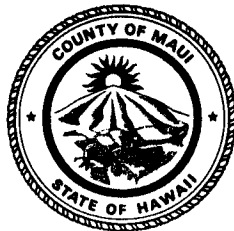


ALAN M. ARAKAWA  
Mayor



PATRICK K. WONG  
Corporation Counsel

EDWARD S. KUSHI  
First Deputy


LYDIA A. TODA  
Risk Management Officer  
Tel. No. (808) 270-7535  
Fax No. (808) 270-1761

DEPARTMENT OF THE CORPORATION COUNSEL  
COUNTY OF MAUI  
200 SOUTH HIGH STREET, 3<sup>RD</sup> FLOOR  
WAILUKU, MAUI, HAWAII 96793  
EMAIL: CORPCOUN@MAUICOUNTY.GOV  
TELEPHONE: (808) 270-7740  
FACSIMILE: (808) 270-7152

2014 AUG 27 AM 10:18  
OFFICE OF THE  
COUNTY COUNCIL

RECEIVED

MEMO TO: Elle Cochran, Chair  
Infrastructure and Environmental Management Committee

FROM: Richelle M. Thomson   
Deputy Corporation Counsel

DATE: August 26, 2014

SUBJECT: Operations of the Solid Waste Division, Department of Environmental Management (IEM-56)

This memorandum is response to your request of August 13, 2014, that the Department of Corporation Counsel review and comment on various items addressed in letter dated August 4, 2014, to Mr. Kyle Ginoza, Director of the Department of Environmental Management, both of which are attached for your reference. I will refer to the item numbers in the August 4 letter:

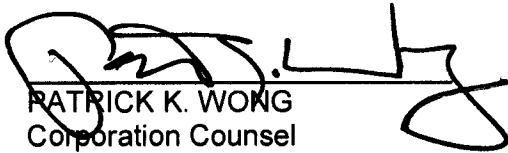
1. The State of Hawaii Department of Health issued two notices of violation since Fiscal Year 2012. For descriptions of the alleged compliance violations and resulting settlement agreements, please see the attached:
  - a. Settlement Agreement regarding State of Hawaii Department of Health Docket No. 13-SHW-SWS-002, and Notice of Violation and Order related to the Central Maui Municipal Solid Waste Landfill (Exhibit A); and
  - b. Settlement Agreement regarding State of Hawaii Department of Health Docket No. 13-SHW-SWS-003, and Notice of Violation and Order related to the Molokai Integrated Solid Waste Management Facility (Exhibit B).
2. Matters related to the information requested in Item 2 additionally relate to allegations raised in Tracy N. Takamine v. County of Maui, et al., Civ. No. 14-00335, filed July 25, 2014, in the U.S. District Court. Notice of this lawsuit has

Elle Cochran  
Infrastructure and Environmental Management Committee  
August 26, 2014  
Page 2 of 2

been provided to the County Council, and a status update will be provided in an upcoming Policy and Intergovernmental Affairs Committee meeting.

3. Items 3 through 9 may be discussed by the Committee and the Department of Environmental Management in open session.

APPROVED FOR TRANSMITTAL:



PATRICK K. WONG  
Corporation Counsel

S:\ALL\RM\TOPINIONS\2014-8-26 Memo Cochran re Dem Ops.doc

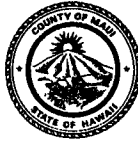
Attachments

Council Chair  
Gladys C. Baisa

Vice-Chair  
Robert Carroll

Presiding Officer Pro Tempore  
Michael P. Victorino

Council Members  
Elle Cochran  
Donald G. Couch, Jr.  
Stacy Crivello  
Don S. Guzman  
G. Riki Hokama  
Mike White



**COUNTY COUNCIL**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.mauicounty.gov/council](http://www.mauicounty.gov/council)

August 13, 2014

Director of Council Services  
M. Raatz, Jr., Esq.  
**RECEIVED**  
**CORPORATION COUNSEL**

2014 AUG 14 PM 1: 48

MEMO TO: Patrick K. Wong  
Corporation Counsel

F R O M: Elle Cochran, Chair  
Infrastructure and Environmental Management Committee

Handwritten signature of Elle Cochran.

