

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
Third Regular Session

COMMITTEE REPORT NO. 2461

Submitted by the Committee on Natural Resources on ~~13~~ NOV 2012

Re: House Bill No. 6679

Recommending its approval in substitution of House Bill No. 5898

Sponsors: Representatives Francisco T. Matugas and Ben P. Evardone

Mr. Speaker:

The Committee on Natural Resources, to which was referred House Bill No. 5898, introduced by Representative Ben P. Evardone, entitled:

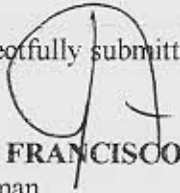
AN ACT
DECLARING THE PROVINCE OF EASTERN SAMAR A MINING - FREE ZONE AND
PROVIDING PENALTIES FOR VIOLATIONS THEREOF

has considered the same and recommends that the herein attached House Bill No. 6679 entitled:

AN ACT
DECLARING THE PROVINCE OF EASTERN SAMAR A MINING - FREE ZONE AND
PROVIDING PENALTIES FOR VIOLATIONS THEREOF

be approved in substitution of House Bill No. 5898 with Representatives Evardone and Matugas as authors thereof.

Respectfully submitted,


HON. FRANCISCO T. MATUGAS
Chairman
Committee on Natural Resources

THE HONORABLE SPEAKER
House of Representatives
Quezon City

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

FIFTEENTH CONGRESS
Third Regular Session

House Bill No. 6679
(substitute to HB 5898)

Introduced by Representatives Ben P. Evardone and Francisco T. Matugas

**AN ACT DECLARING THE PROVINCE OF EASTERN SAMAR A MINING-FREE ZONE
AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF**

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

1 **SECTION 1. Title.**-The Province of Eastern Samar is hereby declared a mining-free zone
2 and all mining operations in the province are hereby prohibited.

3 As used in this Act, mining operations shall be understood in the sense used under existing
4 mining laws, and shall apply whether the same is conducted in a small scale or otherwise: Provided
5 however, that this Act shall not operate against legitimate quarrying /and or sand and gravel
6 activities in the province of Eastern Samar.

7 **SEC. 2.** It shall be unlawful for any person to conduct mining operations in the Province of
8 Samar. Any person found guilty violating the provisions of this Act shall be penalized with
9 imprisonment of at least six (6) years but not more than twelve (12) years and a fine of at least Two
10 hundred thousand (P200,000.00) pesos but not more than Five hundred thousand (P500,000.00)
11 pesos.

12 If the offender is a corporation, firm, partnership or association, the penalty shall be imposed
13 upon the officer or officers of the corporation, firm partnership or association responsible for the
14 violation hereof.

15 If the offender is an alien, after service of sentence and payment of fine, he will be deported
16 immediately without further proceedings.

17 **SEC. 3. Implementing Rules and Regulations.** - Within three months following the
18 effectivity of this Act, the Secretary of the Department of Environment and Natural Resources shall
19 promulgate the necessary rules and regulations for its effective implementation.

20 **SEC. 4. Repealing Clause.** - All laws, presidential decrees or issuances, executive orders,
21 letter of instruction, administrative order, rule or regulation contrary to or inconsistent with the
22 provisions of this Act are hereby repealed.

23 **SEC. 5. Effectivity Clause.**- This Act shall take effect fifteen (15) days after its publication
24 in the Official Gazette or in a newspaper of general circulation in the Philippines, whichever comes
25 earlier.

26
27 Approved,

HOUSE OF REPRESENTATIVES

House Bill No. 5898

Introduced by Representative Ben P. Evardone
Lone District, Eastern Samar

EXPLANATORY NOTE

While it is conceded that mining plays a vital role in the development and growth of the Filipino nation, some areas or locations, on account of their peculiar soil composition and geological setting as a whole, need to be preserved and insulated from the destructive effects inherent in the conduct of mining.

Eastern Samar is one such place. And here's why —

Pursuant to the DENR-MGB Geohazard Map for Eastern Samar, the province is highly-susceptible to landslides and flashfloods. For this reason, the DENR-MGB has been urging LGU officials to familiarize themselves with the geohazard maps on their respective territories. MGB has called upon them to implement the necessary measures to reduce the impact of natural disasters on the people's lives and properties. Sadly, however, MGB's call has fallen on deaf ears. Mining activities, permitted or otherwise, are conducted even in areas already identified as highly-susceptible to landslides and flashfloods.

Moreover, in a recent MGB RO-8 Report, the current MGB Regional Director recommended the suspension of all small scale mining permits in Eastern Samar after the MGB found rampant mineral theft committed by either or both permit holders and non-permittees, acting alone or in concert with local diggers. The report disclosed that local officials seem to have given up justifying that the locals resort to mining as their means of livelihood. Consequently, local residents now dig for minerals here and there disregarding legalities and the environmental impact of their acts. Some SSM permittees allegedly use heavy equipments.

