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THE DISTRICT COURT OF GUAM

UNITED STATES OF AMERICA,)
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 Plaintiff,)
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 vs.)
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 GOVERNMENT OF GUAM,)
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 Defendant.)

CIVIL CASE NO. 02-00022

ORDER
Post-October 17, 2023 Status Hearing

On October 17, 2023, this case came before the court for a status hearing to discuss matters raised in the parties’ Sixth Joint Report. *See* Mins., ECF No. 2004, and Sixth Joint Rpt., ECF No. 2001. Following the status hearing, the court and parties participated in a site visit to the Ordot Dump facility on November 9, 2023. *See* Mins., ECF No. 2013.

Based on the discussions at the hearing and site visit, the court orders the following:

- **Leachate Flow and SEEP Investigations.** The parties’ technical representatives met to discuss the preliminary findings in the Technical Memorandum prepared by Brown & Caldwell. Data will continue to be collected until December 2023, at a minimum, and the technical representatives can determine whether to extend the data collection period. If no further data collection is necessary, the parties can begin discussing potential mitigation remedies, cost estimates and a timeline to implement the remedies. Miguel Bordallo, the General Manager of the Guam Waterworks Authority, offered his agency’s assistance in performing a dye trace study to assist in the investigation. The court orders that the parties continue to work collaboratively on this matter so that an appropriate and cost-effective remedy, if any, can be implemented.

- 1 • **SEP Completion Report.** As part of the Consent Decree, the Government of Guam was
2 required to complete a Supplemental Environmental Project (“SEP”). *See* Consent Decree
3 at ¶ VII, ECF No. 55. To satisfy this requirement, the Government of Guam developed and
4 implemented a household hazardous waste program. *Id.* at Appx. C. As directed by the
5 court, on June 30, 2023, the Receiver submitted to U.S. EPA and Guam EPA (“GEPA”) its
6 portion of the SEP Completion Report related to the construction of the household hazardous
7 waste facility. GEPA has not finished compiling the necessary information for its portion
8 of the SEP Completion Report. The court hereby orders GEPA to submit its portion of the
9 SEP Completion Report to U.S. EPA no later than December 18, 2023. Karen Ueno stated
10 that it may be possible to bifurcate the SEP Completion Report between the Receiver and
11 GEPA’s tasks. The court orders U.S. EPA to determine within the next two months whether
12 the SEP Completion Report can be bifurcated so that it can then accept or reject the
13 Receiver’s portion of the report.
- 14 • **Certification re Municipal Solid Waste Disposal at Ordot Dump.** The court previously
15 ordered that the Receiver submit to U.S. EPA by June 30, 2023, a certification that the Ordot
16 Dump no longer receives municipal solid waste for disposal. *See* Order at 3, ECF No. 1992.
17 The Receiver has done so, and the court orders U.S. EPA to either accept or reject the
18 certification by December 18, 2023.
- 19 • **Termination of Receivership.** The Government of Guam and the Guam Solid Waste
20 Authority (“GSWA”) Board have requested that the Receivership be terminated because
21 they believe that GSWA now has the technical expertise and personnel to complete any
22 remaining tasks assigned to the Receiver, including the submission of a certification that
23 discharges to waters of the United States from the Ordot Dump have ceased. The court
24 expressed some skepticism that the GSWA General Manager will be able to make the
25 certification based on the specific language required by the Consent Decree. The court is
26 also concerned that a revised financial plan for the post-closure care costs of the Ordot Dump
27 has not yet been approved. The court and the parties discussed proposed legislation to
28 dedicate a portion of the settlement amount the Government of Guam received in the

1 CERCLA action into an account to fund the post-closure care expenses. Unless there is a
2 funding source identified, GSWA will have to rely on the funds it generates through its
3 operations to pay for the post-closure costs. To alleviate any concerns regarding GSWA's
4 operations and technical expertise, the court orders Chase Anderson, who oversaw the
5 operations of GSWA for the Receiver, to meet with and interview the GSWA Board,
6 management, staff and contractors, to tour and observe operations at all of GSWA facilities,
7 and to conduct a review of GSWA's revenue, expenses and balance sheets. Mr. Anderson
8 shall prepare a report to the court that summarizes his review of the organization and its
9 operations, including his assessment on GSWA's plans to expand its residential collection
10 services island-wide, a determination of whether any change to the agency's organization is
11 necessary to undertake and oversee the funding, operations and maintenance of the Ordot
12 Dump post-closure facility, and any recommendation he may have that would benefit
13 GSWA's performance. The court orders that this review occur in December 2023, and that
14 GSWA and its contractors cooperate with Mr. Anderson and provide any and all reports and
15 information necessary for his review.

16 • **Next Court Hearing.** The parties are ordered to appear for the next status hearing scheduled
17 for February 14, 2024, at 8:30 a.m. To the extent possible, the parties shall file a joint status
18 report no later than February 6, 2024.

19 **IT IS SO ORDERED.**



20 /s/ Frances M. Tydingco-Gatewood
21 Chief Judge
22 Dated: Nov 22, 2023
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