

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII
26 April 2021 4:43 PM Irs
Michelle Rynne, Clerk of Court

1 Chief Faamuli Pete Faamuli,
2 Rosalia Tisa Faamuli,
3 Michael S. Kirk aka Candyman,
4 Steven Jay Pincus Hueter aka Tao
5 Faamuli Pete Faamuli Residence,
6 Alega Village, East Side, Sua District #5, American Samoa
7 Mailing Address: P.O. Box 2301, American Samoa 96799,
8 City and County: Pago Pago, State and Zip Code: American Samoa, 96799,
9 Telephone Number: (+1 684) 622-5530, 731-7100, 252-0552
10 E-mail Address: Tui.Majope@gmail.com, TisaFaamuli29@gmail.com,
11 TaoLovesTau@gmail.com,
12 SamoanLivesMatter@gmail.com

13 Plaintiffs *pro se*

Civil Case 21-00207-LEK-WRP

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15 IN THE UNITED STATES DISTRICT COURT
16 FOR THE DISTRICT OF HAWAII
17 TRIAL DIVISION
18

Steven Jay Pincus Hueter aka Tao
Plaintiff,

and,

Chief Faamuli Pete Faamuli
Plaintiff,

and,

Michael S. Kirk aka Candyman
Plaintiff,

and,

Rosalia Tisa Faamuli
Plaintiff,

-against-

AST Telecomm LLC,
d/b/a Bluesky Communications,
Defendant,

and,
Raj Deo,
as an individual,
and in his official capacity as former
CEO and Country Manager and CTO
of AST Telecom LLC,
Defendant,

and,

**VERIFIED COMPLAINT
For Violation of Federal Pollution Laws
And
For Violation of Federal Environmental
Protection Laws
And
For Violation of Federal Endangered
Species Protection Laws
And
For Violation of Federal Marine
Sanctuary Protection Laws
And
For Injunctive Relief
And
For Other Relief
ON A PRIVATE ALEGA
MARINE PROTECTED AREA
ESTABLISHED IN ~1985**

With
Appendix A – The Existing Network of
Marine Protected Areas in American
Samoa

Paul Michael Young,
as an individual,
and in his official capacity as former
COO of AST Telecom LLC,
Defendant,

and,

Justin Tuiasosopo,
as an individual,
and in his official capacity as present
CEO of AST Telecom LLC,
Defendant,

and,

John/Jane Doe(s) 1-10,
as an individual,
and in his/her official capacity
as officers, employees, members of
the Board of Directors, or agents
of AST Telecom LLC or its parent
Corporation(s),
Defendants.

and,

American Samoa
Telecommunications Authority,
("ASTCA")
Defendant,

and,

Chuck Leota
as an individual, and in his/her
official capacity as
former CEO of American Samoa
Telecommunications
Authority, ("ASTCA")
Defendant,

and,

FALA SUALEVAI,
as an individual, and in his/her
official capacity as
former CEO of American Samoa
Telecommunications
Authority, ("ASTCA")
Defendant,

and,

American Samoa Power
Authority, ("ASPA")
Defendant,

With

Appendix B – Bluesky Detritus, prepared
for HCLT 28-2020

Appendix C – Affidavits In Support

(Non-Prisoner Complaint)

Case No. _____

(to be filled in by the Clerk's Office)

Jury Trial: Yes **No**

(check one)

and,
WALLON YOUNG,
as an individual, and in his/her
official capacity as
Executive Director of
American Samoa Power
Authority, (“ASPA”)
Defendant,

and,
RENO VIVAO,
as an individual, and in his/her
official capacity as COO of
American Samoa Power
Authority, (“ASPA”)
Defendant,

and,
Fonoti Perelini, and
Daniel King, and
Peter Crispin, and
Solip Hong, and
Isabel Hudson,
each as an individual,
and in his/her
official capacity as
MEMBERS OF THE BOARD
OF DIRECTORS of
American Samoa Power
Authority, (“ASPA”)
Defendants,

and,
American Samoa Government
Defendant,

and,
Lolo Matalasi Moliga,
as an individual, and in his official
capacity as former Governor of
American Samoa,
Defendant, and,

Lemanu Palepoi Sialega Mauga,
as an individual, and in his official
capacity as Governor and former Lt.
Governor of American Samoa,
Defendant,
and,

Talauega Eleasalo Va'alele Ale,
as an individual, and in his official
capacity as Lt. Governor of
American Samoa,

Defendant, and,

Iulogologo Joseph Pereira,
as an individual, and in his official
capacity as former Executive
Assistant to Governor of American
Samoa,

Defendant, and,

Fiu J. Saelua,
as an individual, and in his official
capacity as former Chief of Staff of
the Governor of American Samoa,

Defendant, and,

Tuimavave Tauapai Laupola,
as an individual, and in his official
capacity as Chief of Staff of the
Governor of American Samoa,

Defendant, and,

Fainu'ulelei Falefatu Alailima Utu,
as an individual, and in his official
capacity as Attorney General of
American Samoa,

Defendant, and,

Mitzie Jessop Ta'ase
as an individual, and in her official
capacity as former Attorney
General of American Samoa,

Defendant,

John/Jane Doe(s) 1-10
as an individual
and in his/her official capacity
as officers, employees, or
agents
of A.S.T.C.A or A.S.P.A or the
American Samoa Government

Defendants

The Parties to This Complaint

A. The Plaintiff(s)

Plaintiff pro se

Name: Steven Jay Pincus Hueter aka Tao
Details for Steven Jay Pincus Hueter aka Tao :
Caretaker of the Alega Private Marine Protected Area,
Resident of Alega Village in American Samoa, Officer of Alega Village
Corporation, President of Alega Preservation Institute, a 501(c)(3) Public
Charity, incorporated in American Samoa, and one of the individual
caretakers of an official private Alega Marine and Wildlife Sanctuary and
Reserve in Alega Village, American Samoa.
Mailing Address: P.O. Box 997987, American Samoa 96799
City and County: Pago Pago
State and Zip Code: American Samoa, 96799
Telephone Number: +1 684 252 0552
E-mail Address: TaoLovesTau@gmail.com

Plaintiff pro se

Name: Chief Faamuli Pete Faamuli
Details for Faamuli Pete Faamuli :
Caretaker of the Alega Private Marine Protected Area,
Officially certified and registered Chief (in Samoan – “ Sa’O ”)
of the Faamuli Family, and official Chief (Sa’O) of Alega Village that
manages the Alega Private Marine Reserve,
Resident of American Samoa, Authorized Representative for Communal
Land in Alega Village,
Associate of Alega Preservation Institute, a 501(c)(3) Public Charity,
incorporated in American Samoa
that is caretaker of an official private Alega Marine and Wildlife Sanctuary
and Reserve in Alega Village, American Samoa.
Mailing Address: P.O. Box 2301, American Samoa 96799
City and County: Pago Pago
State and Zip Code: American Samoa, 96799
Telephone Number: +1 684 622 5530
E-mail Address: Tui.Majoje@gmail.com

Plaintiff pro se

Name: Rosalia Tisa Faamuli
Details for Rosalia Tisa Faamuli :
Caretaker of the Alega Private Marine Protected Area, Resident of Alega
Village in American Samoa, Private owner of land in Alega Village and
Alega Bay, Officer of Alega Village Corporation,
Corporate Secretary of Alega Preservation Institute, a 501(c)(3) Public
Charity, incorporated in American Samoa
that is caretaker of an official private Alega Marine and Wildlife Sanctuary
and Reserve in Alega Village, American Samoa.

