

**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**

In re:)
)
)
GUAM WATERWORKS AUTHORITY)
) NPDES Appeal Nos. 09-15 and 09-16
Northern District Sewage Treatment Plant)
Agana Sewage Treatment Plant)
)
NPDES Permit Nos. GU0020141 and GU0020087)
_____)

REGION 9 STATUS REPORT

Respondent, the United States Environmental Protection Agency, Region 9 (“Region”) hereby submits this Status Report in response to the July 14, 2010 Order Requesting Status Report (“Order”). The Board directed the parties to provide information on whether the Region and Petitioner Guam Waterworks Authority (“GWA”) are currently engaged in settlement discussions and to provide any other information that “may bear on whether the Board should continue to treat this matter as an active case needing resolution.” Order at p. 2.

The United States, through the Department of Justice, and on behalf of EPA, filed a complaint on December 20, 2002, which remains pending,¹ against GWA in the United States District Court of Guam alleging, *inter alia*, violations of the Clean Water Act (“CWA”), including violations of GWA’s current 301(h)-modified National Pollutant Discharge Elimination System (“NPDES”) permits. No other party, including the Territorial Government of Guam or any other third party, is an intervenor-plaintiff or intervenor-defendant. In that enforcement proceeding, as ordered by the court, the Region recently filed a Status Report, dated

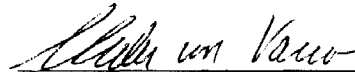
¹ A Stipulated Order for Preliminary Relief (“Stipulated Order”) was entered on June 5, 2002, and amended October 25, 2006. Status Report at 1. The ongoing case addresses compliance with this Stipulated Order as well as with underlying CWA and Safe Drinking Water Act requirements.

July 16, 2010 (“Status Report”), which is attached hereto (without exhibits). In the Status Report, the Region explained that “the parties have not made any progress on settlement since March 2010 because GWA has failed to provide a written response to the United States’ draft settlement agreement.” Status Report at 12. The Status Report also refers to Discharge Monitoring Reports that indicate continuing non-compliance with the existing NPDES permits, i.e., CWA section 301(h)-modified permits. Status Report at 3-4.

The Region believes that the Board should continue to treat this matter as an active case needing resolution. As just noted, the pending unsettled dispute between the United States and GWA in the enforcement proceeding involves GWA’s compliance with existing NPDES permit requirements. The pending unsettled dispute between the Region and GWA before the Board involves whether existing NPDES permit requirements should be modified to provide a greater level of water quality protection. Accordingly, the Board should treat this matter as an active case needing resolution.

Date: 7/28/2010

Respectfully submitted,



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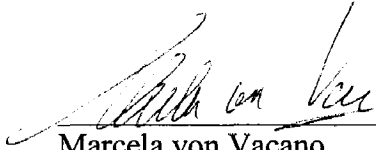
CERTIFICATE OF SERVICE

I, Marcela von Vacano, hereby certify that a true and correct copy of the Region's Status Report, In the Matter of Guam Waterworks Authority Northern District and Agana Sewage Treatment Plants, NPDES Appeal Nos. 09-15 and 09-16, was sent to the persons listed below on July 28, 2010:

Via the Central Data Exchange to:
Clerk of the Board
United States Environmental Protection Agency
Environmental Appeals Board
Colorado Building
1341 G Street, N.W., Suite 600
Washington, D.C. 20005

Via electronic mail in Adobe Acrobat®.pdf format to:
Mr. Samuel L. Taylor
Legal Counsel
Guam Waterworks Authority
578 N. Marine Corps Drive
Tamuning, Guam 96913
Email: staylor@guamwaterworks.net

7/28/2010
Date



Marcela von Vacano
Office of Regional Counsel
EPA Region 9