

Authorization *David Tanoue*
Advertisement *Sept. 4, 2011*
Public Hearing *Oct. 5, 2011*

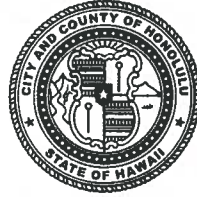
DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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PETER B. CARLISLE
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DAVID K. TANOUE
DIRECTOR

JIRO A. SUMADA
DEPUTY DIRECTOR

DEPT OF PLANNING
AND PERMITTING
CITY & COUNTY OF HONOLULU
2011/GEN-8(RY)
2008/SUP-2

September 9, 2011

MEMORANDUM

TO: GAYLE PINGREE, CHAIR
AND MEMBERS OF THE PLANNING COMMISSION

FROM: DAVID K. TANOUE, DIRECTOR *DKT*
DEPARTMENT OF PLANNING AND PERMITTING

SUBJECT: AMENDMENT TO SPECIAL USE PERMIT FILE NO. 2008/SUP-2
DEPARTMENT OF ENVIRONMENTAL SERVICES
DELETION OF CONDITION NO. 14 DECISION AND ORDER FOR
WAIMANALO GULCH SANITARY LANDFILL, HONOULIULI, EWA, OAHU
TAX MAP KEY 9-2-3: 72 AND 73

Transmitted for appropriate action is my report and recommendation for approval of the Applicant's request to delete Condition No. 14 and allow the disposal of municipal solid waste at the Waimanalo Gulch Sanitary Landfill (WGSL) beyond July 1, 2012.

The Mayor's Landfill Advisory Committee is currently holding meetings for the selection of an alternate landfill site(s) and is not anticipated to submit its recommendation until October 2011. Following the selection of an alternate site(s), the Applicant projects it to take approximately seven years to acquire, obtain approvals, and construct another landfill. Although alternative disposal technologies, waste reduction, and recycling programs have been successful in diverting most of the City's municipal solid waste from WGSL, there will always be a need for a landfill to accommodate waste that cannot be recycled or disposed of by alternative methods.

DKT:js
Doc 873597

Attachment

cc: Tim Steinberger, Department of Environmental Services

DPP 10

DEPARTMENT OF PLANNING AND PERMITTING
OF THE CITY AND COUNTY OF HONOLULU

STATE OF HAWAII

IN THE MATTER OF THE APPLICATION OF)

DEPARTMENT OF)
ENVIRONMENTAL SERVICES)

FILE NO. 2008/SUP-2

FOR AN AMENDMENT TO A)

SPECIAL USE PERMIT)

FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND DECISION AND RECOMMENDATION

I. APPLICATION

A. Basic Information

APPLICANT/LANDOWNER : Department of Environmental Services,
City and County of Honolulu

LOCATION : 92-460 Farrington Highway, Honouliuli,
Ewa, Oahu

TAX MAP KEY : 9-2-3: 72 & 73 (Exhibit 1)

AREA OF SPECIAL USE PERMIT: 200.622 Acres

RECORDATION : Land Court

STATE LAND USE DISTRICT : Agricultural (Exhibit 1)

EWA DEVELOPMENT PLAN : Recognizes the existing landfill;
expansion or siting of landfills to be
based on an island-wide study

EXISTING ZONING : AG-2 General Agricultural District

EXISTING USE : Landfill and open space

SURROUNDING LAND USE : Hawaiian Electric Company Kahe Power Plant to the west, single-family dwellings and Ko Olina Resort to the south, vacant lands to the north and east.

B. Proposal

Department of Environmental Services, City and County of Honolulu (the "Applicant"), requests that the Land Use Commission's ("LUC") Order, dated October 22, 2009 (the "2009 LUC Decision"), be modified by deleting Condition No. 14 which sets a July 31, 2012, deadline to cease disposal of municipal solid waste ("MSW") at Waimanalo Gulch Sanitary Landfill ("WGSL"). The Applicant seeks to use the WGSL, Oahu's only landfill permitted to accept MSW, until capacity as allowed by the State Department of Health ("DOH") under its solid waste permitting process, is exhausted. No other changes to the 2009 LUC Decision are being proposed at this time.

Condition No. 14 of the 2009 LUC Decision (**Attachment A**) reads 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."

In support of its request to delete the above condition, the Applicant essentially concludes that:

- There is adequate capacity to continue operation of the WGSL for another 15 years based on recent and historic rates of the amount of waste disposal, notwithstanding a catastrophic disaster generating massive amounts of waste and debris.
- There are no other alternative sites or methods to dispose of MSW that cannot be recycled or disposed of under current programs.
- The development of an alternate landfill as required in Condition No. 4 of the 2009 LUC Decision, is projected to take seven years, well beyond the deadline of Condition No. 14.

Although Condition No. 14 allows the disposal of H-POWER¹ ash and residue at WGSL to continue beyond July 31, 2012, deletion of Condition No. 14 is not intended to impact the continued disposal of H-POWER ash and residue at the site.

¹ Honolulu Program of Waste Energy Recovery, also referred to as H-POWER, began operation in 1990 and converts waste into electricity sufficient to power approximately 60,000 homes.

A copy of the Applicant's request (without associated exhibits) is attached as **Attachment B**.

C. Background

The following table summarizes the history of Special Use Permit (SUP) approvals for the project:

Table 1 – Summary of SUP Approvals

Date Approved	Description	Acreage	Comments
Apr 20, 1987	SUP for landfill development.	60.5	--
Oct 31, 1989	SUP area amended to include accessory uses.	26.0	Accessory uses were inadvertently excluded from original SUP application.
Jun 9, 2003	SUP area amended to increase capacity for another 5 years	21.0	LUC imposes conditions to select new landfill site and close WGSL by May 1, 2008; City Council selects WGSL as future landfill.
Mar 14, 2008	SUP closure deadline extended to Nov 1, 2009	--	Allows the use of excess capacity resulting from DOH's permitted increase in height of landfill cells.
Oct 22, 2009	SUP area amended to include remainder of City-owned property	93.1	Condition 14 prohibits disposal of MSW after July 1, 2012; disposal of H-POWER ash and residue allowed to continue.
Total SUP Acreage		200.6	Referred to as the "Property".

D. Status of Applicant's Efforts to Reduce Further Use of WGSL

1. Alternative Landfill Site(s)

Condition No. 4 of the 2009 LUC Decision requires the Applicant to identify and develop one or more landfill sites to either replace or supplement WGSL. Upon selection of a new landfill site(s), the Planning Commission is to hold a public hearing on the need for WGSL and make a recommendation to the LUC. A Landfill Advisory Committee (LAC) made up of experts and community members was convened by the Mayor. Meetings started in early 2011 have been ongoing as of the date of this report. The LAC's recommendation for a replacement landfill site(s) is anticipated by October 2011.

2. Waste Diversion Programs

Over the life of the landfill, the Applicant reports that volumes of MSW delivered to the site has steadily decreased (with adjustment for Oahu's population growth) due to waste diversion programs involving recycling; including conversion to power via H-POWER, reductions in generation,

and changes in economic conditions. During the period from 2005 to 2009, the volumes of MSW disposed at the site are as follows:

Table 2 – MSW Deposited at WGS�

Year	2005	2006	2007	2008	2009
Tons	391,579	286,842	306,691	233,065	178,512

In the last two years, the amount and major types of waste disposed at WGS� breaks down as follows:

Table 3 – Summary of Waste Deposited at WGS�

Description	2010² Tons	2011 Tons
H-POWER ash	73,238	83,298
H-POWER residue	80,827	61,614
MSW	109,229	175,315

The Applicant reports in its June 1, 2011 annual report (Attachment C) to the Land Use Commission and the Planning Commission, that it is continuing efforts to reduce overall volumes disposed at the WGS� in accordance with Condition No. 5 as follows:

- Expansion of the waste-to-energy recovery facility known as H-POWER. Presently, H-POWER annually converts over 600,000 tons of waste to electricity, powering local businesses and homes. The proposed expansion involves installing a mass burn combustion system (also referred to as the “Third Boiler”) which is anticipated to process at least 300,000 tons per year of municipal solid waste and is projected to be completed by end of 2011 and fully operational by July 2012.
- The Applicant issued two request for proposals to find alternative solutions to the disposal of H-POWER ash and residue. One proposal was received but it lacked the necessary documentation to be deemed feasible.
- With respect to alternative methods to divert sewage sludge from WGS�, the Applicant is currently converting sewage sludge generated at the Sand Island and Laie Sewage Treatment Plants into fertilizer and soil amendment with approximately 80 percent of the fertilizer being sold and the remainder disposed at WGS�. The Applicant has also contracted Hawaiian Earth Recycling to process sewage sludge generated at Kailua, Wahiawa, and Honouliuli Wastewater Treatment Plants into soil amendment.

² Based on a reporting period for August 2009 through May 2010.

- Residential curbside recycling, which began in October 2007, included the entire island by May 2010 and serves more than 160,000 homes.
- Other source reduction and recycling programs are ongoing, including the recycling of demolition and construction debris, multi-family dwelling and community recycling bins, e-waste disposal (including efforts to ban all e-waste from WGSL), business waste recycling, and continued efforts to educate the public. In general, there has been an increase in general materials recycling as a percentage of overall waste generation. The Applicant's 2011 annual report provide further details on recycling and waste diversion programs and volumes.

E. Environmental Impact Statement

The instant application to amend the 2009 LUC Decision is not subject to environmental disclosure requirements of Chapter 343, Hawaii Revised Statutes. Nevertheless, the Department of Planning and Permitting (DPP) has reviewed the Applicant's statement of need for a supplemental environmental impact statement and determined that a supplemental impact statement is not required.

F. Department of Health Solid Waste Management Permit

On December 1, 2008, the Applicant submitted to the DOH, a request to renew its Solid Waste Operating Permit No. 0054-02 to allow a lateral expansion of landfill operations within the Property. The DOH approved the application on June 4, 2010. Under the Solid Waste Operating Permit, the Applicant is allowed to continue disposal of waste at WGSL until design grades are met or until restricted by any limits of the SUP, whichever occurs first. General site excavation, new cell construction, and improvements to the drainage system are currently ongoing.

II. FINDINGS OF FACT

On the basis of the evidence provided, the Director found:

A. Public Agency Comments

The following public agencies were requested to evaluate the proposed amendment:

CITY

1. Board of Water Supply (BWS)
2. Department of Emergency Management (DEM)
3. Department of Design and Construction (DDC)

4. Department of Facility Maintenance (DFM)
5. Honolulu Fire Department (HFD)
6. Honolulu Police Department (HPD)
7. Department of Transportation Services (DTS)

STATE

1. Department of Agriculture (DOA)
2. Department of Land and Natural Resources (DLNR)
3. Department of Business, Economic Development and Tourism, Land Use Commission (LUC)
4. Department of Business, Economic Development and Tourism, Office of Planning (OP)
5. Department of Land and Natural Resources (DLNR)
6. Department of Land and Natural Resources, State Historic Preservation Division (SHPD)
7. Department of Health (DOH)
8. Department of Transportation (DOT)

FEDERAL

1. Army Engineer District, Honolulu
2. Department of the Interior, Fish and Wildlife Service

No objections were raised by the public agencies. Comments submitted by agencies are attached as Attachment D.

B. Community Concerns

Copies of the Special Use Permit application were transmitted to the Honokai Hale/Makakilo/Kapolei Neighborhood Board No. 34 and the Nanakuli Neighborhood Board No. 36.

In a letter dated August 17, 2011, the Honokai Hale/Makakilo/Kapolei Neighborhood Board No. 34 stated that they voted to oppose the amendment request.

As of the date of this report and recommendation to the Planning Commission, the Nanakuli Neighborhood Board No. 36 did not provide any comments.

In addition, 15 letters (via postal delivery or email) were received in opposition to the request.

Common concerns among comments submitted relate to mis-management, history of violations at the site, adverse impacts on area businesses, traffic,

noise, odor, litter impacts on area residents, broken promises, lack of authority, threats to health and safety, and consideration of alternate technologies.

Community comment letters are attached as part of Attachment D.

III. ANALYSIS

A. Public Plans and Policies

1. Planning Commission Rules and the Land Use Law, Chapter 205, Hawaii Revised Statutes (HRS)

Section 2-49 of the Planning Commission Rules states that a modification or deletion of a condition shall be processed in the same manner as the original petition for an SUP. Section 205-6, HRS, allows the county planning commission to permit certain unusual and reasonable uses within the agricultural district other than those for which the district is classified.

In determining whether a proposed use is deemed “unusual and reasonable,” Section 2-45 of the Planning Commission Rules established five guidelines (five tests) to be applied. These guidelines are also found in Title 15-15, of the Hawaii Administrative Rules for the LUC.

The basic analysis and subsequent conclusion of whether the existing landfill meets the five tests and constitutes an “unusual and reasonable use” was completed and determined by the City and County of Honolulu Planning Commission and by the LUC as the SUP, File No. 2008/SUP-2 (LUC Docket No. SP09-403) was granted on October 22, 2009. The Applicant’s instant request does not affect the Director’s prior analyses and conclusions in recommending approval of the establishment and expansion of the WGSL.

2. State and County Plans, Programs, and Zoning Regulations

In 2009, with the granting of the latest expansion to WGSL, the consistency with State and local plans, programs, and local zoning requirements was addressed. The instant application does not change the Director’s prior analysis found in its last report and recommendations to the Planning Commission dated May 1, 2009, which is still applicable for this amendment proposal.

3. City Council Resolution

On December 1, 2004, the Honolulu City Council adopted Resolution No. 04-348 which selects the WGSL as the future landfill site and citing the following reasons for its decision:

- WGSL has over 15 years of capacity remaining.
- Least expensive to develop and maintain and costs associated with its operations are known.
- A landfill management contract is in place for 15 years and the operator is committed to addressing community concerns.

B. Social Impacts

Deletion of Condition No. 14 will not have any increased social impacts that were not already addressed in the Director's prior analysis and report to the Planning Commission. No new impacts on residential population increases or decreases in the area are anticipated.

IV. CONCLUSION

Deleting Condition No. 14 would allow the continued disposal of municipal solid waste at Waimanalo Gulch Sanitary Landfill. As there is no other alternative for the disposal of MSW, continued disposal at WGSL beyond July 1, 2012, would avert a social and economic crisis that would result. There is additional solid waste capacity to accommodate MSW for another 15 years at current disposal rates. Public policy has been established through an extensive review process by the Honolulu City Council in which the WGSL, in compliance with the requirements of the State Land Use Commission, was chosen as the site for landfill needs until an alternative site or sites can be established.

Denial of the request to delete Condition No. 14 may have significant adverse impacts upon the health, safety and welfare of the general public, as well as local businesses. It would adversely affect the economy especially as it relates to the visitor industry, the State's primary economic engine, as there is no other alternative to dispose of MSW that cannot be processed under existing disposal and recycling programs.

Given that the amount of lead time required to select, acquire, and develop an alternative landfill site(s) is about seven years, start of operations at a new landfill site would be well after the July 1, 2012 deadline to cease acceptance of MSW at WGSL. It is reasonable to conclude that the granting of this request is the most viable option. It addresses the immediate needs for land filling requirements until such time that an alternative site(s) has been fully implemented to divert MSW from WGSL. Concerns

relating to impacts on the surrounding community and the environment have been, and are being addressed.

The proposal is also in compliance with relevant State and City policies and no adverse infrastructure impacts are anticipated. Thus, the deletion of the deadline to cease acceptance of municipal solid waste at WGS� is "unusual and reasonable" as set forth in Chapter 205-6, Hawaii Revised Statutes, and Section 2-45 of the "Rules of the Planning Commission."

V. RECOMMENDATION

The Director of the Department of Planning and Permitting recommends that an amendment to Special Use Permit No. 2008/SUP-2, also referred to as Land Use Commission Docket No. SP09-403, to delete Condition No. 14, which prohibits the disposal of municipal solid waste at Waimanalo Gulch Sanitary Landfill after July 1, 2012, Tax Map Key 9-2-3: Parcels 72 and 73, be APPROVED. All other conditions shall remain in full force and effect.

Dated at Honolulu, Hawaii this 9th day of September 2011.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU
STATE OF HAWAII

By



David K. Tanoue, Director
Department of Planning and Permitting

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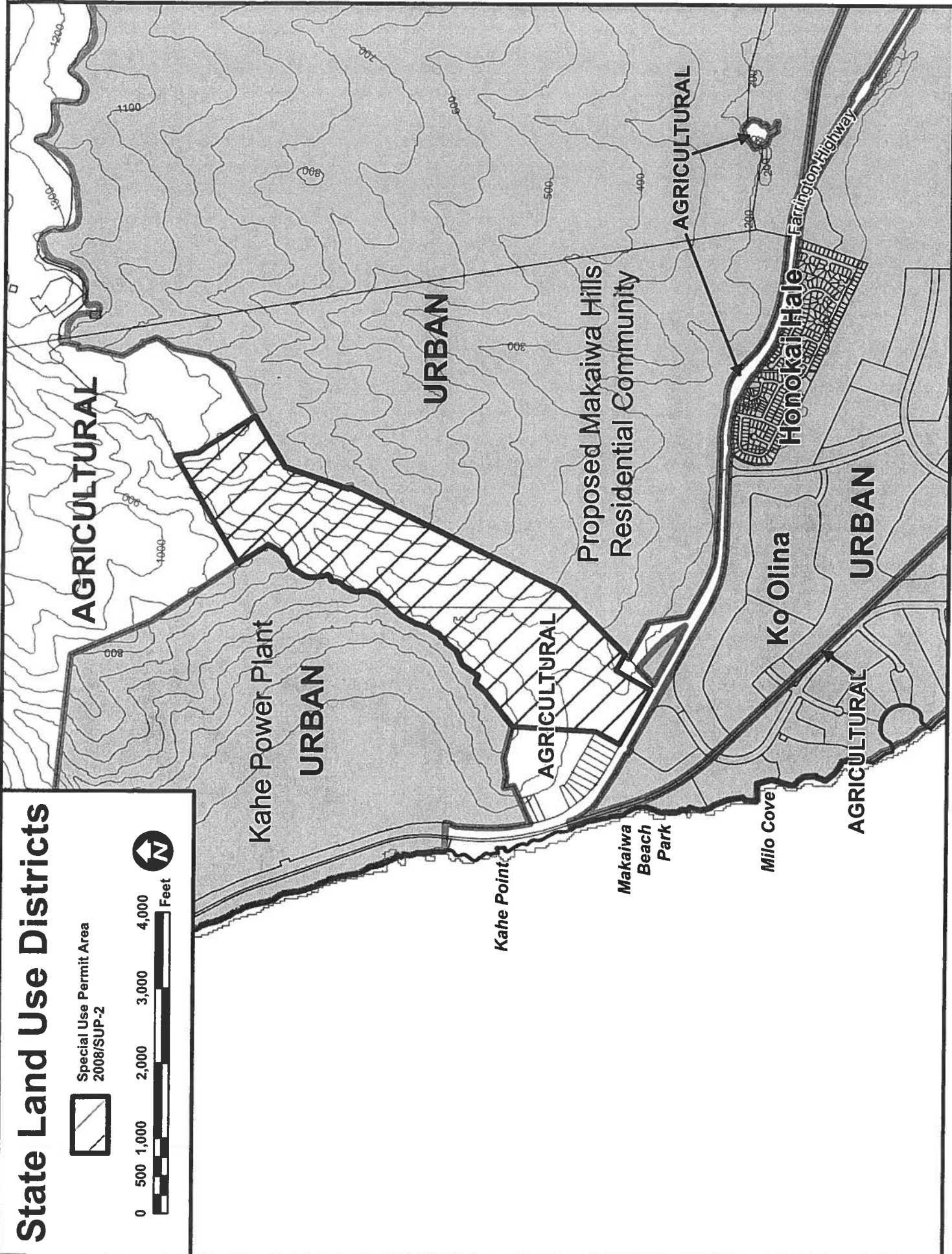
Attachments

EXHIBIT 1

State Land Use Districts



Special Use Permit Area
2008/SUP-2



Attachment A



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BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

DEPT OF PLANNING
AND PERMITTING
CITY & COUNTY OF HONOLULU

In The Matter Of The Application Of The)	DOCKET NO. SP09-403
)	
DEPARTMENT OF ENVIRONMENTAL)	ORDER ADOPTING THE CITY
SERVICES, CITY AND COUNTY OF)	AND COUNTY OF HONOLULU
HONOLULU)	PLANNING COMMISSION'S
)	FINDINGS OF FACT,
For A New Special Use Permit To)	CONCLUSIONS OF LAW, AND
Supersede Existing Special Use Permit To)	DECISION AND ORDER WITH
Allow A 92.5-Acre Expansion And Time)	MODIFICATIONS
Extension For Waimānalo Gulch Sanitary)	
Landfill, Waimānalo Gulch, O`ahu,)	
Hawai`i, Tax Map Key: 9-2-03: 72 And 73)	
_____)	

ORDER ADOPTING THE CITY AND COUNTY OF HONOLULU
PLANNING COMMISSION'S FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND DECISION AND ORDER WITH
MODIFICATIONS

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.

October 22 2009 by

Executive Officer

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 ADOPTING THE CITY
SERVICES, CITY AND COUNTY OF)	AND COUNTY OF HONOLULU
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_____)	

ORDER ADOPTING THE CITY AND COUNTY OF HONOLULU
PLANNING COMMISSION'S FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND DECISION AND ORDER WITH
MODIFICATIONS

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Order Adopting the City and County of Honolulu Planning Commission's Finding of Fact, Conclusions of Law and Decision and Order 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
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Kapolei, Hawaii 96707

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

Dated: October 22, 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 ADOPTING THE CITY
SERVICES, CITY AND COUNTY OF) AND COUNTY OF HONOLULU
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ORDER ADOPTING THE CITY AND COUNTY OF HONOLULU
PLANNING COMMISSION'S FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND DECISION AND ORDER WITH
MODIFICATIONS

On July 31, 2009, the City and County of Honolulu Planning Commission ("Planning Commission") met at the City Council Committee Meeting Room, Second Floor, in Honolulu, Hawai`i, to consider a new special use permit application ("Application") filed by the Department of Environmental Services, City and County of Honolulu ("Applicant"), to supersede the existing special use permit to allow a 92.5-acre expansion and time extension for the

existing Waimānalo Gulch Sanitary Landfill (“WGSL”) located at Waimānalo Gulch, O’ahu, Hawai`i, Tax Map Key: 9-2-03: 72 and 73 (“Property”).

After due deliberation and consideration of the record in this matter, the Planning Commission recommended approval of the Application (County Special Use Permit File No. 2008/SUP-2), subject to ten conditions, and further recommended approval of the withdrawal of County Special Use Permit File No. 86/SUP-5 upon 2008/SUP-2 taking effect, and that all conditions previously placed on the Property under County Special Use Permit File No. 86/SUP-5 shall be null and void.

On August 11, 2009, the Land Use Commission (“LUC”) received the decision and a portion of the record of the Planning Commission’s proceedings on the Application.

On August 20, 2009, the LUC received the remaining portion of the record.

On September 10, 2009, the Ko Olina Community Association, Colleen Hanabusa, and Maile Shimabukuro (“Intervenors”) filed a Motion To Intervene.¹

¹ At the September 24, 2009 meeting the LUC recognized Ms. Hanabusa, Ms. Shimabukuro and the Ko Olina Community Association as intervenors in the LUC’s proceeding based upon their intervenor status before the Planning Commission and therefore denied the Motion to Intervene as moot.

On September 17, 2009, the Applicant filed a Memorandum In Opposition To Intervenors Ko Olina Community Association, Colleen Hanabusa, And Maile Shimabukuro's Motion To Intervene.

On September 21, 2009, Intervenors filed a Motion To Deny Petition.

On September 23, 2009, the Applicant filed a Memorandum In Opposition To Intervenors Ko Olina Community Association, Colleen Hanabusa And Maile Shimabukuro's Motion To Deny Petition.

On September 24, 2009, the LUC conducted a meeting on the Application in the Kaua'i Meeting Room, Sheraton Waikiki Hotel, in Honolulu, Hawai'i. Gary Y. Takeuchi, Esq., and Jesse K. Souki, Esq., appeared on behalf of the Applicant. Colleen Hanabusa, Esq.; Ken Williams; and Maile Shimabukuro were present on behalf of the Intervenors. Bryan C. Yee, Esq., and Abbey Mayer were also present on behalf of the State Office of Planning, and Don Kitaoka, Esq., and Robert Bannister were present on behalf of the Department of Planning and Permitting.² At the meeting, both the Applicant and Intervenors provided

² Pursuant to section 92-3, HRS, the LUC heard public testimony from Fred Dodge; William Aila, Jr.; City Council Chair Todd Apo; Mel Kahele; Abbey Mayer; and Robert Bannister. The LUC also received written testimony from Ka'eo Gouveia; Nobuko Maria Mori; Ali Mahmoodi; Laura Kay Rand; Mario Beekes; Lorita Nordlum; Paulette Dibibar; Clara Batongbacal; Elizabeth Dunne; Kalena Hew Len; Kamaki Kanahale; Ralph F. Harris; James C. Banigan III; Greg Nichols; Howard Perry, Jr.; and Michael Nelson. At the meeting, the LUC denied Intervenors' Motion To Deny Petition.

oral argument in support of their respective positions on the Application.

Following discussion, a motion was made and seconded to grant the Application subject to (1) the withdrawal of County Special Use Permit File No. 86/SUP-5 and LUC Docket No. SP87-362, provided that the existing conditions therein shall be incorporated to the extent they are consistent with and applicable to this decision and are not duplicative of any additional conditions imposed hereafter; (2) the conditions as recommended by the Planning Commission in County Special Use Permit File No. 2008/SUP-2 (LUC Docket No. SP09-403) and modified as appropriate; and (3) the following additional conditions: municipal solid waste shall be allowed at the WGS� up to July 31, 2012, provided that only ash and residue from H-POWER shall be allowed at the WGS� after July 31, 2012; the Honolulu City Council through the City Administration shall report to the public every three months on their efforts regarding the continued use of the WGS�, including any funding arrangements that are being considered by the City Council and the City Administration; and the City Council and the City Administration shall have a public hearing every three months to report on the status of their efforts to either reduce or continue the use of the WGS�. By a vote of 5 ayes, 3 nays, and 1 absent, the motion carried.

The LUC, upon consideration of the Planning Commission's

Findings Of Fact, Conclusions Of Law, And Decision And Order, the oral

arguments of the parties and the record and files herein, and good cause existing and upon motion duly passed by the LUC,

HEREBY ORDERS that the LUC shall adopt the Planning Commission's Findings Of Fact, Conclusions Of Law, And Decision And Order as its own Findings Of Fact, Conclusions Of Law, And Decision And Order, subject to the following conditions:

1. The Applicant shall obtain all necessary approvals from the State Department of Health, Department of Transportation, Commission on Water Resource Management, and Board of Water Supply for all onsite and offsite improvements involving access, storm drainage, leachate control, water, well construction, and wastewater disposal.

2. In accordance with Chapter 11-60.1 "Air Pollution Control," Hawai'i Administrative Rules, the Applicant shall be responsible for ensuring that effective dust control measures during all phases of development, construction, and operation of the landfill expansion are provided to minimize or prevent any visible dust emission from impacting surrounding areas. The Applicant shall develop a dust control management plan that identifies and addresses all activities that have a potential to generate fugitive dust.

3. That the City and County of Honolulu shall indemnify and hold harmless the State of Hawai'i and all of its agencies and/or employees for

any lawsuit or legal action relating to any groundwater contamination and noise and odor pollution relative to the operation of the landfill.

4. On or before November 1, 2010, the Applicant shall begin to identify and develop one or more new landfill sites that shall either replace or supplement the WGSL. The Applicant's effort to identify and develop such sites shall be performed with reasonable diligence, and the Honolulu City Council is encouraged to work cooperatively with the Applicant's effort to select a new landfill site on Oahu. Upon the selection of a new landfill site or sites on Oahu, the Applicant shall provide written notice to the Planning Commission. After receipt of such written notice, the Planning Commission shall hold a public hearing to reevaluate 2008/SUP-2 (SP09-403) and shall determine whether modification or revocation of 2008/SUP-2 (SP09-403) is appropriate at that time. The Planning Commission shall make a recommendation to the Land Use Commission.

5. The Applicant shall continue its efforts to use alternative technologies to provide a comprehensive waste stream management program that includes H-POWER, plasma arc, plasma gasification and recycling technologies, as appropriate. The Applicant shall also continue its efforts to seek beneficial reuse of stabilized, dewatered sewage sludge.

6. The Applicant shall provide, without any prior notice, annual reports to the Planning Commission and the Land Use Commission regarding the status of identifying and developing new landfill sites on Oahu, the WGSL's operations, and Applicant's compliance with the conditions imposed herein. The annual reports also shall address the Applicant's efforts to use alternative technologies, as appropriate, and to seek beneficial re-use of stabilized, dewatered sewage sludge. The annual reports shall be submitted to the Planning Commission and Land Use Commission on June 1 of each year subsequent to the date of this Decision and Order.

7. Closure Sequence "A" for the existing landfill cells at WGSL as shown on Exhibit "A12" must be completed, and final cover applied, by December 31, 2012.

8. WGSL shall be operational only between the hours of 7:00 a.m. and 4:30 p.m. daily, except that ash and residue may be accepted at the Property 24 hours a day.

9. The Applicant shall coordinate construction of the landfill cells in the expansion area and operation of WGSL with Hawaiian Electric Company, with respect to required separation of landfill grade at all times and any accessory uses from overhead electrical power lines.

10. The operations of the WGS� under 2008/SUP-2 (SP09-403) shall be in compliance with the requirements of Section 21-5.680 of the Revised Ordinances of the City and County of Honolulu 1990, to the extent applicable, and any and all applicable rules and regulations of the State Department of Health.

11. The Planning Commission may at any time impose additional conditions when it becomes apparent that a modification is necessary and appropriate.

12. Enforcement of the conditions to the Planning Commission's approval of 2008/SUP-2 (SP09-403) shall be pursuant to the Rules of the Planning Commission, including the issuance of an order to show cause why 2008/SUP-2 (SP09-403) should not be revoked if the Planning Commission has reason to believe that there has been a failure to perform the conditions imposed herein by this Decision and Order.

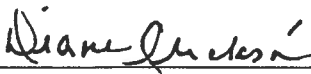
13. The Applicant shall notify the Planning Commission and Land Use Commission of termination of the use of the Property as a landfill for appropriate action or disposition of 2008/SUP-2 (SP09-403).

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

15. The Honolulu City Council through the City Administration shall report to the public every three months on the efforts of the City Council and the City Administration in regard to the continued use of the WGSL, including any funding arrangements that are being considered by the City Council and the City Administration.

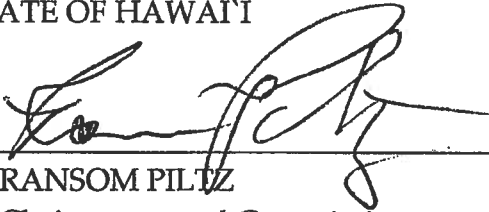
16. The City Council and the City Administration shall have a public hearing every three months to report on the status of their efforts to either reduce or continue the use of the WGSL.

APPROVED AS TO FORM



Deputy Attorney General

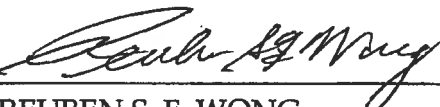
LAND USE COMMISSION
STATE OF HAWAII

By 

RANSOM PILTZ
Chairperson and Commissioner

By (Excused)

VLADIMIR PAUL DEVENS
Vice-Chairperson and Commissioner

By 

REUBEN S. F. WONG
Vice-Chairperson and Commissioner

By (Nay)

KYLE CHOCK
Commissioner

By Thomas Contrades
THOMAS CONTRADES
Commissioner

By (Nay)
LISA M. JUDGE
Commissioner

By Duane Kanuha
DUANE KANUHA
Commissioner

By (Nay)
NORMAND LEZY
Commissioner

Filed and effective on:

October 22, 2009

Certified by:

By Nicholas W. Teves, Jr.
NICHOLAS W. TEVES, JR.
Commissioner

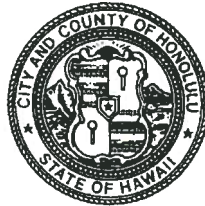
Orlando Davidsion
ORLANDO DAVIDSION
Executive Officer

Attachment B

DEPARTMENT OF ENVIRONMENTAL SERVICES
CITY AND COUNTY OF HONOLULU

1000 ULUOHIA STREET, SUITE 308, KAPOLEI, HAWAII 96707
TELEPHONE: (808) 768-3486 • FAX: (808) 768-3487 • WEBSITE: <http://envhonolulu.org>

PETER B. CARLISLE
MAYOR



June 28, 2011

RECEIVED

TIMOTHY E. STEINBERGER, P.E.
DIRECTOR

MANUEL S. LANUEVO, P.E., LEED AP
DEPUTY DIRECTOR

'11 JUN 28 AOC 27
ROSS S. TANIMOTO, P.E.
DEPUTY DIRECTOR

IN REPLY REFER TO:
DIR 11-012

DEPT OF PLANNING
AND PERMITTING
CITY & COUNTY OF HONOLULU

David K. Tanuoue, Director
Department of Planning and Permitting
City and County of Honolulu
650 South King Street, 7th Floor
Honolulu, Hawaii 96813

Re: **Special Use Permit (SUP) No. 2008/SUP-2; State Land Use Commission (LUC) Docket No. SP09-403; In re Department of Environmental Services, City and County of Honolulu; Application to Modify SUP No. 2008/SUP 2 by Modifying the LUC's Order Adopting the City and County of Honolulu Planning Commission's Findings of Fact, Conclusions of Law, and Decision and Order with Modifications dated October 22, 2009**

The Department of Environmental Services, City and County of Honolulu (the "Applicant" or the "Department of Environmental Services"), respectfully moves the Planning Commission, City and County of Honolulu (the "Planning Commission"), for an Order modifying State Special Use Permit ("SUP") No. 2008/SUP-2, which superseded State SUP No. 86/SUP-5, and which permitted a 92.5 acre expansion and time extension to capacity as allowed by the Department of Health, State of Hawaii ("DOH") for the disposal of solid waste at the Waimanalo Gulch Sanitary Landfill ("WGSL" or "Landfill").

This Application is made in accordance with Section 2-18 and Section 2-49 of the Rules of the Planning Commission and Section 15-15-70 of the State of Hawaii, Land Use Commission ("LUC") Rules. Further, the LUC has formally asserted to the Circuit Court of the First Circuit that there is nothing precluding the Department of Environmental Services from requesting relief from conditions of the 2009 LUC Order in the future: "there is nothing to preclude ENV from requesting [from the Planning Commission] an extension of the 2012 date if it is unable, using reasonable diligence as required in Condition No. 4, to identify and develop a new landfill site." See Exhibit "A," Appellee State of Hawai'i, Land Use Commission's Answering Brief, filed on April 12, 2010, In the Matter of Department of Environmental Services, City and County of

2011/6/28

Honolulu vs. Land Use Commission, State of Hawaii, et al., Civil No. 09-1-2719-11, p. 9, attached hereto and incorporated herein.

Also, presenting this Application first to the Planning Commission for its consideration, rather than directly to the LUC, will promote the maximum opportunity for public participation and input by all interested parties. Furthermore, in light of the lack of specificity in the applicable rules, enabling both the Planning Commission and the LUC to consider Applicant's request will reduce the possibility of a procedural challenge. Finally, if the Planning Commission determines that it does not have the authority to consider this request, it may so conclude and direct Applicant to seek consideration from the LUC.

Applicant specifically requests that the Planning Commission modify the LUC's Order Adopting the City and County of Honolulu Planning Commission's Findings of Fact, Conclusions of Law, and Decision and Order with Modifications, dated October 22, 2009 (the "2009 LUC Decision"), by deleting the July 31, 2012, deadline to cease disposal of municipal solid waste ("MSW") at WGS�, as set forth in Condition No. 14 of said Order. The Department of Environmental Services seeks to use the WGS� until it reaches its permitted capacity, as allowed by the DOH, and as set forth in the Planning Commission's Findings of Fact, Conclusions, and Decision, dated August 4, 2009 (the "2009 Planning Commission Decision").

The basis for this Application is that the current permitted area of the Landfill, approximately 200 acres, has a useful life well beyond July 31, 2012. See Final Environmental Impact Statement, Waimanalo Gulch Sanitary Landfill Lateral Expansion, Waimanalo Gulch, Oahu, Hawaii, TMKs: (1) 9-2-003: 072 and 073, dated October 2008 ("2008 FEIS")¹ at Section 1.1, Proposed Action at pg. 1-1 ("The landfill has been in operation since 1989 and has capacity remaining with the unused 92.5 acres of the approximately 200 acre property for an estimated minimum life of approximately 15 years") (footnote omitted); see also Section 2.6.3, Landfill Capacity at pg. 2-27 ("At present, the lifespan of WGS� is projected for a minimum period of 15 years.") The 2008 FEIS, which was accepted by the Department of Planning and Permitting, City and County of Honolulu ("Department of Planning and Permitting") on October 13, 2008, thoroughly studied the current footprint, operations and environmental impacts associated with the use of the WGS� to capacity. See 2009 Planning Commission Decision, pg. 2, ¶ 3; see also 2008 FEIS at Section 1, Executive Summary; Section 3, Introduction; Section 4, Project Description; and Section 5, Environmental Setting, Potential Impacts and Mitigation Measures. Neither the permitted area nor the methods of operation will change with this

¹ Although the 2008 FEIS is a part of the record in Docket No. SP09-403, for ease of reference, attached hereto and incorporated herein as Exhibit "B" is the 2008 FEIS on CD-ROM.

Application. See 2008 FEIS at Section 1.1, Proposed Action; Section 4, Project Description. Moreover, the Landfill's current footprint has already been approved by the Planning Commission and the LUC and the Landfill has a solid waste permit from the DOH. See 2009 Planning Commission Decision, Decision and Order, pg. 24; see also 2009 LUC Decision pgs. 4-5; Declaration of Timothy E. Steinberger ("Dec. Steinberger"), ¶¶ 17, 19. It is therefore in the public interest to use WGSL, the only permitted MSW landfill on O'ahu, to capacity: this ensures maximum utility of our island's finite land resources and allows Applicant to properly manage the MSW of the City and County of Honolulu ("City") so as to protect the public health and safety of O'ahu's residents and visitors.

If the Landfill is forced to cease accepting MSW for disposal on July 31, 2012, in accordance with Condition No. 14 of the 2009 LUC Order, there will be no viable options to meet O'ahu's solid waste management needs. See 2008 FEIS at Section 1.2.2., No Action Alternative at pgs. 1-2 ("The No Action Alternative, which would involve taking no further action to extend the use of the WGSL was rejected because the consequences would result in an unacceptable health, safety, and economic impact to all communities on O'ahu."); see also Section 9.3., No Action Alternative, pgs. 9-6 to 9-8. For example, certain types of MSW, including special wastes such as sewage sludge, animal carcasses, treated medical waste; residue from the City's Honolulu Program of Waste Energy Recovery waste-to-energy facility ("H-POWER"); and bulky item waste cannot be disposed of at H-POWER and must be disposed of at a permitted landfill. See 2009 Planning Commission Decision, ¶¶ 94, 97, pg. 19. That landfill is WGSL. See 2009 Planning Commission Decision, ¶¶ 91, 92, 94, pgs. 18-19. Without WGSL, the inability to dispose of various wastes will potentially create serious health and safety issues. See 2009 Planning Commission Decision, ¶ 93, pg. 18.

In order to alleviate this potential health and safety risk, it is respectfully requested that the Planning Commission modify SUP No. 2008/SUP-2 by deleting Condition No. 14 of the 2009 LUC Decision, thereby allowing the usage of WGSL to dispose of MSW until the site reaches its permitted capacity as provided in the 2009 Planning Commission Decision.

I. BACKGROUND

A. Establishment of the Landfill

On October 17, 1985, the Director of Land Utilization, City and County of Honolulu (nka the Department of Planning and Permitting), accepted the Environmental Impact Statement for the establishment of a landfill at Waimanalo Gulch, Honouliuli, 'Ewa, O'ahu, Hawai'i. See 2008 FEIS at Section 2.5, Historical Background of the State Special Use Permit, at pgs. 2-18.

On February 4, 1987, the Planning Commission approved the SUP application to establish the Landfill on approximately 60.5 acres of land within the Agricultural District, subject to six conditions. The application was submitted by the Department of Public Works, City and County of Honolulu (nka the Department of Environmental Services). Id.

Because the SUP was for land greater than fifteen acres, on April 20, 1987, the LUC also approved the issuance of the SUP in Special Permit Docket Number 87-362 to establish the Landfill, subject to eight conditions.² See the LUC's Findings of Fact, Conclusions of Law and Decision and Order dated April 20, 1987, attached hereto and incorporated herein as Exhibit "C."

B. Expansion of the Landfill by 26 acres

On July 26, 1989, the Planning Commission approved an amendment to the SUP to expand the Landfill by 26 acres, with one additional condition. Applicant had requested the amendment because 26 acres had been inadvertently left out of the original SUP. The additional 26 acres was necessary to allow enough land area for the proposed administration building, weighing station, drainage structures and access roads. See 2008 FEIS at pgs. 2-19.

On October 31, 1989, the LUC also approved the SUP amendment to expand the existing permitted area by 26 acres, with the additional condition as recommended by the Planning Commission. See the LUC's Findings of Fact, Conclusions of Law and Decision and Order dated October 31, 1989, attached hereto and incorporated herein as Exhibit "D," pgs. 9-10.

C. Further Expansion of the Landfill by 21 acres

On January 10, 2003, the Department of Planning and Permitting accepted the Final Supplemental Environmental Impact Statement ("FEIS"), which addressed a proposed 21-acre expansion of the landfill. See 2008 FEIS at pgs. 2-19.

On March 13, 2003, the Planning Commission granted the application of the Department of Environmental Services to expand the landfill by 21 acres ("2003 Planning Commission Decision" attached hereto and incorporated herein as Exhibit "E"), which, at that time, was projected to extend the life of the landfill by 5 years. The proposed

² "Special permits for areas greater than fifteen (15) acres require approval of both the planning commission and the land use commission." Rules of Planning Commission § 2-38; see also Hawai'i Revised Statutes ("HRS") § 205-6.

expansion included four cells (E1 through E4) for disposing of MSW, berms, detention and stilling basins, drainage channels and access routes. In this Decision, the Planning Commission recommended that the Department of Environmental Services submit an alternative landfill site, or sites, to the City Council by December 31, 2003. The Planning Commission did not, however, condition its approval on this recommendation. See 2003 Planning Commission Decision.

