



GUAM ENVIRONMENTAL PROTECTION AGENCY

AHENSIAN PRUTEKSION LINA'LA GUAHAN

EDDIE BAZA CALVO
GOVERNOR OF GUAM

RAY TENORIO
LT. GOVERNOR OF GUAM

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OCT 11 2018

Mr. Pillias P. Behonest
Owner
Kuam Rush Hour Auto
P.O. Box 25293
Barrigada, Guam 96921

RE: Notice of Violation and Order of Compliance NOV/OC No. SW 18-006

Hafa Adai Mr. Behonest:

You are hereby advised that this **Notice of Violation and Order of Compliance (NOV/OC) No. SW18-006** is hereby issued to Kuam Rush Hour Auto (hereinafter referred to as KRHA), located at 363-A Adrian Sanchez St. in the municipality of Harmon Guam, for solid waste violations found during an investigation conducted on August 21, 2018.

The Guam Environmental Protection Agency (Guam EPA) is charged with the responsibility of implementing the Solid Waste Management and Litter Control (SWMLC), Chapter 51 of Title 10, Guam Code Annotated (G.C.A.), Public Law No. 23-64.

10 G.C.A. § 51103(a)(7) states, "The Agency shall have the authority under this Act and other laws of Guam, pursuant to the Administrative Adjudication Law, to: enforce compliance with any of its rules and regulations issued pursuant to this Chapter and require the taking of such remedial measures for solid waste management or solid waste management practices as may be necessary or appropriate to implement or effectuate its responsibilities under this Chapter";

10 G.C.A. § 51103(a)(9) states, "The Agency shall have the authority under this Act to prepare, issue, modify, remove, and enforce orders for compliance with any of the provisions of this Chapter, or of any rules and regulations issued pursuant thereto, and requiring the taking of such remedial measures for solid waste management as may be necessary or appropriate to implement or effectuate the provisions and purposes of this Chapter".

10 G.C.A. § 51103(a)(10) states, "The Agency shall have the authority under this Act and other laws of Guam, pursuant to the Administrative Adjudication Law, to:

impose and collect penalties against any person for the violation of any of its rules, regulations or compliance orders issued under this Chapter.”

On August 21, 2018, representatives from Guam EPA conducted a solid waste inspection along Taitano Road, Harmon. The inspection was performed as a result of a solid waste complaint of illegal dumping of junk vehicles by Kuam Rush Hour Auto along the Taitano Road, Harmon.

During the inspection, representatives from Guam EPA observed approximately fifty-five (55) junk vehicles abandoned along Taitano Road, Harmon.

A detailed Compliance Evaluation Inspection Report and photos of the investigation conducted at the site are enclosed.

NOTICE OF VIOLATIONS

Based on the above and foregoing facts, as well as those contained in the enclosed investigation report, KRHA is in violation of the following sections of the Solid Waste Management and Litter Control (SWMLC), Chapter 51 of Title 10. The deficiencies and regulatory provisions that have been violated are indicated below and are the basis for this **Notice of Violation and Order of Compliance**.

1. **Section 51110(a)(1)** states that “it shall be unlawful for any person to violate any provision of this Chapter or any rule, regulation, standard, or order issued pursuant to this Chapter”.
 - **KRHA violated the provision of this Chapter.**

2. **Section 51110(a)(3)** states that “it shall be unlawful for any person to place, or allow to be placed, any solid waste upon the highways, public or private property contrary to the provisions of this Chapter”.
 - **KRHA placed and disposed solid wastes specifically junk automobiles along Taitano Road, Harmon contrary to the provisions of this Chapter.**

3. **Section 51110(a)(5)** states that “it shall be unlawful for any person to store, collect, transport, process, or dispose of solid waste in such a manner as to degrade the environment, create a public nuisance, create a health or safety hazard, or violate any provisions of this Chapter”.



