



ENVIRONMENTAL MANAGEMENT BUREAU'S

RELEASED BY: _____

DATE: _____

TIME: _____

2-3-22

9:55

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

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

**DENR-PAB Case No.
08-000140-21-W**

-versus-

FOR: Violation of
**Paragraph (c),
Section 27,
R.A No. 9275**

SBI GASOLINE ENTERPRISES

Brgy. Barugohay, Carigara, Leyte

Respondent

X- - - - -X

O R D E R

For consideration before the Board is the water pollution case of respondent docketed as DENR-PAB Case No. **08-000140-21-W**.

Facts

Records of the case reveal that on **23 September 2021**, technical personnel from the Clearance and Permitting Division of the EMB Regional Office No. VIII conducted a desk review upon herein respondent's application for the renewal of its Wastewater Discharge Permit last **21 September 2021**. In the said desk review, it was alleged that the respondent is operating a facility that discharges regulated water pollutants without the required discharge permit since **06 March 2021**, for its previous permit expired a day prior. Hence, a Notice of Violation dated **21 October 2021** was issued 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 **04 November 2021**, the respondent submitted a position paper under which it claimed to have stopped or closed its comfort room for public usage before the permit expired, and it has a septic tank to receive the wastewater first before it is being thrown to the river.

In view of such claim, the respondent was asked to submit proof that the comfort room had been closed for usage, by way of a letter dated **29 November 2021** from this Office.

On **20 December 2021**, the respondent submitted a barangay certification stating that the comfort room facility has been closed since **February 2021** before the discharge permit expired.

Upon a careful review of the inspection report, the respondent's explanation, and such all other records and evidence of this case, the Hearing Officer submitted the case for the Order of the Board and is of the opinion that the respondent is not liable, based on the ground which will be discussed hereunder.

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 14 of DENR Administrative Order No. 2005-10¹ provides, in part, for the following:

"Discharge Permits. - The Department shall require owners or operators of facilities that discharge regulated effluents pursuant to this Act to secure a permit to discharge. The discharge permit shall be the legal authorization granted by the Department to discharge wastewater: Provided, that the discharge permit shall specify among others, the quantity and quality of effluent that said facilities are allowed to discharge into a particular water body, compliance schedule and monitoring requirement."

In addition, **Paragraph (c), Section 27 of R.A 9275** prohibits the act of:

"xxx

(c) Operating facilities that discharge regulated water pollutants without the valid required permits or after the permit was revoked for any violation of any condition therein;

xxx"

Based on the above-quoted prohibition, there are two (2) elements or acts which must concur in order to establish the liability of the violator. The following are the elements/acts:

- (1) Operating a facility that discharges regulated water pollutants.

¹ Implementing Rules and Regulations of the Philippine Clean Water Act of 2004, R.A 9275
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- (2) Without a valid wastewater discharge permit or after the permit was revoked for any violation of any condition therein.

Here, only one element is present. The barangay certification submitted by the respondent is substantial evidence to prove that the comfort room facility was not operational prior to the expiration of the permit. In effect, there was no obligation on the part of the respondent to secure the renewal yet.

On the contrary, the desk review barely asserted that the respondent is operating, but without presenting any corroborating evidence to support such allegation. Henceforth, in between the evidence presented by the respondent and the bare assertion of the inspecting personnel, the former weighs heavily over the other.

WHEREFORE, after due deliberation, the Board hereby finds the respondent not liable to the violation. Accordingly, the alleged violation is hereby **DISMISSED**, and the respondent is relieved from any liability.

Notwithstanding, the respondent is hereby directed to secure a Wastewater Discharge Permit prior to resumption of its operations. Pending issuance of the same, the respondent is expected to **CEASE AND DESIST** from discharging wastewater. Otherwise, any future similar violations 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 31 2022.

By authority of the Secretary:


ENGR. REYNALDO B. BARRA
OIC- Regional Director