

CADES SCHUTTE LLP

CALVERT G. CHIPCHASE 7757-0

CHRISTOPHER T. GOODIN 8562-0

1000 Bishop Street, Suite 1200

Honolulu, Hawai'i 96813-4212

Telephone: (808) 521-9200

Facsimile: (808) 521-9210

E-mail: cchipchase@cades.com

cgoodin@cades.com

Attorneys for Intervenors

KO OLINA COMMUNITY ASSOCIATION

and MAILE SHIMABUKURO

BEFORE THE PLANNING COMMISSION

OF THE CITY AND COUNTY OF HONOLULU

STATE OF HAWAI'I

In the Matter of the Application of

DEPARTMENT OF ENVIRONMENTAL SERVICES, CITY AND COUNTY OF HONOLULU

For a New Special Use Permit to Supersede Existing Special Use Permit to Allow A 92.5-Acre Expansion and Time Extension for Waimānalo Gulch Sanitary Landfill, Waimānalo Gulch, O'ahu, Hawai'i, Tax Map Key: 9-2-03: 72 And 73

FILE NO. 2008/SUP-2

**INTERVENORS KO OLINA COMMUNITY ASSOCIATION AND MAILE SHIMABUKURO'S SUBMISSION OF MATERIALS PRESENTED AT THE FEBRUARY 28, 2019 PLANNING COMMISSION HEARING**

**CERTIFICATE OF SERVICE**

In the Matter of the Application of

DEPARTMENT OF ENVIRONMENTAL SERVICES, CITY AND COUNTY OF HONOLULU

To delete Condition No. 14 of Special

**Planning Commission Hearing:**

Date: February 28, 2019

Time: 1:00 p.m.

DEPT OF PLANNING  
CITY & COUNTY OF HONOLULU

19 MAR 29 P 4:04

RECEIVED

R11

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 WGS� up to July 31, 2012, provided that only ash and residue from H-POWER shall be allowed at the WGS� after July 31, 2012.”

**INTERVENORS KO OLINA COMMUNITY ASSOCIATION  
AND MAILE SHIMABUKURO’S SUBMISSION  
OF MATERIALS PRESENTED AT THE FEBRUARY 28, 2019  
PLANNING COMMISSION HEARING**

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Intervenors Ko Olina Community Association and Maile Shimabukuro submit their PowerPoint slides which were presented to the Planning Commission at its February 28, 2019 hearing.

DATED: Honolulu, Hawai’i, March 29, 2019.

CADES SCHUTTE  
A Limited Liability Law Partnership



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CALVERT G. CHIPCHASE  
CHRISTOPHER T. GOODIN

Attorneys for Intervenors  
KO OLINA COMMUNITY ASSOCIATION  
and MAILE SHIMABUKURO

*In re ENV, File No. 2008/SUP-2*

# Motion to Reopen

Ko Olina Community Association and  
Senator Maile Shimabukuro

# LUC Instructions

- “(2) clarify the **basis** of the Planning Commission’s proposed additional Condition No. 3, which specifies a **December 31, 2022**, date within which the Applicant is to identify an alternative site that will be used upon the WGSL reaching its **capacity** and the implications it has on the **closure date** of the WGSL to use and the subsequent commencement of operations at the alternative landfill site . . . .”
- “(3) clarify **whether the record needs to include updated information on the operation** of the WGSL, the **landfill site selection process**, and the **waste diversion efforts** of the City and County of Honolulu . . . .”



*In re ENV*, File No. 2008/SUP-2

# Decisionmaking

Ko Olina Community Association and  
Senator Maile Shimabukuro

# History

- Over 20 Hearings
- Close to 20 Witnesses
- More than 300 Exhibits

# Do It the Right Way

- Procedurally
  - LUC Remand Instructions
  - Attestation Requirement and New Commissioner
- Conditions Imposed



# LUC Instructions

- “(4) assuming the Planning Commission eventually recommends approval of the matter, clarify the **effective date** of the Planning Commission’s Findings of Fact, Conclusions of Law, and Decision and Order . . . .”

# Commission Rule § 2-76

- “Any commissioners who were not present during the entire contested case hearing, **shall before voting attest to the fact that they have reviewed the transcript of the proceedings for the date(s) they were absent and that they have studied, examined and understand the record of the hearings.**”

# Commission Rule § 2-75

- “Whenever commission members who are to render the final decision have not heard and examined all of the evidence, the decision, if adverse to a party to the proceeding, shall not be made until a **proposal for decision** containing a statement of reasons and including determination of each issue of fact or law necessary to the **proposed decision has been served upon the parties**, and an opportunity has been afforded to each party adversely affected to file written exceptions and present oral argument to the commission members who are to render the decision, who shall personally consider the whole record or such portions thereof as may be cited by the parties.”

