

THIRTEENTH CONGRESS OF THE REPUBLIC }
OF THE PHILIPPINES }
Third Regular Session }

SECRETARY
6 NOV 2006
Troy

SENATE

COMMITTEE REPORT NO. 184

Submitted jointly by the Committees on Environment and Natural Resources, Local Government and Finance on 24 NOV 2006.

Re : Senate Bill No. 2529

Recommending its approval in substitution of House Bill No. 4856.

Sponsors : Senators Cayetano, Lim and Drilon.

MR. PRESIDENT:

The Committees on Environment and Natural Resources, Local Government, and Finance to which was referred House Bill No. 4856, introduced by Representatives Plaza and Banaag, entitled:

**“AN ACT
DECLARING THE AGUSAN MARSH IN THE PROVINCE OF AGUSAN DEL SUR
AS A PROTECTED AREA AND FOR OTHER PURPOSES”**


have considered the same and have the honor to report it back to the Senate with the recommendation that the attached bill, Senate Bill No. 2529, prepared by the Committees, entitled:


**“AN ACT
DECLARING THE AGUSAN MARSH IN THE PROVINCE OF AGUSAN DEL SUR
AS A PROTECTED AREA AND FOR OTHER PURPOSES”**

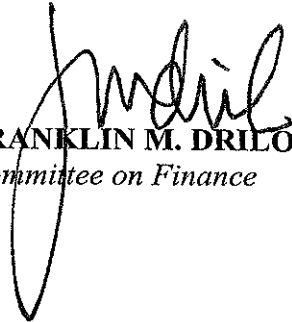
be approved in substitution of House Bill No. 4856, with Senator Cayetano and the members of the Committees as authors thereof.

Respectfully submitted:

Chairmen:



“COMPAÑERA” PIA S. CAYETANO
Committee on Environment
and Natural Resources


ALFREDO S. LIM
Committee on Local Government


FRANKLIN M. DRILON
Committee on Finance

Vice Chairman:

may amend.


AQUILINO Q. PIMENTEL, JR.
Committee on Local Government
Minority Leader

Members:


RAMON "BONG" REVILLA, JR.


MANUEL "LITO" M. LAPID

may amend
RICHARD J. GORDON


RAMON B. MAGSAYSAY, JR.


RALPH G. RECTO



MAR ROXAS

RODOLFO G. BIAZON


JUAN PONCE ENRILE


JOKER P. ARROYO

MIRIAM DEFENSOR SANTIAGO


EDGARDO J. ANGARA


LUISA "LOI" P. EJERCITO-ESTRADA


PANFILO M. LACSON


M.A. MADRIGAL

SERGIO OSMEÑA III



ALFREDO S. LIM


JINGGOY EJERCITO ESTRADA

Ex-Officio members:



FRANCIS N. PANGILINAN
Majority Leader



JUAN M. FLAVIER
President Pro-tempore

HON. MANNY VILLAR
Senate President
Pasay City

SENATE

S. No. 2529

(In substitution of H. No. 4856)

Prepared jointly by the Committees on Environment and Natural Resources, Local Government, and Finance, with Senator Cayetano and the members of the Committees as authors

**AN ACT
DECLARING THE AGUSAN MARSH IN THE PROVINCE OF AGUSAN DEL
SUR AS A PROTECTED AREA AND FOR OTHER PURPOSES**

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

1 SECTION 1. *Title.* – This Act shall be known as the “Agusan Marsh Wildlife
2 Sanctuary Act of 2006”.

3 SEC. 2. *Land Classification.* – All lands of the public domain comprising the Agusan
4 Marsh Wildlife Sanctuary shall fall under the classification of National Park as provided for in
5 the Philippine Constitution. However, public lands already classified as agricultural and
6 alienable or disposable prior to the passage of this Act shall remain as such and may be
7 disposed of pursuant to the provisions of Commonwealth Act No. 141 or the Public Land Act,
8 as amended.

