

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In The Matter Of The Application Of The ) DOCKET NO. SP87-362  
)  
DEPARTMENT OF ENVIRONMENTAL ) FINDINGS OF FACT, CONCLUSIONS  
SERVICES, CITY AND COUNTY OF ) OF LAW, AND DECISION AND ORDER  
HONOLULU (fka DEPARTMENT OF ) ADOPTING WITH MODIFICATIONS,  
PUBLIC WORKS, CITY AND COUNTY ) THE CITY AND COUNTY OF  
OF HONOLULU) HONOLULU PLANNING  
) COMMISSION'S RECOMMENDATION  
For An Amendment To The Special Use ) TO APPROVE AMENDMENT TO  
Permit Which Established A Sanitary ) SPECIAL USE PERMIT  
Landfill On Approximately 107.5 Acres )  
Of Land Within The State Land Use )  
Agricultural District At Waimānalo )  
Gulch, Honouliuli, 'Ewa, O'ahu, )  
Hawai'i, Tax Map Key: 9-2-03: Portion 72 )  
And Portion 73 (fka Tax Map Key: 9-2- )  
03: Portion 2 And Portion 13) )  
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FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER  
ADOPTING WITH MODIFICATIONS, THE CITY AND COUNTY OF HONOLULU  
PLANNING COMMISSION'S RECOMMENDATION TO APPROVE AMENDMENT  
TO SPECIAL USE PERMIT

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, Hawaii.

MAR 14 2008

Date

by

*Ronny A. West*

Interim Executive Officer

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FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER  
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PLANNING COMMISSION'S RECOMMENDATION TO APPROVE AMENDMENT  
TO SPECIAL USE PERMIT

The Land Use Commission ("LUC"), having examined the complete record of the City and County of Honolulu Planning Commission's ("Planning Commission") proceedings on the City and County of Honolulu Department of Environmental Services' ("Applicant") application to amend Condition Number 10 of the Planning Commission's Findings of Fact, Conclusions, and Decision dated March 13, 2003, by extending the deadline to accept solid waste at the Waimānalo Gulch

Sanitary Landfill (“WGSL”) from May 1, 2008, to May 1, 2010, or until the WGSL reaches its permitted capacity, whichever occurs first (“Application”)<sup>1</sup>, and upon consideration of the matters discussed therein, at its meetings on February 21, 2008, March 6, 2008, and March 7, 2008, in Honolulu, Hawai`i, hereby makes the following findings of fact, conclusions of law, and decision and order:

FINDINGS OF FACT

PROCEDURAL MATTERS

1. On July 6, 2007, the Applicant filed the Application with the City and County of Honolulu Department of Planning and Permitting (“DPP”), DPP Docket `Ewa – State Special Use Permit No. 86/SUP-5, pursuant to section 205-6, Hawai`i Revised Statutes (“HRS”), and sections 15-15-95 and 15-15-96, Hawai`i Administrative Rules (“HAR”).
2. The Applicant sought to amend Condition Number 10 of the Planning Commission’s Findings of Fact, Conclusions, and Decision dated March 13, 2003, by extending the deadline to accept solid waste at the WGSL from May 1, 2008, to May 1, 2010, or until the WGSL reached its permitted capacity, whichever occurred first. No other amendments were requested at that time.
3. On August 30, 2007, the DPP accepted the Application for processing as of August 30, 2007.

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<sup>1</sup> The LUC adopted Condition Number 10 in its entirety as Condition Number 12 in its Decision and Order Approving Amendment (“D&O Approving Amendment”) filed June 9, 2003.

4. On October 12, 2007, the Notice of the Planning Commission public hearing on the Application was published in the *Honolulu Star-Bulletin*.

5. On October 25, 2007, Colleen Hanabusa, Esq., filed a Petition to Intervene and Request for Contested Case.

6. On October 26, 2007, Ken Williams, General Manager and Vice President, filed a Petition to Intervene on behalf of the Ko Olina Community Association (“KOCA”).<sup>2</sup>

7. On November 2, 2007, the Applicant filed its Memoranda in Opposition to Ms. Hanabusa’s and KOCA’s Petitions to Intervene.

8. On November 14, 2007, the Planning Commission considered the Application and the Petitions to Intervene at the Mission Memorial Auditorium, City Hall Annex, in Honolulu, Hawai‘i. At the hearing, the Planning Commission heard public testimony from eight individuals primarily in opposition to the Application. The Planning Commission also received written testimony from numerous individuals in support and in opposition to the Application. After due deliberation, the Planning Commission granted the requests to intervene and consolidated said requests into one contested case proceeding. The Planning Commission subsequently closed the public hearing and scheduled the matter for a contested case hearing.

