surrounding bedrock, including but not limited to anastomoses scallops, meander niches, petromorphs and rock pendants in solution caves and similar features unique to volcanic caves;

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3.17 Speleothem - shall refer to any natural mineral formation or deposit occuring in a cave or lava tube, including but not limited to stalactite, stalagmite, helictite, cave flower, flowstone, drapery, rim stone or formation of clay or mud;

3.18 Vug - shall refer to a small cavity in a vein or in a rock, usually lined with crystals of a different mineral composition from an enclosing rock;

SECTION 4. Implementing Agency - Pursuant to Section 4 of Republic Act No. 9072, the Palawan Council for Sustainable Development (PCSD) shall be the lead implementing agency by virtue of RA 7611 or the Strategic Environmental Plan for Palawan. The PCSD shall coordinate with the following agencies:

4.1 Local Government Units (LGUs) in the management and protection of caves pursuant to Republic Act 7160 (Local Government Code of 1991) and its implementing rules and regulations;

4.2 National Museum (NM) in the management and protection of caves in Palawan assessed with cultural, paleontological and archaeological values pursuant to Republic Act 4846 (An Act Providing for the Protection and Preservation of Philippine Cultural Properties) and its implementing rules and regulations;

4.3 National Historical Institute (NHI) in the management and protection of caves assessed with historical value pursuant to Presidential Decree No. 1505-78 (Amending Presidential Decree No. 26, as amended, by Prohibiting the Unauthorized Modification, Alteration, Repair and Destruction of Original Features of All National Shrines, Monuments, Landmarks and Other Important Historic Edifices); and

4.4 Department of Tourism (DOT) in the promotion of caves classified for ecotourism and in the cave visitor management in accordance with Executive Order No. 111 (Establishing the Guidelines for Ecotourism Development in the Philippines) and Joint DENR-DOT Memorandum Circular No. 98-02 (Guidelines for Ecotourism Development in the Philippines)

SECTION 5. Powers and Functions of the PCSD - The PCSD shall exercise the following powers and functions:

5.1 Conduct provincewide planning, technical assistance to other agencies, monitoring, and evaluation of activities, in the implementation of this Order;

5.2 Enter into a Memorandum of Agreement (MOA) with any local government unit, other government agencies, non-government organization, people's organization, academe and other concerned entities for the conservation, protection, development, and management of caves;

5.3 Coordinate and/or collaborate with concerned government agencies, non-government organizations, people's organization, academe and other concerned agencies in the conduct of cave assessments;

5.4 Tap the cooperation of non-government organizations, people's organization and other stakeholders as active partners in the conservation and protection of caves and cave resources;

5.5 Disseminate information and conduct educational campaign on the need to conserve, protect and manage caves and cave resources, and/or other partner agencies;

5.6 Issue permits for the collection and removal of guano and other cave resources;

5.7 Determine, in consultation with concerned entities, the appropriate bonds and fees for the issuance of permits;

5.8 Call on any government units, bureaus, agencies, state university and/or other instrumentalities of the government for assistance as the need arises in the discharge of its functions; and

5.9 Exercise other powers and perform other functions as may be necessary to implement the provisions of Republic Act No. 9072.

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SECTION 6. Caves within Private Lands - Caves and cave resources are owned by the State. As such, landowners with caves inside their private lands shall secure the necessary permit from the PCSD for the use, collection or removal of any cave resource found therein.

All resource utilization outside caves within private lands, including the harvesting of planted trees, shall be regulated by the PCSD in accordance with existing laws, rules and regulations to preserve the integrity of the cave.

The private landowners may enter into a Tripartite MOA or Memorandum of Understanding (MOU) with the PCSD and the LGU concerned in the conservation, management and protection of caves and cave resources found therein.

SECTION 7. Caves within Ancestral Domain/Land - Consistent with the provisions of Republic Act No. 8371 (Indigenous People's Act) and its implementing rules and regulations, the PCSD shall secure the Free and Prior Informed Consent of the concerned indigenous people in the management and protection of caves and cave resources found within ancestral domains/lands.

The conduct of research and other activities by other agencies or any entity in caves within ancestral domain/lands shall likewise be subject to free and prior informed consent of the concerned indigenous people.

