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BEFORE THE PLANNING COMMISSION  
OF THE CITY AND COUNTY OF HONOLULU  
STATE OF HAWAII

In the Matter of the ) FILE NO. 2008/SUP-2  
Application of )  
)  
)  
DEPARTMENT OF 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 ) S U P P L E M E N T  
Docket No. SP09-403) which )  
states as follows: )  
)  
)  
"14. Municipal solid waste )  
shall be allowed at the )  
WGSL up to July 31, 2012, )  
provided that only ash and )  
residue from H-POWER shall )  
be allowed at the WGSL )  
after July 31, 2012." )  
-----)

CONTESTED CASE HEARING (SUPPLEMENT)

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 9:05 a.m., on  
April 4, 2012, pursuant to Notice.

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BEFORE: SUE M. FLINT, RPR, CSR 274  
Notary Public, State of Hawaii

APPEARANCES:

Planning Commission:

- GAYLE PINGREE, Chairwoman
- CORD D. ANDERSEN, Member
- DANIEL S.M. YOUNG, Member
- BEADIE DAWSON, Member
- JAMES C. PACOPAC, 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

1 Appearances (continued):

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

4 DANA MIE OSHIRO VIOLA, ESQ.

5 ROBERT BRIAN BLACK, ESQ.

6 Deputies Corporation Counsel

7 City and County of Honolulu

8 530 South King Street, Room 110

9 Honolulu, Hawaii 96813

10

11 For Ko Olina Community Association and Senator Maile  
12 Shimabukuro:

13 CALVERT GRAHAM CHIPCHASE, IV, ESQ.

14 CHRISTOPHER T. GOODIN, ESQ.

15 Cades Schutte

16 1000 Bishop Street, Suite 1200

17 Honolulu, Hawaii 96813

18

19 For Schnitzer Steel Hawaii Corp.:

20 IAN L. SANDISON, ESQ.

21 ARSIMA A. MULLER, ESQ.

22 Carlsmith Ball LLP

23 ASB Tower, Suite 2200

24 1001 Bishop Street

25 Honolulu, Hawaii 96813

1 **REPORTER'S NOTE:** Per agreement of Counsel on  
 2 4-11-12, this portion of the transcript, reflecting  
 3 Mr. Chipchase's examination of Gary Gill, was  
 4 re-transcribed to include the videotape  
 5 presentation.

6 I N D E X

7  
8 WITNESS: TOM ZELENKA

9 Mr. Sandison ..... 8, 24  
 10 Mr. Goodin ..... 13  
 11 Ms. Viola ..... 26  
 12 Member Dawson ..... 28  
 13 Member Pacopac ..... 29

14 WITNESS: JANICE MARSTERS

15 Ms. Viola ..... 32  
 16 Mr. Chipchase ..... 59  
 17 Member Dawson ..... 117  
 18 Chairperson Pingree ..... 122

19 WITNESS: MAILE SHIMABUKURO

20 Testimony ..... 124

21 WITNESS: MAEDA TIMSON

22 Testimony ..... 133

23 WITNESS: GARY GILL

24 Ms. Viola ..... 144, 156  
 25 Mr. Chipchase ..... 153

## 1 CONTESTED CASE HEARING (SUPPLEMENT)

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## E X A M I N A T I O N

4 BY MR. CHIPCHASE:

5 Q. Good afternoon, Mr. Gill.

6 A. Hello.

7 Q. My name is Cal Chipchase. I represent the

8 Ko Olina Community Association and Senator

9 Shimabukuro. I will do my best to lead you as well

10 as Ms. Viola did, but if I fall short, let me know.

11 MS. VIOLA: Objection.

12 BY MR. CHIPCHASE:

13 Q. Do you remember appearing on a show called

14 PBS Insight in March 2011?

15 A. Island Insights.

16 Q. Island Insights on PBS?

17 A. I do.

18 Q. And Maeda Timson was on that show, as

19 well?

