

GUAM PUBLIC UTILITIES COMMISSION
SPECIAL MEETING
March 27, 2024
GCIC CONFERENCE ROOM, GCIC BUILDING, HAGATNA



MINUTES

The Guam Public Utilities Commission [PUC] conducted a special meeting commencing at 6:30 p.m. on March 27, 2024, pursuant to due and lawful notice. The meeting was called to order at 6:35 p.m. **Commissioners Jeffrey C. Johnson, Peter Montinola, Joseph McDonald, Rowena Perez-Camacho, and Doris Flores-Brooks** were in attendance. The following matters were considered at the meeting under the agenda included as *Attachment "A"* hereto.

1. Guam Waterworks Authority.

The Chairperson announced that the first item of business on the agenda was the Guam Waterworks Authority (GWA)'s briefing of the Consent Decree. GWA General Manager, Miguel Bordallo (GWA Bordallo) provided an update on the consent decree negotiations with the U.S. EPA and DOJ, which began in 2017 to address Clean Water Act violations and upgrade wastewater infrastructure. The negotiations, which paused during the Covid-19 pandemic and resumed in June 2022, concluded in September 2023. Key points of the partial consent decree include reducing the compliance period from 20+ years to 10 years, removing the Northern District Wastewater Treatment Plant from the decree after completing upgrades, and focusing on cleaning and inspecting the wastewater collection system, repairing sewer lines, and upgrading pump stations. Capacity assurance projects are also planned for future system growth. Future compliance efforts over the next 10 years will involve further upgrades, including those to the Hagåtña Wastewater Treatment Plant and additional infrastructure repairs. The consent decree was signed by GWA in September 2023 and finalized with DOJ signatures in January 2024. Immediate tasks include implementing cleaning and inspection programs, SSO response plans, and enhanced asset management to ensure ongoing compliance.

Commissioner Flores-Brooks asked for clarification on the timeline for the Hagåtña Treatment Plant upgrades. GWA Bordallo explained that within the current 10-year period, only a feasibility study and a plan outlining the intended upgrades for the Hagåtña Wastewater Treatment Plant are required. The actual physical upgrades and rehabilitation determined by the feasibility study are not required until after this 10-year period, presumably in the next 10-year period. Commissioner Flores-Brooks acknowledged the clarification.

Chairman Johnson remarked that the second 10-year period appears to be busier than the first, considering the extensive work on gravity mains, force mains, wastewater lift stations, and the Hagåtña Wastewater Treatment Plant. GWA Bordallo agreed and

provided details: 75% of the force mains work is scheduled for the second period, with only 25% in the first. The most critical pump stations (Tier 1 and Tier 2) are being addressed first, and while Tier 3 and Tier 4 remain for later, the initial work is more substantial. He noted the possibility of combining force main work with pump station upgrades to streamline efforts, depending on assessments and EPA requirements. Chairman Johnson emphasized that each project location requires unique design and engineering solutions. GWA Bordallo confirmed this and indicated a plan is in place to manage the projects, which he would detail further in the presentation.

Commissioner Perez-Camacho inquired if the U.S. EPA would grant GWA credit for previous work under the new consent decree. GWA Bordallo explained that during negotiations, GWA requested credit for completed projects, such as the 9 miles of gravity line from Andersen Air Force Base to the Northern District Plant and additional work on Route 1, but the EPA did not agree to this. Despite the lack of credit, the work was necessary and completed. GWA Bordallo emphasized the importance of starting rehabilitation programs, noting that initial efforts might be challenging but could become efficient with the right technology. He highlighted the goal of funding regular system renewals from revenues rather than debt, aiming for a sustainable financial strategy. This approach would help avoid excessive debt and ensure the system's longevity. Commissioner Flores-Brooks asked about the sustainability of internal financing, and GWA Bordallo acknowledged challenges due to fluctuating revenues but confirmed that the recent rate increase would contribute to internal financing. The plan includes completing major components, such as 30 miles of gravity mains, within 10 years.

Chairman Johnson requested that GWA Bordallo occasionally indicate the page number he is referencing, as the pages were not numbered. GWA Bordallo apologized for the oversight, and Commissioner Montinola clarified that they were still near the beginning of the document. Commissioner Perez-Camacho mentioned the "Partial CD Retail Schedule" at the top of the page they were on. Chairman Johnson confirmed the page, and GWA Bordallo agreed to point out the page numbers as they proceeded. The attendees confirmed they were following along.

