



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

**Guam Environmental Protection Agency
Board of Directors' Regular Meeting
Thursday, August 17, 2023**

MINUTES

- **Call to Order:** Chairman Carbullido called the Board of Director's meeting to order at 4:05p.m via the Guam EPA Conference Room. Roll call was done by Acting Board Secretary, Arlene Acfalle, as follows:

Board Members:

Chairman Steven Carbullido	- Present Guam EPA Conference Room
Vice Chairman Steve Carrara	- Present attending virtually from Tamuning
Director Steven Hollister	- Present attending virtually from Agat
Director Fran Castro	- Present Guam EPA Conference Room
Director Dave Duenas	- Not present
Director Danny Taitingfong	- Present attending virtually from Agana

**Quorum has been established.*

Guam EPA Staff: Acting Administrator Nicholas Lee, Arlene Acfalle, Connie Afleje, Glenn San Nicolas, AAG Kristan Finney, CAPT. Brian Bearden (USPHS), Sierra Bettis, Rudy Paulino, Margaret Aguilar, Romeo Zacarias and Malia Tom

General Public: Mr. Irvin Slike (GSWA), Noruan Taruk (Guam Daily Post), Rodney Blas, Jesse Chargualaf, Jr. (Office of Senator Sabina Perez)

- **Approval of Agenda:** Director Castro made a motion to approve the agenda, seconded by Director Hollister. All voted in favor, zero (0) opposed and motion passed.
- **Approval of July 2023 Minutes:** Director Castro made a motion to approve the meeting minutes seconded by Director Hollister. All voted in favor, zero (0) opposed and motion passed.
- **Guam Solid Waste Authority Request for Reimbursement:** Chairman Carbullido updated that Guam EPA board previously discussed this topic and the board has received a letter noting that GSWA has incurred the cost of \$400K which is what is reimbursable by law. Director Castro made a motion to approve the reimbursement of \$400K to GSWA seconded by Director Hollister. All in favor, zero (0) opposed and motion passed.
- **Administrator's Report** (Provided by the Acting Administrator Nicholas Lee)

Administrative:



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Personnel:

- Agency continues to review resumes and applications for recruitments for temporary and limited-term appointments.
- Air & Land Administrator interviews complete – selection is forthcoming
- Guam EPA – Governor’s Youth Summer Employment Program ended August 4. Guam EPA hosted approximately 25 youths.

Budget/Procurement:

- Continued meeting with FEMA Public Assistance Program Delivery Manager to complete Agency’s application for FEMA PA for:
 - o Asset/equipment replacement
 - o Force Account Labor
 - o Other recovery-associated costs

Agency Headquarters:

- Administrator Lastimoza advocating for prioritization to clear the Dededo TMDW site to allow US EPA to continue property remediation of the site
- MSW already removed, pending waste is all the typhoon eligibles

Typhoon Mawar Recovery Response:

- Guam EPA continues to support the Typhoon Mawar Debris Disposal task force
- Administrator Lastimoza attends meeting with FEMA, USACE and contractors twice to three times weekly

Policy:

- Nothing significant to report since July 20 board of directors meeting

Programs/Projects/Partnerships:

Guam EPA Participated at 31st Pacific Islands Environment Conference in Palau from July 31 – August 4

- Theme: “Harmonizing Strategies in the Pacific: Islands, Oceans and Economies”
- Personnel represented the island and gave presentations on:
 - o Zero Waste Management Plan
 - o Abandoned Derelict Vessel Removal project
 - o Safe Drinking Water

Guam EPA Water Division participating AWWA 2023 Western Pacific Water and Wastewater Conference – September 6-8

- Presentations will be offered for PFAS and typhoon emergency response
- Panel for public water system planning for potential upcoming regulation on PFAS

Guam EPA Submitted Scoping Comments to the Notice of Intent to prepare an Environmental Impact Statement for an Enhanced Integrated Air and Missile Defense System on Guam

- As announced in a July 12 press release issued by the governor’s office, GovGuam will provide unified scoping comments in areas where potential impacts to the environment, socioeconomics, infrastructure, economics, and labor and workforce development may be realized as a result of the EIAMDS.
- Scoping comments are due to the Missile Defense Agency tomorrow
- Guam EPA submitted agency scoping comments to the governor’s office for inclusion into GovGuam’s unified comment document



US EPA Safe Drinking Water Manager Amanda Quay on island August 21 – 25

- Quay will be meeting with Guam EPA, GWA and other federal agencies
- Quay will be touring drinking water facilities
- Discussion point may include:
 - o PFAS
 - o Safe Drinking Water work planning

School and government facilities chemical disposal round up project

- US EPA Region 9 Superfund & Emergency Response continues to support the island
- As part of EPA's mission assignment for emergency response in the wake of Mawar, an inventory of chemicals requiring disposal was developed
- Region 9 intends to conduct a removal action for the collection, transport and disposal of miscellaneous laboratory wastes and chemicals at the following educational institutions and government facilities on Guam:
 - Academy of Our Lady of Guam
 - Guam Community College
 - Guam EPA Laboratory
 - Guam Waterworks Authority
 - Notre Dame High School
 - Saint John's School
 - Southern High School
 - University of Guam

Chairman Carbullido advised that the board normally discusses the RRF funding and requested that the agency have the proposed FY24 budget in place for our next board meeting.

