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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 )  
8 NORTHERN DISTRICT SEWAGE ) **AMENDED STATUS REPORT FOR**  
9 TREATMENT PLANT APPLICATION FOR ) **NPDES APPEAL Nos. 09-15 & 09-16**  
10 A MODIFIED NPDES PERMIT UNDER )  
11 SECTION 301(h) OF THE CLEAN WATER )  
12 ACT (NPDES Permit No. GU0020141) )  
13 )  
14 and )  
15 )  
16 GUAM WATERWORKS AUTHORITY'S )  
17 AGANA SEWAGE TREATMENT PLANT )  
18 APPLICATION FOR A A MODIFIED NPDES )  
19 PERMIT UNDER SECTION 301(h) OF THE )  
20 CLEAN WATER ACT (NPDES Permit No. )  
21 GU0020087) )

22 Comes now, Samuel J. Taylor, attorney for the Guam Waterworks Authority ("GWA"),  
23 does hereby file this Amended Status Report regarding whether or not a tentative settlement  
24 exists for the above referenced matters.

25 On July 29, 2010, the Guam Waterworks Authority filed its Status Report as required by  
26 Order of the Environmental Appeals Board ("EAB") dated July 14, 2010. In that report GWA  
27 indicated that a stay was appropriate pending the possible upgrade of GWA's Hagåtña and  
28 Northern District Wastewater Treatment Plants to secondary treatment in conjunction with the  
29 movement of Marines and other United States military forces to Guam from Okinawa (a.k.a.  
30 "military buildup"). Subsequent to GWA filing its report, the Final Environmental Impact  
31 Statement was released to the public and GWA. The following excerpts were taken from pages  
32 37 and 38 of the Executive Summary of the FEIS relative to utilities:

1 "Wastewater:

2 • Northern District Wastewater Treatment Plant

3 ■ Primary treatment repairs and upgrades - Approximately \$60 to \$65 million to cover  
4 necessary refurbishment and upgrade of primary treatment capabilities at the GWA  
5 NDWWTP to 12 MGd. Construction is planned to begin in January 2011 and be  
6 completed by December 2012.

- 7 • If the DoD should fail to secure necessary financing from the Government of Japan,  
8 significant environmental impacts will continue to occur as outlined in Volume 6,  
9 Chapter 3. These will include increased flows to already noncompliant treatment  
10 plants, resulting in further impacts to receiving waters due to poorly treated  
11 wastewater, and adverse impacts to fishing and recreational use of these waters.  
12 Consistent with the Navy's commitment to keep from significantly impacting utilities  
13 on Guam, the DoD would apply force flow reductions and/or adaptive program  
14 management of construction as explained in Volume 7, Chapter 2. Failure to  
15 secure necessary funding may require that DoD delay or not issue construction  
16 contracts or task orders until such time as the financing is received from the  
17 Government of Japan and the necessary improvements to the NDWWTP primary  
18 treatment capability are implemented. Such action would severely impact the  
19 construction pace and the ability of Navy to complete required construction to  
20 support the Marine Corps relocation.

21 • Secondary treatment upgrades - Approximately \$130 to \$135 million to expand the GWA  
22 NDWWTP capacity up to 18 MGd, and upgrade to secondary treatment capability.  
23 Construction is planned to begin in December 2012 and be completed by July 2013.

- 24 • Failure to secure funding will result in failure to meet an impending enforcement order  
25 regarding secondary treatment requirements. As with primary treatment, failure to secure  
26 necessary funding may require that DoD delay or not issue construction contracts or task  
27 orders until such time as the financing is received from the Government of Japan and the  
28 necessary improvements to the GWA NDWWTP secondary treatment capability are  
29 implemented. Such action would severely impact the construction pace and the ability of  
30 Navy to complete required construction to support the Marine Corps relocation.

31 • Collection System Upgrades

32 ■ Approximately \$80 to \$85 million to repair and expand the collection systems associated with  
GWAs northern and central wastewater treatment systems. Construction is planned to begin  
in December 2011, with completion by July 2013.

