



**GUAM ENVIRONMENTAL PROTECTION AGENCY • AHENSIAN PRUTEKSIÓN LINA'LA' GUÅHAN**  
LOURDES A. LEON GUERRERO • GOVERNOR OF GUAM | JOSHUA E. TENORIO • LIEUTENANT GOVERNOR OF GUAM  
WALTER S. LEON GUERRERO • ADMINISTRATOR | MICHELLE C. R. LASTIMOZA • DEPUTY ADMINISTRATOR

FEB 05 2020

Miguel C. Bordallo, P.E.  
General Manager  
Guam Waterworks Authority  
Gloria B. Nelson Public Service Building  
688 Route 15  
Mangilao, Guam 96913



**RE: Notice of Violation, Order of Compliance, and Administrative Penalty Order UST20-003, Guam Waterworks Authority Leyang South Barrigada Sewer Pump Station, Barrigada**

**Hafa Adai Mr. Bordallo:**

You are hereby advised that this Notice of Violation/Order of Compliance/Administrative Penalty Order UST20-003 is being issued to Guam Waterworks Authority (GWA).

The Guam Environmental Protection Agency (Guam EPA) is charged with the responsibility of implementing and enforcing the Underground Storage of Regulated Substances Act (USRSA), as amended, Chapter 76 of Title 10, Guam Code Annotated (GCA), Public Law No. 32-195, and the U.S. EPA Title 40 Code of Federal Regulations (CFR) Part 280 Underground Storage Tank Regulations.

The Guam EPA Administrator shall enforce rules and regulations governing UST design, construction, installation, release detection and inventory control, compatibility, record maintenance, reporting, corrective action closure, and financial responsibility in order to enforce this Chapter. 10 GCA §76104(d)

The Guam EPA Administrator shall issue and enforce orders necessary to ensure compliance with 10 GCA Chapter 76 and any rules and regulations enacted pursuant 10 GCA Chapter 76, including administrative penalty orders and orders requiring necessary or appropriate corrective action". 10 GCA §76104(g).

On September 26, 2019, representatives from the Guam EPA conducted an UST Inspection at GWA's Leyang South Barrigada Sewer Pump Station, Barrigada. The inspection was conducted with the cooperation of Mr. John Blas, Pump Station Supervisor and Ms. Rissa Castro, USSI Technician Supervisor. The UST inspection was conducted to verify compliance with Title 10 GCA Chapter 76 and Title 40 CFR Part 280.

During the inspection the following deficiencies were observed; UST vent line severed at ground level, which would allow water into UST and cause vented fumes to collect in this area. Secondly, the ATG was in alarm mode, the paper printout is illegible and ATG digital screen unreadable. Lastly, incomplete UST records of repairs and release detection testing.

### **NOTICE OF VIOLATIONS**

Based on the deficiencies cited, GWA is in violation of the following section of Chapter 76 of Title 10 GCA.

1. "The owner or operator of a UST shall maintain a leak detection system that identifies releases dangerous to human health and the environment." §76110(a)
  - **GWA failed to maintain a functional and operating leak detection system by not repairing and/or replacing ATG monitoring the UST and the piping, observed during the inspection.**
2. "The owner or operator of a UST shall maintain systematic and complete records to demonstrate compliance with this Chapter and regulations enacted hereto." §76110(b)
  - **GWA failed to maintain systematic and complete records to demonstrate compliance between September 2018 through April 2019, for the past twelve month period.**

### **ORDER OF COMPLIANCE**

Based on the violations cited above, Guam EPA hereby requires GWA to perform the following corrective action to ensure compliance with this Chapter 76:

1. GWA shall provide a method or combination of methods, of release detection for the UST and connected piping that routinely contain product. Or GWA may repair and/or replace the ATG using a certified UST consultant. GWA shall submit copies of the results of the testing and repairs to Guam EPA within forty-five (45) calendar days.

2. GWA shall conduct UST system calibration and maintenance of the release detection testing method for the tank and piping system using a certified UST consultant. GWA shall submit copies of the results to Guam EPA within forty-five (45) calendar days.
3. GWA shall repair vent line for the UST system and provide a copy and photo proof for these repairs within forty-five (45) calendar days to Guam EPA.
4. GWA shall conduct periodic operation and maintenance walkthrough inspections in accordance with 40 CFR §280.36. (See attached example checklist: Petroleum Equipment Institute Recommended Practice RP 900, Appendix A-2 and A-3). GWA shall keep these checklist records on file.

Based on the leak detection systems operating in "Alarm" mode, Guam EPA hereby requires GWA to perform the following corrective action measure within the time frames stated below, from the date of receipt of this Order:

- GWA shall immediately investigate all suspected releases of regulated substances and submit a report of the investigation to Guam EPA within seven (7) calendar days.

