

ROBERT CARSON GODBEY, 4685
 Corporation Counsel
 DANA VIOLA, 6095
 ROBERT BRIAN BLACK, 7659
 Deputies Corporation Counsel
 City and County of Honolulu
 Honolulu, Hawaii 96813
 Telephone: 768-5233
 768-5118

Attorneys for Applicant
 DEPARTMENT OF ENVIRONMENTAL SERVICES,
 CITY AND COUNTY OF HONOLULU

DEPT OF PLANNING
 AND PERMITTING
 CITY & COUNTY OF HONOLULU

'11 DEC 13 P 4:27

RECEIVED

BEFORE THE PLANNING COMMISSION
 OF THE CITY AND COUNTY OF HONOLULU

STATE OF HAWAII

In the Matter of the Application of)	FILE NO. 2008/SUP-2
)	
DEPARTMENT OF ENVIRONMENTAL)	DEPARTMENT OF ENVIRONMENTAL
SERVICES, CITY AND COUNTY OF)	SERVICES, CITY AND COUNTY OF
HONOLULU)	HONOLULU'S WRITTEN DIRECT
)	TESTIMONY OF TIMOTHY E.
To delete Condition No. 14 of Special Use)	STEINBERGER; CERTIFICATE OF
Permit No. 2008/SUP-2 (also referred to as)	SERVICE
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.")	
)	

**DEPARTMENT OF ENVIRONMENTAL SERVICES,
 CITY & COUNTY OF HONOLULU'S
WRITTEN DIRECT TESTIMONY OF TIMOTHY E. STEINBERGER**

TABLE OF CONTENTS

	<u>Page</u>
I. ROLE OF WAIMANALO GULCH SANITARY LANDFILL	2
II. HISTORY OF WGSL	5
1. 2003 Planning Commission Decision: City Council Selects WGSL as the City’s Future Landfill Site	5
2. 2008 Planning Commission Decision: Extension of Waste Acceptance Deadline at WGSL	6
3. <u>2009 Planning Commission Decision: “[W]e need a landfill on this island for us to move forward.”</u>	7
III. THE CITY’S COMPLIANCE WITH THE 2009 PLANNING COMMISSION DECISION AND CURRENT SUP	11
1. Alternative Landfill Site to Supplement or Replace WGSL	11
2. Waste Diversion	17
a. HPOWER	18
b. Materials Recycling	18
i. Bulky Item Pickup Program and Self Haul Disposal Sites	19
ii. Green Waste Recycling Program	19
iii. Curbside Recycling for Residential Mixed Recyclables	20
iv. Community Recycling Bin Program	20
v. Recycling for Multi-Family Facilities (Condo Recycling Program)	21
vi. Commercial Recycling	21

	<u>Page</u>
c. Current and On-Going Public Education and Outreach Programs	22
i. The City’s Opala Website	22
ii. Tour De Trash	22
d. Sewage Sludge Alternatives	22
IV. OPERATIONAL CHALLENGES	24
1. Transshipment of Solid Waste Off-island Is No Longer a Viable Alternative	24
2. WGSL Impacted by December 2010 and January 2011 Torrential Rains	26
3. Irregular Landfill Gas Data	27
V. WGSL IS NECESSARY FOR PROPER MANAGEMENT OF MUNICIPAL SOLID WASTE	27

**WRITTEN DIRECT TESTIMONY OF
TIMOTHY E. STEINBERGER**

1. My name is Timothy E. Steinberger, and I am the Director of the Department of Environmental Services, City and County of Honolulu. The Department of Environmental Services is located at 1000 Uluohia Street, Kapolei, Hawaii 96707. I submit this testimony in support of the Department of Environmental Services Application to Delete Condition of Special Use Permit No. 2008/SUP-2.

2. I am a licensed Professional Engineer (Civil) in the State of Hawaii. I graduated from the University of Maryland with a Bachelor of Science degree in mechanical engineering and received a Master of Science degree (MSME) from the University of Hawaii in 1983. I have worked in the sanitary/environmental engineering field for the past 20 years.. I came to work for the City in 1994, went back to private practice from 2005 to 2009 and returned to the City in 2009.

3. I have been the Director of the Department of Environmental Services (“ENV” or the “department”) for the past three years. I also held this position from 2001 to 2003. From 2003 to 2005, I served as the Director of the Department of Design and Construction.

4. As the Director of ENV, I oversee the city-wide management of solid waste generated in the City and County of Honolulu (“City”) that includes the Waimanalo Gulch Sanitary Landfill (“WGSL” or “landfill”), the curbside recycling program, and the Honolulu Program of Waste Energy Recover (“HPOWER”) facility. I also oversee the management of the City’s wastewater system, which includes collection, treatment and disposal, as well as overseeing the regulatory aspects of certain storm water programs. The department works in partnership with the residents of the City to make sure our island has a clean, safe environment.

We work with businesses, individuals and sister agencies to plan for the future, while working within the fiscal constraints of the present and to educate the public on measures that will help protect public health and the environment.

I. ROLE OF WAIMANALO GULCH SANITARY LANDFILL

5. WGSL is a fundamental component in the City's program to manage solid waste. As the Director of ENV, I am aware of our operations there, how this facility is critical to our overall solid waste management, and our plans to minimize municipal solid waste ("MSW") at this facility.

6. I am responsible for ENV's administrative oversight of the WGSL. This includes working with the department's staff and the operator of WGSL, Waste Management of Hawaii, Inc. ("WMH"), as well as with other City agencies, regulators such as the State of Hawaii Department of Health ("DOH") and the United States Environmental Protection Agency ("EPA"), consultants and others.

