



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

IN THE MATTER OF GRANTING A WATER QUALITY CERTIFICATION TO Miguel C. Bordallo, General Manager, Guam Waterworks Authority) **WQC ORDER #2020-05**
) Southern SSES Rehabilitation Phase II
) Santa Rita, Guam;
) GWA Project No. S15-001-EPA,
) ACOE File No. POH-2015-0234

TO: Miguel C. Bordallo, P.E.
General Manager
Guam Waterworks Authority
Ste. 200, GBNPSB, 688 Route 15
Mangilao, Guam 96913-6203

The Guam Environmental Protection Agency (Guam EPA) has reviewed the Guam Waterworks Authority (GWA) application for a Clean Water Act (CWA) Section 401 Water Quality Certification (§401 WQC) dated August 9, 2019. This §401 WQC is required prior to issuance of GWA's Army Corps of Engineers (ACOE) Federal Nationwide Permit 3 (DA File No. POH-2015-234), pursuant to 22 GAR Chapter 5 §5106(b)(2)(B).

The procedure for application and issuance of a §401 WQC include the Agency's review, preliminary determination, possible public noticing and public hearing, and a final decision. A public notice regarding the Agency's preliminary decision to issue a §401 WQC was distributed by Guam EPA consistent with 22 Guam Administrative Rules and Regulations §5106(i) on June 13-14, 2020.

PROJECT DESCRIPTION

The Southern SSES Rehabilitation Phase II project involves the construction of a new sewer lift station, which will be located outside of the wetland, and a force main that crosses a small portion of a wetland area. The project site is in the Hyundai Residential Subdivision in the village of Santa Rita.

Within the wetland, this project will install a new jointless High-Density Polyethylene (HDPE) sewer force main from a lift station to Pale Ferdinand Way. The lift station will be built at the end of Lemai Drive. The total length of this alignment is approximately 750 linear feet. Of this total length, about 150 linear feet will cross a wetland.

The scope of work will require the temporary excavation of wetland material to lay and align the force main from the lift station to a discharge manhole on Pale Ferdinand Way, both of which are outside of jurisdictional wetlands. The contractor will clear a 20-foot-wide area of vegetation along

the proposed alignment for equipment access and to excavate the needed trench (estimated to be approximately 3.5 feet deep, 3 feet wide). About 58.3 cubic yards of wetland material will be temporarily excavated. To support the pipe, about one (1) foot, or less, of non-cohesive bedding will be placed at the bottom of the trench and 6-18 inches around the pipe. The rest of the trench will be backfilled using the native soil that was excavated. During construction and after the force main is complete, existing wetland functions will be maintained as the vegetation will be allowed to regrow and native soil will be used to backfill the excavated trench.

DESCRIPTION OF WETLANDS

The following wetland information was documented by Duenas, Camacho, and Associates Inc. in its wetland delineation survey report of the project area dated May 2020.¹

Project Location. The project area and survey encompasses a proposed 20-foot wide public access and utility easement that leads south from the end of Lemai Drive in Santa Rosa subdivision, and terminates at Pale Ferdinand Way (also known as Sumay Memorial Street or Route 12A), Municipality of Santa Rita, Guam. The easement is approximately 220.24 m (722 ft.) long and 1,349 sq. m (14,520 sq. ft. or 0.33 acres) in area.

The topography at the north end of the easement (lift station site) is fairly level then gradually slopes down to the apparent lowest point close to Manhole 5678, where the terrain flattens and wetland vegetation is present. This section supported a few feet of standing water observed in October 2019 (DCA, 2019). The topography climbs near the southern boundary of the wetland then levels off again and remains flat until it approaches the terminus of the easement where it drops down a short slope to Pale Ferdinand Way.

NWI Maps and Previous Surveys. The U.S. Fish & Wildlife Service (USFWS) National Wetlands Inventory (NWI) Pacific Trust maps (USFWS, 2017) depict the following wetland community within or adjacent to the project area:

- PEM1F- palustrine, emergent, persistent, semi-permanently flooded

A previous wetland survey conducted in 1995 by Duenas, Camacho, and Associates, Inc. identified three wetland communities within Lot 238-2A-R4.

- PEM1C – palustrine, emergent, persistent, seasonally flooded
- PFO3C – palustrine, forested, broad-leaved evergreen, seasonally flooded
- PEM1F - palustrine, emergent, persistent, semi-permanently flooded

Lot 238-2A-R4 is adjacent and east of the sewer easement project site. The current mapped wetland is within a 0.87-acre PFO3C portion of this 1995 wetland area.

¹ WETLAND DELINEATION REPORT FOR PROPOSED LIFT STATION AND 6-INCH DIAMETER SEWER FORCE MAIN BYPASS FROM MANHOLES 8476 TO 6436, LEMAI DRIVE TO PALE FERDINAN WAY, SANTA RITA, GUAM. DCA, May 2020.

