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Attorneys for Intervenors
KO OLINA COMMUNITY ASSOCIATION
and MAILE SHIMABUKURO

BEFORE THE PLANNING COMMISSION
OF THE CITY AND COUNTY OF HONOLULU
STATE OF HAWAI'I

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."

RECEIVED

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DEPT OF PLANNING
AND PERMITTING
CITY & COUNTY OF HONOLULU

FILE NO. 2008/SUP-2

INTERVENORS KO OLINA
COMMUNITY ASSOCIATION AND
MAILE SHIMABUKURO'S FIFTH
AMENDED EXHIBIT LIST

EXHIBITS K164-K169

CERTIFICATE OF SERVICE

**INTERVENORS KO OLINA COMMUNITY ASSOCIATION AND MAILE
SHIMABUKURO'S FIFTH AMENDED EXHIBIT LIST**

Intervenors Ko Olina Community Association and Maile Shimabukuro (together “Intervenors”) submit their fifth amended exhibit list. Intervenors reserve the right to amend or supplement this list as additional exhibits are identified:

Exhibit No.	Offered for Identification	Received in Evidence	Withdrawn	Description	Date R=Returned D=Destroyed Other Comments
K1		1/11/12		March 13, 2003 Findings of Fact, Conclusions, and Decision by the Planning Commission	
K2		1/11/12		June 5, 2003 Decision and Order Approving Amendment to Special Use Permit by the Land Use Commission	
K3		1/11/12		January 16, 2008 Findings of Fact, Conclusions of law, and Decision and Order by the Planning Commission	
K4		1/11/12		March 13, 2008 Findings of Fact, Conclusions of Law, and Decision by the Planning Commission	
K5		1/11/12		October 2008 Final Environmental Impact Statement re Waimanalo Gulch Sanitary Landfill Lateral Expansion by R.M. Towill Corporation (excerpts)	
K6		1/11/12		April 3, 2009 Letter from Abbey Seth Mayer to David K. Tanoue	
K7		1/11/12		June 22, 2009 Transcript of the Contested Case Hearing Before the Planning Commission (excerpts)	
K8		1/11/12		June 24, 2009 Transcript of the Contested Case Hearing Before the Planning Commission (excerpts)	

Exhibit No.	Offered for Identification	Received in Evidence	Withdrawn	Description	Date R=Returned D=Destroyed Other Comments
K9		1/11/12		July 1, 2009 Transcript of the Contested Case Hearing Before the Planning Commission (excerpts)	
K10		1/11/12		July 2, 2009 Transcript of the Contested Case Hearing Before the Planning Commission (excerpts)	
K11		1/11/12		July 8, 2009 Transcript of the Contested Case Hearing Before the Planning Commission (excerpts)	
K12		1/11/12		August 4, 2009 Findings of Fact, Conclusions of Law, and Decision and Order by the Planning Commission	
K13		1/11/12		September 22, 2009 Letter from Abbey Seth Mayer to Ransom Plitz	
K14		1/11/12		September 24, 2009 Transcript of Proceedings Before the Land Use Commission (excerpts)	
K15		1/11/12		October 22, 2009 Order Adopting the City and County of Planning Commission's Findings of Fact, Conclusions of Law and Decision and Order with Modifications by the Land Use Commission	
K16		1/11/12		January 22, 2010 Status Report on Reducing and/or Continuing the Use of Waimanalo Gulch Sanitary Landfill (WGSL)	

Exhibit No.	Offered for Identification	Received in Evidence	Withdrawn	Description	Date R=Returned D=Destroyed Other Comments
K17		1/11/12		April 12, 2010 Appellee Land Use Commission's Answering Brief in <i>Department of Environmental Services v. Land Use Commission</i> , Civ. No. 09-102719-11 (Haw. 1st Cir. Ct.) (excerpts)	
K18		1/11/12		April 21, 2010 Status Report on Reducing and/or Continuing the Use of Waimanalo Gulch Sanitary Landfill (WGSL)	
K19		1/11/12		Dwight E. Miller, PE Resume and Project Litigation and Expert Witness Experience	
K20		1/11/12		September 21, 2010 Order Affirming Land Use Commission's Order Adopting the City and County of Planning Commission's Findings of Fact, Conclusions of Law, and Decision and Order dated October 22, 2009 with Modifications in <i>Department of Environmental Services v. Land Use Commission</i> , Civ. No. 09-1-2719-11 (Haw. 1st Cir. Ct.)	
K21		1/11/12		October 19, 2010 Status Report on Reducing and/or Continuing the Use of Waimanalo Gulch Sanitary Landfill (WGSL)	
K22		1/11/12		January 2011 Fiscal & Economic Benefits Analysis Prepared for Ko Olina Resort Operators Association Prepared by CBRE Strategic Consulting	
K23		1/11/12		January 13, 2011 News Release re Landfill Flooding Affects Waters Between Ko Olina and Kahe Power Plant by the Department of Health	

Exhibit No.	Offered for Identification	Received in Evidence	Withdrawn	Description	Date R=Returned D=Destroyed Other Comments
K24		1/11/12		Proposed Revised Ewa Development Plan	
K25		1/11/12		January 18, 2011 Status Report on Reducing and/or Continuing the Use of Waimanalo Gulch Sanitary Landfill (WGSL)	
K26		1/11/12		January 20, 2011 Meeting No. 1 Materials for the Mayor's Advisory Committee on Landfill Site Selection	
K27		1/11/12		January 20, 2011 Meeting No. 1 Group Memory by the Mayor's Advisory Committee on Landfill Site Selection	
K28		1/11/12		January 26, 2011 Letter from Ronald E. Boyle of AECOM Technical Services, Inc. to Waste Management of Hawaii	
K29		1/11/12		March 10, 2011 Meeting No. 3 Group Memory by Mayor's Advisory Committee on Landfill Site Selection	
K30		1/11/12		March 31, 2011 Meeting No. 4 Agenda and Materials for the Mayor's Advisory Committee on Landfill Site Selection	
K31		1/11/12		March 31, 2011 Meeting No. 4 Group Memory by the Mayor's Advisory Committee on Landfill Site Selection	
K32		1/11/12		April 18, 2011 Status Report on Reducing and/or Continuing the Use of Waimanalo Gulch Sanitary Landfill (WGSL)	
K33		1/11/12		May 12, 2011 Meeting No. 5 Group Memory by the Mayor's Advisory Committee on Landfill Site Selection	

Exhibit No.	Offered for Identification	Received in Evidence	Withdrawn	Description	Date R=Returned D=Destroyed Other Comments
K34		1/11/12		June 1, 2011 Letter from Timothy E. Steinberger to Vladimir P. Devine	
K35		1/11/12		July 18, 2011 Status Report on Reducing and/or Continuing the Use of Waimanalo Gulch Sanitary Landfill (WGSL)	
K36		1/11/12		July 25, 2011 Letter from S.B. Teramoto of the Association of Apartment Owners of the Coconut Plantation in the Ko Olina Resort and Marina the Coconut Plantation to David K. Tanoue	
K37		1/11/12		August 9, 2011 Letter from Mario Beekes to David K. Tanoue	
K38		1/11/12		August 8, 2011 Letter from Ken Williams of Ko Olina Community Association to David K. Tanoue	
K39		1/11/12		August 10, 2011 Letter from Duke Hospodar of Resort Operations-LLC to David Tanoue	
K40		1/11/12		August 10, 2011 Letter from Mona Abadir of Honu Group Communications, LLC to David K. Tanoue	
K41		1/11/12		August 10, 2011 Letter from Ralph F. Harris of Ko Olina Fairways – Association of Apartment Owners to David K. Tanoue	
K42		1/11/12		August 11, 2011 Letter from Alan Nakamura of Ko Olina Golf Course to David K. Tanoue	
K43		1/11/12		August 12, 2011 Letter from Jo Jordan of the Hawai'i House of Representatives to the Department of Planning and Permitting	

