

BEFORE THE MAUI PLANNING COMMISSION

COUNTY OF MAUI

STATE OF HAWAII

In the matter of the requests by

COUNTY OF MAUI, DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT

30-year time extension request to existing  
State Land Use Commission Special Permit,  
County Special Use Permit and Special  
Management Area Use Permit for the  
continuing operation of the Hana Landfill on  
74 acres, TMK (2) 1-3-006:012 (por.) and (2)  
1-3-006:007 (por.), Hana, Maui, Hawaii

DOCKET NOs. SLUC SP08-402  
CUP 2007/0001  
SM1 2007/0003

County of Maui  
Department of Environmental Management

(PFF)

MAUI COUNTY PLANNING DEPARTMENT'S REPORT AND RECOMMENDATION TO THE MAUI  
PLANNING COMMISSION

February 13, 2018 MEETING

DEPARTMENT OF PLANNING  
COUNTY OF MAUI  
2200 MAIN STREET, SUITE 315  
WAILUKU, HAWAII 96793

**EXHIBIT**

A

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County of Maui  
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(PFF)

**DESCRIPTION OF THE PROJECT**

County of Maui, Department of Environmental Management is requesting amendments to permit terms and conditions to allow for a 30-year time extension for the existing State Land Use Commission Special Permit, County Special Use Permit and Special Management Area Use Permit for the continued operation of the Hana Landfill. Per DEM, 30 years is the expected life span of the landfill. (Exhibits 1 & 2)

The existing permits are:

1. SLUC SP08-402 (SUP1 2007/0002): approved by SLUC on 7/16/09; expires 2/28/18 (Exhibit 3)
2. CUP 2007/0001: approved by MPC on 7/22/08; expires 2/28/18 (Exhibit 4)
3. SM1 2007/0003: approved by MPC on 8/24/10; expires 2/28/18 (Exhibit 5)

The requested amendments to the permits are:

1. SLUC SP08-402 (SUP1 2007/0002): requesting a 30-year time frame to continue operations.
1. CUP 2007/0001: requesting a 30-year time frame to continue on-going operations.
2. SM1 2007/0003: requesting a 30-year time frame to continue on-going operations.

## **BRIEF HISTORY OF THE APPLICATIONS\*\***

\*\* **NOTE:** For reference purposes, the Department's Report and Recommendation to the Hana Advisory Committee, February 21, 2008, is attached as Exhibits 7 & 8.

On February 21, 2008, the County of Maui Department of Environmental Management held a public hearing before the Hana Advisory Committee to request a Special Management Area Use Permit, Land Use Commission Special Permit, and a County Special Use Permit in order to consolidate approximately 45.14 acres of State owned land into the Hana Landfill site and to realign the landfill boundaries after consolidation and to create a 100' x 100' runoff detention basin.

### **February 21, 2008**

The Hana Advisory Committee (HAC) conducted a site visit to the cinder quarry and landfill and held a public hearing meeting on the SLUC SP08-402 (SUP1 2007/0002) and CUP applications but voted to defer the matter due to time constraints.

### **May 5, 2008**

The Hana Advisory Committee held another public hearing meeting on the SLUC SP08-402 (SUP1 2007/0002) and CUP applications and voted to recommend approval of the Department of Planning's Report and Recommendation dated February 21, 2008.

### **July 22, 2008**

The Maui Planning Commission (Commission) reviewed the CUP and SLUC SP08-402 (SUP1 2007/0002) applications and conditions as recommended by the HAC. After due deliberation, the Commission voted to recommend approval of the SUP and voted to approve the CUP including the two modifications as requested by the Department of Environmental Management (see conditions 7 and 19 below). [Bracketed] material to be replaced with underlined material:

7. *That the Applicant shall begin construction of the landfill storm water drainage retention basin [expansion] within three (3) years from issuance of the Land Use Commission's decision and order. Construction shall include any improvements necessary to operate the landfill pursuant to all applicable laws and regulations.*
  
19. *That a recycling program begin immediately thereafter permits are issued and/or the Department of Health grants approval. The recycling program may [shall] include, but not be limited to: glass, aluminum, plastics, batteries, newspapers, cardboard, appliances and oil.*

Furthermore, the MPC voted to defer action on the SMA permit until the State LUC makes a decision on the SUP permit.

