

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
)
DEPARTMENT OF PUBLIC WORKS,)
CITY AND COUNTY OF HONOLULU)
)
For a Special Use Permit to)
Establish a Sanitary Landfill on)
Approximately 60.5 Acres of Land)
Situate Within the Agricultural)
District at Waimanalo Gulch,)
Honouliuli, Ewa, Oahu, Tax Map)
Key No.: 9-2-03: Portion of)
Parcel 2 and Portion of Parcel 13)
_____)

DOCKET NO. SP87-362
DEPARTMENT OF PUBLIC WORKS,
CITY AND COUNTY OF HONOLULU

LAND USE COMMISSION
STATE OF HAWAII
APR 20 2 04 PM '87

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DECISION AND ORDER

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OF THE STATE OF HAWAII

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FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DECISION AND ORDER

The Department of Public Works, City and County of Honolulu (hereinafter the "Petitioner") initiated this proceeding pursuant to Section 205-6, Hawaii Revised Statutes, as amended, and Subchapter 12 of the Hawaii Land Use Commission Rules. The Land Use Commission (hereinafter the "Commission") having considered the entire record on this matter, hereby makes the following findings of fact and conclusions of law and decision and order:

FINDINGS OF FACT

Procedural Matters

1. The Petitioner filed the Special Permit application with the Department of Land Utilization on October 1, 1986. Public hearings were conducted by the Planning

Commission on January 21, 1987 and continued on February 4, 1987. No public testimony was received at either of these hearing dates.

2. On January 16, 1987, the Land Use Commission received a copy of the Planning Commission's agenda for the January 21, 1987 hearing date.

3. On February 4, 1987, the Planning Commission approved the Special Permit, with six conditions. The Special Permit was received by the Land Use Commission on February 23, 1987.

Description of Property

4. The proposed landfill site is in Waimanalo Gulch adjacent to and on the Makakilo side of the Kahe Electric Power Plant, abutting the mauka side of Farrington Highway and mauka of the proposed Ko Olina Resort (formerly known as the West Beach Resort) and approximately one mile west of the Honokai Hale residential subdivision.

5. The landfill site is approximately 60.5 acres and is identified as Oahu Tax Map Key No.: 9-2-03: portion of parcel 2 and portion of parcel 13 (hereinafter the "Property").

6. According to the Real Property Assessment of the City Department of Finance, the present owners of the Property are as follows:

TMK: 9-2-03:2 James Campbell Trust Estate
TMK: 9-2-03:13 Robert H. K. Au & Wife Audrey F.
Betsy F. S. Au Lum
Betty L. W. Au

7. The County is in the process of condemning portions of parcels 2 and 13 totaling approximately 200.622 acres of which 60.5 acres will be used for the proposed landfill.

8. The Property, which is currently vacant, is located adjacent to 13 single-family dwellings. Prior to 1960, the site was used for cattle grazing.

9. Soils found on the Property are classified as Lualualei extremely stony clay 3 to 5% slope (LPE) and Rock Land (rRK).

10. The Property is located in an area that receives between 20 and 30 inches of rainfall per year. Groundwater found below the Property is brackish with a salinity range of 250 to 19,000 parts per million chloride content.

11. The Property is not classified by the Agricultural Lands of Importance to the State of Hawaii (ALISH) system.

12. No endangered plants and animals were found on the Property.

13. There are no known significant archaeological sites on the Property.

Summary of Proposed Use

14. Petitioner is requesting the Special Permit to allow the establishment of a sanitary landfill including highway and roadway improvements, administration building, scale and scalehouse, maintenance shed, drainage system,

leachate collection system, leachate and gas monitoring wells, landscaping and irrigation, security fencing and utilities on approximately 60.5 acres of land. (The Property as described in Petitioner's Exhibit 3 reflects an area of approximately 80 plus acres although the Planning Commission's recommendation for approval was for only 60.5 acres.)

15. Petitioner proposes the new landfill to initially serve the Leeward Communities for disposing raw refuse and is projected to have an eight year life and a capacity of 6.65 million cubic yards. Petitioner anticipates that when the proposed H-POWER (Honolulu Resource Recover Project) facility becomes operational in 1988, most of the raw refuse will be diverted to this facility and the Property will be used for the disposal of ash from H-POWER and other non-combustibles.