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<sup>2</sup> KOCA is a community association which represents various resort and residential owners throughout the Ko Olina Resort. The resort is located makai of Farrington Highway and is situated across from the WGSL.

9. On November 30, 2007, the Planning Commission Chair held a prehearing conference with the parties in the contested case hearing.

10. On December 7, 2007, the Planning Commission conducted the contested case hearing on the Application at Kapolei Hale, Conference Rooms A and B, in Kapolei, Hawai'i. Following the presentation of the parties' respective cases-in chief, the Planning Commission closed the hearing.

11. On December 21, 2007, KOCA and Ms. Hanabusa filed a Proposed Findings of Fact and Conclusions of Law.

12. On December 21, 2007, KOCA and Ms. Hanabusa filed a Closing Argument.

13. On December 21, 2007, the Applicant filed a Closing Argument.

14. On December 21, 2007, the Applicant filed a Proposed Findings of Fact, Conclusions of Law, and Decision and Order.

15. On January 8, 2008, KOCA and Ms. Hanabusa filed a Response to the Applicant's Proposed Findings of Fact, Conclusions of Law, and Decision and Order.

16. On January 8, 2008, the Applicant filed a Rebuttal to Intervenors' Proposed Findings of Fact and Conclusions of Law and Intervenors' Closing Argument.

17. On January 16, 2008, the Planning Commission acted on the Application at the Mission Memorial Auditorium, City Hall Annex, in Honolulu,

Hawai`i. After due deliberation and consideration of the record in this matter, the Planning Commission recommended approval of the Application to the LUC and issued its Findings of Fact, Conclusions of Law, and Decision and Order.

18. On January 31, 2008, the LUC received the decision and the complete record of the Planning Commission's proceedings on the Application.

19. On February 15, 2008, Ms. Hanabusa filed the following pleadings: Petition for Declaratory Orders and Request for Hearing; Petition for Intervention; and Motion to Dismiss, on behalf of herself and KOCA.

20. On February 21, 2008, the Applicant filed its Memorandum in Opposition to Petition for Declaratory Orders and Request for Hearing; Memorandum in Opposition to Motion to Dismiss; and Request for Official Notice.<sup>3</sup>

21. On February 21, 2008, the LUC met in Conference Room 204, Leiopapa A Kamehameha Building, in Honolulu, Hawai`i, to consider the Application. Gary Y. Takeuchi, Esq., and Eric S. Takamura appeared on behalf of the Applicant. Colleen Hanabusa, Esq., and Ken Williams were also present at the meeting. At the meeting, Commissioner Contrades disclosed that his daughter is employed by the Corporation Counsel, City and County of Honolulu, but that he did not discuss the

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<sup>3</sup> The Request for Official Notice requested the LUC to take official notice of true and correct copies of (i) *Honolulu Advertiser* and *Honolulu Star-Bulletin* articles dated December 12, 2007, regarding the settlement of the State Department of Health's ("DOH") Notice of Violation; (ii) the settlement agreement dated December 7, 2007, between the DOH, the City and County of Honolulu, and Waste Management Hawaii, Inc. ("WMH"); and (iii) Modification of Solid Waste Permit No. LF-0054-02 for the WGS� dated February 20, 2008.

Application with her. The Applicant, Ms. Hanabusa, and KOCA had no objections to the participation of Commissioner Contrades in the proceeding. Following the receipt of public testimony<sup>4</sup>, the LUC deferred the matter to its March 6, 2008, meeting in Honolulu, Hawai`i.

22. On February 26, 2008, Ms. Hanabusa filed: a Supplemental Petition for Declaratory Orders and Request for Hearing; a Second Supplemental Petition for Declaratory Orders; and a Motion to Strike Request for Official Notice on behalf of herself and KOCA.

23. On March 4, 2008, the Applicant filed its Memorandum in Opposition to Supplemental Petition for Declaratory Orders and Request for Hearing; a Memorandum in Opposition to Second Supplemental Petition for Declaratory Orders; and a Memorandum in Opposition to Motion to Strike Request for Official Notice.

