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23 UNITED STATES DISTRICT COURT
24 COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

25 UNITED STATES OF AMERICA,

26 Plaintiff,

27 v.

28 COMMONWEALTH UTILITIES
CORPORATION and the
COMMONWEALTH OF THE
NORTHERN MARIANA ISLANDS,

Defendants.

CIVIL CASE NO.

STIPULATED ORDER
NUMBER ONE FOR
PRELIMINARY
INJUNCTIVE RELIEF

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1 **WHEREAS**, the United States of America filed a civil action seeking
2
3 injunctive relief and the assessment of civil penalties against the Commonwealth
4 Utilities Corporation (“CUC” or “Defendant”) under the Clean Water Act,
5 33 U.S.C. §§ 1251 - 1387 (“CWA”) and the Safe Drinking Water Act,
6 42 U.S.C. §§ 300f - 300j-26 (“SDWA”);
7

8 **WHEREAS**, the Parties are entering into this instant Stipulated Order
9 (“Stipulated Order Number One” or “Stipulated Order”) to address requirements
10 of the CWA and SDWA . The Parties are entering into a companion Stipulated
11 Order Number Two (“Stipulated Order Number Two”) pursuant to Section 311 of
12 the CWA, 33 U.S.C. § 1321, to address oil spill prevention, preparedness, and
13 response actions. Stipulated Order Number One and the Stipulated Order Number
14 Two will be lodged concurrently and are subject to the public comment process
15 and court approval.
16
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19

20 **WHEREAS**, CUC is a public corporation that has the authority to produce,
21 treat, transmit, store, distribute, and sell drinking water in the Commonwealth of
22 the Northern Mariana Islands (“CNMI”), as well as the authority to collect, treat,
23 and sell or dispose of wastewater in CNMI, and is responsible for the construction,
24 maintenance, operation and regulation of all CNMI utility services, including
25 power generation and distribution;
26
27
28

1 **WHEREAS**, CUC owns and operates the Agingan and Sadog Tasi Sewage
2 Treatment Plants (“STPs”) on the island of Saipan, as well as the wastewater
3 collection and conveyance systems, including thirty-five (35) pump stations that
4 transport raw sewage to the STPs (hereinafter collectively referred to as
5 “wastewater systems”) on Saipan;
6

7 **WHEREAS**, the STPs are subject to the conditions and limitations
8 contained in National Pollutant Discharge Elimination System (“NPDES”) permits
9 issued by the United States Environmental Protection Agency (“EPA”) pursuant to
10 the CWA;
11

12 **WHEREAS**, the Commonwealth of the Northern Mariana Islands is
13 included as a defendant in this action in fulfillment of its CWA § 309(e)
14 responsibilities, 33 U.S.C. § 1319(e);
15

16 **WHEREAS**, CUC owns and operates three (3) public water systems in the
17 islands of Saipan, Rota, and Tinian, located in CNMI (hereinafter the “drinking
18 water systems”);
19

20 **WHEREAS**, CUC is subject to the requirements of the SDWA, Part B,
21 including, 42 U.S.C. § 300g et. seq., and all other applicable requirements of the
22 SDWA, as defined at 42 U.S.C. § 300g-3(I), including applicable requirements
23 within Part B’s implementing regulations at 40 C.F.R. Part 141 and maximum
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1 contaminant levels for microbiological contaminants and the treatment technique
2 for turbidity;
3

4 **WHEREAS**, CUC owns and operates the Power Plant 1 and 2 facilities and
5 the associated oil storage located in Lower Base on the island of Saipan (“PP 1
6 and 2”); CUC owns the Power Plant 3 facility and the associated oil storage
7 located in Isley Field near Saipan International Airport on the island of Saipan
8 (“PP 3”); CUC owns the Power Plant 4 facility and the associated oil storage
9 located on the island of Saipan (“PP 4”); CUC owns and operates the Rota Power
10 Plant facility and associated oil storage located in Songsong Village on the island
11 of Rota (“Rota PP”); and CUC owns an eight (8) inch steel pipeline that transfers
12 oil from the Mobil Marine Terminal gate valve #1 to PP 1 and 2 (“CUC
13 Pipeline”);
14
15
16
17
18

19 **WHEREAS**, PP 1 and 2, PP 3, PP 4, and Rota PP facilities (herein after
20 collectively referred to as “PP Facilities”) and the CUC Pipeline;
21

22 **WHEREAS**, the parties agree that entry of this Stipulated Order Number
23 One for Preliminary Injunctive Relief is the most appropriate way to achieve the
24 immediate implementation of short-term projects and initial planning measures by
25 CUC to begin to address issues of CUC’s noncompliance with the CWA and the
26 SDWA;
27
28

1 **THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED as**

2
3 **follows:**

4 **I. JURISDICTION AND VENUE**

- 5
6 1. This Court has jurisdiction over the subject matter of this
7 action, pursuant to 28 U.S.C. §§ 1331, 1345, and 1355, and the
8 CWA and SDWA, and over the parties. Venue lies in this
9 District pursuant to 28 U.S.C. §§ 1391 and 1395(a). For
10 purposes of this Stipulated Order, or any action to enforce this
11 Stipulated Order, Defendant consents to the Court's
12 jurisdiction over this Stipulated Order and any such action and
13 over Defendant and consents to venue in this judicial district.
14
15 2. For purposes of this Stipulated Order only, Defendant agrees
16 that the Complaint states claims upon which relief may be
17 granted. This clause shall not serve as an admission or waive
18 any of CUC's defenses in the event that any matter stated in the
19 Complaint is subsequently litigated.
20
21 3. Notice of the commencement of this action has been given to
22 the CNMI, as required by the CWA and SDWA.
23
24
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28

1 **II. APPLICABILITY**

2 4. The obligations of this Stipulated Order apply to and are
3 binding upon the United States, and upon Defendant and any
4 successors, assigns, or other entities or persons otherwise
5 bound by law.
6

7
8 5. A transfer of ownership or operation of CUC's wastewater
9 systems, drinking water systems, PP Facilities, or the CUC
10 pipeline, shall relieve Defendant of its obligation to ensure that
11 the terms of the Decree are implemented if: 1) EPA consents to
12 the transfer; and 2) the transferee agrees to undertake the
13 obligations required by this Stipulated Order and be substituted
14 for the Defendant as a party under this Stipulated Order and be
15 thus bound by the terms thereof. At least thirty (30) days prior
16 to such transfer, Defendant shall provide a copy of this
17 Stipulated Order to the proposed transferee and shall simul-
18 taneously provide written notice of the prospective transfer,
19 together with a copy of the proposed written agreement, to EPA
20 Region 9, the United States Attorney for the District of Guam,
21 and the United States Department of Justice, in accordance
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1 with Section V, Subsection D (Notices and Submissions) of
2 this Stipulated Order. Any attempt to transfer ownership or
3 operation of the wastewater systems, drinking water systems,
4 PP Facilities, or the CUC pipeline, without complying with this
5 Paragraph constitutes a violation of this Stipulated Order.
6

7
8 6. Defendant shall provide a copy of this Stipulated Order to all
9 officers, employees, and agents whose duties might reasonably
10 include compliance with any provision of this Stipulated Order,
11 as well as to any contractor retained to perform work required
12 under this Stipulated Order. Defendant shall condition any
13 such contract upon performance of the work in conformity with
14 the terms of this Stipulated Order.
15

16
17 7. In any action to enforce this Stipulated Order, Defendant shall
18 not raise as a defense the failure by any of its officers,
19 directors, employees, agents, or contractors to take any actions
20 necessary to comply with the provisions of this Stipulated
21 Order. If there has been a breach of a contract or breach of
22 duty by a contractor which Defendant believes has caused a
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1 failure to comply with the Stipulated Order, Defendant reserves
2 the right to take judicial action against such contractor.
3

4 **III. WASTEWATER AND DRINKING WATER SYSTEMS**

5 **A. MANAGEMENT AND OPERATIONS**

6
7 **A1. MANAGEMENT STRUCTURE OF CUC**

8 8. Executive Director. CUC has hired Mr. Antonio Muna as
9 CUC's Executive Director ("ED"). Any subsequent ED shall
10 have the following qualifications:
11

12 a. Master's degree in management, engineering, finance, or
13 public administration, or, in the alternative, a bachelor's
14 degree in engineering and registration as a Professional
15 Engineer pursuant to the National Council of
16 Engineering Examiners standards in either the civil,
17 mechanical, or electrical branch; and
18

19 b. Senior management experience of at least ten (10) years
20 in a similar wastewater, drinking water, and/or power
21 utility (preferably combined utility), with similar or
22 greater capital and operating budgets, capital
23 improvement projects, human resource needs, utility
24
25
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1 financing issues, operation and maintenance training and
2 implementation needs.
3

4 c. In addition, the ED shall have demonstrated the
5 following:
6

- 7 (i) Proven management and communication skills;
- 8 (ii) Demonstrated ability to lead, motivate, and
9 develop staff;
10
- 11 (iii) Experience with managing major drinking water
12 and wastewater systems during periods of
13 planning, design, and construction; and
14
- 15 (iv) Experience with drinking water and wastewater
16 systems; user fee system development; bond
17 funding; staff training and development; and
18 federal drinking water and wastewater
19 requirements.
20
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23 In the event that the position becomes vacant due to personnel resignation
24 or other circumstances, CUC must appoint another qualified individual within one
25 hundred fifty (150) days of the date of the vacancy.
26
27
28

1 9. Deputy Executive Director. Within ninety (90) days after this
2 Stipulated Order is entered by this Court (“Entry Date”), CUC
3 shall hire a full-time Deputy Executive Director (“DED”). The
4 DED shall be primarily responsible for overseeing, all drinking
5 water and wastewater operations and compliance activities and
6 deliverables, on a daily basis, as required by the Stipulated
7 Order. The DED shall be the person responsible for
8 maintaining regular contact with EPA staff regarding CWA and
9 SDWA compliance issues. The DED shall report directly to
10 the ED, and will have authority to make decisions for
11 management and operations of the drinking water and
12 wastewater systems. The DED shall have the following
13 qualifications:

- 14 a. Master’s degree in management, engineering, finance or
15 public administration, or, in the alternative, a bachelor’s
16 degree in engineering and registration as a Professional
17 Engineer pursuant to the National Council of
18 Engineering Examiners standards in either the civil,
19 mechanical, or electrical branch; and

- 1 b. Senior management experience of at least ten (10) years
2 in similar wastewater and drinking water utility
3 (preferably combined utility), with similar or greater
4 capital and operating budgets, capital improvement
5 projects, human resources needs, utility financing issues,
6 operation and maintenance training, and implementation
7 needs.
8
9
10
11 c. A Water and Wastewater Treatment Plant Operator's
12 Certificate is desired, but not mandatory.
13
14 d. In addition, the DED must demonstrate the following:
15 (i) Proven management and communication skills;
16 (ii) Demonstrated ability to lead, motivate, and
17 develop staff;
18 (iii) Experience with managing drinking water and
19 wastewater systems during periods of planning,
20 design, and construction;
21 (iv) Experience with drinking water and wastewater
22 systems; user fee system development; bond
23 funding; staff training and development; and
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1 federal drinking water and wastewater
2 requirements.
3

- 4 e. Experience with user fee system development and bond
5 funding is desired, but not mandatory.
6

7 In the event that the position becomes vacant due to personnel resignation
8 or other circumstances, CUC must appoint another qualified individual within one
9 hundred fifty (150) days of the date of the vacancy.
10

11 10. Drinking Water and Wastewater Division Manager. Within
12 one hundred eighty (180) days after the Entry Date, CUC shall
13 hire a full-time drinking water and wastewater Division
14 Manager (“DM”) who will report directly to the DED. The
15 DM shall have the following qualifications:
16
17

- 18 a. Completion of four (4) years of college, or its equivalent,
19 with major work in engineering, or other field related to
20 work with large-scale utilities, and five (5) years of
21 experience as a supervisor in direct charge of drinking
22 water systems’ production, treatment, and distribution,
23 and wastewater collection and treatment plants utilizing
24 activated sludge secondary treatment processes.
25
26
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28

- 1 b. A Water or Wastewater Treatment Plant Operator's
2 Certificate is desired, but not mandatory.
3
4 c. In addition, the DM must demonstrate the following:
5 (i) Proven management and communication skills;
6 (ii) Demonstrated ability to lead, motivate and
7 develop staff;
8 (iii) Experience with managing drinking water and
9 wastewater systems during periods of planning,
10 design, and construction;
11 (iv) Experience with drinking water and wastewater
12 systems; user fee system development; staff
13 training and development; and federal drinking
14 water and wastewater requirements;
15 (v) Thorough knowledge of the operating principles
16 and maintenance requirements of at least three (3)
17 million gallons per day ("mgd") of an activated
18 sludge wastewater treatment plant, including
19 primary and secondary treatment processes,
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1 oxygen production, and sludge digestion and
2 dewatering.
3

4 In the event that the position becomes vacant due to personnel resignation
5 or other circumstances, CUC must appoint another qualified individual within one
6 hundred fifty (150) days of the date of the vacancy
7

8 11. Wastewater Treatment Plant Operations Supervisor (Saipan).
9

10 Within two hundred seventy (270) days after the Entry Date,
11 CUC shall hire a full-time wastewater treatment plant
12 Operations Supervisor ("OS") with extensive experience in
13 wastewater treatment operations, who will report directly to the
14 DM, and who will oversee STP operations in Saipan. The OS
15 shall have the following qualifications:
16
17

- 18 a. Completion of two (2) years of college, with major
19 courses in sciences, math, or other appropriate fields, and
20 three (3) years of experience as a supervisor in a
21 wastewater treatment plant utilizing activated sludge
22 secondary treatment processes; and
23
24 b. A current Grade III Wastewater Treatment Plant
25 Operator's Certificate.
26
27
28

- 1 c. In addition, the OS must demonstrate the following:
- 2 (i) Proven supervisory and communication skills; and
- 3
- 4 (ii) Thorough knowledge of the operating principles
- 5 and maintenance requirements of an activated
- 6
- 7 sludge wastewater treatment plant that operates at
- 8
- 9 a capacity of at least one and a half (1½) mgd,
- 10 including primary and secondary treatment
- 11
- 12 processes, oxygen production, and sludge
- 13 digestion and dewatering.

