

NCIP



70th
Excerpts from the Minutes of the 98th PCSD Regular Meeting
North Lounge, House of Representatives, Constitution Hills, Quezon City
24 September 1999

Present:

- | | | |
|---|---|---------------|
| 1. Deputy Speaker Alfredo E. Abueg, Jr.
Palawan rep. (1 st District), House of Representative | - | Chairman |
| 2. Rep. Vicente A. Sandoval
Palawan rep. (2 nd District), House of Representative | - | Vice-Chairman |
| 3. Atty. Joselito C. Alisuag
Executive Director, PCSDS | - | Secretary |
| 4. Hon. Salvador P. Socrates
Provincial Governor | - | Member |
| 5. Hon. Myrna Lacanilao
President, League of Mun. Mayors | - | Member |
| 6. Hon. Edward S. Hagedorn
City Mayor, Puerto Princesa City
represented by Col. Romualdo Velasco | - | Member |
| 7. Kgw. Joel Bito-onon
President, Liga ng mga Barangay | - | Member |
| 8. Maj. Gen. Ponciano S. Millena, WESCOM | - | Member |
| 9. Mr. Abraham Kahlil B. Mitra, Public Sector | - | Member |
| 10. Hon. Ali Montaha Babao, SPCPD | - | Member |
| 11. Usec Evelyn Pantig, DOT
represented by Ms. Cheryl Hulleza | - | Member |
| 12. Atty. Grizelda Mayo-Anda, NGO | - | Member |
| 13. Mr. Rey Rafols, Business Sector | - | Member |

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Absent:

- | | | |
|--|---|--------|
| 1. Hon. Joel T. Reyes
Vice Gov., Sangguniang Panlalawigan | - | Member |
| 2. Usec Ceasar M. Drilon, DA | - | Member |
| 3. Usec Teodoro Pison, DENR | - | Member |
| 4. DDG Isagani B. Valdellon, NEDA | - | Member |

RECEIVED
DATE: 11/15/99
BY: ERMIE M. PANCA-NIBAN

PCSD RESOLUTION NO. 99-147

RESOLUTION ADOPTING THE REVISED GUIDELINES
IN THE IDENTIFICATION AND DELINEATION OF THE
TRIBAL ANCESTRAL ZONE

WHEREAS, Section 22, Article II; Section 5, Article XII and Section 6, Article XIII of the 1987 Constitution provide for the recognition and protection of the rights of the indigenous cultural communities to their ancestral lands and domain to ensure their economic, social and cultural well-being;

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DEPARTMENT OF ANCESTRAL DOMAINS AND TERRITORIES
RELIGIOUS SECTION
DATE: 11/29/99 TIME: 2pm
RECEIVED BY: [Signature]
DOC. NO: 01-147

WHEREAS, Republic Act No. 7611 empowers the Palawan Council for Sustainable Development (PCSD) to govern, implement and give policy direction to the Strategic Environmental Plan (SEP) for Palawan, and to enforce the provisions of this Act and other existing laws, rules and regulations similar to or complementary to this Act;

WHEREAS, Section 11 of Republic Act No. 7611 provides for the recognition of tribal ancestral lands as a main component of the Environmentally Critical Areas Network (ECAN) which calls for the definition of a special kind of zonation for areas traditionally occupied by indigenous communities to fulfill the material and cultural needs of the tribes;

WHEREAS, Department of Environment and Natural Resources Department Administrative Order 2, series of 1993 provided the rules and regulations for the identification, delineation and recognition of ancestral land and domain claims;

WHEREAS, pursuant to R.A. 7611 and DENR DAO No. 2, series of 1993 the PCSD passed on 26 November 1993 Resolution No. 93-38A adopting the Guidelines for the Identification and Delineation of Ancestral Domain and Land Claims in Palawan;

WHEREAS, Administrative Order No.1 series of 1998 of the National Commission on Indigenous Peoples (NCIP) promulgates the Implementing Rules and Regulations which prescribes the procedures and guidelines for the implementation of the Indigenous Peoples Rights Act of 1997 or R.A 8371;

WHEREFORE, on motion of Atty. Grizelda Mayo-Anda, unanimously seconded by the members present, be it:

