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LAND USE COMMISSION  
STATE OF HAWAII

STATE OF HAWAII

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TRANSCRIPT OF PROCEEDINGS

The above-entitled matters came on for a Public Hearing at the Sheraton Waikiki Hotel, Kauai Meeting Room, 2255 Kalakaua Avenue, Honolulu, Hawaii'i, commencing at 9:45 a.m on Thursday, September 24, 2009 pursuant to Notice.

REPORTED BY: HOLLY M. HACKETT, CSR #130, RPR  
Certified Shorthand Reporter

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A P P E A R A N C E S

COMMISSIONERS:  
KYLE CHOCK  
THOMAS CONTRADES  
LISA M. JUDGE  
DUANE KANUHA  
NORMAND LEZY  
RANSOM PILTZ  
NICHOLAS TEVES, JR.  
REUBEN WONG

EXECUTIVE OFFICER: ORLANDO DAVIDSON  
ACTING CHIEF CLERK: RILEY HAKODA  
STAFF PLANNERS: BERT SARUWATARI, ROBYN LOUDERMILK

DEPUTY ATTORNEY GENERAL: DIANE ERICKSON, ESQ.

AUDIO TECHNICIAN: WALTER MENCHING

Docket No. A87-617 BRIDGE AINA LE'A, LLC

For the Petitioner: BRUCE VOSS, ESQ.  
For Co-Petitioner: ALAN OKAMOTO, ESQ.  
DW Aina Le'a Development

For Hawai'i County: NORMAN HAYASHI  
Planning Dept.

For the State: BRYAN YEE, ESQ.  
Deputy Attorney General  
ABBEY MAYER, Director  
LORENE MAKI  
Office of Planning

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A P P E A R A N C E S cont'd

Docket No. SP09-403 Department of Environmental  
Services, City and County of Honolulu

For the Petitioner: GARY TAKEUCHI, ESQ.  
JESSE SOUKI, ESQ.  
Deputies Corporation Counsel

For the County DPP: DON KITAOKA, ESQ.  
Deputy Corporation Counsel

For the State: BRYAN YEE, ESQ.  
Deputy Attorney General  
Director Abbey Mayer

For the Intervenor: COLLEEN HANABUSA, ESQ.  
REP. MAILE SHIMABUKURO  
KEN WILLIAMS, KOCA

Docket No. A99-728 Housing and Community Development  
Corporation of Hawai'i, State of Hawai'i, (Kroc  
Center)

For the Petitioner: BENJAMIN MATSUBARA, ESQ.

For the City and County: DON KITAOKA, ESQ.  
Deputy Corporation Counsel  
MATTHEW HIGASHIDA,  
Department of Planning and  
Permitting

For Haseko: DANA VIOLA, ESQ.

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1           CHAIRMAN PILTZ: We're back on the record.  
2 This is an action meeting on Docket No. SP09-403  
3 department of environmental services, City and County  
4 of Honolulu, O'ahu to consider a new special use  
5 permit to encompass the existing approximately  
6 107.5-acre Waimanalo Gulch Sanitary Landfill and  
7 approximately 93.112-acre lateral expansion Tax Map  
8 Key No. 9-2-3:72 and 73, and the withdrawal of  
9 existing, special use permit for the existing  
10 Waimanalo Gulch Sanitary Landfill issued to Docket No.  
11 SP87-362.

12           On August 11, 2009 the Commission received  
13 copies of the record and an index of the record in  
14 printed and DVD formats.

15           On August 20th, 2009 the Commission received  
16 an insert to Exhibit 38 for the record-appellant Todd  
17 Apo's Statement of the Case; Designation of the Record  
18 of Appeal, Order for Certification and Transmission of  
19 the Record on Appeal.

20           On September 10th, 2009 the Commission  
21 received the Motion to Intervene, Memorandum in  
22 Support of the Motion to Intervene from Ko Olina  
23 Community Association, Colleen Hanabusa and Maile  
24 Shimabukuro.

25           On September 14, 2009 the Commission

1 received an amendment to the Special Use Permit  
2 SP87-362 from the city and county department of  
3 environmental services third six-month status report  
4 of operations at the Waimanalo Gulch Sanitary  
5 Landfill.

6 On September 17, 2009 the Commission  
7 received from the department of environmental  
8 services, City and County of Honolulu's Memorandum in  
9 Opposition to the Motion to Intervene.

10 On September 21, 2009 the Commission  
11 received from Colleen Hanabusa a Motion to Deny  
12 Petition, Memorandum in Support of the Motion,  
13 Declaration of Colleen Hanabusa, Exhibit A.

14 From September 21, 2009 till 2:00 p.m.  
15 September 23rd, 2009 the Commission received written  
16 correspondence from Ka'eo Gouveia, Ho'ala Landscape  
17 and Maintenance-Mokulua Contracting, LLC; Nobuko Maria  
18 Mori, Ali Mahmoodi, Laura Kay Rand-VP of Corporate  
19 Services-Goodwill Industries of Hawaii, Inc; Mario  
20 Beekes, Lorita Nordlum, Paulette Dibibar, Clara  
21 Batongbacal, Elizabeth Dunne, Lawyers for Equal  
22 Justice; Kalena Hew Len, president Waianae Kai  
23 Homestead Community Association; Kamaki Kanahale,  
24 president Nanakuli Hawaiian Homestead Community  
25 Association; Ralph F. Harris, president, Ko Olina

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EXHIBIT K14  
0334

1 Fairways AOA; James C. Banigan III, general manager  
2 Schnitzer Steel Hawaii; Greg Nichols, general manager  
3 and director of golf Ko Olina Golf Club; Howard Perry,  
4 Jr. vice president of operations, Perry Management  
5 Corporation; Michael Nelson, vice president Ko Olina  
6 Resort Association, Inc.

7 On September 23rd the Commission received  
8 the department of environmental services, City and  
9 County of Honolulu Memorandum in Opposition to  
10 Intervenors' Ko Olina Association, Colleen Hanabusa  
11 and Maile Shimabukuro's Motion to Deny Petition.

12 Before we start the action item I think  
13 because of logical sequencing and the necessity to  
14 define who the parties are in the present proceedings  
15 we're going to be taking the Motion to Intervene  
16 first.

17 I would like to note for the Commission and  
18 the public that Colleen Hanabusa, Maile Shimabukuro  
19 and the Ko Olina Community Association were granted  
20 Intervenor status at the Planning Commission level.  
21 And on the basis of Maha'ulepu v. the Land Use  
22 Commission, which is a 1990 Supreme Court case which  
23 said:

24 The Commission should treat the intervenors  
25 below as having intervenor status before the

1 Land Use Commission.

2 So at this point, if my fellow,  
3 commissioners agree, I would like to entertain a  
4 motion that we recognize Colleen Hanabusa, Maile  
5 Shimabukuro and Ko Olina Association as Intervenors in  
6 this docket, this Special Permit SP09-403, department  
7 of environmental services, City and County of  
8 Honolulu, Waimanalo Gulch. And subsequently we would  
9 deny the current Motion to Intervene because it is  
10 unnecessary.