Exhibit No.	Offered for Identification	Received in Evidence	Withdrawn	Description	Date R=Returned D=Destroyed Other Comments
K44		1/11/12		August 12, 2011 Letter from Joseph Yamaoka of Resort Management Company LLC to David K. Tanoue	
K45		1/11/12		August 13, 2011 Letter from Masaki Nagamine of Watabe Wedding Corporation to David K. Tanoue	
K46		1/11/12		August 13, 2011 Letter from Colleen Hanabusa to David K. Tanoue	
K47		1/11/12		August 17, 2011 Letter from Leland Ribac for George S. Yamamoto of the Makakilo/Kapolei/Honokai Hale Neighborhood Board No. 34 to David K. Tanoue	
K48		1/11/12		December 7, 2007 Settlement Agreement between the Department of Health, Waste Management of Hawaii, Inc., and the City	
K49		1/11/12		December 15, 2010 Letter from Justin Lottig to Lene Ichinotsubo with Attachment	
K50		1/11/12		December 19, 2010 Incident Alert Form	
K51		1/11/12		December 21, 2010 Email from Justin Lottig to Thomas Miyashiro	
K52		1/11/12		December 23, 2010 Investigation Report by the Department of Health, Clean Water Branch	
K53		1/11/12		December 30, 2010 Email from Justin Lottig to Lene Ichinotsubo with Attachments	
K54		1/11/12		January 12, 2011 Email from Joanna Seto to Timothy Steinberger	

Exhibit No.	Offered for Identification	Received in Evidence	Withdrawn	Description	Date R=Returned D=Destroyed Other Comments
K55		1/11/12		January 12, 2011 Email from Timothy Steinberger to Joanna Seto with Attachment	
K56		1/11/12		January 12 and 13, 2011 Station Summary Palehua Hawaii	
K57		1/11/12		2003 and 2004 Articles regarding R.M. Towill	
K58		1/11/12		December 1, 2003 Report of Mayor's Advisory Committee (Blue Ribbon Committee) on Landfill Site Selection without Attachments	
K59		1/11/12		January 31, 2006 Letter from Laurence K. Lau to Paul Burns and Eric Takamura with Enclosures	
K60		1/11/12		April 5, 2006 Letter from Deborah Jordan to Paul Burns and Eric S. Takamura with Enclosure	
K61		1/11/12		December 18, 2006 Article, Firms land contracts despite donation fines, Honolulu Advertiser, by Rick Daysog	
K62		1/11/12		March 12, 2008 Engineering Report for Landfill Expansion: Waimanalo Gulch Landfill, Ewa Beach, Oahu, Hawaii prepared by Geosyntec Consultants without Appendices	
K63		1/11/12		March 2009 Second 6-Month Report Status of Operations Waimanalo Gulch Sanitary Landfill and Actions Taken to Further Reduce Waste Volumes Disposed of at the Landfill	

Exhibit No.	Offered for Identification	Received in Evidence	Withdrawn	Description	Date R=Returned D=Destroyed Other Comments
K64		1/11/12		September 2009 Third 6-Month Report Status of Operations Waimanalo Gulch Sanitary Landfill and Actions Taken to Further Reduce Waste Volumes Disposed of at the Landfill.	
K65		1/11/12		May 12, 2010 Letter from Wilfred K. Nagamine to Joe Whelan	
K66		1/11/12		May 13, 2010 Letter from Laurence K. Lau to Joe Whelan and Timothy Steinberger with Enclosures	
K67		1/11/12		September 15, 2010 Article, The super \$6K club part II: Engineers vs. Educators: Abercrombie racks up big bucks as election day draws near, by Alan D. McNarie	
K68		1/11/12		March 31, 2011 City & County of Honolulu Mayor's Advisory Committee on Landfill Site Selection Agenda with Attachments	
K69		1/11/12		April 20, 1987 Findings of Fact, Conclusions of Law and Decision and Order by the Land Use Commission	
K70		1/11/12		October 31, 1989 Findings of Fact, Conclusions of Law and Decision and Order by the Land Use Commission	
K71		1/11/12		July 6, 2007 Planning Division Master Application Form (excerpts)	
K72		1/11/12		July 31, 2009 Meeting of the Planning Commission Transcripts (excerpts)	

Exhibit No.	Offered for Identification	Received in Evidence	Withdrawn	Description	Date R=Returned D=Destroyed Other Comments
K73		1/11/12		January 27, 2011 Article, No Paperwork to Back Up Safety of Medical Waste, by Adrienne LaFrance	
K74		1/11/12		November 21, 2011 Article, City Pays Landfill Operator \$2.6M for Spill Cleanup, by Michael Levine, with Attachment	
K75		1/11/12		January 25, 2011 Administrative Order on Consent for Removal Action by the Environmental Protection Agency and Waste Management of Hawaii, Inc.	
K76		1/11/12		May 25, 2005 Letter from Eric S. Takamura to Anthony Ching	
K77		1/11/12		February 2, 2011 Transcript of Proceedings Before the Land Use Commission	
K78		1/11/12		January 28, 2011 Article, Stormwater Released Into Ocean to Avoid Larger Landfill Catastrophe, by Michael Levine	
K79		1/11/12		November 30, 2011 Article, EPA Orders Additional Safeguards at Waimanalo Gulch Landfill, by Adrienne LaFrance	
K80		1/11/12		January 17, 2011 More Medical Waste Wash On West Shores 5 Days After Landfill Spill, by KITV.com	
K81		1/11/12		April 21, 2006 Transcript of Proceedings Before the Land Use Commission (excerpts)	
K82		1/11/12		September 5, 2008 Letter from Thomas E. Arizumi to Joseph Whelan and Eric Takamura	
K83		1/11/12		March 6, 2008 Transcript of Proceedings Before the Land Use Commission (excerpts)	

Exhibit No.	Offered for Identification	Received in Evidence	Withdrawn	Description	Date R=Returned D=Destroyed Other Comments
K84		1/11/12		March 7, 2008 Transcript of Proceedings Before the Land Use Commission (excerpts)	
K85		1/11/12		March 27, 2003 Hearing Transcript Before the Land Use Commission (excerpts)	
K86		1/11/12		May 12, 2011 Final Criteria List for the Mayor's Advisory Committee on Landfill Site Selection	
K87		1/11/12		June 22, 2004 Letter from Frank J. Doyle to Anthony J.H. Ching	
K88		1/11/12		July 30, 2004 Letter from Frank J. Doyle to Anthony J.H. Ching	
K89		1/11/12		November 30, 2004 Letter from Frank J. Doyle to Anthony J.H. Ching	
K90		1/11/12		March 1, 2006 Letter from Anthony J.H. Ching to Eric S. Takamura	
K91		1/11/12		July 2010 First Annual Report, Status of Actions Taken to Satisfy the State Land Use Commission's Order Dated October 22, 2009 and Status of Operations Waimanalo Gulch Sanitary Landfill	
K92		1/11/12		June 1, 2011 Second Annual Report, Status of Actions Taken to Satisfy the State Land Use Commission's Order Dated October 22, 2009 and Status of Operations Waimanalo Gulch Sanitary Landfill	
K93		1/11/12		September 2008 6-Month Report Status of Operations, Waimanalo Gulch Sanitary Landfill and Actions Taken to Further Reduce Waste Volumes Disposed of at the Landfill (excerpts)	

Exhibit No.	Offered for Identification	Received in Evidence	Withdrawn	Description	Date R=Returned D=Destroyed Other Comments
K94		1/11/12		October 22, 2009 Order Adopting the City & County of Honolulu Planning Commission's Findings of Fact, Conclusions of Law, and Decision and Order with Modifications by the Land Use Commission	
K95		1/11/12		September 23, 2009 Letter from Maeda C. Timson to the Land Use Commission	
K96		1/11/12		August 16, 2011 Draft Regular Meeting Minutes by the Nanakuli-Maili Neighborhood Board No. 36	
K97		1/11/12		May 2, 2011 Letter from Steven Chang to Joseph Whelan and Timothy Steinberger	
K98		1/11/12		December 1, 2011 Article, City Ordered to Improve Monitoring at Landfill, by Gary T. Kubota	
K99		1/11/12		January 2011 Articles from KHON, Hawaii News Now, Star Advertiser re Landfill spill	
K100		1/11/12		July 6, 2009 Declaration of Gary Y. Takeuchi with attached Environmental Impact Statement	
K101		1/11/12		October 25, 2006 Warning letter from Thomas E. Arizumi to Paul Burns & the Honorable Eric Takamura	
K102		1/11/12		Photographs of Ko Olina Lagoons	
K103		1/11/12		Photographs of Ko Olina Clean-Up Efforts (some photographs stamped with dates photographs were taken)	
K104		1/11/12		Photographs of Ko Olina Clean-Up Efforts – Before and After	

