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**IN THE DISTRICT COURT OF GUAM**

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

CIVIL CASE NO. 02-00022

**ORDER RE: BRIEFING FOR  
MOTION FOR DECLARATORY JUDGMENT**

GOVERNMENT OF GUAM,  
Plaintiff,  
vs.  
1,348,474 SQUARE METERS etc. *et al.*,  
Defendants.

SUPERIOR COURT OF GUAM  
CIVIL CASE NO. CV 0084-08

**ORDER RE: STAY PENDING  
DECLARATORY JUDGMENT**

**TO: PARTIES TO CIVIL CASE NO. 02-00022  
CLERK OF COURT, SUPERIOR COURT OF GUAM  
STAFF ATTORNEY, SUPERIOR COURT OF GUAM**

At the status hearing held on October 22, 2008, the court-appointed Receiver for the Government of Guam Solid Waste Management Division, Gershman, Brickner & Bratton, Inc. (“GBB”), expressed an urgent need for certainty that the Government of Guam has lawfully obtained title to the Layon site. Under the Receiver’s timetable, construction of the new landfill

1 site is to begin in January 2009, with the Government of Guam required to deposit \$20 million  
2 with a trustee. Adherence to the schedule requires that financing be in place for the Consent  
3 Decree projects, thought to cost about \$160 million. The Receiver advised the court that the  
4 cloud over the title to the Layon site must be cleared immediately or financing will be almost  
5 impossible to obtain. On further questioning by the court, all parties agreed that it was  
6 necessary to resolve this critical issue without haste.

7 Under the Declaratory Judgment Act (“Act”), “any court of the United States, upon the  
8 filing of an appropriate pleading, may declare the rights and other legal relations of any  
9 interested party seeking such declaration, whether or not further relief is or could be sought.” 28  
10 U.S.C. § 2201. The Act’s purpose is to enable parties to adjudicate a dispute before either  
11 suffers great damage. *See Societe de Conditionnement v. Hunter Eng’g Co., Inc.*, 655 F.2d 938,  
12 943 (9th Cir. 1981). In deciding whether to exercise its “unique and substantial discretion”  
13 under the Act, *Wilton v. Seven Falls Co.*, 515 U.S. 277, 286 (1995), a district court should  
14 consider whether declaratory relief would serve a useful purpose, clarify legal relations, and  
15 terminate controversy. *See Los Angeles County Bar Ass’n v. Eu*, 929 F.2d 697, 703 (9th Cir.  
16 1992).

17 The court believes that a declaratory judgment on the question whether the Government  
18 of Guam has lawfully obtained title to the Layon site will “serve a useful purpose, clarify legal  
19 relations, and terminate controversy.” *Id.* Accordingly, the court hereby construes the  
20 Receiver’s oral request for certainty regarding title to Layon as a motion for declaratory relief.<sup>1</sup>  
21 This issue is critically important and must be resolved quickly. Therefore, based on the court’s  
22 explicit authority “to enter such further orders to effectuate the purposes of the Receivership and  
23 compliance with the Consent Decree,” Docket No. 239 at 19:10-11, and on the authority of

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25 <sup>1</sup> In its Order re: Appointment of Receiver, the court stated that it “retains jurisdiction to  
26 enable any party, subject to this Order, to apply to this court at any time for further orders and  
27 directions as may be necessary or appropriate to carry out or construe this Order, to modify any of  
28 its provisions, to enforce compliance, and to punish violations of its provisions.” Docket No. 239  
at 19:12-15.

1 federal courts under the All Writs Act to “issue all writs necessary or appropriate in aid of their  
2 respective jurisdictions and agreeable to the usages and principles of law,” 28 U.S.C. § 1651, the  
3 court hereby **ORDERS** the following:

4 1. The proceedings in *Government of Guam v. 1,348,474 Square Meters etc., et al.*,  
5 Superior Court of Guam Case No. CV 0084-08, are stayed pending this court’s determination  
6 whether the Government of Guam has acquired legal title to the Layon site. This temporary stay  
7 gives the Receiver and the United States – parties unrepresented in the Superior Court action – a  
8 meaningful opportunity to be heard on these matters. Further, this court will not make any  
9 determination of property value. Should this court find that the Government of Guam has  
10 acquired legal title to the Layon site, the temporary stay will be lifted so that the Superior Court  
11 of Guam may address valuation issues.

12 2. The parties to this action shall file the appropriate pleadings and briefs for a  
13 declaratory judgment on this issue no later than October 27, 2008. Briefs concerning legal rights  
14 or interests pertaining to the Layon site shall be filed by any other interested party or landowner  
15 no later than October 30, 2008. A hearing on this issue shall be set before this court on  
16 November 6, 2008, at 9:00 a.m.

17 3. The Clerk of Court shall file a copy of this Order in the Superior Court of Guam  
18 action.

19 4. The Clerk of Court for the Superior Court of Guam shall thereafter immediately serve  
20 a copy of this Order on all parties appearing in the Superior Court of Guam action.

21 **SO ORDERED.**<sup>2</sup>



22 /s/ Frances M. Tydingco-Gatewood  
23 Chief Judge  
24 Dated: Oct 22, 2008

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26 <sup>2</sup> The court believes that it could have ordered the defendants in the local court action to  
27 remove the case to this court, based on the All Writs Act in conjunction with its authority to “handle  
28 any disputes that arise under [the] Consent Decree.” Docket No. 53 at 25:23-4. As noted, the court  
construes the Receiver’s request as a motion for relief under the Declaratory Judgment Act. Because  
the court believes that declaratory relief would be the quickest, least-intrusive way to decide these  
matters, the court will proceed in this manner.