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GUAM ENVIRONMENTAL PROTECTION AGENCY • AHENSIAN PRUTEKSIÓN LINA'LA' GUÁHAN

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WALTER S. LEON GUERRERO • ADMINISTRATOR | MICHELLE C. R. LASTIMOZA • DEPUTY ADMINISTRATOR

AUG 11 2022

Core Tech-HDCC-Kajima, LLC  
(Respondent)  
Mr. Fidel Sapigao, Project Manager  
J-755 Urban Combat Training Facility Project  
#267 S. Marine Corps Drive, Suite 201  
Tamuning, Guam, 96931  
Contact (671)-473-5000

**Subject: Notice of Violation / Compliance Order / Penalty Order**

The stated purpose of the Guam Soil Erosion and Sediment Control Regulations (GSESCR), 22 GAR Chapter 10, as implemented by Public Law 25-152, is "to control accelerated soil erosion, thereby preventing the pollution of Guam's waters from fertilizers, pesticides, sediments and other polluting substances carried by sediment, and to protect property and to promote the public health, safety and welfare by regulating grading, clearing, grubbing and stockpiling, and by setting minimum standards for erosion and sedimentation control for the island of Guam."

The stated purpose of the Guam Water Resource Development & Operating Regulations (GWRDOR), 22 GAR Chapter 7, is "to protect the beneficial use of the Territory's underground and surface water resources in the interest of the people of Guam and for the public welfare by prescribing rules and procedures governing the development and operation of water supply wells and surface water supply wells."

Core Tech-HDCC-Kajima, LLC ("Respondent") has violated the GSESCR and the GWRDOR and is ordered to undertake remedial action(s) and pay a penalty as stated herein.

### BACKGROUND

Respondent is actively engaged in the construction of the J-755 Urban Combat Training project, N62742-19-C-1325 ("the project"). The project is located within the Andersen South Training Complex ("Andy South" or "ASTC") and entails the disturbance of 128 acres for the construction of multiple components including, but not limited to a combat vehicle maneuvering range, a grenade training range, a grenade shoot house, a live fire shoot house, and a vehicle washdown area. Each of these project components represent potential threats to groundwater quality and are located in close proximity to one or more of the 1,000 foot wellhead protection areas associated with the 10 active drinking water production wells located within the ASTC. An additional 10 drinking water production wells are located downgradient of, and therefore potentially vulnerable to contamination which may originate from activities within the ASTC. From the Final Hydrogeological Assessment of the Urban Combat Training Project Site, dated August 17, 2020,

RECEIVED BY: MJ RAMILO  
08/12/2022

GUAM EPA | 17-3304 Mariner Avenue Tiyan Barrigada, Guam 96913-1617 | Tel: (671) 300.4751/2 | Fax: (671) 300.4531 | epa.guam.gov  
ALL LIVING THINGS OF THE EARTH ARE ONE • MANUNU TODU I MANLÁLALA

Like and follow guamepa

by the Research Corporation of the University of Guam, Water and Environmental Research Institute of the Western Pacific ("WERI"):

"The ASTC is located at the head of the single most productive and intensively developed groundwater basin in the Northern Guam Lens Aquifer: the Yigo-Tumon Basin (Appx. \_ NGLA map). The Yigo-Tumon Basin contains over half of the 120 active GWA production wells in the aquifer and produces some 21 MGD, about 50% of the total aquifer production of 40-44 MGD. The combined permitted capacity of the production from wells inside, adjacent to, and downstream of the ASTC is about 8.7 MGD, which is about 40% of the production of the Yigo-Tumon Basin (and thus 20% of total aquifer production). (See Tables 3.1 and 3.2.) The ASTC thus occupies a prime production zone of the Northern Guam Lens Aquifer."

