

DISTRICT COURT OF GUAM
TERRITORY OF GUAM

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GOVERNMENT OF GUAM,

Defendant.

CIVIL CASE NO. 02-00022

ORDER

This matter came before the court on August 23, 2017, for the presentation of the Receiver's report. Although the Receiver's Quarterly Report was filed on said date, *see* ECF No. 1749, the court changed the format of the usual presentation by the Receiver in order to focus on the more significant issues that may impact the transition over the operations and management of the Guam Solid Waste Authority ("GSWA") from the Receiver to the Board of Directors (the "GSWA Board"). The court continued the hearing to Thursday, September 14, 2017, at 8:30 a.m. to permit the Receiver to finish its presentation.

As the parties are well aware, the Receivership will terminate at the end of the year under the court-approved time line. The court wishes to ensure that the transition occurs as seamlessly as possible. There are, however, several issues that remain outstanding and need resolution prior to the termination of the Receivership. Accordingly, the court orders the following individuals and/or entities to prepare a status report addressing the issues set forth herein:

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U.S. Environmental Protection Agency (USEPA)

- At the May 2017 hearing, USEPA indicated that approval of the Post-Closure Plan would occur prior to the end of the calendar year. The Receiver's report indicates that approval has been delayed because of the exceedances of landfill gas being experienced in two perimeter wells of the Ordot Dump. USEPA shall explain why it is necessary to withhold approval of the entire Post-Closure plan to address this problem. It is likely that over the post-closure period, other problems of equal or greater significance will occur. USEPA shall explain whether the criteria for approval of the plan should be the plan's capacity to effectively address such problems as they arise.

Guam Environmental Protection Agency ("GEPA")

- The Receiver previously reported on the PCB contamination found adjacent to the former Dededo Residential Transfer Station. What progress has GEPA made, if any, in (a) identifying the responsible parties and (b) mitigating the PCB contamination?
- GEPA's response to this court Order shall provide specific details about its plan to clean up the PCB contamination, including a time frame when it anticipates to begin the clean up and the expected completion date.
- What is the current status of the Recycling Revolving Fund? How could the Recycling Revolving Fund be better used to support recycling on Guam, and would GEPA consider using a portion of the monies in the Recycling Revolving Fund to support GSWA's islandwide recycling programs?

Government of Guam and Attorney General

- The Receiver continues to express a concern that the approach being pursued by the GSWA Board to resolve the transition of temporary employees through local legislation may not resolve the issue raised by former Deputy Attorney General Pat Mason. In his letter, dated May 28, 2009, Mr. Mason indicated that while the Receiver could hire staff in this manner, the Government of Guam could not do so because of the mandates of the Organic Act. The Attorney General shall report whether her office no longer holds the view expressed by Mr. Mason and whether the Attorney General's Office has a new legal opinion on this issue.

- The Receiver previously reported on the increasing balances owed by several Government of Guam agencies to GSWA. The Receiver's latest report proposes that GSWA provide the Department of Administration ("DOA") with a monthly bill showing the amounts owed by every General Fund agency and that DOA then charge the proper amount to each respective agency's budget. DOA would then credit GSWA with these amounts against the sums otherwise owed to the General Fund by GSWA. The Government of Guam shall explain why this proposed solution should not be implemented, especially because DOA already offsets utility bills from GPA and vehicle fuel purchases in this manner.
- The Attorney General shall provide an update on the litigation related to the acquisition of Lot 450.

GSWA Board

- The GSWA Board reported that the Guam Legislature had indicated support for continuing the current rate structure through legislation. Has there been any timetable discussed for the proposed legislation?
- Is the GSWA Board committed to building on GSWA's current recycling programs when the transition is complete?
- The GSWA Board's report shall also shall provide the latest status on the hiring of the General Manager and Comptroller, as well as an update on the revised rules and regulations.

The above status reports shall be prepared in pleading (not letter) format and shall be filed no later than Friday, September 8, 2017. All parties shall come prepared to discuss the above issues at the next hearing.

Furthermore, the court orders the following individuals to be present for the September 14th hearing:

- Hon. Raymond. S. Tenorio, the Lt. Governor of Guam;
- Hon. Benjamin J.F. Cruz, Speaker, 34th Guam Legislature or, in his absence, Hon. Therese M. Terlaje, Vice-speaker, 34th Guam Legislature;
- Hon. Thomas C. Ada, Senator, 34th Guam Legislature, Chairperson of Committee on

Environment, Land, Agriculture and Procurement Reform;

- Walter Leon Guerrero, Administrator, Guam Environmental Protection Agency;
- Conchita S.N. Taitano, Air and Land Programs Administrator, Guam Environmental Protection Agency;
- Ho Eun, Chairman of the Board of Core Tech International Corporation; and
- all members of the Guam Solid Waste Authority Board.

Much has been accomplished over the time of the Receivership, and although some projects remain outstanding, the finish line is in sight. The court emphasizes that all parties should continue to cooperate with the Receiver's efforts over the next four months to assist the GSWA Board in preparing to take over the operations and management of GSWA.

IT IS SO ORDERED.



/s/ Frances M. Tydingco-Gatewood
Chief Judge
Dated: Aug 31, 2017