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STATE OF HAWAII
DEPARTMENT OF HEALTH
SOLID AND HAZARDOUS WASTE BRANCH
PUBLIC HEARING
DRAFT PERMIT FOR
KEKAHA MUNICIPAL SOLID WASTE LANDFILL
RENEWAL AND VERTICAL EXPANSION

Thursday, January 30, 2014

6:32 - 7:18 p.m.

Waimea Neighborhood Center

4556 Makeke Road

Waimea, Kauai, Hawaii

BEFORE:

Steven Jacobson, Hearings Officer.

Troy Tanigawa, County of Kauai, Solid Waste Division

Frank Cioff, AECOM

Donald Fujimoto, Environmental Service Officer

REPORTED BY:

TERRI R. HANSON, CSR 482

Registered Professional Reporter

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William Newall

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Klayton Kubo

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1 PUBLIC HEARING

2
3 MR. JACOBSON: Good evening, everyone. My
4 name is Steven Jacobson. I'm the hearings officer for
5 the Hawaii Health Department.

6 This evening is a public hearing on the draft
7 permit for the Kekaha Municipal Solid Waste Landfill,
8 the renewal of the permit and also the vertical
9 expansion of the permit.

10 Notice of this public hearing was published in
11 The Garden Island on December 25th, 2013. There have
12 also been press releases published the Department of
13 Health on January 27th, and I understand there was a
14 follow-up article in The Garden Island on the 29th, both
15 in January.

16 The draft permit has been prepared under the
17 provisions of Chapter 342H of the Hawaii Revised
18 Statutes and Title 11, Chapter 58.1 of the Hawaii
19 Administrative Rules and includes Federal Solid Waste
20 Regulations set forth at 40 CFR 258.

21 The purpose of this hearing is to receive
22 comments from members of the public. There was also in
23 the half hour before this a question and answer session.

24 I should put on the record also that it is
25 January 30th, 2014, at approximately 6:30 p.m., and we

1 are in Waimea, Kauai, Hawaii.

2 And before we have the public comments, Troy
3 Tanigawa at the County of Kauai has a brief presentation
4 to make.

5 MR. TANIGAWA: Thank you. I just wanted to
6 touch on some highlights including the purpose of this
7 permit application.

8 The landfill is an essential component of the
9 County of Kauai's integrated solid waste management
10 system. It is essential because we have to have a final
11 destination for all waste that cannot being diverted.

12 So what I have here on the screen is some
13 information regarding our integrated programs.

14 First of all, the county's responsibility for
15 collection and disposal of solid waste is a charter
16 mandated function. We basically are responsible for
17 that service.

18 So currently we have designed and integrated
19 waste management system with diversion programs that
20 currently divert with up front program, waste management
21 programs currently 40 percent right now of what's
22 generated. The remainder or 60 percent of what's left
23 goes to the landfill. Okay.

24 Basically the landfills -- modern landfills
25 nowadays are first designed and constructed to protect

1 the environment. We have a base liner and a leachate
2 collection system that collects all the moisture that
3 comes through the waste and is directed to a management
4 system where it doesn't get released into the
5 environment.

6 A little about our landfill capacity on Kauai,
7 currently the Kekaha Landfill is the only landfill on
8 Kauai to handle municipal solid waste. We have our
9 current capacity from the latest expansion, lateral
10 expansion cell one. Capacity will be reached by
11 March 2014, this year.

12 The proposed action tonight is the vertical
13 expansion up to 120 feet. I'll have a little bit more
14 information later in the talk about that because of this
15 project.

16 But I wanted to talk about also future proposed
17 action for further expansion of the landfill to give us
18 sufficient capacity until we develop our new landfill
19 facility.

20 So the new landfill, new landfill capacity for
21 Kauai, it's a very complex and lengthy process to site
22 and development a landfill. Currently we've been trying
23 to do that for the past 15 years, beginning in the late
24 '90s. Right now we've progressed in that process where
25 we have a preferred site. I think some of that

1 discussion was part of the Q and A discussion earlier.
2 But basically we're in the EIS process with that site,
3 and that site is currently the model site for Lihue.

4 Our projected timeline to complete the new
5 landfill development right now is approximately 10
6 years.

7 So that brings us back now to the proposed
8 action where we as a county with this charter mandated
9 responsibility, we're taking steps to make sure we have
10 sufficient capacity to bridge that gap between where we
11 are now and when the new landfill will be available. So
12 we're looking at approximately 10 years for that. It's
13 the most responsible thing to do. It's a responsible
14 action that's being taken to protect the public health,
15 safety, and the environment.

