BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAI'I

In The Matter Of The Application Of The COUNTY OF MAUI DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

To Obtain A Fourth Amendment To Land Use Commission Special Permit To (1) Extend The Time For The Special Permit To October 31, 2028, For The Central Maui Landfill; (2) Delete Approximately 16.841 Acres Of Land From The Special Permit; And (3) Include Approximately 39.573 Acres Of Land Within The Special Permit For The Development Of Recycling And Diversion Facilities

ORDER GRANTING LAND USE COMMISSION STAFF'S REQUEST TO ISSUE AN ERRATA TO THE FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER APPROVING WITH MODIFICATIONS THE RECOMMENDATION OF THE COUNTY OF MAUI PLANNING COMMISSION TO APPROVE A FOURTH AMENDMENT TO THE LAND USE COMMISSION SPECIAL PERMIT

AND

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF THE DOCUMENT ON FILE IN THE OFFICE OF THE STATE LAND USE COMMISSION, HONOLULU, HAWAI'I.

Date 10/27/2020

BY DANIEL ORODENKER
BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWA'I

In The Matter Of The Application Of The

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DOCKET NO. SP97-390
ORDER GRANTING LAND USE
COMMISSION STAFF'S REQUEST
TO ISSUE AN ERRATA TO THE
FINDINGS OF FACT,
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DECISION AND ORDER
APPROVING WITH
MODIFICATIONS THE
RECOMMENDATION OF THE
COUNTY OF MAUI PLANNING
COMMISSION TO APPROVE A
FOURTH AMENDMENT TO THE
LAND USE COMMISSION SPECIAL
PERMIT; AND CERTIFICATE OF
SERVICE

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At its meeting on October 8, 2020, using the Zoom Webinar

Docket No. SP97-390/County of Maui Department of Environmental Management

Order Granting Land Use Commission Staff’s Request to Issue an Errata to the Findings of Fact, Conclusions of Law, and Decision and Order Approving with Modifications the Recommendation of the County of Maui Planning Commission to Approve a Fourth Amendment to the Land Use Commission Special Permit
considered the request of the LUC staff to issue an errata to the Findings of Fact, Conclusions of Law, and Decision and Order Approving With Modifications the Recommendation of the County of Maui Planning Commission to Approve a Fourth Amendment to the Land Use Commission Special Permit (“Decision and Order”) filed on August 13, 2020, in the subject docket to correct the number of acres subject to Condition No. 23 and related findings of fact.

Richelle M. Thomson, Esq.; Eric Nakagawa; and Elaine Baker appeared on behalf of the County of Maui Department of Environmental Management (“Applicant”). Jordan Hart appeared on behalf of the County of Maui Department of Planning (“DP”). Dawn Apuna, Esq., appeared on behalf of the State of Hawai‘i Office of Planning (“OP”).

As part of the LUC staff’s request, Executive Officer Daniel E. Orodenker provided the corrected language of Condition No. 23 and Findings of Fact Nos. 12, 135, 138 of the Decision and Order filed August 13, 2020, as follows (deleted language stricken; additional language underscored):

**Condition No. 23 (p. 58)**

23. That the Applicant shall commence the process to seek a district boundary amendment with the LUC for the approximately 22 acres of IAL 95.659

Docket No. SP97-390/County of Maui Department of Environmental Management

Order Granting Land Use Commission Staff’s Request to Issue an Errata to the Findings of Fact, Conclusions of Law, and Decision and Order Approving with Modifications the Recommendation of the County of Maui Planning Commission to Approve a Fourth Amendment to the Land Use Commission Special Permit
Finding of Fact No. 12 (pp. 6-7)

12. After additional discussion, the LUC entered into deliberations on the matter. Thereafter, a motion was made and seconded to approve the Applicant's Fourth Amendment Request, subject to the 18 conditions recommended by the Planning Commission and the two conditions proposed by the Applicant. Amendments to this motion were subsequently made and seconded to include (a) an additional condition to read as follows:

- The Applicant shall commence the process to seek a district boundary amendment with the LUC for the approximately 22 acres of IL 95.659 acres of the total permitted area of the CML within five years of the LUC's Decision and Order for the Applicant’s Fourth Amendment Request.

and (b) the two conditions recommended by OP. Following discussion, a vote was taken on this amended motion. There being a vote tally of 5 ayes and 3 nays, the amended motion passed.³

Finding of Fact No. 135 (p. 43)

135. The Applicant will commence the process to seek a district boundary amendment with the LUC for the approximately 22 acres of IL 95.659 acres of the total permitted area of the CML within five years of the LUC’s Decision and Order for the Applicant’s Fourth Amendment Request.

³There are eight sitting commissioners presently on the LUC. The ninth seat is currently vacant.
Finding of Fact No. 138 (p. 46, last paragraph)

138. The Applicant will commence the process to seek a district boundary amendment with the LUC for the approximately 22 acres of 95.659 acres of the total permitted area of the CML, within five years of the LUC’s Decision and Order for the Applicant’s Fourth Amendment Request.

Thereafter, the Applicant, DP, and OP provided comments on the LUC staff’s request.¹

Following discussion, a motion was made and seconded to grant the LUC staff’s request to issue an errata to the Decision and Order filed August 13, 2020, and to authorize the LUC Chair to sign this Order on behalf of the LUC. There being a vote tally of 7 ayes, 1 excused, and 0 nays, the motion passed.

ORDER

The LUC, having duly considered the LUC staff’s request, the written and oral arguments of the Applicant, DP, and OP in the proceeding, and a motion having been made and seconded at its meeting on October 8, 2020, using the Zoom Webinar Virtual Meeting platform, and the motion having received the affirmative votes required by Hawai‘i Administrative Rules § 15-15-13, and there being good cause for the motion,

¹ Both OP and the Applicant filed written comments on the LUC’s staff request on October 6, 2020, and October 7, 2020, respectively.

