



## **EXECUTIVE SUMMARY**

Department of Public Works Solid Waste Management Division  
Report No. 10-04, June 2010

We found that the government of Guam is unprepared to resume solid waste management and operations and that the legal and policy framework for management is outdated, obsolete, and in need of redevelopment.

The U.S. District Court's 2004 Consent Decree ordered the government of Guam to timely correct violations of the Clean Water Act or face penalties imposed by the U.S. Environmental Protection Agency (EPA). The Department of Public Works' (DPW) Solid Waste Management Division (SWMD) was tasked to comply with the Consent Decree by closing the Ordot Dump and opening a new landfill. However, in March 2008, when deadlines were not met, the U.S. District Court placed the SWMD under federal receivership. Solid waste management consultant Gershman, Brickner & Bratton (GBB) was appointed as Federal Receiver to manage the SWMD and ensure compliance with the Consent Decree. GBB's first task was to assess the condition and space left in the Ordot Dump. Based on GBB's assessment, the Ordot Dump's remaining life is expected to end on or about July 2011.

### **Legal and Policy Framework Needed for New Solid Waste Authority**

The legal and policy framework for solid waste management is contained Title 10, Chapter 51 of the Guam Code Annotated and in the Guam 2006 Integrated Solid Waste Management Plan. This framework was rendered obsolete when the SWMD went into federal receivership. The District Court granted the Federal Receiver authority to supervise all government employees associated with Consent Decree projects, to perform and enter into contracts necessary, and to apply to the Consolidated Commission on Utilities (CCU) for rate increases for collection services and/or tipping fees. When the Federal Receiver's responsibilities are complete, the management of the SWMD will revert to the government of Guam.

Our interviews with the Federal Receiver and key government officials revealed that minimal efforts have been made by the government of Guam to update and clarify the legal and organizational framework for solid waste management, and that the present framework is no longer appropriate.

The Governor through Executive Order 2007-09 established the Solid Waste Law Review Commission (SWLRC) in July 2007, to propose new legislation that would address the legal and organizational framework for solid waste management. The Governor's Legal Counsel indicated that it is the Governor's intent to resolve the issue before the end of his term. In June 2010, the Chairman of the legislative Committee on Utilities, Transportation, Public Works & Veterans Affairs introduced Bill 426-30 establishing a Solid Waste Authority. With the introduction of this bill, we recommend that the SWLRC work with the Legislature to establish the new legal and organizational framework of the solid waste management.

### **Government of Guam's Involvement**

As GBB attends to meeting the requirements of the Consent Decree, due to the nature of Federal Receivership, the government of Guam has had limited involvement in key solid waste management decisions made thus far. According to DPW's former Director, the department was not involved in decisions to institute new systems, such as the roll-out trash carts and the billing software, or in discussions regarding construction of the new landfill.

The government of Guam should be proactive in re-establishing its role by drawing upon the Federal Receiver's expertise in solid waste management. The appointment of a liaison to coordinate and collaborate with the Federal Receiver would enhance the government's ability to resume its proper role in managing solid waste operations.

### **The Cost and Funding of Modernizing Solid Waste Management**

To fund construction of the new landfill and closure of the Ordot Dump, the government of Guam issued bonds totaling \$202 million (M), with an average annual debt service requirement of \$15M until FY 2035. Essentially, the \$202M will cost the government of Guam \$423M.

The overall cost for capital funding required for the Consent Decree projects is \$160M -- \$105.7M for the Layon landfill, \$39.4M for the Ordot Dump closure, \$14.9M for operations equipment and transfer stations.

The Federal Receiver's average monthly expenses approximate \$213,000. As of September 30, 2009, the Federal Receiver has been paid \$4.05M. We estimate an additional \$4.7M to be paid to the Receiver through July 2011, for a total of \$8.7M over 41 months. Until the government of Guam implements the legal framework and designates a management team to lead the new solid waste management organization, and all aspects of the Court's Consent Decree are addressed, including the closure of the Ordot Dump, the Federal Receiver's appointment will not end. How long after July 2011 the government of Guam will fund the Receiver's expenses is unknown.

### **U.S. Military as a Customer**

The Federal Receiver's April 2010 quarterly report to the District Court contained a draft agreement for the military to become a customer of the new solid waste system, as ordered by the District Court. The government of Guam was not involved in developing the draft agreement.

The Federal Receiver provided an analysis of the impact military customers would have on tipping fees. With the military customers, tipping fees are estimated to rise from \$30 month in FY 2012 to \$36.50 in FY 2022. Without the military, fees would need to rise to \$52.81 by FY 2022. While the cost-savings for civilian customers would be significant, the potential impact in other areas, such as the volume and types of military waste -- whether both household and operational waste -- were not addressed. Military waste would considerably shorten the life span of the new landfill based on the volume of military waste, which according to estimates would amount to 38,000 tons, or 27% of Guam's annual waste.

The costs and benefits of having the military as customers should be thoroughly evaluated and elected leaders should set a clear policy direction. Unlike other utilities where the military was a customer, such as power, water, and telephone, the military has not been a customer of Guam solid waste management, hence the importance of having the study of the costs and benefits of adding the U.S. Military as a customer of the new landfill.

### **Conclusion and Recommendations**

When the Federal Receiver completes the Consent Decree projects, Guam should have a new state-of-the-art municipal solid waste landfill, a modern solid waste management system, and the closure of Ordot Dump. These advances can be attributed to actions of the District Court and the court appointed Federal Receiver. If not for their intervention, the government of Guam would remain hard pressed to accomplish such goals. The consequence of the government of Guam's inaction has been that the modernization of solid waste comes at very high cost.

With the deadline to close the Ordot Dump by July 2011, the need to overhaul the legal and organizational framework of the Solid Waste Management Division is vital. The government of Guam should be proactive and attend to the organizational structure of the SWMD. It is also imperative that the government of Guam be allowed a more detailed role in the key decisions that affect the direction of the SWMD. To address these concerns, we recommend the Governor:

- With the introduction of Bill 426-30, work with the Legislature to establish the new legal and organizational framework of the solid waste management;
- Appoint a liaison to coordinate with the Federal Receiver on Consent Decree projects and act as the single point of contact for the government of Guam on solid waste management; and
- Commission a study to evaluate the costs and benefits of adding the U.S. Military as a customer of the new landfill.

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