# Conditions Imposed

- Decision and Order
- Rules and Regulations

# What ENV Wants

- For a New Special Use Permit to Supersede Existing Special Use Permit to Allow A 92.5-Acre Expansion and Time Extension for Waimānalo Gulch Sanitary Landfill, Waimānalo Gulch, O‘ahu, Hawai‘i, Tax Map Key: 9-2-03: 72 And 73
- **Key requests:**
  - 200 acres
  - All MSW and ash and residue
  - No closure deadline

# Standards

- The proposed use must be **unusual and reasonable**. HRS § 205-6(a).
- “In contested cases: . . . the party initiating the proceeding shall have the burden of proof . . . .” HRS § 91-10.

# Standards

- “The county planning commission may impose such **protective conditions** as it deems necessary in the issuance of a special use permit. The county planning commission shall establish, among other conditions, . . . if appropriate, a *time limit for the duration of the particular use*, which shall be a condition of the special permit.” HAR § 15-15-95(e).
-

# Standards

- Planning Commission Guidelines:  
“Such use shall not be contrary to the objectives sought to be accomplished by the state land use law and regulations.” Hon. Planning Comm’n R. § 2-45; *accord* HAR § 15-15-95(b).



# Standards

- “Planning for the State’s physical environment with regard to land-based, shoreline, and marine resources shall be directed towards achievement of the following objectives: . . . Manage natural resources and environs to encourage their beneficial and multiple use **without generating costly or irreparable environmental damage.**”  
HRS § 226-11(a).

# Standards

- “To achieve the land, air, and water quality objectives, it shall be the policy of this State to: . . . Promote effective measures to **achieve desired quality in Hawaii’s surface, ground, and coastal waters.**” HRS § 226-13(b).

# Standards

- “To achieve the land, air, and water quality objectives, it shall be the policy of this State to: . . . **Reduce the threat to life and property from erosion, flooding, tsunamis, hurricanes, earthquakes, volcanic eruptions, and other natural or man-induced hazards and disasters.**” HRS § 226-13(b).

# Standards

- Planning Commission Guidelines:  
“That the desired use would not **adversely affect surrounding property.**” Hon. Planning Comm’n R. § 2-45; *accord* HAR § 15-15-95(b).

# Standards

- “The planning commission may attach such **conditions** to any special use permit as it considers **necessary to protect the public health, safety and welfare.**” Hon. Planning Comm’n R. § 2-46(e); *accord* HRS § 205-6(c).

# Proposed Conditions

- Operations
- Reporting and Enforcement
- Diversion of Waste
- Closure

# Operations - Reg. Compliance

- KOCA Condition 2.c: “The operations of the Landfill shall be in compliance with the requirements of Revised Ordinances of Honolulu § 21-5.680, to the extent applicable, and all applicable statutes, rules and regulations of the State Department of Health, the **United States Environmental Protection Agency and any other federal or state agency and the Solid Waste Management Permit for the Landfill**. A violation of any applicable statute, rule or regulation or any violation of a condition of the Solid Waste Management Permit for the Landfill shall be a violation of this Order.”
- Patterned after “Incorporated” PC Condition 7: “The operations of the WGSL under 2008/SUP-2 shall be in compliance with the requirements of Section 21-5.680 of the Revised Ordinances of the City and County of Honolulu 1990, to the extent applicable, and any and all applicable rules and regulations of the State Department of Health.”

# Operations

- Department of Health Violations
  - 1/31/06 NOV with 18 counts
    - 2011AP Ex. K59.
  - 10/25/06 Warning Letter
    - 2011AP Ex. K101.
  - 5/3/07 Warning Letter
    - 2011AP Ex. K125.
  - 9/5/08 Warning Letter
    - 2011AP Ex. K82.
  - 5/13/10 NOV
    - 2011AP Ex. K66.



# Operations

- Environmental Protection Agency Violations
  - 4/5/06 NOV
    - 2011AP Ex. K60.
  - 11/29/11 NOV for violating the Clean Water Act
    - 2011AP Ex. K123.

