



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

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MEMORANDUM

FOR : The Regional Director
MGB MIMAROPA Region
1515 DENR By the Bay Building
Roxas Blvd., Brgy. 668, Ermita, Manila

FROM : The OIC, PENR Officer

SUBJECT : SPECIAL FIELD VERIFICATION REPORT OF PMRB

Respectfully forwarded is the compiled and comprehensive special field verification report of the Provincial Mining Regulatory Board (PMRB) Technical Working Group for the Commercial Sand and Gravel Permit applications in Occidental Mindoro.

For information and record.


ERNESTO E. TAÑADA

cc: The ENR Officer
Provincial Government – Environment and Natural Resources Office
Capitol Complex, Mamburao, Occidental Mindoro




PROVINCIAL MINING REGULATORY BOARD

Province of Occidental Mindoro
MIMAROPA Region



SPECIAL FIELD VERIFICATION REPORT

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I. BACKGROUND INFORMATION

The field verification of a proposed permit area is a mandatory requirement prior to the approval of mining permits issued by the local government through the Provincial Mining Regulatory Board (PMRB), in accordance with Section 98 of DAO 2010-21, otherwise known as the “Implementing Rules and Regulations of the Philippine Mining Act of 1995”. The activity is administered by the PMRB - Technical Working Group (TWG), which involves members from the Mines and Geosciences Bureau (MGB), the Environment and Natural Resources Office (ENRO) of the LGU, and the Environment and Mining Unit (EMU) of the Community/Provincial Environment and Natural Resources Office (CENRO/PENRO).

This undertaking has been implemented since the second quarter of 2018. Among the issues encountered in the said activity include:

1. Relocation of permit areas due to mandated resurvey in accordance with the memorandum issued by the MGB MIMAROPA Region dated July 20, 2017 (refer to Annex C).
2. Non-compliance to the terms and conditions of the ECC.
3. Extraction with expired permits.
4. Extraction outside the designated permit area.
5. Extraction within areas closed to mining and acquisition of respective clearance from concerned authority.
6. Area conflict with proposed dredging zones with existing Memorandum of Agreement

While the application process for the years 2018-2019 has been a period of transition to adjust to new guidelines and to the reinforcement of existing mining and environmental policies, strict implementation of the rules and regulations shall be followed from this quarter onwards to ensure the compliance of sand and gravel permit holders in the province of Occidental Mindoro.

Technical evaluation and validation of one (1) renewal application of Commercial Sand and Gravel Permits for C.Y. 2023 took place from 30 June 2023. Details regarding these applicants are summarized in Table 1:

Table 1. Permit Application(s).

Permit Applicant	Type of Permit	Project Area/Location
Bartolome Fajarito, Jr.	Renewal CSAG	Tuguilan River, Brgy. Tayamaan, Mamburao

II. PURPOSE AND SCOPE

The field verification aims to provide a technical report stipulating the actual site condition of the permit area, and the permit holder's compliance with the terms of the ECC and with the provisions of other governing laws. The report shall likewise provide recommendations to be considered in the assessment of permit application approval.

The verification activity involves the conduct of technical evaluation, on-site validation and a brief interview with the permit holder/representative. Information regarding the validated permits were acquired from the Environment and Natural Resources Office (ENRO) of Occidental Mindoro. Furthermore, plotting and comparison of old and newly surveyed areas of each permit holder were performed to confirm their respective extraction site locations.

Upon notification, permit applicants shall be able to determine their lacking requirements based on the findings of the field verification report. Failure to secure these may result in further delay or non-issuance of their permit. Nonetheless, the results presented by the Technical Working Group in this report are only recommendatory and still subject to the approval of the Provincial Mining Regulatory Board.

III. LIMITATIONS

Data and information such as, but not limited to, Narrative Reports, ECCs, Survey and Resurvey plans of the applicants are acquired from the Environment and Natural Resource Office as they are the safe keepers and custodians of the aforesaid documents. However, due several factors such as, but not limited to, the increasing number of applicants, time constraints, numbers of resurvey plans, delayed submission of requirements, and misplaced or missing documents, the files possessed by the PMRB - Technical Working Group (TWG) might not be updated and this might significantly affect the course of field verification and the output of the technical report. It is important to note that such limitations are inevitable during the whole process of field verification.

IV. FIELD VERIFICATION FOR CSAG PERMIT RENEWAL APPLICATIONS

1) BARTOLOME FAJARITO, JR.

