

FIRST ANNUAL REPORT
STATUS OF ACTIONS TAKEN TO SATISFY THE STATE LAND USE
COMMISSION'S ORDER DATED OCTOBER 2, 2009
AND
STATUS OF OPERATIONS
WAIMANALO GULCH SANITARY LANDFILL

LAND USE COMMISSION
STATE OF HAWAII
2010 JUL 29 A 10:22

Prepared For:

**Land Use Commission
State of Hawaii**

**Planning Commission
City and County of Honolulu**

Prepared By:

**Department of Environmental Services
City and County of Honolulu**

July 2010

EXHIBIT K91

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PREFACE

This report was prepared in accordance with the State of Hawaii Land Use Commission's (LUC) Order Adopting the City And County of Honolulu Planning Commission's Findings of Fact, Conclusions of Law, and Decision and Order with Modifications, dated October 2, 2009 (LUC Order). Under Condition 6 of the LUC Order, the Applicant (Department of Environmental Services, City and County of Honolulu, hereinafter "ENV") is required to submit annual reports to the Planning Commission of the City and County of Honolulu (Planning Commission) and the LUC regarding the following: (1) the status of identifying and developing new landfill sites on Oahu to supplement or replace the Waimanalo Gulch Sanitary Landfill (WGSL); (2) the WGSL's operations; and (3) ENV's compliance with the conditions imposed by the LUC Order. This report shall also address ENV's efforts to use alternative technologies as appropriate, and to seek beneficial re-use of stabilized, dewatered sewage sludge.

This report is the first in the series and covers the period from November 2009 through May 2010, or as otherwise stated. Subsequent reports will be submitted on June 1 of each year.

**STATUS OF IDENTIFYING AND DEVELOPING
NEW LANDFILL SITES ON OAHU**

1. General

Condition 4 of the LUC Order requires that, on or before November 1, 2010, ENV shall begin to identify and develop one or more new landfill sites that shall either replace or supplement the WGSL.

2. Current Status

Funding to initiate this project was appropriated in the City's FY 2010 budget with additional funds appropriated in FY 2011. A consultant has been contracted by ENV to facilitate the site selection process. A site selection committee will be assembled to evaluate and prioritize potential sites for final vote. Barring unforeseen delays, the site selection process is expected to be completed by August 2011. Once a site is selected and approved, the requirements of Hawaii's Environmental Policy Act will be followed as applicable.

STATUS OF LANDFILL OPERATIONS

1. Tonnage

Over the 10-month period beginning August 1, 2009, through May 31, 2010, the WGS� received the following amounts of material:

H-POWER Ash.....	73,238 tons
H-POWER Residue.....	80,827 tons
Municipal Solid Waste (MSW).....	109,229 tons

The above tonnages reflect an overall reduction in the amount of waste deposited compared to the previous period (February 1, 2009 through July 31, 2009). The downward trend may be attributed to the diversion of MSW to the off-island shipping project, the slowing economy, and the expansion of the City's curbside recycling program.

2. Remaining Capacity

Landfilling of MSW is currently occurring in Cell E-4, and sporadically on the front face and east side of the landfill. The remaining capacity within the existing foot print is approximately 22,000 tons, which will expire in six to eight weeks, assuming the current daily MSW intake rate of 400-500 tons.

3. Landfill Expansion Permits

a. Solid Waste Permit

The final solid waste permit for the proposed lateral expansion was approved by the State of Hawaii, Department of Health (DOH) on June 4, 2010. General site excavation, new cell construction, and improvements to the west side drainage system are ongoing. ENV expects to begin placing waste into the new expansion cell by September 1, 2010.

b. Special Use Permit (SUP)

A Special Use Permit (SUP) application was submitted to the City Department of Planning and Permitting on December 3, 2008. The Planning Commission voted to approve the SUP on July 31, 2009. The LUC subsequently approved the SUP with modifications. Condition 14 restricts WGS� from accepting any MSW after July 31, 2012. That provision, along with Condition Nos. 15 and 16 of the LUC Order have been appealed to the Circuit Court of the First Circuit. Oral arguments were presented to the Court on July 14, 2010, but no decision has been rendered at this time.

