



ENVIRONMENTAL MANAGEMENT BUREAU  
RELEASED BY: \_\_\_\_\_  
DATE: 12-3-22  
TIME: 8:35

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.  
08-000153-21-W**

-versus-

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

**HILONGOS FUEL OPERATING & MANAGEMENT  
CORPORATION/SHELL GASOLINE STATION**

National Highway, San Juan, Hilongos, Leyte  
*Respondent*

X- - - - - X

## **ORDER**

For consideration before the Board is the water pollution case of respondent docketed as DENR-PAB Case No. **08-000153-21-W**.

### **Facts**

Records of the case reveal that on **19 October 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 filed last **13 October 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 **07 October 2021**, for its previous permit expired a day prior. Hence, a Notice of Violation dated **15 November 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 **26 November 2021**, the respondent submitted a position paper under which it admitted having filed belatedly the application for the renewal of its wastewater discharge permit. The respondent offered as reason the internet connectivity issues which hampered its application. The respondent also explained that it is not operating its hotel and accommodation, only the gasoline station with limited operating hours, thus, it is using less water to the said facility.

Moreover, the respondent also claims that the wastewater coming from all the facility goes to its Oil and Water Separator and does not discharge any wastewater. According to the respondent, there is no environmental impact as the wastewater coming from the facilities are all contained on the oil and water separator.

The respondent seeks to emphasize that the belated filing of the renewal is caused by the above circumstances. The respondent seeks for this Office to take the same into account.

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:

---

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



“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.
- (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. The admission from the respondent's explanation is likewise sufficient to affirm its liability.

The internet connectivity issues encountered by the respondent cannot be given credence. It is immaterial in resolving this case. The respondent, by any means, with all the resources at its disposal, can always opt to find a better connectivity someplace else if only it had the resolve to do so. It can even, in fact, pay this Office a visit and seek an assistance with the application.

The claim that it is using less water and no wastewater are being discharged is also of no moment. It is worth emphasizing that the wastewater discharge permit is a mandatory requirement for all establishments generating wastewater regardless of the volume of wastewater.

Under **Section 14.5 of DENR Administrative Order No. 2005-10** provides for a schedule of the annual permit fees to be paid by applicants, under which an annual fee of Php 2, 000.00 is provided for those applicants whose volumetric rate of discharge is **“Zero Discharge”**.

This is further reiterated in a Memorandum dated **20 June 2018** issued by the EMB Director which clarifies that in the implementation and issuance of Discharge Permits, **all establishments must secure a Discharge Permit regardless of volume of wastewater**. By analogy, it follows that all establishments with **zero (0) to infinity** discharge shall be subject to the discharge permit requirement.

Based on this pronouncement, made upon in recognition of the expertise and technical knowledge over matters falling within the EMB's jurisdiction, it therefore becomes apparent that even those who do not actually discharge wastewater, by nature of its operation and/or of its treatment facility, are nevertheless subject to the discharge permit requirement, so long as they generate wastewater. The very act being regulated in this case is basically the absence of the wastewater discharge permit while there is generation of wastewater.

As it is evident from the records that at the time the inspection was conducted, 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, the respondent is hereby ordered to pay the fine of **NINETEEN THOUSAND FIVE HUNDRED PESOS (Php 19, 500.00)**, equivalent to a 1-year violation pursuant to PAB Resolution No. 01-2019, reckoned from the date of the expiration of the permit or last **06 October 2021** until the time of the desk review or last **19 October 2021**.

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.

Otherwise, any future similar infractions shall be dealt with severely by law or may warrant the filing of the appropriate action in court.



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 28 2022.

By authority of the Secretary:

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