

155. On March 11, 2005, the Inspectors noted that the tires observed on the side slope of MSW Cell-1 had not been removed from the February 17, 2005 visit.

156. On May 1, 2005, the inspectors observed the compactor operator at the workface bury a whole tire.

157. On May 1, 2005, an inactive area fronting MSW E-1 was observed by the inspectors with three whole tires partially buried with soil and MSW. The operator was alerted of the buried tires and said that he will remove the tires the next day.

158. On May 1, 2005, after the operators were done for the day, the inspectors walked the workface area and observed a whole tire buried in the soil.

159. On May 19, 2005, the inspectors observed a whole tire on the active workface of MSW Cell E-1 (northeast corner). A short time later, the inspectors observed the dozer operator cover the used tire with MSW.

160. On six separate occasions, the RESPONDENTS have improperly buried whole tires at the facility, in violation of HAR 11-58.1-65(c), Special Condition IIIA, Item 14, and facility's Operating Plan, Section 4.7.

COUNT XIII

(Failure to maintain records and record location of asbestos disposal at the landfill)

161. Paragraphs 1 through 160 above are incorporated herein by this reference as if they were set forth here in their entirety.

162. Solid Waste Management Permit Number LF-0054-02, Special Condition IIIA, Item 9 provides:

Asbestos Disposal, a written plan with recordkeeping shall be prepared to ensure that the disposal of asbestos waste is in accordance to current NESAH (National Emission Standards for Hazardous Air Pollutants) regulations, 40 CFR 61.

163. The Facility's Operating Plan, dated July 2004, Section 5.6.2. Special Waste Procedures states:

Asbestos

Special procedures applicable to asbestos waste are detailed in the Asbestos Disposal Plan. This plan contains measures to ensure that the requirements of 40 CFR 61.154 (National Emission Standards) are met at WGLF. After complying with all special waste acceptance procedures, asbestos waste transporters are allowed entry to the site at a pre-schedule time. After inspection of the load to ensure it meets all

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. BOX 3378
HONOLULU, HAWAII 96801-3378

JAN 31 2006

CHIYOME L. FUKINO, M.D.
DIRECTOR OF HEALTH

In reply, please refer to:
EMD/SHWB

January 31, 2006

S0203JR

**CERTIFIED MAIL NO. 7005 1160 0003 8275 9819
RETURN RECEIPT REQUESTED**

Mr. Paul Burns, Vice President/General Manager
Waste Management of Hawaii, Inc.
92-460 Farrington Highway
Kapolei, Hawaii 96707

**CERTIFIED MAIL NO. 7005 1160 0003 8275 9758
RETURN RECEIPT REQUESTED**

Mr. Eric Takamura, Director
Department of Environmental Services
City and County of Honolulu
1000 Uluohia Street
Kapolei, Hawaii 96707

Dear Messrs. Burns and Takamura:

SUBJECT: NOTICE OF VIOLATION/ORDER

Under the authority of section 342H-7 of the Hawaii Revised Statutes, you are hereby notified that we are issuing a Notice of Violation (NOV) and Order for the implementation of corrective actions regarding state solid waste noncompliance issues. The documents are enclosed.

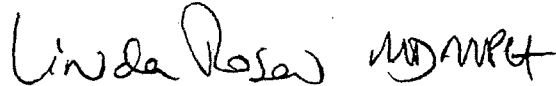
Pursuant to section 342H-7, any order issued shall become final, and the penalty imposed under this chapter shall become due and payable twenty (20) calendar days after the notice of penalty is served, unless the person or persons named therein request a hearing before the Director of Health. The request for a hearing must be made in writing, no later than twenty (20) calendar days after the NOV and Order are served. Furthermore, if the penalty is not paid to the Department of Health within thirty (30) calendar days after it becomes due and payable, the Director may institute a civil action in the name of the State to recover the civil penalty, which shall be a government realization.

EXHIBIT K59

Mr. Paul Burns
Mr. Eric Takamura
January 31, 2006
Page 2

Please direct all inquiries concerning this matter to Steven Y.K. Chang, P.E., Chief,
Solid and Hazardous Waste Branch, Department of Health, 919 Ala Moana Boulevard,
Room 212, Honolulu, Hawaii 96814.

Sincerely,


LAURENCE K. LAU
Deputy Director for Environmental Health

Enclosures

c: Kathleen Ho, Deputy Attorney General
Thomas P. Rack, Hearings Officer (NOV, Order)

EXHIBIT K59

IN THE DEPARTMENT OF HEALTH
STATE OF HAWAII

DEPARTMENT OF HEALTH,
STATE OF HAWAII,

COMPLAINANT,

vs.

WASTE MANAGEMENT OF HAWAII, INC.
AND CITY and COUNTY OF HONOLULU;

RESPONDENTS.
_____)
) DOCKET NO. 05-SHW-SWS-004
)
)
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)
) NOTICE AND FINDING OF
) VIOLATION
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NOTICE AND FINDING OF VIOLATION

A. INTRODUCTION

1. This is an administrative enforcement action instituted pursuant to §342H-7 of the Hawaii Revised Statutes ("HRS"), and the Department of Health's Solid Waste Management Control Rules, Chapter 11-58.1, Hawaii Administrative Rules ("HAR"). Complainant is the Department of Health ("DOH"), Solid Waste Section ("SWS"). RESPONDENTS are Waste Management of Hawaii, Inc. (WMH) and City and County of Honolulu ("RESPONDENTS").

2. At all times pertinent hereto, RESPONDENTS owned, operated, controlled, or managed a solid waste disposal facility at the Waimanalo Gulch Sanitary Landfill ("facility") located at 92-460 Farrington Highway, Kapolei, Hawaii.

3. On the basis of information obtained during the course of investigation, SWS has determined that RESPONDENTS have violated HRS 342H, HAR 11-58.1, and RESPONDENTS' solid waste management permit.

B. JURISDICTION

4. HRS §342H-7 authorizes DOH to issue orders assessing a penalty for any past or current violation of HRS chapter 342H, the rules adopted thereunder, or any term or condition of a permit issued pursuant to the chapter, and to require compliance

immediately or within a specified time.

5. RESPONDENTS are a "person" as defined in HRS §342H-1.

6. At all relevant times pertinent hereto, RESPONDENTS held a Solid Waste Management Permit ("permit"), Permit Number LF-0054-02, which was issued on May 15, 2003 and expires on April 30, 2008.

C. STATEMENT OF FACTS

COUNT I

(Exceedence of Permitted Grades)

7. Paragraphs 1 through 6 above are incorporated herein by this reference as if they were set forth here in their entirety.

8. On January 26, 2005, during a meeting between WMH and DOH, WMH stated that they overfilled areas in the ash monofill and MSW cells. WMH provided a drawing documenting the overfill areas to DOH. The drawing was based on an aerial survey conducted in January 7, 2005.

9. In a letter dated February 3, 2005, WMH states "approximately 100,000 tons of ash delivered from the H-Power facility has been placed above the current permitted grades of the ash monofill". The February 3, 2005 letter further states that the placement of ash occurred during 2004.

10. In WMH's Annual Operating Report (AOR) for 2004, dated February 20, 2005, WMH states that for the period between July 1, 2003 and June 30, 2004, the landfill received 96,239 tons of H-Power ash. The AOR further states that based on the January 15, 2004 topography, there is no remaining airspace in the ash monofill.

11. With a submission dated February 22, 2005, WMH provided DOH an isopach drawing dated February 2005, showing 2005 topography and master plan final grades. WMH noted that 139,485 cubic yards of ash and 129,240 cubic yards of MSW were placed beyond the permitted grades.

12. In a letter dated March 29, 2005, WMH stated, "Ash placement above the approved 2002 grades in the ash disposal cell was initially noted following the aerial flyover conducted in January 2004. Identification of an overfill condition in the MSW cell areas was noted following the flyover conducted in January 2005."

13. In a letter dated December 17, 2004 and during a meeting between WMH and DOH on January 26, 2005, DOH stated concern over the stability of the landfill for grades greater than the current design, as the factor of safety of the design grades is

1.5. During the January 26, 2005 meeting and in a February 7, 2005 letter, DOH requested that additional stability analysis be conducted to evaluate the overfill areas.

14. In a letter dated February 21, 2005, WMH's engineering consultant, GeoSyntec Consultants (GeoSyntec), states that the static stability analysis of the landfill with the overfill areas identified in their January 2005 survey, resulted in a factor of safety ranging between 1.3 and 1.8.

15. In a letter dated February 16, 2005, Waste Management proposed the construction of a stability berm along the downstream toe of the ash monofill. WMH stated "*This berm would be design to increase the factor of safety along Section 11 to a minimum of 1.5 and, would allow waste to be placed to grades approximately the same as those in the original 1989 design.*"

16. Solid Waste Management Permit Number LF-0054-02, Special Conditions III, Item 9 provides:

The waste fill height of this landfill shall not exceed 510 feet above mean sea level and shall be in accordance with the document entitled "14.9-Acre Master Plan Fill Grades" dated September 2002 by GeoSyntec Consultants submitted with the Lateral Expansion application dated September 27, 2002, or any other subsequent submission approved by the Department.

17. Since the issuance of the solid waste permit, the Department did not approve any changes to the landfill grades.

18. Based on the tonnage estimate of placed ash exceeding design grades and WMH's statement that ash placement above the approved 2002 grades was noted after a January 2004 flyover, the RESPONDENTS placed at least one years' worth of ash over the permitted grades and exceeded design grades for over a year.

19. RESPONDENTS placed ash and MSW above grades presented in the 14.9-Acre master Plan Fill Grades, in violation of Solid Waste Management Permit Number LF-0054-02, Special Conditions III, Item 9.

COUNT II

(Failure to Submit Annual Operating Reports in a Timely Manner)

20. Paragraphs 1 through 19 above are incorporated herein by this reference as if they were set forth here in their entirety.