# Operations

- Falsified wellhead gas readings.
  - 2011AP 1/11/12 Tr. at 91:6–10 (Steinberger).
- Failed to collect actual data from mid-2010 to August 2011.
  - 2011AP 1/11/12 Tr. at 91:22–92:3 (Steinberger); 2011AP Steinberger Written Direct Testimony at 27 (¶ 82).

# Operations

- **“There is a pending enforcement case which I can’t speak to in any detail regarding the handling of storm water runoff from the landfill.”**

- 2011AP 4/4/12 Tr. at 156:20–22 (Gill).

- **“There is . . . , to be clear, potential enforcement action regarding the events around the flood event at the landfill.”**

- 4/4/12 Tr. at 157:10–12 (Gill).

# Operations

- “Q. Looking at those other landfills, are you aware of any that have had as many findings of violation as Waimanalo Gulch Sanitary Landfill in that same five-year period?  
A. In the last five years, probably not.”
  - 2011AP 1/25/12 Tr. at 39:24–40:3 (Chang).
- “I have not worked on a site that has had anywhere near violations of this size.”
  - 2011AP 3/7/12 Tr. at 133:24–134:1 (Miller).

# Operations – Agency Approvals

- KOCA Condition 2.d: “The ENV shall obtain all necessary approvals from the United States **Environmental Protection Agency**, the State Department of Health, the State Department of Transportation, the State Commission on Water Resource Management, the City and County of Honolulu Board of Water Supply **and any other federal, state or municipal agency prior to commencing any onsite or off-site improvements or activities.**”
- Patterned after “Incorporated” LUC Condition 1: “The Applicant shall obtain all necessary approvals from the State Department of Health, Department of Transportation, Commission on Water Resource Management, and Board of Water Supply for all onsite and offsite improvements involving access, storm drainage, leachate control water, well construction, and wastewater disposal.”

# Operations - Dust Control

- KOCA Condition 2.e: “In accordance with Chapter 11-60.1 of the Hawai‘i Administrative Rules, entitled “Air Pollution Control,” the ENV shall be responsible for ensuring that effective dust control measures during all phases of development, construction and operation of the Landfill are provided to prevent any visible dust emission from impacting surrounding areas. The dust control management plan for the Landfill, which must identify and address all activities that have a potential to generate fugitive dust, **is incorporated and made a part of this Order.**”
- Patterned after “Incorporated” LUC Condition 2: “In accordance with Chapter 11-60.1 ‘Air Pollution Control,’ Hawai‘i Administrative Rules, the Applicant shall be responsible for ensuring that effective dust control measures during all phases of development, construction, and operation of the landfill expansion are provided to minimize or prevent any visible dust emission from impacting surrounding areas. The Applicant shall develop a dust control management plan that identifies and addresses all activities that have a potential to generate fugitive dust.”

# Operations

- Ko Olina resident Beverly Munson testified that her lanai was **covered with dirt** every day from the Landfill.
  - 2011AP 2/8/12 Tr. at 59:19–60:8 (Munson).
- “Over the years owners in our community and neighboring communities have written letters and made oral testimony about the dirt, debris, and odors generated by the Landfill.”
  - 2011AP Written Direct Testimony of Beverly Munson at 6.

# Operations – Visual Blight

- KOCA Condition 2.f: “The ENV shall prepare, implement and maintain a **landscaping plan** for the Landfill that (1) incorporates the features of the surrounding natural landscape and enables the Landfill to blend seamlessly into its environment and (2) reduces erosion and rivulets at the Landfill. Prior to the implementation of the landscaping plan, the ENV shall submit the plan to the Association for review and comment.”



# Operations

- Ko Olina’s residents, workers and visitors have expressed concerns regarding the **visual blight** of the Landfill.
  - 2011AP Williams Written Direct Testimony at 9 (¶ 29).
- “The dump is a visual blight growing steadily larger on the mountainside above our otherwise pristine resort community.”
  - 2011AP Ex. K120 (8/12/11 letter from Greg Nichols of Ko Olina Golf Club).

23 December 2007/AOAO Kai Iani Estates



EXHIBIT K112 at 23

# Operations - Trucks

- KOCA Condition 2.g: “The ENV shall prepare, implement and maintain a **schedule pursuant to which City and commercial waste collection and transportation vehicles** enter the Landfill without waiting or queuing on Farrington Highway for a period of more than five minutes.”
- Ko Olina’s residents, workers and visitors have expressed concerns about **heavy truck traffic**.

○ 2011AP Williams Written Direct Testimony at 9 (¶ 29).