9 SEC. 3. *Scope.* – The Agusan Marsh Wildlife Sanctuary is located in the municipalities
10 of Talacogon, San Francisco, Rosario, Bunawan, Loreto and Lapaz, all in the Province of
11 Agusan del Sur, and covers a total area of forty thousand eight hundred sixty-eight (40,868)
12 hectares, more particularly described as follows:

CORNER	LONGITUDE	LATITUDE
1	125° 49'04.79"	8° 23'42.52"
2	125° 48'12.00"	8° 25'04.99"
3	125° 47'45.61"	8° 25'27.43"
4	125° 46'53.11"	8° 25'26.43"
5	125° 46'05.20"	8° 25'00.65"
6	125° 44'49.47"	8° 24'26.12"

1	7	125° 45'43.53"	8° 28'35.42"
2	8	125° 46'23.31"	8° 28'24.47"
3	9	125° 46'35.47"	8° 27'47.25"
4	10	125° 47'14.00"	8° 26'14.00"
5	11	125° 48'16.02"	8° 26'04.35"
6	12	125° 48'35.62"	8° 25'20.29"
7	13	125° 52'15.30"	8° 27'07.15"
8	14	125° 52'12.24"	8° 27'30.98"
9	15	125° 54'03.83"	8° 28'38.32"
10	16	125° 48'12.00"	8° 29'04.84"
11	17	125° 54'56.89"	8° 29'00.92"
12	18	125° 55'32.73"	8° 28'18.88"
13	19	125° 55'42.83"	8° 26'46.73"
14	20	125° 56'25.83"	8° 26'49.89"
15	21	125° 56'45.39"	8° 25'42.12"
16	22	125° 55'52.45"	8° 24'59.17"
17	23	125° 55'06.62"	8° 24'26.48"
18	24	125° 54'44.48"	8° 23'45.67"
19	25	125° 54'49.22"	8° 23'37.35"
20	26	125° 56'56.36"	8° 22'58.64"
21	27	125° 57'40.79"	8° 22'04.75"
22	28	125° 57'16.33"	8° 21'28.91"
23	29	125° 56'36.83"	8° 21'19.18"
24	30	125° 56'58.78"	8° 20'35.91"
25	31	125° 58'33.34"	8° 16'13.41"
26	32	125° 56'13.01"	8° 14'44.96"
27	33	125° 55'27.53"	8° 13'52.44"
28	34	125° 55'22.90"	8° 12'55.75"
29	35	125° 55'25.98"	8° 12'18.40"
30	36	125° 54'59.50"	8° 12'11.61"
31	37	125° 55'05.08"	8° 12'01.15"
32	38	125° 55'06.25"	8° 11'35.18"
33	39	125° 56'42.60"	8° 09'45.79"
34	40	125° 55'17.88"	8° 09'41.73"
35	41	125° 55'20.34"	8° 08'55.13"
36	42	125° 56'51.60"	8° 08'50.51"
37	43	125° 57'08.70"	8° 08'43.18"
38	44	125° 56'07.40"	8° 08'12.90"

1	45	125° 55'40.71"	8° 08'09.85"
2	46	125° 54'53.29"	8° 08'36.84"
3	47	125° 55'02.79"	8° 08'49.79"
4	48	125° 54'59.01"	8° 09'09.17"
5	49	125° 54'46.68"	8° 09'11.63"
6	50	125° 54'45.83"	8° 08'59.76"
7	51	125° 54'34.49"	8° 08'33.42"
8	52	125° 54'26.59"	8° 08'10.15"
9	53	125° 54'14.53"	8° 07'52.51"
10	54	125° 54'26.17"	8° 07'46.37"
11	55	125° 54'22.61"	8° 07'32.20"
12	56	125° 54'18.04"	8° 07'26.21"
13	57	125° 52'50.11"	8° 07'20.68"
14	58	125° 53'10.52"	8° 07'31.73"
15	59	125° 53'20.71"	8° 07'46.84"
16	60	125° 53'11.80"	8° 08'09.03"
17	61	125° 53'18.25"	8° 08'48.88"
18	62	125° 53'22.14"	8° 09'29.74"
19	63	125° 53'34.51"	8° 09'30.33"
20	64	125° 53'34.10"	8° 09'49.88"
21	65	125° 53'39.04"	8° 10'14.43"
22	66	125° 53'41.65"	8° 10'28.27"
23	67	125° 53'34.33"	8° 10'54.15"
24	68	125° 52'52.16"	8° 10'27.71"
25	69	125° 52'32.21"	8° 10'31.70"
26	70	125° 52'22.57"	8° 10'38.02"
27	71	125° 52'09.78"	8° 11'12.20"
28	72	125° 52'22.84"	8° 11'12.06"
29	73	125° 52'16.37"	8° 11'16.37"
30	74	125° 52'04.64"	8° 11'36.52"
31	75	125° 52'03.40"	8° 12'03.88"
32	76	125° 52'06.67"	8° 12'14.26"
33	77	125° 51'47.48"	8° 12'46.53"
34	78	125° 51'17.87"	8° 12'56.01"
35	79	125° 51'20.56"	8° 15'00.30"
36	80	125° 51'04.98"	8° 15'03.84"
37	81	125° 50'32.40"	8° 15'45.76"
38	82	125° 50'18.71"	8° 16'11.78"