7. WGSL is the only municipal sanitary landfill on the island of O'ahu, accepting MSW from all eight districts of Oahu, including 'Ewa, Wai'anae, Koolaupoko, Ko'olauloa, the Primary Urban Center, East Honolulu, Central O'ahu, and the North Shore. The landfill also accepts overflow refuse from other island landfills (private and military) and rubbish that exceeds the HPOWER facility's capacity. WMH operates WGSL seven days per week between 7:00 a.m. and 4:30 p.m. and is closed only on Christmas and New Year's Day. WGSL also receives residual HPOWER ash and residue 24 hours per day by special arrangement with the HPOWER facility.

8. MSW delivered to WGSL includes certain special waste that is accepted only under special operating procedures. Special waste means any solid waste which, because of its

source or physical, chemical, or biological characteristic, require special consideration for its proper processing or disposal, or both. Applications to dispose of special waste are reviewed and approved by WMH before acceptance for disposal. These materials include:

- Materials separated from water, such as from car and equipment washes that generate sludge and residue
- Sewage sludge
- Off-specification and outdated products
- Underground storage tank and other related sludge
- Resins and chemical debris
- Petroleum and other contaminated soils (non-liquid)
- Diesel fuel contaminated debris (non-liquid)
- Used oil debris (non-liquid)
- Gasoline, jet fuel, and kerosene contaminated debris (non-liquid)
- Sandblast grit
- Baghouse dust
- Inorganic filter cake
- Dried paint waste from removal, construction and demolition
- Treated utility poles and lumber
- Empty containers
- Treated medical waste

9. Customers proposing to dispose of special waste at the WGSL must submit a special profile sheet characterizing the waste prior to delivering the material to the landfill. All special waste shipments must be accompanied by a manifest. The manifest is checked by the scale house operator against the approved special waste profile sheet. Undocumented special waste loads are rejected at the scale house and not accepted for disposal.

10. WMH also has special procedures for disposal of asbestos in its Asbestos Disposal Plan, which is approved by DOH as part of WGSL's Operating Plan. The plan ensures that national emission standards are met at the WGSL. Once asbestos waste transporters comply with all procedures, they are allowed into the site at a pre-scheduled time. Loads are inspected to ensure all packaging requirements have been met. The asbestos waste transporter then proceeds to a prepared disposal trench and discharges the load. All asbestos waste is covered with other

MSW and six inches of daily cover. The site's permanent operating record contains all documentation of asbestos disposal. Documentation includes date, time, name(s) of the waste generator and the waste transporter, and the location within the landfill where the asbestos waste was disposed of.

11. Although WGSL does not accept commercially generated electronic waste, household electronics are accepted for disposal from homeowner-generated waste streams, including homeowner delivery and convenience center trucks. Homeowners are limited to 2 electronic devices for disposal each visit.

12. WGSL does not accept the following materials for disposal. These categories are prohibited by DOH solid waste regulations:

- Bulk green waste (should be sent for composting)
- Scrap vehicles (should be sent to a metal recycler)
- Tires (should be sent to a tire recycler)
- White goods (major appliances) (should be sent to a metal recycler)

13. Additionally, WMH has an Unacceptable Waste Exclusion Program that prevents the disposal of unacceptable wastes, including hazardous waste, polychlorinated biphenyl ("PCB") contaminated waste, pesticide containers, liquid waste, or improperly packaged asbestos waste.

14. The City's Integrated Solid Waste Management Plan ("ISWMP") provides a 25-year implementation plan for improving the City's solid waste management system. The ISWMP addresses all aspects of the present system, including reuse and recycling, the HPOWER facility, and landfilling for material that cannot be recycled or burned for energy. See ISWMP attached hereto and incorporated herein as Exhibit A22. As the island's only landfill, WGSL is a critical component of the ISWMP. In accordance with Part III, Section 342G of the Hawaii

Revised Statutes and Chapter 9, Section 9.1-13 of the Revised Ordinances of Honolulu, the City is in the final stage of updating its ISWMP.

II. HISTORY OF WGSL

15. WGSL began operating in 1987. In 1989, WGSL was expanded by 26 acres to enable the construction of the administration building, weighing station, drainage structures and access roads.

1. 2003 Planning Commission Decision: City Council Selects WGSL as the City's Future Landfill Site

16. On March 13, 2003, the Planning Commission granted the Department of Environmental Services application to expand the landfill by 21 acres ("2003 Planning Commission Decision" attached hereto and incorporated herein as Exhibit "A7"). At that time, based on WGSL's then-existing capacity, the City anticipated that the Landfill would close in the expansion was projected to extend the life of the landfill by only 5 years, so the Planning Commission recommended that ENV submit an alternative landfill site, or sites, to the City Council by December 31, 2003, and close WGSL no later than May 1, 2008. *Id.*, at p. 5.

17. On June 9, 2003, the LUC issued the 2003 LUC Decision, attached hereto and incorporated herein as Exhibit "A8." 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.

18. The City Council received an extension of the June 1, 2004 deadline from the LUC, and on December 1, 2004, selected the Waimanalo Gulch site as the City's future landfill site. The City Council determined that the Waimanalo Gulch site would satisfy O'ahu's need for a landfill to manage its solid waste for the foreseeable future. The City Council concluded that (1) the Waimanalo Gulch site has at least 15 years of capacity left, (2) the Waimanalo Gulch site

is the most economical site for which all costs and revenues are known factors, (3) other sites would require large amounts of money to acquire land and develop the site and infrastructure, (4) an operating contract is already in existence, and (5) the Landfill operator is committed to addressing community concerns. 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 ("WGSL Resolution"), is attached hereto and incorporated herein as Exhibit "A11." See WGSL Resolution, pgs. 2-3.