# Operations - Litter

- KOCA Condition 2.i: “The ENV shall prepare, implement and maintain a **schedule for the weekly monitoring and removal of waste**, including but not limited to trash and debris, **in the area surrounding the Landfill.**”
- KOCA Condition 2.j: “The ENV shall monitor whether City and commercial vehicles entering the Landfill have **covered and secured their loads** to prevent the spilling or scattering of the contents and shall enforce violations.”

# Operations - Litter

- “For years I have observed rubbish trucks pass the resort with an abundant amount of trash and debris **flying from their trucks that litter Farrington Hwy and the resort**. We are continuously picking up the debris on a daily basis and found that it is a never ending task to control.”
  - 2011AP Ex. K42 (8/11/11 letter from Alan Nakamura of Ko Olina Golf Course).
- **Ko Olina’s residents, workers and visitors have expressed concerns regarding windblown litter from the Landfill.**
  - 2011AP Williams Written Direct Testimony at 9 (¶ 29).

# Operations – Noise and Odor

- KOCA Condition 2.h: “The ENV shall prepare, implement and maintain a plan to **minimize the emission of noise and odors** from the Landfill. With respect to odors, the plan shall include the use of an odor-neutralizing mist system as contemplated by the FEIS.”

# Operations – Noise and Odor

- The **stench of the Landfill** has at times been so bad that, if you walk outside, “your throat would actually clench up and your eyes would water.”
  - 2011AP 2/8/12 Tr. at 58:21–24 (Munson).
- “Ambiance is very essential and to see debris, such as disposed medical needles, garbage bags coming in from the landfill and the **whiff of the sour smell of the landfill across the street** is just not one of the impressions we would like to deliver to our clients.”
  - 2011AP Ex.. K45 (8/13/11 letter from Masaki Nagamine of Watabe Wedding Corporation).

# Reporting & Enforcement

- KOCA Condition 1.f: “The ENV shall report to the public every three months on the efforts of the City in regard to the continued use of the WGSL, including any funding arrangements that are being considered by the City. **On the date each report is published, the ENV shall send a copy of the report to the Association.**”
- Patterened after “Incorporated” LUC Condition 15: “The [ENV] through the City Administration shall report to the public every three months on the efforts of the [ENV] in regard to the continued use of the WGSL, including any funding arrangements that are being considered by the [ENV].”



# Reporting & Enforcement

- KOCA Condition 1.g: “The ENV shall present to the Planning Commission in a public hearing every six months on the status of the City’s efforts to either reduce or continue the use of the WGSL. **The ENV shall provide at least 14 days’ written notice of each hearing to the Association of such hearings.**”
- Patterned after “Incorporated” LUC Condition 16: “The [ENV] shall have a public hearing every three months to report on the status of their efforts to either reduce or continue the use of the WGSL.”

# Reporting & Enforcement

- Senator Maile Shimabukuro testified that her constituents and fellow legislators have voiced their opposition to the Landfill.
  - 2011AP 4/4/12 Tr. at 124:25–126:10 (Shimabukuro).
- The Waianae Neighborhood Board has voted to close the Landfill.
  - 2011AP 4/4/12 Tr. at 131:12–14 (Shimabukuro).
- The Kapolei Neighborhood Board has consistently voted to close or stop the Landfill.
  - 2011AP 3/7/12 Tr. at 134:22–135:1 (Timson).

# Reporting & Enforcement

- KOCA Condition 1.e: “Within 30 days after each semi-annual report is submitted, the Association may request that the Planning Commission issue an **order to show cause** why the SUP should not be revoked if there is reason to believe that there has been a failure to perform according to the conditions imposed by this decision and order pursuant to Planning Commission Rule § 2-48. If so requested, the Planning Commission shall issue the order and schedule a hearing. The ENV shall provide the public with at least 14 days’ notice of the hearing by posting the hearing date, time, location and subject matter on the ENV’s website. The ENV shall also provide at least 14 days’ written notice of the hearing to all neighborhood boards on O’ahu and the Association.”

# Diversion of Waste

- KOCA Condition 2.b: “The Applicant shall continue its efforts to use alternative technologies to provide a comprehensive waste stream management program that includes H-POWER, plasma arc, plasma gasification and recycling technologies, as appropriate. The Applicant shall also continue its efforts to seek beneficial reuse of stabilized, dewatered sewage sludge. **The Applicant shall use alternative technologies, to the extent reasonably practicable, to divert waste from the Landfill as set out in Exhibit A (proposed Stipulation to Continue Proceedings Until April 22, 2017).**”
- Patterned after “Incorporated” PC Condition 2: “The Applicant shall continue its efforts to use alternative technologies to provide a comprehensive waste stream management program that includes H-POWER, plasma arc, plasma gasification and recycling technologies, as appropriate. The Applicant shall also continue its efforts to seek beneficial reuse of stabilized, dewatered sewage sludge.”