SECTION 8. Caves in other Public Lands - Caves that are not within ancestral domain/land and protected areas shall be managed in coordination with the concerned agencies mentioned in Section 4 of this Order.

SECTION 9. Information concerning the Nature and Location of Significant Caves - Information concerning the nature and specific location of a potentially significant cave shall not be made available to the public within one (1) year after its discovery. During this period, the PCSDS in coordination with the DOT, NM, NHI, concerned LGUs, scientific community and the academe, shall assess the value of the cave. Disclosure of such information may be made prior to the one year period upon a written request to and approval by the PCSD after ascertaining that said disclosure will further the purpose of Republic Act No. 9072 and will not create any substantial risk or harm, theft or destruction on such cave.

The written request shall contain, among others, the following: (a) desription of the geographic site for which the information is sought; (b) explanation of the purpose for which the information is sought; and, (c) assurance or undertaking, satisfactory to the PCSD, that adequate measures are to be taken to protect the confidentiality of such information and to ensure the protection of the cave from destruction and vandalism and unauthorized zoning.

The PCSDS, in coordination with the DOT, NM, and NHI, shall prepare a list of caves assessed and classified, within one (1) year from the issuance of this Order. The list shall be periodically updated.

Prior to the issuance of the list, the PCSD shall determine if the subject cave can be publicly known and to follow suit with the appropriate information materials.

SECTION 10. Palawan Cave Management, Protection and Conservation Program (PCMPCP) - The PCMPCP shall be formulated by the PCSD in coordination with concerned agencies. The Program shall cover all present programs, project, and initiatives related to and involving the management and protection of cave ecosystem and its resources. It shall also include joint undertakings with or in support of other government units and agencies, people's organizations and non-government organizations and international entities and instrumentalities.

The Program shall consist of the following components:

> 10.1 Cave Resource Assessment - inventory and mapping of caves, classification and documentation of the biological, geological, hydrological, paleontological, archaeological and historical resources and other relavant

cave information.

10.2 Resource Management and Utilization - regulation of consumptive and non-consumptive use of caves and cave resources.

10.3 Conservation, Education, and Public Awareness - promote/raise awareness, appreciation and understanding on the importance of and benefits from caves and cave resources and draw out actions for their protection and conservation.

10.4 Human Resource Development - conduct training and workshops to improve the manpower capability in the implementation of cave management and conservation activities.

10.5 Research and Development - development and implementation of research/duties to support cave management and policy formulation.

Each municipality shall create its own Municipal Cave Committee (MCC) to be chaired by its local chief executive or his duly authorized representative. It shall be composed of representatives from the coordinating agencies, academe and non-government organizations, among others.

SECTION 11. Cave Discovery and Classification - Any person or institution that discovers a cave/caves shall report the location to the nearest PCSDS office. The PCSDS shall then plan the appropriate activities to be undertaken or the reported cave.

SECTION 12. Uses of Caves and Cave Resources - Caves may be used for scientific, economic, educational, ecotourism and other purposes based on the assessment and classification of the subject caves. The PCSD shall determine the appropriate use of the cave and the allowable activities in caves. Such activities may be subject to the Environmental Impact Statement (EIS) System and other related rules and regulations, as appropriate.

For the collection of animal derivatives such as but not limited to edible bird's nests and other cave resources, the PCSD shall set the open and close season including, but not limited to the quantity, quality and size limits.

SECTION 13. Permits - Permits for the extraction of edible bird's nest may be issued by the PCSD to concessionaires only upon submission by the applicant of a management plan and the posting of a bond to ensure compliance of the conditions stated in the permit. The PCSD may likewise issue permits to individual nest gatherers, subject to the terms and conditions that the PCSD may impose.

Visitor permits for caves classified for ecotourism shall be issued by the PCSD upon prior clearance from the appropriate tourism office.

The PCSD shall not issue permits for the removal of stalactites and stalagmites or any cave resources when it will adversely affect the value of a significant cave.

SECTION 14. Treasure Hunting - The PCSD in coordination with the Protected Areas and Wildlife Bureau of the Department of Environment and Natural Resources, the DOT, NM, and the NHI shall formulate a policy on treasure hunting in caves within six (6) months from the effectivity of this Order.