Nothing in this Order of Compliance limits the ability of Guam EPA to enforce any and all provisions of applicable Guam laws and regulations. Guam EPA does not waive any rights or remedies available to it. Failure to comply with this Compliance Order may subject you to additional administrative, civil or criminal penalties.

### ADMINISTRATIVE PENALTY ORDER

In addition to this Notice of Violation/Order of Compliance, the Administrator of Guam EPA, pursuant to 10 GCA § 76124 (a), hereby imposes an administrative penalty.

The maximum administrative penalty for Leak Detection and Record Maintenance is sixteen thousand dollars (\$16,000.00) per day, per UST violation, or thirty two thousand dollars (\$32,000.00) for two (2) violations for one (1) day.

GWA did not maintain a leak detection system that identifies releases dangerous to human health and the environment, and did not maintain systematic and complete records to demonstrate compliance with 10 GCA Chapter 76. The Administrator hereby assesses a penalty of two thousand nine hundred dollars (\$2,900.00). You are presumed under the law to be able to pay the penalty under 10 GCA Chapter 76.

The penalty amount is due and owing fifteen (15) calendar days from the date of receipt of this Administrative Penalty Order. The payment due date will be stayed upon the timely filing of a

Notice of Intent to Appeal/Notice of Defense. Failure to comply with this Administrative Penalty Order may subject you to additional administrative penalties or civil or criminal actions as described above.

### **NOTICE OF RIGHT TO APPEAL**

You may file within fifteen (15) calendar days of the date of receipt 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 copy of the Notice of Intent to Appeal/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 hand delivered or mailed 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.

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 a notice of defense as provided in 5 GCA §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

If you file a Notice of Intent to Appeal/Notice of Defense, the Guam EPA's Board of Directors shall hold a public hearing, not more than sixty (60) calendar days after receipt of such Notice of Intent to Appeal/Notice of Defense, 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 Intent to Appeal and Verified Petition within the period specified above will constitute a waiver of your right to a hearing. If you waive your rights to a hearing the Order of Compliance and Administrative Penalty Order will become final, and Guam EPA may proceed upon the Orders without a hearing and without further notice to you.

Should you have any question(s) concerning the technical aspects of this letter, please contact the Hazardous Waste Management Program at 300-4751/2.

Sincerely,



WALTER S. LEON GUERRERO  
Administrator

Enclosures: Notice of Defense  
PEI RP900

cc: Mr. Carl Goldstein, USEPA Region 9, Guam Program Manager  
Mr. Steven C. Linder, P.E., USEPA Region 9, UST/LUST Program Manager  
Paul J. Kemp, GWA, Assistant General Manager for Compliance and Safety

**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.:** UST20-003

# Appendix A-2: SAMPLE FORM FOR MONTHLY UNDERGROUND STORAGE SYSTEM INSPECTION CHECKLIST – PAGE 1

Go to [www.pei.org/RP900](http://www.pei.org/RP900) for an electronic version of this form

|  |                                     |
|--|-------------------------------------|
| <b>MONTHLY UNDERGROUND STORAGE SYSTEM INSPECTION CHECKLIST</b> |                                     |
| Facility ID#   | Date                                |
| Facility Name/Address  | Level II Qualified Person Signature |
| If any problem is found, contact: _____                        |                                     |
| Contact information: _____                                     |                                     |