16 The proposed expansion builds on existing
17 landfill footprint that's been shown to properly contain
18 waste for many years now. It's been engineered to be
19 stable and structurally sound, even going up to 120
20 feet, well within the EPA standards.

21 This current expansion is projected to last for
22 an additional -- allow the landfill operation to last
23 for an additional 5.4 years. The future expansion that
24 I mentioned earlier will provide an additional
25 approximately five years' capacity. So those two

1 projects will help us bridge that gap.

2 This is a plan view of the landfill expansion.
3 The red area shown on the photo is an overhead view. So
4 the red area shows the footprint of the expansion area.
5 Within that red area, that's where the elevations will
6 be coming up to 120 feet at the apex.

7 And these are side views or elevation views of
8 the expansion. The red area is depicted as now a side
9 view on top of the existing topography of the landfill.

10 AUDIENCE MEMBER: So the red area is where
11 the trash is right now?

12 MR. CIOFFI: This is the current fill area
13 now.

14 AUDIENCE MEMBER: Are you talking about the
15 top area?

16 MR. CIOFFI: The red area is the proposed
17 expansion.

18 AUDIENCE MEMBER: The other side, where the
19 -- the previous slide where the trash is going.

20 MR. TRACY DUBOSE: You have picture on the
21 bottom of the corner.

22 MR. CIOFFI: The previous slide.

23 AUDIENCE MEMBER: Yeah.

24 MR. CIOFFI: Okay. That's the footprint of
25 where the expansion will take place.

1 AUDIENCE MEMBER: Where's the trash right
2 now?

3 MR. CIOFFI: The current fill area is here,
4 the area we call cell one, lateral expansion. The fill
5 sequencing moves back and forth across the landfill
6 until they reach the permitted elevations.

7 MR. TRACY DUBOSE: What you're saying is
8 the footprint is going to remain about the same, it's
9 just the height?

10 MR. FUJIMOTO: So right now the existing
11 landfill is right here, this whole area. Okay. And the
12 side slope that comes up at a three-to-one. So once
13 this elevation hits 80-foot elevation, that's where this
14 proposed expansion is supposed to start. But this is
15 the existing Phase II landfill. It's about 10-, 15-foot
16 elevation here. It slopes up, and once it hits here,
17 that's where the proposed expansion is.

18 AUDIENCE MEMBER: Where is the highway?

19 MR. FUJIMOTO: The highway is right here.

20 MR. TRACY DUBOSE: Now, that whole area
21 proposed, is that already underlined to handle the
22 leachate?

23 MR. CIOFFI: Yeah, so the Phase II landfill
24 already has what Troy called the liner on the bottom of
25 the whole thing. So if they expand it higher, then

1 yeah, that will catch the leachate.

2 MR. TRACY DUBOSE: So that's the leachate
3 pond, right, where it evaporates off, is that correct?

4 MR. CIOFFI: Right here, yeah.

5 MR. TRACY DUBOSE: And what kind of
6 environmental release is that? Negligible?.

7 MR. CIOFFI: Yeah, that's what they all
8 require. It's also lined.

9 MR. TANIGAWA: It's also lined.

10 MR. TRACY DUBOSE: And then what kind of
11 stuff is leaching out? Do you guys test that?

12 MR. TANIGAWA: We test the ground water and
13 we test for releases.

14 MR. TRACY DUBOSE: What do you find?

15 MR. TANIGAWA: We found some chemicals in
16 the groundwater, but we're having the Department of
17 Health evaluating that. What we found is arsenic, which
18 is also consistent with what's in the soil in other
19 areas.

20 MR. TRACY DUBOSE: Are you talking the
21 mill?

22 MR. TANIGAWA: So we're working with the
23 Department of Health on statistical --

24 MR. TRACY DUBOSE: Now, are you guys going
25 to continue to put arsenic-contaminated soil on top of

1 this like has been done in the past as they expand to
2 cover the trash?

3 MR. TANIGAWA: Well, we use cover soil from
4 the Kekaha salt ponds.

5 MR. TRACY DUBOSE: Yeah, so everything,
6 bifenylys, chlorophosphates, arsenic, because that's all
7 in that soil. It's all known to be contaminated. So
8 that is the cover soil?

9 MR. TANIGAWA: That's not our information,
10 that it's contaminated.

11 MR. CIOFFI: Pretty much all soil in the
12 state of Hawaii has arsenic in it from the lava.

13 MR. TRACY DUBOSE: But I know from a fact
14 that that site is considered a Superfund site not too
15 long ago, and it's actually taken off of this.

