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DISTRICT COURT OF GUAM
TERRITORY OF GUAM

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GOVERNMENT OF GUAM,

Defendant.

CIVIL CASE NO. 02-00022

ORDER
re May 2017 Status Hearing and
Presentation of Receiver’s Report

This matter came before the court on May 17, 2017, for the presentation of the Receiver’s report. The Receiver provided an update on the progress of the Consent Decree projects and the operations of the Guam Solid Waste Authority (“GSWA”) for the period beginning July 1, 2016 to December 31, 2016. *See* Quarterly Report (May 17, 2017), ECF No. 1739.¹ The Receiver reported the following notable accomplishments achieved during the reporting period:

- *Ordot Dump Closure.* Post closure maintenance and compliance monitoring continued. During the reporting period, more than 5.4 million gallons of leachate had been captured and diverted from Guam’s groundwater and the Lonfit River for proper treatment and disposal, bringing the total to over 14.3 million gallons collected since the new sewer line system was installed in January 2015. Additionally, the gas collection system installed at the Ordot Dump has prevented more than 171 million cubic feet of greenhouse gases from being emitted into the air. The Receiver also developed a gas mitigation plan for

¹ This Quarterly Report consists of a detailed Narrative Report (Tab 1), a Slide Presentation (Tab 2), and various financial tables, summaries and relevant reports (Tabs 3-29).

1 two areas where the perimeter gas monitoring wells have readings above the compliance
2 levels, with more field work expected to begin later this year. The Receiver's Post
3 Closure Care Plan still awaits approval from the U.S. Environmental Protection Agency
4 ("USEPA") and the Guam Environmental Protection Agency ("GEPA"). USEPA
5 anticipates a tentative approval of the plan by the end of summer. Following a 45-day
6 comment period, USEPA hopes for final approval and GEPA's issuance of the final
7 permit in November 2017. The Receiver completed the Standard Operating Procedures
8 for the management and maintenance of the Ordot Dump, which will be incorporated
9 into the procurement for the post closure operator of the facility. The Receiver expects
10 to issue the procurement for the post closure operator by early summer 2017, with the
11 procurements for the trustee and independent engineer to be issued by late summer or
12 early fall 2017.

- 13 • *Layon Landfill.* Environmental testing and monitoring results confirmed that the Layon
14 Landfill meets all applicable environmental standards and regulations. During the six
15 months covered in the report, the landfill received 51,313.23 tons of municipal solid
16 waste, which is 4.07% higher when compared to the same period in 2015. A surge tank
17 was installed to assist the Guam Waterworks authority in the proper management of
18 leachate at the Inarajan waste water treatment plant, and the Receiver hopes this should
19 be in operation before the end of the month. The Receiver also reports that the reserves
20 for cell closure and new cell construction were funded as planned during the reporting
21 period.
- 22 • *Dero Road and Residential Transfer Stations.* On November 9, 2016, a notice to proceed
23 was issued to begin the renovations of the Agat and Malojloj residential transfer stations
24 and the environmental closure of the Dededo residential transfer station, with a contract
25 period of 365 calendar days. Work has commenced at the Agat and Malojloj facilities,
26 with the work at Dededo to begin later this year. Though there has been some delays, the
27 Receiver is optimistic that this work at the residential transfer stations can be completed
28 before the end of 2017. With regard to the feasibility of additional stormwater measures

1 to mitigate pre-existing flooding along Dero Road, the Receiver reported that the two
2 options explored created problems for the community, and thus the Receiver believed
3 there was no viable solution it could pursue within the scope of its authority. The
4 Receiver confirmed that this flooding issue should not affect the newly installed pump
5 station on Dero Road because the flooding occurs at a different location along the
6 roadway. The Receiver recommended that no further action be taken with regard to this
7 issue, and the court agrees.

- 8 • *GSWA Operations and Finances.* GSWA crews performed approximately 467,408
9 residential trash collections, of which 99.81% were made on time, and collected
10 9,623.05 tons of trash from residential customers over the six-month reporting period.
11 The number of curbside residential customers remained steady at 17,839, and the number
12 of customers registering for online services increased by 14.5% to 11,012 during the
13 reporting period. The use of the online billing method is environmentally friendly and
14 has saved GSWA approximately \$84,180 for this fiscal year. All of GSWA's major
15 commercial accounts were in good standing, but the Receiver once again reported that
16 many Government of Guam accounts remain in arrears. The Receiver stated that
17 payment for these arrears would be addressed in the annual settlement process between
18 the General Fund and GSWA. GSWA's finances remained strong during the reporting
19 period, with revenue exceeding spending.