During the continuation, ENV will work to divert all waste from the landfill that can be disposed of by a method other than by landfilling, except if (1) H-POWER cannot accept the landfill waste or there is an emergency, and (2) there is no reasonably available alternative disposal method for the waste, by the following means:

1. Municipal Solid Waste, specifically:
  - (a) Residue: ENV will divert residue resulting from the H-POWER waste-to-energy process through H-POWER equipment improvements that will enable H-POWER to better filter residue to capture more of the burnable material and reduce the disposable waste. ENV will also continue to evaluate ways, including boiler optimization, to capture more of the residue at H-POWER.
  - (b) Bulky waste: As of July 2015, ENV has diverted all bulky waste previously used to dispose of sludge from the landfill.
  - (c) Unacceptable waste or waste rejected for disposal at H-POWER such as long wires, car parts, cables, and other oversized items: ENV will divert these wastes through H-POWER equipment improvements, such as the addition of a new waste shredder that will further process unacceptable waste so that these wastes may be incinerated at H-POWER. ENV is also investing in additional staff training at the Waimanalo Gulch Sanitary Landfill ("WGSL") to enhance inspections of incoming waste loads such that waste that could be burned at H-POWER will be identified and screened out in the future.
2. Ash (residue from H-POWER waste-to-energy process): ENV will follow the progress of facilities in Pasco County, Florida, and York County, Pennsylvania, that are pioneering ash reuse and will seek the Department of Health's approval of ash reuse projects modeled after these programs.

# Waste Diversion

- KOCA Condition 3.a: “From the date of this Order until March 1, 2024, MSW, including sewage sludge, may not be deposited at WGSL unless it cannot be disposed of within the City by any means other than landfilling; provided, however, that (1) during periods of H-POWER scheduled maintenance when the facility may shut down one or more of the boilers, MSW that would otherwise be processed at H-POWER or other facilities may be disposed of at WGSL, and (2) under emergency circumstances, as reasonably determined by the Director of the ENV, MSW that would otherwise be processed at H-POWER or other facilities may be disposed of at the WGSL.”

# Waste Diversion

- The ENV's 2012 Findings:
- “1. MSW, including sewage sludge under the control of the City, that can be disposed of other than by landfilling, shall be allowed at the WGSL up to **January 1, 2014**, provided HPOWER or other facility is capable of processing the MSW, including sewage sludge under the control of the City.
- 2. During periods of HPOWER scheduled maintenance when the facility may shut down one or more of its boilers, MSW, including sewage sludge, that would otherwise be processed at HPOWER or other facilities may be disposed of at WGSL.
- 3. Under emergency circumstances, as reasonably determined by the Director of the Department of Environmental Services, MSW, including sewage sludge, that would otherwise be processed at HPOWER or other facilities may be disposed of at WGSL.”

# Closure

- PC Condition 1: “On December 31, 2022, the Applicant shall identify an alternative landfill site that may be used upon Waimanalo Gulch Sanitary Landfill reaching its capacity at a future date. This identification shall have no impact on the closure date for the Waimanalo Gulch Sanitary Landfill because **the Waimanalo Gulch Sanitary Landfill shall continue to operate until it reaches capacity.**”



# Closure

- “The county planning commission may impose such **protective conditions** as it deems necessary in the issuance of a special use permit. The county planning commission shall establish, among other conditions, . . . if appropriate, a **time limit for the duration of the particular use**, which shall be a condition of the special permit.” HAR § 15-15-95(e).
- “[U]nlimited use of the special permit to effectuate essentially what amounts to a **boundary change** would undermine the protection from piecemeal changes to the zoning scheme guaranteed landowners by the **more extensive procedural protections of boundary amendment statutes.**” *Neighborhood Bd. No. 24 (Waianae Coast) v. State Land Use Comm’n*, 64 Haw. 265, 639 P.2d 1097 (1982).

# Closure

- LUC's Counsel: "[I]f you gave the county the **unfettered, indefinite** use of a Special Use Permit for the refuse placement, what you would have done is what that *Neighborhood Board 24* decision says you cannot do. You cannot use a Special Use Permit process to get a boundary amendment because **the boundary amendment process is the more extensive public input process that's required when you do something permanent and extensive like that.**"

○ 7/14/2010 Tr. at 67-68 (Russell Suzuki).