Exhibit No.	Offered for Identification	Received in Evidence	Withdrawn	Description	Date R=Returned D=Destroyed Other Comments
K105		1/11/12		Photographs of Debris (photographs stamped with dates photographs were taken)	
K106		1/11/12		Photographs of Empty Beaches (photographs stamped with dates photographs were taken)	
K107		1/11/12		Photographs of Landfill Drainage	
K108		1/11/12		Photographs of Medical Waste (some photographs stamped with dates photographs were taken)	
K109		1/11/12		Photographs of Muddy Waters (photographs stamped with dates photographs were taken)	
K110		1/11/12		Videos of Ko Olina Clean-Up Efforts: K110a: January 20, 2011 Video K110b: January 20, 2011 Video K110c: January 14, 2011 Video K110d: January 14, 2011 Video K110e: January 18, 2011 Video K110f: January 18, 2011 Video K110g: January 20, 2011 Video K110h: January 14, 2011 Video	
K111		1/11/12		Photographs of Trash from the Landfill at Ko Olina (photographs stamped with dates photographs were taken)	
K112		1/11/12		Photographs of Views of the Landfill from Ko Olina (some photographs stamped with dates photographs were taken)	
K113		1/11/12		Photograph of a Warning Sign (photograph stamped with date photograph was taken)	
K114		1/11/12		Photograph of a Wedding (photograph stamped with date photograph was taken)	

Exhibit No.	Offered for Identification	Received in Evidence	Withdrawn	Description	Date R=Returned D=Destroyed Other Comments
K115		1/11/12		August 12, 2011 Letter from Alex Duarte to David K. Tanoue	
K116		1/11/12		August 12, 2011 Letter from Lance Jeffery to David Tanoue	
K117		1/11/12		July 20, 2011 Letter from William and Sara Barnes to David Tanoue	
K118		1/11/12		August 1, 2011 Letter from Harriet Bloom to David Tanoue	
K119		1/11/12		August 15, 2011 Letter from James Handsel to David Tanoue	
K120		1/11/12		August 12, 2011 Email from Greg Nichols to David Tanoue	
K121		1/11/12		August 12, 2011 Letter from Chuck Krause to David Tanoue	
K122		1/11/12		August 11, 2011 Letter from Pieter and Claire van Wingerden to David Tanoue	
K123		1/11/12		November 29, 2011 Letter from Alexis Strauss to Timothy Steinberger and Joseph Whelan	
K124		1/11/12		2011 Filings in <i>Confederated Tribes and Bands of the Yamaka Nation v. United States Dep't of Agriculture</i> , No. CV-10-3050-EFS (E.D. Wash.)	
K125		1/11/12		May 3, 2007 Letter from Thomas E. Arizumi to Paul Burns and the Honorable Eric Takamura	
K126		1/11/12		February 24, 2006, 2006 State of the City Address, by Mufi Hanneman	
K127		1/11/12		Photographs of Stones at Waimanalo Gulch Sanitary Landfill (photographs stamped with dates photographs were taken)	

Exhibit No.	Offered for Identification	Received in Evidence	Withdrawn	Description	Date R=Returned D=Destroyed Other Comments
K128		1/11/12		November 30, 2011 Petition to Close Waimanalo Gulch Landfill and Locate Landfill Operations Outside District 1	
K129		1/11/12		Photographs of Stones at Waimanalo Gulch Sanitary Landfill (photographs stamped with dates photographs were taken)	
K130		1/11/12		October 9, 2007 Book excerpt by Shad Kane, Waimanalo: Navigational Stones	
K131		1/11/12		March 17, 2011 PBSHawaii.org video on Insights, Where Should Garbage Go	
K132		1/11/12		1981 and 1983 Ewa Development Plans (excerpts)	
K133		1/11/12		News Videos Regarding the January 2011 Spill: K133a: January 14, 2011 KHON 2 Video K133b: January 15, 2011 KHON 2 Video K133c: January 22, 2011 KITV 4 Video	
K134		1/11/12		Letters from Ken Williams to Joe Whelan	
K135		1/11/12		April 13, 2008 E-mail String re Report of Debris Flying from City/County Vehicle	
K136		1/11/12		March 20, 2007 Letter from Edward R. Appleby to Todd Apo	
K137		1/11/12		June 14, 2010 Letter from Ken Williams to Joe Whelan re Foul Odors, dust and Noise	
K138		1/11/12		January 24, 2011 Waimanalo Gulch Landfill Spill Investigation Follow-Up	

Exhibit No.	Offered for Identification	Received in Evidence	Withdrawn	Description	Date R=Returned D=Destroyed Other Comments
K139		1/11/12		April 12, 2011 Invoice from Ko Olina Operations, LLC to Ko Olina Community Association	
K140		1/11/12		January 18, 2011 E-mail String re Landfill Runoff into the Ocean	
K141		1/11/12		January 19, 2011 E-mail String re Procedure for Disposal of Medical Waste and Landfill Concerns	
K142		1/11/12		January 20, 2011 Email string re Procedure for Disposal of Medical Waste and Landfill Concerns	
K143		1/11/12		February 2, 2011 Email string re: Landfill issue	
K144		1/11/12		October 2008 Integrated Solid Waste Management Plan Update Prepared for City & County of Honolulu, Hawaii (excerpts)	
K145		1/11/12		April 2000 New Systems Research for Refuse Disposal, prepared by R.M. Towill Corporation (excerpt)	
K146		1/11/12		Waimanalo Gulch Sanitary Landfill Design and Operation Review Technical Memorandum prepared by Parametrix and approved by Dwight Miller	
K147		1/11/12		Site Selection Evaluation Technical Memorandum prepared by Parametrix and approved by Dwight Miller	
K148		1/11/12		Waimanalo Gulch Landfill Alternatives Analysis Technical Memorandum prepared by Parametrix and approved by Dwight Miller	
K149		1/11/12		July 21, 2010 Status Report on Reducing and/or Continuing the Use of Waimanalo Gulch Sanitary Landfill (WGSL)	

Exhibit No.	Offered for Identification	Received in Evidence	Withdrawn	Description	Date R=Returned D=Destroyed Other Comments
K150		1/11/12		February 2, 2011 Land Use Commission Status Report on Waimanalo Gulch Sanitary Landfill	
K151		1/11/12		April 2010 AECOM Surface Water Management Plan Waimanalo Gulch Sanitary Landfill Kapolei, O'ahu, Hawaii	
K152		1/11/12		November 8, 2011 Landfill Meeting 7 Group Memory	
K153		1/11/12		November 8, 2011 Landfill Meeting Handout, Landfill Site Selection Study GIS Assessment, Mayor's Advisory Committee on Landfill Site Selection 2011	
K154		1/11/12		Photos from the Department of Health Clean Water Branch (photographs stamped with dates photographs were taken)	
K155		1/11/12		March 14, 2008 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 by the Land Use Commission	
K156		1/11/12		December 29, 2011 Letter from Ken Williams to Joe Whelan	
K157		1/11/12		August 30, 2011 Letter from Timothy E. Steinberger to Ronald Ho and John Brock with enclosure	
K158		1/11/12		August 18, 2011 Letter from Justin H. Lottig to John Brock and Ronald Ho	

Exhibit No.	Offered for Identification	Received in Evidence	Withdrawn	Description	Date R=Returned D=Destroyed Other Comments
K159		1/11/12		March 11, 2005 Letter from Thomas E. Arizumi to Eric S. Takamura with Enclosures	
K160		1/11/12		September 28, 2011 Landfill Gas Extraction Assessment by Environmental Information Logistics, LLC (excerpt)	
K161		1/11/12		Planning Division Master Application Form with Attachments (excerpt)	
K162		1/11/12		October 2008 Integrated Solid Waste Management Plan Update Prepared for City & County of Honolulu, Hawaii (excerpts)	
K163		1/25/12		October 2008 Final Environmental Impact Statement re Waimanalo Gulch Sanitary Landfill Lateral Expansion by R.M. Towill Corporation (excerpts)	
K164		1/25/12		January 3, 2012 Intervenors' Request for Issuance of a Subpoena Duces Tecum to the Custodian of Records of Waste Management of Hawaii, Inc. with attachments	
K165		1/25/12		January 20, 2012 Waste Management of Hawaii, Inc.'s Response and Objections to Subpoena Duces Tecum	
K166		1/25/12		2005 eWaste (Electronic Waste) printout from the ENV's website	
K167		1/25/12		March 2010 Hawaii Electronic Waste and Television Recycling and Recovery Law, Consumer Information	
K168		1/25/12		September 2011 Final Environmental Impact Statement, In-Vessel Composting Facility, Waialua, Oahu, Hawaii	

Exhibit No.	Offered for Identification	Received in Evidence	Withdrawn	Description	Date R=Returned D=Destroyed Other Comments
K169		1/25/12		May 11, 2011 Article, Council ends discount on tipping fees for recycling, Star Advertiser, by Star-Advertiser Staff	

DATED: Honolulu, Hawai'i, January 26, 2012.

