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**UNITED STATES DISTRICT COURT FOR
THE NORTHERN MARIANA ISLANDS**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

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

Defendants.

Case No. 08-cv-0051

**PROPOSED JOINT STIPULATION
AND ORDER RE: MATERIAL
MODIFICATION OF STIPULATED
ORDER NUMBER ONE**

*JOINT STIPULATION: MODIFICATION OF STIPULATED ORDER ONE
United States v CUC, et al. 08-CV-005*

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9 BAO-NGAN ("TINA") V. NGO
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19 *Counsel for Commonwealth Utilities Corporation*

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

6 WHEREAS, CUC is a public corporation that has the authority to produce,
7 treat, transmit, store, distribute, and sell drinking water in the Commonwealth of
8 the Northern Mariana Islands (“CNMI”), as well as the authority to collect, treat,
9 and sell or dispose of wastewater in CNMI, and is responsible for the construction,
10 maintenance, operation and regulation of all CNMI utility services, including
11 power generation, transmission, and distribution;

12 WHEREAS, the CNMI is included as a defendant in this action in
13 fulfillment of its CWA § 309(e) responsibilities, 33 U.S.C. § 1319(e);

14 WHEREAS, CUC owns and operates two wastewater treatment plants and
15 drinking water systems for the Commonwealth of the Northern Mariana Islands.

16 WHEREAS, from December 11-15, 2023 EPA’s National Enforcement and
17 Investigations Center (“NEIC”) conducted an inspection of CUC’s drinking water
18 system including its operations and maintenance.

19 WHEREAS, NEIC found multiple deficiencies in CUC’s drinking water
20 system assets, operations, and maintenance which were detailed in an inspection
21 report delivered to CUC on February 26, 2004.

22 WHEREAS, the Parties agree, and this modification requires, that CUC shall
23 undertake various measures to address the deficiencies identified in NEIC’s
24 inspection report and assure sufficient funding in the future to properly operate and
25 maintain its drinking water and wastewater treatment systems.

26 WHEREAS, SO1 originally required the construction of a new wastewater
27 treatment plant in Kagman Village but the Court and Parties have since determined
28 that such new plant is unnecessary.

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1 WHEREAS, some of the information in SO1 regarding the attorneys of
2 record and contacts for the parties is outdated and this modification updates this
3 information;

4 THEREFORE, Plaintiff the United States, on behalf of EPA, CUC, and
5 CNMI, jointly stipulate and the Court orders that SO1 be modified as follows:

6 1. The names of counsel above the caption of SO1 shall be deleted and
7 replaced with the following:

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11 United States Department of Justice
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2. Paragraph 21 shall be deleted in its entirety and replaced by the
following new Paragraph 21:

21. Comprehensive Utility Training Program. By November 1,
2024, CUC shall develop, submit for EPA approval and
implement an updated comprehensive drinking water and

1 wastewater systems training programs that include, but are
2 not limited to, the following components.

- 3 a. Operator Training Programs. The operator training
4 programs shall provide on-going training for both
5 drinking water and wastewater systems personnel, and
6 include information about the proper operation and
7 maintenance of the sources, distribution, storage, pumps,
8 water and wastewater treatment, disinfection, sewer
9 collection and conveyance systems, monitoring
10 requirements, and other operational aspects of the
11 drinking water and wastewater systems including
12 preventative maintenance for sanitary deficiencies,
13 corrosion protection, and asset management.
- 14 b. Health and Safety Training Program. The Health and
15 Safety Program for the Drinking Water and Wastewater
16 Operators shall include:
- 17 (i) a Health and Safety Plan that identifies a primary
18 Health and Safety Officer, a list of minimum
19 training requirements by position including
20 refresher courses, and includes records of
21 employee training. CUC may hire a professional
22 trainer, conduct on-line courses, or assign a
23 member of CUC staff to research and present
24 safety training to other staff.
- 25 (ii) an OSHA construction safety course including fall
26 protection, electrical safety, excavations, confined
27 spaces and materials handling in accordance with
28

Occupational Safety and Health Administration
("OSHA") regulations 29 CFR 1910.

CUC shall implement the above-described training programs within thirty days of EPA's approval. At that time, CUC shall appoint an individual whose primary responsibility will be to plan, coordinate and implement all training activities.

3. In Paragraph 48.b. the phrase "planning and design of the proposed Village of Kagman wastewater treatment plant" shall be deleted.

4. In Paragraph 48.d(ii) the phrase "including activities related to the Kagman wastewater treatment plant," shall be deleted.

5. In Paragraph 60.c the phrase "and construct a new sewage treatment plant and sewer system in the Tinian and Village of Kagman areas to protect drinking water and coastal water resources" shall be deleted.

6. In Paragraph 65 the phrase "costs related to the financing or direct construction of the proposed wastewater treatment plant for the Village of Kagman;" shall be deleted.

7. A new Section and Paragraph 68A shall be inserted after Paragraph 68 that reads:

D. ADDITIONAL REQUIREMENTS

68A. CUC shall comply with all requirements in Appendix A attached hereto.

8. The contacts in Paragraph 85 following the phrase "should also be provided" shall be deleted and replaced with the following:

As to the United States:

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As to EPA:

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United States Environmental Protection Agency
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As to the Defendant CUC:

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As to Defendant CNMI:

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A redlined copy of SO1 reflecting the above-listed modifications and the
New Appendix A are attached hereto.

IT IS SO STIPULATED.

FOR THE UNITED STATES:

BY: /s/ Elizabeth L. Loeb
ELIZABETH L. LOEB
Senior Attorney
Environmental Enforcement Section
United States Department of Justice

Of Counsel:
Janet A. Magnuson
Office of Regional Counsel - USEPA

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