

FOURTEENTH CONGRESS)
OF THE REPUBLIC OF THE PHILIPPINES)
FIRST REGULAR SESSION)

SENATE
S.B. No. 177

Introduced by Sen. M.A. Madrigal

**AN ACT
ESTABLISHING APO REEF IN SABLAYAN, OCCIDENTAL MINDORO AS
A PROTECTED AREA AND ITS PERIPHERAL WATERS AS BUFFER
ZONES, PROVIDING FOR ITS MANAGEMENT, FUNDS AND FOR OTHER
PURPOSES**

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

SECTION 1. *Title.* - This Act shall be known as the "Apo Reef Act of 2007".

SEC. 2. *Declaration of Policy.* - In view of the importance of Apo Reef in Sablayan, Occidental Mindoro, its biodiversity and role in the fisheries of the region, it is hereby declared the policy of the State to ensure the protection and conservation of Apo Reef, its associated waters, biodiversity and islands. Pursuant thereto, the State shall ensure the full implementation of this Act, mobilize resources in order to put into operation institutional mechanisms and full scientific and technical support for the conservation of biodiversity and the integrity of the ecosystems in Apo Reef.

SEC. 3. *Scope.* - The boundaries of the Apo Reef Protected Area, situated in the Municipality of Sablayan, Province of Occidental Mindoro, containing an approximate area of fifteen thousand seven hundred ninety-two (15,792) hectares, are as follows:

Control Points	CM()	Latitude ' "	Northings (Meters)	Eastings (Meters)
1	123	12-44-47	120-27-22	223773.809
2	123	12-41-11	120-33-44	235240.033
3	123	12-35 -47	120-29-57	228292.637
4	123	12-39-18	120-23-46	2217153.893

Any modification to this Act due to factors such as changing ecological situations, new scientific or archeological findings, or discovery of traditional

boundaries not previously taken into account shall be made through an Act passed by Congress after full consultation with the affected public and concerned government agencies.

SEC. 4. *Buffer Zones.* - Buffer Zones surrounding the Protected Area, containing an approximate area of eleven thousand six hundred seventy-seven (11,677) hectares, are hereby established with the following boundaries:

Control Points	CM	Latitude	Longitude	Northings (Metres)	Eastings (Metres)
1	123	12-46-14	120-27-00	1413043.227	223151.990
2	123	12-41-32	120-35-19	1404229.656	238121.888
3	123	12-34-20	123-30-16	1391042.803	228863.890
4	123	12-38-57	120-22-12	1399689.788	214399.441

Such Buffer Zones are established for the purpose of forming an extra layer of protection for fishing ground from users of nearby sea-lanes, providing a belt around the protected area.

SEC. 5. *Definition of Terms.* - The following terms are hereby defined for the purpose of this Act.

- a. Accredited NGOs/POs = shall refer to Non-Governmental Organizations and People's Organizations that satisfactorily complied with the accreditation process for Non-Government Organizations and People's Organizations by the Sanggunian Bayan of Sablayan pursuant to RA 7160 or the Local Government Code.
- b. Department = shall refer to the Department of Environment and Natural Resources.
- c. Non-Renewable Resources = shall refer to those resources found within the PA and its buffer zones, the natural replenishment rate of which is either not known or takes more than 25 years.
- d. Passive fishing gear = any means of catching, gathering or collecting fish or aquatic products that does not alter the capacity of the ecosystem to replenish itself nor harm any protected species or the young of any species.
- e. Plan = shall refer to Protection and Conservation Plan
- f. Protected Species = any individual of the following species: manta ray, all species of marine turtles, all species of whales and any species listed under the Convention of International Trade of Endangered Species (CITES), or any plant or animal that shall be declared as protected under the Philippine laws, rules and

regulations or the Protection and Conservation Plan herein provided for.

- g. Secretary = shall refer to the Secretary of the Department of Environment and Natural Resources.

SEC. 6. *Protection and Conservation Plan.* – The Protected Area Superintendent shall prepare the Protection and Conservation Plan in coordination with the appropriate offices of the DENR, local indigenous communities and NGOs. It shall be reviewed and approved by the Protected Area Management Board (PAMB) and certified by the Secretary. Such certification shall be mandatory to ensure the plan conforms to all laws and applicable rules and regulations of national application issued by the DENR. The Secretary may revise and modify the Protection and Conservation Plan, submitted for certification to make it conform to the laws and applicable regulations after consultation with the PAMB.

