



Republic of the Philippines
Department of Environment and Natural Resources
ENVIRONMENTAL MANAGEMENT BUREAU
Regional Office No. VIII
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Complainants
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07 March 2022
ENVIRONMENTAL MANAGEMENT BUREAU
RELEASED BY:
DATE: 3/17/2022
TIME: 4:42pm

Dear **Mr. Pobadora, et.al:**

Environmental Greetings!

This is to respectfully acknowledge the receipt of your letter-complaint dated **11 January 2022** submitted to this Office last 12 January 2022, against the impending operation of **Talisay Primary Multi-Purpose Cooperative Palay Dryer** situated in **Brgy. Sto. Rosario, Matag-ob, Leyte**.

Pursuant to the said complaint, this Office would like to inform you that a team of technical and legal personnel from this Office conducted an investigation on the matter last **03 February 2022** to determine the compliance by the complained establishment with the environmental laws specifically mandated of this Office. The following are the relevant findings of the said investigation:

1. That there are reasons to believe that the project is yet to commence actual operation.
2. The existence of a **one (1) unit mechanical dryer** was found. Another is yet to be installed.
3. The facilities (mechanical dryers) are not required to secure an **Environmental Compliance Certificate (ECC)** from this Office, as both mechanical dryers are projected to have an annual production rate of only **1,000 MT**, contrary to the requirement of **more than 5,000 MT** under existing guidelines.
4. The mechanical dryers, however, are properly the subject of a **Permit to Operate Air Pollution Source and Control Installation**. The existence of two (2) comfort rooms which are properly the subject of a **Wastewater Discharge Permit** were also found. Both requirements must be secured from this Office by the project proponent.
5. Considering that the project is yet to commence operation, the investigation further noted that the project proponent cannot be said to have committed a violation to the foregoing requirements.

It is the understanding of this Office that what your complaint seeks to petition is to permanently prohibit the impending operation of the complained establishment. It is not the mandate of this Office, however, to decide whether to grant governmental permission or not for the establishment to conduct business in your locality or whether it should be there in the first place.

A **Permit to Operate (PTO) Air Pollution Source and Control Installation** is issued to regulate the operation of the air pollution source, but not the entire business operation of the project. While a PTO can be suspended or cancelled, the suspension or the cancellation is neither permanent and its validity can be reinstated as soon as deficiencies which caused the suspension or cancellation, are complied with. It also does not concern itself with the propriety of the location of the establishment. A PTO is issued, regardless of the project's location, provided all relevant requirements are complied with.

At this juncture, this Office cannot even validly deny the issuance of a Permit to Operate (PTO) Air Pollution Source and Control Installation on the ground of mere assumptions of the potential risks it may bring to the immediate community. There are safeguards to be installed, such as a containment facility, designed to suppress dusts. The establishment ought to implement these safeguards and the findings of the investigation have shown that the complained establishment have installed a containment facility. This Office ought to monitor and regulate the same.

If there be any grounds to suspend or cancel a PTO, or to cite the complained establishment to any violations borne out of the dusts generated, there must first be findings of facts to support the suspension or cancellation, or an alleged violation. There can be no such findings of facts, however, where the project is yet to commence actual operation. It is also premature to conclude that dusts generated by the operation of the establishment, assuming there will be any, will directly affect the immediate community, considering the existence of the containment facility.

At any rate, considering that the project is located in between residential establishments, there may be a need to invoke the intervention of the Municipal Local Government Unit of Matag-ob, Leyte so that it may explore on the propriety of the project's location *vis-à-vis* existing municipal zoning ordinances and a locational clearance issued either by the LGU or the Housing Land Use and Regulatory Board (HLURB), now known as the Department of Human Settlements and Urban Development (DHSUD). After all, it is within the exclusive power of the LGU to decide whether to permit the business operation, by issuing the business permit or not. Hence, please find attached letter-endorsement of your complaint to the Municipal Local Government Unit of Matag-ob, Leyte.

For your guidance, information and reference. Thank you for your cooperation.

Respectfully,

for: 
ENGR. REYNALDO B. BARRA
OIC- Regional Director 