On December 17, 2019, the Guam Environmental Protection Agency ("GEPA") issued a conditional approval letter in response to Respondent's August 19, 2019, Clearing, Grubbing, Grading & Stockpiling Permit ("permit") application for the J-755 Urban Combat Training project. On the basis of GEPA's understanding that the final design of the project and associated wellhead protection documentation were still underway, the permit included the following condition (condition number 4): "(t)hat no structures or other improvements are authorized under this approval for clearing activity, except for those approved activities for preventing erosion."

Between about May and August, 2020, GEPA engaged in extensive review and numerous discussions with Respondent concerning the final project design and wellhead protection review. During this time period, on August 24, 2020, GEPA submitted a letter to Respondent containing formal comments on Respondent's wellhead protection submittals, stating that the information provided was inadequate for GEPA to provide wellhead protection approval, and requesting more specific information in particular for the proposed grenade practice range, vehicle washdown area, live firearm training activities and facilities, and any facility or location in which the storage of fuel or other toxic or hazardous materials is proposed.

Respondent did not provide a response to GEPA's August 24, 2020 letter until December 13, 2021, over one year later. In the meantime, Respondent had requested and received approval on March 23, 2021 of the Final Hydrogeological Assessment, which was to be a component of the final wellhead protection review submission, and applied for and received a renewal of the 2019 permit. The permit renewal approval letter was issued by GEPA on November 15, 2021, and included the same condition number 4 as the 2019 permit, requiring "(t)hat no structures or other improvements are authorized under this approval for clearing activity, except for those approved activities for preventing erosion."

Respondent continued to follow up on GEPA's review of its December 13, 2021, wellhead protection submittal. In response, on February 11, GEPA Chief Engineer CAPT Brian Bearden requested a site visit "to see some of the wells and proposed construction sites (e.g. the grenade range." CAPT Bearden conducted the site visit with Respondent staff, Department of Defense representatives, and the WERI staff who had prepared the Final Hydrogeological Assessment on February 18, 2022, and observed that construction of the project, including the grenade range, had already started and had progressed to near completion.

## NOTICE OF VIOLATION

Based on the facts described above, GEPA finds that Respondent violated the following provisions of the Guam Soil Erosion and Sediment Control Regulations, 22 GAR Chapter 10:

1. 22 GAR §10104(a)(1) Permit Issuance and Denials: Permits Required. *Unless exempted, no person shall commence or perform any grading, clearing, grubbing, embankment, filling, excavation or other earth-moving activity without a grading permit*

Respondent performed construction activities that were not included in the permits issued and renewed by GEPA. Specifically, Respondent performed construction activities which exceeded the limitations imposed under Condition Number 4 of the permit, which required “(t)hat no structures or other improvements are authorized under this approval for clearing activity, except for those approved activities for preventing erosion.” GEPA notes that under 22 GAR§10104(d)(2), “the Administrator may attach such conditions as may be reasonably necessary to ensure that any grading work is for a use or structure permitted in accordance with zoning requirements, and to prevent creation of a nuisance or hazard to public or private property, health or welfare.” As such, the permit issued by GEPA covered only the clearing, grading, earth-moving and stockpiling activities associated with the project but not the construction of any permanent structures, including but not limited to the combat vehicle maneuvering range, grenade training range, grenade shoot house, live fire shoot house, and vehicle washdown area. Discussion between GEPA and Respondent continued throughout 2020 concerning the final design of these components in relation to the wellhead protection requirements and especially the structural best management practices associated with the stormwater runoff drainage system plan, an application requirement under 22 GAR §10104(c)(5)(B) which was not submitted in a final form as part of the permit application contents.

