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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 November 2016 Status Hearing and  
Presentation of Receiver's Report

This matter came before the court on November 8, 2016, for the presentation of the Receiver's report. The Receiver provided an update on the progress of the Consent Decree projects and the operations of the Guam Solid Waste Authority ("GSWA") for the reporting periods beginning April 1, 2016 to June 30, 2016. *See* Quarterly Report (Nov. 8, 2016), ECF No. 1687.<sup>1</sup> The Receiver reported on the following notable accomplishments achieved during this time frame:

- *Ordot Dump Closure.* The Receiver is still awaiting approval of the Post Closure Care Plan, which is pending with U.S. Environmental Protection Agency ("USEPA") and the Guam Environmental Protection Agency ("GEPA"). Although there has been some delay in the review process, the Receiver reported that he hoped the plan will be formally approved in late 2016 or early 2017. The USEPA stated that this time frame was not reasonable because revisions to the plan submitted were necessary to incorporate the financing plan, the trustee and the third party engineering firm, along with an updated

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<sup>1</sup> This Quarterly Report consists of a detailed Narrative Report (Tab 1), a Slide Presentation (Tab 2), and various financial tables, summaries and relevant reports (Tabs 3-15).

1 cost estimate. The Receiver continues to work on creating a set of standard operating  
2 procedures for the gas collection and control system, leachate collection system, and  
3 other systems that will be included in the scope of work of the procurement for the Ordot  
4 post closure operator and trustee, which the Receiver anticipates to issue in late 2016 and  
5 early 2017. Post closure maintenance and compliance monitoring is ongoing to ensure  
6 that the Ordot Dump will no longer be a source of future pollution so long as it is  
7 properly maintained over the next 30 years as required by federal and local regulations.  
8 Operationally, more than 638,000 gallons of leachate has been captured during the  
9 reporting period. Since the new sewer line system was installed in January 2015 through  
10 the end of the reporting period, over 8.9 million gallons of leachate has been diverted  
11 from Guam's groundwater and the Lonfit River for proper treatment. As expected, the  
12 average daily volume of leachate has decreased and was reported to be about 7,000  
13 gallons<sup>2</sup> per day, down from approximately 20,000 gallons in January 2016.  
14 Furthermore, the gas collection system installed at the Ordot Dump in September 2015  
15 has prevented more than 103 million cubic feet of greenhouse gases from being emitted  
16 into the air. The Receiver continues to monitor and take proactive steps to reduce gas  
17 readings to compliant levels and will work with the regulatory agencies to develop an  
18 acceptable mitigation plan.

- 19 • *Layon Landfill.* The Receiver maintained its oversight of operations at the Layon  
20 Landfill and continued to facilitate environmental compliance by holding biweekly  
21 meetings with the USEPA and GEPA and by regularly reporting data and results to these  
22 regulatory agencies. Environmental testing and monitoring continued, with results  
23 supporting the conclusion that the Layon Landfill meets all applicable environmental  
24 standards and regulations. During the reporting period, the landfill received 23,104.98  
25 tons of municipal solid waste. Although the overall tonnage was about 1% lower than  
26 the amount of trash and other materials delivered to the Layon Land during the same  
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28 <sup>2</sup> This is the equivalent of about two tanker trucks.

1 months in 2015, the Receiver reported that biosolids brought for disposal by the Guam  
2 Waterworks Authority during the reporting period increased by 40.12% when compared  
3 to the same months last year, and scale crossings and tons brought by the Mayors' offices  
4 also saw a similar but more modest increase.

- 5 • *Dero Road and Residential Transfer Stations.* A Notice to Proceed with the Dero Road  
6 renovation project was issued on April 11, 2016, and the project was ahead of schedule  
7 at the end of the reporting period. Currently, all work originally planned as part of the  
8 Dero Road renovation project is substantially complete. The stormwater systems have  
9 been installed and paving is completed, with striping ongoing. Although the work  
10 already completed will address the flooding issues in the area during normal rainfall, the  
11 Receiver reports that the improvements in the original project may not address the  
12 flooding issues that occur when the area experiences very heavy rainfalls, as is common  
13 on Guam. Accordingly, the Receiver is evaluating the feasibility of additional  
14 stormwater measures that could further mitigate flooding issues in the area. As for the  
15 upgrades to the Agat and Malojloj residential transfer stations, the court had previously  
16 approved the Receiver's decision to utilize a competitive negotiation procurement model  
17 to competitively bid this project among a group of qualified contractors. New bids were  
18 received on September 28, 2016, and a Notice of Award was issued to the lowest  
19 responsible bidder (Core Tech International). The contract is presently under review,  
20 with the work to be completed within 365 calendar days from the Notice to Proceed date.  
21 The Receiver also intends to proceed with the environmental closure of the Dededo  
22 transfer station as proposed in the plan submitted in January 2016, having received no  
23 comments or suggested revisions from the regulatory agencies on said plan.