RESOLVED, as it is hereby **RESOLVED** to adopt, as it is hereby **ADOPTED** the **REVISED GUIDELINES IN THE IDENTIFICATION AND DELINEATION OF TRIBAL ANCESTRAL ZONES** to read as follows:

CHAPTER I POLICY AND OBJECTIVES

SECTION 1. Basic Policy - It is the policy of the PCSD to preserve and maintain the integrity of ancestral domains and ensure recognition of the customs and traditions of the Indigenous Communities of Palawan pursuant to the Constitutional mandate for the recognition and protection of the rights of Indigenous Communities (ICs) and the SEP's provisions on tribal ancestral land.

Moreover, the PCSD recognizes the importance of promoting indigenous ways for the sustainable management of the natural resources such as the ecologically sound traditional practices of the indigenous communities of Palawan.

SECTION 2. Objectives - The objectives of the PCSD in the identification and delineation of tribal ancestral zone are the following:

- a) To declare the tribal ancestral zone under the ECAN;
- b) To protect the rights of the indigenous communities of Palawan over ancestral lands and domains and to preserve their culture;
- c) To pursue the Constitutional mandate for equitable access to natural resources; and
- d) To ensure sustainable development of natural resources within the ancestral lands and domains especially the forests.

CHAPTER II DEFINITION OF TERMS

SECTION 1. Definition of Terms - For purposes of these guidelines, the definitions found in existing laws, administrative issuances and related studies for the following terms are hereby adopted:

a) **Ancestral Domains.** Refer to all areas generally belonging to ICCs/IPs, subject to property rights within ancestral domains already existing and/or vested upon the effectivity of the Guidelines, comprising lands, inland waters, coastal areas, and natural resources therein, held under a claim of ownership, occupied or possessed by ICCs/IPs 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 voluntary dealings entered into by the 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 ICCs/IPs, but from which they traditionally had access to, for their subsistence and traditional activities, particularly the home ranges of ICCs/IPs who are still nomadic and/or shifting cultivators.

b) **Ancestral Lands.** Refer to land, subject to property rights within the ancestral domains already existing and/or vested upon effectivity of these Guidelines, occupied, possessed and utilized by individuals, families and clans who are members of the ICCs/ IPs since time immemorial, by themselves or through their predecessors-in-interest, under claims of individual or traditional group ownership, continuously, to the present except when interrupted by war, *force majeure* or displacement by force, deceit, stealth, or as a consequence of government projects and other voluntary dealings entered into by government and private individuals/corporations, including, but not limited to, residential lots, rice terraces or paddies, private forests, swidden farms and tree lots.

c) **Customary Laws.** Refer to a body of written or unwritten rules, usages, customs and practices traditionally observed, accepted and recognized by respective ICCs/ IPs.

d) **Customs and Practices.** Refer to norms of conduct and patterns of relationships or usages of a community over time accepted and recognized as binding on all members.

e) **Free and Prior Informed Consent.** Shall mean the consensus of all members of the ICCs/IPs to be determined in accordance with their respective customary laws and practices, free from any external manipulation, interference and coercion, and obtained after fully disclosing the intent and scope of an activity, in a language and process understandable to the community.

f) **Indigenous Cultural Communities/ Indigenous Peoples (ICCs/IPs).** Refer to a group of people or homogenous societies identified by self-ascription and ascription by others, who have continuously 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, became historically differentiated from the majority of Filipinos. ICCs/IPs 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 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 may have been displaced from their traditional domains or who may have resettled outside their ancestral domains.

g) **Indigenous People's Organization (IPO).** Refers to a private, non-profit voluntary organization of members of an indigenous community, which is accepted as representative of such community.

h) **Non-Government Organization (NGO).** Refers to a private, non-profit voluntary organization that has been organized primarily for the delivery of various services to the indigenous communities and has an established track record for effectiveness and acceptability in the community where it is serving.

i) **Proclamation of Tribal Ancestral Zone.** Refers to the PCSD Administrative Order declaring an area as tribal ancestral zone as identified and delineated in accordance with R.A. 7611 and its implementing rules and regulations and identifying the tribal group/community occupying the said area on the basis of the proofs submitted to the PCSD through the Palawan Special Committee on Tribal Ancestral Zone (PSCTAZ).

j) **Time Immemorial.** Refers to a period of time where as far back as memory can go, a certain indigenous community is one to have occupied, possessed, and utilized a definite territory devolved to them by operation of customary law or inherited from their ancestors in accordance with their customs and traditions.

k) **Tribal Ancestral Zone.** Refers to areas both land and sea that are traditionally occupied by ICCs/IPs.

