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October 8, 2019

Daniel Orodener, Executive Officer
State of Hawaii Land Use Commission
State Office Tower
Leiopapa A Kamehameha Building
235 South Beretania Street, Room 406
Honolulu, Hawaii 96813

**RE: Special Permit Application No. SP09-403, Deletion of Condition No. 14
Department of Environmental Services, City and County of Honolulu,
TMK: (1) 9-2-03:72 and 73
Waimanalo Gulch, Ewa, Oahu**

Dear Mr. Orodener:

The Office of Planning (OP) and the Department of Environmental Services, City and County of Honolulu (ENV), have jointly agreed to amended conditions to the Honolulu Planning Commission's Findings of Fact, Conclusions of Law, and Decision and Order, dated June 10, 2019 (Planning Commission Order).

On October 1, 2019, OP submitted a letter proposing additions and amendments to the Planning Commission Order. On October 7, ENV submitted comments on OP's letter. Subsequently, OP and ENV have jointly agreed to the amended conditions as set forth below. To the extent inconsistent, this will replace OP's and ENV's October 1 and October 7, 2019 letters, respectively.

The amended conditions are as follows in Ramseyered format.

"1. On December 31, 2022, the Applicant shall identify an alternative landfill site that may be used upon WGS� reaching its capacity at a future date. This identification shall have no impact on the closure date for the WGS� because the WGS� shall continue to operate until it reaches capacity. This

identification does not require the alternative landfill to be operational on December 31, 2022 but is intended to require the Applicant to commit to the identification of an alternative landfill site that may replace WGS� when it reaches capacity at a future date. The identification of an alternative landfill site by December 31, 2022 is based on the evidence presented and that, as the Planning Commission discussed in 2017, a five year timeframe was sufficient time for the Applicant to identify an alternative landfill site before the WGS� nears capacity. Upon identification of the alternative landfill site, the Applicant shall provide written notice to the Planning Commission and the LUC.

2. No less than seven years before the WGS� is estimated to reach its capacity for either MSW or ash, the Applicant shall pursue, as appropriate, site acquisition, the preparation of an Environmental Impact Statement, land use permitting as may be required, and initiate the detailed engineering studies needed to support the design and construction of the replacement landfill in preparation for the transfer of landfill operations when WGS� reaches capacity.

23. The Applicant shall provide semi-annual reports to the Planning Commission and the LUC regarding (a) the status of the efforts to identify and develop a new landfill site on O'ahu, (b) the WGS�'s operations, including gas monitoring, (c) the ENV's compliance with the conditions imposed herein, (d) the landfill's compliance with its Solid Waste Management Permit issued by the Department of Health and all applicable federal and state statutes, rules and regulations, including any notice of violation and enforcement actions regarding the landfill, (e) the City's efforts to use alternative technologies, (f) the extent to which waste is being diverted from the landfill, including the estimated number of tons of ash and number of tons of Municipal Solid Waste (MSW) being disposed at WGS� in the reporting period, and estimated number of tons of MSW diverted from WGS� in the reporting period, (g) estimated years remaining in landfill capacity (MSW and ash) based on current disposal and diversion rate and site design, and (h) any plans or funding arrangements that are being considered by the Honolulu City Council or the City Administration for activities that would further divert waste from the landfill.

34. Public health and safety conditions: If the landfill releases waste or leachate, the ENV must immediately (a) notify the surrounding community, including the Makakilo/Kapolei/Honokai Hale, Waianae Coast and Nanakuli-Maili Neighborhood Boards, Intervenors Schnitzer Steel Hawaii Corp., Ko Olina Community Association, Maile Shimabukuro and Colleen Hanabusa

and (b) take remedial actions to clean up the waste and to keep the waste from spreading. Such remedial actions shall include, but shall not be limited to, placing debris barriers and booms at the landfill's shoreline outfall to prevent waste from spreading into the ocean."

Thank you for your consideration of this letter.

Very truly yours,



Bryan C. Yee
Deputy Attorney General

- c: State of Hawaii, Office of Planning (via email)
- State of Hawaii Department of Health, Solid and Hazardous Waste Branch
(via email)
- City and County of Honolulu, Department of Environmental Services
(via email)
- City and County of Honolulu, Department of Planning and Permitting
(via email)
- Calvert G. Chipchase, Esq., Attorney for Intervenors Ko Olina Community
Association and Malie Shimabukuro (via email)
- Ian L. Sandison, Esq., Attorney for Intervenor Schnitzer Steel Hawaii Corp.
(via email)
- Richard D. Wurdeman, Esq., Attorney for Intervenor Colleen Hanabusa
(via email)
- Kamilla C.K. Chan, Deputy Corporation Counsel (via email)