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EXECUTIVE ORDER NO.: 010-2009

AN ORDER DESIGNATING ALL COASTAL AREAS AND VILLAGES DISASTER AREAS AND ALLOWING FOR ENTRY ONTO LAND IN ORDER TO REMOVE DEBRIS AND PERFORM SIMILAR ESSENTIAL SERVICES REQUIRED FOR EMERGENCY DISASTER RECOVERY IN THE WAKE OF SEPTEMBER 29, 2009 EARTHQUAKE AND TSUNAMI.

Section 1. Authority

This Executive Order is issued under the authority granted to the Governor in Article IV, Sections 6 and Section 7, Revised Constitution of American Samoa, A.S.C.A. Sections 4.0302, 25.0101 et. seq. and 26.0101 et. seq.

Section 2. Preamble

WHEREAS, at 6:48 a.m. on September 29, 2009, a magnitude 8.3 earthquake occurred off the coast of American Samoa, coordinates 15.3 South 171.0 West, approximately 120 miles from American Samoa; and,

WHEREAS, shortly thereafter, a tsunami resulting from the earthquake began inundating all coasts of American Samoa, including the islands of Tutuila, Manu'a, Aunu'u, Swains Island and Rose Island with high seas and destructive waves; and,

WHEREAS, the earthquake and the resultant tsunami waves damaged and destroyed several homes, businesses, sea-going vessels, vehicles and real and personal property of American Samoa's residents, government and businesses; and,

WHEREAS, the earthquake and resultant tsunami waves have also damaged critical infrastructure that provide electricity and potable water to homes, businesses and government; and,

WHEREAS, debris, in the form of concrete, appliances and furniture from destroyed homes, destroyed vehicles, uprooted trees and brush, and personal property litter the inland coasts as well as the shorelines of American Samoa; and,

WHEREAS, updated reports from emergency response agencies list deaths directly resulting from the earthquake and tsunami at thirty-two; and

WHEREAS, there continues to exist wide-spread damage to individual, public and commercial buildings, homes and structures in coastal areas; and

WHEREAS, the Governor is responsible, by virtue of the Territorial Disaster Assistance Act of 1978, "for meeting the dangers to the Territory and people presented by disasters;" and

WHEREAS, the current situation in the Territory, where residents are dealing with loss of lives, wholesale damage to and loss of real and personal property, with scarce and in some instances, no essential services or utilities; and

WHEREAS, a 'State of Disaster Emergency' exists in the entire Territory of American Samoa; and

WHEREAS, President Barack Obama declared on September 29, 2009, that a major disaster exists in the Territory of American Samoa and ordered federal aid to supplement Territory and local recovery efforts in the areas struck by earthquake and tsunami; and,

WHEREAS, the Director of Health has inspected the Territory and has declared that the widespread debris in and around coastal areas and shorelines located throughout the island as a result of the September 29, 2009 earthquake and tsunami disaster constitutes an imminent threat to public health; and,

WHEREAS, public notice to all affected parties per ASCA Section 25.0106 in the wake of the disaster of September 29, 2009 would unreasonably delay, prevent and hinder the American Samoa Government's efforts in coping with the emergency; and,

WHEREAS, pursuant to ASCA Section 26.0105(g)(1), the Governor has the authority to suspend the provisions of any regulatory statute prescribing the procedures for conduct of territorial business, or the orders, rules, or regulations of any Territorial agency in dealing with a disaster emergency; and,

THEREFORE, this Order is executed to authorize entry onto private land for the express purpose of debris removal as a public health nuisance abatement measure in order to protect the public health, safety and welfare in the wake of the September 29, 2009 earthquake and tsunami disaster.

Section 3. Purpose

The express purpose of this order is to set forth the American Samoa Government's authority to enter onto private land in order to conduct debris removal,

including demolition of unsafe structures, removal of loose debris from private property that constitutes a public health nuisance that must be abated forthwith.

Section 4. Order

(1) All areas affected by the September 29, 2009 earthquake and tsunami disaster are considered disaster areas. These areas include but are not limited to the villages of Leone, Pago Pago, Poloa, Asili, Amanave, Amaluia, Tula, and all Territorial coastal areas and shoreline areas extending up to and including the our coral reefs. These areas include all villages that have suffered the accumulation of debris and other contaminants that create and will create a public health nuisance owing to the disaster. Owners of private and communal property in all of these affected areas are on notice that public health nuisances owing to unsafe structures and accumulated debris will be subject to debris removal, removal of unsafe structures and general clean-up activities undertaken by the U.S. Federal Government and the American Samoa Government.

(2) By authority granted to the Governor in Section 26.0105 of the American Samoa Code Annotated, notice provisions required pursuant to Sections 25.0109 and 25.0106 for abatement of public health nuisances on private land are herewith suspended. Notice by virtue of this Executive Order shall be accomplished through widespread media distribution by government run media, radio and by publication in print media calculated bring to the public's attention the contents of this Order.


(3) This Emergency suspension of notice to enter onto private land in order to abate public health nuisances shall cease thirty (30) days from the date of this Order.

(4) If the disaster emergency continues to exist in the Territory after thirty days from the effective date of this Order, then this Order shall take automatic effect for an additional thirty days. This automatic renewal shall take effect until such time as this Order is specifically lifted by the Governor, or until such time as the disaster emergency declaration for the Territory has been lifted.

Section 5: Effective Date

This order shall take effect immediately.

Dated: October 20, 2009.


TOGIOLA T.A. TULAFONO
Governor of American Samoa

Distribution: As per standard list