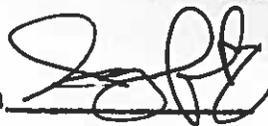


RECEIVED BY: DATE: 10-25-19

## AHENSIAN PRUTEKSION LINALA GUÅHAN

LOURDES A. LEON GUERRERO, GOVERNOR OF GUAM • JOSHUA F. TENORIO, LIEUTENANT GOVERNOR OF GUAM  
WALTER S. LEON GUERRERO, ADMINISTRATORMs. Liza Perez,  
Property owner  
152B Quenga Street  
Piti, GU 96925  
Tel No.

OCT 21 2019

Subject: Notice of Violation and Compliance Order

The stated purpose of the Guam Individual Wastewater Disposal System Regulations ("GIWDSR" at 22 GAR Chapter 12) is, in part, to "(p)rotect the health of the septic tank user and his neighbors" (22 GAR §12101(a)) and to "establish minimum standards that will ensure that wastes discharged ... (w)ill not pose a health hazard by being accessible to children" (22 GAR §12101(b)(2)) and "(w)ill not give rise to a nuisance due to odor or unsightly appearance" (22 GAR §12101(b)(3)). The GIWDSR are authorized by 10 GCA Chapter 48 "Toilet Facilities and Sewage Disposal", which gives the Guam Environmental Protection Agency ("GEPA") the authority to enforce the provisions of the GIWDSR through the issuance of notices of violations and orders to take necessary corrective actions. This Notice of Violation and Compliance Order ("NOV/CO") is issued under the authority of 10 GCA §48112.1 in order to abate conditions that have arisen due to violations of the GIWDSR and 10 GCA Chapter 48.

## BACKGROUND

Ms. Liza Perez ("Respondent") owns a property at address 156A Quenga Street, in the municipality of Piti, Guam. GEPA responded to a complaint at the site and on September 11, 2019, observed wastewater discharging to the ground surface from the respondent's septic tank and from soils above the leaching field. GEPA staff observed that the surfaced wastewater had discharged from Respondent's lot to other properties. GEPA staff observed that three buildings located on or near the lot are currently connected to a single septic system, which was originally constructed for only one of the buildings. Respondent confirmed that the three buildings were connected to a single septic system and that the septic system was constructed for only one of the buildings during a meeting held at GEPA on September 16, 2019. Respondent also informed GEPA during this meeting that the septic system has previously failed and the leaching field was replaced around five years ago, due to a similar condition resulting in the discharge of wastewater to the ground surface. Respondent stated that the original building (formerly a duplex) is now a single, four bedroom unit that houses a tenant family consisting of at least seven people, and possibly more. Respondent stated that the second building, referred to as a "shack", currently houses a tenant family of at least four people. Respondent further stated that the third building, partly located on the lot, is currently occupied by only one person, Respondent's brother Mr. Mario Fojas, who was also present at the September 16 meeting.

## NOTICE OF VIOLATION

Based on the facts described above and the attached site inspection report, GEPA finds that Respondent violated the following provisions of the Guam Individual Wastewater Disposal System Regulations ("GIWDSR" at 22 GAR Chapter 12), and 10 GCA Chapter 48 "Toilet Facilities and Sewage Disposal":

1. The existing Type 2 toilet and sewage facility (septic system) on Respondent's property has ceased to operate properly and is allowing improperly treated wastewater to discharge to the ground surface.

The facts described above indicate a violation of 10 GCA §48112, *"Untreated or improperly treated human excreta shall not be deposited into any river, creek, pond, reservoir, stream, well, or spring, or any collection of fresh water, on the surface of the ground, into or upon any public or private sidewalk, path, driveway, alley, street, highway, road, or beach, or any public place."*

2. Additional buildings have been constructed and connected to the original individual sewage disposal system ("septic system") and have exceeded to capacity of the system and the lot to properly absorb wastewater, resulting in the discharge of wastewater to the ground surface.

The facts described above indicate a violation of 22 GAR §12105(e) which requires that *"(n)o property shall be improved in excess of its capacity to properly absorb sewage effluent in the quantities and by the means provided in these regulations"*.

3. Additional buildings have been connected to the original individual sewage disposal system ("septic system") without a permit from the Guam Environmental Protection Agency.

The facts described above indicate a violation of 22 GAR §12105(j) which requires that *"(n)o wastewater disposal system installations, constructions, repairs or additions shall be made by the owner of the property without written permit from the Agency"*.

4. Additional buildings have been constructed and connected to the original individual sewage disposal system ("septic system") without a permit from the Guam Environmental Protection Agency.

