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DEPT OF PLANNING
AND PERMITTING
CITY & COUNTY OF HONOLU.

Attorneys for Intervenors
KO OLINA COMMUNITY ASSOCIATION
and MAILE SHIMABUKURO

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

In the Matter of the Application of

DEPARTMENT OF ENVIRONMENTAL
SERVICES, CITY AND COUNTY OF
HONOLULU

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

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

FILE NO. 2008/SUP-2

**INTERVENORS KO OLINA
COMMUNITY ASSOCIATION AND
MAILE SHIMABUKURO'S
WRITTEN DIRECT TESTIMONY
OF CYNTHIA K.L. REZENTES**

**DECLARATION OF CYNTHIA K.L.
REZENTES**

CERTIFICATE OF SERVICE

Contested Case: December 7, 2011

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**INTERVENORS KO OLINA COMMUNITY ASSOCIATION AND
MAILE SHIMABUKURO'S WRITTEN DIRECT TESTIMONY OF
CYNTHIA K.L. REZENTES**

Pursuant to the Stipulation to Amend Briefing Schedule as Provided in the Planning Commission of the City and County of Honolulu's Order Regarding Prehearing Conference dated November 29, 2011, Intervenors Ko Olina Community Association and Maile Shimabukuro submit written direct testimony through the attached declaration of Cynthia K.L. Rezentes.

DATED: Honolulu, Hawai'i, December 13, 2011.

CADES SCHUTTE
A Limited Liability Law Partnership



CALVERT G. CHIPCHASE
CHRISTOPHER T. GOODIN

Attorneys for Intervenors
KO OLINA COMMUNITY ASSOCIATION
and MAILE SHIMABUKURO

OF THE CITY AND COUNTY OF HONOLULU

STATE OF HAWAII

In the Matter of the Application of

DEPARTMENT OF ENVIRONMENTAL
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FILE NO. 2008/SUP-2

**DECLARATION OF CYNTHIA
K.L. REZENTES**

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DECLARATION OF CYNTHIA K.L. REZENTES

I, Cynthia K.L. Rezentes, hereby declare as follows:

1. I make this declaration based on personal knowledge in opposition to the Honolulu Department of Environmental Services' (the "ENV") Application to Modify (the "**Application to Modify**") Special Use Permit No. 2008/SUP-2 by deleting Condition 14 in the Hawai'i Land Use Commission's Order Adopting the Honolulu Planning Commission's Findings of Fact, Conclusions of Law, and Decision and Order with Modifications dated October 22, 2009.

2. I submit this declaration because the ENV broke its promises to close the Waimanalo Gulch Sanitary Landfill (the "**Landfill**"), because the Landfill is a

danger to public health and safety, and because the ENV has not exercised reasonable diligence in locating Landfill alternatives.

3. I am a graduate of Waianae High School, Gonzaga University (Spokane, WA) with a BS in Electrical Engineering, and the University of New Mexico (Albuquerque, NM) with a MS in Electrical/Electronic Engineering.

4. Subsequent to graduating with a Master's degree, I was hired by IBM in its Boulder, CO facility as an engineer. I worked for IBM for approximately 17.5 years as an engineer, engineering manager, planner, and personnel counselor. I was involved in facility engineering management to assure that all utilities and large capital projects were managed and available 24/7 and as a product development manager for printers. Prior to leaving IBM, I was a product development engineer for the IBM 3900 printer, which at the time was the fastest, continuous-sheet laser printer in the world. As a manager, I was responsible for budget management, project management and development, product field support, interface with all product suppliers from world-wide organizations, i.e. Hitachi Koki, IBM Sweden, etc. and customer support.

5. I left IBM in 1993 to return to Hawai'i and became involved in community issues and the neighborhood board system. I am currently a member of Nanakuli-Mailii Neighborhood Board No. 36 (the "Neighborhood Board"), and was previously a member of the Waianae Neighborhood Board. I have been actively serving on the neighborhood board system since 1994.

6. On September 20, 2011, the Neighborhood Board voted to oppose the Application to delete the condition that the Landfill stop accepting municipal solid waste by July 31, 2012, except for ash and residue from H-POWER. Exhibit K96 at 2-3, 5, a true and correct copy of the Neighborhood Board's Regular Meeting Minutes dated August 16, 2011. The Neighborhood Board was concerned that the City has sought an extension, but has done nothing to assure the safety, health, and wellness of residents living near the Landfill.

7. My initial contact with regards to the Landfill (other than passing it on the way to and from Honolulu) was in the 1998-1999 timeframe when the City first started talking about an expansion of the original Landfill located in Waimanalo Gulch.

8. It was at this time that it was re-confirmed to me by various members within the Wai'anae community and Kapolei community that the Fasi administration had "committed" to the community that the Landfill would be closed once capacity on the initial approved acreage was reached.