Survey Results and Conclusions.

- A wetland totaling 195 sq. m (2,096 sq. ft.) in area was delineated within the 20-foot wide sewer easement. Four wetland corners (WL-1 through WL-4) were established to encompass a palustrine, emergent, persistent, seasonally flooded (PEM1C) wetland community comprising 2,096 sq. ft. (195 sq. m or 0.05 ac) in area.
- Three soil pits were excavated in the project site to document wetland and upland conditions along the delineated wetland boundary. (See wetland delineation report for details.)

AUTHORITIES

Guam EPA has examined this application pursuant to its authority under 33 U.S.C. § 1341, 10 GCA §47109(a), 10 GCA §45106, and 22 GAR §5106, and the following:

1. Conformance with applicable water quality-based, technology-based, and toxic or pretreatment effluent limitations as provided under 33 U.S.C. §§ 1311, 1312, 1313, 1316, and 1317 (FWPCA §§ 301, 302, 303, 306, and 307).
2. Conformance with the state water quality standards contained in 22 GAR Chapter 5 and authorized by 33 U.S.C. § 1313 and by 10 GCA §45106, 10 GCA §47108, and with other applicable federal or territorial laws.
3. Conformance with the provision of using all known, available and reasonable methods to prevent and control pollution of territorial waters as required by 22 GAR Chapter 10 and 10 GCA Chapter 47.

WATER QUALITY CERTIFICATION CONDITIONS

Through issuance of this Order, Guam EPA certifies it has reasonable assurance the activity as proposed and conditioned will be conducted in a manner that will not violate applicable water quality standards and other appropriate requirements of territorial law. In view of the foregoing and in accordance with 33 U.S.C. § 1341, 10 GCA Chapter 45, 10 GCA Chapter 47, and 22 GAR Chapter 5, water quality certification is granted to the Applicant, subject to the conditions within this Order.

Certification of this proposal does not authorize the Applicant to exceed applicable territorial water quality standards as described in 22 GAR Chapter 5. Nothing in this certification shall absolve the Applicant from liability for contamination and any subsequent cleanup of surface waters, ground waters or sediments occurring as a result of project construction or operations. Lastly, issuance of this certification does not relieve the Applicant's responsibility to obtain or secure required Agency permit(s) prior to the start of the project.

A. General Conditions:

- A1. For purposes of this Order, the term "Applicant" shall mean Guam Waterworks Authority, and its agents, assignees, and contractors.
- A2. All submittals required by this Order shall be sent to Guam Environmental Protection Agency's Main Office, Attn: 401 Federal Permit Manager, Non-Point Source Program, EMAS Division, 3304 Mariner Avenue, Bldg. 17-3304, Barrigada, Guam 96913, AND via email to taryn.mesa@epa.guam.gov and cc: jesse.cruz@epa.guam.gov. The submittals shall be identified with WQC Order #2020-05 and include the Applicant name, project name and the project contact's name and phone number.
- A3. Work authorized by this Order is limited to the work described in the following documents:

- Clean Water Act §401 Water Quality Certification application submitted by GWA on August 9, 2019
- A4. The Applicant will be out of compliance with this Order and must reapply with an updated application if the information contained in these documents is voided by subsequent changes to the project not authorized by this Order.
- A5. Within 30 days of receipt of an updated §401 Application or EIA/EIS short form, Guam EPA will determine if the revision(s) requires a new water quality certification and public notice or if a modification to this Order is required.
- A6. This Order shall be rescinded after 18 months, if the U.S. Army Corps of Engineers (Corps) does not issue a Section 404 and/or Section 10 permit, or if the Bureau of Statistics and Plans, Coastal Zone Management Program does not issue a Federal Consistency Determination.
- A7. The applicant shall provide to Guam EPA a copy of all final and local permits within two weeks of receipt per condition A2 above.
- A8. Copies of this Order shall be kept on the job site and readily available for reference by Guam EPA personnel, the construction superintendent, construction managers and lead workers, and federal and local government inspectors.
- A9. In accordance with 10 GCA Chapter 47 §47107, the Applicant shall provide prompt access to the project site and all mitigation sites upon request by Guam EPA personnel for site inspections, monitoring, necessary data collection and/or to ensure conditions of this Order are being met. The inspection may be conducted with or without advance notice to the Applicant, at the discretion of the Administrator but shall be conducted at reasonable times unless an emergency dictates otherwise.
- A10. Guam EPA retains authority to issue additional orders if Guam EPA determines further actions are necessary to implement the water quality laws of the territory. Further, Guam EPA retains continuing jurisdiction to make modifications hereto through supplemental order if additional impacts due to project construction or operation are identified (e.g., violations of water quality standards, downstream erosion, etc.) or if additional conditions are necessary to further protect water quality.
- A11. The Applicant shall provide to Guam EPA a signed statement (see Attachment A) that s/he has read and understands the conditions of this Order and any permits, plans, documents and approvals referenced herein. The signed statement shall be submitted to Guam EPA per Condition A2 at least seven (7) days prior to start of work.
- A12. The Applicant shall ensure all project engineers, contractors, and other workers at the project site with authority to direct work have read and understand the conditions of this Order and any permits, plans, documents, and approvals referenced in the Order.
- A13. This Order does not authorize direct, indirect, permanent or temporary impacts to waters of the territory (including wetlands) or related aquatic resources, except as specifically provided for in conditions of this Order.

