



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

OCT 31 2025

Tutuhan Holdings, Guam LLC
PO Box 9578
Tamuning, Guam 96913

RE: NOV/OC No. WPC 26-001 Ref. No. GEPA 22-0173 (B18001053)

Håfa Ådai Mr. William D. Beery,

This Notice of Violation and Order of Compliance (NOV/OC) No. WPC 25-001 is issued to you, Tutuhan Holdings, Guam LLC (herein referred to as Respondent), for violations of the Guam Water Pollution Control Act, 10 GCA Chapter 47, Guam Water Quality Standards, 22 GAR Chapter 5, and Guam Soil Erosion and Sediment Control Regulations, 22 GAR Chapter 10, found on Lot No. L2056 (Palisades Estates), located in Tiyan, Guam.

The Guam Environmental Protection Agency (Guam EPA) is responsible for implementing and enforcing the Guam Water Pollution Control Act, the Guam Water Quality Standards, and the Guam Soil Erosion and Sediment Control Regulations.

As described herein, the Guam EPA finds that the Respondent has violated the Guam Water Pollution Control Act, Guam Water Quality Standards, and Guam Soil Erosion and Sediment Control Regulations, and is ordered to undertake remedial action(s) and pay a penalty as stated herein.

Background and Summary

On August 22, 2025, the Guam EPA Water Pollution Control Program received reports of sediment plumes in East Hagåtña Bay related to stormwater discharge from the Palisades Estates subdivision project site, operated by Respondent under Department of Public Works Permit # B18001053 and Guam EPA Permit # GEPA 22-0173. Guam EPA staff conducted a site inspection and met with the Respondent's representatives, including contractors and consultants, on the same day.

During the site inspection, Guam EPA discovered that all but one of the sedimentation basins required under the project's approved Erosion and Pollution Prevention (EPP) Plan had been filled in, leaving only one undersized basin containing sediment-laden water. Respondent indicated that



GUAM EPA | 17-3304 Mariner Avenue Tiyan Barrigada, Guam 96913-1617 | Tel: (671) 588.4751 | Fax: (671) 588.4531 | epa.guam.go
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the basins were filled because most of the house pads in the subdivision had been completed and were being prepared for sale. These modifications were made without Guam EPA review or approval, as required under the project's construction permit and EPP Plan conditions.

Guam EPA issued a verbal compliance order requiring immediate temporary measures, including enlarging the remaining pond and installing sandbag barriers and sealed catch basins to prevent discharges into the Municipal Separate Storm Sewer System (MS4).

On October 15, 2025, after a rainfall event comparable to a 10-year storm, a landslide occurred along Route 1 just below the project site. Inspection revealed that the remaining sedimentation pond was filled to capacity and overflowed, with no measures in place to prevent overflow or ensure safe discharge. Evidence indicated uncontrolled runoff toward the cliff line, causing slope instability, rocks and soil to spill onto Marine Corps Drive, and sediment to enter East Hagåtña Bay. Guam EPA issued a Stop Work Order requiring immediate actions to stop further runoff and stabilize the site.

A follow-up meeting on October 16, 2025, confirmed that the existing MS4 system remained intact and operable. Both DPW and Guam EPA concluded that the landslide was caused by a combination of extreme rainfall, uncontrolled overland flow from development, and lack of proper stormwater management controls.

On October 27, Guam EPA reviewed the proposed mitigation plan, which included installing new check dams, reconfiguring ponds, and reconnecting to the MS4 for controlled overflow. Guam EPA confirmed that the corrective actions required under the Stop Work Order were completed by October 28, 2025, and that the Stop Work Order was lifted at that time.

Notice of Violations

Based on the facts outlined above, Guam EPA has determined that Respondent violated several provisions of the Guam Water Pollution Control Act, Guam Water Quality Standards, and the Guam Soil Erosion and Sediment Control Regulations by failing to properly maintain control measures and discharging sediment-laden stormwater from the Palisades Estates project site, as follows:

- 1. Respondent's permit included conditions consistent with 22 GAR §10104(d)(2)(C) that allows permit conditions to include "requirements for retaining walls or other earth retention structures to prevent loss of, support to, erosion of, and interference with natural drainage patterns on adjacent properties."**

- Respondent failed to maintain or construct adequate earth retention and drainage control structures at the Palisades Estates project site. The failure to maintain



effective retention measures contributed to the loss of slope support and deposition of sediment onto adjacent properties and into East Hagåtña Bay, in violation of 22 GAR §10104(d)(2)(C) and the conditions of the permit issued under this section.