9. During one community meeting, I witnessed former mayor Frank Fasi confirm that he had committed to the community that the Landfill would only be used until the original acreage requested was filled.

10. When I became involved with the issue of the first proposed expansion of the Waimanalo Gulch Sanitary Landfill, I was moved to oppose the expansion based on the lack of appropriate management of the Landfill, as evidenced by horrendous odors coming off the Landfill and the numerous plastic bags escaping the Landfill

property and landing on private property and near shore waters. I also understand that trash from the Landfill found its way into the water, and one fisherman told me that a plastic bag was “sucked” into the leg of his boat engine, burning the engine up and causing over \$4,000 worth of damage.

11. I have been involved in numerous community meetings and hearings before the Honolulu Planning Commission (the “**Planning Commission**”) and the Hawai‘i Land Use Commission (the “**Land Use Commission**”) to testify in opposition to further expansion of the Landfill, including opposition to the expanded footprint and the allowable height of the Landfill based on my experiences.

12. Over the years of community meetings and commission meetings held regarding expanding the available fillable space within the Landfill, there have been various positions represented to the community. After numerous lengthy meetings within the community, in June or July of 2002 ENV representative Frank Doyle stated to the community that, if the community allowed some expansion of the Landfill, the City would commit to close the Waimanalo Gulch Sanitary Landfill in 2008.

13. In exchange, the community tended to back off, and the process went through the Planning Commission and the Land Use Commission. The City’s promise was documented by various people and organizations and was in fact re-verified before the Land Use Commission in 2003. Mr. Doyle made a “commitment” to close the Landfill within five years, and that the new landfill would not be the Waimanalo Gulch Sanitary Landfill. Exhibit K85, a true and correct copy of the

Land Use Commission's Hearing Transcript dated March 27, 2003, at 125:3-11 (Commissioner Coppa: "I'm trying to see what it's going to look like, whether it's two years from now or five years from now. [¶] Do you honestly think that we will have a site, another site picked for a landfill? And if so do you think that you could commit that without a doubt that this landfill will close?" Director Doyle: "We have made the commitment, yes."), 128:3 (Director Doyle: acknowledging "our commitment to be out of that area within five years"), 177:21-178:2 (Chairperson Ing: "This proposed Blue Ribbon committee, could they come out with a recommendation that this Waimanalo Gulch landfill be expanded?" Director Doyle: "No." Chairperson Ing: "Thank you. You answered 'no'." Director Doyle: " 'No'.").

14. The City also expressed its commitment to look to options beyond landfilling, including reviewing other technologies and expanding the H-POWER facility to handle more day-to-day municipal solid waste. Exhibit K85, a true and correct copy of the Land Use Commission's Hearing Transcript dated March 27, 2003, at 94:9-12, 97:14-20. Some of the options mentioned in various meetings with the City included plasma arc, gasification, composting sewage sludge, expansion of H-POWER with a third boiler, etc.

15. Considering all of the testimony presented in 2003, the State Land Use Commission allowed a small expansion of Waimanalo Gulch Sanitary Landfill so it could stay open until mid-2008, at which time the City pledged to have other alternatives on-line to manage the daily municipal solid waste that would be over and above the capacity of H-POWER.

16. That commitment was made by the City. In addition to receiving the expansion, the City also, later, received an expansion to allow a higher capacity on the footprint of the property, thereby raising the height limit of the fill and subsequent closure requirements for the Landfill.

17. Notwithstanding its commitment to the community, the City requested that an extension and expansion of Waimanalo Gulch be allowed for another 15 +/- years. Upon hearing from the City and the community, the Land Use Commission allowed Waimanalo Gulch Sanitary Landfill to be expanded another 92.5 acres to a total of 200.662 acres, but disallowed any municipal solid waste to be deposited in the facility past July 31, 2012, with the exception of ash and residue from H-POWER. The community feels betrayed.

18. The Landfill continues to be a nuisance and potential hazard to health, given the dust, occasional odors, and flying trash that it generates. To this day, there are still bouts of issues coming from the Landfill. It has not been uncommon in the past, to have hillsides full of white plastic bags in the brush and trees and odors so bad that individuals and businesses down-wind (tradewind side) were affected and unable to fully enjoy their private property. These complaints have decreased over time as the filling of waste is now occurring further into the valley, but there are still occasions when odors from the Landfill are evident and there is trash released from the site.

19. While the situation has improved in some ways, there are still occurrences from the Landfill that show the Landfill is not being well managed and is dangerous to health and safety.

20. The case in point being the discharges from the facility in December of 2010 and January of 2011, where stormwater run-off, which had been in contact with the municipal solid waste, left the site and ended up in our near shore waters. In the January spill, the leachate carried with it actual municipal solid waste (including medical waste) into coastal waters. The waste washed into near shore waters and beaches along the coast.

21. Neither the December 2010 nor January 2011 situations should have occurred. While the Leeward Coast has a drier climate than other areas of the island, it is known to have severe storm events, as occurred in Makaha Valley in 1996 and in Lualualei Valley in 2006, 2008 and 2010 where flooding occurred.

