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LAND USE COMMISSION
STATE OF HAWAII

2016 APR -8 P 3: 28

LETTER OF TRANSMITTAL

To: Daniel Orodener
Executive Officer
Land Use Commission, State of Hawai'i
State Office Tower
Leiopapa A Kamehameha Building
235 South Beretania Street, Room 406
Honolulu, Hawai'i 96813

DATE: April 8, 2016

RE: Docket No. DR16-55
In the Matter of the Petition To Issue a
Declaratory Order That a Photovoltaic
System is Not an Agricultural Energy
Facility

Mailed Hand Delivered

THE FOLLOWING IS (ARE) TRANSMITTED HEREWITH:

<u>COPIES</u>	<u>DATE</u>	<u>DESCRIPTION</u>
Original + 1	4/08/16	Stipulated Dismissal of Petition for Declaratory Order; [Proposed] Order Dismissing Petition; Certificate of Service

<input type="checkbox"/> For Your Information	<input type="checkbox"/> For Review and Comment
<input type="checkbox"/> For Your Files	<input checked="" type="checkbox"/> For Necessary Action
<input type="checkbox"/> Per Your Request	<input type="checkbox"/> For Signature and Return (Black Ink)
<input type="checkbox"/> Per Our Conversation	<input type="checkbox"/> See Remarks Below

REMARKS: Please find enclosed an original and one copy of the Stipulated Dismissal of Petition for Declaratory Order; [Proposed] Order Dismissing Petition; Certificate of Service regarding LUC Docket No. DR16-55. A filed-stamped electronic copy of this document will be emailed to the Clerk of the LUC by the end of business day today. Please contact me at jlim@carlsmith.com or 523-2557 or my secretary Jeannie Hirabara at jhirabara@carlsmith.com or 523-2683 with any questions or concerns.

By 
Jennifer A. Lim

CARLSMITH BALL LLP

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LAND USE COMMISSION
STATE OF HAWAII

2016 APR -8 P 3: 28

Attorneys for Intervenor
SMB II LLC

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition

To Issue a Declaratory Order That a
Photovoltaic System is Not an
Agricultural Energy Facility.

DOCKET NO. DR16-55

STIPULATED DISMISSAL OF PETITION
FOR DECLARATORY ORDER;
[PROPOSED] ORDER DISMISSING
PETITION; CERTIFICATE OF SERVICE

STIPULATED DISMISSAL OF PETITION FOR DECLARATORY ORDER

On February 8, 2016, the Office of Planning, State of Hawai'i ("**OP**") and the State Department of Agriculture ("**DOA**"), by and through its counsel, Douglas S. Chin, Attorney General of Hawai'i and Bryan C. Yee, Deputy Attorney General, together filed with this Honorable State Land Use Commission a Petition for Declaratory Order; Memorandum in Support of Petition for Declaratory Order; Exhibits 1 - 5 (the "**OP/DOA Petition**") in Docket No. DR16-55.

On March 17, 2016, SMB II LLC, by and through its counsel, Carlsmith Ball LLP, filed in this Docket SMB II LLC's Petition to Intervene; Memorandum in Support of Petition; Exhibit 1, and paid to the Commission a \$50.00 filing fee.

On March 24, 2016, the Director of the Department of Planning and Permitting of the City and County of Honolulu ("**Planning Director**"), by and through its counsel, Donna Y.L. Leong, Corporation Counsel, and Richard D. Lewallen, Deputy Corporation Counsel, filed in

this Docket its Department of Planning and Permitting, City and County of Honolulu's Motion to Intervene.

On March 31, 2016, the Planning Director filed its Director of the Department of Planning and Permitting, City and County of Honolulu's Position Statement To The Office of Planning, State of Hawai'i And The Department of Agriculture's Petition For Declaratory Order.

OP/DOA, the Planning Director, and SMB have resolved their differences and OP/DOA wish to withdraw the OP/DOA Petition and have the State Land Use Commission dismiss this matter and terminate this Docket. To effectuate that withdrawal and termination OP/DOA, the Planning Director, and SMB hereby stipulate and agree to the following:

OP/DOA hereby withdraw the OP/DOA Petition and request that the Commission terminate Docket No. DR16-55.

The Planning Director hereby consents to the withdrawal of the OP/DOA Petition and the termination of Docket No. DR16-55, and hereby withdraws its Motion to Intervene and its Position Statement.

SMB II LLC hereby consents to the withdrawal of the OP/DOA Petition and the termination of Docket No. DR16-55, and hereby withdraws its Petition to Intervene.

OP/DOA, SMB II LLC, and the Planning Director hereby stipulate that this action be dismissed, and to the extent necessary, request that the Land Use Commission dismiss the OP/DOA Petition.


OP/DOA, the Planning Director, and SMB further stipulate that each party shall bear its own costs and attorney's fees.

To the extent necessary, OP/DOA, the Planning Director, and SMB request that the Land Use Commission expeditiously enter the attached proposed order dismissing this declaratory order proceeding.

The parties agree that this Stipulated Dismissal of Petition for Declaratory Order may be signed in counterpart.

Respectfully submitted,

DATED: Honolulu, Hawai'i April 8, 2016.



