



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: 01/24/2022
TIME: 4:29pm

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

-versus-

**NERIO T. TOLITOL COMMERCIAL SAND AND GRAVEL EXTRACTION
PROJECT**

Brgy. Acedera, Bobon, Northern Samar

Respondent

X- -----X

DECISION

This resolves the Notice of Violation dated **03 September 2021** issued by this Office against Nerio T. Tolitol Commercial Sand and Gravel Extraction Project, herein referred to as the "Respondent", for brevity, located in Brgy. Acedera, Bobon, Northern Samar for the following violation:

- a. **Failure to submit to this Office a Compliance Monitoring Report, in violation of an ECC Condition stipulated in the 2014 ECC Amendment requiring the proponent to submit a CMR Semi-annually**

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 **18 January 2021**, technical personnel from the Provincial Environmental Management Unit- Northern Samar conducted a compliance inspection upon herein Respondent. The inspection revealed the Respondent's non-compliance with the above-stated ECC Condition. Consequently, the inspecting personnel recommended the issuance by this Office of a Notice of Violation.

On **03 September 2021**, this Office issued a Notice of Violation upon Respondent, and the latter was called to attend a Technical Conference/Hearing on **28 September 2021**.

On **20 September 2021**, the respondent submitted a position paper under which it asserted that he has not attended any seminar or orientation as to what and how respondent would comply the necessary documents. Further, respondent alleged that his residence is in far-flung barangay wherein cellular phone and internet receptions was poor so much that respondent was unaware of any compliance to that matter. That due to this COVID-19 pandemic, respondent was withheld to visit this Office so he could inquire the said matter and in relation to the said compliance.

On **04 October 2021**, the respondent appeared before this Office for the conduct of the technical conference, during which the respondent asserted that the proponent was unaware as to what documents and how to comply the requirement in relation to the online process of CMR submission, given that no seminar or orientation, to that effect, was conducted for proper information dissemination. Also mentioned by respondent was the poor internet connection much less a mobile network signal in the locality of respondent as well as the occurrence of this pandemic having negatively contributed to their failure to comply with the requirement.

After a careful review of the inspection report, the respondent's explanation, the result of the technical conference, and such all other evidence on record, the Hearing Officer submitted the case for the Decision of this Office and recommends affirming the violation the imposing the corresponding fines thereto.

Ruling

One condition stipulated under the amendment of **ECC No. 08-020520-0040** mandates the submission of a Compliance Monitoring Report to this Office semi-annually.

Under existing rules and regulations, the Compliance Monitoring Reports should be submitted semi-annually to this Office within fifteen

days after the end of every semester, e.g July 1-15 for the first semester, while January 1-15 for the second semester.

Here, the records are clear that the respondent failed to submit the required reportorial document within the prescribed period or for the second semester of 2020, the submission of which should have been made from January 1-15, 2021. The respondent's contention that it is unaware of the requirement is without merit for the records would reveal that the respondent previously submitted a CMR on 03 January 2019. If it is unaware of the requirement, then it could not have been able to submit the report in the past.

WHEREFORE, premises considered, this Office finds the respondent liable to the violation or for failure to submit Compliance Monitoring Report to this Office. Consequently, Respondent is hereby ordered to pay the fine of **TEN THOUSAND PESOS (Php10, 000.00)**, for violating an administrative condition in the Environmental Compliance Certificate (ECC) which is 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. Respondent is also enjoined of its compliance, not only with the conditions herein involved, but to all other conditions and restrictions of its ECC. 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 21 2022. Tacloban City, Philippines.


ENGR. REYNALDO B. BARRA
OIC Regional Director