



Republic of the Philippines
Department of Environment and Natural Resources
POLLUTION ADJUDICATION BOARD
DENR Compound, EMB Building, Visayas Avenue
Diliman, Quezon City

**IN THE MATTER OF
THE AIR POLLUTION
CONTROL AND
ABATEMENT CASE**

**DENR-PAB Case No.
08-000063-21-A**

-versus-

**FOR: Violation of
Section 1, Rule XIX,
DAO No. 2004-26,
R.A No. 8749**

NITRO FUELS GASOLINE STATION

Brgy. 95, Caibaan, Tacloban City, Philippines

Respondent.

X- - - - - X

ORDER

For consideration before the Board is the air pollution case of Respondent docketed as DENR-PAB Case No. **08-000063-21-A**.

Records of the case reveal that on **05 May 2021**, technical personnel of the EMB Regional Office No. VIII conducted a compliance inspection upon herein respondent. The inspection report revealed the existence of **one (1) unit 20 KVA Powercity Brand Standby Diesel Genset and three (3) units Underground Tanks (UGTs)**. Allegedly, however, the respondent is operating without the required Permit to Operate Air Pollution Source and Control Installation. Consequently, a Notice of Violation was issued on **02 September 2021** stating the violation.

Pursuant to **Pollution Adjudication Board Resolution No. 02, Series of 2020 or the Interim Guidelines of the Pollution Adjudication Board during the Public Health Emergency due to COVID-19**, in lieu of a technical conference/hearing, the Respondent was directed to submit a position paper fifteen (15) days from receipt of the NOV.

Respondent, however, failed to submit a position paper. The records of the EMB Regional Office will show that the Respondent, thru one "Marissa T.", was properly served with the NOV last **09 September 2021**.

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DENR-PAB Case No. **08-000063-21-A**

Hence, such failure to submit a position paper, despite receipt of the NOV, constitutes a waiver of its right to contest the findings.

Upon a thorough review of the inspection report and such all other available evidence on record, the Hearing Officer submitted the case for the Order of the Board, thru this Office, and is of the opinion that the alleged violation must be affirmed, and the Respondent should be held liable, there being a lawful ground to do the same.

RULING

The Board, in turn, thru this Office, finds no cogent reason or legal justification to deviate from the opinion and recommendations of the Hearing Officer. The said opinion and recommendations are hereby adopted in the ruling of this case.

Section 1, Rule XIX of DAO No. 2004-26 (IRR of R.A 8749) requires that all sources of air pollution must have a valid permit to operate issued by the EMB Regional Director. **Section 47 of R.A 8749**, meanwhile, provides that "For violations of all other provisions provided in this Act and of the rules and regulations thereof, a fine of not less than Ten thousand pesos (P10,000) but not more than One Hundred Thousand Pesos (P100,000) or six (6) months to six (6) years imprisonment or both shall be imposed. xxx", subject to the provisions of **PAB Resolution No. 01-2019**.

Here, the existence the Air Pollution Sources and Control Installation is apparent. However, the records are also clear that no valid Permit to Operate exists for the latter on the part of the Respondent. Hence, the Respondent should be held liable.

On **01 July 2019**, the DENR- Pollution Adjudication Board issued **Pollution Adjudication Board Resolution No. 01, Series of 2019**, which delegates to the EMB Regional Offices the determination of permitting and other administrative violations, such as for Operating without a valid Permit to Operate confronting herein Respondent, and the imposition of fines thereto.

Under **PAB Resolution No. 01, Series of 2019**, for permitting violations of the Clean Air Act (R.A 8749), and considering that a permit to operate has a validity of five (5) years, a fine of **Nineteen Thousand Five Hundred Pesos (Php 19, 500.00)** shall be imposed **for a five-year violation by the establishment**.

WHEREFORE, after due deliberation and consultation, the Board hereby resolves to impose upon respondent a fine amounting to

NINETEEN THOUSAND FIVE HUNDRED PESOS (P19, 500.00)
under R.A 8749 and its existing rules and regulations.

Respondent is directed to pay at the Environmental Management Bureau located at DENR Compound, EMB Building, Jones St. Brgy 02, Tacloban City, Philippines, within a period of **THIRTY (30) DAYS** from receipt hereof.

In addition, the respondent is likewise directed to secure a Temporary Permit to Operate from the EMB Regional Office No. VIII and must cease from utilizing the APSCI until and unless a PTO is secured for the same. Otherwise, any future similar violation shall be dealt with severely by law and may warrant the filing of a civil/criminal action in court.

The Legal Officer or his duly authorized representative is directed to serve this Order within seventy-two (72) hours from receipt hereof.

SO ORDERED.

Tacloban City, Philippines. JAN 28 2022

By authority of the Secretary:


ENGR. REYNALDO B. BARRA
OIC- Regional Director