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c. District Boundary Amendment

A District Boundary Amendment (DBA) petition was submitted to the LUC on December 2, 2008, to reclassify the site from the State Land Use Agricultural District to the Urban District. A hearing on the petition was held on May 14, 2009. Given the critical public health and safety need for a permitted landfill in order to properly manage Oahu's solid waste, and to maximize the likelihood that the necessary approvals could be obtained in a timely manner, ENV submitted both a DBA petition to the LUC, and an SUP application to the Planning Commission and the City Department of Planning and Permitting to permit the desired landfill expansion. ENV clearly indicated that depending on the timing of the approval processes, one of the two petitions could eventually be withdrawn. The DBA petition was subsequently withdrawn on October 15, 2009.

COMPLIANCE WITH CONDITIONS OF ORDER

The LUC adopted the Planning Commission's Findings of Fact, Conclusions of Law, And Decision and Order dated August 4, 2009, as its own Findings of Fact, Conclusions of Law, And Decision and Order, subject to sixteen (16) conditions. The general description and status of each condition is as follows:

Condition No.	Description
1	<p>The Applicant shall obtain all necessary approvals from the State Department of Health (DOH), Department of Transportation, Commission on Water Resources Management, and Board of Water Supply for all onsite and offsite improvements involving access, storm drainage, leachate control, water, well construction, and wastewater disposal.</p> <p><u>Status:</u> All applicable permits/approvals have been obtained.</p>
2	<p>In accordance with Chapter 11-60.1 "Air Pollution Control," Hawaii Administrative Rules, the Applicant shall be responsible for ensuring that effective dust control measures during all phases of development, construction, and operation of the landfill expansion are provided to minimize or prevent any visible dust emission from impacting surrounding areas. The Applicant shall develop a dust control management plan that identifies and addresses all activities that have a potential to generate fugitive dust.</p> <p><u>Status:</u> Dust control measures and management plan have been provided for as part of the Solid Waste Management Permit issued by the DOH.</p>
3	<p>The City and County of Honolulu shall indemnify and hold harmless the State of Hawaii and all of its agencies and/or employees for any lawsuit or legal action relating to any groundwater contamination and noise and odor pollution relative to the operation of the landfill.</p> <p><u>Status:</u> So noted.</p>
4	<p>On or before November 1, 2010, the Applicant shall begin to identify and develop one or more new landfill sites that shall either replace or supplement the WGSL. The Applicant's effort to identify and develop such sites shall be performed with reasonable diligence, and the Honolulu City Council is encouraged to work cooperatively with the Applicant's efforts to select a new landfill site on Oahu. Upon the selection of a new landfill site or sites on Oahu, the Applicant shall provide written notice to the Planning Commission. After receipt of such written notice, the Planning Commission shall hold a</p>

