



ENVIRONMENTAL MANAGEMENT BUREAU
RELEASED BY: 1-28-22
Republic of the Philippines
Department of Environment and Natural Resources
ENVIRONMENTAL MANAGEMENT BUREAU
Regional Office No. VIII
Tacloban City, Philippines
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**IN RE: VIOLATION OF ENVIRONMENTAL
COMPLIANCE CERTIFICATE GENERAL
CONDITION NO. 4, DENR ADMINISTRATIVE
ORDER NO. 2003-30, PRESIDENTIAL
DECREE NO. 1586**

SHELLA TOBES COMMERCIAL SAND AND GRAVEL PROJECT

Brgy. Trojillo, Bobon, Northern Samar

Respondent.

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DECISION

This resolves the **Notice of Violation** dated **09 November 2021** issued by this Office against Shella Tobes Commercial Sand and Gravel Project, herein referred to as the "Respondent", for brevity, located in Brgy. Trojillo, Bobon, Northern Samar for the following violation:

- a. Non-submission of Compliance Monitoring Report to this Office, 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 **19 August 2021**, personnel from the Provincial Environmental Management Unit- Northern Samar conducted a compliance inspection upon herein Respondent. The report of the

DECISION

In re violation of the provisions of P.D 1586
vs Shella Tobes Commercial SAG, Bobon, Northern Samar

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 **09 November 2021**, this Office issued a Notice of Violation upon Respondent, and the latter was called to attend a Technical Conference/Hearing on **29 November 2021**. Respondent, however, failed to appear before this Office on the schedule of the technical conference.

On **24 November 2021**, the respondent submitted a position paper under which it asserts that it ceased from its operations in 2020 because of the pandemic and that when the inspection was conducted in August of 2021, it could not be said to have violated the condition for it was no longer operating.

Hence, 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 or not Respondent submitted a Compliance Monitoring Report, as required by ECC General Condition No. 4.

Ruling

General Condition No. 4 of ECC-R08-1412-0155 requires the submission of a Compliance Monitoring Report to this Office semi-annually to this Office.

In this case, a perusal of the records of this Office will then disclose that no such Compliance Monitoring Reports were submitted by the Respondent. The fact that it was no longer operating at the time of the inspection is of no moment for the obligation to comply with the condition mandating the submission of the CMR started to bind the respondent from the time the project was implemented and continues to bind the proponent-respondent for the lifetime of the project, even if it ceases from its operations.

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**. In this case, implied from the respondent's explanation is the fact that it started with the project implementation, only that it ceased from its operations last

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

2020. Therefore, it was duty bound to submit the CMR from mid-year after the start of the project implementation and shall continue to be under such obligation for the lifetime of the ECC.

The only time that the respondent may be relieved from compliance with the conditions and restrictions of the ECC is when the same ECC is cancelled, by virtue of a request for relief from no other than the proponent. Until and unless a request for relief is sought and approved, the proponent- respondent in this case shall have the obligation to comply with all the conditions and restrictions of **ECC-R08-1412-0155**.

WHEREFORE, premises considered, this Office finds the Respondent liable to the violation. Consequently, Respondent is hereby ordered to pay the fine of **TEN THOUSAND PESOS (Php10,000.00)** for the violation, an administrative condition in the Environmental Compliance Certificate (ECC) and 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 said amount. Respondent is also enjoined of its compliance, not only with the conditions 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 27 2022

Tacloban City, Philippines.


ENGR. REYNALDO B. BARRA
OIC- Regional Director