In addition, GEPA finds that Respondent violated the following provisions of the Guam Water Resource Development & Operating Regulations, 22 GAR Chapter 7a:

2. 22 GAR §7130(d)(2) *(N)o person shall construct ... any land use served or to be served by ... stormwater disposal method ... and which is within the (Ground Water Management and Protection Zone) GWMPZ and within any 1,000 feet radius of any public utility potable water supply well, until the person has obtained the prior written approval of the Administrator.”*

Respondent constructed several land uses without prior written approval of the Administrator including, but not limited to the combat vehicle maneuvering range, grenade training range, grenade shoot house, live fire shoot house, roadways, and vehicle washdown areas including stormwater disposal methods, within the GWMPZ and the 1,000 radius of several public utility potable water supply wells

### **STOP WORK AND COMPLIANCE ORDER:**



Based on the foregoing Violations and pursuant to the authority granted to GEPA by 10 GCA Chapter 47 and the Guam Soil Erosion and Sediment Control Regulations, 22 GAR Chapter 10 as implemented by Public Law 25-152, Respondent is HEREBY ORDERED to undertake the following remedial actions (all compliance dates shall be computed using calendar days):

1. **STOP WORK on the following project components** until written approval is obtained from GEPA in the form of (1) a Final Wellhead Protection Approval and (2) an amended permit approving construction of the project components listed below:
  - a. combat vehicle maneuvering range
  - b. grenade training range
  - c. grenade shoot house
  - d. live fire shoot house
  - e. vehicle washdown area
2. **Within seven (7) days of receipt of this order:** Provide GEPA with the following:
  - a. A timeline indicating the start date of construction for the various structures and structural stormwater best management practices included in the project.
  - b. The current construction completion status by percent of each of the major project components (e.g., combat vehicle maneuvering range, grenade training range, etc.)

#### **RIGHT TO APPEAL:**

You may file within thirty days of the date of your receipt of this Notice of Violation/Compliance Order/Penalty Order, a Notice of Intent to Appeal also known as a Notice of Defense with the Guam EPA's Board of Directors. 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/Compliance Order/Penalty Order is hand delivered or mailed to GEPA within thirty days after the Notice of Violation/Compliance Order/Penalty Order was personally served on you or mailed to you, GEPA may proceed upon the Notice of Violation/Compliance Order/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 Guam Environmental Protection Agency  
Building 17-3304 Mariner Avenue  
Tiyán Barrigada, Guam 96913

If you file a Notice of Intent to Appeal/Notice of Defense, the GEPA'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 Intent to Appeal within the period specified above will constitute a waiver of your right to a hearing. If you waive your rights to a hearing the Notice of

Violation/Compliance Order/Penalty Order will become final, and GEPA may proceed upon the Order without a hearing and without further notice to you.

The violation of 22 GAR §10104(a)(1) may subject Respondent to a penalty pursuant to the authority granted to GEPA by 10 GCA Chapter 47 and Public Law 25-152, which authorizes a civil penalty of no more than Ten Thousand Dollars (\$10,000) per day per violation. The amount of any penalty imposed for this violation will be based on factors including the nature, circumstances, extent and gravity of the violation, ability to pay, any prior history of such violations, the degree of culpability, economic benefit or savings, if any resulting from the violation, and such other matters as justice may require. Before issuing a penalty order, the Guam EPA Administrator will provide notice to the Respondent as provided for by the GSESCR.

The violation of 22 GAR §7130(d)(2) may subject Respondent to the provisions of 10 GCA §46112. As of the date of this Notice of Violation, Guam EPA has not referred this matter to the Attorney General.

This order does not prevent GEPA from taking additional actions including the issuance of penalties under 22 GAR §10114(a)(1) or (2). Please also note that if you fail to take the remedial actions listed above within the required timeframe(s), additional violations, remedial actions, and penalties may be assessed by Guam EPA.

Should you have any questions or need additional information, please do not hesitate to contact me and my staff at Water Pollution Control Program or Water Division Chief Engineer, CAPT Brian Bearden, P.E., BCEE at 300-4786 and 300-4779, respectively.

*Dângkolu na si Yu'us ma'âse'.*

*Senseramente,*



WALTER S. LEON GUERRERO  
Administrator

Attachments: Notice of Defense Form

cc: GEPA Legal Counsel





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.**

My mailing address is:

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

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

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

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

