

Watts Constructors files lawsuit against Port Authority

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The Honolulu-based construction company that had challenged the port's "unauthorized" tariffs and penalty fines has now filed a lawsuit against the Port Authority of Guam, according to a complaint filed in the District Court of Guam.

President Denny Watts of Watts Constructors LLC said that off-loading operations that took place at the Guam Shipyard should not be charged, considering the port's limited involvement.

Watts announced yesterday it has filed a lawsuit in the District Court of Guam against the Port to prevent the imposition and collection of \$1 million in unauthorized tariffs and charges imposed on Watts, according to a press release from Watts.

Watts Constructors President Denny Watts is alleging the Port has attempted to impose tariffs and penalties for load-out operations "that did not occur on or near Port facilities or any other Guam governmental facilities, and which did not involve Port personnel except

in one instance when the Port forced (Watts) to use Port personnel," the release stated.

"Both of the load-out operations at issue occurred at the Guam Shipyard in Apra Inner Harbor, and which is not a part of the Port facilities," the release from Watts stated.

Watts is referring to cargo off-loading that took place in July 2009, and another operation that took place in November 2009, according to Pacific Daily News files. The Guam Shipyard was used as a port facility instead of the commercial port for loading construction materials. According to Watts, the Port facility couldn't support the load-out operations.

But under Guam Code Annotated Title 12, Chapter 10, only the Port Authority of Guam facility is allowed to function as a commercial seaport on Guam, said Port General Manager Glenn A. Leon Guerrero.

As a result, the Port in November announced it had issued a

"cease and desist" letter to the Guam Shipyard, notifying it that it is not to handle any commercial cargo operations, unless approved by the Port, according to Pacific Daily News files.

However, the Port's board Chairman Monte Mesa added "extenuating circumstances" might warrant loading or unloading cargo at the shipyard — only with the prior approval of the Port. In such a case, the Port would oversee operations and collect the revenue, he said.

Leon Guerrero has said the collection of fees are necessary as the Port is undertaking a \$200 million modernization in preparation for the military buildup.

"This buildup is crucial in order to meet the demands of our growing community and also to sustain our operations during the military buildup. These upgrades are necessary for the future of our people and the Port Authority of Guam must consequently protect its revenues," he said in a statement re-

leased yesterday.

When a second shipment of Watts cargo was handled at the Guam Shipyard with the Port's consent in November, Port officials did not issue a penalty. They said the 270 pieces of unique, over-size commercial cargo — including a steel beam that was 140 feet long — would have created public safety issues if transferred by land from the shipyard to the commercial port, thus creating extenuating circumstance, according to Pacific Daily News files.

They did, however, bill for tariffs.

Watts later challenged the Port's bill for \$1 million, saying the fees were unfair.

"We understand that the Port wants to be the exclusive commercial port on Guam," Watts said. "However, as it stands now and as our situation shows, the Port is simply not yet equipped to handle the full range of cargo moving on and off the island today."

Through this lawsuit, Watts is seeking a declaration that the Port's

authority to impose fees and tariffs does not extend beyond the Port's own facilities, and the Port's imposition of fees and charges was unlawful and unauthorized, Watts said in the press release issued today.

"We are disappointed that the dispute has gotten to this point," he said, "We have done all we can to be cooperative and reasonable, but the huge charges the Port has tried to impose, for work and services that were not provided, are not fair or reasonable"

"The complaint filed today in the District Court of



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Guam is under review by the Port. This matter is of utmost importance as it relates directly to the Government of Guam's control over commercial import/export cargo handling services in Guam," according to a statement released by Leon Guerrero.

Leon Guerrero added that Port officials will reserve further comment on this matter, as it is now in litigation.