11 There is a motion to recognize Colleen  
12 Hanabusa, Maile Shimabukuro and the Ko Olina  
13 Association as Intervenors and to deny the motion.  
14 Are you following me, Commissioners? Some discussion?  
15 Commissioner Wong.

16 COMMISSIONER WONG: Mr. Chairman, for  
17 clarification you're suggesting that if the Motion to  
18 Intervene is denied, then automatically Colleen  
19 Hanabusa and Ko Olina organization or Maile are  
20 automatically parties because they were parties  
21 downstairs in the planning department?

22 CHAIRMAN PILTZ: Yes.

23 COMMISSIONER WONG: Okay. Mr. Chairman, I  
24 make such a Motion to Deny the -- well, rather  
25 wouldn't it be more accurate to say the motion is



1 moot, Mr. Chairman?

2 CHAIRMAN PILTZ: Right.

3 COMMISSIONER WONG: So that on the basis  
4 she's already a party? So on the basis of the  
5 Chairman's announcements I move that the Motion to  
6 Intervene be rendered moot.

7 CHAIRMAN PILTZ: Further discussion?

8 COMMISSIONER LEZY: Chairman?

9 CHAIRMAN PILTZ: Commissioner Lezy.

10 COMMISSIONER LEZY: Just for clarification  
11 purposes, Chair, based on Commissioner Wong's motion,  
12 just to add a friendly amendment to state explicitly  
13 that Colleen Hanabusa, KOCA and Maile Shimabukuro are  
14 recognized as parties to the action.

15 CHAIRMAN PILTZ: That's correct.

16 COMMISSIONER WONG: That's fine,  
17 Mr. Chairman.

18 CHAIRMAN PILTZ: Any other questions to  
19 clarify? Yes, Commissioner Judge.

20 COMMISSIONER JUDGE: If I could just ask the  
21 Commissioners on that side to talk into the microphone  
22 'cause we're having a real hard time over here  
23 hearing. I just want to just to clarify so what's the  
24 end result of this? That they are recognized? Okay.  
25 Thank you. (Commissioner Wong nodding.)

1 CHAIRMAN PILTZ: Do we have to take a vote?

2 MR. DAVIDSON: Yes.

3 CHAIRMAN PILTZ: We have a motion on the  
4 floor. And do we have a second?

5 COMMISSIONER KANUHA: Second.

6 CHAIRMAN PILTZ: Okay.

7 COMMISSIONER LEZY: I will second.

8 CHAIRMAN PILTZ: Okay. I'll recognize  
9 Commissioner Lezy as the second. All those in favor  
10 of the motion.

11 MR. DAVIDSON: I got to do the roll call.

12 CHAIRMAN PILTZ: Okay.

13 MR. DAVIDSON: This is a motion to accept  
14 the Intervenors below at the Planning Commission as  
15 Intervenors in this matter and accordingly to deny the  
16 pending motion as moot.

17 Commissioner Wong?

18 COMMISSIONER WONG: Yes.

19 MR. DAVIDSON: Commissioner Lezy?

20 COMMISSIONER LEZY: Yes.

21 MR. DAVIDSON: Commissioner Judge?

22 COMMISSIONER JUDGE: Yes.

23 MR. DAVIDSON: Commissioner Teves?

24 COMMISSIONER TEVES: Yes.

25 MR. DAVIDSON: Commissioner Chock?

1 COMMISSIONER CHOCK: Yes.

2 MR. DAVIDSON: Commissioner Contrades?

3 COMMISSIONER CONTRADES: Yes.

4 MR. DAVIDSON: Commissioner Kanuha?

5 COMMISSIONER KANUHA: Yes.

6 MR. DAVIDSON: Chair Piltz?

7 CHAIRMAN PILTZ: Yes.

8 MR. DAVIDSON: The motion passes 8/0, Chair.

9 CHAIRMAN PILTZ: Okay. At this time is  
10 there anyone in the audience that would like to  
11 testify? I do have a list. Cynthia Rezentes. Before  
12 we do that we need to have testimony by those  
13 interested in doing so on the motion. We have one  
14 person, Councilmember Todd Apo.

15 MR. DAVIDSON: For the public's information  
16 all the agenda items basically allow for public  
17 testimony.

18 The public testimony right now is for either  
19 the Motion to Intervene, which was just decided, or  
20 the Motion to Deny.

21 Depending on the disposition of the Motion  
22 to Deny there will then be public testimony on the  
23 case in chief. So, Councilman, did you want to  
24 testify on the motions?

25 MR. APO: On the Motion to Deny.

1 At this time on the matter before us we will be taking  
2 public witnesses. The first one is Cynthia Rezentes.  
3 Cynthia?

4 UNIDENTIFIED VOICE: She had to leave.

5 CHAIRMAN PILTZ: Fred Dodge?

6 FRED DODGE

7 being first duly sworn to tell the truth, was examined  
8 and testified as follows:

9 THE WITNESS: I do.

10 CHAIRMAN PILTZ: Would you state your name  
11 and address for the record.

12 THE WITNESS: My name is Fred Dodge, also  
13 known as Frederick A. Dodge. I'm from 86-024  
14 Glenmonger Street, Wai'anae 96792.

15 MR. DAVIDSON: Excuse me. Let me indicate  
16 something. There's a tremendous amount of echo in the  
17 room. So will everyone who is speaking, speak  
18 directly into the mic and get it close to you. Or  
19 people are having trouble hearing.

20 THE WITNESS: Okay. My first comment will  
21 be in the future if at all possible if you could hold  
22 these meetings closer to the area that's in question,  
23 which would be the Leeward area, we would greatly  
24 appreciate it. It took a long time to get through  
25 some really heavy traffic to get here.

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EXHIBIT K14

1           Secondly, in general the health effects of  
2 landfills, and in particular the Wai'anae (sic) Gulch  
3 Landfill, the dust that is created and the effect that  
4 it has on aggravating asthma. There is a lot -- or  
5 there are a lot of people with asthma in the Leeward  
6 area, the Wai'anae Coast. One of the major evidence  
7 for that is the number of prescriptions for asthma on  
8 the Leeward Coast. It's the highest in the state.