CHAPTER III COVERAGE OF TRIBAL ANCESTRAL ZONE

SECTION 1. Composition of Tribal Ancestral Zone - Tribal ancestral zone refers to areas comprising both land and sea that are traditionally occupied by the ICCs/IPs.

CHAPTER IV CREATION OF A SPECIAL COMMITTEE ON TRIBAL ANCESTRAL ZONE

SECTION 1. Name and Composition. The Palawan Council for Sustainable Development (PCSD) shall create a special committee composed of the PCSD as Chair, DENR-PENRO as Vice-Chair and the NCIP-Provincial Office, the Environment and Natural Resources Office-Province, the Provincial Planning and Development Office, Provincial League of Municipalities, DAR-Provincial Agrarian Reform Office, LGU concerned, NGO representative, Indigenous Peoples Organization representative, as members. The NGO and IPO representatives shall be appointed by the PCSD upon the recommendation of the NGO representative to the Council. The committee shall be called as the Palawan Special Committee on Tribal Ancestral Zone, hereinafter referred to as PSCTAZ.

SECTION 2. Powers and Functions. The PSCTAZ shall serve as the coordinating body of the PCSD on matters pertaining to the identification and delineation of the tribal ancestral zone in the province of Palawan subject to the existing laws, rules and regulations pertaining to ancestral domain claims.

It shall accept, evaluate, validate and process all the applications for a Proclamation of Tribal Ancestral Zone (PTAZ) and recommend the same for approval or denial by PCSD depending on the legitimacy and authenticity of the claims.

The PCSD, as Chair, hereby delegates to the PCSDS the responsibility to coordinate with the members of the PSCTAZ.

SECTION 3. Structure and Operation. For the purpose of these Guidelines, the PSCTAZ, at its option and as far as practicable, may create mechanisms to facilitate the delineation process such as the formation of sub-committees which may include, among others, Information and Education Committee, Survey and Delineation Committee and Validation Committee. The membership of each sub-committee shall be chosen from among the PSCTAZ members.

CHAPTER V IDENTIFICATION, DELINEATION AND DECLARATION OF TRIBAL ANCESTRAL ZONE

SECTION 1. Information Dissemination - Upon effectivity of these guidelines, the PCSDS shall coordinate with the members of the PSCTAZ in conducting an information campaign on the Revised Guidelines for the Identification and Delineation of Tribal Ancestral Zone. The information campaign shall include meetings with leaders of indigenous communities, leaders of non-government and indigenous people's organizations, and local government officials.

SECTION 2. Identification of Indigenous Communities - After the initial stage of the information campaign, the PCSDS shall coordinate with the NCIP-Provincial Office, DENR-PENRO/CENRO appropriate NGOs and IPOs in identifying and preparing an official list of the indigenous communities found in the province of Palawan, which shall serve as basis for identifying ancestral domain/land claims in the area.

SECTION 3. Identification of Boundaries - After the formal identification of ICs in the province, the PCSDS shall work together with the members of PSCTAZ in conducting meetings with the respective traditional councils and/or elders of each indigenous community within the province in order to make a preliminary identification of the natural boundaries which shall be traced upon a topographic map of the province. Concerned representatives from the LGUs, DENR-PENRO/CENRO, NGOs, IPOs and NCIP-Provincial Office shall be the participants of these meetings.

SECTION 4. Publication of Ancestral Domain Claims. The PSCTAZ shall, upon establishment of ancestral domain claims in accordance with the preceding section, cause the publication of a list of such claims in at least two newspapers of provincial circulation and the posting of the same in at least two public places nearest the location of the claims to allow other claimants to file opposition thereto within 15 days from date of such publication. Provided, that in areas where no newspaper exists, the latter shall be deemed sufficient.

