



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

**Guam Environmental Protection Agency  
Board of Directors' Regular Meeting  
Thursday, April 21, 2022  
Via Google Meet Platform**

**MINUTES**

- **Call to Order:** Chairman Steven Carbullido called the Board of Director's meeting to order at 4:05 p.m. via the Google meet platform. Roll call was done by Board Secretary, Arlene Acfalle, as follows:

**Board Members:**

Chairman Steven Carbullido	- Present calling from in Tamuning
Vice Chairman Steve Carrara	- Present calling in from Tamuning
Director Steve Hollister	- Present calling in from Agat
Director Dave Duenas	- Not Present
Director Fran Castro	- Present calling in from Ipan, Talofoto
Director Moneka De Oro	- Present calling in from Dededo

*\*Quorum has been established.*

- **Guam EPA Staff:** Walter Leon Guerrero- Administrator, Michelle Lastimoza-Deputy Administrator, Arlene Acfalle, Kristan Finney, CAPT. Brian Bearden, Jesse Cruz, Sabrina Cruz-Sablan, Nic Lee, Roland Gutierrez. Guests: Jesse Chargualaf, Jr., Happy Rons- Administrative Hearing Officer
- **Approval of Agenda:** Director Castro made a motion to approve agenda, seconded by Director Hollister. All voted in favor, zero (0) opposed and motion passed.
- **Approval of April 2022 Minutes:** Director Castro made a motion to approve the minutes, seconded by Director Hollister. All voted in favor, zero (0) opposed and motion passed.
- **Contract Watts vs Guam EPA/ Cast No. 2021-1** (Presented by Administrative Hearing Officer Happy Rons) – AHO Happy Rons advised that she will be presenting two orders in the matter of Contract Watts vs Guam EPA. AHO inquired if Guam EPA's council on the case was present in which Attorney Kristan Finney replied that she was present. AHO also inquired if Contract Watts counsel on the case (Attorney Viscosky) was presented in which there was no reply. The Board Secretary confirmed that Attorney Viscosky was not present. AHO inquired with Ms. Acfalle, if notice of the meeting was sent to Ms. Finney and Atty. John Viscosky. Ms. Acfalle replied yes and that the notice was sent on April 14, 2022 via email. AHO inquired if Ms. Acfalle heard back from

Mr. Visosky, in which Ms. Acfalle advised that she did not receive a response to her email or any notice from Mr. Visosky on his intent if he wanted to participate in today's meeting.

AHO advised the Board that they were provided with two documents: the Stipulation and Order for Dismissal with Prejudice and the Ratification by the Board of her Order of Stipulation and Order for Dismissal. The AHO noted that since Attorney Visosky did not sign the Stipulation and Order for Dismissal and since he is not present today, that the AHO has prepared two new orders because she didn't know how we were going to proceed today and if Atty. Visosky was going to appear or not. The two new orders are nearly identical to the prior orders with the exception of no mention of a stipulation since Atty. Visosky did not sign off on the document and there is no stipulation or agreement on the dismissal. AHO asked Ms. Acfalle to send all the board members electronically the two new orders.

For background information, the AHO advised in the letter that the only issue disputed for hearing or trial was how many days of penalties or fines Contrack Wats would have to pay. The said parties could not reach an agreement until the day of the first hearing on the case. On the case that morning parties advised the AHO that the penalty or fine would be paid in full by Contrack Watts. It subsequently was. AHO advised since that was the only issue in this case being appealed by Contrack Watts, her legal opinion notes that this issue was mooted by Contrack Watts' payment in full of the penalty and fines imposed by Guam EPA. AHO stated that she hereby unilaterally dismissed the matter with prejudice because there is no remaining issue. AHO advised at this time she will sign off on the order that was just emailed to the Board dismissing the case with prejudice. The AHO inquired with each and every board member if they had any questions about the process. There were no questions. The AHO then turned the matter over to the Chairman to conduct the deliberation of her proposed Order of Ratification with or Ratification with prejudice of the Order of Dismissal.