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Mailing Address: P.O. Box 3576, American Samoa 96799
City and County: Pago Pago
State and Zip Code: American Samoa, 96799
Telephone Number: +1 684 731 7100
E-mail Address: TisaFaamuli29@gmail.com

Plaintiff pro se

Name: Michael S. Kirk aka "Candyman"
Details for Michael S. Kirk aka "Candyman" :
Caretaker of the Alega Private Marine Protected Area, Resident of
Alega Village in American Samoa, Husband of Plaintiff
Rosalia Tisa Faamuli, Officer of Alega Village Corporation,
Treasurer of Alega Preservation Institute, a 501(c)(3) Public Charity,
incorporated in American Samoa
that is caretaker of an official private Alega Marine and Wildlife Sanctuary
and Reserve in Alega Village, American Samoa.
Mailing Address: P.O. Box 3576, American Samoa 96799
City and County: Pago Pago
State and Zip Code: American Samoa, 96799
Telephone Number: +1 684 731 7100
E-mail Address: TisaFaamuli29@gmail.com

B. The Defendant(s)

Defendant No. 1

Name: AST Telecom LLC, d/b/a/ Bluesky Communications
Details for Defendant AST Telecom LLC d/b/a/ Bluesky Communications:
A Delaware Corporation, with FCC License, FCC Filer ID # 831587,
Holding Company: Registration # (CORESID) 0007435902
doing business as Bluesky Communications with principal place of
business in American Samoa
Job or Title: n/a (if known)
Street Address: 478 Laufou Shopping Center, PO Box 478
City and County: Pago Pago
State and Zip Code: American Samoa, 96799
Telephone Number: +1-684-699-2759
E-mail Address: as.csc@blueskypacificgroup.com
webmaster@bluesky.as (if known)
 X Individual capacity **X** Official capacity

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Defendant No. 2

Name: RAJ DEO
Details for Defendant RAJ DEO :
Former CEO and Country Manager and Chief Technical Officer (“CTO”) of AST Telecom LLC d/b/a/ Bluesky Communications, A Delaware Corporation, with FCC License, FCC Filer ID # 831587, Holding Company: Registration # (CORESID) 0007435902 doing business as Bluesky Communications, with principal place of business in American Samoa, Resident of American Samoa
Job or Title: former CEO and Country Manager and CTO (if known)
Street Address: 478 Laufou Shopping Center, PO Box 478
City and County: Pago Pago
State and Zip Code: American Samoa, 96799
Telephone Number: +1-684-699-2759
E-mail Address: rdeo@blueskypacificgroup.com (if known)
 X Individual capacity X Official capacity

Defendant No. 3

Name: PAUL MICHAEL YOUNG
Details for Defendant PAUL MICHAEL YOUNG :
Present or former COO of AST Telecom LLC d/b/a/ Bluesky Communications, A Delaware Corporation, with FCC License, FCC Filer ID # 831587, Holding Company: Registration # (CORESID) 0007435902 doing business as Bluesky Communications, with principal place of business in American Samoa, Resident of American Samoa
Job or Title: present or former COO (if known)
Street Address: 478 Laufou Shopping Center, PO Box 478
City and County: Pago Pago
State and Zip Code: American Samoa, 96799
Telephone Number: +1-684-699-2759
E-mail Address: pmyoung@blueskypacificgroup.com
pmy.ideas@gmail.com (if known)
 X Individual capacity X Official capacity

Defendant No. 4

Name: JUSTIN TUIASOSOPO
Details for Defendant JUSTIN TUIASOSOPO :
CEO of AST Telecom LLC d/b/a/ Bluesky Communications since on or about January 15, 2021, A Delaware Corporation, with FCC License, FCC Filer ID # 831587, Holding Company: Registration # (CORESID) 0007435902 doing business as Bluesky Communications, with

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principal place of business in American Samoa, Resident of American Samoa

Job or Title: CEO (if known)

Street Address: 478 Laufou Shopping Center, PO Box 478

City and County: Pago Pago

State and Zip Code: American Samoa, 96799

Telephone Number: +1-684-699-2759

E-mail Address: jtuiasosopo@blueskypacificgroup.com (if known)

X Individual capacity X Official capacity

Defendant No. 5-15

Name: John/Jane Doe(s) 1-10

Details for Defendant John/Jane Doe(s) 1-10 :

Officers, employees, members of the board of Directors or agents of AST Telecom LLC d/b/a/ Bluesky Communications, or parent corporation(s)

Job or Title: Officer, Employee, member of Board of Directors, or Agent (if known)

Street Address: 478 Laufou Shopping Center, PO Box 478

City and County: Pago Pago

State and Zip Code: American Samoa, 96799

Telephone Number: +1-684-699-2759

E-mail Address: as.csc@blueskypacificgroup.com

webmaster@bluesky.as (if known)

X Individual capacity X Official capacity

Defendant No. 6

Name: American Samoa Telecommunications Authority ("ASTCA")

Details for Defendant American Samoa Telecommunications Authority ("ASTCA"):

An American Samoa Government Telecommunications Authority, with FCC License, FCC Filer ID # 812534, Registration # (CORESID)

0001726488

Job or Title: n/a (if known)

Street Address: Aleki Seni Sr. Telecommunications Center, PO Box M,

City and County: Tafuna

State and Zip Code: American Samoa, 96799

Telephone Number: +1-684-699-3000, 699-1121 ext. 101

E-mail Address: customerservice@astca.net (if known)

X Individual capacity X Official capacity

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Defendant No. 7

Name: Fala Sualevai
Details for Defendant Fala Sualevai :
Former CEO of American Samoa Telecommunications Authority (“ASTCA”), since on or about July, 2020:
An American Samoa Government Telecommunications Authority, with FCC License, FCC Filer ID # 812534, Registration # (CORESID) 0001726488
Job or Title: CEO (if known)
Street Address: Aleki Seni Sr. Telecommunications Center, PO Box M,
City and County: Tafuna
State and Zip Code: American Samoa, 96799
Telephone Number: +1-684-699-3000, 699-1121 ext. 101
E-mail Address: fala.sualevai@astca.net (if known)
 Individual capacity Official capacity

Defendant No. 8

Name: Chuck Leota
Details for Defendant Chuck Leota :
CEO of American Samoa Telecommunications Authority (“ASTCA”), since on or about July, 2020:
An American Samoa Government Telecommunications Authority, with FCC License, FCC Filer ID # 812534, Registration # (CORESID) 0001726488
Job or Title: CEO (if known)
Street Address: Aleki Seni Sr. Telecommunications Center, PO Box M,
City and County: Tafuna
State and Zip Code: American Samoa, 96799
Telephone Number: +1-684-699-3000, 699-1121 ext. 101
E-mail Address: chuck.leota@astca.net (if known)
 Individual capacity Official capacity

Defendant No. 9

Name: American Samoa Power Authority (“ASPA”)
Details for Defendant American Samoa Power Authority (“ASPA”):
An American Samoa Government Power Authority,
Job or Title: n/a (if known)
Street Address: ASPA Building, 1st Airport Road, Tafuna, PO Box PPB
City and County: Pago Pago
State and Zip Code: American Samoa, 96799
Telephone Number: +1-684-699-1234
E-mail Address: n/a (if known)

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Web: WWW.ASPOWER.COM
 Individual capacity Official capacity

Defendant No. 10

Name: WALLON YOUNG
Details for Defendant WALLON YOUNG:
Executive Officer of American Samoa Power Authority (“ASPA”),
An American Samoa Government Power Authority,
Job or Title: EXECUTIVE OFFICER (if known)
Street Address: ASPA Building, 1st Airport Road, Tafuna, PO Box PPB
City and County: Pago Pago
State and Zip Code: American Samoa, 96799
Telephone Number: +1-684-699-1234
E-mail Address: Wallon@aspower.com (if known)
Web: WWW.ASPOWER.COM
 Individual capacity Official capacity