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RAY TENORIO
LT. GOVERNOR OF GUAM

ERIC M. PALACIOS
ADMINISTRATOR, GUAM EPA, ENERGY OFFICE

P.O. BOX 22439 BARRIGADA, GU 96921

EPA.GUAM.GOV

Solid Waste

Compliance Evaluation Investigation

Purpose: NOV/OC/APO No.18-006

Date of Investigation: August 21, 2018

Facility Name: Kuam Rush Hour Auto

EPA ID Number: N/A

Site Location: Taitano Road, Harmon

Owner: Pillias, Playton Behonest

Property Manager: N/A

Alleged Violator: Kuam Rush Hour Auto

Mailing Address: Post Office Box 25293, Barrigada Guam 96921

Contact Number: 475-9044

GEPA Representatives: Glenn San Nicolas
Maria C. Duenas

Phone: 300-4764

Report Date: 8-23-18

Site Map
Kuam Rush Hour Auto
Junk Vehicle
Taitano Road, Harmon



Figure 1. Subject area lined in Red

INSPECTION

On August 21, 2018, representatives from the Guam EPA responded to a solid waste complaint of illegal dumping of junk vehicles along Taitano Rd. located in the municipality of Harmon.

During the investigation, Guam EPA observed approximately fifty (50) junk vehicles along Taitano Road Harmon. Further investigation discovered that Kuam Rush Hour Auto placed the vehicles along the easement for disposal.

According to Mr. Pillias Behonest owner of Kuam Rush Hour Auto the junk vehicles were placed along the easement for disposal at the direction of the Tamuning Mayor's Office. An unknown representative of the Tamuning Mayor's office instructed him to place all unwanted vehicles owned by Kuam Rush Hour Auto along the easement to be removed by the Tamuning Mayor's Office. Mr. Behonest also stated, the Tamuning Mayor's Office removed five junk vehicles he placed along the easement a week earlier and did not removed the remaining junk vehicles because of rainy weather.

According to Tamuning Mayor Rivera and Vice Mayor Santos the five vehicles were removed along Taitano Rd. Harmon to prepare for the upcoming school year. Mayor Rivera also stated that there were only five (5) junk vehicles that were along the easement and only after removing them did Kuam Rush Hour Auto placed approximately 50 more junk vehicles along the easement.

Mayor Rivera submitted a statement on Aug. 22, 2018 to Guam EPA stating that no authorization was given to KRHA to place junk vehicles along the easement for removal. Since the Recycling Revolving Fund does not authorize the removal of junk vehicles owned by businesses. A copy of the statement is attached with the report.

Site photos were taken.

- **KRHA placed and disposed junk vehicles along Taitano Road, Harmon in such a manner as to degrade the environment, create a health and safety hazard and a public nuisance.**

ORDER OF COMPLIANCE

Based on the violations cited above, Guam EPA hereby requires **Kuam Rush Hour Auto** to perform the following remedial measures within the time frames stated below, from the date of receipt of this Order:

1. Kuam Rush Hour Auto shall immediately cease illegal dumping/storage of junk vehicles along Taitano Road, Harmon;
2. Within seven (7) calendar days of receipt of this Notice of Violation and Order of Compliance, submit a cleanup and disposal plan and schedule for removal of the junk vehicles. The disposal plan and compliance schedule shall be submitted to the Agency for review, modification and/or approval. At minimum, the disposal plan and compliance schedule should include the following:
 - a. Type of wastes;
 - b. Volume/quantity of wastes;
 - c. Location of disposal facility(ies);
 - d. A copy of the Guam EPA permitted transporter and permitted disposal facility permits; and
 - e. Schedule of compliance (Timeframe in which compliance activities will be initiated and completed).
3. Within fifteen(15) calendar days upon the approval of the Disposal Plan, properly dispose all solid wastes and provide disposal receipts to Guam EPA confirming the final disposition of the junk vehicles; and
4. Confirm in writing, within seven (7) calendar days upon cleanup completion submit an affidavit that the above-referenced remedial measures have been taken, the date each was taken, including supporting documentation (disposal receipts and photos). If any of these objectives are not accomplished, additional administrative penalties may be assessed.
5. Within seven (7) calendar days upon cleanup completion meet Guam EPA to discuss settlement and administrative penalties.

Guam EPA reserves the right to take the following enforcement actions as it deems appropriate:

1. Solid Waste violations such as those listed above and shown on the report may be punishable by civil or criminal actions, including penalties of up to

\$1,000.00 per day for each violation or noncompliance and imprisonment for a term of not more than one year or both as provided by 10 GCA, Chapter 51, §51115 (a) and (b).

