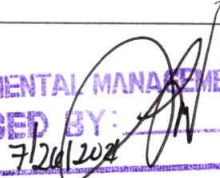


16 July 2021

**AIDA L. DIZON INDUSTRIAL SAND AND GRAVEL PROJECT
WITHOUT CRUSHING PLANT**
Brgy. Hiluctogan/Mahayahay, Mahaplag, Leyte

ENVIRONMENTAL MANAGEMENT BUREAU
RELEASED BY: 
DATE: 7/20/2021
TIME: 11:31am

Thru: **MS. AIDA L. DIZON**
Proponent
Brgy. San Isidro, Mahaplag, Leyte

Sir/Madame:

This notice is being served upon you for alleged violation of **P.D 1586**, otherwise known as the Philippine Environmental Impact Statement System, based upon the investigation conducted by the technical personnel of this office last **15-16 April 2021**.

ACTS CONSTITUTING THE VIOLATION

Findings	Prohibited Acts
Non-submission of Compliance Monitoring Report (CMR) to this Office on semi-annual basis since the start of the project operation .	Violation of ECC Environmental Management Condition No. 2, DENR Administrative Order 2003-30 , Implementing Rules and Regulations of P.D 1586 .
Failure to conduct information, education, communication (IEC) program to educate and inform stakeholders, since the start of the project operation.	Violation of ECC Environmental Management Condition No. 1, DENR Administrative Order 2003-30 , Implementing Rules and Regulations of P.D 1586 .
Failure to designate/accredit a PCO who would competently handle environment related aspects of the project.	Violation ECC General Condition No. 6, DENR Administrative Order 2003-30 , Implementing Rules and Regulations of P.D 1586 .

The foregoing considered, and in accordance with the relevant provisions of **EMB Memorandum Circular No. 2020-21¹**, you are hereby required to explain in writing, duly subscribed before a Notary Public, **within Fifteen (15) days from receipt hereof**, your defense/position to the alleged violation/s which is punishable by a fine of **not less than Ten Thousand Pesos (P10, 000.00) nor more than Fifty Thousand Pesos (P50,000.00)** for **each** of the above cited prohibited acts and to show cause why no Order should be issued against you, directing immediate cessation of the project operation.

To expedite the submission, you may send an electronic copy of your position paper thru e-mail address embr8_records@emb.gov.ph. Further, you or your authorized representative is hereby summoned to physically attend in a technical conference before this Office on AUGUST 9, 2021 at 10:00 AM.



However, in light of **Proclamation No. 922, “Declaring a State of Public Health Emergency throughout the Philippines”**, and the implementation of Community Quarantine in Region VIII as a measure to combat the COVID-19 Disease, **you are also given an option to attend in the scheduled technical conference via internet video conference**. In case you choose for the latter mode, please submit an e-mail to legalunitembr8@gmail.com immediately upon receipt hereof, to signify such intention and an electronic internet address link shall then be provided to you.

Please be informed that pursuant to **Section 5, Item VII of EMB Memorandum Circular No. 2020-21**, your failure to appear during the scheduled technical video conference shall be construed as waiver of your right to contest the findings and the case shall be decided based on the available evidence on record.

¹ Supplemental Rules of the EMB Manual of Uniform Procedures for COVID-19 Pandemic

Please be guided accordingly.

Very truly yours,


LETECIA R. MACEDA
Regional Director 



INVESTIGATION REPORT

NAME OF RESPONDENT : AIDA DIZON SAND AND GRAVEL PROJECT
ADDRESS OF RESPONDENT : Brgy. Hiloctogan/Brgy. Mahayahay, Mahaplag, Leyte
ALTERNATE ADDRESS (Mailing) : Brgy. San Isidro, Mahaplag, Leyte
GEOGRAPHIC COORDINATES : 10°32'47.883"N 124°57'52.406"E
NAME OF PERSON/S CONTACTED : N/A
NATURE OF COMPLAINT : REVOCATION/CANCELLATION OF ECC ON GROUNDS OF BOUNDARY DISPUTE
COMPLAINANTS CONTACTED : N/A
DATE OF INVESTIGATION : 15-16 April 2021

I. AUTHORITY

- a. Travel Order No. EMBR8-2021-005749;
- b. Travel Order No. EMBR8-2021-005848;
- c. Travel Order No. EMBR8-2021-005994;
- d. Travel Order No. EMBR8-2021-005993; and
- e. Travel Order No. EMBR8-2021-005965.

II. BACKGROUND

1. On 31 March 2021, a complaint was filed before this Office by one Perlita Amarado, by way of a letter dated 29 March 2021, praying for the revocation or cancellation of the Environmental Compliance Certificate (ECC) issued by this Office to Aida Dizon Sand Gravel Project, allegedly on grounds that the project is extracting, thru its customer Blue Sapphire Construction and Aggregate Supply outside of its permitted area, and within Ms. Amarado's "applied" area;
2. Allegedly, Ms. Dizon cannot enter her ISAG concession area because it is presently a private agricultural lands owned by different persons, as shown in the vicinity map.