Within one (1) year from the effectivity of this Act, a Protection and Conservation Plan shall have been put into effect following the General Management Planning Strategy provided for under Republic Act No. 7586 and according to the procedure herein set forth. It shall contain, among others, the following:

- (a) the category of the Protected Area;
- (b) period of applicability of the plan;
- (c) key management issue;
- (d) goals and objectives of management in support of Section 2 hereof;
- (e) site management strategy major management activities, such as, but not limited to enforcement of laws, habitat and wildlife management, sustainable use management, infrastructure development and maintenance, fire and pest control;
- (g) zoning; and
- (h) visitor and management programs

The PASu shall prepare all successor plans. One year before the expiration of the period of the applicability of the plan effect, the PASu shall cause publication of notices for comments and suggestions on the next successor plan in a newspaper of local circulation in the Municipality of Sablayan and the posting of such notices in the provincial, municipal and barangay hall, in three other areas frequented by the public and on Apo Island. Upon the written request of any interested party, public hearings may be conducted on the successor plan. Such proposed plan shall be made available to the public during the period for comment and a finalized plan shall be made available for public perusal at the Office of PASu upon the approval of PAMB.

The zoning of the Protected Area shall give primary consideration to the traditional zones that have been sustainably used by fishers for an appreciable

length of time unless such uses are deemed detrimental to biodiversity and protection of the natural characteristics of the Protected Area.

The plan shall be in a language understandable in the area, plainly written and available for perusal to the general public at the PASu Office.

SEC. 7. *Institutional Mechanisms.* - The following administrative and policymaking mechanisms shall apply:

A. *The Protected Area Management Board.* - There shall be a Protected Area Management Board which shall be the policy-making body of the Protected Area. It shall be composed of:

1. The Provincial Environment and Natural Resources Officer as Chair;
2. The Provincial Planning and Development Officer;
3. One (1) representative from the Municipal Government of Sablayan to be appointed by the Mayor;
4. The president of Association of Barangay Captain of Sablayan;
5. One (1) representative from other departments or national government agencies directly involved in the Protected Area or with long term projects or permanent facility located therein;
6. One (1) representative from the Land Bank of the Philippines, Sablayan Branch to be appointed by the Branch Manager;
7. Two (2) representatives from accredited NGOs operating within Sablayan chosen among themselves in a meeting duly called for the purpose;
8. Two (2) representatives from accredited POs operating within Sablayan chosen among themselves in a meeting duly called for the purpose;
9. Three (3) representatives from the local indigenous communities chosen among themselves in a meeting duly called for the purpose.

Every member of the PAMB shall serve for a term of five (5) years and shall be considered to represent his or her sector deemed to carry the vote of such sector in all matters. In case of members who are government official, the membership shall be attached to the office held.

All members of PAMB, Secretariat and CENRO are allowed to claim incentive/allowance in the amount of five hundred pesos (P500.00) while attending their regular meetings chargeable to fund allocation for PAMB operations.

The PAMB of Apo Reef shall have the following powers and functions:

1. Decide matters relating to planning, resources protection and general administration of the area in accordance with the approved protection and conservation plan;
2. Approve proposals, work plans, action plans and guidelines for the management of the Protected Area in accordance with the approved protection and conservation plan;

3. delineate and demarcate Protected Area boundaries buffer zones, ancestral domains, and recognize the rights and privileges of indigenous communities under the provision of this Act;
4. Promulgate rules and regulations to promote development programs and projects on biodiversity conservation and sustainable development consistent with the Management Manual of the Protected Area;
5. Ensure the implementation of programs as prescribed in the Protection and Conservation Plan in order to provide employment to the people dwelling in and around the Protected Area;
6. control and regulate the construction, operation and maintenance of roads, trails, waterworks, sewerage, fire protection and sanitation system and other public utilities within the Protected Area;
7. Monitor and evaluate the performance of Protected Area personnel, NGOs and the communities in providing for biodiversity conservation and socio-cultural and economic development and report their assessments to the NIPAS Policy and Program Steering Committee and the IPAF Governing Board.

The DENR, through the Regional Executive Director (RED), shall exercise authority to oversee the PAMB to ensure that it is acting within the scope of its powers and functions. In case of a contradiction between administrative orders issued by the DENR pursuant to Republic Act No. 7586 for national application and the rules and regulations issued by PAMB, the PAMB shall notify the Secretary of the DENR who shall decide whether to apply the rule or withdraw its application.