9           There are also contaminants in the landfill.  
10 And I have a paper that I will leave with you on that.  
11 And I will just summarize it in that the  
12 Wai'anae/Kapolei areas continue to be subjected to a  
13 lot of risks from this landfill and other areas. We  
14 have Kahe Point. We have PVT. We have illegal  
15 landfills. And we shouldn't have to be subjected to  
16 these risks.

17           It's in the record that there's been illegal  
18 dumping of asbestos in the landfill. I believe the  
19 city and county was fined by the department of health  
20 for that. I believe there's still an EPA  
21 determination due because of the asbestos that found  
22 its way into the landfill.

23           A potentially serious risk recently came to  
24 my attention that involves tritium. Tritium is a  
25 radioactive isotope of hydrogen. And if it is

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0372  
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1 testify. And if his testimony differs from what he  
2 gave at the commission, does it then mean it will not  
3 be considered? He's the Office of Planning though he  
4 does not have a party status in here.

5 I think that the city raises a grave  
6 concern. And before we put everyone else through this  
7 with the same objection that we should have a ruling  
8 from this Commission.

9 CHAIRMAN PILTZ: Any further comments from  
10 anyone? Thank you. Thank you, Mr. Aila. Next person  
11 to testify is Todd Apo. You're still under oath.

12 TODD APO  
13 being previously duly sworn to tell the truth, was  
14 examined and testified as follows:

15 THE WITNESS: Still under oath, thank you.  
16 I decided where to start and hopefully this will all  
17 be taken into consideration by the Commission.

18 I started this back in 2003 when the city  
19 sat here before this Land Use Commission and testified  
20 under oath that they would close Waimanalo Gulch in  
21 2008.

22 I read those references into the record at  
23 the Planning Commission so I know they're before you.  
24 We all got to remember that's where we start. The  
25 person that made those statements under oath, who was

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EXHIBIT K14

1 then the director of the department is still currently  
2 the refuge division chief for the department.

3 And as was read into the record he was  
4 questioned by LUC Commissioners whether he thought  
5 they would need more time, whether they would come  
6 back and ask for Waimanalo Gulch again. His answer to  
7 each of those was "no". This goes back to what this  
8 Commission is and what this process is.

9 And some of the discussion that went on with  
10 previous testifiers, this Commission made this fight  
11 in 2003 when then Mayor Harris started with a proposal  
12 for a 15-year expansion. The community thought, and  
13 the city agreed in the end to a 5-year extension to  
14 2008.

15 It's patently unfair for this community to  
16 have to continue to stand up and make this fight  
17 because the city, based on inaction or however you  
18 want to place it, gets into a situation where they got  
19 to come back say, "We don't have anything else to do  
20 so you guys got to give us another extension," which  
21 took us to 2008 where they requested a two-year  
22 extension.

23 This Commission granted 18 months. Again, I  
24 was at those hearings. I testified at those hearings.  
25 And I believe the Commission was pretty straight

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1 forward in saying:

2 "We're giving you this time to figure out  
3 how you're getting out of Waimanalo Gulch. And you  
4 need to close it in November 2009."

5 And the city apparently took the position,  
6 well, whatever they said we're going to figure out how  
7 to expand it. We're going to run this up to perhaps  
8 two months before the deadline and say we don't have  
9 anything else to do.

10 But that's where things are very different  
11 today than where they have perhaps been in the past.  
12 We have ways to deal with our waste without Waimanalo  
13 Gulch Landfill. Again, it was in the testimony. Some  
14 of it isn't.

15 One of the large ways to get out of  
16 landfilling is shipping, exportation of waste. But  
17 you look again at what the city has done to do that.  
18 They put out an RFP in 2008. Those responses came in  
19 June of 2008 over a year ago.

20 The city took over a year to ultimately put  
21 out a letter to the lowest bidder saying that, "You're  
22 non-responsive." It took a year to decide that.  
23 Granted, there were protests that occurred right after  
24 that, those RFPs came in, responses came in in July,  
25 maybe August.

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EXHIBIT K14



1 liner, the other things necessary to have a cell ready  
2 would not be possible without approval from you.

3 COMMISSIONER WONG: Mr. Chairman, I wanted  
4 to know what was the name of the, number of that cell,  
5 for example, if the city wishes to care to accept  
6 additional material. Is that one like E5, for  
7 example?

8 MR. TAKEUCHI: Yes, that's E5.

9 COMMISSIONER WONG: And that's a little over  
10 five acres?

11 MR. TAKEUCHI: Excuse me while I make sure I  
12 get the correct numbers. I'm told it's more like  
13 three acres.

14 COMMISSIONER WONG: Three acres. Thank you.  
15 I have no further questions.

16 CHAIRMAN PILTZ: Commissioner Lezy.

17 COMMISSIONER LEZY: Thank you, Chair.  
18 Mr. Takeuchi, let me first say that I understand  
19 you're counsel through your position with corporation  
20 counsel, you're obviously not a policy-maker. You are  
21 advocating a position taken by the policy-makers  
22 within the city and county government.

23 One question I have to ask you, I'm sure  
24 you're privy to this information, and it was honestly  
25 the first question that came to mind when this SUP was

1 filed.

2 The application was 18 months ago the Land  
3 Use Commission issued a Decision and Order that was  
4 very clear in its instruction to the city and county.

5 That instruction was that once November 1st,  
6 2009 rolled around the city and county was to be in a  
7 position to stop accepting municipal solid waste into  
8 the Waimanalo Gulch Landfill and to close the  
9 landfill.

10 So it's with some curiosity that we're  
11 sitting where we are now, then, 18 months after having  
12 provided that very clear directive to the city and  
13 county; now being asked to review yet a new special  
14 use permit that asks us to set aside that prior  
15 special use permit, and at least in so far as the  
16 Planning Commission is concerned would provide an  
17 open-ended time period for the city to continue to  
18 operate the landfill that we said 18 months ago was  
19 supposed to be closed.

20 How do you reconcile what's before us today  
21 with what our instruction was to the city and county  
22 18 months ago?

23 MR. TAKEUCHI: Thank you. I appreciate the  
24 question. I'm glad to respond to that. I think maybe  
25 we have had this discussion on other occasions. It's

1           Again, as I said, the EIS ran into some  
2 delays. We asked for an extension of two years. We  
3 got 18 months. And we have come before you now for  
4 that expansion.

5           But that was stated to the Commission when  
6 the extension was requested a couple of years ago. So  
7 I hope it's not a complete surprise to anyone that we  
8 are here with this request because I think we made it  
9 very clear that's why the extension was being  
10 requested all along.

11           COMMISSIONER LEZY: I'm sure each of the  
12 Commissioners here has their own recollection of the  
13 discussions that transpired that led to the Decision  
14 and Order on the prior special use permit.

