

COPY

1 LAND USE COMMISSION

2 STATE OF HAWAII

3 STATUS REPORT VOLUME I PAGE

4 A89-635 HENRY H. SHIGEKANE) 1

5 REVOCABLE TRUST, JOANNE H.)

6 SHIGEKANE REVOCABLE TRUST,)

7 ROBERT R. MIDKIFF, AND)

8 ELIZABETH M. MORRIS (OAHU))

9)

10 ACTION)

11 SP87-362 DEPARTMENT OF) 75

12 ENVIRONMENTAL SERVICES, CITY &)

13 COUNTY OF HONOLULU)

14 (fka Department of Public Works,)

15 City & County of Honolulu) (Oahu)

LAND USE COMMISSION
STATE OF HAWAII
2003 AUG 11 P 1:54

H E A R I N G

ORIGINAL

18 Held on March 27, 2003, in the Legacy II Room, Hawai'i

19 Okinawa Center, 94-587 Ukee Street, Waipahu, Hawai'i, 96797

20 commencing at 9:30 a.m.

3764

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24 REPORTED BY: HOLLY M. HACKETT, RPR, CSR #130

25 Certified Shorthand Reporter

EXHIBIT 68

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EXHIBIT K85
Exhibit B-5

1 APPEARANCES:

2 COMMISSIONERS:

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PRAVIN DESAI

4 ISAAC FIESTA, JR.

LAWRENCE N.C. ING

5 STANLEY ROEHRIG

RANDALL SAKUMOTO

6 PETER YUKIMURA

7 EXECUTIVE OFFICER: ANTHONY CHING

8 SECRETARY: CAROLINE LORENZO

STAFF PLANNERS: RUSSELL KUMABE, BERT SARUWATARI

9 DEPUTY ATTORNEY GENERAL: RUSSELL SUZUKI

10 A98-635 HENRY H. SHIGEKANE REVOCABLE TRUST, et al.

11 For Shigekane Revocable Trust: DICKSON LEE, ESQ.

MRS. SHIGEKANE

12 For Midkiff-Morris Revocable Trust: DONNA LEONG, Atty.

13 For the State of Hawai'i: RUSSELL TSUJI, ESQ.

Deputy Attorney General

14 ABE MITSUDA, Office of Planning

15 For Aha Hui Malama O Kaniakapupu: GERARD JERVIS, ESQ.

16 SP87-362 DEPARTMENT OF ENVIRONMENTAL SERVICES, CITY &

17 COUNTY OF HONOLULU

18 For the Petitioner: MAILE CHUN, Deputy Corp. Counsel

FRANK DOYLE, Acting Director DES

19

For Department of

DAVID TANOUE, Deputy Corp. Counsel

20 Planning and

ERIC CRISPIN, Director

Permitting:

21

For the State:

RUSSELL TSUJI

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Deputy Attorney General

ABE MITSUDA, Office of Planning

23

24

25

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1 choice is to talk.

2 CHAIRPERSON ING: Okay, good. And we thank you
3 for your appearance this morning. Anything further? If not
4 we are done with this agenda item. I think we are scheduled
5 to be back at 1:00. So we have a short one hour break, no
6 times for naps. Thank you.

7 (Lunch recess.)

8 CHAIRPERSON ING: I'll reconvene the Land Use
9 Commission meeting. We have before us SP87-362 Department
10 of Environmental Services, City and County of Honolulu,
11 their request to consider a 21-acre expansion to the
12 existing 86.5-acre Waimanalo Gulch sanitary landfill located
13 within the State Land Use Agricultural District at Waimanalo
14 Gulch, Honouliuli, Ewa, O'ahu.

15 On March 13, 2003 the Commission received from
16 the Department of Planning and Permitting, the Planning
17 Commission's findings of fact, conclusions and Decision and
18 Order and its entire record of the proceedings regarding the
19 application of the Department of Environmental Services,
20 City and County of Honolulu for an amendment to the State
21 Special Use Permit File No. 86/SUP-5.

22 Subsequently we received a letter dated March 5,
23 2003. This is from Councilman Nestor Garcia who in his
24 letter, let me summarize, says, "We reluctantly recognize
25 that another extension may be inevitable." He supports the

1 I would also like to note for the parties and the
2 public that from time to time I will be calling short breaks
3 for personal privilege and to give relief to our court
4 reporter. The Commission members also may move to go into
5 executive session to consult with its attorney.

6 Are there any questions to the procedure? If
7 not, I will ask the parties to identify themselves beginning
8 with this gentleman.

9 MR. CRISPIN: Mr. Chair, Eric Crispin, Director
10 of the Department of Planning and Permitting for the City
11 and County of Honolulu.

12 CHAIRPERSON ING: Thank you.

13 MR. TANOUE: Good afternoon, Chair Ing and
14 members of the Commission. David Tanoue, Deputy Corporation
15 Counsel on behalf of the Department of Planning and
16 Permitting.

17 CHAIRPERSON ING: Thank you.

18 MR. TSUJI: Good afternoon, Mr. Chairman, members
19 of the Commission? Russell Tsuji, deputy attorney general
20 representing the Office of Planning. To my right is Mr. Abe
21 Mitsuda from the Office of Planning.

