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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

**INTERVENORS KO OLINA
COMMUNITY ASSOCIATION AND
MAILE SHIMABUKURO'S
MOTION TO REOPEN THE
CONTESTED CASE HEARING TO
ADMIT LIMITED ADDITIONAL
DOCUMENTARY EVIDENCE TO
CORRECT AN ERROR THAT WAS
DISCOVERED AFTER THE
HEARING CLOSED**

**DECLARATION OF CALVERT G.
CHIPCHASE**

EXHIBITS A - B

CERTIFICATE OF SERVICE

Contested Case:
December 7, 2011

RECEIVED

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DEPT OF PLANNING
AND PERMITTING
CITY & COUNTY OF HONOLULU

**INTERVENORS KO OLINA COMMUNITY ASSOCIATION AND
MAILE SHIMABUKURO'S MOTION TO REOPEN THE
CONTESTED CASE HEARING TO ADMIT LIMITED ADDITIONAL
DOCUMENTARY EVIDENCE TO CORRECT AN ERROR
THAT WAS DISCOVERED AFTER THE HEARING CLOSED**

Intervenors Ko Olina Community Association and Maile Shimabukuro (together “KOCA”) ask the Planning Commission to reopen the contested case hearing of the Honolulu Department of Environmental Services’ (the “ENV”) Application to delete Condition No. 14 of Special Use Permit No. 2008/SUP-2 for the limited purpose of admitting additional documentary evidence to correct an error that was discovered after the hearing closed.

At the April 23, 2012 contested case hearing, the Planning Commission received into evidence Exhibit K258, which included photographs of the landfill site selection committee’s scores and a map of the ranked sites from the site selection committee meeting held on April 20, 2012. Thereafter, Planning Commission closed the hearing.

On April 25, 2012, the site selection committee’s prime consultant, R.M. Towill Corporation, and its subconsultant, SMS Research (“SMS”), disclosed that SMS had made an error in ranking the sites. Exhibit A. Because of the error, SMS provided new scores for the sites, a new ranking list and a new map of the ranked sites. *Id.* Based on this new list, the scores and map entered into evidence as Exhibit K258 are no longer accurate.

Under Planning Commission Rule Section 2-71(f) the Planning Commission may reopen a contested case hearing “for the express purpose only of admitting new

parol and documentary evidence as the same shall be otherwise relevant to the issues in the contested case with notice to all parties.” Reopening the case is appropriate here for the limited purpose of entering evidence to correct the erroneous scored list and map presently in evidence as Exhibit K258.

The consultant’s error has been widely reported in the news. Proposed Exhibit K259, attached hereto as Exhibit A, explains the error. Proposed Exhibit K260, attached hereto as Exhibit B, is the corrected list of sites and a new map of the sites. Together, Proposed Exhibits K259 and K260 correct Exhibit K258.

On April 26, 2012, counsel for KOCA asked counsel for ENV and Intervenor Schnitzer Steel Hawaii Corporation (“**Schnitzer**”) to stipulate to reopen the contested case hearing for the limited purpose of introducing proposed Exhibits K259 and K260 into evidence. Copies of proposed Exhibit K259 and K260 were provided to counsel. Declaration of Calvert G. Chipchase ¶ 4.

In response, neither Schnitzer nor ENV expressed any objection to the proposed exhibits. However, Schnitzer and ENV would only agree to stipulate to introducing Exhibits K259 and K259 if KOCA stipulated to supplement the record with the “executive summary” to the site selection committee’s report. KOCA could not agree to the condition because its counsel has not seen the executive summary and does not know when the summary will be prepared and adopted by the site selection committee. Chipchase Dec. ¶ 6.

As an alternative to reopening the hearing, KOCA’s counsel offered to stipulate to a joint statement for the record that stated (1) there was an error in the site se-

lection committee's reported rankings and (2) the corrected rankings are set out in the attached document. *Id.* ¶ 7. Counsel for ENV did not respond to the proposal. Left without another option, KOCA filed this motion.

KOCA asks Planning Commission to reopen the contested case hearing for the limited purpose of admitting proposed Exhibits K259 and K260 into evidence to correct the record. This motion is made pursuant to Honolulu Planning Commission Rule § 2-71(f) and is based on the foregoing discussion, the attached declaration and exhibits and the records and materials on file with the Planning Commission.

DATED: Honolulu, Hawai'i, April 27, 2012.

