

BEFORE THE PLANNING COMMISSION
OF THE CITY AND COUNTY OF HONOLULU
STATE OF HAWAI'I

In the Matter of the
Application of
DEPARTMENT OF ENVIRONMENTAL
SERVICES, CITY AND COUNTY OF
HONOLULU
For a New Special Use Permit to
supersede Existing Special Use
Permit to allow a 92.5-acre
Expansion and Time Extension For
Waimanalo Gulch Sanitary Landfill,
Waimanalo Gulch, O'ahu, Hawai'i,
Tax Map Key Nos. (1)9-2-003:072
and 073.

FILE NO. 2008/SUP-2(RY)
AND 86/SUP-5

ORIGINAL

2009 JUL 11 P 1:49
LAND USE COMMISSION
STATE OF HAWAII

CONTESTED CASE HEARING, DAY 5

Taken on behalf of the Applicant, DEPARTMENT OF
ENVIRONMENTAL SERVICES, CITY AND COUNTY OF HONOLULU, at Honolulu
Hale, City Council Committee Meeting Room, Second Floor, 530
South King Street, Honolulu, Hawai'i, commencing at 1:31 p.m. on
Wednesday, July 8th, 2009.

EXHIBIT K11

3170

EXHIBIT 55

1 BEFORE: B. KANOELANI COCKETT
2 Certified Shorthand Reporter
3 HI CSR NO. 379, CA CSR NO. 7995
4

5 -oOo-
6

7 APPEARANCES:

8 PLANNING COMMISSION MEMBERS PRESENT:

- 9 Karin L. Holma, commission chair
10 James C. Pacopac
11 Vicki Gaynor
12 Kerry M. Komatsubara
13 Rodney Kim
14 Andrew M. Jamila, Jr.
15 Beadie K. Dawson
16 Harold J. Dias, Jr.
17 Winston K.Q. Wong, attorney for the Planning Commission
18 Patti Kalepa, assistant to the Planning Commission
19 pkalepa@honolulu.gov
20
21
22
23
24
25

EXHIBIT K11

1 For Intervenor: COLLEEN HANABUSA, ESQ.
2 220 South King Street, Suite 1230
3 Honolulu, Hawai'i 96813
4 hanac841@yahoo.com
5

6 For Applicant: GARY V. TAKEUCHI, ESQ.
7 JESSE K. SOUKI, ESQ.
8 Deputies Corporation Counsel
9 Honolulu Hale
10 530 South King Street, Room 110
11 Honolulu Hawai'i 96813
12 gtakeuchi@honolulu.gov
13 jsouki@honolulu.gov
14
15
16
17
18
19
20
21
22
23
24

25 -000-

EXHIBIT K11

I N D E X

PAGE

PROCEEDINGS

6

WITNESSES

PAGE

DAVID M. SHIDELER

REBUTTAL EXAMINATION BY MR. TAKEUCHI

7

SURREBUTTAL EXAMINATION BY MS. HANABUSA

16

EXAMINATION BY MS. DAWSON

34

TODD APO

EXAMINATION BY MS. DAWSON

41

CROSS-EXAMINATION BY MR. TAKEUCHI

60

REDIRECT EXAMINATION BY MS. HANABUSA

71

RE-CROSS-EXAMINATION BY MR. TAKEUCHI

77

MOTION TO DISMISS

80

COMMISSION DISCUSSION AND CALL FOR THE VOTE

104

EXHIBIT K11

EXHIBITS FOR IDENTIFICATION

| | | | |
|----|-------------|------------------------------------------|------|
| 1 | | | |
| 2 | APPLICANT'S | (not attached) | PAGE |
| 3 | A-35 | Curriculum vitae of David M. Shideler | 9 |
| 4 | A-36 | A Bill For An Ordinance to Rezone Land | 65 |
| 5 | | Situated in Ewa O'ahu, Hawai'i | |
| 6 | A-37 | An excerpt from the Final EIS of Makaiwa | 68 |
| 7 | | Hills dated October 2007 | |
| 8 | | | |
| 9 | | | |
| 10 | | | |
| 11 | | | |
| 12 | | | |
| 13 | | | |
| 14 | | | |
| 15 | | | |
| 16 | | | |
| 17 | | | |
| 18 | | | |
| 19 | | | |
| 20 | | | |
| 21 | | | |
| 22 | | | |
| 23 | | | |
| 24 | | | |
| 25 | | | |

-o0o-

EXHIBIT K11

1 (Reporter's Disclosure was displayed.)

2 PROCEEDINGS

3 MS. HOLMA: Good afternoon. Day No. 5 of the
4 contested case hearing.

5 Counsel, can you make your appearances, please.

6 MR. TAKEUCHI: Good afternoon, Chair, Members. Gary
7 Takeuchi, deputy corporation counsel for Applicant, Department
8 of Environmental Services. With me is deputy corporation
9 counsel Jesse Souki.

