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DISTRICT COURT OF GUAM  
TERRITORY OF GUAM

UNITED STATES OF AMERICA,  
Plaintiff,  
vs.  
GOVERNMENT OF GUAM,  
Defendant.

Civil Case No. 02-00022

**ORDER RE: SPECIAL REPORT**

This matter is before the court on the Receiver’s Special Report filed on September 3, 2009.<sup>1</sup> *See* Docket No. 480. Therein, Gershman, Brickner & Bratton, Inc. (“Receiver”) outlined the efforts by some individuals (specifically certain members of the Board of Directors of the Guam Environmental Protection Agency (“GEPA”)) to frustrate compliance with the Consent Decree. *See* Docket No. 55. The court shares the Receiver’s concern and finds that there has been interference with GEPA’s mandate to prioritize the permitting of the Layon landfill.

At this time, the court does not opine as to whether such interference is due to mere confusion or some other motivation. Regardless of the reason, this court has repeatedly ordered that all work associated with the opening of the Layon landfill be the **priority** of the

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<sup>1</sup> After the Receiver became concerned that there were efforts to frustrate compliance with the Consent Decree, this court ordered that certain communications be turned over for the Receiver’s review. *See* Docket No. 450. The Receiver has now completed that review.

1 Government of Guam. This remains the order of the court.

2 In its Special Report, the Receiver made the following recommendations, which the  
3 court adopts:

4 1. The GEPA Administrator and staff, as well as the members of the GEPA Board of  
5 Directors, are ordered to report to the court immediately any effort by an individual or entity to  
6 interfere with the work necessary to complete the permitting of the Consent Decree projects in  
7 accordance with the court's Orders;

8 2. All parties subject to the court's Orders in this matter, specifically including the  
9 members of the GEPA Board of Directors,<sup>2</sup> are reminded of their obligations under both the  
10 Consent Decree and the Orders of the court, and of the sanctions available to the court to  
11 enforce its Orders in this matter; and

12 3. The Receiver is authorized to pay any reasonable expense incurred by GEPA in the  
13 permitting process from the Citibank Trustee Account. Any such payment will be made with  
14 the concurrence of the United States Environmental Protection Agency and upon a joint  
15 determination that the failure to make such a payment would likely impair GEPA's ability to  
16 complete the permitting process in a timely manner.

17 Finally, in light of the Receiver's Special Report, the court will continue its close  
18 monitoring of the permitting process and the agencies involved to ensure no further delay  
19 occurs. Again, the court will not tolerate interference in this process as only 693 days of  
20 airspace remain at the Ordot Dump.

21 **SO ORDERED.**



22 /s/ Frances M. Tydingco-Gatewood  
23 Chief Judge  
24 Dated: Sep 03, 2009

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27 <sup>2</sup> To ensure there is no confusion going forward, the U.S. Marshal Service is ordered  
28 to personally serve each member of the GEPA Board of Directors with a copy of this Order and  
thereafter file a certificate of such service.