21. Solid Waste Management Permit Number LF-0054-02, Special Conditions III, Item 2 provides:

The permittee shall submit an Annual Operating Report (AOR), using July 1 to June 30 as the reporting period. The AOR shall be submitted by July 31 of each year unless otherwise specified under Item 3 of this section....

22. Solid Waste Management Permit Number LF-0054-02, Special Conditions III, Item 3 provides:

The Annual Operating Report shall include the following information...

- a. Quantities of filled airspace for the present year, past filled airspace and remaining airspace in both cubic yards and years shall be provided...*
- b. On or before July 31 of each year, the permittee shall submit an annual topographic survey of the site as prepared by a land surveyor registered in the State of Hawaii. This survey shall clearly show the horizontal and vertical dimensions of the landfilled area;*
- c. A Sequencing Plan, including a drawing, identifying the cell areas to be filled in the coming year including identification of the wet weather areas. The cell areas and wet weather area capacity shall be provided using an appropriate unit of measure; and*
- d. Final fill areas, intermediate fill areas, and future unused fill areas shall be identified for the projected year.*

23. On July 24, 2003, WMH submitted their 2003 AOR. The AOR did not contain the required information for filled airspace for that year, past filled airspace and remaining airspace in cubic yards and years. The 2003 AOR was also missing the annual topographic survey, a sequencing plan for the coming year and a summary plan identifying filled areas, intermediate fill areas that can still accept waste and future unused fill areas. These items are consistent with the requirements of Special Conditions III, Item 3.

24. On December 22, 2004, WMH requested a 30-day extension for the submission of their 2004 AOR, which was due July 31, 2004.

25. In February 7, 2005, DOH issued a warning letter stating the deficiencies of the 2003 AOR and the non-submission of the 2004 AOR.

26. On February 23, 2005, DOH received the missing documentation required of the 2003 AOR and the 2004 AOR from WMH dated February 22, 2005, which utilized aerial topographies dated March 24, 2003 and January 15, 2004, respectively. In the February 22, 2005 incident report, WMH states:

Second, under separate cover, we are providing you with a copy of the 2004 Annual Operating Report (AOR) as required in the permit. Oral notification was provided in July 2004 to Mr. Gary Siu of the DOH that this report would be delayed due to information required from the annual topographic survey.

Additionally written notification of the delay was provided to Mr. Siu in December 2004. These aerial flyovers of the landfill have been scheduled during January of each year for the benefit of reporting to the City and County of Honolulu. Steps will be taken to prevent recurrence by our commitment to reschedule all future aerial flyovers in June of each calendar year to coincide with the timing of the AOR.

Third, under separate cover, a completed 2003 AOR is being provided to you with the information that was required in the February 7 letter. This information was incomplete due to our misunderstanding of the new requirements in the permit, which was issued May 15, 2003.

27. By the late submission of the required information, RESPONDENTS were in violation of Solid Waste Management Permit Number LF-0054-02, Special Conditions III, Items 2 and/or 3.

COUNT III

(Failure to place daily cover on the active face of MSW landfill)

28. Paragraphs 1 through 27 above are incorporated herein by this reference as if they were set forth here in their entirety.

29. HAR 11-58 .1-15(b)(1) provides:

Cover Material requirements. The owners or operators of all MSWLF units must cover disposed solid waste with six inches of earthen material at the end of each operating day, or at more frequent intervals if necessary, to control disease vector, fires, odors, blowing litter, and scavenging.

30. Solid Waste Management Permit Number LF-0054-02, Special Condition IIIA, 2 provides:

***Daily Cover Material** shall be a minimum of six inches of earthen material or an alternative in accordance to HAR 11-58.1-15(b). Request for the use of an alternative daily cover (ADC) as cover shall be submitted to the Director of the Department of Health at the address listed in Item 2 of Special Conditions III.*

Request for the use of an alternative daily cover (ADC) shall consist of a written request for the approval of a demonstration period whereby an evaluation and demonstration shall be made that the ADC and its thickness control disease vectors, fires, odors, blowing litter, and scavenging without presenting a threat to human health and the

environment. The use of alternative cover materials is limited to daily cover use only. The written request shall evaluate the potential ADC as to its specific characteristics and its appropriate use at the facility. Demonstration period are to be in increments of six months. The demonstration period or the approved use of an ADC may be rescinded or cancelled by either the Department of Health or the Operator at anytime without cause.

31. Solid Waste Management Permit Number LF-0054-02, Special Condition III, Item 11 provides:

A revised written Operating Plan shall be prepared and filed with the Department, no later than 90 days after receipt of this permit. The permittee shall implement the plan upon submission to the Department; however, the Department may require revisions to the written plan as a condition of approval...

32. The Facility's Operating Plan, dated July 2004, Section 5.8.1, Daily Cover states:

The active MSW disposal area is covered at the end of each day with a minimum of 6 inches of daily cover soil. In areas where additional waste will not be placed for a period of 30 days or more, intermediate cover consisting of a minimum of 12 inches of soil is placed over the waste, and graded to promote surface water drainage. When additional waste is to be placed over such areas, the upper part of the intermediate cover soil may be scraped off for subsequent reuse.

33. On January 28, 2005, the DOH inspectors noticed inadequate soil cover adjacent to the workface area (previous day's workface) in Cell E-1, showing excessive flagging (less than 6 inch of cover with trash protrusion) and without the required six inches of soil cover. The dozers/compactor were working on the current day's workface and away from the area that was showing flagging and no attempt were made to cover the exposed flagging.

34. On February 8, 2005, due to the lack of soil cover, flagging was noticed again in an area away from the workface of Cell E-1. Mr. Cassulo, the facility manager was notified of the noncompliance issue.

35. On February 9, 2005, the DOH inspectors continued to notice flagging on the east side of MSW E-1 due to lack of soil cover.

36. On February 17, 2005, the DOH inspectors observed less than 6-inches of soil cover and exposed trash (flagging) on MSW Cell E-1, on an area of the cell that the facility had completed a week before.

37. On February 17, 2005, a large portion of MSW Cell E-1 top deck was observed with heavy flagging due to lack of soil cover.
38. On February 24, 2005, the DOH-inspectors observed a former cell area previously filled with solid waste from the week before with exposed trash (flagging). The front slope of the MSW Cell E-1 was also observed with heavy flagging again due to inadequate soil cover.
39. On March 11, 2005, a large area of the top deck was observed with heavy flagging and exposed MSW.
40. On March 15, 2005, stockpile of soil cover within the workface area was observed, however, some areas of the top deck of MSW Cell E-1 was observed with exposed MSW and flagging.
41. On March 22, 2005, the inspectors observed some flagging fronting the slope of MSW Cell E-1.
42. On March 30, 2005, the inspectors observed the front slope of MSW Cell E-1 with exposed MSW and heavy flagging due to inadequate soil cover.
43. On April 6, 2005, the east top deck of MSW Cell E-1 was noticed with exposed bags of MSW without soil cover, and the front slope of the cell not covered with soil for days as observed from previous inspections.
44. On April 6, 2005, the inspectors observed exposed MSW and flagging on an area located adjacent to the active workface area.
45. On April 11, 2005, the inspectors observed an entire cell from the day before located at the north area of MSW Cell E-1 not covered with soil. The dozer operator was noticed still trying to cover the large cell of exposed MSW with soil cover. Heavy flagging and plastic bags of MSW were also noted fronting the slopes of MSW Cell E-1.
46. On April 15, 2005, at 9:00 A.M. the DOH inspector observed a portion of MSW from the previous day was not properly covered. Due to gusty wind the litter fences were loaded with litter and some flagging was also noted due to inadequate soil cover.
47. On April 20, 2005, at 6:20 P.M. the facility has stopped accepting waste for the day and a few trucks were observed delivering soil to the workface area for daily cover. At 7:00 P.M. the DOH inspectors observed the operators haul in tarps onto the workface to be used to cover part of the workface due to lack of soil cover. The use of tarps was not approved by DOH to be used as alternative daily cover (ADC) for the facility. At 7:45 P.M. the operators had stopped working and left for the night without covering a major part of the workface area. Mr. David Fuiava of WMH was asked about

completing the cell with daily cover and he said "call it a day, will use another plan tomorrow."

48. On April 21, 2005, at 6:45 P.M. the operators had stopped work for the evening and the DOH inspectors noticed heavy flagging throughout the cell. The DOH inspectors also noted uncovered and partially covered MSW within the cell area. The unauthorized use of the tarp for alternative daily cover was still in place from the previous day.

49. On April 22, 2005, the DOH inspectors continued to observed heavy flagging on the front slopes and the northeast side of MSW Cell E-1. The workface center top deck area of MSW Cell E-1 had exposed MSW and heavy flagging due to inadequate soil cover. The inspectors noticed the ADC tarp was still in placed from previous days.

50. On April 25, 2005, at 4:40 P.M. the DOH inspectors observed the landfill equipment operators working the MSW at workface area. The workface area was observed with large amount of MSW not covered with soil at 6:42 P.M. At 6:49 P.M. the operators parked their equipment and left for the evening without covering the MSW for the day. The Environmental Compliance Officer was asked if the operators were done for the day and he said that he had no control of the operators. The DOH inspectors walked the top deck of MSW Cell E-1 and observed large amount of MSW not covered with soil, including the side slopes of the cell.

51. On April 26, 2005, at 5:20 P.M. the DOH inspectors noted a large MSW area on the northeast corner of MSW Cell E-1 from the night before that had not been covered with soil. Heavy flagging was also noted throughout the top deck of MSW Cell E-1 and along the east banks of the cell. The inspectors observed the operators trying to cover the workface area with soil until 7:30 P.M. and the operators had to stop work due to darkness. Inadequate soil was observed throughout the workface and with some exposed MSW.

52. On April 27, 2005, at 6:30 P.M. heavy flagging and exposed MSW was observed at the center portion of MSW Cell E-1 and the MSW was not covered with adequate soil at the end of the day. The northeast side of MSW Cell E-1 continues to be observed with heavy flagging due to inadequate amount of soil cover for the past two weeks.

