



Guam SOLID WASTE RECEIVER



Presentation to the GSWA Board



June 20, 2024
3 PM ChST





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Topics

1. GWA Claim Update
2. Important Development in the Consent Decree Case
3. RCRA Trust Agreement Plans
4. Brown and Caldwell Leachate and Seeps Report Overview
5. B&C O&M Contract Extension Update
6. GSWA RFQ for Landfill Services
7. Transition Plan Outline
8. Receiver Portion of SEP Report Status
9. Questions



Source: Google Maps





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1. GWA Claim Update

Calculations of Damages:

1. GWA Demand Letter Dated August 16, 2023 - \$2.65M for additional leachate cost incurred between 2018 – 2022
2. Allocation of costs attributed to additional leachate quantities (January 01, 2023 to October 31, 2023)
3. Brown and Caldwell Work Orders (January 1, 2018 through May 31, 2024 for work resulting from the GWA Leak Impact
4. Allocation of Receiver's costs related to addressing additional leachate quantities (January 01, 2018 through May 31, 2024)
5. Allocation of Detry trucking charges related to additional leachate costs due to GWA leak impact
6. Pump Power Costs for additional leachate volumes from GWA Leak Impact (2018 through October 31, 2023)
7. Allocation of cost of repair of equipment over "normal" cost





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2. Important Development in the Consent Decree Case

- Receiver's Immunity under Appointment Order
- Receiver cannot be sued without the consent of Chief Judge Tydingco-Gatewood
- On 6/7/2024 the Receiver filed a Motion requiring GovGuam to seek Chief Judge Tydingco-Gatewood's consent in the Consent Decree Case
- Lawsuit disrupts and interferes with the work of the Receiver





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3. RCRA Trust Agreement Plans

Bank of Guam Trust Accounts

- Receiver Trust Account #1 – earns essentially no interest income
 - Current balance as of May 31, 2024: \$ 797,090.43
- Receiver Trust Account #2 – earns significant interest income @ ~5% per annum rate
 - Current balance as of 5/31/2024 - \$7,198,615.65
- **Total - \$7,995,706.08**
- Trust Account #2 investments made with review and consent of the GSWA Controller





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3. RCRA Trust Agreement Plans (cont'd)

- 2023 PCCE: \$31,322,061.21
- 2023 Escalation Payment: \$1,140,123.03
- **Total PCCE for 2024: \$32,462,184.24**

- Possible Sources to fully fund PCCE:

Gov Guam – USA Settlement Funds: \$30,000,000.00

Receiver Trust Account #2: \$ 2,462,184.24

Total: \$32,462,184.24





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3. RCRA Trust Agreement Plans (cont'd)

- P.L. 37-64 Created the Ordot Dump Reserve Fund :
 - Authorized use:
 - (1) GSWA costs related to closure and Maintenance of Ordot Dump, and/or
 - (2) Expansion of Layon Landfill
 - No allocation of how funds are to be used
- Funds are to be deposited in a RCRA compliant trust
 - Receiver / GSWA / DOJ have agreed to work with Bank of Guam to finalize RCRA compliant trust
 - Court concurs per its Order after May 8, 2024 Status Hearing





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3. RCRA Trust Agreement Plans (cont'd)

- US EPA asking for new RCRA compliant trust agreement in the name of GSWA only
- Receiver is in charge of Ordot under the Receivership so the funds should be with the Receiver
- Receiver suggests that new RCRA compliant trust agreement have Receiver as Grantor and includes reference to changing to GSWA once Receivership ends





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3. RCRA Trust Agreement Plans (cont'd)

GSWA Required to Continue Payments

- Because the post closure trust account is not funded, GSWA is required to pay:
 - Monthly payments of \$166,667 through August 2026
 - Annual inflation payments until fully funded
 - 2023 escalation payment @ \$1,140,123.03 due on or before December 31, 2024 (US EPA estimate)
- Meanwhile, the \$30 million settlement with Kelley Dye is not invested and not accruing any interest (@ 5% = \$1,500,000 lost annual revenue)





