



AHENSIAN PRUTEKSION LINA'LA GUÁHAN
LOURDES A. LEON GUERRERO, GOVERNOR OF GUAM • JOSHUA F. TENORIO, LIEUTENANT GOVERNOR OF GUAM
WALTER S. LEON GUERRERO, ADMINISTRATOR

**Guam Environmental Protection Agency
Virtual Board of Director's Meeting
Thursday, January 21, 2021
Via Google meet platform**

MINUTES

- I. **Call to Order:** Chairman Robert Perron called the Board of Director's meeting to order at 4:07 p.m. The following individuals were present during the virtual board meeting via Google meet **Board Members:** Robert Perron-*Chairman*, Florida Sanchez, Ann Roth-*Vice Chairwoman*, Steve Hollister, Steven Carbullido, Steve Carrera, Nick Pape and Nonito Blas **Guam EPA Staff:** Walter Leon Guerrero- Administrator, Arlene Acfalle Conchita Taitano, Connie Afleje, Vince Pereira, Brian Bearden, Sabrina Sablan, Michael O'Mallan, Jesse Cruz, Nic Lee, Glenn San Nicolas, Roland Gutierrez **General Public:** Tom Hertslett, PDN, Anumita Kauer, F. Castro, and Heidee Eugenio
- II. **Approval of Agenda:** Director Carbullido made a motion to approve agenda, second by Vice Chairwoman Roth. All in favor, zero (0) opposed and motion passed.
- III. **Approval of Minutes:** Director Pape asked to clarify with Brian under water division NOV's, what does "something" mean. Clarified with Brian something means "their plan of action". Vice Chairwoman Roth made a motion to approve agenda with clarification, second by Director Carbullido. All voted in favor, zero (0) opposed and motion passed.
- IV. **Administrator's Report:** Administrator started off his report with the Safe Drinking Water (SDW) regulations were approved and the main emphasis is the primacy Guam EPA maintains for the safe drinking water. Another big thing for Guam EPA is the permit process. One of the things we included in the safe drinking water regs was the elimination of having to conduct lead water samples for occupancy. This process can still be done, but it can also be replaced with the contractor's submitting proof that the fixtures meet the non-lead compliance either through USEPA approval or industry approval. We will be discussing later on the agenda the Plastic Bag Ban and the UST Rules & Regs. As you all know there is a new legislature, a new group of Senators, and there has been a request that we resubmit the UST Rules & Regs so that the new senators have the opportunity to comment on the regulations. We are seeking legal opinion because there is a clause that if it has been 45day in the legislature it automatically passes to law. We will further update the Board once we receive the legal opinion from the AG's office. Administrator also advised there is much more to discuss on the RRF and the UOG discussions. Administrator advised he met with the new Guam Solid Waste Authority Deputy General Manager, Mr. Pedro Leon Guerrero. Together they did a site visit at Layon and another site visit at Ordot Landfill.
- V. **Old Business:**
 - **Water Division Active NOV's update**
 - ❖ **Safe Drinking Water NOV's (Lin's Hardware, Su & Zheng Corp and Fejang Construction & Engineering)**
 - All NOV's will be closed out except for one. One of the companies are still not in compliance and with the passage of our new SDW Act and the Lead provisions would allow us to take much more aggressive action. We will go back and redo that with a new NOV to bring them back into compliance.