GWA Bordallo explained the goals for the gravity sewers include rehabilitating 3 miles per year for 10 years, totaling 30 miles, and completing five priority capacity assurance projects. For force mains, 25% of the total linear footage must be rehabilitated within 10 years following a quick inventory and assessment. All Tier 1 pump stations will be rehabilitated within 10 years, with 50% of Tier 2 completed and a plan for Tiers 3 and 4 submitted by the end of the period. The Hagåtña Wastewater Treatment Plant feasibility study is due by Year 7. Commissioner Flores-Brooks inquired about the cost of this plan, to which Commissioner Montinola indicated that details would be provided later.

GWA Bordallo provided an overview of the wastewater system, highlighting over 300 miles of piping, 84 pump stations, and six treatment plants. He mentioned that the central and northern areas are serviced by various gravity lines and discussed potential future

issues with septic systems in northern areas. He also detailed the compliance schedule for the gravity main, including deadlines for CCTV inspections and NASSCO assessments.

Commissioner Flores-Brooks and GWA Bordallo discussed the start date for the consent decree, which is anticipated in 2024, and clarified that the schedule will be based on the effective date once the judge signs the order. The team is allowed to start ahead, and some work has already begun.

GWA Bordallo discussed the timeline for the gravity main work plan, which needs to be submitted by mid-year 2. Once the EPA approves it, short-term repairs will be executed from year 2 to year 7. A long-term plan will be submitted by year 8, which will involve updating the hydraulic model to project future work. Capacity evaluations and assurance projects will be conducted from year 1 to year 7, culminating in a final capacity assurance report by the end of year 7.

For the force main compliance, an inventory and condition assessment will be completed within the first 25 days. The condition assessment will span three years, using cost-effective methods agreed upon with the EPA. A condition report and action plan will be submitted, addressing 25% (35,000 linear feet) of the total force mains. Additionally, a force mains contingency plan, including an inventory of necessary equipment, will be developed for handling emergencies.

Commissioner Montinola inquired about the use of consultants for the assessments and projects. GWA Bordallo confirmed that engineering consultants will assist in these efforts.

Regarding pump stations, all 23 Tier 1 stations and 50% of the 19 Tier 2 stations need to be rehabilitated by the end of the 10-year period. Examples of current pump stations were showcased, highlighting existing issues and recent upgrades. Most stations have dedicated or portable generators, and security features, including cameras, will be incorporated into new facilities as part of future upgrades.

Chairman Johnson emphasized the importance of security and generators for the pump stations. The discussion concluded with the next steps involving awaiting EPA approval of the plans, continuing the use of consultants, and proceeding with scheduled upgrades and evaluations.

Commissioner Montinola recounted a tour at a pump station, noting significant flooding issues where water reached shoulder height, submerging equipment. He questioned whether the upgrades will address flooding. GWA Bordallo confirmed that the design requirements include considerations for flooding, and they will elevate equipment where possible.

GWA Bordallo then presented the schedule for the sewer pump station projects, highlighting the priority projects identified in the 20-year master plan, including the Ipao, Hagåtña Main, and Mamajanao pump stations. He detailed the plan to package multiple pump stations for design and construction efficiencies, aiming to complete Tier 1 stations by the end of year 7 and 50% of Tier 2 stations by year 10. He also discussed the projected costs, which could range from \$250 million to \$400 million, but could potentially double due to current market conditions. The costs are part of the 10-year partial consent decree term, excluding upgrades to the Hagåtña Wastewater Treatment Plant.

GWA Bordallo outlined the draft five-year Capital Improvement Plan (CIP), totaling approximately \$268 million for wastewater collection, 30% of the total five-year CIP, and an additional \$356 million for consent decree and court order projects. PFAS and emerging contaminants projects account for \$205 million, with plans to comply with upcoming EPA regulations within three years. Water loss projects and SCADA/miscellaneous projects were also included, totaling \$135 million.

Chief Administrative Law Judge Frederick Horecky (ALJ Horecky) inquired about the funding sources for the CIP, and GWA Bordallo explained that it includes rate revenues and bond issuance. He briefly touched on potential penalties under the consent decree, emphasizing efforts to avoid them. Past court orders had not resulted in penalties, as extensions were granted and compliance was maintained. Negotiations for the current consent decree initially involved potential penalties, but an agreement was reached to focus funds on project fixes instead. Future penalties could be considered for the next phase of the consent decree.

