Office of the Attorney General of Guam

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Hon. Leevin Taitano Camacho
Attorney General of Guam

August 12, 2019

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Speaker Tina Rose Muña Barnes

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Honorable Lourdes A. Leon Guerrero
Governor of Guam
513 West Marine Corps Drive
Ricardo J. Bordallo Complex
Hagåtna, Guam 96910

Honorable Tina Muna Barnes
Speaker
Guam Congress Building
163 Chalan Santo Papa
Hagåtna, Guam 96910

Re: Status report re: litigation pursuant to the Prutehi I Hanom Act of 2019

Håfa Adai Governor Leon Guerrero and Speaker Muna Barnes,

The Office of the Attorney General has issued its first status report regarding litigation pursuant to the Public Law 35-25, the Prutehi I Hanom Act of 2019. A copy of the report is attached for your information, and may also be found on the OAG website at guamag.org.

Sinseramente,

LEEVIN TAITANO CAMACHO
Attorney General

0893

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Hon. Leevin Taitano Camacho
Attorney General of Guam

August 8, 2019

Status report re: litigation pursuant to the Prutehi I Hanom Act of 2019

I. The OAG has retained a litigation team for a contingency fee that is half of what is authorized by law.

Public Law 35-25 (the Act) was signed into law on July 3, 2019 and allows for the Office of the Attorney General (OAG) to obtain the assistance of legal experts on a contingency fee basis to address contamination of Guam's drinking water from the use of per- and poly-flouroalkyl substances (PFAS). Two days later, the OAG issued a solicitation for legal services to assist in litigation related to PFAS contamination. On July 24, 2019, a contract to retain Kelley Drye & Warren LLP, Taft Stettiniuis & Hollister LLP, Kennedy & Madonna, LLP, Douglas & London, P.C., SL Environmental Law Group PC, and Levin Papantonio Thomas Mitchell Rafferty & Proctor, P.A. (PFAS Litigation Team) was executed. The OAG was able to negotiate a contingency fee of 15% if the matter is settled before trial, which is half the fee that is authorized by the Act.

II. The OAG has consulted with the NMI to explore the Marianas-wide pursuit of claims addressing the contamination of our waters.

As this is an issue that could affect other islands in the region, OAG consulted with the Commonwealth of Northern Marianas Islands (CNMI) on their interest in pursuing water contamination claims. Guam's solicitation for expert legal services allowed firms to extend their proposals to the CNMI. After independently reviewing the offers that were made in response to the solicitation, Attorney General Manibusan and his team have also selected the PFAS Litigation Team to assist the CNMI on this issue.

III. The OAG is researching potential claims and parties and anticipates filing a complaint in the Multi District Litigation court in South Carolina within weeks.

Over a hundred cases across the United States involving PFAS claims over the use of aqueous film forming foam (AFFF) have been transferred to a Multi District Litigation (MDL) court in South Carolina. Discussion surrounding the Prutehi I Hanom Act and the subsequent OAG solicitation for legal services identified August 4, 2019 as a potential deadline by which Guam might have to file a complaint in the MDL court. After consulting with our PFAS Litigation Team, we determined the August 4 deadline only applied to existing parties and those pending transfer and would not prevent Guam from filing suit in the MDL court.

The next major event in the MDL is a status conference scheduled for September 6, 2019. A hearing will immediately follow where existing parties to the MDL will brief the court on the scientific subject matter. Based on the swift progression of the MDL, the OAG determined to prioritize its efforts by first identifying all proper claims and parties. At this time, Guam is conducting research and consulting local agencies, and anticipates filing its initial complaint in the MDL court and participating in the September 6, 2019 hearings.

/s/

LEEVIN TAITANO CAMACHO