SUBJECT: **OPERATIONS OF THE SOLID WASTE DIVISION, DEPARTMENT OF ENVIRONMENTAL MANAGEMENT (IEM-56)**

The Infrastructure and Environmental Management Committee transmitted correspondence dated August 4, 2014 to the Director of Environmental Management requesting a response to questions pertaining to the operations of the Solid Waste Division. At the Committee's meeting of August 11, 2014, you advised the Committee to defer discussion on those questions in light of the pending lawsuit filed against the County by the former Solid Waste Division Chief. Additionally, you stated certain questions could be discussed at a future Committee meeting, provided the information that is presented does not adversely impact the County.

May I request you identify which questions presented in the attached August 4, 2014 correspondence may be discussed by the Committee in an open meeting. In addition, for each question that cannot be discussed in an open meeting, please explain how discussion on the question would adversely impact the County in regards to the pending lawsuit.

I would appreciate receiving a response by **Wednesday, August 27, 2014**. To ensure efficient processing, please include the relevant Committee item number in the subject line of your response.

Should you have any questions, please contact me or the Committee staff (Jordan Molina at ext. 7134, or Rayna Yap at ext. 8007).

iem:ltr:056acc01:jkm

Attachment

cc: Richelle Thompson, Deputy Corporation Counsel ✓  
Kyle Ginoza, Director of Environmental Management

Council Chair  
Gladys C. Baisa

Vice-Chair  
Robert Carroll

Presiding Officer Pro Tempore  
Michael P. Victorino

Council Members  
Elle Cochran  
Donald G. Couch, Jr.  
Stacy Crivello  
Don S. Guzman  
G. Riki Hokama  
Mike White



Director of Council Services  
David M. Raatz, Jr., Esq.

**COUNTY COUNCIL**  
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WAILUKU, MAUI, HAWAII 96793  
[www.mauicounty.gov/council](http://www.mauicounty.gov/council)

August 4, 2014

Mr. Kyle Ginoza, Director  
Department of Environmental Management  
County of Maui  
Wailuku, Hawaii 96793

Dear Mr. Ginoza:

**SUBJECT: OPERATIONS OF THE SOLID WASTE DIVISION,  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  
(IEM-56)**

The Infrastructure and Environmental Management Committee is in receipt of a communication from the Budget and Finance Committee relating to the expansion positions for the Solid Waste Division, Department of Environmental Management. Additionally, the Committee is in receipt of County Communication 14-186, from Councilmember Victorino, relating to the Department of Environmental Management Solid Waste Administration and Solid Waste Operations budget.

The Committee intends to discuss this matter at its regularly scheduled meeting on Monday, August 11, 2014. In preparation for the Committee's discussion, may I request you be prepared to respond to the following:

1. At the Committee's meeting on July 28, 2014, the Department informed the Committee it incurs over \$500,000 per year in penalties from compliance violations. Describe each compliance violation that has occurred since Fiscal Year 2012 and identify the cost for each violation.
2. At the Committee's meeting on July 28, 2014, the Department informed the Committee the most appropriate management decision to address the outstanding compliance issues at various County landfill facilities is to reduce refuse collection services and landfill hours.
  - a. Describe each of the outstanding compliance issues and identify the landfill facility where the compliance issues are occurring.

Mr. Kyle Ginoza  
August 4, 2014  
Page 2

- b. Describe the scope of work required to address each outstanding compliance issue.
  - c. Explain how the reduction in landfill hours and refuse collection services will resolve each of the compliance issues.
  - d. Describe the efforts taken by the Department to resolve the compliance issues without increasing funding or staffing levels.
3. Please provide a status update on the Central Maui Landfill Convenience Center and the West Maui Drop Box Facility projects.
  4. Describe the efforts taken by the Department to improve the viability of diversion initiatives.
  5. Describe the efforts taken by the Department to improve its management practices in order to reduce landfill costs.
  6. Describe the Department's strategy for managing the increased labor costs attributable to collective bargaining.
  7. Provide a breakdown of landfill costs (dollar per ton) for each year since Fiscal Year 2012.
  8. Provide a breakdown of the overtime costs incurred for each landfill facility since Fiscal Year 2012.
  9. Provide a breakdown of the Solid Waste Division's carryover/savings since Fiscal Year 2012.