16. Petitioner proposes to operate the proposed landfill from 7:00 a.m. to 4:30 p.m., seven days per week. In addition, contractors with the County will be allowed 24-hour access to the landfill to dispose of ash from the operation of H-POWER once every hour. The accumulated ash will be spread and compacted the next day during normal working hours.

17. Petitioner states that the current sanitary landfills at Kapaa, Kawaihoa and Waianae are rapidly approaching capacity. Even with a resource recovery project, the ash waste from H-POWER will still need a site for final disposal. However, with a resource recovery facility in place, the useful life of the proposed landfill may be doubled.

18. Access to the Property is currently provided by Farrington Highway, a four lane divided highway. Petitioner proposes to improve Farrington Highway by constructing exclusive turning lanes connecting to a 2000 lineal foot access roadway on the Property.

State and County Plans and Programs

19. The subject Property is located in the State Agricultural District as designated on State Land Use District Boundary Map O-6 Ewa, Hawaii.

20. The City and County of Honolulu Ewa Development Plan designates the Property as Agriculture. Zoning for the Property is AG-2 General Agriculture. The current zoning allows the use of the Property for sanitary landfill.

21. The Property is not located within the Special Management Area.

22. The Property lies below the UIC (Underground Injection Control) line for the area.

Environmental Concerns

23. Major concerns are the possible contamination of offshore waters from leachates generated at the Property, visual, noise, dust, odor and traffic impacts on surrounding existing and proposed communities.

24. The Final Environmental Impact Statement (EIS) was submitted and was accepted by the Director of Land Utilization on October 17, 1985. The EIS included a summary of probable

impacts, probable adverse environmental effects and proposed mitigation measures, alternatives to the proposed action, irreversible and irretrievable commitments of resources, summary of unresolved issues, and other matter as required by Chapter 343, HRS.

Conformance with Special Permit Guidelines

25. The project does not appear contrary to the Land Use Law. The proposed site is located in a gulch in the Leeward District on generally sloping lands and in an area with a relatively drier climate. The project site does not fall in the prime, unique, or other important agricultural land classifications on the ALISH map. Under the Land Study Bureau Agricultural Soils Classification, the site is rated "E"; where "A" represents the highest productivity rating and "E" the lowest.

26. The desired use would not adversely affect surrounding property. The nearest dwelling is located approximately 400 feet from the weigh station and 500 feet from the disposal area. According to the Petitioner, leachate contamination of off-shore waters from the landfill is unlikely because annual rainfall in Ewa averages only 20 to 30 inches. To ensure against leachate contamination, the Petitioner has incorporated a number of state-of-the art measures in the design of the landfill. These include large silting basins, a perimeter drainage system, the landscaping of graded surfaces

and completed sections, grading and compaction of the bottom of the landfill, and the construction of a leachate collection system, monitoring well and an on-site drainage system.

27. Such use would not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, and school improvements and police and fire protection. Petitioner will make the necessary highway improvements, to include a deceleration lane on the off-ramp. On- and off-site improvements for storm drainage and leachate control, water and wastewater disposal will also be provided by the Petitioner. The proposed projects' traffic impact would generate only a slight increase in overall traffic on the coast highway.

28. Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established. Petitioner has determined a need for a new Leeward area sanitary landfill and has indicated it on the Development Plan Public Facilities Map (adopted in 1982). Petitioner prepared an EIS which reviewed various alternative sites and found the project area most feasible to provide this service for a projected full-life of approximately 8 years.

29. The land upon which the proposed use is sought is unsuited for the uses permitted within the district. The topography, soil conditions, and general location of the site render the site unfeasible for agricultural applications.