CADES SCHUTTE
A Limited Liability Law Partnership



CALVERT G. CHIPCHASE
CHRISTOPHER T. GOODIN

Attorneys for Intervenors
KO OLINA COMMUNITY ASSOCIATION
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**DECLARATION OF CALVERT G.
CHIPCHASE**

DECLARATION OF CALVERT G. CHIPCHASE

I, Calvert G. Chipcase, hereby declare as follows:

1. I am one of the attorneys for Intervenor Ko Olina Community Association and Maile Shimabukuro (together “**KOCA**”) in this matter and make this declaration based on person knowledge in support of their Motion to Reopen the Contested Case Hearing to Admit Limited Additional Documentary Evidence to Correct an Error that Was Discovered After the Hearing Closed (the “**Motion**”).

2. Attached hereto as Exhibit A is proposed Exhibit K259, which is an e-mail received by Councilmember Tom Berg concerning the corrected rankings. This

email was obtained from Councilmember Berg's website, http://www.councilmanberg.com/html_pages/eblasts/e_blast_042512.html.

3. Proposed Exhibit K260, attached hereto as Exhibit B, includes pictures of the corrected list of sites and a new map of the sites. These pictures were obtained from a Honolulu Civil Beat article. <http://www.civilbeat.com/articles/2012/04/25/15663-kahuku-now-top-site-for-landfill-after-data-error-corrected/>.

4. On April 26, 2012, counsel for KOCA asked counsel for Applicant Honolulu Department of Environmental Services' (the "ENV") and Intervenor Schnitzer Steel Hawaii Corporation ("Schnitzer") to stipulate to reopen the contested case hearing for the limited purpose of introducing proposed Exhibits K259 and K260 into evidence. Copies of proposed Exhibit K259 and K260 were provided to counsel.

5. In response, neither Schnitzer nor ENV expressed any objection to the proposed exhibits. However, Schnitzer and ENV would only agree to stipulate to introducing Exhibits K259 and K259 if KOCA stipulated to supplement the record with the "executive summary" to the site selection committee's report.

6. KOCA could not agree to the condition because its counsel has not seen the executive summary and does not know when the summary will be prepared and adopted by the site selection committee.

7. As an alternative to reopening the hearing, KOCA's counsel offered to stipulate to a joint statement for the record that stated (1) there was an error in the site selection committee's reported rankings and (2) the corrected rankings are set out in the attached document. Counsel for ENV did not respond to the proposal.

I declare under penalty of perjury that the foregoing is true and correct.

DATED: Honolulu, Hawai'i, April 27, 2012.



CALVERT G. CHIPCHASE

**Landfill Site Selection Information Update
April 25, 2012**

The final ranking of the landfill sites is hereby released to the media and is different from the preliminary ranking that was discussed at the April 20th Mayor's Advisory Committee (Committee) meeting. The difference was caused by a data error that occurred while updating the software program during that meeting. "Working with the Committee, I made data entries in real time and while doing so, an inadvertent data error occurred," said Mr. Dannemiller of SMS. "Per SMS policy, we verified the data integrity over the weekend. During this procedure I discovered the error and corrected it. The final ranking has been thoroughly verified."

The data error does not affect the integrity of the Committee's process of incorporating community input, weighting the criteria, and overall ranking that has proven to work well and will continue to be used. The Committee will meet very shortly to review the final ranking released today.

As the Committee and City and County of Honolulu (City) has continually confirmed during its meetings, this phase of community ranking is only the first step of a complex process of site reviews. The sites must still undergo cultural, historical, archaeological, engineering, financial and legal reviews and more before final site conclusions are reached.

R. M. Towill Corporation (RMTC) was commissioned by the City as prime consultant responsible for working with the Committee and City to provide technical support during the site identification and ranking process. SMS Research serves as a subconsultant to RMTC responsible for statistical analysis and support. The Committee was tasked with developing and applying community-based criteria to identify and rank potential landfill sites.

The preliminary ranking that was viewed at the Committee meeting on Friday, April 20th is attached. Also attached is a copy of the final ranking presented today.

For more information contact:

Mr. Brian Takeda, R. M. Towill Corporation, 808-842-1133
Mr. James Dannemiller, SMS Research, 808-537-3356

EXHIBIT K259



Oahu Landfill CCE Site Score Sheet

Preliminary Weighted Site Scores

April 20, 2012

Site	Score	Rank
Ameron Quarry	675	1
Upland Nanakuli 1	583	2
Upland Kahuku 1	572	3
Upland Pupukea 1	543	4
Keeau	543	5
Upland Pupukea 2	521	6
Upland Kahuku 2	514	7
Kapaa Quarry Road	507	8
Upland Laie	498	9
Kaneohe by H3	498	10
Upland Hawaii Kai	451	11

Note: Scores rounded to the nearest whole number.