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Condition No.	Description
	<p>public hearing to reevaluate 2008/SUP-2 (SP09-403) is appropriate at that time. The Planning Commission shall make a recommendation to the Land Use Commission.</p> <p><u>Status:</u> See Status of Identifying and Developing New Landfill Sites on Oahu of this report.</p>
5	<p>The Applicant shall continue its efforts to use alternative technologies to provide a comprehensive waste stream management program that includes H-POWER, plasma arc, plasma gasification and recycling technologies, as appropriate. The Applicant shall also continue its efforts to seek beneficial reuse of stabilized, dewatered sewage sludge.</p> <p><u>Status:</u> See section on Alternative Technologies of this report.</p>
6	<p>The Applicant shall provide, without any prior notice, annual reports to the Planning Commission and the Land Use Commission regarding the status of identifying and developing new landfill sites on Oahu, the WGS�'s operations, and Applicant's compliance with the conditions imposed herein. The annual reports also shall address the Applicant's efforts to use alternative technologies, as appropriate, and to seek beneficial re-use of stabilized, dewatered sewage sludge. The annual reports shall be submitted to the Planning Commission and Land Use Commission on June 1 of each year subsequent to the date of this Decision and Order.</p> <p><u>Status:</u> Subsequent reports will be submitted by June 1 of each year until the order is superseded.</p>
7	<p>Closure Sequence "A" for the existing landfill cells at WGS� as shown on Exhibit "A12" must be completed, and final cover applied, by December 31, 2012.</p> <p><u>Status:</u> Closure Sequence "A" will be completed and final cover applied by December 31, 2012.</p>
8	<p>WGS� shall be operational only between the hours of 7:00 a.m. and 4:30 p.m. daily, except that ash and residue may be accepted at the Property 24 hours a day.</p> <p><u>Status:</u> The Solid Waste Management Permit issued by DOH requires that landfill operations be confined to between the hours of 7:00 a.m. and 4:30 p.m. Permission to extend hours to accommodate refuse loads during H-POWER outages shall be obtained from DOH on an as-needed basis.</p>

Condition No.	Description
9	<p>The Applicant shall coordinate construction of the landfill cells in the expansion area and operation of WGS� with Hawaiian Electric Company (HECO), with respect to required separation of landfill grade at all times and any accessory uses from overhead electrical power lines.</p> <p><u>Status:</u> Coordination with HECO will be done to ensure that landfill construction and operations are adequately separated from overhead electrical power lines.</p>
10	<p>The operations of the WGS� under 2008/SUP-2 (SP09-403) shall be in compliance with the requirements of Section 21-5.680 of the Revised Ordinances of the City and County of Honolulu 1990, to the extent applicable, and any and all applicable rules and regulation of the State Department of Health.</p> <p><u>Status:</u> Revised Ordinances of Honolulu § 21-5.680 is inapplicable to the WGS� as that Property is a public use and said ordinance therefore does not impact operations at WGS�. The operations of the WGS� are in compliance with any and all applicable rules and regulations of the State Department of Health.</p>
11	<p>The Planning Commission may at any time impose additional conditions when it becomes apparent that a modification is necessary and appropriate.</p> <p><u>Status:</u> So noted.</p>
12	<p>Enforcement of the conditions to the Planning Commission's approval of 2008/SUP-2 (SP09-403) shall be pursuant to the Rules of the Planning Commission, including the issuance of an order to show cause why 2008/SUP-2 (SP09-403) should not be revoked if the Planning Commission has reason to believe that there has been a failure to perform the conditions imposed herein by this Decision and Order.</p> <p><u>Status:</u> So noted.</p>
13	<p>The Applicant shall notify the Planning Commission and Land Use Commission of termination of the use of the Property as a landfill for appropriate action or disposition of 2008/SUP-2 (SP09-403).</p> <p><u>Status:</u> Respective notifications will be made prior to termination of the use of the property as a landfill.</p>
14	<p>Municipal solid waste shall be allowed at the WGS� up to July 31, 2012, provided that only ash and residue from H-POWER shall be allowed at the WGS� after July 31, 2012.</p>

Condition No.	Description
	<p><u>Status:</u> The date restriction on acceptance of MSW at the WGSL has been appealed to the Circuit Court of the First Circuit.</p>
15	<p>The Honolulu City Council through the City Administration shall report to the public every three months on the efforts of the City Council and the City Administration in regard to the continued use of the WGSL, including any funding arrangements that are being considered by the City Council and the City Administration.</p> <p><u>Status:</u> The status of efforts of the City Council and the City Administration in regard to the continued use of the WGSL, including any funding arrangements that are being considered by the City Council and the City Administration, are reported to the public during the public hearings conducted every 3 months (see Condition 16 Status).</p>
16	<p>The City Council and the City Administration shall have a public hearing every three months to report on the status of their efforts to either reduce or continue the use of the WGSL.</p> <p><u>Status:</u> Public hearings are being conducted every 3 months to report on the efforts of the City Council and the City Administration in regard to the continued use of the WGSL, including any funding arrangements being considered by the City Council and the City Administration. As of the date of this report, three public hearings have been held at Kapolei Hale on January 21, 2010, April 21, 2010, and July 21, 2010. A sum total of three members of the public have attended these meetings. Reports of the hearings are posted on opala.org</p>