2. **“All earth-moving activities on Guam shall be conducted in such a way as to prevent accelerated erosion and the resulting sedimentation. To accomplish this all persons engaged in earth-moving activities shall design, implement, and maintain erosion and sediment control measures which effectively prevent accelerated erosion and sedimentation. These erosion and sediment measures must be as set forth in Erosion and Sediment Control Plans submitted, reviewed and approved by GEPA.” 22 GAR §10105(a)(1).**

➤ Respondent failed to maintain and implement effective erosion and sediment control measures at the Palisades Estates project site. Specifically, the Respondent filled in all but one of the sedimentation basins required under the approved EPP Plan, leaving the remaining basin undersized and incapable of handling stormwater runoff, without implementing overflow or safe discharge provisions. Accelerated erosion, uncontrolled sedimentation, and discharge into East Hagåtña Bay and the adjacent roadway occurred as a result, in violation of 22 GAR §10105(a)(1).

3. **“All earth-moving operations on Guam shall be conducted in a manner that prevents accelerated land erosion, transportation of sediment to and along highways, or siltation of rivers, estuaries and marine waters.” 22 GAR § 10106(a)(1).**

➤ **The Respondent failed to design, implement, and maintain effective erosion and sediment control practices** to prevent accelerated land erosion and the offsite transport of sediment. The lack of stabilized disturbed areas, inadequate containment systems, and failure to anticipate stormwater volumes contributed directly to the discharge of sediment onto highways and into coastal waters.

➤ During the October 15, 2025, rainfall event, uncontrolled runoff from the Palisades Estates project site resulted in sediment-laden water traveling overland toward the cliff line adjacent to Route 1 and into East Hagåtña Bay. The overflow from the undersized sedimentation basin, combined with insufficient erosion and sediment control measures, caused approximately 750 cubic yards of debris to be deposited on the roadway and approximately one acre of sedimentation and siltation impacts to marine waters, in violation of 22 GAR §10106(a)(1).



4. **“The area affected by earth-moving operations shall be kept to a minimum by either selective clearing, increment phases of development or other effective means....” 22 GAR § 10106(a)(2).**

- **The Respondent failed to minimize the area affected by earth-moving operations** through effective means such as phased development, selective clearing, or maintenance of approved control structures. These omissions directly contributed to increased erosion risk, sediment transport, and environmental degradation.
- Sediment basins at the project site, required under the approved EPP Plan, had been filled in, leaving only one undersized basin to manage stormwater for the entire site. These actions expanded the area of exposed, unstable soil and eliminated key erosion-control structures without prior approval. By removing approved erosion control features and failing to phase site work appropriately, Respondent violated 22 GAR §10106(a)(2).

5. **“All earth-moving operations shall be scheduled during periods of expected low rainfall.” 22 GAR § 10106(a)(3).**

- **The Respondent failed to schedule earth-moving operations during periods of expected low rainfall**, as required under the approved EPP Plan and Guam’s erosion control regulations. No adjustments were made to the construction schedule or site controls despite forecast precipitation and observed sediment containment deficiencies. This lack of proactive planning and failure to revise the EPP Plan in response to seasonal rainfall patterns directly contributed to environmental impacts.
- Site conditions observed in August 2025 and again in October 2025 indicate that substantial earth-moving and grading activities were occurring during the peak rainy season without adequate stormwater controls in place to manage runoff during anticipated wet-weather conditions in violation of 22 GAR §10106(a)(3).

6. **“Any earth-moving operations authorized under these regulations shall be performed so as not to violate applicable provisions of the latest Guam Water Quality Standards.” 22 GAR § 10106(a)(4).**

- **The Respondent failed to conduct earth-moving operations in a manner that prevented the violation of the Guam Water Quality Standards.**
- Discharges from the Palisades Estates project site into the East Hagåtña Bay followed both the August 22, 2025, and October 15, 2025, rain events. The



sedimentation and siltation in coastal waters constitute a violation of Guam's Water Quality Standards, which prohibit the discharge of substances that cause turbidity, siltation, or other conditions that adversely affect aquatic life or designated water uses. Accordingly, Respondent's conduct of earth-moving operations in a manner that allowed discharge of sediment into marine waters constitutes a violation of 22 GAR §10106(a)(4).

7. "No person shall perform any earth-moving operation so as to cause falling rocks, soil or debris in any form to fall, slide or flow onto adjoining properties or waters of Guam." 22 GAR §10106(a)(5).

- **The Respondent failed to implement and maintain adequate erosion and sediment control measures** at the project site. Specifically, sediment ponds were overtopped, disturbed areas remained unprotected, and no effective perimeter controls were in place to prevent offsite discharge. These deficiencies directly contributed to the movement of soil and debris onto adjoining public property and coastal waters.
- On October 15, 2025, a landslide occurred along Route 1 directly below the Palisades Estates project site. The landslide included soil and debris flowing onto the roadway and into adjacent areas, creating a hazard to property, infrastructure, and public safety. The uncontrolled sediment flow also reached East Hagåtña Bay, causing siltation and environmental impacts. These impacts originated from insufficient erosion control measures at the project site, including overtopped sediment ponds and unprotected disturbed areas, in violation of 22 GAR §10106(a)(5).

