



BEFORE THE LAND USE COMMISSION

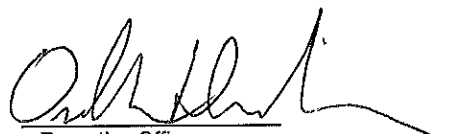
OF THE STATE OF HAWAII

In The Matter Of The Application Of The) DOCKET NO. SP09-403
DEPARTMENT OF ENVIRONMENTAL) ORDER DENYING APPLICANT'S
SERVICES, CITY AND COUNTY OF) MOTION FOR
HONOLULU) RECONSIDERATION
)
)
For A New Special Use Permit To)
Supersede Existing Special Use Permit)
To Allow A 92.5-Acre Expansion And)
Time Extension For Waimānalo Gulch)
Sanitary Landfill, Waimānalo Gulch,)
O'ahu, Hawai'i, Tax Map Key: 9-2-03: 72)
And 73)

ORDER DENYING APPLICANT'S MOTION FOR RECONSIDERATION

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.

December 1, 2009 _____ by


Executive Officer



BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In The Matter Of The Application Of The)	DOCKET NO. SP09-403
DEPARTMENT OF ENVIRONMENTAL)	ORDER DENYING APPLICANT'S
SERVICES, CITY AND COUNTY OF)	MOTION FOR
HONOLULU)	RECONSIDERATION
)	
)	
For A New Special Use Permit To)	
Supersede Existing Special Use Permit)	
To Allow A 92.5-Acre Expansion And)	
Time Extension For Waimānalo Gulch)	
Sanitary Landfill, Waimānalo Gulch,)	
O'ahu, Hawai'i, Tax Map Key: 9-2-03: 72)	
And 73)	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Order Denying Applicant's Motion for Reconsideration 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. Abbey Seth Mayer, Director
Office of Planning
P. O. Box 2359
Honolulu, Hawaii 96804-2359

Bryan Yee, Esq.
Deputy Attorney General
Hale Auhau, Third Floor
425 Queen Street
Honolulu, Hawaii 96813

REGULAR MAIL David Tanoue, Director
Department of Planning and Permitting
City and County of Honolulu
650 South King Street
Honolulu, Hawaii 96813

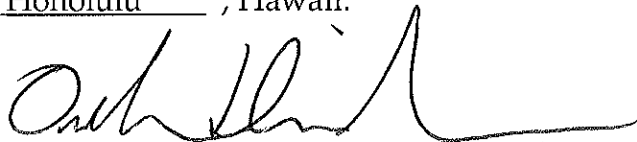
REGULAR MAIL Carrie Okinaga, Esq.
Corporation Counsel
City & County of Honolulu
530 South King Street
Honolulu, Hawaii 96813

CERT. Gary Takeuchi, Esq.
Jesse Souki, Esq.
Deputy Corporation Counsel
City and County of Honolulu
530 South King Street, Room 110
Honolulu, HI 96813

CERT. Department of Environmental Services
City & County of Honolulu
1000 Uluohia Street, 3rd Floor
Kapolei, Hawaii 96707

CERT. COLLEEN HANABUSA, Esq.
220 So. King St. , Suite 1230
Honolulu, Hawaii 96813

Dated: December 1, 2009, Honolulu, Hawaii.



Orlando Davidson, Executive Officer



BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In The Matter Of The Application Of The) DOCKET NO. SP09-403
)
DEPARTMENT OF ENVIRONMENTAL) ORDER DENYING
SERVICES, CITY AND COUNTY OF) APPLICANT'S MOTION FOR
HONOLULU) RECONSIDERATION
)
For A New Special Use Permit To)
Supersede Existing Special Use Permit To)
Allow A 92.5-Acre Expansion and Time)
Extension For Waimānalo Gulch Sanitary)
Landfill, Waimānalo Gulch, O`ahu,)
Hawai`i, Tax Map Key: 9-2-03: 72 And 73)
_____)

ORDER DENYING APPLICANT'S MOTION FOR RECONSIDERATION

On October 29, 2009, the Department of Environmental Services, City and County of Honolulu ("Applicant"), filed a Motion For Reconsideration and a Memorandum In Support Of Motion For Reconsideration (collectively "Motion"), pursuant to sections 15-15-70 and 15-15-84, Hawai`i Administrative Rules ("HAR").

The Applicant requested that the State Land Use Commission ("Commission") reconsider its Order Adopting The City And County Of Honolulu Planning Commission's Findings Of Fact, Conclusions Of Law, And

Decision And Order With Modifications (“Decision and Order”) issued in this docket on October 22, 2009, by modifying Condition Number 14 and deleting Condition Numbers 15 and 16 of the Decision and Order.