22 CHAIRPERSON ING: Thank you.

23 MR. DOYLE: Mr. Chairman, members of the
24 Commission, my name is Frank Doyle. I'm acting director of
25 the Department of Environmental Services, City and County of

1 the Commissioners there was a statement that this landfill
2 is going to be filled in May of 2003. What's that
3 information based on?

4 MR. SARUWATARI: All of the information in the
5 staff report is based on the record that was before the city
6 Planning Commission.

7 COMMISSIONER ROEHRIG: The reason I ask that, I
8 don't see anything in what was presented to us that gives us
9 a definitive time when the landfill is going to be filled
10 up. There's nothing in there that says May of 2003. Maybe
11 I overlooked that but I didn't see that.

12 MR. SARUWATARI: I believe during the Planning
13 Commission hearing those dates were stated on the record.

14 CHAIRMAN ING: Any other questions? Thank you,
15 Bert. I will ask the Petitioner to proceed with its
16 presentation.

17 MR. DOYLE: Thank you, Chairman Ing and members
18 of the Commission. Again, my name is Frank Doyle. I'm the
19 acting director of the Department of Environmental Services
20 and my address is 7040 Kamilo Street, Honolulu, Hawai'i.

21 On May 15th, 2002 Mayor Harris and Managing
22 Director Ben Lee instructed us to consider a smaller
23 landfill than what was originally considered.

24 Originally we had considered to have a 15-acre
25 landfill on this site. And we have now reduced our request

1 to five acres. That request has been made with
2 consideration given to the community input as evolved since
3 we started this process, in order to expand the area.

4 Let me explain our intent as to why we are
5 looking to have the landfill expanded. Not only do you hear
6 some of the testimony on special waste, we presently put
7 into our landfill approximately 800 tons of municipal solid
8 waste every day.

9 Our goal for our plan on O'ahu is to
10 significantly reduce our reliance on landfill. We're
11 presently negotiating for expansion of our H-Power facility
12 to increase its capacity.

13 We have issued an RFP for new technologies; had
14 our first meeting on that with those who were intending to
15 submit responses to our request for proposal which are due
16 on May 14.

17 And we will soon issue another request for
18 proposal for people to use our new technology park which is
19 located adjacent to H-Power the purpose of which is to
20 encourage technologies to take materials that are presently
21 going into landfill to recycle those materials.

22 But in the interim we will always need the
23 landfill. We will need a landfill not only when these
24 technologies are not up and running but also for perhaps
25 natural disasters.

1 It's difficult to estimate the amount of waste
2 and the types of waste that will go in, but we think we have
3 a pretty good handle on it. Knowing what we have going
4 there, our objective is to reduce the amount that goes. We
5 will always need a landfill.

6 We have asked for a five-year extension because
7 that's the time that we believe it's going to take in order
8 for us to establish a new landfill.

9 We are presently in the process of establishing a
10 Blue Ribbon committee in order to assist the department in
11 the siting of a new landfill. We have been required by some
12 of the conditions that were placed upon us by the Planning
13 Commission to make a report to the city council at the end
14 of the year as to which sites are recommended. We need the
15 landfill. Without it we are truly in serious trouble.

16 We recognize that our appearance before this
17 committee is long overdue. We began this process in 1999.
18 And most of the time that it's taken us to get to where we
19 are today are based on trying to get input and completely
20 address the concerns of the community for this project.

21 Although it's not possible to satisfy all within
22 the community on a project it does constitute major and
23 significant effort to address concerns of the immediate
24 community. Critical shortage of space now remaining and
25 severe time constraints which come with it requires that we

1 ask the Commission to move forward to approve the project
2 for all the communities on O'ahu.

3 CHAIRPERSON ING: Thank you. Questions from the
4 parties beginning with the City Planning Department.

5 MR. CRISPIN: None.

6 CHAIRMAN ING: No questions. Office of Planning.

7 MR. TSUJI: We just had one question on the
8 expansion area. How many acres is that?

9 MR. DOYLE: 21 acres I believe.

10 MR. TSUJI: Thank you.

11 CHAIRPERSON ING: No other questions. Any
12 questions from the Commissioners? Commissioner Catalani.

13 COMMISSIONER CATALANI: Thank you, Mr. Doyle. I
14 think I missed your comment when you first opened up
15 regarding reducing the size to five acres. What was that in
16 the context of?

17 MR. DOYLE: I got that corrected. It's five
18 years not five acres. And it was we had originally thought
19 that we would have this landfill operate for another 15
20 years. And then as part of our discussions with the
21 community and in trying to take a look at their concerns it
22 was reduced to a five-year operation.

23 COMMISSIONER CATALANI: That five years is based
24 upon a timeline to establish a new site?

25 MR. DOYLE: Yes, it does take that into

1 consideration.

2 COMMISSIONER CATALANI: Did you see Council
3 member Garcia's letter I believe he wrote on March 5, 2003?

4 MR. DOYLE: I believe I have.

5 COMMISSIONER CATALANI: He proposes four
6 conditions, three of which are basically part of the
7 timeline that may or may not be strict enough for the other
8 members of this Commission. But using that as someplace to
9 start, do you have a problem with the three conditions,
10 first three conditions regarding various timelines towards
11 achieving the goal of a new site?