The Chairman advised the board members that they will be signing off on a document and inquired if they have any comments they want to provide to Ms. Happy at this time. Again, no comments were provided by the Board. AHO then asked the Board to make a motion and vote on entry the Order of Ratification for the Order for Dismissal with Prejudice. Director Hollister inquired with Ms. Happy in regards to dismissing with prejudice -- that the agency is not able to bring the case up again. Ms. Happy advised that that is correct and pointed out that it was not Guam EPA who brought this case; it was Contract Watts via an appeal. The Chairman inquired if there was a motion for the Order of Ratification of Order for Dismissal with Prejudice. Vice Chairman Carrara made a motion. It was seconded by Director Castro. The Chairman called for a vote individually. Results as follows:

Director Hollister – In favor  
Director Castro – In favor  
Director Carrara – In favor  
Director De Oro – In favor  
Chairman Carbullido – In favor

All in favor, zero opposed and motion passes. AHO asked that after the Board meeting if each board member could sign off separately on the signature line on the order and send it to the Board Secretary for collection. The Board Secretary would then compile all pages into one final board document which will be sent out to the parties as well as the Board and that will conclude this matter.

- **Administrator's Report:** The Administrator noted that April 22, 2022 is Earth Day.

### ADMINISTRATIVE

#### Personnel:

- Agency continues to review resumes and applications for recruitments for temporary and limited term employees. Since last month the agency has added an office aide and hopes to hire inspectors and EHS's.

#### Budget/Procurement:

- Hearing Officer- Contract for the procurement of a Hearing Officer is under review by the OAG's office (AAG Strader). The amendments he has will make the contract stronger and it will be used for future contracts.

#### Administrator's Trip Report:

- The Administrator was off-island from March 27 – April 9<sup>th</sup>.
  - Hawaii – Attended the Department of Interior's Infrastructure Law workshops. Initially thought that DOI would provide tips and guidance on how the territories could receive or apply for bill money. Instead the different territories proposed projects that may fit the bill.
  - California – Administrator met with emergency response on-scene coordinators from Region 9 as well as Brownfields point of contacts. On-scene coordinator indicated he will be on Guam on June 6<sup>th</sup> to help and assess the Dededo property which is now Guam EPA's property. They will be looking to finish the removal action based on the soil contamination that exists on the site. The on-scene coordinator will also look at the ADV areas that were cleaned up as well as discuss some of the legacy contamination that we've had to include the pipeline renovation area as well as other areas overseen by FUDS, the Army Corps FUDS program and other sites that we have identified.
  - North Carolina- Administrator attended the ECOS conference. Present were representatives from every state. Some of things that were discussed was PFAS, bill funding as well as capacity building to insure that our current employees as well as our new hires are able to train other states on their specific programs.

### POLICY

Agency reviewing the following legislations:

- Bill 252-36- Relative to amending the RRF as introduced by Senator Perez on April 4.
  - Bill 284 seeks to authorize the Administrator to expend 10% of the RRF with greater flexibility on recycling initiatives
  - Requires enhanced reporting requirements for expenditures

- Require board approval prior to proposed fund expenditures
- Adds provisions for community zero waste and recycling initiatives
  - Keeps the MCOG Island-wide environmental cleanup program
  - Keeps recycling Industry Economic Stimulus Program
  - Help develop the zero waste grant program and the GSWA Residential Recycling Program
  - Agency submitted a Fiscal note to BBMR and is preparing comments to provide during the public hearing
- PL 36-7 – Acquisition of the 9.7 acres in Dededo. Administrator advised before we can start the request for proposals for architectural design we need two more things which are in the law.
  - Awaiting confirmation to conduct an endangered species review on the property
  - SHPO (State Historic Preservation Office) requirements.
- Joint Roundtable Hearing
  - Held by the Legislature on April 20
  - Discussed the DoD firing range permits
- Shipping Carrier Incident
  - The carrier has placed a halt on the shipping of HazWaste solids off island since February 2022 due to there is no venue available. The carrier has since then resumed shipping of HazWaste solids as of last week but refuse to continue shipping of HazWaste fluids.
  - There are discussions with another carrier as well as working with multiple US EPA programs and divisions to see how we can rectify the situation.

#### PROGRAMS/ PROJECTS:

- Abandoned Derelict Vessels:
  - Participated in a meeting with Governor and Admiral Nicholson and Sobek on April 19 for an update on the ADV project
  - 10 of 11 ADV's have been removed. The largest and longest vessel is in the process of being cut up and removed. The process was held up due to hazardous waste that has been identified on the vessel. Discussions with another carrier as well as working with multiple programs from US EPA to see how we can rectify this situation
- Beverage Container Recycling Act of 2010
  - There was a meeting with Vice Speaker Barnes on March 18
  - The Agency's position is that the program needs to receive start-up funding and participation from DoD for implementation
- IECF MOA
  - \$850,000 has been transferred to the MCOG account. Clean-up is ongoing
  - \$172,688 invoices have been processed

