



GUAM WATERWORKS AUTHORITY
ATURIDAT KINALAMTEN HANOM GUAHAN
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Phone: (671) 647-7681 Fax: (671) 646-2335

July 28, 2010

VIA FEDERAL EXPRESS

Clerk of the Board
U.S. Environmental Protection Agency
Environmental Appeals Board
1341 G. Street, N.W.
Suite 600
Washington, D.C. 20005

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ENVIR. APPEALS BOARD

Re: NPDES Appeal No. 09-15 and NPDES Appeal No. 09-16;
Docket No. CWA 309(a)-09-030

Dear Clerk of the Board:

Pursuant to the USEPA Environmental Appeal Board's Order Requesting Status Report dated July 14, 2010, enclosed please find an original and six (6) copies of Guam Waterworks Authority's Status Report.

Can you please date stamp the copy marked GWA's copy of Status Report and return it in the self-addressed stamped envelope enclosed herewith.

Sincerely,

Samuel J. Taylor
GWA Legal Counsel

Enclosures

1
2 **BEFORE THE ENVIRONMENTAL APPEALS BOARD**
3 **UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**
4 **WASHINGTON, D.C.**

5 In the Matters of:)

6)
7 **GUAM WATERWORKS AUTHORITY'S) STATUS REPORT FOR NPDES**
8 **NORTHERN DISTRICT SEWAGE) APPEAL Nos. 09-15 & 09-16**
9 **TREATMENT PLANT APPLICATION FOR)**
10 **A MODIFIED NPDES PERMIT UNDER)**
11 **SECTION 301(h) OF THE CLEAN WATER)**
12 **ACT (NPDES Permit No. GU0020141))**

13 and)

14 **GUAM WATERWORKS AUTHORITY'S)**
15 **AGANA SEWAGE TREATMENT PLANT)**
16 **APPLICATION FOR A AMODIFIED NPDES)**
17 **PERMIT UNDER SECTION 301(h) OF THE)**
18 **CLEAN WATER ACT (NPDES Permit No.)**
19 **GU0020087))**

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ENVIR. APPEALS BOARD

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20 Comes now, Samuel J. Taylor, attorney for the Guam Waterworks Authority, does hereby
21 file its Status Report on whether or not a tentative settlement exists for the above referenced
22 matter as required by Order of the Environmental Appeals Board ("EAB") dated July 14, 2010.

23 The Guam Waterworks Authority ("GWA"), officials from Region 9 of the United States
24 Environmental Protection Agency ("U.S. EPA") and the Department of Defense ("DoD") have
25 been engaged in discussions related to potential solutions to upgrade GWA's Northern District
26 and Hagåtña Wastewater Treatment Plants ("WW Treatment Plants") to accommodate the DoD
27 and civilian needs for wastewater infrastructure relative to the proposed relocation of U.S.
28 Marines and other armed forces from Okinawa to Guam (also referred to as "military buildup").
29 These solutions potentially involve assisting GWA both technically and financially with
30 upgrading GWA's WW Treatment Plants to secondary treatment.
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1 In fact, GWA and DoD signed a Memorandum of Understanding ("MOU") on July 16,
2 2010, that broadly outlines plans, solutions and possible funding sources to upgrade GWA's
3 water and wastewater facilities to accommodate the proposed military buildup. Exhibit A.
4 GWA, EPA and DoD have also specifically discussed the technical solutions, costs, funding
5 sources and timing to possibly upgrade GWA's WW Treatment Plants to secondary treatment.
6
7

8 However, the current status of the military buildup is that the Final Environmental Impact
9 Statement ("FEIS") was just released today and a Final Record of Decision is still pending.
10 Thus, whether or not the military buildup will in fact occur, as well as the method and payment
11 for upgrading GWA's wastewater system still remain highly speculative. GWA believes the
12 possibility of settlement of this matter is possible, although from GWA's perspective, it is
13 entirely dependent upon GWA receiving adequate federal funding from the United States
14 Government to upgrade the plants to secondary treatment. As such, GWA believes it would be
15 appropriate to stay proceedings in this matter until such time as more information relative to the
16 extent of DoD and the United States Government's participation in assisting GWA with
17 technical and financial solutions for GWA's wastewater system upgrade requirements are better
18 known.
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23 Respectfully submitted this 28th day of July, 2010.
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26 
27 SAMUEL J. TAYLOR
28 Guam Waterworks Authority
29 578 North Marine Corps Drive
30 Tamuning, Guam 96913
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Attorney for Appellant.