12 MR. DOYLE: Let me just review that for a minute
13 here. We have no objection to that.

14 COMMISSIONER CATALANI: His fourth condition is,
15 I'm not sure we can name that a condition, it's "encourage
16 use of alternative technologies." I assume we might make
17 that as part of a six-month biannual report on progress on
18 the items he lists in Paragraph 4.

19 MR. DOYLE: That's fine. We are in the process
20 of that presently.

21 COMMISSIONER CATALANI: Okay. Regarding Senator
22 Kano's letter, if we can switch letters, one of his primary
23 issues is using the site that fronts on the ocean side
24 landfill, using that cell first. Do you have a response or
25 is there a way to address that issue?

1 So we hope to address, we will address and we
2 will mitigate further odor produced at the landfill both by
3 the processes that we're now using, the installation of our
4 gas recovery system and the reduction of those materials
5 that presently are going to the landfill.

6 COMMISSIONER CATALANI: Would you object to those
7 representations being conditions on any permit that we
8 consider?

9 MR. DOYLE: No.

10 COMMISSIONER CATALANI: My last question relates
11 to, it looks like that Makakilo Kapolei Neighborhood Board
12 is I guess in his words conceded to a 2-year time extension.
13 Was that timeframe discussed with them or where does that
14 number come from?

15 MR. DOYLE: Well, everybody would like to see us
16 close earlier.

17 COMMISSIONER CATALANI: Right.

18 MR. DOYLE: Our concern with that is the time it
19 takes in order for us to move to actually get a new landfill
20 established. Because we do have to establish a new
21 landfill. As you can see the work on this particular
22 project started in 1999.

23 We think the time that's necessary for us to get
24 us there is at least three, probably four years just to get
25 ourselves up and operational on that landfill site.

1 COMMISSIONER CATALANI: This relates back to my
2 original question, I guess. The timeline in council member
3 Garcia's letter you consider realistic. But a two-year time
4 period you don't consider realistic.

5 MR. DOYLE: A two-year time period is not
6 realistic.

7 COMMISSIONER CATALANI: And if any of the other
8 parties want to address that objection we'd like to hear
9 that as well.

10 CHAIRPERSON ING: Commissioner Roehrig.

11 COMMISSIONER ROEHRIG: When is the landfill at
12 Waimanalo Gulch going to be used up?

13 MR. DOYLE: Our consultant, our operator, rather,
14 estimates we have until about the end of May.

15 COMMISSIONER ROEHRIG: I have some really
16 fundamental questions about this. Why didn't the city and
17 county if they wanted any kind of input from the Land Use
18 Commission come here five years ago?

19 If the timeline to get a new place in position
20 takes five years, why do you wait until two months before
21 you're out of space and come to the Commission and put us in
22 the position that we're in where we're forced to take the
23 heat for the city and county's failure to act? What's your
24 answer to that?

25 MR. DOYLE: The answer to that, as I said, we

1 have been at this since 1999. We would like to have been
2 here earlier. However, over the time period we've attempted
3 to address all the concerns of the community. And changing
4 the EIS from 15 years to five years of fill required
5 additional time.

6 CHAIRPERSON ING: Commissioner Roehrig, I'm not
7 sure if that was your question versus why not having a new
8 landfill site started five years ago so that you wouldn't
9 have to come to us to ask for expansion.

10 COMMISSIONER ROEHRIG: Mr. Chairman, that's
11 exactly where I'm at. Why didn't you folks start this
12 process five years ago? I don't expect you as department
13 personnel to answer for the mayor. But it's important to
14 know what the position of the mayor is and the chairman of
15 the city council is on this issue. Because this is a
16 political issue of some magnitude.

17 So I'd like to hear it straight from you why
18 didn't you folks look for a new place five years ago instead
19 of waiting to the last minute and coming and squeeze us that
20 we have to pull all our chestnuts out of the fire? Why
21 should we have to make this decision? Why didn't you folks
22 make the decision five years ago?

23 MR. DOYLE: We've looked at over 40 landfill
24 sites on the island of O'ahu and are continuing to look as
25 to where to go with our solid waste landfill. We believe

1 leaching of these toxins as you handle them or as they sit
2 in the landfill and receive rainwater and then leach out in
3 the groundwater, which they don't because we have a
4 collection system.

5 I think the primary reason why the Department of
6 Health has not approved our ash is because if we were to use
7 it in, let's say, asphalt, they're more concerned about if
8 that asphalt gets broken up over time how that might cause
9 health through dust problem.

10 Right now we believe that those heavy metals are
11 confined. Are there other ways to better confine them?
12 Perhaps. Are they expensive? They are. But at this time
13 we hope to work with the new people over at the Department
14 of Health, there's a new deputy, and to again pursue our
15 desire to use this material in asphalt. We think that's the
16 best way to take care of it.

17 COMMISSIONER ROEHRIG: How long will it take the
18 mayor and the city council to put in place the ordinances
19 and executive orders that's necessary to implement all the
20 items in page I-3?

