

**HANA LANDFILL
STATE LAND USE COMMISSION
FY2011 ANNUAL REPORT
SP08-402**

Part 1: Project Summary

Land Use Permits

A cultural assessment is currently being prepared by Hana Pono, sub-consultant to Munikeyo and Hiraga, and a slope stability analysis and Operations Plan is being prepared by YKE to comply with conditions of the land use permits--CUP 2007/0001 (2/12/09), SUP1 2007/0002, (9/1/09) SMA (8/24/10). An Environmental Assessment was finalized in October 2007 and a Finding of No Significant Impact declared. Subdivision work and surveying, preliminary to an Executive Order to convey a buffer zone of 45 acres to the County, has begun. A title report is being prepared by Title Guaranty of Hawaii, Inc. Munikeyo and Hiraga is handling the subdivision work.

Detention Pond

The detention pond design, completed by Brown and Caldwell in July 2010, is being revised in response to comments by Dept. of Health (DOH). \$500,000 for construction was approved by County Council in the FY2012 capital improvement program.

Operating Permit

The application for the operating permit was made to the DOH in early 2011 and responses completed to their questions. Greenwaste chipping by a vendor has commenced on the landfill portion of the parcel after the conservation district line and property corners were staked by Controlpoint Surveying last fall. The 1993 waste limits recognized by DOH were staked by Akamai Landf Surveying to mark the edge of fill.

Renewable Energy

Hana Landfill is included in the FY2010 and FY2011 capital improvement projects to design and construct a renewable energy source to power the office. Twenty-four solar panels will be constructed on a trellis behind the office. Batteries in a storage unit will store electricity which will power office lights, air conditioning, refrigerator, microwave. A laptop computer and weather station are also included. A building permit application for the trellis posts has been submitted to the County by designer, Energy Industries.

Part 2: Project Compliance

Condition 1: That the State Land Use Commission Special Use Permit and County Special Use Permit shall be valid until February 28, 2018, subject to further extensions by the Land Use Commission and/or the Maui Planning Commission as required by each permit accordingly, upon a timely request for extension filed at least one-hundred twenty (120) days prior to its expiration. The Maui Planning Commission shall make a recommendation to the Land Use Commission and may require a public hearing on the time extension.

Hana Landfill FY2011 LUC Annual Report for SP08-402
Page 2

Report: The current State Land Use Special Permit dated September 1, 2009 is valid.

Condition 2: That the conditions of this State Land Use Commission Special Use Permit shall be enforced pursuant to Sections 205-12 and 205-13, Hawaii Revised Statutes. The County Special Use Permit conditions will be enforced pursuant to the provisions of Chapter 19.530, Section 19.530.030 of the Maui County Code, as amended, 1980. Failure to comply with one or more of the conditions herein shall result in a notice of violation issued by the appropriate enforcement agency, notifying the permit holder of the violation and providing the permit holder no more than sixty (60) days to cure the violation. If the permit holder fails to cure the violation within sixty (60) days of said notice, the appropriate enforcement agency shall issue an order which may require one or more of the following: that the violative activity cease; that the violative development be removed; that a civil fine be paid not to exceed One Thousand Dollars (\$1,000.00) per violation; and that a civil fine not to exceed Five Thousand Dollars (\$5,000.00) shall be issued if violation not cured within six (6) months of the issuance of the order. The order shall become final thirty (30) days after the date of its mailing or hand-delivery, unless written request for a hearing is mailed or delivered to the Department of Planning ("Department") within said thirty (30) days. Upon receipt of a request for a hearing, the Department shall specify a time and place for the permit holder to appear and be heard. The hearing shall be conducted by the Planning Director or the Director's designee in accordance with the provisions of Chapter 91, HRS, as amended.

Report: The County continues to work in compliance of all permit conditions of both the State and County Special Use permits. Compliance details are discussed in the Report portion following each condition listed in this Annual Report.

