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DEPT OF PLANNING
AND PERMITTING
CITY & COUNTY OF HONOLULU

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 BEVERLY MUNSON**

**DECLARATION OF BEVERLY
MUNSON**

CERTIFICATE OF SERVICE

Contested Case: December 7, 2011

KOCA 14

**INTERVENORS KO OLINA COMMUNITY ASSOCIATION AND
MAILE SHIMABUKURO'S WRITTEN DIRECT TESTIMONY OF
BEVERLY MUNSON**

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 Beverly Munson.

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

CADES SCHUTTE
A Limited Liability Law Partnership



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CHRISTOPHER T. GOODIN

Attorneys for Intervenors
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FILE NO. 2008/SUP-2

**DECLARATION OF BEVERLY
MUNSON**

DECLARATION OF BEVERLY MUNSON

I, Beverly Munson, 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 oppose the continued operation of the Waimanalo Gulch Sanitary Landfill (the “**Landfill**”) because the wellbeing of my community matters to me and

the Landfill has proven to be hazardous to public health and safety; because the City and County of Honolulu (the “City”) has broken its promise to close the Landfill and the City should be held to its word; because the Landfill’s continued acceptance of municipal solid waste is inconsistent with the surrounding property; and the City has not diligently pursued Landfill alternatives.

BACKGROUND

3. I am a retired Human Resources Executive, most recently employed by Hawaiian Telcom as Sr. Manager of Compensation, Benefits, and the Human Resources Service Center. I have been a full-time resident of Ko Olina since 2004, and I live directly below the Landfill. Prior to my employment at Hawaiian Telcom, I directed the Human Resources function at two hospitals which are part of Sutter Health, a 30-hospital healthcare system. While working in the healthcare industry, I attended weekly briefings on infection control, blood borne pathogens, and other public health topics.

PRIOR PARTICIPATION IN PROCEEDINGS RELATED TO THE LANDFILL

4. In 2004, I began attending various public meetings and hearings regarding the future of the Landfill. These meetings included City Council, Planning Commission, and State Land Use Commission Meetings/Hearings. I continue to attend such meetings whenever my schedule permits. I have submitted written testimony and provided oral testimony regarding the Landfill on several occasions since 2004.

REPRESENTATIONS REGARDING THE LANDFILL'S CLOSURE AND OPERATIONS

5. When we purchased our Ko Olina home in 2003, the Landfill was scheduled to be closed in 2008. As the closure date drew near, the City requested an extension, claiming it needed more time to prepare another site for waste disposal. At that time, the City claimed that it takes seven years to identify and prepare a new landfill site. We are now at the end of that “seven-year need,” and are no closer to any alternative to the Landfill than we were when the City received its first extension in 2003.

6. During proceedings for extension requests over the past 7 ½ years, I have heard statements by various City representatives that if an extension were granted, City representatives would use the extension to find alternatives to the Landfill.

7. Despite such representations, as each closure date drew near, the process of making an additional extension request “because we need more time” was repeated. I have become convinced that for the past decade, City representatives have used the “we need more time” strategy to secure extensions with a promise to make progress during such extensions, but to date their main accomplishment has been securing repeated “we need more time” extensions.

8. Representatives of the City and the operator of the Landfill, Waste Management of Hawaii, Inc. (“**Waste Management**”), have repeatedly claimed that the Landfill is operated in compliance with environmental protection regulations, meeting standards for the safe disposal and storage of solid waste. In its Environmental Impact Statement, R.M. Towill stated that closure of the Landfill

without an alternative is “unacceptable.” The City uses this to achieve a “done deal” strategy of not effectively achieving alternatives so that the Landfill may be closed. In Mayor’s Message #37, the Landfill was identified as the “least expensive” waste management alternative for the citizens of Honolulu. The City’s actions are consistent with the City’s desire to continue a revenue stream via tipping fees from the Landfill while disregarding public/environmental safety concerns and broken promises to close the Landfill. The City does not want to close the Landfill. The City wants to keep it open. The Community has caught on to the City’s intentions.

**PUBLIC/ENVIRONMENTAL HEALTH & SAFETY HAZARDS
CREATED BY THE LANDFILL**

9. Located close to residential areas, a main vehicle artery, and the ocean, the Landfill poses a serious hazard to public and environmental health and safety. The United States Environmental Protection Agency (the “EPA”) and the Hawai’i Department of Health have cited the City for numerous violations over the years pointing to public health/safety hazards. This includes a citation for not maintaining required records of waste containing carcinogens, and excessive leachate levels which threaten the stability of the landfill. Exhibit K59, a true and correct copy of a Letter from Laurence K. Lau of the Hawai’i Department of Health to Paul Burns of Waste Management and Eric Takamura of the ENV dated January 31, 2006, with enclosures; Exhibit K102, a true and correct copy of a Letter from Deborah Jordan of the EPA to Paul Burns of Waste Management and Erick S. Takamura of the ENV dated April 5, 2006.