Defendant No. 11

Name: RENO VIVAO
Details for Defendant RENO VIVAO:
COO of American Samoa Power Authority (“ASPA”),
An American Samoa Government Power Authority,
Job or Title: COO (if known)
Street Address: ASPA Building, 1st Airport Road, Tafuna, PO Box PPB
City and County: Pago Pago
State and Zip Code: American Samoa, 96799
Telephone Number: +1-684-699-1234
E-mail Address: n/a (if known)
Web: WWW.ASPOWER.COM
 Individual capacity Official capacity

Defendants No. 12-16

Names:
12) Fonoti Perelini, and
13) Daniel King, and
14) Peter Crispin, and
15) Solip Hong, and
16) Isabel Hudson,

1 Details for Defendants

2 12) Fonoti Perelini, 13) Daniel King, 14) Peter Crispin,
3 15) Solip Hong, and
4 16) Isabel Hudson,

5 MEMBERS OF THE BOARD OF DIRECTORS of

6 American Samoa Power Authority (“ASPA”),

7 An American Samoa Government Power Authority,

8 Job or Title: BOARD OF DIRECTORS (if known)

9 Street Address: ASPA Building, 1st Airport Road, Tafuna, PO Box PPB

10 City and County: Pago Pago

11 State and Zip Code: American Samoa, 96799

12 Telephone Number: +1-684-699-1234

13 E-mail Address: n/a (if known)

14 Web: WWW.ASPOWER.COM

15 X Individual capacity X Official capacity

16
17 **Defendants No. 17-27**

18 Name: John/Jane Doe(s) 1-11

19 Details for Defendant John/Jane Doe(s) 1-11 :

20 Officer, employee, member of the board of directors, or agent of

21 ASTCA, ASPA, or American Samoa Government

22 Job or Title: Officer, Employee, Member of Board of Directors,

23 or Agent (if known)

24 Street Address: n/a

25 City and County: Pago Pago

26 State and Zip Code: American Samoa, 96799

27 Telephone Number: n/a

28 E-mail Address: n/a (if known)

29 X Individual capacity X Official capacity

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31 **Defendant No. 28**

32 Name: American Samoa Government

33 Details for Defendant American Samoa Government:

34 Job or Title: n/a (if known)

35 Street Address: Office of the Governor, 3rd Floor, EOB Building, Utulei

36 City and County: Pago Pago

37 State and Zip Code: American Samoa, 96799

38 Telephone Number: +1-684-633-4116

39 E-mail Address: americansamoagovernment@gmail.com

40 info@go.as.gov (if known)

41 Web: WWW.AMERICANSAMOA.GOV

42 X Individual capacity X Official capacity

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Defendant No. 29

Name: Lolo Matalasi Moliga
Details for Lolo Matalasi Moliga:
Job or Title: former Governor (if known)
Street Address: Office of the Governor, 3rd Floor, EOB Building, Utulei
City and County: Pago Pago
State and Zip Code: American Samoa, 96799
Telephone Number: +1-684-633-4116
E-mail Address: americansamoagovernment@gmail.com
info@go.as.gov (if known)
Web: WWW.AMERICANSAMOA.GOV
 Individual capacity Official capacity

Defendant No. 30

Name: Lemanu Palepoi Sialega Mauga
Details for Lemanu Palepoi Sialega Mauga:
Job or Title: former Lt. Governor, present Governor (if known)
Street Address: Office of the Governor, 3rd Floor, EOB Building, Utulei
City and County: Pago Pago
State and Zip Code: American Samoa, 96799
Telephone Number: +1-684-633-4116
E-mail Address: americansamoagovernment@gmail.com
info@go.as.gov (if known)
Web: WWW.AMERICANSAMOA.GOV
 Individual capacity Official capacity

Defendant No. 31

Name: Talauega Eleasalo Va'alele Ale
Details for Talauega Eleasalo Va'alele Ale:
Job or Title: former Attorney General, present Lt. Governor (if known)
Street Address: Office of the Governor, 3rd Floor, EOB Building, Utulei
City and County: Pago Pago
State and Zip Code: American Samoa, 96799
Telephone Number: +1-684-633-4116
E-mail Address: americansamoagovernment@gmail.com
info@go.as.gov (if known)
Web: WWW.AMERICANSAMOA.GOV
 Individual capacity Official capacity

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Defendant No. 32

Name: Iulogologo Joseph Pereira
Details for Iulogologo Joseph Pereira
Job or Title: former Executive Assistant to Governor (if known)
Street Address: Office of the Governor, 3rd Floor, EOB Building, Utelei
City and County: Pago Pago
State and Zip Code: American Samoa, 96799
Telephone Number: +1-684-633-4116
E-mail Address: americansamoagovernment@gmail.com
info@go.as.gov (if known)
Web: WWW.AMERICANSAMOA.GOV
 Individual capacity Official capacity

Defendant No. 33

Name: Fiu J. Saelua
Details for Fiu J. Saelua
Job or Title: former Chief Of Staff to Governor (if known)
Street Address: Office of the Governor, 3rd Floor, EOB Building, Utelei
City and County: Pago Pago
State and Zip Code: American Samoa, 96799
Telephone Number: +1-684-633-4116
E-mail Address: americansamoagovernment@gmail.com
info@go.as.gov (if known)
Web: WWW.AMERICANSAMOA.GOV
 Individual capacity Official capacity

Defendant No. 34

Name: Tuimavave Tauapai Laupola,
Details for Tuimavave Tauapai Laupola,
Job or Title: Chief Of Staff to Governor (if known)
Street Address: Office of the Governor, 3rd Floor, EOB Building, Utelei
City and County: Pago Pago
State and Zip Code: American Samoa, 96799
Telephone Number: +1-684-633-4116
E-mail Address: americansamoagovernment@gmail.com
info@go.as.gov (if known)
Web: WWW.AMERICANSAMOA.GOV
 Individual capacity Official capacity

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Defendant No. 35

Name: Fainu’ulelei Falefatu Alailima Utu
Details for Fainu’ulelei Falefatu Alailima Utu
Job or Title: Attorney General (if known)
Street Address: Office of the Attorney General, 3rd Floor, EOB Building, Utulei
City and County: Pago Pago
State and Zip Code: American Samoa, 96799
Telephone Number: +1-684-633-4163
E-mail Address: americansamoagovernment@gmail.com
ag@la.as.gov (if known)
fatuautu@la.as.gov (if known)
Web: WWW.AMERICANSAMOA.GOV
 Individual capacity Official capacity

Defendant No. 36

Name: Mitzie Jessop Taase
Details for Mitzie Jessop Taase
Job or Title: former Attorney General, present Counsel to Fono (if known)
Street Address: Office of the Attorney General, 3rd Floor, EOB Building, Utulei
City and County: Pago Pago
State and Zip Code: American Samoa, 96799
Telephone Number: +1-684-633-4163
E-mail Address: americansamoagovernment@gmail.com
ag@la.as.gov (if known)
Web: WWW.AMERICANSAMOA.GOV
 Individual capacity Official capacity

II. Basis for Jurisdiction and Venue (check all that apply)

YES – 60 DAY NOTICE REQUIRED PRIOR TO CITIZEN SUIT

Under 28 U.S.C. § 1331 Federal Question

Violation of Federal Law, Subject Matter Jurisdiction In District Court of a Federal Question with Damages Exceeding \$75,000

Plaintiffs sue Defendants, for violations of federal law, including violations of FCC Rules and Regulations, and under 47 U.S.C. §§ 206, 207, and with damages exceeding \$75,000, with subject matter jurisdiction in District Court based on a Federal Question.

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28 U.S.C. § 1331

“The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

(June 25, 1948, ch. 646, 62 Stat. 930; Pub. L. 85–554, § 1, July 25, 1958, 72 Stat. 415; Pub. L. 94–574, § 2, Oct. 21, 1976, 90 Stat. 2721; Pub. L. 96–486, § 2(a), Dec. 1, 1980, 94 Stat. 2369.)”

