

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

IN THE UNITED STATES DISTRICT COURT
FOR THE 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 July 18, 2012, for a quarterly status hearing. At that time, the Receiver, Gershman, Brickner & Bratton, Inc. (“the Receiver”), provided an update on the progress of the Consent Decree projects and on the operations of the Guam Solid Waste Authority (“GSWA”). *See* Quarterly Report of the Receiver, ECF No. 972.

The Receiver reported on the significant accomplishments achieved in the last quarter. Notable accomplishments include—

- ***Ordot Dump Closure Progress.*** Closure activities focused on several field investigations and the completion of technical reports regarding closure design.

- 1 • **Layon Landfill, Access Road, Leacheate Management, Residential Transfer**
2 **Stations.** The remaining construction at the Layon Landfill was completed and
3 operational warranty issues were addressed. The Chalan Layon access road to the
4 landfill is now fully completed. The fuel supply system is now operational. Several
5 environmental monitoring activities were conducted, including Layon groundwater
6 and gas monitoring, and leacheate, influent and effluent wastewater and marine water
7 sampling. Design plans and specifications for the Harmon Residential Transfer
8 Station and Household Hazardous Waste Facility continued to be developed. The
9 scope of work and design cost estimates were developed for the three existing transfer
10 stations: Agat, Dededo and Malojloj.
- 11 • **GSWA Administration.** GSWA procured a new phone system to better serve
12 customers who call GSWA. During this quarter, 25 Standard Operating Procedures
13 were finalized. It was further reported that at the conclusion of this reporting period,
14 the number of GSWA employees dropped from 56 in the previous Court Report to
15 55. The number of GSWA employees is a reduction of approximately 44 percent
16 when compared to the 99 employees in the Solid Waste Management Division when
17 the Court appointed the Receiver in March 2008.
- 18 • **GSWA Trash Collection.** GSWA crews performed approximately 221,000
19 residential collections, of which 99.79 percent were made on time.
- 20 • **Curbside Recycling Pilot Program.** GSWA Customer Service Representatives
21 conducted telephone surveys to obtain opinions of the program and recycling habits.
22 Findings from the telephone surveys include the following: participants showed a
23 strong desire to keep and expand the program; customers who did not participate in
24 the Curbside Recycling Pilot Program also showed a strong desire to have curbside

1 recycling expanded to all GSWA customers; at the projected set-out rates for an
2 expanded program, GSWA's ability to conduct curbside recycling with its own trucks
3 and staff will minimize the cost for the additional collection service; either weekly or
4 twice-monthly collection schedules are the most popular; and twice-monthly
5 collection affords more flexibility for GSWA's crews to collect the material and still
6 minimize costs GSWA issued a Request for Interest for a processor of single stream
7 recyclables; two interested parties responded. Evaluation of the responses is
8 underway.

- 9 • ***Contract Management & Procurement.*** Work to finalize the Request for Proposals
10 for the operation of the Household Hazardous Waste (HHW) Program and
11 procurement documents for the construction of the new residential transfer station at
12 the GSWA compound, including the HHW facility, comprised the bulk of the work in
13 this area during the reporting period. Equipment in excess of GSWA's needs were
14 sold to the highest bidder, producing \$94,658.97 for GSWA from the sale.
- 15 • ***Financial Issues.*** During the reporting period, progress was made resolving issues
16 with commercial customers, solid results with residential customer accounts were
17 achieved and a review of government accounts with the Department of
18 Administration began. GSWA continued to show positive results in its financial
19 operations: GSWA reported operating 11.9 percent below its approved expenditure
20 budget; personnel costs were about 32 percent below budget, non-personnel spending
21 was about 7 percent below budget; and revenue from all sources was 9.3 percent
22 above budget.
- 23 • ***Rate Recommendations.*** On June 18, 2012 the Receiver submitted a revised rate
24 recommendation to the Guam Public Utilities Commission (PUC) outlining three (3)

1 rate options. In its report to the court and in its submission to the PUC, the Receiver
2 noted that the current GSWA rates, which had been authorized by the court as interim
3 rates, are adequate to provide for its operations and reserves through 2015. The
4 Receiver further noted that GSWA can be adequately funded under each of the rate
5 options and it was not making a recommendation for a rate increase. The Receiver
6 expressed that the decision on the final rate structure is one to be made by the
7 Government of Guam.

- 8 • ***GSWA Board of Directors.*** It was reported to the court that the following were
9 appointed by the Governor and confirmed by the Legislature to the GSWA Board of
10 Directors: Andrew Gayle, Jonathan Denight and Alexandra Taitano.

11
12 Pursuant to the issues raised at the Hearing and in the Quarterly Report, the court hereby
13 **ORDERS** the following:

14 **GSWA Board of Directors.** The Office of the Attorney General, the Receiver and the
15 GSWA Board of Directors shall begin discussions regarding Guam Public Law 31-20 and
16 coordinate the Government of Guam's eventual transition from the Receiver of its functions,
17 responsibilities and authority for solid waste management and operations, and the governance
18 thereof. With coordination with the court's staff, the courtroom facility is available for use for
19 the meetings should the Board, the Receiver and the Office of the Attorney General wish to
20 utilize it.

21 **Fiscal Year 2013 Operating Budget.** At the hearing, the Receiver proposed a Fiscal
22 Year 2013 ("FY 2013") operating budget to the court, noting that the budget may require
23 adjustments based on the PUC's rate decision. The FY 2013 operating budget proposal is as
24 follows:

GSWA Personnel	\$2,678,600
Layon Landfill Operation	\$3,237,000
Hauler-Only Transfer Station	\$3,012,000
Other Contractual Services	\$2,746,100
Debt Service	\$4,497,100
Reserves	\$901,100
Other Expenses (including utilities, equipment, Receiver cost)	\$600,000
TOTAL FY 2013 OPERATING BUDGET	\$17,671,900

The court finds that the proposed budget is reasonable and hereby approves the proposed FY 2013 operating budget. Furthermore, the court authorizes the Receiver to modify the FY 2013 operating budget as necessary.

U.S. EPA Meetings on July 20 and July 23, 2012. The U.S. EPA has called meetings in San Francisco on July 20 and July 23, 2012 to discuss a variety of issues associated with the closure of the Ordot Dump and the remaining other projects related to compliance with the Consent Decree. U.S. EPA has requested attendance by the Receiver and Conchita Taitano from Guam EPA. The Receiver has requested authorization from the court to pay for the additional cost that Guam EPA would incur for Ms. Taitano's per diem costs for attending this meeting. The court finds the request reasonable and hereby approves said request.

Next Hearing Date. The next hearing is scheduled for December 5, 2012 at 9:00 a.m. It is ordered that the following individuals be in attendance to present their respective reports concerning the progress of the Consent Decree projects:

- Joanne Brown, Director of the Department of Public Works;
- Gene Niemasz or designee familiar with the projects, Parsons Transportation Group;

- 1 • Eric M. Palacios, Administrator of Guam Environmental Protection Agency;

2 In addition, all GSWA Board Members: Andrew Gayle, Jonathan Denight and Alexandra
3 Taitano, including any future appointees, are ordered to attend. The court reiterates its previous
4 order requiring the Governor of Guam, and the Speaker of the Legislature, to be in attendance.
5 Again, however, if the Governor is unable to attend, he may designate the Lieutenant Governor
6 to attend. If the Speaker is unable to attend, she may designate the Vice Speaker to attend. The
7 court encourages members of the 31st Guam Legislature to attend as well.

8 **SO ORDERED.**



/s/ Frances M. Tydingco-Gatewood
Chief Judge
Dated: Jul 20, 2012