



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

ENVIRONMENTAL PROTECTION DIVISION
RELEASED BY: _____
DATE: 2-3-22
TIME: 4:55 p

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

**DENR-PAB Case No.
08-000104-21-A**

-versus-

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

BRICKS AND MERCKS BUILDERS

Brgy. Poblacion, Zone 1, Sta. Fe, Leyte

Respondent.

X- - - - - X

ORDER

For consideration before the Board is the air pollution case of Respondent docketed as DENR-PAB Case No. **08-000104-21-A**.

Records of the case reveal that on **06 September 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 two (2) units Jaw Crusher, but allegedly without a Permit to Operate Air Pollution Source and Control Installation since **05 September 2020**. Consequently, a Notice of Violation was issued on **09 November 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 **03 December 2021**, the respondent submitted a position paper under which it admitted the violation but reasoned that there was no intention on its part not to renew the permit as it was only overlooked. The respondent also expressed willingness to pay the

finer and seeks for the fines to be lowered than that stipulated on the NOV.

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 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 of a two (2) units Jaw Crusher, an Air Pollution Source 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 at the time of the inspection since its previous permit expired last **04 September 2020**. 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 covering the two (2) units Jaw Crusher and such all other Air Pollution Source and Control Installations on-site, if there be any. The respondent must likewise 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.

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