



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

ENVIRONMENTAL MANAGEMENT BUREAU
RELEASED BY: [Signature]
DATE: 01/26/2022
TIME: 2:14pm

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

-versus-

**DENR-PAB Case No.
08-000096-21-A**

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

TOURBO FUELS

Brgy. 91, Abucay, 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. **08-000096-21-A**.

Records of the case reveal that on **09 June 2021**, technical personnel from the EMB Regional Office No. VIII conducted a compliance inspection for Air Quality Management upon herein respondent. The inspection report revealed the existence of several underground tanks, but allegedly without a Permit to Operate Air Pollution Source and Control Installation. Consequently, a Notice of Violation was issued on **21 October 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.

On **19 October 2021**, the respondent submitted a position paper under which it explained that it filed an application last **September 2020** but had to wait for the arrival of a Generator Set in order to

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secure all permits to operate under one application. The requirements were completed only on **29 June 2021** upon the arrival of the genset and the PTO was issued last **15 July 2021**.

Upon a thorough review of the inspection report, the respondent's explanation 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 that the respondent should be held liable, there being a lawful ground to warrant the same.

RULING

The Board, in turn, thru the EMB Regional Office No. VIII, 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 of the undergrounds tanks which are Air Pollution Source and Control Installations is apparent. However, the records are also clear that no Permit to Operate exists for the said installations on the part of the respondent. While it was able to show that a permit to operate has been secured, the issuance thereof was made after the date of the inspection and the same will not suffice to excuse the respondent from liability for what is controlling only in resolving this case is the findings at the time of the inspection.

The fact that the respondent also filed an application prior to the date of the inspection is immaterial for an application is not equivalent to issuance of the permit. The respondent should have pursued the application at the first opportunity and should not have waited for the incoming genset for it is crucial that a permit exists considering that the respondent is in operation. It should have instead filed for an amendment the moment the genset becomes available.

Henceforth, the respondent should be held liable, it being obvious that no Permit to Operate exists at the time of the inspection on **09 June 2021**.

On **01 July 2019**, the DENR- Pollution Adjudication Board issued **Pollution Adjudication Board Resolution No. 01, Series of 2019**, which delegated 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.

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

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 25 2022

By authority of the Secretary:


ENGR. REYNALDO B. BARRA
OIC- Regional Director