14 In the event that the position becomes vacant due to personnel resignation

15

16 or other circumstances, CUC must appoint another qualified individual within one

17 hundred fifty (150) days of the date of the vacancy.

18 12. Chief Engineer. Within one hundred eighty (180) days after

19

20 the Entry Date, CUC shall hire a full time Chief Engineer

21

22 (“CE”) who will report directly to the DED. The CE shall have

23 the following qualifications:

- 24 a. Registration as a Professional Engineer pursuant to the
- 25
- 26 National Council of Engineering Examiners standards in
- 27
- 28 either the civil, mechanical, or electrical branch; and

- 1 b. Experience of ten (10) or more years as a professional
2 engineer.
3
4 c. In addition, the CE must demonstrate the following:
5 (i) Proven management and communication skills;
6 (ii) Demonstrated ability to lead, motivate, and
7 develop staff; and
8
9 (iii) Competency and proficiency in overseeing major
10 drinking water and wastewater systems during
11 periods of planning, design, construction, and
12 operation of drinking water systems' production,
13 treatment, and distribution, and in wastewater
14 treatment, collection, and conveyance systems.
15
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19 In the event that the position becomes vacant due to personnel resignation
20 or other circumstances, CUC must appoint another qualified individual within one
21 hundred fifty (150) days of the date of the vacancy.
22

- 23 13. Drinking Water and Wastewater Associate Engineer. Within
24 two hundred seventy (270) days after the Entry Date, CUC
25 shall hire a full-time drinking water and wastewater Associate
26
27
28

1 Engineer ("AE"), who shall report directly to the CE and work
2 with the DM. The AE shall have the following qualifications:

- 3
- 4 a. Bachelor's degree in civil, mechanical, or electrical
5 engineering; and
6
- 7 b. Experience of five (5) or more years of work as an
8 engineer.
9
- 10 c. The AE must also demonstrate competency in overseeing
11 drinking water systems and wastewater systems during
12 periods of planning, design, construction, and in
13 maintenance of wastewater treatment, collection, and
14 conveyance systems.
15
16

17 In the event that the position becomes vacant due to personnel resignation
18 or other circumstances, CUC must appoint another qualified individual within one
19 hundred fifty (150) days of the date of the vacancy.
20

- 21 14. Chief Financial Officer. Within one eighty days (180) after the
22 Entry Date, CUC shall hire a full-time Chief Financial Officer
23 ("CFO"), who shall report directly to the ED and work directly
24 with the DED. The CFO shall have the following
25 qualifications:
26
27
28

- 1 a. Bachelor's degree in accounting or financial
2 management from a United States accredited institution
3 or one with equivalent accreditation;
4
5 b. Ten (10) years of professional experience in
6 governmental or financial accounting, including
7 experience in a supervisory and/or management position
8 (a Certified Public Accountant or Certified Management
9 Accountant is desired, but not mandatory).
10
11 c. In addition, the CFO must demonstrate the following:
12
13 (i) Thorough knowledge of Generally Accepted
14 Accounting Principles, as well as Financial
15 Accounting Standards Board and Government
16 Accounting Standards Board pronouncements and
17 interpretations, auditing principles, and utility rate
18 structures and rate setting principles and methods;
19
20 (ii) Working knowledge of automated financial
21 systems and programs to manage all aspects of
22 reporting, personnel management and training; and
23
24
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1 (iii) General knowledge of utility operations, debt
2
3 collection practices, and limitations.

4 In the event that the position becomes vacant due to personnel resignation
5 or other circumstances, CUC must appoint another qualified individual within one
6
7 hundred fifty (150) days of the date of the vacancy.

8 15. Technical Manager for Oil. Within two hundred and forty
9
10 (240) days after the Entry Date, CUC shall hire or appoint a
11
12 Technical Manager responsible for oil and fuels at the CUC
13
14 Facilities ("TMO"). The TMO shall be primarily responsible
15
16 for overseeing, all oil spill prevention, preparedness and
17
18 response operations and compliance activities and deliverables,
19
20 on a daily basis, as required by the Stipulated Order. The TMO
21
22 shall be the person responsible for maintaining regular contact
23
24 with EPA staff regarding Section 311CWA compliance issues.
25
26 The TMO shall either report directly to the ED, or have a
27
28 separate reporting structure proposed in the staffing plan
required by Paragraph 17. The TMO will have authority to
make decisions for management and operations of the oil

1 related items required by the Stipulated Order. The TMO shall
2 have the following qualifications:

- 3
- 4 a. Completion of four (4) years of college, or its equivalent,
5 with major work in engineering, science or other field
6 related to work with project management and/or
7 environmental compliance, and one (1) to three (3) years
8 of experience with oil spill, prevention, preparedness and
9 response, environmental assessment, construction
10 oversight or power plant operations;
11
- 12 b. In addition, the TMO must demonstrate the following:
- 13 (i) Proven management and communication skills;
14 (ii) Demonstrated ability to lead, motivate, and
15 develop staff; and
16 (iii) Experience with managing environmental and/or
17 construction projects during periods of planning,
18 design, and construction.
19
- 20 c. Further, the TMO should have experience with one or
21 more of the following: oil storage, use, transportation
22 and disposal; assessment and cleanup of contaminated
23
24
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1 sites; environmental compliance; development of
2 statements of work; oversight of contractors; staff
3 training and development; and federal oil spill
4 prevention, preparedness and response requirements.
5

6
7 In the event that the position becomes vacant due to personnel resignation
8 or other circumstances, CUC must appoint another qualified individual within one
9 hundred fifty (150) days of the date of the vacancy.
10

11 A2. ORGANIZATIONAL STRUCTURE OF CUC
12

13 16. CUC Organizational Evaluation. Within one hundred eighty
14 (180) days after the Entry Date, CUC shall develop and submit
15 an organizational evaluation and reorganization plan for CUC
16 along with a detailed schedule, the purpose of which is to
17 improve the efficiency of CUC and reflect the organizational
18 changes required by this Stipulated Order. This plan and
19 schedule for implementation is subject to review and alteration
20 by EPA as provided in 74. The schedule shall include, at a
21 minimum, the steps necessary to implement a final
22 organizational evaluation and reorganization plan for CUC
23 within one (1) year after the Entry Date.
24
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- 1 a. The organizational evaluation and reorganization plan
2 may build on previous organizational assessments and
3 evaluation of CUC drinking water and wastewater
4 functions previously performed, and should include, but
5 not be limited to, elements of an organization based on
6 the management structure outlined in the Paragraphs
7 above.
8
9
10
11 b. In addition to drinking water and wastewater needs, the
12 organizational evaluation and reorganization plan shall
13 also offer a comprehensive assessment of organizational
14 needs including, but not limited to administration,
15 procurement, and accounting.
16
17
18 c. For each work unit, the organizational evaluation and
19 reorganization plan shall provide at a minimum: a
20 description of work functions, the number of employees,
21 a discussion of whether new hires or the retaining of
22 current staff will be needed, a summary of current
23 employee certifications, and qualifications needed for
24 each category of employee.
25
26
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28

- 1 17. Draft Staffing Plan. Within ninety (90) days after EPA has
2
3 approved the reorganization plan to be implemented, CUC
4 shall develop and submit a draft Staffing Plan with a detailed
5 schedule. The draft Staffing Plan shall include the following
6 information:
7
8 a. A timetable for implementation of staffing measures;
9
10 b. Procedures for adjusting the number of staff and the type
11 of positions to be filled; and
12
13 c. Recommended legislation for adjusting the number of
14 staff and the type of positions to be filled, as necessary.
15
16 d. In addition, the draft Staffing Plan shall require that:
17 (i) All positions in the reorganization of CUC be
18 filled with an employee qualified at the minimum
19 level required for that position within one (1) year
20 after the final Staffing Plan has been approved by
21 EPA; and
22 (ii) New employees be properly qualified for the
23 position at the time of hire.
24
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- 1 18. Engineering Section. Within one hundred twenty (120) days
2 after the Entry Date, CUC shall develop and submit a draft
3 schedule for creation of a drinking water and wastewater
4 engineering section. This schedule and any associated plans
5 for implementation are subject to review and alteration, as
6 needed, by EPA. This draft schedule shall include, at a
7 minimum, a plan for establishing such engineering section
8 within one hundred eighty (180) days after the Entry Date, as
9 well as a narrative description of work functions, the number of
10 employees, a summary of employee certifications, and
11 qualifications needed for each category of employee. In
12 addition, the engineering section:
13 a. Shall be supervised by the CE;
14 b. Shall consist of experienced and skilled engineers (civil,
15 mechanical, electrical) for drinking water and wastewater
16 projects. Engineers shall have at a minimum the
17 following qualifications:
18 (i) Bachelor's of Science in Engineering; and
19
20
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1 (ii) Minimum of three (3) years experience in water
2 and/or wastewater field.
3

4 c. Shall oversee design and construction management,
5 construction inspection, and development of capital
6 improvement projects; and
7

8 d. Shall assist with development of operations and
9 maintenance planning for drinking water and wastewater
10 facilities.
11

12
13 19. Certification of Operators in Direct Responsible Charge (“DRC
14 Operators”). Within one year (365 days) after the Entry Date,
15 CUC shall ensure that DRC Operator positions are staffed by
16 operators who have obtained certification at the level required
17 for that position by the CNMI Division of Environmental
18 Quality (“DEQ”). At a minimum, for the wastewater system,
19 CUC shall have two (2) DRC operators for treatment, and two
20 (2) DRC operators for collection. For the drinking water
21 system, CUC shall have, at the very least, the minimum number
22 of DRC operators for treatment and distribution (for all 3
23
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1 PWS's, Saipan, Rota, and Tinian) as required under CNMI
2 DEQ regulations and requirements.
3

4 a. Within thirty (30) days after the Entry Date, CUC shall
5 submit a list of the number and level of certification of
6 DRC operators required to meet the above requirements
7 for EPA review and approval.
8

9
10 b. If current DRC Operators at CUC are not certified at the
11 required level, CUC shall, within thirty (30) days after
12 the Entry Date, notify those employees. Within one (1)
13 year after the Entry Date, CUC shall submit
14 documentation demonstrating that all employees in DRC
15 operator positions meet the minimum qualifications,
16 including certification, described herein.
17
18
19

20 A3. PROCUREMENT PROCEDURES AND TRAINING
21 PROGRAMS

22 20. Procurement Procedures. Within one (1) year after the Entry
23 Date, CUC shall develop and submit for EPA approval,
24 procurement procedures to allow for timely and efficient
25 procurement of needed services, materials, tools, and supplies,
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1 and shall include a set of Standard Operating Procedures
2 (“SOPs”) for both routine and emergency procurement needs,
3 including but not limited to: tools, materials, and supplies;
4 architectural and engineering services; construction services;
5 laboratory and analytical services; and any other procurement
6 or purchasing needs.
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9
10 21. Comprehensive Utility Training Program. Within one (1) year
11 after the Entry Date, CUC shall develop and submit for EPA
12 approval, comprehensive drinking water and wastewater
13 systems training programs to include, but not be limited to
14 operation and maintenance matters and preparation of operators
15 in each department for certification examinations. CUC shall
16 develop an operator training program that provides on-going
17 training for both drinking water and wastewater systems
18 personnel, and includes information about the proper operation
19 and maintenance of the sources, distribution, storage, pumps,
20 water and wastewater treatment, disinfection, sewer collection
21 and conveyance systems, monitoring requirements, and other
22 operational aspects of the drinking water and wastewater
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1 systems. CUC shall appoint an individual whose primary
2 responsibility will be to plan, coordinate and implement all
3 training activities.
4

5 A4. WASTEWATER OPERATIONS AND MAINTENANCE AT
6 CUC

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8 22. Wastewater Collection, Conveyance, and Treatment Systems'
9 Operation and Maintenance Manuals. Within four hundred
10 fifty (450) days after the Entry Date, CUC shall develop and
11 submit for EPA approval, a set of comprehensive operation and
12 maintenance manuals ("O&M manuals") including process
13 control SOPs for the Agingan and Sadog Tasi STPs and
14 associated sewer collection and conveyance systems. Upon
15 approval by EPA, CUC shall distribute the approved O&M
16 manuals to the appropriate employees, and shall require use of
17 the manuals as part of its SOPs. The O&M manuals shall
18 include:
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- 23 a. Information on all relevant process design assumptions
24 such as design flows, pump capacities, detention times,
25 surface loadings, oxygen transfer requirements,
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1 disinfection requirements, wastewater transmission
2 requirements, simplified schematic diagrams of pipelines
3 and control systems, and detailed diagrams for more
4 complicated components;
5

6
7 b. Unit process information, including control measures
8 and monitoring procedures needed to achieve maximum
9 efficiency and reliability, and a clear explanation of
10 process functions of various components with simplified
11 language and references to appropriate technical
12 manuals;
13

14
15 c. Start-up and shutdown procedures;
16

17 d. Maintenance schedules;
18

19 e. Laboratory test procedures, including the necessary
20 quality assurance, and reporting requirements;
21

22 f. Safety procedures;
23

24 g. Organizational structure, job descriptions, and duties;
25

26 h. Administrative procedures for purchase order
27 preparation approvals and budget preparation; and
28

i. An operating plan for emergencies.