ALTERNATIVE TECHNOLOGIES

1. H-POWER

The H-POWER waste-to-energy facility continues to process over 600,000 tons per year of municipal solid waste. The facility has operated reliably for over twenty years and has disposed of over 13,000,000 tons of municipal solid waste, generating in excess of \$40,000,000 annually from the sale of electricity and recovered metals, and avoided the importation of 13,000,000 barrels of oil. The facility is being upgraded with state of the art air pollution control equipment and refurbishment of major equipment including boiler water walls.

The facility is being expanded with the addition of a third boiler. Engineering is nearly complete, all permits have been obtained and construction commenced earlier this year. The expanded facility is anticipated to be completed by the end of 2011 and fully operational by July 2012.

Once built, the expanded facility with its new mass burn combustion system will increase waste combustion capacity from the current 600,000 tons per year (TPY) by an additional 300,000 TPY. Combined with implementation of the residential curbside recycling program and other recycling programs, the added capacity will significantly reduce the quantity of MSW that requires landfill disposal.

The expansion of H-POWER will result in increased production of ash and residue, both of which will require landfill disposal. At the end of September 2009, two RFPs were issued, one for recycling H-POWER residue and the other for recycling H-POWER ash. Responses are due to the City on September 28, 2010.

2. Sludge Re-use

a. General

The City and County of Honolulu currently operates nine (9) wastewater treatment plants (WWTPs) on Oahu. The percentage of total sewage sludge generated from the nine (9) City WWTPs is as follows:

WWTP	% of Total Sludge
Honouliuli	23
Kahuku	1
Kailua	29
Laie	<1
Paalaa Kai	<1
Sand Island	25
Wahiawa	6
Waianae	10
Waimanalo	1

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b. Current Actions/Efforts to Re-use Sludge

Laié WWTP: Compost green waste with sewage sludge using the Windrow process.

Sand Island WWTP: Process sewage sludge to fertilizer pellets using the Synagro process. In FY 09, about 46% of the Synagro pellets were disposed at the landfill and 54% was beneficially reused. In April 2010, about 88% of the Synagro fertilizer pellets were beneficially reused with about 12% of the pellets disposed at the landfill. In June 2010, nearly all of the Synagro fertilizer pellets were beneficially reused in the community, diverting about 25% of the City's sewage sludge away from the landfill.

Kailua, Wahiawa And Honouliuli WWTPs: The City awarded a contract on July 15, 2010, to Hawaiian Earth Products (HEP) to process approximately 100,000 tons annually of combined green waste, food waste, and sewage sludge from Kailua WWTP, Wahiawa WWTP, and Honouliuli WWTP. The operation will be based on the In-vessel Conversion process and is anticipated to divert an additional 58% of the City's sewage sludge away from the landfill, while creating a marketable soil amendment product.

3. Materials Recycling

The table below shows material recycling data by year from 1988 to present (2009). There has been an upward trend of general material recycling from approximately 75,000 tons in 1988 to well over 400,000 tons today. Recycling of construction and demolition materials, such as concrete, rock and asphalt, has added between 100,000 to 200,000 tons to the recycling rates. These C&D recycling rates tend to fluctuate based on the volume and type of construction projects undertaken from year to year, and are shown separately so as not to skew the data.