10. The Landfill's practices are outdated and present public safety/environmental hazards. A few years ago, my husband and I took a television to the Landfill for disposal. Instead of having a designated electronic waste site to contain the hazardous contents of electronic waste, Landfill employees dumped our television into the main Landfill! A neighbor told me that last week he had the same experience, so this hazardous practice is still in place. One can only assume that this outdated practice has resulted in tons of electronic waste containing hazardous materials being buried in the Landfill. This poses a serious threat to public and environmental safety.

11. The medical waste spill of January 2011 presented a very serious public health/safety hazard. On January 13, 2011, I learned that blood vials had washed up on Little Beach, which is just west of Paradise Cove at Ko Olina. I was shocked and disgusted. As a former hospital administrator, I was deeply concerned for the public health risks posed by this event.

12. Most recently, the EPA found that the City and Waste Management had failed to comply with the Landfill's state storm water permit on at least three occasions, and were ordered monthly rather than annual reporting. See Exhibit K123 at 3, a true and correct copy of a Finding of Violation and Order by the EPA dated November 29, 2011.

DEBRIS, NOISE, AND AIR QUALITY ISSUES ASSOCIATED WITH THE LANDFILL

13. When I moved to Ko Olina, I was appalled and outraged to observe virtual "storms" of plastic bags flying in the wind from the Landfill into the ocean.

Additionally, we regularly experienced dust storms originating from the Landfill, and about once a week, the stench from the Landfill was so overwhelming we could not have our windows open or remain outside. On such occasions while walking from my car to my home, I experienced burning eyes and a choking sensation in my throat. Neighbors with respiratory ailments such as asthma were affected by the dirt storms and fumes coming down from the Landfill, often requiring additional medication and sequestering inside. It was only after we as a residential community regularly complained about these issues at City Council meetings and public hearings that Waste Management took measures to control dirt, odors, and debris flying into the community and the ocean. It is impossible to calculate the impact of the uncontrolled debris and pollution that took place from 1989 until 2005 when residents of neighboring communities began demanding action to address these issues. Dirt continues to be a problem, and 5 to 6 days per year odors from the Landfill are still noticeable.

COMMUNITY COMPLAINTS REGARDING THE LANDFILL

14. Complaints from homeowners in our development are frequent enough that our Board of Directors has appointed a Committee that monitors the effects of the Landfill on our property. Over the years owners in our community and neighboring communities have written letters and made oral testimony about the dirt, debris, and odors generated by the Landfill. Despite Waste Management installing screens and landscaping, the close proximity of the Landfill to residential communities, tourist attractions, and the ocean create an environment where

residents, visitors, and marine life continue to be exposed to conditions that generate complaints about conditions and concerns about potential future health and safety hazards.

15. To more accurately evaluate the concern of our community, last week the Kai Lani Board of Directors circulated a petition that states: *“We, the undersigned, owners/residents of Ko Olina urge the Honolulu decision makers to CLOSE THE CURRENT WAIMANALO GULCH LANDFILL IN JULY 2012 AND DESIGNATE A NEW LANDFILL TO BE OPENED OUTSIDE OF DISTRICT ONE. We have done our share and it is time for another District in Oahu to take on this burden.”* In just three days 87 owners/residents signed this petition. **Eighty-seven** individuals directly impacted by the Landfill daily want you to know that it is not acceptable to expand or extend Landfill operations. A true and correct copy of the Petition is marked as Exhibit K128.

REGULATORY VIOLATIONS

16. The EPA and Hawai'i Department of Health have cited the City and Waste Management on numerous occasions for violations of regulations designed to protect the health and safety of the public and the ocean. The most notable is an 18-count violation with close to \$2.5 million in fines assessed in 2006. Exhibit K59 at 41, a true and correct copy of an Order by the Department of Health dated January 31, 2006. The continued pattern of violations and mandates from the regulatory agencies demonstrates that the Landfill poses an on-going threat to

public and environmental safety. See Exhibit K123 at 3, a true and correct copy of a Finding of Violation and Order by the EPA dated November 29, 2011.

17. Just last week, the EPA mandated based on the January spill that Waste Management and the City follow new monitoring rules. According to the Honolulu Star-Advertiser (December 1, 2011), the EPA found that, "The City failed to comply with its state storm water permit on at least three occasions from December 2010 through January." "The EPA said the new monitoring rules are intended to increase accountability." This is another example of recurring hazardous exposures created by the Landfill. A true and correct copy of the Honolulu Advertiser Article dated December 1, 2011, is marked as Exhibit K98.

