

LEONARDO M. RAPADAS
Attorney General



PHILLIP J. TYDINGCO
Chief Deputy Attorney General

OFFICE OF THE ATTORNEY GENERAL

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Layon Landfill: Setting the Record Straight

Chief Judge Francis Tydingco-Gatewood has set the record straight, dispelling any misleading information that others may have put out to the media and the public on the decade-old and controversial landfill case pending in Guam Federal District Court.

Nearly 10 years ago, the United States sued the Government of Guam under the federal Clean Water Act because toxins from the Ordot Dump were polluting the Island's waters. The case resulted in a Consent Decree signed in 2003 by Governor Camacho, obligating GovGuam to immediately close the Ordot Dump and build a new landfill. The new Layon Landfill is now operating and Ordot stopped receiving trash in 2011. Although trash is no longer being accepted at Ordot, GovGuam is required to properly cap the Dump and monitor the poisonous gases and toxins in the ground to make sure these poisons do not harm the People of our Island. This work is expected to be completed within the next two years.

Our office has been involved in this case from the start and has handled the legal issues relating to closing Ordot and opening Layon. Eight months ago, the Governor's Office sought to replace the AG's Office with its own private counsel.

Judge Francis Tydingco-Gatewood acknowledged "there had never been a concern or complaint raised by the prior administration or the current administration about the AG's representation." The Court noted Governor Calvo's conflict of interest in this case. "The Governor's conflict of interest is based on his family's interest in the approximate \$25 million judgment issued by the Superior Court of Guam in what has been referred to throughout this proceeding as the Layon Condemnation Case." It was only after the former landowners filed a motion to intervene in an attempt to seek the release of bond monies to pay the Layon Condemnation Case judgment that complaints were made against the AG's Office. These bond monies are earmarked to complete the closure of the Ordot Dump.

About a month ago, Judge Gatewood allowed the Governor's Office request to fully substitute the Mantanona law firm in place of the AG's Office because of "a breakdown in the attorney-client relationship." In her Order, the Judge explains that "The breakdown may have started from what the Lieutenant Governor perceived was reluctance on the part of

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the OAG to agree with the release of bond proceeds to pay the \$25 million judgment in the Condemnation Case, but it has quickly escalated in the last few months. The court finds that there is a lack of communication between the OAG and the Lieutenant Governor dating back to May 16, 2013, and this lack of communication has led to a relationship clouded by an atmosphere of non-cooperation.”

In her October 29, 2013 Order the Chief Judge states, “Despite the Lieutenant Governor’s complaint that the OAG has not been acting to protect the Government of Guam’s interest . . . for the last two years, ***the record in this case shows otherwise.***”

The Court found that “The Lieutenant Governor fails to provide any factual support for his contention that the Government of Guam suffered any prejudice over the last two years by the Attorney General’s representation.” The Office of the Governor’s claims that it has not been permitted to be meaningfully represented in this action by the OAG is “***not true,***” according to the judge.

In its Order, the District Court stated, “The Attorney General has been diligently working to represent the Government of Guam’s interest since the inception of the case.”

The Court noted that:

“The Attorney General has always acted professionally in representing the Government of Guam’s interests in this action. The OAG worked closely with the Receiver and bond counsel to obtain bond financing and ensure that the bond proceeds *were appropriately used* for their intended purposes. The Attorney General assisted the Receiver with reviewing procurement contracts and other matters related to compliance with the Consent Decree. Additionally, the OAG worked to clear up land ownership issues on lands required for the closure of the Ordot Dump. Finally, the OAG worked with various government agencies, including the Department of Public Works, to address safety concerns with the roads leading to the Layon Landfill.”

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