Oahu Landfill CCE Site Score Sheet

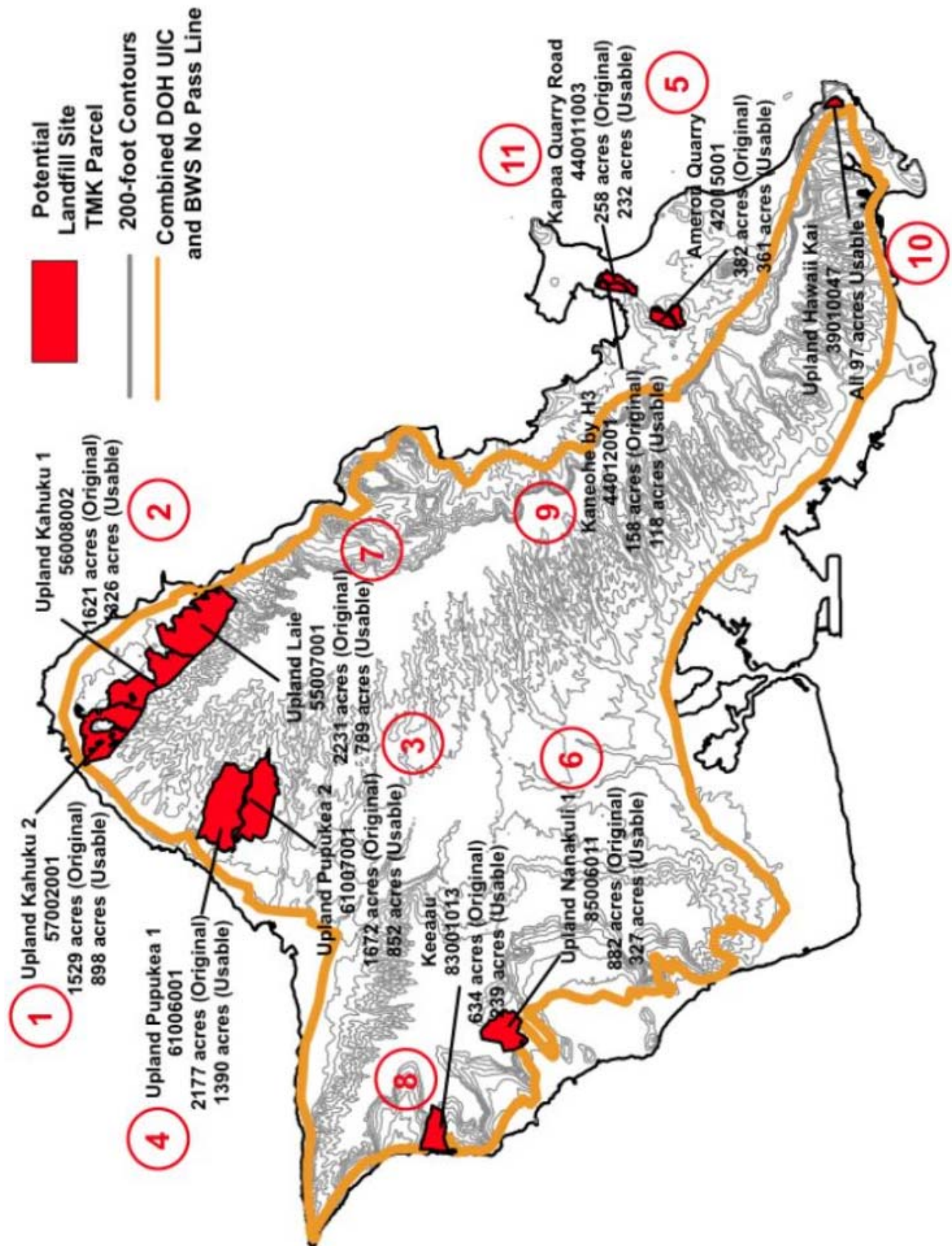
Final Weighted Site Scores

April 25, 2012

Site	Score	Rank
Upland Kahuku 2	716	1
Upland Kahuku 1	697	2
Upland Pupukea 2	681	3
Upland Pupukea 1	616	4
Ameron Quarry	580	5
Upland Nanakuli 1	568	6
Upland Laie	565	7
Keeau	533	8
Kaneohe by H3	512	9
Upland Hawaii Kai	440	10
Kapaa Quarry Road	437	11

Note: Scores rounded to the nearest whole number.





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CERTIFICATE OF SERVICE

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

ROBERT CARSON GODBEY, ESQ.

(Hand Delivery)

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DANA VIOLA, ESQ.

ROBERT BRIAN BLACK, ESQ.

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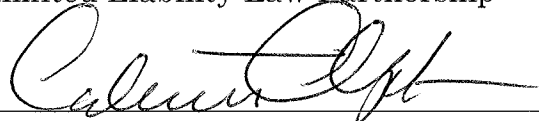
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DATED: Honolulu, Hawai'i, April 27, 2012.

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