

Thirteenth Congress of the)
Republic of the Philippines)
First Regular Session)

5 JUN -8 P4:55

SENATE

2051

RECEIVED BY: _____

Senate Bill No. _____

Introduced by SENATOR COMPAÑERA PIA S. CAYETANO

EXPLANATORY NOTE

This bill seeks to declare to provide for the development of the BURIAS and TINAYTAY REEFS in San Isidro, Davao Oriental as Marine Reserve and Sanctuary respectively.

Burias and Tinaytay Reefs were once a haven of unscrupulous fisherman, practicing illegal fishing activities such as dynamite fishing, fish poisoning, aerial gathering, etc. these activities have greatly affected the livelihood of the fishing communities along the area. Local folks have expressed their strong support for the proposed establishment of the subject fish sanctuary were manifested during the assembly meetings and consultations.

The declining yield of fisheries in the Davao Gulf and adjacent areas and the rapid increase in population in coastal communities are threats of possible depletion of the resources, hence there is an urgent need to establish a fish sanctuary that will provide a sanctum fish lings to propagate and grow undisturbed.

The proposed site is large enough to function as an ecological unit. It has an area of more than 50 hectares that is significant to affect an increase in fish production and to ensure continuity of the ecological linkages and processes.

In view of the above considerations, support and early approval of this bill is earnestly sought.

Pia S. Cayetano
SENATOR COMPAÑERA PIA S. CAYETANO

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Senate Bill No. _____

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AN ACT

DECLARING A PORTION OF THE SAN ISIDRO COASTAL WATERS AS PROTECTED AREA AND IT PERIPHERAL AREAS AS BUFFER ZONES TO BE KNOWN AS THE SAN ISIDRO PROTECTED SEASCAPE 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 “San Isidro Protected
2 Seascape Act of 2005.”

3 SEC. 2. *Declaration of Policy.* – Cognizant of the profound impact of man’s activities
4 on all components of the natural environment particularly the effect of increasing population,
5 resource exploitation and industrial advancement and recognizing the critical importance of
6 protecting and maintaining the natural biological and physical diversities of the environment
7 notably on areas with biologically unique features to sustain human life and development as well
8 as plant and animal life, it is hereby declared the policy of the State to provide that the
9 management, protection, sustainable development, and rehabilitation of protected areas shall be
10 undertaken primarily to ensure the conservation of biological diversity and that the use and
11 enjoyment of protected areas must be consistent with that principle.

12 SEC. 3. *Scope.* – Certain parcels of land and water situated in the Municipality of San
13 Isidro, Province of Davao Oriental, Island of Mindanao, are hereby declared as protected areas
14 and its immediate peripheral areas as buffer zone under the category of protected seascape to be
15 known as the San Isidro Protected Seascape and shall become part of the National Integrated
16 Ares System (NIPAS) subject to private rights as provided for in this Act. The boundaries of the
17 San Isidro Protected Seascape, hereinafter referred to as the Protected Area (PA), shall be as
18 follows:

19 Bounded on the East by the mainland Municipality of San Isidro, from the south of
20 Cuabo and Sumlog Rivers to the San Isidro-Governor Generoso Municipal Boundary
21 Monument;

22 On the South, West and North directions by portion of the Davao Gulf. Beginning a point
23 marked “1” on the map and on the ground being at the south bank of Sumlog and Cuabo Rivers.