SECTION 5. Submission of Proofs of Ancestral Domain Claims. Fifteen (15) days after such publication, the indigenous community concerned shall submit documentary proofs supportive of its claim over the identified territory. The PSCTAZ

shall acknowledge receipt thereof and shall compare the same with photocopies of such documents and if found to be faithful reproductions thereof, shall authenticate and accept them and return the originals to the claimants. Proof of such claim shall include the testimony of elders or community under oath and other documents directly or indirectly attesting to the possession or occupation of the area since time immemorial by such indigenous community in the concept of owners, which shall be any of the following:

- a) Written accounts of the indigenous community's customs and traditions;
- b) Written accounts of the indigenous community's political structure and institutions;
- c) Pictures showing long term occupation such as those of old improvements, burial grounds, sacred places and old villages;
- d) Historical accounts including pacts and agreements concerning boundaries entered into by the ICC's /IP's concerned with other ICC's/IP's;
- e) Survey plans and sketch maps;
- f) Anthropological data;
- g) Genealogical surveys;
- h) Pictures and descriptive histories of traditional communal forest and hunting grounds;
- i) Pictures and descriptive histories of traditional landmarks such as mountains, rivers, creeks, ridges, hills, terraces and the like; and
- j) Write-ups of names and places derived from the native dialect of the community.

SECTION 6. Ocular Inspection and Verification - Within thirty (30) days from receipt of the documentary proofs of ancestral domain claim, the PSCTAZ concerned shall conduct an ocular inspection of the territory claimed in order to establish the veracity of the proofs and shall prepare a report of its findings. It shall, however, notify the applicant community through its Council of Elders/Leaders, adjoining communities through their elders or leaders, and other affected entities, five (5) days in advance, that an ocular inspection of the ancestral domain claim of applicant community shall be conducted on such a date and time and that their presence is required especially in the verification of the metes and bounds thereof;

SECTION 7. Evaluation and Appreciation of Proof - Within fifteen (15) days after the completion of the inspection and verification process, the PSCTAZ shall favorably act upon any claim that is deemed to be sufficiently proved. However, when the proof submitted is deemed insufficient, the PSCTAZ shall require the submission of additional evidence.

The PSCTAZ shall reject any claim that is deemed patently false or fraudulent after inspection and verification. Provided, that in case of rejection, the PSCTAZ shall give the applicant notice thereof, copy furnished all concerned, containing the grounds therefor. The ICC/IP claimant may bring the denial on appeal with the PCSD on the grounds of arbitrary and/or erroneous appreciation of facts.

SECTION 8. Boundary Conflict Resolution - In cases where there are conflicting claims among indigenous communities or clans on the boundaries of ancestral domain claims, the PSCTAZ shall cause the contending parties to meet and assist them in coming up with a preliminary resolution of the conflict in order to pave the way for the delineation, without prejudice to the adjudication of the conflict in accordance with customary practices acceptable to both parties. If no settlement is reached, the PSCTAZ shall come up with a sound and favorable decision on the conflicting claim with the

concurrence of the PCSD.

SECTION 9. Preparation of Survey Plans - Within sixty (60) days from completion of the resolution of ancestral domain claims, the PSCTAZ shall prepare a consolidated perimeter survey plan of claims within the entire province. The perimeter survey shall be conducted through the use of aerial survey and mapping technology using the Global Positioning System (GPS), or in case this is not possible, by traditional ground survey method.

Representatives of indigenous community/clan claimants shall participate in the survey process by being on hand to identify specific landmarks indicating the exact boundaries of their ancestral domain or land claims.

SECTION 10. Transmittal of Documents and Record of Surveys - Within fifteen (15) days from the resolution of all ancestral domain claims in the province, the PSCTAZ shall make a report of the same and shall submit copies of the resolutions and the provincial survey plan to the PCSD for evaluation and approval.

In case the PCSD shall refer the application back to PSCTAZ for further review or evaluation, the latter has thirty (30) working days to process the same.

