



EXECUTIVE SUMMARY
Chamorro Land Trust Commission Oversight of the Removal of Coral
Material from the Guam International Raceway Park
OPA Report No. 23-08, September 2023

Our analysis of coral/top soil extraction from the Guam International Raceway Park (Raceway) found that there was a lack of consistent oversight and monitoring of the Guam Racing Federation (GRF)'s management and operations of the raceway between June 1, 1998 and January 31, 2023, by the Guam Economic Development Authority (GEDA) and the Chamorro Land Trust Commission (CLTC). As a result, the total volume of materials extracted and how much total revenue was due to CLTC cannot be determined. In addition, GRF continued to allow mineral extraction activity beyond the Cease and Desist Order.

Records of royalties paid to CLTC and GRF show inconsistent amounts; whereas, GRF financial statements show reported revenues of \$2.2 million (M), and CLTC has recorded \$1.98M in royalties. Due to the fluctuating prices charged to each company (sometimes concurrently) and gaps in reporting periods, we could not validate the information we reviewed.

We further found that GEDA was the entity required by law to inspect and monitor pre-construction or construction activities and collect billing reports from contactors related to the Raceway, however, there was no evidence such inspections or monitoring were conducted or that billing reports were collected. After the agreement between CLTC and GRF expired in 2018, GRF continued to occupy the property without an approved license or lease as required by law.

Insufficient Information Available to Accurately Determine How Much Material Was Extracted
Supporting documents are missing for certain periods of extraction activity, and some of the information that is available is not consistent with GRF's records. The most recent report produced by Engineering Firm 1 in 2018 shows an estimated total of 2,603,639-2,898,718 cubic yards (CY) of material was extracted between 2007 and 2017. GRF's records indicate the estimated total volume of extracted materials is 4,938,175 CY between 2001 and 2021.

Insufficient Information Available to Accurately Determine How Much Revenue Was Due to CLTC

Available financial statements for GRF shows that at least \$2.2M was earned in royalties from the sales of coral material, of which \$1.8M was recorded in the financial statements from 2008 through 2019 and \$424K recorded in the profit and loss statements for 2020-2022. Due to the incompleteness of audited financial statements for GRF, we were unable to determine the full amounts earned in royalties from the sale of coral material.

CLTC financial audits for FYs 2012-2021 and OPA Report No. 05-09 reflect a sum of approximately \$1.98M in revenues earned from royalties for coral extraction activity. We inquired with CLTC Management if there were any other royalty revenues for prior years of activity, but their response is pending research as of the release of this report.

GRF's in-house record of payments made to CLTC shows a total of \$2.7M, but the record of payments provided by GRF contained computation errors. The same worksheet provided by GRF shows only

payments made to CLTC. We could not obtain records from Company A to confirm or validate GRF's in-house record of payments.

Without complete and correct statements of revenues reported by GRF or by CLTC, and without records from each company to validate GRF records, we cannot accurately determine how much revenue was paid to GRF or CLTC or how much may be due to CLTC.

No Evidence of GEDA Inspections, Monitoring, or Collecting Billing Reports

GEDA was the entity responsible for the inspection and monitoring of pre-construction or construction activities and collection of billing reports from contractors as required by law; however, there was no evidence such inspections or monitoring was conducted or that billing reports were collected. GRF confirmed that inspections were not conducted by GEDA and asserted that any GEDA oversight was limited to activities performed under the tax credit program.

The Guam Legislature's Committee Report for PL 30-204 contains copies of correspondence from GEDA to GRF, between 2008 and 2009, and an Annual Compliance Report Review for Calendar Year 2009 (Review). GEDA made at least three attempts to communicate with GRF regarding GRF's compliance with Rules and Regulations. In the Review, GEDA instructed GRF to forward all proposed construction contracts to GEDA prior to initiating work to be done, and GRF reported that all future contracts would be forwarded. The Review shows that GEDA deemed GRF as non-compliant, and there is no other evidence of the construction contracts that may have been forwarded to GEDA as promised. The Review also shows that GRF claimed there were no paid employees for the operations at the Raceway at the time, but GRF financial statements show payroll expenses in 2008 and 2010 and management and administration expenses in 2010.

Continued Occupancy Without License or Lease

GRF continued to occupy the property without an approved license or lease as required by law, and CLTC commissioners continued to extend occupancy of the property. Minutes from CLTC's January 19, 2023 meeting includes discussion with legal counsel stating that CLTC has been operating on a theory of a holdover tenancy for GRF to continue occupancy due to rental payments having been accepted by CLTC.

Regulatory Oversight Unclear

There may not be a regulatory agency in place that has jurisdiction over mineral extractions on CLTC properties. As a result, we could not determine what governing entities, policies and procedures, or rules and regulations were responsible for monitoring or regulating the mineral extraction activity at the Raceway property.

CLTC Management confirmed that there is no governing policy that requires CLTC to monitor or inspect mineral extraction activity. CLTC staff began monitoring the mineral extraction activity as a response to the finding in their FY 2015 financial audit.

Conclusion and Recommendations

Our analysis of coral/top soil extraction from the Raceway could not be completed as a result of the lack of information available for our review. GRF was unable to provide financial audits for years prior to 2008, and GRF did not maintain adequate files of invoices, statements, or receipts issued by each company. We could not validate GRF's records of extraction activity and royalties that were due to CLTC. For a more complete report, GRF would have to provide evidence supplied by each company, showing total volumes of extracted material for every month and year of activity.

To address these findings from occurring again, we made two recommendations to CLTC Management, specifically to establish (1) a Standard Operating Procedure for invoicing and collecting royalty fees accompanied by supporting documents of the nature of the invoice such as a statement of activity issued by the contracted company and (2) policies with Commissioners to ensure that all tenants meet their obligations before entertaining new motions.

We further recommend for the Guam Legislature to clearly define in statute all terms associated with activities of earth excavation and to identify or establish jurisdiction of the development or exploitation of natural resources on CLTC property or to include CLTC in statutory requirements regulated by the Guam Natural Resources Board (GNRB).



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