1 Thence following the shoreline generally in Southeasterly and Southwesterly
2 direction of about 4, 500.00 meters straight distance to corner 2;
3 Thence following the shoreline generally in Northeasterly and Southwesterly
4 direction of about 1, 100.00 meters straight distance to corner 3;
5 Thence following the shoreline generally in Southeasterly direction of about 5,
6 200.00 meters straight to distance to corner 4;
7 Thence following the shoreline generally in Southeasterly direction of about 2,
8 200.00 meters straight distance to corner 5;
9 Thence following the shoreline generally in Southeasterly direction of about 2,
10 200.00 meters straight distance to corner 6;
11 Thence following the shoreline generally in Southeasterly direction of about
12 600.00 meters straight distance to corner 7;
13 Thence following the shoreline generally in Southwesterly direction of about 1,
14 050.00 meters straight distance to corner 8;
15 Thence following the shoreline generally in Southwesterly direction of about 2,
16 400.00 meters straight distance to corner 9;
17 Thence following the shoreline generally in Southerly direction of about 500.00
18 meters straight distance to corner 10;
19 Thence following the shoreline generally in Southerly direction of about 900.00
20 meters straight distance to corner 11;
21 Thence following the shoreline generally in Southeasterly direction of about
22 650.00 meters straight distance to corner 12;
23 Thence Due West; 1, 000.00 meters to corner 13;
24 Thence Due West; 1, 000.00 meters to corner 14;
25 Thence Due West; 1, 000.00 meters to corner 15;
26 Thence Due West; 1, 000.00 meters to corner 16;
27 Thence Due West; 1, 000.00 meters to corner 17;
28 Thence Due West; 1, 000.00 meters to corner 18;
29 Thence Due West; 1, 000.00 meters to corner 19;
30 Thence Due West; 1, 000.00 meters to corner 20;
31 Thence Due West; 1, 000.00 meters to corner 21;
32 Thence Due West; 1, 000.00 meters to corner 22;
33 Thence Due West; 1, 000.00 meters to corner 23;
34 Thence Due West; 1, 000.00 meters to corner 24;
35 Thence Due West; 1, 000.00 meters to corner 25;
36 Thence Due West; 1, 000.00 meters to corner 26;

1 Thence Due West; 1, 000.00 meters to corner 27;
2 Thence N. 10° 00' E., 1, 000.00 meters to corner 28;
3 Thence N. 10° 00' E., 1, 000.00 meters to corner 29;
4 Thence N. 10° 00' E., 1, 000.00 meters to corner 30;
5 Thence N. 10° 00' E., 1, 000.00 meters to corner 31;
6 Thence N. 10° 00' E., 1, 000.00 meters to corner 32;
7 Thence N. 10° 00' E., 1, 000.00 meters to corner 33;
8 Thence N. 10° 00' E., 1, 000.00 meters to corner 34;
9 Thence N. 10° 00' E., 800,000 meters to corner 35;
10 Thence N. 45° 00' E., 900,000 meters to corner 36;
11 Thence N. 45° 00' E., 1, 000,000 meters to corner 37;
12 Thence N. 45° 00' E., 1, 000,000 meters to corner 38;
13 Thence N. 45° 00' E., 1, 000,000 meters to corner 39;
14 Thence N. 45° 00' E., 1, 000,000 meters to corner 40;
15 Thence N. 45° 00' E., 1, 000,000 meters to corner 41
16 Thence N. 45° 00' E., 1, 000,000 meters to corner 42;
17 Thence N. 45° 00' E., 1, 000,000 meters to corner 43;
18 Thence N. 45° 00' E., 1, 000,000 meters to corner 44;
19 Thence N. 45° 00' E., 1, 000,000 meters to corner 45;
20 Thence N. 45° 00' E., 1, 000,000 meters to corner 46;
21 Thence N. 45° 00' E., 1, 000,000 meters to corner 47;
22 Thence N. 45° 00' E., 1, 000,000 meters to corner 48;
23 Thence N. 45° 00' E., 1, 000,000 meters to corner 49;
24 Thence N. 45° 00' E., 1, 000,000 meters to corner 50;

25 containing an area of Seventeen thousand nine hundred seventy (17, 970) hectares more or less.