B. *The Protected Area Superintendent (PASu)*. - There shall be a Protected Area Superintendent appointed by the DENR, who shall serve as the chief operating officer of the Protected Area. The PASu shall have the following powers and functions:

1. Prepare the Protection and Conservation Plan and successor plans as herein provided and execute it;
2. Serve as the Secretariat for the PAMB with the duty to provide the PAMB with all the information necessary for it to make appropriate decision when necessary;
3. Hire and supervise the necessary personnel to support operations as the budget made available by the PAMB may allow;
4. Establish productive partnership with the local community including groups interested in the achievement of the goals and objectives of the Protected Area, and in the planning, protection and management thereof;
5. Develop and implement a park information, education and visitor program;
6. Enforce laws, rules and regulations relevant to the Protected Area and assist in the prosecution of offenses;
7. Supervise all activities with the Protected Area for conformity with the Protection and Conservation Plan;
8. Perform such other functions as the PAMB may assign.

SEC. 8. *Administration and Mangemenf.* - The Apo Reef Protected Area is hereby placed under the control and administration of the DENR through the Protected Area Management Board. For this purpose, there is hereby created a Protected Area Office which shall be equipped with necessary personnel, as follows:

One (1) Protected Area Superintendent (PASu)

One (1) Assistant PA Superintendent

Technical Staff:

One (1) Senior Ecosystem Management System Specialist

Two (2) Ecosystem Management Specialist II

One (1) Community Development Officer II

Two (2) Ecosystem Management Specialist I

Three (3) Community Development Officer I

One (1) Project Development Officer I

Administrative Staff:

One (1) Administrative Officer II

One (1) Records Officer

One (1) Property Custodian

One (1) Clerk I11

Two (2) Clerk II

One (1) Driver

Two (2) Utility Man

Finance Staff:

One (1) Accountant

One (1) Cashier I

One (1) Bookkeeper

Two (2) Accounting Clerk

Field Staff:

Ten (10) Park Rangers

Four (4) Boatswain

Four (4) Boatman

SEC. 9. *Seasonal Fishing Rights.* - Fishers who migrate Apo Reef seasonally for traditional fishing and other activities that have benign impact on the sustainability and biodiversity of the reef shall be allowed to continue such activities provided that commission of any of the prohibited acts herein or failure to report such acts when observed shall cause the cancellation of such rights.

SEC. 10. *ProhibitedActs.* -

A. The Penalties in Article 309 and 310 of the Revised Penal Code depending on the value of the resources take, damaged or destroyed shall be imposed upon any person who:

- a. Hunts, destroys, collects, disturbs or possesses anywhere within the Apo Reef Protected Area any plants or animals, sand, coral, rocks or products derived therefrom without a Protected Area permit, with the exception of fish and aquatic products caught through passive fishing gear;
- b. Possesses outside the Protected Area any wild plants or animals or products derived therefrom which came from the Protected Area;
- c. Explores or extracts mineral within the Protected Area;
- d. Fishes within the Protected Area through the use of explosives, noxious substances, electricity or nets below three (3) centimeters in size from knot to knot when stretched, or by any other means except with the use of passive fishing gear provided that the PAMB may take rules and regulations to regulate, restrict or prohibit other activities that may cause reef destruction or damage, including, but not limited to reef gleaning and drift netting;

Valuation of the damage shall take into account biodiversity and conservation considerations as well as aesthetic and scenic value.

B. A fine of not less than five thousand pesos (P5,000.00) but not more than one hundred thousand pesos (P100,000.00) and/or imprisonment of not less than one (1) year nor more than three (3) years and the restoration and rehabilitation of *the* damages shall be imposed upon any person:

- a. Hunts, collects, removes or destroys any endangered or protected species;
- b. Drops anchor within the Protected Area except in the designated sites or where there is a danger to life or property which necessitates such act;
- c. Knowingly destroys or causes damage to any coral or other non-living marine resources;
- d. Throws, dumps or causes to be dumped into the sea within the Protected Area any non-biodegradable material or other substance deleterious to marine life;
- e. Fishes anywhere within the Protected Area without license. Anyone intending to fish within the waters of the Protected Area shall register his/her license with the PAMB. Failure to so register his/her license constitutes a presumption of a lack thereof.