CADES SCHUTTE
A Limited Liability Law Partnership



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CHRISTOPHER T. GOODIN

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and MAILE SHIMABUKURO

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To delete Condition No. 14 of Special
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2012, provided that only ash and residue
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WGSL after July 31, 2012."

FILE NO. 2008/SUP-2

INTERVENTORS' REQUEST FOR
ISSUANCE OF A SUBPOENA
DUCES TECUM TO THE
CUSTODIAN OF RECORDS OF
WASTE MANAGEMENT OF
HAWAII, INC.

SUBPONEA DUCES TECUM

[RE: CUSTODIAN OF RECORDS
OF WASTE MANAGEMENT OF
HAWAII, INC.]

EXHIBITS A-B

CERTIFICATE OF SERVICE

Contested Case:
Beginning December 7, 2011

RECEIVED

'12 JAN -3 P4 :06

DEPT OF PLANNING
AND PERMITTING
CITY & COUNTY OF HONOLULU

EXHIBIT K164

**INTERVENTORS' REQUEST FOR ISSUANCE OF A SUBPOENA DUCES
TECUM TO THE CUSTODIAN OF RECORDS OF WASTE
MANAGEMENT OF HAWAII, INC.**


Pursuant to Honolulu Planning Commission Rule § 2-69, Intervenor Ko Olina Community Association and Maile Shimabukuro hereby request that an authorized representative of the Honolulu Planning Commission issue a subpoena duces tecum to the custodian of records of Waste Management of Hawaii, Inc. to require the custodian of records to appear at 9:00 a.m. at the January 11, 2012 hearing in this matter, produce documents for inspection and copying, and testify as to the contents of the documents produced.

The documents sought to be produced are those relating to the fabrication of gas and/or air monitoring at the Waimanalo Gulch Sanitary Landfill (the "Landfill"). These documents and the related testimony by the custodian of records are believed to be material and relevant to the issues involved in this matter, including the risk of harm that the Landfill poses to public health, safety, and welfare.

Intervenor respectfully request that the subpoena attached hereto be issued by an authorized representative of the Honolulu Planning Commission.

DATED: Honolulu, Hawai'i, January 3, 2012.

CADES SCHUTTE
A Limited Liability Law Partnership



CALVERT G. CHIPCHASE
CHRISTOPHER T. GOODIN
Attorneys for Intervenor
KO OLINA COMMUNITY ASSOCIATION
and MAILE SHIMABUKURO

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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

SUBPOENA DUCES TECUM

[RE: CUSTODIAN OF RECORDS
OF WASTE MANAGEMENT OF
HAWAII, INC.]

EXHIBITS A-B

Contested Case:

Beginning December 7, 2011

SUBPOENA DUCES TECUM

THE CITY AND COUNTY OF HONOLULU TO:

ANY OFFICER AUTHORIZED BY LAW TO SERVE SUBPOENAS IN THE STATE OF HAWAII, YOU ARE COMMANDED to subpoena the individual named below:

CUSTODIAN OF RECORDS OF
WASTE MANAGEMENT OF HAWAII, INC.
92-460 Farrington Highway
Kapolei, Hawai'i 96707

WITNESS, YOU ARE COMMANDED to appear at the date, time, and place indicated below to testify as a witness on behalf of Intervenors Ko Olina Community Association and Maile Shimabukuro.

WITNESS, YOU ARE FURTHER COMMANDED to bring with you, and permit inspection and copying of, all documents related to the fabricated wellhead monitoring readings at the Waimanalo Gulch Sanitary Landfill taken in 2010 and 2011, as disclosed in Exhibits A and B hereto, including but not limited to: all documents containing or evidencing fabricated readings; all investigation reports related to the fabricated readings; all assessment documents related to the fabricated readings; all government notices, citations, and/or orders related the fabricated readings; all correspondence with the City and County of Honolulu and/or any other governmental agency or body related to the fabricated readings; and all documents related to remedial actions taken to address the fabricated readings.

Date: January 11, 2012

Time: 9:00 a.m.

Place: Mission Memorial Hearings Room
Mission Memorial Building
550 South King Street
Honolulu, Hawai'i

DATED: Honolulu, Hawai'i, January 6, 2012.


Gayle Pingree

AUTHORIZED REPRESENTATIVE
PLANNING COMMISSION
CITY AND COUNTY OF HONOLULU
STATE OF HAWAII

SEP - 0 2011



WASTE MANAGEMENT
92-460 Farrington Hwy.
Kapolei, HI 96707
(808) 668-2985
(808) 668-1366 Fax

By Email & USPS Certified Mail

August 18, 2011

John Brock
Air Enforcement Office
U.S. Environmental Protection Agency,
Region IX
75 Hawthorne Street
San Francisco, CA 94105
E-mail: Brock.John@epamail.epa.gov

Ronald Ho
Clean Air Branch
Hawaii Department of Health
919 Ala Moana Blvd., Suite 203
Honolulu, Hawaii 96814
E-mail: Ronald.ho@doh.hawaii.gov

RE: Waimanalo Gulch Municipal Solid Waste Landfill
Missed Reading Notification
Covered Source Permit No. 0489-01-C

As requested, this letter provides independent notification of the information previously reported in the semi-annual Report dated August 30, 2011.

As reported, in early August 2011, Waste Management of Hawaii, Inc. (WMH) identified suspect readings from recent wellhead monitoring and undertook an investigation. On August 26, 2011, the WMH employee admitted that he had failed to take numerous wellhead readings and instead fabricated those readings. WMH has terminated that employee and is undertaking further investigation to determine the scope of noncompliance. Therefore, the values reported for the 6-month average and maximum gauge pressures, oxygen concentrations, and temperatures are based on only the values for those wells and sampling events that were actually measured. The semiannual report does not include data that WMH reasonably suspects or has confirmed is not actual data taken for the wells.

Following completion of our investigation, a copy of our findings will be shared with your office. If you have additional questions please contact me at 808-668-2985.

Respectfully,

Justin H. Lottig
Environmental Protection Manager
Waste Management of Hawaii Inc.

CC: File
via e-mail
Wayne Hamada - CCH
Joseph Whelan - WMH

From everyday collection to environmental protection, Think Green® Think Waste Management.

Printed on 100% post consumer recycled paper.

EXHIBIT A

MD 17045

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 4:28

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 SERVICES, CITY AND COUNTY OF HONOLULU)	DEPARTMENT OF ENVIRONMENTAL SERVICES, CITY AND COUNTY OF HONOLULU'S WRITTEN DIRECT TESTIMONY OF TIMOTHY E. STEINBERGER; CERTIFICATE OF SERVICE
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.")	

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

EXHIBIT B

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

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. STEIMBERGER

451545.4
WATANABE ING LLP
A Limited Liability Partnership

WRAY H. KONDO #2036-0
DAVID S. TAGA #9046-0
First Hawaiian Center
999 Bishop Street, 23rd Floor
Honolulu, Hawaii 96813
Phone: 808-544-8300
Fax: 808-544-8399
E-mail: wkondo@wik.com

Attorneys for Non-Party
WASTE MANAGEMENT OF HAWAII, INC.

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
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only ash and residue from H-POWER shall be
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FILE NO. 2008/SUP-2

WASTE MANAGEMENT OF HAWAII,
INC.’S RESPONSE AND OBJECTIONS TO
SUBPOENA DUCES TECUM; EXHIBIT “1”;
CERTIFICATE OF SERVICE

**WASTE MANAGEMENT OF HAWAII, INC.’S
RESPONSE AND OBJECTIONS TO SUBPOENA DUCES TECUM**

Waste Management of Hawaii, Inc. (“Waste Management”), by and through its attorneys,
WATANABE ING LLP, hereby responds and objects to the “Subpoena Duces Tecum [Re:
Custodian of Records of Waste Management of Hawaii, Inc.]” (the “Subpoena”) filed by

EXHIBIT K165

RECEIVED
JAN 20 4:10
PLANNING COMMISSION
CITY AND COUNTY OF HONOLULU

Intervenors KO OLINA COMMUNITY ASSOCIATION and MAILE SHIMABUKURO (“Intervenors”) and signed by Gayle Pingree, Chairperson of the Planning Commission of the City and County of Honolulu on January 6, 2012. The Subpoena was served on Waste Management’s authorized Agent, The Corporation Company, Inc. on January 10, 2012 and Waste Management was notified of Subpoena in the afternoon on January 11, 2012, which also was the return day of the Subpoena.