On November 12, 2009, Colleen Hanabusa, Esq., filed a Memorandum In Opposition To Department of Environmental Services, City And County Of Honolulu’s Motion For Reconsideration (“Memorandum in Opposition”) on behalf of herself, the Ko Olina Community Association, and Maile Shimabukuro (collectively “Intervenors”).

The Commission considered the Applicant’s Motion at its meeting on November 13, 2009, in Honolulu, Hawai`i. Gary Y. Takeuchi, Esq., and Jesse K. Souki, Esq., appeared on behalf of the Applicant. Colleen Hanabusa, Maile Shimabukuro, and Ken Williams appeared on behalf of the Intervenors. Bryan C. Yee, Esq., was also present on behalf of the State Office of Planning (“OP”).

At the meeting, the Commission received written testimony, which has been made part of the docket file, and heard the oral testimony of Lee Munson, Hanni Hartmann, Beverly Munson, Honolulu City Council Chair Todd Apo, Cynthia K. L. Rezentes, Kristi West, Kris Gourlay, Carl Tanaka, and Bryan C. Yee.

Following the receipt of public testimony, the Applicant moved to strike the Intervenors’ Memorandum in Opposition. Upon consideration of the

arguments of the Applicant and Intervenors on this matter, the Commission accepted the Intervenors' Memorandum in Opposition into the record.

Thereafter, the Applicant and Intervenors provided oral argument in support of their respective positions on the Applicant's Motion. Following discussion, a motion was made and seconded to deny the Applicant's Motion on the basis that there is no applicable statute or rule that provides for the reconsideration of special use permits by this Commission. There being a vote of 7 ayes and 2 absent, the motion carried.


ORDER

This Commission, having duly considered the Applicant's Motion, the written and oral arguments presented by the parties, and a motion having been made at a hearing held on November 13, 2009, in Honolulu, 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,

HEREBY ORDERS that the Applicant's Motion For Reconsideration be and is hereby DENIED on the basis that there is no applicable statute or rule that provides for the reconsideration of special use permits by this Commission.

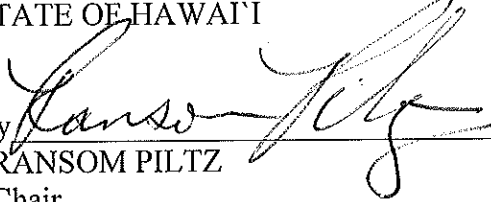
Done at Honolulu, Hawai'i, this 30th day of November, 2009, per motion on
November 13, 2009.

APPROVED AS TO FORM:




Deputy Attorney General

LAND USE COMMISSION
STATE OF HAWAII

By 

RANSOM PILTZ
Chair

Filed and effective on
12/1/09

Certified by:


Executive Officer

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS, FOLD AT DOTTED LINE.

CERTIFIED MAIL™



7002 2410 0000 3838 7955
7002 2410 0000 3838 7955

CERTIFIED MAIL™
Domestic Mail Only, N

For delivery information visit www.usps.com

POSTAGE

Postage \$

Certified Fee

Return Receipt Fee (Endorsement Required)

Restricted Delivery Fee (Endorsement Required)

Gary Takeuchi, Esq.

Tonja Jesse Souki, Esq.

Deputy Corporation Counsel

City and County of Honolulu

30 South King Street

Honolulu, HI 96813

PS Form 3811, June 2002

SENDER: COMPLETE THIS SECTION

SENDER: COMPLETE THIS SECTION

SENDER: COMPLETE THIS SECTION

Complete items 1, 2, and 3. Also complete

SENDER: COMPLETE THIS SECTION

SENDER: COMPLETE THIS SECTION

1. Article Addressed to:

1. Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.

2. Print your name and address on the reverse so that we can return the card to you, or on the front if space permits.

1. Article Addressed to:

Gary Takeuchi, Esq.