- 449 Abandoned Vehicles have been removed
  - 82 white goods have been removed
  - To help facilitate this process Sabrina has taken over the responsibility of submitting the invoices from MCOG directly to DOA to ensure payment of these invoices
  - The MCOG submitted a letter today, requesting for the release of the remaining balance. As this was not on the published agenda for discussion, per Guam Law, GEPA's attorney has stated that this will need to be discussed at the next board meeting
  - Agency to submit its budget request to the Board for next fiscal year for the IECF as well as the stimulus program
- Guam 2022-2023 Clean Water and Safe Drinking Water Construction Grant Projects Priority List Public Hearing – April 14
    - Brian noted that he will be presenting to the board the Project Priority List and Project Priority Ranking Method for needed infrastructure improvements to wastewater systems and public water systems as provided by federal grants to territories through USEPA.
    - The public comment period on this List closed on April 20. The next step is for the board to deliberate the List.
- Earth Month Proclamation Signing
    - A proclamation signing is scheduled for April 22
    - Agency clean up scheduled for Friday, April 29

The Chairman advised that the RRF Funding proposal for next fiscal year will be on an upcoming agenda and asked if the board can receive a report on how the funds were spent for the prior fiscal year. The Administrator advised that he is not able to provide a complete report due to MCOG not completing the close out for FY21. Once we receive the close-out report we can provide it to the Board. The Chairman requested for the Administrator to provide prior years' (2019/2020) numbers or preliminary draft numbers for FY2021 for the board to review if he cannot provide final FY21 numbers. The Administrator agreed to this.

It was noted that for future meetings, when time allows, the Divisions or Programs will be providing their report or a presentation to the board on what each division is tackling.

#### ➤ Notices of Violation

- Primo's Heavy Equipment – Hearing Officer contract under review by the AG's office.
- Samsung – Hearing Officer contract under review by the AG's office.
- JJ Pacific Development–Guam EPA to follow up with violator. Penalty assessed of \$125,000 which was not appealed. Part of the order was to go and investigate the site to get a wetland determination. Determination was made that the site is not a wetland so the next step is to follow up and get them to pay the penalty and move forward with what they want to do on their lot after the penalty is paid.
- Lin's Hardware – Guam EPA to follow up and verify if uncertified products are still being sold.

- Guam EPA plans to issue a new order under the new current safe drinking water laws
- GPPC, Inc. – Crown Plaza project. NOV has been resolved and Guam EPA to calculate the penalty and communicate with the violator
  - Upper Tumon Property – Stop work order was issued. Customer needed to apply for a permit and advised to clean up the solid waste and install erosion controls. Re-inspection was done after original complaint and stated the trash was still on site and violator moved mobile homes or RV's with people living in them. Agency staff met with violator and explained that he did not follow the original order. Guam EPA is in the process of finalizing the inspection reports and moving forward with a penalty order.
  - Old Royal Palm Garage update – No change in status. No permit has been submitted for demolition and clean up from new owner(s).
  - Verona -- No change in status. Still no communication with Mr. Su as he is still off-island but someone is slowly cleaning up the area.
  - Cardona – Glenn updated that Mr. Cardona has been removing junk vehicles and metal debris that was noted in the NOV. Pending penalty negotiations.
  - UMS Hardfill Facility in Mangilao (SWMP) – NOV issued and no notice of appeal was received. SW program working on penalty assessment.

Director Hollister clarified with Brian on an earlier statement regarding the JJ Pacific NOV if the agency requires the violator to hire an approved wetland delineator. Brian advised he is not sure if the agency has a list of approved delineators but the agency knows who is approved and the violator hired one of the firms that the agency approves to do the work. Director Hollister also inquired if this was done during the dry season. Brian advised the delineation was done during the wet season. Brian added there is a lot that goes into a wetland determination and you don't necessarily have to be out there during the wet season to determine that. Jesse noted that there are three criteria's which are present standing water, the soils identification, the hydric soils and vegetation. So to delineate property for weather and you only need two of the three and it doesn't really have to be done during the wet season because the other characteristics would still be present regardless of the time of the year.

- **New Meeting Date/ Adjournment:** Next meeting was set for May 19, 2022 at 4pm via Google meet platform. Director Hollister made a motion to adjourn meeting and seconded by Director De Oro. All voted in favor, zero opposed, and regular meeting adjourned at 5:05 p.m.

  
Arlene Actalle  
Board Secretary