A) General Information

On 30 June 2023, a field verification was conducted on the proposed extraction area covered by the CSAG Permit application of Mr. Bartolome Fajarito, Jr., who resides in Brgy. Payompon, Mamburao, Occidental Mindoro. The said permit application encompasses a total area of **16,268 square meters** along **Tuguilan River** in Barangay Tayamaan, Mamburao, Occidental Mindoro.

B) Findings and Observations

- a) The applied quarry site is accessible by all types of vehicles and is situated at an aerial distance of approximately 1.64 kilometers northwest of Mamburao Municipal Hall. It is located about 450 meters north of an existing bridge along Mamburao-Paluan Road, within the one (1) kilometer buffer zone of the structure.
- b) The applied area is situated within accumulation zones of the river's active channel. Portions of the area was found to be sparsely vegetated, with deposits primarily consisting of granule- to cobble-sized gravel and medium to coarse-grained sand. At the time of field inspection, water level within the channel is relatively high due to recent rainfall events.
- c) Conveyances and equipment (i.e. dumptrucks and payloaders trucks) were observed in the applied area as well as signs of recent excavations and extraction activities (see Figure A-2).
- d) Both of the "Notice to the Public" signage and Boundary Markers were not installed at the site during the inspection.
- e) After verification, it has been confirmed that the applicant has obtained the following necessary documents:
 - (i) Area Status Clearance endorsed and issued on 4 August 2022 by the Mines and Geosciences Bureau MIMAROPA Region.
 - (ii) Quarry Clearance, allowing extraction activities within the one (1) kilometer buffer zone of the bridge, issued on 10 May 2021 by the DPWH Mindoro Occidental District Engineering Office.

C) Comments and Recommendations

Upon thorough evaluation, the undersigned presents the subsequent comments and recommendations:

- a) The observed volume of aggregates within the applied CSAG Permit area of Mr. Bartolome Fajarito, Jr. **has the capacity** to support the extraction activity.
- b) Mr. Fajarito's mining permit has already expired on 25 May 2023, and any extraction activities or other operations conducted within his applied area prior to the issuance of the approved CSAG renewal permit violate its terms and conditions which adopted the penal provisions of Section 103 of the Republic Act No. 7942, otherwise known as the Philippine Mining Act of 1995:

*"Section 103. Theft of Minerals. — Any person extracting minerals and disposing the same **without a mining agreement, lease, permit, license, or steals minerals or ores or the products thereof from mines or mills or processing plants shall, upon conviction, be imprisoned from six (6) months to six (6) years or pay a fine from Ten thousand pesos (Php 10,000.000) to Twenty thousand pesos (Php 20,000.00), or both, at the discretion of the appropriate court. In addition, he shall be liable to pay damages and compensation for the minerals removed, extracted, and disposed of. In the case of associations, partnerships, or corporations, the president and each of the directors thereof shall be responsible for the acts committed by such association, corporation, or partnership.**"*

- c) The following conditions of the ECC, among others, must also be complied with:
 - (i) The quarry site, with respect to the survey plan submitted, **shall be delineated with complete permanent markers**. If not possible, it is recommended to situate visible markers on trees or permanent structures.
 - (ii) In compliance with the regulations, it is mandatory to **install a sign board labeled "Notice to the Public"** in proximity to the extraction and stockpiling sites, or alternatively, at the entry and exit points of the designated area.

In consideration of the above findings, the undersigned hereby recommends the Commercial Sand and Gravel (CSAG) Permit application of Mr. Bartolome Fajarito, Jr. for **pending approval** until the advised actions are taken.