10 MS. HANABUSA: Good afternoon. Colleen Hanabusa for
11 the intervenors.

12 MS. HOLMA: Good afternoon.

13 As I recall, the City intended to put on one more
14 witness; is that correct?

15 MR. TAKEUCHI: Yes.

16 MS. HOLMA: Okay. And could you call that witness.

17 MR. TAKEUCHI: All right.

18 MS. DAWSON: Can I ask -- oh, is Todd here.

19 MS. HOLMA: Let's go off the record for a second.

20 (Off-the-record discussion was held.)

21 MS. HOLMA: Okay. Back on the record.

22 If you will, call your next witness.

23 MR. TAKEUCHI: We will call as a rebuttal witness
24 Mr. David Shideler.

25 MS. HOLMA: Good afternoon, Mr. Shideler. Can you

EXHIBIT K11

1 Thank you, Mr. Shideler.

2 THE WITNESS: Okay.

3 MS. HOLMA: Is that Chair Apo sitting back there?

4 MS. HANABUSA: Yes, that is Chair Apo.

5 MR. TAKEUCHI: Let me just take a minute to retrieve
6 some of these articles:

7 MS. HOLMA: (Nods head.)

8 Chair, thank you for coming back. I recall when we
9 left Commissioner Dawson was not available to ask you some
10 questions and I think she wanted to do that.

11 THE WITNESS: Sure.

12 EXAMINATION

13 BY MS. DAWSON:

14 Q. Thank you for coming back --

15 A. Certainly.

16 Q. -- Todd.

17 The first question that I had had to do with the
18 Blue Ribbon Panel experience that you had.

19 What was the date of this, the Blue Ribbon Panel?

20 It would help.

21 A. It was in the--

22 Q. 2003?

23 A. -- I believe the latter half of 2003.

24 Q. 2003?

25 A. Yes.

EXHIBIT K20
EXHIBIT K11

1 A. Where he came up with his numbers, I don't know.
2 I would assume it was the department.

3 Q. Yeah.

4 A. I assume they could have presented that
5 information to you because his press conference was the day
6 before Mr. Doyle's testimony, I believe.

7 Q. Well, it would have been helpful, but we don't
8 have that.

9 A. Yeah.

10 Q. One thing we do know is that H-POWER and
11 transshipment are two areas that are actively being
12 considered. We don't know the extent or the results, but we
13 know that they are actively being studied. Or I don't know
14 that "studied" is the word, but they are being -- they are
15 engaged in talks about this.

16 So this is something that -- would you say that
17 we could consider that somewhere down the line we're going to
18 have -- we know we're going to have the added boiler?

19 A. (Witness nods head.)

20 Q. And it seems like transshipment is definitely in
21 the future, but we don't know to what extent because of that
22 very delicate shift between having -- controlling enough --
23 having enough waste for H-POWER and then being able to
24 transship the rest of it. There's no definition on that.

25 A. I would generally agree. I would hesitate to

EXHIBIT K20
EXHIBIT K11

1 put both of those items in the same bucket. I think the
2 H-POWER is much further along.

3 Q. Along.

4 A. I'm speaking with this administration. The
5 H-POWER, again, I believe H-POWER shipment, the expansion
6 should have been funded earlier in the 2007 budget -- sorry,
7 the 2008 budget. The administration did not have H-POWER
8 expansion in their initial budget proposal. I needed to add
9 that into the budget during the council's time to deal with
10 the amendments.

11 This past year the administration did in fact
12 budget additional monies, so I'm confident that the
13 administration is on board with expanding H-POWER and Covanta
14 is working on it. I think there was some testimony, and it's
15 my understanding as well, that the environmental
16 documentation, the EIS has been done. It is in comment
17 period. It's not final yet, but that's in process.

18 And, again, both administrations, including the
19 Mayor in his press conference last week, and Covanta have
20 talked about H-POWER expansion being operational by 2011.

21 Shipping, on the other hand, has been a great
22 disappointment in regards to what the administration has done
23 with that so far. Again, putting out the RFP, a year and
24 three months ago was fantastic. Getting the bids in June
25 18th of last year was good. The fact that the department

EXHIBIT K20
EXHIBIT K11

1 then took over a year to decide that the lowest bidder was
2 nonresponsive on issues that -- again we've had this in
3 testimony -- were not material, in at least what I've seen
4 and what was discussed amongst the council, leads to the
5 question of is the department serious about this
6 transshipment as being part of the interim solution to
7 landfill? And which is why we dealt with -- the council
8 dealt with the resolution last Wednesday to allow a private
9 shipper to ship until the City gets its act together and
10 stops landfilling all this excess waste.

11 So, again, I'm concerned when you -- I wouldn't
12 say that both these are something that is being talked about.
13 H-POWER is much further along.

14 Q. Okay.

15 A. Shipping the City can do on their own and they'll
16 get flow control if they do under our resolution, or the
17 council is looking at opening the door to let private sector
18 provide that solution for us on a limited basis.

19 Q. Well, I appreciate that information.

20 I have just two quick questions left for you.
21 One has to do with Makaiwa, which I believe was rezoned last
22 year.

23 A. Yes.

24 Q. My question was why? Why did they allow that
25 rezoning knowing that at the same time they were rezoning it,

EXHIBIT K20
EXHIBIT K11