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3. RCRA Trust Agreement Plans (cont'd)

Receiver's Recommendation

(1) GSWA transfer funds necessary to fully fund the PCCE to the Receiver Trust Account #2

- ~ \$24.5 million needed to fully fund
- GSWA could keep \$5.5 million for future Layon capital needs

OR

(2) GSWA fully funds PCCE which is deposited in a new Receiver RCRA compliant Trust Account to be set up by the Receiver with Bank of Guam

- Full \$30 million needed for this so Receiver still has funds for Ordot expenses





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4. Brown and Caldwell Leachate and Seeps Report Overview

Phase 1 – Leachate and Seeps Investigation

1. Previous Brown and Caldwell report – Technical Memorandum No. 1 dated February 4, 2023, report on joint reconnaissance Nov. 2022 and leachate investigations performed up until that time
2. Previous Brown and Caldwell report – Technical Memorandum No. 2 dated July 21, 2023 preliminary findings of data through April 2023
3. Brown and Caldwell Report – Report on all data and investigations cumulatively collected through Dec. 2023 and additional observations of data in first quarter 2024.





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Ordot Dump Post Closure Facility – Report on Leachate Flow Evaluation and Cessation of Discharges to Waters of the United States





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Study Objectives

- Analyze leachate flow trends since closure was completed
- Evaluate potential sources of water influencing leachate flow
- Evaluate leachate discharges to water of the United States
- Recommend enhancements based on outcome, if warranted