53. On April 28, 2005 at 6:55 P.M. the DOH inspectors observed the northeast corner of the workface (an old workface from the previous day) with heavy flagging and exposed MSW. The south slopes of MSW Cell E-1 fronting Koolina Resort continues to be observed with exposed MSW and heavy flagging.

54. On May 1, 2005, the DOH inspectors observed an inactive area of MSW Cell E-1 fronting Koolina Resort with exposed MSW. At the end of the day (5:10 P.M.) the inspectors observed a large MSW drop off area of the active workface in MSW Cell E-1 & E-2 with large amounts of exposed MSW and without the required daily soil cover.

Soil cover was available at the MSW Cell-10 storage area, but the facility had insufficient personnel on Sunday to cover the cell at the end of the day. The northeast corner of MSW Cell E-1 and top deck has exposed MSW and has not been covered with soil for the past week. Heavy flagging and exposed MSW on the front slope fronting Koolina Resort continues to be uncovered with daily soil cover.

55. On May 3, 2005, the DOH inspector continued to observe the sloped area of MSW Cell E-1 fronting Koolina Resort with exposed MSW and heavy flagging. The workface area for MSW Cell E-2 was inadequately covered with soil and heavy flagging was noted. At the end of the day (6:30P.M.) the active workface area was inadequately covered with soil. The northeast corner of MSW Cell E-1 and top deck had exposed MSW and has not been covered with soil for the past few weeks.

56. On May 6, 2005, at 5:00P.M. the DOH inspectors observed facility operator park the equipment and drive away for the day. The inspectors observed heavy flagging and exposed MSW without adequate soil cover at the MSW Cell E-2 workface.

57. On May 9, 2005, at 6:20 P.M., DOH inspectors observed exposed MSW and heavy flagging on a large area of MSW Cell E-2 workface without adequate soil cover.

58. On May 19, 2005, the DOH inspectors continue to notice the bottom slope of MSW Cell E-1 fronting Koolina Resort with exposed MSW and heavy flagging.

59. The issue was reported to the Environmental Compliance Officer and Operation Manager on May 19, 2005; however, no action was taken to correct the problem.

60. On May 25, 2005, the DOH inspectors observed exposed MSW and heavy flagging on the recently completed northeast end of MSW Cell E-1, due to inadequate soil cover. Ms. Gordy, the Environmental Manager, was notified of the issue and was present during the inspection.

61. On June 3, 2005, the south slopes of MSW Cell E-1 fronting Koolina Resort continues to be observed with exposed MSW and heavy flagging. Mr. Cassulo said that WMH is leveling high spots within MSW Cell E-1 and once completed the area will be covered with intermediate soil.

62. On June 9, 2005, the inspectors observed large amounts of exposed MSW on a closed cell fronting MSW Cell E-2.

63. The RESPONDENTS failed to provide six inches of daily soil cover at the end of day on the aforementioned dates.

64. RESPONDENTS did not receive prior written approval from the Director of Health to use alternative daily cover.

65. RESPONDENTS violated HAR 11-58 .1-15(b)(1) and Solid Waste Management Permit Special Permit Condition IIIA, Item 2 on 27 separate occasions.

COUNT IV

(Failure to place intermediate cover material on the ash monofill)

66. Paragraphs 1 through 65 above are incorporated herein by this reference as if they were set forth here in their entirety.

66. Solid Waste Management Permit Number LF-0054-02, Special Condition IIIB, Item 2 provides:

Intermediate cover is required for the MSW ash monofill to control fugitive dust, if the ash is exposed for more than seven days. A minimum of 6 inches of earthen material shall be used for cover except where cover cannot be reasonable or safely applied. In those areas an alternative dust control cover shall be used with the approval of the Department.

67. The Facility's Operating Plan, dated July 2004, Section 5.9.2. Cover provides:
Intermediate soil cover is placed over areas that are not being actively worked and are exposed for more than 7 days without receiving additional ash. Intermediate cover consists of soil compacted to a minimum thickness of six inches and graded to promote runoff of surface water.

68. Aerial photographs of the landfill facility dated 1-3-00, 1-6-01, 3-24-03, 2-13-04, and 1-7-05, as reviewed by a DOH inspector at WMH's office, shows that the percentage of intermediate soil cover on the monofill varies from year to year.

69. On January 28, 2005, the DOH inspectors noticed large inactive cell areas of the ash monofill without intermediate soil cover. DOH inspectors voiced their concern to the facility manager Mr. Joe Hernandez, on the requirement for the ash monofill intermediate cover and were told that the facility plans to regrade the ash monofill sometime soon.

70. On February 9, 2005, DOH inspectors observed a WMH worker operating a grader and leveling/regrading the overfilled ash monofill on Ash Cells 5 & 6. The inspectors observed exposed ash monofill cells 5, 6, 7, & 8 without the required seven-day intermediate cover. Some soil stockpiles were noticed stored on the top deck of the ash monofill, but was not at that time being used as cover material. The re-grading of the ash monofill was observed to create significant fugitive dust without any mitigation controls.

71. On February 9, 2005, DOH inspectors noted the active ash disposal cell 3 area with large stockpiles of ash without the required seven day intermediate cover and DOH

voiced their concerns to Mr. Cassulo for the required intermediate cover. Mr. Cassulo said that they could not cover the ash because the ash is wet and takes a while to dry. He also mentioned that he does not interpret the permit condition requiring the ash to be covered every seven days. Mr. Cassulo also stated that they are cutting the ash piles to reduce the overfilled ash areas (cells 5 & 6) and WMH plans to have it completed by the following week.

72. On February 17, 2005, DOH inspectors observed the grader operator partially covering part of the top deck of ash monofill of cells 4 & 5 with intermediate soil cover.

73. On February 24, 2005, DOH inspectors observed the ash monofill top deck partially covered with intermediate soil cover, however, the side slope of the ash monofill had no intermediate cover. At the time of inspection, no equipment was observed working on the ash monofill area.

74. On February 24, 2005, the DOH inspectors observed two separate ash workface areas without soil cover. The entire side slope areas of the ash monofill landfill area are not covered with intermediate soil cover.

75. On March 11, 2005, a major part of the ash monofill landfill area continues to be without the required soil cover. Most of the side slope is not covered with soil.

76. On March 15, 2005, intermediate soil cover was noted on the top deck the ash monofill area, however, the side slopes have not been covered with soil. The entire ash monofill in Cell 5 has not yet been covered with intermediate soil.

77. On March 22, 2005, DOH inspectors noted that the side slopes of the ash monofill cells 6 & 7 were still not covered with intermediate soil.

78. On March 30, 2005, the DOH inspectors observed the side slopes of the ash monofill area without intermediate soil cover. The active ash monofill area was not being covered with the required soil cover every seven days.

79. On April 6, 2005, a former active ash monofill lift located on the northeast corner of ash cell 4 was observed without the required intermediate soil cover.

80. On April 11, 2005, the DOH inspectors continue to observe the side slopes of the ash monofill area without the required intermediate soil cover.

81. On April 15, 2005 to June 28, 2005, the DOH inspectors continue to observe the ash monofill side slopes and other areas of the ash monofill without the required intermediate soil cover.

82. On May 12, 2005, DOH continues to observe the active workface with stockpiles of ash from H-Power and without the required intermediate cover. H-Power facility was

closed for their annual maintenance on April 13, 2005 for about a month. WMH did not place the required soil cover on the active workforce area during this entire period.

83. On June 29, 2005, DOH continued to observe ash monofill cell 3 areas without the required soil cover. The inspectors observed WMH equipment placing intermediate cover and grading the side slope of the ash monofill cells 6 & 7.

84. On July 27, 2005, the inspector observed the top deck and side slopes of the ash monofill landfill completely covered with intermediate soil and meeting regulatory requirements.

85. RESPONDENTS have failed to place intermediate cover on the ash monofill and have violated the facility's permit Special Conditions IIIB, Item 2 and facility's Operations Plan Section 4.9.2 for at least 153 days.

COUNT V

(Exceedance of leachate head on the liner in ash monofill)

86. Paragraphs 1 through 85 above are incorporated herein by this reference as if they were set forth here in their entirety.

87. HAR 11-58.1-14(b) provides:

The design shall either:

- (1) Ensure that the concentration values listed in Table 1, which is incorporated by reference, or Hawaii Administrative Rules, title 11, chapter 20, whichever is more stringent, will not be exceeded in the uppermost aquifer at the relevant point of compliance, as specified by the director under subsection (e); or*
- (2) Include a composite liner as described in subsection (c) and a leachate collection system that is designed and constructed to maintain less than a thirty-centimeter depth of leachate over the liner.*

88. **RESPONDENTS** chose to meet HAR 11-58.1-14(b)(1). WMH submitted *Point of Compliance (POC)* documents dated, May 25, 1993 to demonstrate that the proposed alternative liner and leachate collection system are designed to meet HAR 11-58.1-14(b)(1). The assumptions made in *POC* documents dated, May 25, 1993 was that leachate head on the liner will not exceed 30 centimeters.

89. The facility has three separate leachate collection systems that feed into three separate sumps. The ash monofill leachate sump is located at the south end of the ash monofill. The MSW leachate sump that services the primary section of the MSW landfill is located at the south end of MSW Cell 4B and is referred to Sump 4B. Leachate sump E-1 is located at the southern end of MSW Cell E-1, and services only the lateral

MSW expansion cells.

90. Based on as-built drawings contained in the Ash Cell 8 CQA report prepared by A-Mehr, Inc. and dated October 8, 1998, the depth of the ash monofill sump is approximately 6 feet deep. Therefore the maximum depth of leachate allowed in the sump as to provide no more than 12 inches (30 centimeters) of leachate on the liner system is approximately 7 feet. In a letter dated August 6, 1999, A-Mehr, Inc., further states that they recommend a maximum leachate level of 5 feet be maintained within the sump.