- Under 40 C.F.R. et seq, Environmental Protection Laws and Other Federal Anti-Pollution and Environmental Protection Laws (40 C.F.R. et seq) and Endangered Species Protection Laws (16 U.S.C. Sections 1531-1544 Endangered Species Act), and Marine Protection, Research and Sanctuaries Act (MPRSA) (33 U.S.C. § 1401 et seq), and the Ocean Dumping Act (ODA), and the 1988 Ocean Dumping Ban Act (P.L. 100-688, title I), and Violation of Federal Laws, Subject Matter Jurisdiction of a Federal Question with Damages Exceeding \$75,000**

Plaintiffs sue Defendants, for violations of 40 C.F.R. et seq, and other Federal Anti-Pollution and Environmental Protection Laws (40 C.F.R. et seq), and Endangered Species Protection Laws (16 U.S.C. Sections 1531-1544 Endangered Species Act), and Marine Protection, Research and Sanctuaries Act (MPRSA) 33 U.S.C. § 1401 et seq, and the Ocean Dumping Act (ODA), and including violations of the 1988 Ocean Dumping Ban Act (P.L. 100-688, title I), with damages exceeding \$75,000, with subject matter jurisdiction in District Court based on a Federal Question.

- Under 16 U.S.C. Sections 1531-1544 Endangered Species Act**

Plaintiffs sue Defendants, for violations of the Endangered Species Act 16.U.S.C. Sections 1531-1544, including suit by Plaintiffs for harm by Defendants to the threatened Green Turtle species (*Chelonia mydas* Linnaeus) and the endangered Hawksbill Turtle species (*Eretmochelys imbricata* Linnaeus) turtles by the Defendants’ pollution and for harm to the habitat of threatened and endangered species turtles on the water and land of the official Alega Private Marine Protected Area in American Samoa, which Plaintiffs manage and own in part.

**16 U.S.C. Sections 1531-1544 Endangered Species Act
Section 1540. Penalties and enforcement [ESA Section11]**

(c) District court jurisdiction

The several district courts of the United States, including the courts enumerated in section 460 of Title 28, shall have jurisdiction over any actions arising under this chapter. **For the purpose of this chapter, American Samoa shall be included within the judicial district of the District Court of the United States for the District of Hawaii.**

1 (g) Citizen suits

2 (1) Except as provided in paragraph (2) of this subsection any person may
3 commence a civil suit on his own behalf -

4 (A) to enjoin any person, including the United States and any other
5 governmental instrumentality or agency (to the extent permitted by the
6 eleventh amendment to the Constitution), who is alleged to be in violation
7 of any provision of this chapter or regulation issued under the authority
8 thereof; or

9 (B) to compel the Secretary to apply, pursuant to section 1535(g) (2) (B) (ii)
10 of this title, the prohibitions set forth in or authorized pursuant to section
11 1533(d) or 1538(a) (1) (B) of this title with respect to the taking of any
12 resident endangered species or threatened species within any State; or

13 (C) against the Secretary where there is alleged a failure of the Secretary to
14 perform any act or duty under section 1533 of this title which is not
15 discretionary with the Secretary.

16 The district courts shall have jurisdiction, without regard to the amount in
17 controversy or the citizenship of the parties, to enforce any such provision
18 or regulation, or to order the Secretary to perform such act or duty, as the
19 case may be. In any civil suit commenced under subparagraph (B) the
20 district court shall compel the Secretary to apply the prohibition sought if
21 the court finds that the allegation that an emergency exists is supported by
22 substantial evidence.

23 (2)(A) No action may be commenced under subparagraph (1)(A) of this
24 section -

25 (i) prior to sixty days after written notice of the violation has been given to
26 the Secretary, and to any alleged violator of any such provision or
27 regulation;

28 (ii) if the Secretary has commenced action to impose a penalty pursuant to
29 subsection (a) of this section; or

30 (iii) if the United States has commenced and is diligently prosecuting a
31 criminal action in a court of the United States or a State to redress a
32 violation of any such provision or regulation.

33 (B) No action may be commenced under subparagraph (1)(B) of this section
34 -

1 (i) prior to sixty days after written notice has been given to the Secretary
2 setting forth the reasons why an emergency is thought to exist with respect
3 to an endangered species or a threatened species in the State concerned; or

4 (ii) if the Secretary has commenced and is diligently prosecuting action
5 under section 1535(g)(2)(B)(ii) of this title to determine whether any such
6 emergency exists.

7 (C) No action may be commenced under subparagraph (1) (C) of this
8 section prior to sixty days after written notice has been given to the
9 Secretary; except that such action may be brought immediately after such
10 notification in the case of an action under this section respecting an
11 emergency posing a significant risk to the well-being of any species of fish
12 or wildlife or plants.

13 (3)(A) Any suit under this subsection may be brought in the judicial district
14 in which the violation occurs.

15 (B) In any such suit under this subsection in which the United States is not a
16 party, the Attorney General, at the request of the Secretary, may intervene
17 on behalf of the United States as a matter of right.

18 (4) **The court, in issuing any final order in any suit brought pursuant to**
19 **paragraph (1) of this subsection, may award costs of litigation**
20 **(including reasonable attorney and expert witness fees) to any party,**
21 **whenever the court determines such award is appropriate.**

22 (5) The injunctive relief provided by this subsection shall not restrict any
23 right which any person (or class of persons) may have under any statute or
24 common law to seek enforcement of any standard or limitation or to seek
25 any other relief (including relief against the Secretary or a State agency).

26 **Under 33 U.S.C. § 1401 et seq, Marine Protection, Research and**
27 **Sanctuaries Act (MPRSA P.L. 92-532) and the 1988 Ocean Dumping Ban**
28 **Act (ODBA P.L. 100-688, title I)**

29 Plaintiffs sue Defendants, for violations of the 1972 the Marine Protection,
30 Research and Sanctuaries Act (MPRSA) 33 U.S.C. § 1401 et seq, including
31 violations of Title I, the Ocean Dumping Act (ODA), and including violations
32 of the 1988 Ocean Dumping Ban Act (P.L. 100-688, title I) for illegally
33 dumping material and cable-related debris into ocean waters and endangering
34 the marine environment and ecological systems with damages exceeding
35 \$75,000, with subject matter jurisdiction in District Court based on a Federal
36 Question.
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33 U.S.C. § 1401

(a)DANGERS OF UNREGULATED DUMPING

Unregulated dumping of material into ocean waters endangers human health, welfare, and amenities, and the marine environment, ecological systems, and economic potentialities.

(b)POLICY OF REGULATION AND PREVENTION OR LIMITATION

The Congress declares that it is the policy of the United States to regulate the dumping of all types of materials into ocean waters and to prevent or strictly limit the dumping into ocean waters of any material which would adversely affect human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities.

(Pub. L. 92–532, § 2, Oct. 23, 1972, 86 Stat. 1052; Pub. L. 93–254, § 1(1), Mar. 22, 1974, 88 Stat. 50.)

Basis for Venue in at least the District Court of the District of Hawaii

16 U.S.C. Sections 1531-1544 Endangered Species Act

Section 1540. Penalties and enforcement [ESA Section11]

(c) District court jurisdiction

The several district courts of the United States, including the courts enumerated in section 460 of Title 28, shall have jurisdiction over any actions arising under this chapter. **For the purpose of this chapter, American Samoa shall be included within the judicial district of the District Court of the United States for the District of Hawaii.**

X Basis For Citizen Suits

- Section 11(g)(1)(A) of the Endangered Species Act (ESA);
- Section 105(g)(2)(A) of the Marine Protection, Research, and Sanctuaries Act (MPRSA, aka Ocean Dumping Act);
- Section 310(a)(2) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA); and

X Under 28 U.S.C. § 1367

The Federal Court may exercise supplemental jurisdiction over any state law claims pursuant to 28 U.S.C. § 1367.

