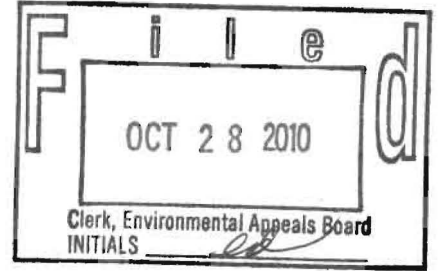


**BEFORE THE ENVIRONMENTAL APPEALS BOARD  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.**



\_\_\_\_\_ )  
In re: )  
 )  
Guam Waterworks Authority's )  
Northern District Sewage )  
Treatment Plant )  
NPDES Permit No. GU0020141 )  
 ) NPDES Appeal Nos. 09-15 & 09-16  
and )  
 )  
Guam Waterworks Authority's )  
Agana Sewage Treatment Plant )  
NPDES Permit No. GU0020087 )  
\_\_\_\_\_ )

Order Requesting Region's Response  
and  
Scheduling Status Conference

On July 14, 2010, the Environmental Appeals Board ("Board") issued an order in the above-captioned matter requesting the parties to file a status report informing the Board whether they were engaged in settlement discussions, and/or whether the Board should treat this matter as an active case needing resolution. On July 28, 2010, U.S. EPA Region 9 ("Region 9") filed its status report noting that there is currently a pending civil action against Guam Waterworks Authority ("GWA") in the United States District Court of Guam, alleging violations of the Clean Water Act, including violations of GWA's current section 301 (h)-modified National Pollutant Discharge Elimination System ("NPDES") permit. *See* Region 9 Status Report (filed Jul. 28, 2010). The Region further noted that the parties had not made any progress on settlement since March 2010, and requested that the Board treat this matter as an active case needing resolution. *Id.* at 2.

For its part, GWA filed a separate status report requesting a stay of the case. *See* GWA's Status Report for NPDES Appeal Nos. 09-15 & 09-16 (filed Jul. 29, 2010). In support of its request, GWA explained that officials from the U.S. Department of Defense ("DoD"), Region 9, and GWA have been engaged in discussions related to potential solutions to upgrade GWA's Northern District and Agana wastewater treatment plants ("GWA's WWTPs") to accommodate the DoD and civilian needs for wastewater infrastructure after relocation of military troops from Okinawa to Guam (referred to by GWA as "military buildup"). *Id.* at 1. GWA requested a stay of proceedings until it had more information about the extent of technical and financial assistance it should expect from DoD and the United States Government. *Id.* at 2. On September 3, 2010, Guam filed an Amended Status Report noting that the Final Environmental Impact Statement ("FEIS") for the military buildup had been released to the public and indicates that "DoD, EPA, and GWA are working together to solve GWA's secondary treatment problems." Amended Status Report for NPDES Appeal Nos. 09-15 & 09-16 at 1, 3 (filed Sept. 3, 2010). GWA noted further that "it expects that its WWTPs will be upgraded to secondary treatment as a mitigation for the relocation of U.S. forces to Guam," and requested that a stay in this case continue "pending resolution of the solutions outlined in the FEIS." *Id.* at 3. The Region has not responded to any of the representations GWA made in its status reports or GWA's request that the Board stay the case.

To assist the Board in determining whether to stay this matter or treat it as an active case, the Board hereby orders the Region to file a response addressing GWA's representation that "DoD, EPA, and GWA are working together to solve GWA's secondary treatment problems,"

and its request to stay this case until “resolution of the solutions outlined in the FEIS.” The Region must file its response no later than Thursday, November 11, 2010. Also, the Board has decided to hold a status conference before it rules on this particular issue. Accordingly, the parties are hereby requested to participate in a status conference beginning at 4:00 p.m. EST on Monday, November 15, 2010, in the Administrative Courtroom, U.S. Environmental Protection Agency, EPA East Building, Room 1152, 1201 Constitution Avenue, N.W., Washington, D.C. Counsel for either of the parties who wish to participate in the status conference via the EPA video-conferencing equipment shall contact the Clerk of the Board, at (202) 233-0122, no later than Wednesday, November 3, 2010, to make arrangements for the use of such equipment. Further, both parties shall provide the Board with the names of counsel who will be participating in the status conference no later than November 3, 2010.

So ordered.

ENVIRONMENTAL APPEALS BOARD

By: *Kathie A. Stein*  
Kathie A. Stein  
Environmental Appeals Judge

Dated: *October 28, 2010*

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing Order Requesting Region's Response and Scheduling Status Conference in the matter of Guam Waterworks Authority Northern District Sewage Treatment Plant, NPDES Appeal No. 09-15, and in the matter of Guam Waterworks and Agana Sewage Treatment Plant, NPDES Appeal 09-16, were sent to the following persons in the manner indicated:

**By Pouch Mail and FAX:**

Laura Yoshii  
Acting Regional Administrator  
U.S. EPA Region 9  
75 Hawthorne Street  
San Francisco, CA 94105-3901  
Fax: (415) 947-3588

Marcela von Vacano  
Office of Regional Counsel  
U.S. EPA Region 9  
75 Hawthorne Street  
San Francisco, CA 94105-3901  
Fax: (415) 947-3570

**By First Class Mail and FAX:**

Samuel J. Taylor  
Legal Counsel  
Guam Waterworks Authority  
578 North Marine Corps Drive  
Tamuning, Guam 96913  
Fax: (671) 646-2335

**By Interoffice Mail and FAX**

Stephen J. Sweeney  
Water Law Office (MC 2355A)  
Office of General Counsel  
Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460  
Fax (202) 564-5477

Dated: **OCT 28 2010**

  
\_\_\_\_\_  
Annette Duncan  
Secretary