



Republic of the Philippines
Department of Environment and Natural Resources
ENVIRONMENTAL MANAGEMENT BUREAU
Regional Office No. VIII

DENR Compound, EMB Building, Jones Street, Tacloban City, Philippines

NOTICE OF VIOLATION

22 June 2021

**MANOLITO T. LLEVE INDUSTRIAL SAND AND GRAVEL
PROJECT WITHOUT CRUSHING PLANT**

Brgy. Poblacion, Mahaplag, Leyte

ENVIRONMENTAL MANAGEMENT BUREAU

RELEASED BY:

DATE: 06/22/2021

TIME: 1:04pm

Thru: **MR. MANOLITO T. LLEVE**
Owner/Proponent

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 .
Failure to obtain clearance from government agencies (DPWH, Provincial Government of Leyte, and Municipality of Mahaplag) prior to extraction, removal, and disposal of materials within one (1) kilometer radius from public infrastructures.	Violation of ECC General Condition No. 10, 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 July 19, 2021 at 9:00 AM.

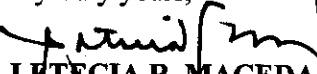
However, in light of **Proclamation No. 922, "Declaring a State of Public Health Emergency throughout the Philippines"**, and the implementation of Community Quarantine in Region VIII as a measure to combat the COVID-19 Disease, **you are also given an option to attend in the scheduled technical conference 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.

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

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.

Please be guided accordingly.

Very truly yours,


LETECIA R. MACEDA
Regional Director



INVESTIGATION REPORT

NAME OF RESPONDENT : MANOLITO T. LLEVE INDUSTRIAL SAND AND GRAVEL PROJECT W/OUT CRUSHING PLANT
ADDRESS OF RESPONDENT : Brgy. Poblacion, Mahaplag, Leyte
ALTERNATE ADDRESS (Mailing) : Brgy. Poblacion, Mahaplag, Leyte
GEOGRAPHIC COORDINATES : 10°36'04.52"N 124°57'57.922"E
NAME OF PERSON/S CONTACTED : N/A
NATURE OF COMPLAINT : REVOCATION/CANCELLATION OF ECC
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 Mr. Victor Dalaguit, Mr. Bonifacio A. Bergado and Ms. Armenia C. Allera, all Brgy. Officials of Brgy. Sta. Cruz, Mahaplag Leyte, 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 **MANOLITO LLEVE INDUSTRIAL SAND AND GRAVEL PROJECT (Without Crushing Plant)** located in Brgy. Poblacion, Mahaplag, Leyte.
2. Allegedly, the project caused danger to the lives, destruction to both public and private properties, hardship to livelihood and everyday lives of the community, and many other damages. It also alleges that the proponent failed to secure a certification interposing no objection from their barangay.

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. Whether or not the project/s involved are clothed with an Environmental Compliance Certificate;
 - b. 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**;
 - c. Whether or not there are grounds to cancel/revoke the ECC.

IV. PROCEEDINGS

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

V. FINDINGS/OBSERVATIONS

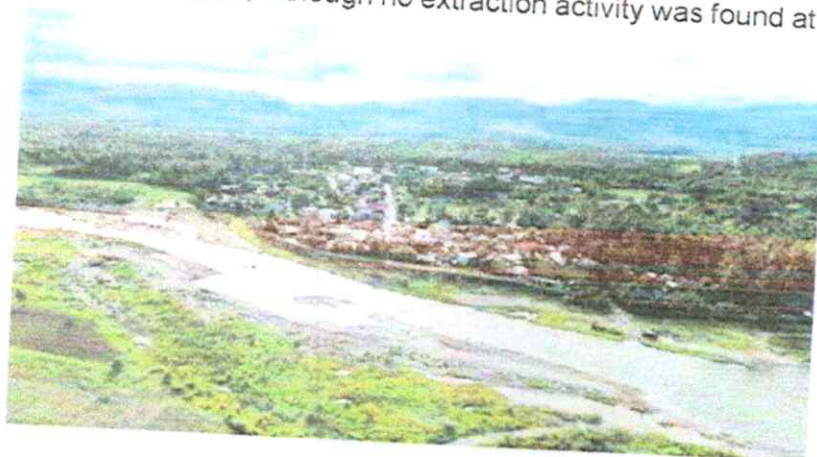
P.D 1586

5. An Environmental Compliance Certificate (ECC) with Reference Code: ECC-OL-R08-2020-0085 was issued by this Office on 20 July 2020 to Mr. Manolito T. Llave for the Industrial Sand and Gravel Project without Crushing Plant located in Brgy. Poblacion, Mahaplag, Leyte which covers an area of 49,998 square meters;
6. There was no extraction activity observed in the project site nor within the proximities of the area 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-R08-2020-0085;



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. The establishment has no designated/accredited Pollution Control Officer which will competently handle the environmental-related aspects of the project as required under ECC General Condition No. 5;
11. ECC 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.
12. ECC 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).

12. An existing river embankment/dike is found within a one kilometer radius from the extraction area. There were stock piles of materials observed within the area, indicating that an extraction has been undertaken, although no extraction activity was found at the time of the investigation.



VI. OTHER FINDINGS

13. An open dumpsite of waste materials located along the banks of the river channel in Brgy. Poblacion, Mahaplag, Leyte was observed on the occasion of the investigation.

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. 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.
 3. 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.
 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. Therefore, the issues raised on the complaint must be endorsed to the Provincial Sand and Gravel- Task Force of the Provincial Government of Leyte.

VIII. RECOMMENDATIONS

1. For this Office to issue a Notice of Violation against **MANOLITO T. LLEVE ISAG EXTRACTION PROJECT (Without Crushing Plant)** located in Brgy. Poblacion, 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**.
 - d. Failure to obtain clearance from government agencies (DPWH, Provincial Government of Leyte, and Municipality of Mahaplag) prior to extraction, removal, and disposal of materials within a one kilometer radius from public infrastructures, as required under **General Condition No. 10, DAO 2003-30, P.D 1586**.

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/cmr/>.
- 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**.


2. To write and inform complainants of the result of the investigation.

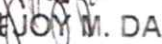
3. To write and endorse the subject matter of the complaint to the Provincial Mining and Regulatory Board- Leyte and the Mines and Geosciences Bureau.

4. To write and request the assistance of the LGU- Mahaplag, Leyte, thru the MENRO concerned and LGU-Brgy. Poblacion, in the clean-up of the dumpsite observed.


Investigation Team:


ENGR. JANET T. POLEA
Engineer IV-WAQMS


DAVE EDEN C. NIELO
Senior EMS- EIAS


JO ANNE JOY M. DAÑAL
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