43 U.S. Code § 31b(8) – Definitions

43 U.S. Code § 31b(8) STATE

The term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and the Virgin Islands.

**Due to Plaintiff Steven Jay Pincus Hueter aka Tao
Federal Litigation
1:20-cv-03686-TNM PINCUS HUETER v. KRUSE et al**

Due to Plaintiff Steven Jay Pincus Hueter aka Tao Federal litigation 1:20-cv-03686-TNM PINCUS HUETER v. KRUSE et al, against Federal Defendant High Court of American Samoa Chief Justice L. Fritz Michael Kruse, and against Federal Defendant High Court of American Samoa Associate Justice Fiti Alexander Sunia, Plaintiff Tao’s litigations in the High Court have been stayed, or suspended pending final resolution of 1:20-cv-03686-TNM PINCUS HUETER v. KRUSE et al, or likely to be suspended. Therefore, the High Court of American Samoa is not a competent venue for the administration of justice over the present controversy. The High Court of American Samoa is an Article III Court, and the closest Federal District Court is the District of Hawaii. Therefore, the Federal District Court of the District of Hawaii has both subject matter and personal jurisdiction over the Defendants, and is an appropriate venue for the present controversy.

III. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. Notice To Defendants

Plaintiffs have served Defendants a 60 Day Notice of Intent To Sue in Federal Court for violations of Federal Law related to Defendants’ pollution on the private Alega Marine Protected Area

B. Prior Suit Against Defendants

Plaintiffs have already counter-sued AST Telecom associated Defendants by means of a Counterclaim in the High Court of American Samoa Land and Titles Division HCLT 28-2020, and sued in HCCA 03-2021 High Court of American Samoa Trial Division, seeking in part that AST Telecom associated Defendants clean all cable-related detritus on Plaintiffs’ water and land and on the private Alega Marine Protected Area pursuant to local American Samoa Territorial pollution laws. Plaintiffs allege that AST Telecom associated Defendants are in contempt of a November 12, 2020 court order by the presiding Chief Justice in HCLT 28-2020 to clean all of AST Telecom associated Defendants’ cable-related detritus and Defendants have failed to date to clean any of AST Telecom associated Defendants’ pollution. Plaintiffs have sought to voluntarily withdraw the counterclaim relating to the pollution on the private Alega Marine Protected Area from the HCLT 28-2020, and HCCA 03-2021 litigations.

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Plaintiffs have already sued ASTCA, ASPA and American Samoa Government (“ASG”) associated Defendants by means HCCA 07-2021 High Court of American Samoa Trial Division, seeking in part that ASTCA, ASPA and ASG associated Defendants clean all cable-related and unused pole related detritus on Plaintiffs’ water and land and on the private Alega Marine Protected Area pursuant to local American Samoa Territorial pollution laws. ASTCA, ASPA and ASG associated Defendants have failed to date to clean any of ASTCA, ASPA and ASG associated Defendants’ pollution. The High Court has suspended all activity in HCCA 07-2021 pending final disposition of Plaintiff Steven Jay Pincus Hueter aka Tao Federal litigation 1:20-cv-03686-TNM PINCUS HUETER v. KRUSE et al, against Federal Defendant High Court of American Samoa Chief Justice L. Fritz Michael Kruse, and against Federal Defendant High Court of American Samoa Associate Justice Fiti Alexander Sunia.

1:21-cv-00077-JMS-KJM Pincus Hueter et al v. AST Telecomm LLC et al.

Plaintiffs are already suing the same Defendants via a proposed 3rd Amended Verified Complaint in 1:21-cv-00077-JMS-KJM Pincus Hueter et al v. AST Telecomm LLC et al.

C. Where did the events giving rise to your claim(s) occur?

The Territory of American Samoa, including within the official private Alega Marine and Wildlife Sanctuary and Reserve on its land and in its waters, and the private Alega Marine Protected Area in the Village of Alega, and including on the land and waters of the privately and communally owned and managed land of the individual Samoan Plaintiff in the Village of Alega, American Samoa.

SUMMARY OF MPA PROGRAMS
There are several agencies involved in MPA management and planning in American Samoa. Here we provide a brief summary of these programs and their objectives in American Samoa. They are separated into those that are exclusively Territorial in management authority and those that are co-managed by Territorial and Federal agencies.

Other Territorial MPAs
Two additional MPAs are present in American Samoa but are not part of the formal programs listed above. One is a private reserve established in 1985 at Alega Bay by a local restaurant owner, Tisa Fa’amuli. This reserve is hereafter referred to as Alega Private Marine Reserve. The other is a small marine park adjacent to the Ofu unit of the National Park that was established by territorial legislation in 1994 to protect the “unique coral reef wildlife habitat while enabling the public to enjoy the natural beauty of the site” (ASCA § 18.0214). At present time the Ofu Vaoto Territorial Marine Park has no enforcement, monitoring, or management plan.

Table 5.1. Existing MPAs in American Samoa as of January 2011.

MPA Program/Type	Level of Government	Management Authority	Sites (No., Locations)
Community-Based Fisheries Management Program	Territorial	DMWR, villages	11: Aofau, Amanave, Amaua & Auto, Aoa, Aua, Fagamalo, Masausi, Matu'u & Faganeanea, Po'loa, Sailele, Vatia
Marine National Monuments	Federal	NOAA, USFWS	1: Rose Atoll
National Marine Sanctuaries	Federal/Territorial Co-Managed	NOAA, ASDOC	1: Fagatele Bay
National Park of American Samoa	Federal	AS NPS	3: Ofu, Ta'u, Tutuila
National Wildlife Refuge System	Federal	USFWS	1: Rose Atoll
No-Take MPA Program	Territorial	DMWR	1: Fagamalo
Private Marine Reserves	Private	Alega village	1: Alega Bay
Special Management Areas	Territorial	ASCMP, villages	3: Leone Pala, Nu'uuli Pala, Pago Pago Harbor
Territorial Marine Parks	Territorial	DPR, DMWR	1: Ofu

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METHODS

Inventory of existing MPAs

Working with local MPA practitioners, the American Samoa Coastal Zone Management Program, and Island GIS User Group, we obtained boundary maps (GIS shapefiles) and implementation documents for the 23 MPAs existing in American Samoa as of January 2011. This included eleven Community-Based Fisheries Management Program (CFMP) Reserves, one No-Take MPA, one Marine National Monument (MNM), one National Wildlife Refuge (NWR), one National Marine Sanctuary (NMS), three National Park units, one private marine reserve, three Special Management Areas (SMAs), and one Territorial Marine Park (Figure 5.1, Table 5.1, Appendix D).