24. On March 6, 2008, the LUC resumed its meeting on the Application and the pleadings filed by the Applicant and Ms. Hanabusa and KOCA in Conference Room 405, Leiopapa A Kamehameha Building, in Honolulu, Hawai`i. Gary Y. Takeuchi, Esq., and Eric S. Takamura appeared on behalf of the Applicant. Colleen Hanabusa, Esq., and Ken Williams were also present at the continued meeting. At the

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<sup>4</sup> Pursuant to section 92-3, HRS, T. George Paris, Ralph F. Harris, Ashley Fraser, Greg Nichols, Kimberly Carhart, Robert Weiss, Cynthia K.L. Rezentes, Edgar Gum and Mark Donnelly, Ken Williams, and Mary Lou Kobayashi provided written testimony on the Application. The LUC also heard testimony from Lincoln Naiwi.; Beverly Munson; Lee Munson; Mel Kahele; Ron Amemiya; James K. Manaku, Sr.; Cynthia K.L. Rezentes; Duke Hospodar; Kimo Keli`i; Patty Teruya; Mary Lou Kobayashi; and Councilmember Todd Apo.

meeting, the LUC recognized Ms. Hanabusa and KOCA as intervenors in the LUC's proceeding based on their intervenor status before the Planning Commission, and therefore by a vote tally of 8 ayes, 0 nays, and 1 absent, denied their Petition for Intervention on the grounds that it is rendered moot. Thereafter, a motion was made and seconded to take Ms. Hanabusa's Petition for Declaratory Orders and Request for Hearing and Supplemental Petitions filed thereafter under advisement. There being a vote tally of 8 ayes, 0 nays, and 1 absent, the motion carried. Following the receipt of public testimony<sup>5</sup>, and upon further discussion, a motion was made and seconded to deny the Applicant's Request for Official Notice on the grounds that the documents for which official notice was requested: (i) are not part of the Planning Commission record that is to be considered by the LUC pursuant to section 205-6, HRS, and (ii) did not meet the criteria cited in section 15-15-63(k), HAR. By a vote tally of 8 ayes, 0 nays, and 1 absent, the motion carried. Having denied the Applicant's Request for Official Notice, the Motion to Strike Request for Official Notice filed by Ms. Hanabusa was deemed moot. Thereafter, a motion to deny Ms. Hanabusa's Motion to Dismiss was made and seconded on the grounds that: (i) the Planning Commission's recommendation to approve the Application subject to the Applicant obtaining DOH approval of its grade modification request, was not a precondition based on the clear language of the

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<sup>5</sup> Pursuant to section 92-3, HRS, Ralph F. Harris, Edgar Gum and Mark Donnelly, Josiah Ho`ohuli, Nina Fisher, Cynthia K.L. Rezentes, Isireli Qalo, and Pele Toomata provided written testimony on the Application. The LUC also heard testimony from Ralph F. Harris, Mike Nelson, Isireli Qalo, Greg Nichols, Pele Toomata, and Russell Duong.



condition; and (ii) the LUC has the authority to modify its conditions based on past practice and its interpretation of section 15-15-95(e), HAR. By a vote tally of 8 ayes, 0 nays, and 1 absent, the motion carried. Following deliberation by the LUC, a motion was made and seconded to grant the Application. Upon discussion, the motion was amended and seconded to include the following two additional conditions: (i) the LUC will not accept any further amendments to this special use permit and will not grant any further time extensions; and (ii) within one year, the Applicant will submit to the LUC an approved closure plan for the WGSL. By a vote tally of 4 ayes, 4 nays, and 1 absent, the motion failed. Thereafter, a motion was made to grant the Application but to limit the time extension to one year. The motion was not seconded and therefore failed. Following further deliberation, a motion was made and seconded to deny the Application. By a vote tally of 3 ayes, 5 nays, and 1 absent, the motion failed.

Following discussion, the LUC continued the meeting to March 7, 2008.

25. On March 7, 2008, the LUC resumed its meeting on the Application in Conference Room 405, Leiopapa A Kamehameha Building, in Honolulu, Hawai`i. Gary Y. Takeuchi, Esq., and Eric S. Takamura appeared on behalf of the Applicant. Colleen Hanabusa, Esq., and Ken Williams were also present at the continued meeting. At the meeting, a motion was made and seconded to adopt the recommendation of the Planning Commission with an amendment to the closure date of the WGSL from May 1, 2010, to November 1, 2009, and with the additional condition requiring the Applicant to

report to the LUC every six months on the actions taken to alleviate the further use of the WGS. Following deliberation by the LUC, a vote was taken on the motion. There being a vote tally of 6 ayes, 2 nays, and 1 absent, the motion carried.

#### DESCRIPTION OF PROPERTY

26. The WGS is located at 92-460 Farrington Highway, Honouliuli, `Ewa, O`ahu, and is situated on TMK: 9-2-03: por. 72 and por. 73 ("Property").