III. MATTERS INVESTIGATED

3. Pursuant to the said complaint, this Office ordered the conduct of its own investigation to determine, specifically, the following matters:
 - a. The names of the projects involved;
 - b. Whether or not the project/s involved are clothed with an Environmental Compliance Certificate;
 - c. If an ECC exists, compliance by the project/s with the provisions of P.D 1586, or the Philippine Environmental Impact Assessment System or the conditions and restrictions of its ECC;

IV. PROCEEDINGS

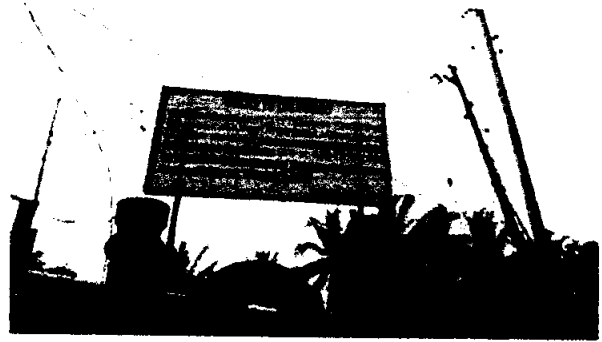
4. On 15-16 April 2021, the undersigned investigating team conducted the investigation.

V. FINDINGS/OBSERVATIONS

P.D 1586

5. An Environmental Compliance Certificate (ECC) with Reference Code: ECC-OL-R08-2020-0086 was issued by this Office on 20 July 2020 to Ms. Aida L. Dizon for the Industrial Sand and Gravel Project without Crushing Plant located in Brgy. Mahayahay & Hiluctogan, Mahaplag Leyte which covers an area of 49,999 square meters;

6. **There was no extraction activity observed in the project site at the time of the investigation.** Nonetheless, as the proponent is expected to comply with the conditions and restrictions of the ECC, the following facts and circumstances were ascertained on site and from the records of this Office:
7. **An ECC Billboard was seen posted at the entry/exit point of the project, as required by General Condition No. 9 of ECC-OL-R08-2020-0086;**
8. Per interviews conducted with the immediate community, **no information, education, communication program was conducted since the beginning of the project, as required by Environmental Management Condition No. 1 of the ECC.** Unless otherwise the proponent is able to submit a proof of the conduct thereof, there is reasonable grounds to cite the proponent to a violation to such a condition.
9. **No Compliance Monitoring Reports** were submitted to this Office since the beginning of the project, as required under **Environmental Management Condition No. 2** of the particular ECC;
10. **General Condition No. 8** requires the proponent to secure a consent from the affected/adjacent lot owners by the project prior to project implementation. Hence, the proponent must ensure compliance with the same condition.
11. A public infrastructure exists in close proximity to the project site. A hanging bridge connecting Brgy. Mahayahay to Brgy. Hiluctogan is estimatedly situated within a one kilometer radius from the project site;
12. **General Condition No. 10** mandates for the proponent not to undertake extraction, removal, and/or disposition of materials within a distance of 1 kilometer radius from boundaries of reservoirs, **public/private infrastructures**, etc., unless prior clearance from the concerned Government agency(ies) or owner is obtained and other pertinent environmental provisions of R.A 7942(Philippine Mining Act of 1995).
13. The establishment has no designated/accredited Pollution Control Officer who will competently handle the environmental-related aspects of the project;
14. It could not be clearly established, however, at the time of the investigation, whether an extraction was already undertaken as there was no extraction activity observed on the project area. Nonetheless, the proponent must be reminded of its compliance to the foregoing condition particularly from securing clearance with the government agency concerned of the hanging bridge.



VI. OTHER FINDINGS

15. As alleged on the complaint, the proponent's extraction area is located within a private agricultural land owned by private personalities. A survey map attached to the complaint will also show that the project site is within an area covered with coconut plantation.
16. Without necessarily submitting to the accuracy thereof, an attempt to map out the project site was made using its Geographic Coordinates, as described on the ECC, thru the Google Maps Application. The result has projected the location of the project as within a coconut plantation.
17. Notwithstanding, as there is an Area Clearance issued by the MGB for the project, it is only proper that the same must be first invalidated, if warranted by its own findings, before this Office may consider what proper actions to undertake insofar as the ECC is concerned.