Existing MPAs

- Community-Based Fisheries Management Program (CFMP) Reserves
- Fagamalo No-Take MPA
- AS DOC Special Management Areas (SMAs)
- National Park of American Samoa (NPSA) Units
- Fagatele Bay National Marine Sanctuary (NMS)
- Alega Private Marine Reserve
- Rose Atoll Marine National Monument (MNM)
- Rose Atoll National Wildlife Refuge (NWR)
- Ofu Vaoto Marine Park

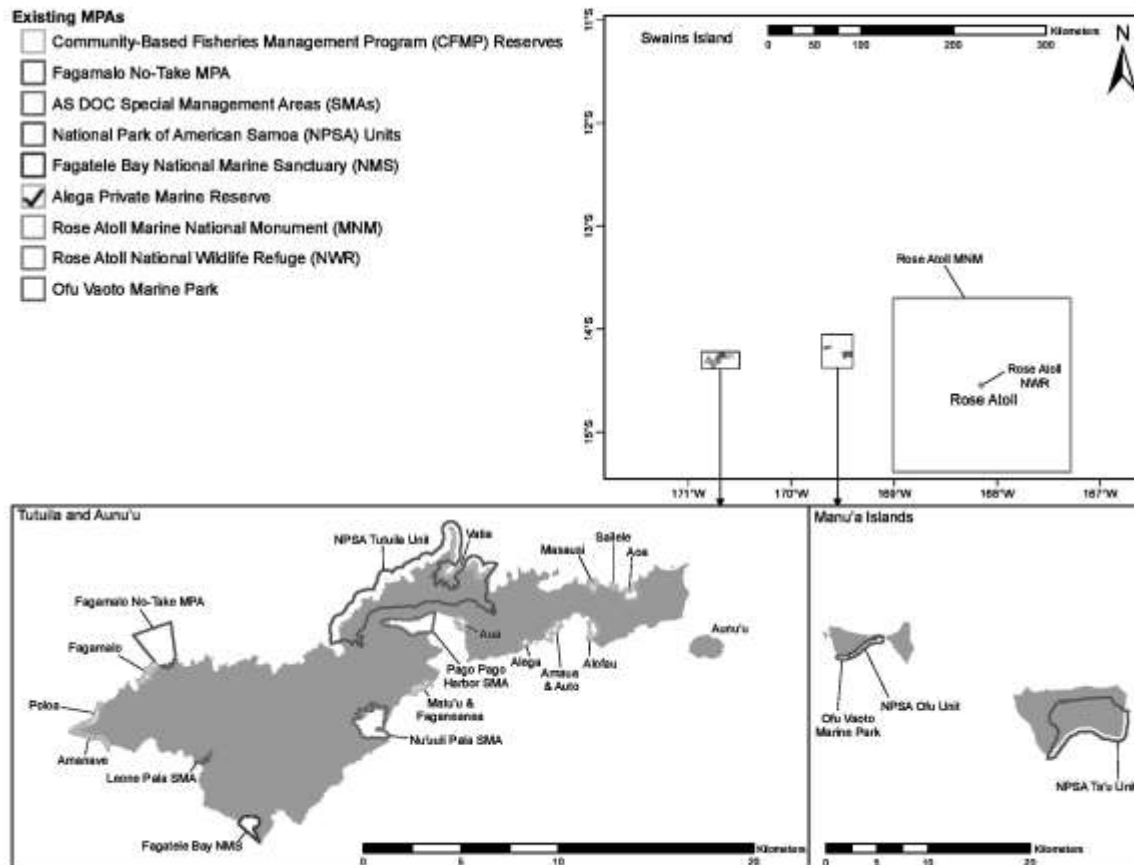


Figure 5.1. Existing MPAs in American Samoa as of January 2011.

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RESULTS: SITE CHARACTERIZATIONS

Territorial MPAs

Alega Private Marine Reserve

Overview

Alega Private Marine Reserve is located in the southeast of Tutuila in Alega Bay and extends from Vaiola Point to Tifa Point (Figure 5.4). It was initiated by Tisa Fa'amuli in 1985 to protect the coral reef ecosystem in Alega Bay from overfishing and other destructive practices. By maintaining a low level of subsistence fishing,

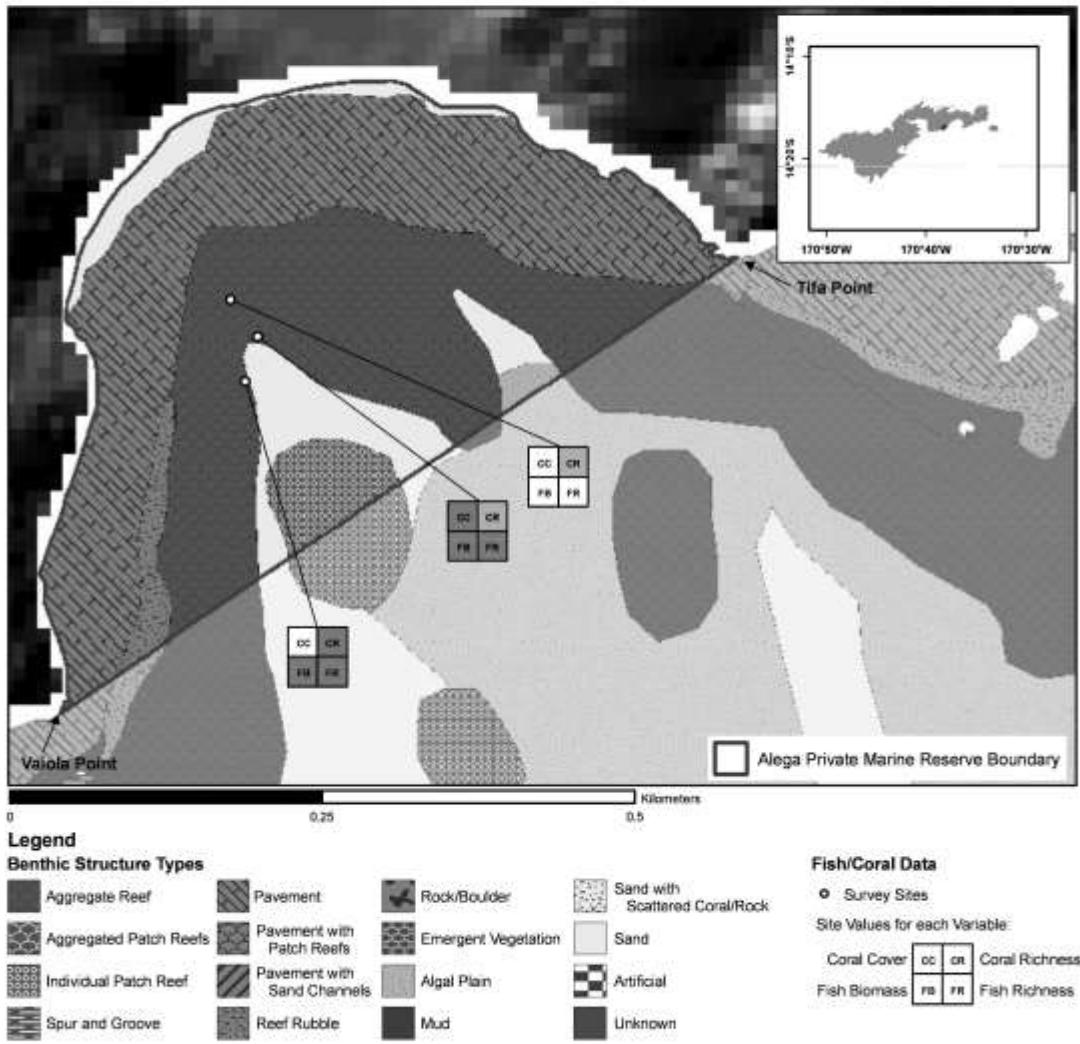


Figure 5.4. Benthic habitat (by structure type) and fish and coral survey data within Alega Private Marine Reserve. Coral cover, coral richness, fish biomass, and fish richness values at each survey site are classified as high (red shading), medium (pink shading), or low (white shading). Grey shading indicates variables with no data at a given site. Fish and coral survey data are from ASEPA, KRS, and REA.

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2 (See Attached Appendix A – The Existing Network of Marine Protected Areas in American
3 Samoa)

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C. What date and approximate time did the events giving rise to your claim(s) occur?

For at least 10 years that the Defendant AST Telecom LLC d/b/a Bluesky Communications, and government Defendant ASTCA has provided telecommunication service as a FCC licensed common carrier, and the government Defendant ASPA has provided electric power service in American Samoa, and the American Samoa Government polluted in Alega, and polluted in the private Alega Marine Protected Area, and polluted in Plaintiffs’ land and water, including polluting in the private Alega Marine Protected Area; and polluting the endangered and threatened species habitat in the private Alega Marine Protected Area.