- If the DoD should fail to secure necessary financing from the Government of Japan,  
significant environmental impacts will continue to occur as outlined in Volume 6,  
Chapter 3. These will include continued and more frequent sewer overflows that can  
impact surface waters, groundwater and public health and safety. Failure to secure  
necessary funding may require that DoD delay or not issue construction contracts or  
task orders until such time as the financing is received from the Government of Japan and

1 the necessary improvements to the GWA northern and central collection systems are  
2 implemented. Such action would severely impact the construction pace and the ability of  
3 Navy to complete required construction to support the Marine Corps relocation.

4 ● Hagatna WWTP Upgrades

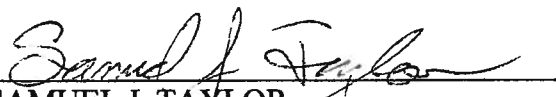
5 ■ Approximately \$145 to \$150 million to repair and upgrade the primary treatment plant  
6 capability, and upgrade the plant to secondary treatment plant capability. Construction is  
7 planned to begin in July 2012 and be completed by December 2014.

- 8 ● If the DoD should fail to secure necessary financing from the Government of Japan,  
9 significant environmental impacts will continue to occur as outlined in Volume 6,  
10 Chapter 3. These will include increased flows to an already noncompliant primary  
11 treatment plant, resulting in further impacts to receiving waters due to poorly treated  
12 wastewater, and adverse impacts to fishing and recreational use of these waters. It  
13 would also result in failure to meet an impending enforcement order regarding  
14 secondary treatment requirements. Failure to secure necessary funding may require  
15 that DoD delay or not issue construction contracts or task orders until such time as the  
16 financing is received from the Government of Japan and the necessary improvements to  
17 the GWA Hagatna treatment capability are implemented. Such action would severely  
18 impact the construction pace and the ability of Navy to complete required construction  
19 to support the Marine Corps relocation.

20 DoD will continue to coordinate with the relevant Government of Japan agencies, Guam Consolidated  
21 Commission on Utilities, and other local authorities who are involved in the process of finalizing business  
22 structures and technical solutions to meet these program requirements.”

23 Clearly the FEIS indicates that the U.S. DoD, EPA and GWA are working together to solve  
24 GWA's secondary treatment problems. Moreover, GWA fully expects that its plants will be upgraded to  
25 secondary treatment as a mitigation for the relocation of U.S. forces to Guam. Thus, GWA believes that  
26 this information is sufficient to justify a stay in this matter pending resolution of the solutions outlined in  
27 the FEIS.

28 Respectfully submitted this 2<sup>nd</sup> day of September, 2010.

29   
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Attorney for Appellant.

1 **CERTIFICATE OF SERVICE**

2 I, Samuel J. Taylor, hereby certify that on September 2, 2010, Thursday, I will cause to  
3  
4 be served a true and correct copy of the foregoing Amended Status Report of the Guam  
5 Waterworks Authority's in NPDES Appeal Nos. 09-15 and NPDES Appeal No. 09-16, were sent  
6  
7 to the following persons in the manner indicated below:

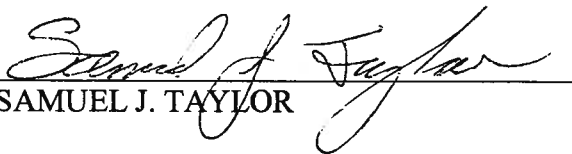
8 Via Courier  
9 Clerk of the Board  
10 United States Environmental Protection Agency  
11 Environmental Appeals Board  
12 1341 G. Street, N.W. Suite 600  
13 Washington, D.C. 20005

14 Laura Yoshii  
15 Acting Regional Administrator  
16 United States Environmental Protection Agency, Region 9  
17 75 Hawthorne Street  
18 San Francisco, CA 94105-3901  
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26 Stephen J. Sweeney  
27 Water Law Office (MC 2355A)  
28 Office of the General Counsel  
29 Environmental Protection Agency  
30 1200 Pennsylvania Avenue, N.W.  
31 Washington, D.C. 20460  
32 Fax: (202) 564-5477 and Courier

33 Dated this 2nd day of September, 2010.

34   
35 SAMUEL J. TAYLOR