20 A. Yes, she was.

21 Q. I'd like to show you just a couple of

22 clips from that appearance, if I could.

23 (The following is transcription from

24 videotape.)

25 MR. BOYLAN: Gary, I think you took some

1 pictures of some of that.

2 MR. GILL: That I did. I'm happy to show  
3 them if --

4 MR. BOYLAN: And we'd love to show them.  
5 Could we bring some of those pictures up on the  
6 screen for -- here's the first one.

7 MR. GILL: Here we go. Just to get people  
8 oriented, this is looking down on the landfill, and  
9 that large shiny thing to the lower right is the  
10 lake, the collected storm water that was stored on  
11 the top of the landfill, which is what gave us so  
12 much concern.

13 That is an active cell. It's where  
14 garbage had been placed and then it got deluged with  
15 the rain and eroded from the landfill and ultimately  
16 flushed into the storm drain system and ultimately  
17 into the ocean.

18 I think we have a few more to go through.

19 MR. BOYLAN: I think we've got another  
20 one.

21 MR. GILL: We've got a whole bunch, but --  
22 okay. This is a close-up of the lake itself, and  
23 the concern that we had to deal with is this is  
24 after any material had been washed -- this is a day  
25 or so after the flood itself, but you can see the

1 containment of the water up there, and the concern  
2 would be that this could erode and potentially have  
3 a catastrophic collapse of the landfill unless that  
4 water was dealt with.

5 So it will show you -- this is the  
6 sedimentation basin below the landfill where  
7 floatable plastic material, including medical waste,  
8 was flushed down over the top of this --

9 MR. BOYLAN: That thing, the boundary  
10 there or --

11 MR. GILL: The yellow boom was put in  
12 afterwards to catch -- that wasn't there during the  
13 flood itself. But the water is supposed to be  
14 caught here and then sift through a filter before it  
15 goes out into the ocean, and it basically just  
16 overflowed.

17 And you'll see the berm in the next  
18 picture, how this is containing that sedimentation  
19 basin. And it's clean now, but this is a day or so  
20 after the flood and it was pretty much, you know,  
21 covered with plastic material, styrofoam, anything  
22 that floated off of the lake up above.

23 And then from here, that's just an example  
24 of -- a small sample of the medical waste that was  
25 included in what flushed into the ocean.

1           And here's the -- where it basically  
2 enters the cove right before the ocean. The City  
3 posted signs because of the contamination, and of  
4 course, you'll see brown water entering the ocean.  
5 This is a day or so after the flood, as the lake was  
6 brought down.

7           So you had a concern -- basically, the  
8 reason that the flood took place is the diversion of  
9 all that water that was supposed to -- it's not  
10 supposed to go over the landfill. It's supposed to  
11 be channeled off to the side. And that channel had  
12 not been completed at the time that the big rains  
13 came, and so basically a torrent of water came down  
14 from the mountains, over the top of the landfill,  
15 eroded what had been put in the landfill, floated  
16 plastics out, down the storm drain and out into the  
17 ocean.

18                           (End of videotape transcription.)

19 BY MR. CHIPCHASE:

20           Q.       So Mr. Gill, when you talk about the  
21 flood, you're talking about the January 2011 flood?

22           A.       That's the flood that over-capped the  
23 containment basin and took solid waste into the  
24 ocean, yes.

25           Q.       Toward the end of that clip you talked



1 about why the flood happened.

2 MR. CHIPCHASE: I wonder, can we just play  
3 that last part of the clip again?

4 (The following is transcription from  
5 videotape.)

6 MR. GILL: -- basically, the reason that  
7 the flood took place is the diversion of all that  
8 water that was supposed to -- it's not supposed to  
9 go over the landfill. It's supposed to be channeled  
10 off to the side. And that channel had not been  
11 completed at the time that the big rains came, and  
12 so basically a torrent of water came down from the  
13 mountains, over the top of the landfill, eroded what  
14 had been put in the landfill, floated plastics out,  
15 down the storm drain and out into the ocean.

16 (End of videotape transcription.)