Meanwhile, some large scale miners in Eastern Samar proceed with extractions reportedly for commercial purposes even as the permits given them are merely for exploration, as others go on buying mineral ores from unlicensed 'camote' miners, thus promoting mineral theft.

This bill not only seeks to put an end to such unhealthy, irresponsible mining practices in Eastern Samar but also to liberate the people of Eastern Samar from avoidable hazards and to ensure the accomplishment of the salutary purposes behind the establishment

of the Samar Island Natural Park and the Carapadapan, Salcedo Community-Based Reforestation Management (CBRM), among other government programs and projects on the environment. For indeed, what greater folly can there be than strive to make our life better only to destroy it in the process?

As a final note, let it be stressed that this bill finds basis in the collective right of the people of Eastern Samar to a healthful and balanced ecology and seeks to reinforce the right equal protection of the laws.

It is submitted that when the present mining laws were passed, Congress failed to consider the foregoing circumstances peculiar to Eastern Samar, which had been in existence since long ago, particularly as regards the geohazards shown by DENR-MGB-NAMRIA Geohazards maps. Such failure, though unintentional, leave the people of Eastern Samar in a very precarious situation. Therefore, the present mining laws should be re-evaluated, amended if necessary, this time taking into account the geohazard maps, geologic setting of every supposed mining area, as well as changes in weather patterns.

Verily, class legislation, which essentially favors a class or subject and/or discriminates against another belonging to the same class, occurs not only when the law enacted substantially distinguishes one from another when none is required, but also when such law fails to make such distinction when one should be made.

In the meantime, let this bill be immediately enacted.



BEN P. EVARDONE
Representative
Lone District, Eastern Samar

HOUSE OF REPRESENTATIVES

House Bill No. 5898

Introduced by Representative Ben P. Evardone
Lone District, Eastern Samar

AN ACT

DECLARING THE PROVINCE OF EASTERN SAMAR A MINING-FREE ZONE
AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF

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

SECTION 1. The Province of Eastern Samar is hereby declared a mining-free zone and all mining operations in the Province of Eastern Samar are hereby prohibited.

As used in this Act, mining operations shall be understood in the sense used under existing mining laws, and shall apply whether the same is conducted in small scale or otherwise: *Provided however*, that this Act shall not operate against legitimate quarrying and/or sand and gravel activities in the Province of Eastern Samar.

SECTION 2. It shall be unlawful for any person to conduct mining operations in the Province of Eastern Samar.

SECTION 3. Any person found guilty violating the provisions of this Act shall be penalized with imprisonment of at least six (6) years but not more than twelve (12) years and a fine of at least Two Hundred Thousand pesos (Php200,000.00) but not more than Five Hundred Thousand Pesos (Php500,000.00).

If the offender is a corporation, firm, partnership or association, the penalty shall be imposed upon the officer or officers of the corporation, firm partnership or association responsible for the violation hereof.

1 If the offender is an alien, after service of sentence and payment of fine, he will be
2 deported immediately without further proceedings.

3
4 SECTION ²~~4~~ *Implementing Rules and Regulations.*—Within three months
5 following the effectivity of this Act, the Secretary of the Department of Environment and
6 Natural Resources shall promulgate the necessary rules and regulations for its effective
7 implementation.

8
9 SECTION. ⁴~~5~~ *Repealing Clause.*— All laws, presidential decrees or issuances,
10 executive orders, letter of instruction, administrative order, rule or regulation contrary to or
11 inconsistent with the provisions of this Act are hereby repealed.

12
13 SECTION ⁵~~6~~ *Effectivity Clause.*— This Act shall take effect fifteen (15) days after
14 its publication in the Official Gazette or in a newspaper of general circulation in the
15 Philippines, whichever comes earlier.

16
17 Approved,

18
19 BEN P. EVARDONE
20 Representative
21 Lone District of Eastern Samar

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
Third Regular Session

COMMITTEE ON NATURAL RESOURCES

MINUTES OF THE MEETING OF THE COMMITTEE ON NATURAL RESOURCES HELD
ON THE 23rd OF MAY 2012 (WEDNESDAY), 1:30 P.M., CONFERENCE ROOM NOS. 3
AND 4, SPEAKER RAMON V. MITRA, JR. BUILDING, HOUSE OF REPRESENTATIVES,
QUEZON CITY

