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BEFORE THE LAND USE COMMISSION

DEPT OF PLANNING
COUNTY OF MAUI

OF THE STATE OF HAWAII

In The Matter Of The Application Of The)	DOCKET NO. SP97-390
)	
DEPARTMENT OF PUBLIC WORKS)	DECISION AND ORDER
AND WASTE MANAGEMENT, SOLID)	APPROVING A SECOND
WASTE DIVISION, COUNTY OF MAUI)	AMENDMENT TO A
)	SPECIAL USE PERMIT
For A Special Use Permit To Establish)	
And Operate An Expansion To The)	
Central Maui Sanitary Landfill On)	
Approximately 34.640 Acres Of Land)	
Situated Within The State Land Use)	
Agricultural District At Pu'unene,)	
Maui, Hawai'i, TMK No: 3-8-03: Por. 4)	
And 25)	

DECISION AND ORDER APPROVING A SECOND
AMENDMENT TO A SPECIAL USE PERMIT

This is to certify that this is a true and correct copy of the document on file in the office of the State Land Use Commission, Honolulu, Hawaii.

DEC 14 2004

by *Anthony M. King*
Executive Officer

Date

Executive Officer

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAI'I

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And 25)	
_____)	

DECISION AND ORDER APPROVING A SECOND
AMENDMENT TO A SPECIAL USE PERMIT

On October 13, 2003, the County of Maui Department of Public Works and Environmental Management (fka the Department of Public Works and Waste Management) ("Applicant") filed a written request to amend the special use permit issued in the above-entitled docket ("Request") with the County of Maui Planning Department ("Planning Department"), pursuant to section 205-6, Hawai'i Revised Statutes ("HRS"), and sections 15-15-95 and 15-15-96, Hawai'i Administrative Rules ("HAR"). The Applicant's Request involves (i) a site plan modification of the new entrance facility for the Central Maui Sanitary Landfill expansion by adding

approximately 1.395 acres of land within the State Land Use Agricultural District at Pu`unene, Maui, Hawai`i, identified as Tax Map Key: 3-8-03: por. 4 ("Property")¹; and (ii) an extension of the time in which to initiate construction of the Central Maui Sanitary Landfill expansion due to the site plan modification by amending Condition Number 6 of the Decision And Order Approving An Amendment To A Special Use Permit ("Decision and Order") dated May 13, 2002.²

The Land Use Commission ("Commission") has jurisdiction over the Applicant's Request. Section 205-6, HRS, and sections 15-15-95 and 15-15-96, HAR, authorize this Commission to approve special use permits and amendments thereto for areas greater than 15 acres.

On October 14, 2003, the Planning Commission conducted a hearing on the Applicant's Request. There was no public testimony provided on the Request.

After due deliberation, the Planning Commission recommended approval of the Applicant's Request to this Commission, subject to the following amendment to Condition Number 6:

6. That the Applicant shall begin construction of the landfill expansion within 12 months from issuance of the Land Use

¹ The Property consists of a 75-foot-wide construction easement located on the southwest side of Phase IV of the Central Maui Sanitary Landfill, between the property line and Pulehu Road.

² The Decision and Order approved the Applicant's request to construct and operate a new entrance facility and related improvements on approximately 5.3 acres of land as part of the Central Maui Sanitary Landfill expansion. The improvements included an entry road; perimeter road; self-haul recycling and service area; reuse center for materials exchange; self-haul disposal and service area; scale and scale house; office building; wash slab for heavy equipment; and water, septic, and power infrastructure.

Commission's decision and order on the amendment. Construction shall include any improvements necessary to the operation of the landfill pursuant to all applicable laws and regulations.

On November 19, 2003, the Commission received a copy of the decision and a portion of the record of the Planning Commission's proceedings on the Applicant's Request. On October 6, 2004, the Commission received the remaining portion of the record.

On November 5, 2004, the Commission met in Makena, Maui, Hawai'i, to consider the Applicant's Request. Michael Souza, Acting Chief of the Solid Waste Division, and Bruce Mizel, CIP Project Coordinator, appeared on behalf of the Applicant. Madelyn S. D'enbeau, Esq., appeared on behalf of the Planning Department. John W. K. Chang, Esq., and Abe Mitsuda also were present on behalf of the State Office of Planning.