21 MR. DOYLE: Well, what we're looking for on our
22 Hawai'i, on all of the ones that deal with plasma arc, torch
23 or gasification is to have the private sector pay for these.
24 And as such what we would do is we would go before the city
25 council with the proposals that we have received, the

1 contracts that we have and the city council would concur
2 with those.

3 COMMISSIONER ROEHRIG: My question, sir, is how
4 long do you anticipate the process to take for the mayor and
5 the city council to put in place executive orders and
6 ordinances to implement the concepts there are identified on
7 page I-3?

8 MR. DOYLE: No later than the end of this year.

9 COMMISSIONER ROEHRIG: All right. What if we,
10 just talking out loud, what if we have some kind of a
11 proposed order from this Commission that said we give you a
12 certain amount of time to put these things in place so we
13 get some proof that you folks are going to do these things
14 that should have been done, you know, in the eyes of the
15 public, perhaps, a long time ago?

16 We give you some time and we have you come back
17 take a look see, see how you did whether or not we're going
18 to give any extension or we just turn you down and you go
19 find someplace else and go paddle your own canoe. How's
20 that sound?

21 MR. DOYLE: I'm not going to go out and buy a
22 canoe. Let me --

23 COMMISSIONER ROEHRIG: Well, you can come use
24 ours, Kekaha Canoe Club. We have about 8 or 10 but you got
25 to get in shape.

1 on page I.3.? 30 days. 60 days?

2 MR. DOYLE: Funding for the planning of these
3 programs has already been passed.

4 COMMISSIONER ROEHRIG: Okay. How's about the
5 funding for the construction and the putting in place the
6 necessary operating budget and infrastructure to carry out
7 the various laudatory items that are on page I-3?

8 MR. DOYLE: Ideally the way we are approaching it
9 is that the funding for the expansion of H-Power as well as
10 the fundings for these projects will be provided as part of
11 a total package. That total package includes for the
12 operator of the proposed technology to provide for the
13 financing, the design, construction and operation of the
14 facility. So we could be in a situation where there would
15 be no requirement for CIP funding.

16 COMMISSIONER ROEHRIG: My question was, sir, from
17 today, would it take you 30 days to get this in place, these
18 ordinances and these executive orders? 60 days?

19 How long will it take you? What's your best
20 judgment? Maybe you want to look at the note that just got
21 slipped to you.

22 MR. DOYLE: That's good.

23 COMMISSIONER ROEHRIG: I don't know who it came
24 from. Is that from you, Abe?

25 MR. MITSUDA: No, it's not.

1 COMMISSIONER ROEHRIG: It's not from Abe.

2 MR. DOYLE: It's a good point but... (reading
3 note) our process now is to receive on the alternate
4 technologies as well as the expansion of H-Power proposals
5 in the middle of May.

6 COMMISSIONER ROEHRIG: 'Til what?

7 MR. DOYLE: In the middle of May we will receive
8 those proposals.

9 COMMISSIONER ROEHRIG: Okay. My question is how
10 long is it going to take you with reasonable probability to
11 put into effect for the city council to pass --

12 MR. DOYLE: At least 'til the end of the year.

13 COMMISSIONER ROEHRIG: Why is it going to take so
14 long.

15 MR. DOYLE: By the time you get these proposals
16 in, hopefully without any extension, although some people
17 might do that, and get them before the city council, get
18 them to be reviewed and the same period it would take to go
19 through an ordinance process is approximately that amount of
20 time.

21 CHAIRPERSON ING: Just point of information.
22 When a city council passes an order how many readings does
23 it go through?

24 MR. DOYLE: Three.

25 CHAIRMAN ING: On the neighbor islands we

1 short-cut it, two.

2 COMMISSIONER ROEHRIG: How many weeks does it
3 take for three readings?

4 MR. DOYLE: About three months.

5 COMMISSIONER ROEHRIG: Three months? Chairman,
6 that's my questions for now.

7 CHAIRPERSON ING: I think it's right in time for
8 a 10-minute break.

9 (Recess)

10 CHAIRMAN ING: We will reconvene the meeting on
11 Docket No. SP87-362. In the interim we have had three
12 additional public witnesses sign up. So at this time I
13 would like to call upon Susan Tanioka followed by Todd Apo.
14 Would Susan come forward.

15 UNIDENTIFIED SPEAKER: I believe she had to
16 leave.

17 CHAIRMAN ING: I'm sorry that we missed her
18 input. Todd Apo followed by Cynthia Rezentes.

19 TODD APO
20 being first duly sworn to tell the truth, testified
21 as follows:

22 CHAIRPERSON ING: Please be seated. Please give
23 us your name and address.

24 MR. APO: My name is Todd Apo. I'm with Ko'olina
25 Resort and Marina. Address is 55 Merchant Street, Honolulu,

1 96813.

2 I thank the Chairman and the members for the
3 opportunity to address you. The Ko'olina Resort Marina sits
4 directly across the street from the Waimanalo Gulch
5 landfill. We are obviously opposed to any expansion of the
6 landfill.

7 We do, on the other hand, recognize the
8 practicalities of things, that there, as has been discussed,
9 there aren't many alternatives. It's unfortunate but it's a
10 fact that we have to face.