1	83	125° 50'19.09"	8° 16'37.70"
2	84	125° 51'14.98"	8° 16'59.06"
3	85	125° 52'17.17"	8° 17'29.35"
4	86	125° 52'56.66"	8° 17'38.54"
5	87	125° 53'53.33"	8° 18'05.11"
6	88	125° 53'52.01"	8° 18'46.58"
7	89	125° 53'20.80"	8° 19'14.36"
8	90	125° 52'38.47"	8° 19'13.76"
9	91	125° 51'29.53"	8° 18'17.95"
10	92	125° 50'55.06"	8° 17'52.19"
11	93	125° 49'54.07"	8° 17'58.93"
12	94	125° 49'40.42"	8° 18'07.45"
13	95	125° 49'37.33"	8° 19'13.68"
14	96	125° 48'30.19"	8° 20'26.87"

15 Any modification to the protected area (PA) boundary due to factors such as changing
 16 ecological situations, new scientific or archaeological findings, or discovery of traditional
 17 boundaries shall be made through an act of Congress, after full consultation with the
 18 affected public and concerned government agencies.

19 Considering the character of Agusan Marsh as a catch basin, this section shall not
 20 preclude the Protected Area Management Board (PAMB), created in Section 6 herein, or the
 21 Department of Environment and Natural Resources (DENR) from taking appropriate action
 22 outside the PA to prevent any adverse effects thereto such as, but not limited to, wastes
 23 from industries and run-offs from all areas that feed into the Agusan Marsh.

24 **SEC. 4. *Definition of Terms.*** – For purposes of this Act, the following terms are defined
 25 as follows:

26 (a) "Ancestral domains/ancestral lands" refers to all areas generally belonging to
 27 indigenous cultural communities comprising lands, inland waters and natural resources
 28 therein, held under a claim of ownership, occupied or possessed by indigenous cultural
 29 communities, by themselves or through their ancestors, communally or individually since
 30 time immemorial, continuously to the present except when interrupted by war, *force majeure*
 31 or displacement by force, deceit, stealth or as a consequence of government projects or any
 32 other voluntary dealings entered into by government and private individuals or corporations,
 33 and which are necessary to ensure their economic, social and cultural welfare. It shall
 34 include ancestral lands, forests, pasture, residential, agricultural and other lands individually
 35 owned whether alienable and disposable or otherwise, hunting grounds, burial grounds,
 36 worship areas, bodies of water, mineral and other natural resources, and lands which may
 37 no longer be exclusively occupied by indigenous cultural communities but from which they
 38 traditionally had access to for their subsistence and traditional activities, particularly the

1 home ranges of indigenous cultural communities who are still nomadic and/or shifting
2 cultivators.

3 (b) "Biodiversity" refers to the variety and variability among all living organisms and the
4 ecological complex in which they occur.

5 (c) "Conservation" refers to the optimum use and management of natural resources in
6 order to meet the needs and aspirations of the present and the future.

7 (d) "Ecosystem" refers to the community of plants and animals, their physical
8 environment and the interactions between or among them.

9 (e) "Exotic species" refers to species or subspecies that do not naturally occur within
10 the country or within the bio-geographic region of the Philippines, within which the PA is
11 situated.

12 (j) "Fish/aquatic animals/products" refers to all fishes and other aquatic animals such
13 as crustaceans, echinoderms, marine mammals and all other species of aquatic flora and
14 fauna, and all other products of aquatic living resources in any form.

15 (k) "Fishing" refers to the taking of fish, aquatic products or any aquatic flora and fauna
16 from their wild state or habitat, with or without the use of fishing vessels.

