PLANNING COMMISSION
CITY AND COUNTY OF HONOLULU
STATE OF HAWAII

In the Matter of the Application of

DEPARTMENT OF THE ENVIRONMENTAL SERVICES, CITY AND COUNTY OF HONOLULU

To delete Condition No. 14 of Special Use Permit No. 2008/SUP-2
(also referred to as Land Use Commission Docket No. SP09-403)
which states as follows:

"14. Municipal solid waste shall be allowed at the WGSU up to July 31, 2012, provided that only ash and residue from H-POWER shall be allowed at the WGSU after July 31, 2012."

CONTESTED CASE HEARING
Ewa-State Special Use Permit Amendment Application - 2008/SUP-2 (RY) Waimanalo Gulch Sanitary Landfill

Taken at Mission Memorial Conference Room, Mission Memorial Building, 550 South King Street, Honolulu, Hawaii 96813, commencing at 1:32 p.m., on February 20, 2013, pursuant to Notice.
Appearances:

Planning Commission:

CORD D. ANDERSON, Interim Chairman

GAYLE PRINGREE, Member

DANIEL S.M. YOUNG, Member

JAMES C. PACOPAC, Member

DEAN I. HAZAMA, Member

For the Planning Commission:

WINSTON K.Q. WONG, ESQ.

Deputy Corporation Counsel

Department of the Corporation Counsel

530 South King Street, Room, 110

Honolulu, Hawaii 96813

For the City and County of Honolulu, Department of Environmental Services:

DANA VIOLA, ESQ.

Deputy Corporation Counsel

City and County of Honolulu

530 South King Street, Room 110

Honolulu, Hawaii 96813
Appearances (continued):

For Ko Olina Community Association and Senator Maile Shimabukuro:

CALVERT GRAHAM CHIPHA SE, IV, ESQ.
Cades Schutte
1000 Bishop Street, Suite 1200
Honolulu, Hawaii 96813

For Schnitzer Steel Hawaii Corp.:

IAN L. SANDISON, ESQ.
Carlsmith Ball LLP
ASB Tower, Suite 2200
1001 Bishop Street
Honolulu, Hawaii 96813

For Intervenor Colleen Hanabusa:

RICHARD N. WURDEMAN, ESQ.
333 Queen Street, Suite 604
Honolulu, Hawaii 96813
PROCEEDINGS

INTERIM CHAIRMAN ANDERSON: I'd like to call the meeting to order. First agenda item today is approval of minutes, October 31st, 2012; November 14th, 2012, and December 19th, 2012. Can I get a motion to approve the minutes as presented.

PACOPAC: Motion approve.

YOUNG: Second.

INTERIM CHAIRMAN ANDERSON: Thank you. Next on the agenda today. All in favor, say aye.

ALL COMMISSIONERS: Aye.


Next item on the agenda today is the contested case hearing, Ewa State Special Use Permit Amendment Application - 2008/SUP-2 Waimanalo Gulch Sanitary Landfill with regards to the Consideration of Order Remanding County Special Use Permit File No. 2008/SUP-2 to the City and County Planning Commission. First item relating to the order is Item 1A, Intervenors Ko Olina Community Association and Maile Shimabukuro's Motion to effect the consolidation of the separate proceedings in 2008/SUP-2 as ordered by the State LUC on October 8th, 2012. I'd like counsels to identify themselves, please, for the record.
MS. VIOLA: Good afternoon, Chair and members of the Committee. This is Dana Viola on behalf of the Department of Environmental Services, City and County of Honolulu.

MR. SANDISON: Good afternoon. Ian Sandison on behalf of Intervenor Schnitzer Steel Hawaii Corp.

MR. CHIPCHASE: Good afternoon, Cal Chipchase for the Ko Olina Community Association and Senator Maile Shimabukuro.

MR. WURDEMAN: Good afternoon, Richard N. Wurdeman for Intervenor Colleen Hanabusa.

INTERIM CHAIRMAN ANDERSON: Thank you. Who would like to speak considering today's motion?

MR. CHIPCHASE: I believe I drew the short straw. Chair, rather then address the items on the agenda, what I wanted to discuss is what you have before you and that's a stipulation signed by all the parties to continue both items on the agenda. And the reason we submit the stipulation for continuance of both agenda items is that Ko Olina and the City are currently in discussions, the goal of which to produce joint findings, conclusions, recommendations and Order--Decision and Order for the Commission's consideration. And we need additional time to complete those discussions which hopefully will bear fruit of a joint Findings and Conclusions for the Commission's
consideration. And so we presented the Stipulation to all parties. All parties have signed off with their concurrence and with the fact that the hearing in this matter has never been closed. The Commission has additional time to give us and we ask it for it today.

INTERIM CHAIRMAN ANDERSON: Ms. Viola anything?

MS. VIOLA: Nothing to add just a word of info. I do have something to add in terms of support of Cal's motion or the parties motion, Stipulation rather. I just wanna represent that the Administration is currently involved on ongoing discussions, and we look forward to continued discussions so the representation for the City is that we want to continue this matter so that we can hopefully put forth a joint resolution.