1 Within ninety (90) days of EPA approval of each of the deliverables or other
2 relevant components of the O&M manuals, required by this Stipulated Order,
3 CUC shall ensure that the updated O&M manuals reflect those deliverables or
4 components.
5

7 23. Wastewater Collection Systems Spill Prevention and Response

8 Plan. Within one (1) year after the Entry Date, CUC shall
9 develop and submit for EPA approval, a collection systems'
10 spill prevention and response plan to include procedures for
11 CUC's sewer collection crews' responses to spill sites, control
12 and mitigation of spills, records, reporting, and public notices.
13

14 The plan shall include procedures for the prevention of and
15 response to overflows at CUC's sewer treatment plants. The
16 spill response plan shall follow guidelines of the American
17 Public Works Association, Preparing Sewer Overflow
18 Response Plans: A Guidebook for Local Governments (1998).
19

20 24. Source Control Program. Within one (1) year after the Entry
21 Date, CUC shall develop and submit for EPA approval, a
22 pretreatment/source control program to prevent adverse
23 impacts to the treatment and collection systems from users such
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1 as garment facilities, food service establishments, and other
2 commercial users. The program shall include:
3

- 4 a. A survey to identify industrial users and sources; and
- 5 b. A schedule for the development and implementation of
6 control programs and mechanisms based on the survey,
7 to the extent practicable, for identified sources.
8

9
10 25. NPDES Permit Effluent and Receiving Wastewater Monitoring
11 Report. Within one hundred eighty (180) days after the Entry
12 Date, CUC shall develop and submit for EPA approval, a report
13 regarding compliance with the NPDES permit effluent limits
14 and receiving wastewater monitoring requirements for the
15 Agingan and Sadog Tasi STPs. The compliance report shall
16 include status updates on the following:
17

- 18 a. Laboratory staffing and equipment;
- 19 b. Equipment for receiving wastewater monitoring;
- 20 c. Laboratory contract support; and
- 21 d. SOPs for conducting required NPDES monitoring.
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1 Within thirty (30) days of submission of the compliance report to EPA, CUC shall
2 submit a plan to EPA outlining additional measures needed to correct any
3 identified inadequacies.
4

5 26. Wastewater Systems' Maintenance Program. CUC shall
6 develop and submit for EPA approval, a wastewater systems
7 maintenance program that includes the following:
8

9 a. Wastewater Collection and Conveyance Systems'
10 Cleaning and Maintenance Program. Within one (1) year
11 after the Entry Date, CUC shall develop and submit for
12 EPA approval, a program for cleaning and maintaining
13 its wastewater collection and conveyance systems. The
14 program shall be sufficient to ensure the continuous
15 operation of the collection and conveyance systems and
16 reduce or eliminate sanitary sewer overflows ("SSOs").
17

18 The maintenance program shall include the following:
19

20 (i) Schedules for routine preventative sewer pipe
21 cleaning and more frequent cleaning of sewer hot
22 spots with a history of blockages and SSOs. At a
23 minimum, CUC shall, on an annual basis, clean
24
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1 thirty (30) percent of the wastewater systems'
2 miles of sewer pipe in the Agingan collection
3 system and the Sadog Tasi collection system to
4 industry standards. At a minimum, CUC shall
5 clean the entire system of sewer pipes in the
6 Agingan collection system and the Sadog Tasi
7 collection and conveyance system to industry
8 standards on a four (4) year cycle;
9

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11
12
13 (ii) Funding and procedures for completing emergency
14 repairs to collection and conveyance systems
15 sewer pipes; and
16

17 (iii) Schedules for the routine maintenance of sewage
18 pump stations.
19

20 b. Computer-Based Maintenance Management System.
21

22 Within two (2) years after the Entry Date, CUC shall
23 develop and submit for EPA approval, a computer-based
24 program for the Sadog Tasi and Agingan treatment
25 plants and associated sewer collection and conveyance
26 systems that will schedule and track preventative
27
28

1 maintenance for all the assets and facilities of the
2 wastewater system. This program shall incorporate the
3 existing wastewater collection systems' cleaning and
4 maintenance program.
5
6

7 27. Spare Parts, Equipment, and Tools. CUC shall develop and
8 submit for EPA approval, a report, a tracking system, and an
9 inventory as follows:
10

11 a. Tools and Equipment Report. Within one year (365
12 days) after the Entry Date, CUC shall develop and
13 submit for EPA approval, a report describing the
14 minimum tools and equipment needed for each facility
15 and maintenance area in its wastewater systems to handle
16 any routine maintenance or repair work. CUC shall
17 ensure that the report includes a plan to acquire the
18 necessary tools and equipment for the sewage treatment
19 plants; wastewater collection systems; wastewater
20 conveyance systems (including sewage pump stations);
21 and maintenance shops. CUC shall acquire the necessary
22 tools and equipment within one hundred eighty (180)
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1 days from the date of EPA's approval of the report.

2 CUC shall acquire and/or dedicate at least one (1) dump
3 truck to be used exclusively for the wastewater treatment
4 plants' sludge processing operations. The report shall
5 also include a schedule for supplying CUC with needed
6 tools and equipment.
7

8
9
10 b. Spare Parts, Equipment, and Tools Inventory Tracking
11 System. Within one (1) year after the Entry Date, CUC
12 shall develop and submit for EPA approval, an interim
13 report of the inventory tracking system in place to
14 monitor and replace spare parts, equipment, and tools for
15 its wastewater systems. One (1) year after EPA approval
16 of the interim inventory tracking system, CUC shall
17 develop and submit for EPA approval, a final report on
18 the implementation of the inventory tracking system,
19 including specific examples of how equipment has been
20 tracked.
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24 c. Spare Parts Inventory. Within one year (365 days) after
25 the Entry Date, CUC shall develop and maintain a one
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1 hundred twenty (120) day inventory of operation and
2 maintenance parts for its wastewater systems that
3 includes any spare parts that may reasonably be needed,
4 and a written list of parts inventory and its adequacy,
5 including written guarantees of availability. The
6 inventory need not include any parts for which CUC has
7 a written guarantee of availability within four (4) days of
8 a request. A category for spare parts inventory shall be
9 included in the annual division budget. Following EPA
10 approval of the parts inventory, on or before January 28
11 and July 28 of each year, CUC shall develop and submit
12 for EPA approval, a semi-annual written report to
13 demonstrate the adequacy of its one hundred twenty
14 (120) day spare parts inventory.

- 21 28. Contingency Plan. Within one (1) year after the Entry Date,
22 CUC shall develop and submit for EPA approval, a
23 contingency plan for the wastewater systems to reduce the risk
24 of contamination from wastewater sources and distribution
25 systems in the event of power outages or damage to the systems
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1 due to extreme weather events, such as typhoons. The
2 contingency plan must explain procedures, resources, and
3 responsible entities required to restore the systems to safe
4 conditions.
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7 A5. DRINKING WATER OPERATIONS AND MAINTENANCE
8 AT CUC

9 29. Chlorine Disinfection. Within one hundred eighty (180) days
10 after the Entry Date of this Stipulated Order, CUC shall ensure
11 that chlorination disinfection of drinking water systems is
12 occurring continuously and is operating reliably, and that
13 chlorine residual is maintained at all locations throughout the
14 distribution systems by ensuring the following:
15

- 16
17 a. All positions in the operational unit charged with
18 maintenance and operation of the chlorination systems
19 are filled and the unit has all tools, materials, equipment,
20 and supplies necessary to ensure continuous
21 chlorination, including adequate inventory of chlorine
22 gas cylinders on CNMI to last for a period of not less
23 than ninety (90) days;
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- 1 b. There are clear, written, SOPs for
2
3 chlorination/disinfection, including operational and
4 maintenance schedules and inventory procedures to
5 ensure that CUC maintains adequate inventory of gas
6 chlorine cylinders on CNMI for a period of not less than
7 ninety (90) days; and
8
9
10 c. A written disinfectant (chlorine residual) monitoring
11 program to ensure that chlorine residual levels are at a
12 minimum of 0.2 ppm at all points in the distribution
13 systems. The monitoring program shall contain a
14 detailed description of all current, and any proposed,
15 disinfection points, and all monitoring locations, to
16 ensure adequate disinfection is occurring continuously.
17 The program must include portions of the system of
18 known or anticipated low chlorine residual. Monitoring
19 shall occur on a daily basis. The monitoring program
20 shall also include a description, including forms to be
21 used, of how to implement the disinfectant monitoring
22 program.
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- 1 d. A detailed budget for the chlorine disinfection program
2 is developed and submitted to EPA for approval.
3
4 e. CUC shall develop and submit for EPA approval, a plan
5 and schedule for installation of chlorination system
6 protection structures, to include construction of
7 protective and secure structures at all chlorination sites.
8
9

10 30. Chlorination and Disinfection Program. Within ninety (90)
11 days after the Entry Date, CUC shall develop and submit for
12 EPA approval, a description of the chlorination/disinfectant
13 program to ensure long-term operation of the disinfection
14 systems. This program shall include a schedule for
15 implementation; a description of the number and qualifications
16 of the staff implementing this program; a detailed budget for
17 the program; the written SOPs developed to implement the
18 program; and a description of the disinfectant monitoring
19 program, including copies of all forms and other recordkeeping
20 needed to ensure that adequate disinfection and monitoring
21 takes place, and the plan for installation of chlorination system
22 protection structures.
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described in Section III (Wastewater and Drinking Water Systems) Subsection A7 below.

33. Water Meter Maintenance and Testing Program. Within one hundred eighty (180) days after the Entry Date, CUC shall develop and submit for EPA approval, a drinking water meter maintenance and testing program to ensure that all currently installed and future installed meters are properly maintained and are functioning adequately. This program shall include development of SOPs, training, and appropriate equipment and staff.
34. Repair Leaks in Drinking Water Distribution Systems. Within one year (365 days) after the Entry Date, CUC shall develop and submit for EPA approval: a plan, which includes a detailed schedule, to perform detection and repair of leaks in the drinking water distribution systems; and a plan to identify and eliminate subsurface connections to old drinking water lines or pipes that should not be connected to the distribution systems and that may negatively impact the quality of water in the distribution system. These plans shall include old sections of

1 distribution line that have been replaced but are still connected
2 to the system; illegal connections; and any other section of pipe
3 that is not required as part of the distribution system.
4

5 35. Correct Major Sanitary Deficiencies at Storage Tanks. Within
6 one hundred eighty (180) days after the Entry Date, CUC shall
7 seal all holes and openings, inspect, clean and disinfect all
8 storage tanks.
9

10 36. Correct Major Sanitary Deficiencies at Wellheads. Within
11 ninety (90) days after the Entry Date, CUC shall develop and
12 submit for EPA approval, a plan, including a schedule, that will
13 address all wellhead sanitary deficiencies, including but not
14 limited to: holes through the wellhead sanitary seals; missing
15 vents or vent screens; casings that are flush with the concrete
16 pads; and open sounding tubes.
17

18 37. Computer-Based Preventative Maintenance Management
19 System. Within two (2) years after the Entry Date, CUC shall
20 develop and submit for EPA approval, a computer-based
21 program that will schedule and track preventative maintenance
22 for all the assets and facilities of the water systems.
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1 38. Cross Connection Control and Backflow Prevention Program.

2 Within one (1) year after the Entry Date, CUC shall develop
3 and submit for EPA approval, a cross connection control and
4 backflow prevention program, including a schedule for
5 implementation.
6

7
8 39. Close or Seal all Unused or Abandoned Wells. Within one
9

10 year after the Entry Date, CUC shall properly close or seal all
11 unused, abandoned wells, following procedures required under
12 DEQ regulations.
13

14 40. Spare Parts, Equipment, and Tools. CUC shall develop and
15 submit for EPA approval, a report, a tracking system, and an
16 inventory as follows:
17

- 18 a. Tools and Equipment Report. Within one year (365
19 days) after the Entry Date, CUC shall develop and
20 submit for EPA approval, a report describing the
21 minimum tools and equipment needed for each facility
22 and maintenance or repair work, and a schedule for
23 supplying CUC with needed tools and equipment. CUC
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1 shall ensure that the following components are addressed
2
3 in the report and have the necessary tools and equipment:

- 4 (i) Drinking water sources, to include wells, springs,
5 surface water sources and associated
6 appurtenances;
7
8 (ii) Drinking water treatment systems
9 (chlorination/disinfection, surface water
10 treatment), transmission lines and distribution
11 lines including associated valves and other
12 appurtenances;
13
14 (iii) Drinking water meters, including meter repair
15 facilities, pump stations, to include pumps, motors
16 and electrical controls; and
17
18 (iv) Maintenance shops and any other facilities.
19

- 20
21 b. Spare Parts, Equipment, and Tools Inventory Tracking
22 System. Within one (1) year after the Entry Date, CUC
23 shall develop and submit for EPA approval, an interim
24 report of the inventory tracking system to monitor and
25 replace spare parts, equipment, and tools for its drinking
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1 water systems. One (1) year after EPA approval of the
2 interim inventory tracking system, CUC shall develop
3 and submit for EPA approval, a final report on the
4 implementation of the inventory tracking system,
5 including specific examples of how equipment has been
6 tracked.
7

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9
10 c. Spare Parts Inventory. Within two hundred seventy
11 (270) days after the Entry Date, CUC shall develop and
12 maintain a one hundred twenty (120) day inventory of
13 operation and maintenance parts for its drinking water
14 systems that includes any spare parts that may reasonably
15 be needed. The inventory need not include any parts for
16 which CUC has a written guarantee of availability within
17 four (4) days of a request. A category for spare parts
18 inventory shall be included in the annual division
19 budget. Within two hundred seventy (270) days after the
20 Entry Date, CUC shall develop and submit for EPA
21 approval, a written list of parts inventory and an
22 explanation of the adequacy of this inventory, including
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1 written guarantees of availability. On or before January
2 28 and July 28 of each year, CUC shall provide a semi
3 annual written report to EPA and demonstrate the
4 adequacy of its one hundred twenty (120) day spare parts
5 inventory.
6
7

- 8 41. Contingency Plan. Within one (1) year after the Entry Date,
9 CUC shall develop and submit for EPA approval, a
10 contingency plan for the drinking water system to reduce the
11 risk of contamination of drinking water sources and
12 distribution systems in the event of power outages or damage to
13 the systems due to extreme weather events, such as typhoons.
14 The contingency plan must explain procedures to restore the
15 sources and distribution systems to safe conditions should
16 contamination occur.
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21 A6. DRINKING WATER SAMPLING, MONITORING, AND
22 REPORTING
23

- 24 42. Monitor and Treat Spring Sources Determined to Be,
25 Groundwater under the Direct Influence of Surface Water
26 ("GWUDI"). CUC shall take the following measures to
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28

1 address Tanapag and Achugao springs, the spring sources
2 determined to be GWUDI:
3

4 a. Within thirty (30) days after the Entry Date, CUC shall
5 develop and submit to EPA for approval a plan,
6 including a detailed schedule, which will ensure that
7 until such time as adequate treatment is installed (i.e.,
8 treatment meeting all appropriate federal and CNMI
9 filtration and disinfection requirements for a GWUDI
10 source requiring treatment), or until such time as these
11 sources are removed from the system, the following
12 safeguards will be implemented:
13

- 14 (i) Sufficient monitoring (i.e., either continuous, or at
15 a minimum, twice-daily, turbidity monitoring; and
16 either continuous, or at a minimum, twice-daily,
17 chlorine residual monitoring);
18
19 (ii) Operational controls and procedures (including
20 protocols requiring shutoff if excessive turbidity
21 levels are encountered), and
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1 (iii) Protocols ensuring continual, uninterrupted
2 chlorination disinfection.
3

4 b. Within ninety (90) days after the Entry Date, CUC shall
5 develop and submit to EPA for approval, a detailed plan,
6 including a detailed schedule to either install treatment at
7 Tanapag Springs and Achugao Springs, or to disconnect
8 those sources from the drinking water systems and
9 provide an alternative supply of drinking water.
10
11

12
13 43. Additional GWUDI Sources on Saipan, Rota, and Tinian.

