



NOTICE OF VIOLATION

JAN 18 2022

WILBAR SAND AND GRAVEL EXTRACTION PROJECT

Brgy. San Joaquin, Capooacan, Leyte

Thru: **WILLIE BARING**
Managing Head/Operator

ENVIRONMENTAL MANAGEMENT BUREAU
RELEASED BY:
DATE: 01/19/2022
TIME: 9:10am

Sir/Madame:

This notice is being served upon you for alleged violation of the provision of **P.D 1586** otherwise known as the Philippine Environmental Impact Statement System, based upon the investigation/validation conducted by the technical personnel of the Environmental Monitoring and Enforcement Division – Water Air Quality Monitoring Section (EMED-WAQMS) of this Office last **09-12 November 2021**.

ACTS CONSTITUTING THE VIOLATION

Findings	Prohibited Acts
Failure to submit to this office the required semi-annual Compliance Monitoring Report (CMR) .	Violation of ECC Environmental Management Condition No. 2, DENR Administrative Order 2003-30, Implementing Rules and Regulations of P.D 1586 .

The foregoing considered, and in accordance with the relevant provisions of **EMB Memorandum Circular No. 2020-21¹**, you are hereby required to explain in writing, duly subscribed before a Notary Public, **within Fifteen (15) days from receipt hereof**, your defense/position to the alleged violation/s which is punishable by a fine of **not less than Ten Thousand Pesos (P10,000.00) nor more than Fifty Thousand Pesos (P50,000.00)** for the above cited prohibited act and to show cause why no Order should be issued against you, directing immediate cessation of the project operation.

Please submit a hard copy of your written explanation to this Office, as well as an electronic copy of the same to embr8_records@emb.gov.ph, copy furnished legalunitembr8@gmail.com, to expedite the submission. Further, you or your authorized representative is hereby summoned to attend, in person, a technical conference/hearing before this Office on February 7, 2022 at 11:00 am.

However, in light of **Proclamation No. 922, "Declaring a State of Public Health Emergency throughout the Philippines"**, and the implementation of Community Quarantine in Region VIII as a measure to combat the COVID-19 Disease, **you are also given an option to attend in the scheduled technical conference via internet video conference**. In case you choose for the latter mode, please submit an e-mail to legalunitembr8@gmail.com immediately upon receipt hereof, to signify such intention and an electronic internet address link shall then be provided to you.

Please be informed that pursuant to **Section 5, Item VII** of **EMB Memorandum Circular No. 2020-21**, your failure to appear during the scheduled technical video conference shall be construed as waiver of your right to contest the findings and the case shall be decided based on the available evidence on record.

Please be guided accordingly.

Very truly yours,

ENGR. REYNALDO B. BARRA
OIC - Regional Director

¹ Supplemental Rules of the EMB Manual of Uniform Procedures for COVID-19 Pandemic



DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
ENVIRONMENTAL MANAGEMENT BUREAU REGION 8
DENR Compound, Brgy. 2, Jones Street, Tacloban City
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(053) 832-2319

INVESTIGATION REPORT

NAME OF RESPONDENT/S	:	WILBAR SAND & GRAVEL
ADDRESS OF RESPONDENT	:	Brgy. San Joaquin Capoocan, Leyte
GEOGRAPHIC COORDINATES	:	11.27532°N, 124.57036°E
NAME OF OWNER/PROPONENT	:	Alcher D. Baring
CONTACT NUMBER	:	-
NATURE OF COMPLAINT	:	Operation of a Sand & Gravel Extraction Project allegedly creating adverse environmental impacts
COMPLAINANT/S	:	Concerned Citizen
DATE OF INVESTIGATION	:	November 9-12, 2021

I. AUTHORITY

As per instruction through IIS No. R8-2021-017318;

II. MATTERS INVESTIGATED

Verification of matters notified of.

III. PROCEEDINGS

1. The Undersigned Staff went to Brgy. San Joaquin Capoocan, Leyte to validate the operation of Wilbar Sand and Gravel as complained to have allegedly damaged the nearby irrigation canals, flooding-risk for the adjacent rice fields, and houses and converting rice paddies into stockpile area for the extracted materials.
2. According to Honorable Irven Lumaad, Barangay Kagawad of San Joaquin, the local barangay is aware of the said complaint and settlement of the issue has already been made between the involved parties. He emphasized that the issue is about land dispute among the owners of the lot.
3. The Undersigned then proceeded to the site office of Wilbar Sand & Gravel located in the same barangay. The team was able to talk with Mr. Willie Baring, the Sand and Gravel Operator. He presented to the team the pertinent documents/permits for its Sand and Gravel operations.
4. A walkthrough was later conducted on the concerned areas for verification whether the alleged adverse environmental impacts are factual.