• **Outstanding Notices of Violations**

- o Primo's Heavy Equipment – Chairman Carbullido provided an update for the board members that this NOV has been appealed and is with the OAG hearing officer we is administratively working with the other counsels.
- o Samsung – Chairman Carbullido provided an update for the board members that this NOV has been appealed and is with the OAG hearing officer we is administratively working with the other counsels. Director Casto inquired if an inspection date has been set in which CAPT. Bearden advised the agency does not have a date at this time. CAPT. Bearden to continue to follow up.
- o JJ Pacific Development– No update – status quo. (Last status: CAPT. Bearden advised penalty has not been paid. Letter has been issued to make payment. JJ Pacific missed the opportunity to request a hearing. Ms. Finney advised we will see what we can do)
- o Lin's Hardware – Status quo. No update
- o GPPC, Inc. (Crown Plaza project) – Status quo. No update.
- o Upper Tumon Property (Mr. Park) – No update. Status quo. (Last status: CAPT. Bearden advised the NOV that was issued assessed a fine of \$1.7Mil. Owner has been unresponsive. CAPT. Bearden advised assistance is needed from OAG to collect payment)
- o Old Royal Palm Garage update – No update. Status quo. (Last status: Roland was to verify with Administrator Lastimoza and Ms. Finney if the agency is going to further pursue Mr. David Su)
- o Verona – Status quo – No update.
- o Cardona – Status Quo – No update.



- o CHK Core-Tech, Hawaiian Dredging, Kajima JV) NOV – Chairman Carbullido provided an update for the board members that this NOV has been appealed. The board is waiting on response from OAG on assignment of a hearing officer.
- o *Humatak* (Umatac) Mayor Office – Status quo (Last status: CAPT. Bearden advised a stop work order was issued on July 10, 2023 for excessive clearing without a permit during the emergency and way past post typhoon response)

- **New Notice of Violations**

- o US Navy water system NOV – CAPT. Bearden advised that Navy Base Guam has filed an appeal to the NOV that was issued. Chairman Carbullido inquired if the board has received such NOV in which Board Secretary Acfalle advised we have not. CAPT. Bearden advised it was a violation of the maximum contaminant level (MCL) for E. coli. He also mentioned that Navy Base Guam would like to meet with the Administrator first but has requested for a hearing. Board Secretary Acfalle requested to have copies of the NOV and the appeal emailed to her.

- **Discussion on septic system lot sizes and potential changes to laws and regulations -**

Chairman Carbullido noted that CAPT. Bearden and the agency provided a recommendation memo in the board packet in regards to modernizing the Toilet Facilities and Sewage Disposal Act. This is a follow up discussion from our last two board meetings and that CAPT. Bearden will be providing an update.

Modernizing the toilet facilities and sewage disposal act document attached

CAPT. Bearden advised the first part talks about the limitations of the existing law which is 10GCA Chapter 48 “The Toilet Facilities and Sewage Disposal Act” which was enacted by Guam Public Law 17-87. The first limitation that these recommendations address are the three types of toilet facilities that the law considers and is a limited selection for any purpose.

- 1) Toilets flushed with water and connected with a public sewer,
- 2) Toilets flushed with water and connected with a septic tank and leaching system; (which is a very prescriptive limited option) or
- 3) Privy types, including pit privy and trench latrines and bored-hole above (restricted to very limited situations and not really an option for residential use)

CAPT. Bearden added that the law was enacted 36 years ago and there are a lot more options these days so the Guam EPA recommends that an amendment be made to the law (not the regulation) to broaden the definition of what they are calling the Type 2 system. A Type 2 system is a septic tank connected to a “soil absorption system” to include a fairly wide variety of system options that we have taken from the International Private Sewage Disposal Code (IPSDC), which was adopted as part of Guam’s Building Law 2010 but has not been able to be used due to unresolved conflicts with Guam EPA’s laws and regulations. This would become a new revised definition of a type 2 system.

CAPT. Bearden also added that the agency is recommending that the law be updated to add a Type 4 toilet facility, to address problems related to high-density residential development, which would be defined as an advanced, nitrogen-reducing onsite wastewater treatment system holding NSF-245 certification. The certification is a performance specification that requires at least a minimum of 50% removal rate for nitrogen.



Director Hollister inquired if a composting toilet would be an example of a type 4 system. CAPT. Bearden advised that it would actually be considered a Type 2 system under the proposed revision to the law, because the latest version of the International Private Sewage Disposal Code includes, waterless or dry toilet systems which encompasses composting toilets.

Chairman Carbullido noted that the agency is recommending to modernize the law so that the following systems can be permitted 1) holding tanks, 2) advanced systems and 3) advanced nitrogen reducing systems. CAPT. Bearden advised that currently these systems cannot be permitted because of the narrow definition of what a Type 2 system is in the law which is a septic tank connected to a soil absorption system. CAPT. Bearden stated we don't want to add several new toilet facility types under the law, we just want to change the definition of a Type 2 system to be broader which is consistent with the International Private Sewage Disposal Code.