- ❖ **Smithbridge, Piti failed septic system and Contract Watts**
 - Meetings were held with the Administrator and Kristan in regards to these NOV's, however the contents of the meeting should not be disclosed at this time.
- ❖ **Dusit Thani**
 - A plan was submitted on how they were going to disburse the storm water in the back of their facility when it comes down to the beach. The plan states they will leave their main roof drain valve closed and divert it to their storage tanks. A final inspection will need to be done and should be scheduled within the next month.
- ❖ **Sand Castle**
 - The Sandcastle submitted their plan to connect to the storm sewer directly in front of their facility. At that time DPW has some reservations in making that connection. In the interim, while things were shut down for Covid there was a project that went underway to try and clean out the storm drain however, it was not completed. Also, the DPW Chief Engineer had left (resigned) so a follow up needs to be done with DPW to verify the status.
- **Solid Waste Management Program Active NOV's**
 - ❖ **Verona and Old Royal Palm Garage**
 - Glenn reports we had to go to DRT property tax section and we were able to obtain another address for the new owners. The last address that was provided by DLM (Land Management) was an address in the Virgin Islands. A letter will be sent to the new address via certified mail. *****At this point, Glenn's connection was distorted and I was not able to make out the conversation***** The Administrator chimed in and stated our legal counsel will seek the AG's opinion on what needs to be done and what we are we able to do with our authority in seeking a response or fees we may issue.
- **Air Pollution Control NOV**
 - ❖ **Korando**
 - Roland advised he conducted a compliance evaluation inspection last week and they have implemented all dust control measure. They now have a 4000 and a 1500-gallon water tank. They've run water lines around the whole facility and they also procured a 2500-gallon water truck. They've also installed at 60psi so they can also push water around the whole facility. The only thing they have not completed is the permit for the rock crusher but they have installed water to the rock crusher which was never installed before so they can institute the emission control measure in the rock crusher. They were working on getting the permit, or proving to us that the rock crusher is an insignificant source. The agency put a letter together for compliance on everything except for the rock crusher. A letter was prepared and is routing through our agency and when signed by the Administrator then they will be back to compliance and resume operation with everything except the rock crusher.
- **Underground Storage Tank Rules & Regulations update:** Vince advised that a letter was sent to Walter to initiate or obtain an opinion from the AG's office. Administrator clarified that the letter was received yesterday and we will be seeking the AG's and possibly the Legislature's legal opinion if it has become law. It was a request of the Speaker of the Legislature and our oversight chair to resubmit the UST Rules & Regs to give the new senators a chance to review and comment.
- **Air Pollution: Findings of Failure to submit State Implementation Plan (SIP) update (for Attainment of the 2010 1-hour Primary Sulfur Dioxide (SO₂) National Quality Air Quality update – ***Please see paragraph toward the end of minutes, due to Roland chimed in late*****
- **Performance Evaluation review for Board Secretary –** Chairman advised this has been signed and completed. Administrator concurred.
- **MCOG (RRF PL35-99) / MOU Update:** Sabrina advised that the Governor signed the last week on January 12, 2021. The funds of \$500K, according to our ASO, has already been deposited in the MCOG account by DOA. A data orientation meeting was conducted with the mayor's and their administrative assistants. On January 19th the data orientation was completed with the recyclers. So as far as the clean up project, we should be moving forward. The MCOG will start releasing the purchase orders for the first phase, which is tires and abandoned vehicles, during the week of January 25, 2021. Administrator advised that in addition to the \$500K given to the MCOG he also has a meeting with UOG to discuss the G3 and the expenditure of their \$500K. Dr Shelton reiterated that he submitted the letter to give the budget to our agency and its board. One of their inquiries is if they can hire staff on a 2yr limited

term basis. Per the Administrator, we don't have an answer on that yet. Mr. Chairman inquired if Kristan will be giving her legal opinion on the matter. Administrator advised we are seeking the legal opinion of the AG's office, Legislature and also UOG.

Before moving to new business, Director Carbullido had asked if we closed out the books for FY2020 with the MCOG. Sabrina advised that we have not. Reminders were sent to MCOG Director, Angel Sablan. Director Sablan advised that their ASO is still working on it. Sabrina advises she can send another reminder via email. She also asked how would the board like to proceed with this issue. Should we prepare a letter signed by the Board or the Administrator. She reminded the Board that the MCOG has missed all the deadlines that they have committed to and of the MOA it states that the MCOG will have FY20 closed out by December 15th, 2020 but this has not been completed. Administrator stated that he didn't want any movement of funds until everything was rectified but if the money has not been spent then it will go back into the RRF. Administrator also stated this will be a good way to proceed with the approval from the Board. Director Roth recommends to send either an email or a letter giving them a week or until the end of January to complete close out. Chairman inquired if Director Roth was referring to the \$500K that was transferred to be returned. Director Roth clarified not the \$500K from FY21 but the unused funds from FY20. Sabrina advised it was roughly around \$60K that should be returned to the RRF. Director Roth advised the Administrator can sign the letter giving the MCOG till the end of January 2021. Sabrina will prepare the letter for the Administrator's review and signature.

Chairman asked if the Board would mind giving a few minutes for a member of the general public to speak in reference to the RRF. Mr. Tom Hertslett advised the Board that he assisted an individual in Mangilao by picking up their used tires during the pandemic. He advised that the Mangilao Mayor advised him that they will not be able to take the tires due to they did not have money (from the RRF). He stated he could not get assistance from Mangilao Mayor or GEPA. He eventually took the tires to Mr. Rubbishman under the same pricing that the Government would pay the mayors. Mr. Tom inquired with the MCOG if he can get reimbursed for his out-of-pocket expense to discard of the used tires. Mr. Tom stated, Mr. Angel Sablan reached out to Sabrina who stated that under no circumstances can that be done. Chairman inquired with the Administrator if there is any mechanism in the system for this situation. Administrator stated he is not aware if there is anything specific that will allow a private citizen to provide receipts to the Mayors office for reimbursement. We would have to verify with legal counsel. Administrator apologized to Mr. Tom that during that time we were operating on appointment only due to the pandemic. Sabrina chimed in and stated that the law is clear and the Mayors are to contract with permitted companies. During the time Mr. Tom collected the tires there were no purchases order available. She also advised Mr. Tom that Guam EPA will not be able to reimburse him for his expense. Conchita also chimed in to advise Mr. Tom that Guam EPA has to work within the confine of the law.