VII. REMARKS

1. Section 9.0 of P.D 1586 provides that:

"Penalty for Violation. Any person, corporation, partnership found violating Section 4 of this Decree, or the terms and conditions in the issuance of the Environmental Compliance Certificate, or of the standards, rules and regulations issued by the National Environmental Protection Council pursuant to this Decree shall be punished the suspension or cancellation of his/its certificate and/or a fine in an amount not to exceed Fifty Thousand Pesos for every violation thereof...xxx" *Emphasis ours*


2. **Section 77 of R.A 7942** or the Philippine Mining Act of 1995 on Settlement of Conflicts provide that there shall be a panel of arbitrators in the Mines Regional Office, who shall have exclusive and original jurisdiction to hear and decide on disputes involving surface owners, occupants and claimholders/concessionaires, among others
3. It is therefore, apparent that this Office does not exercise jurisdiction specifically over the subject matter of this complaint. it being one which falls under the jurisdiction of the Mines and Geosciences Bureau R8.
4. In addition, pursuant to **Sec. 75 of DAO 96-40 or the Revised Implementing Rules and Regulations of R.A 7942, Philippine Mining Act of 1995, in cases of overlapping of claims/conflicts/complaints from landowners, NGO's, LGU's and other concerned stakeholders, the concerned Regional Director/Provincial Governor/City Mayor shall exert all efforts to resolve the same.**
5. The grounds cited by the complainant is not among the grounds provided for under P.D 1586 for the cancellation/revocation of the ECC. It is also worthy to stress that an ECC does not concern itself with boundary disputes between and among concessionaires, as these are matters falling within the ambit of the Philippine Mining Act of 1995 which is under the mandate of the Mines and Geosciences Bureau and/or the Provincial Mining and Regulatory Board, as the case may be, pursuant to existing rules and regulations.
6. Further, given that an **Area Clearance** was issued to the Sand and Gravel Project of Ms. Aida L. Dizon, the presumption of regularity over the issuance of the said document should stand, unless otherwise later on revoked by the issuing authority. Only until the said area clearance is revoked may a cancellation/revocation of the ECC be considered by this Office, without prejudice to other grounds arising in the future.
7. The issuance of an ECC does not create any right nor shall be used as an authorization to implement the project as it is not a permit. Thus, the project may proceed with the implementation after securing all the necessary and relevant permits from other pertinent Government Agencies. The release of the ECC allows the project to proceed to the next stage of project planning, which is the acquisition of approvals from other government agencies and LGUs after which the project can start implementation.
8. The cancellation of an ECC may be detrimental to the environment as it contains conditions and restrictions which must be followed by the project proponent in order that potential environmental impacts of the project are minimized, if not squarely addressed. The ECC Conditions also aims to enhance positive impacts of the project.


VIII. RECOMMENDATIONS


1. For this Office to issue a Notice of Violation against **AIDA L. DIZON ISAG EXTRACTION PROJECT (Without Crushing Plant)** located in Brgy. Hiluctogan and Brgy. Mahayahay, Mahaplag Leyte, for the following acts:
 - a. Non- submission of Compliance Monitoring Reports, as required by **ECC Environmental Management Condition No. 2, DENR Administrative Order No. 2003-30, P.D 1586.**

- b. Failure to conduct **information, education, communication program**, as required under **ECC Environmental Management Condition No. 1, DENR Administrative Order No. 2003-30, P.D 1586.**
 - c. Failure to designate a Pollution Control Officer as required under **ECC General Environmental Management Condition No. 6**
2. To write and direct the project proponent on the following:
 - a. To conduct an Information, Education, Communication Program with the Barangay concerned.
 - b. To submit Compliance Monitoring Report for the 2nd semester of 2020 and onwards through the EMB online system which can be accessed through the EMB website or through <https://online.emb.gov.ph/cmnr/>.
 - c. The establishment shall designate a Pollution Control Officer, to attend the 40-hr Basic PCO Training and apply for PCO accreditation as per DENR Administrative Order No. 2014-02" Revised Guidelines for PCO accreditation."
 - d. To ensure compliance to **ALL** the conditions and restrictions of **ECC-OL-R08-2020-0086.**
 3. To write and inform complainant Perlita Amarado of the result of the investigation.
 4. To write and endorse the subject matter of the complaint to the Provincial Mining and Regulatory Board- Leyte and the Mines and Geosciences Bureau.

Investigation Team:


ENGR. JANET T. POLEA
Engineer IV-WAQMS


DAVE EDEN C. NIELO
Senior EMS- EIAS


JO ANN JOY M. DANAL
Senior EMS-WAQMS


JULIUS C. BOBON
Technical Staff-EIA/CHWMS


SHERWIN GIL E. AVESTRUZ
ORD-Legal


Reviewed by:


ENGR. CARLOS A. CAYANONG
Chief, Water Air Quality Monitoring Section

Approved by:


REYNALDO B. BARRA, PME
Chief, Environmental Monitoring and Enforcement Division

Noted By:


LETECIA R. MACEDA
Regional Director