2. 2008 Planning Commission Decision: Extension of Waste Acceptance Deadline at WGSL

19. On July 6, 2007, ENV filed—and on January 16, 2008, the Planning Commission granted—an application to amend 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 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 "A14." ENV needed to complete an Final Environmental Impact Statement ("FEIS") for the further expansion of WGSL by approximately 92.5 acres, to the full acreage of the site at approximately 200 acres, before applying for a new SUP that would cover the entire WGSL property. See 2008 FEIS attached hereto and incorporated herein as Exhibit "A1" at pg. 2-21.

See also Findings of Fact, Conclusions of Law, and Decision and Order (the “2008 Planning Commission Decision”), attached hereto and incorporated herein as Exhibit “A15.” The LUC adopted the Planning Commission’s recommendation, but shortened the waste acceptance deadline from May 1, 2010, to November 1, 2009, and required ENV to report to the LUC every six months on the actions taken to mitigate further use of WGSL. See 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 “A16.” See 2008 LUC Decision, p. 18.

3. **2009 Planning Commission Decision: “[W]e need a landfill on this island for us to move forward.”**

20. On December 3, 2008, ENV filed an application for a new SUP (the “Application”) to supersede the existing SUP (State Special Use Permit No. 86/SUP-5), that would authorize ENV to use an additional 92.5-acres of the site and operate WGSL to capacity. See 2009 Planning Commission Decision attached hereto and incorporated herein as Exhibit “A18,” ¶ 5, pg. 2. Department of Planning and Permitting recommended that the Planning Commission approve the Application, designated as County Special Use Permit File No. 2008/SUP-2, with conditions. Id. at ¶ 10, pg. 3.

21. The Planning Commission held a contested case hearing on the Application over five days—June 22 and 24 and July 1, 2 and 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 that all conditions previously placed on the Property under SUP File No. 86/SUP-5 would 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. The Planning Commission issued its 2009 Decision after careful consideration of all 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.

22. The Planning Commission found:

- It would take more than seven years to identify and develop a new landfill site (other than WGS�).
- On December 1, 2004, the City Council adopted Resolution No. 04-349, CD1, FD1, which selected the Property [200.62-acre property, identified by Tax Map Key Nos. (1) 9-2-003: 072 and 073, in Waimanalo Gulch, Oahu, Hawaii] as the site for the City’s landfill.
- The proposed expansion of the landfill within the Property was needed because WGS� is a critical part of the City’s overall integrated solid waste management efforts.
- Continued availability of WGS� is required as a permit condition to operate HPOWER, for cleanup in the event of a natural disaster, and because there is material that cannot be combusted, recycled, reused, or shipped.
- Therefore, a landfill is currently necessary for proper solid waste management, the lack of which would potentially create serious health and safety issues for the residents of Oahu.
- WGS� is the only permitted public MSW facility on the island of Oahu and the only permitted repository for the ash produced by HPOWER.
- WGS� is a critical portion of the City’s overall Integrated Solid Waste Management Plan (“ISWMP”), which looks at all of the factors that make up solid waste management, including reuse and recycling, the HPOWER facility, and landfilling for material that cannot be recycled or burned for energy.
- Other items that cannot be recycled or burned at HPOWER are deposited at WGS�, 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.

Id., at pgs. 8, 18-19.

23. The 2009 Planning Commission did not impose an expiration date for the SUP or any deadline for the acceptance of waste at WGS�. Instead, the Planning Commission concluded 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.” See statements made by Planning Commissioner Kerry Komatsubara (“Komatsubara”) contained in 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 “A17.”

24. Komatsubara noted that ENV had “demonstrated that **we [people of the City and County of Honolulu] need a landfill . . . 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.**” Id. (emphasis added). Komatsubara further explained 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.

Id. (Emphasis added).

25. The Planning Commission, however, did impose several conditions to monitor the City's progress toward finding a new landfill site. Certain of those conditions, which the City has never contested, are:

- On or before November 1, 2010, begin to identify and develop one or more new landfill sites that shall either replace or supplement the WGS�.
- Continue efforts to use alternative technologies to provide a comprehensive waste stream management program that includes HPOWER, plasma arc, plasma gasification and recycling technologies, as appropriate, and shall continue efforts to seek beneficial reuse of stabilized, dewatered sewage sludge.
- Provide annual reports to the Planning Commission regarding the status of identifying and developing new landfill sites on Oahu, the WGS�'s operations, and Applicant's compliance with conditions imposed herein.
- Notify the Planning Commission of termination of the use of the Property as a landfill.

2009 Planning Commission Decision, pgs. 25-26. As explained below, the City has complied and continues to comply with not only the letter, but the spirit of the Planning Commission's conditions. See fly-over photograph of WGS�, dated April 2011 attached hereto and incorporated herein as Exhibit "A2."

26. 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 "A19." Disregarding the Planning Commission's reasoned analysis and the underlying facts, the 2009 LUC Decision granted the Application subject to the added condition that is now at issue:

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.

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

27. ENV timely appealed the LUC July 31, 2011 deadline for the Landfill to accept MSW, and that appeal is pending currently before the Hawaii Supreme Court.