With its approval of the 21-acre expansion, the Planning Commission imposed two additional conditions. One of those conditions, Condition No. 10, required the following:

Within 5 years from the date of this Special Use Permit Amendment approval or date of the Solid Waste Management Permit approval for this expansion, whichever occurs later but not beyond May 1, 2008, the 200-acre property shall be restricted from accepting any additional waste material and be closed in accordance with an approved closure plan.

Id., at p. 5.

On June 9, 2003, the LUC issued the 2003 LUC Decision, attached hereto and incorporated herein as Exhibit "F." The LUC adopted Condition No. 10 of the 2003 Planning Commission Decision as Condition No. 12 in the 2003 LUC Decision. The LUC Decision also required the City Council to select a new site for a landfill, with the assistance of the Blue Ribbon Site Selection Committee, by June 1, 2004. See 2003 LUC Decision, pgs. 7-9.

D. Resolution Adopted by City Council Selecting WGS� as the City's Future Landfill Site.

After receiving from the LUC an extension of the deadline to make its determination, on December 1, 2004, the City Council selected WGS� as the City's future landfill site. The resolution setting forth the City Council's decision, Resolution No. 04-348, CD1, FD1 (December 1, 2004), City Council, City and County of Honolulu ("WGS� Resolution"), is attached hereto and incorporated herein as Exhibit "G." In selecting the Landfill as the future site, the City Council noted, in pertinent part, the following:

- (1) The site currently has over 15 years capacity left with further expansion, and this capacity can be further extended should the city be successful in reducing the amount of waste currently entering the landfill through recycling and the use of new technologies;

- (2) The city already owns the property and the infrastructure is already in place, making the site the most economical and least expensive to develop and maintain as a landfill;
- (3) Other sites will require a large capital outlay by the city to acquire the land through condemnation and to develop and construct the site and required supporting infrastructure;
- (4) A landfill management contract is already in place for 15 years;
- (5) This is the only site where the costs and revenues for a landfill are known factors; and
- (6) The current landfill operator is committed to implementing necessary improvements to landfill operations to address community concerns regarding visual impact, odors, airborne waste, litter and dust control[.]

WGSL Resolution, pgs. 2-3.

As expressed in the WGSL Resolution, the City Council decided that WGSL would satisfy O'ahu's need for a landfill to manage its solid waste for the foreseeable future.

E. Extension of Waste Acceptance Deadline at WGSL.

On July 6, 2007, the Department of Environmental Services filed an application with the Department of Planning and Permitting to amend Condition No. 10 of the 2003 Planning Commission Decision, by extending the deadline to accept waste at WGSL from May 1, 2008, to May 1, 2010, or until WGSL reached its permitted capacity, whichever occurred first. This timeline extension was necessary in order to accommodate and implement the City Council's selection of WGSL as the City's future landfill site. See State Special Use Permit (SUP) No. 86/SUP-5, In re Department of Environmental Services, City and County of Honolulu (FKA Department of Public Works, City and County of Honolulu); Application to Modify (1) the Findings of Fact, Conclusions and Decision dated March 13, 2003, and (2) the Decision and Order Approving Amendment to Special Use Permit Issued June 9, 2003, filed with the Department of Planning and Permitting on July 6, 2007, without accompanying exhibits ("2007 Application"), attached hereto and incorporated herein as

Exhibit "H." An FEIS for the further expansion of WGSL by approximately 92.5 acres, to the full acreage of the site at approximately 200 acres, needed to be completed before the Department of Environmental Services could prepare an application for a new SUP that would cover the entire WGSL property. See 2008 FEIS at pgs. 2-21.

On January 16, 2008, the Planning Commission granted the Department of Environmental Services' application to amend Condition No. 10 of the 2003 Planning Commission Decision to extend the waste acceptance deadline by two years (to May 1, 2010), or until WGSL reached its permitted capacity, and issued its Findings of Fact, Conclusions of Law, and Decision and Order (the "2008 Planning Commission Decision"), attached hereto and incorporated herein as Exhibit "I." The Planning Commission recommended that the LUC similarly amend Condition No. 12 of the 2003 LUC Decision. See 2008 Planning Commission Decision, pgs. 7-8.

On March 7, 2008, the LUC issued its Findings of Fact, Conclusions of Law, and Decision and Order adopting with Modifications, the City and County of Honolulu Planning Commission's Recommendation to Approve Amendment to Special Use Permit on March 14, 2008 (the "2008 LUC Decision"), attached hereto and incorporated herein as Exhibit "J." The LUC adopted the Planning Commission's recommendation with modifications by amending the waste acceptance deadline from May 1, 2010, to November 1, 2009, and by requiring the Department of Environmental Services to report to the LUC every six months on the actions taken to alleviate further use of WGSL. See 2008 LUC Decision, p. 18.

F. Application for a New SUP to Supersede Prior SUP to Allow a 92.5-Acre Expansion and Time Extension for WGSL.

On December 3, 2008, the Department of Environmental Services filed an application for a new SUP (the "Application") to supersede the existing SUP (State Special Use Permit No. 86/SUP-5), to allow a 92.5-acre expansion and time extension for the existing operating portion of WGSL. See 2009 Planning Commission Decision, ¶ 5, pg. 2. The Department of Environmental Services concurrently sought to withdraw its existing SUP permit for approximately 107.5 acres (File No. 86/SUP-5) and the conditions imposed therein, if the new SUP permit was granted. Id. at ¶ 6, pg. 3. The Application, designated as County Special Use Permit File No. 2008/SUP-2, was processed by the Department of Planning and Permitting, which recommended to the Planning Commission that the Application be approved with conditions. Id. at ¶ 10, pg. 3.

The Planning Commission conducted a contested case hearing on the Application on June 22, 2009, June 24, 2009, July 1, 2009, July 2, 2009, and July 8, 2009. Id. at ¶¶ 19, 20, 22, 23, 25, pgs. 5-6. On July 31, 2009, the Planning Commission recommended

approval of the Application subject to 10 conditions, and further recommended approval of the withdrawal of the prior SUP for WGSL (SUP File No. 86/SUP-5) upon 2008/SUP-2 taking effect, and that all conditions previously placed on the Property under SUP File No. 86/SUP-5 would then be null and void. The decision of the Planning Commission was set forth in its Findings of Fact, Conclusions of Law, and Decision and Order dated August 4, 2009, attached hereto and incorporated herein as Exhibit "K." The 2009 Planning Commission Decision was based on the evidence presented at the contested case hearing, the credibility of the witnesses testifying at the hearing, the proposed findings of fact, conclusions of law, and decisions and orders submitted by the parties and their respective responses thereto, and the written arguments of the parties. Id. at pg. 1.

Notably, the 2009 Planning Commission Decision does not contain any expiration date for the SUP or any deadline for the acceptance of waste at WGSL. Commissioner Kerry Komatsubara ("Komatsubara"), who authored this Decision, explained that "[t]he term or the length of the new SUP shall be until the Waimanalo Gulch landfill reaches its capacity as compared to a definite time period of 'X' number of years." Komatsubara noted that the Department of Environmental Services had "demonstrated that we need a landfill. I think it's pretty obvious; we need a landfill on this island for us to move forward...it would not be in the community's best interest if we were to close this landfill before we find another landfill." Komatsubara further explained his reasoning as follows:

In my opinion, simply putting on a new closure date to this new SUP will not lead to the closure of the Waimanalo Gulch Sanitary Landfill. I believe that the focus should not be on picking a date. The focus should be on how do we get the City to select a new site because you're not going to close this landfill until you find another site. I don't think it's in the interest of our community not to have a landfill.

So what this proposal does is, it says look, [Applicant] can keep [WGSL] open until your [sic] full, until you've reached the capacity, but you have an obligation starting from next year [2010] to start looking for a new site. Now whether you take it seriously or not, that's up to you because we have the power to call you in, and you have the obligation now to report every year on what you're doing to find a new landfill site whether it be a replacement site or supplemental site or both. We have the right to hold a hearing at any time we feel that you are not...the applicant is not in good faith moving forward with reasonable diligence to find a new site.

...I think going down the old path of just putting a [closure] date in there has not worked. We put it down three or four times before and every time we came to that date, it was extended further and further...I'd rather not say it's a certain date only to know that when we reach that date we're going to extend it further until we find the new site. I'd rather focus on an effort to find a new site and have [Applicant] come in every year and explain to us where you are in your effort to find a new site. That's what this [order] does.

Relevant portions of the transcript of the July 31, 2009, decision-making hearing of the Planning Commission are attached hereto and incorporated herein as Exhibit "L."

On October 22, 2009, the LUC issued its written Order Adopting the City and County of Honolulu Planning Commission's Findings of Fact, Conclusions of Law, and Decision and Order with Modifications ("2009 LUC Decision"), attached hereto and incorporated herein as Exhibit "M."

The 2009 LUC Decision granted the Application subject to "(1) the withdrawal of County Special Use Permit File No. 86/SUP-5 and LUC Docket No. SP87-362, provided that the existing conditions therein shall be incorporated to the extent they are consistent with and applicable to this decision and are not duplicative of any additional conditions imposed hereafter; (2) the conditions as recommended by the Planning Commission in County Special Use Permit File No. 2008/SUP-2 (LUC Docket No. SP09-403) and modified as appropriate"; and (3) the following relevant conditions:

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.

15. The Honolulu City Council through the City Administration shall report to the public every three months on the efforts of the City Council and the City Administration in regard to the continued use of the WGSL, including any funding arrangements that are being considered by the City Council and the City Administration.

16. The City Council and the City Administration shall have a public hearing every three months to report on the status of their efforts to either reduce or continue the use of the WGSL.

2009 LUC Decision, pgs. 4, 8-9.

G. Subsequent Court Proceedings Related to the 2009 LUC Decision

On November 19, 2009, the Department of Environmental Services filed its Notice of Appeal; Statement of the Case; Designation of Record on Appeal; Order for Certification and Transmission of Record; Exhibits "A" and "B" to the Circuit Court of the First Circuit ("Circuit Court"). Specifically, the Department of Environmental Services appealed the LUC's imposition of a July 31, 2012, deadline to cease the disposal of MSW at WGSL, as set forth in Condition No. 14 of the 2009 LUC Decision, as arbitrary and capricious, characterized by abuse of discretion and a clearly unwarranted exercise of discretion in light of the record developed before the Planning Commission. The Department of Environmental Services further appealed the LUC's imposition of reporting requirements, as set forth in Condition Nos. 15 and 16 of the 2009 LUC Decision, as in excess of the statutory authority and jurisdiction of the LUC. See Dec. Steinberger, ¶ 20.

Oral arguments were held before the Honorable Judge Rhonda A. Nishimura of the Circuit Court on July 14, 2010. Id.

On September 21, 2010, the Circuit Court issued its Order Affirming Land Use Commission's Order Adopting the City and County of Honolulu Planning Commission's Findings of Fact, Conclusions of Law and Decision and Order Dated October 22, 2009 with Modifications, which is attached hereto and incorporated herein as Exhibit "N." Said Order modified Conditions No. 15 and 16 of the 2009 LUC Decision by deleting the references to the Honolulu City Council and the City administration, and substituting the same with the Department of Environmental Services. The Order also erroneously affirmed Condition No. 14 of the 2009 LUC Decision. Id.

Final Judgment was filed on October 19, 2010, and the Notice of Entry of Judgment was filed on October 21, 2010. On November 12, 2010, the Department of Environmental Services timely filed its Notice of Appeal and Civil Appeals Docketing Statement to the Intermediate Court of Appeals ("ICA") relating to that portion of the Circuit Court's Order which wrongly affirmed the LUC's arbitrary and unsupported deadline of July 31, 2012, to cease acceptance of MSW at WGSL. See Dec. Steinberger, ¶¶ 20, 21.

The Department of Environmental Services filed its Opening Brief to the ICA on February 15, 2011. Briefing is not yet concluded and the case remains pending before the ICA. Id.

II. REQUEST FOR MODIFICATION OF SUP No. 2008/SUP-2

Section 2-49 of the Rules of the Planning Commission provides, in relevant part:

(a) A petitioner who desires a modification or deletion of a condition imposed by the commission shall make such a request to the commission in writing. This request shall be processed in the same manner as the original petition for a SUP. A public hearing on the request shall be held prior to any commission action.

...

(c) . . . Modification of conditions for areas greater than fifteen (15) acres will require the concurrence of the land use commission.

As discussed above, the Planning Commission did not place any expiration date on 2008/SUP-2 or any deadline for the acceptance of waste at WGSL. See generally 2009 Planning Commission Decision; see also Exhibit "L." The LUC, however, imposed the July 31, 2012, deadline to close WGSL to MSW in Condition No. 14. See 2009 LUC Decision, pg. 8.

The current DOH Solid Waste Management Permit for WGSL, which encompasses the approximately 200 acre property, was issued on June 4, 2010, and is attached hereto and incorporated herein as Exhibit "O." That permit states that WGSL "may accept MSW and ash for disposal until the date specified in the associated Special Use Permit or until the landfill/monofill reaches its permitted capacity, whichever comes first." Id. at pgs. 1, 9. The SUP now in effect requires that the Landfill stop accepting MSW on July 31, 2012, well before WGSL will reach its permitted capacity. See 2008 FEIS at Section 1.1, Proposed Action at pg. 1-1; Section 2.6.3, Landfill Capacity at pg. 2-27; see also Dec. Steinberger, ¶ 22. For the reasons that follow below, it is not only practical to extend the Landfill's solid waste acceptance deadline, but also necessary and critical for effective and safe management of the City's solid waste.

A. The Currently Permitted Landfill Has a Useful Life that Will Extend Well Beyond the July 31, 2012, Deadline.

WGSL is located on approximately 200 acres of land and has years of capacity remaining within this permitted area. See 2008 FEIS at Section 1.1, Proposed Action at

pg. 1-1; Section 2.6.3, Landfill Capacity at pg. 2-27; see also Dec. Steinberger, ¶ 22. Based upon typical rates of disposal at WGSL, that remaining capacity is estimated to be approximately fifteen years.³ Id. From 2005 through 2009, the volume of municipal solid waste disposed of at WGSL is illustrated as follows:

Disposal of MSW at WGSL⁴

Year	2005	2006	2007	2008	2009
Tons	391,579	286,842	306,691	233,065	178,512

This chart reflects that the Department of Environmental Services has been actively reducing waste volumes that are directed to WGSL through its various waste diversion programs.⁵ See 2009 Planning Commission Decision, ¶ 100, pg. 20 (“The City is actively reducing waste volume that is directed to the landfill.”). However, even with such waste diversion programs, WGSL remains vitally important to the City’s Integrated Solid Waste Management Plan. See 2009 Planning Commission Decision, ¶ 91, pg. 18. The continued availability of WGSL is a DOH permit condition to operate H-POWER (e.g., to dispose of the waste that exceeds the capacity of H-POWER, or waste that is diverted from that facility due to routine maintenance or unanticipated closures). See 2009 Planning Commission Decision, ¶ 92, pg. 18. The Landfill is also needed for clean up in the event of a natural

³ The remaining capacity of WGSL is an estimate only as rates of disposal fluctuate based upon numerous factors, e.g., the economy, waste diversion programs such as the implementation of island-wide recycling, possible disaster events, etc.

⁴ See Opala.org, Recycling and Landfill Diversion, http://www.opala.org/solid_waste/archive/facts2.html.

⁵ For example, the Department of Environmental Services is expanding its H-POWER plant with a third boiler, which is expected to increase the facility’s capacity by an additional 300,000 tons of MSW per year by late 2011 or early 2012. See 2009 Planning Commission Decision, ¶ 100, pg. 20; see also Dec. Steinberger, ¶ 23. The Department of Environmental Services also completed full implementation of its island-wide, curbside recycling program in May 2010, which is in addition to its program of community recycling bins. Dec. Steinberger, ¶ 23. A facility at the City’s Sand Island Wastewater Treatment Plant turns bio-solids into fertilizer pellets, so that such material may be reused as a soil amendment product. Id. The Department of Environmental Services’ other initiatives include awarding a contract for a new recycling facility that will accept green waste, food waste and sewage sludge. Id.

disaster, to properly dispose of special wastes such as screenings and sludge from sewage treatment plants, animal carcasses, tank bottom sludge, contaminated food waste that cannot be recycled, and contaminated soil that is below certain toxicity levels ("special wastes") and bulky wastes, and because there is waste material that cannot be combusted, recycled, reused, or shipped.⁶ See 2009 Planning Commission Decision, ¶¶ 92, 97, pgs. 18-19.

The City remains committed to adopting and implementing waste handling programs that will reduce O'ahu's dependency on landfilling. Dec. Steinberger, ¶ 23. The fact remains, however, that there are no methods or technologies that will completely eliminate the need for landfilling. See 2008 FEIS, Appendix K, Alternatives Analysis, 2008. If WGS� is forced to cease accepting MSW for disposal on July 31, 2012, then there will be no permitted landfill to serve O'ahu's municipal solid waste disposal needs, and this could have significant public health and safety implications for the residents and visitors of this island. See 2008 FEIS at Section 9.3., No Action Alternative, pgs. 9-6 to 9-8.

B. WGS� Remains an Integral Part of the City's Solid Waste Management System.

The Landfill is a critical component of the City's solid waste management system and the final destination for certain solid wastes including MSW, recycling residue, and H-POWER generated ash, residue and waste that cannot further be combusted, recycled or reused. See 2009 Planning Commission Decision, ¶¶ 92, 95, 97, pgs. 18-19. If SUP No. 2008/SUP-2 is not amended by deleting Condition No. 14 of the 2009 LUC Decision, the Landfill will be forced to stop accepting MSW as of July 31, 2012, and special wastes, bulky wastes and waste material that cannot be combusted, recycled, reused, or shipped, will have nowhere to go for proper disposal. See 2009 Planning Commission Decision, ¶¶ 92, 97, pgs. 18-19; 2008 FEIS at Section 9.3., No Action Alternative, pgs. 9-6 to 9-8; see also Dec. Steinberger, ¶ 24. This stoppage will have an adverse, island-wide impact on all of the communities on O'ahu because the City will no longer have the ability to dispose of certain wastes in a sanitary manner. Id. The City would also no longer be permitted to operate H-POWER, as that facility must have a MSW landfill disposal option as required by its DOH solid waste permit. See 2009 Planning Commission Decision, ¶ 92, pg. 18; see also Dec. Steinberger, ¶ 24. Furthermore, in the event of a disaster such as a hurricane or a tsunami, the City would have no permitted site to dispose of the ensuing debris. Id. In other words, not only would there be no sanitary or secure means of disposing of special wastes and bulky wastes, H-POWER would no longer be permitted to accept any MSW and there would be no facility to properly dispose of disaster debris. Dec. Steinberger, ¶ 24. Therefore, forcing the Landfill to cease accepting MSW will likely result in major public

⁶ As explained in part 2 herein, off-island shipment of MSW is not a viable option.

health and safety problems for the City, its residents and visitors, and the State of Hawai'i. See 2009 Planning Commission Decision, ¶ 93, pg. 18.

1. WGSL Remains Necessary Even with an Expanded H-POWER.

Although most municipal waste is currently directed to the H-POWER facility, H-POWER does not have the capacity, or ability, to accept all of Oahu's refuse. See 2009 Planning Commission Decision, ¶ 97, pg. 19. WGSL also remains necessary in order to dispose of disaster debris, bulky wastes and special wastes. Id.; see also ¶ 92, pg. 18. Further, as discussed previously, the DOH solid waste permit for H-POWER requires that a landfill disposal option for MSW be available. Id. at ¶ 92, pg. 18.

The recent closure of WGSL from January 12 to January 28, 2011, due to unprecedented storms in December 2010 and in January 2011, has served to highlight the need for a landfill. During that seventeen-day closure period, there were delays in the disposal of H-POWER residue, bulky item waste, and wastewater sludge. All such wastes cannot be disposed of at H-POWER and must be disposed of in the Landfill. The closure of WGSL greatly impacted the disposal of H-POWER residue, bulky item waste, and wastewater sludge, all of which cannot be disposed of at H-POWER and must be disposed of at WGSL, the only permitted facility on O'ahu to accept these types of waste. The closure of WGSL also hampered H-POWER's ability to accept MSW because of the backlog of residue that accumulated at the facility. City refuse transfer stations that depend on H-POWER for waste disposal were also adversely impacted and experienced heavy buildups of trash. City wastewater treatment facilities resorted to temporary on-site storage of sewage sludge to cope with the situation. Further, the Department of Environmental Services ceased collection of bulky item wastes, resulting in unsightly piles of waste in many neighborhoods across the island. Generators of other special wastes that are normally disposed of at WGSL had to make their own arrangements to store or otherwise dispose of their waste until the Landfill could be reopened. The closure of WGSL had far reaching impacts upon the City's ability to dispose of solid waste, with restrictions imposed at all six of the City's convenience centers, as well as at its three transfer stations. On April 13, 2011, the WGSL and all City refuse facilities resumed normal operations and were opened to the public. See Dec. Steinberger, ¶ 25.

By 2012, when H-POWER's third boiler is expected to be fully operational, the City anticipates that about eighty percent (80%) of the island's waste stream will be diverted from landfill disposal. See 2009 Planning Commission Decision, ¶ 101, pg. 20. Twenty percent (20%), however, of O'ahu's waste will still need to be landfilled at WGSL, as certain wastes cannot be recycled or combusted. Id., see also ¶¶ 92, 97, pgs. 18-19. Further, the expanded H-POWER facility will still require the continued availability of WGSL as a permit condition to operate, to ensure proper disposal of MSW that is diverted from H-POWER

due to routine maintenance, unanticipated closures or if the amount of waste exceeds the capacity of the facility. Id. at ¶ 92, pg. 18; Dec. Steinberger, ¶ 24.

2. Transshipment of solid waste off-island is no longer a viable alternative.

The off-island shipment of O'ahu's solid waste is no longer a viable alternative, not even for the short term. The City did attempt to ship waste to the mainland but only as an interim solid waste disposal alternative until the H-POWER facility was expanded with the addition of a third boiler. See Planning Commission Transcript dated 07/01/09 at 198:23-199:4; see also Dec. Steinberger, ¶ 26. However, this attempt was not successful and shipping is now precluded by a court imposed injunction on the shipping of waste from Hawai'i to Washington and Oregon via the Columbia River. Dec. Steinberger, ¶ 26.

In January 2008, the City issued an Invitation for Bids ("IFB") for the baling, shipping, offloading, transporting and disposing (transshipment) of City-provided MSW to a U.S. Mainland landfill for a term of at least 36 months. The City received and opened three bids on June 17, 2008. Following the bid opening, the two highest bidders filed a total of four procurement protests, disputing for various reasons the adequacy of the apparent low bid. These protests were resolved after several months, with all the protests ultimately being denied, and no appeals being taken of those denials. See Dec. Steinberger, ¶ 27.

Pursuant to the requirements of the State Procurement Code, the City was prohibited from taking any actions toward the award of a contract during the pendency of the protests. With the protests resolved, the City reviewed the apparent low bid submitted by Hawaiian Waste Systems, LLC ("HWS"), and eventually the City's Chief Procurement Officer issued a determination that the low bid was not responsive to the requirements of the IFB. Pursuant to the State Procurement Code, HWS appealed this determination to the Office of Administrative Hearings at the Department of Commerce and Consumer Affairs ("DCCA"). See Dec. Steinberger, ¶ 28.

Following a hearing at DCCA, and prior to the deadline for the Hearings Officer to issue a decision on the appeal, the City and HWS agreed to settle the procurement protest. The settlement was confirmed in an Order approved by the Hearings Officer. Id. Pursuant to the Settlement and Order, the contract for interim shipment of MSW was awarded to HWS on August 27, 2009. The commencement of services under the contract was to begin by the end of September 2009. The City issued a Notice to Proceed to HWS for September 25, 2009. Both parties agreed that delivery of MSW would start on September 28, 2009. See Dec. Steinberger, ¶ 29.

HWS asked the City to cease delivering waste on April 1, 2010. At that point, approximately 20,000 tons of MSW had been delivered to HWS, which baled, wrapped and stockpiled the MSW at three locations, and no waste had been shipped due to HWS' inability to obtain required permits for the contracted services. See Dec. Steinberger, ¶ 30.

The environmental assessment for HWS' revised plan to ship the baled waste to different ports (Longview, WA; Rainier, OR; and Portland, OR)⁷ was posted on the Federal Register on January 19, 2010 and the closing date for comments was February 18, 2010. On May, 27, 2010 the United States Department of Agriculture ("USDA") concluded their responses to public comments and published a Finding of No Significant Impact ("FONSI"). The required Compliance Agreements were issued in June 2010. See Dec. Steinberger, ¶ 31.

On July 8, 2010, the USDA issued a Notification of Suspension of Operations Pursuant to Compliance Agreement No. Oahu RGOO2 to HWS. Dec. Steinberger, ¶ 32. On August 30, 2010, the United States District Court, Eastern District of Washington issued an injunction enjoining the shipment of waste from Hawaii to Washington or Oregon ports on the Columbia River and/or to the Roosevelt Landfill in Washington in Confederated Tribes and Bands of the Yakama Nation, et al., v. United States Department of Agriculture, et al., No. CV-10-3050-EFS, attached hereto and incorporated herein as Exhibit "P." The USDA has canceled the Compliance Agreement permits of all Hawaii shippers that might otherwise have enabled the shipment of waste to the mainland. As of the filing of this Application, the Yakama Nation lawsuit remains active and the injunction continues in effect. See Dec. Steinberger, ¶ 32.

Accordingly, no waste was ever shipped to the mainland due to various problems encountered by HWS. In order to properly dispose of the approximately 20,000 tons of baled MSW, HWS agreed to disassemble the bales, sort the waste and take the burnable waste to H-POWER and the non-burnable waste to the Waimanalo Gulch Landfill. As of January 2011, approximately 11,000 tons had been taken to H-POWER and 140 tons had been taken to WGSL. See Dec. Steinberger, ¶ 33.

On January 6, 2011, there was a fire at the HWS facility that damaged the building in which the waste bales were disassembled. Because HWS' solid waste permit requires the waste to be processed under cover, without the use of the building, HWS' breaking apart and sorting of the waste for disposal at H-POWER and WGSL had to be suspended. Thereafter, the City and HWS continued to work together, in collaboration with DOH, to dispose of the remaining tons of baled waste. On May 12, 2011, the last bale of waste at the HWS facility

⁷ The original environmental assessment reviewed HWS' originally proposed port located in Roosevelt, WA. Dec. Steinberger, ¶ 31.

was removed and delivered to a City waste disposal facility. Of the original 20,000 tons in its possession, HWS delivered 14,779 tons to H-POWER (76%) and 4,565 (24%) tons to WGSL. HWS was able to extract and recycle 1,525 tons of metal. See Dec. Steinberger, ¶ 34.

Accordingly, because WGSL is the only currently permitted landfill available to serve O'ahu's municipal solid waste needs, it is also the City's best and only viable option for disposal of certain wastes. See 2009 Planning Commission Decision, ¶¶ 92, 94, 97, pgs. 18-19. Requiring the landfill to stop accepting MSW on July 31, 2012, will have immediate and dire consequences for all of O'ahu. 2009 Planning Commission Decision, ¶ 93, pg. 18; see also 2008 FEIS at Section 9.3., No Action Alternative at pgs. 9-6 to 9-8.

C. Additional Time Is Needed To Identify One or More New Landfill Sites That Shall Either Replace Or Supplement WGSL.

Condition No. 1 of the 2009 Planning Commission Decision, which was adopted in most part by the LUC as Condition No. 4 of the 2009 LUC Decision,⁸ provides:

On or before November 1, 2010, the Applicant shall begin to identify and develop one or more new landfill sites that shall either replace or supplement the WGSL. The Applicant's effort to identify and develop such sites shall be performed with reasonable diligence, and the Honolulu City Council is encouraged to work cooperatively with the Applicant's efforts to select a new landfill site on Oahu. Upon the selection of a new landfill site or sites on Oahu, the Applicant shall provide written notice to the Planning Commission. After receipt of such written notice, the Planning Commission shall hold a public hearing to reevaluate 2008/SUP-2 (SP09-403) and shall determine whether modification or revocation of 2008/SUP-2 (SP09-403) is appropriate at that time.

2009 Planning Commission Decision, pg. 25.

Funding for the new landfill site selection process was appropriated in the City's Fiscal Year (FY) 2010 budget with additional funds appropriated in FY 2011. In November 2009, the Department of Environmental Services began the process to allot appropriated funds for a procurement to contract a consultant to facilitate the landfill site selection process. On June 25, 2010, the City contracted with the R.M. Towill Corporation,

⁸ Condition No. 1 of the 2009 Planning Commission Decision is identical to Condition No. 4 of the 2009 LUC Decision except that Condition No. 4 included the added requirement that the "Planning Commission shall make a recommendation to the Land Use Commission." 2009 LUC Decision, pg. 6.

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specifically to assist the Mayor's Landfill Site Selection Advisory Committee ("Landfill Advisory Committee"). The Landfill Advisory Committee is charged by the Mayor to provide advisory recommendations to the City concerning the selection of a future site or sites for a landfill to accept MSW, ash and residue from the City's H-POWER waste-to-energy facility, and construction and demolition debris waste. The procedure involving the use of an advisory committee to assist in landfill site selection was set forth in the City's Integrated Solid Waste Management Plan (October 2008). The Mayor chose 12 members to serve on the Landfill Advisory Committee based upon numerous criteria including technical expertise and experience, community involvement, and availability to serve. See Dec. Steinberger, ¶¶ 35, 36.

The members of the Landfill Advisory Committee are: Bruce Anderson, David Arakawa, Thomas Arizumi, David Cooper, John DeSoto, John Goody, Joe Lapilio, Tesha H. Malama, Janice Marsters, Richard Poirier, Chuck Prentiss, and George West. Due to various personal reasons, however, Bruce Anderson, David Cooper and John DeSoto have since resigned from the committee. See Dec. Steinberger, ¶ 36.

The first meeting of the Landfill Advisory Committee was held on January 20, 2011, and subsequent meetings were held on February 10, March 10, March 31, and May 12, 2011. The next tentatively scheduled meetings are June 23 and July 19, 2011. Additional meetings may be scheduled as needed by the Landfill Advisory Committee. Barring unforeseen delays, the Landfill Advisory Committee's final report is expected to be completed and sent to the Mayor by October 2011. All Committee meetings are open to the public and to public comment. Handouts provided to the Landfill Advisory Committee as well as the Group Memory of each meeting are posted online at opala.org. See Dec. Steinberger, ¶ 37.

Once a site or sites are identified by the Landfill Advisory Committee, as acknowledged in both the 2009 Planning Commission Decision and the 2009 LUC Decision, it will take more than seven years to acquire, permit, design and construct the new landfill site(s). See 2009 Planning Commission Decision, ¶¶ 33, 34; see also 2009 LUC Decision at pgs. 4-5. As noted, the work of the Landfill Advisory Committee is anticipated to be concluded within the third quarter of 2011; the Department of Environmental Services must then continue on with various additional steps, anticipated to require a number of years to complete. Dec. Steinberger, ¶ 38. These tasks include, but are not limited to, the following:

1. Hawai'i Revised Statutes ("HRS") Chapter 343, Environmental Impact Statement ("EIS")

The preparation and processing of an EIS in full compliance with HRS Chapter 343 and related administrative rules for O'ahu's next landfill site or sites to replace or supplement WGSL must satisfy all necessary requirements, including but not limited to conducting site surveys and investigations, analyzing alternatives including alternative sites and technologies, obtaining public and governmental agency input, analyzing direct, secondary, and cumulative impacts, developing appropriate mitigation measures, and ensuring the opportunity for public participation and comments. Dec. Steinberger, ¶ 39.

The EIS process will include among other things the filing of three principal documents with the Office of Environmental Quality Control, State of Hawaii ("OEQC"): (1) a Final Environmental Assessment/EIS Preparation Notice ("FEA/EISPN"), which upon publication will invoke a mandatory thirty (30) day public comment period; (2) a Draft EIS that will incorporate and address all relevant public comments that are received in response to the FEA/EISPN; the publication of the Draft EIS, which will invoke a mandatory forty-five (45) day public comment period; and (3) the acceptance of the Final EIS that will incorporate and address all relevant public comments received in response to the Draft EIS. Id.

The Department of Environmental Services fully expects that because of the inherent difficulty in identifying a new landfill site or sites for O'ahu, extensive environmental documentation will likely be required before the Final EIS for said site(s) can be completed. For example, the 2008 FEIS for WGSL was delayed by approximately one year in order to complete the requisite environmental documentation mandated by HRS Chapter 343.⁹

Based upon the prior experience with the 2008 FEIS, the Department of Environmental Services estimates that the time needed to complete an EIS for the new landfill site(s) is between one and two years, provided that there are no legal challenges. Id. Any legal challenges will only lengthen the time needed to complete an EIS. Id.

⁹ Examples of additional environmental disclosure documentation that was required for the 2008 FEIS included: (1) the discovery of three stone uprights that required archaeological investigation and coordination with the State Historic Preservation Division and cultural informants; and (2) the commissioning of an Invertebrate Survey for the 2008 FEIS. Dec. Steinberger, ¶ 39; see also 2007 Application.

2. Acquisition of the Selected Landfill Site(s)

This task is dependent upon the alternative landfill site(s) that is selected. If the site(s) is not presently owned by the City, the land acquisition process could be lengthy. If the City must acquire new land, a summary of the process is as follows: an appraisal of the land value; a determination by the City regarding the funding source for the acquisition; and approval for the expenditure of public funds by the Honolulu City Council. See Dec. Steinberger, ¶ 40.

Moreover, if the City does not own the property and the landowner is unwilling to sell the property to the City, a condemnation process could ensue. This process is expected to be lengthy and would likely involve litigation. Id.

For these reasons, it is difficult for the Department of Environmental Services to estimate the length of time required to acquire a new landfill site(s). For the purposes of this Application, however, an approximate estimate of time is one to three years. Id.

3. Detailed Engineering Studies, Construction and Bid Documents, and Other Approvals

Following the completion of the EIS process and the acquisition of the site(s), detailed engineering studies will need to be completed to support the landfill design. These studies will include, but are not limited to: land surveys; geotechnical soils and structural investigations; hydrology and hydrogeological investigations. The completion of these studies is required so that the landfill construction drawings can incorporate civil design requirements, such as the provision of drainage, access roadways, and infrastructure, to support the use of the site. Coordination with governmental agencies, utilities, and adjoining landowners, consistent with mitigation measures identified in the EIS, will also be required to minimize disturbance to nearby property owners and utilities. See Dec. Steinberger, ¶ 41.

The length of time required for the completion of detailed engineering studies, construction drawings and bid documents, and the processing of procurements for the design and construction contractors (which could include the selection of a qualified landfill operator), as well as the acquisition of building permits, land use approvals such as a SUP or district boundary amendment, depending on where the site(s) is located, and other necessary approvals, is estimated to be between one and three years. Id.

Based on the foregoing, no new landfill site or sites intended to replace or supplement WGSL will be operational as of the July 31, 2012, deadline to cease accepting

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MSW at WGS� as imposed by Condition No. 14 of the 2009 LUC Decision. See 2009 Planning Commission Decision, ¶ 34, pg. 8; see also Dec. Steinberger, ¶ 42.

III. CONCLUSION

In accordance with the foregoing, the Applicant requests that the Planning Commission modify SUP No. 2008/SUP-2 by deleting Condition No. 14 of the 2009 LUC Decision to enable WGS� to continue accepting MSW until the Landfill reaches its permitted capacity as provided in the 2009 Planning Commission Decision.

For all the foregoing reasons, the Department of Environmental Services respectfully requests that the Planning Commission grant this application.

Sincerely,




Timothy E. Steinberger, P.E.
Director

Attachments

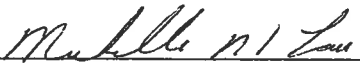
VERIFICATION


TIMOTHY E. STEINBERGER, P.E., being duly sworn, on oath, deposes and says that he is the Director of the Department of Environmental Services, City and County of Honolulu, and as such is authorized to make this verification on behalf of the Department of Environmental Services; that he has read the foregoing Application and knows the contents thereof; and that the same are true to the best of his knowledge, information and belief.

DATED: Honolulu, Hawaii, June 28, 2011.


TIMOTHY E. STEINBERGER, P.E.

Subscribed and sworn to me
this 28th day of June, 2011.


Name: MICHELLE N.I. LAU
Notary Public, State of Hawaii
My commission expires: 9-21-2014

Date: <u>6-28-11</u>	#Pages: <u>-37-</u>
Name: <u>MICHELLE N.I. LAU</u>	<u>1st</u> Circuit
Doc. Description: <u>SUP No. 2008/SUP-2</u>	
<u>App to modify 2008/SUP-2</u>	
 Notary Signature	
NOTARY CERTIFICATION	

DECLARATION OF TIMOTHY E. STEINBERGER

I, TIMOTHY E. STEINBERGER, hereby declare as follows:

1. I am the Director for the Department of Environmental Services.
2. I make this declaration based upon personal knowledge in support the Application to Modify State Special Use Permit ("SUP") No. 2008/SUP-2 by modifying the State of Hawaii Land Use Commission's (the "LUC's") Order Adopting the City and County of Honolulu Planning Commission's Findings of Fact, Conclusions of Law, and Decision and Order with Modifications, dated October 22, 2009, by deleting the July 31, 2012, deadline to cease disposal of municipal solid waste ("MSW") at the Waimanalo Gulch Sanitary Landfill ("WGSL" or "Landfill"), as set forth in Condition No. 14 of said Order.
3. Attached hereto as Exhibit "A" is a true and correct copy of relevant portions of Appellee State of Hawaii Land Use Commission's Answering Brief to the Circuit Court of the First Circuit, filed on April 12, 2010, In the Matter of Department of Environmental Services, City and County of Honolulu vs. Land Use Commission, State of Hawaii, et al., Civil No. 09-1-2719-11.
4. Attached hereto as Exhibit "B" is a true and correct CD copy of the *Final Environmental Impact Statement, Waimanalo Gulch Sanitary Landfill Lateral Expansion, Waimanalo Gulch, Oahu, Hawaii, TMKs: (1) 9-2-003: 072 and 073*, dated October 2008.
5. Attached hereto as Exhibit "C" is a true and correct copy of the LUC's Findings of Fact, Conclusions of Law and Decision and Order issued April 20, 1987.

6. Attached hereto as Exhibit "D" is a true and correct copy of the LUC's Findings of Fact, Conclusions of Law and Decision and Order issued on October 31, 1989.

7. Attached hereto as Exhibit "E" is a true and correct copy of the Planning Commission's Findings of Fact, Conclusions and Decision dated March 13, 2003 (the "2003 Planning Commission Decision").

8. Attached hereto as Exhibit "F" is a true and correct copy of the LUC's Decision and Order Approving Amendment to Special Use Permit issued June 9, 2003 (the "2003 LUC Decision").

9. Attached hereto as Exhibit "G" is a true and correct copy of Resolution No. 04-348, CD 1, FD 1, adopted by the Honolulu City Council on December 1, 2004.

10. Attached hereto as Exhibit "H" is a true and correct copy of State Special Use Permit (SUP) No. 86/SUP-5, In re Department of Environmental Services, City and County of Honolulu (FKA Department of Public Works, City and County of Honolulu); Application to Modify (1) the Findings of Fact, Conclusions and Decision dated March 13, 2003, and (2) the Decision and Order Approving Amendment to Special Use Permit Issued June 9, 2003, filed with the Department of Planning and Permitting on July 6, 2007, without accompanying exhibits ("2007 Application").

11. Attached hereto as Exhibit "I" is a true and correct copy of the Planning Commission's Findings of Fact, Conclusions of Law, and Decision and Order dated January 16, 2008 (the "2008 Planning Commission Decision").

12. Attached hereto as Exhibit "J" is a true and correct copy of the LUC's Findings of Fact, Conclusions of Law, and Decision and Order adopting with

Modifications, the City and County of Honolulu Planning Commission's Recommendation to Approve Amendment to Special Use Permit, dated March 14, 2008 (the "2008 LUC Decision").

13. Attached hereto as Exhibit "K" is a true and correct copy of the Planning Commission's Findings of Fact, Conclusions of Law, and Decision and Order dated August 4, 2009 ("2009 Planning Commission Decision").

14. Attached hereto as Exhibit "L" is a true and correct copy of relevant portions of the transcript of the July 31, 2009, decision-making hearing of the Planning Commission.

15. Attached hereto as Exhibit "M" is a true and correct copy of the LUC's Order Adopting the City and County of Honolulu Planning Commission's Findings of Fact, Conclusions of Law, and Decision and Order with Modifications, dated October 22, 2009 ("2009 LUC Decision").

16. Attached hereto as Exhibit "N" is a true and correct copy of the Circuit Court of the First Circuit's Order Affirming Land Use Commission's Order Adopting the City and County of Honolulu Planning Commission's Findings of Fact, Conclusions of Law and Decision and Order Dated October 22, 2009 with Modifications, dated September 21, 2010 ("Circuit Court Order").

17. Attached hereto as Exhibit "O" is the State of Hawai'i, Department of Health Solid Waste Management Permit No. LF-0182-09, issued on June 4, 2010

18. Attached hereto as Exhibit "P" is a true and correct copy of the United States District Court, Eastern District of Washington's order granting an injunction to enjoin the shipment of waste from Hawaii to Washington or Oregon ports on the

Columbia River and/or to the Roosevelt Landfill in Washington in Confederated Tribes and Bands of the Yakama Nation, et al., v. United States Department of Agriculture, et al., No. CV-10-3050-EFS, dated August 30, 2010.

19. On June 4, 2010, the State of Hawai'i, Department of Health ("DOH") issued Solid Waste Management Permit No. LF-0182-09, which encompasses the Landfill's current footprint, which consists of approximately 200 acres. That DOH permit states that WGSL "may accept MSW and ash for disposal until the date specified in the associated Special Use Permit or until the landfill/monofill reaches its permitted capacity, whichever comes first."

20. On November 19, 2009, in relation to the 2009 LUC Decision, the Department of Environmental Services filed its Notice of Appeal; Statement of the Case; Designation of Record on Appeal; Order for Certification and Transmission of Record; Exhibits "A" and "B" to the Circuit Court of the First Circuit ("Circuit Court"). Specifically, the Department of Environmental Services appealed the LUC's imposition of a July 31, 2012, deadline to cease the disposal of MSW at WGSL, as set forth in Condition No. 14 of the 2009 LUC Decision, as arbitrary and capricious, characterized by abuse of discretion and a clearly unwarranted exercise of discretion in light of the record developed before the Planning Commission. The Department of Environmental Services further appealed the LUC's imposition of reporting requirements, as set forth in Condition Nos. 15 and 16 of the 2009 LUC Decision, as in excess of the statutory authority and jurisdiction of the LUC. Oral arguments were held before the Honorable Judge Rhonda A. Nishimura of the Circuit Court on July 14, 2010. On September 21, 2010, the Circuit Court issued its Order Affirming Land Use Commission's Order

Adopting the City and County of Honolulu Planning Commission's Findings of Fact, Conclusions of Law and Decision and Order Dated October 22, 2009 with Modifications. Said Order modified Conditions No. 15 and 16 of the 2009 LUC Decision by deleting the references to the Honolulu City Council and the City administration, and substituting the same with the Department of Environmental Services. The Order also erroneously affirmed Condition No. 14 of the 2009 LUC Decision. Final Judgment was filed on October 19, 2010, and the Notice of Entry of Judgment was filed on October 21, 2010.