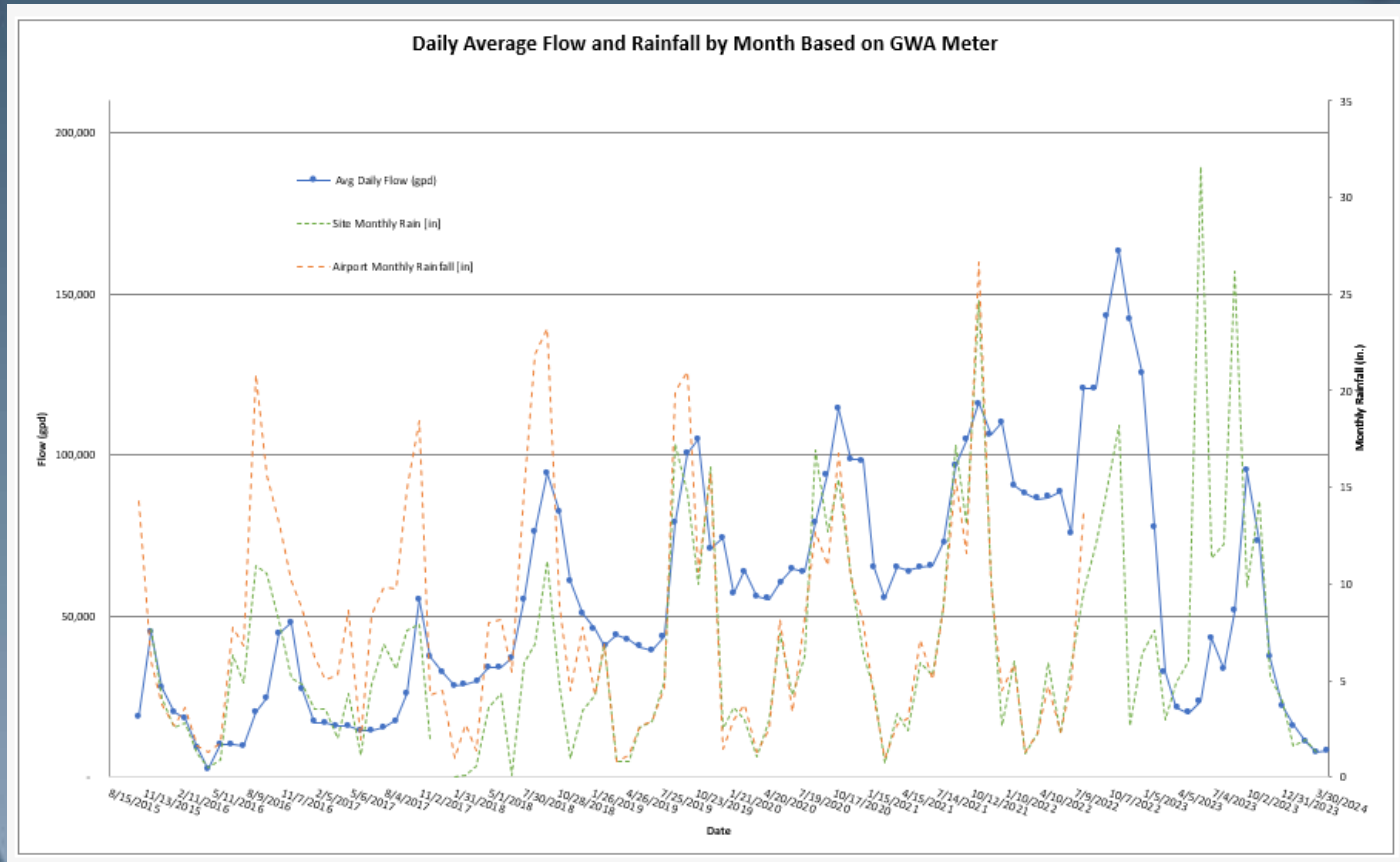




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Leachate flow ... trending down

