



OFFICE OF THE GOVERNOR  
HAGÄTÑA, GUAM 96910  
U.S.A.

**EXECUTIVE ORDER NO. 2007-09**

**RELATIVE TO ESTABLISHING THE SOLID WASTE LAW REVIEW COMMISSION WITHIN THE GOVERNMENT OF GUAM AND TO ESTABLISH COOPERATION WITHIN THE BRANCHES OF THE GOVERNMENT OF GUAM**

**WHEREAS**, the Organic Act of Guam provides that *I Maga'låhan Guåhan*, Governor of Guam, is tasked with the responsibility of overseeing the health and safety of the people of Guam; and

**WHEREAS**, U.S. Environmental Protection Agency ("US EPA") has been attempting to get the government of Guam to stop the discharge of leachate from the Ordot Dump since 1986 when it issued an administrative order under the Clean Water Act; and

**WHEREAS**, within months of taking office, the Administration executed a Consent Decree with the Court in December 2003 in order to start the monumental process of complying with the Clean Water Act, finally closing the Ordot Dump, and constructing a new facility to accept the solid waste of Guam; and

**WHEREAS**, Ordot Dump continues to pose a threat to public and environmental health and must be closed pursuant to a Consent Decree entered into by the government of Guam, the USEPA, and the United States Department of Justice (U.S. District Court Territory of Guam Civil Case No. 02-00022); and

**WHEREAS**, the government of Guam will be unable to timely meet the deadline to close the Ordot Dump as contained within the Consent Decree; and

**WHEREAS**, the government of Guam has faced numerous delays in implementing the mandates of the consent decree resulting from new oversight and regulations by regulatory bodies, shortage of qualified individuals in Solid Waste Management, delays in receiving funding; the unexpected increase in military buildup; the new requirement for extensive hydrological studies, and continued political opposition; and

**WHEREAS**, U.S. Magistrate Judge heard arguments on the United States of America's Motion to Enforce the Consent Decree and the government of Guam's Motion to Modify the Consent Decree on March 8, 2007; and

**WHEREAS**, U.S. Magistrate Judge issued his Report and Recommendation on July 6, 2007; and

**WHEREAS**, the U.S. Magistrate Judge surmised, on page 27 of his recommendation, that a reason why the government of Guam has not given priority to the closure of the Ordot Dump is "that there is currently no mandated legislative policy" in regards to the closure of the Ordot Dump; and



**WHEREAS**, U.S. Magistrate Judge recommended, on page 27 of his recommendation, that a Law Revision Committee should be created and "shall be tasked with developing a general legislative policy ... with regard to the closure of the Ordot Dump and the construction of a new landfill"; and

**WHEREAS**, U.S. Magistrate Judge recommended that a legislative review panel consist of:

1. the Governor of Guam or his designated representative;
2. the Speaker of the Guam Legislature or his designated representative;
3. the Attorney General of Guam or her authorized representative;
4. the Director of the Department of Public Works or his authorized representative;  
and
5. the Chairperson of the PUC or his authorized representative.

**WHEREAS**, U.S. Magistrate Judge recommended, on page 28 of his recommendation, that the Government of Guam draft "legislation that reconstitutes SWM [the Department of Public Works, Solid Waste Management Division] as a public corporation under the oversight of the Consolidated Commission on Utilities" and "the proposed legislation must also empower and authorize the new public corporation to secure revenue bond financing for Consent Decree Capital projects"; and

**WHEREAS**, the U.S. District Court of Guam should not determine for the government of Guam what type of entity the Solid Waste Management Division should be converted into, but a Law Review Commission, representing the elected officials of the government of Guam, could help identify how to reform the Department of Public Works Solid Waste Management Division into an entity that can effectively handle all aspects of solid waste management without sacrificing the health and safety of the people of Guam; and

**WHEREAS**, the Administration does not believe it can force the Guam Legislature or the Guam Attorney General to participate in the Law Review Commission, but respectfully requests their participation to expeditiously address all outstanding solid waste issues; and

**WHEREAS**, further delays in the closure of the Ordot dump and the opening of a new facility to accept Guam's solid waste will violate Consent Decree timelines, and more importantly impose an unacceptable risk to the health and safety of the people of Guam .

**NOW, THEREFORE, I, MICHAEL W. CRUZ, M.D., I Maga'låhan Guåhan, para pa'go**, Acting Governor of Guam, by virtue of the authority vested in me by the Organic Act of Guam, as amended, do order:

1. **Solid Waste Law Review Commission.** The Solid Waste Law Review Commission is hereby established and shall consist of at least one representative from the following agencies or branches of the government of Guam:

- a. the Governor of Guam or his designated representative;
- b. the Speaker of the Guam Legislature or his designated representative;
- c. the Attorney General of Guam or her designated representative;



- d. the Director of the Guam Environmental Protection Agency or her designated representative;
- e. the Minority Party Leader of the Guam Legislature or her designated representative;
- f. the Director of the Department of Public Works or his designated representative; and
- g. the Chairperson of the PUC or his designated representative.

The Governor of Guam or his designated representative shall chair and preside over the meetings. The above designated individuals shall, in writing directed to the Governor of Guam, acknowledge their participation in the Review Commission or designate their authorized representative within three days of this signing of this order.

The Law Review Commission should meet every two weeks or sooner in order to ensure that that the timelines contained within this Executive Order are met.

The Law Review Commission and DPW shall draft monthly reports on their progress.

- 2. **Purpose.** The purpose of the Law Review Commission shall be to:
  - a. Within 60 days draft legislation to establish the solid waste management legislative policy for the government of Guam. The legislative policy should address the three fundamental issues that have plagued the government of Guam:
    - 1. The closing of Ordot and the plans to stop the escape of leachate;
    - 2. The creation of a new site to receive solid waste; and
    - 3. The waste to energy facility contract that is currently being addressed by the Supreme Court of Guam.
  - b. Within 90 days draft legislation that will support a fluid conversion of the Solid Waste Management into an entity that can efficiently manage Solid Waste Management on Guam, while ensuring that the health and safety of the people of Guam will not be adversely affected.
  - c. Within 120 days revise the petition and supporting legislation required for revenue bond financing necessary for the financing of solid waste management as my be required.



- d. Review and revise the provisions of Guam Law that relates to Solid Waste Management, with the assistance of the Compiler of Laws, in order to correct the provisions of the law and consolidate the relevant provisions which relate to solid waste management.

SIGNED AND PROMULGATED at Hagåtña, Guam this 23 day of July, 2007.

A handwritten signature in black ink, appearing to read "Michael W. Cruz".

**MICHAEL W. CRUZ, M.D.**  
*Maga'låhen Guåhan, para pa'go*  
Acting Governor of Guam

**COUNTERSIGNED:**

A handwritten signature in black ink, appearing to read "Mark Forbes".

**MARK FORBES**  
*I Segundo na Maga'låhen Guåhan, para pa'go*  
Acting Lieutenant Governor of Guam