The Subpoena commands Waste Management’s custodian of records to appear at 9:00 am on January 11, 2012 and further commands Waste Management as follows:

“WITNESS, YOU ARE FURTHER COMMANDED to bring with you, and permit inspection and copying of, all documents related to the fabricated wellhead monitoring readings at the Waimanalo Gulch Sanitary Landfill taken in 2010 and 2011, as disclosed in Exhibits A and B hereto, including but not limited to: all documents containing or evidencing fabricated readings; all investigation reports related to the fabricated readings; all assessment documents related to the fabricated readings; all government notices, citations, and/or orders related to the fabricated readings; all correspondence with the City and County of Honolulu and/or any other governmental agency or body related to the fabricated readings; and all documents related to remedial actions taken to address the fabricated readings.”

Waste Management responds as follows:

I. Intervenors Already Have Most of the Discoverable Documents That are Described in the Subpoena

Waste Management represents that for the most part the requested documents, as identified below, are already in the possession of the Intervenors and other parties in the pending

proceeding involving the Application filed on June 28, 2011 by the DEPARTMENT OF ENVIRONMENTAL SERVICES, CITY AND COUNTY OF HONOLULU (“ENV”).

1. The Subpoena seeks documents and information that the Intervenors already have in their possession as evidenced by the Exhibit Lists submitted by Intervenors, and the following identified Exhibits and/or are more readily obtainable from sources other than Waste Management, including, but not limited to, the Applicant ENV.

2. Specifically, the Intervenors currently possess the relevant, pertinent, non-confidential, non-privileged information relating to the wellhead monitoring readings at the Waimanalo Gulch Sanitary Landfill taken in 2010 and 2011 as requested in the Subpoena, as identified in items 3 – 6 below:

3. EIL 2009 through 2011 Waimanalo Gulch Sanitary Landfill, Monthly Perimeter Gas Monitoring Letter Reports prepared for Waste Management which Dwight Miller of Parametrix relied on as a reference in preparing Intervenors’ Exhibit 146.

4. Intervenors Exhibit K-157 listed in Intervenors’ December 20, 2011 Second Amended Exhibit List, the wellhead monitoring issue is described and explained in the August 30, 2011 letter from Timothy E. Steinberger, Director of Applicant ENV to Ronald Ho of the Clean Air Branch, Department of Health, State of Hawaii and John Brock of the EPA and the attached August 29, 2011 Semi-Annual Report January 1, 2011 through June 30, 2011 prepared by Environmental Information Logistics (“EIL”) relating to Waimanalo Gulch Sanitary Landfill, Covered Source Permit No. 0489-01-C.

5. Intervenors Exhibit K-158 listed in Intervenors’ December 20, 2011 Second Amended Exhibit List, the wellhead monitoring issue is further described and explained in the August 18 [sic], 2011 letter from Justin Lottig, Environmental protection Manager of Waste

Management to John Brock of the EPA and Ronald Ho of the Clean Air Branch, Department of Health, State of Hawaii. Note that Intervenor Exhibit K-158 refers to the Semi-Annual Report dated August 30, 2011 and was actually submitted on September 2, 2011. Waste Management represents that the date of Intervenor Exhibit K-158 should be September 2, 2011.

6. Intervenor Exhibit K-160 listed in Intervenor's January 5, 2012 Third Amended Exhibit List, the September 28 2011 Landfill Gas Extraction Assessment prepared by EIL relating to relating to Waimanalo Gulch Sanitary Landfill. This Assessment was undertaken to investigate the fabricated wellhead monitoring readings which is the subject of the Subpoena. Significantly, the conclusion states, in part, as follows:

There is no evidence of adverse changes in the condition of the wellfield. In particular, there is no evidence of any SOE [subsurface oxidation event], no smoke, no odor, no localized subsidence adjacent to any well. Therefore, despite the absence of some data during the time period in question, the available data shows no wild swings and no adverse changes in the condition of the wellfield. In particular, there is no evidence of an SOE or even conditions that would present a risk of an SOE. Further, the data indicates, even if the manual data was included in any evaluation, it would not significantly alter any of the conclusions or materially skew the data.

Intervenor Exhibit K-160 at 32. [Bracketed material added]

7. In response to the Subpoena, Waste Management submits attached Exhibit 1, which is the October 3, 2011 letter of Joseph R. Whelan General Manager of Waste Management sent to Timothy Steinberger, Director of Applicant ENV relating to the Landfill Gas Management System Investigation Report and which transmitted Intervenor Exhibit K-160.

8. In response to the Subpoena, Waste Management represents that it is not aware of any government notices, citations, and/or orders related to the fabricated readings.

9. In response to the Subpoena, Waste Management represents it is not aware of any other correspondence with the City and County of Honolulu and/or any other governmental agency or body related to the fabricated readings.

10. In response to the Subpoena, Waste Management submits attached Exhibit 1, which describes the remedial actions taken to address the fabricated readings.

II. Waste Management of Hawaii Objects to the Subpoena to the Extent It Seeks Irrelevant and Privileged Documents

Waste Management objects to the Subpoena on the following grounds:

1. The Subpoena seeks documents that are protected by the attorney-client privilege and/or work product doctrine.

2. The Subpoena seeks documents that contain highly confidential and proprietary, commercial and other highly sensitive business information.

3. The Subpoena is vague, overly broad, and seeks documents that are neither relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of relevant information.

4. The wellhead monitoring readings are irrelevant to the sole issue in this proceeding -- whether to delete Condition No. 14 of Special Use Permit No. 2008/SUP-2, which provides that municipal solid waste shall be allowed at the Waimanalo Gulch Sanitary Landfill up to July 31, 2012.

5. In seeking the documents described in the Subpoena, the Intervenors impermissibly seek to broaden the scope of and unduly delay this proceeding.

6. The Subpoena is oppressive and unduly burdensome in scope because it is vague, overly broad, and seeks documents that are privileged and/or are neither relevant to the subject matter of this Planning Commission proceeding, nor reasonably calculated to lead to the discovery of relevant information and has resulted in undue time and expense to Waste Management in responding to the Subpoena.

7. For these reasons, Waste Management respectfully objects to any further production of documents described in the Subpoena.

DATED: Honolulu, Hawaii, January 20, 2012.



WRAY H. KONDO
DAVID S. TAGA
Attorneys for Non Party
WASTE MANAGEMENT HAWAII, INC.



October 3, 2011

Mr. Tim Steinberger, Director
Department of Environmental Services
City & County of Honolulu
1000 Uluohia St., Suite 212
Kapolei, HI 96707

WASTE MANAGEMENT

92-460 Farrington Hwy.
Kapolei, HI 96707
(808) 668-2985
(808) 668-1366 Fax

RE: **Landfill Gas Management System Investigation Report**
Contract No. C-48689
Waimanalo Gulch Sanitary Landfill

Dear Mr. Steinberger:

As you know, in August, Waste Management of Hawaii, Inc. (WMH) discovered and reported that a large amount of landfill gas data that had purportedly been collected and reported to us by our former landfill gas technician had not in fact been collected. Instead, the data had been fabricated and manually entered into Waste Management's Landfill Gas Management System (LGMS). Based on interviews conducted during the investigation, we learned that the failure to collect data and the fabrication of replacement data began in mid-2010 and continued until August 2011 when the failure was investigated and identified. The failure to collect data and the manual entry of fabricated data into LGMS database is a clear violation of the company's written policy and procedures.