21. On November 12, 2010, the Department of Environmental Services timely filed its Notice of Appeal and Civil Appeals Docketing Statement to the Intermediate Court of Appeals ("ICA") relating to that portion of the Circuit Court's Order which wrongly affirmed the LUC's arbitrary and unsupported deadline of July 31, 2012, to cease acceptance of MSW at WGSL. The Department of Environmental Services filed its Opening Brief to the ICA on February 15, 2011. Briefing is not yet concluded and the case remains pending before the ICA.

22. The current permitted area of the Landfill, which is approximately 200 acres, has the capacity to continue to accept MSW well beyond the July 31, 2012, deadline to cease accepting MSW at WGSL imposed by the 2009 LUC decision. Based upon typical rates of disposal at WGSL, the remaining capacity in the permitted area is estimated to be approximately fifteen years. The remaining capacity of WGSL is an estimate only as rates of disposal fluctuate based upon numerous factors, e.g., the economy, waste diversion programs, such as the implementation of island-wide recycling, possible disaster events, etc.

23. The Department of Environmental Services has been actively reducing waste volumes that are directed to WGSL through its various waste diversion programs. For example, the Department of Environmental Services is expanding its H-POWER plant with a third boiler, which is expected to increase the facility's capacity by an additional 300,000 tons of MSW per year by late 2011 or early 2012. The Department of Environmental Services also completed full implementation of its island-wide, curbside recycling program in May 2010, which is in addition to its program of community recycling bins. A facility at the City's Sand Island Wastewater Treatment Plant turns bio-solids into fertilizer pellets, so that such material may be reused as a soil amendment product. The Department of Environmental Services' other initiatives include awarding a contract for a new recycling facility that will accept green waste, food waste and sewage sludge. The City remains committed to adopting and implementing waste handling programs that will reduce O'ahu's dependency on landfilling.

24. If SUP No. 2008/SUP-2 is not amended by deleting Condition No. 14 of the 2009 LUC Decision, the Landfill will be forced to stop accepting MSW as of July 31, 2012, and special wastes, bulky wastes and waste material that cannot be combusted, recycled, reused, or shipped, will have nowhere to go for proper disposal. This stoppage will have an adverse, island-wide impact on all of the communities on O'ahu because the City will no longer have the ability to dispose of certain wastes in a sanitary manner. The City would also no longer be permitted to operate H-POWER, as that facility must have a MSW landfill disposal option as required by its DOH solid waste permit. Furthermore, in the event of a disaster such as a hurricane or a tsunami, the City would have no permitted site to dispose of the ensuing debris. In other words, not

only would there be no sanitary or secure means of disposing of special wastes and bulky wastes, H-POWER would no longer be permitted to accept any MSW and there would be no facility to properly dispose of disaster debris. Further, even when the H-POWER facility is expanded, it will still require the continued availability of WGSL as a permit condition to operate, to ensure proper disposal of MSW that is diverted from H-POWER due to routine maintenance, unanticipated closures or if the amount of waste exceeds the capacity of the facility.

25. The recent closure of WGSL from January 12 to January 28, 2011, due to unprecedented storms in December 2010 and in January 2011, has served to highlight the need for a landfill. During that seventeen-day closure period, there were delays in the disposal of H-POWER residue, bulky item waste, and wastewater sludge. All such wastes cannot be disposed of at H-POWER and must be disposed of in the Landfill. The closure of WGSL greatly impacted the disposal of H-POWER residue, bulky item waste, and wastewater sludge, all of which cannot be disposed of at H-POWER and must be disposed of at WGSL, the only permitted facility on O'ahu to accept these types of waste. The closure of WGSL also hampered H-POWER's ability to accept MSW because of the backlog of residue that accumulated at the facility. City refuse transfer stations that depend on H-POWER for waste disposal were also adversely impacted and experienced heavy buildups of trash. City wastewater treatment facilities resorted to temporary on-site storage of sewage sludge to cope with the situation. Further, the Department of Environmental Services ceased collection of bulky item wastes, resulting in unsightly piles of waste in many neighborhoods across the island. Generators of other special wastes that are normally disposed of at WGSL had to make their own

arrangements to store or otherwise dispose of their waste until the Landfill could be reopened. The closure of WGSL had far reaching impacts upon the City's ability to dispose of solid waste, with restrictions imposed at all six of the City's convenience centers, as well as at its three transfer stations. On April 13, 2011, the WGSL and all City refuse facilities resumed normal operations and were opened to the public.

26. The off-island shipment of O'ahu's solid waste is no longer a viable alternative, not even for the short term. The City did attempt to ship waste to the mainland but only as an interim solid waste disposal alternative until the H-POWER facility was expanded with the addition of a third boiler. However, this attempt was not successful and shipping is now precluded by a court imposed injunction on the shipping of waste from Hawai'i to Washington and Oregon via the Columbia River.

27. In January 2008, the City issued an Invitation for Bids ("IFB") for the baling, shipping, offloading, transporting and disposing (transshipment) of City-provided MSW to a U.S. Mainland landfill for a term of at least 36 months. The City received and opened three bids on June 17, 2008. Following the bid opening, the two highest bidders filed a total of four procurement protests, disputing for various reasons the adequacy of the apparent low bid. These protests were resolved after several months, with all the protests ultimately being denied, and no appeals being taken of those denials.

28. Pursuant to the requirements of the State Procurement Code, the City was prohibited from taking any actions toward the award of a contract during the pendency of the protests. With the protests resolved, the City reviewed the apparent low bid submitted by Hawaiian Waste Systems, LLC ("HWS"), and eventually the City's Chief

Procurement Officer issued a determination that the low bid was not responsive to the requirements of the IFB. Pursuant to the State Procurement Code, HWS appealed this determination to the Office of Administrative Hearings at the Department of Commerce and Consumer Affairs (“DCCA”).

29. Following a hearing at DCCA, and prior to the deadline for the Hearings Officer to issue a decision on the appeal, the City and HWS agreed to settle the procurement protest. The settlement was confirmed in an Order approved by the Hearings Officer. Pursuant to the Settlement and Order, the contract for interim shipment of MSW was awarded to HWS on August 27, 2009. The commencement of services under the contract was to begin by the end of September 2009. The City issued a Notice to Proceed to HWS for September 25, 2009. Both parties agreed that delivery of MSW would start on September 28, 2009.

30. HWS asked the City to cease delivering waste on April 1, 2010. At that point, approximately 20,000 tons of MSW had been delivered to HWS, which baled, wrapped and stockpiled the MSW at three locations, and no waste had been shipped due to HWS’ inability to obtain required permits for the contracted services.

31. Originally, HWS’ proposed port on the U.S. mainland was located in Roosevelt, WA. HWS submitted a revised plan to ship baled waste to different ports (Longview, WA; Rainier, OR; and Portland, OR) and the environmental assessment for HWS’ revised plan was posted on the Federal Register on January 19, 2010, and the closing date for comments was February 18, 2010. On May, 27, 2010 the United States Department of Agriculture (“USDA”) concluded their responses to public comments and

published a Finding of No Significant Impact ("FONSI"). The required Compliance Agreements were issued in June 2010.

32. On July 8, 2010, the USDA issued a Notification of Suspension of Operations Pursuant to Compliance Agreement No. Oahu RGOO2 to HWS. On August 30, 2010, the United States District Court, Eastern District of Washington issued an injunction enjoining the shipment of waste from Hawaii to Washington or Oregon ports on the Columbia River and/or to the Roosevelt Landfill in Washington in Confederated Tribes and Bands of the Yakama Nation, et al., v. United States Department of Agriculture, et al., No. CV-10-3050-EFS. The USDA has canceled the Compliance Agreement permits of all Hawaii shippers that might otherwise have enabled the shipment of waste to the mainland. As of the filing of this Application, the Yakama Nation lawsuit remains active and the injunction continues in effect.

33. Accordingly, no waste was ever shipped to the mainland due to various problems encountered by HWS. In order to properly dispose of the approximately 20,000 tons of baled MSW, HWS agreed to disassemble the bales, sort the waste and take the burnable waste to H-POWER and the non-burnable waste to the Waimanalo Gulch Landfill. As of January 2011, approximately 11,000 tons had been taken to H-POWER and 140 tons had been taken to WGSL.

34. On January 6, 2011, there was a fire at the HWS facility that damaged the building in which the waste bales were disassembled. Because HWS' solid waste permit requires the waste to be processed under cover, without the use of the building, HWS' breaking apart and sorting of the waste for disposal at H-POWER and WGSL had to be suspended. Thereafter, the City and HWS continued to work together, in

collaboration with DOH, to dispose of the remaining tons of baled waste. On May 12, 2011, the last bale of waste at the HWS facility was removed and delivered to a City waste disposal facility. Of the original 20,000 tons in its possession, HWS delivered 14,779 tons to H-POWER (76%) and 4,565 (24%) tons to WGSL. HWS was able to extract and recycle 1,525 tons of metal.

35. As required by Condition No. 1 of the 2009 Planning Commission Decision and Condition No. 4 of the 2009 LUC Decision, the Department of Environmental Services is diligently working towards identifying one or more new landfill sites that shall either replace or supplement the WGSL. Funding for the new landfill site selection process was appropriated in the City's Fiscal Year (FY) 2010 budget with additional funds appropriated in FY 2011. In November 2009, the Department of Environmental Services began the process to allot appropriated funds for a procurement to contract a consultant to facilitate the landfill site selection process. On June 25, 2010, the City contracted with the R.M. Towill Corporation, specifically to assist the Mayor's Landfill Site Selection Advisory Committee ("Landfill Advisory Committee").

36. The Landfill Advisory Committee is charged by the Mayor to provide advisory recommendations to the City concerning the selection of a future site or sites for a landfill to accept MSW, ash and residue from the City's H-POWER waste-to-energy facility, and construction and demolition debris waste. The procedure involving the use of an advisory committee to assist in landfill site selection was set forth in the City's Integrated Solid Waste Management Plan (October 2008). The Mayor chose 12 members to serve on the Landfill Advisory Committee based upon numerous criteria including technical expertise and experience, community involvement, and availability to

serve. The members of the Landfill Advisory Committee are: Bruce Anderson, David Arakawa, Thomas Arizumi, David Cooper, John DeSoto, John Goody, Joe Lapilio, Tesha H. Malama, Janice Marsters, Richard Poirier, Chuck Prentiss, and George West. Due to various personal reasons, however, Bruce Anderson, David Cooper and John DeSoto have since resigned from the committee.

37. The first meeting of the Landfill Advisory Committee was held on January 20, 2011, and subsequent meetings were held on February 10, March 10, March 31, and May 12, 2011. The next tentatively scheduled meetings are June 23 and July 19, 2011. Additional meetings may be scheduled as needed by the Landfill Advisory Committee. Barring unforeseen delays, the Landfill Advisory Committee's final report is expected to be completed and sent to the Mayor by October 2011. All Committee meetings are open to the public and to public comment. Handouts provided to the Landfill Advisory Committee as well as the Group Memory of each meeting are posted online at opala.org.

38. Once a site or sites are identified by the Landfill Advisory Committee, it will take more than seven years to acquire, permit, design and construct the new landfill site(s). As noted, the work of the Landfill Advisory Committee is anticipated to be concluded within the third quarter of 2011; the Department of Environmental Services must then undertake various additional steps, anticipated to require a number of years to complete.

39. The preparation and processing of an Environmental Impact Statement ("EIS") in full compliance with Hawai'i Revised Statutes ("HRS") Chapter 343 and related administrative rules for O'ahu's next landfill site or sites to replace or supplement

WGSL must satisfy all necessary requirements, including but not limited to conducting site surveys and investigations, analyzing alternatives including alternative sites and technologies, obtaining public and governmental agency input, analyzing direct, secondary, and cumulative impacts, developing appropriate mitigation measures, and ensuring the opportunity for public participation and comments. The EIS process will include among other things the filing of three principal documents with the Office of Environmental Quality Control, State of Hawaii ("OEQC"): (1) a Final Environmental Assessment/EIS Preparation Notice ("FEA/EISPN"), which upon publication will invoke a mandatory thirty (30) day public comment period; (2) a Draft EIS that will incorporate and address all relevant public comments that are received in response to the FEA/EISPN; the publication of the Draft EIS, which will invoke a mandatory forty-five (45) day public comment period; and (3) the acceptance of the Final EIS that will incorporate and address all relevant public comments received in response to the Draft EIS. The Department of Environmental Services fully expects that because of the inherent difficulty in identifying a new landfill site or sites for O'ahu, extensive environmental documentation will likely be required before the Final EIS for said site(s) can be completed. For example, the 2008 FEIS for WGSL was anticipated to be completed by December 2007, but was delayed by approximately one year in order to complete the requisite environmental documentation mandated by HRS Chapter 343 in relation to the discovery of three stone uprights that required archaeological investigation and coordination with the State Historic Preservation Division and cultural informants as well as to commission an Invertebrate Survey. Based upon the prior experience with the 2008 FEIS, the Department of Environmental Services estimates

that the time needed to complete an EIS for the new landfill site(s) is between one and two years, provided that there are no legal challenges. Any legal challenges will only lengthen the time needed to complete an EIS.

40. The timeline for the acquisition of the landfill site or sites identified by the Landfill Advisory Committee is dependent upon the alternative landfill site(s) that is selected. If the site(s) is not presently owned by the City, the land acquisition process could be lengthy. If the City must acquire new land, a summary of the process is as follows: an appraisal of the land value; a determination by the City regarding the funding source for the acquisition; and approval for the expenditure of public funds by the Honolulu City Council. Moreover, if the City does not own the property and the landowner is unwilling to sell the property to the City, a condemnation process could ensue. This process is expected to be lengthy and would likely involve litigation. For these reasons, it is difficult for the Department of Environmental Services to estimate the length of time required to acquire a new landfill site(s). For the purposes of this Application, however, an approximate estimate of time is one to three years.


41. Following the completion of the EIS process and the acquisition of the site(s), detailed engineering studies will need to be completed to support the landfill design. These studies will include, but are not limited to: land surveys; geotechnical soils and structural investigations; hydrology and hydrogeological investigations. The completion of these studies is required so that the landfill construction drawings can incorporate civil design requirements, such as the provision of drainage, access roadways, and infrastructure, to support the use of the site. Coordination with governmental agencies, utilities, and adjoining landowners, consistent with mitigation

measures identified in the EIS, will also be required to minimize disturbance to nearby property owners and utilities. The length of time required for the completion of detailed engineering studies, construction drawings and bid documents, and the processing of procurements for the design and construction contractors (which could include the selection of a qualified landfill operator), as well as the acquisition of building permits, land use approvals such as a SUP or district boundary amendment, depending on where the site(s) is located, and other necessary approvals, is estimated to be between one and three years.

42. Based on the foregoing, no new landfill site or sites intended to replace or supplement WGSL will be operational as of the July 31, 2012, deadline to cease accepting MSW at WGSL as imposed by Condition No. 14 of the 2009 LUC Decision.

I DECLARE UNDER PENALTY OF LAW THAT THE FOREGOING IS TRUE AND CORRECT.

DATED: Honolulu, Hawai'i, June 28, 2011.

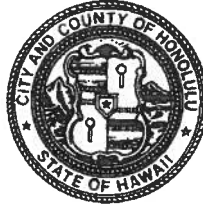

TIMOTHY E. STEINBERGER, P.E.

Attachment C

DEPARTMENT OF ENVIRONMENTAL SERVICES
CITY AND COUNTY OF HONOLULU

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MANUEL S. LANUEVO, P.E., LEED AP
DEPUTY DIRECTOR

ROSS S. TANIMOTO, P.E.
DEPUTY DIRECTOR

IN REPLY REFER TO:
DIR 11-008

June 1, 2011

VIA HAND DELIVERY

Mr. Rodney Kim, Chair
Planning Commission
c/o Department of Planning and Permitting
City and County of Honolulu
650 South King Street, 7th Floor
Honolulu, Hawaii 96813

Dear Mr. Kim:

Subject: Docket No. SP09-403
New Special Use Permit
Waimanalo Gulch Sanitary Landfill

In accordance with the State Land Use Commission Order Adopting the City and County of Honolulu Planning Commission's Findings of Fact, Conclusions of Law, and Decision and Order With Modifications, the attached Second Annual Report is submitted for your information. The report is also being submitted to the Land Use Commission.

Sincerely,


Timothy E. Steinberger, P.E.
Director

Attachment

SECOND ANNUAL REPORT

**STATUS OF ACTIONS TAKEN TO COMPLY WITH THE STATE LAND USE
COMMISSION'S ORDER DATED OCTOBER 2, 2009
AND
STATUS OF OPERATIONS
WAIMANALO GULCH SANITARY LANDFILL**

Prepared For:

**Land Use Commission
State of Hawaii**

**Planning Commission
City and County of Honolulu**

Prepared By:

**Department of Environmental Services
City and County of Honolulu**

June 1, 2011

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PREFACE

This report was prepared in accordance with the State of Hawaii Land Use Commission's ("LUC") Order Adopting the City and County of Honolulu Planning Commission's Findings of Fact, Conclusions of Law, and Decision and Order with Modifications, dated October 2, 2009 ("LUC Order"). Under Condition 6 of the LUC Order, the Applicant (Department of Environmental Services, City and County of Honolulu, hereinafter "ENV") is required to submit annual reports to the Planning Commission of the City and County of Honolulu ("Planning Commission") and the LUC regarding the following: (1) the status of identifying and developing new landfill sites on Oahu to supplement or replace the Waimanalo Gulch Sanitary Landfill ("WGSL"); (2) the WGSL's operations; and (3) ENV's compliance with the conditions imposed by the LUC Order. This report shall also address ENV's efforts to use alternative technologies as appropriate, and to seek beneficial re-use of stabilized, dewatered sewage sludge.

This is the second annual report and covers the period from June 2010 through May 2011, or as otherwise stated.

STATUS OF IDENTIFYING AND DEVELOPING NEW LANDFILL SITES ON OAHU

1. General

Condition 4 of the LUC Order requires that, on or before November 1, 2010, ENV shall begin to identify and develop one or more new landfill sites that shall either replace or supplement the WGSL.

2. Current Status

Funding for the new landfill site selection process was appropriated in the City's Fiscal Year ("FY") 2010 budget with additional funds appropriated in FY 2011. In November 2009, ENV contracted a consultant, R.M. Towill Corporation, to facilitate this process, specifically to assist the Mayor's Landfill Site Selection Advisory Committee ("Landfill Advisory Committee"). The Landfill Advisory Committee is charged by the Mayor to provide advisory recommendations to the City concerning the selection of a future site or sites for a landfill to accept municipal solid waste (MSW), ash and residue from the City's H-POWER waste-to-energy facility, and construction and demolition debris waste. The Mayor chose 12 members to serve on the Landfill Advisory Committee based upon numerous criteria including technical expertise and experience, community involvement, and availability to serve.

The original members of the Landfill Advisory Committee were: Bruce Anderson, David Arakawa, Thomas Arizumi, David Cooper, John DeSoto, John Goody, Joe Lapilio, Tesha H. Malama, Janice Marsters, Richard Poirier, Chuck Prentiss, and George West. Due to various personal reasons, however, Bruce Anderson, David Cooper and John DeSoto have since resigned from the committee.

The first meeting of the Landfill Advisory Committee was held on January 20, 2011, and subsequent meetings were held on February 10, March 10, March 31, and May 12, 2011. The next tentatively scheduled meetings are June 23 and July 19, 2011. Additional meetings may be scheduled as needed by the Landfill Advisory Committee. Barring unforeseen delays, the Landfill Advisory Committee's final report is expected to be completed and sent to the Mayor by October 2011. All Committee meetings are open to the public and to public comment. Handouts provided to the Landfill Advisory Committee as well as the Group Memory of each meeting are posted online at opala.org.

Following receipt of the Landfill Advisory Committee's recommendations, ENV will work with the City Administration to select a new landfill site or sites to supplement or replace the WGSL. Once a site or sites are selected, as acknowledged in the LUC Order, it will take at least seven years to plan, construct and open a new landfill.

On January 7, 2011, ENV sent a written inquiry to Colonel Robert Rice, Base Commander of Marine Corps Base Kaneohe, as to the availability of land located within

the Bellows Air Force Base Station as a possible location for a new landfill facility. Also on that date, ENV sent a similar inquiry to William Aila, Acting Director of the State Department of Land and Natural Resources, as to the availability of State-owned land located at Waimanalo North (Tax Map Key: 4-1-008:013) as another possible location for a new landfill facility. These letters were sent as part of the effort to determine the availability of various potential landfill sites. As these lands are owned by the federal government and the state, respectively, the City has no ability to condemn these properties. The City would therefore require the consent of the property owner to acquire one or both of these properties. ENV has received response letters from the Marine Corps Base Kaneohe and the State Department of Land and Natural Resources which indicated that both subject sites are not available for a future landfill.

STATUS OF LANDFILL OPERATIONS

1. Tonnage

Over the 12-month period beginning June 1, 2010, through May 31, 2011, the Waimanalo Gulch Landfill received the following amounts of material:

H-POWER Ash.....	83,298 tons
H-POWER Residue.....	61,614 tons
Municipal Solid Waste (MSW).....	175,315 tons

The above tonnages reflect the fact that the landfill was closed to commercial MSW receipts during January 2011 and February 2011 as a result of the heavy flooding associated with the December 2010 and January 2011 storm events described below. In addition, MSW volumes are higher than the previous reporting period due to scheduled H-Power maintenance shutdowns and the disposal of MSW received from the failed off-island shipping project. Ash volumes are consistent with prior reporting as that portion of the landfill was not directly affected by the referenced storm events..

2. December 2010 and January 2011 Storm Events

In December 2010, heavy rainfall and at least 2 large storm events caused WGSL to become inundated with flood waters from upstream of the landfill. Further flooding and a discharge of MSW, which included a small amount of sterilized medical waste, occurred on the night of January 12, 2011. Details of the storm events and actions taken by ENV and its contractor, Waste Management of Hawaii, Inc. ("WMH"), are discussed in the Status Report on Waimanalo Gulch Sanitary Landfill dated February 2, 2011, submitted to the LUC.

3. Current Status of WGSL

The January 2011 closure of WGSL did not stop ENV's collection of MSW and recyclables deposited into the grey, green, and blue residential collection bins because this waste could be burned at the City's waste-to-energy facility, H-POWER, or recycled. However, the closure of WGSL greatly impacted the disposal of H-POWER residue, bulky item waste, and wastewater sludge, all of which cannot be disposed of at H-POWER and must be disposed of at WGSL, the only permitted facility on O'ahu to accept these types of waste. The closure of WGSL also hampered H-POWER's ability to accept MSW because of the backlog of residue that accumulated at the facility. City refuse transfer stations that depend on H-POWER for waste disposal were also adversely impacted and experienced heavy buildups of trash. City wastewater treatment facilities resorted to temporary on-site storage of sewage sludge to cope with the situation. Further, ENV ceased collection of bulky item wastes, resulting in unsightly piles of waste in many neighborhoods across the island. Generators of other special wastes that are normally disposed of at WGSL had to make their own arrangements to store or otherwise dispose of their waste until the landfill could be reopened.

On January 28, 2011, after WMH completed partial repairs to the damaged cell E-6 and worked around the clock with the State Department of Health (“DOH”) and the United States Environmental Protection Agency (“EPA”), ENV and WMH were able to reopen WGS� for the limited disposal of critical waste that had backlogged as a result of WGS�’s closure, specifically sewage sludge, residue from H-POWER, other special wastes and accumulated bulky item waste from convenience centers.

On January 29, 2011, ENV commenced pick-up of bulky item waste, drawing upon additional resources to make this happen as quickly as possible, despite logistical and financial constraints.

On February 15, 2011, the storm water diversion channel at WGS� became functionally complete and will now carry future storm water originating from up canyon around the active portion of the landfill.

The seventeen day period, from January 12 to January 28, 2011, that WGS� was closed, only highlights the need for a landfill as certain waste cannot be combusted, recycled, reused or shipped. These wastes must be landfilled at WGS�. The closure of WGS� had far reaching impacts upon the City’s ability to dispose of solid waste, with restrictions imposed at all six of the City’s convenience centers, as well as at its three transfer stations. On April 13, 2011, the WGS� and all City refuse facilities resumed normal operations and were opened to the public.

4. Landfill Expansion Permits

a. Solid Waste Permit

The final solid waste permit for the proposed lateral expansion was approved by the State of Hawaii, Department of Health (DOH) on June 4, 2010. General site excavation, new cell construction, and improvements to the west side drainage system are ongoing.

b. Special Use Permit

A Special Use Permit (“SUP”) application was submitted to the City Department of Planning and Permitting on December 3, 2008. The Planning Commission voted to approve the SUP on July 31, 2009. The LUC subsequently approved the SUP with modifications. Condition 14 restricts WGS� from accepting any MSW after July 31, 2012. ENV appealed that provision, along with Condition Nos. 15 and 16 of the LUC Order, relating to certain reporting requirements imposed upon the City Council, to the Circuit Court of the First Circuit. Oral arguments were presented to the Court on July 14, 2010. On August 3, 2010, the Court denied ENV’s request to strike Condition 14, and modified Conditions 15 and 16 by requiring ENV to comply with these conditions instead of the City Council and City Administration. ENV timely appealed to the

Intermediate Court of Appeals (“ICA”) that portion of the decision which affirmed the July 31, 2012, deadline on acceptance of MSW at the landfill. This case is pending at the ICA.

As indicated during the February 2011 Status Hearing before the LUC, ENV plans to file an application to the City Department of Planning and Permitting to amend the current SUP to allow for the disposal of MSW at WGSL beyond July 31, 2012.

COMPLIANCE WITH CONDITIONS OF ORDER

The LUC adopted the Planning Commission's Findings of Fact, Conclusions of Law, And Decision and Order dated August 4, 2009, as its own Findings of Fact, Conclusions of Law, And Decision and Order, subject to sixteen (16) conditions. The general description and status of each condition is as follows:

Condition No.	Description
1	<p>The Applicant shall obtain all necessary approvals from the State Department of Health (DOH), Department of Transportation, Commission on Water Resources Management, and Board of Water Supply for all onsite and offsite improvements involving access, storm drainage, leachate control, water, well construction, and wastewater disposal.</p> <p><u>Status:</u> All applicable permits/approvals have been obtained.</p>
2	<p>In accordance with Chapter 11-60.1 "Air Pollution Control," Hawaii Administrative Rules, the Applicant shall be responsible for ensuring that effective dust control measures during all phases of development, construction, and operation of the landfill expansion are provided to minimize or prevent any visible dust emission from impacting surrounding areas. The Applicant shall develop a dust control management plan that identifies and addresses all activities that have a potential to generate fugitive dust.</p> <p><u>Status:</u> Dust control measures and management plan have been provided for as part of the Solid Waste Management Permit issued by the DOH.</p>
3	<p>The City and County of Honolulu shall indemnify and hold harmless the State of Hawaii and all of its agencies and/or employees for any lawsuit or legal action relating to any groundwater contamination and noise and odor pollution relative to the operation of the landfill.</p> <p><u>Status:</u> So noted.</p>
4	<p>On or before November 1, 2010, the Applicant shall begin to identify and develop one or more new landfill sites that shall either replace or supplement the WGSL. The Applicant's effort to identify and develop such sites shall be performed with reasonable diligence, and the Honolulu City Council is encouraged to work cooperatively with the Applicant's efforts to select a new landfill site on Oahu. Upon the selection of a new landfill site or sites on Oahu, the Applicant shall provide written notice to the Planning Commission. After receipt of such written notice, the Planning Commission shall hold a public hearing to reevaluate 2008/SUP-2 (SP09-403) is appropriate at that</p>

Condition No.	Description
	<p>time. The Planning Commission shall make a recommendation to the Land Use Commission.</p> <p><u>Status:</u> See Status of Identifying and Developing New Landfill Sites on Oahu of this report.</p>
5	<p>The Applicant shall continue its efforts to use alternative technologies to provide a comprehensive waste stream management program that includes H-POWER, plasma arc, plasma gasification and recycling technologies, as appropriate. The Applicant shall also continue its efforts to seek beneficial reuse of stabilized, dewatered sewage sludge.</p> <p><u>Status:</u> See section on Alternative Technologies of this report.</p>
6	<p>The Applicant shall provide, without any prior notice, annual reports to the Planning Commission and the Land Use Commission regarding the status of identifying and developing new landfill sites on Oahu, the WGS�'s operations, and Applicant's compliance with the conditions imposed herein. The annual reports also shall address the Applicant's efforts to use alternative technologies, as appropriate, and to seek beneficial re-use of stabilized, dewatered sewage sludge. The annual reports shall be submitted to the Planning Commission and Land Use Commission on June 1 of each year subsequent to the date of this Decision and Order.</p> <p><u>Status:</u> Subsequent reports will be submitted by June 1 of each year.</p>
7	<p>Closure Sequence "A" for the existing landfill cells at WGS� as shown on Exhibit "A12" must be completed, and final cover applied, by December 31, 2012.</p> <p><u>Status:</u> Closure Sequence "A" will be completed and final cover applied by December 31, 2012.</p>
8	<p>WGS� shall be operational only between the hours of 7:00 a.m. and 4:30 p.m. daily, except that ash and residue may be accepted at the Property 24 hours a day.</p> <p><u>Status:</u> The Solid Waste Management Permit issued by DOH requires that landfill operations be confined to between the hours of 7:00 a.m. and 4:30 p.m. Permission to extend hours to accommodate refuse loads during H-POWER outages shall be obtained from DOH on an as-needed basis.</p>

Condition No.	Description
9	<p>The Applicant shall coordinate construction of the landfill cells in the expansion area and operation of WGS� with Hawaiian Electric Company (HECO), with respect to required separation of landfill grade at all times and any accessory uses from overhead electrical power lines.</p> <p><u>Status:</u> Coordination with HECO will be done to ensure that landfill construction and operations are adequately separated from overhead electrical power lines.</p>
10	<p>The operations of the WGS� under 2008/SUP-2 (SP09-403) shall be in compliance with the requirements of Section 21-5.680 of the Revised Ordinances of the City and County of Honolulu 1990, to the extent applicable, and any and all applicable rules and regulation of the State Department of Health.</p> <p><u>Status:</u> Revised Ordinances of Honolulu § 21-5.680 is inapplicable to the WGS� as that Property is a public use and said ordinance therefore does not impact operations at WGS�. The operations of the WGS� are in compliance with any and all applicable rules and regulations of the State Department of Health.</p>
11	<p>The Planning Commission may at any time impose additional conditions when it becomes apparent that a modification is necessary and appropriate.</p> <p><u>Status:</u> So noted.</p>
12	<p>Enforcement of the conditions to the Planning Commission's approval of 2008/SUP-2 (SP09-403) shall be pursuant to the Rules of the Planning Commission, including the issuance of an order to show cause why 2008/SUP-2 (SP09-403) should not be revoked if the Planning Commission has reason to believe that there has been a failure to perform the conditions imposed herein by this Decision and Order.</p> <p><u>Status:</u> So noted.</p>
13	<p>The Applicant shall notify the Planning Commission and Land Use Commission of termination of the use of the Property as a landfill for appropriate action or disposition of 2008/SUP-2 (SP09-403).</p> <p><u>Status:</u> Respective notifications will be made prior to termination of the use of the property as a landfill.</p>

Condition No.	Description
14	<p>Municipal solid waste shall be allowed at the WGS� up to July 31, 2012, provided that only ash and residue from H-POWER shall be allowed at the WGS� after July 31, 2012.</p> <p><u>Status:</u> The date restriction on acceptance of MSW at the WGS� was appealed to the Circuit Court of the First Circuit. On August 3, 2010, that court denied ENV's request to strike Condition 14. ENV timely appealed to the Intermediate Court of Appeals ("ICA") that portion of the decision which affirmed the July 31, 2012, deadline on acceptance of MSW at the landfill. The case is pending at the ICA.</p>
15	<p>The Honolulu City Council through the City Administration shall report to the public every three months on the efforts of the City Council and the City Administration in regard to the continued use of the WGS�, including any funding arrangements that are being considered by the City Council and the City Administration.</p> <p><u>Status:</u> See Condition 16 Status.</p>
16	<p>The City Council and the City Administration shall have a public hearing every three months to report on the status of their efforts to either reduce or continue the use of the WGS�.</p> <p><u>Status:</u> On August 3, 2010, the Circuit Court of the First Circuit issued its order modifying this condition by substituting ENV for the City Council and the City Administration. That portion of the order was not appealed. Public hearings are being conducted every 3 months to report on the efforts of ENV in regard to the continued use of the WGS�, including any funding arrangements being considered by the City Council and the City Administration. As of the date of this Second Annual Report, four public hearings have been held at Kapolei Hale on January 21, April 21, July 21 and October 19, 2010, and two public hearings have been held at Honolulu Hale on January 18 and April 18, 2011. For the six hearings held to date, a grand total of seven (7) members of the public have attended. On average, one (1) member of the public has attended each meeting. ENV publishes public notice of the public hearings in the newspaper, announces the meetings at the Landfill Advisory Committee meetings and posts notice on opala.org. ENV also requested that the Neighborhood Board Commission notify each Neighborhood Board of forthcoming meetings, which has been done. Reports of what occurred during the hearings are posted online at opala.org.</p>

ALTERNATIVE TECHNOLOGIES

1. H-POWER

The H-POWER waste-to-energy facility continues to process over 600,000 tons per year of municipal solid waste. The facility has operated reliably for over twenty years and has disposed of over 13,000,000 tons of municipal solid waste, generating in excess of \$40,000,000 annually from the sale of electricity and recovered metals, and avoided the importation of 13,000,000 barrels of oil. The facility has been upgraded with state of the art air pollution control equipment and refurbishment is ongoing of major equipment including boiler water walls.

The facility is being expanded with the addition of a third boiler. On May 5, 2011, Mayor Peter Carlisle announced that the H-POWER Third Boiler Expansion Project had reached its halfway point, with construction 50% complete. Permitting, engineering, and procurement are 100% complete. Overall progress achieved to date is 75%. All major components including boiler, air pollution controls and turbine generator are on site and work has commenced on piping, mechanical, electrical power and instrumentation. The project is currently one month behind schedule but a schedule recovery plan is being implemented. The project is within budget. The expanded facility is anticipated to be completed by the end of 2011 and fully operational by July 2012.

Once built, the expanded facility with its new mass burn combustion system will increase waste combustion capacity from the current 600,000 tons per year (TPY) by an additional 300,000 TPY. Combined with implementation of the residential curbside recycling program and other recycling programs, the added capacity will significantly reduce the quantity of MSW that requires landfill disposal.

The expansion of H-POWER will result in increased production of ash and residue, both of which will require landfill disposal. At the end of September 2009, two RFPs were issued, one for the beneficial reuse of H-POWER residue and the other for processing H-POWER ash. Subsequently, the City issued separate RFPs for H-POWER fly ash and H-POWER bottom ash in response to early feedback received. The City received no proposals in response to the H-POWER residue RFP or the H-POWER fly ash RFP. The City received one proposal for the H-POWER bottom ash RFP. That proposal, however, was deemed non-responsive for failure to submit all required documents.

In July 2009, the City also issued an RFP for a Demonstration Waste to Energy Facility. The City received one proposal for this RFP. However, that proposal was rejected as non-responsive for failure to submit all required documents. Subsequently, three parties have made alternative technology presentations to ENV. The technologies include waste-to-energy and ash reuse. ENV is considering issuing RFPs in the near future because of this interest.

2. Sludge Re-use

a. General

The City and County of Honolulu currently operates nine (9) wastewater treatment plants (WWTPs) on Oahu. The percentage of total sewage sludge generated from the nine (9) City WWTPs is as follows:

WWTP	% of Total Sludge
Honouliuli	23
Kahuku	1
Kailua	29
Laie	<1
Paalaa Kai	<1
Sand Island	25
Wahiawa	6
Waianae	10
Waimanalo	1

b. Current Actions/Efforts to Re-use Sludge

Laie WWTP: Compost green waste with sewage sludge using the Windrow process.

Sand Island WWTP: Process sewage sludge to fertilizer pellets using the Synagro process. In FY 09, about 46% of the Synagro pellets were disposed at the landfill and 54% was beneficially reused. In April 2010, about 88% of the Synagro fertilizer pellets were beneficially reused with about 12% of the pellets disposed at the landfill. In June 2010, nearly all of the Synagro fertilizer pellets were beneficially reused in the community, diverting about 25% of the City's sewage sludge away from the landfill. From June 2010 to May 2011, Synagro sent 80% of the product to market and 20% of the product to the landfill.

Kailua, Wahiawa and Honouliuli WWTPs: The City awarded a contract on July 15, 2010, to Hawaiian Earth Recycling ("HER") to process approximately 100,000 tons annually of combined green waste, food waste, and sewage sludge from Kailua WWTP, Wahiawa WWTP, and Honouliuli WWTP. The operation will be based on the In-vessel Conversion process and is anticipated to divert an additional 58% of the City's sewage sludge away from the landfill, while creating a marketable soil amendment product. HER is currently working on an environmental impact statement for the facility as required by the contract with the City.

3. Materials Recycling

The table below shows material recycling data by year from 1988 to 2009. Although waste tracking to the landfill and H-POWER is managed every month by ENV, recycling data is provided by commercial recycling companies which are surveyed annually. Recycling data for 2010 is currently being gathered.

There has been an upward trend of general material recycling from approximately 75,000 tons in 1988 to well over 400,000 tons today. Recycling of construction and demolition (“C&D”) materials, such as concrete, rock and asphalt, has added between 100,000 to 200,000 tons to the recycling rates. These C&D recycling rates tend to fluctuate based on the volume and type of construction projects undertaken from year to year, and are shown separately so as not to skew the data. C&D material is diverted from the WGS� to the private PVT landfill for disposal.

Year	General Material Recycling	C&D Recycling	Total Recycled
2009	426,947	116,670	543,617
2008	456,876	216,745	673,621
2007	453,282	148,952	602,234
2006	421,072	121,675	542,747
2005	417,669	193,829	611,498
2004	386,338	173,916	560,254
2003	366,639	106,773	473,412
2002	352,699	139,055	491,754
2001	367,300	114,070	481,370
2000	327,710	165,000	492,710
1999	314,075	225,200	539,275
1998	318,690	148,800	467,490
1997	313,394	204,400	517,794
1996	299,574	95,300	394,874
1995	294,340	44,400	338,740
1994	290,412	35,700	326,112
1993	241,600	30,000	271,600
1991	167,152	0	167,152
1988	73,992	0	73,992

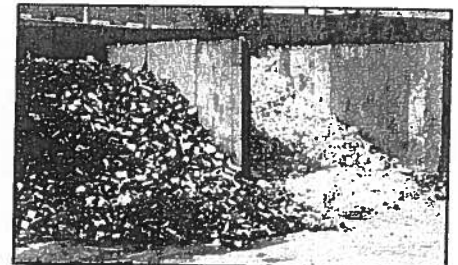
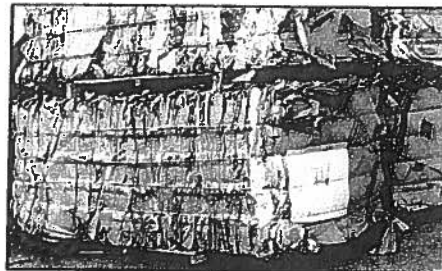
Most recent data shows steady increases in general material recycling rates as a percentage of the total waste. In 2009, the recycling tonnage dropped about 30,000 tons from the previous year, but this decrease is correlated with a similar drop in overall waste generation due to the state of the economy. The actual recycling rate increased from 25% in 2008 to 27% in 2009 for general material recycling (not including C&D recycling). Construction and demolition recycling decreased by 100,000 tons from the previous year.

In comparing 2008 and 2009, although there were moderate decreases across the board for each material, there was an increase in paper recovery from 63,000 tons to 72,000 tons and a slight increase in plastics recycling.

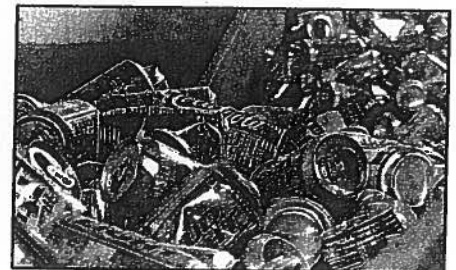
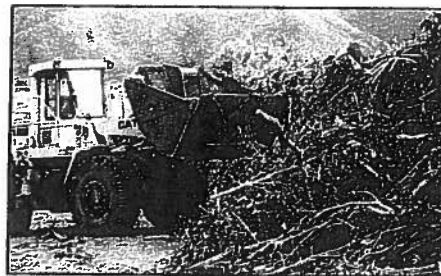
The City's efforts to increase residential recycling have continued with the completed expansion of island-wide curbside recycling in May 2010, community recycling bin program, condo recycling assistance programs and budget commitments to support these efforts. Additionally, the City requires commercial sector recycling through mandatory laws established by City ordinance, and provides assistance to businesses to setup and expand their recycling programs.

Recycling data from 2009 shows the following tonnage diverted from the landfill:

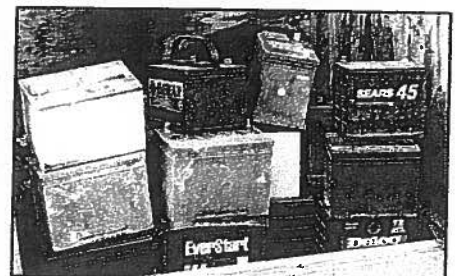
- Paper (72,300 tons)
- Glass (21,300 tons)
- Plastic (4,900 tons)
- Green Waste (88,000 tons)
- Tires (10,300 tons)
- Auto Batteries (6,000 tons)



- Metals (166,000 tons)
- Electronic Scrap (700 tons)
- Wood Waste/Pallets (16,000 tons)
- Construction and Demolition Debris (117,000 tons)



- Food Waste (25,000 tons)
- Sewage Sludge (data in research)
- Other Reuse (16,000 tons)

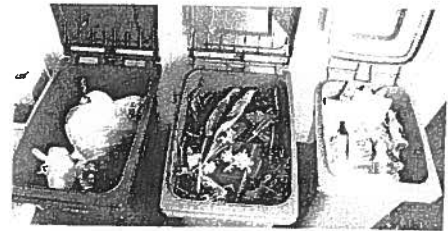


a. Curbside Recycling

The island-wide expansion of Curbside Recycling for Residential Mixed Recyclables and Green Waste was completed in May 2010. More than 160,000 homes on Oahu are now included in the program and are capturing material at a rate of 20,000 tons of mixed recyclables and 50,000 tons of green waste per year. The following information summarizes the program expansion dates, number of households involved, and communities being serviced.