Planning Commission Recommendation

30. At its meeting of February 4, 1987, the City and County of Honolulu Planning Commission voted to recommend approval of the subject permit for the establishment of the sanitary landfill facility subject to the following conditions:

- "1. The earth berm shall be installed prior to commencement of waste disposal operations.
- "2. A landscape plan, to include plant names, sizes, quantities and location, shall be submitted to the Department of Land Utilization for approval. The plan shall also be implemented within 90 days of completion of the berm work.
- "3. The facility shall be operational between the hours of 7:00 a.m. and 4:30 p.m. daily.
- "4. The applicant shall obtain all necessary approvals from the State Department of Health, Department of Transportation, and Board of Water Supply for all on-site and off-site improvements involving access, storm drainage, leachate control, water and wastewater disposal.
- "5. The Planning Commission or Director of Land Utilization may at any time impose additional conditions when it becomes apparent that a modification is necessary and appropriate.
- "6. The applicant shall notify the Planning Commission of termination of use for appropriate Planning Commission action or disposition of the permit."

CONCLUSIONS OF LAW

The proposed use is an "unusual and reasonable" use as defined in Chapter 205-6, Hawaii Revised Statutes and the proposed use is not contrary to the objectives to be accomplished by the State Land Use Law to preserve, protect and encourage the development of lands in the State for those uses

to which they are best suited in the interest of the public health and welfare.

ORDER

IT IS HEREBY ORDERED that Special Permit Docket Number 86-362 to establish a sanitary landfill including highway and roadway improvements, administration building, scale and scalehouse, maintenance shed, drainage system, leachate collection system, leachate and gas monitoring wells, landscaping and irrigation, security fencing and utilities, on approximately 60.5 acres, consisting a portion of the Property, situate within the State Land Use Agricultural District at Waimanalo Gulch, Honouliuli, Ewa, Oahu, Tax Map Key Number: 9-2-03: portion of parcel 13, and approximately identified on Exhibit A attached hereto and incorporated by reference herein be approved subject to the following conditions:

1. That an earth berm shall be installed prior to the commencement of any waste disposal operations.

2. The landscaping plans which would include plant names, sizes, quantities and location shall be submitted to the Department of Land Utilization for approval and shall be implemented within 90 days of completion of the berm work.

3. The facility shall be operational between the hours of 7:00 a.m. and 4:30 p.m. daily.

4. The applicant shall obtain all necessary approvals from the State Department of Health, Department of

Transportation, and Board of Water Supply for all on-site and off-site improvements involving access, storm drainage, leachate control, water and wastewater disposal.

5. The Planning Commission or Director of Land Utilization may at any time impose additional conditions when it becomes apparent that a modification is necessary and appropriate.

6. The applicant shall notify the Planning Commission of termination of use for appropriate Planning Commission action or disposition of the permit.

7. That the project be completed and operating within 3 years of the approval of the special use permit.

8. That the City and County of Honolulu indemnify and hold harmless the State of Hawaii and all of its agencies and/or employees for any lawsuit or legal action relating to any groundwater contamination or noise, odor pollution relative to the operation of the landfill.

DOCKET NO. SP87-362 - CITY AND COUNTY OF HONOLULU, DEPARTMENT
OF PUBLIC WORKS

Done at Honolulu, Hawaii, this 20th day of April 1987,
per motions on March 17, 1987 and April 15, 1987.

LAND USE COMMISSION
STATE OF HAWAII

By J. P. Tacbian
TEOFILO PHIL TACBIAN
Chairman and Commissioner

By Frederick P. Whittemore
FREDERICK P. WHITTEMORE
Vice Chairman and Commissioner