NOTICE OF RIGHT TO APPEAL

You may file within fifteen (15) calendar days of the date of this Notice of Violation/Order of Compliance/Administrative Penalty Order, a Notice of Intent to Appeal also known as a Notice of Defense with the Guam EPA's Board of Directors, setting forth in such Notice of Intent to Appeal/Notice of Defense, a verified petition outlining the legal and factual bases for such an appeal. A form copy of the Notice of Intent to Appeal, also known as a Notice of Defense, is attached for your convenience.

Unless a written request for a hearing signed by or on behalf of the person, agency or business entity named above in this Notice of Violation/Order of Compliance/Administrative Penalty Order is made by delivering the enclosed form entitled "Notice of Intent to Appeal (a/k/a Notice of Defense)", or by delivering a notice of defense as provided in 5 G.C.A. Ch. 9, section 9205, to Guam EPA within fifteen (15) calendar days after the Notice of Violation/Order of Compliance/Administrative Penalty Order was personally served on you or mailed to you, Guam EPA may proceed upon the Notice of Violation/Order of Compliance/Administrative Penalty Order without a hearing.

The Notice of Intent to Appeal and verified petition, also known as a Notice of Defense (a copy of which is enclosed for your convenience), which is a request for hearing, or a Petition for Penalty Adjustment or Inability to Pay Statement, may be made by delivering the enclosed form entitled "Notice of Intent to Appeal also known as a Notice of Defense", or by a notice of defense as provided in 5 G.C.A. Ch.9, section 9205, to the following address:

Guam Environmental Protection Agency Board of Directors
c/o Administrator
Attn: Air & Land Division
Guam Environmental Protection Agency
Building 17-3304 Mariner Avenue Tiyan
Barrigada, Guam 96913

Or the Notice of Intent to Appeal may be delivered to Guam EPA's main office located at Building 17-3304 Mariner Avenue, Tiyan, Guam 96913.


Failure to file a Notice of Intent to Appeal within the period specified above will constitute a waiver of your right to a hearing. Without further notice to you, this Order of Compliance will become final and the Agency may proceed upon the

Order without a hearing. This also applies if you fail to attend or to participate in a hearing that you have requested.

Guam EPA routinely provides copies of the inspection report to Government of Guam agencies, and upon request, to the public. Such releases are handled in accordance to the Freedom of Information Act regulations (40 CFR Part 2) and Guam's Sunshine and Reform Act of 1999 (FOIA). If you believe that this report contains privileged or confidential information, you may make claim within fourteen (14) calendar days from the date of this letter. Guam EPA will construe your failure to furnish a timely claim as a waiver of the confidentiality claim.

If you have any questions regarding the technical aspects of the inspection report or this letter, please contact Glenn San Nicolas, Solid Waste Program Manager at 300-4751.

Sincerely,


WALTER S. LEON GUERRERO
Administrator

CEI Report
Notice of Intent to Appeal

cc: USEPA Region 9, Guam Program Manager
Attorney General of Guam

cc:
Chrono
File swmf

**Kuam Rush Hour Auto
Taitano Road, Harmon**



Photo No. 4

Date Taken: 6-22-2016

Location: Right side (north east) view of the property

Description: 3cy trash bin trash bags and miscellaneous solid waste

**Kuam Rush Hour Auto
Taitano Road, Harmon**



Photo No. 2

Date Taken: 8-21-2018

Location: Taitano Rd. Harmon

Description: Approximately 50 junk cars placed on an easement fronting apartments