Year	General Material Recycling	C&D Recycling	Total Recycled
2009	426,947	116,670	543,617
2008	456,876	216,745	673,621
2007	453,282	148,952	602,234
2006	421,072	121,675	542,747
2005	417,669	193,829	611,498
2004	386,338	173,916	560,254
2003	366,639	106,773	473,412
2002	352,699	139,055	491,754
2001	367,300	114,070	481,370
2000	327,710	165,000	492,710
1999	314,075	225,200	539,275
1998	318,690	148,800	467,490
1997	313,394	204,400	517,794
1996	299,574	95,300	394,874
1995	294,340	44,400	338,740
1994	290,412	35,700	326,112
1993	241,600	30,000	271,600
1991	167,152	0	167,152
1988	73,992	0	73,992

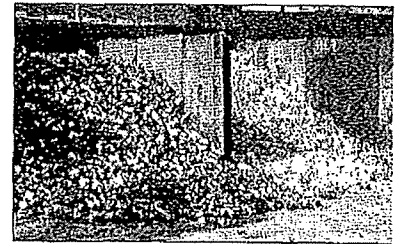
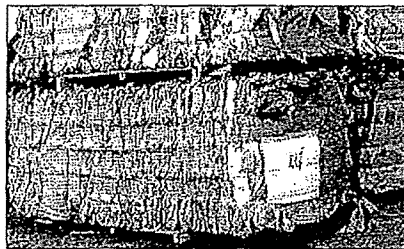
Most recent data shows steady increases in general material recycling rates as a percentage of the total waste. In 2009, the recycling tonnage dropped about 30,000 tons from the previous year, but this decrease is correlated with a similar drop in overall waste generation due to the economy. The actual recycling rate increased from 25% to 27%. Construction and demolition recycling decreased by 100,000 tons from the previous year.

In comparing 2008 and 2009, although there were moderate decreases across the board for each material, there was an increase in paper recovery from 63,000 tons to 72,000 tons and a slight increase in plastics recycling.

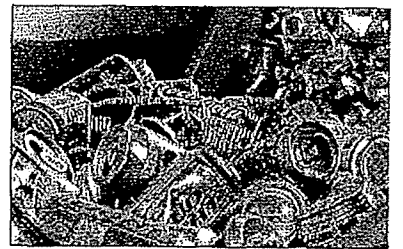
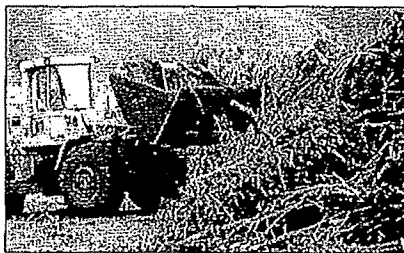
The City's efforts to increase residential recycling have continued with the expansions of island-wide curbside recycling, community recycling bin program, condo recycling assistance programs and increases in budget commitments to support these efforts.

Recycling data from 2009 shows the following tonnage diverted from the landfill:

- Paper (72,300 tons)
- Glass (21,300 tons)
- Plastic (4,900 tons)
- Green Waste (88,000 tons)
- Tires (10,300 tons)
- Auto Batteries (6,000 tons)



- Metals (166,000 tons)
- Electronic Scrap (700 tons)
- Wood Waste/Pallets (16,000 tons)
- Construction and Demolition Debris (117,000 tons)



- Food Waste (25,000 tons)
- Sewage Sludge (data in research)
- Other Reuse (16,000 tons)

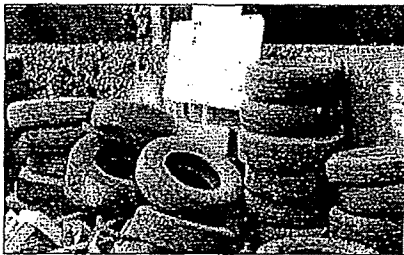


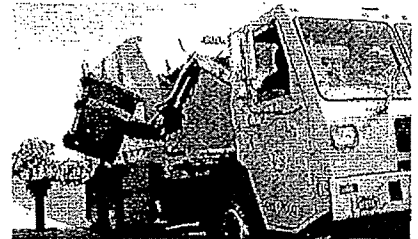
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a. Curbside Recycling

The island-wide expansion of Curbside Recycling for Residential Mixed Recyclables and Green Waste was completed in May 2010. More than 160,000 homes on Oahu are now included in the program. The following information summarizes the program expansion dates, number of households involved, and communities being serviced.