16 MR. TANIGAWA: The mill site is a Superfund
17 site.

18 MR. TRACY DUBOSE: And also, those are the
19 cooling ponds for the mill. That's where all the waste
20 went.

21 MR. TANIGAWA: The cooling ponds from the
22 cane processing water.

23 MR. TRACY DUBOSE: Right. And what was in
24 that?

25 MR. TANIGAWA: It doesn't flow through the

1 mill property. It flows through the mill's cleaning
2 system.

3 MR. TRACY DUBOSE: Right. That's my back
4 yard. So I'm from the area. The pipes and what is back
5 there, I have studied it. And that's not good soil.
6 But -- okay, so is there a hundred percent retention of
7 all fluids?

8 MR. TANIGAWA: Rainwater washes off our
9 cover system and it goes to a perimeter ditch.

10 MR. TRACY DUBOSE: I used to live at the
11 dump. I used to go out there every day. So this is the
12 retention pond. We have a liner. They have pipes. So
13 when it rains, it flows down and it comes into here, and
14 it has a spinner to help evaporate and keep the water
15 moving so that it doesn't get stagnant.

16 My question is, they're putting contaminated
17 soil on top of the garbage and then pressing it down.
18 That's going to end up here for sure. I want to know
19 what percentage of that is captured and goes here
20 instead of into the ocean. 'Cause, here's a ditch,
21 right? This is the road to the dragstrip and to targets
22 where everyone surfs. All right. This is Syngenta. I
23 could care less if it went there.

24 My question is how much of it goes in there?
25 Because if you're putting arsenic, there's at least 10

1 or 20 chemicals in those settling ponds from Kekaha
2 mill. What percentage is retained? Do you have a
3 number?

4 MR. FUJIMOTO: There's no evidence that the
5 soil is contaminated. If you have it, bring it to us.

6 (Many people speaking at one time.)

7 MR. TRACY DUBOSE: I think I still have my
8 notebook.

9 MR. JACOBSON: We seem to be getting into
10 what seems to be a lot of testimony rather than -- as
11 much as questions. Why don't we pass to -- why don't we
12 pass to -- are you finished?

13 MR. TANIGAWA: Yeah.

14 MR. JACOBSON: Okay. Why don't we pass to
15 the testimony, because the first person that indicated
16 he wants to speak is Mr. DuBose. You're Mr. DuBose.

17 MR. TRACY DUBOSE: Yeah.

18 MR. JACOBSON: You're Tracy Dubose. So why
19 don't you -- can you hear him from here?

20 THE COURT REPORTER: It would be better if
21 he's up here because I'm having a little bit of trouble
22 hearing.

23 MR. JACOBSON: Can you come up here and use
24 the microphone for your testimony.

25 MR. TRACY DUBOSE: I'm just trying to be

1 clear.

2 MR. JACOBSON: You're stating a lot of
3 facts, and those facts are really more testimony.

4 MR. TRACY DUBOSE: They're facts that I
5 have in documents at the house. Okay. I'd be happy to
6 share them with you. There's facts from the EPA,
7 there's facts from Brewer Environmental, and there's
8 facts from other consultants as well, so I'm not just
9 talking crap.

10 MR. JACOBSON: Okay. Please provide those.

11 MR. TRACY DUBOSE: If I knew this was
12 happening before 20 minutes before, and I would have
13 been happy to bring them. I'm sure Phoebe could provide
14 them. Could you?

15 MS. PHOEBE ENG: Sure.

16 MR. TRACY DUBOSE: Okay. And my basic
17 question is how much leachate is contained? Is there a
18 number? How much escapes? Because this is my back
19 yard. This is -- I mean, this part of the island is
20 having a lot of problems, and this is one of them. And
21 of course it's a concern. Our property values are
22 plummeting, and this is not going to help.

23 So that's my question is, what guarantees do
24 you have that that leachate does not go into the ditch
25 that flows out to target? Because if it flows into the

1 ditch behind, then it obviously goes into the ocean.

2 MR. JACOBSON: Okay. And that's a question
3 that you would like the health department to address?

4 MR. TRACY DUBOSE: Please.

5 MR. JACOBSON: And before it decides
6 whether -- the final to issue the permit. Okay. Did
7 you have other points you wanted to make?

8 MR. TRACY DUBOSE: Not at this point.

9 MR. JACOBSON: Okay. I have a sign-in
10 sheet. No one else has indicated a desire to speak.
11 Does anybody else have comments they would like to make?
12 Okay. I see a couple people.

