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

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

For A Special Use Permit To Establish             SPECIAL USE PERMIT
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, Hawaii`i, TMK No: 3-8-03: Por. 4
And 25

DECISION AND ORDER APPROVING A SECOND
AMENDMENT TO A SPECIAL USE PERMIT
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Maui, Hawai`i, TMK No: 3-8-03: Por. 4 )
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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
(“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"); 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,

Docket No. SP97-390 Dept. of Public Works
Hawaiʻi, 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 HAWAI‘I

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

Certified by:

By (absent)
LISA M. JUDGE
Commissioner

By
PETER YUKIMURA
Commissioner
SP97-390 Department of Public Works and Waste Management, Solid Waste Division, County of Maui
LOCATION MAP

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

EXHIBIT "A"
BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAI'O

In The Matter Of The Application Of The
DEPARTMENT OF PUBLIC WORKS
AND WASTE MANAGEMENT, SOLID
WASTE DIVISION, COUNTY OF MAUI

DOCKET NO. SP97-390
CERTIFICATE OF SERVICE

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, Hawa'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:

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GILBERT COLOMA-AGARAN
Department of Public Works & Environmental Management
Solid Waste Division
200 South High Street
Wailuku, Hawaii 96793

Dated: Honolulu, Hawaii, 

\[\text{DEC 14 2004}\]

\[\text{ANTHONY C. H. CHING}\]
Executive Officer