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CERTIFICATE OF SERVICE

I, Samuel J. Taylor, hereby certify that on July 28, 2010, Wednesday, I will cause to be served a true and correct copy of the foregoing Status Report of the Guam Waterworks Authority's in NPDES Appeal Nos. 09-15 and NPDES Appeal No. 09-16, were sent to the following persons in the manner indicated below:

Via Courier

Clerk of the Board

United States Environmental Protection Agency
Environmental Appeals Board
1341 G. Street, N.W. Suite 600
Washington, D.C. 20005

Laura Yoshii

Acting Regional Administrator

United States Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco, CA 94105-3901
Fax: (415) 947-3588 and Courier

Marcela von Vacano

Office of Regional Counsel

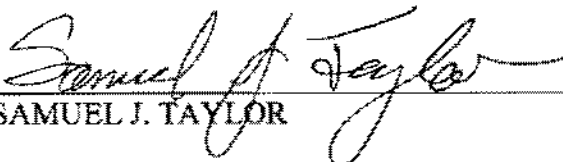
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Stephen J. Sweeney

Water Law Office (MC 2355A)

Office of the General Counsel
Environmental Protection Agency
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Fax: (202) 564-5477 and Courier

Dated this 28th day of July, 2010.


SAMUEL J. TAYLOR

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I. PARTIES

Parties to this Memorandum of Understanding (MOU) are the United States Navy and the Guam Waterworks Authority (GWA).

II. PURPOSE

It is the desire of the Parties that through joint planning and cooperation the requirements to meet the water and waste water needs expected from the proposed military buildup on Guam can be met in a manner that is mutually beneficial and maximizes the effectiveness of the overall Department of Defense (DoD) and GWA utility systems. The purpose of this MOU is to establish objectives and a framework for further discussions relating to the implementation of utility service solutions devised to address the projected additional water and waste water requirements of the proposed military build up in Guam due to the planned relocation of Marines from Okinawa to Guam and other matters identified in the Draft EIS/OEIS Guam and CNMI Military Relocation. The Parties further recognize that this MOU, and the objectives, goals, and processes agreed upon are subject to applicable laws of the United States and the Government of Guam, and that such legal requirements applicable to either Party take precedence over any understanding reflected in this MOU.

III. REPRESENTATION

The Parties may appoint and designate representatives to meet, at such times and places as are mutually convenient. As necessary, the Parties may invite representatives from relevant Federal and Gov. Guam agencies that may have a

1 stake in these matters to participate in the discussions. The parties agree to
2 work in good faith to accomplish the objectives set forth in this MOU.

3
4 **IV. INFORMATION SHARING AND DECISION MAKING**

5 The Parties agree to make every reasonable effort to share with one another
6 existing information relevant to their water-related requirements and proposed
7 solutions in a timely manner. Such information may consist of technical
8 descriptions of each supplier's facilities, planning studies, estimates,
9 requirements, designs, rates, schedules, and forecasts. Each Party will
10 designate a representative to respond promptly to requests for information or
11 explain why such information cannot be provided.

12
13 **V. OBJECTIVES**

14 The Parties recognize that all the water resources on Guam are critical assets
15 essential to the future of Guam and must be protected for present and future
16 uses. This fundamental principle will guide the objectives set forth below, the
17 efforts to provide water for the people of Guam and cooperation between the
18 Parties.

19
20 The Parties understand that the following general objectives are to be achieved:

- 21 1. Identify costs attributable to increased military requirements. Details
22 concerning allocation of those costs will be incorporated into the agreements
23 as appropriate.
24 2. Cooperate with federal and local agencies to resolve the challenges, including

1 funding, to provide potable water and waste water treatment services for DoD
2 and civilian population growth associated with the military build-up.

3 3. Work to develop and utilize common standards related to security, reliability,
4 interoperability, construction and performance.

