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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 June 28, 2011. *See* Dkt. No. 758. Therein, Gershman, Brickner & Bratton, Inc. (“Receiver”) discussed concerns about the lack of progress on the bridge replacement and roadway projects.

**I. Ylig, Togcha, and Talofofo Bridges**

The completion of the bridge and roadway projects is critical to the opening of the Layon Landfill. Based on reviews of the weekly reports filed by the Department of Public Works (“DPW”), the Receiver has expressed concern that in order for DPW to meet its reported completion deadline of July 28, 2011 for the temporary Ylig Bridge, DPW would need to complete approximately two-thirds of the work in one-third of the days allotted in the construction schedule. The Receiver further found that, while not as significant as the Ylig Bridge, there is also an imbalance between time remaining and work that needs to be completed for the Togcha and Talofofo Bridges.

To ensure that the court and Receiver have a clear understanding of DPW's progress in

1 completing the bridges within the established deadlines, the court adopts the Receiver's  
2 recommendation to modify the requirements of DPW's weekly reports. The court hereby orders  
3 that in all future status reports, DPW include the projected percentage of work to be completed  
4 each week from the date of the report until the bridge projects are completed.

5 **II. Route 4 Roadway Widening and Repaving**

6 Based on the review of the DPW weekly reports, the Receiver also notes that DPW is  
7 reporting no progress on the actual construction of the Route 4 Widening and Repaving since the  
8 April Status Hearing. While the reported deadline for the completion of this project is December  
9 1, 2011, the court agrees with the Receiver that more detailed reporting will ensure that this project  
10 remains on track. Accordingly, in all future status reports, DPW shall also include the projected  
11 percentage of work to be completed each week from the date of the report until the Route 4  
12 Roadway Widening and Repaving project is completed.

13 **III. As-Alonso Safety Certification**

14 On June 3, 2011, DPW Director Joanne Brown filed a declaration addressing concerns  
15 about whether Route 4 roadway projects would meet or exceed federal safety standards. *See* Dkt.  
16 No. 743. While certifying that the other bridge and roadway projects will, in fact, meet or exceed  
17 federal standards, DPW did not make such a certification with respect to the As-Alonso area,  
18 reporting instead that it had relied on geotechnical reports from 2004 and 2007 to determine that  
19 much less extensive work was needed in the area. DPW also submitted the geotechnical reports  
20 from 2004 and 2007 to support the declaration. *See* Dkt. Nos. 744, 748. After reviewing the  
21 filings, the Receiver indicates that the geotechnical reports provided by DPW support the need for  
22 the more extensive work originally anticipated for the As-Alonso area of Route 4.

23 Specifically, the Receiver's engineer reviewed the reports and found that insofar as they  
24 concerned the As-Alonso area:

- 25 1. The 2004 report found inadequate lateral support for the narrow road  
26 section and recommended a minimum 50-foot deep sheet-pile wall design  
27 554 feet in length, to provide lateral support for the weak road section  
28 where there has been subsidence and partial slope failure.
2. The 2007 report reiterates the 2004 report findings and recommendations.

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- 3. DPW characterizes the recommended pavement repair as the filling in of the settled areas with asphalt pavement. However, both engineering reports submitted to the Court by DPW recommend complete restoration of the pavement section and excavation to 24 inches below the pavement section with re-compaction.
- 4. There are no conclusions or analyses in the 2007 report that suggest the lateral slope support and full pavement replacement described above are not needed.

Dkt. No. 758 at 5.

In light of the engineer’s findings, the Receiver recommends that DPW conduct an updated review of the area. The declaration of DPW Director Joanne Brown also suggests that such an updated review could be conducted if funds were available for this purpose. *See* Dkt. No. 743 at 3–4. The court agrees that the As-Alonso area is vital to the Layon Landfill access routes. Accordingly, the court adopts the Receiver’s recommendation and orders DPW to engage a qualified engineering firm to conduct a slope stability analysis of the As-Alonso area and commit to implementing the recommendations in an expeditious manner.

If DPW Director Joanne Brown certifies to the court that no funds are available to pay for such a review, the court will authorize the Receiver to pay for the study from funds within its control. On or before July 15, 2011, DPW shall file a report with the court that addresses: (1) the status of its effort to identify funding and a proposed schedule for obtaining the services of a qualified engineer to conduct a slope stability analysis of the As-Alonso area, and (2) a schedule for actually completing the slope stability analysis.

**SO ORDERED.**



**/s/ Frances M. Tydingco-Gatewood  
Chief Judge  
Dated: Jun 28, 2011**