III. THE CITY’S COMPLIANCE WITH THE 2009 PLANNING COMMISSION DECISION AND CURRENT SUP.

28. ENV remains compliant with the terms set forth in the Planning Commission’s 2009 Decision.

1. Alternative Landfill Site to Supplement or Replace WGS�

29. Condition No. 1 of the 2009 Planning Commission Decision (Condition No. 4 of the LUC Decision) requires the City, on or before November 1, 2010, to **begin** to identify and develop one or more new landfill sites that shall either replace or supplement the WGS�. 2009 Planning Commission Decision, at pg. 25. As part of preparing the updated ISWMP, the City allotted funds in the Fiscal Year 2010 budget to conduct a site selection study for a secondary landfill on O’ahu. Thus, the Mayor’s Landfill Site Selection Committee (“Site Selection Committee” or “Committee”) was formed.

30. 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 are: David Arakawa, Thomas Arizumi, John Goody, Joe Lapilio, Tesha H. Malama, Janice Marsters, Richard Poirier, Chuck Prentiss, and George West

(Bruce Anderson, David Cooper, and John DeSote were originally appointed, but have stepped down).

31. The Mayor tasked the Site Selection Committee to provide the City advisory recommendations concerning the selection of a future site for a landfill to replace or supplement WGSL by accepting MSW, ash and residue from facilities such as HPOWER, and construction and demolition debris waste (C&D) for the Island of O‘ahu. The Committee will not select one site, but will rank numerous sites according to criteria that it determines most appropriate for landfill sites to accommodate all three waste streams (MSW, ash and residue, and C&D debris).

32. The City contracted with R.M. Towill Corporation (RMTC) in June 2011 to assist the Committee with this process, specifically to research and provide the information required or requested by the Committee members.

33. To date, the Landfill Advisory Committee has held meetings on January 20, February 10, March 10 and 31, May 12, June 23, and July 21, 2011.

34. Over the course of multiple meetings, the Committee has discussed numerous criteria for a new landfill, including, but not limited to the following:

- Location relative to identified disamenities
- Location relative to HPOWER
- Effect of precipitation on landfill operations
- Landfill development operation and closure costs
- Displacement costs
- Precipitation
- Ground water contamination
- Design issues
- Access issues
- Proximity to other land uses (residences, institutions etc.)
- Traffic impacts on residential neighborhoods
- Infrastructure availability
- “Those criteria impacting people that live here 365 days a year”
- Feasibility and cost issues
- Infrastructure, engineering and sustainability issues

- Wind direction issues related to closeness to other activities
- Impact on agricultural lands

35. The anticipated schedule for the Committee's work was to have 7 meetings over the course of the year, with the submission of the Committee's final recommendation by the end of 2011. Specifically, the meetings were anticipated to take place as follows:

- Meeting 1: Introduction and Description of the Committee's objectives, ground rules; Administration and Description of the City's Solid Waste Management System.
- Meeting 2: Site Visit to Waimānalo Gulch Sanitary Landfill, HPOWER, and other facilities; Relationship of facilities to the City's Solid Waste Management System.
- Meeting 3: Review landfill engineering necessary to the siting of a landfill; Present siting requirements from Federal, State, and City & County of Honolulu; Previous alternative landfill sites considered by the City; Request Committee's identification of additional sites for consideration and obtain Committee's preliminary siting criteria.
- Meeting 4: Request additional community-based siting criteria from Committee; Consultant's description of process for developing measurable criteria to score and rank landfill sites.
- Meeting 5: Review alternative landfill sites under consideration and apply Federal and State/City & County of Honolulu siting criteria. Provide results to Committee; Distribute Draft Landfill Siting Evaluation Sheets to Committee and review landfill evaluation process; Review how data is measured and scored in the data sheets; Revise as required based on Committee's input; Discuss and obtain Committee's weighting of the criteria.
- Meeting 6: Present results of the analysis; Reveal sites selected by the Committee and discuss; Discuss content of the Committee's Report to the Mayor; Consultant directed to prepare the Committee's Draft Report to the Mayor.
- Meeting 7: Discuss Draft Report to the Mayor with Committee. Revise as required and prepare Final Report; Submit the Committee's Report to the Mayor and conclude the Committee's role.

36. The Committee began by working with potential landfill sites identified by the City in previous studies. However, at the sixth meeting, the Committee requested that RMTC research and provide information on and analyses of additional sites to ensure a thorough vetting of appropriate sites on Oahu. Specifically, they tasked RMTC to research and include for consideration sites that are above or cross the no-pass or underground injection control (UIC)

line. The City previously did not consider these sites because of its policy not to site landfills above the no-pass or UIC line to protect the island's drinking water sources. The Committee also asked RMTC to review the Board of Water Supply capture zone maps and identify if there were any 100 acre or larger parcels that could be included on the list of potential landfill sites, even if the sites were above the no-pass or UIC line.

37. The Committee also developed exclusionary criteria or factors for sites above the no-pass or UIC line based on the following information:

- State Land Use Districts (Conservation, Agricultural, and Urban; there are no Rural Districts on O'ahu);
- Groundwater Resources (Board of Water Supply and Others);
- Land Ownership (Federal, State, City, and Private);
- U.S. Fish & Wildlife Service (USFWS) Critical Habitats;
- State Natural Area Reserve System (NARS);
- Impaired Water Bodies (per Department of Health and U. S. Environmental Protection Agency);
- Agricultural Land Ratings (Land Study Bureau (LSB) and Agricultural Lands of Importance to the State of Hawai'i (ALISH));
- Commission on Water Resource Management (CWRM) Well Data; and
- Criteria protecting airports and airfields with a 10,000 linear foot buffer.