GWA Bordallo provided a detailed overview of the penalties, negotiation outcomes, and risks associated with the partial consent decree. He highlighted the penalties for violations, negotiation results including both granted concessions and rejected requests, and the potential risks to the organization, including funding and regulatory changes. GWA Legal Counsel Therese Rojas (GWA Rojas) elaborated on the negotiation outcomes, emphasizing the standard of review for modification requests and the reservation of rights by the U.S. EPA for continued enforcement. Commissioner Montinola raised concerns about funding penalties and sought clarification on potential consequences. GWA Bordallo concluded with an assessment of risks and recommendations, including considerations of program and construction capacity, regulatory approvals, and EPA partnership dynamics. He noted a potential shift in credit assessment from negative to neutral/favorable based on recent discussions with rating agencies.

During the discussion, Commissioner Flores-Brooks inquired about recent bond refunds, requested a copy of the prospectus via email, and questioned the impact on funding loss. GWA Bordallo clarified the savings resulting from the refund and discussed the cashflow savings. GWA Chief Financial Officer, Taling Taitano (GWA Taitano) confirmed sending the previous document and agreed to resend it when Commissioner Flores-Brooks could not recall receiving it.

GWA Bordallo then elaborated on the financial implications and risks associated with litigation versus a negotiated settlement regarding compliance projects. He emphasized the need for a leap of faith and highlighted potential outcomes of litigation.

The discussion progressed to management capacity, construction issues, and financial projections for the next five years, including the estimated bond funding needed and its impact on debt service. Commissioner Flores-Brooks raised concerns about the doubling of long-term debt and inquired about current and projected annual debt service. GWA Bordallo explained the current debt service and the implications of no-capitalized interest going forward, which was seen as a positive improvement.

During the discussion, GWA Bordallo provided an overview of Schedule A2, highlighting rate increases projected for the next five years. Commissioner Flores-Brooks expressed concern over the substantial increase, citing her current water bill. GWA Bordallo assured that steps were being taken to address the issue and emphasized the importance of achieving the target debt service coverage set by the PUC. He then introduced the concept of alternative financing to mitigate rate increases, explaining how short-term financing could level out proposed rate increases and save on borrowing costs. Discussion ensued regarding legislative approval for alternative financing and its potential impact on ratepayers.

GWA Bordallo presented Schedule A3, illustrating the potential rate impacts with alternative financing, showing significant improvements in rate increases. The discussion concluded with GWA Bordallo highlighting the negotiation of the 2024 partial consent decree and the need for support from the CCU and PUC to execute projects effectively. He outlined plans for robust public outreach to engage the community in the consent decree projects.

Chairman Johnson inquired about the bundling of projects, particularly sewage pumping stations, to make them more appealing to larger contractors. GWA Bordallo explained the need to package multiple pump stations together for efficiency.

Commissioner McDonald raised concerns about the negative construction capacity and asked about the approach if contractors don't bid for a year. GWA Bordallo explained the process of restructuring bids and seeking schedule relief provisions.

Regarding deadline extensions, GWA Rojas explained the process of requesting compliance milestone extensions through court approval, noting previous reasonable responses from the court.

Commissioner Montinola asked about increasing H2 workers and innovative contracting approaches. GWA Bordallo mentioned lifted caps on H2B workers and potential challenges with innovative contracting.

The discussion then turned to bidding processes, debt service, rate increases, and public outreach efforts to justify rate hikes with infrastructure improvements. GWA Bordallo emphasized the importance of explaining the consequences of inaction and the potential for higher costs under receivership.

Chairman Johnson praised the presentation, and GWA Bordallo expressed gratitude for the opportunity to address questions. The briefing concluded with thanks from the commissioners for the informative session.

2. Adjournment.

There being no further business, the Commissioner Perez-Camacho moved to adjourn the meeting, which motion was seconded by Commissioner Montinola. The motion passed unanimously and the meeting was adjourned at 8:50 p.m.



Jeffrey Johnson
Chairperson

ATTACHMENT A

**THE GUAM PUBLIC UTILITIES COMMISSION
NOTICE OF PUBLIC MEETING**

NOTICE IS HEREBY GIVEN that the Guam Public Utilities Commission [PUC] will conduct a special business meeting, commencing at 6:30 p.m. on March 27, 2024, Suite 703, GCIC Building, 414 W. Soledad Ave., Hagatna.

The following business will be transacted:

Agenda

1. **Call to Order**
2. **Guam Waterworks Authority**
 - **GWA Briefing on the Consent Decree**
3. **Adjournment**

Further information about the meeting may be obtained from the PUC's Administrator Lourdes R. Palomo at 671-472-1907. Those persons who require special accommodations, auxiliary aids, or services to attend the meeting should also contact Mrs. Palomo.

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