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EXECUTIVE ORDER NO. 05 - 1995

REORGANIZATION AND REASSIGNMENT OF
SOLID WASTE COLLECTION AND DISPOSAL FUNCTIONS
UNDER THE AMERICAN SAMOA POWER AUTHORITY

Section 1: Authority

This Executive Order is issued under the authority of Section 6 of Article IV of the Revised Constitution of American Samoa and ASCA 4.0303(a).

Section 2: Purpose and Intent

The purpose and intent of this Executive Order is to ensure that solid waste collection and disposal within the Territory of American Samoa is conducted in accordance with sound business and utility practices, that the rates and charges for those services are just, reasonable and equitable to consumers and not unduly discriminatory, that service is reliable, that items of solid waste which are capable of recycling are recycled and that items not capable of recycling are disposed of in a conservative manner so as to limit the adverse impact, that solid waste collection and disposal facilities and resources are efficiently used and that the needs of the people of American Samoa for solid waste collection and disposal are provided for in a timely, affordable fashion and in accordance with Federal standards applicable in the Territory. Further, it is hereby declared that the successful operation and improvement of solid waste collection and disposal functions is one of the highest priorities of the American Samoa Government (ASG).

Section 3: Solid Waste Collection and Disposal Functions
Reorganized under American Samoa Power Authority (ASPA)

The American Samoa Power Authority (ASPA) is hereby authorized and directed to assume and discharge the functions of solid waste collection and disposal for the territory. ASPA shall continue to provide for the collection and disposal of

solid waste, including the administration of contractual services associated with solid waste collection and the operation and maintenance of existing solid waste collection and disposal systems within the Territory which are now being conducted by the Department of Public Works (DPW). The authority now exercised by the Director of the Department of Public Works in such functions is hereby delegated to the Executive Director of ASPA.

The Board of Directors of ASPA may issue regulations to set fines, fees and charges for the operation of solid waste collection and disposal. Advance disposal fees may be assessed against items imported into the Territory. These fees shall be collected by Customs officials and paid directly to ASPA.

Section 4: Operations Generally

Except as may be inconsistent with or inapplicable to the functions of solid waste collection and disposal, ASPA shall perform these functions in accordance with Chapter 01, Title 15, ASCA and any regulations enacted to implement that statute.

Any and all future grants, gifts, donations, fines, charges and fees for operation, maintenance and capital improvement of solid waste collection and disposal functions will be administered by ASPA.

The Executive Director of ASPA is authorized to appoint sanitary officers who shall issue citations for violations of solid waste statutes and/or regulations.

Section 5: Personnel

Until further directed:

- a. Transfer of any personnel now assigned to solid waste collection and disposal duties within DPW, or elsewhere in the government generally, to ASPA shall be made only upon the prior written approval of the Governor; and
- b. All ASPA employees performing duties associated with solid waste collection and disposal shall be assigned, transferred, compensated, disciplined and terminated in accordance with the laws applicable to ASPA.

Section 6: Accounting and Budget

ASPA shall assume responsibility for the accounting and financial management of the solid waste collection and disposal systems. It shall establish proper internal accounting controls and procedures, and it shall prepare an annual request for any ASG subsidies as a part of the Governor's budget process.

Section 7: Transfer of Existing Systems

Upon implementation of this Order, the government shall transfer to ASPA the right to operate all items of property, including construction in progress, equipment and machinery used in connection with the then-existing solid waste collection and disposal operations of the ASG. Property jointly used for solid waste collection and disposal and ASG non-utility functions shall be equitably allocated between the ASG and ASPA, provided that the allocation assures the continuing efficient functioning of solid waste collection and disposal. In the event of dispute, the allocation shall be determined by the Governor.

Section 8: Transition period

All rates, charges, and classifications of the solid waste collection and disposal system in effect at the time of the transfer of property and facilities, and management thereof, to the control and jurisdiction of ASPA are considered to be properly adopted and shall continue in effect until duly changed.

Employees performing solid waste collection and disposal functions in DPW may remain on the ASG payroll until such time as ASPA is financially able to assume their payroll costs, but no later than October 1, 1995. Any amounts budgeted for these personnel shall remain with the ASG until such time as the employees are transferred to ASPA.

Any amounts currently budgeted by ASG for operations, maintenance and improvements of solid waste collection and disposal functions shall be transferred to ASPA. One twelfth of the budgeted amount shall be transferred during the first three working days of each month.

Any liabilities or debts of the solid waste collection and disposal functions of DPW as of the date of transfer shall remain as liabilities and debts of ASG. Any accounts receivable shall

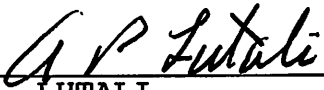
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remain as assets of the ASG. All other assets, including but not limited to unbilled charges, machinery, equipment, fixed assets, computers, vehicles and prepaid leases shall be transferred to ASPA as of the date of transfer of the solid waste collection and disposal functions. The Department of Public Works shall also turn over to ASPA all records related to the operations of solid waste collection and disposal.

Section 9: Effective date

This Executive Order is effective and shall be implemented immediately. It shall remain in effect until amended by further Executive Order or by statute.

DATED: 3/1/95



A.P. LUTALI
Governor of American Samoa