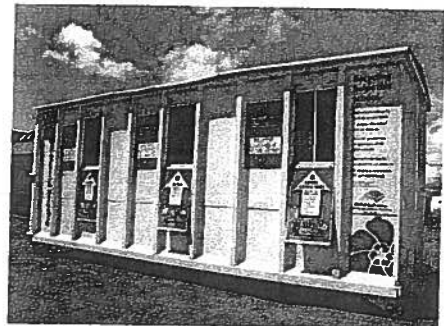
October 2007 (18,500)	Mililani and Hawaii Kai
November 2008 (39,000)	Kuliouou to Manoa, Kapahulu; Kailua, Lanikai; Mokuleia to Sunset
May 2009 (40,300)	Waipio Gentry to Halawa; Wahiawa, Whitmore, Waipio Estates, Launani Valley; Kaneohe; Waimanalo
November 2009 (22,400)	Foster Village to Makiki; Kahuku to Kahaluu
May 2010 (36,000)	Makakilo to Waikele, Waipahu; Ewa Beach to West Loch; Honokai Hale to Makua

The City changed how it collects refuse as curbside recycling was integrated into the system. The twice per week refuse pickup shifted to one day for refuse and one day for recycling pickup, alternating weekly between the blue and green recycling carts. The once a week pickup schedule provides households with an incentive to sort and recycle their trash. Households utilize a set of three color-coded carts – gray for refuse, green for green waste and blue for mixed recyclables. Once the program has time to mature, the City projected it would divert approximately 28,000 tons of mixed recyclables and 46,000 tons of green waste, a net gain of 53,000 tons over previous residential recycling activity. Most current data shows steady gains in mixed recyclables collection at a rate of 20,000 tons annually with green waste exceeding expectations at 50,000 tons.

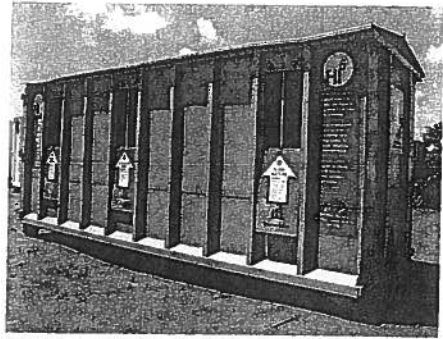


b. Community Recycling Bin

The City continues to maintain community recycling bins at approximately 100 sites around the island. The community recycling bins provide convenient drop-off to areas not serviced by curbside, for residents living in condos, and for the host schools.



The Community Recycling Bin Program began in 1990 and grew from an initial 20 participating schools to approximately 100 locations as of May 2010. The recycling bins are placed at schools around the island and collect plastics, paper, aluminum, and glass from the surrounding communities and are also used by the schools for campus generated recyclable materials from classrooms, administrative offices, cafeteria and vending machines. Revenue from the recyclables goes to the schools, which encourages their participation in the program as well as support from the surrounding community.



The contract provides financial incentives to the schools to encourage more schools to join and increase participation from the community. For fiscal year 2010, the program recovered about 6,000 tons of recyclable material and paid more than \$200,000 to the participating schools. Additional HI-5 only bins are provided to support collection events and campaigns, and offer the schools more opportunity to raise funds.

c. Condo Recycling Program

The City continues to promote condominium recycling through a program that reimburses condominium properties for costs associated with the start up of a recycling program.



Most multi-family dwellings contract with private hauling companies to collect their refuse and would likewise need to establish their own recycling programs. Multi-family recycling

is voluntary. The City provides technical assistance in conducting waste audits, designing recycling systems and identifying private recycling services. The City also provides recycling containers and educational materials. In September 2007, the City launched this new program to provide reimbursement for recycling program start-up costs up to \$2,000, which continues to date.



d. Electronic Waste (“e-waste”)

The City worked with State legislators to enact producer responsibility-based legislation to help provide electronic product recycling through manufacturer-financed opportunities. Legislation introduced in the 2007 session failed to make the list of bills for consideration, but was reintroduced as part of the House and Senate Majority packet in the 2008 session and was passed into law. This law requiring manufacturers to provide take back programs for electronic waste went into effect January 1, 2010, and is administered by the DOH. In general, the covered electronics included computers at

the start in January 2010 and expanded to include televisions in January 2011. DOH has indicated that they are allowing the manufacturers additional time to develop their programs and are also proposing amendments to the legislation that will more clearly specify the criteria and requirements for these programs. Collection data from the manufacturers were due to DOH by March 31, 2011. DOH expects to have collection data sometime thereafter. DOH has indicated that it expects the programs and consumer convenience to evolve as the new program matures. ENV will continue to work in collaboration with DOH and local e-waste recycling companies.

Currently, only commercial e-waste is banned from the Waimanalo Gulch Sanitary Landfill. The ultimate long-term goal is to ban all e-waste from landfills once the manufacturers' take-back programs are fully in place.

e. Business Recycling Programs

The City continues to provide assistance to commercial sector recycling efforts and to ensure compliance with mandatory recycling policy established in the mid 1990's, which requires office buildings to recycle office paper, bars/restaurants to recycle glass and a variety of food operations to recycle food waste. Disposal site bans/restrictions divert materials from landfill and H-POWER, including green waste, cardboard, metals, tires, auto batteries, e-waste. The City provides technical assistance to businesses for designing and implementing recycling programs through how-to guides, workshops and on-site support, and works collaboratively with the State's Green Business Program.

f. Public Education

Public education regarding recycling is ongoing--distribution of brochures and print materials, opala.org website, WasteLine e-newsletter and annual events including Tour de Trash and Discover Recycling. In October 2009, the City and Oceanic Time Warner Cable launched "Opalavision" on The Green Channel at Oceanic 332 and online at opala.org. Short stories about the City's recycling initiatives and programs are featured in 3-minute episodes that educate and entertain. New episodes are produced monthly. The format is interactive, supporting 24/7 viewing of all episodes on demand.

The City coordinates numerous programs targeting our youth and supporting recycling projects in the schools. In addition to providing recycling bins and equipment to support collection activities, the City provides recycling educational professionals to aid teachers in the classroom through the Recycling Teaching Partners program. To further enhance the outreach to schools, the City sponsored two educational shows for our youth in April/May 2011 – Honolulu Theatre for Youth production of "Where Do Things Go?" at the Tenney Theatre and a traveling show to local schools entitled "Sort It Out!" Both shows included distribution of Opala IQ Books and educational materials to students and teachers

4. Interim Off-island Shipping of Waste

No waste was ever shipped to the mainland due to various problems encountered by Hawaiian Waste Systems LLC ("HWS"), the bidder awarded the contract to ship waste to the mainland. These problems culminated in the U.S. District Court, Eastern District of Washington ruling on August 30, 2010 to enjoin the shipment of waste from Hawaii to Washington or Oregon ports on the Columbia River and/or to the Roosevelt Landfill in Washington. Consequently, the U.S. Department of Agriculture canceled the compliance agreement permits of all Hawaii shippers that might otherwise have enabled the shipment of waste to the mainland. At the point where shipping was no longer possible, HWS had approximately 20,000 tons of baled waste stored at three locations. To dispose of this baled waste, HWS agreed to disassemble the bales, sort the waste and take the burnable waste to H-POWER and the non-burnable waste to the Waimanalo Gulch Landfill.

As of January 2011, approximately 11,000 tons had been taken to H-POWER and 140 tons had been taken to WGSL. On January 6, 2011, there was a fire at the HWS facility that damaged the building in which the waste bales were disassembled and processed. The City, however, continued to work with HWS and DOH to dispose of the remaining bales of waste.

On May 12, 2011, the last bale of waste at the HWS facility was removed and delivered to a City waste disposal facility. Of the original 20,000 tons in its possession, HWS delivered 14,779 tons to H-POWER (76%) and 4,565 (24%) tons to WGSL. HWS was able to extract and recycle 1,525 tons of metal.

CONCLUSION

The foregoing report is submitted in accordance with reporting requirements set forth in the LUC Order dated October 2, 2009. This report focuses on the status of ENV's efforts to identify and develop one or more landfill sites that shall either replace or supplement the WGS� and the 16 Conditions contained in the LUC Order. Also discussed are the further progress of WGS�'s operations and the City's active efforts to reduce waste volume that is directed to the landfill, such as the expansion of the H-POWER facility and recycling.

The City intends to continue its efforts to ensure proper solid waste management for the people of O'ahu, in close coordination with applicable regulatory agencies and decision-makers.

Attachment D

BOARD OF WATER SUPPLY

CITY AND COUNTY OF HONOLULU
630 SOUTH BERETANIA STREET
HONOLULU, HI 96843



August 15, 2011

PETER B. CARLISLE, MAYOR

RANDALL Y. S. CHUNG, Chairman
DENISE M. C. DE COSTA
ANTHONY R. GUERRERO, JR.
THERESIA C. McMURDO
ADAM C. WONG

WESTLEY K.C. CHUN, Ex-Officio
GLENN M. OKIMOTO, Ex-Officio

DEAN A. NAKANO
Acting Manager

RECEIVED

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DEPT OF PLANNING
AND PERMITTING
CITY & COUNTY OF HONOLU

TO: DAVID K. TANOUE, DIRECTOR
DEPARTMENT OF PLANNING AND PERMITTING

ATTN: RAYMOND YOUNG

FROM: DEAN A. NAKANO, ACTING MANAGER

SUBJECT: YOUR MEMORANDUM OF JULY 13, 2011 REGARDING
APPLICATION TO AMEND SPECIAL USE PERMIT
NO. 2008/SUP-2 TO DELETE DEADLINE FOR ACCEPTING
MUNICIPAL SOLID WASTE AT WAIMANALO GULCH
SANITARY LANDFILL (2011/GEN-8) 92-460 FARRINGTON
HIGHWAY, KAPOLEI, OAHU TAX MAP KEY: 9-2-3:72 AND 73

We have no objections to the application to amend the Special Use Permit to delete the deadline for accepting municipal solid waste at Waimanalo Gulch Sanitary Landfill. Existing and planned Board of Water Supply facilities will not be affected by the project.

If you have any questions, please contact George Kuo at 748-5941.

DEPARTMENT OF EMERGENCY MANAGEMENT
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET HONOLULU, HAWAII 96813

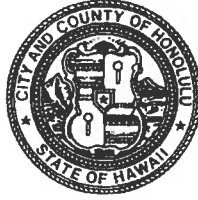
PHONE: (808)523-4121

FAX: (808)524-3439

WORLDWIDE WEB: www.oahudem.org

RECEIVED
PETE B. CARLISLE
MAYOR
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DEPT. OF PLANNING
AND PERMITTING
CITY & COUNTY OF HONOLULU.



MELVIN N. KAKU
DIRECTOR

July 18, 2011

TO: DAVID K. TANOUE, DIRECTOR
DEPARTMENT OF PLANNING AND PERMITTING

FROM: MELVIN N. KAKU, DIRECTOR
DEPARTMENT OF EMERGENCY MANAGEMENT

Melvin N. Kaku 7/18/11

SUBJECT: APPLICATION TO AMEND SPECIAL USE PERMIT NO. 2008/SUP-2 TO
DELETE DEADLINE FOR ACCEPTING MUNICIPAL SOLID WASTE AT
WAIMANALO GULCH SANITARY LANDFILL

The City and County of Honolulu's Department of Emergency Management has determined there is no impact of this project on public facilities and services which are planned or provided by our department.

Should you have any questions, please call Deputy Director Mr. Peter Hirai at 723-8960 or e-mail phirai@honolulu.gov. Thank you for your continued support of public safety programs.

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DEPARTMENT OF DESIGN AND CONSTRUCTION
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 11TH FLOOR
HONOLULU, HAWAII 96813
Phone: (808) 768-8480 • Fax: (808) 768-4567
Web site: www.honolulu.gov

PETER B. CARLISLE
MAYOR



COLLINS D. LAM, P.E.
DIRECTOR

LORI M. K. KAHIKINA, P.E.
DEPUTY DIRECTOR

July 29, 2011

DEPT OF PLANNING
AND PERMITTING
CITY & COUNTY OF HONOLULU

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RECEIVED

MEMORANDUM

TO: DAVID K. TANOUE, DIRECTOR
DEPARTMENT OF PLANNING AND PERMITTING

FROM:  COLLINS D. LAM, P.E. DIRECTOR
DEPARTMENT OF DESIGN AND CONSTRUCTION

SUBJECT: APPLICATION TO AMEND SPECIAL USE PERMIT NO. 2008/SUP-2
TO DELETE DEADLINE FOR ACCEPTING MUNICIPAL SOLID WASTE
AT WAIMANALO GULCH SANITARY LANDFILL
926-462 FARRINGTON HIGHWAY, KAPOLEI, OAHU
TAX MAP KEY: 9-2-3: 72 AND 73

The Department of Design and Construction has no comments.

Thank you for the opportunity to review and comment. Should there be any questions, please contact me at 768-8480.

CL:pg(425384)

8104225

DEPARTMENT OF FACILITY MAINTENANCE
CITY AND COUNTY OF HONOLULU

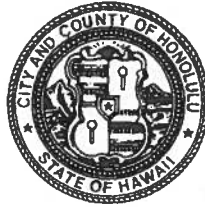
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1000 Uluohia Street, Suite 215, Kapolei, Hawaii 96707
Phone: (808) 768-3343 • Fax: (808) 768-3381
Website: www.honolulu.gov

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PETER B. CARLISLE
MAYOR




WESTLEY K.C. CHUN, Ph.D., P.E., BCEE
DIRECTOR AND CHIEF ENGINEER

DEPT OF PLANNING AND PERMITTING
CITY & COUNTY OF HONOLULU
GEORGE "KEOKI" MIYAMOTO
DEPUTY DIRECTOR
IN REPLY REFER TO:
DRM 11-618

August 5, 2011

MEMORANDUM

TO: DAVID K. TANOUE, DIRECTOR
DEPARTMENT OF PLANNING AND PERMITTING

FROM: 
WESTLEY K.C. CHUN, Ph.D., P.E., BCEE
DIRECTOR AND CHIEF ENGINEER
DEPARTMENT OF FACILITY MAINTENANCE

SUBJECT: APPLICATION TO AMEND SPECIAL USE PERMIT NO. 2008/SUP-2
TO DELETE DEADLINE FOR ACCEPTING MUNICIPAL SOLID WASTE AT
WAIMANALO GULCH SANITARY LANDFILL
92-460 FARRINGTON HIGHWAY, KAPOLEI, OAHU
TAX MAP KEY: 9-2-3:72 AND 73

Thank you for the opportunity to review and comment on the July 13, 2011 application for the subject property.

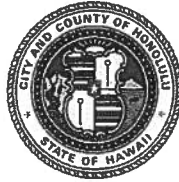
We have no objections to the proposed as it will not adversely affect our existing facilities or maintenance operations of City-owned roadways in the near vicinity. We have no facilities or easements within the property in question.

Should you have any questions, please call Lan Yoneda, Assistant Chief of the Division of Road Maintenance, at 768-3601.

HONOLULU FIRE DEPARTMENT
CITY AND COUNTY OF HONOLULU

636 South Street
Honolulu, Hawaii 96813-5007
Phone: 808-723-7139 Fax: 808-723-7111 Internet: www.honolulu.gov/hfd

PETER B. CARLISLE
MAYOR



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Sum 2-4-25
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KENNETH G. SILVA
FIRE CHIEF

DEPT OF PLANNING
AND PERMITTING
CITY & COUNTY OF HONOLULU
EMMIT A. KANE
DEPUTY FIRE CHIEF

August 5, 2011

TO: DAVID TANOUE, DIRECTOR
DEPARTMENT OF PLANNING AND PERMITTING

FROM: KENNETH G. SILVA, FIRE CHIEF

SUBJECT: APPLICATION TO AMEND SPECIAL USE PERMIT NO. 2008/SUP-2
TO DELETE THE JULY 31, 2012, DEADLINE FOR ACCEPTING
MUNICIPAL SOLID WASTE AT THE WAIMANALO GULCH SANITARY
LANDFILL
92-460 FARRINGTON HIGHWAY, KAPOLEI, HAWAII
TAX MAP KEYS: 9-2-003: 072 AND 073

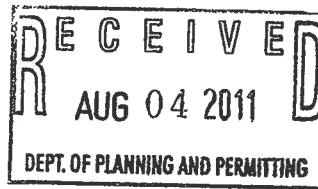
In response to your memorandum of July 13, 2011, regarding the above-mentioned subject, the Honolulu Fire Department reviewed the material provided and determined that there would be no significant impact to its services, provided operations at the Waimanalo Gulch Sanitary Landfill continue to conform to applicable fire and safety codes.

Should you have any questions, please call Acting Battalion Chief Gary Lum of our Fire Prevention Bureau at 723-7152.

Handwritten signature of Kenneth G. Silva in cursive.

KENNETH G. SILVA
Fire Chief

KGS/BL:bh



File No.: 2011/GEN-8

DEPARTMENT OF PLANNING AND PERMITTING
SUMMARY DESCRIPTION

APPLICANT : Department of Environmental Services, City and County of Honolulu

LANDOWNER : City and County of Honolulu

REQUEST : Amendment to Special Use Permit No. 2008/SUP-2 to delete the July 31, 2012 deadline to cease disposal of municipal solid waste at Waimanalo Gulch Sanitary Landfill, thereby allowing disposal of municipal solid waste until the site reaches capacity as allowed by the State Department of Health.

LOCATION : 92-460 Farrington Highway, Kapolei, Oahu, Hawaii

TAX MAP KEY : 9-2-3: 72 and 73

LAND AREA : Approximately 200 Acres

DEVELOPMENT PLAN LAND USE MAP : Agriculture and Preservation*

PUBLIC INFRASTRUCTURE MAP : Landfill

EXISTING USE : Landfill

SURROUNDING LAND USE : Hawaiian Electric Company Kahe Power Plant to the west, single-family dwellings and Ko Olina Resort to the south, vacant lands to the north and east.

* The Ewa Development Plan is in the process of being updated. Revisions to the Land Use Map involves re-designation of the subject lands to Preservation. (May 2011 version)

DEPARTMENT COMMENTS:

The Honolulu Police Department has no comments to offer at this time.

If there are any questions, please have a member of your staff contact Major Raymond Ancheta of District 8 (Kapolei) at 723-8488.

Signature/Date

8-2-11

DEBORA A. TANDAL, Assistant Chief
Support Services Bureau

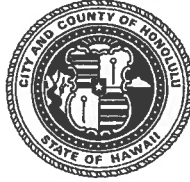
8/1/2011

DEPARTMENT OF TRANSPORTATION SERVICES
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 3RD FLOOR
HONOLULU, HAWAII 96813
Phone: (808) 768-8305 • Fax: (808) 768-4730 • Internet: www.honolulu.gov

Stamped 8/4/2011

PETER B. CARLISLE
MAYOR



WAYNE Y. YOSHIOKA
DIRECTOR

KAI NANI KRAUT, P.E.
DEPUTY DIRECTOR

TP7/11-425020R

August 8, 2011

MEMORANDUM

TO: DAVID K.TANOUE, DIRECTOR
DEPARTMENT OF PLANNING AND PERMITTING

FROM: WAYNE Y. YOSHIOKA, DIRECTOR
DEPARTMENT OF TRANSPORTATION SERVICES

SUBJECT: APPLICATION TO AMEND SPECIAL USE PERMIT NO. 2008/SUP-2 TO
DELETE DEADLINE FOR ACCEPTING MUNICIPAL SOLID WASTE AT
WAIMANALO GULCH SANITARY LANDFILL; 92-460 FARRINGTON
HIGHWAY, KAPOLEI, OAHU; TAX MAP KEY (TMK): 9-2-3: 72 AND 73

We have no comments to offer at this time concerning your request of July 13, 2011, about the subject matter.

Thank you for the opportunity to review this matter. Should you have any further questions on the matter, you may contact Michael Murphy of my staff at Local 88359.



WAYNE Y. YOSHIOKA
Director

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DEPT OF PLANNING
AND PERMITTING
CITY & COUNTY OF HONOLULU



STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
711 KAPI'OLANI BOULEVARD, SUITE 500
HONOLULU, HAWAII 96813

HRD11/2765I

August 16, 2011

Raymond Young
Department of Planning and Permitting
City and County of Honolulu
650 South King Street, 7th Floor
Honolulu, Hawaii'i 96813

DEPT OF PLANNING
AND PERMITTING
CITY & COUNTY OF HONOLULU

'11 AUG 29 A 9:04

RECEIVED

**Re: Project File Number 2011/GEN-8
Amendment of Special Use Permit No. 2008/SUP-2
Waimanalo Gulch Sanitary Landfill, Island of O'ahu**

Aloha e Raymond Young,

The Office of Hawaiian Affairs (OHA) is in receipt of your July 13, 2011 letter seeking comments on a request by the City and County of Honolulu-Department of Environmental Services (DES) to amend Special Use Permit No. 2008/SUP-2 (permit). The requested amendment will delete the existing July 31, 2012 deadline (deadline) to cease disposal of municipal solid waste (waste) at Waimanalo Gulch Sanitary Landfill (WGSL), allowing the disposal of waste to continue until the WGSL reaches capacity. It is believed the recent expansion of the WGSL from 96 acres to nearly 200 acres would allow the disposal of waste to continue for the next fifteen (15) years.

The deadline to close the WGSL for all material (except ash and residue left over from the conversion of trash to energy via the "H-Power" process) was imposed by the State Land Use Commission (LUC) in 2009. If approved by the City and County of Honolulu-Department of Permitting and Planning (DPP), the amended permit will be transmitted to the City and County of Honolulu Planning Commission (planning Commission) for consideration. If approved by the Planning Commission, the amended permit will then be submitted back to the LUC for consideration.

It is our understanding that the original permit which was approved by the Planning Commission and submitted to the LUC in 2009 did not establish a deadline to cease disposal of waste at the WGSL. Following the establishment of the July 31, 2012 deadline and approval of the permit by the LUC, the DES made it clear that they intended to request an amendment to the approved permit because the WGSL is the only permitted municipal solid waste landfill on the Island of O'ahu.

Long-standing concerns regarding the continued use of the WGSL have been consistently expressed by certain businesses and the Leeward O'ahu community, which includes a large Native Hawaiian population. These concerns were highlighted in September 2010 when a severe storm event (event) caused the release of an unknown amount of trash, including medical waste from the WGSL into near shore waters and onto Leeward O'ahu beaches. This event forced the temporary closure of the WGSL and resulted in a U.S. Environmental Protection order that implemented certain deadlines for the completion of protection measures to prevent the release of trash in the future. The temporary closure of the WGSL caused "backup crises" at wastewater treatment facilities and municipal solid waste transfer stations around the Island of O'ahu.

While OHA recognizes the spectrum of concerns which have been expressed by the Leeward O'ahu community regarding the continued disposal of waste at the WGSL, we also recognize that the closure of the WGSL to waste disposal would affect the entire Island of O'ahu because the WGSL is the only landfill disposal option available to the DES at this time.

A Landfill Site Advisory Committee (committee) has been established to assist the City and County of Honolulu in identifying criteria and ranking alternative landfill sites. The committee met for the first time in January 2011. Once an alternative landfill site is selected, the DES website reports that it will take up to seven years for the permitting and construction process for an alternative landfill site to be completed.

Efforts to reduce the amount of waste disposed of at the WGSL are currently underway. These efforts include but are not necessarily limited to:

- the anticipated completion of a third boiler at the H-Power Facility in mid-2012;
- recycling and "reuse" programs; and
- shipping waste to the continental United States for landfill disposal.

OHA applauds the commitment of committee members and we hope that the DES will continue to support their efforts to identify an alternative landfill site on the Island of O'ahu. The issues and concerns relative to the continued disposal of waste at the WGSL will affect our communities for generations to come and we will continue to monitor the amended permit should it move forward from the DPP to the Planning Commission and LUC for consideration. We have no additional comments at this time.

Thank you for the opportunity to provide comments. Should you have any questions or concerns, please contact Keola Lindsey at 594-0244 or keolal@oha.org.

'O wau iho nō me ka 'oia'i'o,



Clyde W. Nāmu'o
Chief Executive Officer

CWN:kl

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



WILLIAM J. AHLA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

August 15, 2011

Department of Planning and Permitting
City and County of Honolulu
650 South King Street, 7th Floor
Honolulu, Hawaii 96813

Attention: Mr. Raymond Young

Dear Mr. Young:

SUBJECT: Application to Amend Special Use Permit No. 2008/SUP-2 to Delete
Deadline for Accepting Municipal Solid Waste at Waimanalo Gulch
Sanitary Landfill, Island of Oahu; TMK: (1) 9-2-003:072 and 073

Thank you for the opportunity to review and comment on the subject matter. The Department of Land and Natural Resources' (DLNR) Land Division distributed or made available a copy of your report pertaining to the subject matter to DLNR Divisions for their review and comments.

At this time, enclosed are comments from (a) Engineering Division and (b) Division of Forestry & Wildlife on the subject matter. Should you have any questions, please feel free to call Darlene Nakamura at 587-0417. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Russell Y. Tsuji".

Russell Y. Tsuji
Land Administrator

Enclosures



JUL 18 AM 11:33 ENGINEERING



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

July 15, 2011

MEMORANDUM

- TO: **DLNR Agencies:**
- Div. of Aquatic Resources
 - Div. of Boating & Ocean Recreation
 - Engineering Division
 - Div. of Forestry & Wildlife
 - Div. of State Parks
 - Commission on Water Resource Management
 - Office of Conservation & Coastal Lands
 - Land Division -
 - Historic Preservation

2011 AUG 10 A 11:25
 RECEIVED
 ENGINEERING
 DIVISION

Charlene

FROM: Charlene Unoki, Assistant Administrator
 SUBJECT: Application to amend Special Use Permit No. 2008/SUP-2 to Delete Deadline for Accepting Municipal Solid Waste at Waimanalo Gulch Sanitary Landfill
 LOCATION: Island of Oahu
 APPLICANT: City & County of Honolulu, Department of Environmental Services

Transmitted for your review and comment on the above referenced document. We would appreciate your comments on this document. Please submit any comments by August 10, 2011.

Only 1 copy of the report available in Room 220.

If no response is received by this date, we will assume your agency has no comments. If you have any questions about this request, please contact my office at 587-0433. Thank you.

Attachments

- We have no objections.
- We have no comments.
- Comments are attached.

Signed: *[Signature]*
 Date: 8/2/11

DEPARTMENT OF LAND AND NATURAL RESOURCES
ENGINEERING DIVISION

LD/CharleneUnoki

RE: Amend SUP Delete Deadline Accept Waste Waimanalo GSL
Oahu.849

COMMENTS

- () We confirm that the project site, according to the Flood Insurance Rate Map (FIRM), is located in Flood Zone .
- (X) Please take note that the project site, according to the Flood Insurance Rate Map (FIRM), is located in Flood Zone D. The Flood Insurance Program does not have any regulations for developments within Flood Zone D.
- () Please note that the correct Flood Zone Designation for the project site according to the Flood Insurance Rate Map (FIRM) is .
- () Please note that the project must comply with the rules and regulations of the National Flood Insurance Program (NFIP) presented in Title 44 of the Code of Federal Regulations (44CFR), whenever development within a Special Flood Hazard Area is undertaken. If there are any questions, please contact the State NFIP Coordinator, Ms. Carol Tyau-Beam, of the Department of Land and Natural Resources, Engineering Division at (808) 587-0267.

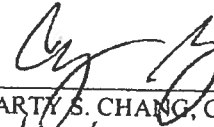
Please be advised that 44CFR indicates the minimum standards set forth by the NFIP. Your Community's local flood ordinance may prove to be more restrictive and thus take precedence over the minimum NFIP standards. If there are questions regarding the local flood ordinances, please contact the applicable County NFIP Coordinators below:

- () Mr. Robert Sumitomo at (808) 768-8097 or Mr. Mario Siu Li at (808) 768-8098 of the City and County of Honolulu, Department of Planning and Permitting.
 - () Mr. Carter Romero at (808) 961-8943 of the County of Hawaii, Department of Public Works.
 - () Mr. Francis Cerizo at (808) 270-7771 of the County of Maui, Department of Planning.
 - () Ms. Wynne Ushigome at (808) 241-4890 of the County of Kauai, Department of Public Works.
- () The applicant should include water demands and infrastructure required to meet project needs. Please note that projects within State lands requiring water service from the Honolulu Board of Water Supply system will be required to pay a resource development charge, in addition to Water Facilities Charges for transmission and daily storage.
 - () The applicant should provide the water demands and calculations to the Engineering Division so it can be included in the State Water Projects Plan Update.

() Additional Comments: _____

- (X) Other: We do not have any objections to the application to Amend Special Use Permit No. 2008/SUP-2 to delete deadline for accepting Municipal solid waste at Waimanalo Gulch sanitary landfill.

Should you have any questions, please call Ms. Suzie S. Agraan of the Planning Branch at 587-0258.

Signed: 
CARY S. CHANG, CHIEF ENGINEER
Date: 2/2/11



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

July 15, 2011

MEMORANDUM

- TO: **DLNR Agencies:**
- Div. of Aquatic Resources
 - Div. of Boating & Ocean Recreation
 - Engineering Division
 - Div. of Forestry & Wildlife
 - Div. of State Parks
 - Commission on Water Resource Management
 - Office of Conservation & Coastal Lands
 - Land Division –
 - Historic Preservation

FROM: Charlene Unoki, Assistant Administrator
 SUBJECT: Application to amend Special Use Permit No. 2008/SUP-2 to Delete Deadline for Accepting Municipal Solid Waste at Waimanalo Gulch Sanitary Landfill
 LOCATION: Island of Oahu
 APPLICANT: City & County of Honolulu, Department of Environmental Services

Transmitted for your review and comment on the above referenced document. We would appreciate your comments on this document. Please submit any comments by August 10, 2011.

Only 1 copy of the report available in Room 220.

If no response is received by this date, we will assume your agency has no comments. If you have any questions about this request, please contact my office at 587-0433. Thank you.

Attachments

- We have no objections.
- We have no comments.
- Comments are attached.

Signed: Randy Konradi
 Date: 7-18-2011

Young, Raymond C. S.

From: Ichinotsubo, Lene K [lene.ichinotsubo@doh.hawaii.gov]

Sent: Tuesday, August 16, 2011 11:12 AM

To: Young, Raymond C. S.

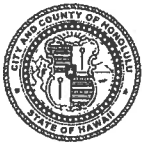
Cc: Fujimoto, Janice K; Otsu, Lane M

Subject: special use permit, WGSL

Raymond,

From our conversation today, I understand that the City wishes to change their land use permit such that the 2012 deadline limiting Waimanalo Gulch Landfill's waste acceptance to only Hpower ash and residue is deleted. My understanding is that the City is only proposing that change, and that all other conditions will remain. With this understanding, I do not have any comments to offer you on the City's application. Any concerns that we may have will be addressed through our regulatory oversight of their solid waste permit.

Lene Ichinotsubo
Hawaii Department of Health
Solid and Hazardous Waste Branch
919 Ala Moana Boulevard, Rm. 212
Honolulu, Hawaii 96814
(808) 586-4226



MAKAKILO/ KAPOLEI/ HONOKAI HALE NEIGHBORHOOD BOARD NO. 34

c/o NEIGHBORHOOD COMMISSION • 530 SOUTH KING STREET ROOM 406 • HONOLULU, HAWAII, 96813
TEL: (808) 768-3710 • FAX: (808) 768-3711 • INTERNET: <http://www1.honolulu.gov>

August 17, 2011

Mr. David K. Tanoue, Director
Department of Planning and Permitting
City and County of Honolulu
650 South King Street, 7th Floor
Honolulu, Hawaii 96813

DEPT OF PLANNING
AND PERMITTING
CITY & COUNTY OF HONOLULU

'11 AUG 18 AM 0:21

RECEIVED

Dear Mr. Tanoue,

SUBJECT: FILE NUMBER: 2011/GEN-8

Thank you for the opportunity to offer comments on the Department of Environmental Services' application to amend Special Use Permit No. 2008/SUP-2.

At its July 27, 2011 meeting, Makakilo/Kapolei/Honokai Hale Neighborhood Board No. 34 voted in **opposition** to the amendment of Special Use Permit No. 2008/SUP-2 which would delete the July 31, 2012 deadline to cease disposal of municipal solid waste at the Waimanalo Gulch Sanitary Landfill.

Should you have any questions, please do not hesitate to contact me at 330-5769.

Sincerely,

Leland Ribac for
George S. Yamamoto
Chair

GSY:jks



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Weddings

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DEPT OF PLANNING
AND PERMITTING
CITY & COUNTY OF HONOLULU

Scanned 8/22/11

August 12, 2011

**David K. Tanoue, Director
Department of Planning & Permitting
City & County of Honolulu
650 South King Street, 7th Floor
Honolulu, HI 96813**

**Re: Waimanalo Gulch Landfill
Project File No:2011/GEN-8**

Dear Mr. Tanoue,

My name is Lance Jeffery I manage the Ko Olina Weddings & Events located at Ko Olina Resort, I adamantly oppose the Waimanalo Gulch Landfill. The gulch is a natural drainage stream and because of the mismanagement of the area it has proven in the past that it has the ability to pollute our waters and beaches.

A chronic history of violations by WMH has resulted in millions of dollars in fines and should be further proof that the landfill is a catastrophic economic and environmental hazard that leaves debris and medical waste on our beaches

Ko Olina Weddings & Events has been adversely affected by the presences of the landfill and the problems created from the negligent operation of the area. Please consider my comments and understand that I oppose the deletion deadline of the July 31, 2012 deadline!

Sincerely,

Ko Olina Weddings & Events



Lance Jeffery



RESORT MANAGEMENT
COMPANY LLC

August 12, 2011

Mr. David K. Tanoue, Director
Department of Planning and Permitting
City and County of Honolulu
650 South King Street, 7th Floor
Honolulu, Hawaii 96813

Re: Project File Number 2011/GEN-8
Waimanalo Gulch Landfill

Dear Mr. Tanoue:

As General Manager of Resort Management Company, LLC, which provides various management services at the Beach Villas at Ko Olina, consisting of 247 residential and six commercial owners, I am taking this opportunity to express opposition to the Department of Environmental Services' application to delete the July 31, 2012 deadline to cease disposal of municipal solid waste at the Waimanalo Gulch Landfill.

We are very concerned that the application once again ignores our outcries against repeated extensions of landfill operations over the last 15 years. Our property was built relying on the promised pending closure of the landfill. With the removal of the deadline, we will have to continue to suffer from the adverse impacts of that operation, including heavy truck traffic, noise, odors, windblown litter and scarred views from the resort. The Department of Environmental Services' application ignores the State Land Use Commission's efforts to close

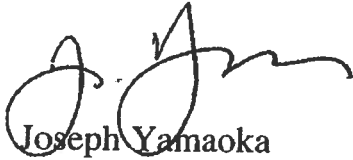
the landfill and force the City to find an alternate site to serve the City's long term needs.

The State Department of Health continues to express concerns about leachate, asbestos, grade stability and methane gas production. There is little explanation of how violations of both Federal and State laws in the operation of the landfill will be prevented. How can we be assured that such violations will not continue?

Enduring the adverse impacts of the landfill as well as health concerns any longer is not acceptable to us. We implore you to deny the application.

Thank you for the opportunity to comment on this very serious matter. Should you have any questions, please do not hesitate to contact me on my 24-hour mobile phone at 366-9900 or jyamaoka@resortmanagementco.com.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joseph Yamaoka', written over the printed name.

Joseph Yamaoka
General Manager,
Resort Management Company, LLC

Colleen Hanabusa

August 13, 2011

Mr. David K. Tanoue, Director
Department of Planning and Permitting
City and County of Honolulu
650 South King Street, 7th Floor
Honolulu, Hawai'i 96813
Via email: info@honoluluodpp.org

Re: 2011/GEN-8 Amendment of SUP 2008/SUP-2

Dear Mr. Tanoue:

I write in opposition to the application of the City's Department of Environmental Services' (ENV) request to delete the July 31, 2011 deadline as set forth in condition no. 14 in the October 22, 2009 Decision and Order of the Land Use Commission, State of Hawai'i (LUC).

As you are aware, in two prior proceedings, I was permitted Intervenor status in the proceeding before your Planning Commission which then automatically became a contested case hearing. The LUC then granted me Intervenor status.

Though I no longer represent the 21st Senatorial District which includes the Waimanalo Gulch Sanitary Landfill (WGSL), I have over 10 years of institutional knowledge about it. This is why I now write in opposition to yet another application by ENV to continue the operation of WGSL. I do so with the awareness that you will probably approve it over my and others objections. This has, after all, been the pattern.

The Application is flawed

Notwithstanding, I wish to call your attention to the fact that ENV now refers to the 2008/SUP-2 as one for a 92.5 acre expansion. The SUP in question was really for 200.622 acres and I object to this inaccurate depiction. The significance is that the prior SUP's have now been withdrawn. This new SUP covered the entire 200 acres. To ignore this fact means that the original sites are not covered by any orders or permits.

Specifically, in December 2008, the then Director of ENV, Eric S. Takamura filed a NEW Special Use Permit ("NEW SUP") with your Department of Planning and Permitting (DPP) to permit use of the total area of 200.622 acres of what is known as Waimanalo gulch as the site for a landfill. He requested permission for:

The construction and use of approximately 92.5 acres within the City's Waimanalo Gulch Sanitary Landfill property for continued landfilling

purposes. In addition, to the expansion of the area of landfilling, the proposed project will involve the development of landfill associated support infrastructure (e.g. drainage, access roadways, landfill gas & Leachate collection and monitoring systems, stockpile sites and other related features, a public drop-off center, and a landfill gas to energy (LFGTE) system. **The Special Use Permit will cover the entire 200.622 acre Property.** [emphasis added.]

In the interest of full disclosure, I believe this is due to the fact, that there remains pending at the Intermediate Court of Appeals, an appeal on the sufficiency and adequacy of the Final Environmental Impact Statement (FEIS) which was finalized on only the 92.5 acres and not on the entire 200.622 acre property.

To accept this Application in its present form, you need to address whether you have properly permitted the project; or alternatively, if a permit exists for the underlying 107.5 acres. As well, the objection continues as to whether there has been an environmental impact statement prepared as required for a landfill project.

This Application Is Without Authority

It is important to note that ENV appears uncertain as to whether it can seek modification from the Planning Commission which requires the preliminary step of seeking approval from DPP. At page 2 of Mr. Steinberger's letter of June 28, 2011, he states:

. . . in light of the lack of specificity in the applicable rules, enabling both the Planning Commission and the LUC to consider Applicant's request will reduce the possibility of a procedural challenge. Finally, if the Planning Commission determines that it does not have the authority to consider this request, it may so conclude and direct Applicant to seek consideration from the LUC.

This application for modification is brought pursuant to Section 2-49 of the Rules of the Planning Commission, which provides:

- (a) A Petitioner who desires a modification or deletion of a condition imposed by the commission shall make such a request to the commission in writing. This request shall be processed in the same manner as the original petition for a SUP. A public hearing on the request shall be held prior to any commission action. . . .

It is clear that the rule cited is applicable only to "a modification or deletion of a condition imposed by the commission." The commission referred to is the Planning Commission. The Hawaii Supreme Court has ruled on many occasions that when the Constitution, Statute and/or Rule are/is plain and unambiguous it shall be given its plain and ordinary meaning. *Blair v. Cayetano*, 73 Haw. 536, 836 P.2d 1066, reconsideration denied, 74 Haw. 650 (1992), *Emp. Ret.*

System v. Budget Dir. Ho, 44 Haw. 159, 352 P.2d 861 (1960), *Spears v. Honda*, 55 Haw. 1, 449 P.2d 130 (1968).

When interpreting administrative rules, it is a well established that:
The general principles of construction which apply to statutes also apply to administrative rules. As in statutory construction, courts look first at an administrative rule's language. If an administrative rule's language is unambiguous, and its literal application is neither inconsistent with the policies of the statute the rule implements nor produces an absurd or unjust result, courts enforce the rule's plain meaning.

Cases relied upon are: *International Bhd. Of Elec. Workers, Local 1357 v. Hawaiian Tel. Co.*, 68 Haw. 316, 323, 713 P.2d 943, 950 (1986); *Allstate Ins. Co. v. Ponce*, 105 Hawai'i 445, 454, 99 P.3d 96. 105 (2004).

The Planning Commission did not impose Condition 14, it was the LUC. As stated in Mr. Steinberger's letter at 8, "[n]otably, the 2009 Planning Commission Decision does not contain any expiration date." Therefore under Hawai'i case law, the Planning Commission (and therefore DPP as well) is without jurisdiction over this modification and/or deletion.

It is important to note that in 2008, the facts were different. There the Planning Commission did arguably have the authority to modify its Decision and Order of 2003 because it contained the deadline of May 1, 2008. (Steinberger letter at 6-7).

ENV and the City has got to be accountable

The finding of an alternative site and the time needed is truly an tired argument. WGS� epitomizes arrogance, the lack of political will, and NIMBYism. It also shows how decision makers can shrug their shoulders and extend the life of the landfill under the guise that there is just not enough time to site an alternative.

What is even more troubling is that this Application is devoid of a thorough discussion of how this landfill has plagued the surrounding community and has been mismanaged.

Take for example the impact of the rains experienced early this year. There is no excuse for the release of the waste into the ocean. Clearly it should not have happened IF the City and its operator, Waste Management (WMI) did what they promised and were ordered to do.

Let us review the characteristics of Waimanalo Gulch. As deceptive as the name "Waimanalo" because it is in the Kapolei/Nanakuli area, so is the word "Gulch." Many must believe that there is an indentation in the land which the City is filling for its landfill. Waimanalo Gulch is about 200 acres and is described by the City's experts as "steep," "narrow," "steeply sloping." It is at its widest point 1000 feet, and at its narrowest, 500 feet, about 1 ½ football fields. It starts at 70 feet mean sea level (msl) then extends up the mountain to 940 msl. It extends about 4500 feet up the side of a mountain. The gulch portion was filled up a long time ago. That is why the landfill is going up the side of mountain.

