



Republic of the Philippines  
Department of Environment and Natural Resources  
**MIMAROPA Region**  
**PROVINCIAL ENVIRONMENT AND NATURAL RESOURCES OFFICE**

AUG 02 2022

**MEMORANDUM**

**FOR :** The Regional Executive Director  
DENR-MIMAROPA Region  
1515 L&S Bldg., Roxas Blvd.  
Ermita, Manila

**THRU :** The ARD for Technical Services

**FROM :** The OIC-PENR Officer  
Mamburao, Occidental Mindoro

**SUBJECT :** **SUBMISSION OF THE REPORT ON THE INITIAL INVESTIGATION OF THE TECHNICAL SERVICES DIVISION AND BIODIVERSITY CORRIDOR PROJECT PERSONNEL ON THE VICTORIA-AMNAY ROAD CONSTRUCTION OF THE DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS**

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In line with the service and in response to the order to conduct investigation on the construction of the Mindoro Cross Island Road Construction (Amnay-Victoria Road), the undersigned endorses the report submitted by the Composite Team in line with the infrastructural development project of the Department of Public Works and Highways (DPWH). The initial investigation focused on addressing multiple memoranda and inquiries from the Regional Office on the status of the construction against the compliance of DPWH, vis-à-vis, the contractor STX Enterprises of the checklist of requirements for the project to proceed.

Based on the initial investigation and as recommended by the CENR Officer of Sablayan, For. Anastacio A. Santos, MPA, the conduct of the compliance monitoring on July 27 to 28, 2022 provided the following salient points:

1. **On the issuance of a cutting permit**, the composite team found that the said agency was **non-compliant**. In addition, the DPWH – as represented by its contractor – continued to clear the area given the reports of the initial inventory of the CENR Office. The said inventory was able to determine 106,950 seedlings as stock for regrowth and at least 940 stumps were observed to have been cut despite the lack of a permit. This is clear violation of Section 68 of Presidential Decree No. 705 of 1975, as amended:



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*"Section 68. Cutting, gathering and/or collecting timber or other products without license. Any person who shall cut, gather, collect, or remove timber or other forest products from any forest land, or timber from alienable and disposable public lands, or from private lands, without any authority under a license agreement, lease, license or permit, shall be guilty of qualified theft as defined and punished under Articles 309 and 310 of the Revised Penal Code; Provided, That in the case of partnership, association or corporation, the officers who ordered the cutting, gathering or collecting shall be liable, and if such officers are aliens, they shall, in addition to the penalty, be deported without further proceedings on the part of the Commission on Immigration and Deportation."*

2. **On the issuance of Environmental Compliance Certificate (ECC)**, the composite team found that the agency was **compliant only at one phase of the project and provided with a Certificate of Non-Coverage (CNC)**. Per practice, the DPWH entails segmentation of road network construction in its avoidance to undergo the process of Environment Impact Assessment (EIA) for an ECC per the Philippine Environmental Impact Statement System (PEISS); as stipulated in Presidential Decree No. 1586.

However, per the information provided by For. Isaias A. Guimod, FOR III / Chief, Technical Services Section (TSS) of the CENR Office, only one (1) phase was able to secure the CNC and, thus, should not be used for all the eight (8) phases of the road construction. The application of CNC is also not an alternative to the provision of the ECC given that the construction work falls under Category A or an Environmentally Critical Project and, thus, a clear violation of the prevalent statutes pertaining on the issuance of these certificates.

As a response, the Regional Office of the Environmental Management Bureau (EMB) fined DPWH with a sum of not more than PHP 50,000.00, per national statute, against Section 9 of Presidential Decree No. 1586 and Section 16b, Article IV of DENR Administrative Order No. 2003-30<sup>1</sup>. This is in response to the violation of Section 4 of the former national statute, which states:

*"Section 4 of PD 1586. No person, partnership, or corporation shall undertake or operate any environmentally critical project or operate in an environmentally critical area without first securing an Environmental Compliance Certificate"*

The violation of these salient provisions was within EMB-MIMAROPA CASE NO. OCCMIN-407-21 (09 August 2021) and ordered DPWH to pay for the aforementioned fine. Upon receipt of the payment, the MIMAROPA Region, through a Resolution dated 22 September 2021. However, the said Resolution also stated the following in Paragraph 3:

*"Furthermore, Respondent is hereby directed to suspend implementation of all activities **EFFECTIVE IMMEDIATELY** until and unless an ECC has been secured*

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<sup>1</sup> Implementing Rules and Regulations (IRR) for the Philippine Environmental Impact Statement System (PEISS)



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*and all other necessary clearances and permits relevant to the project have been secured."*

3. **On the determination of the position of the DPWH with the on-going investigation**, the composite team visited the DPWH office for transparency. Per communication, the composite team also went to the field office of the DPWH in Barangay Poblacion, Sablayan to communicate the investigation and elicit information from relevant personnel. However, a conversation of with the office staff, Mr. Dodie Tendido, suggested that the point person, Engr. Michael John S. Mopia, was not available.

A foreseen win-win scenario for both DENR and DPWH regarding the road construction is the adjustment of the designs and avoid the permanent barrier to species movement. However, Mr. Tendido explicitly suggested that, since the project is under the implementation of the Regional Office of DPWH, the District level can only abide by the designs and there is no foreseen leeway to change already implemented plans since 2019.

4. **On the determination of the position of the Local Government Units**, the composite team found that **the project finds amenability at the barangay level**. Another insight provided from the initial investigation also suggested that the Barangay Captain of Pag-asa, Sablayan – Hon. Rodel A. Sioson – already endorsed the construction of the road network. To determine whether this is the same position of the Municipal Local Government Unit (MPLGU), the composite team also went to the Municipal Planning and Development Office (MPDO). Unfortunately, all the executives of the municipality, including the Mayor, attended the Capacity Development for the Executive Legislative Agenda (CapDev ELA).

Given the following insights during the conducted initial investigation, the composite team identified the gaps and the following recommendations are hereby provided:

1. The issues and concerns in line with the construction of the Amnay-Victoria Road, the Provincial Office recommends to the Regional Office of DENR for the communication and convening of all concerned agencies in line with this infrastructural development work. The Regional Offices of DENR, DPWH, and NCIP should also provide and substantiate their positions on how to move forward with this project given that projects are already being affected. Moreover, the Regional Office of DENR – as convenor – should also invite the various DENROs and LGUs affected by the project;
2. The determination of the current on-site conditions was not possible during initial investigation because of the absence of adherence from DPWH to conduct such assessment. In line with this, the PENR Office recommends that the Regional Office of DENR to initiate a composite team encompassing of Regional Office, Provincial Offices, and LGU personnel from all affected agencies for the extent of damage to be assessed more transparently. This is also a venue to determine if mitigating measures are implemented by DPWH in adherence to the Resolution to EMB-MIMAROPA CASE NO. OCCMIN-407-21; and



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3. The Regional Office of DENR, as convenor, should provide the technical recommendations and necessary action to fast-track decision on the possible implications of findings from the multi-agency assessment. The Regional Office of DENR should also provide the necessary communication to assess the status of application of ECC and the decision to provide necessary punitive responses from possible violations and in accordance to prevalent national statutes.

For information and action.

  
**ERNESTO L. TAÑADA**