17 (l) "Forest products" refers to include timber, pulpwood, firewood, bark tree top, resin
18 gum, wood, lumber, oil, honey, beeswax, nipa, rattan or other forest growth such as grass,
19 shrub and flowering plant, the associated water, fish, game, scenic, historical, recreational
20 and geologic resources in forest lands.

21 (m) "Indigenous cultural communities" refers to the indigenous cultural
22 communities/indigenous peoples as defined in Republic Act No. 8371, otherwise known as
23 the Indigenous Peoples' Rights Act of 1997, specifically the Manobos who reside within or
24 are substantially dependent on the PA.

25 (n) "Nongovernmental organizations (NGOs)" refers to nonstock, nonprofit organizations
26 with qualifications, expertise and objectivity in activities concerning community organizing
27 and development, or resource and environmental conservation, management and protection
28 related to the PA.

29 (o) "People's organizations (POs)" refers to a group of people which may be an
30 association, cooperative, federation, aggrupation of individuals or groups with an identifiable
31 structure of decision-making and accountability, established to undertake collective action to
32 address community concerns and needs in relation to the PA.

33 (p) "Secretary" refers to the Secretary of the DENR.

34 (q) "Tenured migrants" refers to individuals and households who have actually and
35 continuously occupied such public lands which are not alienable and disposable within the
36 PA before June 1, 1987 and are substantially dependent on the PA for their livelihood.

1 **SEC. 5. *The Agusan Marsh Wildlife Sanctuary Management Board.*** – There shall be a
2 Protected Area Management Board (PAMB) which shall be the policy-making body of the
3 PA. It shall be composed of:

4 (a) The Regional Executive Director (RED) of the DENR CARAGA-XIII as chairman;

5 (b) The provincial governor of Agusan del Sur as cochairman;

6 (c) The provincial planning and development officer of Agusan del Sur and/or a
7 permanent representative from the same office as designated by the provincial governor;

8 (d) The municipal mayors of all the municipalities comprising the Agusan Marsh
9 Protected Area and the Provincial Governor of Agusan del Sur or their duly designated
10 permanent representatives;

11 (f) One representative from each tribal community in each of the municipalities
12 comprising the PA selected by and among themselves according to customary rights;

13 (g) Maximum of three representatives from peoples' organizations (POs) selected from
14 among themselves in a meeting duly called among all POs for the purpose of selecting
15 PAMB representatives;

16 (h) Maximum of six representatives from nongovernmental organizations (NGOs)
17 selected from among themselves in a meeting duly called among all NGOs operating in the
18 PA for the purpose of selecting PAMB representatives; and

19 (i) Representatives from government agencies operating within the PA as may be
20 determined by the DENR based on their relevance and potential contribution to the PA
21 management.

22 In the selection of representatives from NGOs and POs, preference shall be accorded
23 to those organizations that are involved in the conservation and protection of the PA and in
24 the field of development work. The representation of NGOs and POs shall be institutional,
25 with consideration to balanced geographic representation.

26 **SEC. 6. *Term of Office of the PAMB Members.*** – Every member of the PAMB shall
27 serve for a term of five years and shall be considered to represent his or her sector and
28 deemed to carry the vote of such sector in all matters. In the case of members who are
29 government officials, the term of office shall be attached to the office held.

30 **SEC. 7. *Powers and Functions of the PAMB.*** – The PAMB of the Agusan Marsh Wildlife
31 Sanctuary shall have the following powers and functions:

32 (a) Issue all rules and regulations to prohibit and regulate acts that may be prejudicial to
33 the PA and the buffer zone established herein;

34 (b) Establish the criteria and set fees for the issuance of permits for the activities
35 regulated by this Act, or the management plan;

36 (c) Adopt rules of procedure for the conduct of business, roles and responsibilities, and
37 discipline of the board members, and create committees as it may deem necessary, to
38 whom its powers may be delegated;

1 (d) Review, approve and adopt management plans and its implementing rules and
2 regulations (IRRs) including, but not limited to, the establishment and delineation of the
3 buffer zone, within or beyond the technical description provided in Section 3 of this Act, and
4 other zones and the regulated and/or prohibited activities therein such as, but not limited to,
5 multiple use zones, buffer zones, recreational zones and strict protection zones;

6 (e) Oversee and evaluate the Office of the Protected Area Superintendent (PASu);

7 (f) Deputize interested, capable and responsible individuals for the enforcement of the
8 laws, rules and regulations governing conduct in the PA;