5 4. Utilize available financing from the Government of Japan (GOJ) to the extent
6 available.

7
8 **DRINKING WATER OBJECTIVES:**

9 1. Develop processes for sharing information and making resource and
10 infrastructure decisions, with the ultimate goal of joint management of the
11 Northern Guam Lens Aquifer (NGLA) and protection of water resources on
12 Guam.

13 2. Develop permanent drinking water supplies sufficient to meet:

14 a. the requirements of the military buildup on Guam and associated
15 requirements identified in the EIS, and

16 b. the requirements of Guam's projected civilian growth and development.

17 c. future requirements of the people of Guam extending beyond the
18 military buildup and its related impacts.

19 3. Improve the overall quality, reliability and availability of the water supply for all
20 of Guam.

21 4. Provide the framework for subsequent agreements for the transfer, exchange
22 and cost recovery of water resources between the Parties.

23 5. Coordinate efforts to resolve the challenges of providing water treatment for
24 DoD and civilian populations.

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WASTE WATER OBJECTIVES

1. Cooperate with regulatory agencies to resolve the challenges of providing waste water treatment for Guam civilian and DoD population growth.
2. Improve waste water collection and treatment for all of Guam.
3. Cooperate in making facility and infrastructure planning decisions.
4. Support GWA efforts to improve capability of its existing waste water treatment plants to continue to support DoD needs.
5. Provide the framework for subsequent agreements for the treatment of DoD wastewater at GWA facilities.

FUTURE OBJECTIVES

1. The Parties agree to evaluate opportunities to integrate military and civilian water and wastewater systems on Guam. Such integration may involve the future transfer of production, distribution, collection, and treatment systems from Navy to GWA. The Parties understand that such transfer would require agreement on terms and conditions acceptable to both GWA and DoD, subject to GWA meeting reasonable minimum reliability and quality standards, and possible legislative authorization.
2. The Parties agree to establish an interagency agreement for laboratory services.

VI. PROPOSED SOLUTIONS

The following proposals represent the most promising solutions based upon current information, financial, technical, and legal constraints to the objectives identified above.

- 1 1. GWA will develop and/or upgrade water and waste water distribution,
2 collection, and treatment systems not located on DoD property, but required to
3 support the increased DoD loads.
- 4 2. The Parties will cooperate in determining the most cost effective and timely
5 source(s) of funding to facilitate the proposed solutions.
- 6 3. The Parties will identify potential sources of funding for infrastructure impacts
7 associated with the military buildup to include funding from GOJ.
- 8 4. Agreed upon costs associated with meeting DoD requirements will be
9 allocated to and paid for by DoD through a utility agreement.

10

11 DRINKING WATER

- 12 1. The Parties will cooperate in completing studies related to meeting the water
13 needs of Guam including NGLA sustainability studies. DoD studies related to
14 water resources will seek prior coordination with GWA and, as needed, GEPA,
15 United States Geological Survey (USGS) and University Of Guam Water &
16 Environmental Research Institute (UOG/WERI). Future studies will be
17 coordinated between GWA, DoD and other Federal and Gov. Guam agencies
18 that may have a stake or required expertise in these matters. GWA will assist
19 DoD in the development of the objectives and methodology to accomplish such
20 studies.
- 21 2. The Parties will cooperate in the selection of future water well sites.
- 22 3. The Parties will cooperate in developing appropriate plans for the integration of
23 new water production and distribution infrastructure with existing water systems.
- 24 4. The Parties will share water resources as needed to address urgent needs.

25

1 **WASTEWATER**

2 1. The preferred option for addressing all wastewater needs in northern Guam is
3 to upgrade and/or expand Guam's Northern District Waste Water Treatment
4 Plant (NDWWTP).

5 2. The Parties will develop a process that addresses the planning loads for the
6 NDWWTP as a basis for calculating cost sharing and sources of funds to
7 facilitate agreement on responsibility for each element.

8 3. The Parties agree to cooperate in efforts to increase the capacity of the
9 NDWWTP to address applicable regulatory requirements and recognize that
10 such projects must be planned and phased consistent with available funding and
11 regulatory requirements.