11 We do appreciate the city's efforts in working
12 with the community. They obviously were looking at 60 acres
13 for 15 years, have reduced that to 15 acres for five years.

14 Obviously we would like to get it closed sooner.
15 We like the two year number, the two-year timeframe that has
16 been set. I think one idea was set up was if we set a
17 shorter timeframe with two years with the thought they come
18 back before this group, confirm that the actions that should
19 be happening are happening despite those efforts an
20 additional extension is needed. We like the fact that this
21 is a separate board outside the city that would be that type
22 of check. Like I said we hope you would consider doing
23 that.

24 I think the other thing we are looking for which
25 the city has previously confirmed to us and we'd like to

1 COMMISSIONER COPPA: 1989.

2 MR. DOYLE: Yes.

3 COMMISSIONER COPPA: My next question is to ask
4 you to be as honest as you can to me because I think I'm
5 trying to see what it's going to look like, whether it's two
6 years from now or five years from now.

7 Do you honestly think that we will have a site,
8 another site picked for a landfill? And if so do you think
9 that you could commit that without a doubt that this
10 landfill will close?

11 MR. DOYLE: We have made the commitment, yes.

12 COMMISSIONER COPPA: I think in '89 you went to
13 '99 --

14 MR. DOYLE: No.

15 COMMISSIONER COPPA: -- for an expansion. Wasn't
16 there a set date it was going to close?

17 MR. DOYLE: No there wasn't. What we said was we
18 went in for a landfill permit for 15 years of operation. We
19 never said that the landfill would close. People may have
20 thought that but we never said that.

21 COMMISSIONER COPPA: I have been to a couple of
22 the Neighborhood Board meetings out at Kapolei.

23 MR. DOYLE: Right.

24 COMMISSIONER COPPA: I guess it was the
25 impression --

1 made a decision on -- we really have no choice.

2 What do we do? Fill up H-1 or H-2 with rubbish
3 and let it pile up or do we expand this? Do we try to set
4 some milestones along the way to ensure that in five years
5 it absolutely closes? I'm not going to be a Commissioner
6 five years from now so...

7 MR. DOYLE: Yeah. My understanding, and I'll ask
8 the Department of Planning and Permitting to help me on
9 this, though, my understanding is that we have those
10 conditions on us already in the permit.

11 COMMISSIONER COPPA: Okay. Well, anyway, I just
12 had to express that.

13 MR. DOYLE: Yeah. Let me just tell you that it's
14 not unreasonable for us to conform to that timeline to have
15 the committee established and to pick the site. Though the
16 whole community is involved in this. Everybody understands
17 the unfortunate situation that we're in.

18 COMMISSIONER COPPA: But you've looked at 40
19 landfills around the island.

20 MR. DOYLE: Yes.

21 COMMISSIONER COPPA: Where do we go? You said we
22 have to have a landfill no matter what.

23 MR. DOYLE: Right.

24 COMMISSIONER COPPA: Of all the things that
25 Commissioner Roehrig pointed out about using these other

1 alternates, we have to have a landfill.

2 MR. DOYLE: Right. At the time that we made the
3 selection, we selected Waimanalo Gulch to be expanded. Now,
4 based on our commitment to be out of that area within five
5 years there still are other alternatives.

6 COMMISSIONER COPPA: Oh, there is other
7 alternatives?

8 MR. DOYLE: Yes, there are alternative sites.
9 They may not be happy alternatives but they're alternative
10 sites.

11 COMMISSIONER COPPA: And the Blue Ribbon
12 committee will decide.

13 MR. DOYLE: Yes. Exactly. Yes, yes.

14 COMMISSIONER COPPA: Thank you very much.

15 CHAIRPERSON ING: Commissioner Desai.

16 COMMISSIONER DESAI: I think coupled with the new
17 sites that you're looking for as beyond the Waimanalo Gulch,
18 what new technology are you going to employ? Because there
19 is a concern that our sites are not very many, we are a
20 small place.

21 If we don't find a new site coupled with
22 technologies that helps us, I think the population is
23 increasing, our habits are bad, as a nation, as a state in
24 creating waste.

25 I was just talking to Mr. Crispin here. You got

1 a little cell telephone. And the package is this big. You
2 go to the grocery store you buy two zucchinis and an egg
3 plant they give you three bags, paper, or plastic. I mean
4 we just have bad habits.

5 That isn't going to end soon. So we are going to
6 be creating more waste. We don't have enough sites. We're
7 not sure what technologies are in store or even what to do
8 with them. I mean we really need to look at technology
9 alternatives, not just sites. So what do we have in store
10 for us?

11 MR. DOYLE: Definitely the one that looms the
12 brightest is the expansion of H-Power. That truly takes
13 care of it. Right now we can do 607,000 tons a year of
14 garbage processed through H-Power. The facility has been in
15 operation for 10 years. It's processed 11 years of its
16 requirement.

17 We believe we have an excellent operating
18 facility there and that it makes sense to add a third boiler
19 to increase our capacity from 605 to 720,000 tons, and
20 perhaps an expansion beyond. But right now that's where we
21 are. That's our proposed expansion.

22 Actually out of the search of alternative
23 technologies for plasma arc or plasma torch came an
24 interesting technology in the revitalization of, let's call
25 it, gasification type technologies.