WMH deeply regrets the failure of this one employee to do his job and the unfortunate damage it caused to the credibility of the rest of WMH's hardworking landfill staff. We have implemented a number of procedures to prevent any future recurrences of this problem. First, the landfill gas technician no longer works for WMH and we are actively seeking to hire another technician. Second, we have modified our LGMS program to allow users to easily determine whether records are uploaded directly from a monitoring instrument or are manually entered. Third, we have placed restrictions on the ability of the "Technician" level gas technicians to enter data manually as follows:

- **Wells:** Manual entry of primary composition and physical parameters normally measured by the GEM monitoring instrument will not be allowed by users with "Technician" level access. These users will retain the ability to manually enter comments and other gas concentrations not normally measured with a gas emissions monitor (GEM) instrument.
- **Probes:** Manual entry of primary composition and physical parameters normally measured by the GEM will no longer be allowed by users with "Technician" level access. These users will retain the ability to manually enter comments and other gas concentrations not normally measured with a GEM instrument.
- **Sample Ports:** Manual entry of primary composition and energy parameters normally measured by the GEM will no longer be allowed by users with "Technician" level access. These users will retain the ability to manually enter physical parameters, comments, and other gas concentrations.

EXHIBIT 1

From everyday collection to environmental protection, Think Green.® Think Waste Management.

Not only has WMH implemented these changes for the Waimanalo Gulch Landfill, Waste Management has implemented these changes throughout the entire company for all of its landfills (over 200 landfills). These changes became effective on September 29th.

As a result of the discovery of the fabricated data, WMH also asked its third-party consultant, Environmental Information Logistics, LLC (EIL), to conduct a detailed assessment of (1) the current status of the wellfield and the gas collection and control system (GCCS), and (2) the past status of the wellfield based on data that conservatively excludes all data that was manually entered into LGMS. The purpose of this assessment was to provide reassurance that the fabricated or suspect data had not concealed adverse changes in the wellfield.

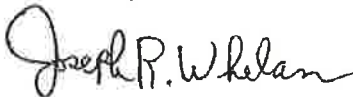
I am attaching a copy of EIL's report – *Landfill Gas Extraction Assessment* (Sep. 28, 2011) – which confirms the following:

- Based on the most recent verified data, there have been no adverse impacts on the wellfield, and the wellfield is acting consistent with WMH's expectations.
- While some gas temperatures have risen over the period in some wells, temperatures have not exceeded expected levels based on the wells' proximity to other wells with similar temperatures and can be explained by changes in fill elevations.
- Carbon monoxide concentrations are historically consistent and do not indicate any condition considered abnormal at the facility.
- Despite the absence of some data during the period in question, the available data shows no large variations and no adverse changes in the condition of the wellfield. Further, the data indicates, even if the manually uploaded data were included in the evaluation, it would not significantly alter any of the conclusions or materially skew the overall monitoring data.

We will continue to review the data from the well field to ensure that it continues to fall within expected and normal operating conditions.

Thank you for your patience regarding this matter. Please contact me at 668-2985 if you have any questions.

Sincerely,



Joseph R. Whelan
General Manager
Waste Management of Hawaii

Attachment

cc: File

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
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only ash and residue from H-POWER shall be
allowed at the WGS� after July 31, 2012.”

FILE NO. 2008/SUP-2

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

The undersigned certifies that on this day a copy of WASTE MANAGEMENT OF
HAWAII, INC.'S RESPONSE AND OBJECTIONS TO SUBPOENA DUCES TECUM;
EXHIBIT “1” was duly served on the following persons by means of facsimile and/or U.S. Mail:

CALVERT G. CHIPCASE, ESQ.
Cades Schutte LLP
1000 Bishop Street, Suite 1200
Honolulu, Hawaii 96813

FACSIMILE AND
U.S. MAIL

Attorneys for Intervenors
KO OLINA COMMUNITY ASSOCIATION and
MAILE SHIMABUKURO

ROBERT CARSON GODBEY, ESQ.
Corporation Counsel
DANA VIOLA, ESQ.
ROBERT BRIAN BLACK, ESQ.
Deputies Corporation Counsel
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530 South King Street, Room 110
Honolulu, Hawaii 96813

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U.S. MAIL

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


DEPARTMENT OF PLANNING AND PERMITTING U.S. MAIL
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Carlsmith Ball LLP
1001 Bishop Street, Suite 2200
Honolulu, Hawaii 96813

FACSIMILE AND
U.S. MAIL

Attorneys for Petitioner
SCHNITZER STEEL HAWAII CORP.

DATED: Honolulu, Hawaii, January 20, 2012.



WRAY H. KONDO
DAVID S. TAGA
Attorneys for Non Party
WASTE MANAGEMENT OF HAWAII, INC.



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eWaste (Electronic Waste)

What to do with your old electronics

The rules are different for home versus business and government e-waste. Business and governmental e-waste is banned from disposal on Oahu. Home electronics are exempted from the ban and can be disposed of with regular household refuse or bulky collection, but you are encouraged to consider the recycling options presented below. More recycling programs and options are evolving locally and nationwide each year.



Here's what's currently available to you:

- Donate
- Drop-off
- Retailer/Manufacturer Takebacks
- Batteries
- Cell Phones
- Local eCyclers
- For City Agencies
- More Info on eCycling

Locally, the Hawaii Electronic Waste and Television Recycling and Recovery Law was adopted by the Hawaii State Legislature in 2008. It requires electronics manufacturers to provide recycling programs for computers, computer monitors and televisions. The State Department of Health is responsible for implementing this new law.

On Oahu, e-waste was banned from disposal as of July 2006. Household and small quantity generators are exempt in accordance with EPA guidelines. Local businesses or commercial entities, which generate e-waste should contact the state Department of Health - Solid and Hazardous Waste Branch for more information, or refer to an e-waste recycler (eCycler) listed below.

All types of generators -- commercial, government, household -- are encouraged to investigate reuse options offered by local non-profits and trade-in programs offered by manufacturers.

Donate

Donate computer equipment to local schools and organizations. Newer, working equipment is preferred, however older or non-working equipment may also be accepted.

Hawaiian Hope

Hawaiian Hope accepts PC-compatible computer equipment (no Apple Mac products). CPU Units (the main box) can be repaired if not working, but all components (printers, monitors, mice, etc,) must be in WORKING condition. Hawaiian Hope will accept computers as old as 1Ghz Pentium 4, individual parts such as mice, memory, video cards, and network cards. Hawaiian Hope is especially in need of network switches (not hubs), networking hardware, cables, speakers and hard drives -- 20 GB and up and (They will scrub them clean for you while you watch.). Hawaiian Hope is also always looking for volunteers.

Hawaiian Hope is a technology-based non-profit organization and provides services to other non-profits with a strong focus on homeless services and disaster management. Hawaiian Hope uses donated computers to build computer classrooms in homeless shelters and provide computers to families moving back into housing in order to strengthen the lives of the people in the community.

Please visit their website for details: www.hawaiianhope.org
Please schedule your drop-off. Email: mail@hawaiianhope.org or call 352-8800.

Hawaii Computers for Kids

The Hawaii Computers for Kids Program has been coordinated by the Rotary Club of Metropolitan Honolulu since 1992. Over 150 schools throughout the state rebuild donated personal computers for use in classrooms. The program currently accepts Pentium 4 and later Celeron PCs, Mac G4s and faster models, printers connecting with USB, and one working monitor with each acceptable computer; other items may be accepted on a case-by-case basis. Donation receipts are offered.

Dr. Ken Goldstein, 521-2259, info@catii.com
Program Coordinator

National Cristina Foundation

National Cristina Foundation gives computer equipment and software a second productive life by placing these technology resources with charities, schools, and public agencies, to provide training to students at risk, the economically disadvantaged, and people with disabilities. Donated equipment is generally removed by a partner organization. Donors can also drop off equipment at a designated location or ship it to the partner organization.

FREE Drop-Off

Free e-waste drop-off is available during business hours at the following locations.

Best Buy

Both Best Buy locations on Oahu accept most consumer electronics, including televisions and monitors up to 32", desktops and notebooks, small electronics (small microwaves only), stereos, VCR and DVD players, and phones, as well as accessories such as keyboards, mice, and remotes. A \$10 recycling fee per unit will be charged for items with screens, such as televisions, laptop computers, and monitors (Fee does not apply for any of Best Buy's Exclusive-Branded products, such as Insignia, Dynex, and VPR Matrix). The fee will be instantly reimbursed as a \$10 Best Buy gift card. All hard and flash drives need to be wiped clean (this service can be provided for a fee). Two (2) units per day, per household maximum.

Intrade Corporation

847-5300

www.intradecorporation.com

Intrade Corporation warehouse in Kalihi - **FREE pickup or drop-off** of unlimited small consumer, government, or commercial e-waste and accessories, functional or not (laptops/notebooks/tablets, cell phones/PDA/MPEG players, digital/video/film cameras, radio communication/video teleconferencing equipment, game systems, routers/switches, components etc.), and ALL printer/copier supply items, used or unused (toner cartridges, inkjets, drums, fusers, etc.).