91. On March 11, 2005, the DOH inspectors requested a copy of the leachate log maintained at the facility for the three-leachate sumps that are located within the facility. Mr. Joe Hernandez of WMH provided the log to the inspectors and the log shows that the last time the ash monofill leachate sump was measure was back in October 28, 2003.

92. On March 11, 2005, the DOH inspectors located the ash monofill leachate sump at the south end of Ash Cell 8 and measured the leachate inside the sump. The leachate depth was measured with the facility's pre-marked six-foot solid rod attached to a rope and inserted into the vertical manhole sump. The homemade measuring device was lowered into the bottom of the manhole and next to the PVC pipeline used to pump the leachate out of the sump. Leachate measurements collected from the sump indicated 14 feet 2 inches of leachate inside the sump, or approximately 8.2 feet of leachate on the liner system.

93. On March 15, 2005, the DOH inspectors measured the leachate sump using the same six-foot solid rod and attached rope. Again, the homemade measurement device was lowered inside the sump. The device was removed, placed on the ground and measured with a tape measure. The rope was used because it showed a wet mark with an indication of the amount of liquid inside the sump. The inspectors recorded a measurement of 22 feet 8 inches of leachate inside the sump, or approximately 16 feet 8 inches of head on the liner system.

94. From March 16, 2005 to June 16, 2005 leachate was observed by DOH to be seeping and ponding at the bottom slopes outside of the lined cell areas fronting ash cell 8 and MSW cell E-1.

95. On March 22, 2005, the DOH inspectors visited the site and measured the leachate sump manhole utilizing the same pipe and rope. The inspectors recorded a measurement of 22 feet 3 inches of leachate inside the ash monofill sump, or approximately 16.3 feet of leachate head on the liner system. The water truck was parked near the sump and the fill pipe was connected to the water truck. No leachate was being pumped into the water truck at that time.

96. In a letter dated June 22, 2005, WMH provided leachate logs for the ash sump,

which indicated that leachate level of 22 feet was measured on February 9, 2005.

97. Sometime between July 15, 2005 and July 22, 2005, the leachate head on the liner system was lower to below the maximum head allowance of 30 centimeters.

98. RESPONDENTS have exceeded the maximum leachate head allowance of 12 inches or 30 centimeters on the ash monofill liner for at least 156 days, in conflict with their POC, dated May 25, 1993 and in violation of HAR 11-58.1-14(b)(1).

COUNT VI

(Exceedance of leachate head on liner in MSW Cell E-1 sump)

99. Paragraphs 1 through 98 above are incorporated herein by this reference as if they were set forth here in their entirety.

100. In WMH's letter dated June 22, 2005, they state that MSW Cell E-1 leachate sump was initially installed in November 2003.

101. Based on a design drawing of the E-1 sump, dated August 22, 2003, and provided by WMH, the depth of the sump is 3 feet. Therefore the maximum depth of leachate allowed in the sump as to provide no more than 12 inches (30 centimeters) of leachate on the liner system is 4 feet.

102. On March 11, 2005, the DOH inspectors requested a copy of the leachate log maintained at the facility for the three-leachate sumps that are located within the facility. Mr. Joe Hernandez of WMH could not produce a leachate log for MSW Cell E-1 sump.

103. On March 22, 2005, the DOH inspectors measured the hose attached to the pump leading to the bottom of MSW Cell E-1. The inspectors measured the hose and determine that the hose length is 80 feet long to the bottom of the sump. The inspectors pulled out 30 feet of hose from the lateral leachate line when the pump reached air and stopped pumping leachate. Based on the angle of the leachate riser (2:1) and the measured length of leachate in the pipe, DOH calculated that the vertical depth of the leachate in the sump is approximately 10.4 feet, or 7.4 feet on the liner.

104. On April 11, 2005, the inspectors observed a large puddle of leachate ponding at the bottom slope of MSW Cell 4-B. The leachate was seeping from the bottom slope of MSW Cell E-1.

105. On April 15, 2005, DOH inspector observed test holes at the bottom slope of MSW Cell E-1 filled with leachate. The test holes were about five foot in depth and contained approximately three feet of leachate.

106. In a letter dated June 22, 2005, WMH provided a leachate log for the E-1 Sump,

which lists 74 feet of leachate measured on April 29, 2005 and May 26, 2005.

107. Sometime between July 22, 2005 and August 1, 2005, WMH reported that leachate head no longer exceeds 30 centimeters on the liner system.

108. RESPONDENTS have exceeded the maximum leachate head allowance of 12 inches or 30 centimeters on the MSW E-cell liner for at least 123 days, in conflict with their POC, dated May 23, 1993 and in violation of HAR 11-58.1-14(b)(1).

COUNT VII

(Failure to Measure Leachate Levels and to Maintain Records on Leachate Levels in Cell 4B Sump)

109. Paragraphs 1 through 108 above are incorporated herein by this reference as if they were set forth here in their entirety.

110. Solid Waste Management Permit Number LF-0054-02, Special Condition III, Item 6 provides:

The permittee shall implement the final Groundwater and Leachate Monitoring Plan dated October 7, 1995, and revised in June 1997.

111. The facility's Groundwater and Leachate Monitoring Plan dated October 7, 1995 and revised in June 1997, states in Section 4.2 *Leachate Monitoring*:

For the MSW landfill, the sump which is located in cell 4B, is checked monthly for any traces of liquids. Monitoring is done manually through the use of a steel tape which is lowered down the leachate extraction riser. If liquids are detected at any time during the monthly checks, monitoring frequency is increased to weekly until it is determined that liquid levels have stabilized or evacuation of liquids is required.

112. Solid Waste Management Permit Number LF-0054-02, General Conditions I, Item 9b and 9c provides:

- a. *The permittee shall retain at the facility or other location designated by this permit, records of all monitoring information...copies of all reports required by this permit, and records of all data use to complete the application for this permit. The time period of retention shall be a minimum five (5) years unless otherwise specified by the Director. The groundwater, leachate, and air monitoring data must be maintained through the closure and post-closure periods.*
- b. *Records of monitoring information shall include:*

- *The dates, exact place, and time of sampling or measurements;*
- *The person responsible for performing the sampling or measurements;*
- *The date(s) analyses were performed;*
- *The person responsible for performing the analyses;*
- *Analytical techniques or methods used; and*
- *Results of such analyses.*

113. On March 11, 2005, the DOH inspectors requested a copy of the leachate log maintained at the facility for the three-leachate sumps that are located within the facility. Mr. Joe Hernandez provided the log to the inspectors and the log shows that the leachate sump in MSW Cell 4-B has not been measured since May 2003.

114. In a letter dated June 22, 2005, WMH provided another copy of the leachate log, which indicated that the leachate level in MSW Cell 4B could not be measured since June 2003, due to "lost measuring unit". The log continues to document the inability to measure until October 2003.

115. In the letter dated June 22, 2005, WMH stated that the 4-B sump has been inaccessible during the 2003-2005 time period due to a blockage of the riser by equipment used to take water level readings. The riser has recently been cleared of the obstruction, however, as of August 15, 2005, no leachate level measurements have been taken since May 2003.

116. RESPONDENTS have violated Solid Waste Management Permit Number LF-0054-02, Special Condition III, Item 6 and General Conditions I, Items 9b and 9c, and their Groundwater and Leachate Monitoring Plan, for not measuring leachate levels and/or maintaining records from at least June 2003 to July 2005.

COUNT VIII

(Failure to Measure Leachate Levels and to Maintain Records on Leachate Levels in the Ash Monofill Sump)

117. Paragraphs 1 through 116 above are incorporated herein by this reference as if they were set forth here in their entirety.

118. Solid Waste Management Permit Number LF-0054-02, Special Condition III, Item 6 provides:

The permittee shall implement the final Groundwater and Leachate Monitoring Plan dated October 7, 1995, and revised in June 1997.

119. The facility's Groundwater and Leachate Monitoring Plan dated October 7, 2005

and revised in June 1997, states in Section 4.2 *Leachate Monitoring*:

For the ash landfill, the leachate monitoring and sump evacuation procedures are similar to MSW landfill. In the existing operating area of the ash landfill, a manhole serves as the leachate collection system sump (ash cell 1). This sump is also monitored monthly, as well as following significant rainfall events, by lowering a steel tape to the bottom and checking liquid level.

120. On March 11, 2005, the DOH inspectors requested a copy of the leachate log maintained at the facility for the three-leachate sumps that are located within the facility. Mr. Joe Hernandez provided the log to the inspectors and the log shows that the leachate sump in the ash monofill has not been measured since October 2003.

121. In a letter dated June 22, 2005, WMH provided another copy of the leachate log, which indicated that the leachate level in the ash monofill was not measured between October 28, 2003 and February 9, 2005.

122. RESPONDENTS have violated Solid Waste Management Permit Number LF-0054-02, Special Condition III, Item 6 and General Conditions I, Items 9b and 9c, and their Groundwater and Leachate Monitoring Plan, for not measuring leachate levels and/or maintaining records from at least November 2003 to January 2005.

COUNT IX

(Failure to notify DOH of noncompliance on equipment blockage in MSW Cell 4-B leachate lateral line and inability to measure leachate levels)

123. Paragraphs 1 through 122 above are incorporated herein by this reference as if they were set forth here in their entirety.

124. On March 11, 2005, inspectors were told by Joe Hernandez and based on leachate logs provided that the leachate sump in MSW Cell 4-B has not been measured since May 2003. No written notification was submitted to the department.

125. The facility claims that a "Lizard" (a device with wheels used to lower measuring equipment inside the lateral pipe) was stuck inside the lateral leachate pipe and blocked the line, thus WMH was unable to properly measure or pump the leachate.

