

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

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DEPARTMENT OF PLANNING
AND DEVELOPMENT
CITY & COUNTY OF HONOLULU

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

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 NOTICE REGARDING PROCEDURE FOR <i>DEPARTMENT OF ENVIRONMENTAL SERVICES V. LAND USE COMMISSION</i> , CIVIL NO. 09-1-2719-11;
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:)	CERTIFICATE OF SERVICE
)	
"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 AND COUNTY OF HONOLULU'S NOTICE REGARDING
PROCEDURE FOR *DEPARTMENT OF ENVIRONMENTAL SERVICES V. LAND USE COMMISSION*, CIVIL NO. 09-1-2719-11**

Petitioner Department of Environmental Services, City and County of Honolulu (“ENV”), respectfully provides the Planning Commission notice regarding the anticipated procedure in *Department of Environmental Services v. Land Use Commission*, Civil No. 09-1-2719-11 (the “ENV Appeal”), after the May 4, 2012 opinion by the Hawaii Supreme Court.

First, the Hawaii Supreme Court will prepare and file a Judgment on Appeal that conforms to its holding in the May 4 opinion. As of this submission, the Judgment on Appeal has not been filed.

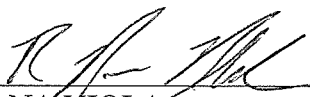
When the Judgment on Appeal is filed, the ENV Appeal will return to the Circuit Court for further proceedings. The parties to that proceeding will request that the Circuit Court take action on the Judgment on Appeal. The parties to the ENV Appeal are not identical to the parties in the present proceeding before the Planning Commission.

After the parties’ submissions, the Circuit Court will take action to effect the Judgment on Appeal. Based on the Supreme Court’s opinion, ENV would anticipate at a minimum that the Circuit Court will remand the ENV Appeal to the Land Use Commission for further proceedings.

The Land Use Commission would have several options on remand from the Circuit Court. In the May 22, 2012 letter from Normand R. Lezy, the Land Use Commission stated its present intent to remand the matter to the Planning Commission for further consideration after the Land Use Commission receives the record from the Circuit Court.

The foregoing information is based on ENV’s current understanding of the status of the ENV Appeal and the relevant procedural rules.

DATED: Honolulu, Hawai'i, May 24, 2012.

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

FILE NO. 2008/SUP-2 - In the Matter of the Application of Department of Environmental Services, City and County of Honolulu - Department of Environmental Services, City and County of Honolulu's Notice Regarding Procedure for *Department of Environmental Services v. Land Use Commission*, Civil No. 09-1-2719-11

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 NOTICE REGARDING PROCEDURE FOR *DEPARTMENT OF ENVIRONMENTAL SERVICES V. LAND USE COMMISSION*, CIVIL NO. 09-1-2719-11 was duly served by either hand-delivery or U. S. Mail, postage prepaid, to the following on the date below, addressed as follows:

<u>Mail</u>	<u>Delivery</u>
DEPARTMENT OF PLANNING AND PERMITTING City and County of Honolulu 650 South King Street, 7th Floor Honolulu, Hawai'i 96813	X

Mail

Delivery

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

X

Attorneys for Intervenor
SCHNITZER STEEL HAWAII CORP.

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

X

Attorneys for Intervenors
KO OLINA COMMUNITY ASSOCIATION
and MAILE SHIMABUKURO

DATED: Honolulu, Hawai'i, _____

May 24, 2012



DANA VIOLA
ROBERT BRIAN BLACK
Deputies Corporation Counsel