V. ANNEXES
Annex A. Photo Documentation

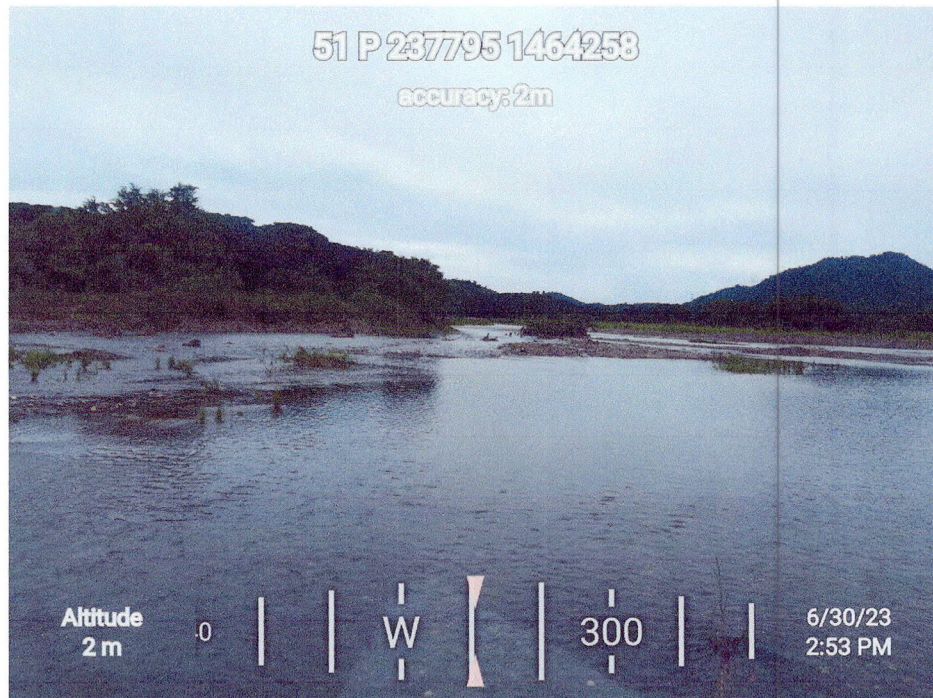


Figure A-1. Site photo of CSAG applicant Mr. Bartolome Fajarito, Jr. in Barangay Tayamaan, Mamburao, Occidental Mindoro.



Figure A-2. Loader truck stationed in the applied area of Mr. Fajarito.

Annex B. Location Map



Annex C. Cited Sections of the Governing Laws

D-0. Section 15-A of DAO 2010-21

*“The following areas are closed to mining applications: ... (4.) Offshore areas within five hundred (500) meters from the mean low tide level and **onshore areas within two hundred (200) meters from the mean low tide level along the coast;**...*

D-1. Section 74-B of DAO 2010-21

*“**Section 74. Mandatory Requirements for Quarry or Commercial/Industrial Sand and Gravel Permit Application.** - The application for Quarry or Sand and Gravel Permit (MGB Form No. 8-3, 8-3A, 8-4 or 8-4A) shall be filed by the applicant either personally or through its duly authorized representative with the Regional Office/Provincial/City Mining Regulatory Board concerned:*

XXXXX

b. Area clearance from the Government agencies/LGUs concerned that may be affected by the permit application or written permission from the landowner(s) and surface owner(s) of the area applied for;”

D-2. Section 79-A of DAO 2010-21

*“No extraction, removal and/or disposition of materials shall be allowed within a distance of **one (1) kilometer** from the boundaries of reservoirs established for water supply, archeological and historical sites or of **any public or private works or structures, unless the prior clearance of the Government agency(ies) concerned or owner is obtained...**”*

D-3. Section 79-B of DAO 2010-21

*“The extraction, removal and/or disposition of materials under the permit shall be **confined within the area specified therein**, the boundaries of which, according to the application, are established on the ground with prominent marks.”*

D-4. Section 80-A of DAO 2010-21

*“The Permit shall be for the **exclusive use and benefit of the Permit Holder** and shall not be transferred or assigned without prior written approval by the Regional Director/Provincial Governor/City Mayor concerned.”*

D-5. Section 98 of DAO 2010-21

*“**Within sixty (60) calendar days before the expiration of the Permit**, the Quarry/Commercial or Industrial Sand and Gravel/Guano/Gemstone Gathering Permit Holder may submit to the Regional to the Regional Office/Provincial/City Mining Regulatory Board concerned, an application to renew the Permit...”*

D-6. Section 103 of RA 7942

*“Any person extracting minerals and disposing the same **without a mining agreement, lease, permit, license**, or steals minerals or ores or the products thereof from mines or mills or processing plants shall, upon conviction be imprisoned from six (6) months to six (6) years or pay a fine from Ten thousand pesos (P10,000.00) to Twenty thousand pesos (P20,000.00), or both, at the discretion of the appropriate court. In addition, he shall be liable to pay damages and compensation for the minerals removed, extracted, and disposed of. In the case of associations, partnerships, or corporations, the president and each of the directors thereof shall be responsible for the acts committed by such association, corporation, or partnership.”*

D-7. Article 51 of PD 1067

“The banks of rivers and streams and the shores of the seas and lakes throughout their entire length and within a zone of three (3) meters in urban areas, twenty (20) meters in agricultural areas and forty (40) meters in forest areas, along their margins are subject to the easement of public use in the interest of recreation, navigation, floatage, fishing and salvage. No person shall be allowed to stay in this zone longer than what is necessary for recreation, navigation, floatage, fishing or salvage or to build structures of any kind.”