14 EPA, in consultation with DEQ, shall require CUC, in writing,
15 to conduct monitoring and collect any other data and
16 information necessary for DEQ to make GWUDI
17 determinations for additional sources on Saipan, Rota, and
18 Tinian that have not yet been adequately characterized as to
19 whether they are GWUDI. Within thirty (30) days after EPA,
20 in consultation with DEQ, provides the relevant monitoring,
21 data collection, information-gathering and reporting
22 requirements to CUC, CUC shall carry out the required
23 monitoring, data collection and information-gathering and
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1 reporting requirements, in accordance with the time frames
2 specified by EPA, in consultation with DEQ, and shall continue
3 until notified, in writing, by EPA, in consultation with DEQ,
4 that all required monitoring and other data has been collected
5 and submitted to DEQ and EPA to enable GWUDI
6 determinations to be made.
7

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9
10 44. Plan for Drinking Water Monitoring and Sampling. Within
11 ninety (90) days after the Entry Date, CUC shall develop and
12 submit for EPA approval, a plan to perform all drinking water
13 monitoring and reporting as required under the EPA and DEQ
14 drinking water regulations (40 C.F.R. Part 141, and DEQ's
15 Safe Drinking Water Regulations). The plan shall include, but
16 not be limited to, the following:
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20 a. Description of needed laboratory staffing and equipment;
21
22 b. Description of laboratory contract support, including
23 budget information;
24
25 c. Comprehensive list of every sample point location used
26 to collect samples required under the regulations. Each
27 sample point shall be designated by a unique
28

1 identification number and a descriptive location name in
2 conformance with DEQ reporting requirements and as
3 approved by DEQ. Addition and deletion of sample
4 point locations shall be submitted to DEQ for approval
5 on an as-needed basis, and an updated comprehensive
6 list shall be provided to DEQ on an annual basis;
7

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9
10 d. Clear description of sampling protocols and monitoring
11 frequency at each designated sample point for all
12 required parameters; and
13

14 e. A schedule describing when all required monitoring will
15 take place. The schedule must ensure that monitoring to
16 address contaminants with potential acute health threats,
17 such as total coliform, nitrate, and the turbidity
18

19
20 provisions of the surface water treatment rules, is
21 initiated immediately upon approval of the plan by EPA.
22

23 f. EPA may require supplemental nitrate and/or coliform
24 bacteria monitoring at locations where EPA believes
25 these contaminants may continue to pose a threat to
26
27
28

1 human health, and where such additional monitoring is
2 necessary to adequately protect the public's health.
3

4 45. Reporting Sampling Results to DEQ. Within ninety (90) days
5 after the Entry Date, CUC shall develop and submit for EPA
6 approval, in consultation with DEQ, protocols for ensuring that
7 sampling and monitoring data is reported to the primacy
8 agency, DEQ, in a timely manner in accordance with 40 C.F.R.
9 § 141.21(g)(2) for coliform monitoring, with 40 C.F.R. §
10 141.31 for all other monitoring requirements, and with all other
11 applicable DEQ requirements.
12

13 46. Public Notice of Violations. Within ninety (90) days after the
14 Entry Date, CUC shall develop and submit for EPA approval,
15 protocols for ensuring compliance with 40 C.F.R. § 141
16 Subpart Q - Public Notification of Drinking Water Violations.
17

18 47. Consumer Confidence Reports. Within ninety (90) days after
19 Entry Date, CUC shall develop and submit for EPA approval,
20 protocols for ensuring the development and distribution of
21 Consumer Confidence Reports ("CCRs") to meet the
22 requirements of 40 C.F.R. § 141 Subpart O - CCRs, which
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1 requires that each system is required to complete CCRs by July
2 1 of each year.
3

4 A7. INTERIM FINANCIAL MANAGEMENT

5 48. The Interim Financial Plan (“IFP”) shall be submitted to EPA
6 within one hundred eighty (180) days after the Entry Date and
7 shall include, but not be limited to, the following:
8

- 9
- 10 a. A detailed breakdown of the costs associated with
11 preparation of the Master Plan, including sources of
12 funding to ensure adequate preparation of all preliminary
13 assessments;
14
 - 15 b. A financial management plan which can generate
16 sufficient revenues to cover drinking water and
17 wastewater operations and compliance activities,
18 planning and design of the proposed Village of Kagman
19 wastewater treatment plant, the proper management of
20 oil and used oil from the PP Facilities, oil spill
21 prevention and response activities, as well as any other
22 anticipated related expenses, including all existing debt
23 and expected debt service and the build-up of a financial
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1 reserve, discussed more fully below, including the
2 establishment of a rate structure to generate sufficient
3 revenues, until development of the Final Financial Plan
4 based on an approved Master Plan;
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7 c. A detailed schedule of all projected expenses for each
8 calendar year that includes all components of budgeting,
9 including, but not limited to: personnel and staffing;
10 operations; maintenance; repair; and accounting. This
11 schedule shall spell out how these expenses will be
12 covered through the calendar year; and
13

- 14
15 d. The Annual Budget, designed to ensure adequate
16 financing of operation and maintenance, repair and
17 replacement, when necessary, of CUCs drinking water
18 and wastewater systems.
19

- 20
21 (i) A detailed breakdown of the total projected costs
22 for the coming year to operate, maintain, repair,
23 and replace (as necessary) the drinking water and
24 wastewater systems, including monies required to
25 ensure adequate staffing, energy, materials and
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1 supplies, financial reserves, and to cover other
2 expenses;
3

4 (ii) A detailed breakdown of the total projected costs
5 to complete any National Environmental Policy
6 Act review, including activities related to the
7 Kagman wastewater treatment plant, within thirty-
8 six (36) months after the Entry Date and
9 production of final engineered designs for the
10 collection system, treatment operations,
11 conveyances and outfall within sixty (60) months
12 of the Entry Date;
13
14
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16

17 (iii) A detailed breakdown of the total projected costs
18 for the coming year to ensure the proper
19 management of oil and used oil from the PP
20 Facilities, conduct infrastructure repairs at the PP
21 Facilities and the CUC Pipeline and to maintain
22 compliance with the Stipulated Order Number
23 Two;
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1 (iv) A detailed schedule of how to implement user
2 fees, taxes, assessments, or other sources of
3 revenue to guarantee that CUC can meet the
4 projected costs as set forth in the budget for the
5 coming year, including increases or adjustments
6 required to meet the Annual Budget; and
7

8 (v) A financial management plan ensuring that all user
9 fees, taxes, assessments, or other sources of
10 revenue collected for the drinking water and
11 wastewater systems are applied to the operations,
12 maintenance, repair, replacement, and compliance
13 activities of those systems.
14

15 49. Financial Reserves. CUC shall develop the following financial
16 reserves for the implementation of the Master Plan:
17

18 a. A debt service reserve shall be established and
19 maintained in accordance with bond covenants and debt
20 service covenants. After issuing a bond or securing a
21 loan, CUC shall submit to EPA information regarding
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1 the amount of this reserve, including an explanation of
2 how this amount was determined; and
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- 4 b. An emergency operations, maintenance, renovation, and
5 replacement reserve shall be established and maintained
6 and be equal to three (3) months of budgeted expenses
7 for operations, maintenance, renovation, and replacement
8 of CUC's drinking water systems and wastewater
9 systems. CUC shall submit to EPA for approval the
10 proposed amount of this reserve. CUC must make
11 monthly deposits to the reserve to ensure that the balance
12 matches current needs. The reserve shall be used only to
13 cover operations and maintenance expenses not in the
14 original budget. This reserve can be replaced by the
15 availability of an equivalent emergency line of credit.
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21 B. DRINKING WATER AND WASTEWATER MASTER PLAN
22

- 23 50. CUC shall develop and submit for EPA approval, a
24 comprehensive drinking water and wastewater master plan
25 ("Master Plan") to determine current and future infrastructure
26 needs for a twenty (20) year period, and to provide a long-term
27
28

1 plan for CUC drinking water and wastewater systems
2 improvements in Saipan, Rota, and Tinian. The Master Plan
3 shall be developed in accordance with this Stipulated Order,
4 and shall integrate and address existing plans and reports,
5 including but not limited to: Water Infrastructure Development
6 Plans for the Islands of Saipan, Rota and Tinian, prepared for
7 the United States Army Corps of Engineers, April 2003; the
8 Saipan Water Master Plan, prepared by Winzler and Kelly,
9 1996; the Inspection and Sanitary Survey Report for the
10 Commonwealth Utilities Corporation Public Water System
11 Saipan, prepared by EPA, June 2006; and the Inspection of
12 Water System Facilities of the Commonwealth Utilities
13 Corporation (CUC) Public Water System - MP000001, Saipan,
14 CNMI, June 2006. The Master Plan shall include the
15 condition, capacity, and operational assessments required to be
16 carried out pursuant to this Stipulated Order, as described
17 below. The Master Plan shall also address drinking water
18 systems' and wastewater systems' needs for the next twenty
19 (20) years, and present alternatives for necessary

1 improvements. The Master Plan shall include schedules for
2 infrastructure improvements that the assessments have
3 identified as necessary to bring CUC's drinking water and
4 wastewater facilities into compliance with all applicable CWA
5 and SDWA requirements.
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8 **B1. ASSESSMENTS FOR MASTER PLAN**
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10 51. Wastewater Assessment. The Master Plan shall include an
11 assessment of the condition, capacity, capabilities, and
12 reliability of all physical components of the wastewater
13 systems, including wastewater collection, conveyance,
14 treatment, and disposal. The Master Plan shall also identify
15 conditions that cause or contribute to CUC's violations of
16 NPDES permits, the CWA, and applicable regulations.
17 Further, the Master Plan shall include a comprehensive review
18 of all available wastewater treatment technologies and identify
19 preferred alternatives, including long-term cost/benefit analysis
20 of the various technologies available.
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23 52. Condition Assessment for the Wastewater Systems. The
24 Master Plan shall include an assessment of the condition of its
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1 wastewater collection and treatment systems for the purpose of
2 identifying defective or deteriorated system components in
3 need of repair, rehabilitation, or replacement. The condition
4 assessment shall include inspections of system components and
5 documentation of component conditions using a condition
6 rating system. The wastewater systems condition assessment
7 shall include the following elements:
8

- 9 a. A wastewater collection systems condition assessment
10 including, but not limited to, the use of closed-circuit
11 television (“CCTV”) inspections of sewer pipes;
12
- 13 b. Pump station and force main condition assessment; and
14
- 15 c. Wastewater treatment plant condition assessments,
16 including an engineering and operational performance
17 evaluation of the Agingan and Sadog Tasi treatment
18 plants, and recommended improvements or modifications
19 necessary to comply with their respective NPDES
20 permits. The assessment shall include review of historic
21 effluent monitoring data to identify any instances of
22 noncompliance and determine causes of noncompliance.
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1 53. Drinking Water Assessment. CUC shall submit an assessment
2 of the short-term and long-term drinking water needs for the
3 islands of Saipan, Tinian, and Rota, and address CUC's
4 drinking water systems' quantity and drinking water quality
5 issues, including:
6

- 7 a. Physical infrastructure and operational assessments and
8 needs;
9 b. Source water protection for drinking water sources; and
10 c. Drinking water treatment needs.

11 54. Assessment of Drinking Water Technological Alternatives.
12

13 The Drinking Water Assessment portion of the Master Plan
14 shall include a comprehensive review of available technologies
15 for drinking water treatment, and identify preferred
16 alternatives, including long-term cost/benefit analysis of
17 various technologies available for such treatment, such as
18 alternative disinfectants to gas chlorine or appropriate
19 treatments if groundwater sources are determined to be
20 GWUDI. The Master Plan shall also include an assessment of
21 technological alternatives to improve the CUC drinking water
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1 systems' pressure and delivery, such as improvements in
2 drinking water loss detection and correction, including:

- 3 a. Leak detection and drinking water conservation
4 programs;
- 5 b. Analyzing the need for possible additional sources of
6 drinking water;
- 7 c. Analyzing and assessing the need to replace or add
8 additional drinking water transmission and distribution
9 lines; and
- 10 d. Assessing drinking water storage quantity and storage
11 location needs.