1 In some ways that may be even more viable than
2 plasma arc and plasma torch. So there are the possibilities
3 of those technologies.

4 I think we are also looking at, and this is when
5 we get into the second phase of going out and offering the
6 recycling park, looking for these other technologies
7 whatever they are. Some of them are technologies to deal
8 with anaerobic digestion of digestibles, food waste, some of
9 the wastes that we talk about from the farms and whatnot
10 that wind up in our landfill today.

11 We also look to expand our recycling. We're
12 looking to do this now through the processes we have but
13 also our curbside recycling programs which are going to be
14 recycling programs which we are going to be starting in
15 July.

16 A large portion of our solid waste is green
17 waste. We're are fortunate on an island all the green waste
18 that we deliver to, in this case, a company called Hawai'i
19 Earth Products, is composted. This to us is one of our
20 better ways of recycling material. It's composted back on
21 our soil as well as soil on the other islands.

22 So we hope to increase the amount of green waste
23 that we presently have going to H-Power going to the
24 landfill in the quantities that will reduce their input to
25 that and allow for other items to go there.

1 with this Blue Ribbon committee.

2 As far as, you know, our shortcutting I'd like to
3 let the Planning people talk better to that.

4 Certainly that wasn't our intention. As I said
5 we have been at this since 1999 to produce a plan that had
6 lots of community input. We think we have done it in the
7 documents that we have produced.

8 I think the Environmental Impact Statement that's
9 been massaged over and over both on the 15-year and a
10 five-year plan has received lots of community input.

11 But I'd like Eric, perhaps, to speak to the
12 planning process.

13 MR. CRISPIN: We'd be happy to.

14 CHAIRPERSON ING: You'll be next. That's the
15 potential problem. All the sites you may be looking at
16 ranking them top three or top five, if they're close to
17 urban communities those communities will oppose it. And you
18 may be back here five years from now saying we had five,
19 three sites selected and everyone was against the sites and
20 now we have to expand this site again.

21 MR. DOYLE: No, that's not the case. The city
22 has committed and the Planning Commission has certified that
23 we will be out of that site, that's a condition, we will be
24 out of that site in five years.

25 Everything that we are going to be doing over

1 that time period, this time period before you is to be out
2 of that site. That's the city's commitment.

3 CHAIRMAN ING: Thank you. Commissioner Roehrig.

4 COMMISSIONER ROEHRIG: How many acres a month do
5 you need for a disposal at this site? We did some simple
6 math and it looks like three acres a year. Is that about
7 right?

8 MR. DOYLE: I'll defer, if I can, to the people
9 who are operating the site. They can probably give you a
10 better answer.

11 COMMISSIONER ROEHRIG: No, just give me an
12 estimate. I'll go for that. We will get the refinement
13 from them. What's an estimate? You folks put down you want
14 15 acres for next five years, 15 acres more. So how much is
15 that a year? That's three acres.

16 MR. DOYLE: Well, 20.

17 COMMISSIONER ROEHRIG: Well, some of that is
18 fill. You have 15 acres of fill area but the rest for
19 buildings, et cetera, et cetera, right?

20 MR. DOYLE: This is for landfill.

21 COMMISSIONER ROEHRIG: 20 acres for landfill. So
22 that's five times four, right? Four acres a year? Is that
23 how fast you fill it up?

24 MR. DOYLE: What happens in a landfill some sites
25 vary contour than others. One particular section of the

1 that. I think you're trying to be forthright.

2 MR. DOYLE: Thank you.

3 COMMISSIONER ROEHRIG: Next thing is, so I
4 understand it clearly for purposes of us making a decision,
5 and perhaps counsel could assist us in this, as far as I
6 know, as far as I understand the applicant here is the City
7 and County of Honolulu, is that correct?

8 MR. DOYLE: That's correct.

9 COMMISSIONER ROEHRIG: Although you have a
10 certain department as the head agency, this is the City and
11 County of Honolulu asking the State Land Use Commission in
12 this petition for relief; is that correct?

13 MR. DOYLE: That's correct.

14 COMMISSIONER ROEHRIG: All right. Now, as far as
15 this Blue Ribbon committee is concerned, I assume there's
16 good cause to have a Blue Ribbon committee. My own personal
17 experience with Blue Ribbon committees is, you know, that's
18 another way of deferring making decision.

19 Is it your best judgment that this committee,
20 whatever it's going to be, is going to be composed of
21 experts who are going to devine where is the best place to
22 put it so that the city council and the mayor are going to
23 agree to that?

24 Or are they just going to come up with some ideas
25 and the mayor and the city council are free to reject all

1 council by the end of the year. I want the decision made by
2 the end of the year because otherwise no sense we approve
3 anything.

4 COMMISSIONER COPPA: Commissioner Roehrig?

5 COMMISSIONER ROEHRIG: Just down it.

6 CHAIRPERSON ING: Commissioner Coppa.

7 COMMISSIONER COPPA: Maybe just from experience
8 in the construction industry, as we follow schedules and
9 milestones I know what you're saying. We would like a
10 commitment. But like anything, schedules are made based on
11 what people tell us.