38. Upon applying the above exclusionary criteria, RMTC presented the Committee with two additional sites for consideration: (1) the Kahe Point Power Generating Station owned by Hawaiian Electric Company; and (2) the Makaiwa Hills subdivision owned by the James Campbell Trust Estate, which is part of a much larger parcel of land already under development. In addition, the second site was found to border the USFWS designated critical habitat of the *Isodendron pyrifolium* (critically imperiled Hawaiian shrub). RMTC noted that both sites should be considered as "non-sites" due to either existing or pending land uses.

39. After discussion of these results, the Committee asked RMTC to undertake another review of potential sites, including the following land areas:

- Parcels that are 90 acres or more, but less than 100 acres in size;
- Land that is owned by the State of Hawai‘i, including agricultural district land, conservation district land, and land that is within a critical habitat; and,
- Land that is outside of well capture zones and well buffer zones, but within the no-pass or UIC line.

40. The Committee reasoned that it is important that RMTC conduct this additional review because the Committee sought to understand the availability of sites only slightly smaller than 100 acres. Certain Committee members also expressed that this further consideration will provide for more comprehensive review of potential sites. However, this additional request has delayed final application of the criteria and its recommendations. Nonetheless, the Committee has targeted January 15, 2012, as the new deadline for its final report. See Meeting Agendas, Group Memories, and Documentation provided to the Committee for all of the Committee’s meetings thus far attached hereto and incorporated herein as Exhibit “A31.”

41. Once the City selects a site or sites, 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. Even if the Landfill Advisory Committee finishes in January 2012 as anticipated, ENV will need several years to complete the tasks necessary to start operations at a new site(s). These tasks include, but are not limited to: (1) 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 (*e.g.*, 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); (2) the acquisition of landfill sites, which may require 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; and (3) detailed engineering studies, construction and bid documents, and other approvals.

42. The detailed engineering studies are needed 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. That is before the City even breaks ground on a new site.

43. 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. In fact, at the time the LUC imposed the deadline in 2009, no new site could have been operational by the July 31, 2012 deadline; as both this Commission and the LUC acknowledged in respective Findings of Fact that it would take at least seven years for an alternative site to WGSL.

2. **Waste Diversion**

44. Condition No. 2 of the Planning Commission (Condition No. 6 of the LUC Order) requires the City to continue its efforts to use alternative technologies to provide a comprehensive waste stream management program. ENV is complying with this condition as the figures show.

45. In Calendar Year 2010, approximately 1,214,904 tons of waste was generated on O‘ahu. Of the 1,214,904 tons, the landfill received only 163,736 tons of MSW and 179,946 tons of ash and residue from HPOWER. The amount of MSW deposited at WGSL reflects a steady decrease from 2009. In FY09 the landfill received approximately 233,065 tons of MSW and in FY10 some 178,512 tons of MSW. In comparison, ash and residue has remained fairly constant. The 2010 disposal rate represents a total diversion of MSW from the Landfill of 71.7%. See “Municipal Solid Waste Stream on Oahu” chart attached hereto and incorporated herein as Exhibit “A27.” See also “The Sustainable Solid Waste Management Ladder for the US” chart, depicting Hawaii as within the top 10 states in the nation with regards to landfill diversion, attached hereto and incorporated herein as Exhibit “A29.”

46. As the decreasing MSW tonnage to WGSL shows, ENV is continuing its effort to significantly reduce solid waste disposal at WGSL by expanding HPOWER and our waste to materials recycling programs and developing alternative disposal options for materials presently being landfilled. Collectively, these actions have and will divert significant amounts of waste away from WGSL. In addition, new technology solutions continue to be evaluated. However, there still are no new technologies with proven reliability and performance that would completely eliminate the need for a landfill.

a. HPOWER

47. The existing HPOWER facility began operations in 1990 and successfully diverts approximately 600,000 tons per year of MSW from WGSL.

48. HPOWER reduces our dependence on fossil fuels. One ton of trash produces saleable energy the equivalent of one barrel of oil. Moreover, the facility converts more than 1600 tons of waste per day into electricity sufficient to power more than 60,000 homes. On an islandwide basis, HPOWER produces approximately 7% of O‘ahu’s electricity.

49. In addition, almost 100% of the ferrous and nonferrous metal in the MSW processed at HPOWER is recovered for recycling. Approximately 18,000 tons of ferrous metals (e.g., tin cans) and 2,500 tons of non-ferrous metals (e.g., aluminum cans) are recycled annually.

50. The City is adding a third boiler at HPOWER, which will increase the capacity of the facility to 900,000 tons per year. The amount of waste diverted from the landfill and recycled to energy will increase substantially. The third boiler is scheduled to be fully operational in January 2013.

51. The continued operation of the HPOWER facility, however, is dependent upon continued operation of the WGSL for disposal of ash and residue. Also, DOH requires as a condition of HPOWER’s permit that HPOWER have a disposal alternative—the Landfill—as a contingency for routine maintenance, natural disasters, and emergencies.

b. Materials Recycling

52. As of 2010, material recycling programs account for a 29.7% landfill diversion rate, which means that approximately 448,000 tons per year is diverted out of the total waste stream of 1.5 million tons per year. The City is continuing to increase the 29.7% diversion rate by expanding and improving programs. See ENV report entitled “Curbside Recycling Program

Evaluation and Strategic Planning: Phase I,” dated November, 2011, attached hereto and incorporated by reference as Exhibit A30. See also breakdown of Yearly Recycling Rates by material in chart attached hereto and incorporated herein as Exhibit “A28.”

i. Bulky Item Pickup Program and Self Haul Disposal Sites

53. The City’s bulky item collection service is designed to provide residents with once-a-month pickup service of old appliances, furniture, etc. Recyclable items such as white goods, freon containing appliances, tires, and used auto batteries and propane tanks are segregated and delivered to the respective recycling facilities. The remainder of bulky item collection is disposed of at the landfill.