By Everett L. Cuskaden
EVERETT L. CUSKADEN
Commissioner

By Robert S. Tamaye
ROBERT S. TAMAYE
Commissioner

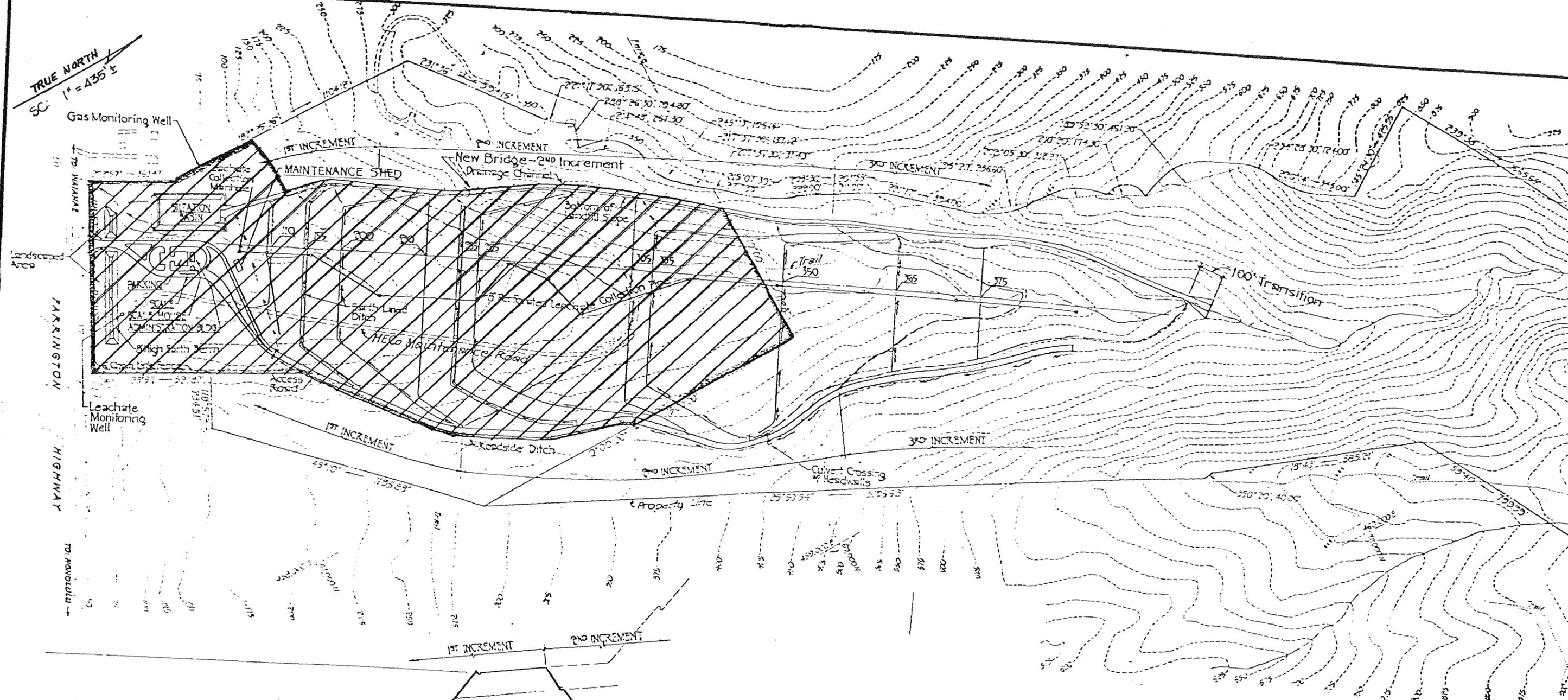
By William W. L. Yuen
WILLIAM W. L. YUEN
Commissioner