26 **SEC. 4. Definition of Terms.** – For purposes of this Act, the following terms shall mean:

27 “*National Integrated Protected Area System (NIPAS)*” refers to all designated protected
28 areas so classified to ensure the maintenance of essential ecological processes and life support
29 systems therein, to preserve genetic diversity, to ensure sustainable use of resources found
30 therein, and to maintain their natural conditions to the greatest extent possible;

31 “*Protected Area*” refers to identified positions of land and water set aside by reasons of
32 their physical and biological diversity and protected against destructive human exploitation;

33 “*Buffer Zone*” are areas immediately adjacent to and outside the boundaries of designated
34 protected areas that need special development control in order to avoid or minimize harm to the
35 latter;

1 “*Indigenous Cultural Community*” refers to a groups of people sharing common bonds
2 language, customs, and tradition and other distinct cultural traits, and who have since time
3 immemorial, occupied, possessed and utilized a territory;

4 “*Natural Park*” is a relatively large area not materially altered by human activity, where
5 extractive resource uses are not allowed, and maintained to protect outstanding natural and
6 scenic uses of national or international significance for scientific, educational and recreational
7 use;

8 “*Tenured Migrants*” are occupants within the protected area which have actually and
9 continuously occupied such area for five (5) years before the designation of the same as
10 protected area and are solely dependent therein for subsistence. *Tenured migrants shall be treated*
11 *individually and assessed or based on household’s head of family with a minimum of three*
12 *legitimate dependents.*

13 “*Biodiversity*” refers to the variety of life in all its forms found on earth;

14 “*Protected Area Management Board (PAMB)*” refers to a multi-sectoral body tasked in
15 planning for the appropriate management strategy to ensure resource protection and in the
16 general administration of the protected area.

17 “*Private Rights*” as used in this Act, shall mean rights of individual persons to ownership
18 under existing laws and, in the case of indigenous cultural communities, to rights of possession
19 since time immemorial, which possession may include places of abode and worship, burial
20 grounds, and well-defined territories.

21 **SEC. 5. *Management Plan.*** – A management plan and a management manual consistent
22 with the General Management Planning Strategy shall be prepared by the Department of
23 Environment and Natural Resources (DENR) in coordination with the PAMB, concerned Local
24 Government Units (LGUs) and other sectors affected to serve as basis for the protection and
25 conservation of the biodiversity of the PA for sustainable development.

26 The management plan shall be approved by the PAMB and certified by the DENR
27 Secretary.

28 **SEC. 6. *Administrative and Management.*** – The PA shall be under the administrative
29 jurisdiction of the DENR through the PAMB as constituted pursuant to Republic Act No. 7586
30 and its implementing rules and regulations.

31 The PA is hereby placed under the following institutional arrangement;

32 **A. Department of Environment and Natural Resources.** The DENR Secretary shall
33 have supervision on the management of San Isidro Protected Seascape and is empowered to
34 perform any and all of the following acts:

35 a) Cause the boundary demarcation of the PA;

36 b) Conduct studies on various characteristics, features, and condition of the PA;

1 c) Adopt and enforce land-use scheme and zoning plan in adjoining areas that may
2 threaten the ecological balance in the PA;

3 d) Certify that the PA Management Plan conforms to all national rules and regulations on
4 protected area management, and in case objections, to communicate objections to the PAMB
5 within 60 days upon receipt thereof, otherwise the same is considered approved;

6 e) Coordinate with other government agencies, academic institutions, etc., for
7 collaborative programs, projects, and activities;

8 Submit to the Office of the President and to Congress the Annual Report of the PA;

9 g) Formulate the Implementing Rules and Regulations necessary to carry out the
10 provisions of this Act.

11 **B. The Protected Area Management Board (PAMB).** Specifically, the PAMB shall:

12 1) Review, approve, and adopt a Management Plan for the PA;

13 2) Review the deputation of individuals/groups to augment parks protection personnel
14 and thereafter endorse to the Regional Executive Director for approval;

15 3) Fix and impose administrative fees for the use of the PA and fines for violations of
16 prohibited acts in the PA;

17 4) Approve contracts and agreements consistent with the purpose of this Act, except for
18 international contracts and agreements;

19 5) Accept donations, grants in the form of contributions, and endowments;

20 6) Review and approve the work and financial plan for the PA:

21 7) Coordinate with other government agencies, academic institutions, and private
22 organizations involved in the management, development, and conservation of the PA;

23 8) Submit an annual report to the DENR Secretary:

24 9) Delegate authority to the PAMB Executive Committee;

25 10) Prepare or cause the listing of protected flora and fauna;

26 11) Permit, control, and regulate the following within the PA;

27 a. Infrastructures;

28 b. Public Utilities;

29 c. Occupancy of appropriate management zone;

30 d. Dumping of waste;

31 e. Use of motorized equipment;

32 f. Business enterprise; and

33 g. Other use of the PA such as mountain climbing, research/study, and
34 recreational activities;

35 12) Promulgate rules and policies for the conduct of its business; and

36 13) File suit against entities whose operations have determined/negative effect on the PA.

37 **C. The DENR Regional Executive Director (RED) for Region XI**

1 1) Acts as chairman of the PAMB and signs/approves contracts and agreements
2 consistent with this Act except international contracts and agreements;

3 2) Approves the deputation of field officers.

4 **D. The Protected Area Superintendent Office (PASO).** There is hereby created a
5 Protected Area Superintendent's Office that shall be supported by a sufficient number of
6 personnel who shall be performing day-to-day management, protection and administration of the
7 PA. The head of office shall be the Chief Operation Officer of the PA and shall be accountable to
8 the RED and the PAMB.

9 **SEC. 7. Existing Facilities within the Protected Area.** – Existing facilities within the
10 PA prior to the enactment of the NIPAS Act shall be subject to inventory and assessment by the
11 PAMB using the criteria to be formulated by the PAMB considering its impact on the PA,
12 biodiversity consideration, public interest against local interest, and national significance of said
13 facilities.

14 The PAMB shall monitor the operations of said facilities and recommend appropriate
15 actions/measures if said facilities are found not consistent with the purpose of this Act. The
16 PAMB shall also impose royalties or administrative fees, which shall be determined upon
17 negotiations with concerned proponent/s.

18 **SEC. 8. Ancestral Lands and Rights over them.** – Ancestral lands and customary rights
19 and interest arising therefrom shall be accorded due recognition. The DENR through the
20 Protected Areas and Wildlife Bureau (PAWB) shall determine the appropriate procedure for the
21 recognition of ancestral domain claim of the members of the indigenous cultural committees
22 within protected areas: *Provided*, That the DENR shall not evict indigenous communities from
23 their present occupancy nor resettle them to another area without their consent: *Provided*,
24 *however*, That all rules and regulations whether adversely affecting said communities or not shall
25 be subject to notice and hearing to be participated in by members of the concerned indigenous
26 community.

27 For proper coordination with the DENR, a Certificate of Ancestral Domain Claim
28 (CADC) Committee shall be established which shall include a representative from the Special
29 Provincial Task Force for Ancestral Domain (PSTFAD), and with adequate representation from
30 indigenous cultural communities and their organizations.

31 The DENR Secretary shall approve and issue the CADC upon recommendation of the
32 PA-CADC Committee through the PAMB.

33 **SEC. 9. Tenured Migrants.** – Tenured migrants shall be eligible to become stewards of
34 portions of land within zones that may be designated by DENR and from which tenured migrants
35 may derive subsistence. The DENR shall develop an appropriate tenurial instrument for these
36 inhabitants within the PA.

1 Tenured migrants shall be considered and treated individually or per household on the
2 basis of head of families with legal dependents.

3 Tenured migrants occupying portions of ancestral domain shall be treated separately. The
4 PAMB shall develop appropriate mechanisms to resolve this dispute.

5 Absentee/transient migrants in the PA who do not qualify as tenured migrants shall not be
6 eligible to become stewards of portions of land within multiple-use and sustainable-use zones.