54. Residents also may self-haul their bulky items to City disposal sites, including three transfer stations and six convenience centers. Recyclable materials are segregated in separate bins or storage areas for delivery to recycling facilities. Material that cannot be recycled is hauled to the landfill.

55. The anticipated HPOWER expansion is a mass burn boiler that will accept and convert much of the bulky waste such as furniture, mattresses and carpet that presently go to landfill, to energy and recycled metals.

ii. Green Waste Recycling Program

56. The City presently provides Green Waste Recycling to approximately 100,000 residences and as of May 2010 expanded to over 150,000 residences as part of the new island-wide automated curbside recycling program. Oahu’s capture rate for green waste is 77%, which indicates a high level of participation at a high recovery level, either 85% participation at 90% recovery level or vice versa. (Capture rates are measured by the proportional amount of recyclable material collected relative to the total amount available in the specific waste stream.

Capture rates do not denote the participation rate.) It is unlikely that this capture rate can get any higher. The City believes that the automated collection has encouraged more participation, further diverting materials from landfill. Residents also may self-haul green waste to City convenience centers or directly to the composting facility. All of the green waste is delivered to a private vendor that is contracted by the City to produce mulch and other products from the waste.

57. From a self-sustainability standpoint, green waste is one of the few recyclable materials that is all reused here on this Island. Most other recyclable materials are shipped to the mainland or to Asia.

58. The City has entered into a contract for a Green Waste, Food Waste and Wastewater Bio-solids, In-Vessel Conversion Facility to process some 100,000 tons per year of these wastes to beneficial use such as biofuels, energy or compost materials. The vendor expects to be fully operational in early 2013.

iii. Curbside Recycling for Residential Mixed Recyclables

59. Curbside Recycling for Residential Mixed Recyclables continues to increase with island wide expansion - 160,000 residences - as of May 2010.

60. During fiscal year 2011, the curbside collection system recovered 18,000 tons of mixed recyclables and 53,000 tons of green waste for a total of 71,000 tons recycled. This contributes to a full 6% to the overall reduction of MSW going to the Landfill.

iv. Community Recycling Bin Program

61. The City has increased the number of community recycling bins by an additional 25 since the start of a new contract in March 2008.

62. The Community Recycling Bin Program began in 1990 and grew from an initial 20 participating schools to approximately 100 locations as of March 2009.

63. Additional HI-5 only bins are provided to support collection events and campaigns.

v. Recycling for Multi-Family Facilities (Condo Recycling Program)

64. 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.

65. 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.

vi. Commercial Recycling

66. Commercial recycling is taking place at commercial businesses through private recyclers.

67. The City enacted ordinances that support this recycling effort:

- Cardboard. Commercial and government generators are partially banned from landfill disposal. Only 10% of a truckload can be composed of cardboard.
- Green waste. Commercial and government generators are partially banned from landfill disposal. Only 10% of a truckload can be composed of green waste.
- Tires, auto batteries, white goods and scrap metals. Banned from all disposal sites.
- Glass containers. Glass recycling is required for bars and restaurants.
- Paper Recycling. All office buildings of a certain size must conduct recycling of paper goods.

- Food Waste Recycling. All hotels, restaurants, grocery stores, food courts, food manufacturer processors and hospitals meeting a certain size are required to recycle food waste.
- City agencies are required to purchase recycled paper products and to recycle newspaper, cardboard, office paper, aluminum, glass, and plastics.

c. Current and On-Going Public Education and Outreach Programs

68. The objective of Public Education and Outreach is to educate the community that material and energy recycling promotes sustainability. Reducing the use of landfills is a critical part of the City’s recovery and recycling strategy. Implementing successful waste management and recycling initiatives depends on public awareness. Public education and outreach is essential to instruct the community on how to properly dispose of waste and how to participate in recycling programs. ENV coordinates numerous events year-round to educate the public about waste management and recycling. Public Education and Outreach Programs include the following.

i. The City’s Opala Website

69. The City’s www.opala.org website is the cornerstone of ENV’s public education program and provides comprehensive and up-to-date information about the City’s refuse and recycling programs and services.

ii. Tour De Trash

70. The public has an opportunity to get an up-close look at waste processing and recycling operations and go behind the scenes at businesses that have instituted model recycling programs.

d. Sewage Sludge Alternatives

71. The residual solids and semi-solids separated during the treatment of wastewater at wastewater treatment plants (“WWTPs”) are commonly referred to as sewage sludge or bio-

solids. These materials have been landfilled, but the City has been working to divert much of this waste stream from WGSL. The Synagro facility at the Sand Island WWTP digests, dewateres, and heat-dries approximately 20,000 tons per year of sewage sludge. The end product is a pellet that can be used as a fertilizer or soil amendment material. The approximately 15,000 tons per year of biosolids from all other WWTPs on O‘ahu that presently go to the WGSL, hopefully will be diverted from the landfill to the anticipated In-vessel Conversion Facility to be completed in 2013 for processing with Green and Food Waste. Furthermore, ENV is working with the operator of HPOWER, Covanta, to be able to burn sewage sludge for energy as part of the anticipated third boiler to be completed in 2012.