D. What are the facts underlying your claim(s)?

(See Attached Appendix A – The Existing Network of Marine Protected Areas in American Samoa)

a) Defendant AST Telecom LLC d/b/a Bluesky Communications (“AST”), and Defendant AST’s Officers, Employees, Agents, or Members Of The Board Of Directors, and American Samoa Government:

For all of the years that the AST Telecom LLC d/b/a Bluesky Communications Defendant has provided telecommunications service as a FCC licensed common carrier in American Samoa, and left pollution on Plaintiff’s land and water, Defendants have injured Plaintiffs by:

- i) Improperly leaving hazardous, unused, cable-related material and debris and pollution on Plaintiffs’ trees, on Plaintiffs’ land and water, and on the official private Alega Marine and Wildlife Sanctuary and Reserve, and on the land and water of the private Alega Marine Protected Area in Alega Bay, and polluting the endangered and threatened species habitat in the private Alega Marine Protected Area.

1 **b) Defendant ASTCA, and Defendant ASTCA’s Officers, Employees, Agents,**
2 **or Members Of The Board Of Directors, and American Samoa**
3 **Government:**
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5 For all of the years that the American Samoa Government Telecommunications
6 Authority Defendant has provided telecommunications service as a FCC licensed
7 common carrier in American Samoa, and left pollution on Plaintiff’s land and water,
8 Defendants have injured Plaintiffs by:

- 9 i) Improperly leaving hazardous, unused, cable-related material and debris and
10 pollution on Plaintiffs’ trees, on Plaintiffs’ land and water, and on the official
11 private Alega Marine and Wildlife Sanctuary and Reserve, and on the land and
12 water of the private Alega Marine Protected Area in Alega Bay, and polluting
13 the endangered and threatened species habitat in the private Alega Marine
14 Protected Area.

15 **c) Defendant ASPA, and Defendant ASPA’s Officers, Employees, Agents, or**
16 **Members Of The Board Of Directors, and American Samoa Government:**
17

18 For all of the years that the American Samoa Government Power Authority Defendant
19 has provided electrical power service in American Samoa, and left pollution on
20 Plaintiff’s land and water, Defendants have injured Plaintiffs by:

- 21 i) Improperly leaving hazardous, unused, utility pole related material and debris and
22 pollution on Plaintiffs’ land and water, and on the official private Alega Marine
23 and Wildlife Sanctuary and Reserve, and on the land and water of the private Alega
24 Marine Protected Area in Alega Bay and polluting the endangered and threatened
25 species habitat in the private Alega Marine Protected Area.

26 **IV. Injuries**

- 27 i) Plaintiffs suffered injuries and irreparable harm including harm to the official private
28 Marine and Wildlife Sanctuary and Reserve and harm to the private Alega Marine

1 Protected Area by Defendants' leaving pollution, and hazardous unused utility pole or
2 cable-related material and debris on Plaintiffs' water and land and on the private Alega
3 Marine Protected Area along the coast of Alega Village in American Samoa, and
4 polluting the endangered and threatened species habitat in the private Alega Marine
5 Protected Area.

6 **V. Relief**

7 **WHEREFORE**, Plaintiffs respectfully request that the Court grant the following relief:

- 8 1. That a permanent injunction issue against Defendants enjoining Defendants, their
9 agents, assigns, employees, and all persons acting in concert with them
- 10 a) from leaving unused utility poles, equipment, cables, debris, refuse, or any other
11 hazardous material or pollution on Plaintiffs' land, plantation, trees, water, or
12 marine and wildlife sanctuary, reservation and reserve, and on the private Alega
13 Marine Protected Area, and polluting the endangered and threatened species habitat in
14 the private Alega Marine Protected Area; and
- 15 b) from failing to clean and remove all unused utility poles, and cable-related debris and
16 unused material or pollution on Plaintiff's water and land along the coast of Alega
17 Village in American Samoa and from the water and land of the private Alega Marine
18 and Wildlife Sanctuary and Reserve, and private Alega Marine Protected Area, and
19 polluting the endangered and threatened species habitat in the private Alega Marine
20 Protected Area.

21 Plaintiffs FURTHER respectfully request the following Relief:

- 22 2) \$4 Million, or as the Court deems appropriate, in Compensatory damages for the
23 illegal, negligent, willful, intentional, callous, indifferent, disrespectful and
24 purposeful leaving of unused equipment, cables, debris, refuse, or any other
25 hazardous material or pollution on Plaintiffs' land, plantation, trees, water, or

1 marine and wildlife sanctuary, reservation and preserve, and damage to Plaintiffs'
2 trees, land, waters, and protected marine and wildlife sanctuary, and irreparable
3 harm by leaving hazardous material, and debris for years on official protected land
4 and waters of the Plaintiffs' water and land, and on the Plaintiffs' private marine
5 and wildlife sanctuary, reserve and reservation, and on the private Alega Marine
6 Protected Area, and polluting the endangered and threatened species habitat in the
7 private Alega Marine Protected Area.

8 3) \$4 Million, or as the Court deems appropriate, in Compensatory damages for the
9 illegal, negligent, willful, intentional, callous, indifferent, disrespectful and
10 purposeful leaving of unused utility poles, debris, refuse, or any other hazardous
11 material or pollution on Plaintiffs' land, plantation, water, or marine and wildlife
12 sanctuary, reservation and preserve, and damage to Plaintiffs' trees, land, waters,
13 and protected marine and wildlife sanctuary, and irreparable harm by leaving
14 hazardous material, and debris for years on official protected land and waters of the
15 Plaintiffs' water and land, and on the Plaintiffs' private marine and wildlife
16 sanctuary, reserve and reservation, and on the private Alega Marine Protected Area,
17 and polluting the endangered and threatened species habitat in the private Alega
18 Marine Protected Area.

19 4) \$400 Million, or as the Court deems appropriate, in Punitive damages for the
20 illegal, negligent, willful, intentional, callous, indifferent, disrespectful, and
21 purposeful leaving of unused equipment, cables, debris, refuse, or any other
22 hazardous material or pollution on Plaintiffs' land, plantation, trees, water, or
23 marine and wildlife sanctuary, reservation and preserve, and damage to Plaintiffs'
24 trees, land, waters, and protected marine and wildlife sanctuary, and irreparable

1 harm by leaving hazardous material, and debris for years on official protected land
2 and waters of the Plaintiffs' water and land, and on the Plaintiffs' private marine
3 and wildlife sanctuary, reserve and reservation, and on the private Alega Marine
4 Protected Area, and polluting the endangered and threatened species habitat in the
5 private Alega Marine Protected Area.

6 5) \$400 Million, or as the Court deems appropriate, in Punitive damages for the
7 illegal, negligent, willful, intentional, callous, indifferent, disrespectful, and
8 purposeful leaving of unused utility poles, debris, refuse, or any other hazardous
9 material or pollution on Plaintiffs' land, plantation, water, or marine and wildlife
10 sanctuary, reservation and preserve, and damage to Plaintiffs' trees, land, waters,
11 and protected marine and wildlife sanctuary, and irreparable harm by leaving
12 hazardous material, and debris for years on official protected land and waters of the
13 Plaintiffs' water and land, and on the Plaintiffs' private marine and wildlife
14 sanctuary, reserve and reservation, and on the private Alega Marine Protected Area,
15 and polluting the endangered and threatened species habitat in the private Alega
16 Marine Protected Area.

17 6) Defendants pay Plaintiffs' Reasonable Costs and Expenses relating to this
18 controversy.

19 7) Defendants pay the Plaintiffs the reasonable equivalent of Attorney Fees relating to
20 this controversy.