Docket No. SP97-390/County of Maui Department of Environmental Management

Order Granting Land Use Commission Staff’s Request to Issue an Errata to the Findings of Fact, Conclusions of Law, and Decision and Order Approving with Modifications the Recommendation of the County of Maui Planning Commission to Approve a Fourth Amendment to the Land Use Commission Special Permit
HEREBY ORDERS that the LUC staff's request to issue an errata to the Decision and Order filed August 13, 2020, be GRANTED.

Accordingly, Condition No. 23 (p. 58) and Findings of Fact Nos. 12 (pp. 6-7), 135 (p. 43), and 138 (p. 46, last paragraph) of the Decision and Order filed August 13, 2020, shall be replaced by the corresponding condition and findings of fact identified on Exhibit "A" attached hereto and incorporated by reference herein.

IT IS FURTHER ORDERED that the LUC Chair shall sign the Order in this matter on behalf of the LUC.
ADOPTION OF ORDER

This ORDER shall take effect upon the date this ORDER is certified by this Commission.

Done at Honolulu, Hawai‘i, this 27th day of October, 2020, per motion on October 8, 2020.

LAND USE COMMISSION

APPROVED AS TO FORM

STATE OF HAWA‘I

Deputy Attorney General

By

JONATHAN LIKEKE SCHEUER
Chairperson and Commissioner

Filed and effective on:

October 27, 2020

Certified by:

DANIEL ORODENKER
Executive Officer
Condition No. 23 (p. 58)

23. That the Applicant shall commence the process to seek a district boundary amendment with the LUC for the approximately 95,659 acres of the total permitted area of the CML within five years of the LUC’s Decision and Order for the Applicant’s Fourth Amendment Request.

Finding of Fact No. 12 (pp. 6-7)

12. After additional discussion, the LUC entered into deliberations on the matter. Thereafter, a motion was made and seconded to approve the Applicant’s Fourth Amendment Request, subject to the 18 conditions recommended by the Planning Commission and the two conditions proposed by the Applicant. Amendments to this motion were subsequently made and seconded to include (a) an additional condition to read as follows:

- The Applicant shall commence the process to seek a district boundary amendment with the LUC for the approximately 95,659 acres of the total permitted area of the CML within five years of the LUC’s Decision and Order for the Applicant’s Fourth Amendment Request.

and (b) the two conditions recommended by OP. Following discussion, a vote was taken on this amended motion. There being a vote tally of 5 ayes and 3 nays, the amended motion passed.³

³ There are eight sitting commissioners presently on the LUC. The ninth seat is currently vacant.

Exhibit “A”
Finding of Fact No. 135 (p. 43)

135. The Applicant will commence the process to seek a district boundary amendment with the LUC for the approximately 95,659 acres of the total permitted area of the CML within five years of the LUC’s Decision and Order for the Applicant’s Fourth Amendment Request.

Finding of Fact No. 138 (p. 46, last paragraph)

138.

The Applicant will commence the process to seek a district boundary amendment with the LUC for the approximately 95,659 acres of the total permitted area of the CML within five years of the LUC’s Decision and Order for the Applicant’s Fourth Amendment Request.
BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAI'I

In The Matter Of The Application Of The COUNTY OF MAUI DEPARTMENT OF ENVIRONMENTAL MANAGEMENT To Obtain A Fourth Amendment To Land Use Commission Special Permit To (1) Extend The Time For The Special Permit To October 31, 2028, For The Central Maui Landfill; (2) Delete Approximately 16.841 Acres Of Land From The Special Permit; And (3) Include Approximately 39.573 Acres Of Land Within The Special Permit For The Development Of Recycling And Diversion Facilities

DOCKET NO. SP97-390

CERTIFICATE OF SERVICE

I hereby certify that a copy of ORDER GRANTING LAND USE COMMISSION STAFF'S REQUEST TO ISSUE AN ERRATA TO THE FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER APPROVING WITH MODIFICATIONS THE RECOMMENDATION OF THE COUNTY OF MAUI PLANNING COMMISSION TO APPROVE A FOURTH AMENDMENT TO THE LAND USE COMMISSION SPECIAL PERMIT; EXHIBIT "A" was served upon the following by either hand delivery or depositing the same in the U.S. Postal Service by regular or certified mail as noted:
BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAI'I

In The Matter Of The Application Of The County Of Maui Department Of Environmental Management To Obtain A Fourth Amendment To Land Use Commission Special Permit To (1) Extend The Time For The Special Permit To October 31, 2028, For The Central Maui Landfill; (2) Delete Approximately 16.841 Acres Of Land From The Special Permit; And (3) Include Approximately 39.573 Acres Of Land Within The Special Permit For The Development Of Recycling And Diversion Facilities

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DEL.  MARY ALICE EVANS, Director  
Office of Planning  
P. O. Box 2359  
Honolulu, Hawaii  96804-2359  

DEL.  DAWN TAKEUCHI-APUNA, Esq.  
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Hale Auhau, Third Floor  
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REGULAR  Mr. Mike Munekiyo  
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REGULAR  ERIC NAKAGAWA, Director  
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Department of Environmental Management  
200 South High Street, Room 322  
Wailuku, Hawaii  96793  

CERTIFIED  Mr. Michael Hopper Esq.,  
MAIL:  County of Maui  
Department of Environmental Management  
200 South High Street, Room 322  
Wailuku, Hawaii  96793  

Honolulu, Hawaii, 10/27/2020.  

__________________________________  
DANIEL ORODENKER  
Executive Officer