15           But I can tell you for one that it was my  
16 recollection that the Commission was very adamant that  
17 at the end of that time period the intention was for  
18 the landfill to close regardless of what the  
19 subsequent representations may have been made by the  
20 city and county.

21           The intention was for there to be closure in  
22 line with, again, with the prior representations of  
23 city and county.

24           Again, I invite, if any of the other  
25 Commissioners have a different recollection than I do

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EXHIBIT K14  
0456

1 that's my specific recollection though. That's why I  
2 asked you the question, why I expressed surprise about  
3 being in the position that we're now in.

4 MR. TAKEUCHI: If I may, we did not  
5 subsequently, subsequent to your decision to give us a  
6 November 1st deadline, we did not subsequent to that  
7 say we want to expand the landfill.

8 ENV took that position when they came in and  
9 asked for a two-year expansion. It was the consistent  
10 request through the proceedings. It was the basis of  
11 a contested case at the Planning Commission and the  
12 record of that with this discussion of these delays,  
13 the need for more time to do an EIS was first  
14 mentioned, was presented to this Commission.

15 So it was not something that was determined  
16 and requested after the 18-month extension was given.  
17 It was the basis of requesting the extension.

18 As I said, two years was requested and 18  
19 months was provided. But the whole purpose of that  
20 was to allow enough time to finish the EIS and make a  
21 request for expansion of the facility.

22 COMMISSIONER LEZY: Since you're discussing  
23 the question of the EIS, Mr. Takeuchi, when we were  
24 discussing the Motion to Deny earlier, one of the  
25 points that you had made in defending the sufficiency

1 of the EIS in so far as this permit is concerned, you  
2 indicated that there were references within the EIS  
3 that could be -- I believe this was what you  
4 indicated -- was that could be construed to support  
5 the conclusion that the EIS was intended to cover the  
6 full 200-some odd acres in question.

7 Can you represent to the Commission that the  
8 intent, the specific intent in the preparation of that  
9 EIS was to cover that full area that is now the  
10 subject of this special use permit?

11 Or was that EIS, as it was drafted and as it  
12 indicates in the body of that document, that it was  
13 only intended to cover the proposed lateral expansion,  
14 area?

15 MR. TAKEUCHI: The proposal always was to  
16 expand the landfill and utilize the existing acreage  
17 where there's a scale, there's offices, there's  
18 internal roadways to access the expansion area.

19 So the proposal always was to use the entire  
20 200-acre parcel. The EIS describes the expansion area  
21 in the context of the entire parcel.

22 What I said earlier was that our Memorandum  
23 in Opposition did cite to places in the document  
24 itself where, by way of example, it describes matters  
25 in the current footprint, not just the expansion area

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EXHIBIT K14  
0458

1 of 92.5 acres.

2 COMMISSIONER LEZY: Thank you.

3 CHAIRMAN PILTZ: Further discussion?  
4 Commissioner Wong.

5 COMMISSIONER WONG: Mr. Chairman, I wanted  
6 to ask Mr. Takeuchi in view of the third boiler coming  
7 on, in view of trans-shipment, in view of perhaps  
8 pursuing other alternative ways of disposing of  
9 municipal waste, and looking at a long-term strategy,  
10 is there ever a time when no municipal waste can be  
11 not placed in Waimanalo Gulch?

12 MR. TAKEUCHI: Well, I guess what I can say  
13 about that is there may be a day when technology is  
14 such that landfill disposal is not an option that has  
15 to be available. But that day is not here now.

16 And the record before you for the Planning  
17 Commission is that there were things that must require  
18 landfill disposal.

19 So I don't want to suggest that there'll  
20 never be a day. But we're here before you making this  
21 request. We're quite certain today is not the day.  
22 And that even with these other programs that reduce  
23 the need for landfill disposal we must have that  
24 option available.

25 COMMISSIONER WONG: Mr. Chairman, just one

1 more follow-up question. I understand that there may  
2 be a continuing need to use the Waimanalo Gulch for  
3 certain material.

4           And I'd like to distinguish between solid  
5 waste and, for example, ash and residue. If I limit  
6 the question to will there ever be a day when solid  
7 waste as distinguished from ash and residue would  
8 never have to be placed in Waimanalo Gulch, would you  
9 have a sense as to whether or not that is possible?

10           MR. TAKEUCHI: Again, there may be a day  
11 when technology and other developments will make that  
12 possible. But the testimony, the evidence on the  
13 record is that there are things now that you have to  
14 landfill because there's no way to combust them, ship  
15 them, reuse or recycle them.

16           I couldn't say when the day will come when  
17 that will not be the case.

18           So MSW includes a number of things. It  
19 includes some things like, we described a few earlier,  
20 the screening from wastewater treatment plants and  
21 some of the biosolids that came out of that process  
22 and dead animals, expired food, certain kinds of tank  
23 flushings and things.

24           Right now the only place we can put those is  
25 the landfill. I don't know, but perhaps one day

1 technology will advance to the point where that's not  
2 the case. But that's not true right now.

3 COMMISSIONER WONG: Mr. Chairman, I have  
4 another question. What assurance can the people in  
5 the Leeward Coast, particularly those near the  
6 Waimanalo Gulch area, feel assured that the City  
7 Council working with the Administration would provide  
8 enough funds to implement alternative methods of  
9 disposal so as to eliminate the kind of waste that's  
10 taken up to Waimanalo?

11 By that I mean limit it to only those that  
12 cannot burn, obviously, and ash and perhaps biomedical  
13 things if they can't be burned.

14 What assurance can the public living in that  
15 area feel that this is going to happen? And that  
16 ordinary municipal waste such as paper rubbish,  
17 clothing and so on would not continue to be placed up  
18 in Waimanalo Gulch?

19 MR. TAKEUCHI: Well, obviously as the  
20 attorney for the Applicant I cannot give assurance on  
21 behalf of the city council or the government  
22 generally.

23 But I can say the testimony in the record  
24 before you is that under the Integrated Solid Waste  
25 Management Plan and the efforts of the Applicant the



1 intention is to get to a point where there's  
2 80 percent landfill diversion, which would be an  
3 extremely high rate of landfill diversion compared to  
4 the experience of other communities. So the  
5 department is working in a variety of ways to maximize  
6 the ability to divert waste.

7 In terms of giving you an assurance that  
8 these various initiatives will pan out, we can't do  
9 that. The RFP's, for example, have not been received.

10 We don't know what will be proposed, what  
11 kind of technologies are out there that people might  
12 offer up in terms of dealing with some of these more  
13 difficult waste streams.

14 All I can say is that the Applicant is  
15 taking great -- making great efforts to try and get to  
16 that point where as little as possible goes to the  
17 landfill.