20 The court is proud of the Receiver's reported progress. The court commends all GSWA
21 employees, from the trash collection crews to the scale house operators and the customer service
22 representatives, who continue to contribute to the GSWA's success. Even with a 44% percent
23 reduction in employees, the dedicated employees continue to provide excellent customer service and
24 have managed to keep the collection rates high. Efforts to cross train and rotate employees to
25 different posts have contributed to improved operations. GSWA has become a role model for all
26 government agencies to follow.

27 The next quarterly status hearing shall be held on Wednesday, August 23, 2017, at 8:30 a.m.
28 As the end of the receivership approaches, it is imperative that certain issues be resolved to ensure

1 as smooth a transition as possible. To that end the court orders the following:

- 2 1. USEPA and GEPA shall use their best efforts to ensure there is no further delay with the
3 approval of the Post Closure Care Plan.
- 4 2. The Receiver shall continue to work cooperatively with the GSWA Board on the
5 recruitment and hiring of the General Manager (“GM”) and the Chief Financial Officer
6 (“CFO”), to ensure that the new GM and CFO are ready to take over operations by
7 January 2018.
- 8 3. In light of the increased balances owed by several Government of Guam agencies to the
9 GSWA,² the court orders the Attorney General and the Department of Administration to
10 work closely with the Receiver to address how these mounting arrears can be reduced
11 and explore whether there is a more efficient method to collect what is owed from these
12 government agencies. The Attorney General shall file a status report on this issue within
13 60 days from the date of this Order.
- 14 4. As the Receiver begins to wind down its management over GSWA, it is important for
15 GSWA’s current staff to be kept aware of the plans that are being undertaken by the
16 Board to transition any of the temporary staff to more permanent positions or to continue
17 the contract with Pacific Human Resources, Inc. Since half of GSWA’s current
18 workforce are temporary employees, it is important to provide some measure of certainty
19 and stability for these employees who play a vital part of GSWA’s daily operations. The
20 Board’s legal counsel explained that board members are working with one senator to
21 draft legislation that will address this issue. The Board’s legal counsel shall provide the
22 Receiver and its counsel with copies of the draft legislation.
- 23 5. The Receiver has prepared an updated rate study as requested by the Board. The Board
24 shall undertake the steps necessary to petition the Public Utilities Commission (“PUC”)
25 to approve permanent rates that shall be implemented upon the termination of the
26 receivership.

27 ² As of December 31, 2016, government agencies and entities owed GSWA \$234,530.86 for
28 trash disposal. *See* Tab 13, ECF No. 1739-15.

1 6. The Receiver shall cooperate with the Board and the new GM to identify needed changes
2 to GSWA's rules and regulations.

3 7. The Board, through its legal counsel, shall file a report no later than one week prior to
4 the next scheduled status hearing to update the court on the following issues: the hiring
5 of the GM and CFO, the draft legislation to transition the temporary employees, the PUC
6 rate approval and the updates to the rules and regulations.

7 In conclusion, the court acknowledges that much work has been accomplished over the last
8 two quarters. As the transition period begins, it is important for the Board to begin taking a more
9 active role in GSWA's operations by updating the agency's rules and regulations, seeking PUC
10 approval of GSWA's rates, and working to either transition the temporary staff to more permanent
11 positions or to maintain their employment with Pacific Human Resources, Inc. Under the approved
12 time line, the Receivership will terminate at the end of the year and the court does not intend to
13 extend the Receivership. The court expects these issues to be resolved timely. The court hereby
14 orders the parties and all their departments and agencies to continue to cooperate with the Receiver's
15 efforts to responsibly and expeditiously complete the remaining Consent Decree projects and resolve
16 all remaining transition tasks.

17 IT IS SO ORDERED.



18 /s/ Frances M. Tydingco-Gatewood
19 Chief Judge
20 Dated: May 22, 2017