Deputy Corporation Counsel

City and County of Honolulu

30 South King Street, Room 110

Honolulu, HI 96813

2. Article Number

(Transfer from service label)

PS Form 3811, August 2001

Domestic Return Receipt

7002 2410 0000 3838 7955

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

COMPLETE THIS SECTION ON DELIVERY

COMPLETE THIS SECTION ON DELIVERY

Signature

COMPLETE THIS SECTION ON DELIVERY

COMPLETE THIS SECTION ON DELIVERY

Signature

COMPLETE THIS SECTION ON DELIVERY

COMPLETE THIS SECTION ON DELIVERY

A. Signature

B. Received by (Typed Name)

C. Date of Delivery

D. Is delivery address different from item 1? If YES, enter delivery address below:

Yes No

Agent Addressee

3. Service Type

Certified Mail

Registered

Insured Mail

Express Mail

Return Receipt for Merchandise

4. Restricted Delivery? (Extra Fee)

Yes

No

102595-02-M-1540

SP09-403

2002 2410 0000 3838 7955

2002 2410 0000 3838 7955

2002 2410 0000 3838 7955

2002 2410 0000 3838 7955

2002 2410 0000 3838 7955

2002 2410 0000 3838 7955

2002 2410 0000 3838 7955

2002 2410 0000 3838 7955

2002 2410 0000 3838 7955

2002 2410 0000 3838 7955

2002 2410 0000 3838 7955

2002 2410 0000 3838 7955

2002 2410 0000 3838 7955

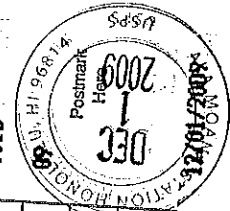
2002 2410 0000 3838 7955

2002 2410 0000 3838 7955

2002 2410 0000 3838 7955

2002 2410 0000 3838 7955

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only, No Insurance Coverage Provided)
For delivery information visit our website at www.usps.com
HONOLULU HI 96813



Postage	\$ 21.00
Certified Fee	\$ 1.38
Return Receipt Fee (Endorsement Required)	\$ 0.80
Restricted Delivery Fee (Endorsement Required)	\$ 0.73
Total	\$ 23.91

David Tanoue, Director
Department of Planning and Permitting
City and County of Honolulu
650 South King Street
Honolulu, Hawaii 96813

PS Form 3811, August 2001

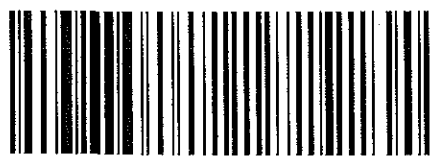
U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)
 For delivery information visit our website at www.usps.com
OFFICIAL USE

Postage \$	
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees \$	

Sent To **COLLEEN HANABUSA 2105-0**
220 So. King St., Suite 1230
 Street, Apt. #41
 or PO Box No. Honolulu, Hawaii 96813
 City, State, ZIP+4

PS Form 3800, June 2002 See Reverse for Instructions

7962 8838 0000 2412 2002
 7962 8838 0000 2412 2002



PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS, FOLD AT DOTTED LINE
CERTIFIED MAIL™

7962 8838 0000 2412 2002

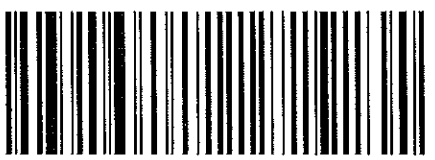
U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)
 For delivery information visit our website at www.usps.com
OFFICIAL USE

Postage \$	
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	

Carrie Okinaga, Esq.
 Corporation Counsel
 City & County of Honolulu
 530 South King Street
 Honolulu, Hawaii 96813

PS Form 3800, June 2002 See Reverse for Instructions

7962 8838 0000 2412 2002
 7962 8838 0000 2412 2002



PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS, FOLD AT DOTTED LINE
CERTIFIED MAIL™

7962 8838 0000 2412 2002

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)
 For delivery information visit our website at www.usps.com
OFFICIAL USE

Postage \$	
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	

Total David Tanoue, Director
 Department of Planning and Permitting
 City and County of Honolulu
 650 South King Street
 Honolulu, Hawaii 96813

PS Form 3800, June 2002 See Reverse for Instructions

7962 8838 0000 2412 2002
 7962 8838 0000 2412 2002



PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS, FOLD AT DOTTED LINE
CERTIFIED MAIL™

7962 8838 0000 2412 2002

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)
 For delivery information visit our website at www.usps.com
OFFICIAL USE

Postage \$	
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	

Department of Environmental Services
 City & County of Honolulu
 1000 Uluohia Street, 3rd Floor
 Kapolei, Hawaii 96707

PS Form 3800, June 2002 See Reverse for Instructions

7962 8838 0000 2412 2002
 7962 8838 0000 2412 2002



PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS, FOLD AT DOTTED LINE
CERTIFIED MAIL™

7962 8838 0000 2412 2002

9802-402