Chairman Carbullido inquired if the agency has to redo the rules and regs should the "type 2" systems get added. CAPT. Bearden advised the rules and regs would need to be redone. He also added that last year the agency worked with Senator Perez's office on draft bills and we came up with a way to do some interim permitting before the regulations are out. This would allow immediate ability to permit at least the "type 4" systems and holding tanks, both of which would allow options for quite a few individual property owners who are currently unable to build their homes. The agency helped Senator Perez come up with some structure that would allow an interim permitting system but that is not covered on the memo provided to the board as it is more of the mechanics of the previously proposed Bill and not the policy piece of it.

Chairman Carbullido inquired if CAPT. Bearden wanted to speak on the nitrogen reducing treatment system. CAPT. Bearden advised that the Type 4 system is one that Guam EPA would want added to the law in order to address the situation concerning high-density residential development. CAPT. Bearden advised these systems have an advance level of treatment that specifically reduce the nitrogen output of the septic system. The purpose for that is to limit the degradation of the groundwater in terms of nitrate. Nitrate is the main chemical we look for as an indicator of sewage in groundwater, and is also regulated under the Safe Drinking Water Act as a contaminant with serious hazards of its own. Nitrate is the chemical we are seeing across Guam that is rising in the groundwater. CAPT. Bearden advised the Adacao area has already exceeded the half-MCL (maximum contaminant level established by USEPA) which triggers additional expense and monitoring for Guam Waterworks Authority (GWA). Capt. Bearden advised this is the purpose of that device and as we go further along in discussion it will become clearer as to why the agency would like to separate the Type 4 nitrogen reducing system out, different from other Type 2 systems.

(CAPT. Bearden presented some slides from the March 2023 Guam EPA board of Directors Meeting which showed schematics/diagrams of these system types and is available upon request)

CAPT. Bearden continued on with the update and advised Guam EPA recommends that enforcement options be expanded to provide for the ability to order water utility service to be shut off and to add administrative, civil, and criminal penalties consistent with other laws which provide enforcement authority to the Agency.

Chairman asked if this is a change to the law or rules and regulations. *(At this time CAPT. Bearden requested to be excused as he had to attend to a personal issue)*. AAG Legal Counsel Kristan Finney chimed in to help answer the question. Ms. Finney advised it would require a change to the law, to change the enforcement options. Chairman asked, if the recommendations is that if there is an issue with the maintenance they can shut off the system. Ms. Finney stated, as she understands, that will minimize the risk to public health and environmental damage. She also added that currently under this particular



chapter there is no option to impose administrative penalties so that would be something that the agency would need to expand its enforcement capabilities. Chairman inquired if this is being done in other jurisdictions. Ms. Finney advised she is not sure but the ability to order the water to be shut off is part of the International Private Sewage Disposal Code as already adopted by Guam.

Director Hollister inquired if it is individual property owners or developers that are being held up and can't build houses because of the existing laws above the aquifer. He also asked, what will we do if someone gets a "type 2" system above the aquifer and is not able to operate or maintain it. Ms. Finney advised that is why it would need to come with changes that would require operating permit and also changes that would allow those additional enforcement options such as being able to order the water to be shut off. These changes would solve those problems from individuals that continue not to comply. Ms. Finney stated that there are still requirements when a developer subdivides property and tries to develop a whole bunch of lots at the same time.

Director Hollister shared something he read which stated one septic tank per 3 acres of property and now we are talking about quarter acre properties and added that Guam EPA currently does not have the manpower to enforce the rules. Director Hollister reiterated CAPT. Bearden's comments on the nitrate levels going up and added that the agency and the board should think long term and make sure the aquifer is going to be good 20yrs from now. Ms. Finney advised individuals are already building on these smaller lots and that is already a problem so having these alternative systems and expanding the enforcement options are very important pieces of the whole overall picture. She also added that right now the agency is so limited on what they can approve because of the narrow definition of a septic system and leaching field.

Director Hollister stated he does not agree with the way that works. Ms. Finney stated it would allow individuals to continue to build on parental subdivided lots if they use these different systems that could remove more of the nitrate.

Director Hollister stated what if people cannot afford to have the holding tanks emptied. After much discussion Ms. Finney advised there seems to be some confusion and that the holding tank is separate and would not be considered a "type 4" systems that would be for the smaller lots. She added that the holding tank comes in to play with lots that cannot have a septic system for whatever reason. Ms. Finney stated there are some situations where a holding tank might be a better solution but only if it was together with a required operating permit which is something that the law contemplates right now and also expanding the enforcement options.

Chairman stated he would like to continue this discussion on Recommendation #4 during our next regular meeting when CAPT. Bearden is present. Director Castro mirrored the recommendation.

New Meeting Date/Adjournment: Next meeting was set for September 21, 2023 at 4pm. Director Castro made a motion to adjourn the meeting and seconded by Vice Chairman Carrara. All in favor, zero (0) opposed, and regular meeting adjourned at 5:00pm.

Arlene Acfalle
Acting Board Secretary



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