8. "Protection of adjoining properties. Any person performing or causing to be performed any excavation or fill shall, at his own expense, provide the necessary means to prevent the movement of earth to the adjoining properties, and to maintain the existing natural grade of adjoining properties." 22 GAR §10107(a).

- **Respondent failed to implement adequate measures to prevent the movement of soil and sediment** from the Palisades Estates project site onto adjacent properties along Route 1.
- The October 15, 2025, landslide deposited soil and debris beyond the project boundary, obstructing the public roadway and contributing to siltation of nearby marine waters. This movement of earth resulted from inadequate erosion and sediment control practices, the improper modification of



sediment basins, and the absence of sufficient retaining or drainage structures along the cliffline. Accordingly, Respondent's actions constitute a violation of 22 GAR §10107(a).

As a result of the cited violations to 22 GAR 10 above, the sediment and wastewater discharges that entered into the coastal waters have resulted in violations of Guam's Water Quality Standards, 22 GAR Chapter 5, as follows:

9. The Guam Water Quality Standards provide that the waters of Guam “shall be free from substances, conditions or combinations thereof attributable to domestic, commercial and industrial discharges or agricultural, construction and land-use practices or other human activities that: (1) cause visible floating materials, debris, oils, grease, scum, foam, or other floating matter which degrades water quality or use.” 22 GAR § 5103(a)(1).

- **The Respondent failed to prevent the discharge of floating materials and debris** that degrade water quality and impair designated uses of marine waters. The absence of effective erosion and sediment controls, combined with the failure to contain runoff during storm events, allowed visible pollutants to enter coastal waters.
- The October 15, 2025, landslide deposited soil and debris, causing damage to East Hagåtña Bay, as shown by debris and sediment directly observed and documented with photographs and/or videos taken by Guam EPA staff and others. Satellite images provided by the University of Guam indicate that as of October 19, 2025, sediments have spread over roughly 6 acres on Alupang Beach.

10. The Guam Water Quality Standards provide that the waters of Guam “shall be free from substances, conditions or combinations thereof attributable to domestic, commercial and industrial discharges or agricultural, construction and land-use practices or other human activities that ... produce visible turbidity, settle to form deposits or otherwise adversely affect aquatic life.” 22 GAR § 5103(a)(2).

- **The Respondent failed to implement and maintain effective erosion and sediment control measures to prevent the discharge of materials that produce turbidity, settle in marine environments, or harm aquatic ecosystems.** The absence of containment systems, stabilized soil surfaces, and responsive site management during storm events directly contributed to the degradation of water quality and ecological integrity.



- The October 15, 2025, landslide originating from the Palisades Estates project site deposited soil and debris into East Hagåtña Bay, resulting in visible turbidity and impairment of coastal waters. Guam EPA staff documented the increased turbidity through photographs and video, confirming the presence of suspended sediments that settled to form deposits and adversely affected aquatic life.

11. The Guam Water Quality Standards provide that the waters of Guam “shall be free from substances, conditions or combinations thereof attributable to domestic, commercial and industrial discharges or agricultural, construction and land-use practices or other human activities that ... produce objectionable color, odor or taste, directly or by chemical or biological action.” 22 GAR § 5103(a)(3).

- **The Respondent failed to prevent the discharge of materials that produced objectionable color in marine waters**, directly impairing water quality. The absence of effective erosion and sediment controls, combined with the failure to contain runoff during storm events, allowed visually disruptive pollutants to enter the bay and degrade its designated uses.
- The October 15, 2025, landslide originating from the Palisades Estates project site deposited red, clay-like sediment into East Hagåtña Bay. These deposits contributed to visible changes in water color and shoreline conditions, as documented by Guam EPA staff through photographs and video. Satellite imagery from the University of Guam comparing October 13 and October 19, 2025, further confirms the spread and persistence of discoloration across approximately 6 acres of coastal waters.

12. The Guam Water Quality Standards provide, “Turbidity values (NTU) at any point shall not exceed 1.0 NTU over ambient conditions, except when due to natural conditions.” 22 GAR § 5103(c)(7)(B).

