

LAND USE COMMISSION – HEARING (AUGUST 8, 2024)

AGENDA ITEM V. SP09-403 DEPARTMENT OF ENVIRONMENTAL SERVICES, CITY AND COUNTY OF HONOLULU (WAIMĀNALO GULCH SANITARY LANDFILL) (O‘AHU)

APPLICATION TO MODIFY SP09-403 (SUP NO. 2008 SUP-2) BY MODIFYING:

- **CONDITION NO. 1 OF THE PLANNING COMMISSION’S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER, DATED JUNE 10, 2019**
- **CONDITION NO. 5 OF THE LUC’S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER APPROVING WITH MODIFICATIONS THE CITY AND COUNTY OF HONOLULU PLANNING COMMISSION’S RECOMMENDATION TO APPROVE SPECIAL USE PERMIT, CERTIFIED ON NOVEMBER 1, 2019**

SINGLE ISSUE: ENV REQUESTS AN EXTENSION TO 12/31/2024 TO IDENTIFY A NEW LANDFILL SITE



Active ash and municipal solid waste subareas of the Waimanalo Gulch Sanitary Landfill (2022)

PLANNING COMMISSION AND LAND USE COMMISSION'S CONDITION AT ISSUE

Land Use Commission: “5. By no later than December 31, 2022, the Applicant shall identify an alternative landfill site that may be used upon closure of WGSL. Upon identification of the alternative landfill site, the Applicant shall provide written notice to the Planning Commission and the LUC.”

Planning Commission: “1. On December 31, 2022, the Applicant shall identify an alternative landfill site that may be used upon WGSL reaching its 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 WGSL nears capacity. Upon identification of the alternative landfill site, the Applicant shall provide written notice to the Planning Commission and the LUC.”

ACT 73 (2020): SECTION 1. CONSERVATION DISTRICT AND SECTION 2. ONE-HALF MILE BUFFER ZONE

ACT 73

S.B. NO. 2386

A Bill for an Act Relating to Waste Management.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 183C-4, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The department shall adopt rules governing the use of land within the boundaries of the conservation district that are consistent with the conservation of necessary forest growth, the conservation and development of land and natural resources adequate for present and future needs, and the conservation and preservation of open space areas for public use and enjoyment[-]; provided that no waste or disposal facility shall be located in a conservation district except in emergency circumstances where it may be necessary to mitigate significant risks to public safety and health; provided further that emergency circumstances shall not exceed three years. No use except a nonconforming use as defined in section 183C-5, shall be made within the conservation district unless the use is in accordance with a zoning rule.

For the purposes of this subsection:

“Emergency” means any actual or imminent natural or human-caused occurrence that results or likely will result in substantial injury or harm to the population or substantial damage to or loss of property.

“Waste or disposal facility” means any transfer station or landfill as defined in section 340A-1, open dump as defined in section 342H-1, solid waste reduction facility or waste reduction facility as defined in section 342G-1, disposal facility, or any other facility for the disposal of solid waste that is required by law to obtain a permit from the department of health. “Waste or disposal facility” excludes individual, state certified, non-industrial redemption centers.”

SECTION 2. Section 342H-52, Hawaii Revised Statutes, is amended to read as follows:

~~“[§342H-52] Prohibition.~~ **Prohibitions: buffer zones.** (a) No person, including ~~any federal agency,~~ the State[-] or any county, shall construct, operate, modify, expand, or close a municipal solid waste landfill unit, or any component of a municipal solid waste landfill unit, without first obtaining a permit from the director. All permits for municipal solid waste landfill units shall be subject to ~~such~~ any terms and conditions ~~as~~ that the director determines are necessary to protect human health or the environment.

(b) No person, including the State or any county, shall construct, modify, or expand a waste or disposal facility including a municipal solid waste landfill unit, any component of a municipal solid waste landfill unit, a construction and demolition landfill unit, or any component of a construction and demolition landfill unit without first establishing a buffer zone of no less than one-half mile around the waste or disposal facility. This subsection shall not apply to the continued operation of an existing waste or disposal facility that is properly permitted; provided that continued operation does not require physical expansion, vertical or horizontal, of the facility requiring additional permitting review and a permit modification.

For the purposes of this subsection:

“Buffer zone” means the distance between the edge of waste or waste activity and the nearest residential, school, or hospital property line.

“Waste or disposal facility” excludes individual, state certified, non-industrial redemption centers.”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved September 15, 2020.)