### **February 19, 2009**

The State Land Use Commission (LUC) held a meeting in Kahului on the SUP and voted to remand the SUP to the Maui Planning Commission to get precise clarification on conditions 7 and 19.

**March 24, 2009** MPC approves D&O clarifying conditions 7 & 19.

**July 16, 2009**

LUC held a meeting on the matter and voted to accept the MPC recommendation to approve the SUP subject to 20 conditions and various amendments to the same. It was also voted and approved to accept the County D&O as submitted.

**November 10, 2009**

SMA permit application scheduled before the MPC for review. Matter was deferred due to ground water monitoring report being inconclusive as data was still being collected for the hydro geological assessment to determine groundwater flow direction.

**May 4, 2010**

The MPC did a site inspection to the cinder quarry. The matter was not on the agenda for deliberation.

**August 24, 2010**

MPC meeting on SM1; approved; MPC added Conditions Nos. 21 and 22; SM1 expires on same date as SLUC SP08-402 (SUP1 2007/0002) and CUP: Feb. 28, 2018. (SUP1 2007/0002, CUP 2007/0001, SM1 2007/0003).

**September 21, 2017**

Dept. receives time extension request letter and Application for Amendment to Permit Terms, Conditions & Time Stipulation from DEM for all three permits: (SLUC SP08-402, CUP 2007/0001, SM1 2007/0003). (Exhibit 1 and 2)

Hana Landfill State Land Use Commission FY2017 Annual Report for SP08-402 (Exhibit 6)

**Land Use Designations**

State Land Use District: .....	Agriculture/Conservation
Hana Community Plan: .....	Parcel 12: Public/Quasi-Public Parcel 07: Agriculture/Light Industrial
County Zoning Parcel 12: .....	Interim
Parcel 07: .....	Agricultural/Interim
Other:.....	Special Management Area

**Surrounding Area**

North.....	Vacant land
East .....	Vacant land, Pacific Ocean
South .....	Vacant land
West .....	Vacant land, Hana Highway

## ANALYSIS

### REQUIRED LAND USE ENTITLEMENTS:

#### County Special Use Permit

A portion of the "active" waste receiving area encompasses an approximate 5.4-acre area that encroaches upon Parcel 7. This portion of Parcel 7 is within the State Land Use Agricultural District and County Agricultural and Interim district. Pursuant to Maui County Code Section 19.30A.060, landfills are a special use permitted in the Agricultural and Interim district upon approval by the Maui Planning Commission. Therefore, a County Special Use Permit to allow the landfill operations in the Agricultural and Interim zoned portion of land has been made to the Maui Planning Commission.

#### Special Management Area Use Permit

In addition, the project site is located within the County of Maui's Special Management Area (SMA). As such, the boundary realignment of the landfill activities in the encroachment area of Parcel 7 and the grading activities for the detention basin required the processing of a SMA Use Permit.

#### State Land Use Commission Special Permit

Since the portion of the existing landfill area within the State Agricultural district combined with the encroachment area (5.4 acres) are greater than 15.0 acres, a State Land Use Commission Special Permit was required.

### CHAPTER 343, HRS REGULATORY CONTEXT:

As the project involves the use of land owned by the State, uses County funds and use within the Conservation District, the processing of an environmental assessment (EA) pursuant to Chapter 343, HRS was required.

A Findings of No Significant Impact (FONSI) was issued by the Department of Environmental Management on December 24, 2007.

#### HANA COMMUNITY PLAN:

The subject property is located within the Hana Community Plan region and is designated Public/Quasi-Public, Light Industrial and Agricultural in the Community Plan Land Use Map. Land use objectives and policies contained in the plan supports special permits "to allow those activities which are essential to the region's economic well-being, which provide essential services for the residents of the Hana District." Landfill operations are considered to be an appropriate use that is essential to the regions well-being.

In addition, the proposed project is consistent with the following Goal and Policy for the Physical Infrastructure of the Hana Community Plan.

Goal

*Timely and environmentally sensitive development and maintenance of infrastructure systems which protect and preserve the safety and health of the Hana region's residents and visitors, including the provision of domestic water, utility and waste disposal services, and effective transportation systems which meet the needs of residents and visitors while protecting the region's natural character.*

Policy (Solid Waste)

*Develop and implement a comprehensive waste management plan which includes reduction, recycling and reuse of solid waste and wastewater as major plan components.*

The operation of the landfill has been consistent with the policy statements above supporting the Hana regions residents and businesses with a critical component of government services to the community.