October 2007 (18,500)	Mililani and Hawaii Kai
November 2008 (39,000)	Kuliouou to Manoa, Kapahulu; Kailua, Lanikai; Mokuleia to Sunset
May 2009 (40,300)	Waipio Gentry to Halawa; Wahiawa, Whitmore, Waipio Estates, Launani Valley; Kaneohe; Waimanalo
November 2009 (22,400)	Foster Village to Makiki; Kahuku to Kahaluu
May 2010 (36,000)	Makakilo to Waikele, Waipahu; Ewa Beach to West Loch; Honokai Hale to Makua

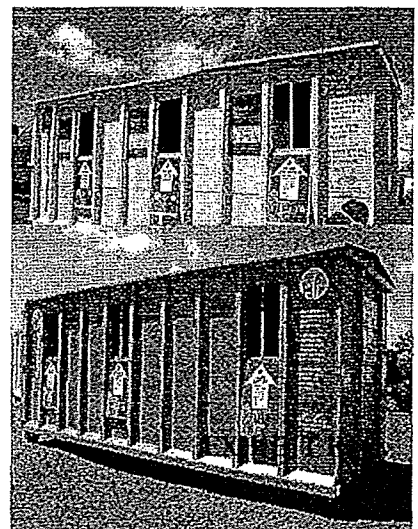
The City changed how it collects refuse as curbside recycling was integrated into the system. The twice per week refuse pickup shifted to one day for refuse and one day for recycling pickup, alternating weekly between the blue and green recycling carts. The once a week pickup schedule provides households with an incentive to sort and recycle their trash. Households utilize a set of three color-coded carts – gray for refuse, green for green waste and blue for mixed recyclables. Once the program has time to mature, the City estimates it will divert approximately 28,000 tons of mixed recyclables and 46,000 tons of green waste, a net gain of 53,000 tons over previous residential recycling activity.



b. Community Recycling Bin

The City continues to maintain community recycling bins at approximately 100 sites around the island. The community recycling bins provide convenient drop-off to areas not serviced by curbside, for residents living in condos, and for the host schools.

The Community Recycling Bin Program began in 1990 and grew from an initial 20 participating schools to approximately 100 locations as of May 2010. The recycling bins are placed at schools around the island



and collect plastics, paper, aluminum, and glass from the surrounding communities and are also used by the schools for campus generated recyclable materials from classrooms, administrative offices, cafeteria and vending machines. Revenue from the recyclables goes to the schools, which encourages their participation in the program as well as support from the surrounding community.

The contract provides financial incentives to the schools to encourage more schools to join and increase participation from the community. For fiscal year 2010, the program recovered about 6,000 tons of recyclable material and paid more than \$200,000 to the participating schools. Additional HI-5 only bins are provided to support collection events and campaigns, and offer the schools more opportunity to raise funds.

c. Condo Recycling Program

The City continues to promote condominium recycling through a program that reimburses condominium properties for costs associated with the start up of a recycling program.

Most multi-family dwellings contract with private hauling companies to collect their refuse and would likewise need to establish their own recycling programs. Multi-family recycling

is voluntary. The City provides technical assistance in conducting waste audits, designing recycling systems and identifying private recycling services. The City also provides recycling containers and educational materials. In September 2007, the City launched this new program to provide reimbursement for recycling program start-up costs up to \$2,000, which continues to date.



d. Electronic Waste (e-waste)

The City worked with State legislators to enact producer responsibility-based legislation to help provide electronic product recycling through manufacturer-financed opportunities. Legislation introduced in the 2007 session failed to make the list of bills for consideration, but was reintroduced as part of the House and Senate Majority packet in the 2008 session and was passed into law. The new law requires manufacturers to be responsible for the collection, transportation, recycling and disposal of their products. Statewide implementation began in January 2010, and the law currently applies to computer equipment and will expand to include televisions in January 2011. Currently, only commercial e-waste is banned from the Waimanalo Gulch Sanitary Landfill. The ultimate long-term goal is to ban all e-waste from landfills once the manufacturers' take-back programs are fully in place.