LANDFILL SITING RESTRICTIONS

- 1/2 Mile Residential-School-Hospital Buffer
HRS § 342H-52(b)
- Conservation District Land
HRS § 183C-4(b)
- Airport Buffer
HAR § 11-58.1-13(a)
- Tsunami Inundation Zone
HAR § 11-58.1-13(g)
- Developed and Undevelopable Lands
- Federal Lands

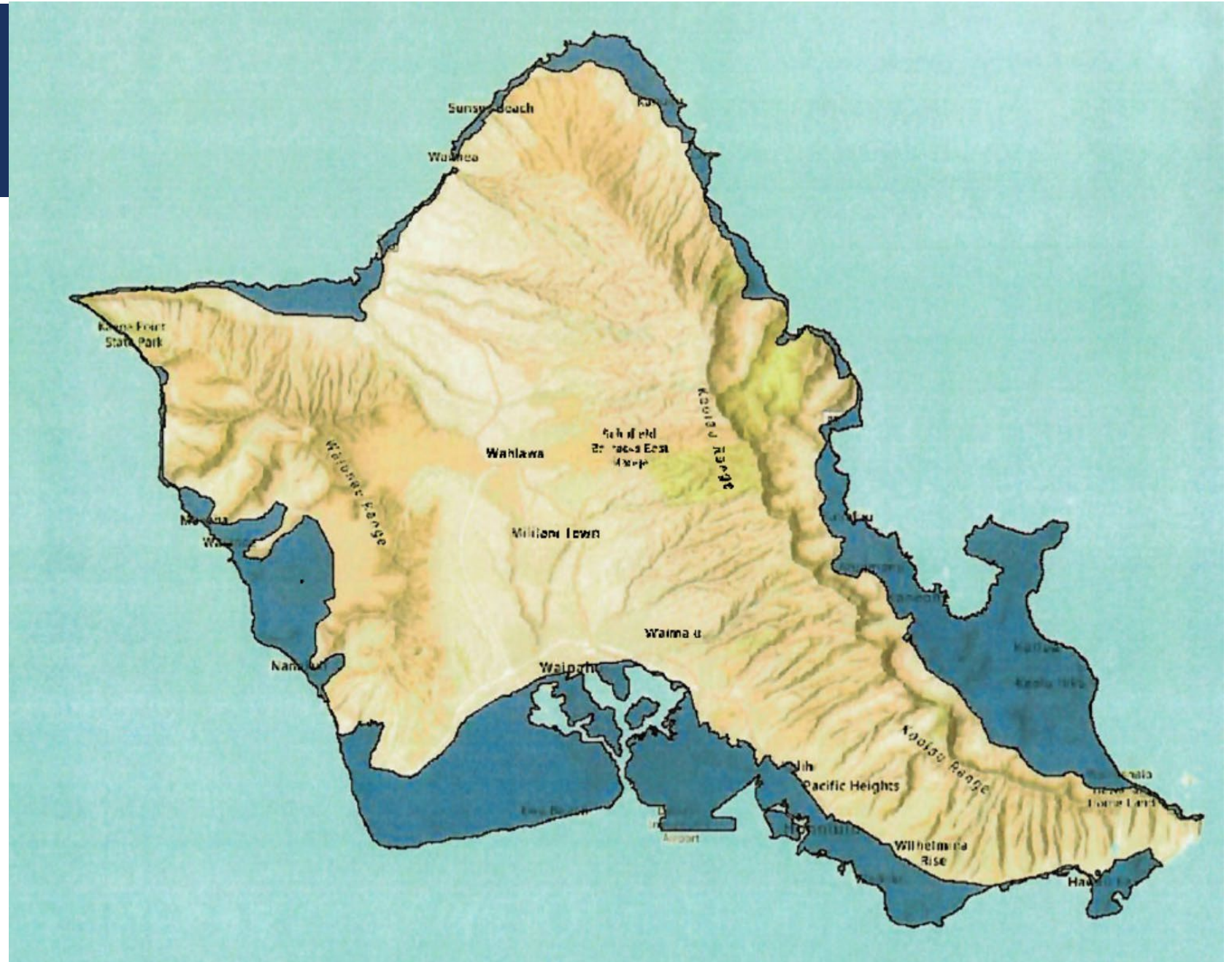


(Map created by ENV)

THE BWS' NO PASS ZONE

- Light areas depict the “No Pass Zone”, which are the areas over the freshwater aquifer with smaller or nonexistent caprock.
- Blue areas depict the areas that are covered by caprock

(Map and information taken from 11/28/22 BWS board meeting minutes.)



