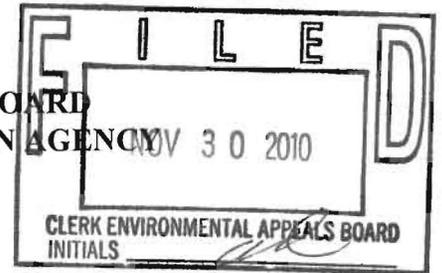


BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.



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 Denying Request to Stay Proceedings

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. Each party filed its own status report, and each report in turn requested different relief. The Region requested that the Board treat this matter as an active case needing resolution. *See* Region 9 Status Report (filed Jul. 28, 2010). Petitioner, Guam Waterworks Authority ("GWA"), requested that the Board stay the case until GWA had more information about the extent of technical and financial assistance it should expect from the Department of Defense ("DoD") and the United States Government as part of the relocation of military troops from Okinawa to Guam. *See* GWA's Status Report for NPDES Appeal Nos. 09-15 & 09-16 (filed Jul. 29, 2010) at 1-2. GWA also filed an Amended Status Report stating that

DoD is coordinating with the Government of Japan and other relevant authorities about the financing, process, and projects associated with the relocation of military troops, and that DoD, EPA and GWA are working together to solve GWA's secondary treatment problems. *See* Amended Status Report for NPDES Appeal Nos. 09-15 & 09-16 at 1- 3 (filed Sept. 3, 2010). GWA also stated that it expects its Waste Water Treatment Plants ("WWTPs") to be upgraded to secondary treatment as a mitigation for the relocation of U.S. forces to Guam. *Id.* at 3. To assist the Board in deciding whether to stay this matter or treat it as an active case, the Board directed the Region to file a response addressing GWA's representations, which it did on November 12, 2010. *See* Region 9's Opposition to Petitioner [GWA's] Request for Stay and Response to Petitioner's Status Reports. The Board also scheduled a status conference, which took place on November 15, 2010.

Having had the opportunity to hear the views of the parties during the status conference and upon consideration of the arguments the parties raised, both in their respective pleadings and during the status conference, the Board hereby denies GWA's request to stay the proceedings in this matter. While conversations have occurred between the DoD and the Government of Japan regarding the financing and relocation of military troops,¹ GWA has not provided any evidence of concrete and definite commitments from these entities showing that they will in fact provide funding for GWA to upgrade to secondary treatment its Northern District and Agana Sewage

¹ *See* Amended Status Report for NPDES Appeal Nos. 09-15 & 09-16 at 1-3 (citing excerpts from the Executive Summary of the Final Environmental Impact Statement for the military relocation describing necessary projects at GWA's WWTPs and discussing financing needs and DoD's coordination with Japan Government); *see also* Status Conference Tr. at 16-18, 37.

Treatment Plants. Absent concrete evidence of impending settlement or the kind of commitment that makes it more likely than not that the issues before the Board will become moot, the Board views this matter as an active case needing resolution. GWA has informed the Board that it is not prepared to withdraw its petition, and GWA has not demonstrated that it will suffer any prejudice from the Board's proceeding to complete the Agency's decision making process on the petition GWA filed. *See* Status Conference Tr. at 12-13, 22, 36-44. Should at a later date GWA obtain the aforementioned commitments, GWA may renew its request for a stay. Until such time, the Board denies GWA's request to stay this matter.

So ordered.

ENVIRONMENTAL APPEALS BOARD

By: 
Kathie A. Stein
Environmental Appeals Judge

Dated: 11/30/10

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Order Denying Request to Stay Proceedings 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:

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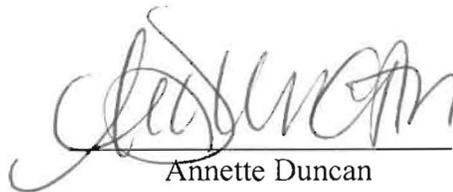
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Dated: NOV 30 2010


Annette Duncan
Secretary