



Republic of the Philippines
 Department of Environment and Natural Resources
OFFICE OF THE SECRETARY
 Visayas Avenue, Diliman, Quezon City

FERNANDO PAR, ET AL.,
 Appellant,

-versus-

DENR Case No. 8424

WILBERT M. DE GUZMAN,
 Appellees.

X ----- X

ORDER

Before this Office is the Petition for Review,¹ filed by Fernando Par, along with 95 other residents of Brgy. Lapu-Lapu, Sta. Cruz, Marinduque (Par, et al.,) from the Resolution (EMB RD's Resolution),² dated May 04, 2007, of the Regional Director (RD) of Environmental Management Bureau (EMB), MIMAROPA, the dispositive portion of which reads:

WHEREFORE, PREMISES CONSIDERED, having addressed all the environmental issues raised by the complainants, this Office hereby declares that the above-mentioned complaint against the project construction of Caltex Gasoline Station located at Bagong Silangan, Sta. Cruz, Marinduque is **DISMISSED**.

The Subject Property is a Caltex Gasoline Station located at Brgy. Lapu-Lapu, Sta. Cruz, Marinduque. It is owned by Wilbert De Guzman (De Guzman) and is covered by Environment Compliance Certificate (ECC) ECC-4B-134-MA-6280-2006.

This case stemmed from a complaint denominated as "Petisyon,"³ dated February 20, 2006, filed by Par, et al., against the establishment of the Caltex Gasoline Station of De Guzman in the said locality. Par, et al., are concerned residents of Brgy. Lapu-Lapu, Sta. Cruz, Marinduque.

¹ DENR Folder, p. 5-6.

² DENR Folder, pp. 3-4.

³ Attached to the Regional Folder.

Thereafter, the EMB RD issued the assailed EMB RD's Resolution. Aggrieved, Par, et al., filed the aforementioned Petition for Review⁴ with this Office. Additionally, Par, et al., paid the Appeal Fee of P500.00, per Official Receipt 4217567 I,⁵ dated September 03, 2007.

After a careful and thorough examination of the facts and evidence presented, as well as the documents and pleadings submitted, this Office resolves to remand the case to the Office of the Director of the EMB for further proceedings.

The assailed EMB RD's Resolution was rendered by the RD of EMB MIMAROPA, and it was appealed directly to this Office. Pursuant to the Administrative Code of 1987, the Director of a line bureau, such as the EMB,⁶ shall have supervision and control over all divisions and other units, including regional offices, under such bureau.⁷ The power of supervision and control includes the power to review, approve, reverse, or modify acts and decisions of subordinate officials or units.⁸

As to the availability of remedies within the administrative machinery, Section 6 of Department of Environment and Natural Resources Administrative Order 30, series of 2003⁹ (DAO 2003-30) provides for the appellate process for any party aggrieved by the final decision of the EMB on ECC/CNC applications, to wit:

Section 6. Appeal

Any party aggrieved by the final decision on the ECC/CNC applications may, within 15 days from receipt of such decision, file an appeal on the following grounds:

- a. Grave abuse of discretion on the part of the deciding authority, or
- b. Serious errors in the review findings.

The DENR may adopt alternative conflict/dispute resolution procedures as a means to settle grievances between proponents and aggrieved parties to avert unnecessary legal action. Frivolous appeals shall not be countenanced.

Deciding Authority	Where to File Appeal
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⁴ *Supra* note 1.

⁵ Attached to the DENR Folder.

⁶ See *Special People, Inc. Foundation v. Canda, et al.*, G.R. No. 160932, January 14, 2013

⁷ Administrative Code of 1987, Book IV, Chapter 8, Sections 20 and 41

⁸ Administrative Code of 1987, Book IV, Chapter 7, Section 38(1)

⁹ Department of Environment and Natural Resources Administrative Order 30, series of 2003, Implementing Rules and Regulations (IRRS) for the Philippine Environmental Impact Statement (EIS) System.

EMB Regional Office Director	Office of the EMB Director
EMB Central Office Director	Office of the DENR Secretary
DENR Secretary	Office of the President

Following the outlined process, an appeal of the final decision on the ECC/CNC applications of the EMB Regional Director may be appealed to the Office of the EMB Director.

It may be argued that the assailed EMB RD's Resolution is not a final decision in an application for the issuance of an ECC or CNC so as not to fall within the appellate process outlined in Section 6 of DAO 2003-30, but this argument has been laid to rest by the Supreme Court in *Republic of the Philippines, represented by the Environmental Management Bureau Region VII and Noel C. Empleo, Regional Director v. O.G. Holdings Corporation, represented by its Chariman, Mr. Frederick L. Ong*,¹⁰ where the Court stated:

It might be argued that Section 6, in [DAO 2003-30] applied only to final decisions on applications for the issuance of an ECC or CNC, and not the suspension of an ECC that has already been issued. However, the 2013 case of *Special People, Inc. Foundation v. Canda, et al.* addresses this argument...:

Notwithstanding the lack of a specific implementing guideline as to what office the ruling of the EMB Regional Director was to be appealed, the petitioner could have easily been guided in that regard by the Administrative Code of 1987, which provides that the Director of a line bureau, such as the EMB, shall have supervision and control over all division and other units, including regional offices, under the bureau. Verily, supervision and control include the power to 'review, approve, reverse or modify acts and decisions of subordinate officials or units.' Accordingly, the petitioner should have appealed the EMB Regional Director's decision to the EMB Director, who exercised

¹⁰ G.R. No. 189290, November 29, 2017 (citing *Special People, Inc. Foundation v. Canda, et al.*, 701 Phil. 365, 378-379 [2013])

supervision and control over the same.

Thus, it is appropriate for this Office to remand the case to the Office of the Director of the EMB for further proceedings.

WHEREFORE, this case is **REMANDED** to the Office of the Director of the Environmental Management Bureau for further proceedings.

SO ORDERED.

Quezon City, Philippines, 02 FEB 2023.

By Authority of the Secretary:¹¹


NORLITO A. ENERAN, LL.M, CESO III
Director, Legal Affairs Service

Copy furnished:

Wilbert M. De Guzman
Bagong Silangan, Sta. Cruz, Marinduque

Fernando Par., et al.
847 Ibarra St., Sampaloc, Manila City

The Regional Director
EMB MIMAROPA
6th Floor, DENR by the Bay, 1515 L&S Bldg.
Roxas Blvd., Manila City

The Regional Executive Director
DENR MIMAROPA
DENR by the Bay, 1515 L&S Bldg.
Roxas Blvd., Manila City

The Director
Environment Management Bureau
DENR Compound
Visayas Ave., Diliman, Quezon City

The Assistant Secretary
Legal Affairs
DENR Central Office
Visayas Ave., Diliman, Quezon City

¹¹ Department of Environment and Natural Resources Administrative Order (DAO) No. 2020-05, Approving Authorities on Decisions, Resolutions, and Orders on Appealed Environment and Natural Resources Cases, Administrative Cases, and Filing Before Courts and Quasi-Judicial Bodies.