12 4. The parties agree to cooperate to assess potential impacts to other
13 wastewater infrastructure and identify options for mitigating the impacts.

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16 **LONG TERM AQUIFER MANAGEMENT**

17 The Parties will cooperate in all aspects of water resource development on Guam
18 to ensure the long term, sustainable management of the NGLA. In order to
19 accomplish this objective, the Parties will designate representatives to convene a
20 management advisory team to make recommendations on priorities and issues.

21 The following provides an initial outline for this team:

22 1. Senior Advisory Group (SAG) – This group will meet to review
23 recommendations of the Working Group (WG), technical experts and regulatory
24 agencies. SAG will cooperate in developing a prioritization of major water

1 resource infrastructure projects and sharing of water resources based on current
2 assessments of the NGLA. SAG will likely consist at a minimum of:

- 3 a. GWA General Manager or designated representative.
- 4 b. CO, NAVFAC MARIANAS or designated representative.
- 5 c. CCU, Chairman or designated representative
- 6 d. GEPA, Administrator or designated representative
- 7 e. UoG-WERI Director or designated representative

8 2. Working Group (WG) – This group will meet regularly but no less than
9 quarterly to assess the health of the NGLA, make minor adjustments as needed
10 to water resource sharing, and develop a prioritized list of recommendations for
11 SAG on proposed, major water resource infrastructure projects. WG will consist
12 at a minimum of:

- 13 a. GWA Chief Engineer
- 14 b. NAVFAC MARIANAS UEM Product Line Coordinator
- 15 c. GEPA Representative

16 3. Technical Experts (TE) – This group will maintain regular communication as
17 needed to share water resource data real time and raise concerns and issues to
18 the WG. TE will develop and maintain all databases and technical tools in
19 cooperation with WERI and USGS needed to monitor and assess the health of
20 the NGLA. TE will consist, at a minimum, of:

- 21 a. GWA Engineering Staff
- 22 b. NAVFAC MARIANAS UEM
- 23 c. GEPA
- 24 d. WERI
- 25 e. USGS

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VII. NEXT STEPS

In order to facilitate the possible implementation of the foregoing solutions the parties agree to have further discussions to:

1. Evaluate appropriate rate structures that will provide reasonable security to any private entity and to GWA for the development of additional water and waste water infrastructure.
2. Evaluate applicable laws, service rules and contracts for DoD contributions to system development and determine if such provisions are adequate and fair to both parties.
3. Evaluate the feasibility of a private entity performing the upgrade and/or expansion of the NDWWTP and other infrastructure related to the operation and maintenance of the facility. Identify any legal or financial barriers and proposed solutions. Identify any required technical assistance from DoD.
4. Evaluate and monitor the timelines required to implement the proposed solutions relative to the timelines required to meet the demand increase resulting from military and civilian population growth.
5. Develop agreements to formalize the concepts provided herein.

VIII. OTHER PROVISIONS

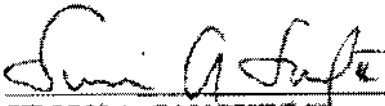
1. This MOU may be amended subject to the mutual written agreement of the Parties.
2. This MOU does not obligate the funds of either Party and makes no financial commitments.

1 3. This MOU may be terminated by either Party upon providing 30 days written
2 notice to the other.


3 4. This MOU is not intended to, and does not, create any right or benefit,
4 substantive or procedural, enforceable at law or in equity, by any party against
5 the United States or GWA, or agencies, instrumentalities, officers, employees, or
6 agents, of either.

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10 
11 **PAUL BUSHONG, RADM**
12 **Commander, Joint Region Marianas**

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14
15 Date: 16 JUL 10
16


17 **SIMON A. SANCHEZ II**
18 **Chairman, Consolidated**
19 **Commission on Utilities**

20 Date: 16 JUL 10
21

22 
23 **PETER S. LYNCH, CAPT**
24 **Commanding Officer**
25 **Naval Facilities Engineering Command**
26 **Marianas**

Date: 16 July 2010


27 **JOHN BENAVENTE**
28 **General Manager**
29 **Guam Waterworks Authority**

30 Date: 16 JUL 10