126. Solid Waste Management Permit Number LF-0054-02, General Conditions I, Item 5 provide:

If, for any reason, the permittee does not comply with or will be unable to comply with any condition or limitation specified in the permit, the permittee shall notify the Department orally within 24 hours followed by a written incident report within seven days of the oral notification. The written incident report shall contain the

following information:

- a. A description of and the cause of noncompliance;
- b. The period of noncompliance, including exact dates and times, or, if not corrected, the anticipated time the noncompliance is expected to continue; and
- c. Steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance.

The permittee shall be responsible for any and all damages, which may result and may be subject to enforcement action by the Department for penalties or revocation of this permit.

The use of an electronic facsimile device (FAX) for use in notifications is acceptable. Any data transmission or detailed explanations transmitted shall be accompanied by regular mail submissions. Failure to notify in accordance to this requirement may initiate enforcement action.

The reporting requirements of General Condition I, Condition 5 does not apply if the following conditions are met:

- a. Failure to comply will not create an immediate and significant risk to health, safety, or the environment;
- b. The permittee is using its best efforts to comply; and
- c. The permittee will be able to comply within 30 days.
- d. With the exception that all incidents of fire or releases/spills over 25 gallons shall be reported.

127. In the letter dated June 22, 2005, WMH stated that the 4-B sump has been inaccessible during the 2003-2005 time period due to a blockage of the riser by equipment used to take water level readings. The riser has recently been cleared of the obstruction, however, as of August 15, 2005, no leachate level measurements have been taken since June 2003.

128. On or about May 20, 2005, WMH was able to retrieve the "lizard" from the lateral leachate pipe. As of August 15, the facility has not measured leachate level and has not removed the leachate from the lateral sump.

129. RESPONDENTS have violated Solid Waste Management Permit Number LF-0054-02, *General Conditions I, Item 5* by not notifying DOH of the problem and failure to provide a written notification.

COUNT X

(Failure to Notify DOH of Noncompliance in a Timely Manner on the Exceedences of Permit Grades and Submission of the AORs)

130. Paragraphs 1 through 129 above are incorporated herein by this reference as if they were set forth here in their entirety.

131. On January 26, 2005, during a meeting between DOH and WMH, WMH notified DOH of the exceedence of waste above permitted grades.

132. On February 7, 2005, DOH issued a warning letter stating oral notification on noncompliance issues (exceedence of permitted grades, and failure to submit AOR information) has not been provided in a timely manner, that an incident report has not been submitted, in violation of General Conditions I, Item 5.

133. Solid waste Management Permit Number LF-0054-02, General Conditions I, Item 5 provide:

If for any reasons, the permittee does not comply with or will be unable to comply with any condition or limitation specified in the permit, the permittee shall notify the Department orally within 24 hours followed by a written incident report within seven days of the oral notification. The written incident report shall contain the following information:

- a. A description of an the cause of noncompliance;*
- b. The period of noncompliance, including exact dates and times, or, if not corrected, the anticipated time the noncompliance is expected to continue; and*
- c. Steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance.*

The permittee shall be responsible for any and all damages, which may result and may be subject to enforcement action by the Department for penalties or revocation of this permit.

The use of an electronic facsimile device (FAX) for use in notification is acceptable. Any data transmission or detailed explanations transmitted shall be accompanied by regular mail submissions. Failure to notify in accordance to this requirement may initiate enforcement action.

The reporting requirements of General Condition I, Condition 5 does not apply if the following conditions are met:

- a. Failure to comply will not create an immediate and significant risk to health, safety, or the environment;*
- b. The permittee is using its best efforts to comply; and*
- c. The permittee will be able to comply within 30 days.*
- d. With the exception that all incidents of fire or releases/spills over 25 gallons*

shall be reported.

134. On February 3, 2005, WMH submitted a written incident report, notifying the DOH of the exceedences. The incident report did not include all of the requirements specified in General Condition I, Item 5.

135. On February 22, 2005, WMH submitted another incident report, reiterating the written notification on the exceedences on the permitted grades and providing additional information in an attempt to meet the requirements of General Condition I, Item 5.

136. In the February 22, 2005 incident report, WMH states:

Second, under separate cover, we are providing you with a copy of the 2004 Annual Operating Report (AOR) as required in the permit. Oral notification was provided in July 2004 to Mr. Gary Siu of the DOH that this report would be delayed due to information required from the annual topographic survey/ Additional written notification of the delay was provided to Mr. Siu in December 2004. These aerial flyovers of the landfill have been scheduled during January of each year for the benefit of reporting to the City and County of Honolulu. Steps will be taken to prevent recurrence by our commitment to reschedule all future aerial flyovers in June of each calendar year to coincide with the timing of the AOR.

Third, under separate cover, a completed 2003 AOR is being provided to you with the information that was required in the February 7 letter. This information was incomplete due to our misunderstanding of the new requirements in the permit, which was issued May 15, 2003.

137. On February 22, 2005, WMH submitted a revised 2003 AOR dated February 20, 2005 and the 2004 AOR dated February 20, 2005. The AORs utilized aerial topographies dated March 24, 2003 and January 15, 2004, respectively.

138. In a letter dated March 29, 2005, WMH states "Ash placement above the approved 2002 grades in the ash disposal cells was noted following the flyover conducted in January 2004."

139. RESPONDENTS were in violation of Solid Waste Management Permit Number LF-0054-02, General Conditions I, Item 5 for notifying the DOH over a year after WMH first noted permitted grade exceedences, and providing written notification on the delay of the 2004 AORs over 4 months after the date the document was due.

COUNT XI

(Unauthorized storage of material on the ash monofill)

140. Paragraphs 1 through 139 above are incorporated herein by this reference as if they were set forth here in their entirety.

141. Solid Waste Management Permit Number LF-0054-02, Special Condition IIIB, Item 5 provides:

No storage of material is allowed on the MSW ash landfill area.

142. The Facility's Operating Plan, dated July 2004, Section 5.9.5. Use of Filled Areas provides:

Developed or filled areas of the ash monofill will not be used for other activities. Specifically, they will not be used for storage of green waste, tires, white goods or unacceptable wastes removed from the MSW landfill. The only use that may be made of ash monofill areas is for temporary soil stockpiling, provided the affected ash monofill area has received intermediate soil cover.

143. On January 28, February 8, 9, 17 and 24, 2005, the inspectors noticed a large stockpile of rocks mixed with dirt located on portions of MSW ash Cell 4/5 and MSW Cell 5 and 4B.

144. From around March 2005, the rock stockpile started to be moved and used in the construction of the stability berm fronting the ash monofill.

145. In a letter dated March 29, 2005, WMH stated that the placement of the rock stockpile from the construction of MSW Cell E-1 occurred in July 2003.

146. RESPONDENTS stockpiled rocks mixed with soil on the MSW ash landfill area in violation of facility's permit Special Conditions IIIB, Item 5 and facility's Operations Plan Section 5.9.5.

COUNT XII

(Failure to manage and ban the acceptance of special waste)

147. Paragraphs 1 through 146 above are incorporated herein by this reference as if they were set forth here in their entirety.

148. Solid Waste Management Permit Number LF-0054-02, Special Condition IIIA, states that the items under Special Conditions IIIA, are to be included in the Operating Plan and implemented accordingly as specified in Special Condition III, Item 11.

149. Solid Waste Management Permit Number LF-0054-02, Special Condition IIIA,

Item 14 provides:

Adequate Storage Procedures for green waste, scrap vehicles, tires, and white goods shall be included in a written plan with record keeping to prevent vector and pollution problems. Bulk green waste, scrap vehicles, tires and white goods may not be disposed of at any solid waste facility in accordance with 11-58.1-65(b) and (c).

150. HAR 11-58.1-65 Special solid waste controls, Subsection (c) provides:

Scrap automobiles, white goods, and tires. Scrap automobiles may not be accepted at disposal facilities permitted under these rules. White goods and motor vehicle tires may not be accepted at disposal facilities permitted under these rules after June 30, 1994. A plan must be developed by the operator of solid waste disposal facility and included in the facility operations plan to implement this ban.

151. The Facility's Operating Plan, dated July 2004, Section 5.7, Storage and Disposition of Non-Disposable Waste states:

WGSLF does not accept for disposal the following categories of waste which are prohibited for disposal by Hawaii solid waste regulations:

- Tires

Tires are placed in a roll-off bin and stored until a full container is accumulated, at which time they are transported to an approved tire recycler. The bin is covered with a tarp to keep rain out and prevent vectors from using the tires.

152. The inspectors at no time observed a roll-off bin to store the tires as stated in the facility's Operating Plan. As of July 27, 2005, the inspectors have not observed a roll-off bin for used tire storage on site.

153. During DOH's February 9, 2005 inspection, the inspectors witnessed the operator bury two whole tires at the workface of the facility. At no time did the dozer operator attempt to push the tires on the side for later recovery. The operator instead covered the tires with solid waste and continued to compact the trash at the workface. The observation of the tire burial was observed from the top of MSW Cell 1.

154. On February 17, 2005, DOH inspectors observed four whole tires on the side slopes of MSW Cell E-1. A few of the tires were partially buried with soil. The facility's Environmental Coordinator was notified of the noncompliance issue.

packaging requirements, the transporter proceeds to a prepared disposal trench, and discharges the load. All asbestos waste is covered with MSW and 6 inches of daily cover. Documentation of the date, time, names of the waste generator and transporter and location within the site where the waste was disposed are placed in the site's permanent operating records.

164. Facility's Operating Plan, dated July 2004, Section 8.13 Asbestos Disposal records states:

WGSLF is required by permit to maintain a record of each load of asbestos waste disposed at the site. Information to be recorded includes the type of waste, source and location, preferably by GPS or survey coordinates, of its disposal location in the landfill. Asbestos disposal records may be incorporated in the records of the hazardous waste exclusion or special waste screening programs.

165. In a letter dated May 23, 2005, DOH requested WMH to provide special waste disposal logs, and disposal locations for the asbestos received at the facility for the past two years.