MEMBERS PRESENT

Hon. Francisco T. Matugas	-	Chairman / Presiding Officer
Hon. Deogracias B. Ramos, Jr.	-	Vice-Chairman
Hon. Rodol M. Batocabe	-	Vice-Chairman
Hon. Herminia B. Roman	-	Vice-Chairman
Hon. Philip Pichay	-	Member
Hon. Sharon Garin	-	Member
Hon. Ben Evardone	-	Member
Hon. Luzviminda Ilagan	-	Member
Hon. Nelson Dayanghirang	-	Member
Hon. Jesus Sacdalan	-	Member
Hon. Rafael Mariano	-	Member
Hon. Carlos Padilla	-	Member
Hon. Teodorico Haresco, Jr.	-	Member
Hon. Jun Omar Ebdane	-	Member
Hon. Roger Mercado	-	Member
Hon. Rufus Rodriguez	-	Member
Hon. George Arnaiz	-	Member
Hon. Pryde Henry Teves	-	Member

I. CALL TO ORDER/ROLL CALL

The meeting was called to order at 2:00 p.m., with the Honorable Francisco T. Matugas, Chairman of the Committee, presiding. Thereafter, on a motion made and duly seconded, the calling of the roll was dispensed with.

II. READING/APPROVAL OF THE MINUTES OF THE PREVIOUS MEETING

The reading of the minutes of the previous meeting was dispensed with and the same was approved.

III. ACKNOWLEDGMENT OF GUESTS/RESOURCE PERSONS

Upon instruction of the Chairman, the Committee Secretary acknowledged the guests and resource persons.

IV. OPENING REMARKS BY THE CHAIR

Hon. Francisco T. Matugas outlined the agenda for the afternoon. Thereafter, he welcomed all the guests and resource persons.

V. DELIBERATION OF THE FOLLOWING MEASURES:

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- A. **House Bill 5855**, "An Act Declaring Southern Leyte as a Mining-Free Zone and Providing Penalties for Violations Thereof", introduced by Hon. Roger Mercado.

In his sponsorship speech, Rep. Roger Mercado said that Southern Leyte has been known to be flood prone, frequently stricken by landslide and other natural calamities. Despite this fact, the legislator added that biodiversity still exists. He further stated that this is being confirmed by scientists who found out that there are numerous medicinal benefits from the subsisting biological diversity in the province.

Regional Executive Director (RED) Roger de Dios of the Mines and Geosciences Bureau (MGB) Region VIII said that they have no objection to the measure. He clarified from the author if the bill includes offshore mining and whether the exclusion of sand and gravel includes filling materials, which are vital for infrastructure and construction projects.

Rep. Mercado took note of RED de Dios' findings and said he is amenable to include it in the ~~Implementing Rules and Regulation (IRR)~~ of the bill, subject to the recommendations of scientists and environmental experts.

Asked by Rep. Rafael Mariano if magnetite mining is excluded, the author of the bill answered that mining of black sand is prohibited since it is indeed environmentally destructive.

Also posed by Rep. Philip Pichay is whether or not Southern Leyte is already a logging free area of which Rep. Mercado responded that his province was declared as a total log ban spot since the last Congress.

Rep. Pichay moved for the approval of the bill subject to amendment and style. There being no objection, the bill was approved.

- B. **House Bill 5898**, "An Act Declaring the Province of Eastern Samar as a Mining-Free Zone and Providing Penalties for Violations Thereof," introduced by Hon. Ben Evardone.

Mining activities in Eastern Samar have been abused according to Rep. Ben Evardone. He stated that there had been killings because of mining conflicts and that the law enforcers fail to contend unscrupulous miners.

Rep. Evardone said that the Cease and Desist Orders (CDOs) that were issued are being ignored. He emphasized that since there is no enforcement of the law, declaring Eastern Samar as a mining-free zone would put a stop to the catastrophe caused by mining activities as exemplified by the recent fish kill in the island barangays in Manikani. He stressed that he is willing to allocate his Priority Development Assistance Fund (PDAF) for the livelihood of those who will be affected by the ban.

MGB-RED of Region VIII Mr. De Dios interposed no objection. He also clarified the author if the ban includes offshore mining, to which Rep. Evardone said yes.

Rep. Jun Omar Ebdane inquired if there will be livelihood opportunities for those miners who will be displaced once the ban will be enforced. Rep. Evardone said that he will see to it that there will be an alternative livelihood for those who will be dislodged because of the mining ban.

The Officer-in-Charge Assistant Director Mr. Elmer Billedo of the MGB Central Office asked the author if strategic minerals can be excluded from the mining free zone.

Rep. Evardone explained that there is a danger in including the strategic minerals because the latter term is not yet defined.

Rep. Herminia Roman advised Rep. Evardone to review the mining laws in his province instead of declaring it as a mining free zone.

The MGB spokesperson Mr. Billedo was asked by Rep. Philip Pichay if their bureau can implement the law especially with small-scale miners.