27. The Property is located within the State Land Use Agricultural District. The Property is owned by the City and County of Honolulu.

28. The WGS currently consists of approximately 107.5 acres and is under the jurisdiction of the Applicant and operated under contract to WMH. It has been in operation since 1989 and is currently the only landfill permitted to receive municipal solid waste ("MSW") on O`ahu.

#### BACKGROUND OF THE WGS

29. The WGS was established pursuant to LUC Docket No. SP87-362. As approved, the WGS consisted of approximately 60.5 acres of land and included highway and roadway improvements, an administrative building, a scale and scalehouse, a maintenance shed, a drainage system, a leachate collection system, leachate and gas monitoring wells, landscaping and irrigation, security fencing, and utilities.

30. By Findings of Fact, Conclusions of Law and Decision and Order filed October 31, 1989, the LUC approved the request of the Applicant's predecessor, the Department of Public Works, City and County of Honolulu, to expand the WGS� by 26 acres for a total land area of approximately 86.5 acres.

31. By D&O Approving Amendment filed June 9, 2003, the LUC approved the expansion of the WGS� by an additional 21 acres for a total land area of approximately 107.5 acres. A Final Supplemental Environmental Impact Statement ("FSEIS") dated December 2002 and accepted by the DPP on January 10, 2003, covers the currently permitted footprint of the WGS�. The FSEIS also addresses the current operations and impacts associated with the continued use of the WGS� beyond the May 1, 2008, deadline for accepting waste.

#### NEED FOR REQUEST

32. By Resolution No. 04-348, CD1, FD1, the City Council selected the WGS� as the municipal landfill to serve the needs of O`ahu for the foreseeable future. As a result of this selection, the Applicant has been preparing an application to amend the existing special use permit to expand the WGS� by an additional 92.5 acres of land. An Environmental Impact Statement ("EIS") is also being prepared for this expansion.

33. Due to the discovery of stone uprights in the proposed expansion area, the completion of the EIS has been delayed pending resolution of the matter with

the State Historic Preservation Division. Concerns that the expansion could not be completed by May 1, 2008, prompted the Applicant to file the Application.

34. The current permitted area of the landfill has a useful life of approximately two years beyond the May 1, 2008, deadline if the DOH approves the Applicant's request to modify Solid Waste Management Permit No. LF-0054-02 ("Permit"), which was renewed on May 15, 2003, and expires on April 30, 2008. The modification to the Permit would increase the heights of the cells within the ash monofill and MSW portions of the WGS.

35. The additional useful life of the WGS is the result of the Applicant's efforts to divert solid waste and improved landfill operating methods to optimize the WGS's capacity. The Applicant has diverted solid waste from the WGS through the H-POWER waste-to-energy facility and through its reuse and recycling programs for MSW. In 2003, the Planning Commission and the LUC approved the May 1, 2008, deadline to close the WGS based on a 5-year expectancy of the then proposed 21-acre expansion of the WGS. It was not known at that time that the above measures would contribute to an increase in the life expectancy of the WGS.

36. The Applicant expects additional diversion to occur through its efforts to expand its waste-to-energy program, biosolids reuse, and possibly off-island shipping of some MSW.

37. Despite the Applicant's efforts to divert solid waste from the WGSL, a landfill is currently necessary for proper solid waste management to avoid the potential health and safety issues for O'ahu's residents. There will always be material that cannot be combusted, recycled, reused, or shipped. A landfill is also needed to manage solid waste during natural disasters and other contingencies. Currently, technology has not advanced far enough to eliminate the need for a landfill on O'ahu.

38. The H-POWER facility requires periodic equipment shutdown for maintenance. During these periods, H-POWER does not accept or burn solid waste and the waste is diverted to the WGSL. In addition, if the WGSL were unable to accept H-POWER ash and residue, H-POWER might have to close in a matter of days inasmuch as there is no approved landfill for that material.

#### NOTICE OF VIOLATION

39. On January 31, 2006, the DOH issued a Notice of Violation ("NOV") to the Applicant and WMH which contained 18 violations associated with the management and operation of the WGSL.

40. WMH had already brought into compliance 16 of the 18 violations at the time the DOH issued the NOV.

41. The two areas in the DOH NOV for which the WGSL was not in compliance when the NOV was issued were the 4-B sump for leachate control and the

grade exceedences. On September 26, 2007, the DOH approved the replacement of the 4-B sump.