166. In a letter dated June 22, 2005, WMH provided copies of the daily logs on the disposal of accepted asbestos waste for the past two years. WMH claims that they have been unable to locate records on the disposal locations for asbestos waste at the landfill for the last two years.

167. As of July 27, 2005, WMH does not have records to provide to DOH showing disposal locations for the asbestos waste disposed at the landfill.

168. The RESPONDENTS failed to record and maintain records regarding the location of asbestos disposal in violation of Special Conditions III, Item 11 and the facility's operating plan.

COUNT XIV

(Failure to cover a dead animal)

169. Paragraphs 1 through 168 above are incorporated herein by this reference as if they were set forth here in their entirety.

170. Solid Waste Management Permit Number LF-0054-02, Special Condition IIIA, Item 10 provides:

Dead Animals and Offal, shall be addressed by a written plan requiring a minimum of two feet of soil, solid waste or other approved cover material

and be compacted before the end of the workday.

171. The Facility's Operating Plan, dated July 2004, Section 5.6.2, provides:

- *Specialized procedures will be used to manage the categories of special waste described in this section:*

Dead Animals and Offal

Dead animals and offal (hides, intestines, and other waste from slaughtered animals) is not subject to special waste acceptance procedures, but will be identified by the transporter at the scale house. Loads known to contain dead animals or offal, and such wastes discovered incidental to other loads after dumping at the active face, will be placed in an area where they can be covered with additional solid waste immediately after being placed. Wherever possible, this will be accomplished by excavating it in the solid waste at the working face, placing the animal waste in it, and filling back in with MSW. Any areas that have received animal waste will be covered with daily cover soil at the end of the working day.

172. On February 17, 2005, the inspectors noticed along the bottom of MSW Cell E-1, a partially covered dead animal away from the landfill's workface area. The distance from the workface area to the dead animal was over 300 feet away.

173. On February 17, 2005, Mr. Hernandez was advised of the dead animal located at the bottom of MSW Cell E-1.

174. On March 15, 2005, Mr. David Fuiava informed the inspectors that the dead animal was discovered four days after acceptance and subsequently buried.

175. RESPONDENTS failed to properly handle a dead animal at the facility by not covering the dead animal with soil or waste immediately, which has resulted in violations of the facility's permit special conditions and facility's Operating Plan.

COUNT XV

(Failure to Submit Annual Surface Water Management Plan)

176. Paragraphs 1 through 175 above are incorporated herein by this reference as if they were set forth here in their entirety.

177. Solid Waste Management Permit Number LF-0054-02, Special Condition III, Item 11h provides:

The Surface Water Management Plan shall be updated annually and filed with

the Department by no later than September 1 of each year. It shall contain the following information:

- (1) Report of an annual inspection of surface water management features and facilities, together with a description of required maintenance and changes;
- (2) Updated drawings showing current topography of the landfill, surface water drainage system modifications planned for the next year in response to waste filling;
- (3) Engineering calculations documenting the capability of the surface water management system to comply with the run-on and run-off requirements listed under 3 (a) above; and
- (4) Any Storm Water Pollution Prevention Plan or Spill Prevention Control and Countermeasure Plan prepared pursuant to federal requirements under the Clean Water Act.

178. The Facility's Operating Plan, dated July 2004, Section 6.8.5 Annual Update of Surface water Management Plan, provides:

WGSL will prepare and submit to HDOH an annual update to the surface water management plan, by September 1 of each year. The annual surface water report will contain the following information:

- Results of an inspection of surface water management features and facilities, together with a description of recommended maintenance and changes;
- Updated drawings of the surface water management system;
- Engineering calculations confirming the capacity of the system;
- Any updates to the site's SPCC Plan

179. In a letter dated May 23, 2005, DOH requested the September 2003 and September 2004 annual updates as required by the permit.

180. In a letter dated June 22, 2005, WMH stated that they have not been able to locate the annual updates for 2003 and 2004.

181. To date, the DOH has not received the annual updates for 2003 and 2004. The facility has failed to comply with the facility's permit Special Conditions III, Item h Surface Water Management Plan and facility's Operations Plan Section 6.8.5, Annual Update of Surface Water Management Plan.

COUNT XVI

(Failure to control the generation of dust from vehicular traffic)

182. Paragraphs 1 through 181 above are incorporated herein by this reference as if

they were set forth here in their entirety.

183. Solid Waste Management Permit Number LF-0054-02, Special Condition III, Item 11 and 11m provides:

*A revised written **Operating Plan** shall be prepared and filed with the Department, no later than 90 days after receipt of this permit. The permittee shall implement the plan upon submission to the Department; however, the Department may require revision to the written plan as a condition of approval. The revised **Operating Plan** shall include the following topics:*

***Mud and Dust Prevention Program**, a written plan for minimizing the tracking of mud onto public roads, or the generation of dust from vehicular traffic on site. The plan shall contain measures related to on-site road maintenance and cleaning, provision of a wet-weather disposal area, and an area for the wash-down of trucks or truck wheels prior to leaving the site. The possible methods include: rumble strips, drive-through tire wash, trash clean out pad, or wash pad.*

184. The Facility's Operating Plan, dated July 2004, Section 6.3 Mud and Dust states:

WGSLF personnel are responsible for preventing the emission of excessive dust from the facility. The site's water trucks are used during dry weather to spray water on access roads and other areas generating wind-blown dust. The volume of water and frequency of spraying is increased as needed during particularly dry and windy conditions.

185. On February 9, 2005, DOH inspectors noticed the significant generation of dust from vehicular traffic ingress and egress down the road by MSW Cell 1 near the landfill's workface and surrounding area. DOH inspectors did not see a water truck being used to minimize the generation of fugitive dust during the two plus hours spent on site for the inspection. It takes approximately 15 minutes to fill the 5,000-gallon water truck and an additional 15 minutes to empty the truck of its contents. Inspectors outbriefed, Mr. Steve Cassulo, General Manager, of the noncompliance issues and said that the water truck was pumping leachate from manholes at the facility.

186. On February 17, 2005, DOH revisited the site and noticed heavy vehicular dust generation starting from the bottom road to the facility's workface area. The dirt areas near the workface and roads were observed to be very dry. The facility did not have a water truck in use at the site to spray for dust and to control dust problem.

187. On many site visits the DOH inspectors requested WMH to spray the main road leading into the landfill and near the workface area with water due to the heavy dust

generation from vehicular traffic or windy conditions at the site.

188. RESPONDENTS have violated Solid Waste Management Permit Special Condition III, Item 11 and Facility's Operating Plan Section Requirement 5.3 on at least two occasions.

COUNT XVII

(Failure to minimize free litter generation in the landfill)

189. Paragraphs 1 through 188 above are incorporated herein by this reference as if they were set forth here in their entirety.

190. Solid Waste Management Permit Number LF-0054-02, Special Condition IIIA, Item 8 provides:

Litter Control, a written plan with record keeping shall be prepared to provide measures to minimize free litter in the landfill and prevent its occurrence beyond the property line of the facility. The plan shall contain, at a minimum, the following information:

- a. *Design of portable litter screens, the number of screens available on the site, and a description of how they are to be deployed under various operating conditions;*
- b. *Design and location of permanent or semi-permanent litter screen fences;*
- c. *Special procedures to be followed during the period when the H-Power waste-to-energy plant shuts down and the volume of municipal solid waste increases above quantities; and*
- d. *Procedures for litter prevention and cleanup in the event of a major windstorm or other incident in which litter escapes the normal litter containment systems.*

191. The Facility's Operating Plan, dated July 2004, Section 6.4, Litter states:

WGSLF uses permanent litter fences, portable screens, and routine site cleanup operations to prevent wind-blown litter from leaving the landfill premises and creating nuisance conditions in the area. These litter control program elements are described below:

- *Portable litter screens, typically 12 feet and 20 feet wide, are located in downwind locations near the active MSW disposal area as the first line of defense against litter. The screens are relocated frequently as the active area moves across the site.*

- *Approximately 600 lineal feet of 30-foot tall permanent litter fence is installed between the ash monofill and the MSW fill area, as the second line of defense.*
- *The chain link fence surrounding the lower elevation areas of the WGSFLF property provide a final level of physical containment of any litter that leaves the active working area.*
- *Routine site cleanup and litter collection are the final elements of the litter control program. WGSFLF personnel remove litter from portable screens and permanent fences on a daily basis, clean haul roads weekly, and pick up litter anywhere on the site at any time. In the event of a major wind storm that creates excessive litter, temporary personnel are brought in on an as-needed basis to collect litter, both on and off the WGSFLF property as needed. Additional personnel are also made available as needed during the period when the H-Power plant shuts down and MSW volume increases above normal levels.*
- *Information will be included in the site's daily operating log to document unusual litter problems or control activities, including instances when temporary personnel are used to collect or control litter on or off-site.*

Daily records are kept of litter control activities, and maintained in the site's operating record.

192. The Facility's Operating Plan, dated July 2004, Section 8.12, Litter Control Records states:

A daily record will be kept of litter control activities, and maintained in the operating record. The log will contain information on the wind conditions each day, the number of litter control personnel on site, and the volume of litter collected.

193. On February 17, 2005, DOH visited the facility and from the top of MSW Cell 1, a large accumulation of blown litter was observed on the permanent perimeter litter fence and portable screens. At the time of inspection the wind velocity was 15 to 18 MPH from a northeasterly direction.

194. The DOH inspectors also observed other areas of the landfill beyond the litter fences to include the front area of workface, side slopes of MSW Cell E-1 and the road leading to the top of the landfill with litter accumulation and wind blown litter. At no time did the inspectors observe anyone picking up litter at the facility. However, documents provided by the facility, shows that two temporary personnel were on site picking up

litter. One individual worked from 7:30 A.M. to 11:30 A.M. and the other litter picker worked from 7:00 A.M. to 3:30 P.M. The facility does not keep a log indicating the number of personnel utilized on a daily basis and the number of bags collected by the temporary help.