The total rain fall we just experienced in January was estimated at 9 inches. WGSJ is required to control run-on and run-off from a 25 year storm. This means 24 hours 9.2 inches of rain. So why were we faced with a "lake" of water which had to be discharged into the ocean along with all of the waste that it had allegedly dislodged?

Because, logic tells us that water flows very quickly and strongly off the side of steep narrow land mass such as Waimanalo Gulch. Remember it is not a gulch anymore.

Logic also tells us that because there is a stream albeit, ephemeral, it is a natural flow to the ocean over the landfill. One can also assume that in heavy rains, water flows as it has in the past. The stream is on the eastern slope and the concrete culvert intending to capture the water is on the western slope. There are drainage ditches on the eastern side. These inadequate drainage systems were to take the water to a sedimentation pond which drains into three large culverts under Farrington Highway, then dumps into the ocean in front of Ko Olina. I do not believe the EPA would give the City a permit to dump sediment and waste into the ocean.

Logic further tells us that when you interfere with the flow of water, there will be problems; especially if you cover up parts of the culvert. The City did exactly that.

Because when you excavate our native soil then build us a mountain of opala, there will be stability issues. To address this, the City constructed three stability berms at WGSJ. One is for the ash monofill area and is called the "toe berm." The others are the E-1 berm and the Western or Westside berm. The E-1 berm was constructed in late 2005 to 2006 and the West berm in 2006-2007. The E-1 and Westside berms were a function of the 14.9 acre expansion which was the first extension for 5 years after which the landfill was to close. Since there is no gulch to fill, there are stability issues for a landfill being built up a steeply sloped mountain. With each expansion of the landfill, a berm will also have to be extended.

What is most frightening is that the City's expert said critical to stability of the landfill is the liner. This is why surface water control plans are critical to a landfill. Imagine what water seeping through the landfill unto the liner does to its integrity. The City had messed up on a liner earlier and that also required the construction of a berm.

We do know that the State was aware that the City had not paid attention to the issue of storm water run-on and run-off. Count XV of the Notice of Violation filed in 2006 against the City said it failed to monitor and update a surface water management plan. The State had not received any update since 2003. The City was required to show how they complied with the Clean Water Act and to show a storm water pollution plan. The City's excuse is it couldn't find the updates, could you give the same excuse to the City when it requires you to do something?

So, where are we on the storm water run-off and run-on control issue? Nowhere, because according to the City--who has no problem exceeding the heights, having a notice of violation of 18 Counts, then again fined last year for \$424,000 for again, the wrong liner and building the west berm too high. To add insult to injury, the City states it could not proceed to build the necessary surface water management system because it is allegedly outside the permitted footprint. When has a condition of a permit stopped the City before? The irony is that a high berm will allow the City to justify giving us yet a higher mountain of opala.

Permit me to summarize the violations and to bring your attention to others. First, City has ignored its obligations are that on January 31, 2006, the Department of Health of the State of Hawaii (“DOH”) issued a Notice of Findings of Violation (“NOV”) and Order against WMI and the City and County of Honolulu. The NOV consists of 18 Counts (Violations). There was a settlement reached with the DOH on December 7, 2007. The provisions are set forth in the Settlement Agreement; and the violations were reduced to \$1.5 million (with alternative payments) and corrective actions. Then, on April 5, 2006, the United States Environmental Protection Agency (“EPA”) issued a press release the Waste Management Hawai`i (“WMH”) and the City are in violation of the provisions of the Clean Air Act. Findings and Notice of Violations (“EPA NOV”) was issued. There remains outstanding the issue of heightened temperatures at WGS� where it landfill gas wells record temperatures in excess of 131°F. This has not been resolved to the best of my knowledge. In addition, there remains the concern raised as to leachate and its disposal in the Waianae Sewage Treatment plant. Last year, the DOH fined the City another \$424,000 for again the wrong liner and failing to build the water control system.

Conclusion

It is very difficult for me to watch yet another Application be approved by DPP when you have got to be aware of the violations and the blatant disregard for public health and welfare on the part of WMI, ENV and others in the City. This particular Application, however, affords you as the Director of DPP, the right to deny it on a clear procedural matter. The Planning Commission is without jurisdiction under its Rules to modify an Order that it did not issue. In fact, the Order itself remains under challenge by the City before the Hawai`i Supreme Court and there is no record of the Planning Commission accepting the LUC’s Decision and Order. Under the rulings of the Supreme Court referenced above, this Application must be denied.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

/s/ Colleen Hanabusa

Colleen Hanabusa



August 13, 2011

Mr. David K. Tanoue, Director
Department of Planning and Permitting
City and County of Honolulu
650 South King Street, 7th Floor
Honolulu, Hawaii 96813

RE: Project File Number 2011/GEN-8, Waimanalo Gulch Landfill

Dear Mr. Tanoue:

As the General Manager of Watabe Wedding Corporation, Hawaii Branch, which provides the operation of wedding service to the three chapels located to 3 of the 4 lagoons at the Ko Olina Resort, please allow myself to take this opportunity to express opposition to the Department of Environment Services' application to delete the July 31, 2012 deadline to cease disposal of municipal solid waste at the Waimanalo Gulch Landfill.

We have continued to contribute to enhance the tourism market by serving thousands of Japanese wedding couples, celebrating their once in a life time memories here at the Ko Olina Resort. Ambience is very essential and to see debris, such as disposed medical needles, garbage bags coming in from the landfill and the whiff of the sour smell of the landfill across the street is just not one of the impressions we would like to deliver to our clients. They especially chose this location as their wedding site to experience bright sun reflecting to the blueness of the ocean and smell free environment.

With the removal of the deadline, future wedding couples will continue to suffer from the adverse impacts of landfill operations, including heavy truck traffic, noise, odors, windblown litter and scarred views from the ocean.

We do understand the necessity of Landfill operation. But we have been patient for the past years. Therefore, I think it is a time to seek another location by considering the negative impact that will impose in the future.



Thank you for the opportunity and allowing us to share this very serious situation. Should you have any questions, please do not hesitate to contact myself at nagamine@watabe.com.

Sincerely,

A handwritten signature in black ink, appearing to read 'Masaki Nagamine', with a large loop and a trailing flourish.

Masaki Nagamine
Hawaii Branch General Manager
Watabe Wedding Corporation

2011/GEN-8

RECEIVED

'11 AUG 15 A9:00

**TO: David K. Tanoue, Director
Department of Planning and Permitting
City & County of Honolulu
650 South King Street, 7th Floor
Honolulu, HI 96813**

**DEPT OF PLANNING
AND PERMITTING
CITY & COUNTY OF HONOLULU**

Fax No: 808-768-6041

**FROM: Duke Hospodar
808.671.3680**

**SUBJECT: Project File Number 2011/GEN-8
Waimanalo Gulch Landfill**

DATE: August 13, 2011

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10 August 2011

David K. Tanoue, Director
Department of Planning and Permitting
City & County of Honolulu
650 South King Street, 7th Floor
Honolulu, HI 96813

Re: Project File Number 2011/GEN-8
Waimanalo Gulch Landfill

Dear Sir,

I'm writing to you in regards to Reference No: 2011/GEN-8.

My name is Duke Hospodar and I am the Director of Resort Operations and its Aloha Team; we are tasked with risk management and safety at the Ko Olina Resort.

We understand that the City & County of Honolulu, Department of Planning & Permitting is currently reviewing Waimanalo Gulch Sanitary Landfill's application to delete the July 31, 2012 deadline for disposal of municipal solid waste and thereby allowing disposal until such site reaches capacity as allowed by the State Department of Health.

On behalf of our 52-member Aloha Team staff, and more importantly our resort community, we'd like to voice our strong opposition to any extension of the Waimanalo Landfill. The adverse effects of the landfill to our community have gone on far too long. My team is/has not only experienced the odors, noise, flying trash and dust that emanated from the ongoing operation of the landfill, but we have also been the central conduit of community complainants in regards to such.

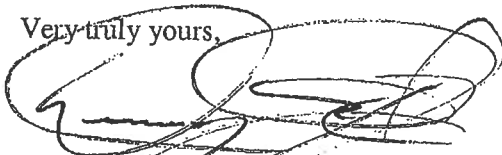
The day-to-day policing of the flying trash becomes tolerable, and the improvisation of facts extended to our guest inquiries regarding the airborne odors seems to part of the norm; but the events of 13 January 2011 were beyond our imagination. For over a month, I was required to put my team on the frontlines of disgust, as we attempted to mitigate the danger & impact to our public beachgoers, residents and hotel guests. Vials & bags of blood, syringes and medical waste that had breached the Waimanalo Gulch were so numerous along our shoreline that it took four (4) 20-foot bins to contain the waste. We experienced first hand what can happen when so called best operational practices go awry. Zoning and permitting a dump so close to our coastal waters is, in and of itself, a poorly thought-through action... extending and/or expanding this landfill knowing its record, the environment and developing landscape is not only irrational, but poses a real and potential health threat to humans, animals and sea life.

I do so hope and trust that our elected & appointed officials will have the courage and leadership to honor their word, or at the very least understand & accept that this community has honored and upheld its end of the deal and sustained unwarranted impact by continuous extensions.

If the closure of the dump had taken place when it was originally scheduled, this catastrophic breach would not have happened. Please do not allow this to happen again. Please honor the promise that the dump will close. Please do not delete the July 31, 2012 deadline for disposal of municipal solid waste

Thank you for your perusal and consideration of my testimony.

Very truly yours,



Duke Hospodar-Director
Resort Operations-LLC
Ko Olina Aloha Team
92-1480 Ali`inui drive
Kapolei, Hawaii, 96707
808.671.0273

RECEIVED

James Handsel
92-1130 Olani St. #4
Kapolei HI 96707
August 12, 2011

'11 AUG 15 A10:27

DEPT OF PLANNING
AND PERMITTING
CITY & COUNTY OF HONOLULU

David K. Tanoue, Director
Department of Planning and Permitting
City & County of Honolulu
650 South King Street, 7th Floor
Honolulu, HI 96813

Reference No: 2011/GEN-8 –

Dear Director Tanoue:

We are residents of Ko Olina and we enthusiastically request the City and County of Honolulu to comply with its obligation to close the landfill next year.

We heard the general manager of the landfill testify that there was room in the landfill for another 30 years.

When the landfill was scheduled to close seven years ago, we were told there was no time to find an alternative because it takes seven years to develop a site. The extension was allowed but no action was taken to start the process of developing an alternative.

Here we are again. Same lack of options, same shortness of time, same old story. While in the mean time, we have been subjected to the stifling foul odors & hazardous medical waste run off.

Enough is enough! Close the landfill and get on with developing other options.

Sincerely



James Handsel

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2011/GEN. 8
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HOUSE OF REPRESENTATIVES '11 AUG 15 A9:00

STATE OF HAWAII
STATE CAPITOL
HONOLULU, HAWAII 96813

DEPT OF PLANNING
AND PERMITTING
CITY & COUNTY OF HONOLULU

August 12, 2011

Department of Planning and Permitting
City and County of Honolulu
650 South King Street, 7th Floor
Honolulu, HI 96813

RE: File Number: 2011/GEN-8

I submit my comments in opposition to the application to amend Special Use Permit No. 2008/SUP-2 to delete the July 31, 2012 deadline to cease disposal of municipal solid waste at Waimanalo Gulch Sanitary Landfill.

First, the deadline to accept comments should be extended to allow my community sufficient time to submit comments. The Waianae Neighborhood Board did not have this item on its Board meeting agenda on August 2nd and therefore weren't afforded an opportunity to discuss this issue and take a position on the matter before the response deadline. At a minimum, the public comment period should be extended to allow the community a reasonable opportunity to submit comments on this issue.

Additionally, the Planning Commission must deny this application because it does not have the authority to modify the State Land Use Commission's Order dated October 22, 2009, which added the July 31, 2012 deadline to cease disposal of municipal solid waste. This City Department cannot remove a condition placed upon a Special Use Permit by a State agency. Thus, this application is inappropriate and must be rejected.

Finally, I would like to express my deep concern that this administration continues to disregard commitments made to my community to close Waimanalo Gulch Sanitary Landfill and seriously consider other sites outside of the Leeward Coast since our community has tolerated the landfill and the waste from the entire island for over 20 years. Despite recommendations from both this Planning Commission and the State Land Use Commission to consider alternative sites from 2003, the City administration has continued to claim that they lack sufficient time to locate alternate sites. This practice is simply unacceptable, especially in light of past violations resulting in a \$1.5 million settlement and recent contamination and closure of the Waimanalo Gulch Sanitary Landfill earlier this year.

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Should you have any questions or concerns regarding my comments, feel free to contact my office at 586-8460.

Sincerely,

A handwritten signature in black ink, appearing to read 'JL' or 'Jo Jordan', written in a cursive style.

Jo Jordan, Representative
45th District
Waianae, Makaha, Makua

Attention:

Mr. David K. Tanoue, Director
Department of Planning and Permitting
City and County of Honolulu
650 South King Street, 7th floor
Honolulu, HI 96813

8/7/2011
2011/EL09-189

REFERENCE NO.: 2011/GEN-8

Mr. Tanoue,

DEPT OF PLANNING
AND PERMITTING
CITY & COUNTY OF HONOLULU

11 AUG -9 AIO 21

RECEIVED

My wife and respectfully oppose the proposal to delete the July 31, 2011 deadline which will allow disposal of municipal solid waste and thereby allow disposal until the site reaches capacity.

Last week I was contacted by a criminal investigator for the EPA. They said they were conducting an examination surrounding the spillage of medical wastes and other ground water drainage through the Ko Olina resort property and onto the beaches near Ko Olina. I sent to her various email communications with county and city officials and pictures related to the December 2010 and January 2011 rain events and subsequent closure of beaches at Ko Olina.

We have a home directly behind the major drainage area on the 12th fairway of Ko Olina Golf Course and have been visiting since our purchase date of 2003. We have seen a notable increase in the amount of water during rain periods and at the end of last year the flood waters came within 2 feet of breaching the embankment protecting the Coconut Plantation development we live in. I have absolutely no doubt that the scarification of the Dump's hillsides have resulted in this increased water flow. The water flows last winter had a distinct "dump" odor. Mr. Joe Whalen of Waste Management informed me that it was perhaps the sludge that was being dumped that day which we smelled! I don't think so.

Your Department needs to await the results of this investigation from the EPA, it needs to investigate drainage issues with independent companies and or the Army Corps of Engineers to ascertain why this flooding is increasing, and needs to investigate the management and relationship between Waste Management and the City and County of Honolulu to ensure it is and independent and fair relationship. The conflict of interest is so dramatically obvious that I believe any liability for flood damage and health related issues will rest squarely on the shoulders of the city and county of Honolulu.

You must reverse the path that your government officials have taken in the path relating to promises made to close the dump, continuous infractions involving Waste Management and a general to "kick the can down the road" and then at the last minute conclude that you have no options but to continue to expand the dump.

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We think an independent commission should be established to study what happened in the past, what is happening now and what the county should do in the future with its solid waste.

2

Again we hope you will consider this and if you have any questions related to the above you may call me.

Sincerely yours,



Mario Beekes
92-1092 Olani Street
Kapolei, HI 96707

Phone contact (303) 588-0611

2011/GEN 8

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August 11, 2011 AUG 12 A9:51

DEPT OF PLANNING
AND PERMITTING
CITY & COUNTY OF HONOLULU

David K. Tanoue, Director
Department of Planning and Permitting
City and County of Honolulu
650 South King Street, 7th Floor
Honolulu, HI 96813

Re: Waimanalo Gulch Landfill, Project File # 2011/GEN-8

Dear Mr. Tanoue:

We understand that the Department of Planning and Permitting is currently reviewing an application to extend the July 31, 2012, deadline for the closure of the Waimanalo Gulch Sanitary Landfill.

As home owners in the Ko Olina Resort community , we urge you in the strongest possible terms to oppose any extension to the July 31, 2012, deadline. The Waimanalo Gulch Landfill poses a hazard to the health and well-being of the residents of the Waianae Coast and of Ko Olina and jeopardizes the significant economic contributions of the Ko Olina Resort.

In our view, the following factors make it unwise to continue the operation of Waimanalo Gulch Landfill beyond July 31, 2012:

- **Waste Management of Hawaii, the landfill's operators, have a history of 20 violations, as cited by EPA and DOH, and have been assessed over \$3 million in fines on WMH.** This long history of negligent behavior and apparent disregard for public safety call into question their fitness to continue to operate a landfill for the City and County. What assurance is there that they will change their behavior?
- **The particular construction of the Waimanalo Gulch Landfill makes it much more vulnerable to serious spills than a landfill where the opala is in a hole in the ground.** Waimanalo Gulch is a natural drainage-way and relies on several berms to hold the mountain of opala in place. Moreover, the site was built to landfill construction standards lower than those now in effect.

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- **The landfill is in close proximity to growing residential areas and presents an ongoing threat to the health and safety of all residents of the Waianae Coast and Ko Olina Resort through the potential for spills and ground water contamination.** The growth of population and homes in the 22 years since the landfill was opened have made its location increasingly unsuitable.

- **The Waimanalo Gulch Landfill is a threat to the significant economic contribution that the Ko Olina Resort makes to the City and County of Honolulu and to the state of Hawaii.** An independent economic analysis of Ko Olina Resort done by CB Richard Ellis in January of this year shows the following economic benefits of the resort:
 - Current direct spending of \$520 million annually and 2,800 jobs locally.
 - Current indirect spending of \$280 million and 1,500 jobs.
 - Future direct spending estimated at \$925 million and 5,200 jobs.
 - Future indirect spending estimated at \$501 million and 2,800 jobs.
 - Future construction spending, direct and indirect, estimated at \$5.7 billion and 43,000 jobs.
 - Current tax revenue to the City and County of \$20 million annually and \$40 million to the State.
 - Projected tax revenues of \$55 million annually to the City and County and \$71 million to the State.

A single disastrous spill or series of spills could significantly change these figures, bringing to a halt future construction and driving tourists and homeowners from Ko Olina at alarming rates.

On a personal note, we would like to say that we experienced the January 2011 spill. It was not a pretty sight. Quantities of medical waste and other landfill debris were seen in the water and on the beaches of Ko Olina and along the Waianae Coast. The water and beaches were closed to the public. The beaches of the hotels and time shares were empty, and business slowed at the Ko Olina marina, restaurants, hotels and timeshare. We wondered at the lost revenue, not

only for the hotel and restaurant owners, but also in terms of the trickle-down effect on resort workers and community businesses.

Finally, we want to note that the time for action by the City and County is long overdue. We are aware that it takes several years to locate and construct a new landfill. However, we also realize that the city and County have been aware of this timeframe for some time and have failed to make substantial progress to identify a new landfill or to find other ways of dealing with the waste. The increased incineration of medical waste and increased recycling are steps in the right direction, and we urge the construction of a third burner at HPOWER and expanded recycling. We also urge the city to consider new technologies used in other cities and countries. We happen to have spent considerable time in both Japan and the Netherlands and are aware of the countries' use of innovative technologies which minimize landfill usage. There is no reason that Hawaii cannot be equally forward-looking in its waste management.

The time has come for the city and county of Honolulu to do what is right and prudent in this matter. Please use your authority to see that the landfill is closed on July 31, 2012.

Thank you very much,


Pieter and Claire van Wingerden



Kai Lani, Unit 23D, Ko Olina

2011/GEN-8

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August 10, 2011

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DEPT OF PLANNING
AND PERMITTING
CITY & COUNTY OF HONOLULU

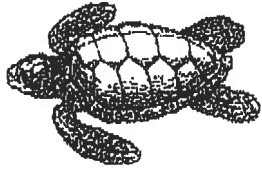
honu
GROUP INC

David K. Tanoue, Director
Department of Planning & Permitting
City & County of Honolulu
650 South King Street, 7th Floor
Honolulu, Hawaii 96813

Re: Waimanalo Gulch Landfill
Project File No.: 2011/GEN-8

Dear Mr. Tanoue,

Honu Group Inc., a Honolulu based and locally owned commercial real estate development and management company, strongly opposes the Department of Environmental Services' application to delete the July 31, 2012 deadline to cease disposal of municipal solid waste at Waimanalo Gulch Sanitary Landfill (WGSL).



As evidenced by the wastewater catastrophe in January of this year, continued use of WGSL presents calamitous environmental, social, economic, health and safety risks to all of West Oahu. While we understand that waste disposal is a fundamental need of every society, the inherent dangers of the site - Waimanalo Gulch is a *canyon fill*, a natural drainage-way, combined with the operator's record of negligence to effectively manage and maintain the site, prove that the continued use of WGSL is simply not a viable long-term solution.

At best, no amount of best management practices can completely mitigate the adverse effects of operating WGSL. Given the long history of violations by its operator, Waste Management of Hawaii, the risks and dangers associated with operating this *canyon fill* exponentially increases. If the landfill is allowed to remain open, the surrounding environment, ocean, beaches and marine life, and the community's health and welfare are not safe and vulnerable to severe harm.

Use of WGSL also presents a real and ever-present threat to nearby Ko Olina Resort's continued viability. The Resort's current operations generate more than \$500 million and contribute 2,800 jobs annually to the local economy. WGSL threatens and maligns these on-going and future economic benefits for the people of Hawai'i.

The City and State cannot afford to have another landfill disaster on its hands. The Leeward community's economic viability, growth, health and safety are at stake. The City's efforts should be directed at protecting these interests, ensuring West Oahu's future is neither compromised nor undermined.

Cordially,

Mona Abadir
Chief Executive Officer
Honu Group Communications, LLC.

PO Box 2686
Honolulu, Hawaii 96803

P 808.550.5559
mail@honugroup.com
www.honugroup.com

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August 11, 2011

David K. Tanoue, Director
Department of Planning & Permitting
City & County of Honolulu
6560 South King Street, 7th Floor
Honolulu, Hi 96813

'11 AUG 12 A10 :19

DEPT OF PLANNING
AND PERMITTING
CITY & COUNTY OF HONOLU.

Re: Waimanalo Gulch landfill
Project File No: 2011/GEN-8

Dear Mr. Tanoue,

My name is Alan Nakamura, employee of Ko Olina Resort. I am in complete disagreement with the Department of Environmental Services to delete the application of the July 31, 2012 deadline to cease the disposal of solid waste at Waimanalo Gulch Landfill.

For years I have observed rubbish trucks pass the resort with an abundant amount of trash and debris flying from their trucks that litter Farrington Hwy and the resort. We are continuously picking up the debris on a daily basis and found that it is a never ending task to control.

I strongly believe the only way for the people to be responsible for the environment and their community is to have their own landfill in their own district. Transporting their opala to another neighborhood is absolutely without a doubt, not the solution.

Thank You for your time and consideration in resolving this crisis.

Sincerely,



Alan Nakamura
Ko Olina Golf Course Superintendent

Scan of 8/11/11



Ralph F. Harris, President

Ko Olina Fairways - Association of Apartment Owners
92-1527-H Aliinui Drive
Kapolei, Hawaii 96707

DEPT OF PLANNING
AND PERMITTING
CITY & COUNTY OF HONOLULU

11 AUG 12 10:24

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Phone: (808) 679-0085
Email: rfh@hawaii.rr.com

August 10, 2011

USPS First Class
Fax: (808) 768-6743

David K. Tanoue, Director
Department of Planning & Permitting
City & County of Honolulu
650 South King Street, 7th Floor
Honolulu, Hawaii 96813

RE: **Waimanalo Gulch [Kapolei] Sanitary Landfill**
SPECIAL USE PERMIT NO. 2008/SUP-2 (Expiration Date July 31, 2012)
Applicant: Department of Environmental Services
City and County of Honolulu
Landowner: City & County of Honolulu
Operator: Waste Management
Location: Waimanalo Gulch, [Kapolei] Oahu, Hawaii
Tax Map Key: (1) 9-2-003:072 and 073
File Number: 2011/GEN-8

**Ko Olina Fairways Association of Apartment Owners in OPPOSITION to
The City and County of Honolulu's Application to extend the disposal of
MSW at the Waimanalo Gulch [Kapolei] Sanitary Landfill.**

Gentlemen:

As President of the Ko Olina Fairways Association of Apartment Owners ("AOAO") representing 280 townhouses at Ko Olina Resort, I am responding on behalf of our associations' members to be heard by the City Department of Planning & Permitting regarding the City's submission of a Permit Application to expand the disposal of MSW past the termination date of July 31, 2012. The Ko Olina Fairways Association of Apartment Owners joins our community master association, the Ko Olina Community Association (KOCA), in **OPPOSING** the City's Permit Application.

The State Land Use Commission ("SLUC") has already ruled that the Landfill must close by July 1, 2012. It appears that the City, again without a plan or alternative site, has decided to seek yet another angle to extend the life of the dump.

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Daniel K. Tanoue, Director
Department of Planning & Permitting
City & County of Honolulu
August 10, 2011
Page 2 of 2

The City continues to pursue this site for over eleven (11) years, without a plan, without alternative sites, without alternative methods, and without alternative technologies to integrate into a comprehensive waste management plan for the Island of Oahu. The Waimanalo facility has already contaminated the shoreline including the delivery of medical waste on beach goes from Ko Olina to Waianae. The location and condition of the facility is a disaster looming for more taxpayers' dollars to clean up future overflows.

I hope the decision makers at the City Department of Planning & Permitting will take the time (un-announced) to drive the roads and highways through Kapolei and then towards Kahe and see the litter and filth that accumulates daily from the trash trucks delivering to the Landfill at Waimanalo Gulch, Kapolei. I am sure you would not allow these condition near your home. Please reject the application for expansion past July 2012.

Sincerely,
for Ko Olina Fairways
Association of Apartment Owners



Ralph F. Harris
President

cc: Ko Olina Fairways Board of Directors and Homeowners
US Mail - First Class
Other Interested Parties

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'11 AUG 12 10:25

DEPT OF PLANNING
AND PERMITTING
CITY & COUNTY OF HONOLULU.

David K. Tanoue, Director
Department of Planning and Permitting
City and County of Honolulu

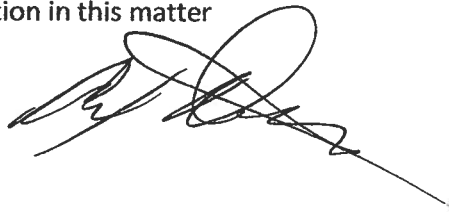
Reference No.: 2011/GEN-8

Dear Director Tanoue, PLEASE **DO NOT** APPROVE THE WAIMANALO GULCH SANITARY LANDFILL'S APPLICATION TO DELETE THE JULY 31, 2012 DEADLINE FOR DISPOSAL OF MUNICIPAL SOLID WASTE. THE WAIMANALO GULCH SANITARY LANDFILL HAS HAD EXTENSION AFTER EXTENSION WITH A RESULTING CONTAMINATION OF OUR BEACHES IN KOOLINA LAST YEAR AFTER A HEAVY RAIN. I SINCERELY BELIEVE IF WE HAVE ANOTHER HEAVY RAIN THIS PROBLEM WILL CONTINUE TO ARISE. MILLIONS OF DOLLARS HAVE BEEN SPENT TO MAKE OUR BEACHES BEAUTIFUL AND UNIQUE. DISNEY RESORT, MARIOTT AND BEACH VILLAS AS WELL AS EVERY CONCERNED HOMEOWNER AT KOOLINA AND THE SURROUNDING AREAS DO NOT WANT THIS TRAGEDY TO HAPPEN AGAIN-AND **YOU CAN PREVENT IT.**

I AM THE REPRESENTATIVE TO THE KOOLINA COMMUNITY ASSOCIATION (KOCA) FOR BEACH VILLAS AT KOOLINA. EVERY OWNER I HAVE SPOKEN TO WANTS THAT LANDFILL CLOSED AS IT WAS SUPPOSED TO HAVE BEEN YEARS AGO.

Thank you for your consideration in this matter

Alex Duarte. O.D., Ph.D.
KOCHA Representative
Beach Villas at KoOlina





Commercial Contracting Hawaii
91-329 Kauhi Street, E-1 • Kapolei, HI 96707
Phone 808-682-0055 • Fax 808-682-2476
Lic. #BC21683

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DEPT OF PLANNING
AND PERMITTING
CITY & COUNTY OF HONOLULU

David K. Tanoue, Director
Department of Planning and Permitting
City & County of Honolulu
650 South King Street, 7th Floor
Honolulu, HI 96813

August 1, 2011

Via Fax - 808-768-6041

Reference No: 2011/GEN-8

Dear Director Tanoue,

We cannot continue to extend the closure date of Waimanalo Gulch Landfill. Nor can we continue to expand the Waimanalo Gulch Landfill. All that represents is an easy way out and not at all a solution to the problem of dealing with Oahu's trash.

We need to expand our resources and explore new technologies. It's absurd to hear the city say they need an additional 15 years while alternative technologies are developed. Why does the west side of the island have to continue to endure the burden of the entire islands trash? We need to be aggressive in finding alternative solutions. Other cities have been successful; we should look to them as role models for our situation.

At the very least, we need an alternative location, if not several to eliminate some of the truck traffic, blowing rubbish, and sometimes foul smells, that are all too often noticeable everywhere around the Waimanalo Gulch Landfill.

We implore you to do the right thing and not take the easy way out as so many of our politicians have done in the past. July 31, 2012 is the deadline for disposal of municipal solid waste, let's keep it that way.

Sincerely,

Harriet Bloom

Harriet Bloom
Vice President
Commercial Contracting Hawaii

867117



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
530 SOUTH KING STREET, ROOM 202
HONOLULU, HAWAII 96813-3065
TELEPHONE: (808) 768-5010 • FAX: (808) 768-5011

TOM BERG
COUNCILMEMBER
HONOLULU CITY COUNCIL • DISTRICT I
PH: (808) 768-5001
FAX: (808) 768-5011
EMAIL: tberg@honolulu.gov

LAND USE COMMISSION
STATE OF HAWAII
2011 JUL 25 A 9:34

July 21, 2011

David K. Tanoue, Director
Department of Planning and Permitting
650 South King Street, 7th Floor
Honolulu, HI 96813

Re: Project File No. 2011/GEN-8 – Waimanalo Gulch Sanitary Landfill

Dear Director Tanoue,

Please extend the comment period to end of September 30, 2011.

I urged you to please reconsider your deadline and honor the ability for the neighborhood boards to participate in this process.

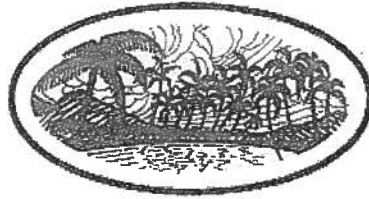
Thank you for your assistance and cooperation.

Aloha,

TOM BERG
Councilmember – District 1
Ewa Beach, Kapolei, Waianae Coast

TB:ge

cc: Norman Lezy, Chairperson, State Land Use Commission
Ewa Neighborhood Board No. 23
Waianae Coast Neighborhood Board No. 24
Makakilo/Kapolei/Honokai Hale Neighborhood Board No. 34
Nanakuli-Mailii Neighborhood Board No. 36



The Coconut Plantation

DEPT OF PLANNING
AND PERMITTING
CITY & COUNTY OF HONOLULU

11 JUL 27 AM 10:26

RECEIVED

July 25, 2011

Mr. David K. Tanoue, Director
Department of Planning and Permitting
City and County of Honolulu
650 South King Street, 7th Floor
Honolulu, HI 96813

Re: Waimanalo Gulch Sanitary Landfill, Reference No: 2011/GEN-8

Dear Mr. Tanoue

The Association of Apartment Owners of The Coconut Plantation in the Ko Olina Resort and Marina adamantly oppose any extension of the permit for the Waimanalo Gulch Sanitary Landfill from receiving municipal solid waste beyond July 31, 2012.

We have written numerous letters opposing the continued operation of the WGSL because of the environmental damage caused by it. The most recent incident was the discharge of medical waste into the ocean; consequently, our lagoons were closed for use until the Health Department declared they were safe to use. Our daily lives are impacted by its close proximity. Therefore, it is important to select another site located away from the Leeward Coast, rather than extending the permit.

An economic study was completed by a third party that projects revenues and jobs generated within the Resort will contribute revenues to the City and County greater than that will be realized from the extended use of WGSL. The Disney Resort will open in August and attract many tourists to the Islands. Another disaster could potentially influence its success and in addition lessen the future value of our homes as well. Specific details of the study can be provided by the Mr. Ken Williams, Ko Olina Community Association, Inc.

I recently took a tour of WGSL and saw the dam built high above the landfill to divert drainage over the dump to a channel. This is supposed to avert another incident like that of December 2010. Our residents have experienced tremors from blasts to expand the landfill, noise of the trucks, loose trash littering Farrington Highway and H1 that fly out of the garbage trucks, and dust from the landfill.

We recommend that the permit not be extended because of the above cited reasons.

For the Board of Directors
AOAO The Coconut Plantation

S. B. Teramoto
President

cc: Councilman Tom Berg
Mr. Ken Williams - Ko Olina Community Association

William and Sara Barnes 92-1001 Aliinui Drive. #24A Kapolei, HI 96707

RECEIVED

July 20, 2011

'11 JUL 25 A9:35

Mr. David K. Tanoue, Director
Department of Planning and Permitting, City and County of Honolulu
650 South King Street, 7th Floor
Honolulu, HI 96813

DEPT OF PLANNING
AND PERMITTING
CITY & COUNTY OF HONOLULU

RE: Application to Amend Special Use Permit No. 2008/SUP-2

Dear Director Tanoue,

We are writing to express our opposition to deleting the July 31, 2012 deadline to cease disposal of municipal solid waste at Waimanalo Gulch Sanitary Landfill. We have already seen the previous deadline deleted even after we and many of our neighbors urged that it not be. Since then, we have watched the landfill get bigger and bigger. The communities on the Leeward side have experienced more and more environmental degradation (smells, dust, dirt, blowing trash bags), recent environmental health hazards (contamination from medical waste resulting in beach closings) and economic loss (devaluation of real estate directly related to the landfill's presence).

We have watched as the City and County have done little and then asked for extension after extension. An earlier mayor-appointed Task Force refused to identify another landfill site. Now Mayor Carlisle's new Task Force is falling further and further behind it's schedule in naming an alternate landfill site. We are appalled by the lack of political leadership evidenced by these delays and the lack of concern that those of us on the west side of Oahu are still living with a "temporary landfill" that opened 20 years ago.

We are not naïve. We understand that it takes about seven years to permit and develop a new site. But we ask that you to do the right thing and stand firm on closing the Waimanalo Gulch Landfill on July 31, 2012. And if you will not, then we urge you to work with other departments to set a firm deadline **THAT CANNOT BE APPEALED IN THE FUTURE** and attach deadlines to each step that is necessary for opening a new landfill as soon as possible. We further urge you, if it is at all within your power, to set significant fines along the way if any of those intermediate deadlines are not met. We are convinced that only if severe penalties are set with which any mayor must comply, will the Waimanalo Landfill be closed.

Sincerely,



William Barnes



Sara Barnes

Cc: Mayor Peter Carlisle, Councilman Tom Berg, Mr. Ken Williams

867117



Ralph F. Harris, President

Ko Olina Fairways - Association of Apartment Owners
92-1527-H Aliinui Drive
Kapolei, Hawaii 96707

Phone: (808) 679-0085
Email: rfh@hawaii.rr.com

August 10, 2011

USPS First Class
Fax: (808) 768-6743

David K. Tanoue, Director
Department of Planning & Permitting
City & County of Honolulu
650 South King Street, 7th Floor
Honolulu, Hawaii 96813

RE: **Waimanalo Gulch [Kapolei] Sanitary Landfill**
SPECIAL USE PERMIT NO. 2008/SUP-2 (Expiration Date July 31, 2012)
Applicant: Department of Environmental Services
City and County of Honolulu
Landowner: City & County of Honolulu
Operator: Waste Management
Location: Waimanalo Gulch, [Kapolei] Oahu, Hawaii
Tax Map Key: (1) 9-2-003:072 and 073
File Number: 2011/GEN-8

**Ko Olina Fairways Association of Apartment Owners in OPPOSITION to
The City and County of Honolulu's Application to extend the disposal of
MSW at the Waimanalo Gulch [Kapolei] Sanitary Landfill.**

Gentlemen:

As President of the Ko Olina Fairways Association of Apartment Owners ("AOAO") representing 280 townhouses at Ko Olina Resort, I am responding on behalf of our associations' members' to be heard by the City Department of Planning & Permitting regarding the City's submission of a Permit Application to expand the disposal of MSW past the termination date of July 31, 2012. The Ko Olina Fairways Association of Apartment Owners joins our community master association, the Ko Olina Community Association (KOCA), in **OPPOSING** the City's Permit Application.

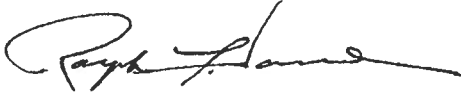
The State Land Use Commission ("SLUC") has already ruled that the Landfill must close by July 1, 2012. It appears that the City, again without a plan or alternative site, has decided to seek yet another angle to extend the life of the dump.

Daniel K. Tanoue, Director
Department of Planning & Permitting
City & County of Honolulu
August 10, 2011
Page 2 of 2

The City continues to pursue this site for over eleven (11) years, without a plan, without alternative sites, without alternative methods, and without alternative technologies to integrate into a comprehensive waste management plan for the Island of Oahu. The Waimanalo facility has already contaminated the shoreline including the delivery of medical waste on beach goes from Ko Olina to Waianae. The location and condition of the facility is a disaster looming for more taxpayers' dollars to clean up future overflows.

I hope the decision makers at the City Department of Planning & Permitting will take the time (un-announced) to drive the roads and highways through Kapolei and then towards Kahe and see the litter and filth that accumulates daily from the trash trucks delivering to the Landfill at Waimanalo Gulch, Kapolei. I am sure you would not allow these condition near your home. Please reject the application for expansion past July 2012.

Sincerely,
for Ko Olina Fairways
Association of Apartment Owners



Ralph F. Harris
President

cc: Ko Olina Fairways Board of Directors and Homeowners
US Mail - First Class
Other Interested Parties

K O O L I N A RECEIVED
HAWAII

'11 AUG 11 A10:13

August 8, 2011

DEPT OF PLANNING
AND PERMITTING
CITY & COUNTY OF HONOLULU

David K. Tanoue, Director
Department of Planning & Permitting
City & County of Honolulu
650 South King Street, 7th Floor
Honolulu, HI 96813

Re: Waimanalo Gulch Landfill
Project File No: 2011/GEN-8

Dear Mr. Tanoue,

My name is Ken Williams and I am the Executive Vice President for the Ko Olina Community Association (KOCA). On behalf of KOCA, I hereby submit comments in opposition to Department of Environmental Services' application to delete the July 31, 2012 deadline to cease disposal of municipal solid waste at Waimanalo Gulch Landfill.

Through the years, Ko Olina Resort has consistently opposed the Waimanalo Gulch Landfill. The following are, in large part, many of Ko Olina Resort's concerns over the past 10 years. Once again, KOCA submits its comments and vehemently opposes the deletion of July 31, 2012 deadline.

GENERAL INFORMATION:

- WGSL is technically referred to as a "canyon fill" – Waimanalo Gulch is a natural drainage-way where a stream would ephemerally run, draining an entire watershed above it.
 - Canyon fills rely on multiple berms to hold the man-made mountain of opala in place.
 - This type of "fill" is inherently much more dangerous than a typical landfill where the opala is placed in a hole in the ground.
 - Failure of these berms or of the drainage systems can be catastrophic – as in what occurred in Dec – Jan, 2010-2011 (see enclosed pictures).

HISTORY OF VIOLATIONS:

- Long history of violations by Waste Management of Hawaii (WMH) and resulting fines – there have been approximately 20 violations cited by EPA and DOH and over \$3 million in fines assessed since 2005.

- These violations have included extremely dangerous failures to construct and properly operate the cells, liners, leachate system, and gas collection system.
- This long history of negligent behavior exponentially increases the risks and dangers associated with a “canyon fill”.
- In 2010, after the DOH issued more violations for improper construction of landfill berms, WMH constructs a new cell (Cell E6) and enters it into operation.
 - Operation and filling of E6 occurs BEFORE the necessary drainage infrastructure is complete.
 - DOH Clean Water Branch documents the unauthorized pumping of leachate into state waters in its Investigation Report dated 12/23/2010.
 - City is ordered to issue a press release regarding the possible release of contaminated stormwater and leachate into state waters, but considers the posting of local beaches unnecessary. (12/23/2010)
 - January 12, 2010 – 11-inch rain storm dislodges unknown quantities of municipal solid waste (MSW), sewage sludge, leachate and medical pendent analysis conducted by waste from the landfill into the coastal waters.
 - Medical solid waste includes sharps, chemotherapy wastes and pathological wastes.
 - By the morning of January 13, 2011 significant quantities of medical waste and other landfill debris was washing up in the Ko Olina Lagoons. Quickly this waste spread to beaches up the Leeward Coast and east as far as Nimitz Beach.

FISCAL & ECONOMIC BENEFIT ANALYSIS:

- Fiscal & Economic Benefits Analysis, Ko Olina Resort & Marina, Honolulu, HI - an independent analysis conducted by CB Richard Ellis (CBRE) in January, 2011 notes (copy of analysis is enclosed):
 - Current operations of Ko Olina Resort generate \$520 million in direct spending annually and provide 2,800 jobs locally. Additionally, this generates indirect and induced benefits of \$280 million and 1,500 additional jobs locally and statewide.
 - Future developments at Ko Olina will almost double the benefits generated by existing Ko Olina Resort, generating \$1.4 billion in total annual economic activity (\$925 million directly and \$501 million indirect and induced) and supporting 8,000 jobs (5,200 directly and 2,800 indirect and induced).
 - Construction period impacts for future proposed developments at Ko Olina will include over \$3.7 billion in direct spending, creating 26,700 jobs. Indirect and induced economic impacts of this same spending will include an additional \$2 billion and 16,900 jobs.

- At a total of \$5.7 billion and 43,000 jobs, this will be approximately equal to Honolulu's rail project.
- Existing development at Ko Olina generates \$20 million in tax revenue to the City & County of Honolulu, and \$40 million to the State of Hawaii, annually.
- At full build-out, Ko Olina will generate \$55 million in annual tax revenues to the City & County, and \$71 million to the State.
 - This does NOT include the construction period tax revenues which will generate an additional \$193 million in one-time revenues to the City and State combined.
- Waimanalo Gulch Landfill threatens all of these ongoing and future economic benefits.

SUMMARY:

- Enough is enough. The City and Waste Management have gone too far.
- Proven track record of incompetence and negligence.
- The fill is just too risky and unstable to continue, especially given the operators' record of failures.
- We know waste disposal is a fundamental need of every society, but this operation -- given the operator's terrible track record for ineffectively managing this inherently dangerous site -- is not a viable long-term solution.
- It seems that for political and revenue-generating reasons, the City will not voluntarily opt for any alternatives to WGSL -- no matter how safe it has proven itself to be.
- WGSL represents a real and ever-present threat to the continued viability of Ko Olina Resort & Marina -- including all hotels, timeshares, residences and commercial operations therein.
 - Economic and fiscal benefits listed above.
- Enough is enough.