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17 55. Condition Assessment of Drinking Water Systems. The Master
18 Plan shall include an assessment of all aspects of CUC's
19 drinking water systems, for the purpose of identifying defective
20 or deteriorated system components in need of repair,
21 rehabilitation, replacement, or reconfiguration, including
22 examination of conditions of wells and other sources, and all
23 associated appurtenances, and adequacy and condition of
24 protective structures such as wellhead protective structures,
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1 fences, pumps and pumphouses, storage facilities, and
2 treatment facilities (disinfection and/or surface water
3 treatment). The condition assessment shall include inspection
4 reports for all components of the drinking water systems,
5 documentation of component conditions using a condition
6 rating system, and narrative descriptions of the condition of the
7 system component. The condition assessment may also build
8 upon existing assessments of the water system components,
9 such as sanitary surveys. The drinking water systems condition
10 assessment shall include the following elements:

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- 16 a. Wellhead. Assessment, including type, size, and
- 17 adequacy of pumps; configuration and condition of
- 18 wellheads and all associated wellhead appurtenances,
- 19 including pads, sanitary seals, pressure gauges, flow
- 20 meters, valves, sampling taps, electrical controls; and
- 21 other wellhead appurtenances.
- 22
- 23
- 24 b. Wellhead Protective Structures (pumphouses/fences,
- 25 etc.) Assessment of the condition and adequacy of any
- 26 existing wellhead protective structures.
- 27
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- 1 c. Treatment Systems. Assessment of condition and
2 adequacy of drinking water treatment systems, including
3 existing chlorination disinfection of wells, slow sand
4 filter, and any other treatment systems.
5
6
7 d. Storage Tanks. Assessment of size, material, age,
8 condition (external and internal, physical, and structural)
9 of all storage facilities.
10
11 e. Pumps and Pump Stations. Assessment of condition,
12 status, configurations, and needs of all pumps and pump
13 stations, including comparing existing configuration to
14 original designed configurations, and identification of
15 any needs for redundancy and backup power.
16
17 f. Transmission Line and Distribution Systems Line
18 Assessment. An assessment of all drinking water
19 transmission and distribution pipelines, including
20 summaries of pipe lengths by pipe size and material and
21 by age and general condition; all valves, valve boxes,
22 pressure-control stations; associated appurtenances, and
23 any other transmission and distribution systems'
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1 components; and a Geographical Information System
2 (“GIS”) map depicting locations and interconnectivity of
3 the transmission and distribution pipelines.
4

- 5 g. Drinking Water Meters. A detailed description and
6 assessment of existing water meters by customer class,
7 including a description of unmetered customers, as well
8 as the condition and status of individual meters.
9

10
11 56. Assessment of Drinking Water Systems Improvement

12 Alternatives. The Master Plan shall include a comprehensive
13 assessment, using the 10 State Standards and/or other standards
14 appropriate or applicable to CNMI public water systems, of the
15 drinking water systems’ improvement needs and alternatives
16 for meeting them for the next twenty (20) years. This
17 assessment shall address the adequacy of the drinking water
18 systems’ quantity, quality and pressure (including storage
19 needs) at all locations throughout the distribution systems. It
20 should also include discussion of the need for, and alternatives
21 available to, ensure disinfection and treatment of all
22 groundwater sources, as well as adequate treatment for surface
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1 water and GWUDI. Specifically, the alternatives assessment
2 must include the following:
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- 4 a. Any drinking water springs, wells or other sources
5 needing treatment due to a determination that the source
6 is GWUDI;
7
- 8 b. Storage needs based on both drinking water pressure and
9 volume requirements for adequate storage. To ensure
10 there is adequate storage covering all parts of the
11 distribution system, the storage needs assessments
12 should separately address areas of the drinking water
13 distribution systems that currently are not provided or
14 provided insufficient storage, such as those areas where
15 wells currently pump directly into the water systems; and
16
- 17 c. Transmission and distribution systems' improvements or
18 changes needed to ensure adequate quantity, pressure,
19 and drinking water quality throughout the distribution
20 systems.
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1 57. Hydraulic Capacity Assessments.

- 2 a. Wastewater. The Master Plan shall include a wastewater
- 3 hydraulic capacity assessment (“wastewater hydraulic
- 4 model”) of CUC’s wastewater systems to determine the
- 5 capability of the wastewater systems to collect, convey,
- 6 and treat peak dry-weather flows and peak wet-weather
- 7 flows under current conditions and at projected
- 8 population levels over twenty (20) years. The capacity
- 9 assessment shall include the following elements:
- 10 (i) Flow measurements under dry and wet weather
- 11 conditions;
- 12 (ii) Collection/conveyance systems’ infiltration and
- 13 inflow (“I/I”);
- 14 (iii) Cost effectiveness analysis comparing the costs of
- 15 I/I control and costs to convey and treat peak wet-
- 16 weather flows; and
- 17 (iv) Identification of flow bottlenecks in the collection
- 18 and treatment systems.
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1 b. Drinking Water. The Master Plan shall include a
2 hydraulic capacity assessment (“water hydraulic model”)
3 of CUC’s drinking water systems, including sources,
4 transmission lines, storage, pumps and pump stations,
5 and distribution system lines. The Master Plan shall use
6 the water hydraulic model as the basis for determining
7 the capability of the drinking water systems as currently
8 configured, and future needs of the systems for at least a
9 twenty (20) year period, to provide sufficient quantity
10 and pressure of drinking water to ensure 24-hour
11 provision of drinking water that meets SDWA
12 requirements. This model shall provide extended time
13 (multiple day) analyses of the drinking water systems’
14 hydraulics.

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17 58. Unsewered Areas Assessment. The Master Plan shall include
18 an assessment and recommendations regarding the unsewered
19 areas. Unsewered areas are areas that do not have sewer lines
20 or are not currently connected to the sewer collection system,
21 including areas with septic systems that may be able to be
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1 hooked-up to existing, expanded, or new wastewater collection
2 systems, as well as areas that may not be able to be connected
3 to a centralized wastewater systems; septic systems hookup
4 needs and alternatives; decentralized treatment systems;
5 bio-solids management and wastewater re-use; and costs for
6 these measures.
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10 59. Reliability Assessment. The Master Plan shall include a
11 complete assessment of CUC's drinking water and wastewater
12 systems necessary to ensure the continuous and reliable
13 operation of all components of those systems, including alarm
14 systems, electrical controls, redundancy, telemetry systems, and
15 emergency power.
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19 B2. SUBMITTALS AND REQUIRED ELEMENTS OF THE
20 MASTER PLAN

21 60. Based on the assessments carried out pursuant to Section III,
22 Subsection B1 (Assessments for Master Plan), above, CUC
23 shall develop, and the Master Plan shall include, specific plans
24 with priorities and schedules to repair, replace, expand, or
25 otherwise modify physical components of the drinking water
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1 and wastewater systems to ensure adequate quantity and quality
2 of drinking water, and reliable operations of the wastewater
3 systems. The Master Plan shall include short-term (2-year and
4 5-year) and long-term (20-year) plans, and a five (5) year
5 capital improvement plan that shall list each project, estimated
6 cost, and schedule (including design, start of construction, and
7 completion of construction). As a guide, the 10 States
8 Standards may be used for the drinking water and wastewater
9 systems.

10 a. The Master Plan shall, at a minimum:

- 11 (i) Address all components of the drinking water
12 systems including, but not limited to, sources,
13 transmission, treatment, storage, distribution, and
14 pumps, and ensure that CUC is capable of
15 providing adequate quantity and quality of
16 drinking water in the long-term. Quantity, as used
17 here, means the 24-hour availability of water
18 through a pressurized system, meeting minimum
19 pressure and fireflow requirements as specified in
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1 the 10 State Standards. Quality, as used here,
2 means that all applicable federal and CNMI
3 drinking water quality statutory and regulatory
4 requirements are met; and
5

- 6
7 (ii) Identify conditions that cause or contribute to
8 CUC's violations of the SDWA or, its
9 implementing regulations.
10

- 11 b. Specific Recommendations Based on Water Hydraulic
12 Model. The Master Plan shall use the water hydraulic
13 model as the basis for specific recommendations aimed
14 at ensuring the ability of the systems to provide 24-hour
15 drinking water at sufficient pressure to CNMI. These
16 recommendations will include, but not be limited to, the
17 key elements that comprise CUC's drinking water
18 systems' infrastructure. Such recommendations shall
19 consider the need for additions to, or changes in, the
20 configuration of the following key elements of the
21 drinking water systems' infrastructure: configuration of
22 sources; storage tanks (reservoirs); pumps and pump
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1 stations; transmission lines; and distribution systems
2 configurations.
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4 c. Schedule for Repair, Rehabilitation, and Replacement.

5 The Master Plan shall include specific plans with
6 priorities and schedules for the development and
7 implementation of repairs, rehabilitation and replacement
8 of drinking water systems and wastewater systems
9 components necessary to ensure continuous operation of
10 CUC's drinking water and wastewater systems, reduce
11 SSOs, ensure compliance with wastewater treatment
12 plant effluent limits, provide for the long-term
13 sustainable replacement of deteriorated and obsolete
14 components for both systems, and construct a new
15 sewage treatment plant and sewer system in the Tinian
16 and Village of Kagman areas to protect drinking water
17 and coastal water resources. This schedule shall be
18 based on the drinking water and wastewater Condition
19 Assessments, and shall be divided into four (4) parts:
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(i) Sewer pipe repair, rehabilitation, and replacement;

- (ii) Pump station and force main repair, rehabilitation, and replacement;
- (iii) Wastewater treatment plant repair, rehabilitation, and replacement; and
- (iv) Drinking water systems repair, rehabilitation, and replacement.

61. Asset Inventory. The Master Plan shall include an asset inventory and database for the entire drinking water and wastewater systems to be used as a basis for inventory management, utility financial planning, management, and operation and maintenance. The inventory shall include all components of CUC's drinking water production, treatment, transmission, pumping, storage and distribution systems, and CUC's wastewater collection and treatment systems, and shall identify component locations, age, material, size, and capacity. The inventory shall project the expected remaining useful life of system components and replacement costs.
62. Development of a GIS. The Master Plan shall include a plan with a detailed schedule for the development of a GIS of CUC

1 drinking water and wastewater systems to facilitate better
2 management of CUC's systems. The GIS shall locate, map,
3 and develop GIS layers for all of the following: treatment
4 facilities; wells; water lines; storage tanks; collection systems;
5 pump stations; sewer laterals; and CUC's and DEQ's water
6 quality monitoring stations.
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10 63. Alternative Control Systems. The Master Plan shall include
11 specific evaluations and recommendations for necessary
12 process control system improvements, including a Supervisory
13 Control and Data Acquisition ("SCADA") system, information
14 management systems, telemetry, and other applicable types of
15 automation to better enhance operational and management
16 control of CUC's wastewater and drinking water systems,
17 including wells, booster pumps, storage tank/reservoirs, sewage
18 pump stations, and wastewater treatment plants.
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23 64. Infrastructure Improvement Plan. Based on findings from the
24 drinking water and wastewater assessments in Section III,
25 Subsection B1 (Assessments for Master Plan) above, the
26 Master Plan shall include an Infrastructure Improvement Plan
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1 that identifies needed drinking water and wastewater systems
2 improvements including:

- 3
- 4 a. Drinking Water Systems. The need for repair,
5 reconfiguration, or additional drinking water systems'
6 sources, transmission lines, pump stations, distribution,
7 storage and treatment facilities; and
8
- 9 b. Wastewater Systems. The need for sewer pipe repairs,
10 inflow/infiltration controls, relief sewers, pump station
11 upgrades, and sewage treatment plant expansions and/or
12 upgrades necessary to convey and treat current and
13 future peak flows.
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- 17 65. Final Financial Plan ("FFP"). The Master Plan shall include an
18 FFP. The cost for preparation of the Master Plan is covered in
19 the Interim Financial Plan, Section III (Wastewater and
20 Drinking Water Systems), Subsection A7 above. The FFP
21 must provide for the generation of sufficient revenue to cover
22 all compliance activities and deliverables required by this
23 Stipulated Order, as well as any other anticipated expenses,
24 including: any measures necessary to ensure compliance with
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1 the CWA and SDWA; costs related to the financing or direct
2 construction of the proposed wastewater treatment plant for the
3 Village of Kagman; costs related to other infrastructure
4 improvements recommended in the Master Plan; all related
5 operation and maintenance costs; and corresponding utility
6 expenses, including maintenance of all required reserves. The
7 FFP must include the following components:
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9

10
11 a. Five-Year Financial Plan. The five (5) year plan shall
12 include:
13

14 (i) Estimated annual budgets for each of the next five
15 (5) years for all costs of operating, maintaining,
16 and repairing CUC's drinking water systems and
17 wastewater systems, including the establishment
18 and maintenance of the financial reserves
19 described below; and
20

21 (ii) A detailed descriptive plan for raising sufficient
22 revenue to meet the projected costs as outlined in
23 the budgets, including adjustments or increases in
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1 user fees, taxes, assessments, or other sources of
2 revenue.
3

4 B3. MASTER PLAN TIMELINES AND DEADLINES

5 66. Timelines for Completion of the Master Plan. The Master Plan
6 shall be completed in accordance with the timelines delineated
7 below.
8

9
10 a. Scope of Work and Request for Proposals. Within one
11 hundred eighty (180) days after the Entry Date, CUC
12 shall develop and submit for EPA approval, a draft scope
13 of work and a draft Request for Proposals (“RFPs”) for
14 the preparation of the Master Plan. CUC shall provide a
15 copy of the documents concurrently to DEQ. CUC shall
16 nationally advertise the EPA-approved RFPs for the
17 preparation of the Master Plan;
18