The facts described above indicate a violation of 22 GAR §12105(m) which requires that *"(n)o No toilet or sewage facilities or single-family residences subdivisions, apartments, motels, hotels or other multi-housing facilities, commercial buildings, institutions, and*

*industrial facilities, may be constructed without the approval of the Administrator, or put into operation without his inspection and approval."*

### COMPLIANCE ORDER

Based on the foregoing Violations and pursuant to the authority granted to GEPA by 10 GCA §48112.1, Respondent is **HEREBY ORDERED** to undertake the following corrective actions:

1. **Within 7 calendar days of receiving this NOV:** (A) Have the septic tank at 156A Quenga Street in Piti pumped by a licensed wastewater pumping company; and (B) continue to have it pumped at a frequency adequate to prevent overflow or surfacing of wastewater to the ground surface.
2. **Within 60 calendar days (2 months) of receiving this NOV:** Submit a complete application for repair or construction of the existing septic system at 156A Quenga Street in Piti. A complete application will include plans prepared and certified by a Guam Professional Engineer (PE) based on the included results of a percolation test performed on-site. The plans must include calculations that account for all buildings connected to the septic system, and for all persons residing in those buildings. NOTE: Pursuant to 22 GAR §12105(e), there is no guarantee that GEPA will be able to permit all existing buildings to be connected into a septic system. If preliminary engineering calculations performed by the selected PE indicate that this will be the case, Respondent must contact GEPA to arrange a meeting to discuss potential alternatives and to possibly amend this order.
3. **Within 180 calendar days (6 months) of receiving this NOV:** Repair the defective septic system component(s) or construct the replacement septic system

Requests for extension of time must be submitted in writing, and will be evaluated based on the merits of the request. *If the corrective actions specified above are not completed within the specified time (or within an alternative time frame as amended by a written time extension from GEPA), this matter may be referred to the Office of the Attorney General for appropriate action. Any person who violates 10 GCA Chapter 48 or 22 GAR Chapter 12 may be charged with a misdemeanor and subject to a fine not to exceed \$1000 per violation per day.*

### NOTICE OF OPPORTUNITY FOR HEARING

You may file within fifteen (15) days of the date of your receipt of this NOV/CO, a Notice of Intent to Appeal also known as a Notice of Defense ("Notice of Defense") with the Guam EPA's Board of Directors. A copy of the 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 NOV/CO is hand delivered or mailed to Guam EPA within fifteen (15) days after the Notice of Violation/Order of Compliance was personally served to you or mailed to you, Guam EPA may proceed upon the NOV/CO without a hearing. A request for hearing may be made by delivering the enclosed form entitled "Notice of Intent to Appeal also known as A Notice of Defense", or by delivering or mailing a notice of defense as provided in 5 GCA §9205, to the following address:

Guam Environmental Protection Agency Board of Directors  
C/o Administrator Guam Environmental Protection Agency  
Building 17-3304 Mariner Avenue  
Tiyan Barrigada, Guam 96913

If you file a Notice of Defense, the Guam EPA's Board of Directors shall hold a public hearing, at which time you may appear and present evidence in person or through counsel in support of this petition.

Failure to file a Notice of Defense within the period specified above will constitute a waiver of your right to a hearing. If you waive your rights to a hearing the NOV/CO will become final, and Guam EPA may proceed upon the Order without a hearing and without further notice to you.

Should you have questions or need additional information please contact Water Pollution Control Program, Mr. Johnny Abedania at Tel# 3004774 or email: [johnny.abedania@epa.guam.gov](mailto:johnny.abedania@epa.guam.gov).

Dated this OCT 21 2019 day of October, 2019.

  
WALTER S. LEON GUERRERO  
Administrator



Guam Environmental Protection Agency  
 P.O. Box 22439, GMF,  
 Barrigada, Guam 96921



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

I, \_\_\_\_\_, 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:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
**SIGNATURE**