KOCA offers the following suggestions as alternatives to disposal of waste:

- Viable Alternatives:
 - Third burner at HPOWER
 - Expanded recycling
 - Transshipment of waste as a temporary measure.
 - Other technologies -- plasma arc, plasma gasification, etc.
 - Community transfer stations and community landfills (only if absolutely necessary.)

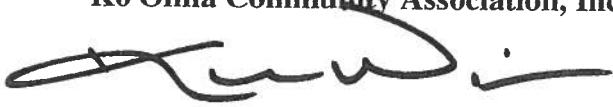
David K. Tanoue, Director
August 8, 2011
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If Waimanalo Gulch Landfill is granted an extension and continues to operate as it has in the past, the negative economic and environmental impact on the Leeward Coast and Ko Olina Resort will continue. Therefore, for the reasons stated above, Ko Olina Resort vehemently opposes Department of Environmental Services' application to delete the July 31, 2012 deadline allowing disposal of municipal solid until the site reaches capacity as allowed by the State Department of Health.

Thank you for your careful consideration,

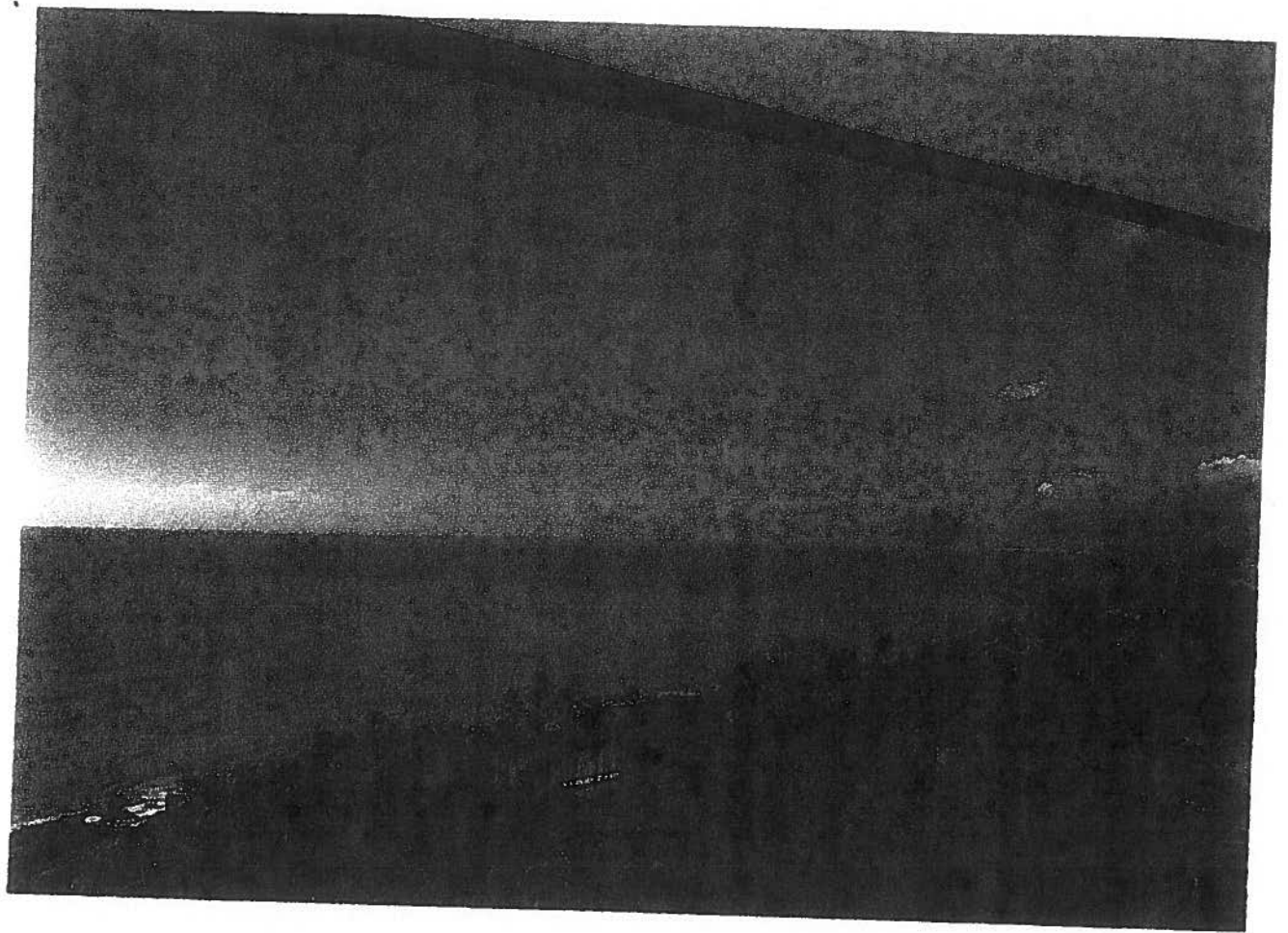
Sincerely,

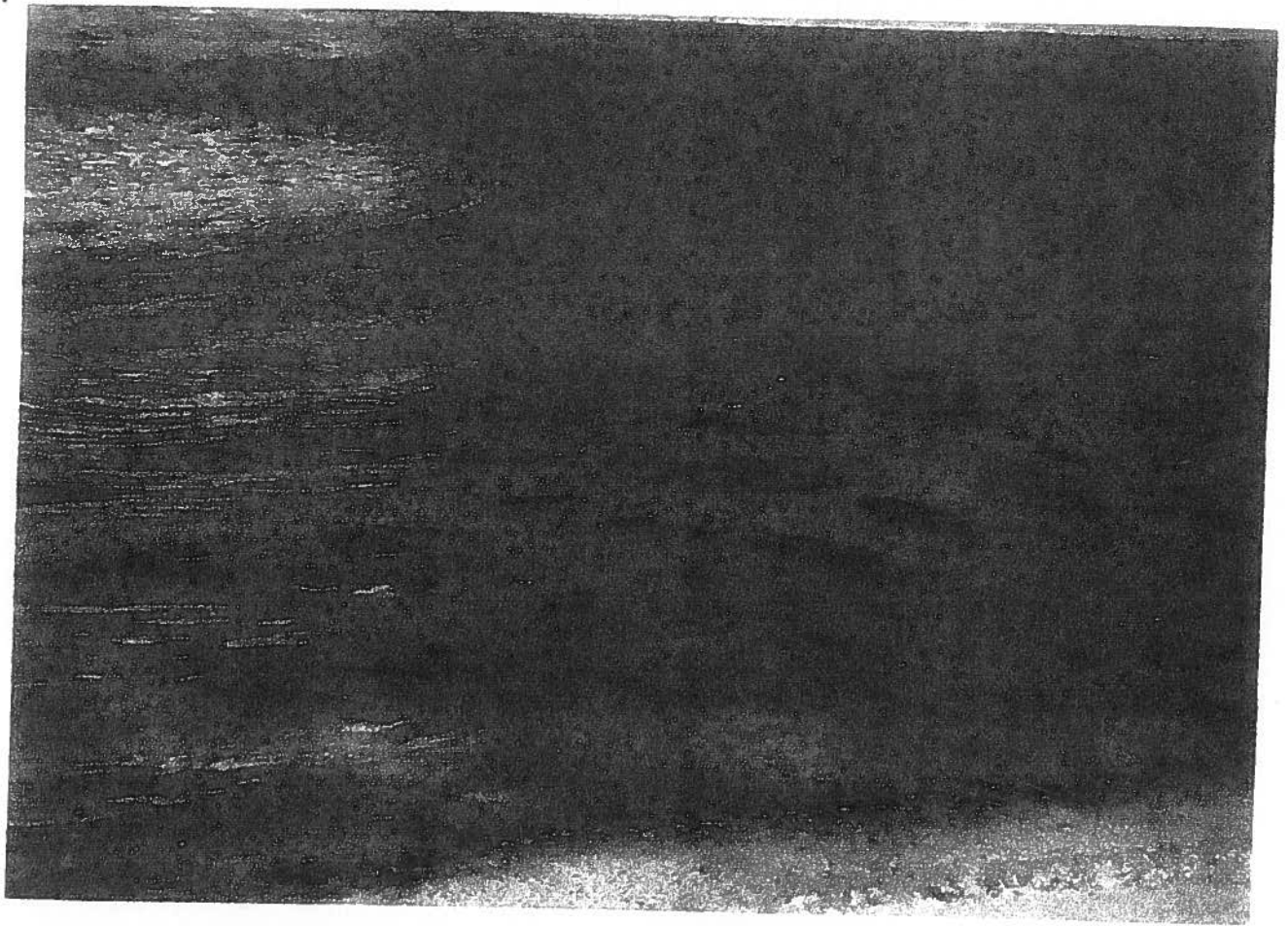
Ko Olina Community Association, Inc.

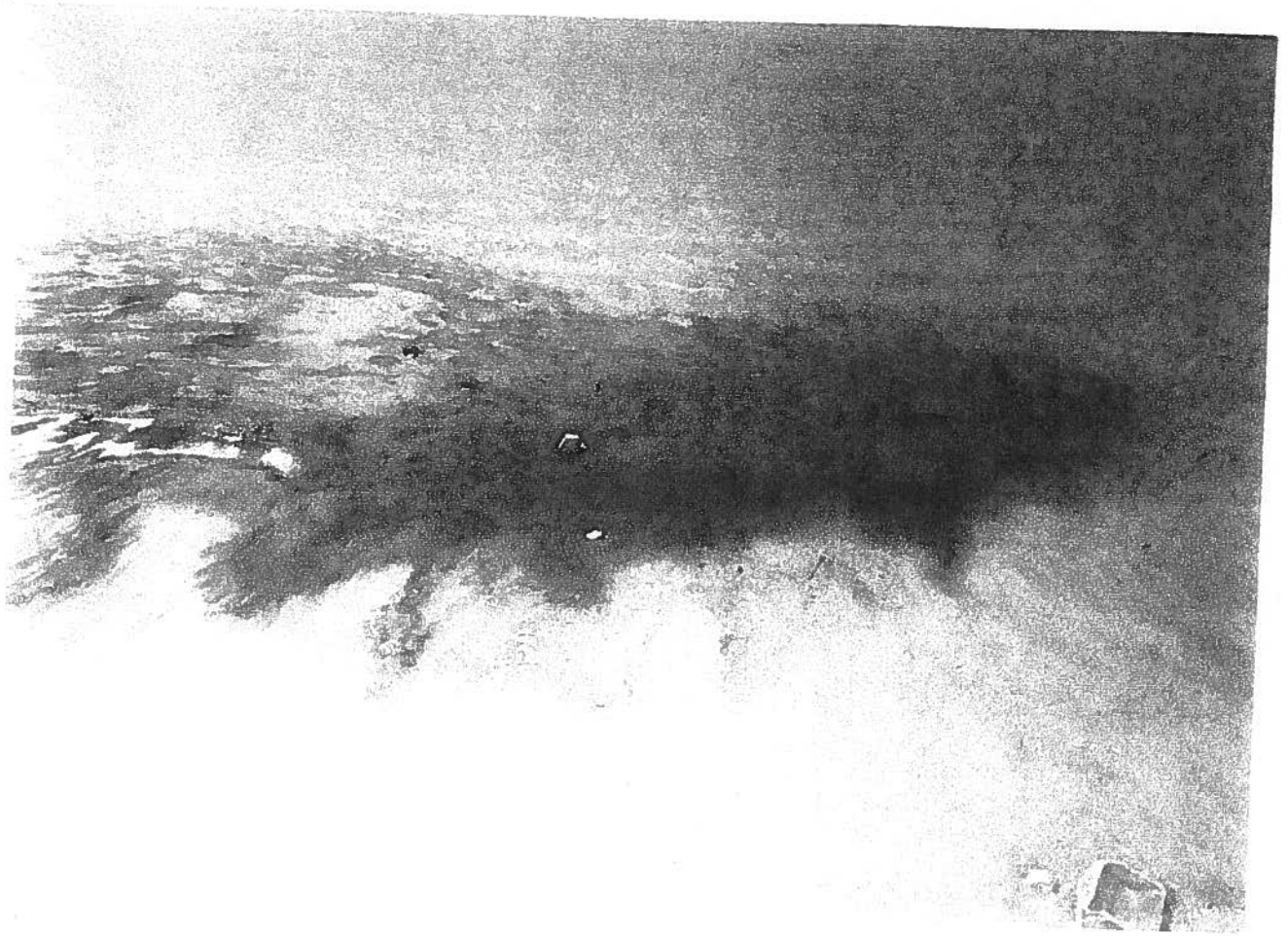
A handwritten signature in black ink, appearing to read 'Ken Williams', with a stylized flourish at the end.

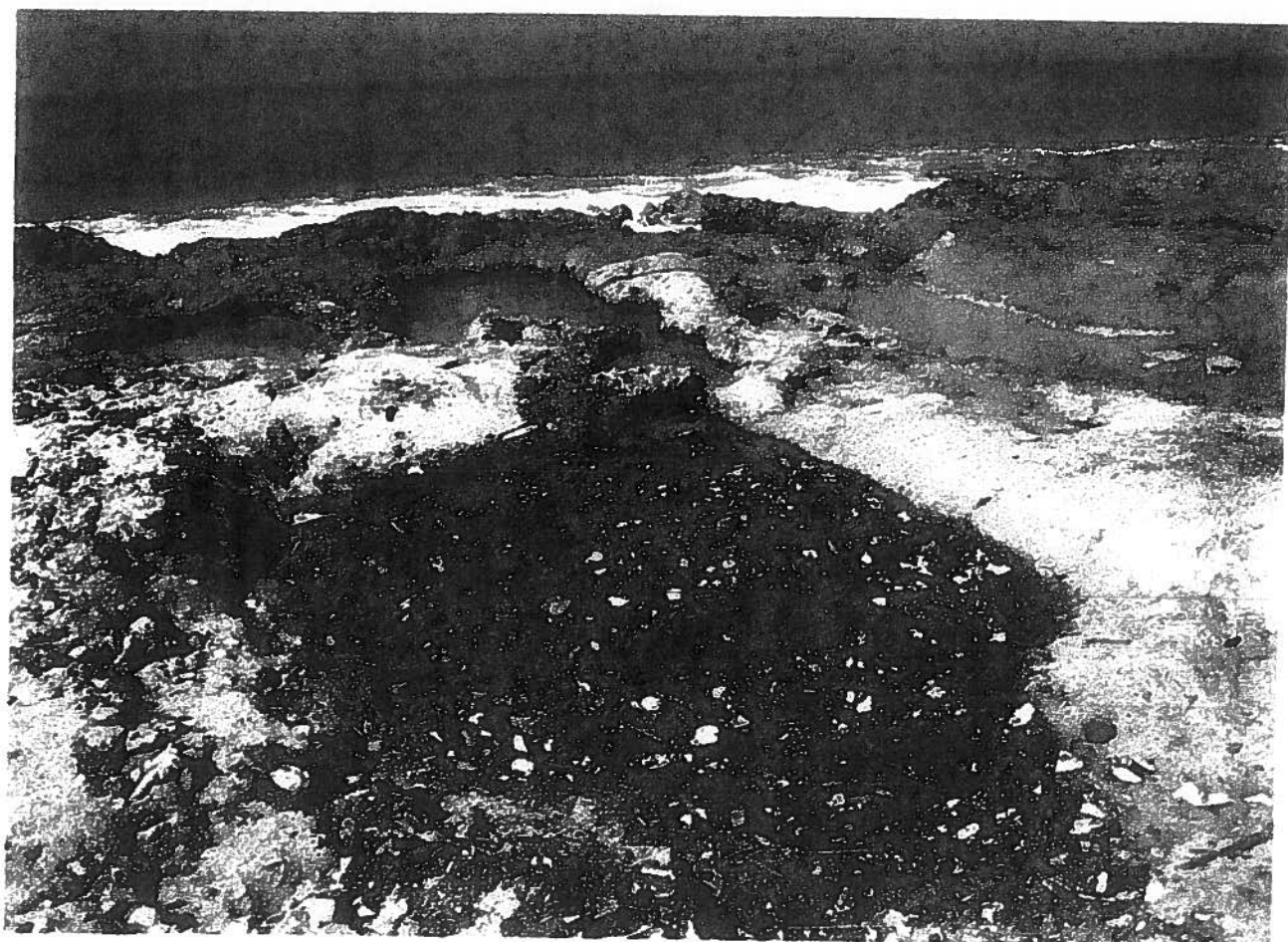
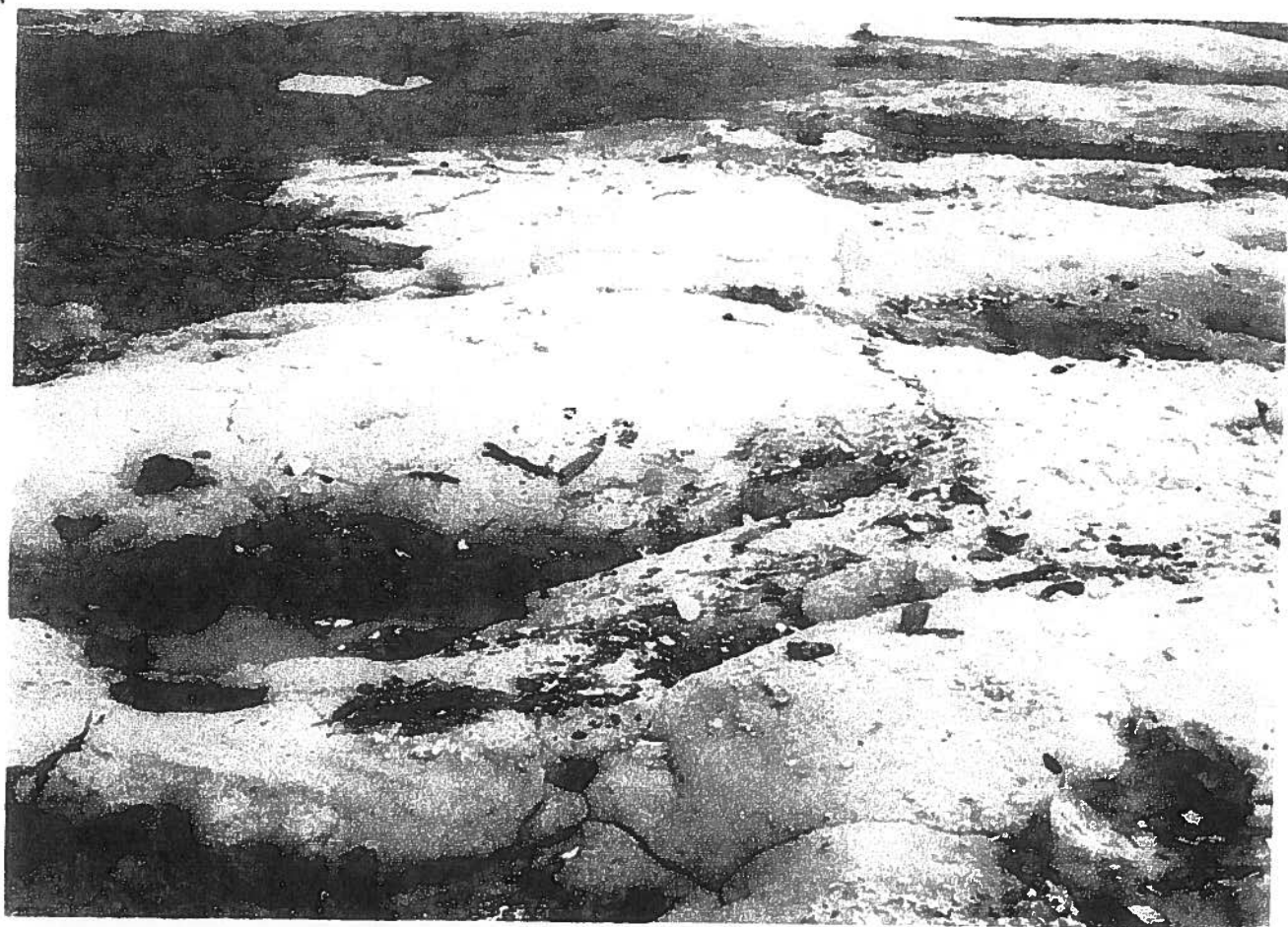
Ken Williams
Executive Vice President

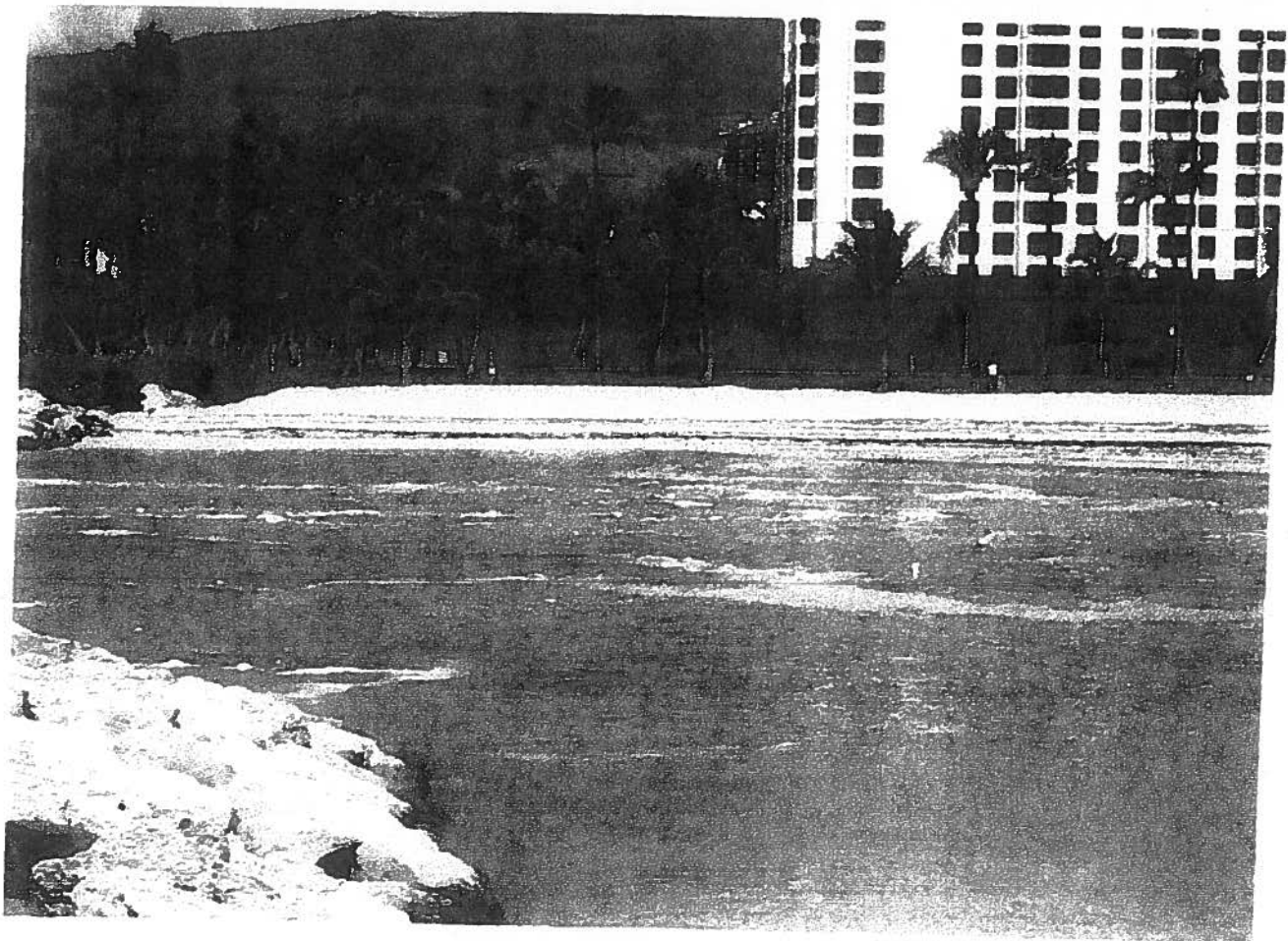
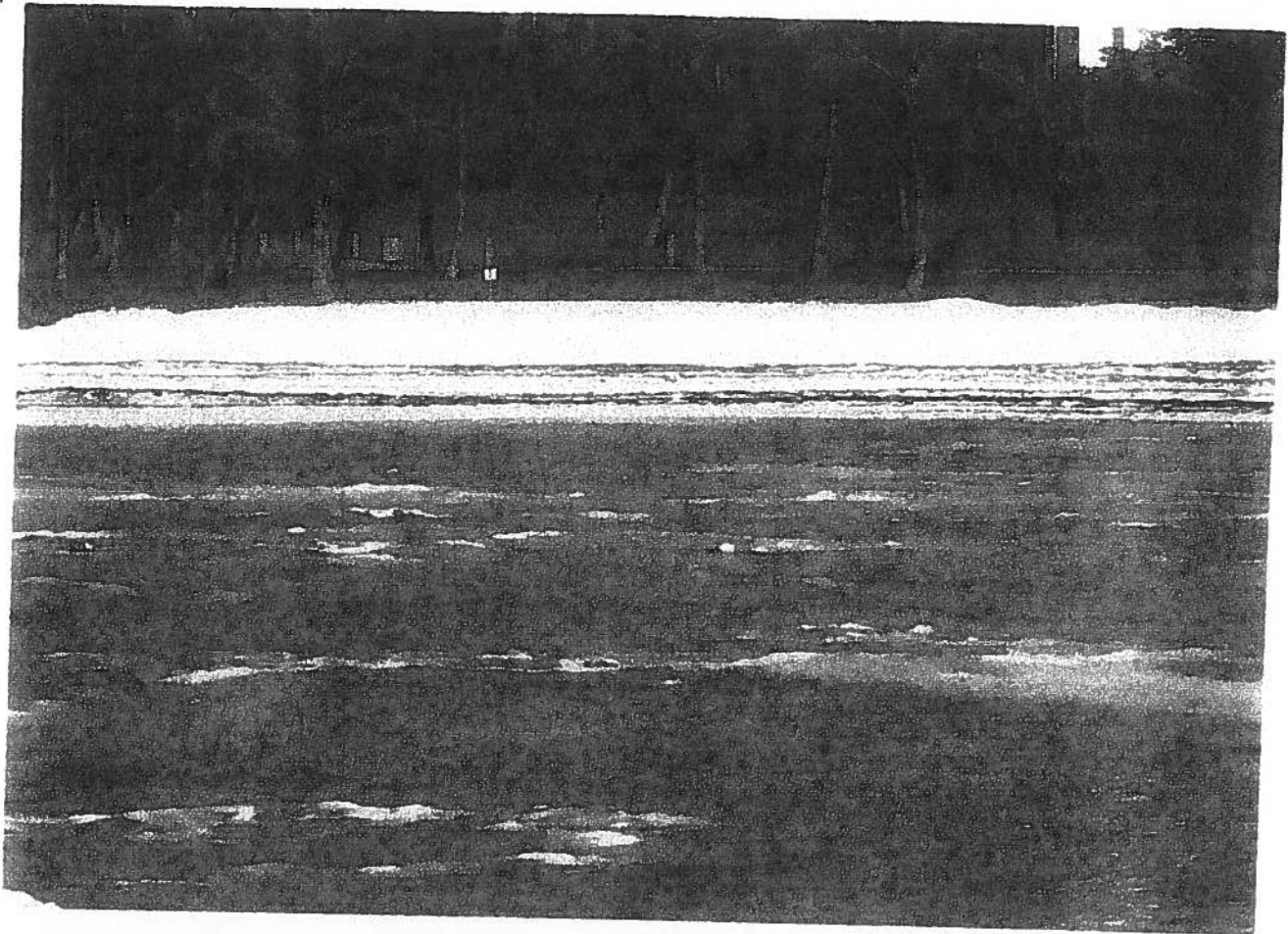
Enclosures

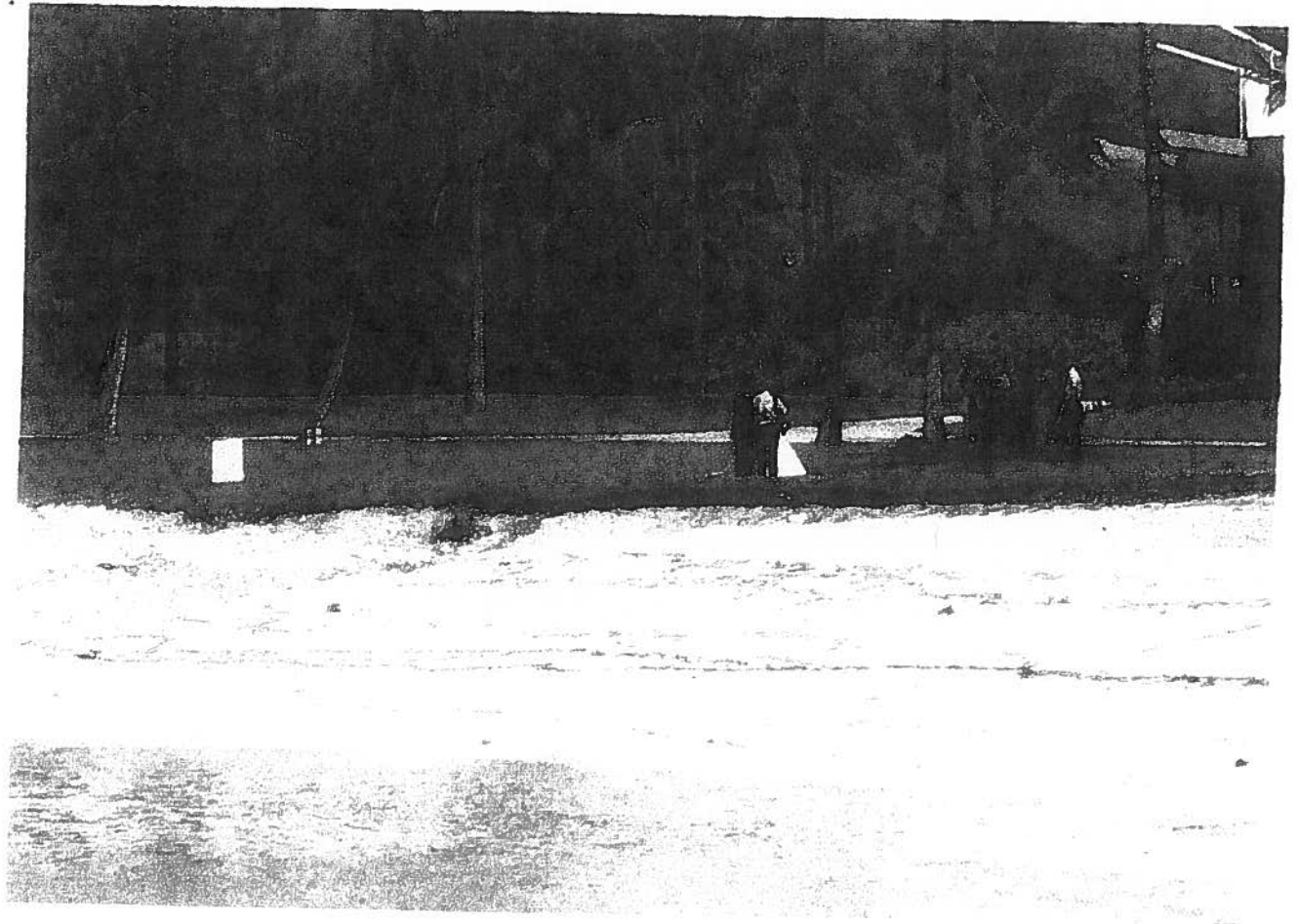


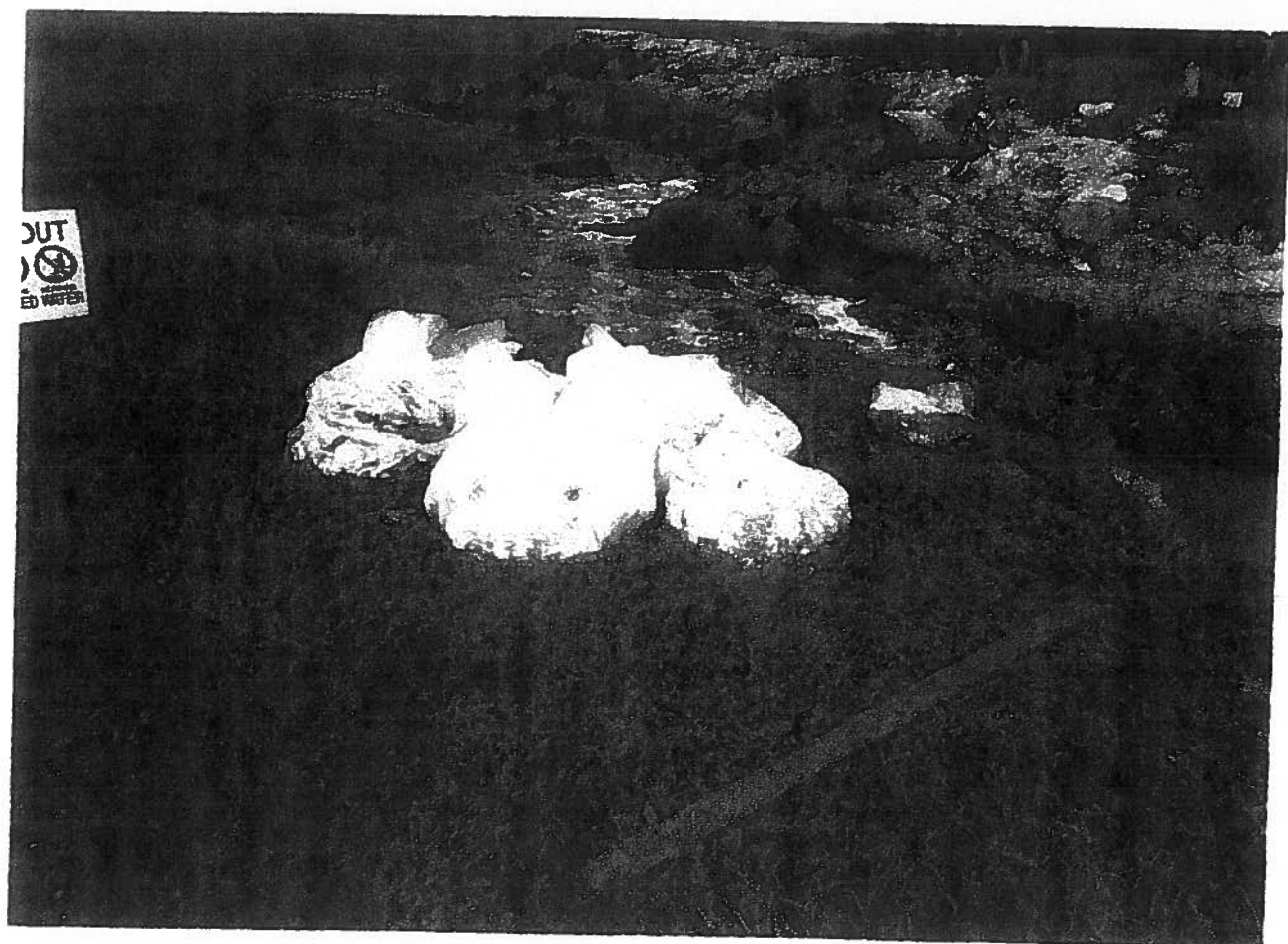
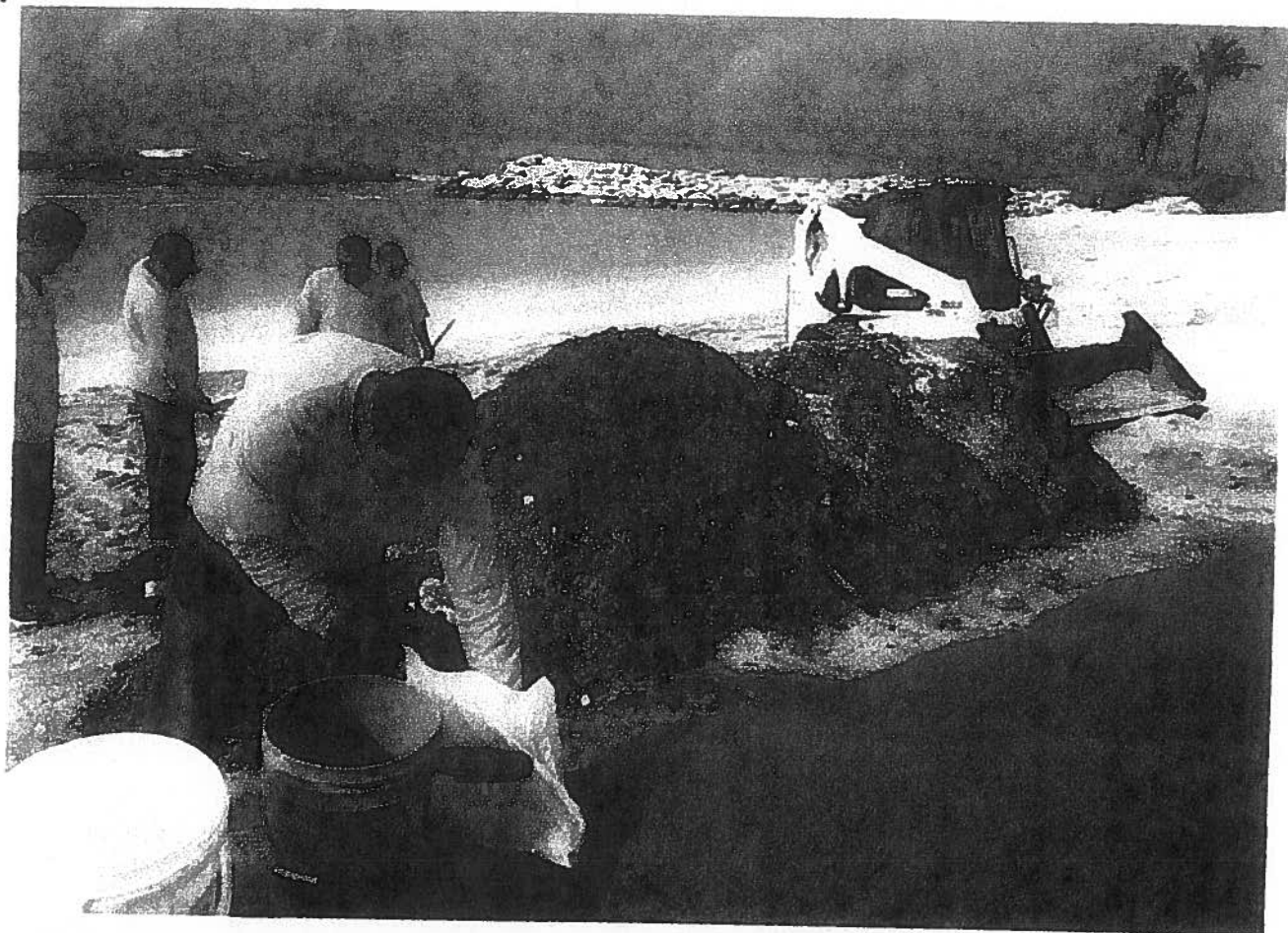


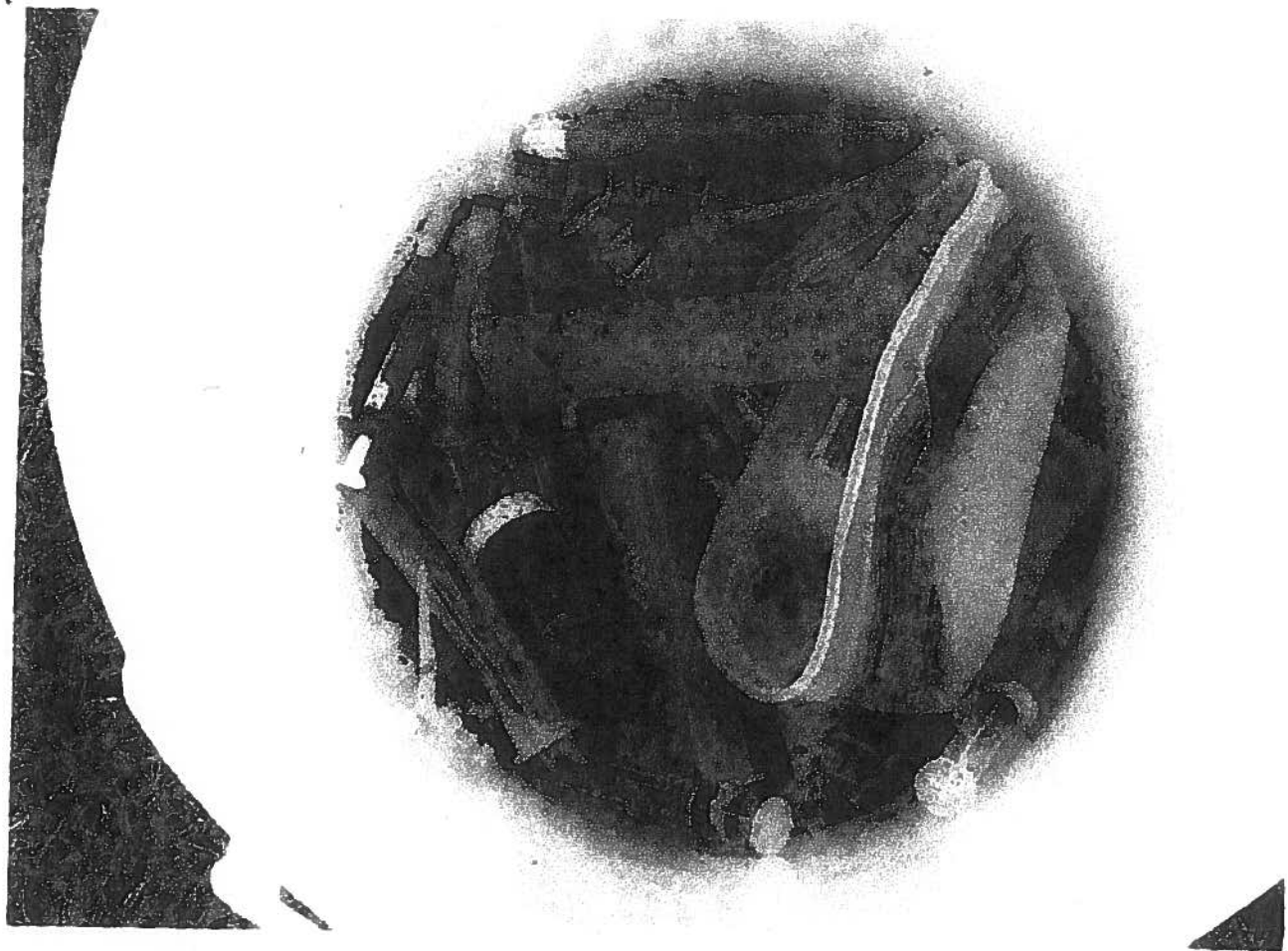


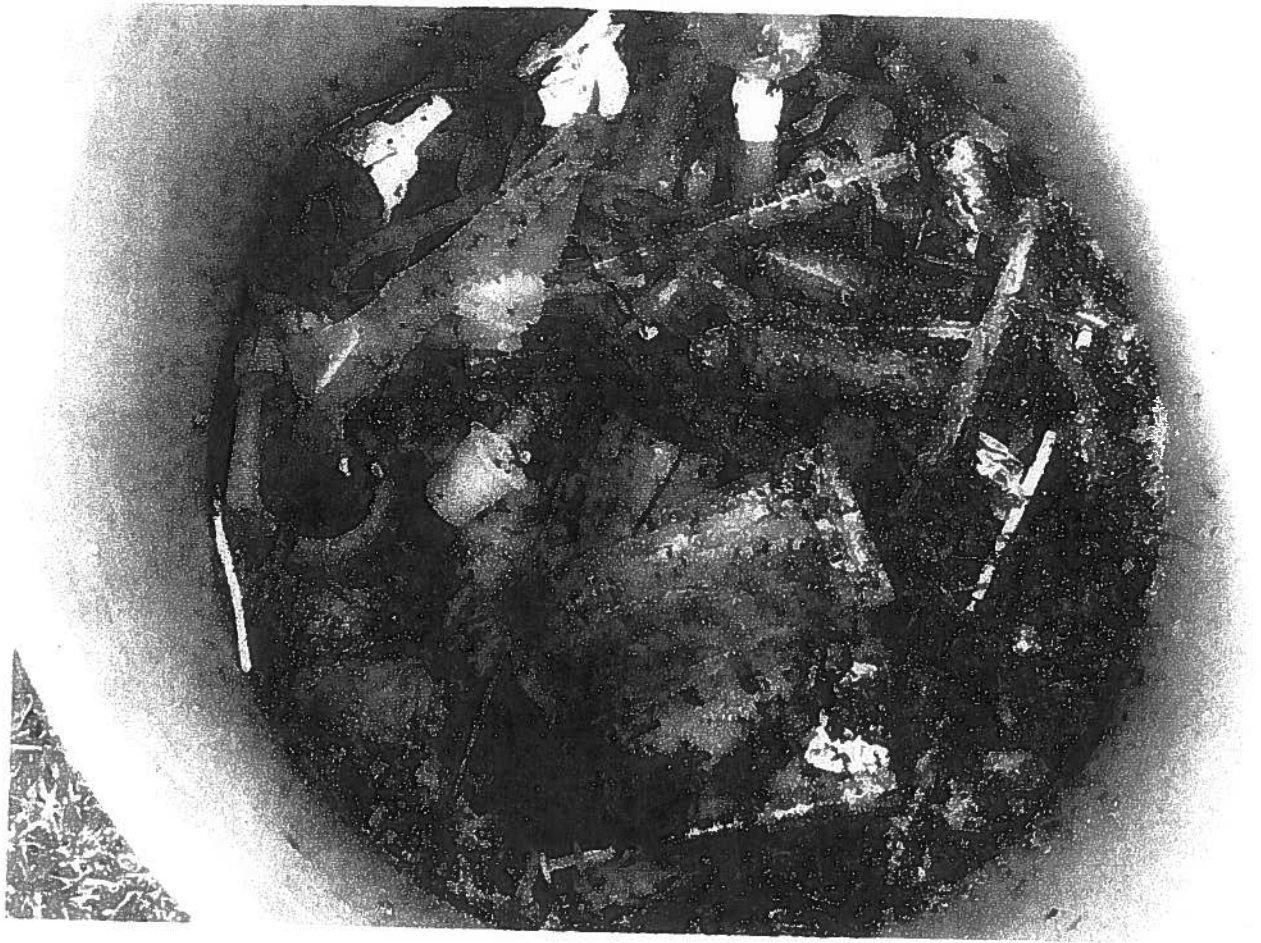














Fiscal & Economic Benefits Analysis

Ko Olina Resort & Marina, Honolulu, HI

Prepared for:

Ko Olina Resort Operators Association (“KORA”)

Prepared by:

CBRE Strategic Consulting

January 2011

All information and data contained within this report shall be solely for the use of Ko Olina Operators Association and are not to be relied upon by any third party or parties without the prior written approval of CBRE Consulting. CBRE Consulting disclaims any and all responsibility to third parties deriving from the use of said information or data.