195. On February 24, 2005, DOH visited the site and observed litter downgradient of the workface and on an area by MSW Cell 1. The inspectors did observed a temporary litter picker collecting litter near the mobile fences. On the north side bottom slope of MSW Cell E-1, two temporary litter pickers were observed collecting litter. The amount of litter observed by the inspectors at the facility and the number of temporary litter pickers observed collecting the litter were not sufficient to collect the amount of litter for the day at the facility.

196. On March 15, 2005, the inspectors observed large amount of scattered litter accumulated along the east side of the perimeter property fence adjacent to MSW Cell E-1 and outside of the property boundaries. No litter pickers were observed in the immediate area.

197. The facility failed to deploy or relocate portable litter fences downwind as the active workface area moves on seventeen occasions from January 28 to May 1, 2005.

198. On April 15, 2005, wind conditions were between 18 to 25 mph. The inspectors observed large accumulation of litter on the primary and secondary litter fences down gradient of the workface area. Four litter pickers were observed along the primary litter fences collecting litter, but due to the large open area of the workface (pancake fill) the litter plan was ineffective.

199. On April 20 to 22, 2005, the inspectors observed large amount of litter throughout the landfill. The facility failed to implement the require litter control plan because of the amount of MSW present and uncovered at the landfill workface area.

200. On April 25 to 28, 2005, the inspectors observed the same situation as described above with the same results, lack of daily cover generating litter.

201. On May 1, 3, 6, and 8, 2005, the inspectors continue to observed large amounts of scattered litter throughout the MSW landfill area due to lack of soil cover.

202. On May 9, 12, 15, and 19, 2005, the inspectors continue to observed accumulation of litter throughout the MSW landfill areas due to lack of soil cover.

203. On June 9, 2005, the inspectors observed large accumulation of litter along primary and secondary litter fences at the southwest area of MSW Cell E-1.

204. On June 24, 2005, the inspectors observed the southeast end slope of MSW Cell E-1 with large accumulation of litter due to lack of soil cover. WMH was advised of

the problem and they acknowledge the litter/flagging problem and management plans to dressed-up the area soon.

205. RESPONDENTS failed to implement its litter control program effectively, due to either lack or improper placement of litter fences and documentation of litter control efforts, which has resulted in violations of the facility's permit special conditions.

COUNT XVIII

(Failure to monitor explosive gases and maintains monitoring records)

206. Paragraphs 1 through 205 above are incorporated herein by this reference as if they were set forth here in their entirety.

207. HAR Section 11-58.1-15(d)(1) and (2) provides:

(d) Explosive gases control.

(1) Owners and operators of all MSWLF units must ensure that:

(A) The concentration of methane gas generated by the facility does not exceed twenty-five per cent of the lower explosive limit for methane in facility structures (excluding gas control or recovery system components); and

(B) The concentration of methane gas does not exceed the lower explosive limit for methane at the facility property boundary.

(2) Owners or operators of all MSWLF units must implement a routine methane monitoring program to ensure that the standards of paragraph (1) are met.

(A) The type and frequency of monitoring must be determined based on the following factors:

(i) Soil conditions;

(ii) The hydrogeologic conditions surrounding the facility;

(iii) The hydraulic conditions surrounding the facility; and

(iv) The location of facility structures and property boundaries.

(B) The minimum frequency of monitoring shall be quarterly.

208. Solid Waste Management Permit Number LF-0054-02, Special Condition IIIA, Item 7 provides:

Explosive Gases Control, which shall include a written plan with recordkeeping for a routine methane gas monitoring program in accordance to HAR 11-58.1-15(d). The plan shall include a minimum

monitoring frequency of once per month.

209. The Facility's Operating Plan, dated July 2004, Section 6.6, Explosives Gas states:

Methane gas is produced by anaerobic decomposition of organic components of solid waste. WGSLF implements a Site Specific Gas Monitoring Plan to ensure that methane gas does not cause safety or environmental problems. Specifically, the program must demonstrate with the requirements of HAR 11-58.1-18(d) that concentrations of methane do not exceed 25% of the lower explosive limits in facility structures, or 100% of the lower explosives limits at the property boundary. The lower explosive limit for methane is 5% by volume (50,000 ppm)

Methane monitors are installed in the landfill office building and in the maintenance to measure explosive gas levels continuously and provide an alarm if levels reach 10,000 ppm (20% of the lower explosive limit). This program ensures that explosives gas levels in building are below the 25% limits set forth in HAR 11-58.1-18(d).

Monitoring is conducted on a monthly basis to ensure compliance with HAR 11-58.1-18(d)(1)(B), which specifies that the concentration of methane gas at the property boundary shall not exceed the lower explosive limit. Under this program, barhole monitoring is conducted along the perimeter of the site, measuring methane concentrations to depths of about 3 feet.

A monthly summary of gas monitoring results is placed in the operating record.

To date, minimal methane has been detected at WGSLF. Should this change in the future, a landfill gas collection and treatment system will be developed to minimize potential gas migration problems.

210. In a letter dated May 23, 2005, DOH requested all reports on all explosive gas monitoring data collected in accordance with explosive gas requirements in permit, LF0054-02 and HAR 11-58.1 from 2003.

211. In a letter dated June 22, 2005, WMH provided explosive gas monitoring data for 2005, but could not find data collected for prior years.

212. RESPONDENTS failed to monitor for explosive gases in 2003 and 2004, in violation 11-58.1-15(d), Special Conditions III Item 11 and Special Conditions IIIA Item 7, General Conditions I Item 9, and the facility's Operating Plan.


D. FINDINGS

On the basis of the provisions of Jurisdiction and Statement of Facts cited above, it is hereby found and determined that:

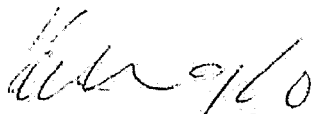
213. RESPONDENTS are therefore subject to the provisions of sections 342H-7 *Enforcement*, 342H-9 *Penalties*, 342H-10 *Administrative Penalties*, and 342H-11 *Injunctive Relief*, HRS, including penalties not to exceed \$10,000 for each day of each violation.

DATED: Honolulu, Hawaii IAN 3 1 2006

DEPARTMENT OF HEALTH
STATE OF HAWAII


LAURENCE K. LAU
Deputy Director for Environmental Health

APPROVED AS TO FORM:


KATHLEEN S.Y. HO
Deputy Attorney General

IN THE DEPARTMENT OF HEALTH

STATE OF HAWAII

DEPARTMENT OF HEALTH, STATE OF HAWAII,)	DOCKET NO.05-SHW-SWS-004
)	Waimanalo Gulch Sanitary Landfill
)	
)	(Solid waste management rules and Permit Conditions)
COMPLAINANT,)	
)	
vs.)	
)	
)	
)	ORDER
)	
WASTE MANAGEMENT OF HAWAII, INC.) AND CITY AND COUNTY OF HONOLULU))	
)	
)	
)	
RESPONDENTS)	

ORDER

Pursuant to chapter 342H, Hawaii Revised Statutes, the Department of Health's Solid Waste Management Control rules, and the attached Notice and Finding of Violation made this day in Docket No. 05-SHW-SWS-004, Waste Management of Hawaii, Inc. and City and County of Honolulu, Department of Environmental Services, hereinafter "RESPONDENTS," are hereby ordered to:

1. Immediately implement a full-time spotter for the hazardous waste and special waste-screening program as defined in the facility permit conditions. The spotter shall stop any unauthorized solid waste disposal

such as, whole tires, white goods, and lead acid batteries. Spotter and equipment operators shall be considered separate positions.

2. Continue to develop, revise and implement a revised groundwater monitoring plan that was developed to expand monitoring coverage for the entire landfill, and seepage areas, as requested in our letter dated July 27, 2005 to Mr. Paul Burns of Waste Management of Hawaii, Inc. The development, revision and implementation of a revised groundwater monitoring plan shall follow the proposed timeline presented with your Tidal Study Results and Groundwater Monitoring Well Network, prepared by EarthTech and dated December 15, 2005.
3. Remove the storage of all materials from the ash monofill and MSW landfill area with the exception of cover material. All stockpiled soil materials, except continuously operated stockpiles of less than one-week capacity, shall have stormwater/erosion controls and shall not exceed permit grades. Stockpiled soil materials shall not impede surface water drainage paths to conveyance channels. Only stockpiled soil materials for use as daily or intermediate cover are allowed on the active portion of the landfill, with a maximum capacity of 3 months and in not more than two stockpiles.
4. Place daily cover on the active MSW workface at the end of each workday. Submit daily-cover-verification photographs of the active MSW work area at noon and at the end of the workday. The photographs shall be identified with date and time of photograph, cell number, and name of responsible person taking the photo. The photographs taken on the same day shall be taken from the same perspective.
5. Operate only one workface in the ash monofill at any given time. In accordance with Solid Waste Management Permit Number LF-0054-02, Special Conditions IIIB, Item 1e, fresh MSW ash material may be used as daily cover material for the ash monofill provided that Special Conditions IIIB, Items 1a, b, c and d are met and such usage is limited to the active area where MSW ash is being placed on a daily basis. If this condition cannot be met, then fresh MSW ash may not be used and daily soil cover shall be placed. If fresh MSW ash is used as daily cover, intermediate cover shall be placed over the MSW ash at least every 7 days to control fugitive dust. Submit daily/intermediate cover verification photographs of the active MSW ash workface at noon and at the end of the workday. The photographs shall be identified with the date and time of photograph, cell number and name of responsible person taking the photo. The

photographs taken on each workface and cell shall be taken from the same perspective.

6. Within thirty (30) days of this order becoming final, complete or submit the following items to the department for review and approval:
 - a. A plan and time schedule for the construction of the MSW leachate manhole in MSW Cell 4B. The RESPONDENTS shall implement the plan in accordance with the approved time schedule. The leachate manhole shall be constructed to allow for automated and manual measurements of leachate head on the liner system, and automated pumping of leachate. The overflow of leachate generated in the MSW cell into the ash cell is not acceptable.