\_\_\_\_\_  
**DATE**

**GUAM EPA CASE NO.:** \_\_\_\_\_

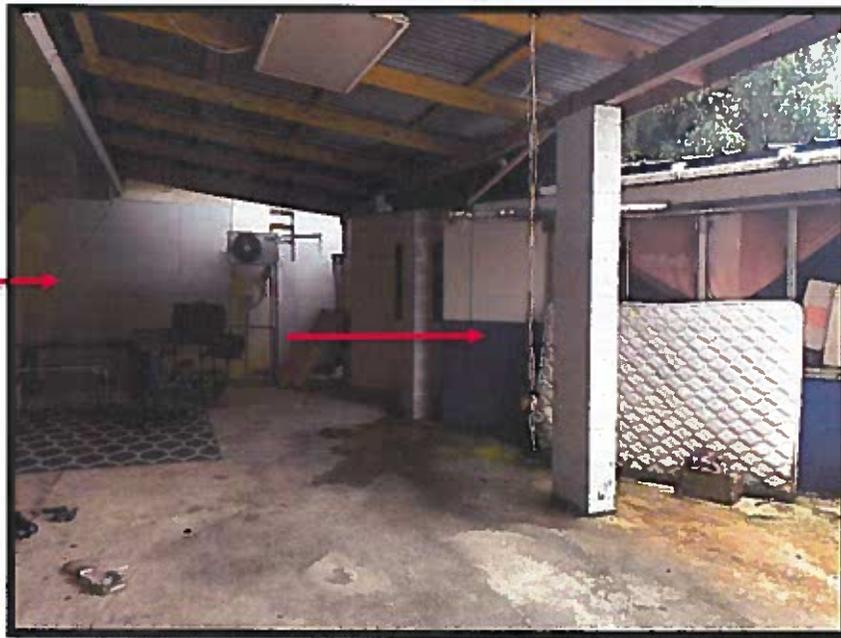
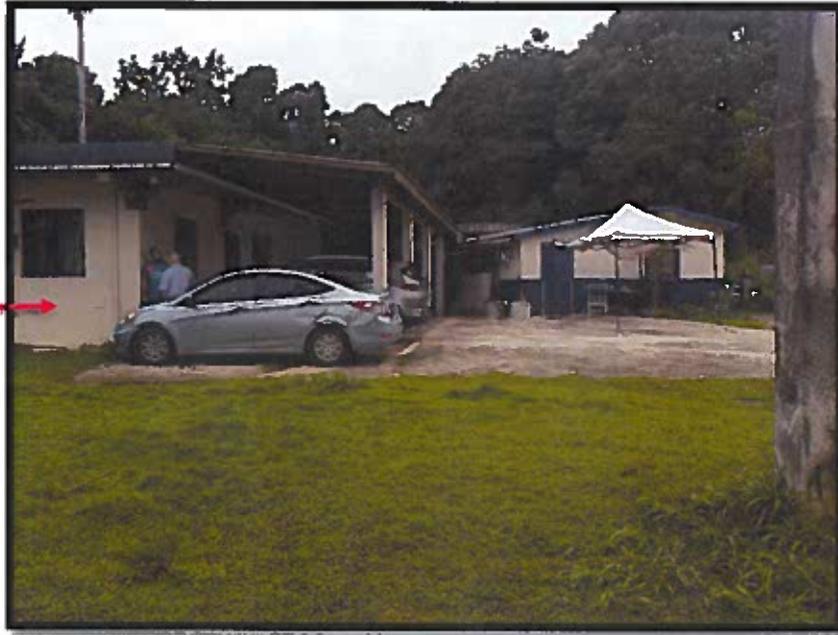


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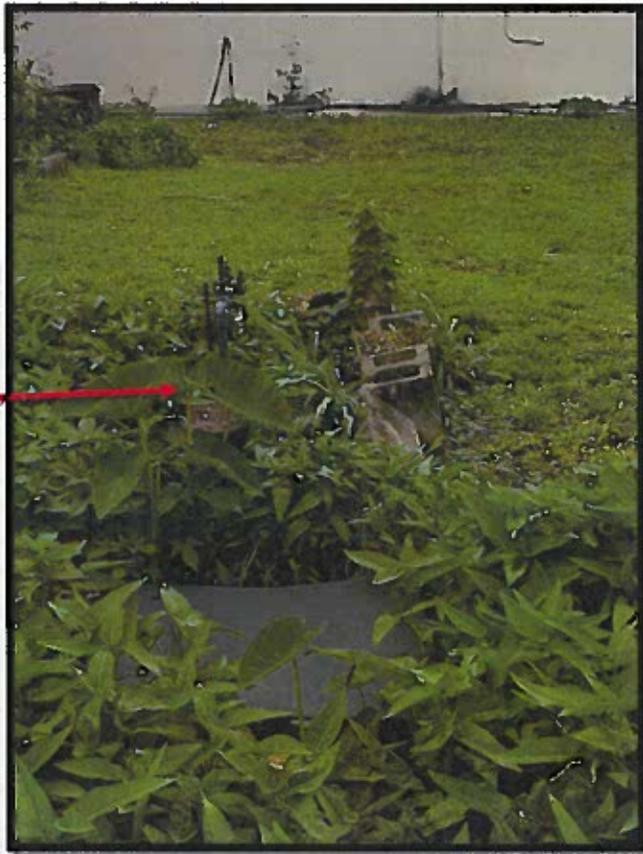
**SEWER OVERFLOW**  
**Liza Perez, Property Owner**  
**#156A QUENGA ST., PITI**



*Photo 1: Septic tank and cleanout. 9/11/2019*



*Photo 2: Total of 3 houses and one septic tank. 9/11/2019*



*Photo No. 3: GWA water meter near septic tank. 9/11/2019*



*Photo No.4: Water inside this area where water meter is located at. 9/11/2019*



*Photo No.5: Area where ground is really saturated, possibly the leaching field. 9/11/2019*



*Photo No. 6: Areas affected by the sewage overflow. 9/11/2019*





*Photo No. 7: Also affected by the sewage overflow. 9/11/2019*