17 BY MR. CHIPCHASE:

18 Q. Toward the end of the show, toward the end  
19 of Island Insights, you make the same point about  
20 the reason for the flood being that the diversion  
21 channel wasn't in place. We'll play that very  
22 quick.

23 (The following is transcription from  
24 videotape.)

25 MR. BOYLAN: Gary, did you have any

1 response to some of Maeda's statements?

2 MR. GILL: Well, just to put it into  
3 perspective, there's -- no waste is supposed to  
4 leave the landfill, okay, so -- medical waste or  
5 other. And it happened this time because the storm  
6 water diversion system had not been put in place.

7 It is in place now, by the way, so if a  
8 large storm happens, this kind of water is not going  
9 to be going through the top of the landfill.

10 (End of videotape transcription.)

11 BY MR. CHIPCHASE:

12 Q. You also talked about the failure to have  
13 the diversion system in place before the Senate Ways  
14 and Means Committee. Do you remember that?

15 A. I'm not remembering before the Senate Ways  
16 and Means Committee or what you might be referring  
17 to.

18 Q. Fair enough. Mr. Gill, I've handed you a  
19 copy of Exhibit K208, and I'll wait until it gets  
20 passed out.

21 Mr. Gill, Exhibit 208 is a printout of an  
22 article that appeared in Civil Beat. If I could  
23 direct you down to the third and fourth paragraphs,  
24 and I'll read them. Quote: What happened should  
25 not have happened, health department Deputy Director

1 Gary Gill told the Hawaii Senate Ways and Means  
2 Committee this week. Quote: The rains flooded the  
3 landfill. All of that water is supposed to be  
4 diverted around the landfill. The landfill has been  
5 expanded a number of times and the diversion system  
6 has not kept up with the expansions.

7 The next paragraph is Permit Conditions,  
8 and here's some of the things that you talked about  
9 with Ms. Viola.

10 Permit conditions require landfill  
11 operators to have geomembrane sheets and pumps on  
12 hand during construction of the diversion channel.  
13 It's unclear whether those preventive measures were  
14 used or ineffective.

15 Do you see that?

16 A. I do see it.

17 Q. I have one more clip from PBS Insight to  
18 show you. You talked with Ms. Viola about the  
19 City's efforts to divert waste from the landfill;  
20 right? I'm sorry. You have to answer yes or no.

21 A. Yes, I spoke about that.

22 MR. CHIPCHASE: Can we play the last clip?

23 (The following is transcription from  
24 videotape.)

25 MR. GILL: We still have electronic waste.

1 We still have tires. We still have lots of parts of  
2 the waste stream which we are way behind -- the city  
3 of Portland, I think, has reached 60 percent in  
4 terms of waste diversion, and you can fight over the  
5 numbers and how they calculate them, but we're doing  
6 about half as well as we need to, and not only as a  
7 city, but as a state, especially because we're an  
8 island state.

9 (End of videotape transcription.)

10 MR. CHIPCHASE: Doing about half as well  
11 as we need to. Thank you.

12 Your witness.

13 (End of supplemented transcript.)

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STATE OF HAWAII )  
 ) SS.  
CITY AND COUNTY OF HONOLULU )

I, SUE M. FLINT, Notary Public, State of Hawaii, do hereby certify:

That on April 4, 2012, at 9:00 a.m., the foregoing contested case hearing was taken down by me in machine shorthand and was thereafter supplemented and reduced to typewriting under my supervision;

That the foregoing represents to the best of my ability, a true and correct transcript of the proceedings had in the foregoing matter.

I further certify that I am not an attorney for any of the parties hereto, nor in any way concerned with the cause.

This 13-page supplement to the transcript dated April 4, 2012, was subscribed and sworn to before me this 15th day of April, 2012, in Honolulu, Hawaii.

*Sue M. Flint*

-----  
SUE M. FLINT, RPR, CSR 274  
Notary Public, State of Hawaii  
My Commission Exp: July 23, 2015

