



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

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ENVIRONMENTAL MANAGEMENT BUREAU
RELEASED BY: [Signature]
DATE: 01/06/2022
TIME: 8:31am

**IN RE: VIOLATION OF ENVIRONMENTAL
COMPLIANCE CERTIFICATE CONDITION,
DENR ADMINISTRATIVE ORDER NO. 2003-30,
PRESIDENTIAL DECREE NO. 1586**

-versus-

**KIM HOWARD W. TY COMMERCIAL SAND AND
GRAVEL PROJECT**

Brgy. Binaloan, Taft, Eastern Samar
Respondent.

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DECISION

This resolves the **Notice of Violation** dated **21 September 2021** issued by this Office against Kim Howard W. Ty Commercial Sand and Gravel Project, herein referred to as the "Respondent", for brevity, located in Brgy. Binaloan, Taft, Eastern Samar for the following violation:

- a. Non-submission of Compliance Monitoring Report, as required by ECC General Condition No. 4**

Statement of Facts

An **Environmental Compliance Certificate (ECC)** is a decision document issued to the Proponent after thorough review of the EIA Report. It outlines the commitments of the proponent which are necessary for the project to comply with existing environmental regulations or to operate within best environmental practice that are not currently covered by existing laws. It contains specific measures and conditions that the project Proponent must undertake before and during the operation of a project, and in some cases, during abandonment phase, to mitigate adverse environmental impacts.

One of the salient features of an ECC are conditions and restrictions, which the Proponent has conformed to implement mitigating measures for potentially negative impacts and/or enhancement measures for potentially positive impacts as identified in the Environmental Impact Assessment Report.

On **20 April 2021**, technical personnel from this Office conducted a compliance inspection upon herein Respondent. The inspection revealed the Respondent's non-compliance with the above-stated ECC

Condition. Consequently, the inspecting personnel recommended the issuance by this Office of a Notice of Violation.

On **21 September 2021**, this Office issued a Notice of Violation upon Respondent, and the latter was called to attend a Technical Conference/Hearing on **25 October 2021**.

On **15 October 2021**, the respondent submitted the position paper under which it explained that in 2016, the respondent sought to renew its permit to operate with the Provincial Monitoring Regulatory Board (PMRB) which application, however, was denied. Hence, the respondent has since ceased operating and has never resumed operations until this time. That respondent stopped submitting its compliance reports on the belief that with the cessation of its project operation, it carries with it the termination of its obligations under the ECC.

On **25 October 2021**, the technical conference was conducted during which the respondent expressed willingness to settle the fine while explaining the above circumstances.

Thereafter, the Hearing Officer submitted the case for the Decision of this Office and recommends affirming the alleged violation and the imposition of the corresponding fines thereto.

Issue

Whether Compliance Monitoring Reports were submitted, as required by ECC General Condition No. 4

Ruling

General Condition No. 4 of ECC-R08-1402-0005 mandates the compliance with the said condition.

Respondent claimed that the operation stopped in 2016, or two years after the ECC was issued, which implies that the project was implemented when the ECC was issued. The proponent is required to start submitting CMRs when the project is implemented, therefore, Respondent should have already submitted, at the least, CMRs for 2014, 2015 and 2016. As for the years during which the operation was halted, the proponent is still required to comply with the said condition requiring the submission of CMR despite the non-operation. Until the ECC is cancelled or the proponent's request for relief of the ECC is approved, the condition to submit the CMR still needs to be complied with.

In this case, a perusal of the records of this Office will then disclose the failure of the Respondent to comply with the condition. The respondent likewise admitted the violation. Hence, there being no

DECISION

In re violation of the provisions of P.D 1586
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showing to the contrary, the Respondent should be held liable to the violation.

WHEREFORE, premises considered, this Office finds the Respondent liable to the violation. Consequently, the Respondent is hereby ordered to pay the fine of **TEN THOUSAND PESOS (Php10,000.00)** as penalty for violating an administrative condition in the Environmental Compliance Certificate (ECC) which is classified as a Minor Offense that will not have a direct significant impact on the environment but can impede or delay compliance against other ECC conditions and/or EMP Commitments which the Proponent is required to comply or can prevent/deter EMB from performing monitoring or audit functions on the Proponent's environmental performance.

This is in accordance with the definition provided for under **Section 2.5, Item no. 32, Paragraph (d) (i) (1) of the Revised Procedural Manual for DAO 2003-30, Implementing Rules and Regulations of P.D 1586 or the Philippine Environmental Impact Statement System**

The Respondent is hereby given **THIRTY (30) DAYS FROM RECEIPT** of this decision within which to settle amount imposed. The Respondent is also enjoined of its compliance, not only with the condition herein involved, but to all other conditions and restrictions of its ECC.

Otherwise, any similar future infractions shall be dealt with severely in accordance with law or may warrant the **suspension/cancellation of Respondent's ECC**.

The Legal Officer or any of his authorized representative/s is hereby directed to serve this Order within seventy-two hours from receipt hereof.

SO ORDERED. JAN 04 2022

Tacloban City, Philippines.


ENGR. REYNALDO B. BARRA
OIC- Regional Director