



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, August 5, 2021
Via Google Meet Platform**

MINUTES

- **Call to Order:** Chairman Steven Carbullido called the Board of Director's meeting to order at 4:04 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 Tamuning
Director Flori Sanchez – Present calling in from Tamuning
Director Steve Carrara – Present calling from Tamuning
Director Steve Hollister – Present calling from Agat
Director Moneka De Oro – Present calling in from Talofoto
Director Dave Duenas – Not present
Director Director Fran Castro – Present calling in from Ipan, Talofoto
**Quorum has been established.*

Guam EPA Staff: Walter Leon Guerrero-Administrator, Arlene Acfalle, Connie Afjelle, Brian Bearden, Nic Rupley, Jesse Cruz, Kristan Finney, Roland Gutierrez, Sabrina Cruz-Sablan, Margaret Aguilar, and Serena Manibusan

General Public: Jason Salas, Tyler Matanane, Sabrina Matanane, Law Office of Civile & Tang, Gerry Partido

- **Approval of Agenda:** Director De Oro made a motion to approve agenda, seconded by Director Castro. All voted in favor, zero (0) opposed and motion passed.
- **Approval of Minutes:** Director Hollister made a motion to approve the minutes seconded by Director Carrara. All voted in favor, zero (0) opposed and motion passed.
- Proposal to utilize officially adopted map of Groundwater Protection Zone (GPZ) for determination of minimum lot sizes over the Northern Guam Lens Aquifer by Department of Land Management – Clarification discussion with Dr. John Jenson of WERI using PowerPoint slide from Brian. Dr. Jenson interpreted that the 1986 GPZ map is the official version of the 1982 map. Brian also concurred. Brian also added that the 1986 GPZ map was adopted by Dept. of Land Management. Director Castro asked if there are any updated maps. Dr. Jenson advised he has not seen any updates. Dr. Jenson stated there is no basis for using the

1978 designation map and that the only map that makes any sense would be the 1986 map. Director Hollister inquired on what aspects we would need to worry about. Dr. Jenson advised that John Mink didn't do the map wrong, he just did the best he could with what he got. So to do a rigorous approach to ground water protection, there are things that may need to be considered such as where the water is, the economic factors on how valuable the water is and the cost to protect it. Dr. Jenson also added there is no perfect model to say this is how you do groundwater protection program for the island's aquifer. The quality of water and the land use are other thing to consider as well stated Dr. Jenson. Efforts are under way by WERI to update the map but could take a couple of years. Dr. Jenson stated there a few things the board or policy makers would need to consider. First would be what criteria would the protection be on and what is the objective in protecting the aquifer.

Chairman asked Brian to summarize what we have been discussing in prior board meetings regarding determining lot sizes over the aquifer. Brian advised that the conversation at hand is to advise the DLM what map to use for the parceling of lots above the aquifer. **A copy of PowerPoint can be provided upon request**

Dr. Jenson advised that the current map that is being used does not have ground water protection instead it is the whole aquifer. He mentioned there is no need to protect all of northern Guam. Director Castro chimed in and stated that based on the explanation from Brian and Dr. Jenson it seems that the 1986 map should be the preferred map. Dr. Jenson stated the 1986 map is the best we got and determined that we should use it for now.

Director Hollister imposed a question to Dr. Jenson asking if the zones in questions merge with each other. Will one zone infiltrate another zone and endanger the other zone? Dr. Jenson stated that is a good point and yes it can affect other zones, in regards to upstream and downstream.

➤ Hearing officer role - Chairman updated that we have several NOV's listed on our minutes and our email correspondence with our Hearing Officer she has noted there are several avenues the Board can take in regards to the Administration Adjudication Laws. This is just an introduction to decide what route the Board prefers to go.

○ **Active NOV's:-**

- ❖ Contrack Watts – Chairman updated that there is a pre-hearing conference with the Hearing Counsel and both counsels this month. Confirmed by Board Secretary.
- ❖ Lin's Hardware – No change in status
- ❖ Su & Zheng Corp – Status quo - GEPA needs to close as they fully complied
- ❖ Feiyang Construction & Engineering – No change in status
- ❖ Piti failed septic system – GEPA needs to close out as they fully complied.
- ❖ Dusit Thani – No change in status
- ❖ Sand Castle – Status quo – No change in status
- ❖ JJ Pacific Dev & Primos Heavy Equipment – Brian advised "Stop Work" order was issued and they did not comply therefore a NOV was issued. Board Secretary advised we are waiting on solicitors' office (OAG) to assign a Hearing Officer for this case. Director De Oro inquired if there is a stop work order in place, can Primos still continue working or do they need to be in compliance to continue working. Brian advised they are not able to continue working until they receive a permit. In the

process the agency discovered that there is a wetland on the property they possibly filled. We have asked them to go out and delineate the site and a 90day extension was granted to JJ Pacific Dev to get that process completed. We also requested for them to obtain their USEPA construction general permit coverage and that includes the US Fish and Wildlife review process.

- ❖ GPPC, Inc. – Brian advised GPPC fully complied. Penalty order is being evaluated.
- ❖ Old Royal Palm Garage update – Administrator updated that the area has been fenced off. The front side has been cleared, but the inside and the backside still has debris. Again, this a proposed site of a new hotel under a new property owner.
- ❖ Verona – No change in status

➤ **Administrator's Report:**

- **RRF, MCOG Program update** – Administrator provided update. As of July 13, 2021
 - ❖ \$476,610.25 totaling 309 invoices has been spent
 - ❖ 5648 tires
 - ❖ 869 abandoned vehicles
 - ❖ 933 white goods
 - ❖ 247.52 Cubic yard metals

Clean up is still ongoing but we have not received any invoices as of July 13, 2021. Sabrina is also working on the next MOU which has been approved for \$900K by the Board.