| Category  | Description   | PEI/RP900 | N/A | Tank 1 | Tank 2 | Tank 3 | Tank 4 |
|---|---|-----------|-----|--------|--------|--------|--------|
| Daily Inspections                                       | Complete daily checklist and compare to previously completed daily checklists   | 7.4.1     |     |        |        |        |        |
| Leak Detection Recordkeeping                            | Circle method of tank leak detection: ATG, CIM, SIR, IC, GWM, SVM, MIMT<br>Circle method of piping leak detection: CIM, MPLT, SIR, GWM, SVM, MIMP | 7.5       |     |        |        |        |        |
| Automatic Tank Gauge (ATG)                              | Passing tank test report printed and properly filed   | 7.5.1.1   |     |        |        |        |        |
| Continuous Interstitial Monitoring (CIM)                | Sensor status report printed and properly filed   | 7.5.2.1   |     |        |        |        |        |
| Monthly Piping Leak Test (MPLT)                         | Passing piping leak-test report printed/documented and properly filed   | 7.5.3.1   |     |        |        |        |        |
| Statistical Inventory Reconciliation (SIR)              | This month's inventory analyzed; last month's results passed and available for inspection   | 7.5.4.1   |     |        |        |        |        |
| Inventory Control (IC)                                  | Inventory reconciled and within the company or regulatory standard  | 7.5.5.1   |     |        |        |        |        |
| Manual Groundwater (GWM) or Soil Vapor Monitoring (SVM) | Wells sampled and results pass  | 7.5.6.1   |     |        |        |        |        |
| Manual Interstitial Monitoring for Tanks (MIMT)         | Steel tank: interstitial space checked and found dry  | 7.5.7.1   |     |        |        |        |        |
|   | Fiberglass tank: interstitial space checked and found dry   | 7.5.7.2   |     |        |        |        |        |
|   | Fiberglass tank: level of monitoring fluid within normal range  | 7.5.7.3   |     |        |        |        |        |
| Manual Interstitial Monitoring for Piping (MIMP)        | For steel and fiberglass tanks, vacuum level is within tolerances   | 7.5.7.4   |     |        |        |        |        |
|   | Tank-top sump inspected and no liquid found   | 7.5.8.1   |     |        |        |        |        |
| <b>All Tanks</b>  |   | 7.6       |     |        |        |        |        |
| Grade-Level Covers                                      | All covers present, in good condition, seated firmly on the correct tank  | 7.6.1.1   |     |        |        |        |        |
| Spill-Containment Manhole                               | Drain valve in spill-containment manhole in good condition  | 7.6.2.1   |     |        |        |        |        |
| Drop Tube   | Standard drop tube smooth, no ragged edges, in good condition   | 7.6.3.1   |     |        |        |        |        |
|   | Top edge of coaxial drop tube smooth, round, slightly below the top edge of the fill pipe   | 7.6.3.2   |     |        |        |        |        |
| Tank Gauge Stick  | Tank gauge stick can be clearly read, is not warped or broken   | 7.6.4.1   |     |        |        |        |        |
| Check for Water   | No water present in the tank  | 7.6.5.1   |     |        |        |        |        |
| Tank Vents  | Vent cap present, vent pipe solidly supported and vertical  | 7.6.6.1   |     |        |        |        |        |

# Appendix A-2: SAMPLE FORM FOR MONTHLY UNDERGROUND STORAGE SYSTEM INSPECTION CHECKLIST – PAGE 2

Go to [www.pei.org/RP900](http://www.pei.org/RP900) for an electronic version of this form

| Category                              | Description   | PEI/RP900 | N/A | Tank 1 | Tank 2 | Tank 3 | Tank 4 |
|---------------------------------------|---|-----------|-----|--------|--------|--------|--------|
| Stage 1 Vapor Recovery                | Cover present, colored orange, seated firmly at grade, not broken, cracked or chipped   | 7.7       |     |        |        |        |        |
| Two-Point (Dual-Point) Vapor Recovery | If spill-containment manhole is present, no dirt, trash, water, or product              | 7.7.1.1   |     |        |        |        |        |
|                                       | If spill-containment manhole is present, no cracks, bulges, or holes                    | 7.7.1.2   |     |        |        |        |        |
|                                       | Vapor recovery cap present, seals tightly   | 7.7.1.3   |     |        |        |        |        |
| Observation and Monitoring Wells      | Poppet of vapor recovery adaptor seals tightly  | 7.7.1.4   |     |        |        |        |        |
|                                       | Observation well cover is properly identified and secured                               | 7.7.1.5   |     |        |        |        |        |
| Corrosion Protection                  | Record volt and amp readings, readings consistent with previous months                  | 7.8       |     |        |        |        |        |
|                                       | Record hour meter reading (if present). Reading increases by about 700 hours each month | 7.8.1.1   |     |        |        |        |        |
| Impressed-Current Cathodic Protection | Record volt and amp readings, readings consistent with previous months                  | 7.9       |     |        |        |        |        |
|                                       | Record hour meter reading (if present). Reading increases by about 700 hours each month | 7.9.1.1   |     |        |        |        |        |
|                                       |   | 7.9.1.2   |     |        |        |        |        |

DESCRIBE ANY DEFICIENCIES HERE:

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|  |
|  |

Instructions: Mark each tank where no problem is observed with a checkmark: ✓  
 If certain equipment is not required and / or not present, mark checklist in the N/A column.  
 If a defect is found, mark the checklist with an "X," describe the problem in the "DEFICIENCIES" section, and notify the appropriate person.  
 Refer to the section in the PEI Recommended Practices on UST system equipment inspection listed in the 'PEI/RP900' column for additional information. Refer to PEI RP500, *Recommended Practices for Inspection and Maintenance of Motor Fuel Dispensing Equipment*, for inspection procedures that apply to fuel dispensing equipment.