21 8) Further relief as the Court deems just and proper.

22 9) Any relief not specifically requested in this Verified Complaint, that is legally
23 allowed; and/or as this Court deems just and proper.

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2 ASPA DETRITUS – ON LAND OF PRIVATE ALEGA MARINE PROTECTED AREA



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2 ASTCA DETRITUS – FROM TIDAL AREA OF PRIVATE ALEGA MARINE SANCTUARY

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AST TELECOM DETRITUS – ON LAND AND TIDAL AREA – ENDANGERED AND
THREATENED SPECIES HABITAT OF PRIVATE ALEGA MARINE PROTECTED AREA

(See Attached Appendix B – Bluesky Detritus, prepared for HCLT 28-2020)

7 **FURTHER DETAILED PERTINENT FACTS AND SPECIFIC ALLEGATIONS**

8
9 **Defendants Have Been Flagrantly Polluting The Environment And**
10 **Harming Endangered Species In The Private Alega Marine Protected Area For Years**

11 Plaintiffs maintain that the Defendants have been in clear, obvious, knowing, intentional,
12 willful, flagrant, callous, indifferent, and disrespectful violation of local laws, including flagrantly
13 polluting the environment and harming endangered species in the private Alega Marine Protected
14 Area, and polluting the endangered and threatened species habitat in the private Alega Marine
15 Protected Area, for years, to the injury of the Plaintiffs, including but not limited to:

- 1 a) improperly polluting the Plaintiffs’ land and water along the coast of Alega Village in
2 American Samoa with unused decomposing utility poles or unused cable-related debris
3 and unused cable-related material, and polluting the endangered and threatened species
4 habitat in the private Alega Marine Protected Area, and
- 5 b) improperly polluting the land and water of Plaintiffs’ official private Marine and Wildlife
6 Sanctuary and Reserve, and on the land and water of Plaintiff’s private Alega Marine
7 Protected Area along the coast of Alega Village in American Samoa, with unused utility
8 poles or cable-related debris and unused cable-related material, , and polluting the
9 endangered and threatened species habitat in the private Alega Marine Protected Area, and
- 10 c) improperly polluting the Plaintiff’s land and water along the coast of Alega Village in
11 American Samoa and the private Alega Marine Protected Area, and harming the threatened
12 Green Turtle (*Chelonia mydas* Linnaeus) and harming the endangered Hawkbill Turtle
13 (*Eretmochelys imbricata* Linnaeus) species that nest therein by Defendants’ improper
14 leaving government pollution of unused utility poles or cable-related debris and unused
15 cable-related material on the protected habitat of the threatened and endangered turtle
16 species, and polluting the endangered and threatened species habitat in the private Alega
17 Marine Protected Area, and.
- 18 d) improperly polluting the Plaintiff’s land and water along the coast of Alega Village in
19 American Samoa, and the private Alega Marine Protected Area, and harming the marine
20 and wildlife species that habitat therein by Defendants’ improperly leaving government
21 pollution of unused utility poles or cable-related debris and unused cable-related material
22 hanging cables on the protected habitat of marine and wildlife species, and polluting the
23 endangered and threatened species habitat in the private Alega Marine Protected Area.

24 (See Appendix C – Affidavits In Support)

1 **Legal Standard**

2 Plaintiffs respectfully state that Plaintiff's claims meet the legal standard for success on the
3 merits, and that Plaintiffs are likely to prevail on the merits at trial, that denying Plaintiff's relief to
4 stop corporate and government pollution by Defendants would lead to irreparable injury, and that
5 granting relief would not harm the public interest. See *Winter v. Natural Resources Defense*
6 *Council, Inc.*, 555 U. S. 7, 20 (2008). Because of the need to issue an order promptly, Plaintiffs
7 provides only a brief summary of the reasons why immediate relief is essential.

8 **Likelihood of Success On The Merits**

9 Plaintiffs makes a strong showing that the challenged actions of the Defendants clearly
10 violate Federal as well as local American Samoa territorial pollution laws that clearly prohibit
11 Defendants from polluting. There is no legal basis for Defendants to pollute.

12 The Defendants' knowing, willful, intentional, callous, indifferent, and disrespectful
13 pollution have no merit and no legal justification. Plaintiffs makes a strong showing that the
14 challenged actions of the Defendants clearly violate Federal and local Territory of American
15 Samoa anti-pollution laws. Anti-pollution laws clearly prohibit Defendants from polluting
16 Plaintiffs' water and land and Plaintiff's official private Marine and Wildlife Sanctuary and
17 Reserve along the coast of Alega Village in American Samoa, and the private Alega Marine
18 Protected Area, and prohibit Defendants from harming the threatened and endangered species
19 whose habitats are included and protected therein, and polluting the endangered and threatened
20 species habitat in the private Alega Marine Protected Area. There is no legal basis for Defendants
21 to violate Federal and local laws relating to the Defendants' leaving government pollution
22 associated with Defendants' unused utility poles, telecommunication cables, material, equipment
23 and debris on Plaintiff's water and land. The Defendants' knowing, willful, and intentional
24 violations of local anti-pollution laws and callous, indifferent and disrespectful pollution and

1 damage to the environment, marine and wildlife, and harm to threatened and endangered species
2 and their habitat, and polluting the endangered and threatened species habitat in the private Alega
3 Marine Protected Area, have no merit and no legal justification.

4 **Irreparable Harm**

5 There can be no question that the Defendants' corporate and government pollution of the
6 environment challenged by Plaintiffs, when allowed to continue by this Court, will continue to
7 cause irreparable harm, and have already caused Plaintiffs irreparable harm, in the context of the
8 present controversy, for years, including every year the Defendants have been in business on
9 American Samoa and polluting the land and water of the private Alega Marine Protected Area, and
10 polluting the endangered and threatened species habitat in the private Alega Marine Protected
11 Area.

12 **There Is No Compelling Interest For Defendants' Pollution**

13 There is no compelling interest for Defendants' violations of local and federal anti-
14 pollution laws, and damage to the environment, marine and wildlife, and harm to threatened and
15 endangered species and their habitat, and polluting the endangered and threatened species habitat
16 in the private Alega Marine Protected Area. The water and land environment has been polluted
17 for years by Defendants, and the threatened and endangered species have been harmed for years
18 by Defendants' leaving of unused utility poles or cable-related debris and unused cable-related
19 material and equipment on Plaintiff's water and land and on Plaintiff's official private Alega
20 Marine and Wildlife Sanctuary and reserve, and the private Alega Marine Protected Area along
21 the coast of Alega Village in American Samoa, in violation of local and federal laws.

22 **Public Interest**

23
24 Finally, Defendants are not able to show that granting the Plaintiff's applications will harm
25 the public. The Defendants cannot reasonably claim that permitting Defendants to knowingly,

1 intentionally, willfully, callously, indifferently, and disrespectfully pollute the environment, and
2 polluting the endangered and threatened species habitat in the private Alega Marine Protected
3 Area, are in the public interest. To the contrary, it is in the public interest to prevent Defendants
4 from violating local anti-pollution laws and prevent Defendants from improperly polluting the
5 environment and harming threatened and endangered species and their habitat on Plaintiffs'
6 official private Alega Marine and Wildlife Sanctuary and Reserve, and the private Alega Marine
7 Protected Area, and polluting the endangered and threatened species habitat in the private Alega
8 Marine Protected Area.

9 For these reasons, Plaintiffs holds that Defendants' knowing, intentional, willful, callous,
10 indifferent, and disrespectful violations of local anti-pollution laws and pollution of the
11 environment and harm to the threatened and endangered marine wildlife and habitat, and polluting
12 the endangered and threatened species habitat in the private Alega Marine Protected Area must be
13 enjoined. Plaintiffs respectfully requests an Order and Relief in Plaintiff's favor.

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