18 COMMISSIONER WONG: Mr. Takeuchi, you  
19 mentioned that of course you can't commit for the city  
20 council. We understand that. But on the other hand,  
21 you can -- there's only a certain amount the  
22 Administration can do, no more different than the  
23 governor can do a certain thing without monies from  
24 the Legislature. Governor can't do it.

25 The mayor or the Administration doesn't have

1 monies from the council. It can't, for example,  
2 implement other alternate methods including  
3 waste-to-energy.

4 So let me ask you how can we, this  
5 Commission, send a message to the council that  
6 something has to be done?

7 Offhand it sounds like if we shut it down  
8 completely maybe they will wake up and say, "Hey,  
9 let's do something."

10 Now, do you have an alternative to just  
11 shutting it down to wake up the city council and say:  
12 "Hey, let's do something for the people on the Leeward  
13 Coast"?

14 MR. TAKEUCHI: I can say this. I think you  
15 have a good sense from Mr. Apo's testimony where the  
16 chair of the council is on these issues, obviously  
17 very engaged and concerned and involved. He makes  
18 statements on his own behalf what he thought the  
19 council might be willing to do, although he  
20 acknowledged he was but one vote.

21 What I can say is that proposed recommended  
22 decision that you got from the Planning Commission  
23 suggests a procedure which would require the Applicant  
24 to begin as early as next year to start this  
25 investigation for new landfill sites and to report

1 regularly and to be accountable if they're not making  
2 good faith progress.

3           And that decision calls specifically for the  
4 city council to work together with the Administration.  
5 I think that's appropriate. And the Administration  
6 would want to do that. It's in everybody's interest  
7 to come to a solution that they can support.

8           So as I say I can't guaranty. But I do  
9 think the procedures are in place with this Planning  
10 Commission decision that would allow the process to go  
11 forward where there would be regular updates and  
12 consultations, and where the city council is  
13 specifically asked to participate in good faith help  
14 to come to a mutual solution to these issues.

15           COMMISSIONER WONG: Thank you, Mr. Chairman.

16           CHAIRMAN PILTZ: Let me add my opinion --  
17 and I do know we have another Commissioner that would  
18 like to speak. Eighteen months ago when we met we had  
19 received many, many, "Oh, we're going to do this.  
20 We'll do it later. We're going to do this. We're  
21 going to do it."

22           And finally when you came back for a  
23 two-year extension this is when we said: Enough's  
24 enough. Get off the pot. You've got 18 months. You  
25 have about 30 days to go.

1           Now you're saying you're going to work on  
2 the plan next year. I know it's a critical problem.  
3 It is for everybody. Every island has that. Every  
4 community has that problem. But I think what happens  
5 is that we're lackadaisical in getting off dead  
6 center. That's why we gave you 18 months instead of  
7 two years.

8           And we're approaching that quickly. We have  
9 to make a critical decision too as to how we look at  
10 the community and how we make our decisions. So you  
11 have to understand that.

12           Commissioner Judge?

13           COMMISSIONER JUDGE: That's okay.

14           CHAIRMAN PILTZ: Any other Commissioners?  
15 Commissioner Kanuha.

16           COMMISSIONER KANUHA: I had a question,  
17 Mr. Takeuchi. If we -- if the Commission had given  
18 you two years, the two years 18 months ago, would you  
19 still be back before us to continue the use of  
20 Waimanalo Gulch?

21           MR. TAKEUCHI: Yes.

22           COMMISSIONER KANUHA: Okay.

23           CHAIRMAN PILTZ: Any other questions of the  
24 Commissioners for Petitioner? If not, you're okay.  
25 We will continue with the Intervenor.

1 necessary.

2           Clearly, it's easiest, probably cheapest to  
3 use Waimanalo Gulch for the city. Whether that  
4 landfill that's necessary is the Waimanalo Gulch I  
5 think is a big question. I don't think that the  
6 Waimanalo Gulch Landfill will always be necessary.

7           I think, additionally, and as I stated in my  
8 written testimony, that really strict hardline  
9 conditions, again, with automatic expirations should  
10 be on any SUP for a landfill requiring the alternative  
11 programs to move forward and not just to move forward  
12 in a nebulous way, but that there's hard, quantifiable  
13 limits that need to be reached, deadlines that need to  
14 be met on those programs.

15           We need to do everything in our power to  
16 minimize the necessity for a landfill. Whether on  
17 today's date there's enough proof to say that there's  
18 no landfill necessary I'm not quite convinced of that.

19           CHAIRMAN PILTZ: Commissioner Lezy.

20           COMMISSIONER LEZY: Director Mayer, thank  
21 you for your testimony and especially for your very  
22 thoughtful position statement.

23           I'll start by saying that I agree with  
24 almost everything you said today. And I follow the  
25 rationale that you applied.

1           But I get lost when we get to the conclusion  
2 that you reached. And I'm not saying that to make  
3 light.

4           I'm saying that because I think you point  
5 out what are the very pointed problems with this  
6 docket matter. But the solution that you come to and  
7 perhaps it's, I suspect it's out of a desire on your  
8 part to come to some kind of reasoned mediation in a  
9 difficult circumstance.

10           But the points that you raise and the  
11 conclusion you reach -- for instance, you advocate  
12 that if we decide to approve with amendments the  
13 recommendations of the city Planning Commission, that  
14 we should impose an automatic expiration.

15           I had this colloquy with Mr. Takeuchi over  
16 there. I thought we had 18 months ago imposed an  
17 automatic expiration date, that being November 1st of  
18 this year.

19           And so when you cite back to the comments  
20 that were made by the commissioners that preceded all  
21 of us five years ago where they expressed some of the  
22 similar concerns that we as a commission expressed at  
23 the last SUP hearing, and I think are being expressed  
24 today, in my mind you're advocating, again, allowing  
25 the city essentially to create a self-fulfilling

1 prophecy that we have to have a landfill; and the  
2 reason that we have to have a landfill is because we  
3 haven't done the things necessary to avoid having to  
4 have a landfill; and we've done those things  
5 intentionally, at least as far as I can tell.

6           So if I was going to pose a question to you  
7 on this would be: How do you get to the conclusion  
8 based on the rationale that you've applied? I would  
9 assume you would have gotten to the conclusion that  
10 the recommendation this special use permit should be  
11 defined for exactly the reasons that you set out.

12           MR. MAYER: Two things. If I had a clear  
13 choice between issuing an indefinite entitlement for  
14 the Waimanalo Gulch Landfill, be it through SUP or DBA  
15 and the choice to close the Waimanalo Gulch Landfill  
16 on November 1st, I would urge you to close.

