



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

RELEASED BY: [Signature]  
DATE: 9/25/2022  
TIME: 8:32am

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

**DENR-PAB Case No.  
08-000096-21-W**

-versus-

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

**GAISANO GRAND MALL- CALBAYOG CITY**

Brgy. Central, Calbayog City, Samar

*Respondent*

X-----X

**ORDER**

For consideration before the Board is the water pollution case of respondent docketed as DENR-PAB Case No. **08-000096-21-W**.

**Facts**

Records of the case reveal that on **18 March 2021**, a compliance inspection was conducted by technical personnel of the Provincial Environmental Management Unit-Samar upon herein respondent. In the said inspection, it was alleged that the respondent is operating a facility that discharges regulated water pollutants without the required discharge permit. Hence, a Notice of Violation dated **25 August 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 **17 September 2021**, the respondent submitted a position paper under which it had sought for indulgence and kind consideration based on the merit of their explanation which claims, among others that due to various travel and activity restrictions, safety protocols implemented, added with the revised provisions of the Department

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Administrative Order (DAO), the firm continued to encounter barriers to locate and contact an accredited third-party service provider to upgrade their Sewage Treatment Plant in conformance with the new DAO. Regardless, however, of the non-completion of the upgrading process, the firm continued to implement monthly preventive maintenance on their wastewater facilities and ensured to submit their water quality sample for testing to its service provider in Cebu, Ostrea Laboratory.

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 liable, there being lawful grounds to affirm the violation and that there is no merit from respondent's explanation.

### **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. 2005-10<sup>1</sup>** 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"

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<sup>1</sup> Implementing Rules and Regulations of the Philippine Clean Water Act of 2004, R.A 9275



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.
- (2) Without a valid wastewater discharge permit or after the permit was revoked for any violation of any condition therein.

Here, both elements are present and there is no showing to the contrary. At the time of the inspection, the respondent is operating but was not in possession of a valid wastewater discharge permit. Hence, it has committed a violation. It is under the respondent's legal obligation to comply with the requirement involved and its failure to do so can only be attributable to it and none other.

As it is evident from the records that at the time the EMB Regional Office No. VIII conducted the inspection, the respondent had no valid Discharge Permit, it violated **Paragraph (c), Section 27 of R.A 9275**.

Under **Section 28 of R.A 9275**, such violation may be fined in the amount of **not less than Ten Thousand Pesos (Php 10, 000.00) but not more than Two Hundred Thousand Pesos (Php 200,000.00) per day of violation**, which shall be determined by the **DENR- Pollution Adjudication Board (PAB)** and imposed by the DENR Secretary, pursuant to **Section 28 of R.A 9275** or the **Philippine Clean Water Act of 2004**.

Under PAB Resolution No. 01, Series of 2019, for permitting violations of the Clean Water Act (R.A 9275), and considering that an establishment is required to pay a discharge permit fee annually, a fine of **Nineteen Thousand Five Hundred Pesos (Php 19, 500.00)** shall be imposed for **every year of violation**.

**WHEREFORE**, after due deliberation, the Board hereby resolves to impose upon the respondent a fine amounting to **FORTY-NINE THOUSAND PESOS PESOS (PHP49, 000.00)** equivalent to 3-year violation (Php 10,000 for the first year or prior to the effectivity of PAB Resolution No. 01-2019 and Php 19,500 for the second and third year), pursuant to **PAB Resolution No. 01-2019**.

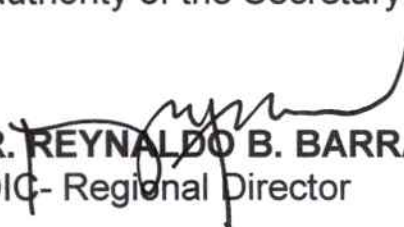
Respondent is directed to pay at the Environmental Management Bureau located at DENR Compound, EMB Building, Jones St. Brgy. 02, Tacloban City, Philippines, within a period of **THIRTY (30) DAYS**

from receipt hereof. In addition, the respondent is hereby directed to secure a Temporary Wastewater Discharge Permit. Pending issuance of the same, the respondent is expected to **CEASE AND DESIST** from discharging wastewater.

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 21 2022.

By authority of the Secretary:

  
**ENGR. REYNALDO B. BARRA**  
OIC- Regional Director