9 (g) Accept donations, approve proposals for funding, budget allocations and exercise
10 accountability over all funds that may accrue to the PA including, but not limited to, the
11 Agusan Marsh Wildlife Sanctuary Fund;

12 (h) Initiate civil or administrative proceedings, file criminal complaints and take
13 necessary legal action against individuals, associations, corporations or any entity destroying
14 or contributing to the deterioration or destruction of the PA, in whatever degree, such as, but
15 not limited to, the discharge of wastes or refuse which may affect the PA;

16 (i) Participate in all stages of the environmental impact assessment process of projects
17 which may potentially affect the PA, and in the monitoring thereof;

18 (j) Review and approve or disapprove all projects and activities which may affect the
19 PA;

20 (k) Identify, verify and review all tenure instrument, land claims, and issuance of permits
21 for resource use within the PA and recommend land reclassification and proper use of
22 resources found therein consistent with the zoning of the PA as provided in the management
23 or successor plans;

24 (l) Require any government agency, office, board, private or public person to
25 coordinate with the PAMB to achieve the objectives of this Act;

26 (m) Participate in the selection and designation process of the DENR in the
27 appointment of the PASu for the Agusan Marsh Wildlife Sanctuary; and

28 (n) Establish an appropriate election process and elect from within the PAMB a
29 responsible chairperson dedicated to the objectives of this Act.

30 The Secretary shall exercise authority over the PAMB to ensure that it is acting within
31 the scope of its powers and functions. In case of conflict between administrative orders of
32 national application issued by the DENR pursuant to Republic Act No. 7586, otherwise
33 known as the National Integrated Protected Areas Act of 1992 or the NIPAS Act, and the
34 rules and regulations issued by the PAMB, the Secretary of the DENR shall resolve such
35 conflict.

36 SEC. 8. *Protected Area Superintendent (PASu) Office.* – There is hereby established a
37 Protected Area Superintendent's Office in charge of the management, protection and
38 administration of the PA. The PASu shall be supported by the existing personnel of the

1 DENR. The head of office shall be the chief operating officer of the Agusan Marsh Wildlife
 2 Sanctuary or the PA and shall be accountable to the RED of the DENR CARAGA-XIII and
 3 the PAMB. The PASu shall have the following powers and functions:

4 (a) Prepare the management and successor plans as herein defined;

5 (b) Provide a secretariat for the PAMB which shall have the duty to supply the PAMB
 6 with all the necessary information for appropriate action;

7 (c) Hire and supervise the necessary personnel to support operations as the budget
 8 made available by the PAMB may allow;

9 (d) Establish a productive partnership with the local community, including groups
 10 interested in the achievement of the goals and objectives of the PA, and in the planning,
 11 protection and management thereof;

12 (e) Develop and implement a park information, education and visitor program;

13 (f) Enforce the laws, rules and regulations relevant to the PA, institute and file legal
 14 action independently or in collaboration with other government agencies or organizations and
 15 assist in the prosecution of offenses committed in violation of this Act;

16 (g) Monitor all activities within the PA regarding its conformity with the management
 17 plan;

18 (h) Issue PA permits based on terms, conditions and criteria established by the PAMB;
 19 and

20 (i) Perform such other functions as the PAMB may delegate.

21 *SEC. 9. Ancestral Lands and Domain.* – The rights of the indigenous cultural
 22 communities to their ancestral domains shall be fully recognized. Traditional property
 23 regimes exercised by the indigenous cultural communities in accordance with their
 24 customary laws shall govern the relationships of all individuals within their communities with
 25 respect to all lands and resources found within ancestral lands. Indigenous cultural
 26 communities may apply for Certificates of Ancestral Domain Title (CADT) as provided in the
 27 Indigenous People's Rights Act of 1997 or Republic Act No. 8371.

28 *SEC. 10. Construction and Presumptions in Favor of Indigenous Cultural*
 29 *Communities.* – The provisions of this Act shall be construed liberally in favor of the
 30 indigenous cultural communities. Nothing herein shall be construed to impair or diminish
 31 prior or existing rights currently enjoyed by the indigenous cultural communities as provided
 32 by existing laws.