42. The remaining unresolved compliance issue in the NOV is the grade exceedences. There is presently a lack of permitted capacity in the ash monofill portion of the WGSL, and certain portions of the MSW section are over currently permitted grades. The Applicant has submitted a grade modification request to the DOH to correct these exceedences and allow for additional capacity in the ash monofill portion of the WGSL.

43. The DOH has completed its technical review of the grade modification request and issued a draft permit.

44. During design for the 14.9-acre expansion of the WGSL in 2001, WMH conducted a stability analysis for the entire landfill. Although the Property was stable, differences in the coarseness of the landfill liner used caused the factor of safety in some places of the WGSL to be lower than the standard 1.5 factor of safety required by the DOH.

45. WMH worked with the DOH to lower the permitted landfill height to increase the factor of safety, which resulted in some areas of the MSW portion and one area of the ash monofill portion of the WGSL to become out of compliance due to overfill.

46. The DOH was notified of the overfill in those areas. To address the issue, a toe berm was constructed at the front of the WGS�.

47. If the DOH approves the grade modification request, there would be approximately 4.7 years, as of March 2, 2007, of additional capacity in the ash monofill portion of the WGS�. The grade modification request does not change the MSW peak elevation of 510 feet as specified by the Permit. The Permit does not have a specific elevation for the ash monofill portion of the WGS� but references the grading plan submitted by the DOH together with the Permit application.

48. The Application does not affect the WGS�'s footprint, its permitted landfill elevations, its daily tonnages of solid waste, or any of its operations.

49. If the WGS� closes by May 1, 2008, there will be no permitted landfill to serve the MSW needs on O`ahu.

#### CONCLUSIONS OF LAW

1. The LUC has jurisdiction over the Application pursuant to section 205-6, HRS, and sections 15-15-95 and 15-15-96, HAR.

2. Based upon the record of the proceedings before the Planning Commission, and pursuant to section 205-6, HRS, and sections 15-15-95 and 15-15-96, HAR, the LUC finds that an extension to the deadline to accept solid waste at the WGS� from May 1, 2008, to November 1, 2009, or until the WGS� reaches its permitted

capacity, whichever occurs first, meets the guidelines for determining an “unusual and reasonable” use within the State Land Use Agricultural District.

3. The use shall not be contrary to the objectives sought to be accomplished by chapters 205 and 205A, HRS, and the rules of the LUC. Due to improved landfill operations and ongoing recycling efforts, the projected capacity of the WGS� has increased beyond its previous five-year life expectancy. Although alternative methods to address the municipal solid waste stream are currently implemented, a landfill is still necessary to accommodate the ash, residue, and waste that cannot be processed by H-POWER or alternative technologies. Closure of the WGS� by May 1, 2008, would be adverse to the public’s health and safety.

4. Based upon the record of the proceedings before the Planning Commission, the desired use would not adversely affect surrounding property. The WGS� is already an established use at the Property and has been conditioned to avoid generating impacts upon the surrounding environment. Odor impacts from the WGS� are due to the disposal of sewage sludge and related wastewater residue. The immediate coverage of soil and the use of odor misters have been employed to mitigate these impacts. A portion of the sewage sludge is being processed into soil amendment instead of being disposed of at the WGS�. At the time landfill capacity is reached, the Applicant and the operator will be responsible for capping the entire facility and monitoring groundwater, methane gas, and leachates for 30 years. Additional measures



to reduce the impact of the WGS� after its closure include hydro-mulching and seeding exposed areas with vegetation similar to that which currently exists around the WGS� grounds. Faux rock outcrops will also be added to improve the visual appearance of the site.

5. Based upon the record of the proceedings before the Planning Commission, the use would not unreasonably burden public agencies to provide roads and streets, sewers, water drainage and school improvements, and police and fire protection. Since the WGS� began operations in 1989, facilities and services continue to be adequate without requiring public agencies to provide additional infrastructure to support its operation.

6. Based upon the record of the proceedings before the Planning Commission, the preponderance of the evidence established that unusual conditions, trends, and needs had arisen since the district boundaries and rules were established. Pursuant to Resolution No. 04-348, CD1, FD1, the WGS� was chosen as the site for the City and County's landfill despite its omission from the Blue Ribbon Advisory Committee's list of recommended sites for a new landfill. Due to the advisory nature of the committee's final report and the violations of the State's sunshine law that voided the report, the City Council believed that it was not bound by the recommendations of the report. After reviewing potential landfill sites, the City Council determined that the current site of the WGS� was the best site given the amount of capacity projected,

economic considerations, an existing management contract, and the availability of cost and revenue data. The resolution also supports the Application for a time extension to the existing WGS�. If the WGS� were to close on May 1, 2008, existing alternative avenues and planned programs to address the MSW stream would not be sufficient nor would they be implemented in time to alleviate the need for the WGS�.