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FISCAL
REVENUE
IMPACTS

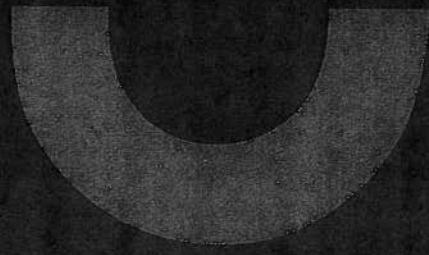
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CBRE
CB RICHARD ELLIS

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EXECUTIVE SUMMARY



EXECUTIVE SUMMARY

Economic Impact

Annual Operations

- The current annual operations of the Ko Olina Resort generates a \$520 million economic impact in the form of direct spending and provides 2,800 jobs locally.
- In addition, through the multiplier effect, annual operations will also generate indirect and induced economic benefits of \$280 million and 1,500 additional jobs locally and statewide.
- Future development will almost double the benefits generated by existing Ko Olina Resort, generating \$1.4 billion in total annual economic activity and supporting 8,000 jobs.
- The table below summarizes economic impacts associated with existing and future development.

	RECURRING ECONOMIC IMPACTS					
	Existing Development		Future Development		TOTAL	
	Honolulu County	State of Hawaii	Honolulu County	State of Hawaii	Honolulu County	State of Hawaii
Spending (M)						
Direct	\$520.3	\$520.3	\$404.7	\$404.7	\$925.0	\$925.0
Indirect and Induced	<u>\$265.0</u>	<u>\$281.9</u>	<u>\$206.1</u>	<u>\$219.3</u>	<u>\$471.1</u>	<u>\$501.2</u>
Total	\$785.4	\$802.3	\$610.8	\$623.9	\$1,396.1	\$1,426.2
Jobs						
Direct	2,811	2,811	2,455	2,455	5,266	5,266
Indirect and Induced	<u>1,471</u>	<u>1,530</u>	<u>1,285</u>	<u>1,336</u>	<u>2,756</u>	<u>2,866</u>
Total	4,283	4,341	3,740	3,792	8,023	8,133
Personal Income (M)						
Direct	\$122.5	\$122.5	\$85.9	\$85.9	\$208.4	\$208.4
Indirect and Induced	<u>\$58.2</u>	<u>\$59.7</u>	<u>\$40.8</u>	<u>\$41.9</u>	<u>\$99.0</u>	<u>\$101.6</u>
Total	\$180.7	\$182.2	\$126.8	\$127.8	\$307.5	\$310.0

EXECUTIVE SUMMARY

Economic Impact

Construction Period Impacts

- Construction of the hotel, timeshare, commercial and residential components of proposed future development, and sales of timeshare and residential units, at Ko Olina will generate over \$3.7 billion in one time construction period economic impacts, creating 26,700 jobs.
- Through the multiplier effect, expenditures made during the construction and sales period will also generate \$2 billion in indirect and induced economic benefits and 16,900 additional jobs.
- Total one-time economic benefits of \$5.7 B
- The table below summarizes these one-time economic impacts:

ONE-TIME ECONOMIC IMPACTS		Future Development
		Honolulu County State of Hawaii
Spending (M)		
Direct	\$3,777.9	\$3,777.9
Indirect and Induced	\$1,947.4	\$2,013.4
Total	\$5,725.3	\$5,791.3
Jobs		
Direct	26,742	26,742
Indirect and Induced	16,367	16,937
Total	43,109	43,679
Personal Income (M)		
Direct	\$1,364.1	\$1,364.1
Indirect and Induced	\$529.2	\$541.3
Total	\$1,893.3	\$1,905.4

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ECONOMIC IMPACTS

FISCAL REVENUE IMPACTS



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CB RICHARD ELLIS

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EXECUTIVE SUMMARY

Fiscal Impact

Annual Operations

City & County of Honolulu Impacts

- In Fiscal 2008-2009, the City & County of Honolulu General Fund received nearly \$851 million in annual tax revenue from the County's 905,000 residents, 25,000 businesses and 4 million tourists.
 - Existing development at Ko Olina Resort is estimated to generate a total of \$20 million in annual tax revenues for the City & County of Honolulu, representing 2.5% of total annual tax revenues.
 - Proposed future development is expected to generate a total of \$35 million in annual tax revenues for the City & County of Honolulu, representing 4% of total annual tax revenues.

State of Hawaii Impacts

- The State is expected to receive a total of \$40 million in annual tax revenues from existing Ko Olina Resort operations. GET is the largest revenue source followed by TAT, TOT and income tax.
- Revenue from future development is expected to generate \$31 million in GET, TAT and TOT

	RECURRING FISCAL IMPACTS (Millions)							
	Existing Development		Future Development		TOTAL DEVELOPMENT			
	Honolulu County	State of Hawaii	Honolulu County	State of Hawaii	Honolulu County	State of Hawaii	Other Counties *	Total
TAT	\$2.4	\$8.7	\$1.0	\$2.8	\$3.4	\$9.5	\$4.3	\$17.2
TOT	\$0.8	\$2.2	\$1.1	\$3.1	\$1.9	\$5.3	\$2.4	\$9.5
GET	\$2.8	\$22.7	\$2.0	\$15.8	\$4.8	\$38.4		\$43.2
Car Rental	--	\$1.8	--	\$2.3	--	\$4.2		\$4.2
Utility tax	--	\$0.8	--	\$0.7	--	\$1.5		\$1.5
Property tax	\$14.0	--	\$30.8	--	\$44.9	--		\$44.9
Conveyance Tax	--	\$0.1	--	\$0.2	--	\$0.3		\$0.3
Income Tax	--	\$4.4	--	\$3.9	--	\$8.3		\$8.3
Indirect Impacts	\$0.2	\$1.9	\$0.2	\$2.2	\$0.5	\$4.1		\$4.5
TOTAL	\$20.3	\$40.4	\$35.2	\$31.1	\$55.5	\$71.5	\$6.6	\$133.6

*Total includes 25% of TAT and TOT revenues which are redistributed to other counties.

EXECUTIVE SUMMARY

Fiscal Impact

Construction of Future Development

- Construction of future development projects at Ko Olina Resort and sales of timeshare and residential units is expected to generate \$193.5 million in one-time tax revenues for the City & County of Honolulu and the State of Hawaii.
- The table below shows a breakdown of one-time fiscal impacts, illustrating the significant impact of the GET revenues.

ONE-TIME FISCAL IMPACTS (Millions)			
	Future Development		
	Honolulu County	State of Hawaii	Total
GET	\$12.7	\$101.9	\$114.7
Property Tax	\$11.2	\$0.0	\$11.2
Conveyance Tax	\$0.0	\$12.8	\$12.8
Income Tax	\$0.0	\$48.5	\$48.5
Indirect Impacts	\$0.6	\$5.6	\$6.2
TOTAL	\$24.6	\$168.9	\$193.5

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RESORT INTRODUCTION



RESORT INTRODUCTION

Ko Olina Resort & Marina Overview

Hawaii is ranked as one of the top family vacation destinations in the world, hosting nearly 7 million annual visitors. Nearly two-thirds of these visitors travel to Oahu (City & County of Honolulu), Hawaii's third largest island by land area.

Initial Development at Ko Olina and Resort Crash

- Ko Olina Resort & Marina, located in southwestern Oahu, is a 642 acre resort community with a combination of resorts, residential, commercial and recreational uses.
- The Ko Olina Resort & Marina was an underserved resort area since its initial development in the 1980's. Following the Japanese economic crash in the 1990's, the master plan for the resort completely stalled for a decade.

The Resort Group's Turnaround of Ko Olina Resort

- Jeffrey R. Stone and The Resort Group acquired the stalled Ko Olina Resort project, dormant for more than 10 years, in 1998 and imbued it with innovation and vitality.
- Stone spearheaded the development of the state-of-the-art Ko Olina Marina, the first marina to be built in the State of Hawaii in 30 years and the cornerstone of activities at Ko Olina.
- Stone revitalized Ko Olina as a resort destination by attracting and creating building opportunities for Walt Disney Resorts, JW Marriott, Marriott Vacation Club, Brookfield Homes, Centex Homes, Armstrong Builders and others to build at Ko Olina.

Future at Ko Olina Resort

- Ko Olina offers an opportunity to create a multi-island resort destination for Oahu, as Maui has, that compliments Waikiki and offers a different experience.
- The Resort is well-positioned to address the demand for resort and tourism development in Hawaii, offering fully entitled beachfront parcels that have modern underground infrastructure and large privately owned Beach Lagoons.

RESORT INTRODUCTION

Existing Development

- Disney is nearing completion of its 21-acre **Aulani Resort and Spa** that includes a 359-key luxury hotel component, as well as a Disney Vacation Club with 460 two-bedroom equivalent timeshare units. The resort will also include several restaurants, 14,500 square feet of meeting space, an 18,000 square foot spa, two event lawns, a kids' club, snorkel lagoon and spa.
- **JW Marriott Ihilani Resort and Spa** features 387 guest rooms and 36 suites, as well as four restaurants, a full-service spa, and Oahu's largest covered outdoor venue.
- **Marriott's Ko Olina Beach Club** is located on 30 ocean front acres and is the #1 vacation club product in Marriott's Vacation Club system. The Club features 750 villas (500 built-out), three eateries and 3 pools.
- The following **six residential communities** contain 1,411 units
 - **Kai Lani at Ko Olina (116 units)**
 - **Beach Villas at Ko Olina (247 units)**
 - **Coconut Plantation (270 units)**
 - **Ko Olina Kai Golf Estates & Villas (324 units)**
 - **The Fairways at Ko Olina (280 units)**
 - **Ko Olina Hillside Villas (174 units)**

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RESORT INTRODUCTION

Existing Development (continued)

- Ko Olina also features a mix of **commercial, activity and entertainment space**:
 - **Ko Olina Center & Station** – nearly 60,000 SF of community retail, restaurant, office space and a grocery market
 - **Paradise Cove** – outdoor dining and entertainment venue for Hawaiian cultural shows
 - **Aquaveil Frais Marina, Ko Olina & Honu Kai Lani Chapels & Reception Facilities** – located at lagoons 1, 2 and 4, host 5,000 weddings/year
 - **Ko Olina Golf Club and Roy's Restaurant** – 18-hole world championship golf course and fine dining
 - **Ko Olina Marina (incl. Shop & Activity Center)** – includes 330 boat slips and a 5,000 SF marina store and beach club

Proposed Development

Proposed Development at the Ko Olina Resort includes hotel, vacation clubs (timeshare), residential and commercial product would be located in five main projects:

- **Parcels 54/55** – 572-unit timeshare resort located on 17.2 acres, located adjacent to Marriott's Ko Olina Beach Club
- **Parcels 19/20/21/25/26** – hotel/timeshare resort featuring 250 hotel rooms and 655 timeshare units, located just south of Disney's Aulani
- **Parcels 44/47/56** – Ko Olina Plantation Town, a mixed-use development focused on dining, recreation and entertainment, located adjacent to the Marina. Features 567 timeshare units, 393 residential units, and 240,000 SF commercial, with the Plantation House, Ko Olina Sunset and Old Sugar Mill as its three anchors.
- **Parcels 42/45/46** – 1,360 residential units located adjacent to the Golf Course and along the Aliinui Drive
- **Parcels 43** – expansion of Marriott's Ko Olina Beach adding 329 timeshare units
- **Parcel 11** – potential expansion of the JW Marriott Hotel adding 213 hotel rooms

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Photos and Conceptual Renderings

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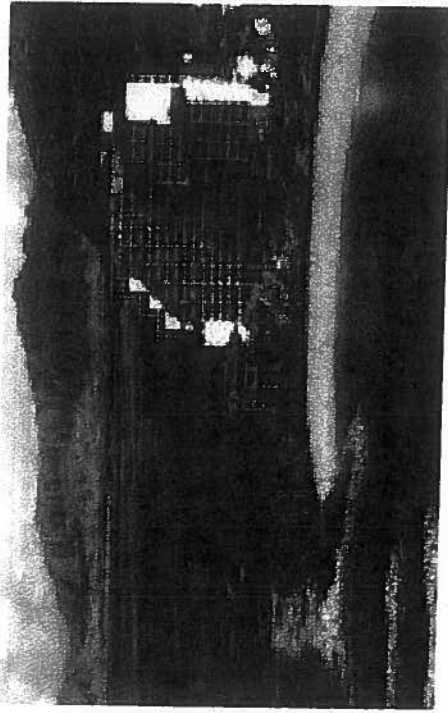
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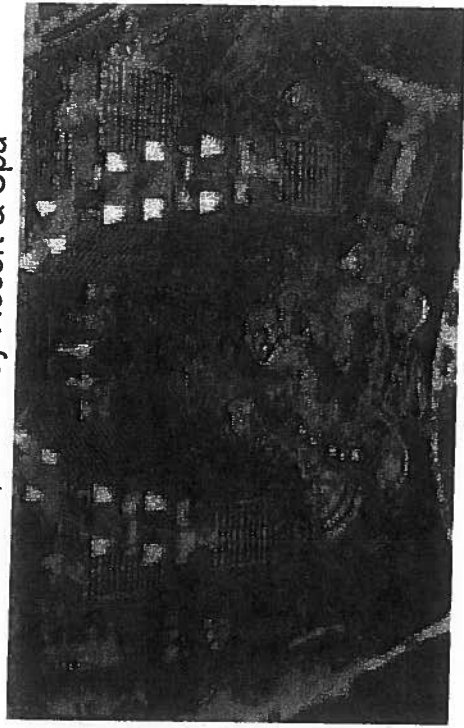
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JW Marriott Ihaleani Resort & Spa



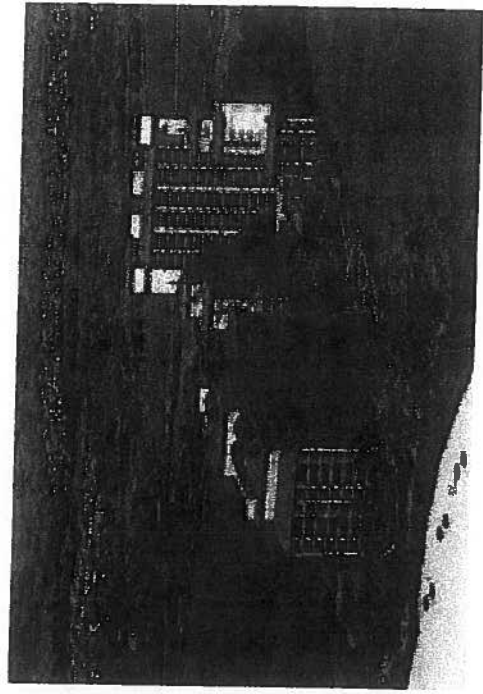
Aulani, a Disney Resort & Spa



Marriott's Ko Olina Beach Club



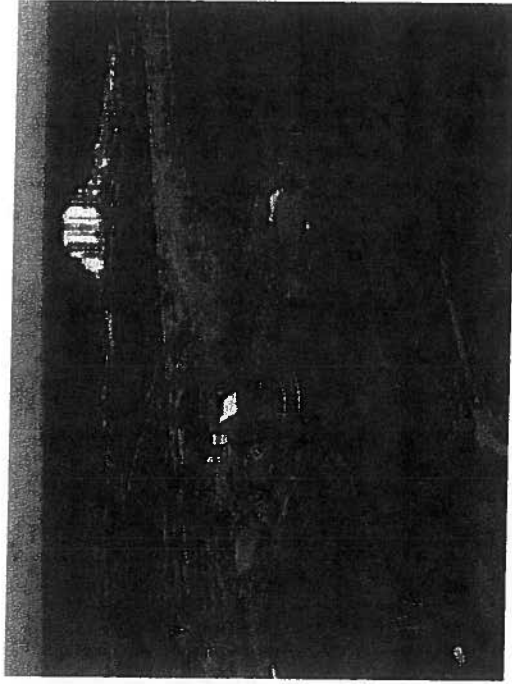
Beach Villas at Ko Olina



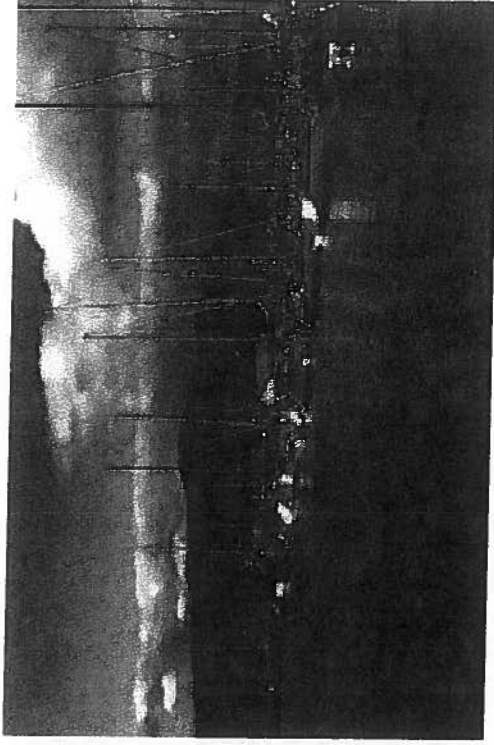
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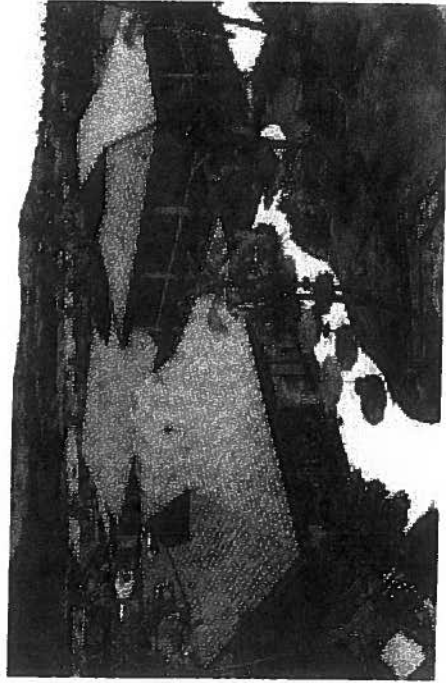
Ko Olina Golf Club



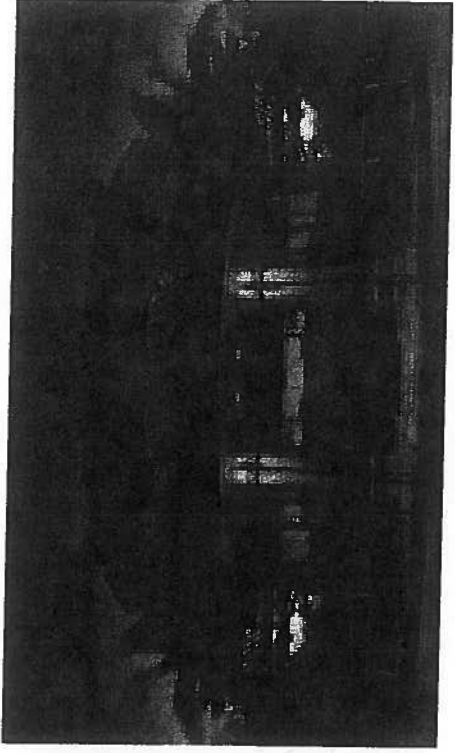
Ko Olina Marina



Ko Olina Center & Station



Aquaveil Chapel



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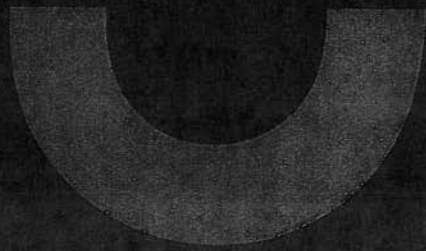
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APPROACH/METHODOLOGY



APPROACH/METHODOLOGY Overview

The results summarized in this report are based on extensive analyses conducted by CBRE Consulting. This report is intended to summarize the economic impact (spending, jobs, and wages) and the fiscal revenue impacts (hotel, general excise, income and property taxes) to the City & County of Honolulu and State of Hawaii.

The analysis presented in this report is considered an economic and fiscal benefit analysis.

The report delineates the fiscal and economic impacts associated with:

- Annual operations of existing development on the site
- Annual operations of proposed future development on the site
- Construction period (one-time impacts)
- Estimates are in 2011 dollars with no provision for inflation

	One-Time Impacts	Annually Recurring Impacts
Existing Development	N/A	Related to Ongoing Operations
Future Development	Related to Construction Period Expenditures	Related to Ongoing Operations

APPROACH/METHODOLOGY

Definition of Impacts

The analysis divides the impacts into two categories

Direct Onsite Impacts

The amount of...

- Spending
- Jobs
- Personal income
- Fiscal (tax) revenues

...Associated with net new visitors to Oahu resulting from the development and operation of Ko Olina Resort

Direct Offsite Impacts--

The amount of...

- Spending
- Jobs
- Personal income
- Fiscal (tax) revenues

...Associated with net new visitors to Oahu resulting from the development or operation of Ko Olina Resort

Indirect and Induced Impacts

Indirect impacts are the amount of...

- Spending
- Jobs
- Personal income
- Fiscal (tax) revenues

... Associated with business-to-business transactions necessary to support the Ko Olina Resort and other businesses that directly cater to the net new visitors to Oahu resulting from the development or operation of Ko Olina Resort

Induced impacts are the amount of...

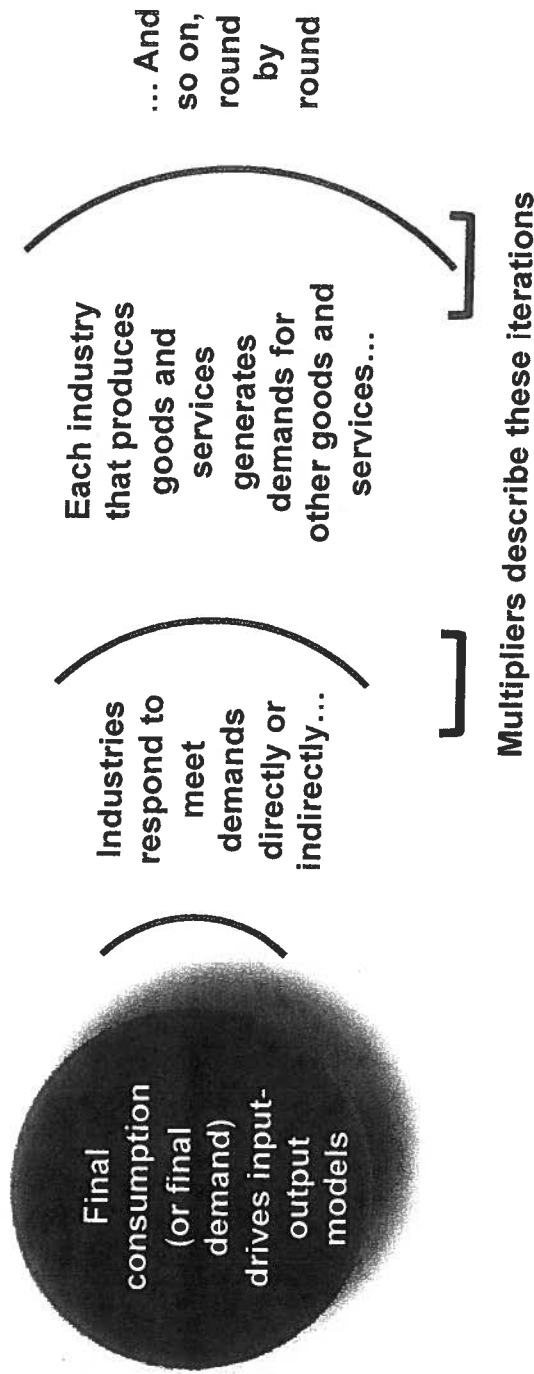
- Spending
- Jobs
- Personal income
- Fiscal (tax) revenues

... Associated with the spending of personal income by employees of the businesses that produce the direct and indirect impacts

APPROACH/METHODOLOGY

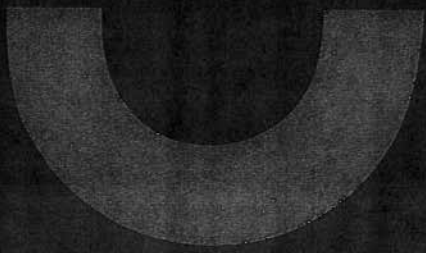
The IMPLAN MODEL

- IMPLAN is an economic impact assessment modeling system that was developed by researchers for the University of Minnesota in the 1980's and early 1990's. It has been licensed to Minnesota IMPLAN Group Inc. since 1993 and has undergone significant improvements. IMPLAN allows users to estimate the impacts of economic changes in specific geographic areas. Input output analysis, on which the IMPLAN model is based, is a means of examining relationships within an economy both between businesses and final consumers. It captures all monetary market transactions for consumption in a given time period. The IMPLAN factors make it possible to compute the effects of a change in one or more economic activities on an entire economy.



- The IMPLAN Model, which was used for estimating indirect impacts, has been applied to the different major industrial (NAICS) groupings so as to reflect most accurately the different mix of business activities supported by Ko Olina Resort. While this method produces an accurate estimate of overall impacts, the IMPLAN model is not designed to identify jurisdictions any smaller than at a county level. Accordingly, the allocation of these indirect impacts to cities and electoral jurisdictions should be considered only as an approximation.

OAHU TOURISM BASE INFORMATION



OAHU TOURISM BASE INFORMATION

Visitors, Spending and Lodging Market

- Tourism is a major component of the Hawaii Economy. According to the Hawaii State Department of Business, Economic Development and Tourism (DBEDT):
 - More than 4.5 million annual out-of-state U.S. visitors and 2.3 million annual foreign visitors in 2009
 - Nearly \$10.0 billion in annual visitor spending in 2009 (\$11.4 billion in 2008)
 - Average party size in 2009 was 2.1 people
- Lodging market statistics:
 - Occupancy: 73.3% in 2009. Was 74.9% in 2008 and 76.9% in 2007
 - Average Daily Room Rate: \$150 in 2009. Was \$170 in 2008 and \$169 in 2007
 - 2007-08 numbers, as well as Ko Olina Operators Association estimates, were also taken into consideration for estimating operating income for fiscal impact analysis

- Visitor spending is broken down by major categories as illustrated to the right
- Excluding lodging, daily spending per person totals \$103 for Oahu visitors*

*Allows for rounding

Oahu Tourist Average Daily Spending by Category (2009)



Source: State of Hawaii Department of Business, Economic Development & Tourism (DBEDT)

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OAHU TOURISM BASE INFORMATION

Assumptions for Ko Olina

- Implications/Assumptions for Ko Olina Resort
 - Given higher share of timeshare units (75% of total hospitality units), which are larger in size than hotel rooms, in existing and proposed development, assume average room (party) size of 3.5 people. Note that the average timeshare unit at Ko Olina is a 2 bedroom/ 2 bath unit that can accommodate 5-6 guests.
 - Outside of Ko Olina, the only current major-brand timeshare competition on Oahu is at the Hilton Hawaiian Village. Since buyers of timeshares may have other competing projects to choose from on Oahu, CBRE conservatively assumed cannibalization of 25% (e.g. 25% of Ko Olina guests would have bought elsewhere in Oahu if Ko Olina did not exist). To estimate the net new hotel revenue resulting from future developments at Ko Olina Resort, we netted out 25 percent of gross revenue, which is assumed to be cannibalized business from other Oahu establishments.
 - Assume nightly rates at comparable establishments to be \$290 for traditional hotel rooms and \$550 for larger timeshare rooms.

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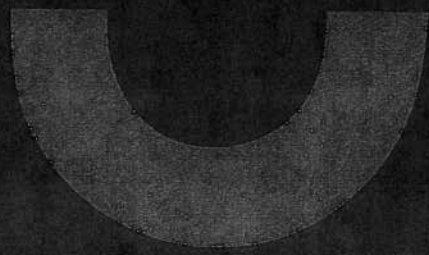
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ECONOMIC IMPACTS Overview

The Ko Olina Resort is a significant generator of economic activity for the island of Oahu and the State of Hawaii. With 443 acres being marketed for sale for future development, this impact is estimated to increase by 70%.

- Visitors and residents of **Ko Olina's existing development** are estimated to spend over **\$500 million per year** on hotel room rates, timeshare maintenance fees, food, beverage and other retail spending, as well as car rental and excursions. These figures do not include any additional days spent on other islands.
- At stabilized operations, the net new visitors drawn by **future development** at Ko Olina Resort will spend **\$400 million per year** within the resort and Honolulu County.
- The total investment in future construction is estimated at \$5 billion for design, land improvements and facilities, of which 75% will be spent on local construction contracts.
- All this will create \$2 billion in indirect and induced spending impacts to Honolulu County and the State of Hawaii.

Economic impacts measure the effects of economic stimuli or expenditures in the local economy. These impacts include direct, indirect and induced spending (i.e., output), jobs, and personal income that result from the development and operation of Ko Olina Resort. This analysis captures the impacts of spending by Ko Olina Resort patrons and residents at the Resort and off-site, purchases by Ko Olina Resort businesses that supply goods and services to the Resort, and spending by employees of Ko Olina Resort and its suppliers.

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ECONOMIC IMPACTS

Annual Operations – Existing Development

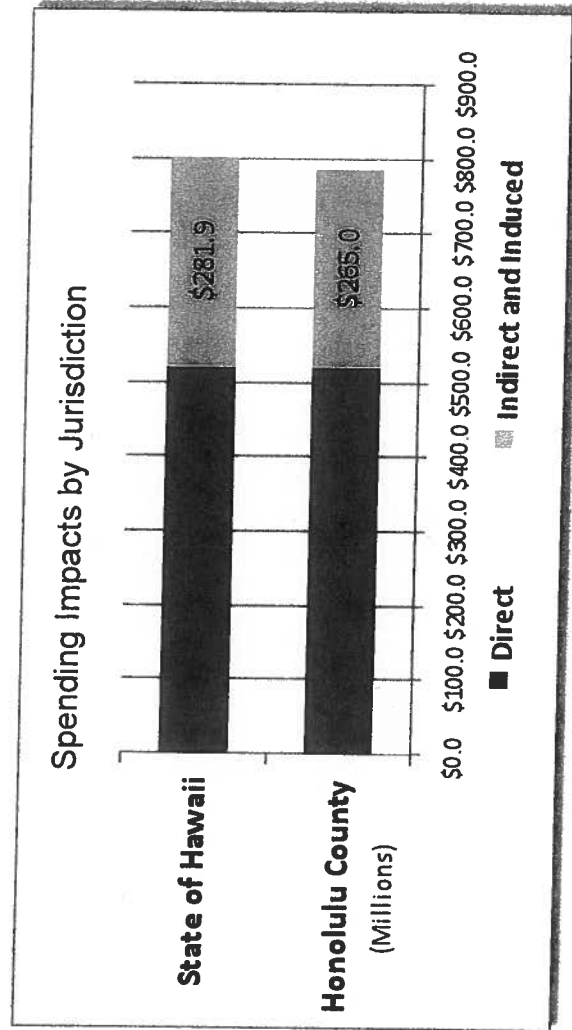
Hawaii hosts approximately 6.7 million visitors annually, of which 4.2 million visit Oahu.

- In 2009, visitors spent 29.3 million visitor days in Oahu, and 60.8 million in the State of Hawaii, spending a total of \$5.1 billion in Oahu and \$10.0 billion in Hawaii.
- With nearly 2,000 rooms and timeshare units, Ko Olina is estimated to host 614,300 visitor days each year, constituting 2% of total visitor days in Oahu and 1% in Hawaii.

Spending Impacts

- Total annual spending in Hawaii from existing operations at Ko Olina Resort is estimated at \$520 million annually, plus \$280 million in indirect multiplier impact. Spending is comprised of the following:
 - Revenue from nightly room rental (including hotel and timeshare rental pool), F&B, spa and other onsite activity/excursion sales at the J.W. Marriott, Aulani, Ko Olina Beach Villas and Marriott Ko Olina Beach Club
 - Revenue from timeshare maintenance fee collections

- Revenue from onsite sales and services at Ko Olina Center and Station, the Marina and store, and the Resort's wedding chapels,
- Ko Olina Resort guests' offsite spending, estimated at \$309 per room per day. Given the large amount of onsite amenities, it is conservatively estimated that guests will spend 10% of expenditures offsite

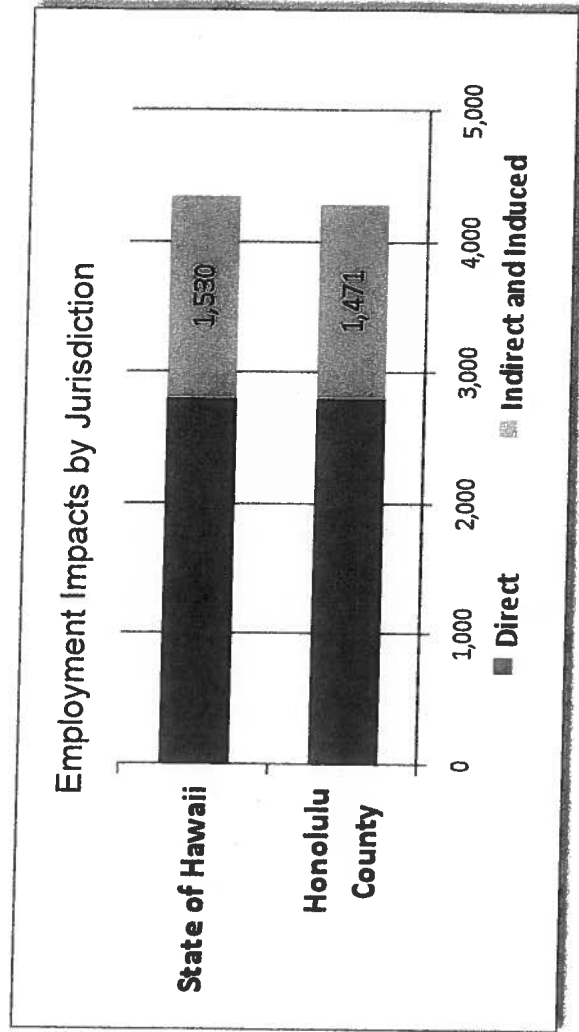


ECONOMIC IMPACTS

Annual Operations – Existing Development (continued)

Employment Impacts

- Current employment at Ko Olina resort is estimated at 2,800 full-time equivalent jobs each year
- Through indirect and induced impacts, 1,500 additional jobs are expected to be created in Honolulu County and the other islands
- Including direct and indirect total statewide jobs of 4,300.



Personal Income Impacts

- Current direct jobs produce \$122 million in annual personal income and benefits
- Another \$59 million in annual is estimated to be generated for employees in indirect and induced jobs.
- \$182 million in total annual income in Honolulu County and the Hawaiian islands

ECONOMIC IMPACTS

Annual Operations – Future Development

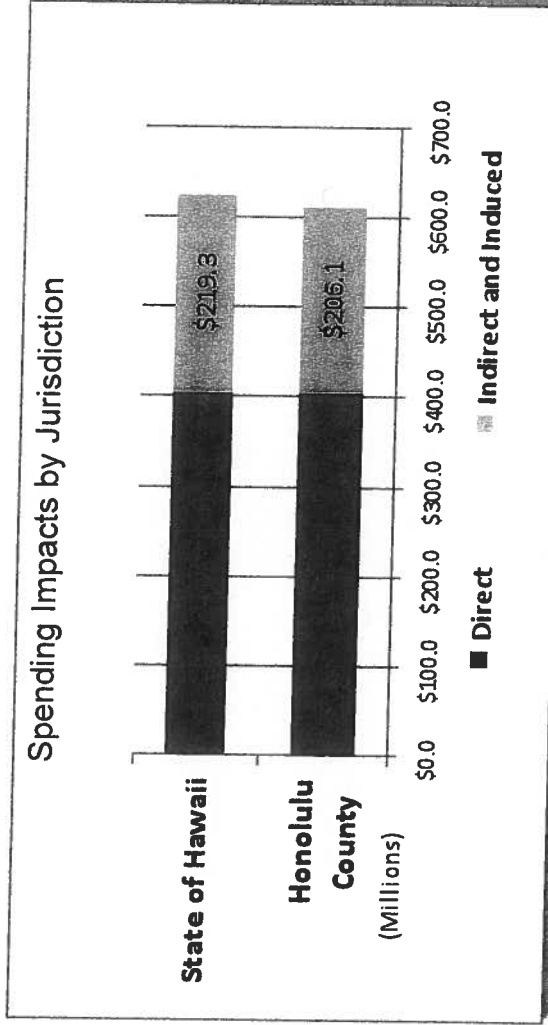
The proposed development at Ko Olina is estimated to add 2,370 hotel rooms and timeshare units and thousands of square feet of commercial space.

- Assuming 25% of new business will be diverted from existing local hotels and businesses, proposed development will generate nearly 740,000 net new visitor days each year.
- Represents 2.5% increase in total visitor days in Oahu and 1.2% in Hawaii. Including existing operations, Ko Olina Resort would represent 4.6% of total 2009 visitor spending on Oahu and 2.2% in Hawaii.

Spending Impacts

- Total spending resulting at proposed future operations at Ko Olina Resort is estimated at \$405 million, plus \$19 million in indirect multiplier impact. Spending is comprised of the following:
 - Revenue from nightly room rental (including hotel and timeshare rental pool), F&B, spa and other onsite activity/excursion sales at the proposed hotel and timeshare projects
 - Revenue from timeshare maintenance fee collections
 - Revenue from onsite commercial sales revenues
 - Ko Olina Resort guests' offsite spending, estimated at \$309 per room per day.
 - Total annual spending at full buildout from existing and new development is \$1.4 billion.