# Closure

- LUC's Counsel: "[Absent a closure condition], they have an **unfettered** Special Use Permit for an **indefinite** period of time, what you would have been doing or what the commission would have been doing would be to **violate the Chapter 205** because you **would have given them a boundary amendment as opposed to a Special Use Permit.**"

○ 7/14/2010 Tr. at 69 (Russell Suzuki).

# Closure

- “Incorporated” LUC Condition 4:
- “On or before **November 1, 2010**, the Applicant shall begin to **identify and develop** one or more new landfill sites that shall either replace or supplement the WGSL. The Applicant's effort to identify and develop such site shall be performed with **reasonable diligence**, and the Honolulu City Council is encouraged to work cooperatively with the Applicant's effort to select a new landfill site on Oahu. Upon the selection of a new landfill site or sites on Oahu, the Applicant shall provide written notice to the Planning Commission. Upon receipt of such written notice, the Planning Commission shall hold a public hearing to reevaluate 2008/5UP-2 (SP09403) and shall determine whether modification or revocation of 2008/SUP-2 (SP09-403) is appropriate at that time. The Planning Commission shall make a recommendation to the Land Use Commission.”

# Closure

How far along is ENV?

- Supposed to start in November 2010.
- ENV did not start until January 2011.
- As of the close of evidence, ENV has not set a deadline for the completion of the site selection process.
- More than eight years after ENV was directed to site and develop with reasonable diligence, we still don't have a site even selected.

# Closure

- It should take 18 months to two years for design, design review, and development of a landfill.
  - 2011AP 3/7/12 Tr. at 199:24–200:1 (Miller).
- The EIS process should take a year to a year and a half.
  - 2011AP 3/7/12 Tr. at 201:1–24 (Miller).
- Adding land acquisition to the process, it would probably take a total of three to five years.
  - 2011AP 3/7/12 Tr. at 202:14–203:1 (Miller).

# Closure

- “We have asked for a **five-year extension** because that’s the time that we believe it’s going to take in order for us to establish a new landfill.”
  - Ex. K85 at 95:6–8 (Doyle).
- “We think the time that is necessary for us to get us there is at least **three, probably four years** just to get ourselves up and operational on that landfill site.”
  - 2011AP Ex. K85 at 100:23–25 (Doyle).

# Closure

- **Stage 1: Present to March 1, 2024**
- **KOCA Condition 3.a:** “From the date of this Order until March 1, 2024, MSW, including sewage sludge, may not be deposited at WGSL unless it cannot be disposed of within the City by any means other than landfilling; provided, however, that (1) during periods of H-POWER scheduled maintenance when the facility may shut down one or more of the boilers, MSW that would otherwise be processed at H-POWER or other facilities may be disposed of at WGSL, and (2) under emergency circumstances, as reasonably determined by the Director of the ENV, MSW that would otherwise be processed at H-POWER or other facilities may be disposed of at the WGSL.”



# Closure

- **Stage 1: Present to March 1, 2024**
- **ENV Condition 1-3 (2012):**
- “1. MSW, including sewage sludge under the control of the City, that can be disposed of other than by landfilling, shall be allowed at the WGSL up to **January 1, 2014**, provided HPOWER or other facility is capable of processing the MSW, including sewage sludge under the control of the City.
- 2. During periods of **HPOWER scheduled maintenance** when the facility may shut down one or more of its boilers, MSW, including sewage sludge, that would otherwise be processed at HPOWER or other facilities may be disposed of at WGSL.
- 3. Under **emergency circumstances**, as reasonably determined by the Director of the Department of Environmental Services, MSW, including sewage sludge, that would otherwise be processed at HPOWER or other facilities may be disposed of at WGSL.”
-

# Closure

- **Stage 2: March 2, 2024, to March 1, 2027**
- **KOCA Condition 3.b: “From March 2, 2024, until March 1, 2027, WGSL shall be closed to use and all waste except (1) ash and residue from H-POWER; and (2) automobile-shredder residue.”**

# Closure

- **Stage 3: March 2, 2027 Onwards**
- KOCA Condition 3.c “The Landfill shall stop accepting any form of waste and close on or before March 2, 2027.”
- KOCA Condition 4: “The ENV shall file with the Planning Commission an approved closure plan one year prior to closing to all forms of waste on March 2, 2027.”