19
20 b. Selection of Contractor(s). Within one hundred twenty
21 (120) days after EPA approval of the final RFPs, CUC
22 shall provide to EPA and DEQ a list of at least three (3)
23 qualified offerors, including the qualifications of each
24 offeror. Any contract with a third party shall ensure that
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1 any individual hired thereunder shall meet the minimum
2 requirements and qualifications set forth herein. Prior to
3 executing a contract related to preparation of the Master
4 Plan, CUC, shall notify EPA and DEQ of the name of the
5 contractor;
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- 7
8 c. Drafts of Master Plan. Within two hundred seventy
9 (270) days after CUC has notified EPA of the selected
10 and retained contractor for the Master Plan, CUC shall
11 provide to EPA and DEQ a work in progress draft, which
12 shall include, at a minimum, detailed outlines of all
13 sections, and shall include all work (including
14 interim/drafts of assessments, financial plans, and other
15 components of the Master Plan) completed at that time;
16

- 17 d. Final Draft of the Master Plan and Financial Plan.
18 Within five hundred forty (540) days after CUC has
19 notified EPA of the selected and retained contractor,
20 CUC shall develop and submit for EPA approval, the
21 final draft of the Master Plan and financial plan. CUC
22 shall also submit a copy of the final draft Master Plan to
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1 DEQ for review and comment. CUC shall address all
2 comments from EPA and DEQ. Upon EPA approval of
3 the final draft of the Master Plan and financial plan,
4 CUC shall provide a copy to EPA and DEQ.
5

6
7 e. Public Comment. Within thirty (30) days after the final
8 draft Master Plan has been approved by EPA, CUC shall
9 issue a press release and publish notice in a local
10 newspaper:
11

12
13 (i) Indicating that the final draft Master Plan is
14 available for public review for at least forty-five
15 (45) days at locations convenient for the public
16 such as public libraries in CNMI, and CUC
17 offices; and
18

19
20 (ii) Announcing the date and location of any public
21 meeting to discuss the final draft Master Plan.
22 During the public comment period, CUC shall
23 hold at least one (1) public meeting and CUC shall
24 issue the public notice at least thirty (30) days
25 before the date of the public meeting; and
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1 f. Completion of Master Plan. Within one hundred five
2 (105) days after the public comment period has ended,
3 CUC shall complete a final Master Plan and shall
4 address in its final Master Plan all material comments
5 raised during the public comment period. CUC shall
6 submit the final Master Plan for EPA approval, and send
7 a copy to DEQ, and shall perform the required tasks in
8 accordance with the schedule set out in the EPA-
9 approved final Master Plan.
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14 B4. GROUNDWATER MANAGEMENT AND PROTECTION
15 PLAN

16 67. The Master Plan shall include a section that addresses the
17 development and implementation of a groundwater
18 management and protection program by CUC. CUC shall
19 develop and submit a groundwater management and protection
20 plan and a detailed schedule that addresses CUC-related roles
21 and responsibilities as a water purveyor with respect to
22 effective withdrawal, management, and protection of the
23 groundwater resources of the CNMI. The groundwater
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1 management program shall address issues related to
2 exploration for groundwater resources, sustainable withdrawal
3 of groundwater resources, improvement of groundwater
4 quality, and protection of groundwater resources from
5 degradation. As part of its groundwater management program,
6 CUC shall implement the following activities:
7

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- 10 a. Interagency Coordination. Coordinate and cooperate
11 with CNMI resources agencies that are involved in, and
12 have jurisdiction over, the management, regulation, and
13 protection of groundwater resources of the CNMI (e.g.,
14 CNMI DEQ, Coastal Resources Management Office,
15 Coastal Resources Management Office, and the
16 Governor's Water Resources Task Force, or equivalent);
17
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- 19
- 20 b. Groundwater Restoration. Coordinate and cooperate
21 with CNMI resource agencies to implement programs
22 and projects to restore contaminated wells and
23 groundwater resources to compliance with applicable
24 water quality standards, including reduction of salinity
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1 concentrations to levels consistent with secondary
2 drinking water standards;
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- 4 c. Compliance with Applicable CNMI Statutes and
5 Regulations. Demonstrate compliance with applicable
6 CNMI regulatory programs that address groundwater
7 management and protection zones, protection of the
8 groundwater resources of CNMI, and the regulation and
9 permitting of groundwater withdrawals, including *inter*
10 *alia* DEQ's well drilling and well operation permit
11 program. Consistent with CNMI regulations, the CUC
12 shall provide sufficient technical information as part of
13 its permit applications to demonstrate that withdrawals
14 of groundwater will not lead to degradation of the
15 groundwater resources of CNMI;
16

- 17 d. Sustainable Withdrawals of Groundwater. Develop and
18 implement programs to manage groundwater
19 withdrawals based on sustainable yields and optimize
20 groundwater withdrawals from CNMI well fields.
21 Sustainable well field operations may include reduction
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1 of pumping rates for individual or multiple wells located
2 within critical well fields and installation of new low-
3 volume wells in accordance with CNMI regulations;
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- 5 e. Leakage Reduction. Implement projects to monitor and
6 reduce leakage in water distribution lines that contributes
7 to inefficient water utilization and over-pumping of
8 CNMI groundwater resources; and
9

- 10 f. Capacity Building. Recruit a qualified groundwater
11 hydrologist to provide technical expertise related to:
12

- 13 (i) The siting, design, installation and efficient
14 operation of water wells;
15
16 (ii) Optimization of groundwater withdrawals from
17 CNMI aquifers and well fields; and
18
19 (iii) Protection of CNMI groundwater resources from
20 further degradation. If federally-sourced funds are
21 used, CUC shall submit documentation
22 demonstrating that the groundwater hydrologist
23 has sufficient experience to assume this position.
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1 C. SHORT-TERM WASTEWATER INFRASTRUCTURE
2 CONSTRUCTION

- 3 68. Within one hundred eighty (180) days after the Entry Date,
4 CUC shall develop and submit for EPA approval, plans and
5 schedules for implementing the listed projects below.
6 Notwithstanding the development of long-term plans for
7 infrastructure construction projects pursuant to the Master Plan,
8 the following construction projects must be completed, subject
9 to EPA's review and approval, within the timeframes
10 established by EPA in its approval of specific project plans for
11 the following:
12
13 a. Construction of the Agingan Ocean Outfall;
14
15 b. Construction of a new Sewer Pump Station ("SPS") T-1;
16
17 c. Renovation of SPS T-2;
18
19 d. Enlargement of the force main from SPS T-1 to SPS S-3;
20
21 e. Renovation of SPS W-8; and
22
23 f. Renovation of SPS T-3.

24 The schedules shall include milestones for commencing and completing
25 planning, designs, and construction, as appropriate, depending on the current
26 status of the project(s).
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1 **IV. OIL SPILL PREVENTION, PREPAREDNESS AND RESPONSE**

2 The Parties have entered into the Stipulated Order Number Two that
3 addresses oil spill prevention, preparedness, and response actions. Stipulated
4 Order Number Two will be lodged concurrently with the instant Stipulated Order
5 Number One, and is subject to the public comment process and court approval.
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8 **V. GENERAL PROVISIONS**

9 **A. REPORTING**

10 69. Quarterly Progress Reports. CUC shall submit quarterly
11 compliance progress reports to EPA and DEQ. The quarterly
12 compliance progress report shall be due on or before January
13 28, April 28, July 28, and October 28, of each year, and shall
14 cover activities in the preceding calendar quarter. The first
15 quarterly progress report to be submitted will be for the first
16 full calendar quarter after the Entry Date of the Stipulated
17 Order, and shall include a compliance schedule for all
18 compliance activities and deliverables required by the
19 Stipulated Order. Quarterly compliance progress reports shall
20 include, but not be limited to, the following:
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- 1 a. CUC's progress toward completing compliance activities
2 and deliverables required by the Stipulated Order,
3 including any problems encountered;
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5 b. Submissions of analytical data received during the
6 reporting period;
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8 c. Quantities of oil and used oil at each of the PP Facilities,
9 as well as oil recycling, treatment, and/or disposal
10 activities performed in the reporting period and
11 anticipated in the next reporting period;
12
13 d. Modifications to approved work, Workplans, and/or
14 schedules during the reporting period;
15
16 e. Reporting of compliance and/or noncompliance with
17 schedules established for specific compliance activities
18 and deliverables;
19
20 f. Explanations of noncompliance and actions taken or to
21 be taken to address noncompliance; and
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23 g. A brief discussion of the status of efforts toward meeting
24 future compliance schedule activities and deliverables
25 required by the Stipulated Order.
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1 70. Whenever any violation of this Stipulated Order, or of any
2 applicable permits, or any other event affecting Defendant's
3 performance under this Stipulated Order, or the performance of
4 its wastewater systems, drinking water systems, PP Facilities,
5 or CUC Pipeline, may pose an immediate threat to the public
6 health or welfare or the environment, Defendant shall notify
7 EPA and DEQ orally or by electronic or facsimile transmission
8 as soon as possible, but no later than 24-hours after Defendant
9 first knew of the violation or event. This procedure is in
10 addition to the requirements set forth in the preceding
11 Paragraph.
12

13 71. Each report submitted by Defendant under this Section shall be
14 signed by an official of the submitting party and include the
15 following certification:
16

17 I certify under penalty of law that this document
18 and all attachments were prepared under my
19 direction or supervision in accordance with a
20 system designed to assure that qualified personnel
21 properly gather and evaluate the information
22 submitted. Based on my inquiry of the person or
23 persons who manage the system, or those persons
24 directly responsible for gathering the information,
25 the information submitted is, to the best of my
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1 knowledge and belief, true, accurate, and
2 complete. I am aware that there are significant
3 penalties for submitting false information,
4 including the possibility of fine and imprisonment
5 for knowing violations.

6 This certification requirement does not apply to emergency or similar notifications
7 where compliance would be impractical.

8 72. The reporting requirements of this Stipulated Order do not
9 relieve Defendant of any reporting obligations required by the
10 CWA or SDWA or implementing regulations, or by any other
11 federal, state, or local law, regulation, permit, or other
12 requirement.

13 73. Any information provided pursuant to this Stipulated Order
14 may be used by the United States in any proceeding to enforce
15 the provisions of this Stipulated Order and as otherwise
16 permitted by law.

17 B. SUBMISSIONS AND DECISIONS REQUIRING EPA APPROVAL

18 74. After review of any plan, program, project, report, or other item
19 required to be submitted to EPA for approval to be made under
20 this Stipulated Order, EPA shall, unless otherwise specified:

21 a. Approve the submission in whole or in part; or
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- 1 b. Approve the submission upon specified conditions; or
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3 c. Disapprove the submission, in whole or in part, directing
4 that the Defendant modify the submission; or
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6 d. Any combination of a., b., or c. above.
- 7 75. Following receipt of EPA's approval or approval upon
8 conditions, pursuant to Paragraphs 74 a., b., c., or d., above,
9 Defendant shall take all approved action in accordance with
10 any conditions imposed by EPA within the approved schedule
11 or time frame established by EPA, or as otherwise set forth in
12 this Stipulated Order. In the event EPA seeks to impose
13 conditions as set forth in Paragraph 74 b. above, CUC shall
14 have the right to invoke dispute resolution pursuant to Section
15 V Subsection G. (Dispute Resolution) of this Stipulated Order.
- 16 76. Following receipt of EPA's notice of disapproval pursuant to
17 Paragraph 74 b. or c. above, Defendant shall have the right,
18 within twenty (20) days or such other period specified by EPA,
19 to "cure" or correct deficiencies in such submission and
20 resubmit the submission for approval. If CUC "cures" or
21 corrects the deficiencies within this twenty day period or other
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1 time-frame specified by EPA, stipulated penalties shall not
2 accrue. Notwithstanding the receipt of the notice of
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4 disapproval pursuant to Paragraph 74 c. above, Defendant shall
5 proceed, at the direction of EPA, to take any action required by
6
7 any approved portion of the submission, within the scheduled
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9 approved time frame established by EPA, as long as such
10
11 action is not precluded or rendered impracticable by the non-
12 approved portion.

13 77. All submissions required to be submitted to EPA under this
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15 Stipulated Order shall, upon approval by EPA, be enforceable
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17 under this Stipulated Order. In the event EPA approves or
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19 requires Defendant to modify a portion of a submission
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21 required under this Stipulated Order, the approved or modified
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23 portion shall be enforceable under this Stipulated Order.

24 C. ACCESS

25 78. Any authorized representative of EPA, USCG, or DEQ, upon
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27 presentation of proper identification, shall have a right of entry
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to CUC's STPs and all other facilities associated with the
wastewater system (collection, lift stations, etc.); all facilities

1 associated with the drinking water systems (sources, tanks,
2 transmission, distribution, etc.); and all of the PP Facilities and
3 the CUC Pipeline right of way; at any reasonable time for the
4 purpose of monitoring compliance with the provisions of this
5 Stipulated Order, including, but not limited to, inspecting
6 facilities and equipment, inspecting and copying all records
7 maintained by CUC, and testing and observing discharges from
8 wastewater and oil, obtaining split samples obtained by
9 Defendant, and threats of such discharges; and testing and
10 monitoring drinking water and oil operations.