IV. FINDINGS/OBSERVATIONS

A. Presidential Decree No. 1586 (Environmental Compliance Certificate)

1. An Environmental Compliance Certificate (ECC-OL-R08-2019-0160) was issued to Jonafe Pastor on September 16, 2019 for its Industrial Sand and Gravel Extraction Project (without Crushing Plant) with an area of 40,460 m² to be located along Leyte River in Brgy. San Joaquin Capoocan, Leyte.

2. An amendment of the ECC on the transfer of ownership from Jonafe B. Pastor to Alcher D. Baring was approved on March 6, 2020.
3. No extraction of SAG materials during the time of investigation. The project is solely sand and gravel extraction. As per Mr. Baring, they operate for a maximum of seven (7) hours per day for five (5) days in a week. The SAG extraction of Mr. Baring commenced last 2020.
4. Extracted SAG materials were stocked at the Operator's private property.
5. No structures/facilities constructed at the extraction area which has possible generation of wastewater nor installation/provision of an air pollution source equipment. Hence, the project is not covered by R.A. 9275 or the Phil. Clean Water Act and R.A. 8749 or the Phil. Clean Air Act.
6. Based on Office records, the Proponent has no submission of the semi-annual Compliance Monitoring Report (CMR) since the start of its project implementation.

B. Other Findings/Observations

1. Per statement of Mr. Willie Baring, the allegations of the complainant were not the results of its SAG operations. He said that the irrigation canals referred to by the complainant were only made of G.I. sheets and woods which cannot hold big volume of water during heavy rains. He further stressed that the extraction area is downstream of these irrigation canals. Also, the rice paddies mentioned that were converted by the SAG Operator as temporary stockpile for its extracted aggregates was the lot Mr. Baring purchased from one of the siblings of the complainant. And flood-risk issue has already been a concern even prior the project existence.
2. A valid Industrial Sand and Gravel Permit was presented by Mr. Baring with ISAG No. SAG-174-2021 issued on May 24, 2021 for the extraction and disposal of sand and gravel materials in San Joaquin Capoocan, Leyte. The Permit Holder is named under Alcher D. Baring. This permit is to expire on November 24, 2021.


V. REMARKS

1. As stipulated per Restrictions No. 10, *"That the extraction of sand and gravel materials shall commence for a **period of six (6) months** from the date of ECC issuance and Permit from the Province of Leyte which comes first,"* and as specified per ECC Project Description *"The project covers the extraction of sand and gravel materials at the applied area for the rechanneling and deepening of the river for a **period of six (6) months** from the date of ECC issuance and Permit from the Province of Leyte which comes first"*, the ECC issued for the Industrial Sand and Gravel Extraction Project in Brgy. San Joaquin Capoocan, Leyte shall be cancelled as the ISAG Permit expires.
2. Non-compliance of the Proponent to ECC condition no. 2 *"Undertake Information, Education and Communication (IEC) Program to explain to all stakeholders the final approved IMP/EMP and the significant changes of the IMP/EM, results of **Compliance Monitoring Report (CMR) to be submitted on a semi-annual basis** and overall performance against this Certificate".* The Proponent has no submission of CMR since project implementation.

VI. RECOMMENDATIONS

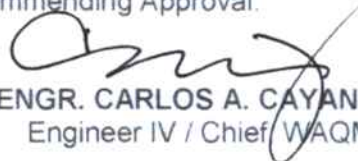
1. Per Remarks 1, the Proponent is to be informed/reminded through a letter on the possible cancellation of its ECC after the six (6) months period of sand and gravel extraction or after the validity of its ISAG Permit. It is hereby recommended that the Proponent is to apply for a new ECC solely for its Industrial Sand and Gravel Extraction Project.
2. A **Notice of Violation** is to be issued to the Proponent for non-compliance to **ECC condition no. 2**, specifically on the non-submission of the semi-annual CMR in violation of **DENR Administrative Order 2003-30**, Implementing Rules and Regulations of **PD 1586**.

Investigation Team:


ENGR. LEDANE JOY Y. LAURENTE
Engineer II


FLORAMARA A. SUYOM
EMS I

Recommending Approval:


ENGR. CARLOS A. CAYANONG
Engineer IV / Chief WAQMS

Approved by:


FOR. MANUEL J. SACEDA, JR.
OIC Chief, Environmental Monitoring and Enforcement Division

Noted by:


REYNALDO B. BARRA, PME
OIC – Regional Director