13 AUDIENCE MEMBER: Can I ask a question?
14 Who is the gentleman next to Troy?

15 MR. TRACY DUBOSE: Me?

16 AUDIENCE MEMBER: Yeah.

17 MR. TRACY DUBOSE: My name is Tracy DuBose.

18 AUDIENCE MEMBER: And where do you live?

19 MR. TRACY DUBOSE: I live right by the mill
20 in Kekaha.

21 MR. JACOBSON: Did you wish to speak?

22 AUDIENCE MEMBER: No. I want to know why
23 they have to go 120 feet, 40 feet higher. They cannot
24 go lateral because from what I understand they're not
25 going to level that off when they vacate that place.

1 It's going to be an eyesore there. Why do they have to
2 go 120?

3 MR. JACOBSON: I thought we were in the
4 public comment stage. If you want to answer -- if
5 somebody wants to answer the question, sure, that's
6 fine.

7 MR. FUJIMOTO: Donald Fujimoto, I'm the
8 Environmental Service Officer for the county. Where is
9 the next slide?

10 Good question. Why do we have to go to
11 120 feet? As you can see, the process -- the permit
12 process itself is very time consuming and very long and
13 costly actually. This is -- we did a preliminary EA way
14 back and we looked at all the possible expansion
15 opportunities at Kekaha. Vertical was identified as one
16 during the study.

17 There was three cells that was identified.

18 Cell one, which is the current capacity that
19 we're in right now and we're almost reaching capacity.

20 Cell two, which really was our target is to
21 expand laterally towards Phase I. There was some issues
22 that was brought up that we did not anticipate, and we'd
23 like to spend a little bit more time to address that.
24 And so we needed the time to really look at doing a
25 better job in design to make sure that when we build

1 this it's going to have all the safety factors that UH
2 requires. And let me tell you, they're really doing a
3 good job in protecting our interests, the public
4 interests.

5 And because of that we also looked at cell
6 three, which I think on numerous occasions when we came
7 to the public, there was not -- that was really the last
8 option that the community wanted. Cell three is
9 actually going over the outlying portion of Phase I.
10 And so again, it was very expensive, and there's a lot
11 of risk involved in that.

12 So now we're back to the vertical. And when
13 you look at the vertical, again, in our time frame, five
14 years is what we're proposing at 120 feet. If we went
15 any lower, it would be a lot shorter, and then the
16 permit process itself would bring us almost at the
17 deadline. And so we're hoping to catch up with this
18 vertical, and then we can pursue the lateral, the cell
19 two lateral expansion.

20 But as you can see the profile, the finished
21 profile is going to be pretty much following the same
22 three-to-one slope and trying to make sure that we have
23 a stable landfill, finished product.

24 So, yes, the intent is that it will be finished
25 at 120 feet when we're done.

1 Did I answer your question? We really don't
2 have much options. That's really the bottom line.
3 Unfortunately, we're in a corner. Again, the siting
4 process for the new landfill is a real, real challenging
5 process. You know that we went to moving, and we got
6 shot down. You know, there was like a whole mob out
7 there, and they had good reason, too.

8 And then we had to move the site all the way to
9 Maalo. We're pursuing Maalo, and hopefully we can site
10 a final landfill at Maalo.

11 AUDIENCE MEMBER: So you're saying you got
12 a mob looking at putting more trash in Kekaha.

13 AUDIENCE MEMBER: That's what it's going to
14 take?

15 MR. FUJIMOTO: No. What I'm saying is that
16 we need some real good reasons not to do it. Right now
17 we don't have much choice. We don't have any choices.

18 MR. TRACY DUBOSE: May I ask another
19 question? So in 5.4 years are you going to be back here
20 saying we need another 35-foot of vertical expansion?

21 MR. FUJIMOTO: Well, we're hoping to be
22 back in about two or three years. We need to permit
23 this lateral expansion before we're at capacity. It
24 takes about a year to build. It takes about a year to
25 get it permitted. So we need to start -- we're already

1 working on the cell two design. We're just trying to
2 elaborate. We're trying to make sure that what we build
3 on cell two, which is the final design, is going to be
4 something safe for the public.

5 AUDIENCE MEMBER: How many of these
6 emergency elevations have we been through so far?

7 MR. FUJIMOTO: I think this is the third.

8 AUDIENCE MEMBER: Third. I think we've had
9 two meetings before.

10 MR. FUJIMOTO: This is the third, yeah.
11 And this is the final based on the available staging
12 area and design analysis. This was the last design.

13 AUDIENCE MEMBER: Do you propose to have
14 another public meeting on the west side? I mean,
15 because I only see a handful here. And basically
16 there's only a handful coming from the west side Kekaha
17 here. Are you proposed to have more meetings or this is
18 the final?