Antidegradation Review

- A14. This proposal has been determined to be consistent with the anti-degradation policy as stated in 22GAR §5101(b).

B. Water Quality Conditions:

- B1. Mitigation and/or additional monitoring may be required if site inspections indicate the water quality standards have not been met.

C. Conditions for Construction Activities

General Conditions:

- C1. The applicant shall conduct daily inspections of the project area and take immediate corrective actions or engineering measures to address non-compliance with water quality standards and/or environmental protection requirements and notify the Guam EPA within 24 hours from the time the applicant becomes aware of the non-compliance.
- C2. Construction stormwater, sediment and erosion control Best Management Practices (BMPs; e.g., filter fences, etc.) suitable to prevent exceedances of territorial water quality standards shall be in place before starting construction at the site.
- C3. Sediment and erosion control measures shall be inspected and maintained prior to and during project implementation.
- C4. All construction debris shall be properly disposed of at an approved Guam EPA site in a manner to prevent it from entering the waters of the territory including wetlands.
- C5. Machinery and equipment used during construction shall be serviced, fueled and maintained upland, unless otherwise approved by Guam EPA, in order to prevent contamination to any surface water.
- C6. Wash water containing oils, grease or other hazardous materials resulting from wash down of equipment or working areas shall be contained for proper disposal.
- C7. An **Environmental Protection Plan** and an **Erosion Control Plan** shall be submitted and approved prior to the start of the project.
- C8. Any clearing, grubbing, grading, embankment or filling, excavating, stockpiling or other earth-moving operations shall require a permit as provided for in 21 Guam Code Annotated, Chapter 66 (as amended).
- C9. The construction methodology for the specific sewer line rehabilitation must be submitted for approval prior to start of the project.

In-Water (Wetland) Conditions:

- C10. The Applicant shall design dredging and filling in the aquatic environment to avoid or minimize the loss of special aquatic site habitat (wetlands, etc.). The Agency recommends re-assessment of the delineated wetland habitat upon completion of the project in order to measure any habitat loss.
- C11. Project-related materials (such as gravel bedding) to be placed in wetlands shall be pre-washed and free of any pollutants and equipment (dredges, barges, backhoes, etc.) shall not be placed in the wetlands.
- C12. Any areas of the site not already stabilized as part of project construction shall be restored to preconstruction conditions and elevations.

- C13. The applicant shall conduct a pre-construction site survey, to include photographs, of the site prior to disturbance to assist the applicant in restoring the site to its original state post construction.
- C14. No project-related materials (fill, revetment rock, pipe, etc.) shall be stockpiled in the wetlands.
- C15. Under-layer fills used in the project shall be protected from erosion with stones (or core-loc units) as soon after placement as practicable.
- C16. No contamination (trash or debris disposal, introduction of alien species, etc.) of aquatic environments (channels, stream channels, wetlands, etc.) shall result from project-related activities.
- C17. Soil exposed near wetlands as part of the project shall be protected from erosion (with plastic sheeting, filter fabric, etc.) after exposure and stabilized as soon as practicable (with vegetation matting, hydroseeding, etc.).
- C18. Turbidity and siltation from project related work shall be minimized and contained within the vicinity of the site through the appropriate use of effective silt containment devices and the curtailment of work during adverse weather conditions.
- C19. The Applicant shall obtain a Dewatering Permit from the Agency prior to any dewatering activity.
- C20. The Applicant shall identify a designated area, outside the project site for any fueling of project related vehicles and equipment.