22. The recent events affected our beaches, parks, and near shore waters. This is not acceptable and should never have happened with good planning for construction of the storm water diversions.

23. The planning should have occurred during the dry season and not the wet season. The United States Environmental Protection Agency recently found that, based on the December 2010 and January 2011 discharges of leachate and municipal solid waste, the City and the Landfill's operator, Waste Management of Hawaii, Inc. ("Waste Management"), violated the Clean Water Act. Exhibit K123

at 3, a true and correct copy of a Finding of Violation and Order by the EPA dated November 29, 2011.

24. This was not, however, the first violation. It should be remembered that this Landfill was assessed a very large penalty (close to \$3 million) for numerous regulatory violations observed by the State Department of Health and United States Environmental Protection Agency in 2006 and 2010. These violations included exceeding permitted grades, failing to maintain records of asbestos disposal, failing to submit an annual surface water management plan, failing to monitor explosive gases, exceedingly high levels of leachate, and failing to construct the west berm in accordance with design specifications. Exhibit KK59, a true and correct copy of a Letter from Laurence K. Lau of the Department of Health to Paul Burns of Waste Management and Eric Takamura of the ENV dated January 31, 2006, with enclosures; Exhibit K60, a true and correct copy of a Letter from Deborah Jordan of the EPA to Paul Burns of Waste Management and Eric S. Takamura of The ENV dated April 5, 2006, with enclosures; Exhibit K66, a true and correct copy of a Letter from Laurence K. Lau of the Department of Health to Joe Whelan of Waste Management and Timothy Steinberger dated May 13, 2010, with enclosures.

25. It should also be remembered that if anything happens to the Landfill that would affect the access along Farrington Highway, that would then be a significant impact on both the economy and social issues in the community.

26. If the Landfill were not in the location that is in today, would it even be considered to be located there considering the economic engine that is being developed in Ko Olina? Absolutely not.

27. While the Landfill was there prior to the recent expansions at Ko Olina, the Ko Olina area was planned to be a resort before the Landfill was constructed and much of the expansion at Ko Olina was done under the impression that the Landfill was to close when the 1989 footprint was full (initially projected to be approximately eight years from start of filling 1989-1997).

28. Today we are faced with another extension request and three of the questions that need to be asked are: Has the City made every effort to protect the community that suffers so much from the Landfill? Has the City made every effort to find and develop another landfill site? Has the City made every effort to reduce the waste going into Waimanalo Gulch Sanitary Landfill or looked at other alternative methods of waste disposal? I don't think so.

29. Even after the City convened a "Blue Ribbon Task Force" to look at alternative sites for a landfill in 2003, once all was said and done, the City made every effort to continue to expand Waimanalo Gulch Sanitary Landfill without taking any further action, discernible to the public, to find another acceptable site or to prepare for the eventuality that a new site would need to be found.

30. As for looking at other alternatives to reducing the waste stream into Waimanalo Gulch Sanitary Landfill, the City finally stepped up its household recycling program to include recyclables and green waste. It also implemented a

sludge treatment unit to turn sludge into fertilizer pellets, but the City fell short in pushing a third boiler for H-POWER until just recently (this at a cost of \$60,000,000 versus the current cost of \$300,000,000 to construct now).

31. There is so much more the City could do. While the City has been discussing the utilization of certain “demonstration” technologies, such as plasma gasification, since at least 2003, it appears that the City has not “demonstrated” any such technologies since that time.

32. The third boiler (as a mass burn unit) at H-POWER was supposed to be the facility that would help to manage all the rest of the municipal solid waste received from the City and have it reduced to ash and residue. So why even the need to extend the date of acceptance of municipal solid waste beyond July 31, 2012? It is my understanding from sitting through the State Land Use Commission meetings that this was the Commission’s understanding also in putting that deadline in place for 2012. The concept was that H-POWER would be on-line by the end of 2011 or beginning of 2012 and an additional 6 months was determined to be the timeframe that would accommodate construction or start-up to full capacity delays.

33. It is time for the Planning Commission to hold the City to its target dates, plans, and deadlines. It is time for the Leeward Coast to be given relief from the nuisances that come with this Landfill. It should be closed, and the City should seriously explore and implement other technologies and processes to deal with municipal solid waste. We are not the only island society in the world which needs

to deal with this issue. We should look to other island and land-locked nations and how they deal with their waste and move forward. We should not continue to rely on using our limited lands for a trash repository.

34. The ENV's Application to Modify should be denied.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

DATED: Honolulu, Hawai'i, December 13, 2011.



CYNTHIA K.L. REZENTES

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CERTIFICATE OF SERVICE

The undersigned certifies that on this day a copy of the foregoing document was
duly served on the following persons:

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DATED: Honolulu, Hawai'i, December 13, 2011.

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