7 **SEC. 10. *Other Activities within the PA.*** – Proposals for the construction of dams,
8 irrigation canals, transmission lines, access roads/trails and buildings which are outside the scope
9 of the management plan for the PA shall, upon the permission of the PAMB, be subject to an
10 environmental impact assessment as required by law before they are adopted, and the results
11 thereof shall be taken into consideration in the decision-making process. No actual
12 implementation of such activities shall be allowed without the required Environmental
13 Compliance Certificate (ECC) under the Philippine Environmental Assessment (EIA) System. In
14 instances where such activities are allowed to be undertaken, the proponent shall plan and carry
15 them out in such manner as will minimize any adverse effects and take preventive and remedial
16 action when appropriate. The proponent shall be liable for any damage due to lack of action of
17 indiscretion.

18 The PAMB shall determine which activities for the essential use of the communities shall
19 be allowable, consistent with the management plan, and based on biodiversity criteria and
20 management zoning plan.

21 Area under the management of other agencies of the government shall be integrated in
22 the overall management plan of the PA.

23 **SEC.11. *Local Government Units (LGUs).*** – LGUs with territory inside the PA shall be
24 found to follow the management plan and adopt it once approved. An LGU cannot just pass
25 ordinances to amend the management plan nor can the management plan be overturned by an
26 ordinance.

27 Segregation of portions of the PA for LGU use, such as for tourism and industrial estate,
28 shall be assessed based on biodiversity criteria and consistent with the management plan.

29 Any development/project proposal of the LGU within the PA shall, prior to its
30 implementation, be reviewed, evaluated, and approved by the PAMB.

31 **SEC.12. *Income Derived from the PA.*** – There is hereby established a trust fund to be
32 known as the Integrated Protected Areas Fund (IPAF) for purposes of financing projects of the
33 system. All incomes generated from the operation of the system or management of wild flora and
34 fauna in the PA shall accrue to the Fund. These incomes shall be derived from: fees from
35 permitted sale and export of flora and fauna and other resources from the PA; proceeds from

1 lease of multiple-used areas; contributions from industries and facilities directly benefiting from
2 the PA; and such other fees and incomes derived from the operation of the PA.

3 The Fund maybe augmented by grants, donations, endowments from various sources,
4 domestic or foreign for purposes related to their functions: *Provided*, That the Fund shall be
5 deposited as a special account in the National Treasury and disbursement there from shall be
6 made solely for the protection, maintenance, administration and management of the System, and
7 duly approved projects endorsed by the PAMB in accordance with existing accounting and
8 budgeting rules and regulations.

9 All donations and grants, endowments shall be exempted from donor's taxes and all other
10 taxes, charges and fees imposed by the government.

11 **SEC. 13. *Special Prosecutors.*** – The Department of Justice shall designate special
12 prosecutors to prosecute violations of laws and rules and regulations in the PA:

13 **SEC. 14. *Prohibited Acts.*** The following are prohibited within the PA:

14 1) Cutting/gathering and/or collecting timber or other forest products without
15 license.- Any person who shall cut, gather, collect, or remove timber or other forest
16 products from any forest land within the PA without any authority under a license or
17 permit, or possess timber or other forest products without the legal documents as
18 required under existing forestry laws and regulations, shall be guilty of Qualified
19 Theft as defined and punishable under Articles 309 and 310 of the Revised Penal
20 Code.

21 2) Squatting – Any person, who with the use of force, intimidation or threat, or
22 taking advantage of the absence of tolerance of the landowner/claimant, succeeds in
23 occupying or possessing the property/claim of the later, against his will for
24 residential, commercial or any other purposes, shall be punished by imprisonment
25 ranging from six (6) months to one (1) year or a fine of not less than One thousand
26 pesos (P1,000.00) nor more than Five thousand pesos (P5,000.00) at the discretion of
27 the Court, with subsidiary imprisonment in case of insolvency.

28 If the offender is a corporation or association, the maximum penalty of five (5)
29 years and the fine of Five thousand pesos (P5,000.00) shall be imposed upon the
30 president, director, manager, or managing partners thereof.

