



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: 01/24/2022
TIME: 3:20pm

**IN RE: VIOLATION OF ENVIRONMENTAL
COMPLIANCE CERTIFICATE GENERAL
CONDITION NO. 4, DENR ADMINISTRATIVE
ORDER NO. 2003-30, PRESIDENTIAL
DECREE NO. 1586**

JOSELITO A. GESITE INDUSTRIAL SAND AND GRAVEL PROJECT
Brgy. Cantomco, Llorente, Eastern Samar
Respondent.

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DECISION

This resolves the **Notice of Violation** dated **21 September 2021** issued by this Office against Joselito A. Gesite Industrial Sand and Gravel Extraction Project, herein referred to as the "Respondent", for brevity, located in Brgy. Cantomco, Llorente, Eastern Samar for the following violation:

- a. Non-submission to this Office of the required semi-annual Compliance Monitoring Report (CMR), as required under 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 has to 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 **23 April 2021**, technical personnel from the Provincial Environmental Management Unit- Eastern Samar conducted a compliance inspection upon herein Respondent. The inspection revealed the Respondent's non-compliance to 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 **07 October 2021**, the Respondent personally appeared before this office to convey that it no longer intends to attend the scheduled technical conference. The Respondent instead submitted a position paper, under which it

Thereafter, the Hearing Officer submitted the case for the Decision of this Office and recommends affirming the alleged violation as it was under obligation to submit the CMR based on the circumstances present in this case.

Issue

Whether or not is under obligation to submit the CMR when it is yet to commence operation

Ruling

ECC General Condition No. 4 of ECC-RO8-1212-0171 requires the submission of a Compliance Monitoring Report to this Office semi-annually.

Under **Item no. 19** on the **Roles and Responsibilities** of the Project Proponents, **Section 2.3**, of **EMB Memorandum Circular No. 002, Series of 2007¹**, the **First CMR shall be submitted mid-year after the start of the project implementation**, except for ECC Commitments/Conditions, which need to be submitted prior to project start-up.

In this case, an admission can be implied from the explanation of the Respondent. The respondent equally admitted having commenced with the project operation, albeit lasting only for two (2) months. Nonetheless, applying the foregoing rules, the respondent becomes

¹ Revised Procedural Manual for DENR Administrative Order No. 30, Series of 2003.

DECISION

In re violation of the provisions of P.D 1586
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legally obligated to submit the CMR after the start of the project implementation. Apparently, it did commence with the project operation. Thus, it is under obligation to submit the CMR, notwithstanding the fact that it is non-operational.

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)**, 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 the amount. Additionally, it must be emphasized that other ECC conditions/restrictions binds the Respondent the moment the ECC is issued to the proponent, regardless of whether the project is operational or not. Hence, the Respondent is enjoined of its compliance to the same.

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

In the alternative, it may consider requesting for the cancellation of its ECC instead by this Office considering the circumstances mentioned by the Respondent. Otherwise, it must continue to be under obligation to comply with the said conditions/restrictions for as long as the ECC remains to be valid.

SO ORDERED. JAN 21 2022

Tacloban City, Philippines.


ENGR. REYNALDO B. BARRA
OIC- Regional Director