33 Unless proven to be contrary to custom by clear and convincing evidence before the
 34 PAMB, the following presumptions shall govern:

35 (a) All lands presently occupied by the indigenous cultural communities as well as those
 36 seasonally occupied according to their culture and traditions shall be presumed to be
 37 ancestral lands;

1 (b) Rights and obligations within ancestral lands are presumed to be governed by
2 customary law;

3 (c) Rights and obligations within ancestral lands are governed by customary law and
4 are presumed to be held collectively by the indigenous community; and

5 (d) Rights and obligations within ancestral lands proven to be held by individuals under
6 customary law are presumed to be held in trust by such individuals for the whole community.

7 Permits, licenses or whatever authorities required by this Act or any other statutes
8 concerning the continued use, extraction or exploitation of forest products and/or possession
9 or occupation of lands within the PA shall not be withheld without notice and due process
10 from the indigenous cultural communities by the granting authority.

11 SEC. 11. *Tenured Migrants.* – Tenured migrants are those members of
12 households who have actually and continuously occupied the PA since June 1, 1987 and are
13 substantially dependent on the PA for their livelihood.

14 Tenured migrants shall be eligible to become stewards of portions of lands within
15 allowed and designated zones. The PAMB shall identify, verify and review all tenure
16 instrument, land claims and issuance of permits for resource use within the PA. The PAMB
17 may also recommend the issuance of the appropriate tenure instrument consistent with the
18 land classification, proper and allowed use of resources found therein and zoning provided in
19 the management or subsequent management plans.

20 All legitimate private rights of tenured migrants within the PA shall be protected in
21 accordance with existing laws. Nothing herein shall be construed to mean any diminution of
22 accrued rights earned by tenured migrants. If, however, areas occupied by tenured migrants
23 are designated as zones in which no occupation or other activities are allowed pursuant to
24 the attainment of sustainable development, provision for their transfer to multiple use zones
25 or buffer zones shall be accomplished through just and humane means.

26 In the event of termination of a tenure instrument for cause or by voluntary surrender of
27 rights, the PASu shall take immediate steps to rehabilitate the area in order to return it to its
28 most viable state consistent with the management plan and zoning thereof.

29 SEC. 12. *Existing Facilities Within the PA.* – Within sixty (60) days from the
30 effectivity of this Act, major existing facilities such as roads, buildings, water systems,
31 transmission lines, communication facilities, heavy equipment, and irrigation facilities existing
32 within the boundaries of the PA shall submit project description to the PAMB through the
33 PASu.

34 The PAMB, with the assistance of the DENR, shall determine whether the existence of
35 such facility and its future plan and operations will be detrimental to the PA or whether
36 conditions for its operation shall be imposed. If any such conditions are violated, the owner of
37 the facility shall be liable to pay a fine of Five thousand pesos (P5,000.00) for every violation.
38 Upon reaching a total fine of Five hundred thousand pesos (P500,000.00), the PAMB

1 through the PASu and deputizing other government entities, shall cause the cessation and
2 demolition of the facility at the cost of its owner.

3 Existing facilities allowed to remain within the PA may be charged a reasonable royalty
4 by the DENR. All income from such royalty shall accrue to the Mt. Hilong-Hilong Protected
5 Area Fund.

6 SEC. 13. *Protection of Riverbanks and Water Level.* – Lands, twenty (20) meters
7 from the riverbanks within the PA that are not part of an ancestral domain claim shall be
8 classified as public forest. It shall not be subject to private ownership nor shall it be
9 reclassified, except by Congress. Alienable and disposable lands over which no rights have
10 yet ripened shall revert to the classification of forest.

11 SEC. 14. *Prohibited Acts.* – The following shall be the prohibitions and penalties
12 applicable to the Agusan Marsh Wildlife Sanctuary:

13 (a) The penalties and qualifications prescribed in Article 309, on theft, and Article 310,
14 on qualified theft, of the Revised Penal Code, depending on the value of the resources
15 involved in connection with the prohibited act, shall be imposed upon any person who:

16 (1) Hunts, takes, destroys, disturbs or possesses any timber, forest product, natural
17 growing or wild terrestrial or aquatic plants, animals, flora or fauna or products derived
18 therefrom, or any form of extraction or use of resources within particularly identified
19 regulated or prohibited areas or zones in the PA including private lands, without the
20 necessary PA permit, authorization or exemption as issued or promulgated by the PAMB;

21 (2) Cuts, gathers, removes or collects timber or any forest products within particularly
22 identified prohibited areas or zones in the PA including private lands, without the necessary
23 PA permit, authorization or exemption as issued or promulgated by the PAMB;