19 MR. FUJIMOTO: Right. Well, this is the
20 third meeting on this subject. The mayor actually had a
21 meeting before we even started the EA process, we had
22 another meeting during the EA process, and then this is
23 our third meeting with the Department of Health
24 permitting process.

25 MR. CIOFFI: And both of these meetings

1 were in Kekaha.

2 MR. JACOBSON: Yeah, the purpose of this
3 meeting tonight is to gather any final comments anyone
4 has on the final proposal before the depart- -- which
5 will be taken into account by the Department of Health
6 and will be responded to. That's why we've got a court
7 reporter here. Before any permit is issued as proposed
8 or as modified by the Department of Health or whatever
9 the Department of Health engineers decide to do.

10 Let me just add that I'm just a moderator
11 tonight to help gather the comments. These are being
12 recorded. There are people from the Department of
13 Health here who are listening, and they will be the ones
14 who are actually responding on the merits. My function
15 is as a moderator. I have no input whatsoever into this
16 process.

17 Okay. Is there anyone else who wants to
18 address the proposal?

19 MS. PHOEBE ENG: I'd like to deliver
20 testimony, but first I want to address Tracy's remarks.
21 So how would you like to do that?

22 MR. JACOBSON: Well, that sounds like
23 testimony. So why don't you do -- whichever order you'd
24 like. Could you state your name?

25 MS. PHOEBE ENG: My name is Phoebe Eng.

1 THE COURT REPORTER: How do you spell that?

2 MS. PHOEBE ENG: P-h-o-e-b-e, E-n-g, last
3 name. Is it okay if I split my -- I need to think about
4 my testimony, but I do want to respond.

5 MR. JACOBSON: It sounds like you're adding
6 to his testimony.

7 MS. PHOEBE ENG: So Tracy DuBose's remarks
8 are the use of soil from the settling ponds to do
9 layering of the landfill. I think that's what he was
10 referring, which is not necessarily directly involved in
11 the testimony about this elevation and permit extension
12 issue, but it is an issue in terms of its environmental
13 impact.

14 So that soil that was taken or is still being
15 taken from those -- from the settling ponds was
16 determined to have certain chemicals that were above
17 environmental action limits. I'd be happy to share that
18 report. I have a map here, if you'd like to take a
19 look.

20 I just pulled up an old PowerPoint. The reason
21 I have this right at the ready is because we had done a
22 lot of work about three years ago investigating all the
23 different impacts of proposed cleanup of the Kekaha mill
24 site. So this is not the Kekaha mill site that Tracy is
25 talking about where they take that soil from.

1 It is actually a site north of -- mauka of the
2 Kekaha mill which is on land that is managed by the
3 Agribusiness Development Corporation. And we called it
4 to the attention to the Department of Health that that
5 was a hazardous environmental to the emergency response
6 team. So maybe you're in a different department. So I
7 would be happy to share it because I don't think maybe
8 you don't share information that much. But I'd happy to
9 share that.

10 But that's just to show you that there are
11 certain concerns that the community should have about
12 the continued use of that landfill if their current
13 practice is going on that are still concerning and not
14 getting addressed. And so if anyone wants to see that
15 map, because I don't think all of you were involved in
16 that Kekaha mill conversation. It was a very productive
17 one. I know some people were involved in it. We got
18 some reaction but not too much, but still good community
19 education. So let's see. And I'll just put this slide
20 up here, and I'm happy to put it up there if you want.
21 So that's the first thing.

22 And there are several documents that reference
23 exceeding of the environmental action limits of that
24 settling pond soil and the continued use -- it's still
25 being trucked 24/7 from the settling ponds to the

1 landfill to, you know, create a soil layer.

2 MR. TRACY DUBOSE: Right past the school.

3 MS. PHOEBE ENG: The other question is not
4 related to what Tracy was talking about directly, but is
5 about the leachate question. There is a part, I guess
6 the first part of the landfill that was not lined and
7 continues not to be lined.

8 So I guess it's not in use anymore, and maybe
9 you can help us understand what the -- what the
10 perpetual impact of that are because it is still
11 leaching. And I'm hoping that we can get ready access
12 to what's called a groundwater monitoring plant and
13 Kekaha sanitary landfill Phase II that was done in
14 August 2013 by this company called AECOM. I guess
15 that's who's on your EIS or EA. It's a really giant,
16 fat document which would cost a fortune to pull at the
17 county records. You know, this probably, I would say
18 from experience, is probably several hundred dollars to
19 pull as a public request for information because we have
20 to pay by the page. So it's a little bit prohibitive.