Upon the completion of the leachate manhole construction in MSW Cell 4B, revise the "Groundwater and Leachate Monitoring Plan," dated October 7, 1997, to reflect depths and locations of all leachate sumps to include present and all new or future leachate sumps within the site including E cell lateral expansion and ash monofill leachate drain line in the ash buttress. The revised plan should include diagrams (blueprints) for any new or future leachate sumps location and provide validation of all diagrams.

- b. Install and maintain grade survey control markers to delineate the boundaries and elevations of the ash monofill and MSW landfill areas, including the delineation of overfilled areas. Submit updated drawings with grades, and height of the control markers on a quarterly basis.
- c. A plan and time schedule for the correction of the overfill areas of the ash monofill and MSW landfill to meet permit grades. The plan shall address waste capacity needs for the county until the expiration date of the landfill permit.
- d. A plan and time schedule for the management of county waste after the expiration date of the landfill. Should the City and County of Honolulu decide to continue operations at the Waimanalo Gulch Sanitary Landfill or at a different location, a complete solid waste management permit application shall be submitted at least one year prior to the current expiration date of Solid Waste Management Permit (LF-0054-02) for the Waimanalo Gulch Sanitary Landfill.

7. On a daily basis, maintain the following records. The daily records shall be summarized with monthly and annual totals. The records and copies of the records shall be made available to the department upon request.
 - a. Tabulate records addressing the use of daily and intermediate soil cover material for the MSW workface, ratio of daily soil cover used to the amount of waste placement, dimensions of daily waste cell, tonnage of waste and volume of soil utilized as daily for the completed MSW cells, and the volume of intermediate soil cover utilized.
 - b. Tabulate records addressing the use of daily and intermediate soil cover material for the ash monofill, ratio of daily cover to ash, dimensions of the ash cell on a daily basis, tonnage of ash received, and volume of soil utilized as daily and intermediate cover for completed ash cells.
 - c. Tabulate records relating to daily tonnage, personnel/position and equipment utilization records. Identify days in which personnel/position and/or equipment was not available. Identify personnel that will place/manage litter fences, direct surface water, and leachate management.

8. On a quarterly basis complete and submit the following documents to the department:
 - a. Reports on landfill operations based on annual operating report requirements. The reports shall include an updated isopach drawing comparing current fill elevations with permitted grades.
 - b. Leachate management reports that include, daily to weekly leachate head measurements for all leachate sumps within the facility, monthly manual reading verification, quantity of leachate removed, disposition of leachate, leachate constituent analyses, and name of the individual responsible for the collection and data recording.
 - c. Records addressing the use of intermediate soil cover on the active portion of the landfill for addressing erosion, stormwater water management and traffic. The intermediate cover shall be maintained to ensure a twelve-inch cover.

- d. Monthly methane gas monitoring data collected from perimeter and enclosed structures. Results that exceed regulatory limits or show increasing trend should be accompanied with an explanation and type of corrective actions to mitigate the problem. The RESPONDENTS shall mitigate the situation to ensure concentrations below regulatory levels.
 - e. Inspect and maintain the surface water management systems, and maintain records of the inspection and any repairs. The surface water run-on controls shall maintain paths to the surface water basin and eliminate water ponding against landfill edges. The run-off controls shall direct surface water away from active workplace, maintain paths including on-site silt control to surface water collection system and siltation basin, and eliminate stormwater ponding within the landfill. These records do not need to automatically be submitted to the department, however, the records and copies of the records shall be made available to the department upon request
9. Within ninety (90) days of the order becoming final, RESPONDENTS shall submit the following plans to the Department of Health for review and approval. The plans shall be implemented in accordance with the approved time schedule.
- a. A plan and time schedule to repair the top decks and side slopes of the ash monofill and MSW landfill areas to ensure an appropriate cover thickness (12-inch intermediate cover).
 - b. A plan and time schedule on how the facility will manage the disposal of asbestos and maintain disposal location information to ensure that present and future asbestos material can be located/avoided in the future. Provide 30-day advance written notification to DOH on any future drilling/excavation through waste, including any future installation of gas collection wells. The notification shall include excavation/drilling plans and locations.
 - c. A plan and time schedule describing how the facility will keep litter to a minimum by minimizing cell geometry, the placement of primary and secondary litter fences, wind influencing barriers and litter pickers. Records documenting litter collection such as, amount of litter collected, number of litter pickers utilized each day,

wind velocity, and speed shall be maintained and made available for department review. In addition, the workplace area and litter fences shall be free of litter at the end of the workday.

- d. A plan to manage waste in an event of a natural disaster (i.e. seismic event) such that the Waimanalo Gulch Sanitary landfill and ash monofill are not able to accept waste. The alternative shall provide for MSW and ash disposal, with a minimum five-year capacity, to allow for repairs / new site developments. The alternate site must be approved in accordance with Hawaii Administrative Rules Chapter 11-58.1 and meet DOH Solid Waste Management Permit requirements.
10. The duration of the activities specified in this order shall be continued as applicable until the issuance of a modified or renewed solid waste permit that would otherwise supercede Solid Waste Management Permit LF-0054-02.
 11. Send to the Director of Health, within ten (10) days after this order becomes final, a certified check payable to the State of Hawaii in the amount of two million seven hundred sixty nine thousand six hundred sixteen dollars (\$2,769,616).

Paragraphs 1 to 11 of this Order and the Notice and Finding of Violation shall become final and effective twenty (20) days after receipt, unless the RESPONDENTS submit a written request to the Director for a hearing pursuant to section 342H-7, H.R.S. before the twenty (20) days are up. If a hearing on paragraphs 1 to 10 of this Order and the Notice and Finding of Violation is requested, it will be held in conjunction with the hearing on the penalty imposed by paragraph 11 of this Order.

If a hearing is requested, it will be held on a date, time, and place to be specified later. The hearing will be conducted in accordance with Chapter 91, H.R.S. and the Rules of Practice and Procedure of the Department of Health; the hearing will address the issues raised by the Notice and Finding of Violation and Order in this case. If a hearing is requested, RESPONDENTS must attend a pre-hearing conference scheduled for March 7, 2006, at 10:00am in Room 200, 1250 Punchbowl Street, Honolulu, Hawaii. At the pre-hearing conference, the date(s) of the hearing as well as other pertinent deadlines will be determined.

If you have special needs due to a disability that will aid you in participating in the hearing or pre-hearing conference, please contact the Hearings Officer at (808)

586-4409 (voice) or through the Telecommunications Relay Service (711), at least ten (10) working days before the hearing or pre-hearing conference date.

Parties may present evidence and argument on any issue raised by any paragraph in the Notice and Finding of Violation or Order or otherwise raised by this case. Parties may examine and cross-examine witnesses and present exhibits.

Parties may be represented by legal counsel at their own expense. An individual may appear on his own behalf, or a member of a partnership may represent the partnership, or an officer or authorized employee of a corporation or trust or association may represent the corporation, trust, or association.

After such hearing, this Order shall be affirmed, modified, or rescinded by the Director.

Please direct the written request for a hearing, if any, and all inquiries concerning this case to:

Steven Y.K. Chang, P.E., Chief
Solid and Hazardous Waste Branch
State Department of Health
P.O. Box 3378
Honolulu, Hawaii 96801
Telephone: (808)586-4226

Failure to comply with this Order may subject the RESPONDENTS to additional penalties of \$1,000 a day and measures under chapter 342H, H.R.S. and the rules adopted thereunder.

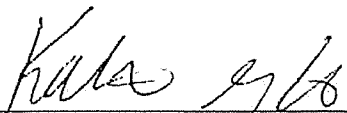
DATED: Honolulu, Hawaii

JAN 31 2006

DEPARTMENT OF HEALTH
STATE OF HAWAII


LAURENCE K. LAU
Deputy Director for Environmental Health

APPROVED AS TO FORM:

A handwritten signature in cursive script, appearing to read 'Kathleen S.Y. Ho', written over a horizontal line.

KATHLEEN S.Y. HO
Deputy Attorney General

IN THE DEPARTMENT OF HEALTH

STATE OF HAWAII

In the matter of)	DOCKET NO. 05-SHW-SWS-004
)	
WASTE MANAGEMENT OF HAWAII, INC.)	
AND CITY AND COUNTY OF HONOLULU)	CERTIFICATE OF SERVICE
)	
Respondents.)	
)	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served a copy of the documents described below by hand delivery, on this date, to the person named below.

DOCUMENTS:

Notice of Finding and Violation; Order

PERSON SERVED AND ADDRESS:

Mr. Paul Burns, General Manager
Waste Management of Hawaii, Inc.
92-460 Farrington Highway
Kapolei, Hawaii 96707

DATED: Honolulu, Hawaii,

JAN 31 2006



STEVEN Y.K. CHANG, P.E., MANAGER
Solid & Hazardous Waste
Branch Department of Health

EXHIBIT K59

IN THE DEPARTMENT OF HEALTH

STATE OF HAWAII

In the matter of)
)
WASTE MANAGEMENT OF HAWAII, INC.)
AND CITY AND COUNTY OF HONOLULU)
)
Respondents.)
)
)
)

DOCKET NO. 05-SHW-SWS-004

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served a copy of the documents described below by hand delivery, on this date, to the person named below.

DOCUMENTS:

Notice of Finding and Violation; Order

PERSON SERVED AND ADDRESS:

Mr. Eric Takamura, Director
Department of Environmental Services
City & County of Honolulu
1000 Uluohia St. Suite 307
Kapolei, Hawaii 96707

DATED: Honolulu, Hawaii,

FEB - 1 2006


STEVEN Y.K. CHANG, P.E. MANAGER
Solid & Hazardous Waste
Branch Department of Health