72. ENV also recently completed a report, “Alternative Technologies for the Treatment and Minimization of Sewage Sludge,” that identifies potential sludge processing technologies that could be implemented to provide waste mitigation or improve operational performance at the City’s WWTPs. See Report attached hereto and incorporated herein as Exhibit “A33.” The report discusses a wide range of technologies for different stages in the sludge treatment process and thus technologies cannot be directly compared outside their specific treatment and processing function. Accordingly, the report is a list of appropriate technologies for further consideration as part of the ongoing island-wide solids planning effort; it is not a decision making document that recommends a best solution. Additional factors that will need to be considered as part of any evaluation and selection process include:

- An assessment of a particular alternative technology specific to the WWTP(s) with respect to the facilities already existing there.
- Capital and operation and maintenance costs specific to the WWTP(s) under consideration.
- Implementation timeline for planning, design, permitting, procurement, construction and startup.
- Compatibility of technology with overall Island-wide Solids Master Plan.

- New development and increased future capacity needs.
- Planned upgrades at the existing WWTPs (i.e., upgrade to secondary treatment).

73. The report points out that the technology and process selection for implementation at any of the WWTPs will need to be evaluated from an island-wide perspective due to the issues of combining/transporting solids between WWTPs as well as the identified end-user needs and beneficial use limitations. Other key elements that should be considered in evaluating these technologies and processes for the Island-wide Master Plan include reliability and redundancy planning in the event that a WWTP treatment unit (i.e., centrifuge or digester) or solids outlet (i.e., landfill or composting facility) is temporarily out of service.

74. Thus, despite the City's successes in diverting sewage sludge from the landfill, 15,000 to 20,000 tons per year of sewage sludge is landfilled, and as of July 31, 2011, there is nowhere else to dispose of that sewage sludge.

IV. OPERATIONAL CHALLENGES

75. The successes in diverting MSW from the Landfill are not without setbacks.

1. Transshipment of Solid Waste Off-island Is No Longer a Viable Alternative.

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

77. Upon entering into a contract to ship Hawaii waste to Washington and Oregon, Hawaii Waste Systems Inc. (“HWS”) was unable to obtain the necessary permits and then on July 8, 2010, the U.S. Department of Agriculture (“USDA”) issued a Notification of Suspension of Operations Pursuant to Compliance Agreement No. Oahu RGOO2 to HWS, attached hereto and incorporated herein as Exhibit “A32”. On August 30, 2010, the United States District Court, Eastern District of Washington issued an injunction prohibiting 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 “A24.” The USDA has canceled the Compliance Agreement permits of all Hawaii shippers that might otherwise have been able to ship waste to the mainland. See copy of USDA letter dated August 11, 2010 notifying HWS of the cancellation of Compliance Agreements No. Oahu RG002 and HMSW001 attached hereto and incorporated herein Exhibit “A23.” Further, as attested to during the October 5, 2011 Public Hearing in this matter, the Yakama Nation has indicated it will intervene to prevent Hawaii waste traveling along its territory. See Public Testimony of the Confederated Tribes and Bands of the Yakama Nation Regarding Ewa-State Special Use Permit Amendment Application – 2009/SUP-2 (RY) Waimanalo Gulch Sanitary Landfill (WGSL) attached here to and incorporated herein as Exhibit A25.

78. 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 MSW that HWS had already taken control of from the City but has never shipped off-island, HWS agreed to disassemble the bales, sort the waste, and take the burnable waste to HPOWER and the

non-burnable waste to the Waimanalo Gulch Landfill. As of May 2011, the approximately 20,000 tons of MSW under HWS' control was disposed of at either HPOWER or WGSL.

2. WGSL Impacted by December 2010 and January 2011 Torrential Rains.

79. In December 2010 and January 2011, WGSL was hit by a series of heavy rains that resulted in the flooding of areas within WGSL, including the active cell where MSW was being disposed. At this time, WMH was in the process of completing construction of the Western Surface Water Drainage System that was intended to divert stormwater around the Landfill. Unfortunately, the torrential rains in December 2010 and January 2011 occurred before the Western Surface Water Drainage System was completed. Consequently, the active cell was inundated with stormwater and the force and quantity of stormwater breached the cell, causing a release of MSW, including treated medical waste, into the stormwater and into the ocean. The City has been cooperating with Federal and State investigations concerning the release of MSW.

80. WMH contends that flooding of the cell and the resultant release of MSW was not due to any operational error on the part of WMH but was due to the sheer force and magnitude of the storms. WMH asserts that at all times it was acting in compliance with the WGSL permit, which allowed for the simultaneous construction of the cell and Western Surface Water Drainage System. WMH asserts that it exercised best management practices in responding to the storms because it believes its actions avoided the flooding of the neighboring Kahe Power Plant owned by Hawaiian Electric Company.

81. WMH and the City worked with EPA and DOH in the aftermath of the storms, entering into an Administrative Order on Consent with EPA that outlined the remedial actions needed to address the MSW release and steps needed to reopen the Landfill. The EPA recently

issued a Notice of Violation (“NOV”) concerning the MSW release. EPA did not impose any penalties as part of the NOV and continues to monitor the WGSL operations closely.

3. **Irregular Landfill Gas Data.**

82. In September 2011, WMH notified the City, EPA, and DOH that it identified significant irregularities with the landfill gas data that had purportedly been collected and recorded by its landfill gas technician at WGSL. Further investigation by WMH revealed that a rogue WMH employee had fabricated some wellhead gas parameter measurements instead of collecting the data through verifiable measurements. The employee failed to collect actual data from mid-2010 until August 2011.

83. As a result of WMH’s initial investigation, WMH hired an environmental consultant to perform a detailed assessment of (1) the current status of the wellfield and gas collection and control system to determine whether the fabricated data has concealed adverse changes in the wellfield, and (2) the past status of the wellfield based on verifiable data. Based upon the detailed assessment, WMH concluded that the wellfield and gas collection control system is performing within the expected range of monitored parameters at the facility and that there is no evidence that the wellfield has undergone any adverse changes in the last two years.