LANDFILL ADVISORY COMMITTEE (“LAC”)

- Members appointed by Mayor Blangiardi in September 2021
 - Role: Learn about, evaluate and score potential sites
- Eight open meetings over nine months, from October 2021 to June 2022
 - Evaluation process and criteria determination
 - Scored and ranked six potential sites
 - Acceptance of the final report
 - Final report contained recommendations



LAC Meeting 7

LANDFILL ADVISORY COMMITTEE SCORED AND RANKED SIX SITES, BUT RECOMMENDED NONE OF THEM IN FINAL REPORT

- LAC evaluated and scored six potential sites

Rank	Area	Site	Score
1	6	1	4,200
2	7	1	4,061
3	3	1	3,841
4	3	2	3,685
5	3	3	3,634
6	2	1	3,596

- LAC “strongly felt that they could not support a landfill sited within the BWS No Pass Zone due to their convictions in ensuring preservation of groundwater resources on O‘ahu”



THE BWS' OFFICIAL POSITION (NOVEMBER 16, 2022 LETTER)

- The BWS “**does not approve** any of the six proposed landfill sites that are located above (or mauka) the No Pass Zone and over O‘ahu’s drinking water aquifer system.”
- “Never has the importance of this groundwater aquifer been more apparent, and never has our responsibility to protect it been more paramount. As you know, the people of Oahu are still coping with what the Hawaii Department of Health aptly described as ‘a **humanitarian and environmental disaster**’ caused by fuel releases from the U.S. Navy’s **Red Hill** Bulk Fuel Storage Facility that resulted in the contamination of Oahu’s drinking water supply and the pollution of this island’s irreplaceable sole-source groundwater aquifer.”



Photograph of Red Hill protestors (2022) taken from KHON2

ENV NEEDS AN EXTENSION UNTIL 12/31/2024 TO EXPLORE ALL REMAINING OPTIONS

- After filing of application, the City has had discussions with the military regarding federal lands.
- ENV has also looked into the feasibility and necessity of amending Act 73.
- Still looking for any other option that can lead to the identification of a site outside the No Pass Zone.



Active municipal solid waste subarea of the WGSL (2023)

ENV RESPECTFULLY REQUESTS THAT THE LUC CONCUR WITH THE PLANNING COMMISSION'S D&O, AND APPROVE ENV'S APPLICATION

DECISION AND ORDER

Having duly considered the record of proceedings, the oral arguments of the parties, and the record and files herein, it is the decision and order of the Planning Commission to APPROVE the Applicant's December 22, 2022 application to modify Special Use Permit No. 2008/SUP-2, subject to the following provisions and conditions:

1. Condition No. 1 in the 2019 Planning Commission Order is modified to read as follows and it is recommended that Condition No. 5 in the 2019 LUC Order be modified to read as follows: By no later than December 31, 2024, the Applicant shall identify an alternative landfill site that may be used upon closure of WGS. Upon identification of the alternative landfill site, the Applicant shall provide written notice to the Planning Commission and the LUC.

2. The Applicant shall report quarterly to the Planning Commission, in-person, to report the efforts it has taken and plans to take to identify an alternative landfill site by December 31, 2024; and to answer questions from the Commission and the community. Reports shall include but are not limited to the following information:

- a) Reports should include but are not limited to timelines, milestones, schedules of tasks for the specific plan to have a site selected by December 31, 2024.
- b) list of potential sites under consideration
- c) list of obstacles their ability to choose a site

d) reporting on the investigation of alternative technologies for landfill (2019 LUC Decision)

3. All other conditions to Special Use Permit No. 20080/SUP-2 as stated in the 2019 orders remain in full force and effect.

DATED: Honolulu, Hawai'i, May 15, 2024.

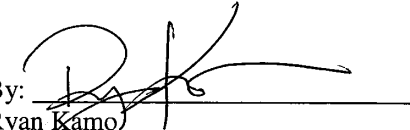
PLANNING COMMISSION
CITY AND COUNTY OF HONOLULU
STATE OF HAWAII

Hilarie Alomar, Member

Kai Nani Kraut, Member

Melissa May, Member

Joy Kimura, Member

By: 
Ryan Kamo
Vice Chair