D-8. Section 31 of Amended IRR of PD 1067

*“All easements of public use prescribed for the banks or rivers and the shores of seas and lakes shall be reckoned from the line reached by the highest flood which does not cause inundation or the highest equinoctial tide whichever is higher. **Any construction or structure that encroaches into such easement shall be ordered removed or cause to be removed by the Board in coordination with DPWH, LGU or appropriate government agency or local government unit.**”*

D-9. Section 6-A of DAO-92-28

*“The removal/gathering of pebbles shall be conducted manually without the aid of any mechanized equipment and **shall be confined within the limits of the permitted area as specified in the special permit with the boundaries established on the ground with prominent marks.**”*

D-10. Section 100 of DAO 2010-10

“The Quarry/Sand and Gravel/Gratuitous/ Guano/Gemstone Gathering Permit may be canceled/revoked/terminated, after due process, by the Regional Director/Provincial Governor/City Mayor concerned based on the following grounds:

- a. Failure to comply with the terms and conditions of the Permit and ECC, if applicable;*
- b. Violation of any provision of the Act and these implementing rules and regulations;*
- c. Failure to pay the excise tax for two (2) consecutive years;*
- d. Any misrepresentation in any statement made in the application or those made later in support thereof;*

- e. *If the commodity stipulated in the Permit has been exhausted before the expiry date thereof; and*
- f. *When national interest and public welfare so require or for environmental protection or ecological reasons. Upon cancellation of the Permit, the said areas shall automatically be reverted back to its original status."*

D-11. First Sentence, Section 16 of Republic Act No. 7160 known as the Local Government Code of 1991

Section 16. General Welfare. -

"Every local government unit shall exercise the powers expressly granted, those necessarily implied therefrom, as well as powers necessary, appropriate, or incidental for its efficient and effective governance, and those which are essential to the promotion of the general welfare. Within their respective territorial jurisdictions, local government units shall ensure and support, among other things, the preservation and enrichment of culture, promote health and safety, enhance the right of the people to a balanced ecology, encourage and support the development of appropriate and self-reliant scientific and technological capabilities, improve public morals, enhance economic prosperity and social justice, promote full employment among their residents, maintain peace and order, and preserve the comfort and convenience of their inhabitants."

D-12. Section 17(a), of RA 7160

Section 17. Basic Services and Facilities. -

"(a) Local government units shall endeavor to be self-reliant and shall continue exercising the powers and discharging the duties and functions currently vested upon them. They shall also discharge the functions and responsibilities of national agencies and offices devolved to them pursuant to this Code. Local government units shall likewise exercise such other powers and discharge such other functions and responsibilities as are necessary, appropriate, or incidental to efficient and effective provisions of the basic services and facilities enumerated herein."

D-13. Sentence, Section 16 of Republic Act No. 7160 known as the Local Government Code of 1991

"Section 16. General Welfare. - *Every local government unit shall exercise the powers expressly granted, those necessarily implied therefrom, as well as powers necessary, appropriate, or incidental for its efficient and effective governance, and those which are essential to the promotion of the general welfare. Within their respective territorial jurisdictions, local government units shall ensure and support, among other things, the preservation and enrichment of culture, promote health and safety, enhance the right of the people to a balanced ecology, encourage and support the development of appropriate and self-reliant scientific and technological*

capabilities, improve public morals, enhance economic prosperity and social justice, promote full employment among their residents, maintain peace and order, and preserve the comfort and convenience of their inhabitants.”

D-14. Section 17(b),(3),(iii) of RA 7160

“Section 17. Basic Services and Facilities. –

XXXXX

(b) Such basic services and facilities include, but are not limited to, the following:

XXXXX

(3) For a Province:

XXXXX

(iii) Pursuant to national policies and subject to supervision, control and review of the DENR, enforcement of forestry laws limited to community-based forestry projects, pollution control law, small-scale mining law, and other laws on the protection of the environment; and mini-hydroelectric projects for local purposes;”

D-15. Section 17(b),(3),(iii) of RA 7160

“Section 3. Operative Principles of Decentralization. - The formulation and implementation of policies and measures on local autonomy shall be guided by the following operative principles:

XXXXX

(i) Local government units shall share with the national government the responsibility in the management and maintenance of ecological balance within their territorial jurisdiction, subject to the provisions of this Code and national policies;”