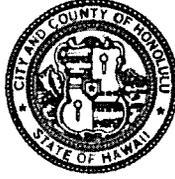


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2013 MAY 20 PM 2:26

KIRK CALDWELL
MAYOR



LORI M.K. KAHIKINA, P.E.
DIRECTOR

TIMOTHY A. HOUGHTON
DEPUTY DIRECTOR

ROSS S. TANIMOTO, P.E.
DEPUTY DIRECTOR

IN REPLY REFER TO:

May 22, 2013

The Honorable Stanley Chang, Chair
and Members on the Committee of
Public Works and Sustainability
Honolulu City Council
530 South King Street, Room 202
Honolulu, Hawaii 96813

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CITY COUNCIL
HONOLULU, HAWAII

Dear Councilmember Chang and Councilmembers:

**SUBJECT: Impact of the Synagro Bankruptcy on the Department
of Environmental Services**

During the Committee on Public Works and Sustainability meeting on May 15, 2013, you requested information regarding the impact of Synagro's bankruptcy proceedings on the Department of Environmental Services (ENV) operations at the Sand Island Wastewater Treatment Plant (Sand Island WWTP). As explained at the committee meeting and detailed below, the bankruptcy is not anticipated to impact ENV's operations.

According to court records, on April 24, 2013, Synagro-WWT, Inc. (Civ. No. 13-11042-BLS), and Synagro Technologies, Inc. (Civ. No. 13-11041-BLS), filed voluntary petitions for Chapter 11 bankruptcy in the United States Bankruptcy Court for the District of Delaware. Synagro-WWT and Synagro Technologies are the City's Contractor and Guarantor, respectively, for the Contract to operate and maintain an in-vessel bioconversion facility for the City at Sand Island WWTP.

Enclosed, as requested, is a copy of the City's Contract with Synagro-WWT (Contract No. F92652, dated May 7, 2002; Amendment No. 1, dated February 21, 2008; and Amendment No. 2, dated July 20, 2011). Section 6.1(d) of the Contract provides that the filing of a voluntary petition for bankruptcy by the Contractor or the Guarantor is an Event of Default. Pertinent provisions of the United States Bankruptcy Code, however, provide that a contract may not be terminated based solely on a default provision concerning filing for bankruptcy. 11 U.S.C. § 365(e).

The Honorable Stanley Chang, Chair
and Members
May 22, 2013
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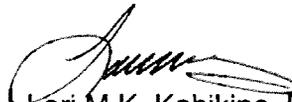
In any event, notwithstanding the Bankruptcy Code, Section 6.3 of the Contract provides that a defaulting party has 45 days after written notice to either cure a default or commence appropriate steps to correct the default. According to the terms of the Contract, a defaulting party may not be terminated so long as it is diligently prosecuting appropriate steps to correct the default.

Synagro has assured ENV that the pending bankruptcy proceedings will not impact operations at the Sand Island WWTP. ENV has requested that Synagro provide additional information regarding the bankruptcy and regular updates concerning the bankruptcy status. ENV is following this situation vigilantly to ensure that Synagro continues to provide quality service for the City and County of Honolulu.

Finally, as discussed in Committee, please note that the Synagro Contract is critical to development efforts anticipated to commence over the next several years in the Sand Island service area, which spans from Salt Lake/Aliamano to Niu Valley. The U.S. Environmental Protection Agency is monitoring closely ENV's handling of wastewater solids at Sand Island WWTP and has expressed concerns about available solids handling capacity and lack of redundancy. Even if the City could terminate the Synagro Contract based solely on the bankruptcy filing – which it cannot – ENV would need to hire additional operators to staff the existing egg-shaped digester, and construction of the much-needed second egg-shaped digester and other interim treatment measures would be significantly delayed. In addition, without Synagro's expertise, ENV may be forced to terminate the Sand Island sludge beneficial reuse operations, which diverted approximately 2,800 tons of sludge from the Waimanalo Gulch Sanitary Landfill last year.

ENV welcomes the opportunity to further discuss these issues with you. Should you have any questions, please contact me at 768-3486.

Sincerely,


Lori M.K. Kahikina, P.E.
Director

LMK:pg
Enclosures

APPROVED:


Ember Lee Shinn
Managing Director