7. Based upon the record of the proceedings before the Planning Commission, the land upon which the proposed use is sought is unsuited for the uses permitted within the district. The Property contains extremely rocky soils and is not conducive to crop production. The steep terrain also limits use of the Property for pasture purposes. Due to the presence of the WGS�, agricultural uses at the Property are not feasible. However, upon the closure of the WGS�, there is the possibility that agricultural uses could occur, subject to the requirements of the DOH and other governmental agencies.

8. Any of the proposed findings of fact or conclusions of law submitted by any of the parties not already ruled on by the LUC by adoption or rejected by clearly contrary findings of fact or conclusions of law are hereby denied and rejected. Any conclusion of law that is or should be a finding of fact is to be taken as such notwithstanding its denomination as a conclusion of law; any finding of fact that is or should be a conclusion of law is to be taken as such notwithstanding its denomination as a finding of fact.

## DECISION AND ORDER

Having duly considered the complete record in this matter, the oral arguments presented by the parties in this proceeding, the LUC, through a motion having been duly made at a meeting conducted on March 7, 2008, in Honolulu, Hawai'i, and the motion having received the affirmative votes required by section 15-15-13, HAR, and there being good cause for the motion, hereby ORDERS as follows:

1. The recommendation of the Planning Commission is ADOPTED WITH MODIFICATIONS, with Condition Number 12 of the LUC's D&O Approving Amendment filed June 9, 2003, amended to read as follows:

12. The 200-acre Property shall be restricted from accepting any additional waste material and be closed in accordance with an approved closure plan by November 1, 2009, or until the approved area reaches its permitted capacity, whichever occurs first.

2. The amendment to Condition Number 12 is subject to the following condition:

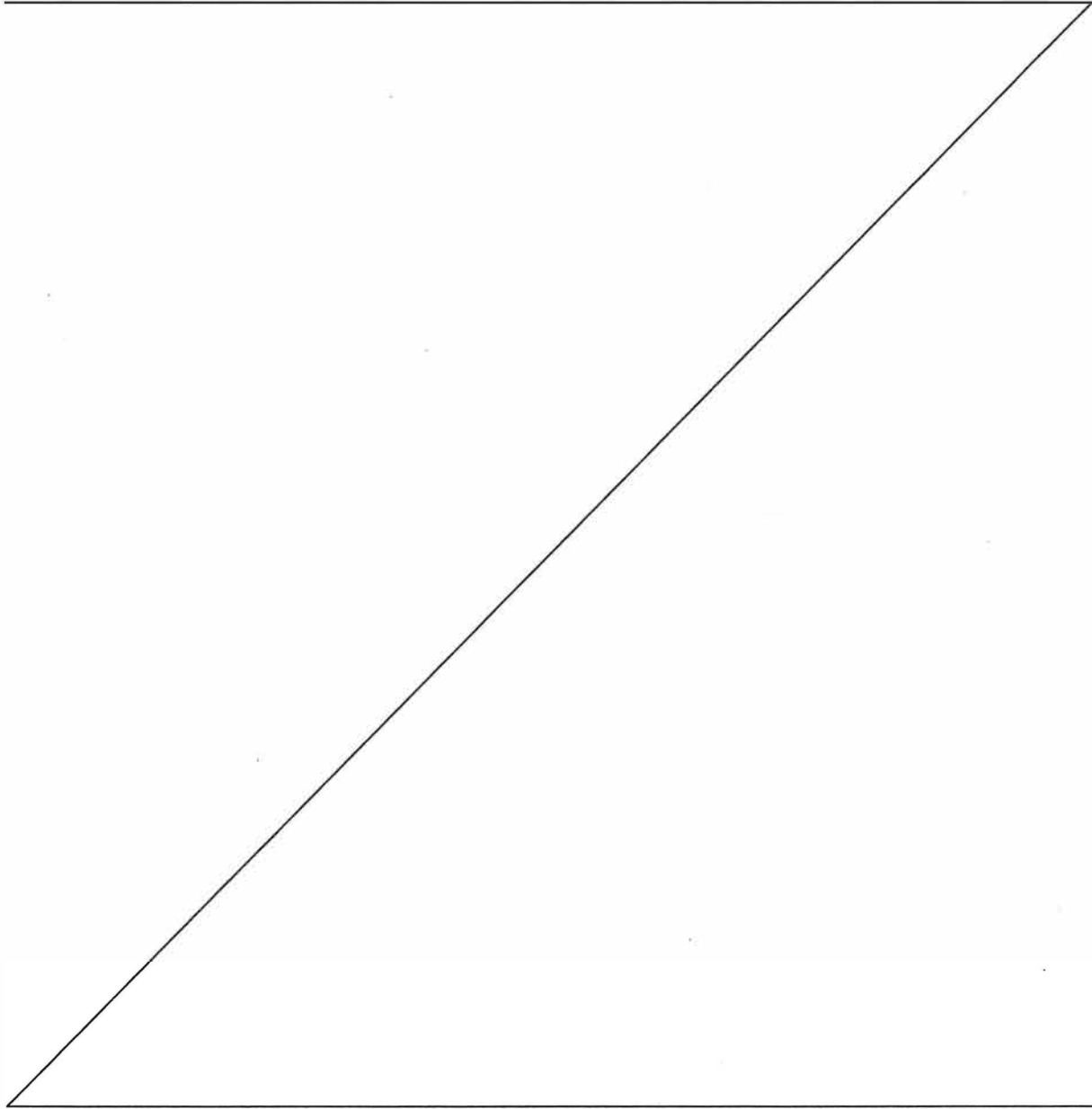
The Applicant must obtain approval of its pending grade modification request for the WGS� from the DOH.

