



OFFICE OF EXTERNAL CIVIL RIGHTS COMPLIANCE

WASHINGTON, D.C. 20460

February 5, 2025

In Reply Refer to:

EPA Complaint No. 08NO-24-R9

Wallon Young
Chief Executive Officer
American Samoa Power Authority
P.O. Box PPB
1st Road Airport
Pago Pago, AS 96799
(684) 699-1234
wallon@aspower.com

Re: Rejection of Administrative Complaint

Dear Chief Executive Officer Young:

This letter is to notify you that the U.S. Environmental Protection Agency (EPA), Office of Environmental Justice and External Civil Rights Compliance (OEJECR), Office of External Civil Rights Compliance (OECRC), is rejecting for investigation EPA Complaint No. 08NO-24-R9 (“Complaint”), received on August 27, 2024, involving the American Samoa Power Authority (“ASPA”), raising allegations of discrimination on the basis of national origin, in violation of Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d et seq., 40 C.F.R. Part 7. Specifically, the Complaint alleges that ASPA is discriminating against native residents on the basis of national origin, by bribing Village Chiefs and leaders to illegally obtain a land use permit and land registration to enable a foreign developer, Tutuila Wind Energy, to develop an area of land called Manunu as a windfarm. After careful review, OECRC has determined that we cannot accept this complaint for investigation because it does not meet jurisdictional requirements described in the EPA’s nondiscrimination regulation at 40 C.F.R. Parts 5 and 7. As such, OECRC is closing this matter as of the date of this letter.

OECRC is responsible for processing complaints alleging that applicants for or recipients of EPA financial assistance have discriminated against persons, including on the basis of race, color or national origin, in violation of Title VI and other federal nondiscrimination laws and EPA’s nondiscrimination regulation found at 40 C.F.R. Parts 5 and 7.

Pursuant to EPA’s nondiscrimination regulation, OECRC conducts a preliminary review of administrative complaints to determine acceptance, rejection, or referral to the appropriate

Federal agency. See 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in the EPA's nondiscrimination regulation. First, the complaint must be in writing. See 40 C.F.R. § 7.120(b)(1). Second, it must describe an alleged discriminatory act that, if true, may violate the EPA's nondiscrimination regulation (i.e., an alleged discriminatory act based on race, color, national origin, sex, age, or disability). Third, it must be filed within 180 days of the alleged discriminatory act. See 40 C.F.R. § 7.120(b)(2). Finally, the complaint must be filed against an applicant for, or recipient of, EPA financial assistance that allegedly committed the discriminatory act. See 40 C.F.R. § 7.15.

In general, OECRC will accept, reject, or refer a complaint after considering the four jurisdictional factors described above. After careful consideration, OECRC is rejecting EPA Complaint No. 08NO-24-R9 because the Complaint does not meet the requirements under 40 C.F.R. Part 7 to describe a timely discriminatory act or omission that, if true, may violate the EPA's nondiscrimination regulation. However, because the Complaint raises concerns regarding potential fraud, waste and abuse of EPA funds, OECRC is referring the matter to EPA's Office of the Inspector General (OIG) for appropriate processing.

This letter is not a formal statement of OECRC policy and should not be relied upon, cited, or construed as such. This letter and any findings herein do not affect ASPA's continuing responsibility to comply with Title VI or other federal non-discrimination laws and EPA's regulations at 40 C.F.R. Parts 5 and 7, nor do they affect EPA's investigation of any Title VI or other federal civil rights complaints or address any other matter not addressed in this letter.

EPA's regulation prohibits applicants, recipients, and other persons from intimidating, threatening, coercing, or engaging in other discriminatory conduct against anyone because they have either taken action or participated in an action to secure rights protected by the civil rights requirements that we enforce. See 40 C.F.R. § 7.100. Any individual alleging such harassment or intimidation may file a complaint with OECRC.

If you have questions about this letter, please feel free to contact me by telephone at (202) 809-3297, or by email at Hoang.Anhthu@epa.gov.

Sincerely,



Anhthu Hoang

Acting Director

Office of External Civil Rights Compliance

Office Environmental Justice and External Civil Rights

¹ See e.g., OECRC Case Resolution Manual Section 1.5, https://www.epa.gov/system/files/documents/2025-01/case-resolution-manual-update_final_jan-2025.pdf

cc: Ariadne Goerke
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