C. A fine of not less than one hundred thousand pesos (P100,000.00) but not more than five hundred thousand pesos (P500,000.00) and/or imprisonment from three (3) years to five (5) years shall be imposed upon any person who:

- a. Violates any rules and regulations in the protection and conservation plan by the PAMB or agreements reached before the PAMB in its exercise of adjudicative functions;

- b. Erects any permanent structure on land or on water for any purpose outside the Protection and Conservation Plan, provided that permanent structures intended for marine safety and determined to be urgently necessary before the next Protection and Conservation Plan shall have taken effect shall be exempted from this prohibitions;
- c. Possesses or deals in ammonium nitrate or cyanide within the Protected Area.

D. A fine not less than five thousand pesos (P5,000.00) nor more than five hundred thousand pesos (P500,000.00) and/or imprisonment of not less than one (1) year but not more than five (5) years shall be imposed upon:

- a. Any person who shall induce another or conspire to commit any of the above acts or suffer their workers to commit any of the above acts shall be liable in the same manner as the one actually performing the act;
- b. Any person who shall evade responsibility for criminal acts by disguising a vessel or hiding its registered name or registering a vessel twice under different names. The act of disguising a vessel or hiding its registered name or registering a vessel twice under different names shall give rise to disputable presumption that it was committed with the knowledge of the owner and' with intent to evade responsibility for criminal acts.

SEC. 11. *Special Prosecutors.* - Within thirty (30) days from the effectivity of this Act, the Department of Justice shall appoint a special prosecutor to whom all cases of violation laws, rules and regulations in the PA shall be assigned. Such special prosecutor shall coordinate with the PAMB and the PASu in the performance of his/her duties and assist in the training of the Task Force Save Apo Reef and other wardens and rangers in arrest and criminal procedure. Whenever resources of the PAMB would allow, special private prosecutors may be appointed to act under the control and supervision of the prosecutor.

SEC. 12. *Local Government Units.* - The Municipality of Sablayan, all its coastal barangays and the provincial government of Occidental Mindoro shall participate in the management of the Apo Reef Protected Area through representation in the PAMB as provided for under Section 7 hereof.

SEC. 13. *Integrated Protected Area Funds.* - The following shall constitute part of the Integrated Protected Area Funds and shall be subject to the rules thereon from the moment they accrue:

- (a) Taxes from the permitted use or collection of resources from Protected Areas with the exception of taxes already collected by the local government on such resources at the time of the passage of this Act;
- (b) Contribution from industries and facilities directly benefiting from the Protected Area;
- (c) Such other fees and incomes derived from the operation of the Protected Area.

The PAMB shall have the power to disburse the IPAF: *Provided*, That a share of twenty five percent (25%) shall be provided for the use of the national government for the support of the National Protected Areas System: *Provided, further*, That the PAMB shall honor conditions attached to donations.

SEC. 14. *Utilization of Non-renewable Resources.* - Any exploitation for, exploitation or utilization of non-renewable resources within the Protected Area shall not be allowed. Energy projects, whether renewable or otherwise, shall be permitted only through an Act of Congress, provided that exploitation of renewable energy up to three (3) megawatts capacity shall be exempt from such requirement.

SEC. 15. *Appropriations.* - For the purpose of this Act there is hereby appropriated the amount of Ten million pesos (P10,000,000.00) for the first three (3) years of operation after which the IPAF should support PA activities without prejudice to the possibility of annual appropriations as may be required.

SEC. 16. *Construction.* -The provision of this Act shall be construed liberally in favor of tenured migrants and indigenous cultural communities and with due consideration to the protection of biodiversity, Republic Act No. 7586 shall have suppletory effect in the implementation of this Act.

SEC. 17. *Repealing Clause.* - For the purpose of this Act. Sections 11, 15, 20 and 21 of Republic Act No. 7586 *are* hereby modified. All other laws, rules and regulations inconsistent with the act are hereby repealed or modified accordingly. The prohibition and penalties under Republic Act No. 7586 are hereby superseded for the entire area covered by this Act.

SEC. 18. *Separability Clause.* - The provisions of this Act are hereby declared to be separable, and in the event one or more of such provisions are held unconstitutional, the validity of other provisions shall not be affected thereby.

SEC. 19. *Effectivity Clause.* - This Act shall be translated in English and Filipino, within thirty (30) days from the date of approval hereof. It shall be published once a week for three (3) consecutive weeks in a newspaper of general circulation readily available in the areas in and around the score specified herein. It shall likewise be conspicuously posted simultaneously in the provincial, municipal and barangay halls within the area as well as in three (3) other places frequented by the public. Fifteen (15) days after the last publication and posting, this Act shall have full force and effect.

Approved,