IT IS FURTHER ORDERED that the following additional condition to the D&O Approving Amendment filed June 9, 2003, is imposed:

The Applicant shall report to the LUC every six months on the actions taken to alleviate the further use of the WGS�.

IT IS ALSO ORDERED that all other conditions to the LUC's D&O

Approving Amendment filed June 9, 2003, shall remain in full force and effect.<sup>6</sup>



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<sup>6</sup> Condition Number 1 was amended pursuant to the LUC's Order Granting in Part and Denying in Part Motion to Amend and/or Stay the Decision and Order Approving Amendment to Special Use Permit dated June 3, 2003 filed May 10, 2004.

ADOPTION OF ORDER

The undersigned Commissioners, being familiar with the record and proceedings, hereby adopt and approve the foregoing ORDER this 14th day of March, 2008. This ORDER and its ADOPTION shall take effect upon the date this ORDER is certified and filed by this Commission.

Done at Honolulu, Hawai'i, this 14th day of March, 2008, per motion on March 7, 2008.

APPROVED AS TO FORM

LAND USE COMMISSION  
STATE OF HAWAII

Diane McKin  
Deputy Attorney General

By Lisa M. Judge  
LISA M. JUDGE  
Chairperson and Commissioner

By \_\_\_\_\_  
DUANE KANUHA  
Vice-Chairperson and Commissioner

By (voted "NAY")  
KYLE CHOCK  
Commissioner

ADOPTION OF ORDER

The undersigned Commissioners, being familiar with the record and proceedings, hereby adopt and approve the foregoing ORDER this \_\_\_\_\_ day of \_\_\_\_\_, 2008. This ORDER and its ADOPTION shall take effect upon the date this ORDER is certified and filed by this Commission.

Done at \_\_\_\_\_, Hawai'i, this \_\_\_\_\_ day of \_\_\_\_\_, 2008, per motion on March 7, 2008.

APPROVED AS TO FORM

LAND USE COMMISSION  
STATE OF HAWAI'I

\_\_\_\_\_  
Deputy Attorney General

By \_\_\_\_\_  
LISA M. JUDGE  
Chairperson and Commissioner

By   
DUANE KANUHA  
Vice-Chairperson and Commissioner

By \_\_\_\_\_ (voted "NAY")  
KYLE CHOCK  
Commissioner

By   
THOMAS CONTRADES  
Commissioner

By \_\_\_\_\_ (absent) \_\_\_\_\_  
VLADIMIR PAUL DEVENS  
Commissioner

By \_\_\_\_\_ (voted "NAY") \_\_\_\_\_  
NORMAND LEZY  
Commissioner

By \_\_\_\_\_  
RANSOM PILTZ  
Commissioner

By \_\_\_\_\_  
NICHOLAS W. TEVES, JR.  
Commissioner

Filed and effective on:  
MAR 14 2008

By \_\_\_\_\_  
REUBEN S.F. WONG  
Commissioner


Certified by:

  
RODNEY A. MAILE  
Interim Executive Officer

By \_\_\_\_\_  
THOMAS CONTRADES  
Commissioner

By \_\_\_\_\_ (absent) \_\_\_\_\_  
VLADIMIR PAUL DEVENS  
Commissioner

By \_\_\_\_\_ (voted "NAY") \_\_\_\_\_  
NORMAND LEZY  
Commissioner

By  \_\_\_\_\_  
RANSOM PILTZ  
Commissioner

By \_\_\_\_\_  
NICHOLAS W. TEVES, JR.  
Commissioner

Filed and effective on:

\_\_\_\_\_

Certified by:

By \_\_\_\_\_  
REUBEN S.F. WONG  
Commissioner

\_\_\_\_\_  
RODNEY A. MAILE  
Interim Executive Officer



By \_\_\_\_\_  
THOMAS CONTRADES  
Commissioner

By \_\_\_\_\_ (absent) \_\_\_\_\_  
VLADIMIR PAUL DEVENS  
Commissioner

By \_\_\_\_\_ (voted "NAY") \_\_\_\_\_  
NORMAND LEZY  
Commissioner

By \_\_\_\_\_  
RANSOM PILTZ  
Commissioner

By  \_\_\_\_\_  
NICHOLAS W. TEVES, JR.  
Commissioner

Filed and effective on:

\_\_\_\_\_

Certified by:

By \_\_\_\_\_  
REUBEN S.F. WONG  
Commissioner

\_\_\_\_\_  
RODNEY A. MAILE  
Interim Executive Officer

By \_\_\_\_\_  
THOMAS CONTRADES  
Commissioner

By \_\_\_\_\_ (absent) \_\_\_\_\_  
VLADIMIR PAUL DEVENS  
Commissioner

By \_\_\_\_\_ (voted "NAY") \_\_\_\_\_  
NORMAND LEZY  
Commissioner


By \_\_\_\_\_  
RANSOM PILTZ  
Commissioner

By \_\_\_\_\_  
NICHOLAS W. TEVES, JR.  
Commissioner

Filed and effective on:

\_\_\_\_\_

Certified by:

By  \_\_\_\_\_  
REUBEN S.F. WONG  
Commissioner

\_\_\_\_\_  
RODNEY A. MAILE  
Interim Executive Officer

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

In The Matter Of The Application Of The ) DOCKET NO. SP87-362  
)  
DEPARTMENT OF ENVIRONMENTAL ) CERTIFICATE OF SERVICE  
SERVICES, CITY AND COUNTY OF )  
HONOLULU (fka DEPARTMENT OF )  
PUBLIC WORKS, CITY AND COUNTY )  
OF HONOLULU) )  
)  
For An Amendment To The Special Use )  
Permit Which Established A Sanitary )  
Landfill On Approximately 107.5 Acres )  
Of Land Within The State Land Use )  
Agricultural District At Waimānalo )  
Gulch, Honouliuli, `Ewa, O`ahu, )  
Hawai`i, Tax Map Key: 9-2-03: Portion 72 )  
And Portion 73 (fka Tax Map Key: 9-2- )  
03: Portion 2 And Portion 13) )  
\_\_\_\_\_ )

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Findings of Fact, Conclusions of Law, and Decision and Order Adopting with Modifications, the City and County of Honolulu Planning Commission's Recommendation to Approve Amendment to Special Use Permit 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:

CERT:       CARRIE OKINAGA, Esq.  
              Corporation Counsel  
              City and County of Honolulu  
              530 South King Street  
              Honolulu, HI 96813

CERT. COLLEEN HANABUSA, Esq.  
1100 Alakea Street, 12<sup>th</sup> Floor  
Honolulu, Hawaii 96813

Dated: Honolulu, Hawai'i, MAR 14 2008



RODNEY A. MAILE  
Interim Executive Officer

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Colleen Hanabusa, Esq.  
 1100 Alakea Street, 12<sup>th</sup> Floor  
 Honolulu, Hawaii 96813

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Carrie Okinaga, Esq.  
Corporation Counsel  
City & County of Honolulu  
530 South King Street  
Honolulu, Hawaii 96813

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<p>1. Article Addressed to:</p> <div style="border: 1px solid black; padding: 5px; margin: 5px 0;"> Carrie Okinaga, Esq.  Corporation Counsel  City &amp; County of Honolulu  530 South King Street  Honolulu, Hawaii 96813 </div>	<p>3. Service Type</p> <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.
<p>2. Article Number  <i>(Transfer from service label)</i></p> <div style="border: 1px solid black; padding: 5px; text-align: center; margin: 5px 0;"> 7003 0500 0001 1913 8312 </div>	<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>SP87-362 Dept of Environment Svc</p>	