DECEMBER 2010 AND JANUARY 2011 SPILLS WITH MEDICAL WASTE

18. It is my understanding that the Landfill is required to control run-on and run-off to meet the demands of a 25-year storm. Because these systems were not in place as required, last December (2010) and January (2011), we experienced spills of contaminated water, solid waste debris, and medical equipment waste adjacent to our property. The beach closest to our property had blood vials and used hypodermic syringes with needles intact washed up on shore. Later the City and Waste Management claimed this did not pose a threat to public safety as these items had been sterilized prior to being deposited at the Landfill. However, once in the Landfill, these items were exposed to numerous harmful bacteria which would make a stick from one of the needles lying on the beach extremely hazardous. As a

result of these spills, the beaches in Ko Olina and elsewhere on the Leeward Coast were closed for several days.

PERSONAL IMPACT OF LANDFILL'S CONTINUED OPERATION

19. Since the 2006 regulatory citation, my husband and I have worried about the stability of the Landfill. Living directly below the Landfill, we literally live in a likely path if there is a landslide at the Landfill. The naming of the Landfill "Waimanalo Gulch" is deceptive as the "gulch" that was at the location was small and filled with solid waste long ago. The Landfill starts at 70 feet mean sea level (msl) and extends up the mountain to 940 msl. Landfill deposits are now going up the side of the mountain which creates land slide potential. Given the City and Waste Management's history of being cited for not meeting regulatory standards, including leachate levels, assurances by City and Waste Management that there is no landslide potential are heard but not believed.

20. Additionally, the 2010/2011 spills noted above have exposed us and our neighboring marine life to hazardous materials.

21. When we purchased our home, we were hesitant and concerned about the Landfill's proximity to our future residence. However, the 2008 closure date reassured us that living next to the Landfill was a temporary situation. Since moving into our current home, we have become aware of violations and poor health/safety and environmental protection practices, and a pattern of doing nothing more than preparing for the next extension request. It is clear to us now that the City has no plans for finding Landfill alternatives and will do nothing to

alleviate the health/safety risks unless forced by an outside agency. As these conditions become more public, our ability to sell our home for its original value is threatened.

ECONOMIC IMPACT ON NEIGHBORING BUSINESSES

22. According to a January 2011 Fiscal & Economic Benefits Analysis prepared by CBRE Consulting, currently, Ko Olina Resort generates a \$520 million economic impact in the form of direct spending, and provides 2,800 jobs locally. At full build-out, it is estimated that Ko Olina Resort will generate \$1.4 billion in annual economic activity, supporting 8,100 jobs, and paying \$138 million in taxes to the City and the State of Hawai'i. Construction period spending will generate an additional \$193.5 million in taxes to the County and State. Exhibit K22, a true and correct copy of Fiscal & Economic Benefits Analysis Ko Olina Resort & Marina, Honolulu, HI dated January 2011.

23. Ko Olina Resort has developed in such a way that it has become a notable economic engine for the City and County of Honolulu, and this positive impact will continue to grow with development.

24. I do not believe that today a landfill would be approved to be built in such proximity to a substantial residential and tourist operation. It makes no sense to site a landfill across the street from a resort community with 7 million visitors annually and 1,411 residential units. If it wouldn't be approved to be built at this point in time, it should not be approved for extension.

ENV'S LACK OF DILIGENCE IN DEVELOPING LANDFILL ALTERNATIVES

25. Large cities across America have engaged plans to become “landfill independent.” I have not seen any evidence that the City and County of Honolulu is heading in this direction. For more than a decade, the City has pleaded for “more time,” but in the 7 ½ years I have been attending hearings on the Landfill, I have only seen evidence of City resources being used to apply for the next extension. The strategy seems to be “don’t accomplish anything and then force the extension/expansion by not having any alternatives.”

THE HAWAI’I LAND USE COMMISSION JULY 2012 DEADLINE

26. The City’s ongoing strategy of not finding and developing Landfill alternatives is, I believe, one of the key factors in the Hawai’i Land Use Commission’s order to stop accepting municipal solid waste at the Landfill by July 2012. When granting an extension to 2012, the Commission cited the repeated extension requests and noted that this was the City’s final opportunity to develop a plan for Landfill alternatives. The Commission was also concerned that the Landfill posed serious health and safety concerns to the surrounding community. And now, once again the City is coming back to request another extension rather than following the Land Use Commission’s directive to find and develop alternatives. The City knows that its “do nothing” strategy backs the island of Oahu into a corner, thus leaving government leaders no alternative but to extend/expand the Landfill, and the surrounding community has suffered for it. As long as extensions

and expansions are granted, the City can continue its pattern of operating outdated and harmful waste management practices with no penalty or consequence.

27. Until permitting agencies hold the City accountable, these issues will continue. Granting requests for extensions and expansion have not helped the City to achieve the alternatives other cities have accomplished. Accordingly, the City's most recent request 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 12, 2011.



BEVERLY MUNSON

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CERTIFICATE OF SERVICE

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

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(Hand Delivery)

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

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