Office of the Attorney General of Guam

590 S. Marine Corps Drive, Suite 901 ♦ Tamuning, GU 96913
671.475.3324 extension 5015 ♦ Fax 671.477-4703 ♦ Email law@guamag.org

Hon. Leevin Taitano Camacho
Attorney General of Guam

35GL-19-0151

Speaker Tina Rose Muña Barnes

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February 12, 2019

MEMORANDUM

TO: Hon. Tina Muna Barnes, 35th Guam Legislature

FROM: Attorney General of Guam

SUBJECT: Court order requiring your attendance at a site visit and hearing regarding Layon Landfill (*United States of America v. Government of Guam*, Dist. Ct. of Guam Civil Case No. 02-00022)

Dear Speaker,

Attached is an order from the Guam District Court requiring your attendance at a site visit at the Layon Landfill on Wednesday, March 6, 2019 at 8:45 a.m. and at a hearing before Judge Gatewood in the Guam District Court on March 7, 2019 at 8:30 a.m. In case of your absence, the court has authorized Vice Speaker Telena Cruz Nelson to attend in your place. The court has also required the attendance of Senator Sabina E. Flores Perez. In its order, the court "encourages members of the 35th Guam Legislature to attend as well."

LEEVIN TAITANO CAMACHO
Attorney General

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DISTRICT COURT OF GUAM

UNITED STATES OF AMERICA, Plaintiff, vs. GOVERNMENT OF GUAM, Defendant.	CIVIL CASE NO. 02-00022 **ORDER** re Transition Reports and Hearings

On December 26, 2018, the Guam Solid Waste Authority (" GSWA") Board of Directors (the "Board") filed a Report Regarding Hiring New Management Team (the "Board's Report"), informing the court that the Board hired a new comptroller and had made an offer of employment to a candidate to fill the general manager position. *See* ECF No. 1845 at 1-2. The Board's Report further stated that the new general manager may be able to begin working at GSWA in mid-February 2019 and that the new management team should be ready to take over GSWA operations 30 days thereafter. *Id.* at 2.

The court is looking forward to the end of the federal Receivership, which has been in place for more than 10 years. In anticipation of the impending transition of GSWA's operations and management from the Receiver to the Board, the court ORDERS the filing of various status reports as further addressed below:

- U.S. Environmental Protection Agency ("EPA") - In the last status report filed by the United States with regard to the review of the Post-Closure Plan for the Ordot Dump, the United States advised the court that final approval was still pending. *See* U.S. Status Report at 1, ECF No. 1816. The United States shall file an updated report discussing the

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status of the review and approval of the Post-Closure Plan and what action the EPA has taken since its last report to the court. Said report shall be filed no later than February 22, 2019.

- GSWA Board - The Board shall file a report updating the court on the status of the hiring of a general manager, including the start date of said individual, the status of the contractual assignments and whether the Board has entered into a new agreement with Pacific Human Resources Services, Inc.

The construction of a new cell at the Layon Landfill is critical to continuing compliance with the Consent Decree and to meeting the basic solid waste needs of Guam. As the Receiver has reported on several occasions, it is expected that the existing cells at the Layon Landfill will reach capacity early in the next decade which is rapidly approaching. On September 27, 2018 the Receiver filed a Special Report outlining the need for a short-term construction loan to finance the construction of the new cell. *See* ECF No. 1831. Given the required schedule to complete construction of this cell and the need for this construction financing, the Board shall also report to the court on the steps it has taken to obtain the needed financing and the time-frame that will be necessary to complete the process and actually obtain the financing necessary to begin construction.

Finally, the Board shall separately file *under seal* a report discussing the findings of the independent investigation into personnel matters previously raised with the court. *See* GSWA Board Report at 1-2, ECF No. 1830. A copy of any written report prepared by the independent investigator shall also be provided to the court.

Both of these updated status reports shall be filed no later than February 22, 2019.

- Guam Environmental Protection Agency ("GEPA") - GEPA shall update the court on the status of the review and approval of the 90% design documents for Cell 3 at the Layon Landfill, discussing what actions GEPA or its contractors have taken since GEPA's last report to the court (December 26, 2018, *see* ECF No. 1846). GEPA's updated status report shall be filed no later than February 22, 2019.

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- Receiver - On May 9, 2018, the Receiver filed a Supplemental Status Report (the "Supplemental Report") which discussed various transition issues. *See* ECF No. 1803. The Receiver shall file a report updating the issues identified in the Supplemental Report and shall also recommend any other steps that need to be taken by the Receiver, the parties and/or the court to effectuate the transfer of the financial assets and controls to the management of GSWA and the Trustee for the Ordot Closure Facility respectively. Finally, the Receiver shall report on the status of all government accounts and whether any of these accounts are delinquent. The Receiver's updated status report shall be filed no later than February 22, 2019.

Furthermore, the court believes it would be beneficial to conduct a final site visit to the various GSWA facilities, to include the Layon Landfill, the Agat and Malojloj Residential Transfer Stations, the Ordot Dump, the Hauler-Only Transfer Station, the Household Hazardous Waste Facility and the GSWA Harmon offices. The site visit shall commence at the Layon Landfill on Wednesday, March 6, 2019, at 8:45 a.m. A court hearing to discuss the various status reports and the anticipated date for the termination of the Receivership shall thereafter be held on Thursday, March 7, 2019, at 8:30 a.m. The following individuals are ordered to attend both the site visit and the court hearing:

- Hon. Lourdes A. Leon Guerrero, Governor of Guam, or, in her absence, Hon. Joshua F. Tenorio, Lt. Governor of Guam;
- Hon. Tina Muña Barnes, Speaker, 35th Guam Legislature or, in her absence, Hon. Telena Cruz Nelson, Vice-Speaker, 35th Guam Legislature;
- Hon. Sabina E. Flores Perez, Senator, 35th Guam Legislature, Chairperson of Committee on Environment, Revenue and Taxation, and Procurement;
- Hon. Jessy C. Gogue, Mayor, Chalan Pago-Ordot;
- Hon. Doris F. Lujan, Mayor, Inarajan;
- Hon. Kevin J.T. Susuico, Mayor, Agat, or, in his absence, Hon. Christopher J. Fejeran, Vice Mayor, Agat;
- Walter S. Leon Guerrero, Administrator, GEPA ;

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- Conchita Taitano, Air and Land Administrator, GEPA;
- Chace Anderson, Operations Manager on behalf of the Receiver;
- all GSWA Board members;
- the new GSWA general manager hired by the Board;
- Katherine Kakigi, Comptroller, GSWA;
- Alicia Fejeran, Waste Management Services Supervisor, GSWA; and
- key members of the new administration's fiscal team, including Bertha Duenas, Chief Advisor on Fiscal Discipline and Economic Growth.

Counsel[1] for all parties to this action and the Receiver's counsel are directed to also attend the site visit and court hearing. Finally, the court encourages members of the 35th Guam Legislature to attend as well.

IT IS SO ORDERED.

/s/ Frances M. Tydingco-Gatewood
Chief Judge
Dated: Feb 08, 2019

[1] The court specifically orders the personal appearance of Robert D. Mullaney at the final site visit and court hearing. Mr. Mullaney has represented the United States in this case since its filing and was also involved in the EPA's administrative actions prior to the initiation of this case.

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