BRYAN C. YEE
Deputy Attorney General

Attorney for Petitioners
OFFICE OF PLANNING, STATE OF
HAWAII and DEPARTMENT OF
AGRICULTURE

DATED: Honolulu, Hawai'i April ____, 2016.

RICHARD D. LEWALLEN

Attorney for Proposed Intervenor
DIRECTOR OF THE DEPARTMENT OF
PLANNING AND PERMITTING

DATED: Honolulu, Hawai'i April ____, 2016.

STEVE M. EGESDAL
JENNIFER A. LIM

Attorneys for Intervenor
SMB II LLC


Respectfully submitted,

DATED: Honolulu, Hawai'i April ___, 2016.

BRYAN C. YEE
Deputy Attorney General

Attorney for Petitioners
OFFICE OF PLANNING, STATE OF
HAWAII and DEPARTMENT OF
AGRICULTURE

DATED: Honolulu, Hawai'i April ___, 2016.



RICHARD D. LEWALLEN

Attorney for Proposed Intervenor
DIRECTOR OF THE DEPARTMENT OF
PLANNING AND PERMITTING

DATED: Honolulu, Hawai'i April ___, 2016.

STEVE M. EGESDAL
JENNIFER A. LIM

Attorneys for Intervenor
SMB II LLC

Respectfully submitted,

DATED: Honolulu, Hawai'i April ___, 2016.

BRYAN C. YEE
Deputy Attorney General

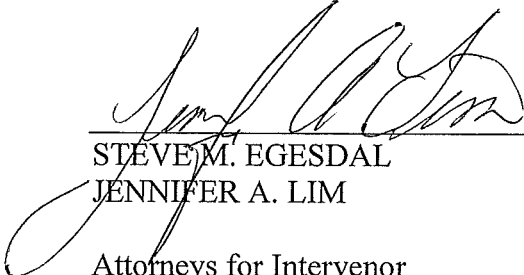
Attorney for Petitioners
OFFICE OF PLANNING, STATE OF
HAWAII and DEPARTMENT OF
AGRICULTURE

DATED: Honolulu, Hawai'i April ___, 2016.

RICHARD D. LEWALLEN

Attorney for Proposed Intervenor
DIRECTOR OF THE DEPARTMENT OF
PLANNING AND PERMITTING

DATED: Honolulu, Hawai'i April 8, 2016.



STEVE M. EGESDAL
JENNIFER A. LIM

Attorneys for Intervenor
SMB II LLC

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition

To Issue a Declaratory Order That a
Photovoltaic System is Not an
Agricultural Energy Facility.

DOCKET NO. DR16-55

[PROPOSED] ORDER DISMISSING
PETITION

[PROPOSED] ORDER DISMISSING PETITION

Petitioners Office of Planning, State of Hawai'i and the State Department of Agriculture, proposed Intervenor Director of the Department of Planning and Permitting of the City and County of Honolulu, and proposed Intervenor SMB II LLC, a Hawai'i limited liability company, and their respective counsel, have settled this matter and submitted a stipulation requesting that the State Land Use Commission enter an order dismissing this declaratory order proceeding.

Therefore, good cause showing, the State of Hawai'i Land Use Commission orders that this declaratory order proceeding be dismissed and this Docket terminated. Each side to bear its own fees and costs.

Done at _____, Hawai'i, this _____ day of _____, 2016.

APPROVED AS TO FORM

Deputy Attorney General

LAND USE COMMISSION, STATE OF HAWAII

By: _____

By: _____

By: _____

By: _____

By: _____

By: _____

By: _____

By: _____

By: _____

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition

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Agricultural Energy Facility.

DOCKET NO. DR16-55

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

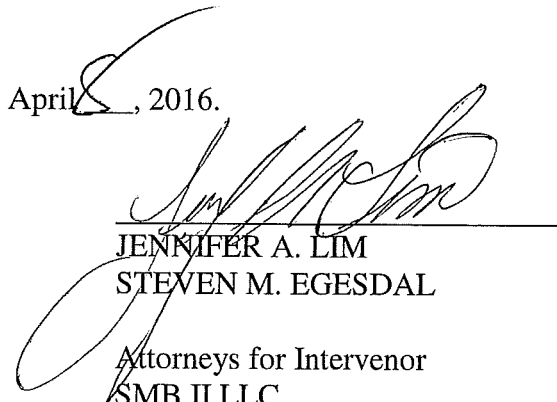
I HEREBY CERTIFY that a true and correct copy of the foregoing document was duly served upon the follow parties by hand-delivering a copy of same on April 8, 2016:

DOUGLAS S. CHIN, ESQ.
Attorney General
BRYAN C. YEE, ESQ.
Deputy Attorney General
Department of the Attorney General
425 Queen Street
Honolulu, HI 96813
Attorneys for Office of Planning and
State of Hawai'i, Department of Agriculture

DEPARTMENT OF PLANNING AND PERMITTING
City and County of Honolulu
650 S. King Street, 7th Floor
Honolulu, HI 96813

RICHARD D. LEWALLEN, ESQ.
Department of Corporation Counsel
Honolulu Hale
530 S. King Street, Room 110
Honolulu, HI 96813

DATED: Honolulu, Hawai'i, April 8, 2016.



JENNIFER A. LIM
STEVEN M. EGESDAL

Attorneys for Intervenor
SMB II LLC