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- 16 a. EPA or DEQ's rights of inspection and entry under this
- 17 Paragraph are in addition to, and in no way limit, EPA or
- 18 DEQ's rights of inspection and entry under the CWA,
- 19 SDWA, the Resource Conservation and Recovery Act, or
- 20 any other law.
- 21
- 22
- 23 b. Where work under this Stipulated Order is to be
- 24 performed in areas owned by or in possession of
- 25 someone other than CUC, CUC shall use its best efforts
- 26 to obtain all necessary access agreements. Best efforts,
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1 as used in this Paragraph, shall include the payment of
2 reasonable compensation in consideration of granting
3 access. CUC shall immediately notify EPA if it is unable
4 to obtain such agreements. EPA may assist CUC in
5 gaining access using such means as EPA deems
6 appropriate. EPA reserves the right to seek
7 reimbursement from CUC for all costs and attorneys'
8 fees incurred by the United States in obtaining access on
9 behalf of CUC.
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14 D. NOTICES AND SUBMISSIONS

15 79. Whenever, under the terms of this Stipulated Order, written
16 notice is required to be given or a report or other document is
17 required to be sent by one party to another, it shall be directed
18 to the individuals at the addresses specified below, unless those
19 individuals or their successors give notice of a change to the
20 other parties in writing. All notices and submissions shall be
21 considered effective upon receipt, unless otherwise provided.
22 Notices, submissions, and reports are to be provided both by
23 email and postal mail. Written notice as specified herein shall
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1 constitute complete satisfaction of any written notice
2 requirement of the Stipulated Order with respect to the United
3 States, EPA, and the Defendant, respectively.
4

5 80. EPA has designated Michael Lee, of the Region 9 Pacific
6 Islands Office, as the overall EPA Project Coordinator. EPA
7 has designated Barry Pollock, of the Region 9 Drinking Water
8 Office, as the Alternate EPA Project Coordinator. The EPA
9 Project Coordinator and Alternate EPA Project Coordinator
10 shall be responsible for coordination between EPA, DEQ, and
11 CUC during the implementation of this Stipulated Order. All
12 correspondence required by this Stipulated Order shall be sent
13 to EPA's Project Coordinator and Alternate EPA Project
14 Coordinator.
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20 81. DEQ has designated Frank Rabauliman, Director of DEQ, as
21 the DEQ Project Coordinator. DEQ will designate an
22 Alternate DEQ Project Coordinator. The DEQ Project
23 Coordinator shall be responsible for coordination between
24 DEQ and EPA during the implementation of this Stipulated
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1 Order. All correspondence required by this Stipulated Order
2 shall be sent to DEQ's Project Coordinator.
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4 82. EPA has designated Barry Pollock, of the Region 9 Water
5 Division's Drinking Water Office, as the EPA Drinking Water
6 Coordinator. The EPA Drinking Water Coordinator shall be
7 responsible for the technical oversight of the Drinking Water
8 related portions of this Stipulated Order. DEQ has designated
9 Joe Kaipat as the DEQ Drinking Water Coordinator. All
10 correspondence and files relating to drinking water issues,
11 including those in Paragraphs 29 thru 47 shall be sent to the
12 EPA Drinking Water Coordinator and DEQ Drinking Water
13 Coordinator in addition to the overall EPA Project Coordinator
14 listed in Paragraph 79 and the overall DEQ Project Coordinator
15 listed in Paragraph 80.
16

17 83. EPA has designated Michael Lee, of the Region 9 Pacific
18 Islands Office, as the EPA Wastewater Coordinator. The EPA
19 Wastewater Coordinator shall be responsible for the technical
20 oversight of the Wastewater related portions of this Stipulated
21 Order. DEQ has designated David Rosario, as the DEQ
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1 Wastewater Coordinator. All correspondence and files relating
2 to waste water issues, including those in Paragraphs 28 thru 28
3 shall be sent to the EPA Wastewater Coordinator and the DEQ
4 Wastewater Coordinator in addition to the overall EPA Project
5 Coordinator listed in Paragraph 80 and the overall DEQ Project
6 Coordinator listed in Paragraph 81.
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9
10 84. EPA has designated Michelle Rogow, of the Region 9
11 Superfund Division Emergency Response Section, as the On
12 Scene Coordinator (“OSC”). The OSC shall have the
13 authorities, duties and responsibilities vested in the OSC by the
14 NCP, 40 C.F.R. Part 300. The OSC’s authority includes, but is
15 not limited to, the authority to halt, modify, conduct or direct
16 any tasks required by Stipulated Order Number Two . The
17 OSC shall be responsible for the technical oversight of the oil
18 spill prevention, preparedness and response related portions of
19 this Stipulated Order. DEQ has designated Ben Somol as the
20 DEQ Oil Coordinator. All correspondence and files relating to
21 oil spill prevention, preparedness and response shall be sent to
22 the OSC and the DEQ Oil Coordinator in addition to the
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1 overall EPA Project Coordinator listed in Paragraph 80 and the
2 overall DEQ Project Coordinator listed in Paragraph 81.
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- 4 85. Within sixty (60) days after the Entry Date, CUC shall
5 designate a CUC Project Coordinator who shall be responsible
6 for overseeing CUC's implementation of this Stipulated Order.
7 CUC has the option of designating an Alternate CUC Project
8 Coordinator if it deems it to be appropriate. CUC shall also
9 designate a CUC Drinking Water Coordinator, a CUC
10 Wastewater Coordinator, and a CUC Technical Manager for
11 Oil. CUC may choose one individual to fill more than one of
12 these roles. CUC's notice of designation shall include an
13 address, telephone number, and email address for the CUC
14 Project Coordinator, CUC Drinking Water Coordinator, CUC
15 Wastewater Coordinator, CUC Technical Manager for Oil, and
16 Alternate CUC Project Coordinator, if one is selected.
17 Information on the proposed coordinator's credentials and
18 qualifications should also be provided.
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1 As to the United States:

2 Chief, Environmental Enforcement Section
3 Environment and Natural Resources Division
4 United States Department of Justice
5 P.O. Box 7611
6 Washington, D.C. 20044-7611
7 Re: DJ # 90-11-3-08277

7 As to EPA:

8 Wayne Nastri
9 Regional Administrator
10 United States Environmental Protection
11 Agency
12 Region IX
13 75 Hawthorne Street
14 San Francisco, California 94105

15 Michael Lee
16 Project Coordinator / Wastewater Coordinator
17 United States Environmental Protection
18 Agency
19 Region IX (CED-6)
20 75 Hawthorne Street
21 San Francisco, California 94105
22 (415) 972-3769
23 lee.michael@epa.gov

24 Barry Pollock
25 Alternate EPA Project Coordinator
26 Drinking Water Coordinator
27 United States Environmental Protection
28 Agency
Region IX (WTR-6)
75 Hawthorne Street
San Francisco, California 94105
(415) 972-3563
pollock.barry@epa.gov

1 Michelle Rogow
2 On Scene Coordinator
3 United States Environmental Protection
4 Agency
5 Region IX (SFD-9-2)
6 75 Hawthorne Street
7 San Francisco, California 94105
8 (415) 972-3082
9 rogow.michelle@epa.gov

10 John McCarroll
11 Manager, Pacific Islands Office
12 United States Environmental Protection
13 Agency
14 Region IX (CED-6)
15 75 Hawthorne Street
16 San Francisco, California 94105
17 (415) 972-3774
18 mccarroll.john@epa.gov

19 As to the Defendant:

20 Bruce Megarr
21 Interim Project Coordinator
22 P.O. Box 501220
23 Saipan, MP 96950
24 (670) 483-4027
25 (670) 235-5138
26 brm5895@gmail.com

27 E. STIPULATED PENALTIES

28 86. Defendant shall pay stipulated penalties for failure to meet any
requirement in this Stipulated Order as specified below.

- 1 a. For failure to implement, achieve, or complete the
2 requirements set forth in Section III, Subsection A1
3 (Management Structure of CUC); Section III, Subsection
4 A2 (Organizational Structure of CUC); Section III,
5 Subsection A7 (Interim Financial Management); Section
6 III, Subsection B1 (Assessments for Master Plan);
7 Section III, Subsection B2 (Submittals and Required
8 Elements of the Master Plan); Section III, Subsection B3
9 (Master Plan Timelines and Deadlines); and Section III,
10 Subsection B4 (Groundwater Management and
11 Protection Plan), or in any related submittals required to
12 be modified by EPA and made part of this Stipulated
13 Order by the dates specified, CUC shall pay:
14
15 (i) \$1,000 per day per violation for the first thirty (30)
16 days;
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18 (ii) \$2,000 per day per violation for the following
19 thirty (30) days; and
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21 (iii) \$5,000 per day per violation for each day
22 thereafter.
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- 1 b. For failure to implement, achieve, or complete the
2 requirements set forth in Section III, Subsection A3
3 (Procurement Procedures and Training Programs);
4 Section III, Subsection A4 (Wastewater Operations and
5 Maintenance at CUC); Section III, Subsection A5
6 (Drinking Water Operations and Maintenance at CUC);
7 Section III, Subsection A6 (Drinking Water Sampling,
8 Monitoring, and Reporting); Section III, Subsection C
9 (Short-Term Wastewater Infrastructure Construction);
10 and Section V, Subsection A (Reporting), or in any
11 related submittals required to be modified by EPA and
12 made part of this Stipulated Order by the dates specified,
13 CUC shall pay:
14
15 (i) \$500 per day per violation for the first thirty (30)
16 days;
17
18 (ii) \$1,000 per day per violation for the following
19 thirty (30) days; and
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21 (iii) \$2,000 per day per violation for each day
22 thereafter.
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1 87. For failure to implement, achieve, or complete any other
2 requirements in this Stipulated Order, CUC shall pay:
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4 a. \$250 per day per violation for the first thirty (30) days;
5
6 b. \$500 per day per violation for the following thirty (30)
7 days; and
8
9 c. \$1,000 per day per violation for each day thereafter.

10 88. Stipulated penalties shall begin to accrue on the day after
11 performance is due and shall continue to accrue through the
12 final date of completion even if no notice of the violation is
13 sent to the Defendant. Nothing herein shall prevent the
14 simultaneous accrual of separate penalties for separate
15 violations of this Stipulated Order.
16

17 89. Any penalty accruing pursuant to this Stipulated Order shall be
18 payable upon demand and due no later than thirty (30) days
19 after Defendant's receipt of EPA's written demand. Defendant
20 shall pay the amount owed to the United States pursuant to this
21 Stipulated Order by certified or cashier's check in the amount
22 due payable to the "United States Department of Justice,"
23
24 referencing DOJ No. 90-5-1-1-08471 and delivered to the
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1 office of the United States Attorney, District of Guam,
2 Attention: Financial Litigation Unit, Suite 500, Sirena Plaza,
3 108 Hernan Cortez, Hagatna, Guam 96910.
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5 90. The United States may, in the unreviewable exercise of its
6 discretion, reduce or waive stipulated penalties otherwise due it
7 under this Stipulated Order.
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10 91. If Defendant fails to pay stipulated penalties owed pursuant to
11 this Stipulated Order within thirty (30) days of receipt of EPA's
12 written demand, Defendant shall pay interest on the late
13 payment for each day after the initial thirty (30) day due date.
14 The rate of interest shall be the most recent interest rate
15 determined pursuant to 28 U.S.C. § 1961.
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18 92. If the dispute is appealed to the Court and the United States
19 prevails in whole or in part, Defendant shall pay all accrued
20 penalties determined by the Court to be owing, the United
21 States' enforcement costs, together with interest, within sixty
22 (60) days of receiving the Court's decision or order, except as
23 provided.
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1 93. If any party appeals the District Court's decision, Defendant
2 shall pay all accrued penalties determined to be owing, together
3 with interest, within fifteen (15) days of receiving the final
4 appellate court decision.
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7 94. Any payment of stipulated penalties shall include a transmittal
8 letter that states that the payment is for stipulated penalties and
9 shall state for which violation(s) the penalties are being paid.
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11 95. Stipulated penalties are not the Plaintiff's exclusive remedy for
12 violations of this Stipulated Order. The United States
13 expressly reserves the right to seek any other relief it deems
14 appropriate, including, but not limited to, action for statutory
15 penalties, contempt, or injunctive relief against Defendant.
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19 F. FORCE MAJEURE

20 96. "Force majeure," for purposes of this Stipulated Order, is
21 defined as any event arising from causes beyond the control of
22 the Defendant, of any entity controlled by Defendant, or of
23 Defendant's contractors, that delays or prevents the
24 performance of any obligation under this Stipulated Order
25 despite Defendant's best efforts to fulfill the obligation. The
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1 requirement that the Defendant exercises “best efforts to fulfill
2 the obligation” includes using best efforts to anticipate any
3 potential force majeure event and best efforts to address the
4 effects of any potential force majeure event (1) as it is
5 occurring and (2) following the potential force majeure event,
6 such that the delay is minimized to the greatest extent possible.
7 “Force Majeure” does not include lack of political consensus or
8 financial inability to complete the deliverables required by this
9 Stipulated Order.
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14 97. If any event occurs or has occurred that may delay the
15 performance of any obligation under this Stipulated Order,
16 whether or not caused by a force majeure event, the Defendant
17 shall orally notify EPA’s Project Coordinator or, in his or her
18 absence, EPA’s Alternate Project Coordinator or, in the event
19 both of EPA’s designated representatives are unavailable, the
20 Manager of the Pacific Islands Office, EPA Region 9, within
21 ten (10) days of when Defendant first knew that the event
22 might cause a delay. Within five (5) days thereafter, Defendant
23 shall provide, in writing, to EPA an explanation and
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1 description of the reasons for the delay; the anticipated
2 duration of the delay; all actions taken or to be taken to prevent
3 or minimize the delay; a schedule for implementation of any
4 measures to be taken to prevent or mitigate the delay or the
5 effect of the delay; the Defendant's rationale for attributing
6 such delay to a force majeure event if it intends to assert such a
7 claim; and a statement as to whether, in the opinion of the
8 Defendant, such event may cause or contribute to an
9 endangerment to public health, welfare or the environment.
10 The Defendant shall include with any notice all available
11 documentation supporting its claim that the delay was
12 attributable to a force majeure. Failure to comply with the
13 above requirements shall preclude Defendant from asserting
14 any claim of force majeure for that event for the period of time
15 of such failure to comply, and for any additional delay caused
16 by such failure. Defendant shall be deemed to know of any
17 circumstance of which Defendant, any entity controlled by
18 Defendant, or Defendant's contractors knew or should have
19 known.
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1 98. If EPA agrees that the delay or anticipated delay is attributable
2 to a force majeure event, the time for performance of the
3 obligations under this Stipulated Order that are affected by the
4 force majeure event may be extended by EPA for such time as
5 is necessary to complete those obligations. An extension of the
6 time for performance of the obligations affected by the force
7 majeure event shall not, of itself, extend the time for
8 performance of any other obligation. If EPA does not agree
9 that the delay or anticipated delay has been or will be caused by
10 a force majeure event, EPA will notify the Defendant in writing
11 of its decision. If EPA agrees that the delay is attributable to a
12 force majeure event, EPA will notify the Defendant in writing
13 of the length of the extension, if any, for performance of the
14 obligations affected by the force majeure event.
15

