



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: 8:43am

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

**DENR-PAB Case No.
08-000121-21-W**

-versus-

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

HOTEL ESTRELLA

Real St. Tacloban City, Philippines
Respondent

X- - - - - X

ORDER

For consideration before the Board is the water pollution case of respondent docketed as DENR-PAB Case No. **08-000121-21-W**.

Facts

Records of the case reveal that on **14 April 2021**, technical personnel from the EMB Regional Office No. VIII conducted a compliance inspection 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 since **22 June 2018**. Hence, a Notice of Violation dated **14 September 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 **13 October 2021**, the respondent submitted a position paper under which the respondent claims that it ceased operation for almost a year, and it only resumed operations in **November of 2020**. Upon resumption, it became difficult for the respondent to cope up with the

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work needed. Because of the pandemic, it hardly could find a sewage contractor because it had to come from Manila or Cebu.

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. 2005-10¹ 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 Implementing Rules and Regulations of the Philippine Clean Water Act of 2004, R.A 9275

- (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. It bears stressing that the moment the respondent failed to renew the subject permit prior to its expiration last **21 June 2018**, when it was legally mandated to do so, it has already committed a violation. The respondent could not even reason the pandemic.

In addition, assuming that a Grace Period was granted to the respondent pursuant to Section 10, DENR Administrative Order No. 2016-08, the respondent need not be able to comply with the effluent standards for the duration of the grace period. As such, there can be no impediment in securing a Wastewater Discharge Permit. As soon as granted with the grace period, the respondent should have pursued its Wastewater Discharge Permit Application filed on **22 July 2019**. But it did not. Hence, the present Notice of Violation.

As it is evident from the records that at the time the PEMU-Samar 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 finds the respondent liable to the violation. Accordingly, considering that the violation was committed at a time prior to the effectivity of PAB Resolution No. 01-2019, the Board, in similar cases, deemed it proper to impose the applicable amount of the fine prevailing at that time, which was at Ten Thousand Pesos (Php 10,000.00).

In addition, the Board also recognizes that it is of public knowledge that hotel and resort establishments were compelled to temporarily cease from its operations when the pandemic broke out in 2020.

For these reasons, a fine of **THIRTY-NINE THOUSAND FIVE HUNDRED PESOS (P39,500.00)**, equivalent to a 3-year violation (Php10,000 for the first year and second year, and Php 19,500 for the third year), pursuant to PAB Resolution No. 01-2019, reckoned from **22 June 2018** until **14 April 2021**, is hereby imposed against the respondent.

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