17           The 2008 hearing and my, from my review of  
18 that record it wasn't my take that you had issued an  
19 automatic, what was in essence an automatic expiration  
20 at that hearing. And I'll explain why.

21           I think the city, from my reading of the  
22 record, I don't have the citations in front of me,  
23 unfortunately, but it was my take from 2008 that the  
24 city was clear that they were going to write an EIS  
25 for Waimanalo Gulch.

1 view and make argument to you. It's entirely  
2 appropriate.

3 MR. MAYER: I would just like to add that  
4 all of the information I provided in my testimony was  
5 cited into the record below.

6 And as my attorney said, I did not expand  
7 the factual basis or attempt to provide any new  
8 testimony or set of facts for your consideration, only  
9 argument as to the question of the appropriateness of  
10 the record and the decision before you.

11 CHAIRMAN PILTZ: Commissioner Wong, do you  
12 have a comment?

13 COMMISSIONER WONG: I'd like to make a  
14 motion at the right time.

15 CHAIRMAN PILTZ: Okay. I'm waiting for that  
16 comment.

17 COMMISSIONER WONG: Okay.

18 CHAIRMAN PILTZ: Please do.

19 COMMISSIONER WONG: Mr. Chairman, I'd like  
20 to move that the special use permit application before  
21 us be granted with a number, a number of conditions  
22 such as that all of the conditions that were set forth  
23 in the '86 SUP be incorporated.

24 That is to say, for example, conditions  
25 dealing with blasting, with hours of operation,



1 building a berm -- and I believe there are 19 of them,  
2 that we ultimately ended up with 19; subject also to  
3 the condition that solid waste be allowed at the  
4 Waimanalo Gulch but only up to July 31, 2012.

5 Let me comment momentarily. I think the  
6 record indicates that the third burner would be built  
7 by around the end of 2011 but fully operational by  
8 July 31st, 2012.

9 Another condition would be that after  
10 July 31, 2012 only ash and residue from the H-Power be  
11 allowed to be placed on the Gulch. To make that  
12 clear, what we're saying is that no more municipal  
13 waste, no rubbish, trash, that sort of thing, save and  
14 except the ash and residue that may come from the  
15 H-Power plant.

16 Another condition is that the City  
17 Administration is a party in this case and the city  
18 council through the City Administration be required to  
19 report to the public every three months what the City  
20 Administration is doing and what the city council is  
21 doing with respect to the continued use of the  
22 Waimanalo Gulch.

23 Those reports shall also include what  
24 funding arrangements are being considered by the city  
25 council and the City Administration to fulfill

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1 whatever position they plan to report on.

2 By that I mean, for example, if they're  
3 gonna say that, "We hope to reduce the amount of  
4 municipal waste on Waimanalo Gulch" that the report  
5 should indicate whether or not -- how it's going to be  
6 done, and whether or not there's money for it.

7 Another condition is that in reporting to  
8 the public that the city council and the  
9 Administration every three months would have a public  
10 hearing to report to the public the status of the  
11 attempt to either reduce or continue use of the  
12 Waimanalo Gulch so that it's not only publication  
13 through the media but there will be public hearings so  
14 that people can attend and the officials can face the  
15 public and tell them face-to-face, "This is what we  
16 are going to do."

17 So that, Mr. Chairman, is my motion. I know  
18 it's lengthy but hopefully with the second I can have  
19 further discussion.

20 COMMISSIONER TEVES: Mr. Chairman, I second  
21 the motion.

22 CHAIRMAN PILTZ: We have a motion on the  
23 floor by Commissioner Wong seconded by Commissioner  
24 Teves. Discussion? Commissioner Lezy.

25 COMMISSIONER LEZY: Thank you, Chair. With

1 all due respect to Commissioners Wong and Teves, I  
2 cannot in good conscience support this motion.  
3 Frankly, if I had been a little bit quicker on the  
4 draw and had beat Commissioner Wong to the punch I  
5 would have made a Motion to Deny the application.

6 Let me give you, share with you what my  
7 thought process is. This is an issue that I think has  
8 seemingly arisen in the last three or four docket  
9 matters that we've had, at least the least two or  
10 three hearings.

11 That has to do with the integrity of the  
12 Commission's decisions. We have seen recently where  
13 prior conditions were imposed and subsequently either  
14 removed or modified only to be removed or modified yet  
15 again and yet again.

16 And I think in this case that has obviously  
17 been the past practice. I think the comments made by  
18 Director Mayer, made by the Intervenor in this case  
19 have put a fine point on that that it calls into  
20 question the integrity of the Commission and the  
21 decisions that we make.

22 With due respect to Mr. Takeuchi, who I  
23 think has done a fine job representing his client in  
24 this case, what the city and county may want or may  
25 have wanted or may intend or may have intended

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1 18-months ago is really of little consequence when you  
2 look at the very explicit language in our prior  
3 Decision and Order.

4 I do think that there was a self-executing  
5 expiration and there was a very specific mandate given  
6 to the city and county. And that was that they were  
7 to use the past 18 months to effect the closure of the  
8 landfill. And they've not done that.

9 I think, Chair, the comments that you made  
10 earlier to the Applicant I think were reflective of  
11 that. I think the question that was asked by  
12 Commissioner Kanuha along those lines went to that  
13 issue as well.

14 What it really boils down to, and I think  
15 the Intervenor has really focused on this, is the  
16 repeatedly failed promises that have been made to the  
17 people who live on the Leeward Coast.

18 And by yet again changing a condition and  
19 giving a further extension to operations of the  
20 landfill the Commission here is breaking a promise  
21 again that was made to those people.

22 It's really become, I think, on the part of  
23 the city and county, a self-fulfilling prophecy with  
24 regards to the operation of the landfill.

25 That is we have to keep having a landfill

1 because the necessary and admittedly somewhat  
2 difficult steps that have to be taken to make it  
3 unnecessary to have a daily operating landfill simply  
4 aren't made.

5           And what we're being told today, what the  
6 Planning Commission has told us is: Not only do we  
7 need a daily operating landfill but it's basically  
8 gonna go on in perpetuity. There's no deadline for  
9 operations to cease.

10           So what impetus is there to the city and  
11 county to do that? If we extend another three years  
12 this condition, as I think the comments were made when  
13 we gave the 18 months extension, in all likelihood we  
14 are going to be exactly where we are today.

15           It's for those reasons that I simply can't  
16 support another broken promise, another blow to the  
17 integrity of the Commission in setting aside what I  
18 think was a very clearly worded, clearly mandated  
19 condition that was in the prior Decision and Order.

20           And that sets aside what I see to be  
21 problems even with the record before the Planning  
22 Commission in so far as the environmental impact  
23 statement is concerned and the process that has been  
24 followed here.