Mr. Billedo answered saying the monitoring and stoppage of small-scale mining activities should come from the local government.

Rep. Pichay further questioned the MGB what will happen to the existing Mineral Production Sharing Agreement (MPSA) of the large-scale mining companies should the bill be passed into a law.

Chairman Matugas informed the body that existing contracts should be respected.

Rep. Evardone asked the MGB to identify the mining companies with MPSA, and how long before the contracts expire.

Mr. De Dios replied saying that he doesn't have the exact data but he said MPSAs extend up to twenty-five (25) years and that some companies just got hold of their MPSAs just recently.

Rep. Pryde Henry Teves blurted out that small-scale miners should be punished for operating large-scale basis.

Mr. Mario Ancheta, the Regional Director of MGB Region II explained that small-scale mining permits are given by the LGUs. He further added that the MGB Regional Office cannot override the decision of the governor. He stressed that it is only the DENR Secretary who has the authority to do so.

With the MGB comment, Rep. Padilla exhorted the representatives from the bureau to consult their legal department about their jurisdiction of power. He said that the authority to issue a permit is delegated by the national government, so in the ultimate analysis, the DENR should still be on top of everything when it comes to mining.

Rep. Batocabe retorted that the governor just gives permit. He stressed that the reason why MGB cannot enforce the law is because of lack of political will because the bureau is up against strong power.

Given a scenario by Rep. Batocabe wherein the governor violates the mining law by giving a small-scale mining permit in an MPSA area, Mr. Billedo said he will file a case against the governor but will resign thereafter.

Rep. Pichay moved for the approval of the bill. There being no objection, the committee approved HB 5898 subject to amendments.

- C. **House Bill 5900**, "An Act Declaring The Province of Nueva Vizcaya A Mining Free Zone and Providing Penalties For Violations Thereof", introduced by Hon. Carlos Padilla.

~~Rep. Carlos Padilla said there is an urgent need to declare the Province of Nueva Vizcaya as a mining free zone since mining operations affect not only the present but the future generation as well. He expounded how mining operations have been equated with environmental destruction.~~

Rep. Rufus Rodriguez moved for the approval of the bill subject to amendment. There being no objection, the Committee Members approved House Bill 5900.

- D. **House Resolution 1136**, "Resolution Directing the Committee on Natural Resources to Conduct An Inquiry In Aid Of Legislation On The Impact Of Magnetite Mining Along The Coastal Shores Of Eastern Samar", introduced by Hon. Rafael Mariano.

Rep. Rafael Mariano conveyed that magnetite mining or black sand mining is a threat

to the environment and the livelihood of the populace of Eastern Visayas, especially the small-scale fisherfolks and farmers. He cited the massive fish kill in Lake Bito, Mc Arthur, Leyte, which affected the source of livelihood of the community.

Based on studies made on magnetite mining, the author stressed that the activity can result to coastal erosion, flooding and destruction of the marine ecosystem. Moreover, Rep. Mariano requested for an onsite inquiry and public hearing in Eastern Visayas.

- E. **House Resolution 2029**, "Resolution Directing the Committee on Natural Resources, In Aid of Legislation, on the Black Sand Mining That Are Happening in Different Areas of the Country Which Damage the Shorelines and Cause Community Displacement, Marine Pollution and Degradation, introduced by Hons. Rufus Rodriguez and Maximo Rodriguez, Jr.

Rep. Rodriguez stated that black sand is indeed valuable for industrial use but its mining process is very detrimental to the environment, particularly coastlines. He said that mining operations had reduced shorelines which resulted in waves flashing near the homes of the residents of the area causing flooding.

He further added that the Pambansang Lakas ng Kilusang Pamalakaya ng Pilipinas has already given warning on the potential risks of black sand mining.

Rep. Mercado told MGB that their support is needed to stop magnetite mining.

The Committee motioned to continue the deliberation on magnetite mining on the next committee meeting.

VI. OTHER MATTER

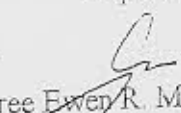
Rep. Padilla moved for the approval of the proposed Joint Congressional Mining Commission. There being no objection, the move was approved.

VII. ADJOURNMENT

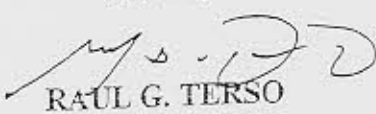
The meeting was adjourned at 5:04 p.m.

I HEREBY CERTIFY TO THE CORRECTNESS OF THE FOREGOING

Prepared by:


Deceeree Ewen R. Madamba-Ledonio
Legislative Staff Officer IV

Noted by:


RAUL G. TERSO
Committee Secretary

Approved by:

HON. FRANCISCO T. MATUGAS
Chairman