

ALAN M. ARAKAWA
Mayor

WILLIAM R. SPENCE
Director

MICHELE CHOUTEAU McLEAN
Deputy Director



LAND USE COMMISSION
STATE OF HAWAII

COUNTY OF MAUI
DEPARTMENT OF PLANNING

2018 APR 12 A 8:02

April 9, 2018

Mr. Dan Orodener, Executive Officer
State Land Use Commission
P. O. Box 2359
Honolulu, Hawaii 96804

Dear Mr. Orodener:

SUBJECT: COUNTY OF MAUI HANA LANDFILL 30-YEAR TIME EXTENSION APPROVALS FOR SPECIAL MANAGEMENT AREA (SMA) PERMIT (SM1 2007/0003), COUNTY SPECIAL USE PERMIT (CUP 2007/0001) AND RECOMMENDATION FOR APPROVAL TO THE STATE LAND USE COMMISSION FOR DOCKET SP08-402

**APPLICANT: STEWART STANT, DIRECTOR
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT, COUNTY OF MAUI**

The Department of Planning (Department) is transmitting for your review and action the above-referenced request.

Briefly, the Applicant is requesting a 30-year time extension for State Land Use Commission Special Permit SP08-402 in order to continue ongoing landfill operations at the Hana Landfill.

At its regular meeting on February 13, 2018, the Maui Planning Commission (MPC) reviewed the subject requests and after due deliberation, voted to grant a 30-year time extension approval for the Special Management Area (SMA) Use Permit (**SM1 2007/0003**) and County Special Use Permit (**CUP 2007/0001**) and to recommend a 30-year time extension approval for the State Land Use Commission Special Permit (**SP08-402**) subject to the following conditions accordingly:

SPECIAL MANAGEMENT AREA USE PERMIT

Standard Conditions

1. That the SMA Use Permit shall be valid until **February 28, 2048**, subject to further extensions by the Planning Director (Director), upon a timely request for extension filed at least ninety (90) days prior to its expiration.

The Director shall review and approve a time extension request but may forward said request to the Commission for review and approval. The Commission may require a public hearing on the time extension.

2. That the permit holder or any aggrieved person may appeal to the Commission any action taken by the Director on the subject permit no later than ten (10) days from the date the Director's action is reported to the Commission.
3. That the subject SMA Use Permit shall not be transferred without prior written approval in accordance with Section 12-202-17(d) of the SMA Rules of the Commission. However, in the event that a contested case hearing preceded issuance of said SMA Use Permit, a public hearing shall be held upon due published notice, including actual written notice to the last known addresses of parties to said contested case and their counsel.
4. That full compliance with all applicable governmental permits and requirements shall be rendered.
5. That the Applicant shall submit to the Department of Planning (Department) copies of a detailed report addressing its compliance with the conditions established with the subject SMA Use Permit. The Compliance Report shall be reviewed and approved by the Department prior to the establishment of the special use.
6. That the Applicant shall develop the property in substantial compliance with the representations made to the Commission in obtaining the SMA Use Permit. Failure to so develop the property may result in the revocation of the permit.

Project Specific Conditions

7. That the Applicant shall take appropriate mitigative measures to minimize erosion, prevent cement products, oil, fuel, and other toxic substances associated with heavy machinery from spilling or leaching into the ground.
8. That the Applicant shall comply with Department of Health (DOH) Ambient Air Quality Standards, Hawaii Administrative Rules (HAR), Title 11, Chapter 59 and Air Pollution Control, HAR 11-60.
9. That the Applicant shall comply with the Environmental Protection Agency (EPA's) New Source Performance Standards.
10. That the Applicant shall utilize non-potable water, to the extent possible, for grading, dust control, and irrigation of the landfill.

11. That the Applicant shall ensure that windblown debris around the perimeter of the landfill, particularly within areas visible from the public right-of-way, be removed in a timely manner.
12. That full compliance with the requirements of the State's DOH for sanitary landfill operation shall be rendered.
13. That the Applicant increases its groundwater monitoring at the landfill from semi-annually to quarterly.