25           Honestly, I think that the City in pursuing

1 this new special use permit instead of trying again to  
2 amend the prior special use permit it was a pretty  
3 naked attempt, as Director Mayer pointed out, to erase  
4 the past in this case.

5 And that goes back again to those same  
6 promises that were made and the same promises that  
7 were broken and the same promises that would be broken  
8 again today if we act on this motion as it's framed.

9 CHAIRMAN PILTZ: Thank you, Commissioner  
10 Lezy. Commissioner Contrades?

11 COMMISSIONER CONTRADES: Thank you,  
12 Mr. Chairman. Please forgive me. My notes are all  
13 jammed up over here. I have to write these little  
14 notes to myself.

15 In all respect to my fellow commissioner I  
16 do not at all remember the last approval in the same  
17 way that he does.

18 In fact, I know that when I left that  
19 hearing and we approved the extension that there was  
20 gonna be another request because we asked for them to  
21 make all of these reports.

22 We told them we wanted six-months reports to  
23 see whether or not you're doing anything that would  
24 give us the opportunity to maybe think that there  
25 would be progress and that when the next request came

1 Contrades. Commissioners, any other comments?  
2 Commissioner Kanuha.

3 COMMISSIONER KANUHA: Thank you,  
4 Mr. Chairman. You know, I've sat here and I'm looking  
5 out at the parties, you know. And the thought that  
6 comes to my mind is that it's not county rubbish, it's  
7 not legislative rubbish, it's not state rubbish, it's  
8 not the city council rubbish. It's all of ours.

9 And it's not as if we're dealing with a  
10 situation where it's a decision-making period as to  
11 what we're gonna do next. I mean it's happening.

12 And I'm, like Commissioner Contrades, I  
13 haven't heard anything from anybody that tells me if  
14 today is the day that it closes where does the rubbish  
15 go tomorrow? That's, you know, that's just my 2 cents  
16 on that.

17 CHAIRMAN PILTZ: Commissioners?  
18 Commissioner Chock.

19 COMMISSIONER CHOCK: Thank you, Mr. Chair.  
20 I'd just like to read something back from the 2003  
21 transcript, six years ago, that sort of recaps a  
22 little dialogue that was referenced earlier between  
23 one of the commissioners and the city and county at  
24 the time. And I'll read directly from the record and  
25 not paraphrase it.

1           A commissioner asks: "My next question is to  
2 ask you to be as honest as you can to me because I  
3 think I'm trying to see what it's going to look like,  
4 whether it's two years from now or five  
5 years from now. Do you honestly think that we will  
6 have a site, another site, another site picked for  
7 a landfill? And if so do you think that you  
8 could commit that without a doubt that this  
9 landfill will close?"

10           And the response from the city and county  
11 Mr. Frank Doyle was quote, "We have made that  
12 commitment, yes." I'll repeat that. "We have made  
13 that commitment, yes to another landfill site." That  
14 was in 2003.

15           Our 2008 D&O, which I don't have the  
16 condition, Condition No. 12 in front of me right now,  
17 but I know it's circulated around the table. And that  
18 condition clearly states in our Decision and Order  
19 that in 2008 the landfill site at Waimanalo Gulch  
20 would close as of November 1, 2009.

21           And I'll accurately read that just -- I know  
22 we have some differences of opinion in terms of what  
23 was actually established on that day. But Condition  
24 12 reads as follows:

25           "The 200-acre property shall be restricted



1 from accepting any additional waste material and be  
2 closed in accordance with an approved closure plan by  
3 November 1, 2009 or until the approved area reaches  
4 its permitted capacity, whichever occurs first."

5 It doesn't say "extended". It says  
6 "closed". And I think the dilemma that some of us are  
7 dealing with today is: What is the appropriate role  
8 for the State Land Use Commission to take on this  
9 issue of where should trash go?

10 The shingle on our door says "State Land Use  
11 Commission." It doesn't say "Department of  
12 Environmental Services."

13 We are not -- it's not our kuleana to  
14 dictate where trash should go. It is to interpret  
15 what is in the record before us today. And I think  
16 from a much broader, big picture point of view -- and  
17 I think it was eloquently pointed out by the  
18 Intervenor -- that we have been kicking this can down  
19 the road now for several generations of city councils,  
20 several generations of mayors. I don't think we can  
21 continue to kick the can down the road again anymore.

22 We need to, I think, hold the City's feet to  
23 the fire. And I will also point out that I do think  
24 the city has made some incredible strides in this  
25 area. But we cannot continue to pass the buck. We

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1 cannot continue to have one community bear the brunt  
2 of our island's trash.

3 I think it's completely unacceptable and an  
4 unfair form of environmental injustice for the same  
5 community to get all the landfills whether it's  
6 Waimanalo Gulch, PVT, whether they get the ordnance on  
7 the reef, whether they get bombing at Makua Valley,  
8 whether they get the worst homeless problem, the worst  
9 drug problem, the best -- the highest rates of teen  
10 preg -- not best, the highest rates of teen pregnancy.

11 They're basically leading in all of the  
12 worst categories. And we're about to give them  
13 another extended period of time for that kind of  
14 environmental injustice to continue for that same kind  
15 of, in my opinion, geographic racism to continue. And  
16 I think it's about time we kinda broaden into that.

17 So, Mr. Chair, I'll be voting no today on  
18 this motion. Thank you.

19 CHAIRMAN PILTZ: Thank you, Commissioner  
20 Chock. Commissioner Wong.

21 COMMISSIONER WONG: Mr. Chairman, let me  
22 expand upon the motion and perhaps the reasons  
23 therefor and hopefully that my fellow commissioners  
24 can agree to these points that I've raised.

25 At the outset I would love to be able to say

1 that the Waimanalo Gulch be closed. But as  
2 Commissioner Contrades pointed out: What is the  
3 solution? Where do we put the trash?

4 Admittedly, and due respect to Commissioner  
5 Kyle Chock, it is not the function of the Land Use  
6 Commission to decide where the trash will be placed.

7 But on the other hand, we're faced with a  
8 truly practical problem. It is an easy thing like,  
9 they would say, a stroke of the pen we can say  
10 "denied" and then worry about tomorrow.

11 But tomorrow is here. And so we need to  
12 truly face the problem of what to do with respect to  
13 the November deadline.

14 Now, I suggest that the motion be granted.  
15 But I recognize there are issues with respect to the  
16 EIS. But that issue is pending before the courts.

17 So I will not address that, although I have  
18 personally some concerns. But that's not for me to  
19 decide. That's for the court to decide. So as to  
20 Commissioner Lezy I can understand his concern.

21 On the other hand, one of the problems is  
22 that promises have been made by administrations,  
23 councils, city council and previous mayors and so on.