Emergency/Contingency Measures:

- C21. The Applicant shall develop and implement a Spill Prevention and Containment Plan for all aspects of this project.
- C22. The Applicant shall develop and implement a Sewage Spill Contingency Plan. Any sewage spill occurring during construction must be reported to Guam EPA within 24 hours.
- C23. The Applicant shall have adequate and appropriate spill response materials on hand to respond to emergency release of petroleum products or any other material into waters of the territory.
- C24. All work causing any unpermitted discharge of oil, fuel or chemicals into territorial waters or onto land with a potential for entry into territorial waters is prohibited. If this occurs the Applicant shall immediately take the following actions:
- Cease operations at the location of the violation or spill.
 - Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage.
 - Notify Guam EPA of the failure to comply. All petroleum spills shall be reported immediately to:
 1. Guam's Emergency 911 system
 2. Guam EPA's 24-Hour Spill Response Team at (671) 888-6488 or during working hours (671) 300-4751

3. US Coast Guard Sector Guam (671) 355-4824

4. National Response Center 1-800-424-8802

- Submit a detailed written report to Guam EPA within five (5) days of noncompliance that describes the nature of the event, corrective action taken and/or planned, steps to be taken to prevent a recurrence, results of any samples taken, and any other pertinent information.

C25. Compliance with this condition does not relieve the Applicant from responsibility to maintain continuous compliance with the terms and conditions of this Order or the resulting liability from failure to comply. Submittal or reporting of any of this information does not provide relief from any subsequent enforcement actions for unpermitted discharges to waters of the United States.

D. Timing Requirements

D1. This Order is valid for five (5) Years from Date of Certification, unless otherwise approved by the Guam EPA Administrator.

E. Reporting and Notification Requirement Conditions

E1. Applicant shall provide notice to Guam EPA per Condition A2:

- At least three (3) days prior to the start of construction.
- Within 14 days after completion of construction at the project site.
- Immediately upon discovery of noncompliance with the provisions of this Order.

E2. A Notice of Violation/Work Stop Order will be issued if certification conditions are not adhered to or when significant or sustained water quality degradation occurs. Work or discharge shall be suspended or halted until the applicant addresses environmental problems/concerns to Guam EPA's satisfaction. Guam EPA may also levy penalties and fines (10 GCA §47111). Invalidity or enforceability of one or more provisions of this certification shall not affect any other provision of this certification.

YOUR RIGHT TO APPEAL

You have a right to appeal this Order to the Guam EPA Board of Directors or request a hearing within 30 days of the date of receipt of this Order. Failure to appeal this Order constitutes a waiver of your right to a hearing. Any appeal will proceed pursuant to the provisions of 5 GCA Chapter 9, as provided by 22 GAR §5106(i)(7). Unless a written request for a hearing signed by or on behalf of the person named as Applicant in the accompanying order, is delivered or mailed to the agency within 30 days after this order is signed, Guam EPA may proceed upon the Notice of Intent to Appeal without a hearing. The request for hearing may be made by delivering or mailing the enclosed form entitled Notice of Intent to Appeal (Appendix B) as provided in §9205 to the address below.

To appeal you must do both of the following within 30 days of the date of receipt of this Order:

- File your appeal and a copy of this Order with the Guam EPA Board of Directors (see address below). Filing means actual receipt by the Guam EPA Board of Directors during regular business hours.
- Serve a copy of your appeal and this Order to the Administrator in paper form - by mail or in person at the address below. Email or facsimile is not accepted.

ADDRESS INFORMATION:

Guam EPA Board of Directors
3304 Mariner Avenue, Bldg. 17-3304, Barrigada, Guam 96913

GUAM EPA CONTACT INFORMATION

Please direct all questions about this Order to:

Taryn N. Mesa
Biologist I, EMAS Division
(671) 300-4784
taryn.mesa@epa.guam.gov

OR

Jesse T. Cruz
EMAS Division Administrator
(671) 300-4795
jesse.cruz@epa.guam.gov

SIGNATURE

WALTER S. LEON GEURRERO
ADMINISTRATOR

DATE

APPENDIX A

DRAFT

Statement of Understanding of Water Quality Certification Conditions

Southern SSES Rehabilitation Phase II Project
GWA Project No. S15-001-EPA
Guam Waterworks Authority
Water Quality Certification Order #2020-05

As the Applicant for the above project, I have read and understand the conditions of the Guam Environmental Protection Agency §401 WQC Order #2020-05, and any permits, plans, documents, and approvals referenced in the Order.

I have and will continue to ensure that all project engineers, contractors, and other workers at the project site with authority to direct work have read and understand the conditions of this Order and any permits, plans, documents, and approvals referenced in the Order.

Print Name

Signature

Date

Title

Phone Number

Company Name

APPENDIX B

DRAFT



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NOTICE OF INTENT TO APPEAL

I, _____, have received WQC Order # _____
dated _____, listing the Water Quality Certification Conditions for my proposed
project _____.

I request a hearing with the Guam EPA Board of Directors. The basis for this hearing and appeal
are the following:

[Additional Sheets maybe attached if more space is required.]

Mailing address:

Print Name

Signature

Date

Title

Phone Number

Company Name

Guam EPA Case Number