# Closure

- “After numerous lengthy meetings within the community, in June or July of 2002[,] [former acting ENV Director Frank Doyle] stated to the community that, if the community allowed some expansion of the Landfill, **the ENV would commit to close the Waimanalo Gulch Sanitary Landfill in 2008.**”
  - 2011AP Rezentes Written Direct Testimony at 4 (¶ 12).
- “COMMISSIONER COPA: Do you honestly think that we will have a site, another site picked for a landfill? And if so do you think that you could commit that without a doubt that this landfill will close? MR. DOYLE: **We have made that commitment, yes.**”

- 2011AP Ex. K85 at 125:7–11 (3/27/03 Tr.).

# Closure

- “[A]t some point in time we’ve got to say enough is enough.”

○ 2011AP 2/8/12 Tr. at 77:14–16 (Rezentes).

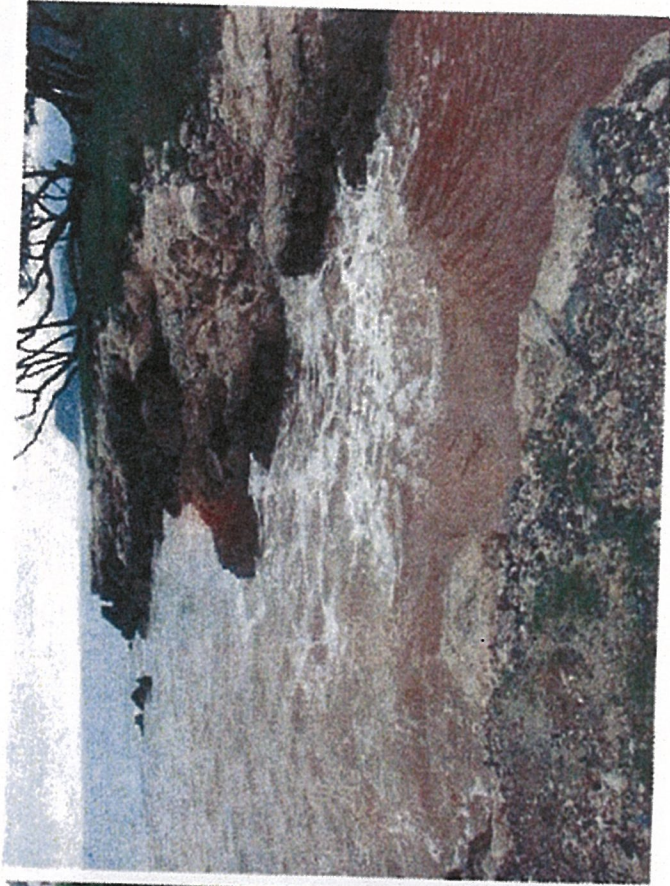


EXHIBIT K107



1/16/2011 13:11:02

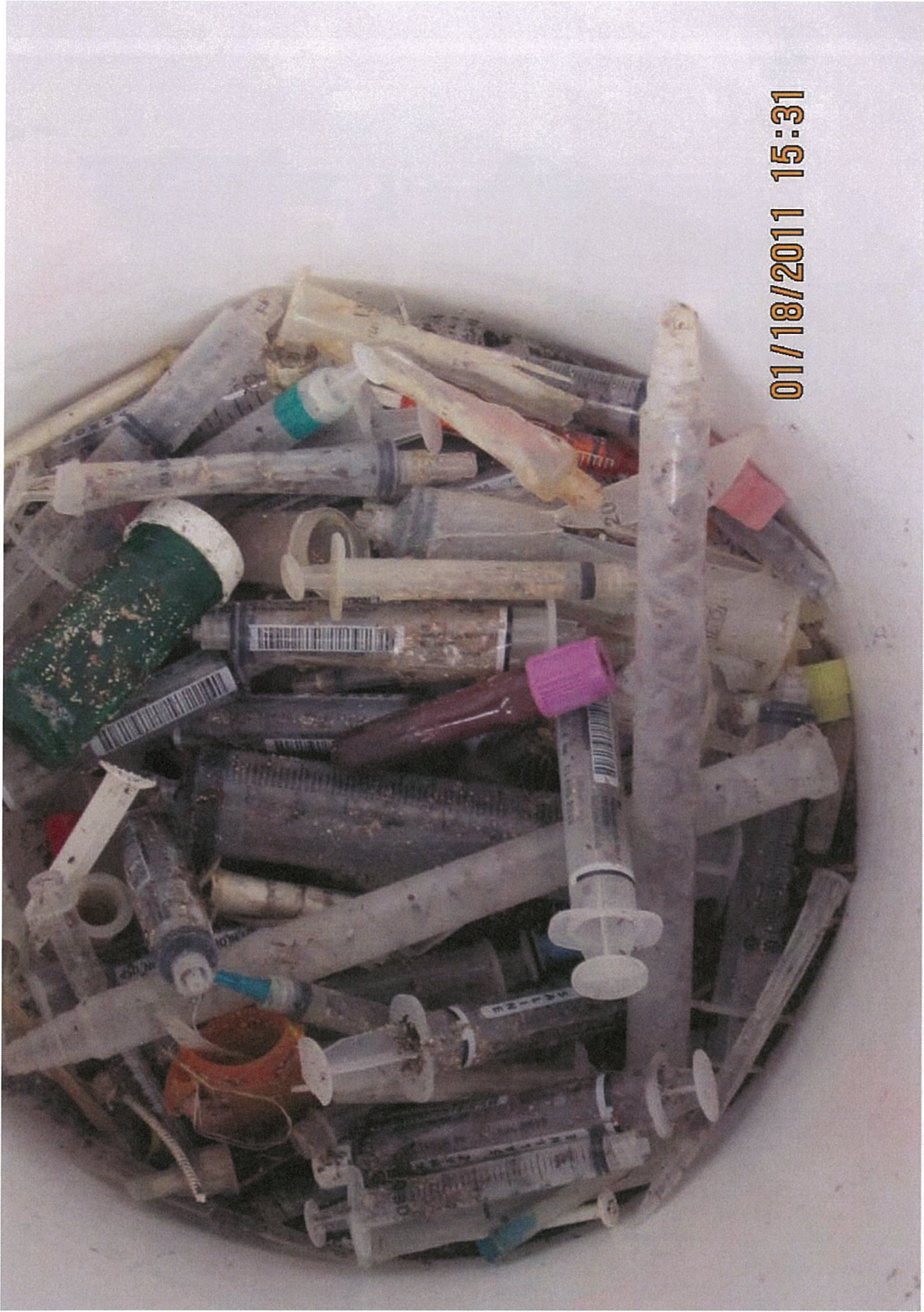
EXHIBIT K105 at 7



1/16/2011 13:09:26

EXHIBIT K108 at 13





01/18/2011 15:31

1/18/2011 15:31:32

EXHIBIT K108 at 20

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

For a New Special Use Permit to  
Supersede Existing Special Use Permit  
to Allow A 92.5-Acre Expansion and  
Time Extension for Waimānalo Gulch  
Sanitary Landfill, Waimānalo Gulch,  
O‘ahu, Hawai‘i, Tax Map Key: 9-2-03: 72  
And 73

FILE NO. 2008/SUP-2

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To delete Condition No. 14 of Special  