Condition 3: That the subject State Land Use Commission Special Use Permit and County Special Use Permit shall not be transferred without the prior written approval of the Land Use Commission and/or the Maui Planning Commission as required by permit requirements accordingly. The appropriate Planning Commission shall make a recommendation to the Land Use Commission as necessary. However, in the event that a contested case hearing preceded issuance of said State Land use Commission Special use permit, a public hearing shall be held by the appropriate Planning Commission upon due published notice, including actual written notice to the last known addresses of parties to said contested case and their counsel.

Report: No request for transfer has been made.

Condition 4: That full compliance with all applicable governmental permits and requirements shall be rendered.

Hana Landfill FY2011 LUC Annual Report for SP08-402
Page 3

Report: The landfill is operated in compliance with permits and their requirements. An application to renew the operating permit was made to the Department of Health (DOH). All land use permits, required for the operating permit, have been obtained. The landfill continues to operate in compliance with the regulations. Landfill gas is monitored quarterly for methane; groundwater is sampled and tested quarterly. A fourth groundwater monitoring well will be installed in accordance with one of the conditions of the recently acquired Special Management Permit (SMA) as its funding was approved for the FY12 budget. Use of a tarp as alternative daily cover, for four days a week out of the five the landfill is open, has commenced as part of a DOH pilot program.

Condition 5: That the Applicant shall timely provide without any prior notice, annual reports to the Land Use Commission and the Department in connection with the status of the Project and the Applicant's progress in complying with the conditions imposed herein. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission.

Report: The filing of this annual report for FY2011 meets this requirement.

Condition 6: That the Applicant shall develop the property in substantial compliance with the representations made to the Land Use Commission in obtaining the State Land Use Commission Special use Permit and the Maui Planning Commission in obtaining the County Special Use Permit. Failure to so develop the Property may result in the revocation of the permit.

Report: The property continues as a landfill with related improvements as proposed.

Condition 7: That the Applicant shall begin construction of the landfill storm water drainage retention basin within three (3) years from issuance of the Land Use Commission's decision and order. Construction shall include any improvements necessary to operate the landfill pursuant to all applicable laws and regulations.

Report: The design and bid package prepared by Brown & Caldwell with FY2009 funds of \$100,000 is being revised in response to comments by DOH. Funding for basin construction, in the amount of \$500,000, was approved in the FY2012 CIP budget.

Condition 8: That the Applicant shall take appropriate mitigative measures to minimize erosion, prevent cement products, oil, fuel, and other toxic substances associated with heavy machinery from spilling or leaching into the ground.

Report: Equipment is kept in good repair, a new dozer was purchased this past year and is currently on-site with preventative maintenance done regularly. There is a recently constructed solar operated diesel tank with secondary containment on a concrete slab located at the landfill to fuel the dozer and loader.

Hana Landfill FY2011 LUC Annual Report for SP08-402
Page 4

Condition 9: That the Applicant shall comply with Department of Health Ambient Air Quality Standards, Hawaii Administrative Rules, Title 11, Chapter 59 and Air Pollution Control, HAR 11-60.

Report: Neither the cinder used as cover, nor the tarp when it is used, produces dust. The buffer area next to the landfill is either grassed or landscaped with ornamentals. The area around the landfill is wooded which keeps dust to a minimum in the area.

Condition 10: That the Applicant shall comply with the EPA's New Source Performance Standards.

Report: Four landfill gas probes are monitored quarterly to check for emissions outside the perimeter. All readings are within regulatory limits.

Condition 11: That provisions shall be enacted to ensure emergency access to the sanitary landfill in case of fire or any other disaster.

Report: The Hana District Supervisor has keys to the landfill in case emergency access is needed.

Condition 12: That the Applicant shall utilize non-drinking water, to the extent possible, for grading, dust control, and irrigation of the landfill.

Report: A non-drinking source will have to be located. Currently dust is not a problem at the landfill due to the vegetation surrounding it and adjacent to it.

Condition 13: That the Applicant shall ensure that windblown debris around the perimeter of the landfill, particularly within areas visible from the public right of way, be removed in a timely manner.

Report: The laborer at the landfill maintains the grounds and removes any windblown litter or debris that may be found away from the active area.

Condition 14: That full compliance with the requirements of the State's Department of Health for sanitary landfill operation shall be rendered.

Report: The landfill is operated in accordance with State DOH requirements.