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4. Interim Off-island Shipping of Waste

In January 2008, the City issued an Invitation for Bids (IFB) for the baling, shipping, off-loading, transporting and disposing (transshipment) of City-provided MSW to a mainland landfill for a term of at least 36 months. For this procurement, the City has the option to extend the agreement for an additional 36 months. In addition to MSW, bidders may request to provide transshipment for other non-MSW material. The transshipment contract is intended to provide an interim solid waste disposal alternative until such time as the H-POWER facility is expanded with the addition of a third boiler.

Three bids were received and opened on June 17, 2008. The two highest bidders filed a total of four procurement protests, disputing for various reasons the adequacy of the apparent low bid. These protests were resolved after several months, with all the protests ultimately being denied, and no appeals being taken of those denials. Pursuant to the requirements of the State Procurement Code, the City was prohibited from taking any actions toward the award of a contract during the pendency of the protests. With the protests resolved, the City reviewed the apparent low bid submitted by Hawaiian Waste Systems, LLC (HWS), and eventually the City's Chief Procurement Officer issued a determination that the low bid was not responsive to the requirements of the IFB. Pursuant to the State Procurement Code, this determination was eventually appealed by HWS to the Office of Administrative Hearings at the Department of Commerce and Consumer Affairs (DCCA).

Following a hearing at DCCA, and prior to the deadline for the Hearings Officer to issue a decision on the appeal, the City and HWS agreed to settle the procurement protest. The settlement was confirmed in an Order approved by the Hearings Officer. Pursuant to the Settlement and Order, the contract for interim shipment of MSW was awarded to HWS on August 27, 2009. The commencement of services under the contract was to begin by the end of September 2009.

An NTP was issued to contractor Hawaiian Waste Systems (HWS) for September 25, 2009. Both parties agreed that delivery of MSW would start on September 28, 2009.

To date, no waste has been shipped off-island, and there are approximately 20,000 tons of baled and wrapped MSW stockpiled at three locations by HWS. At the request of HWS, the City decreased the delivery volume from 300 tons per day to 100 tons per day, starting January 6, 2010. HWS later requested that the City reduce deliveries of waste to 200 tons per week. The City was asked to cease delivering waste on April 1, 2010.. The majority of the bales are in 40-foot shipping containers.

The environmental assessment for HWS' revised plan to ship the baled waste to different ports (Longview, WA; Rainier, OR; and Portland, OR) than originally proposed (Roosevelt, WA) was posted on the Federal Register on January 19, 2010 and the closing date for comments was February 18, 2010. On May, 27, 2010 the USDA concluded their responses to comments and published the Finding of No Significant Impact (FONSI). The required Compliance Agreements were issued in June 2010.

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As of early July 2010, HWS attempted to conduct a test shipment of 10 containers of waste but was not successful. Specifically, on July 8, 2010, the USDA issued a Notification of Suspension of Operations Pursuant to Compliance Agreement No. Oahu RG002. As of the date of this report, the suspension remains in effect.

CONCLUSION

The foregoing report is submitted in accordance with reporting requirements set forth in the LUC Order dated October 2, 2009. This report focuses on the status of ENV's efforts to identify and develop one or more landfill sites that shall either replace or supplement the WGSL. Also discussed are the further progress of WGSL's operations and the City's active efforts to reduce waste volume that is directed to the landfill, such as the expansion of the H-POWER facility, the interim transshipment of waste off-island, and recycling.

The City intends to continue its efforts to ensure proper solid waste management for the people of Oahu, in close coordination with applicable regulatory agencies and decision-makers.