At the meeting, the Applicant pointed out, among other things, that (i) approximately 90 percent of the remedial work required by the State Department of Health to bring the landfill into compliance had been completed, with the remaining 10 percent of the work anticipated for completion within 3 to 4 weeks; (ii) the construction of the new entrance facility was completed to the satisfaction of the Applicant, and the Certificate of Occupancy was expected to be issued shortly; (iii) the Applicant had no objection to the incorporation of the Decision and Order issuance date in Condition

Number 6; and (iv) the Central Maui Sanitary Landfill has potentially 25 to 30 years of landfill space.

Following discussion by the Commissioners, a motion was made and seconded to approve the Applicant's Request, subject to the following amendment to Condition Number 6:

6. That the Applicant shall begin construction of the landfill expansion within 12 months from issuance of the Land Use Commission's decision and order dated May 13, 2002. Construction shall include any improvements necessary to the operation of the landfill pursuant to all applicable laws and regulations.

Following deliberation by the Commissioners, a vote was taken on the motion. There being a vote tally of 6 ayes, 0 nays, and 3 absent, the motion carried.

ORDER

Having duly considered the complete record of the Applicant's Request and the oral arguments presented by the parties present in the proceeding, and a motion having been made at a meeting on November 5, 2004, in Makena, Maui, Hawai'i, and the motion having received the affirmative votes required by section 15-15-13, HAR, and there being good cause for the motion, the Commission hereby APPROVES the Applicant's Request to (i) modify the site plan to the new entrance facility for the Central Maui Sanitary Landfill expansion by adding approximately 1.395 acres of land within the State Land Use Agricultural District at Pu'unene, Maui,

Hawai'i, identified as Tax Map Key: 3-8-03: por. 4, and approximately shown on Exhibit "A," attached hereto and incorporated by reference herein; and (ii) extend the time in which to initiate construction of the Central Maui Sanitary Landfill expansion due to the site plan modification by amending Condition Number 6 of the Decision and Order dated May 13, 2002, to read as follows:

6. That the Applicant shall begin construction of the landfill expansion within 12 months from issuance of the Land Use Commission's decision and order dated May 13, 2002. Construction shall include any improvements necessary to the operation of the landfill pursuant to all applicable laws and regulations.

All other conditions to the Decision and Order dated May 13, 2002, are hereby reaffirmed and shall continue in effect.

ADOPTION OF ORDER

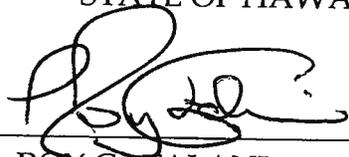
The undersigned Commissioners, being familiar with the record and proceedings, hereby adopt and approve the foregoing ORDER this 14th day of December, 2004. This ORDER and its ADOPTION shall take effect upon the date this ORDER is certified and filed by this Commission.

Done at Honolulu, Hawai'i, this 14th day of December, 2004, per motion on November 5, 2004.

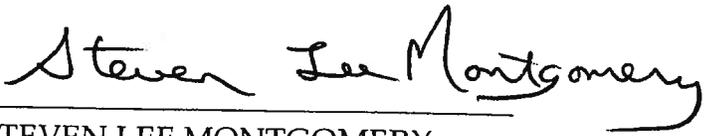
APPROVED AS TO FORM

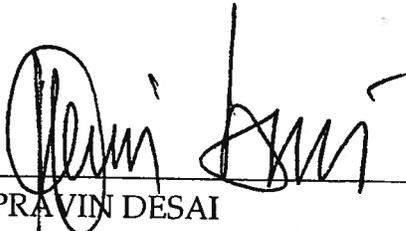

Deputy Attorney General

LAND USE COMMISSION
STATE OF HAWAII

By 
P. ROY CATALANI
Chairperson and Commissioner

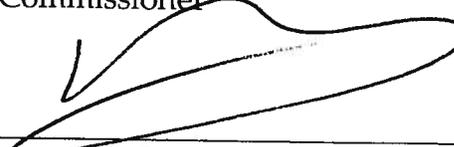
By 
RANDALL SAKUMOTO
Vice-Chairperson and Commissioner

By 
STEVEN LEE MONTGOMERY
Vice Chairperson and Commissioner

By 
PRAVIN DESAI
Commissioner

By 
ISAAC FIESTA, JR.
Commissioner

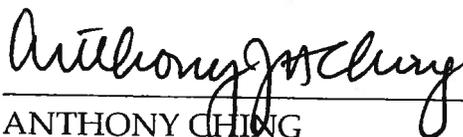
By 
MICHAEL D. FORMBY
Commissioner

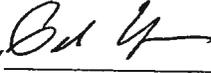
By 
KYONG-SU IM
Commissioner

Filed and effective on
DEC 14 2004

By (absent)
LISA M. JUDGE
Commissioner

Certified by:

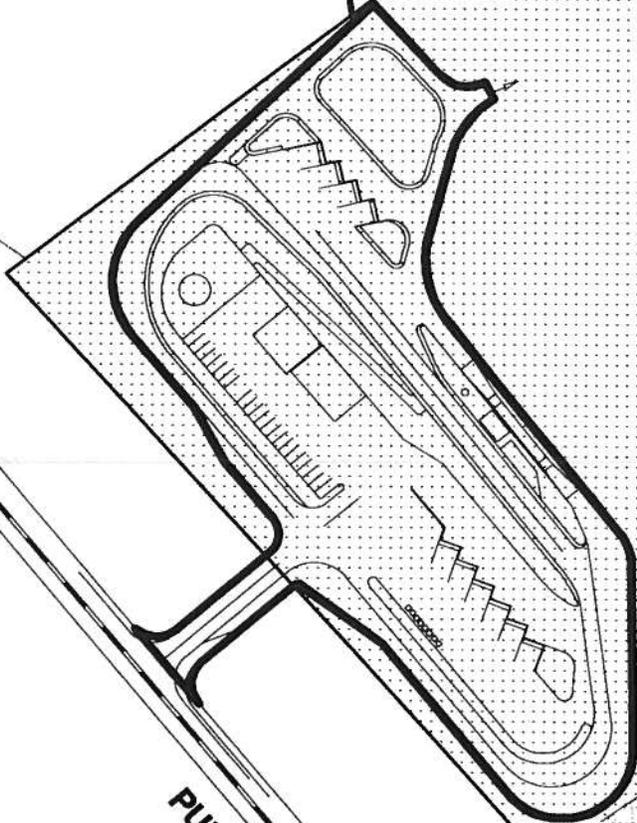

ANTHONY CHING

By 
PETER YUKIMURA
Commissioner

SP97-390 DEPARTMENT
OF PUBLIC WORKS AND
WASTE MANAGEMENT,
SOLID WASTE DIVISION,
COUNTY OF MAUI



**SUBJECT
AREA**



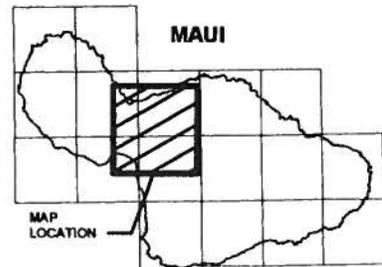
PULEHU ROAD

SP77-271
AMERON
HC&D (3RD
AMENDMENT)

**SP97-390 Department of Public Works and Waste
Management, Solid Waste Division, County of Maui
LOCATION MAP**

TAX MAP KEY NO.: 3-8-03: por. 4 & por. 25
PU'UNENE, MAUI, HAWAII
SCALE: 1" = 200 ft.

EXHIBIT "A"



BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In The Matter Of The Application Of The) DOCKET NO. SP97-390
)
DEPARTMENT OF PUBLIC WORKS) CERTIFICATE OF SERVICE
AND WASTE MANAGEMENT, SOLID)
WASTE DIVISION, COUNTY OF MAUI)
)
For A Special Use Permit To Establish)
And Operate An Expansion To The)
Central Maui Sanitary Landfill On)
Approximately 34.640 Acres Of Land)
Situated Within The State Land Use)
Agricultural District At Pu`unene,)
Maui, Hawai`i, TMK No: 3-8-03: Por. 4)
And 25)
_____)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Decision And Order Approving
A Second Amendment To A Special Use Permit was served upon the following
by either hand delivery or depositing the same in the U. S. Postal Service by
regular or certified mail as noted:

DEL. MARY LOU KOBAYASHI, Acting Director
Office of Planning
P. O. Box 2359
Honolulu, Hawaii 96804-2359

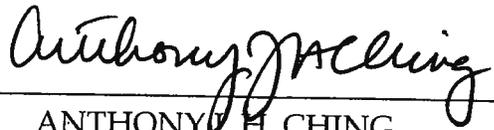
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Solid Waste Division
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Wailuku, Hawaii 96793

Dated: Honolulu, Hawaii, DEC 14 2004.



ANTHONY H. CHING
Executive Officer