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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

This matter came before the court on April 8, 2010, for a quarterly status hearing. At that time, the Receiver, Gershman, Brickner & Bratton, Inc. ("GBB") provided an update on the progress of Consent Decree projects and on the operations of the Solid Waste Management Division ("SWMD"). *See* Docket No. 557.

GBB reported on the significant accomplishments that had been completed in the last two years. For example, GBB reported that collection services had improved considerably as indicated by a dramatic reduction in complaints; collection routes had been reduced from 9 to 6; SWMD staff was reduced by 37% and work shifts had been reduced from three down to one. Of particular note was the success of the new cart-based trash collection program, with the registration of more than 17,000 customers, up from approximately 12,000 customers previously registered with SWMD.

1 The court finds the work performed by GBB and SWMD employees in concert with the
2 various governmental agencies over the last two years truly impressive. The court had the
3 opportunity to do a site visit to the Layon landfill and observed first hand the completion of the
4 earthworks, and the ongoing construction of the roads and installation of the liners for Cells 1
5 and 2.¹ It is only a matter of days before the Layon landfill will be completed and operational.
6 What was once perceived as an insurmountable hurdle is now becoming a long awaited reality
7 for the people of Guam.

8 In the court's January 15, 2010 order DPW was ordered to clean up its Upper Tumon
9 compound and dispose of all the tires, drums and abandoned vehicles on the grounds by April
10 8, 2010. *See* Docket No. 540. At the hearing, DPW's acting director, Andrew Leon Guerrero
11 ("Mr. Leon Guerrero") stated that there were efforts being made to remove the tires and
12 abandoned vehicles. However, he stated that DPW was unable to dispose of the drums because
13 of a lack of funding. Although funds are to be allocated in DPW's 2011 budget for their
14 disposal, he was unaware of any funding source to remove the drums at this time. Because the
15 contents of the drums are unknown and may be hazardous, he estimated that the costs to
16 properly dispose of them could be as high as \$650,000. The court orders GBB to work closely
17 with Mr. Leon Guerrero to find a solution to this problem.²

18 Additionally, DPW, through counsel, is ordered to file a status report by close of
19 business on May 6, 2010 indicating that it has removed the tires and abandoned vehicles. It
20 will also inform the court of its decision regarding the disposal of the drums and set forth the
21 timetable it expects the situation to be resolved.

22 GBB is also ordered to work closely with the Governor to finalize a long-term
23 agreement with the United States military for the use of the Layon landfill by the next quarterly
24 hearing.

25 _____
26 ¹ The court notes that both Paul Baron, the Sr. Project Manager from Winzler and Kelly
27 and Thomas Anderson, the Executive Vice President from Black Construction Corporation
28 remarked how Layon was an ideal site for a landfill given its geological conditions.

² Should GBB and Mr. Leon Guerrero agree that the only solution at this time is for
GBB to use some of the funds in the Citibank, N.A. primary account, DPW will have to
reimburse that account once it receives allocated funds for that purpose in its 2011 budget no
later than October 15, 2010.

1 To ensure that the necessary road and bridge work is completed pursuant to the
2 schedule provided at the hearing, DPW, through counsel, is ordered to file a monthly report to
3 the court, in a format agreed upon by GBB, indicating the level of completion of the projects.
4 The first of such reports will be filed by close of business on April 15, 2010. Thereafter, the
5 monthly reports shall be filed on the 15th of each month.³

6 The next quarterly hearing is scheduled for August 11, 2010 at 9:00 a.m. It is ordered
7 that the following individuals be in attendance to present their respective reports concerning the
8 progress of the Consent Decree projects:

9 • Lorilee Crisostomo, Administrator of the Guam Environmental Protection
10 Agency;

11 • Joaquin Blaz, Acting Highway Administrator of the Department of Public
12 Works and Gene Niemasz of Parsons Transportation Group, to discuss the status of bridges,
13 road widening and snail mitigation;

14 • Tor Gudmundsen, President of TG Engineers, P.C.;

15 • Paul Baron, Sr. Project Manager of Winzler and Kelly;

16 • Ho Eun, President of Core Tech International; and

17 • Thomas Anderson, Executive Vice President of Black Construction
18 Corporation.

19 The court reiterates its previous order requiring the Governor of Guam, and the Speaker
20 of the Legislature, to be in attendance for the hearing. Again, however, if the Governor is
21 unable to attend, he may designate the Lieutenant Governor to attend. If the Speaker is unable
22 to attend, she may designate the Vice Speaker to attend.

23 In addition, the court hereby schedules a site visit to Layon on August 11, 2010 at 2:00
24 p.m. All the individuals mentioned above are required to attend and the court encourages the
25 members of the 30th Guam Legislature to attend as well.

26 **SO ORDERED.**



27 /s/ Frances M. Tydingco-Gatewood
28 Chief Judge
Dated: Apr 09, 2010

³ In the event the 15th falls on a weekend or holiday, DPW shall file its report the next business day.

