

## **Executive Order No. 324**

*To establish a Water and Sewer Task Force to facilitate the transition of the water and sewer operations from the Division of Public Works to the Palau Water and Sewer Corporation.*

**WHEREAS**, RPPL No. 8-30 was enacted to provide authority to the President of the Republic to enter into a loan agreement with the Asian Development Bank for a loan to finance improvements to the water and sewer operations of the Republic; and

**WHEREAS**, RPPL No. 8-31 was enacted to create the Palau Water and Sewer Corporation and provides in Section 29 broad authority to the President of the Republic to give effect to the provisions of the Palau Water and Sewer Corporation Act when he sees fit as follows:

- “A. The provisions of this Act shall, after being signed into law by the President or otherwise becoming law without being signed by the President, come into effect by Executive Order of the President to that effect, and the President may order that certain provisions of this Act shall take effect at different times.
  
- B. The President may make any Executive Orders which are consistent with this Act and necessary for its effective implementation, and for the establishment of the PWSC and the commencement of its operations, including arrangements for the engagement of management expertise in the transitional phases.”; and

**WHEREAS**, the loan agreement specifies that in order to receive the second tranche of funds from the Asian Development Bank an independent entity to conduct the water and sewer operations of the Republic must be up and running by March 31<sup>st</sup>, 2013; and

**WHEREAS**, pursuant to the authority set forth in RPPL No. 8-31, and consistent with the loan agreements, two Executive Orders have been issued by the Office of the President, Executive Order No. 282, which established the Water Sector Steering Committee, and Executive Order No. 303, which appointed the Ministry of Finance as the “Executing Agency” under the loan documents and the Palau Water and Sewer Corporation as the “Implementing Agency” under the loan documents, and set the effective date of RPPL No. 8-31 as the date Executive Order No. 303 was issued: October 17, 2011; and

**WHEREAS**, Section 5 of Executive Order No. 303 explicitly states that it may be amended or repealed by the President; and

**WHEREAS**, since the execution of these Executive Orders that empower the Ministry of Finance and the Palau Water and Sewer Corporation to execute the authority provided to them by RPPL No. 8-31 the quality of the water and sewer services has declined significantly, including leaving Malakal island in Koror largely devoid of running water service and most of the Koror metropolitan neighborhoods are on a water rationing schedule; and

**WHEREAS**, since the fire at the Aimeliik power plant and the installation of new electrical generators in Malakal the water situation has been such that the new power plants in Malakal require water to cool the generators, while the water and sewer operations also require electricity to run, which causes the water and sewer operations and the Malakal power plant operations to be inextricably linked to one another; and

**WHEREAS**, the water situation is now so dire that Palau Public Utilities Corporation is forced to purchase water commercially for the Malakal power plant because the water essential to the cooling of the Malakal power plant is no longer getting to the power plant; and

**WHEREAS**, the transition process of moving the water and sewer operations from the Division of Public Works to the Palau Water and Sewer Corporation may have exacerbated the problems set forth above, including the recent presence of dirt and mud in the water in some neighborhoods in Koror; and

**WHEREAS**, the communication between the Bureau of Public Works, the Palau Public Utilities Corporation, and the Palau Water and Sewer Corporation has completely broken down; and

**NOW THEREFORE**, by virtue of the broad authority set forth in Section 29 of RPPL No. 8-31 that authorizes the President of the Republic to order the provisions of the Water and Sewer Corporation Act to take effect by Executive Order, and the authority set forth in the Constitution of the Republic of Palau as vested in the President of the Republic, the President hereby orders as follows:

- (1) Repealer. That, Executive Order No. 282 and Executive Order No. 303 are hereby repealed such that the Palau Water and Sewer Corporation shall immediately cease all start-up activity; however, this action shall not affect actions that have already been taken by the Palau Water and Sewer Corporation. This repeal is an Executive Order necessary for the transition phase of water and sewer operations to the Palau Water and Sewer Corporation until the relationship between the Bureau of Public Works, Palau Public Utilities Corporation, and the Palau Water and Sewer Operations is resolved and the Water and Sewer Task Force is better positioned to facilitate the transition phase of the Palau Water and Sewer Corporation so that the water and sewer operations are not disrupted.