21 So can we have that ready on the Internet
22 somehow? So we don't have to print out and cause you
23 guys problems. Can we at least see what --

24 MR. JACOBSON: Well, I think your question
25 at this point of this regulatory process we're in now,

1 where the permit is proposed, what you're asking is
2 you're asking the Department of Health to look at that
3 before it grants the permit. You're also asking for a
4 copy of it. But for purposes of this hearing, you're
5 asking the department to take a look at that before it
6 grants the final permit, is that it?

7 MS. PHOEBE ENG: Yeah, that's it.

8 And I guess the other question is just for
9 clarity for everybody here. This is a public hearing
10 that is being conducted by the state Department of
11 Health, is that right?

12 MR. JACOBSON: Yes. And the question is
13 whether the state Department of Health should issue the
14 permit requested by the Kauai County.

15 MS. PHOEBE ENG: Okay. Does this also meet
16 public hearing requirements or opportunity for the
17 county? Because we have county people here, too. Like
18 is it just as a listening function or is it to say that
19 you also heard from the public?

20 MR. JACOBSON: The function of the hearing
21 is to gather public comments on the proposal that has
22 been made by the county to the Department of Health for
23 consider -- all of which comments will be considered by
24 the Department of Health because they have been made in
25 this meeting along with comments that have been

1 submitted in writing during the last month in
2 determining whether the permit should be granted as
3 requested or granted in some form or denied or whatever.

4 MS. PHOEBE ENG: So I have a few more
5 questions that I consider part of my real testimony.
6 But I can do that later. I'm not quite prepared to
7 share it yet. I just need some time. Is that okay or
8 do you want me to go ahead?

9 MR. JACOBSON: Well, please understand that
10 this is the last -- this is the last hearing on the
11 question whether the permit should be granted. So if it
12 relates to whether the permit should be granted, you
13 should make your testimony now.

14 MR. TRACY DUBOSE: I'll buy you some time
15 if you want.

16 MS. JILL FAYE PAPWORTH: I can buy you some
17 time.

18 MS. PHOEBE ENG: Thank you.

19 MR. JACOBSON: I'm sorry. You are?

20 MS. JILL FAYE PAPWORTH: My name is Jill
21 Faye Papworth. This is just a quick question. I'm
22 asking it to you. What I'd like to know is how much
23 notification did us as a west side or the public know
24 this meeting was to be held tonight? And what avenue
25 did you go to to let the public know here, this meeting

1 was going on? Because this is a very intense ohana
2 family on the west side, and I am shocked to see --
3 normally this room would be packed. And I didn't hear
4 about it by -- I heard about it word of mouth. And a
5 lot of us work. This is a very important meeting. And
6 I don't think it was properly publicized. And you're
7 saying --

8 MR. JACOBSON: As I said at the beginning
9 of the hearing, the public notice was published as
10 required in The Garden Island on December 25th, 2013.

11 MS. JILL FAYE PAPWORTH: So the small,
12 little thing. See, not a lot of people get The Garden
13 Island. A lot of us people that live here, you know,
14 some people have two or three jobs. If a notification
15 of this intent, because this is huge in our community,
16 should have been notified maybe in another larger
17 aspect.

18 MR. JACOBSON: I thought your question was
19 about the legal requirement. In addition to the legal
20 requirement, there was a press release published by the
21 Department of Health on January 27th.

22 MS. JILL FAYE PAPWORTH: And where was
23 that?

24 MR. JACOBSON: It was published by the
25 Department -- it was a press release by the Department

1 of Health. I don't know who published it.

2 MS. JILL FAYE PAPWORTH: Where did they
3 publish that?

4 MR. JACOBSON: It's not published. It's
5 distributed to press. And there was -- let's see there
6 was an article in The Garden Island on January 29th.

7 MR. TRACY DUBOSE: So you can't answer
8 where it was distributed to, just that it was
9 distributed?

10 MR. JACOBSON: It was distributed to all
11 press folks in the state of Hawaii.

12 MS. JILL FAYE PAPWORTH: So my question is
13 this --

14 MR. JACOBSON: That's where all the
15 Department of Health press releases are.

16 MS. JILL FAYE PAPWORTH: So such an
17 intense, important part of our community is done in a
18 small press release, you could only say The Garden
19 Island. Not everybody reads The Garden Island. And it
20 needs to be notified through schools, through
21 businesses, through state. We have communication on
22 this island. You only gave me Garden Island, and then
23 you said the health department. But we as a people sit
24 here, I work all day, and I come home. Some of us don't
25 read the little part that has the news release, there's

1 a meeting. It's usually word of mouth. I would
2 guarantee you this whole place would be packed if this
3 community, Kekaha, Waimea, even Kalaheo, they would all
4 be here.