24 (3) Cuts, destroys any tree, shrubs or other erosion-preventing plants or builds or
25 introduces any structure that would cause erosion in areas within twenty (20) meters from
26 the riverbanks within the PA;

27 (4) Possesses outside the PA any timber, forest products, wild terrestrial or aquatic
28 plants, animals, flora or fauna so prohibited by the PAMB, or products derived therefrom
29 which are ascertained to have been taken from the PA. It shall be presumed to have been
30 taken from the PA if the subject plants, animals, flora or fauna are found in possession of
31 persons or conveyances that have traveled to the PA in the past seventy-two (72) hours; and

32 (5) Hunts, collects, removes or destroys endangered or protected species, except when
33 collection or removal is for scientific research and is so exempted from this prohibition by the
34 PAMB.

35 (b) A fine of not less than One hundred thousand pesos (P100,000.00) but not more
36 than Five hundred thousand pesos (P500,000.00) or imprisonment of not less than five
37 years nor more than ten (10) years, or both, and the restoration and rehabilitation of the
38 damage or when appropriate, the ejectment thereof, shall be imposed upon any person who:

1 (1) Occupies, settles or possesses any portion of the PA; introduces improvements,
2 agricultural or otherwise; or makes *kaingin* therein, not sanctioned by law or without the
3 proper permit and authority as required by the PAMB;

4 (2) Sells, buys, offers to sell or buy any real property or the rights thereof within
5 particularly identified regulated or prohibited areas or zones in the PA;

6 (3) With the use of force, intimidation, threat, deceit or taking advantage of the absence
7 or tolerance of the rightful possessor/occupant/claimant, succeeds in occupying or
8 possessing any portion of lands within the PA, against the will of the latter;

9 (4) Uses explosives, noxious substances or electricity for fishing within the PA.
10 Discovery of explosives, noxious or poisonous substances, electro-fishing devices and
11 paraphernalia in the possession of a fisherfolk or discovery of fish caught through
12 explosives, noxious or poisonous substances or electricity within and nearby fishing areas or
13 in fishing boats shall constitute *prima facie* evidence that the possessor thereof committed
14 the act herein prohibited;

15 (5) Destroys, damages, mutilates, defaces or commits any acts of vandalism on any
16 object of natural beauty, object of anthropological or cultural importance, or nonrenewable
17 resource within the PA;

18 (6) Throws, discharges or dumps any substance in any area within the PA and buffer
19 zones, that is or potentially deleterious to plants, animals or inhabitants and the ecosystem
20 of the PA;

21 (7) Alters, removes, destroys or defaces any boundary markers, monuments or
22 interpretative signs relating to the PA;

23 (8) Causes damage to roads, trails and pathways;

24 (9) Engages in any degree or form of mineral location/exploration, quarrying, or
25 extraction;

26 (10) Any public officer or officer of the law, who, in dereliction of the duties of his office,
27 shall maliciously refrain from instituting prosecution for the punishment of violators of the law,
28 or shall tolerate the commission of offenses. Conviction of this offense shall also carry the
29 penalty of perpetual disqualification from public office; and

30 (11) Any person who obstructs or hinders any enforcement of this Act, its related laws,
31 rules and regulations.

32 (c) A fine of not less than Five thousand pesos (P5,000.00) nor more than One hundred
33 thousand pesos (P100,000.00) or imprisonment from one year to six years, or both, shall be
34 imposed upon any person who:

35 (1) Violates any rules and regulations promulgated by the PAMB or its duly authorized
36 delegate or any agreement or commitment reached before the PAMB;

37 (2) Deals in any product illegally derived from the PA such as, but not limited to, selling,
38 buying, offering to sell or buy any timber, forest product, natural growing or wild terrestrial or

1 aquatic plants, animals, flora or fauna or products derived therefrom, or any resource from
 2 within particularly identified regulated or prohibited areas or zones in the PA, without the
 3 necessary permit, authorization or exemption for the utilization and/or extraction thereof as
 4 provided by this Act and other existing laws, rules and regulations;

5 (3) Uses any equipment which facilitates extraction of resources, regardless of such
 6 intention or purpose, within the PA without the necessary PA permit or authorization;

7 (4) Leaves in exposed or in unsanitary condition debris, refuse or garbage anywhere
 8 within the PA; and

9 (5) Enters any portion of the PA for purposes of mountain climbing, camping,
 10 spelunking, study, research or recreational visit without the necessary permit or
 11 authorization.