MAUI ISLAND PLAN:

*Infrastructure and Public Facilities*

The County of Maui Department of Environmental Management's Solid Waste Division is responsible for the planning, operation, and maintenance of the County's landfills. Currently, the landfill parcel(s) are in the "undesignated" area of the MIP.

In 2009 the Department of Environmental Management's Solid Waste Division updated its county-wide Integrated Solid Waste Management Plan (ISWMP). The ISWMP provides a comprehensive blueprint for the planning and expansion of the County's solid waste management system. The updated ISWMP addresses several issues including the finite capacity of the County's landfills, the growing waste stream, the rising cost of energy, and the desire to provide more and better services to Maui's residents.

The MIP states the following:

*The Hana Landfill serves the Hana community plan area and has a total area of approximately 35 acres and accepts residential, commercial and green waste. Based on the ISWMP, Hāna Landfill is expected to accommodate the needs of its community through the planning period as its projected capacity will be reached by 2096.*

The Department of Environmental Management is requesting a 30-year time extension and has not made projections out to 2096. This will allow DEM to re-evaluate the situation at that time and make any necessary adjustments or policy changes as deemed appropriate.

**CONCLUSIONS OF LAW**

The application complies with the applicable standards for a State Land Use Commission Special Use Permit, County Special Use Permit and Special Management Area Permit as follows:

**State Land Use Commission Special Use Permit:**

The State Land Use Commission Special Use Permit request to allow for the establishment and operation of the Hana Landfill with recycling facility on the island of Maui, constitutes an "unusual and reasonable" use as defined in Section 205-6, Hawaii Revised Statutes, as amended, and the proposed use is not contrary to the objectives sought to be accomplished by the State Land Use Law to preserve, protect, and encourage development of lands in the State of those uses to which they are best suited in the interest of the public health and welfare.

**County Special Use Permit:**

Pursuant to Maui County Code Section 19.30A060(L), landfills are a special use permitted in the Agricultural district and require a County Special Use Permit be processed and approved by the Maui Planning Commission. The proposed use is not contrary to County land use laws.

**Special Management Area Use Permit:**

SMA Use Permit is also required pursuant to Chapter 202 of the Special Management Area Rules for the Maui Planning Commission. The use has been deemed compliant and satisfies the requirements of Chapter 202, HRS and the required State Special Permit and County Special Use Permit have been obtained.

**RECOMMENDATION**

Based on the foregoing findings and analysis by the State Land Use Commission and the Maui Planning Commission from previous meetings and coupled with the fact that there have been no substantive changes have occurred that would affect the environment in a negative manner, the Planning Department finds that the proposed request is reasonable and prudent.

It is the Planning Directors intention to grant the amendments as requested by the Applicant (DEM) for the CUP and SM1 and will recommend to the MPC that it recommend approval to the SLUC for SP08-402.

Therefore, the amendments to the affected conditions of the SM1 and CUP shall read as follows accordingly:

**SM1**

1. *"That the SMA Use Permit shall be valid until ~~February 28, 2018~~ February 28, 2048, subject to further extensions by the Commission Director..."*

**CUP**

1. *"That the ~~State Land Use Commission Special Use Permit and County Special Use Permit~~ shall be valid until ~~February 28, 2018~~ February 28, 2048, subject to further extensions by the ~~Land Use Commission and/or the Commission Director...~~"*

Further, the Department advises the MPC to recommend to the SLUC the following amendment to the affected Condition No. 1 of SP08-402:



**SP08-402**

1. *"That the State Land Use Commission Special Use Permit, and County Special Use Permit shall be valid until ~~February 28, 2018~~ February 28, 2048, subject to further extensions by the Land Use Commission and/or the Maui Planning Commission as required by each permit accordingly..."*

In consideration of the foregoing, the Planning Department recommends that the Maui Planning Commission adopt the Planning Department's Report and Recommendation prepared for the February 13, 2018 meeting as the Findings of Fact, Conclusion of Law and Decision and Order and authorize the Planning Director to transmit said written Decision and Order on behalf of the Maui Planning Commission.

Parties to proceedings before the Commission may obtain Judicial Review of Decision and Orders issued by the Commission in the manner set forth in Chapter 91-14, Hawaii Revised Statutes (HRS).

Approved by:



WILLIAM SPENCE

Planning Director