Photo No. 3

Date Taken: 8-21-2018

Location: Taitano Rd. Harmon

Description: Junk cars along easement, some double parked

**Kuam Rush Hour Auto
Taitano Road, Harmon**

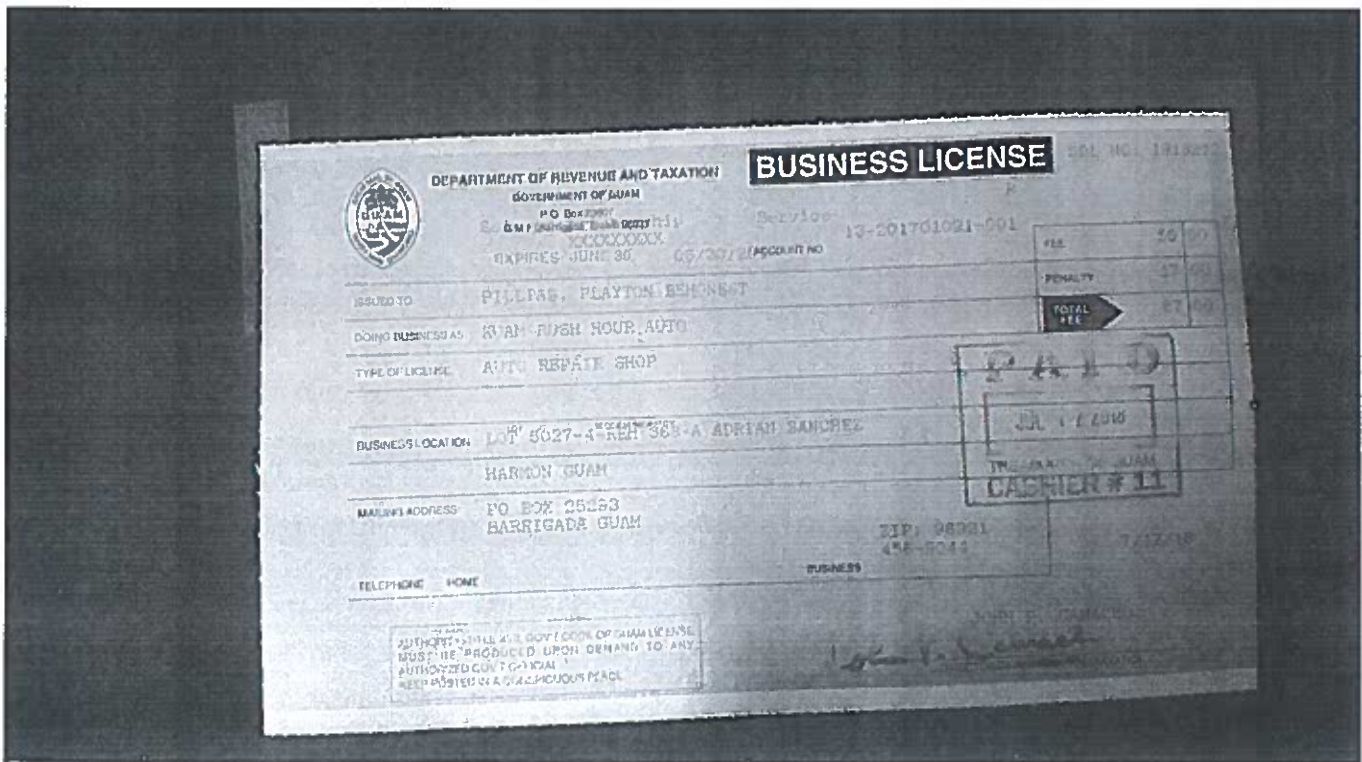


Photo No. 1

Date Taken: 8-21-2018

Location: Kuam Rush Hour Auto Shop

Description: Business license



Guam Environmental Protection Agency
 Bldg. 17-3304 Mariner Ave.
 Tiyan, Barrigada, Guam 96913



**NOTICE OF INTENT TO APPEAL
 (AKA NOTICE OF DEFENSE)**

I, Belionet Rllhas, have received your Notice of Violation, Order of Compliance and/or Administrative Penalty Order dated _____, charging me for violations and/or imposing penalties and/or other orders, and I wish to:

(Please check appropriate sections)

A. Request for a hearing and

- 1. Object to the accusation on the ground that it does not state acts or omissions upon which the Agency can proceed.
- 2. Object to the form of the accusation on the ground that it is so indefinite or ambiguous that I cannot identify the infraction or prepare my defense.
- 3. Wish to prepare new matter in my defense.
- 4. Admit to the accusation in part.

B. Admit to the accusation in whole.

C. Verified Petition: Under penalty of perjury I hereby declare that the following constitutes my legal and factual basis for this appeal:

[please continue on blank sheet of paper if more space is needed and attach to this paper]

My mailing address is:

454-9044

SIGNATURE

10/30/18

DATE

RECEIVED

OCT 30 2018

GUAM EPA CASE NO.: NOV/OC No. SW18-006

Guam Environmental
 Protection Agency