

# Special Report of the Receiver

Concerns Regarding the Guam Environmental Protection Agency

Civil Case No. 02-00022  
United States of America v. Government of Guam  
Guam Solid Waste Management Division

Prepared for:



U.S. District Court of Guam

Submitted by:



Gershman, Brickner & Bratton, Inc.  
8550 Arlington Blvd, Suite 304  
Fairfax, Virginia 22031

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The Guam Environmental Protection Agency (GEPA) stated to the Court that it has assigned a Layon permit project team, as their highest priority, the task to develop and review the permit for the new landfill at Layon, pursuant to the Consent Decree. This stated priority is consistent with the Court's Orders that Guam EPA "expedite its permitting process" for the new landfill at Layon and "use all of its available resources to ensure compliance with each deadline" set forth in Guam EPA's Permitting Process for the Layon landfill. We believe the staff at Guam EPA has made a good faith effort to comply with the Court's Order.

However, in recent weeks we have been informed by staff and officials of Guam EPA of pressure to give equal or greater priority to other applications, thereby discouraging the Agency's staff from continuing to follow the Court's Orders that require the Agency to give priority to the application for the Layon Landfill in the use of its staff and other resources. We have been informed that this pressure includes a threat to terminate the employment of the Administrator of the Agency.

We believe the priority established by the Consent Decree and specifically ordered by the Court is essential to ensure compliance with the Consent Decree and that any such pressure would, therefore, not be appropriate. Based on the information we have received, we are concerned that this situation could pose a threat to achieving compliance with the Consent Decree.

The Order appointing GBB as Receiver for the Solid Waste Management Division, explicitly provides that the "Receiver shall have the authority required or necessary for the complete management and control of the Consent Decree projects". The order also explicitly lists several of these areas including: "The full and complete access to the documents, books, records, electronic databases held by any Government of Guam entity that has in its custody records deemed necessary by the Receiver to ensure compliance with the Consent Decree".

In order to evaluate these issues we are requesting that we be provided with copies of all documents, including, but not limited to, correspondence, e-mail or written communication of any kind concerning the application for approval of the permit for the Layon Landfill and any other permit applications currently before the Agency. Specifically, we are requesting copies of any such communications between individual members of the Board of Directors or to the entire Board of Directors from the Chair, other members of the Board or other officials of the Government of Guam; between Board members and the Administrator or staff of the Agency, between individual Board members or the Board in its entirety from applicants or those representing applicants before the Board, between the Administrator and staff of the Agency and between individual staff members or any other communication that is relevant to Guam EPA's compliance with the Consent Decree and the Court's subsequent orders relative to the Consent Decree.

We are requesting that this information be provided for any such communication from October 1, 2008 through June 4, 2009 and we are requesting that the Court issue an Order to facilitate our access to these documents. We are also requesting that the Court in any Order it issues pursuant to our request, order that none of the documents that may be subject to this request be destroyed or changed in any way.

We thank the Court for its consideration of our request.