Spending Impacts by Jurisdiction

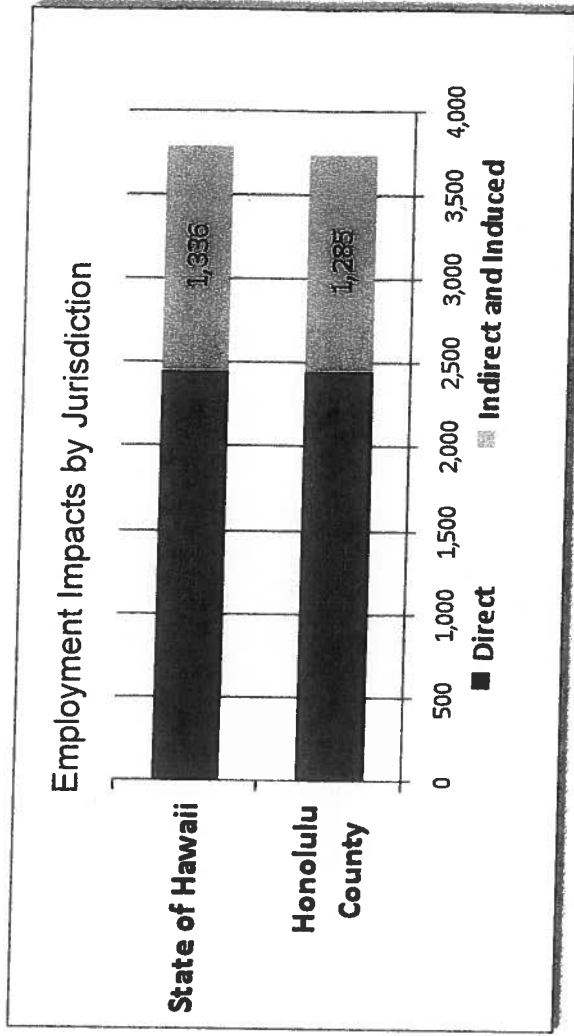


ECONOMIC IMPACTS

Annual Operations – Future Development (continued)

Employment Impacts

- Employment at the proposed hotel, timeshare, and commercial components at Ko Olina Resort is estimated to employ a net new 2,455 full-time equivalent jobs each year.
- 1,330 additional jobs through indirect and induced impacts
- Total job creation impact is approximately 3,800 in County and State



Personal Income Impacts

- The new direct jobs are expected to produce \$86 million in net new annual personal income and benefits
- Employees in indirect and induced jobs will earn another \$42 million annually
- \$128 million in total annual income from the new jobs in Honolulu County and the other islands

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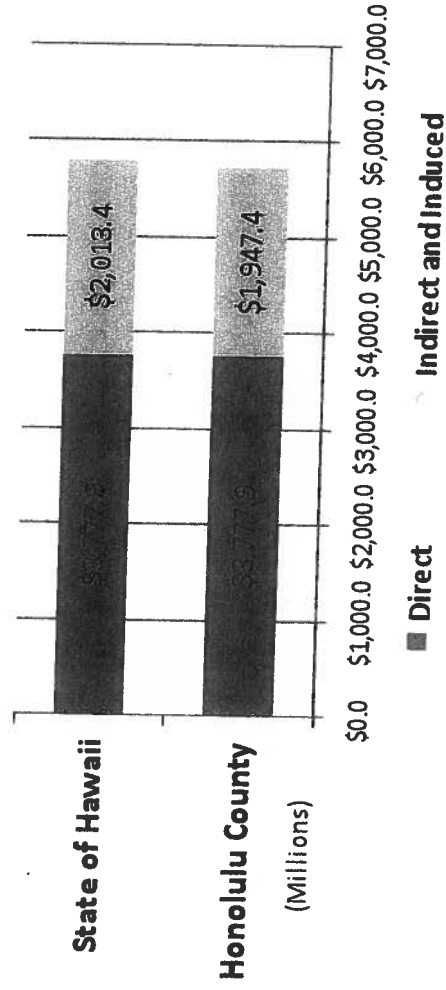
Construction Period – Future Development

With 443 acres available for new development and nearly \$5 billion in expected development costs, the construction of future projects at Ko Olina Resort will result in substantial economic impacts for Honolulu County and the State of Hawaii.

Spending Impacts

- The construction of future development at Ko Olina Resort will generate over \$3.77 billion in direct local spending on goods and services
- Through the indirect and induced impacts, Honolulu County and the other islands are expected to experience an additional \$2.0 billion in new spending
- This would bring the total state-wide spending associated with the construction of future development at Ko Olina Resort to \$5.7 billion

Spending Impacts By Jurisdiction



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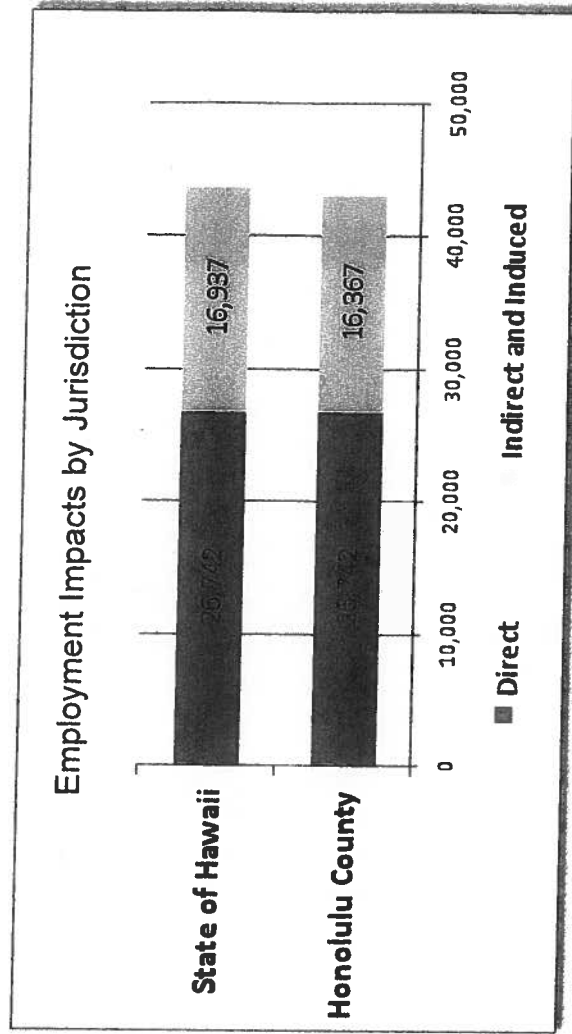
Construction Period – Future Development

Employment Impacts

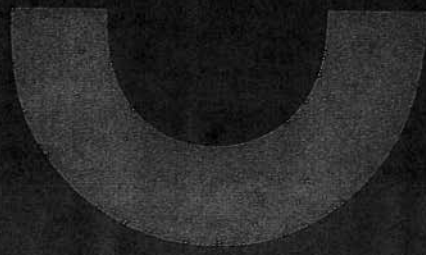
- The future construction at Ko Olina Resort is expected to generate 26,700 direct one-time jobs in Hawaii
- Through indirect and induced impacts, approximately 17,000 additional one-time jobs are expected to be created in Hawaii
- Total one-time job creation impact is estimated at 43,600 full time equivalent positions

Personal Income Impacts

- The direct one-time jobs are expected to produce \$1.36 billion in personal income for the employees
- Another \$540 million in personal income is expected to be generated for the employees in the one-time indirect and induced jobs
- Total one-time income estimated at \$1.96 billion



FISCAL REVENUE IMPACTS



FISCAL REVENUE IMPACTS Methodology

The results summarized in this report are based on extensive analyses conducted by CBRE Consulting.

- State and local financial information
- Operating information provided by Ko Olina Resort Operators Association ("KORA")
- Tourist industry market data from DBEDT
- CBRE Consulting's estimate of operational costs and revenues
- Indirect economic activity estimated by the IMPLAN Model was utilized to derive estimates of selected indirect fiscal impacts.

Seven Major Categories of Revenues

Category	State	Honolulu County	Other Counties
Transient Accommodations Tax	55%	20%	25%
Transient Occupancy Tax	55%	20%	25%
General Excise Tax	89%	11%	---
Property Tax	---	100%	---
Income Tax	100%	---	---
Conveyance Tax	100%	---	---
Utility Tax	100%	---	---
Motor Vehicle Fee	100%	---	---

FISCAL REVENUE IMPACTS

Revenue Categories

Categories of Revenues

- **Transient Accommodations Taxes (TAT) and Transient Occupancy (TOT) Taxes**
 - TAT of 9.25% on gross revenues from hotel operations.
 - TOT of 7.25% on the fair market rent of units (defined as 50% of timeshare maintenance fees)*
 - State receives approximately 55% of TOT/TAT (allocated to funds such as the Convention Center Fund, the Tourism Special Fund, and the Transient Accommodations Trust). Remainder distributed back to counties. The City & County of Honolulu's share is approximately 20% of total revenues collected.
- **General Excise Taxes (GET)**
 - 4.5% on taxable transactions**
 - 4% of taxable transactions (89% of taxes collected) benefits State of Hawaii
 - 0.5% of taxable transactions (11% of taxes collected) benefits the City & County of Honolulu (for financing light rail system on Oahu)
- **Property Taxes**
 - Levied on the market value (re-assessed each year) of all real property and received by County
 - 1.24% commercial/hotel & resort rate (commercial, hotel, timeshare,
 - 0.34% residential homeowner rate
- **Public Service Company Tax (Utility Taxes)**
 - 5.885% of gross water, electricity, natural gas and telephone bills. 100% of tax revenue to State
- **Rental Motor Vehicle Surcharge Tax (Car Rental Fee)**
 - \$3 per day fee on motor vehicle rentals, all of which is contributed to the State's Highway Fund.
- **Conveyance Taxes**
 - Imposed on all transfers of ownership or interest in real property (includes sale and lease transactions). Ranges from 0.1% on transfers of property valued up to \$600,000, to 1.0% on transfers property valued at \$10 million and greater
- **Income Taxes**
 - State levies income taxes at rates ranging from 1.4% to 8.25% of taxable income

*Hawaii Revised Statute 237D-1.

**Due to business' pass-through of the GET and the State's method of collection, actual amount of GET collected is approximately 4.7% of taxable sales.

FISCAL REVENUE IMPACTS

Annual Operations

Existing and future development at Ko Olina Resort will generate \$193.5 million in one-time fiscal benefits for City & County of Honolulu and the State of Hawaii.

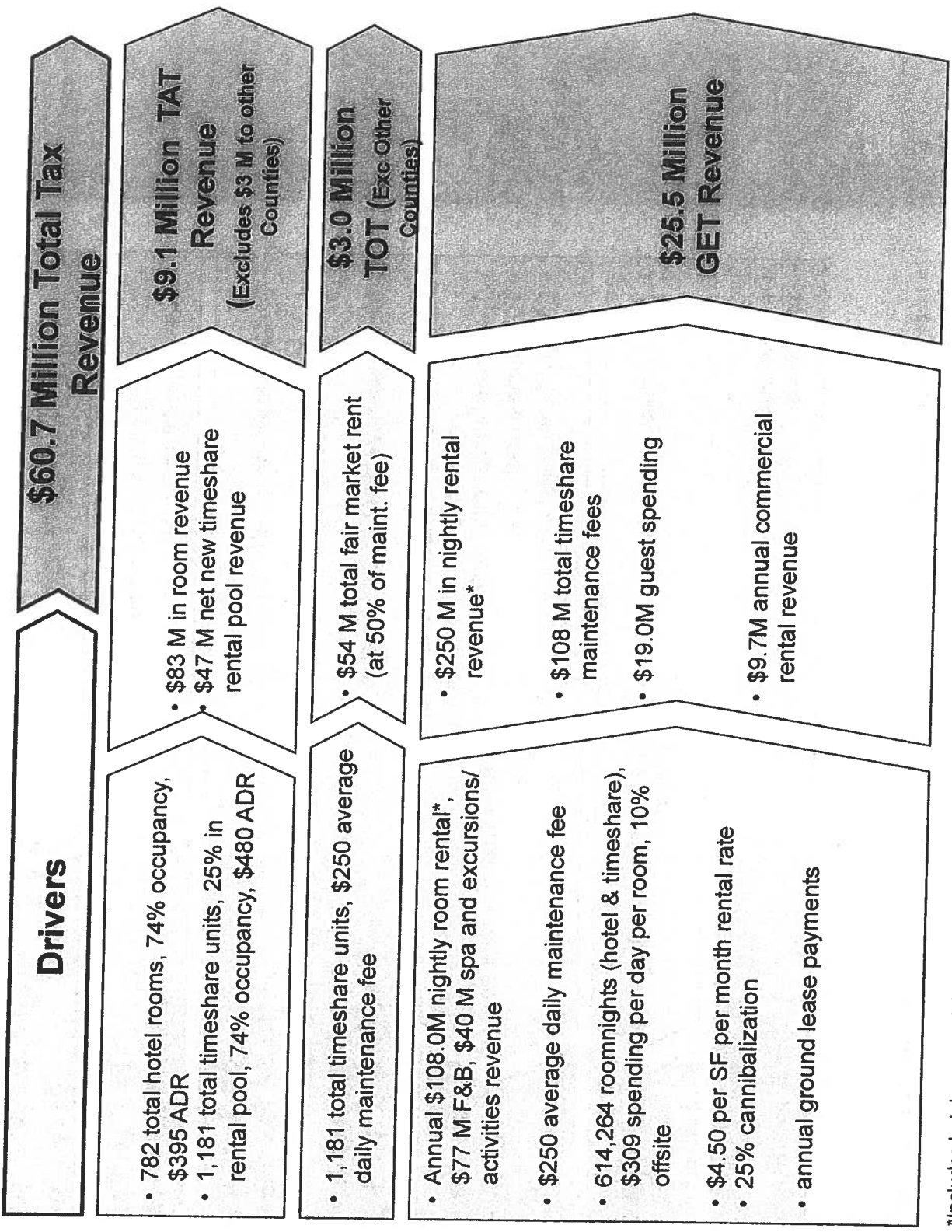
▪ Comprised of General Excise taxes, Income taxes, Conveyance taxes, Property taxes (during multi-year construction and sales period) and Indirect Impacts from local construction activities (estimated using IMPLAN).

- Tax revenues are related to
 - Development costs (including site development, building shell expenses, landscape improvements, equipment, supplies, furnishing and fixtures)
 - Sale of 1,753 total residential units and 2,123 total timeshare units
 - Land leases
 - Resale of residential units



FISCAL REVENUE IMPACTS

Annual Operations – Existing Development

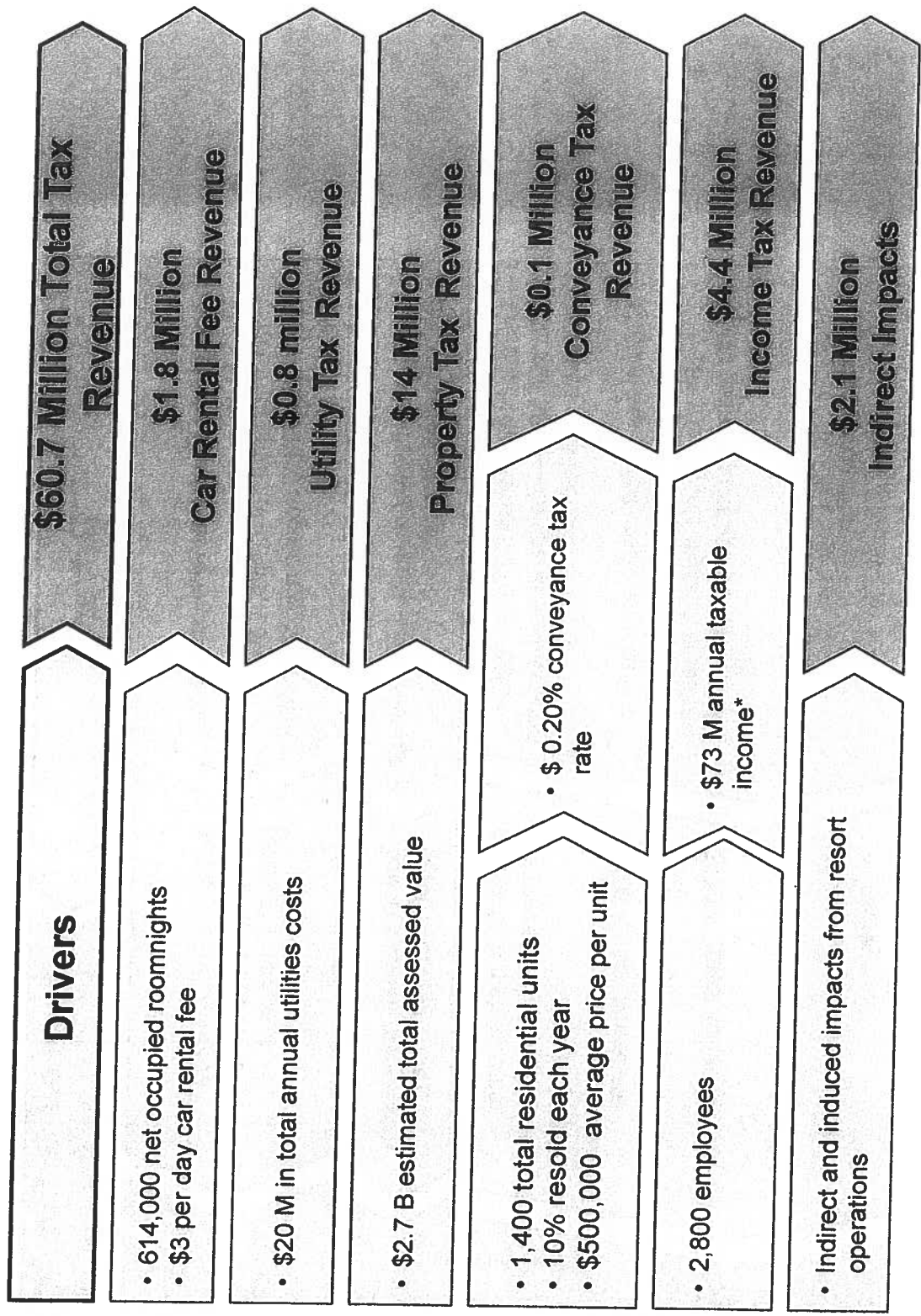


*Includes hotel room and timeshare rental pool revenue.

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FISCAL REVENUE IMPACTS

Annual Operations – Existing Development (continued)



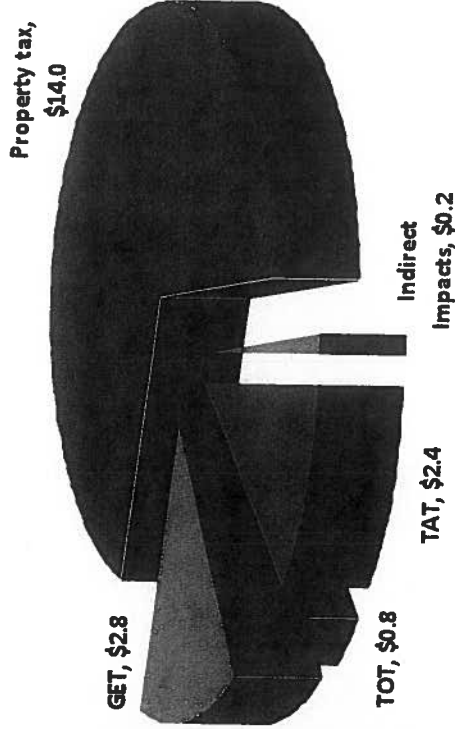
*For Income Tax purposes, all taxable income is assumed to be net of 40% deductions and taxed at average rate of 6%

FISCAL REVENUE IMPACTS

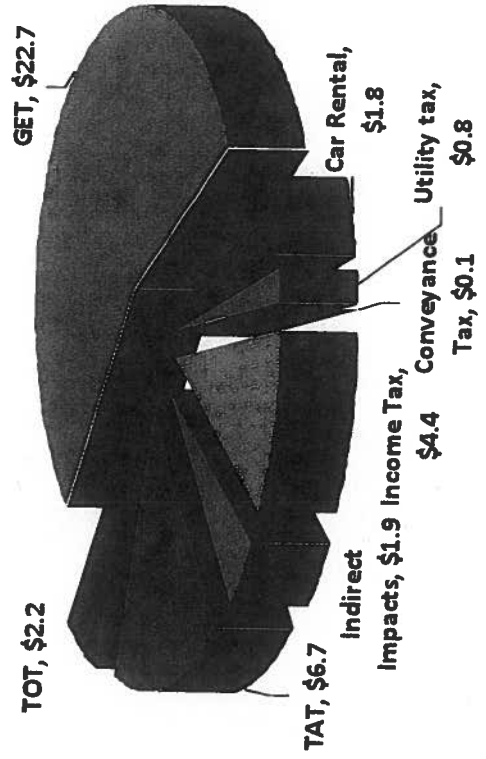
Annual Operations – Existing Development

- Of total annual operations tax revenues, **\$20.3 million** will accrue to the City & County of Honolulu and **\$40.4 million** to the State of Hawaii.

Annual Operations Impacts
Honolulu County
(in \$millions)

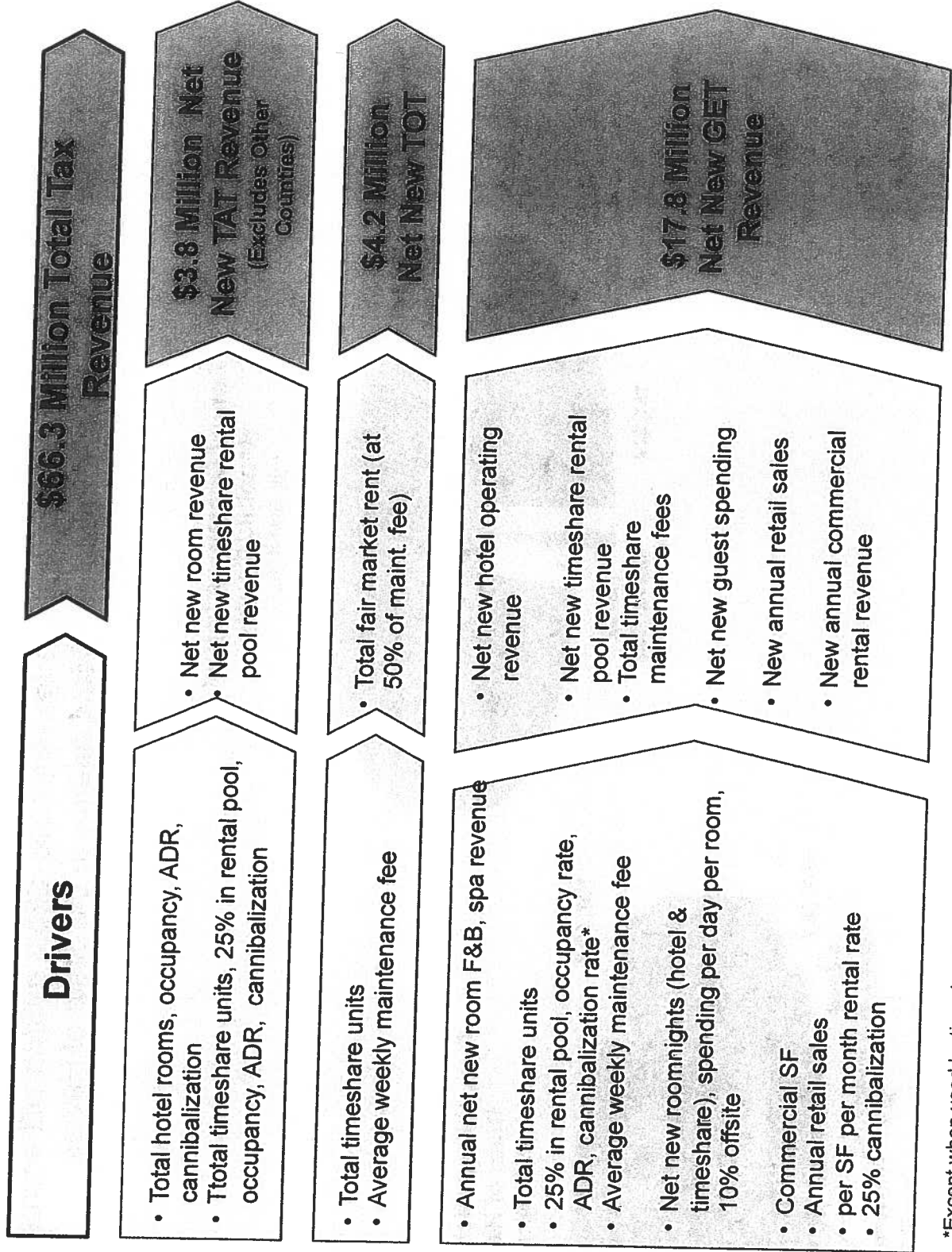


Annual Operations Impacts
State of Hawaii
(in \$millions)



FISCAL REVENUE IMPACTS

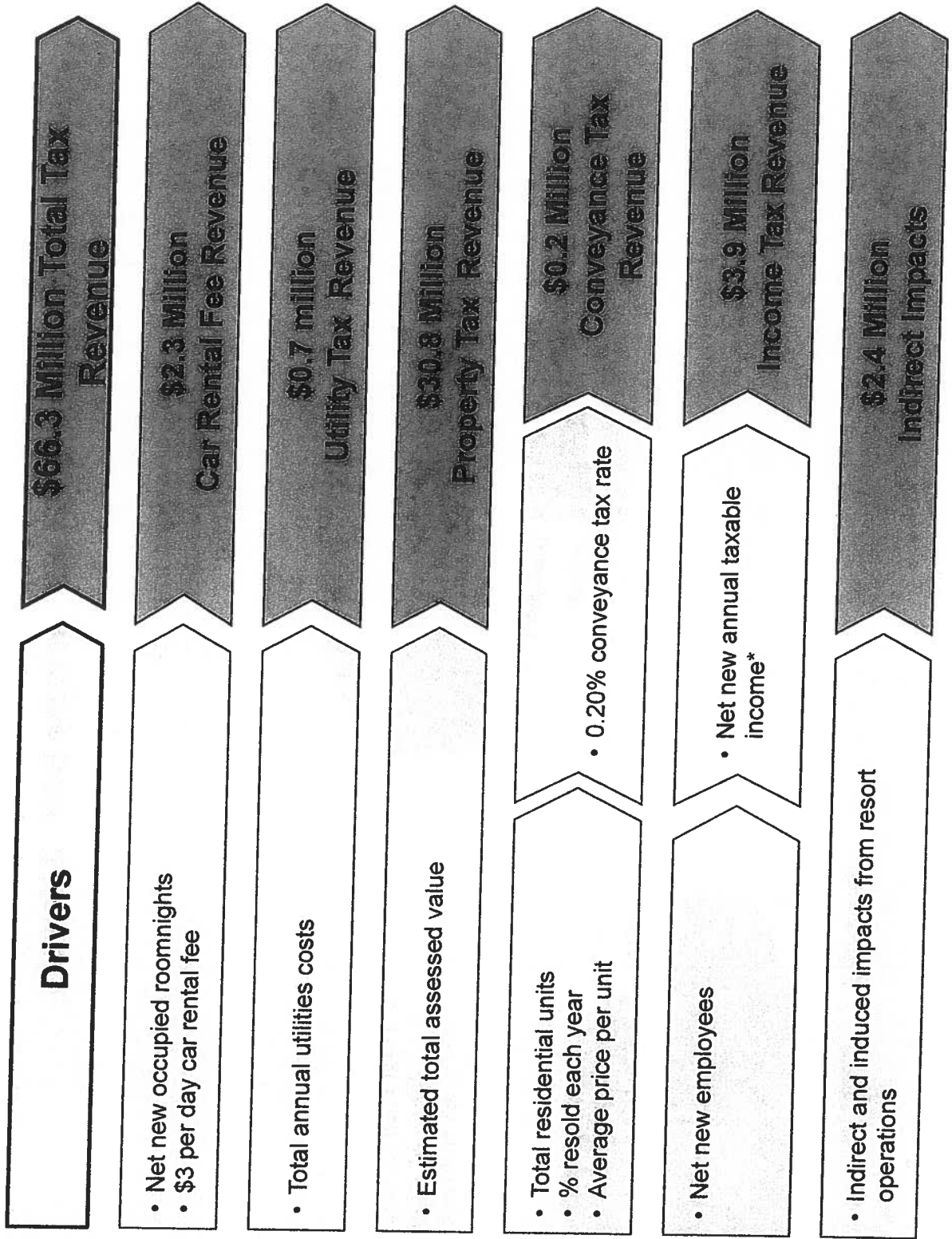
Annual Operations – Future Planned Development Only



*Except when used by timeshare owners (75% of available roomnights).

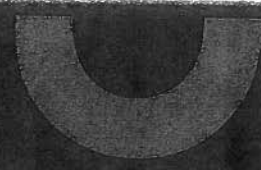
FISCAL REVENUE IMPACTS

Annual Operations – Future Development (continued)



*For Income Tax purposes, all taxable income is assumed to be net of 40% deductions and taxed at average rate of 6%

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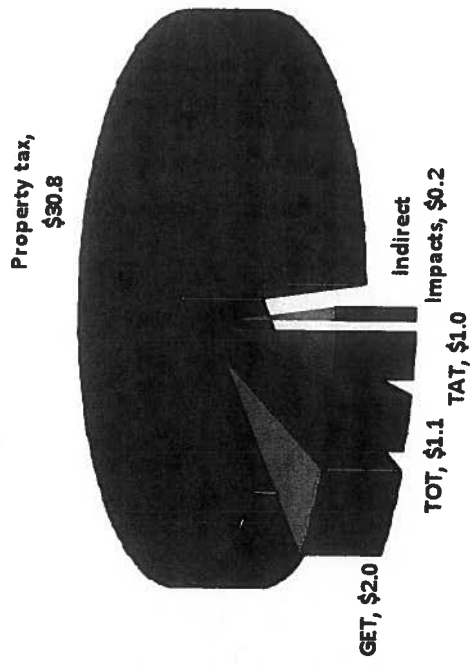


FISCAL REVENUE IMPACTS

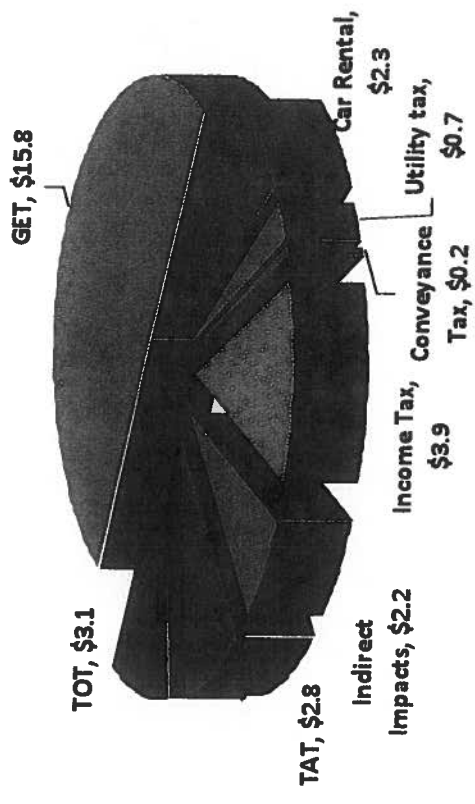
Annual Operations – Future New Development Only

- Of additional future operations tax revenues, **\$35.2 million** will accrue to Honolulu County and **\$31.1 million** to the State of Hawaii.

Annual Operations Impacts Honolulu County (in \$millions)



Annual Operations Impacts State of Hawaii (in \$millions)



FISCAL REVENUE IMPACTS

Construction Period – Future New Development Only

Future development at Ko Olina Resort is estimated to generate \$193.5 million in one-time fiscal benefits for the City & County of Honolulu and the State of Hawaii.

- Comprised of General Excise taxes, Income taxes, Conveyance taxes, Property taxes (during multi-year construction and sales period) and Indirect Impacts from local construction activities (estimated using IMPLAN)
- Tax revenues are related to
 - Development costs (including site development, building shell expenses, landscape improvements, equipment, supplies, furnishing and fixtures)
 - Sale of 1,753 total residential units and 2,123 total timeshare units
 - Land leases

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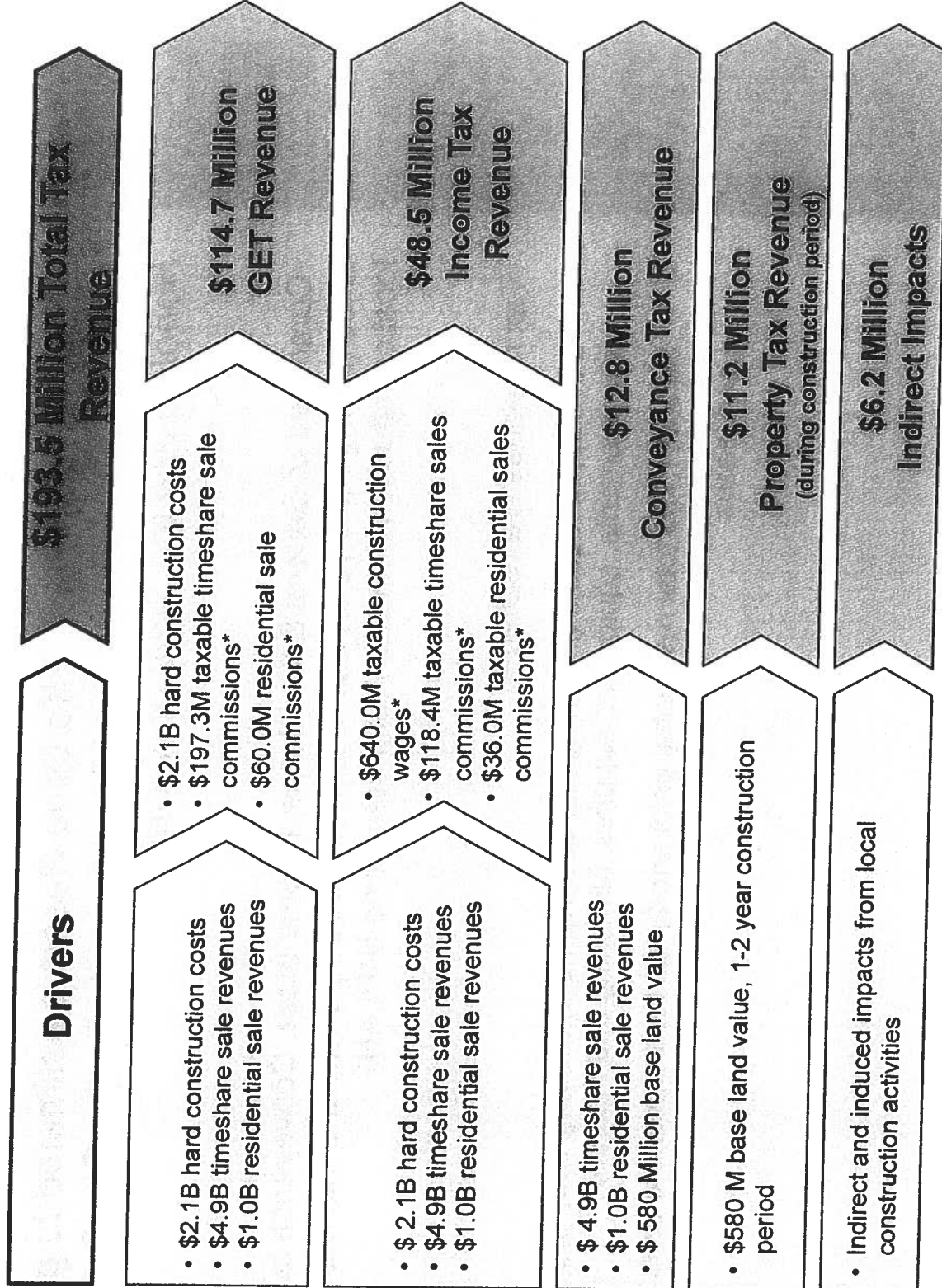
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FISCAL REVENUE IMPACTS

Construction Period – Future Development



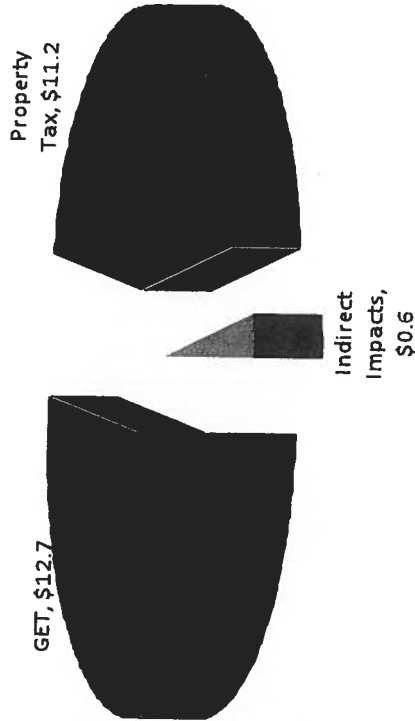
*Construction wages are estimated to total 50% of hard construction costs. Timeshare sales commissions estimated to be 15% of timeshare revenues, with 27% sold in the state of Hawaii and therefore taxable. Residential sales are assumed at 6% of sales price. For Income Tax purposes only, all taxable income is assumed to be net of 40% deductions and taxed at average rate of 6%.

FISCAL REVENUE IMPACTS

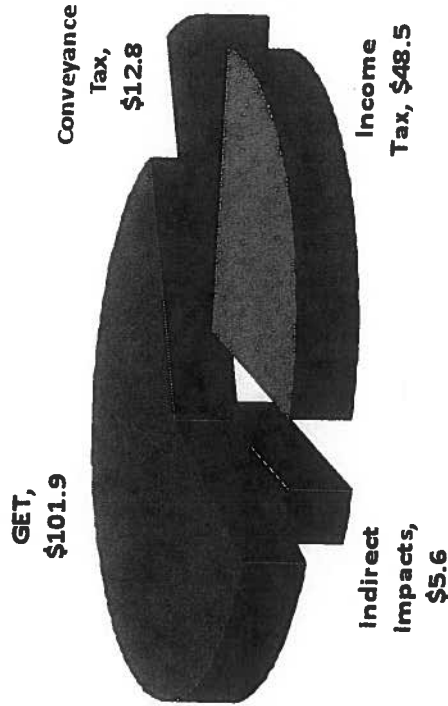
Construction Period – Future Development

- Of total one-time construction tax revenues, **\$24.6 million** will go to Honolulu County and **\$168.9 million** to the State of Hawaii as shown below.

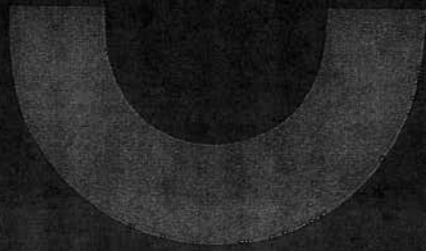
Construction Period Impacts
City & County of Honolulu
(in \$millions)



Construction Period Impacts
State of Hawaii
(in \$millions)



QUALIFICATIONS



QUALIFICATIONS

CBRE Consulting

- Founded in 1978 as Sedway Group, CBRE Consulting is a nationwide full-service real estate and urban economics consulting firm. Since 1999, we have been a wholly owned subsidiary of CB Richard Ellis, the world's largest provider of commercial real estate services.
- Our expertise extends to all major land use types – office, retail, residential, industrial, hotel/resort and mixed use – and we are a nationally recognized leader in specialized areas such as redevelopment, economic revitalization, public/private transactions, entertainment retail and transit-oriented development. We provide our clients with market assessments, economic analyses and financial projections based upon our extensive experience with all facets of real estate and its place in the economy.
- Principals of CBRE have done 100+ fiscal impact studies representing both city and county governments, as well as developers.. Most recently we completed the fiscal analysis for the master planning of the 5,000-acre Concord Naval Weapons Station.
- Thomas Jirovsky, Sr. Managing Director at CBRE Consulting, has worked on economic studies for numerous resort facilities including Disney's Aulani, the Disneyland Resort in Anaheim, and Paramount's Great America amusement park.

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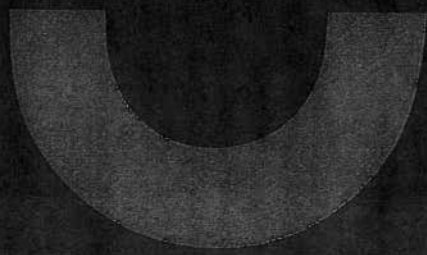
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ASSUMPTIONS AND LIMITING CONDITIONS



ASSUMPTIONS AND LIMITING CONDITIONS

CBRE Consulting has made extensive efforts to confirm the accuracy of the information contained in this report. While we believe all information within the study is correct, we assume no responsibility for inaccuracies in the information provided by primary and secondary research sources.

Direct impacts are derived from estimated revenues, expenses, wages and spending at Ko Olina Resort. Offsite impacts are estimated based on tourism spending data from the Hawaii DBEDT, and local and State financial reports.

With respect to indirect impacts, an economic computer model, known as IMPLAN, has been used. This is a widely respected model intended for County-wide and State-wide aggregate analysis.

The information and observations contained in this report are based on our present knowledge of the components of development, and of the current physical, socioeconomic and fiscal conditions of the affected areas. Estimates made in this analysis are based on hypothetical assumptions, current tax policies, and the current economic structure of the region. However, even if the assumptions outlined in this report were to occur, there will usually be differences between the estimates and the actual results because events and circumstances frequently do not occur as expected. This analysis is based on the best available information and is intended to aid in quantifying Ko Olina Resort's impacts on the Hawaiian economy.

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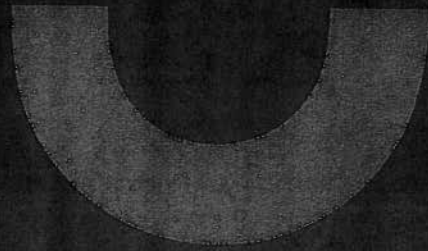
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GLOSSARY



GLOSSARY

Economic Impacts

- These include jobs, wages and expenditures at local businesses throughout the State of Hawaii resulting from the spending by visitors to Ko Olina Resort.

Fiscal Revenue Impacts

- These include various types of tax revenues generated for local, County, and State government by investment and spending related to the Ko Olina Resort guests. They include property taxes, hotel taxes, general excise taxes, utility taxes, business license taxes etc.

Direct Impacts

- Economic and fiscal impacts generated directly from the investment made to develop Ko Olina Resort or by guest spending at the Resort, e.g., general excise taxes and hotel taxes and property taxes on Ko Olina facilities. The fiscal revenue results reflect gross revenues to the County of Honolulu and State of Hawaii, without any offset for municipal service costs.

Offsite Impacts

- Impacts resulting from spending by Ko Olina guests at non-Ko Olina hotel, retail and other facilities.

Induced and Indirect Impacts

- Multiplied impacts from recycling of all direct and induced expenditures throughout the Hawaii economy, e.g., the jobs, spending and tax impact generated by the re-spending of wages and other income generated by Ko Olina guests and employees.

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