12 I think it seems like the city has taken a
13 concerted effort to put this schedule together to meet the
14 five-year. But I agree with you that isn't there some other
15 mechanism we can accept that five-year and at the end of
16 that one year, if that milestone, in construction it's
17 called a milestone, it's not met with what remedies do we
18 have.

19 At least, I guess the concern for me would be
20 that if we give it the one year that we lose that other four
21 years potentially and they come back in another year say,
22 "We need now one more year added." We've lost that. I'm
23 looking at possibly accepting the five but having some...

24 CHAIRPERSON ING: I was watching this Japanese TV
25 thing. What they do is they give a hostage.

1 COMMISSIONER COPPA: That's not a bad idea. Is
2 the city prepared to do that?

3 (Laughter)

4 COMMISSIONER ROEHRIG: Mr. Chairman, my concern
5 is the Land Use Commission is the hostage.

6 COMMISSIONER COPPA: Yeah, I agree.

7 COMMISSIONER ROEHRIG: That's the problem.

8 CHAIRPERSON ING: Maybe first born.

9 COMMISSIONER ROEHRIG: Mr. Chairman, to comment,
10 to respond to Commissioner Coppa, I don't accept the idea
11 that I will go by anybody's promise on anything for five
12 years. My suggestion is, and that's why I'm asking
13 Mr. Doyle about this, I think the Land Use Commission
14 should, Land Use Commission should think forward only to end
15 of the year.

16 We give enough land to the end of year. We set
17 these conditions. At the end of the year if you have
18 performed all these conditions perhaps the Land Use
19 Commission will look on with favor for giving you another
20 six or eight months or another year. The idea being that if
21 the city fathers are on a short leash, they will give this a
22 priority attention and it will not get shuffled off into the
23 back burner that isn't working because it's a political hot
24 potato.

25 Because as soon as you pick somebody else's

1 decision today, we're going to make a decision that's going
2 to have an impact not only on your departments but it's
3 going to have an impact on the councilmen.

4 And we want to give them due deference in our
5 decision-making because they are elected public officials
6 and they're entitled to due deference given to their
7 feelings.

8 So in the absence of seven other Councilmen
9 saying their piece, is the Land Use Commission to make its
10 own best judgment today? Is that where we're at? Or are
11 you going to leave that to us to decide?

12 MR. CRISPIN: Mr. Roehrig and, Mr. Chairman, may
13 I just try to address the question to the best extent I can?
14 I think Frank has made it very clear we do not, cannot speak
15 for the city council.

16 In answer to Mr. Roehrig's question the silence,
17 or the fact that they're not necessarily here does not mean
18 that this process and where we are today was done or created
19 in a vacuum.

20 I think letters read by fellow Commissioners they
21 basically reflect the opinions of the most interested
22 councilmembers on the record. And they're fully aware of
23 the situation. We have been working cooperatively with the
24 city council.

25 With respect to the schedule, and now I just have

1 to clarify it's a little bit difficult here because I'm in a
2 sense wearing a little bit of two hats. One hat is the
3 regulatory hat with regard to a fellow department coming in
4 to the city and to our regulatory role with respect to that
5 department. Very clear that we have exercised our duties
6 accordingly.

7 However, the second hat as representing a member
8 of the Administration of the City and County of Honolulu
9 with regard to the schedule. And when Frank says we have
10 been coming down this road for the past year and a half,
11 really it's close to two years, two and a half years that we
12 have been working together coming up with a solution.

13 With respect to the solution, I'm speaking in my
14 former capacity as deputy director of Department of Design
15 and Construction, the schedule that is before you is one
16 that the Administration believes is doable, achievable, it
17 can be done. It can be done, we believe within that
18 timeframe or better.

19 The Administration's will and resolve is to
20 achieve this within the timeframe that's been already
21 reduced from 15 years to five years. And the schedule
22 reflects the finding of that alternate solution, alternate
23 site within that five-year period and having it up and
24 running so we can close down Waimanalo Gulch.

25 Having said that, again, we can only speak for

1 verify actual physical progress to avoid, I believe, if I
2 understand your intent correctly, your intent is to how can
3 we keep from being in this situation five years from now?
4 How can we keep from coming over here and saying, "Hey, we
5 got two month's time. Yeah, we talked about 2003. Sorry we
6 blew it."

7 Given not just Condition No. 12 but all of the
8 conditions combined essentially culminating in Condition 12,
9 which is to report on the progress that's been made and for
10 the Commission then to be able to verify whether indeed that
11 progress is keeping us on track or not.

12 CHAIRMAN ING: I think you got to answer his
13 questions real quick. We're running out of time. His
14 question is are you on board with him on this incremental
15 approval. Yes or no?

16 MR. CRISPIN: No.

17 CHAIRPERSON ING: Okay. That's all we needed to
18 hear.

19 MR. CRISPIN: We recommend against that
20 incremental approval.

21 CHAIRPERSON ING: Let me ask a couple questions.
22 This proposed Blue Ribbon committee, could they come out
23 with a recommendation that this Waimanalo Gulch landfill be
24 expanded?