5 So I'm just giving you my statement and as a
6 community member, long-time family member. We've been
7 here since 1880. Usually the community gets together,
8 and we know about things like this.

9 So I'm very disappointed that I had to be late.
10 I apologize because I did not know about this meeting.
11 And I'm very active in my community. And I'm on the
12 board of directors for the hospital. I didn't even hear
13 about it there.

14 So I just want to make that statement, and I
15 think that -- I feel bad for my community who should be
16 here and their voice should be here. And so that's all
17 I have to say.

18 MR. JACOBSON: Okay. Thank you. Your
19 comments are in the record.

20 Ms. Eng, how are you doing?

21 MS. PHOEBE ENG: Cramming. Okay. Actually
22 it did have to do with public notice. So what I note is
23 that the release or something appeared in The Garden
24 Island on Christmas day, a holiday. So I'm not sure
25 that meets the public notice requirements, a federal

1 holiday, religious holiday.

2 The other thing is if the press release was
3 issued on January 27th of 2014, which is four days ago.
4 I'm not sure that meets the notice requirements either.
5 And I'm actually not --

6 MR. JACOBSON: Well, actually the notice
7 requirement is newspaper requirement. But we can have
8 -- your comments and the previous comments are going to
9 the Department of Health, who can consult with a deputy
10 attorney general who's assigned to them, who is not
11 here.

12 MS. PHOEBE ENG: I'm not saying there's any
13 mal-intent or, you know, there's anything done
14 purposely. I'm just noting that it was a holiday and
15 the press release was noticed later.

16 And I also took the -- I guess what you're
17 calling the first paragraph of your permit, the laws
18 that are cited as the reasons why you are having these
19 hearings and going through this process.

20 One being the Hawaii State Statute which
21 basically empowers the Department of Health to issue
22 permits for things like this.

23 And it talks about how you have to listen for
24 whether or not the proposal is in the public interest.
25 And public interest here includes, the director of the

1 Department of Health shall consider the environmental
2 impact of the proposed action.

3 And I know that the environmental impact was
4 studied for the original 85 feet of the landfill, but
5 not for this additional 40-something feet that is being
6 proposed.

7 So I'm wondering what the rationale was for not
8 having to look at the environmental impact of the
9 additional 40 feet being that is does -- it's a 12-story
10 building. It's probably the highest thing in Kauai.

11 MR. CIOFFI: Are you referring to in terms
12 of the 40 feet, there was an environmental assessment
13 done for this.

14 MR. FUJIMOTO: That's been presented.

15 MR. CIOFFI: And the public notification,
16 and the county maintains a website, and they published
17 that report and the information and the comments on that
18 process on the county website.

19 MR. TRACY DUBOSE: So where would that EIS
20 be found?

21 MS. PHOEBE ENG: No, this is Section 342H,
22 which is referred to in your permit. That's Kauai code
23 government title 19. So that gives the director the
24 prerogative to look at environmental impact. As you're
25 saying, in another section it was already done. So, you

1 know, I guess we'll take a look at that.

2 But then there's also the relationship -- the
3 director should also consider the relationship between
4 local short-term uses of the environment and the
5 maintenance and enhancement of long-term productivity
6 and any reversible or irretrievable commitment of
7 resources which would be involved in the proposed
8 action.

9 So there's a number of things that the director
10 can decide on to do some further investigation, and
11 especially what Jill was saying, the community needs to
12 hear a little bit more about it. I know this is a pain,
13 right. I'm so sorry. But it is something that if you
14 want to be mindful of the community and interested in
15 participating in policy, I think it's -- you know, it's
16 a reasonable request within the law. I think that's
17 all.

18 MR. JACOBSON: Okay. Thank you. Is there
19 anyone else that wants to give testimony tonight? Sir,
20 in the back. Do you have something? What is your name,
21 please.

22 MR. WILLIAM NEWALL: My name is William
23 Newall, N-e-w-a-l-l.

24 You know, Kekaha has been going through this
25 process for a long time, and it's not just the height of

1 the rubbish pile which is an eyesore, but we've endured
2 big trucks driving through our community. And I don't
3 know if it's true or not, but it seems to me we get a
4 lot more flies than anyplace else that I've seen.

5 And if you drive along the highway, rubbish is
6 going to come off of those trucks no matter what you
7 cover them with. So we've got a lot of rubbish flying
8 around, and those big trucks create a lot of dust and
9 hazards.

10 But the main thing for me is that this is
11 something that we're going to have to live with in
12 Kekaha forever when we make the model, we're not going
13 to get rid of this thing. It's going to live forever.