Upon approval, all such surveys will be marked in the control map of the PCSD Staff, NCIP-Provincial Office, ENRO-Province and DENR-PENRO and the concerned LGU(s) as tribal ancestral zone under the ECAN.

SECTION 11. Proclamation of Tribal Ancestral Zone - Upon recommendation of the PSCTAZ, the PCSD shall issue a PTAZ classifying an area as tribal ancestral zone as defined in section 11 of R.A. 7611 and identifying the tribal group/community occupying the said area, copy furnished the DENR, LGU and NCIP under which the tribal ancestral zone is located.

The issuance of a PTAZ will not prejudice all rights vested in the indigenous community by a Presidential or Legislative Proclamation of a Civil or patrimonial reserve or by existing laws, rules and regulations.

SECTION 12. Review and Validation of Prior Delineation of Ancestral Domains - For the purpose of these Guidelines, the PSCTAZ shall review all pending claims at the DENR and may pursue the delineation process depending on the current status of ancestral domain claims in the province. ICC's/IP's whose ancestral domains have been satisfactorily delineated pursuant to DENR Administrative Order No. 2, series of 1993, may apply for the issuance of PTAZ over the area without going through the process prescribed in this Guidelines. Such application shall be made through a Resolution or filing of application at the PSCTAZ. The PSCTAZ shall then immediately endorse such Resolution to the PCSD for the automatic issuance of the PCSD Proclamation.

SECTION 13. Implementation of Government Programs Within the Ancestral Domain - All programs under the control of the PCSD and other government agencies shall not be implemented within any tribal ancestral land unless it is within the detailed zoning plan which shall be developed in accordance with Chapter VII of these Guidelines and a written consent of the indigenous cultural community signed in its behalf by a majority of its recognized leaders has been sought. Should the community give its free and prior informed consent, it shall be given ample participation in the planning, implementation and maintenance of the program.

SECTION 14. Safeguards Against Encroachment - The tribal ancestral land over which the tribal group/community occupying the area has been identified shall be placed under the management of such group. Accordingly, a person who is not a *bonafide* resident of the area or who does not belong to the tribal group/community occupying the area shall seek the collective free and prior informed consent in writing of tribal group/community before occupying the area or exploiting its resources.

CHAPTER VI MANAGEMENT AND DEVELOPMENT OF TRIBAL ANCESTRAL ZONE

Section 1. Management of the Tribal Ancestral Zone. The tribal ancestral lands shall be treated in the same graded system of control and protection as in the terrestrial component and coastal/marine zone of the ECAN except for stronger emphasis in cultural considerations. As such, tribal ancestral lands which have been officially proclaimed by the PCSD through the issuance of the PTAZ shall be subjected to the provisions of PCSD Resolution No. 94-44 as amended by Resolution No. 99-144 adopting the Guidelines in Implementing the Environmentally Critical Areas Network (ECAN), the main strategy of the Strategic Environmental Plan (SEP) for Palawan. Provided, however, that the material and cultural needs of the tribal communities concerned are fulfilled; Provided further that the tribal communities will be allowed minimal and soft impact gathering of forest species for ceremonial and medicinal purposes in the core zone.

The rights and responsibilities of the ICCs/IPs over the area shall be determined by themselves pursuant to their traditional systems and beliefs, subject to the limitations of the law.

Section 2. Detailed Zoning Plan for Tribal Ancestral Zones. The tribal group/community concerned with assistance from the PSCTAZ shall develop a detailed zoning plan of the area covered by the PTAZ taking into consideration PCSD Resolution Nos. 94-44 as amended by 99-144 but with particular emphasis on the traditional uses of the area. Said plan shall likewise identify the appropriate management, protection and utilization schemes that shall be adopted and shall take into consideration the following issues:

- a) indigenous community participation in the protection, conservation, development and exploitation of natural resources in the area;
- b) protection and maintenance of the indigenous community rights over livelihood sources;
- c) provision of supplemental source of livelihood;
- d) encroachment of the ancestral zone by outsiders;
- e) treatment and participation of non-ICC members inside the tribal ancestral zones;
- f) prevention of degradation of the ancestral zone and maintenance of ecological balance therein;
- g) resolution of overlapping claims and boundary conflicts;
- h) maintenance of the community's indigenous socio-cultural and spiritual integrity;
- i) rehabilitation of denuded forest areas;
- j) provision of needed technical and financial assistance;
- k) inter-agency participation;
- l) census of ICC population inside the tribal ancestral, and
- m) other basic management systems including the sharing of benefits and

responsibilities among members of the concerned ICC/IP community.