- (2) Palau Water and Sewer Corporation activities shall temporarily cease.
  - a. That, because Executive Order No. 303 has been repealed above, the Palau Water and Sewer Corporation shall no longer have the legal authority to act under RPPL No. 8-31; as a result, the Palau Water and Sewer Corporation shall (1) immediately cease all start-up activities until further directed by an Executive Order issued pursuant to the authority set forth in Section 29 of RPPL No. 8-31, and (2) immediately consult with, and provide any documents or assistance that is requested by, the Water and Sewer Task Force as set forth in this Executive Order.
  - b. After the review to be provided by the Water and Sewer Task Force has been provided to the President on or before March 1, 2013, the President shall revisit the effective date of RPPL No. 8-31 and whether, or when, it is appropriate to initiate an executive order to confer the legal authority set forth in RPPL No. 8-31 to the Palau Water and Sewer Corporation.
  - c. The temporary ceasing of start-up activities by the Palau Water and Sewer Corporation shall include a temporary moratorium on the legal authority of the Palau Water and Sewer Corporation to enter into any further contractual agreements.
- (3) Duties and Functions of the Water and Sewer Task Force. That the Water and Sewer Task Force shall have the following duties and functions:
  - a. Perform all of the duties, that the former Water and Sewer Steering Committee performed under the authority of the now repealed Executive Order No. 282, including coordination or negotiation of the Water and Sewer Improvement Project with the Asian Development Bank, as may be necessary.
  - b. Facilitate communication between the Division of Public Works, the Palau Public Utilities Corporation, and the Palau Water and Sewer Corporation in order to address the current water situation in the Republic.
  - c. Oversee the transition of the water and sewer operations from the Division of Public Works to the Palau Water and Sewer Corporation that has occurred, that is set to occur, or that does occur if the President later re-authorizes the effective date of RPPL No. 8-31 by Executive Order.
  - d. Review all contracts that have been entered into by the Palau Water and Sewer Corporation.

- e. Consult with the Ministry of Finance, the Bureau of Public Works, the Palau Public Utilities Corporation, and the Palau Water and Sewer Corporation on the overall financial situation of the electrical utilities and the water and sewer utilities of the Republic.
  - f. Provide a report to the President of the Republic, the Senate, and the House of Delegates on or before March 1, 2013 that addresses the following issues:
    - I. The current state of the water and sewer operations of the Republic.
    - ii. The precise relationship between the electricity generation from the Malakal power plant and the water and sewer operations of the Republic.
    - iii. The overall financial situation of the electrical utilities and the water and sewer utilities of the Republic.
    - iv. The economic viability of the Palau Water and Sewer Corporation and opine on the timing and process through which the Palau Water and Sewer Corporation should become operational by March 31, 2013, or whether it would be more financially appropriate for the water and sewer operations to be merged into the Palau Public Utilities Corporation.
- (4) Cooperation. That all members and employees of the Ministry of Finance, the Bureau of Public Works, the Palau Water and Sewer Corporation, and the Palau Public Utilities Corporation shall give the Water and Sewer Task Force their full cooperation and make all employees and materials available to the Task Force upon request.
- (5) Water and Sewer Task Force Members. That the Water and Sewer Task Force shall be composed of the following members:
- a. Fritz Koshiba, Advisor to the President, who shall serve as the Chairman of the Task Force.
  - b. Nicholas W. Swords, Chief Operations Officer of the Palau Water and Sewer Corporation.
  - c. Senardo Ngirachelsau, retired Water Data Specialist from the Bureau of Public Works.

- d. One member of the Senate, to be appointed by the Senate President.
  - e. One member of the House of Delegates, to be appointed by the Speaker of the House of Delegates.
  - f. The General Manager of the Palau Public Utilities Corporation.
  - g. The Director of Public Works, his designee, or an Acting Director appointed to act in his stead.
- (6) Time is of the essence. With the current loan agreements set to distribute the second tranche of funds on March 31<sup>st</sup>, 2013, but only if an independent entity is up and running to receive and spend the funds pursuant to the loan agreement, time is of the essence for the Task Force to conduct its duties and responsibilities. Therefore, it is hereby ordered that the Task Force act with speed and haste in carrying out its orders and provide its report to the President, the Senate, and the House of Delegates as soon as possible and no later than March 1<sup>st</sup>, 2013.

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed my official seal this 30<sup>th</sup> day of January, 2013 in the Republic of Palau.

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/s/  
Tommy E. Remengesau, Jr.  
President of the Republic of Palau