- 24 • *GSWA Operations and Finances.* GSWA crews performed approximately 246,023  
25 residential trash collections, of which 99.83% were made on time, and collected  
26 4,989.20 tons of trash from residential customers over the three-month reporting period.  
27 Crews also collected 1,234 metallic and bulky items during 489 appointments made by  
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1 GSWA customers. The number of curbside residential customers increased to 17,955,  
2 and the number of customers registering for online services increased by 14.5% to 10,204  
3 during the reporting period, with almost 58% of residential customers accessing their  
4 accounts online. Thus far for Fiscal Year 2016, GSWA has achieved approximately  
5 \$81,334 in savings for customers using paperless billing. Currently, all of GSWA's  
6 major commercial accounts were in good standing, with Lagu Sanitation paying off all  
7 of its debt to GSWA after the reporting period. Unfortunately, the Receiver reported that  
8 most Government of Guam accounts remain in arrears, although the Receiver was  
9 optimistic that payment for these arrears would be addressed in the annual settlement  
10 process between the General Fund and GSWA. Similar to its last report, the Receiver  
11 noted that the number of customers to and amount of waste disposed of at the residential  
12 transfer stations continues to decline, with 1,094.9 tons of trash received during the  
13 reporting period. GSWA's finances remained strong during the reporting periods as well  
14 as throughout the entire fiscal year. Revenue exceeded spending, and GSWA's estimated  
15 fund balance increased by \$4.3 million during the reporting period to about  
16 \$24.1 million.<sup>3</sup>

17 Overall, the court is pleased with the Receiver's reported progress and the work performed  
18 by the trash collection crews and the customer service staff whose hard work and dedication have  
19 contributed to the success of GSWA operations. The court also commends the Receiver's continued  
20 efforts to promote recycling and the proper disposal of household hazardous waste products such as  
21 paint, motor oil, cleaners, batteries and electronic items. The court notes that 3,447 customers have  
22 used the Harmon Household Hazardous Waste Facility since it opened on January 23, 2015, bringing  
23 279,080 pounds of household hazardous waste for proper environmental disposal at said facility.  
24 Additionally, through the islandwide curbside recycling program, residential customers have diverted  
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26 <sup>3</sup> The fund balance continues to grow at a much faster rate because the court ordered the  
27 Receiver to accumulate funds previously paid to the General Fund for bond payments made from  
28 Section 30 funds, so that said these funds can be used for the remaining Consent Decree projects as  
well as the post-closure care of the Ordot Dump.

1 approximately 11% of residential trash to recycling. GSWA recycled and reused approximately  
2 589.95 tons of materials over this reporting period. The net expense for the curbside recycling  
3 program was \$68,696.61 during the reporting period. This corresponds to a cost of \$139.60 per ton,  
4 which is lower than the current rate of \$171.60 for waste disposal at the Layon Landfill. The court  
5 stresses the importance of the recycling program and the proper environmental disposal efforts  
6 undertaken by the Receiver, since these measures help protect our island environment and ensure  
7 that the life spans of Cells 1 and 2 are not further reduced. The court believes that more can be done  
8 to educate the public about the importance of proper waste disposal and the environmental benefits  
9 of an island-wide recycling program. Accordingly, the court orders the Receiver to proceed with a  
10 public education campaign through public service announcements and/or public appearances that  
11 address the following topics: (1) the Bulky and Metallic Waste Collections available for free to  
12 GSWA customers twice a year, including examples of what items will be collected, and how to  
13 schedule an appointment for such collections; (2) the Household Hazardous Waste Facility and  
14 information about its location and hours of operation, as well as examples of what items are accepted  
15 for disposal at the facility; (3) the steps residential customers can take to decrease contamination in  
16 the curbside recycling carts, including a list of materials that can be placed in said carts; (4) the  
17 locations and hours of operation of the residential transfer stations, including the cost of trash  
18 disposal at said locations and what items customers can recycle for free at said facilities; and (5) the  
19 convenience and benefits of participating in the online payment program, as well as a detailed  
20 description of how to make such payments.

21 The next quarterly status hearing shall be held on Tuesday, March 21, 2017, at 8:30 a.m. The  
22 court orders the parties and all their departments and agencies to continue to cooperate with the  
23 Receiver's efforts to responsibly and expeditiously complete the remaining Consent Decree projects.  
24 To that end, the court urges the USEPA and GEPA to use their best efforts to ensure there is no  
25 further delay with the approval process of the Post Closure Care Plan. Additionally, in light of the  
26 increasing unpaid balance owed by several Government of Guam agencies to the GSWA, the court  
27 orders the Department of Administration to work closely with the Receiver to address and resolve  
28 this issue. The Government of Guam shall follow up with GEPA and provide the court with an

1 update on the status of the clean up efforts of the PCBs found adjacent to the Dededo Residential  
2 Transfer Station. Finally, the court orders the Receiver to continue to assist the GSWA Board in  
3 preparing to take over GSWA operations after the Receivership ends.<sup>4</sup>

4 IT IS SO ORDERED.



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6 /s/ Frances M. Tydingco-Gatewood  
7 Chief Judge  
8 Dated: Nov 23, 2016  
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27 <sup>4</sup> As requested by the GSWA Board chairperson, the court directs the Receiver to provide  
28 further details for the "Other Contractual Services" category under Non-Personnel Expenses when  
the Receiver provides the Board with a monthly updated GSWA operating budget report.