



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

ENVIRONMENTAL MANAGEMENT BUREAU
RELEASED BY: *[Signature]*
DATE: 01/25/2022
TIME: 9:57am

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

**DENR-PAB Case No.
08-000083-21-A**

-versus-

**FOR: Violation of
Section 1, Rule XIX,
DAO No. 2004-26,
R.A No. 8749**

PHOENIX SOGOD GAS STATION

Brgy. Rizal, Sogod, Southern Leyte
Respondent.

X- ----- -X

ORDER

For consideration before the Board is the air pollution case of Respondent docketed as DENR-PAB Case No. **08-000083-21-A**.

Records of the case reveal that on **19 March 2021**, personnel from the Provincial Environmental Management Unit- Southern Leyte of the EMB Regional Office No. VIII conducted a compliance inspection for Air Quality Management upon herein respondent. The inspection report revealed the existence of 45 Kva Denyo Brand Generator Set, but allegedly without a Permit to Operate Air Pollution Source and Control Installation. Consequently, a Notice of Violation was issued on **14 September 2021** 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 **19 October 2021**, the respondent submitted a position paper under which it admitted the violation and reasoned that it was only due to "accident mistake" and/or ignorance of the rules. According to

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respondent, it was purely accidental due to the threat, fear, and confusion cause by the different restrictions of the pandemic.

Upon a thorough review of the inspection report, the respondent's explanation and such all other available evidence on record, the Hearing Officer submitted the case for the Order of the Board, thru this Office, and is of the opinion that the alleged violation must be affirmed, and that the respondent should be held liable, there being a lawful ground to warrant the same.

RULING

The Board, in turn, thru the EMB Regional Office No. VIII, 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 1, Rule XIX of DAO No. 2004-26 (IRR of R.A 8749) requires that all sources of air pollution must have a valid permit to operate issued by the EMB Regional Director. **Section 47 of R.A 8749**, meanwhile, provides that "For violations of all other provisions provided in this Act and of the rules and regulations thereof, a fine of not less than Ten thousand pesos (P10,000) but not more than One Hundred Thousand Pesos (P100,000) or six (6) months to six (6) years imprisonment or both shall be imposed. xxx", subject to the provisions of **PAB Resolution No. 01-2019**.

Here, the existence of the 45 kva Denyo Generator Set as an Air Pollution Source and Control Installation is apparent. However, the records are also clear that no Permit to Operate exists for the said installations on the part of the respondent. The respondent is presumed by law to know of all other requirements necessary to its operation and it could not attribute to another party, other than itself, the failure to make known to itself these requirements when it is clearly expected to do so.

Henceforth, the respondent should be held liable, it being obvious that no Permit to Operate exists at the time of the inspection on **19 March 2021** and its admission is sufficient to warrant its liability.

On **01 July 2019**, the DENR- Pollution Adjudication Board issued **Pollution Adjudication Board Resolution No. 01, Series of 2019**, which delegated to the EMB Regional Offices the determination of permitting and other administrative violations, such as for Operating

without a valid Permit to Operate confronting herein respondent, and the imposition of fines thereto.

Under **PAB Resolution No. 01, Series of 2019**, for permitting violations of the Clean Air Act (R.A 8749), and considering that a permit to operate has a validity of five (5) years, a fine of **Nineteen Thousand Five Hundred Pesos (Php 19, 500.00)** shall be imposed for a five-year violation by the establishment.

WHEREFORE, after due deliberation and consultation, the Board hereby resolves to impose upon respondent a fine amounting to **NINETEEN THOUSAND FIVE HUNDRED PESOS (P19, 500.00)** under R.A 8749 and its existing rules and regulations.

The respondent is directed to pay at the Environmental Management Bureau located at the 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 likewise directed to secure a Temporary Permit to Operate from the EMB Regional Office No. VIII and must cease from utilizing the APSCI until and unless a PTO is secured for the same. Otherwise, any future similar violation 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 21 2022

By authority of the Secretary:


ENGR. REYNALDO B. BARRA
OIC- Regional Director