Pacific Corporate Solutions

Pacific Corporate Solutions' Halawa facility accepts unlimited amounts of residential and commercial e-waste at no charge (includes: Computers, laptops, monitors, printers, cell phones, data equipment, etc). No TVs, stand-alone batteries or stand-alone printer cartridges. Please call first for drop-off. [Click here for more information.](#)

FREE Drop-Off (Events)

For a list of upcoming e-waste drop-off events [click here.](#)

Retailer/Manufacturer Takebacks

Takeback programs continue to expand, in accordance to state law and growing industry responsibility.

Best Buy (www.bestbuytradein.com)
Best Buy's Trade-in Center allows consumers to ship their unwanted electronics (free of charge) to an e-scrap partner (Materials Processing Corporation) for recycling. They then send a Best Buy gift card based on the value of the recycled electronics.



Radio Shack
(radioshack.cexchange.com)
Radio Shack's Trade-In & Recycle Program offers consumers the opportunity to ship their electronics (free of charge) to an e-scrap partner (CExchange) for recycling. They then send a Radio Shack gift card based on the value of the recycled electronics.

Sam's Club (www.econewonline.com/samsclub) {membership required}
Sam's Club Trade-In & Recycle Program allows members to ship their unwanted electronics (free of charge) to an e-scrap partner (ecoNEW). they then send a Sam's Club gift card based on the value of the recycled electronics.

Dell
Dell offers consumers an opportunity to recycle or donate their old electronic equipment. You can learn more about their asset recovery and recycling program by visiting their website at dell.com. Additional recycling services provided by EZ Trade-in (dell.eztradein.com/Dell). Donation service provided by the Cristina Foundation (www.cristina.org/dell.html).

Gateway (gateway.eztradein.com/gateway)
Gateway's Trade-in & Recycle Program allows consumers to ship their unwanted electronics regardless of manufacturer (free of charge) to an e-processor partner (Dealtree) for recycling. They then send a check based on the value of the recycled electronics.

Hewlett-Packard (www.hp.com/go/recycle)
Hewlett-Packard allows consumers to ship their unwanted electronics of any brand for recycling. HP then sends a check for the value of the returned electronics. And as part the new State program, HP is offering local recycling. For more information on local recycling visit the Hawaii State Department of Health's website here.

Toshiba (toshiba.eztradein.com/toshiba)
Toshiba's Trade-in & Recycle Program allows consumers to ship their unwanted electronics regardless of manufacturer (free of charge) to an e-processor partner (Dealtree) for recycling. They then send a check based on the value of the recycled electronics

Deal Tree - EZ Trade-in (ez.eztradein.com/eztradein)
EZ Trade-in provides e-waste recycling services for a variety of manufacturers and retailers. Retailer gift card or Pay Pal reimbursement available.

EcoNew (www.econewonline.com)
EcoNew recycles, and provides recycling service for Sam's Club {members only}, Sony and the Navy Exchange {members only}.

This is not a comprehensive list. Please check manufacturer and retailer websites for additional trade-in offers. See the Hawaii State Department of Health website for updates on takeback programs covered under the new state law.

Local eCyclers

Old electronics can be recycled for their plastic, metal and chemical components. Disposal fees may apply. The recyclers listed below can provide, at your request, complete details regarding the disposition of your equipment to off-island e-waste processors. For a detailed list of manufacturer and retailer recycling programs in Hawaii visit the State Department of Health's website by clicking here.

Enviroservices: 839-7222

Contact: Curtis Laa

- Commercial and householder accounts
- Pickup service available for a fee

Haztech Environmental Services: 671-1985

Contact: Kim Cano

- Commercial accounts only
- Pickup by appointment only

Intrade Corporation: 847-5300743 Waiakamilo Rd Unit H (Kalihi)
www.intradecorporation.com

- Commercial, government, and household accounts
- Free or fee pickup/drop-off during business hours (call for conditions)
Accepts unlimited small e-waste (laptops, cell phones, cameras, etc. - call for details) and printer supplies at no charge

Pacific Commercial Services: 545-4599Contact: Winnie-Hazardous Specialist
winnie.yuen@PCSHI.com
5 Sand Island Access Rd , Building 931

- Commercial and householder accounts
- Commercial pickup service available

Pacific Corporate Solutions: 488-887099-1305 B Koaha Pl
Aiea, HI 96701
www.ewastehawaii.com

- Commercial and householder accounts
- Commercial pickup service available
- Certified data destruction

Accepting unlimited amounts of residential and commercial e-waste at no charge (includes: Computers, laptops, monitors, printers, cell phones, data equipment, etc). No TVs, stand-alone batteries or stand-alone printer cartridges.

Pacific Environmental Corp. (PENCO): 545-5195

- Commercial accounts only
- Pickup service available

Philip Services Corp.: 845-003291-127 Malakole St.
Kapolei, HI 96707

- Commercial accounts only
- Pickup service available

T & N Services: 371-0281

Contact: Nik Nikolaidis

- Commercial and householder accounts
- Drop-off by appointment only
- Pickup service available for a fee

For City Agencies

Visit our Recycling for City Agencies page for more information.

Batteries

Give your old auto batteries to the dealer when purchasing new ones, as State law requires the dealer to accept and recycle them. Householders may also take them to any City Convenience Center. Drop off rechargeable batteries from cell phones, computers and power equipment at Home Depot, Best Buy and Radio Shack as part of the national RBRC program. Regular alkaline (non-rechargeable) batteries can be safely disposed of with your regular refuse collection. Manufacturers no longer use heavy metals in their production.

Rechargeable battery drop-off locations include:
Home Depot, Best Buy and the **Aloha 'Aina Earth Day** events.

Cell Phones

What you should do before you recycle:

1. Erase all stored information, including your incoming/outgoing phone numbers, phone book and text messages.
2. Make sure the cell phone account has been completely deactivated.
3. Remove memory and SIM cards (if applicable).

The following links provide recycling options for cell phones. Most of these organizations will send return shipping labels/postage to you via postal mail or you can print the labels/postage off their website, to ship your boxes of cell phones at no charge.

General information on cell phone recycling:

- www.epa.gov/cellphone

These non-profits (501c(3)) initiate and oversee programs to help American communities:

- American Red Cross - Hawaii State Chapter
- www.cellulardonation.org
- www.specialolympicshawaii.org
- www.wirelessfoundation.org

These companies will donate 100% of the profit from the recycled cell phones to charitable programs:

- www.sprint.com/community/communities_across/spc.html
www.sprint.com/responsibility/communities_across/index.html
- www.hopephones.org/donate

This non-profit company will donate a portion of recycled cell phone sales to a partnered nonprofit organization:

- www.call2recycle.org

These for profit companies will donate a percentage of the profits from your recycled cell phones to a non-profit organization they are partnered with:

- www.charitablerecycling.com/CR/hawaii.asp
- www.collectivegood.com
- www.phones4charity.org
- www.recycleforbreastcancer.org
- aboutus.vzw.com/communityservice/hopeLineRecycling.html
- www.wirelessrecycling.com (ReCellular)

These for profit companies are doing business to assist non-profits in setting up cell phone recycling fundraiser drives:

- www.collectivegood.com
- www.eco-cell.com
- www.intradecorporation.com
- www.phones4charity.org
- www.shelteralliance.net
- www.wirelessrecycling.com (ReCellular)

These businesses will buy your recycled cell phones for cash:

- Many of the manufacturers and retailers listed above offer cell phone recycling services
- www.cashmyphone.com
- www.cellforcash.com
- www.sellyouoldcellphone.com

Additional Info on eCycling

EPA's Plug-In To eCycling

(www.epa.gov/epawaste/partnerships/plugin/index.htm)

Plug-In To eCycling with US EPA is a partnership between EPA and consumer electronics manufacturers, retailers, and service providers that offers you more opportunities to donate or recycle - to "eCycle" - your used electronics.

Consumer Electronics Association (CEA) (www.mygreenelectronics.org)
CEA unveiled a new initiative to educate consumers on what it calls "The 4R's,"
- Reducing energy use, Reusing old products, Recycling no longer useful ones,
and Rethinking purchasing decisions.

Your comments and questions regarding the reuse and recycling of computers
and electronics are appreciated. Email them to info@opala.org.