Section 3. Approval of the Detailed Zoning Plan. Upon recommendation by PSCTAZ the plan shall be submitted to PCSD for approval.

CHAPTER VII PROJECT IMPLEMENTATION AND MANAGEMENT

SECTION 1. Major Responsibility Areas – The PSCTAZ shall report to the PCSD all matters relating to the management and implementation of the project, with the technical assistance of the PCSD Staff and LGU(s) and provincial government agencies.

SECTION 2. Level of Priority – This project shall be accorded priority status as part of the Environmentally Critical Areas Network (ECAN) strategy.

SECTION 3. Sources of Funds – The implementation of the project shall be funded from available sources within the PCSD and LGU(s) concerned and from other agencies or entities, public or private, who may be willing to contribute to this endeavor.

CHAPTER VIII GENERAL PROVISIONS

SECTION 1. Distinct and Special Treatment of Ancestral Lands and Domains – Ancestral domain and land claims shall be treated as a special kind of zone under the Environmentally Critical Areas Network (ECAN) strategy of the SEP. Once an area is identified and delineated as tribal ancestral zone, the same shall not be classified as a terrestrial or coastal/marine zone, or if previously identified as part of existing territorial or coastal/marine zones, the same shall cease to be part thereof.

SECTION 2. National Interest – Ancestral domain and land claims or portions thereof, which are found to be necessary for critical watershed, particularly for domestic water use, wildlife sanctuaries, wilderness, forest cover, or reforestation, as determined by appropriate government agencies with the full participation of the indigenous communities concerned shall be maintained, managed, protected from encroachment and developed for such purposes. The ICs within the tribal ancestral zone shall be given the responsibility to maintain, develop, protect and conserve said areas with the assistance of concerned government agencies.

Should the ICs decide to transfer the responsibility over these areas, said decision must be made in the writing to be signed by a majority of their acknowledged leaders. The consent of the ICs should be arrived at in accordance with customary laws, without prejudice to the basic requirements of existing laws on free and prior informed consent. The transfer shall be temporary and shall ultimately revert to the ICs in accordance with the program for technology transfer; provided further, that no IC shall be displaced or relocated for the purposes enumerated under this section without their consent. The claimants whose claims or portions thereof fall within the above-mentioned environmentally critical areas shall under no circumstance be allowed to expand beyond what they actually occupy.

SECTION 3. Resolution of Conflicts – Conflicts arising from the delineation of the tribal ancestral zone shall be resolved in accordance with the customary laws of the contending parties. In default of such customary laws, the PSCTAZ shall endorse the case to the Barangay Lupon concerned, in the case of ancestral land claim, for amicable settlement. If this is not possible, the PSCTAZ shall

receive evidence from both sides of the conflict, prepare a report thereof including its recommendations and refer the same to the PCSD for resolution.

SECTION 4. Effectivity – These Guidelines shall take effect immediately.

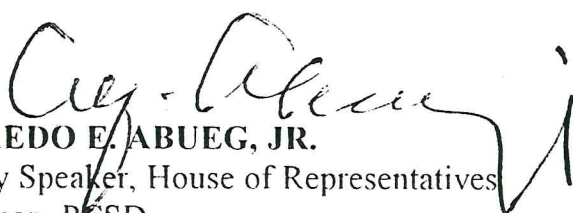
RESOLVED FINALLY, that copy of this resolution be furnished the Committee on Cultural Community of the House of Representatives, Philippine Congress and the National Commission on Indigenous Peoples.

APPROVED AND ADOPTED this 24th day of September 1999 in Quezon City.

I hereby certify to the correctness and accuracy of the above-quoted resolution.


ATTY. JOSELITO C. ALISUAG
Secretary

Approved:


ALFREDO E. ABUEG, JR.
Deputy Speaker, House of Representatives
Chairman, PCSD

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