31 3) Unlawful occupation or destruction within the PA. – Any person who enters and
32 occupies or possesses or makes kaingin for his own private use or for others any land
33 within the PA without authority or permit from the PAMB or in any manner destroys
34 such land or part thereof or causes any damage to the timber stand and other forest
35 products and forest growth found therein shall be punishable by the penalties
36 provided for in Section 15 hereof.

1 4) Except as may be allowed by the nature of their categories and pursuant to the rules
2 and regulations governing the same, the following acts or likewise prohibited within
3 the PA and shall subject those found guilty by the penalties provided in Section 15
4 hereof:

- 5 a) Hunting, destroying, disturbing, or mere possession of any plants or animals
6 or products derived therefrom without a permit from concern authorities;
7 b) Dumping of any waste products detrimental to the PA, or to the plants and
8 animals or human inhabitants therein;
9 c) Using any motorized equipments with permit from PAMB;
10 d) Mutilating, defacing or destroying objects of natural beauty or objects of
11 interest to cultural communities;
12 e) Damaging and leaving roads and trails in a damaged condition;
13 f) Mineral exploration, and survey of energy resources;
14 g) Constructing or maintaining any kind of structure, fence or enclosures, and
15 conducting any business enterprise without a permit;
16 h) Leaving in exposed or unsanitary conditions refused or debris, or depositing
17 such in the grounds or in bodies of water;
18 i) Altering, removing, destroying or defacing boundary markers monuments or
19 interpretative signs; and
20 j) Entry without a permit of the following:
21 1. Mountain Climbers;
22 2. Campers;
23 3. Spelunkers;
24 4. Study/Research Groups/Individuals; and
25 5. Visitors

26 The following are absolutely prohibited acts within the PA:

- 27 a) Mining and sand and gravel quarrying or extraction, and
28 b) Buying, selling, or transferring of rights over any land within the
29 protected area.

30 **SEC. 15. Penalties.** – Whoever is found guilty of the acts prohibited under Section 14,
31 subsection 3 and 4, of this Act or any rules and regulations issued by the Department pursuant to
32 this Act or whoever is found guilty by competent court of justice of any offenses in the preceding
33 section shall be fined the amount of not less than Five thousand Pesos (P5, 000.00) exclusive of
34 the value of the thing damaged or imprisonment of not less than one (1) year but not more than
35 six (6) years or both as determined by the Court. The offender shall also be required to restore or
36 compensate for the restoration to the damage: *Provided*, That the court shall order the eviction of
37 the offender from the land and forfeiture in favor of the Government of all minerals, timber, or

1 any plant or animal or animal species collected or removed therefrom including all equipment,
2 devices and firearms used in the connection therewith, or any construction of improvements
3 made thereon by the offender. If the offender is an association or corporation, the president or
4 manager shall be directly responsible for the act of his employees and laborers: *Provided, finally,*
5 That the DENR shall impose administrative fines and penalties it shall deem fit and consistent
6 with this Act.

7 **SEC. 16. Appropriations.** - The Secretary of the Department of Environment and Natural
8 Resources should include in its program the implementation of this Act, the funding of it shall be
9 charged against the Integrated Protected Area Fund authorized under Section 12 hereof and from
10 the appropriations authorized under the annual General Appropriations Act.

11 **SEC. 17. Transitory Provisions.** - All regular and other personnel of DENR Region XI
12 assigned/detailed to the San Isidro Seascope Office prior to the approval of this Act shall form
13 part of the of the PA regular staff.

14 **SEC. 18. Separability Clause.** - If any part or section of this Act is declared
15 unconstitutional such declaration shall not in any manner the other parts or section of this Act.

16 **SEC. 19. Repealing Clause.** - All laws, presidential decrees, executive orders, rules and
17 regulations found inconsistent with any provision of this Act shall be deemed repealed or
18 modified accordingly.

19 **SEC. 20. Effectivity Clause.** - This Act shall take effect fifteen (15) days after its
20 publication in two (2) newspapers of general circulation.

Approved,