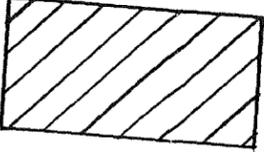
By Toru Suzuki
TORU SUZUKI
Commissioner

By Richard B. F. Choy
RICHARD B. F. CHOY
Commissioner

By Lawrence F. Chun
LAWRENCE F. CHUN
Commissioner

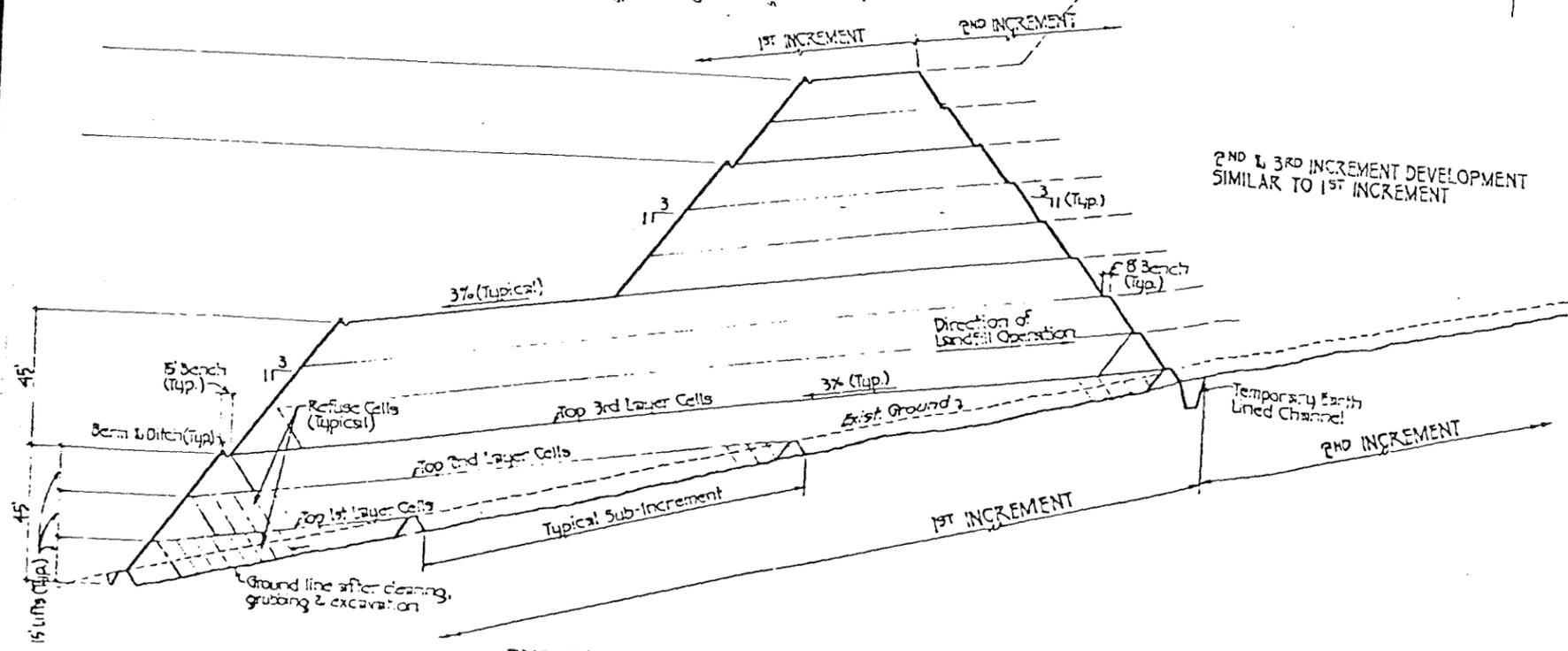
TRUE NORTH
 SC: 1" = 435'



 AREA APPROVED

LOCATION MAP

TMK. NO. 9-2-03:Por.13
 WAIMANALO GULCH
 HONOLULI, EWA, OAHU



TYPICAL SECTION OF LANDFILL DEVELOPMENT - SCHEMATIC ONLY
 NOT TO SCALE

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the Findings of Fact, Conclusions of Law, and Decision and Order was served upon the following by either hand delivery or depositing the same in the U.S. Postal Service by certified mail:

DONALD A. CLEGG, Chief Planning Officer
Department of General Planning
City and County of Honolulu
650 S. King Street
Honolulu, Hawaii 96813

MICHAEL J. CHUN, PH.D, Director and
Chief Engineer
Department of Public Works
City and County of Honolulu
650 S. King Street
Honolulu, Hawaii 96813

Dated: Honolulu, Hawaii, this 20th day of April 1987.



ESTHER UEDA
Executive Officer

DOCKET NO. SP87-362 - CITY AND COUNTY OF HONOLULU, DEPARTMENT
OF PUBLIC WORKS

A copy of the Land Use Commission's Decision and
Order was served upon the following by regular mail on
April 20, 1987.

PROPERTY ASSESSMENT SECTION
City and County of Honolulu
1188 Fort Street Mall
Honolulu, Hawaii 96813

PROPERTY TECHNICAL OFFICE
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City and County of Honolulu
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MR. AND MRS. ROBERT H. K. AU
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Honolulu, Hawaii 96822

MS. BETTY AU
1911 Keeaumoku Street
Honolulu, Hawaii 96822

MS. BETSY AU LUM
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