16 99. If the Defendant elects to invoke the dispute resolution
17 procedures set forth in Section V, Subsection G (Dispute
18 Resolutions), it shall send a written Notice of Dispute no later
19 than fifteen (15) days after receipt of EPA's notice. In any
20 such proceeding, Defendant shall have the burden of
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1 demonstrating by a preponderance of the evidence that the
2 delay or anticipated delay has been or will be caused by a force
3 majeure event, that the duration of the delay or the extension
4 sought was or will be warranted under the circumstances, that
5 best efforts were exercised to avoid and mitigate the effects of
6 the delay, and that Defendant complied with the requirements
7 of this Section, Subsection F (Force Majeure) .
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11 G. DISPUTE RESOLUTION
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13 100. Unless otherwise expressly provided for in this Stipulated
14 Order, the dispute resolution procedures of this Section shall be
15 the exclusive mechanism to resolve disputes arising under or
16 with respect to this Stipulated Order. Defendant's failure to
17 seek resolution of a dispute under this Section shall preclude
18 Defendant from raising any such issue as a defense to an action
19 by the United States to enforce any obligation of Defendant
20 arising under this Stipulated Order.
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24 101. Any dispute that arises under or with respect to this Stipulated
25 Order shall in the first instance be the subject of informal
26 negotiations between the parties to the dispute. The period for
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1 informal negotiations shall not exceed thirty (30) calendar days
2 from the time the dispute arises, unless it is modified by a
3 written agreement of the parties to the dispute. The dispute
4 shall be considered to have arisen when one party sends the
5 other parties a written Notice of Dispute.
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8 102. In the event that the parties cannot resolve a dispute by
9 informal negotiations under the preceding Paragraph, the
10 position advanced by EPA shall be considered binding unless,
11 within twenty (20) calendar days after the conclusion of the
12 informal negotiation period, Defendant invokes the formal
13 dispute resolution procedures of this Section by serving on the
14 United States a written Statement of Position on the matter in
15 dispute, including, but not limited to, any factual data, analysis
16 or opinion supporting that position, and any supporting
17 documentation relied upon by Defendant. Defendant shall set
18 out the nature of the dispute with a proposal for its resolution.
19 The Statement of Position shall specify Defendant's position as
20 to whether the formal dispute resolution should proceed.
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- 1 103. Within forty-five (45) calendar days after receipt of
2 Defendant's Statement of Position, EPA will serve on
3 Defendant its Statement of Position, including, but not limited
4 to, any factual data, analysis, or opinion supporting that
5 position and all supporting documentation relied upon by EPA.
6 EPA's Statement of Position shall include a statement as to
7 whether the formal dispute resolution should proceed.
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11 104. Formal dispute resolutions are accorded review on the
12 administrative record. An administrative record of the dispute
13 shall be maintained by EPA and shall contain all statements of
14 position, including supporting documentation, submitted
15 pursuant to this Section. Where appropriate, EPA may allow
16 submission of supplemental statements of position by the
17 parties to the dispute.
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21 105. The EPA Region 9 Water Division Director, will issue a final
22 administrative decision resolving the dispute based on the
23 administrative record and this decision shall be binding upon
24 Defendant, subject only to the right to seek judicial review as
25 described in this Section.
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1 106. Any administrative decision made by EPA pursuant to this
2 Stipulated Order shall be reviewable by this Court, provided
3 that a motion for judicial review of the decision is filed by
4 Defendant with the Court, and served on all parties within
5 thirty (30) calendar days of receipt of EPA's decision. The
6 motion shall include a description of the matter in dispute, the
7 efforts made by the parties to resolve it, the relief requested,
8 and the schedule, if any, within which the dispute must be
9 resolved to ensure orderly implementation of this Stipulated
10 Order. In any such dispute resolution proceeding, Defendant
11 bears the burden of proving that EPA's decision was arbitrary
12 and capricious. The United States may file a response to
13 Defendant's motion.
14

15 107. The invocation of dispute resolution procedures under this
16 Section shall not, by itself, extend, postpone, or affect in any
17 way any obligation of Defendant under this Stipulated Order,
18 unless and until final resolution of the dispute so provides and
19 the Court grants such an order.
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1 108. Stipulated penalties with respect to the disputed matter shall
2 continue to accrue but payment shall be stayed pending
3 resolution of the dispute. Notwithstanding the stay of payment,
4 stipulated penalties shall accrue from the first day of
5 noncompliance with any applicable provision of this Stipulated
6 Order.
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10 H. GENERAL

11 109. Where any compliance obligation under this Section requires
12 Defendant to obtain a federal, state, or local permit or approval,
13 Defendant shall submit timely and complete applications and
14 take all other actions necessary to obtain all such permits or
15 approvals. Defendant may seek relief under the provisions of
16 Section V, Subsection F (Force Majeure) of this Stipulated
17 Order for any delay in the performance of any such obligation
18 resulting from a failure to obtain, or a delay in obtaining, any
19 permit or approval required to fulfill such obligation, if
20 Defendant has submitted timely and complete applications and
21 has taken all other actions necessary to obtain all such permits
22 or approvals.
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1 110. Each undersigned representative of Defendant and the United
2 States certifies that he or she is fully authorized to enter into
3 the terms and conditions of this Stipulated Order, to execute the
4 document, and to legally bind, to the document, the party he or
5 she represents.
6

7
8 I. INFORMATION RETENTION
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10 111. Until five (5) years after the termination of this Stipulated
11 Order, Defendant shall retain, and shall instruct its contractors
12 and agents to preserve, all non-identical copies of all
13 documents, records, or other information (including docu-
14 ments, records, or other information in electronic form) in its or
15 its contractors' or agents' possession or control, or that come
16 into its or its contractors' or agents' possession or control, and
17 that relate in any manner to Defendant's performance of its
18 obligations under this Stipulated Order. This information-
19 retention requirement shall apply regardless of any contrary
20 corporate or institutional policies or procedures. At any time
21 during this information-retention period, upon request by the
22 United States or DEQ, Defendant shall provide copies of any
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1 documents, records, or other information required to be
2 maintained under this Paragraph.
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4 112. At the conclusion of the information-retention period provided
5 in the preceding Paragraph, Defendant shall notify the United
6 States and DEQ at least ninety (90) days prior to the
7 destruction of any documents, records, or other information
8 subject to the requirements of the preceding Paragraph and,
9 upon request by the United States or DEQ, Defendant shall
10 deliver any such documents, records, or other information to
11 EPA or DEQ. Defendant may assert that certain documents,
12 records, or other information is privileged under the attorney-
13 client privilege or any other privilege recognized by federal
14 law. If Defendant asserts such a privilege, it shall provide the
15 following: (1) the title of the document, record, or information;
16 (2) the date of the document, record, or information; (3) the
17 name and title of each author of the document, record, or
18 information; (4) the name and title of each addressee and
19 recipient; (5) a description of the subject of the document,
20 record, or information, if requested by EPA or DEQ; and (6)
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1 the privilege asserted by Defendant. However, no documents
2 or records generated specifically pursuant to the enumerated
3 requirements of this Stipulated Order shall be withheld on
4 grounds of privilege.
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7 113. Defendant may also assert that information required to be
8 provided under this Section is protected as Confidential
9 Business Information ("CBI") under 40 C.F.R. Part 2. As to
10 any information that Defendant seeks to protect as CBI,
11 Defendant shall follow the procedures set forth in 40 C.F.R.
12 Part 2.
13

14
15 114. This Stipulated Order in no way limits or affects any right of
16 entry and inspection, or any right to obtain information, held by
17 the United States or DEQ pursuant to applicable federal or
18 local laws, regulations, or permits, nor does it limit or affect
19 any duty or obligation of Defendant to maintain documents,
20 records, or other information imposed by applicable federal or
21 local laws, regulations, or permits.
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1 J. EFFECT OF SETTLEMENT/RESERVATION OF RIGHTS

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3 115. This Stipulated Order Number One resolves the civil claims of
4 the United States for the CWA violations (not including the
5 CWA claims resolved by the entry of Stipulated Order Number
6 Two) and SDWA civil claims alleged in the Complaint filed in
7 this action through the date of lodging; provided however, this
8 Stipulated Order Number One does not resolve civil penalty
9 claims for the violations alleged in the Complaint.
10

11
12 116. The United States and DEQ reserve all legal and equitable
13 remedies available to enforce the provisions of this Stipulated
14 Order, except as expressly stated in Paragraph 115. This
15 Stipulated Order shall not be construed to limit the rights of the
16 United States or DEQ to obtain penalties or injunctive relief
17 under the CWA or SDWA or implementing regulations, or
18 under other federal, local laws, regulations, or permit
19 conditions, except as expressly specified in Paragraph 115.
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22 117. The United States and DEQ further reserve all legal and
23 equitable remedies to address any imminent and substantial
24 endangerment to the public health or welfare or the
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1 environment arising at, or posed by, Defendant's wastewater
2 systems, drinking water systems, PP Facilities, or the CUC
3 Pipeline, whether related to the violations addressed in this
4 Stipulated Order or otherwise.
5
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7 118. The Stipulated Order is not and shall not be construed as either
8 an NPDES permit or a modification of any existing NPDES
9 permit. By entering into this Stipulated Order, the United
10 States does not warrant in any manner that Defendant's
11 compliance with the terms of this Stipulated Order will result in
12 compliance with the provisions of the CWA, the SDWA, and
13 regulations promulgated pursuant to those statutes.
14 Defendant's compliance with the terms of this Stipulated Order
15 does not affect or resolve the United States' claims for civil
16 penalties or permanent injunctive relief.
17

18 119. This Stipulated Order shall not affect CUC's obligation to
19 comply with its NPDES permits and with all applicable federal
20 laws, regulations, and permits.
21

22 120. This Stipulated Order does not limit or affect the rights of the
23 United States or Defendant against any third parties, nor does it
24
25
26
27
28

1 limit the rights of third parties who are not parties to this
2 Stipulated Order. In addition, this Stipulated Order is not to be
3 construed as creating rights or obligations in third parties.
4

5 K. COSTS
6

7 121. The parties shall bear their own costs of this action, including
8 attorneys' fees, except that the United States shall be entitled to
9 collect the costs (including attorneys' fees) incurred in any
10 action necessary to collect any portion of the stipulated
11 penalties due but not paid by Defendant.
12

13 L. RETENTION OF JURISDICTION
14

15 122. The Court shall retain jurisdiction over this case until
16 termination of this Stipulated Order, for the purpose of
17 resolving disputes arising under this Stipulated Order or
18 entering orders modifying this Stipulated Order, or effectuating
19 or enforcing compliance with the terms of this Stipulated
20 Order.
21

22 M. MODIFICATION
23

24 123. There shall be no material modifications of this Stipulated
25 Order without the written approval of the parties to this
26
27
28

1 Stipulated Order and the approval of the Court. All non-
2 material modifications, which may include extensions of the
3 time frames and schedules for performance of the terms and
4 conditions of this Stipulated Order, may be made by written
5 agreement of the parties.
6

7
8 N. TERMINATION
9

10 124. This Stipulated Order may be terminated when the United
11 States determines that Defendant has satisfactorily completed
12 performance of its obligations required by this Stipulated
13 Order, provided that Defendant has fulfilled all other
14 obligations of this Stipulated Order, including payment of any
15 outstanding stipulated penalties due. The parties shall file with
16 the Court an appropriate stipulation reciting that the
17 requirements of the Stipulated Order have been met.
18
19
20
21
22

23 IT IS SO ORDERED THIS _____ DAY OF _____ 2008.
24
25

26 _____
27 UNITED STATES DISTRICT COURT
28 JUDGE

1 FOR THE UNITED STATES OF AMERICA:

2
3
4
5 4 Nov. 2008
6 Date

RONALD J. TENPAS
Assistant Attorney General
Environment and Natural Resources
Division
United States Department of Justice
Washington, D.C. 20530

10 7 Nov 2008
11 Date

BRADLEY R. O'BRIEN
Environmental Enforcement Section
Environment and Natural Resources
Division
United States Department of Justice
301 Howard Street, Suite 1050
San Francisco, California 94105

1 FOR THE ENVIRONMENTAL PROTECTION AGENCY:

2
3
4
5 23 SEP 2008

6 Date

7 WAYNE NASTRI
8 Regional Administrator
9 Region IX
10 United States Environmental Protection
11 Agency
12 75 Hawthorne Street
13 San Francisco, California 94105

14 Marcela von Vacano
15 Office of Regional Counsel
16 U.S. EPA, Region 9
17 75 Hawthorne, 16th Floor
18 San Francisco, CA 94105
19 Telephone 415-972-3905
20 Facsimile 415-947-3570
21
22
23
24
25
26
27
28

FOR EPA HEADQUARTERS:

SEP 08 2008

Date

WALKER SMITH

**Director of Office of Civil Enforcement
United States Environmental Protection**

Agency Headquarters

Ariel Rios Building

1200 Pennsylvania Avenue, N. W.

Washington, DC 20460

FOR CUC:

7/28/08

Date

Signature:

Name (print): ANTONIO S. MUNA

Title: Executive Director

Address: P.O. Box 501220

3rd Flr., Joeten Dandan Commercial Bldg.

Saipan, MP 96950

Agent Authorized to Accept Service on Behalf of Above-signed party:

Name (print): BRUCE MEGARR

Title: Deputy Director of Water & Wastewater

Address: P.O. Box 501220

3rd Flr., Joeten Dandan Commercial Bldg.

Saipan, MP 96950

Ph. Number: (670) 235-6090

FOR CNMI:

JUL 29 2008

Date

(
Signature:

Name (print): BENIGNO R. FITIAL

Title: Governor

Address: Caller Box 10007

Saipan, MP 96950

Agent Authorized to Accept Service on Behalf of Above-signed party:

Name (print): MATTHEW T. GREGORY

Title: Attorney General

Address: Caller Box 10007

Saipan, MP 96950

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