



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street

San Francisco, CA 94105-3901

VIA ELECTRONIC FILING, EMAIL, AND REGULAR MAIL

Eurika Durr
Clerk of the Board
U.S. Environmental Protection Agency
Environmental Appeals Board
1200 Pennsylvania Avenue, NW
Mail Code 1103M
Washington, DC 20460-0001
Clerk_EAB@epa.gov

William E. Spitzenberg, P.E.
American Samoa Power Authority
P.O. Box PPB
Pago Pago, American Samoa, 96799
WilliamS@aspower.com

RE: American Samoa Power Authority – Utulei Sewage Treatment Plant, NPDES Permit No. AS0020001, EAB Appeal No. NPDES 19-07, Notice of Partial Withdrawal and Notice of Effective Date of Applicable (uncontested and severable) Permit Conditions

Dear Ms. Durr and Mr. Spitzenberg:

Pursuant to 40 C.F.R. § 124.19(j), Region 9 of the U.S. Environmental Protection Agency (EPA) is hereby withdrawing certain provisions of National Pollutant Discharge Elimination System (NPDES) Permit No. AS00200001 (Permit) issued to the American Samoa Power Authority (ASPA) for the Utulei Sewage Treatment Plant (Utulei STP or Facility) on November 18, 2019.

On December 20, 2019, ASPA (Petitioner) timely filed a petition (Petition) seeking review by the Environmental Appeals Board (EAB) of four conditions in the Permit. Specifically, Petitioner seeks review of the underlying dilution factor and resulting effluent limitations for total nitrogen (TN), total phosphorous (TP), ammonia, and whole effluent toxicity (WET).

Partial Withdrawal of Permit

Under regulations governing the EAB appeal process, at any time prior to thirty (30) days after filing the response to a petition, EPA may withdraw a permit or portion of a permit and prepare a new draft permit addressing the portions so withdrawn. *See* 40 C.F.R. § 124.19(j). EPA's initial review of the Petition and new analysis EPA conducted for another NPDES permit for the same receiving water suggests that further consideration of the dilution factor and resulting effluent

limitations for the four pollutants appealed by Petitioner may be appropriate. Since Region 9 has not filed a response to the Petition, the Region's withdrawal is timely.

EPA is withdrawing only the following specifically identified effluent limitations at Part I, B. *Effluent Limits and Monitoring Requirements – Outfall Number 001, Table 1*: 1) Ammonia, total (as N); 2) Ammonia Impact Ratio; 3) Nitrogen, total (as N); 4) Phosphorous, Total; 5) Chronic Toxicity (WET) *S. purpuratus*, Method 1008.0 WB33L; and 6) Chronic Toxicity (WET) *D. excentricus*, Method 1008.0 WB33N; EPA is also withdrawing Attachment E (*pH-Dependent Ammonia (as N) Objectives with Dilution*), which informs the ammonia effluent limits (collectively, Partial Withdrawal). The Petitioner is not contesting the monitoring requirements for the parameters listed above; therefore, these uncontested monitoring requirements continue to apply. EPA will modify the withdrawn provisions, as appropriate, and conduct public notice and comment consistent with 40 C.F.R. §§ 124.6 and 124.19(j). In the interim, until EPA issues a new final permit, the limitations described in Part A of the previous permit for this Facility will apply in place of the contested effluent limits, which by this letter have been withdrawn by EPA.

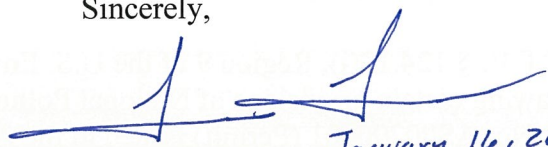
Notice of Effective Date of Applicable (Uncontested and Severable) Permit Terms

The effluent limits for the parameters listed above from Part I., B. Table 1 and Appendix E are withdrawn and no longer are part of the Permit (pursuant to the Partial Withdrawal). EPA has determined that all of the remaining portions of the Permit are uncontested and severable from the contested and now withdrawn portions, and thus, are fully effective thirty (30) days after the date of this Notice, pursuant to 40 C.F.R. §§ 124.16(a)(2) and 124.60(b)(1).

At this time, the Region anticipates issuing public notice for a revised draft permit addressing the withdrawn portions in spring 2020, and depending on the volume and nature of public comments received, issuing a final permit in summer 2020.

If you have any questions regarding this notification, please contact Kimberly Wells, Assistant Regional Counsel, at (415) 972-3056.

Sincerely,



January 16, 2020

Tomás Torres
Director, Water Division

cc: Fa'amao O. Asalele, Jr., Director, American Samoa Environmental Protection Agency (via email faamao.asalele@epa.as.gov)