12 If a corporation, organization, partnership or association commits the act, the penalty
 13 shall be imposed on the chief executive officer and/or board of trustees of the corporation,
 14 organization or managing partner of the partnership or association. Valuation of the damage
 15 shall take into account biodiversity and conservation considerations as well as aesthetic and
 16 scenic value. Valuation assessed by the DENR or the concerned government agency shall
 17 be presumed correct unless otherwise proven by preponderant evidence.

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

21 SEC. 15. *Administrative Confiscation and Fine.* – Administrative proceedings for
 22 violation of the foregoing prohibited acts shall proceed independently and without prejudice
 23 to judicial action. The PAMB, through the PASu, is hereby empowered to impose an
 24 administrative fine ranging from Five thousand pesos (P5,000.00) to One hundred fifty
 25 thousand pesos (P150,000.00) and/or the cancellation of permit or license issued.
 26 Decisions of the PASu may only be appealed to the PAMB.

27 All conveyances, vessels, equipment, paraphernalia, implements, gear, tools and
 28 similar devices shall be subject to immediate administrative confiscation by the PASu Office
 29 upon apprehension without prejudice to criminal action. Upon filing of criminal action in the
 30 regular courts, said conveyances, vessels, equipment, paraphernalia, implements, gear,
 31 tools and similar devices shall be under *custodia legis* but shall continue to be subject to
 32 administrative confiscation and may only be released to the owner pending trial by the trial
 33 court, upon consultation with the PASu and with proper consideration of the pending
 34 administrative proceedings and the potential forfeiture of the said objects.

35 Administrative fines collected and the proceeds of the sale of all objects administratively
 36 or judicially confiscated or forfeited pursuant hereto imposed shall accrue to the Agusan
 37 Marsh Wildlife Sanctuary Fund. The PAMB shall promulgate the procedure for the sale.

1 SEC. 16. *Special Prosecutor and Retained Counsel.* – Within thirty (30) days from
2 the effectivity of this Act, the Department of Justice (DOJ) shall appoint a special prosecutor
3 to whom all cases of violation of laws, rules and regulations in the PA shall be assigned.
4 Such Special Prosecutor shall coordinate with the PAMB and the PASu in the performance
5 of his/her duties and assist in the training of wardens and rangers in arrest and criminal
6 procedures. The PAMB may retain the services of a counsel to prosecute and/or assist in the
7 prosecution of cases under the direct control and supervision of the regular or special
8 prosecutor and to defend the members of the PAMB, the PASu and the staff, or any person
9 assisting in the protection, conservation and sustainable development of the PA, against any
10 legal action related to their powers, functions and responsibilities as provided in this Act or
11 as delegated or tasked by the PAMB.

12 SEC. 17. *Reporting Responsibility.* – The PASu, through the PAMB, shall submit
13 an annual accomplishment report to the Secretary of the DENR on the activities undertaken
14 in the PA.

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

18 SEC. 19. *Construction and Suppletory Application of Existing Laws.* The
19 provisions of this Act shall be construed liberally in favor of achieving biodiversity
20 conservation, protection and sustainable development Provisions of Republic Act No. 7586,
21 otherwise known as the National Integrated Protected Areas Management Act of 1992 and
22 existing forestry laws, and their corresponding rules and regulations not inconsistent hereto
23 shall have the suppletory effect in the implementation of this Act.

24 SEC. 20. *Separability Clause.* – If any part or provision of this Act is declared
25 unconstitutional, such declaration shall not affect the other parts or provisions hereof and
26 shall continue to be in full force and effect.

27 SEC. 21. *Repealing Clause.* – All other existing laws, rules and regulations
28 inconsistent with this Act are hereby repealed or modified accordingly.

29 SEC. 22. *Effectivity Clause.* This Act shall take effect fifteen (15) days after its
30 complete publication in the *Official Gazette* or in a national newspaper of general circulation
31 available in the PA. This Act shall be translated in a dialect known in the PA by the DENR
32 within thirty (30) days from approval hereof and shall be posted for three consecutive weeks
33 in conspicuous place in the provincial, municipal and barangay halls within the PA as well as
34 in three other public places frequented by the public.

Approved,