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DTS No. 201804181341BE

April 18, 2018

Mr. William Spence
County of Maui
Department of Planning
2200 Main Street, Suite 315
Wailuku, Hawaii 96793

Dear Mr. Spence:

Subject: Amend State Special Permit (SP97-390)
County Special Use Permit (CUP 2008/0003)
Proposed Central Maui Landfill Facilities Expansion Project
TMK: (2) 3-8-003: 019 (Por.) and 3-8-003: 020
Puunene, Maui, Hawaii

Thank you for the opportunity to review the subject application for an amendment to an existing State Special Permit (SP97-390 and CUP 2008/003) to remove Parcel 20 (19.663 acres), grant a time extension, include an expansion for an additional 40.8-acres, and provide for an expansion of uses. The uses proposed for the expansion area include offices, an abandoned vehicle area, metals processing area, open construction and demolition material recovery area, household hazardous waste and electronic waste processing and storage area, warehouse building and storage area, refuse collection office, truck parking, maintenance area, drainage basins, and associated infrastructure.

The existing landfill was established in 1986 by a State Special Permit on a 55-acre site by SP86-359. The activities listed for this Special Permit include landfill activities, weigh station, special waste, and green waste composting. There is no time limit for the use on this Special Permit.

In 1997, the County of Maui expanded the landfill via a second State Special Permit (SP97-390) with an additional 29.340 acres. The County requested three amendments to this Special Permit for various improvements, an extension of time for the permit, and an expansion of 41.2 acres. The current permit is valid until October 31, 2018. The combined land area for the entire existing landfill and appurtenant uses is approximately 125.54 acres.

The guidelines for Special Permits (SP) are contained within Hawaii Administrative Rules (HAR) § 15-15-95 which allow certain "unusual and reasonable" uses within Agricultural and Rural Districts other than those for which the district is classified. HAR § 15-15-95 lists six (6) guidelines

for determining whether a proposed use is “unusual and reasonable.” The following assesses the proposed project relative to the Special Permit guidelines:

1. The use shall not be contrary to the objectives sought to be accomplished by Chapters 205 and 205A, HRS, and the rules of the Commission.

Hawaii Revised Statutes (HRS) Chapter 205 seeks to protect agricultural lands and ensure their continued availability for agricultural use. It provides that the Agricultural District shall include lands with a high capacity for agricultural production, grazing, or other agricultural uses. Chapter 205 also recognizes, however, that some lands in the Agricultural District may not be suitable for the uses permitted in the Agricultural District and, therefore, other uses may be allowed with a Special Permit. Typically, landfills have been permitted by Special Permits. However, OP has concerns regarding a 22-acre portion of the 40.8-acre proposed expansion area.

The proposed expansion area is classified as “A” lands within the Land Study Bureau. Also, as noted in the Draft Environmental Assessment (DEA) on pages 21-23, approximately 22 acres of the proposed 40.8-acre expansion area has been designated as Important Agricultural Lands (IAL) by the Land Use Commission (LUC) by DR09-38.

The Legislature’s intent for IAL lands was to preserve and protect good agricultural lands. The LUC has approved DR09-38 and designated as Important Agricultural Lands 22 acres of this proposed expansion. Thus, OP is concerned that using IAL designated lands for non-agricultural uses could set a precedent in the future. This is a significant impact of the proposed expansion. We also note that since the DEA does not recognize this as a significant impact, no mitigation measures are proposed.

The DEA, on page 85, also indicates within the table: Hawaii State Plan, Chapter 226, HRS-Part III. Priority Guidelines (d) Priority guidelines to promote the growth and development of diversified agriculture and aquaculture. The DEA indicates that this section is Not Applicable to this proposal. However, since this proposal would include the use of 22 acres of IAL lands, it may be appropriate to indicate that it is “N/S = Not Supportive rather than N/A or Not Applicable.

The application is unclear as to the reason for the withdrawal of parcel 20 from the Special Permit. More detail should be included explaining the withdrawal of this area.

According to the DEA, an Archaeological Inventory Survey was completed and no historic and archaeological resources were found. Also, the DEA indicates that there are no wetlands, or streams in the expansion area.

2. The desired use would not adversely affect surrounding property.

According to the application, the proposed project is not anticipated to directly or indirectly affect adjacent uses. The areas immediately surrounding the project site are in agricultural use or undeveloped, and may be used in the future for diversified agriculture.

3. The use would not unreasonably burden public agencies to provide streets, sewers, water, drainage, schools, fire, and police resources.

According to the application, the proposed project would not require infrastructure support from public agencies due to the following:

- Additional traffic measures would be imposed to mitigate traffic and access concerns.
- New individual wastewater systems would be provided on-site, in accordance with State and County regulations.
- Water would be provided via an existing State water well. Appropriate conservation measures would be incorporated.
- Drainage improvements in the form of retention basins and best management practices would be incorporated.

4. Unusual conditions, trends, and needs have arisen since the district boundaries and rules were established.

OP recognizes the State interest in consolidating solid waste and other similar uses as proposed by the County. OP also recognizes the State interest in conserving the State's agricultural land resource base and assuring the long-term availability of agricultural lands for agricultural use.

5. The land upon which the proposed use is sought is unsuited for the uses permitted within the district.

The land upon which the proposed use is sought is suited for the uses permitted within the district. As noted above, the project would be located on approximately 40.8 acres of Class A land as rated by the LSB productivity rating system. Under the ALISH system, the soils on the subject property are classified as Prime. 22 acres have also been designated as IAL.

Having reviewed the application and applied the available information to the applicable Special Permit guidelines, OP partially supports State Special Permit application to expand the landfill area and other proposed uses, and offers the following comments:

- Concerns remain with regard to the 22 acre area which has already been granted IAL status. Allowing this area to be incorporated into the existing County landfill site

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may set a Statewide precedent of allowing other IAL areas to be transformed into non-agricultural uses without adequate redress by the applicant. OP recommends that if the SP is approved, significant mitigation measures should be considered to offset use of the IAL lands. Mitigation measures to be considered could include the designation of other lands into IAL and/or other measures to be suggested by the applicant.

- The DEA includes the Special Permit 97-390 FY 2017 Annual Report. All conditions are currently being met. OP believes that if the proposed expansion is approved, that these conditions should also apply to the expansion area.
- The application indicates that the project will be on a 40.8-acre portion of the parcel. According to Hawaii Revised Statutes 205-6(d), Special Permits for land areas over 15 acres are approved by the LUC. Thus, the Special Permit will require approval by the LUC and the County of Maui.
- OP does not object to the request for an extension of time for the Special Permit.
- Additional information should be included to indicate the reason to remove parcel 20 from the Special Permit. If landfill or other operations have occurred on this parcel, consideration should be given to requiring the applicant to restore the land to its original condition.

Thank you for the opportunity to review this project. If you have any questions, please call Lorene Maki of our Land Use Division at (808) 587-2888.

Sincerely,



Leo R. Asuncion
Director

cc: Land Use Commission
Department of Agriculture