➤ **Air Pollution: Findings of Failure to submit State Implementation Plan (SIP) update:**

Roland updated that GPA and USEPA are renegotiating the consent decree because the permit team that runs the SIP and the enforcement team that does the consent decree have finally agreed that they are going to move the dates. So the dates for the SIP will coincide with the dates for GPA consent decree. Last week the PUC approve the dates that was proposed and agreed upon by USEPA and GPA. Once USEPA finalizes the consent decree they will give us the new SIP dates. It looks like it will be moved from 2022 to 2023 – 2024. Chairman Carbullido inquired on the emissions inventory. Roland advised we have not received any emissions inventory. The contractor is still working on it, but will follow up on status this week. Roland also advised that he and Kristan have a meeting on August 13th with USEPA to discuss how they want to approve the new promulgated rules.

Chairman gave the floor back to Administrator to finish off the Administrator's report. Administrator wanted to provide an update on the Soil Erosion Issue at Marbo Case and the NOV that was issued to Samsung. Administrator requested that Brian give an update on this site. Brian updated that the agency did a site inspection on July 23rd in a response to a complaint that we received through social media. Upon inspection the agency found that there were no ponds installed which were supposed to have been done based on the plan design. Inspectors also noticed that there was significant site runoff to a private property and another runoff to the Marbo Cave area which was heavily damaged from the sediment. A Notice of Violation and Penalty order was immediately prepared and issued on July 29th. The agency cited them for five counts of violations over a period of 368 days. Total penalty would have been a total of \$18.4 million however the agency is capped at what we can collect, by the Guam Soil Erosion Sediment control regulations. The order provided to Samsung required them to install interim measures to stop the flow of runoff off the site until they can complete the permanent ponds. This was to be done over a 7day period. An inspection was done after the 7days and it looks like

interim measures are in place. The order also requires them to complete the final construction of the permanent ponds within 30 days. The agency also gave them 14 days to complete a number of items to include the construction of some overflow spill ways. They must also complete the stabilization of the site soils and vegetation, which was a requirement of their permit. During yesterday, August 4th, inspection they were spreading seeds along the site. A bigger problem exists as they washed the soil off a large percentage of their site. So now they have to figure out how to bring soil in and stabilize it on site. The agency was not aware that the affected properties were owned by private owners so we need to coordinate with the property owners. Administrator chimed in and advised he and DPW Director Arriola are meeting with the property owners tomorrow, August 6th to get his confirmation on what the government can do on his property.

Brian continued on with staffing shortage and workload of the Water Division. Administrator chimed in and mirrored Brian's statement. Administrator also advised we had an Inspector opening and we only received one (1) applicant.

Director Castro thanked Brian and the Administrator for the updates. Director Castro along with Director De Oro offered assistance in recruitment for staffing and commended the agency for their hard work. Director De Oro also brought up the Toka App and Administrator updated he is working with Director Castro to get Guam EPA on the Toka app. Director Castro explained that the Toka App is an app that is used to report environmental crimes that Sea Grant had supported on Dept. of Agriculture with their hotline 864-TOKA and they decided to do an extension of that. This app is not just for Agriculture it's a government app and is hosted by the Office of Technology and the Governor's office.

Director Hollister inquired on where the soil went and also where did the green waste go as well. Brian advised the green waste is still on stockpiled on site. He deferred to Jesse in regards to where the soil went as his team (EMAS) did the actual inspection of the Marbo cave area.

Jesse updated his team inspected from the entrance of Marbo Cave to the fence line of the project. The sediment covered most of the jungle area. Upon observation of the shore line there were no evidence of sediment at the shoreline. It looked like it all went into Marbo Cave.

Chairman asked if Director Castro would like to further explain the Toka App. Director Castro explained that the Toka App is an app that is used to report environmental crimes that Sea Grant had supported on Dept. of Agriculture with their hotline 864-TOKA and they decided to do an extension of that. This app is not just for Agriculture it's a government app and is hosted by the Office of Technology and the Governor's office.

Director De Oro provided info in regards to Samsung, which is a subsidiary of Kepco. She advised Kepco is the company in charge of the management of Cabras, when Cabras blow up. Director De Oro inquired what are the considerations made to repeat violators when we issue permits. Administrator chimed in stating our investigations are not done yet. Brian advised we have criteria to determine how much of a fine to issue. In order to determine that we have an internal matrix to compute the fine. Director De Oro inquired if the fines are only financial fines or are there criminal offense.

Director Castro inquired on how much local funds are received for the Water program. Administrator advised its not really a local fund, our fees for clearing and grading falls into a

special fund. Speaker Terlaje and Senator Perez wrote a bill to remove the CAP and should be introduced shortly.

Chairman advised that on the next meeting he would like to vote on a Vice Chair.

- **New Meeting Date/ Adjournment:** Next meeting was set for September 2, 2021 at 4pm via Google meet platform. *Director Castro* made motion to adjourn meeting and seconded by *Director Hollister*. All voted in favor, zero opposed, and regular meeting adjourned at 5:50p.m.


Arlene Acfalle
Board Secretary