Condition 15: That the Applicant inform the Department of Public Works of HAC's safety concerns, and further that the Applicant shall make its best effort to ensure daily operations are conducted in a safe manner. The Applicant shall undertake an engineering slope and soil stability analysis prior to construction within the three (3) year period.

Hana Landfill FY2011 LUC Annual Report for SP08-402
Page 5

Report: YKE, a geotechnical firm from Honolulu, met with the Hana Highways Division in December 2010 prior to taking soil samples and installing piezometers to assess water conditions at the cinder pit between December 2010 and June 2011. The consultants met with Hana Highways and the Solid Waste engineer in July 2011 to discuss operating issues prior to preparation of an Operations Plan for the cinder pit.

Condition 16: That a cultural assessment be conducted to address impacts to cultural resources resulting from the excavation of cinder ash and that the Office of Hawaiian Affairs shall be consulted prior to construction within the three (3) year period.

Report: Hana Pono, a sub-consultant to Munikeyo and Hiraga, has prepared a draft cultural assessment which is being reviewed by the consultant and the County.

Condition 17: That the Applicant execute a legal document with the State of Hawaii and the County of Maui regarding the removal of cinder ash from the Ka'eleku area.

Report: On May 27, 2011 the Board of Land and Natural Resources granted the County a license for the removal of cinders from the Hana cinder pit. The license, sent by the Dept. of Land and Natural Resources to the County for signature, is with the County's Corporation Counsel.

Condition 18: That mitigation measures be taken to address the visual height of the landfill by landscaping or other methods such as waste diversion, recycling, etc. within the ten (10) year period.

Report: The Master Plan draft prepared in 2009 by Brown & Caldwell addresses mitigation measures for the visual height concern, recycling being the primary one. A recycling center was included in the application for the operating permit, and it is currently being graded and prepared in anticipation of approval by the Dept. of Health.

Condition 19: That a recycling program begin immediately after permits are issued and/or the Department of Health grants approval. The recycling program may consider, but not be limited to, glass, aluminum, plastics, batteries, newspapers, cardboard,

appliances, and oil.

Report: Seven containers, three roll-offs and four Matson containers, have been purchased for the Hana recycling program and have been on-site awaiting permitting.

Hana Landfill FY2011 LUC Annual Report for SP08-402

Page 6

Condition 20: That the Applicant increase its groundwater monitoring at the landfill from semi-annually to quarterly.

Report: URS increased the groundwater monitoring to quarterly as of October 2009.

Condition 21: That the Applicant shall periodically monitor the Property for the presence of miconia plants and eradicate any individuals found while they are still immature.

Report: The laborer, as a part of his landscaping duties, checks for miconia. The brush cutter, weed eater, and lawn mower are all used to control vegetation growth near and around the landfill. The Miconia Task Force is a resource to be contacted in the event any miconia should be observed in and around the landfill. None have been observed.

Condition 22: That the Applicant shall file a boundary interpretation request with the LUC staff to determine the location of the Agricultural and Conservation District boundary relative to Waste Area No. 2, as identified on the survey map dated September 8, 2007, within 30 days following the issuance of the Decision and Order granting the Application. The boundary interpretation request shall be accompanied by a metes and bounds survey prepared by a licensed professional land surveyor.

Report: Newcomer-Lee provided the boundary interpretation request with a metes and bounds survey within 30 days of the Decision and Order. An updated survey was done based on the Commission's map for staking of the conservation district line in the field.

Condition 23: That the Applicant shall be prohibited from utilizing any Conservation District lands that may be present in Waste Area No. 2, as determined by the boundary interpretation prepared by the LUC staff, for the purposes of municipal solid waste disposal in connection with the Hana Landfill.

Report: Controlpoint Surveying completed the field staking of the Conservation District line on September 23, 2010. The line is marked by rocks and no activities occur within fifty feet of the line. Greenwaste receiving has been moved to the landfill portion of the parcel. Greenwaste is now chipped by a vendor rather than stockpiled. The only activities occurring on the makai side of the landfill are: the office, proposed recycling center, solar power panels, storage of supplies, and parking of staff personal vehicles.