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Docket No. SP09-403) which states as  
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“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

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

PAUL S. AOKI, ESQ.  
Acting Corporation Counsel  
KAMILLA C.K. CHAN, ESQ.  
Deputy Corporation Counsel  
City and County of Honolulu  
530 South King Street, Room 110  
Honolulu, HI 96813

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

IAN L. SANDISON, ESQ.  
JOYCE W.Y. TAM-SUGIYAMA, ESQ.  
Watanabe Ing LLP  
999 Bishop Street, Suite 1250  
Honolulu, HI 96813

Attorneys for Intervenor  
SCHNITZER STEEL HAWAII CORP.

RICHARD N. WURDEMAN, ESQ.  
1003 Bishop Street, Suite 720  
Honolulu, HI 96813

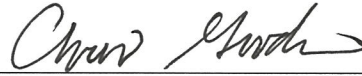
Attorney for Intervenor  
COLLEEN HANABUSA

CLARE E. CONNORS, ESQ.  
Attorney General of Hawai'i  
BRYAN C. YEE, ESQ.  
DEBORAH DAY EMERSON, ESQ.  
Deputy Attorneys General  
Department of the Attorney General  
425 Queen Street  
Honolulu, HI 96813

Attorneys for  
OFFICE OF PLANNING, STATE OF HAWAI'I

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CADES SCHUTTE  
A Limited Liability Law Partnership



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CALVERT G. CHIPCHASE  
CHRISTOPHER T. GOODIN

Attorneys for Intervenors  
KO OLINA COMMUNITY ASSOCIATION  
and MAILE SHIMABUKURO