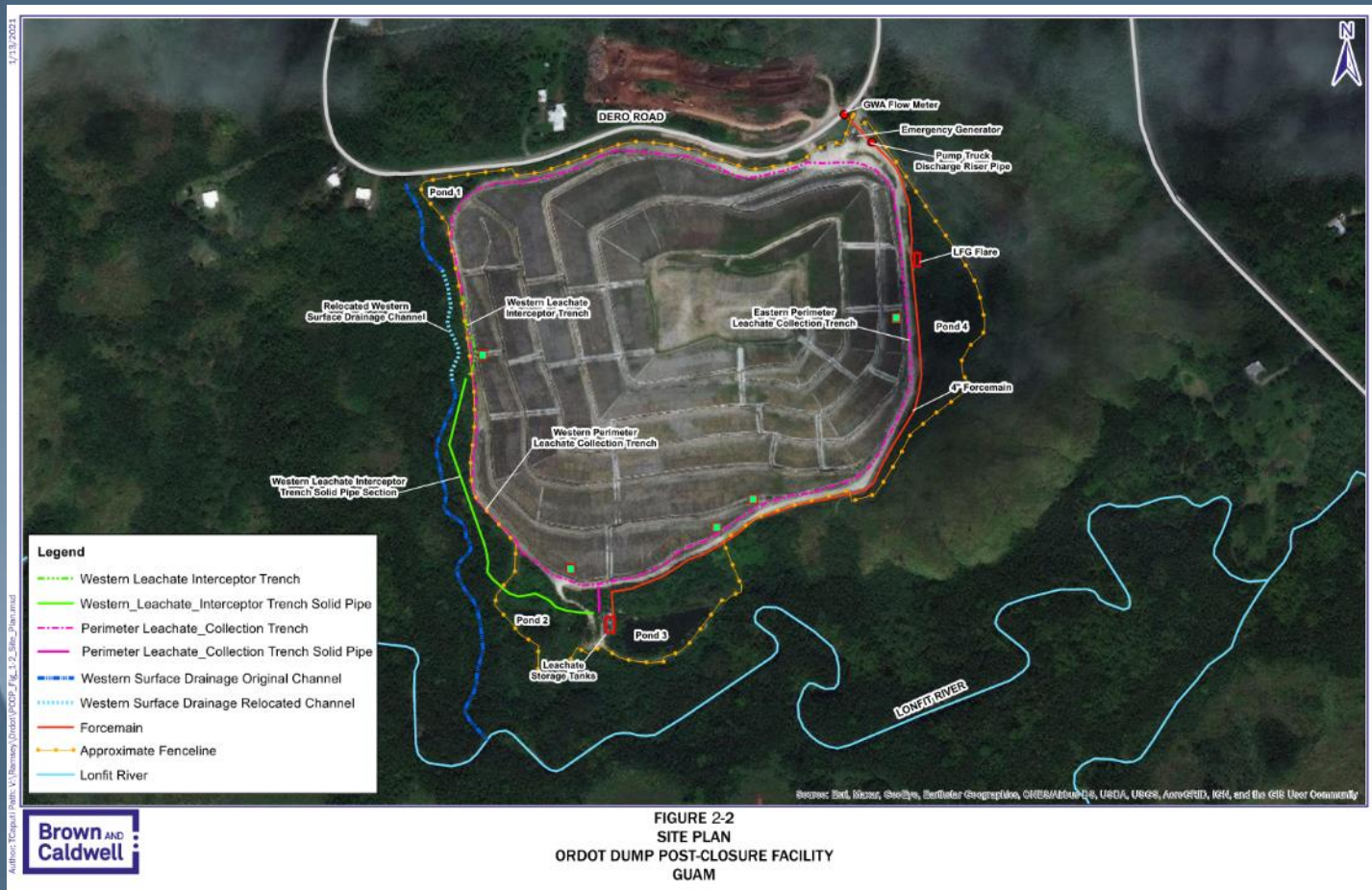




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Closure Design ... addresses pre-closure conditions



Author: Tropical Point, V:\Inventory\GIS\PCDF_Fig_1-2_Site_Plan.mxd
 1/13/2021



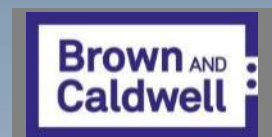


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Conclusions

- Leachate flow has been trending downward since waterline repairs in Dec 2022 – flow is at the lowest since 2017
- Cover system and LCRS are functioning as designed
- Pre-closure seeps and discharges have been addressed by the closure design
- Water quality in samples taken downgradient are similar in quality to the groundwater upgradient of the Dump





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Recommendations

- Continue visual observations on west side of the Facility at the location influenced by Dero Road waterline leaks
- Continue separate flow measurements for PLCT and WLIT on a weekly basis
- Continue to institute the operations and maintenance plan in the PCCP of the GEPA post-closure permit





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GWA Pond 1 and 4 Dye Tests

- Pond 1 test completed
- GWA, awaiting delivery of a fluorometer to help detect presence of dye that may reach observation points in the leachate collection system carried by groundwater
- GWA has conducted same testing in Pond 4 (May 2024)
- The Receiver and its consultant, B&C, are not clear that the testing plan or protocol will provide GWA with any useful information.





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5. Brown and Caldwell O&M Contract Extension Update

- Brown and Caldwell (B&C) operator pursuant to contract dated May 8, 2018
- Contract amended to:
 - Adjust the first Renewal Term from 5 years to 28 months to be in sync with term of Layon Landfill operator contract
 - Give GSWA ability to cancel two (2) scopes of work that may be performed by contractor(s) providing similar services at Layon Landfill or other similar services





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6. GSWA RFQ for Landfill Services

- GSWA procurement scope for Ordot is not consistent with the Brown and Caldwell O&M Contract Extension
- Procurement services related to Ordot requires Receiver approval
- Any contract for those services need to be with the Receiver through the end of the term of the O&M contract extension





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7. Transition Plan Outline

- Receiver advancing outline
- Plan to present at the July Board meeting
- Chace Anderson has been authorized to assist in this process





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8. Receiver Portion of SEP Report Status

- Submitted Receiver portion of SEP Report (299 pages) to USEPA on June 3, 2024
- Report documents construction and operation (1-year) of the HHW Facility with costs totaling \$826,317.62
- USEPA will review and either accept or reject within approximately 30-days of submission (May 8, 2024 Status Hearing, see ECF 2068)
 - Report the result of extensive collaboration with USEPA to minimize the need to reject the Report and prevent excessive back and forth revisions





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9. QUESTIONS?