14 And we keep extending it. And it seems to me
15 it must be -- I don't know my dates. I can't tell you
16 really accurately, but I think it must be at least
17 15 years ago that I went to a meeting like this for the
18 first extension. And it just seems to me it's a real
19 shame that we haven't come up with an answer in all that
20 time, that every time we do this it's an emergency and
21 our back is against the wall and we have no choice. And
22 I realize right now we have no choice. But it just
23 seems a real shame to me. That's all.

24 MR. JACOBSON: Thank you for your
25 testimony. Gentleman in the back, you had your hand up.

1 Did you have something to say?

2 MR. KLAYTON KUBO: Yeah. Klayton Kubo.
3 I'm not from Kekaha. I live in Waimea, yeah. But I
4 think that total site of the rubbish dump is even older
5 than me. So does the residents of Kekaha even have a
6 choice? You know, can they say no to the expansion? No
7 to the other expansion that is probably going to come up
8 within what, four years from now? Do they really have a
9 choice? Or do they not have a voice? It's like, you
10 know what, brathers, we're going to shove this here, and
11 that's that.

12 AUDIENCE MEMBER: Thanks for comments.

13 MR. KLAYTON KUBO: Is that how it's
14 happening? You know. And it's going to be, what?
15 Another 50 years like I heard you say or whoever say,
16 for the new site.

17 MR. TRACY DUBOSE: Maybe.

18 MR. KLAYTON KUBO: But where is the new
19 site? Yeah. So that's okay. You don't need to answer
20 it right now. It's all good. And I said what I needed
21 to say. It seems like Kekaha resident, no choice, zero.
22 Like how we have no choice what's really going on on
23 this west side of Kauai.

24 MR. JACOBSON: Thank you. Excuse me.
25 Thank you for your testimony. Yes, ma'am.

1 AUDIENCE MEMBER: This is a quick thought.
2 With what he is saying, that it hit me. I don't know
3 where you live. I don't know where you live. If I
4 lived in Haena, Puhi, Wailua Houselots, Hanalei, if I
5 was in a meeting and they say, guess what, brah, we're
6 going to put a dump right -- we're going to put this
7 landfill in your back yard even 20 years ago.

8 You would think they says, Yeah, not a problem.
9 Bring it on. We love that.

10 Hey, we're going to promise you a million
11 dollars. You can get your parks all done, new grass.
12 Oh, and then we'll do it in 10 years. That was another
13 10 years.

14 If you polled this entire island and ask them
15 if it was a landfill, that's why we're having a problem
16 getting it somewhere else. Nobody wants it.

17 Our whole side of this island is deteriorating.
18 Ask the residents who all love each other if they want
19 the landfill in their back yard, would they actually
20 have the heartfelt of what us residents here have to go
21 through with this landfill with our babies, our
22 grandkids that are coming up and have to live with this
23 every single day.

24 Why are we chosen to continue to have this
25 landfill in our back yard? Do you understand? I don't

1 know where you live, but I don't think you want it in
2 your back yard. We've had it, done it. It's time for
3 somebody else to take it over.

4 MR. JACOBSON: Okay. Thank you for your
5 testimony. Is there anyone else who hasn't spoken?
6 Okay.

7 That will concluded the taking of testimony.
8 The comments will be taken -- have been recorded. There
9 will be a transcript prepared and given to the
10 Department of Health.

11 The Department of Health engineers and other
12 folks will be considering all the comments that have
13 been made tonight.

14 And we thank you for coming. And thank you,
15 those of you who have participated, thank you for
16 participation. That will conclude the hearing.

17 (Concluded at approximately 7:18 p.m.,
18 January 30, 2014.)

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STATE OF HAWAII)
) ss.
COUNTY OF KAUAI)

I, TERRI R. HANSON, RPR, CSR 482, do hereby certify:

That on Thursday, January 30, 2014, at 6:32 p.m.; that the foregoing Public Hearing Re: State of Hawaii, Department of Health, Solid and Hazardous Waste Branch, Draft Permit For Kekaha Municipal Solid Waste Landfill, Renewal and Vertical Expansion, was held;

That the foregoing proceedings were taken down by me in machine shorthand and were thereafter reduced to typewritten form under my supervision; that the foregoing 35-page transcript represents to the best of my ability, a true and correct transcript of the proceedings had in the foregoing matter.

I certify that I am not an attorney for any of the parties hereto, nor in any way concerned with the cause.

DATED this 4th day of February, 2014, in Kapaa, Hawaii.



TERRI R. HANSON, CSR 482
Registered Professional Reporter