25 MR. DOYLE: No.

1 CHAIRPERSON ING: Thank you. You answered "no".

2 MR. DOYLE: "No".

3 CHAIRPERSON ING: Thank you. When you had your
4 public hearing before the Planning Commission -- we have a
5 letter dated March 5, year 2003 from Councilman Garcia --
6 was that presented before the Planning Commission, his
7 recommendations and comments?

8 MR. DOYLE: The letter was submitted to the
9 Planning Commission.

10 CHAIRMAN ING: And the Planning Commission chose
11 not to embrace any of his proposals then? I'm letting
12 Mr. Doyle answer when I'm asking Eric.

13 MR. CRISPIN: I may have to.

14 CHAIRMAN ING: The Planning Commission --

15 MR. DOYLE: You know there was much discussion,
16 of course. And I think that in that discussion certainly
17 Councilman Garcia's letter did surface and was discussed.
18 Whether or not his particular wording was embodied in the
19 Planning Commission's recommendations I'd have to check.

20 CHAIRPERSON ING: Obviously it was not. They
21 only added two conditions from the nine that existed before.

22 Would the applicant be opposed to these four
23 conditions being added with the wording changed to instead
24 of saying "require the city" I would say "the city shall in
25 consort with this Blue Ribbon selection committee which

1 about item No. 4 a minute because it says, "encourage the
2 use." If you said "shall use" we might be in a pickle
3 because some of these alternative technologies are still yet
4 to come forward in our RFP to determine whether or not
5 they're feasible.

6 So you understand our concern now? Certainly
7 "shall encourage" is not a problem, not a problem at all
8 because that's what we're doing.

9 COMMISSIONER COPPA: Mr. Doyle, just to remind
10 you it was your testimony that said these alternative
11 technologies, the burden falls on you because you're looking
12 for a smaller landfill site. I don't know that even if we
13 did put it in still the burden still falls on you because
14 you've got to find a new site. And these alternative
15 technologies are really going to reduce the rubbish.

16 MR. DOYLE: Absolutely. It's just that some of
17 the --

18 COMMISSIONER COPPA: I understand.

19 MR. DOYLE: Okay.

20 CHAIRMAN ING: What we have done in the past
21 sometimes that would probably add it to the wording use "to
22 the extent feasible," wording along those lines.

23 MR. DOYLE: That certainly is fine.

24 CHAIRPERSON ING: Any other questions to this
25 witness? Commissioner Roehrig.

1 we have entered in now to say these are some milestones we
2 are attempting to set.

3 CHAIRPERSON ING: Is that an amendment, Bruce?

4 COMMISSIONER COPPA: Yes it is, Mr. Chairman.

5 COMMISSIONER YUKIMURA: I second the amendment.

6 CHAIRPERSON ING: Second by Yukimura.

7 COMMISSIONER YUKIMURA: I second.

8 CHAIRPERSON ING: Further discussion?

9 Commissioner Fiesta.

10 COMMISSIONER FIESTA: Sitting pretty much quiet
11 throughout the whole day, for me I got one problem with
12 giving the council or the mayor more time than what they
13 need. Meaning that solid waste is a major problem. And if
14 it's a priority problem for the county, then why wait less,
15 essentially two months down the road they're going to close
16 it. They're coming in front of us they got 60 days.

17 We're giving you guys, we're giving you to the
18 end of the year. And if the mayor and the council think
19 that or represent the county, they should be here at this
20 hearing.

21 It's an important issue this rubbish dump. It's
22 almost as important as potable water. And I'll be damned if
23 we give these guys more time. I think their credibility as
24 far as I'm concerned doesn't hold much with me, when they
25 come knocking on my door say, "You know what? We get two

1 months to move."

2 I think the December 1st date regarding the Blue
3 Ribbon committee to get the council their recommendation,
4 and the council should on their act and get something done
5 by the 31st. If they do their job they will get their five
6 years. If they don't then they sleeping.

7 And I think the message to the council is, "Don't
8 wait until December 1st. Start moving now." So I would be
9 voting in favor of the original motion. Thank you.

10 CHAIRMAN ING: Pravin.

11 COMMISSIONER DESAI: I think I would be in favor
12 of the motion as presented by Commissioner Coppa and
13 sentiments expressed by Commissioner Yukimura. Because I
14 don't think that we can hold the city council hostage or the
15 city hostage for a certain vote they can or cannot get.
16 It's beyond our control, it's beyond their control.

17 I think the issue is important to all of us,
18 including the city and the city council and the community at
19 large. I think that us having this great discussion this
20 afternoon I think points that out.

21 I think we are saying we are asking the city the
22 Blue Ribbon committee to select a site by December 1 and to
23 put it before the city council should be a message enough to
24 city council that this is an urgent matter and facility will
25 close in five years; we need to start acting because there

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I, HOLLY HACKETT, R.P.R., C.S.R. in and for the State of Hawai'i, do hereby certify;

That I was acting as shorthand reporter in the foregoing LUC matter on the 27th day of March, 2003;

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 correct transcript of the proceedings had in the foregoing matter.

I further certify that I am not counsel for any of the parties hereto, nor in any way interested in the outcome of the cause named in the caption.

DATED: This ____ day of _____ 2003

HOLLY M. HACKETT, R.P.R., C.S.R. #130
Certified Shorthand Reporter