



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: 01/06/2022
TIME: 8:32am

**IN RE: VIOLATION OF ENVIRONMENTAL
COMPLIANCE CERTIFICATE CONDITIONS
& RESTRICTIONS, DENR ADMINISTRATIVE
ORDER NO. 2003-30, PRESIDENTIAL
DECREE NO. 1586**

-versus-

**PERLITA AMARADO SAND AND GRAVEL EXTRACTION
(WITHOUT CRUSHING PLANT) PROJECT**

Layog River, Brgys. Mahayahay & Hiluctogan, Mahaplag, Leyte
Respondent.

X-----X

DECISION

This resolves the **Notice of Violation** dated **19 August 2021** issued by this Office against Perlita Amardo Sand and Gravel Extraction Project, herein referred to as the "Respondent", for brevity, located along Layog River, Brgys. Mahayahay & Hiluctogan, Mahaplag, Leyte for the following violations:

- a. **Non-submission of Compliance Monitoring Report, as required by ECC Environmental Management Condition No. 2**
- b. **Failure to conduct Information, Education, Communication (IEC) Program, as required by ECC Environmental Management Condition No. 1**
- c. **Failure to designate a Pollution Control Officer, as required by ECC Environmental Management Condition No. 5**
- d. **Failure to install ECC Billboard at the entry/exit points of the project, as required by ECC Environmental Management Condition No. 6**
- e. **Extraction, Removal or Disposition of materials within one (1) kilometer radius from a hanging bridge, without the appropriate clearance from the concerned government agency, as restricted by ECC Environmental Management Condition No. 7**

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 must 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 **15 April 2021**, technical personnel from this Office conducted a compliance inspection upon herein Respondent. The inspection revealed the Respondent's non-compliance with the above-stated ECC Conditions and Restriction. Consequently, the inspecting personnel recommended the issuance by this Office of a Notice of Violation.

On **19 August 2021**, this Office issued a Notice of Violation upon the Respondent, and the latter was called to attend a Technical Conference/Hearing on **13 September 2021** and to submit an explanation to the alleged violations.

On **13 September 2021**, the respondent submitted a written explanation, under which it contended that since 2018, Perlita Amarado's application for industrial sand and gravel concession permit has not been acted upon by the Provincial Governor due to overlapping extraction/project areas between Perlita Amarado and Aida Dizon. That since the said application for ISAG permit has remained pending and unapproved, the respondent has not extracted sand and gravel in her applied area. That in view thereof, Respondent honestly believed it was under no obligation to comply with the conditions set forth in the ECC.

The respondent also asserts the following:

On failure to install ECC billboard

The respondent claims to have installed an ECC billboard at the exit/entry points of the project facing the barangay road. According to the respondent, maybe the inspecting personnel has not seen any billboard, for said billboard was destroyed by typhoon but was immediately reinstalled after the respondent was notified of such destruction of ECC billboard.

On failure to conduct an IEC program, submit a CMR and PCO designation

The respondent contends that it honestly believes that since it has not started extracting sand and gravel in her area because her application was not yet approved by the Provincial Governor, it has no obligation to perform the abovementioned ECC conditions.

On respondent's failure to secure appropriate clearance to extract, remove or dispose materials within 1km radius from the concerned government entity

The respondent asserts that it did not violate the said ECC condition because no extraction took place since her application for ISAG was not yet approved by the Office of the Provincial Governor.

On the same day, meanwhile, the technical conference was conducted during which the respondent asserted the same arguments set forth on its position paper. The respondent contends that it has no obligation to conform with the conditions involved since it was not able to operate since the issuance of the ECC.

Thereafter, the Hearing Officer submitted the case for the Decision of this Office and recommends dismissing four (4) of the five (5) alleged violations, to exception of the failure to install the Billboard, based on grounds which will be discussed hereunder.

Ruling

Environmental Management Condition Nos. 2, 1, 5, 6, and 7 of the **Environmental Compliance Certificate** issued to the respondent, bearing **Reference No. ECC-OL-R08-2018-0087** mandate the compliance with each of the said conditions.

Here, a perusal of the records of this Office will clearly disclose the failure of the Respondent to comply with any of the conditions cited at the time the inspection was conducted. However, considering that the respondent is yet to commence with the project implementation, it is under no obligation to submit a Compliance Monitoring Report, for the existing rules and regulations provide that the first CMR shall be submitted after the groundbreaking of the project.

It is likewise cannot be reasonably expected to comply with the other conditions involved in this case given the nature of these conditions. For one, there is no necessity of informing the stakeholders what the project is all about when there is uncertainty of whether the project can proceed with the project implementation, as no Permit to Extract has been issued yet. The respondent likewise cannot be said to have extracted within a one-kilometer radius from the hanging bridge when there is no showing by the inspection that it has in fact commenced with the project operation. Certainly, it must secure a clearance from the government agency concerned, but such is equally

not a necessity for the time being that it is yet to secure an extraction permit.

There is, however, an underlying necessity to require the respondent to install the billboard even if it is yet to commence with the project operation. The installation is essential in locating the project area during monitoring inspections. Hence, this should have been complied with the moment the ECC was issued to the respondent, notwithstanding that it is yet to implement the project. On the respondent's explanation, it impliedly admitted that there was no billboard installed at the time of the inspection as this may have been destroyed by a typhoon. The respondent, however, must ensure that the billboard is immediately replaced and at all times present, such that, when found nonexistent at the time of an inspection, there is a corresponding liability for the same.

Hence, the failure to install the billboard must be affirmed, while the other alleged violations should be dismissed.

WHEREFORE, premises considered, this Office finds the Respondent not liable to four (4) of the five (5) alleged violations. However, this Office finds the respondent liable for failure to install the ECC Billboard, in violation of Environmental Management Condition No. 6 of the respondent's ECC.

Consequently, the Respondent is hereby ordered to pay the fine of **TEN THOUSAND PESOS (Php10, 000.00)** as a penalty to the said violation, an administrative condition in the Environmental Compliance Certificate (ECC), 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 imposed.

All other four (4) violations, meanwhile, are hereby **DISMISSED** and the respondent is relieved from any liability arising therefrom. Nonetheless, the respondent is enjoined of its compliance, not only with the conditions herein involved, but to all other conditions and restrictions of its ECC whenever already permitted by an Extraction Permit and prior to actual implementation.

DECISION

In re violation of the provisions of P.D 1586
vs Madison Park Hotel, Incorporated

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 03 2022

Tacloban City, Philippines.


ENGR. REYNALDO B. BARRA
OIC- Regional Director