MR. SANDISON: Schnitzer also supports the continuation, and I believe it's in the best interest of all parties for this matter.

MR. WURDEMAN: Thank you. I've also signed a Stipulation, and I'm open to hearing what the Administration might have to say and that's why we're in agreement with the continuance.

INTERIM CHAIRMAN ANDERSON: Thank you, Mr. Wurdemann. Commissioners, any objections to the continuance?
PACOPAC: I do. What kinda timing are you guys looking at? How much time do you guys need?

MR. CHICHASE: We ask that the hearing be continued until the first meeting in April which, if everything went according to schedule, it would be April 10th or soon thereafter as we can appear.

INTERIM CHAIRMAN ANDERSON: Do the Commissioners have any objections taking up Item 1B in conjunction with item 1A? In order to consider together with the motion to continue the motion--excuse me, one more time. Do the Commissioners have any objections taking up Item 1B deliberation on the order and consider together with the motion to continue the motion to affect consolidation?

ALL COMMISSIONERS: No.

INTERIM CHAIRMAN ANDERSON: Okay. Hearing none, I'd like to enter into deliberation and closed session. If you guys would give us 10, 15 minutes just to discuss amongst ourselves.

[At 1:40 p.m., everyone not participating in closed executive session exits the hearings room; and at 1:50 p.m. everyone returns to the hearings room and meeting is resumed]
INTERIM CHAIRMAN ANDERSON: Okay, back in session.

[bangs gavel] Thank you for letting us talk, discuss some things. One of the things, I guess, I'd brought up to Winston and some of the Commissioners was this April 10th date. Is this something you guys are comfortable with looking over some of the Findings of Fact, Conclusions are pretty lengthy on each of your behalf and the responses to each others. Is something like April 10th a realistic date?

MR. CHIPCHASE: Speaking only for Ko Olina, I couldn't say with certainty that by April 10th we will have Findings and Conclusions jointly submitted to the Commission for its consideration, but I can say with confidence that by then, we'll know whether there's any point continuing the hearing further. You know, we'll have an opportunity to discuss things and see if we can come to a resolution. We'll know one way or the other. And if we can and all we need is additional time for drafting or finalizing some things, then I would submit that we would come back or submit on paper for additional time. On the other hand, if we haven't been able to, we just can't cross that bridge and you need to make a decision, then I think we'd be prepared to go forward.

MS. VIOLA: I agree.

INTERIM CHAIRMAN ANDERSON: Anyone else?

MR. SANDISON: We agree.
MR. WURDEMAN: Nothing further as far as scheduling.

INTERIM CHAIRMAN ANDERSON: Is the availability of April 10th for this room, is that an issue?

HEARINGS REPORTER: I have April 17th.

INTERIM CHAIRMAN ANDERSON: April 17th. Is there anything on April 10th?

PACOPAC: Make it on the 17th.

INTERIM CHAIRMAN ANDERSON: Could it be on the 17th then?

MR. CHIPCHASE: That's completely acceptable to us.

INTERIM CHAIRMAN ANDERSON: Are we all good on the 17th?

PACOPAC: Yes.

INTERIM CHAIRMAN ANDERSON: Gayle.

MS. PINGREE: I have to make it good, right? I'll try.

MS. VIOLA: Can I just clarify, is it 1:30 well?

INTERIM CHAIRMAN ANDERSON: I believe so, yes.

PACOPAC: You know that you need to get five of us here 'cause we're the only five.

MS. VIOLA: Right.
PACOPAC: So, we're gonna schedule the 17th but it's upon our availability because, you know, we also have schedules. So, be patient and hopefully we can do it.
MS. VIOLA: We'll be patient with you 'cause you've been patient with us.
PACOPAC: 'Cuase if not--you know, you gotta be patient with us.
MS. VIOLA: That's fine.
INTERIM CHAIRMAN ANDERSON: We'll take up the Stipulation and Order to continue the February 20th, 2013, hearing that was submitted earlier today. Make a motion?
PACOPAC: I move to agree on the Stipulation and Order to continue the February 20th, 2013, hearing to April 17th, 2013.
YOUNG: Second.
INTERIM CHAIRMAN ANDERSON: All in favor?
ALL COMMISSIONERS: Aye.
PACOPAC: So moved.
YOUNG: Second.
PACOPAC: I should move to adjourn.
INTERIM CHAIRMAN ANDERSON: Oh, sorry.
PACOPAC: Move to adjourn.
YOUNG: Second.

INTERIM CHAIRMAN ANDERSON: All in favor?

ALL COMMISSIONERS: Aye.

INTERIM CHAIRMAN ANDERSON: Okay, meeting adjourned. [bangs gavel]

(Whereupon, on February 20, 2013, at 1:50 p.m., the hearing was adjourned.)

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Respectfully submitted by:

[Signature]