24 The question before us, really, is to what  
25 extent do you hold, shall we say, the present

1 Administration and present council responsible for  
2 conduct of previous administrations, recognizing that  
3 the administrations do change, as Commissioner  
4 Contrades pointed out.

5           So what I was hoping to do is to find a  
6 solution. And it would seem to me that based upon the  
7 progress that the city is making, not necessarily the  
8 Administration, but city -- when I say "city" I mean  
9 city and city council -- with respect to reducing the  
10 amount of trash on Waimanalo Gulch.

11           I see that progress is being made on  
12 recycling. I see that progress is made in terms of  
13 getting approval for the third burner. My only  
14 concern is that the third burner doesn't come onboard  
15 until 2011, 2012.

16           It should have been 2009 and 2010. They're  
17 just about three years too late on that, but that's  
18 happened. Again, that's a problem of previous  
19 administrations.

20           So I thought that perhaps what we could do  
21 is allow the city time 'til 2012 when the third burner  
22 is fully operational to continue to use Waimanalo  
23 Gulch for municipal waste.

24           But having said that, I'm concerned that  
25 2012 there'd be another request for another extension.

1 So we've said in my motion that after 2012 only will  
2 ash and residue from the H-Power be allowed on  
3 Waimanalo Gulch. Because if things can't burn what do  
4 you do with it?

5 So notwithstanding the City's position that  
6 we'll always need a landfill, I think we can probably  
7 say that we need a landfill for ash and residue. But  
8 certainly we can do away, hopefully, with the landfill  
9 for general municipal waste.

10 The next point in the conditions I've raised  
11 has to do with publicity. Now, I understand in the  
12 district boundary amendment there's more public input  
13 in the process as distinguished from a request before  
14 the Planning Commission and then the Planning  
15 Commission if a special use permit comes through the  
16 council.

17 So my hope, members of the Commission, that  
18 there be greater public awareness of what's happening.  
19 Therefore that the City Administration and the city  
20 council be required to report to the public, "Here's  
21 what we're doing."

22 Now, with that idea it's hoped that the  
23 Administration as well as the city council become more  
24 accountable. Accountable. It's a question of  
25 accountability.

1           Are you gonna do what you promised or are  
2 you not? And I'm not so confident that three years  
3 from now they will do what they say.

4           And so I'd like to see reports to the public  
5 fully publicized in the media, and public hearings to  
6 say to the public: This is what we're going to do or  
7 not do.

8           So the next time, if they come before this  
9 Commission, there's going to be a difficult time for  
10 anyone to say that, "I did not make those  
11 representations whatever they are or were."

12           So this is why I'm asking as part of the  
13 conditions that there be full publicity in all media  
14 and that the public hearings be held.

15           Another condition that I've suggested has to  
16 do with hoping that the city council and City  
17 Administration together recognize that no more  
18 extensions beyond 2012.

19           Now, I think the public must understand that  
20 we ourselves as Land Use Commissioners change. I  
21 might not be here.

22           So I can say they will not be extended. But  
23 who knows what the next commission is going to do? So  
24 it is my hope that these conditions would allow the  
25 public to know face-to-face with government officials

1 what's happening and what's being proposed.

2           And we'll find out if these proposals are  
3 sincere when we see, for example, that the city  
4 council appropriated or legislated that there'll be X  
5 number of dollars appropriated for whatever  
6 alternative measures may be taken, whether it's for  
7 another fourth power plant, whether it's for a new  
8 technology in terms of the waste disposal and the  
9 like.

10           Without those things we're just postponing  
11 today this decision to 2012.

12           So it's my hope that with this reporting  
13 process that the government officials, city council  
14 and the Administration, including new administration,  
15 new city council become accountable to the public.

16           I certainly sympathize with the people  
17 living on the Leeward Coast and the promises made.  
18 But, on the other hand, there has to be a solution.

19           And I'm hoping that these conditions imposed  
20 upon the granting of the special use permit would  
21 accomplish it. And only time will tell whether it  
22 will. But that's my hope.

23           So, Mr. Chairman, on the basis and  
24 recognizing the difficulty of going one way or the  
25 other, recognizing the problems and the concerns of

1 the people on the Leeward Coast, nevertheless I stand  
2 by the motion and ask the support of my fellow  
3 Commissioners. Thank you.

4 CHAIRMAN PILTZ: Thank you, Commissioner  
5 Wong. Any other comments? Seeing none, then will the  
6 executive officer call the roll.

7 MR. DAVIDSON: Thank you, Chair. It's a  
8 motion to approve SPO9-403 with all of the conditions  
9 recommended by Commissioner Wong, the exact verbiage  
10 of which will be taken from the transcript for  
11 purposes of the Order. So I won't try to summarize  
12 them here.

13 Commissioner Wong?

14 COMMISSIONER WONG: Yes.

15 MR. DAVIDSON: Commissioner Teves?

16 COMMISSIONER TEVES: Yes.

17 MR. DAVIDSON: Commissioner Contrades?

18 COMMISSIONER CONTRADES: Yes.

19 MR. DAVIDSON: Commissioner Judge?

20 COMMISSIONER JUDGE: No.

21 MR. DAVIDSON: Commissioner Chock?

22 COMMISSIONER CHOCK: No.

23 MR. DAVIDSON: Commissioner Kanuha?

24 COMMISSIONER KANUHA: Yes.

25 MR. DAVIDSON: Commissioner Lezy?



1 COMMISSIONER LEZY: No.

2 MR. DAVIDSON: Chair Piltz?

3 CHAIRMAN PILTZ: Yes.

4 MR. DAVIDSON: The motion passes 5 to 3,  
5 Chair.

6 CHAIRMAN PILTZ: We'll take a couple minutes  
7 break and we'll set up for the next agenda item.

8 (Recess was held.)

9 CHAIRMAN PILTZ: (5:30) We are back on the  
10 record. Just for the audience's information the last  
11 item, adoption of amendments to administrative rules  
12 Chapter 15-15 HAR, is not going to be held today.

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14 (pause off the record)

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## C E R T I F I C A T E

I, HOLLY HACKETT, CSR, RPR, in and for the State of Hawai'i, do hereby certify;

That I was acting as court reporter in the foregoing LUC matters on the 24th day of September 2009;

That the proceedings were taken down in computerized machine shorthand by me and were thereafter reduced to print by me;

That the foregoing represents, to the best of my ability, a true and correct transcript of the proceedings had in the foregoing matter.

DATED: This 4th day of October 2009

*Holly M. Hackett*

HOLLY M. HACKETT, CSR #130, RPR  
Certified Shorthand Reporter

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EXHIBIT K14  
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