Director Roth has a question on the RRF financials. Under budget it has six items to include the \$500K to UOG. She reminded the board that the \$500K to UOG is not on our budget. Director Carbullido asked if the \$500K came out of the \$5.69million. Connie agreed with Director Roth. The amount of \$500K appropriated to UOG did not come out of our budget. Director Carbullido requested to have the spreadsheet updated to include all items allocated from the RRF and have a separate line item for the \$500K appropriated to UOG. Director Roth also wanted to state that the \$500K for UOG does not get returned to the RRF if not spent. Connie concurred.

VI. New Business

- Discussion of the Board of Directors stipend – Administrator reiterated that by law, the board of directors are allowed a stipend of \$50 (per attendance). However, in the past the board of directors signed a waiver to not receive such stipend. Over the last year or so, there have been a couple of requests by several board members to receive such stipend, which won't be an issue. We will work individually with those board members who wish to avail of the stipend and to explain the requirement in order for payment to be processed. We will also be working to calculate the stipend based on the initial date of their request.
- Discussion of the Plastic Bag Ban Initiative – Administrator advised that on January 1, 2021 we were required to start the enforcement of the PL35-130 (Plastic Bag Ban). Since then, Glenn SN, SW Manager, conducted a presentation for IBTF (Island Beautification Task Force). He has also been working on the gray areas with our permitted definition that were not in the law like we hoped they were. Administrator offered the board if they would like to hear the

presentation or receive it via email. The definitions that Glenn is working on is listed as well.

The proposed Guam EPA policy on the disposable bags were provided in the board packet

Glenn advised if there are any questions on the proposed Guam EPA policy for disposable bags, compostable paper biodegradable HDPE#2 he will be able to answer any questions. Vice Chairman Roth asked clarification on the limit of definitions where it states "GEPA recognizes exceptions to the ban if disposable". She wanted clarification what the exception was. Glenn advised the exception to the ban on the disposables list there are 11 items that are not considered plastic bags for the definition of the law. Those are exempt from it and is a large exemption. There are also other exemptions to the law in regards to the clarification of businesses. As per the law, they identified businesses and for those businesses based on Chapter 70 of Title 11 (small businesses) they exclude US Governments, and Government of Guam from those definitions. As an example, at the commissary or exchange continue to use the carry out bags, which they are currently using recyclable HDPE#2 bags which is in line, but they are actually exempt. The definition of disposable bags that are exempt are for like fruits and vegetables.

****Administrator chimed in; however, recording was not clear**** Glenn advised based on the PL35-130 that was recently passed, that becomes effective in December 2021 and the bags that we identify as disposable bags that are authorized such as compostable, biodegradable, HDPE those things in December will be banned from its use. Going into January, we are looking at continued use of paper bags and the ban on paper bags to go into effect on July of 2022 with the exception of facilities or establishments that are eating and drinking establishments, defined by the law. If an establishment has a sanitary permit attached to it, it will be exempt from the paper bag use. Otherwise come December the biodegradable, compostable and HDPE will be banned. This law was written in such a short time compared to different states. Director Roth advised Glenn his pitch (presentation) was not clear. ****Server in the GEPA office went down for a few minutes and lost recording during the conversation from Glenn and the Administrator. Recording came back on when the Administrator stated seeking board approval****

Director Carbullido asked the Administrator if the new law was passed in December. Administrator confirmed it was and stated, Glenn said we were caught off guard and there were discussions that we would work on definitions before it was passed to law and due to certain timelines, unfortunately it wasn't followed through that way, and that is why we had to work on identifying definitions that we believe is intended. Administrator advised we would like to move forward and if the Board of Directors could take a look and provide comments. If the Board agrees hopefully, they can vote and make this our policy that we are enforcing stated the Administrator. We've started the discussions with UOG to assist Guam EPA with outreach before we start knocking on doors and enforcing the policy. Chairman recommended the Board members take the proposed GEPA policy home and go over it. If the Board has any questions, we can go over it on the next board meeting in great detail and make any changes. From there we can vote on it advised the Chairman. Director Carbullido asked if the law can be sent to the Board for their reference and review as well.

Roland chimed in last minute asking the board if they have further questions for him as he logged off for a little bit. Chairman asked if there were any updates on the SIP agenda item under old business – Roland advised he received the updated modeling protocol yesterday from GPA. He will send it to USEPA for review. Roland also advised we are working on inventory that was not done (physically) due to the pandemic. Starting next week APC division will be going out on the field to verify every emission source that is stationary within 3.5 miles of the power plant. After that is completed, we need to work with USEPA on doing calculations to determine if it will have effect on emissions for SO₂ in the area or not. From there we will prepare package on the SIP information including a few amendments to the regulations that we need to put in for board review. Once that is done, we will prepare final package for final board approval, then off to the Governor and Legislature.

- VII. New Meeting Date/ Adjournment:** Next meeting was set for February 18, 2021 at 4pm via Google meet platform. *Director Carbullido* made motion to adjourn meeting and seconded by *Director Carrera*. All voted in favor, zero opposed, and regular meeting adjourned at 5:20 p.m.


Arlene S Acfalle
Board Secretary