© 2005 City & County of Honolulu's Department of Environmental Services.

Exhibit K167

Hawaii Electronic Waste and Television Recycling and Recovery Law



Consumer Information

Manufacturers of covered electronic devices (CEDs) and televisions sold in the state of Hawaii must provide recycling options for these devices. Information on CED and television recycling programs will be made available by manufacturers, retailers and the Department of Health (DOH).

Electronic Devices

Electronic devices covered under this law include:

- Computers
- Computer printers
- Computer monitors; and
- Portable computers with screen size greater than four inches measured diagonally.

Televisions

Televisions covered under this law include devices that are capable of receiving broadcast, cable, or satellite signals and displaying television or video programming. Including, without limitation, any direct view or projection televisions with viewable screen sizes of nine inches or larger with display technology based on cathode ray tube, plasma, liquid crystal on silicon, silicon crystal reflective display, light emitting diode, or similar technology.

Timeline

January 1, 2010

Consumers may begin to recycle their CED through the manufacturer recycling programs.

Retailers shall make information available to their customers about recycling services offered by CED manufacturers.

Unlabeled CEDs prohibited from sales.

CED brands for sale must be registered with DOH.

January 1, 2011

Consumers may begin to recycle their TVs through the manufacturer recycling programs.

Retailers shall make information available to their customers about recycling services offered by TV manufacturers.

Unlabeled TVs prohibited from sales.

TV brands for sale must be registered with DOH.

Manufacturer Recycling and Recovery Plans

Manufacturers are required to implement recycling plans for CEDs and TVs sold in Hawaii. Recycling plans are subject to the following conditions in law:

- No fee shall be charged at the point of recycling if the CED/TV is brought by the owner of the device to a central location for recycling.
- A reasonable transportation fee may be charged if the CED/TV manufacturer or manufacturer's agent removes the CED/TV from the owner's premises at the owner's request and if the removal is not in conjunction with delivery of a new CED/TV to the owner.
- Each manufacturer may develop its own recycling program or may collaborate with other manufacturers.

CED manufacturers shall implement and fully operate their recycling plans no later than January 1, 2010. TV manufacturers must implement plans no later than January 1, 2011.

For More Information Contact

Hawaii Department of Health
Solid and Hazardous Waste Branch
919 Ala Moana Blvd., Room 212
Honolulu, Hawaii 96814

Phone*: (808) 586-4226
Website: www.hawaii.gov/ewaste

****Toll-free from Neighbor Islands:***

<i>Hawaii</i>	<i>974-4000-6-4226-#</i>
<i>Maui</i>	<i>984-2400-6-4226-#</i>
<i>Molokai & Lanai</i>	<i>1-800-468-4644-6-4226-#</i>
<i>Kauai</i>	<i>274-3141-6-4226-#</i>

Final Environmental Impact Statement

IN-VESSEL COMPOSTING FACILITY
Waialua, Oahu, Hawaii

Applicant:
Hawaiian Earth Recycling LLC

Approving Agency:
Department of Environmental Services
City & County of Honolulu

Prepared by:
Wilson Okamoto Corporation

September 2011

anticipated as the amount of water required for operation will exceed the amount stored. Supplemental water from the on-site well will make up the balance. As a result of storm water remaining on-site, HER will be requesting an exemption from requiring a NPDES for Storm Water Associated with Industrial Activities.

2.4 Project Schedule and Cost

Construction of the project is planned to commence once this environmental document is completed and other environmental clearances and permits obtained. Construction of the proposed project is anticipated to take approximately one year. The facility will be in operation by the end of early 2013 to accept 100,000 tons of green waste, food waste and dewatered sewage sludge annually. ~~And~~The facility will be capable to accept up to 150,000 tons annually. The estimated construction cost is \$40 million.

6.0 CONTEXTUAL ISSUES

6.1 Relationship Between Local and Short-Term Uses of Humanity's Environment and the Maintenance of Long-Term Productivity

6.1.1 Short-Term Effects

Short-term uses and long-term productivity consist of the project's short-term construction phases and long-term benefits of the project after construction.

During construction, there will be short-term uses involving temporary and permanent alteration of the land for grading, site work and excavation for building foundations, concrete pads for windrow system and utilities. Short-term construction impacts can be avoided or mitigated by implementation of best management practices (BMPs). BMPs may include construction of berms to detain run-off and installation of silt fences to filter silt from run-off.

In the short-term, the propose project alternatives will also confer some positive economic benefits in the local area. Direct economic benefits will result from construction expenditures both through the purchase of materials from local suppliers and through the employment of local labor. Indirect economic impacts may include benefits to local retail businesses resulting from construction activities.

6.1.2 Long-Term Effects

In the long-term, the proposed project will have beneficial impacts on the environment by composting up to 150,000 tons per year of green waste, food waste and dewatered sewer sludge. By recycling and reusing organic materials, this waste is being turned into a beneficial product, such as compost, soil amendments, potting mixes, fertilizer replacement/enhancement, gardening and landscaping products. This Project will be an important and integral component of Oahu's overall Solid Waste Management System, as private companies, such as HEP, assist the City and County of Honolulu's efforts to direct materials for reuse. Use of product will also reduce reliance on imported fertilizers and soil amendments. Without this composting facility, approximately 5,000 to 10,000 tons per year of food waste and 15,000 to 20,000 tons per year of sewage sludge would continue to be placed in Oahu's only landfill with no other alternatives. Also, in the long-term, while the project initially will likely relocate workers from the existing operation at Campbell Industrial Park, the expanded facilities will create additional job opportunities.

6.2 Cumulative Impacts

Cumulative impacts are those that result from the incremental impact of the action when added to other past, present and reasonably foreseeable future actions. Together with other existing and anticipated future development in the area, the project has the potential to generate cumulative impacts, including slight increases in overall traffic volumes on regional transportation facilities, operational and irrigation water demand,

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Council ends discount on tipping fees for recycling

By Star-Advertiser Staff

POSTED: 11:28 a.m. HST, May 11, 2011
 LAST UPDATED: 12:02 p.m. HST, May 11, 2011

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STAR-ADVERTISER ARCHIVES
 The City Council voted today to end an 80 percent discount on "tipping fees" charged by the city when companies deliver recycling residue to the Waimanalo Gulch landfill.

The City Council voted today to end a decades-old subsidy that supports recycling by private companies and nonprofits.

The 80 percent discount on "tipping fees" charged by the city when companies deliver recycling residue to the Waimanalo Gulch landfill cost the city about \$2 million last year.

It has been criticized by some as too generous to a single company: Schnitzer Steel Hawaii, which does the most recycling in Honolulu with more than 100,000 tons of metal a year from automobiles, appliances and other bulky metal items. Since 1998 Schnitzer has received about \$19 million in discounts, including \$1.9 million last year.

While lawmakers have said they want to do away with the subsidy in the interest of fairness, they also have said they want to continue to encourage recycling. They continue to work on proposals that would restore the subsidy at a lower rate and cap the amount a single company could claim.

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www.bonterasolar.com

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www.Points.com/Hawaiian_Airlines

Copper Price Report How to Profit As Copper Becomes the "New Gold"
MoneyMorning.com/Copper_Report

MORE FROM THE STAR-ADVERTISER

New law disposes of trash fees subsidy

New City Council proposal scales back recycling subsidy

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BREAKING NEWS

- Video shows cars sliding and crashing in Utah storm - 02:35 p.m.
- Veterans group endorses Gabbard for Congress - 02:04 p.m.
- Kailua-Kona man charged with West Hawaii robberies - 12:34 p.m.
- Bankoh earnings fall 3.3% but top analysts' forecasts - 10:57 a.m.
- Governor begins speech by remembering fallen HPD officers - 10:30 a.m.
- Overdue Haleakala hiker found safe at bottom of Kaupo Gap - 09:39 a.m.
- Tesoro starting units at Kapolei refinery - 09:14 a.m.
- Vog, muggy weather and afternoon showers to last until Friday - 08:45 a.m.
- Man charged in 1989 cold case remains in custody - 06:08 a.m.
- JetBlue, Hawaiian Airlines ink partnership deal - 04:43 a.m.

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EXHIBIT K169

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

FILE NO. 2008/SUP-2

CERTIFICATE OF SERVICE

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 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.”

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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(Hand Delivery)

Corporation Counsel

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DATED: Honolulu, Hawai'i, January 26, 2012.

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and MAILE SHIMABUKURO