SECTION 15. Deputation of Cave Protection Enforcement Officer (CPEO) - The PCSD shall deputize Cave Protection Enforcement Officers from the Barangay Local Government Units, locally based non-government organizations, community organizations, indigenous people and other volunteers who have undergone necessary training for the purpose. Members from the Philippine National Police, the Armed Forces of the Philippines, the National Bureau of Investigation and other law enforcement agencies may be designated as cave protection enforcement officers.

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The deputized cave protection enforcement officers shall have the full authority to seize objects and arrest violators of Republic Act 9072 and this Order, subject to existing laws, rules and regulations on arrest and seizure. Free legal assistance may be extended to CPEO's.

SECTION 16. Administrative Confiscation - The PCSD shall order the seizure and confiscation, in favor of the government, the gathered, collected, removed, possessed or sold cave resources including the conveyances and equipment used in violation of Section 7 of RA 9072 and Section 17 of this Order.

The procedure on the seizure, confiscation and forfeiture of cave resources and all implements used in violation of RA 9072 shall be governed by relevant existing rules and regulations, and the appropriate PCSD Administrative Orders.

SECTION 17. Prohibited Acts - The following shall be considered prohibited acts:

17.1 Knowingly destroying, disturbing, defacing, marring, altering, removing or harming the speleogen or speleothem of any cave or altering the free movement of any animal or plant life in or out of any cave;

17.2 Gathering, collecting, possessing, consuming, selling, bartering, or exchanging or offering for sale without authority any cave resource; and

17.3 Counseling, procuring, soliciting, or employing any other person to violate any provision of this Section.

SECTION 18. Penalties - Any person found guilty of any of the prohibited acts enumerated under Section 17, shall be punished by imprisonment from two (2) years to six (6) years or a fine ranging from Twenty Thousand Pesos (P20,000.00) to Five Hundred Thousand Pesos (P500,000.00) or both, at the discretion of the Court.

Provided, that the person furnishing the capital to accomplish the acts punishable herein shall be punished by imprisonment from six (6) years and one (1) day to eight (8) years or by a fine ranging from Five Hundred Thousand (P500,000.00) to One Million Pesos (P1,000,000.00) or both, at the discretion of the Court.

Provided further, that if the area requires rehabilitation and/or restoration as determined by the Court, the offender shall also be required to restore the same, whenever practical, or compensate for the damage.

Provided finally, that if the offender is a government employee, he or she shall likewise be removed from the Office.

SECTION 19. Fees - Any money collected by the PCSD as permit fees for collection and removal, of cave resources, as a result of the forfeiture of a bond or other security by a permitee who does not comply with the requirements of such permit issued under this Act or by way of fines for violations of this Act shall be remitted to the National Treasury.

The PCSD may establish a Special Trust Fund for the management of caves and cave resources under Republic Act no. 9072.

All fees and charges shall be reviewed and updated periodically.

SECTION 20. Bond - To answer for and guarantee payments for whatever actual damages that may be incurred by the permitee during and after the operation/undertaking, a a bond shall be posted by the applicants, except for those applying for a Gratuitous Permit, as determined by the PCSD.

SECTION 21. Appropriations - The PCSD and concerned agencies shall include in their General Appropriations Act, funds for the implementation of this Order.

SECTION 22. Transitory Provision - All existing contracts, agreements, permits, and other forms of tenurial

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arrangements entered into by concerned agencies/persons shall be respected. Provided, that upon expiration, the authority to enter into said contracts, agreements, permits, and other forms of tenurial arrangements shall rest upon the PCSD pursuant to Section 4 of Republic Act No. 9072.

SECTION 23. Separability Clause - If any provision of this Order is subsequently declared unconstitutional, the remaining provisions shall remain in full force and effect.

SECTION 24. Repealing Clause - All orders, memoranda, circulars, rules and regulations, or parts thereof which are inconsistent with any of the provisions of this Order are hereby repealed and/or amended accordingly.

SECTION 25. Effectivity - This Order shall take effect fifteen (15) days after its publication in two local newspapers of general circulation and the deposit of a copy thereof at the Office of the National Administrative Register at the U.P. Law Center in Quezon City, Manila.

Adopted: 12 Sept. 2003

(SGD.) VICENTE A. SANDOVAL
Chairman, PCSD

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