COUNTY SPECIAL USE PERMIT

1. That the County Special Use Permit shall be valid until **February 28, 2048**, subject to further extensions by the Director, upon a timely request for extension filed at least ninety (90) days prior to its expiration. The Director shall review and approve a time extension request but may forward said request to the Commission for review and approval. The Commission may require a public hearing on the time extension.
2. That the subject County Special Use Permit shall not be transferred without the prior written approval of the Director.
3. That full compliance with all applicable governmental permits and requirements shall be rendered.
4. That the Applicant shall submit to the Department copies of a detailed report addressing its compliance with the conditions established with the subject County Special Use Permit and State Special Permit. The compliance report shall be reviewed and approved by the Department prior to the establishment of any new or change-in-use.
5. That the Applicant shall develop the property in substantial compliance with the representations made to the Commission in obtaining the County Special Use Permit. Failure to so develop the property may result in the revocation of the permit.
6. That the Applicant shall take appropriate mitigative measures to minimize erosion, prevent cement products, oil, fuel, and other toxic substances associated with heavy machinery from spilling or leaching into the ground.
7. That the Applicant shall comply with DOH Ambient Air Quality Standards, Hawaii Administrative Rules (HAR), Title 11, Chapter 59 and Air Pollution Control, HAR 11-60.

8. That the Applicant shall comply with the EPA's New Source Performance Standards.
9. That provisions shall be enacted to ensure emergency access to the sanitary landfill in case of fire or any other disaster.
10. That the Applicant shall utilize non-potable water, to the extent possible, for grading, dust control, and irrigation of the landfill.
11. That the Applicant shall ensure that windblown debris around the perimeter of the landfill, particularly within areas visible from the public right of way, be removed in a timely manner.
12. That full compliance with the requirements of the State's DOH for sanitary landfill operation shall be rendered.
13. That the Applicant inform the Department of Public Works (DPW) of Hana Advisory Committee (HAC's) safety concerns, and the Departments make best efforts to insure daily operations are conducted in a safe manner, and undertake an engineering slope and soil stability analysis prior to construction within the three (3) year period.
14. That a cultural assessment be conducted to address impacts to cultural resources resulting from the excavation of cinder ash and that the Office of Hawaiian Affairs (OHA) shall be consulted prior to construction within the three (3) year period.
15. That the Applicant increase its groundwater monitoring at the landfill from semi-annually to quarterly.

STATE LAND USE COMMISSION SPECIAL PERMIT

The Commission recommends to the State Land Use Commission approval of a 30-year time extension for **SP08-402** with a new expiration date of **February 28, 2048** in conjunction with the following recommendations:

1. That all references to the County Special Use Permit (CUP) as mentioned in Docket **SP08-402** be omitted as the CUP is under the authority of the County of Maui and the Commission.
2. That all other (non-CUP) conditions of **SP08-402** remain binding as written and attached as Exhibit "3" of this document.

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Further, the Commission adopted the Department's Report and Recommendation to the Department, dated February 13, 2018 meeting as its Findings of Fact, Conclusions of Law, and Decision and Order (D&O). Parties to proceedings before the Commission may obtain Judicial Review of D&Os issued by the Commission in the manner set forth in Chapter 91-14, Hawaii Revised Statutes (HRS).

The Department respectfully transmits the subject matter for consideration. Accordingly, please find the attached one (1) original application letter and one (1) digital copy of the following:

<u>Exhibit No.</u>	<u>Description</u>
A	Planning Dept. Report and Recommendation to MPC (Feb. 13, 2018)
1	Dept. of Environmental Management letter of request for time extension
2	Application for Amendment to Permit Terms and Conditions
3	State Land Use Commission Docket SP08-402
4	County Special Use Permit Approval (2009)
5	SMA Use Approval (2010)
6	DEM Annual Report (FY2017)
7	Planning Dept. Report to the MPC (2008)
8	Planning Dept. Recommendation to the MPC (2008)
9	MPC Time Extension Approval and Recommendation to SLUC (2018)
10	February 13, 2018 MPC Minutes

Thank you for your cooperation. If additional clarification is required, please contact Staff Planner Paul Fasi by email at paul.fasi@mauicounty.gov or by phone at 808-270-7814.

Sincerely,



WILLIAM SPENCE
Planning Director

Attachments

xc: Clayton I. Yoshida, AICP, Planning Program Administrator (PDF)
Office of Planning (w/attachments)
David Galazin, Deputy Corporation Counsel (PDF)
Department of Environmental Management
Project File
JSH:CIY:PFF:ela
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