V. **WGSL IS NECESSARY FOR PROPER MANAGEMENT OF MUNICIPAL SOLID WASTE**

84. The 2009 Planning Commission did not place an expiration date on 2008/SUP-2 or any deadline for the acceptance of waste at WGSL because it recognized the futility of setting unrealistic deadlines for closure. As Planning Commissioner Komatsubara stated, “[S]imply putting on a new closure date to this new SUP will not lead to the closure of the Waimanalo Gulch Sanitary Landfill. . . . [T]he 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." And that is precisely what the City is doing. The Landfill site Selection Committee is thoroughly evaluating potential new landfill sites, and the City is continuing to focus on diverting more and more waste away from the Landfill.

85. Planning Commissioner Komatsubara was right. We need a landfill. We cannot shut down WGSL before another landfill or alternate disposal option/technology is available and even then, the reality is that the City will not be able to divert ALL waste from the Landfill. HPOWER's third boiler, which may eventually be able to take a number of wastes currently going to the Landfill, including sewage sludge, will not be operational by the deadline. The vendor that the City contracted with to recycle sewage sludge into compost also will not be prepared to process sewage sludge by the deadline.

86. Moreover, imposition of the ban on MSW is not going to shut down the Landfill. Ash and residue will still be disposed of at WGSL. It is unreasonable to put the health and safety of the people of O'ahu at risk by preventing the disposal of certain waste streams when the Landfill will continue operating even under Condition 14. Ash and residue from HPOWER are deposited at WGSL 24 hours a day, 7 days a week under WGSL's current permit and will continue to be deposited after July 31, 2012 on the same schedule as part of the City's waste diversion programs until the Landfill reaches capacity.

87. Furthermore, if there is a natural disaster – a hurricane, tsunami, or 100-year storm – that produces unmanageable debris for HPOWER or incapacitates the HPOWER facility, there will be no expeditious disposal option. Such a 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. Without the Landfill, the City also would no longer be permitted to operate HPOWER, 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. In other words, not only would there be no sanitary or secure means of disposing of special wastes and bulky wastes, HPOWER would no longer be permitted to accept any MSW, and there would be no facility to properly dispose of disaster debris. Forcing the Landfill to cease accepting MSW will result in major public health and safety concerns for the City, its residents and visitors, and the State of Hawai‘i. See 2009 Planning Commission Decision, ¶ 93, pg. 18.


88. The recent closure of WGSL from January 12 to January 28, 2011, due to unprecedented storms in December 2010 and in January 2011, illustrates the need for a landfill. During that seventeen-day closure period, there were delays in the disposal of HPOWER residue, bulky item waste, and wastewater sludge. All such wastes cannot be disposed of at HPOWER and must be disposed of in the Landfill. The closure of WGSL hampered HPOWER’s ability to accept MSW because of the backlog of residue that had accumulated at the facility. City refuse transfer stations that depend on HPOWER for waste disposal were adversely impacted and experienced heavy buildups of trash. City wastewater treatment facilities had to resort to temporary onsite storage of sewage sludge in limited-capacity holding areas to cope with the situation. Further, ENV had to cease collection of bulky item wastes resulting in unsightly and potentially dangerous piles of waste on sidewalks.

89. By 2012, when HPOWER'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 HPOWER 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 HPOWER due to routine maintenance, unanticipated closures or if the amount of waste exceeds the capacity of the facility.

90. A landfill is currently necessary for proper solid waste management to avoid the potential health and safety issues for O'ahu's residents and visitors. 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. Requiring the landfill to stop accepting MSW on July 31, 2012, will have immediate and dire consequences for all of O'ahu.

I declare under penalty of perjury that the foregoing facts are true and correct to the best of my knowledge and belief.

DATED: Honolulu, Hawaii, December 13, 2011.


TIMOTHY E. STEINBERGER

BEFORE THE PLANNING COMMISSION
OF THE CITY AND COUNTY OF HONOLULU

STATE OF HAWAII

In the Matter of the Application of) FILE NO. 2008/SUP-2
)
DEPARTMENT OF ENVIRONMENTAL) CERTIFICATE OF SERVICE
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.")
_____)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT A COPY OF THE **DEPARTMENT OF ENVIRONMENTAL SERVICES, CITY AND COUNTY OF HONOLULU'S FIRST AMENDED LIST OF WITNESSES** was duly served by either hand-delivery or U. S. Mail, postage prepaid, to the following on the date below, addressed as follows:

DEPARTMENT OF PLANNING AND PERMITTING
City and County of Honolulu
650 South King Street, 7th Floor
Honolulu, Hawai'i 96813

IAN L. SANDISON
DEAN H. ROBB
TIM LUI-KWAN
Carlsmith Ball LLP
American Savings Bank Tower
1001 Bishop Street, Suite 2200
Honolulu, Hawai'i 96813

Attorneys for Intervenor
SCHNITZER STEEL HAWAII CORP.

CALVERT G. CHIPCHASE
CHRISTOPHER T. GOODWIN
Cades Schutte LLP
1000 Bishop Street, Suite 1200
Honolulu, Hawaii 96813

Attorneys for Intervenors
KO OLINA COMMUNITY ASSOCIATION and MAILE SHIMABUKURO

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



DANA VIOLA
ROBERT BRIAN BLACK
Deputies Corporation Counsel
Attorneys for Applicant
DEPARTMENT OF ENVIRONMENTAL
SERVICES, CITY AND COUNTY
OF HONOLULU