- **The Respondent failed to implement adequate erosion and sediment control measures, resulting in sediment-laden runoff that produced turbidity levels exceeding 1.0 NTU above ambient conditions.** The absence of effective erosion and sediment controls, combined with the failure to contain stormwater during active earth-moving operations, directly contributed to elevated turbidity and degradation of water quality in East Hagåtña Bay.
- Samples collected by Guam EPA on October 15, 2025, and over the following two days from three coastal monitoring sites—Site 1: Dungca Beach, Site 2: Alupang Beach, and Site 3: Alupang Beach Culvert/Impact Site—were analyzed for



turbidity and other contaminants. Results from Site 3, the primary impact zone, revealed turbidity concentrations of **27.0 NTU, 20.4 NTU, and 19.6 NTU**, respectively. These values significantly exceed the Guam Water Quality Standard (GWQS) threshold of **3.7 NTU**, which is based on a background wet season mean of **2.7 NTU** (min: 0.5 NTU, max: 36 NTU, n=44).

Compliance Order

Based on the violations listed above and in accordance with the authority granted to Guam EPA by 10 GCA Chapter 47, 22 GAR Chapter 10, and 22 GAR Chapter 5, Respondent is **HEREBY ORDERED** to take the following remedial actions:

1. Maintain the approved Mitigation Plan of soil erosion and sedimentation (“ESC”) BMP measures to ensure compliance with permit ESC requirements and conditions, through completion of the subdivision civil works project. The permanent stormwater and drainage system shall be functional and operating, along with the removal of Mitigation ESC BMPS, before the project is considered formally completed and closed out.
2. By December 1, 2025:
 - a. Assess the functionality of the Tiyan (MS4) Stormwater Drain System (inlet and vertical pipeline to outlet at Route 1 below) and coordinate repairs needed with DPW to ensure a properly drainage working system for Tiyan Parkway (and Palisades).
 - b. Commission and conduct an assessment of the impacted and nearby coastal waters, to include sampling, testing, and evaluation for all of Guam’s Water Quality Standards (WQS; 22 GAR Chapter 5) for M2 waters. Where additional violations are confirmed, create and submit a remediation plan to the Guam EPA for review and approval.
3. By December 31, 2025:
 - a. Undertake an assessment and investigation of the cliffside below the Tiyan Palisades Inlet Structure (MS4) to determine the slope stability of the cliffside and MS4 pipeline contained within the cliffside. In addition, if it is determined that the cliffside and pipeline MS4 System is unstable and compromised, perform a slope stability analysis and design to determine mitigative measures to protect against further damage and risk to the subdivision, pipeline system, and Route 1 roadway below. Coordination with DPW and adjoining neighbors will be imperative for access, roles, and responsibilities.



- b. Fully execute the approved remediation plan for impacted coastal waters, and provide verification of return to compliance with Guam's WQS to Guam EPA for review and approval.

Penalty Order

Based on the foregoing Violations and pursuant to the authority granted to Guam EPA by 10 GCA Chapter 47 and the Guam Soil Erosion and Sediment Control Regulations, Guam EPA hereby notifies Respondent of the Administrator's intent to issue a penalty order pursuant to 22 GAR §10115(a)(2), which authorizes a civil penalty of no more than Ten Thousand Dollars (\$10,000) per day per violation.

Proposed penalties for each violation of the Guam Soil Erosion and Sediment Control Regulations are as follows:

Number	Violation	Duration (Days)	Fine/Day	Total Fines
1	22 GAR §10104(d)(2)(C)	63	\$5,000	\$315,000
2	22 GAR §10105(a)(1)	63	\$10,000	\$630,000
3	22 GAR § 10106(a)(1)	3	\$10,000	\$30,000
4	22 GAR § 10106(a)(2)	63	\$5,000	\$315,000
5	22 GAR § 10106(a)(3)	63	\$5,000	\$315,000
6	22 GAR § 10106(a)(4)	6	\$10,000	\$60,000.00
7	22 GAR §10106(a)(5)	3	\$10,000	\$30,000.00
8	22 GAR §10107(a)	3	\$10,000	\$30,000.00
TOTAL FINES:				\$1,725,000

The amount of penalties is determined based on factors outlined in accordance with 22 GAR §10115(a)(2)(B), including the severe impacts on Route 1 and East Hagåtña Bay, the Respondent's ability to pay, their history of complaints, the level of culpability, and the economic benefits gained from the violations.



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 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 Guam EPA within thirty days after the Notice of Violation/Compliance Order/Penalty Order was personally served on you or mailed to you, Guam EPA 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
Tiyan Barrigada, Guam 96913

If you file a Notice of Intent to Appeal/Notice of Defense, the Guam EPA Board of Directors shall hold a public hearing. At this 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 and Order of Compliance will become final, and GEPA may proceed upon the Order without a hearing and without further notice to you.

Should you have any questions or need additional information, please do not hesitate to contact Mr. Peter Bautista, Chief Engineer, at 671-588-4702 or via email at peter.bautista.epa.guam.gov.

Dangkolu na si Yu'us ma'åse'.

Senseramente,


MICHELLE C.R. LASTIMOZA
Administrator

