



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: 10:10am

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

**DENR-PAB Case No.  
08-000081-21-A**

-versus-

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

**HINUNANGAN ENTERPRISE GAS STATION**

Brgy. Poblacion, Hinunangan, Southern Leyte  
*Respondent.*

X- - - - -X

**ORDER**

For consideration before the Board is the air pollution case of Respondent docketed as DENR-PAB Case No. **08-000081-21-A**.

Records of the case reveal that on **22 April 2021**, personnel from the Provincial Environmental Management Unit- Southern Leyte conducted a compliance inspection upon herein respondent. The inspection report revealed the operation of the respondent and the existence of **underground tanks**, 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 **11 October 2021**, the respondent submitted a position paper under which it impliedly admitted the violation and reasoned several

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personal circumstances. In addition, the respondent claimed to have already secured the required PTO last **June 2021**.

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 underground tanks, an Air Pollution Source and Control Installation, is apparent. However, the records are also clear that no Permit to Operate exists for the installations on the part of the respondent. The permit secured last **June 2021**, or subsequent to the inspection is of no consequence for what is controlling is the fact that no permit to operate exists on the part of the respondent at the time of the inspection last **April 2021**.

Henceforth, the respondent should be held liable, it being obvious that no Permit to Operate exists at the time of the inspection.

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