Should you have any questions, please contact me or the Committee staff (Jordan Molina at ext. 7134, or Rayna Yap at ext. 8007).

Sincerely,

  
ELLE COCHRAN, Chair

Infrastructure and Environmental Management  
Committee

iem:ltr:056aem02:jkm

cc: Mayor Alan M. Arakawa

IN THE DEPARTMENT OF HEALTH

STATE OF HAWAII

<p>DEPARTMENT OF HEALTH, STATE OF HAWAII,</p> <p style="text-align: center;">COMPLAINANT,</p> <p style="text-align: center;">vs.</p> <p>COUNTY OF MAUI, DEPARTMENT OF ENVIRONMENTAL MANAGEMENT,</p> <p style="text-align: center;">RESPONDENT.</p>	<p>DOCKET NO. 13-SHW-SWS-002 Central Maui Municipal Solid Waste Landfill County of Maui</p> <p style="text-align: center;">SETTLEMENT AGREEMENT</p>
--	---

**SETTLEMENT AGREEMENT**

This is a Settlement Agreement ("Agreement") between the Solid Waste Section (SWS), Department of Health, State of Hawaii (DOH), and the County of Maui, Department of Environmental Management (hereinafter referred to as "RESPONDENT"), to ensure the implementation of the proposed supplemental environmental projects (SEPs) equivalent to \$70,000.00 and payment of a cash penalty in the sum of \$50,000.00, as agreed by RESPONDENT.

**I. PRELIMINARY STATEMENT**

1. On April 4, 2011, COMPLAINANT, DOH, inspected the Central Maui Municipal Solid Waste Landfill, which is owned, operated and controlled by the RESPONDENT. The inspection was conducted pursuant to DOH's authority under Hawaii Revised Statutes (HRS) section 342H-6. DOH's investigation included the review of documents provided by the RESPONDENT at the facility at the time of investigation.
2. On or about February 7, 2013, DOH issued a Notice of Finding and Violation and Order (incorporated herein as "NFV" and "Order") against RESPONDENT for operations at the Central Maui Municipal Landfill, TMK 3-8-003:019, 025 (referred to as the "facility"), wherein DOH alleged, and continues to allege, that RESPONDENT violated HRS chapters 342H, Hawaii Administrative Rules (HAR) chapter 58.1., and solid waste management permit, LF-0089-08. See NFV, Part C, "Statement of Facts."

3. Pursuant to HRS sections 342H-9 and 342H-10 and according to DOH's "Office of Solid Waste Management Draft Administrative and Civil Penalty Policy," DOH assessed a total penalty of \$121,900.00 against RESPONDENT. See Order.

4. DOH and RESPONDENT have agreed to conclude this enforcement action by entering into this Agreement.

## **II. ADMISSIONS AND WAIVERS OF RIGHTS**

5. RESPONDENT neither admits nor denies any allegations of fact or law set forth in the NFV. RESPONDENT hereby agrees to waive any rights RESPONDENT may have to a hearing on any issue relating to the factual allegations or legal conclusions set forth in the Complaint.

6. RESPONDENT admits and agrees that DOH has jurisdiction to enter into this Agreement and to enforce its terms. Further, RESPONDENT agrees that DOH has jurisdiction and authority to compel compliance with the terms and conditions of this Agreement in an enforcement proceeding, either administrative or judicial, or to impose reasonable sanctions for violations of this Agreement. RESPONDENT hereby consents to the issuance of this Agreement without adjudication.

## **III. PARTIES BOUND**

7. This Agreement shall apply to and be binding upon the DOH and RESPONDENT. The RESPONDENT agrees to carry out all actions required of the RESPONDENT by this Agreement. The signatories to this Agreement certify that they are authorized to execute and legally bind the parties they represent to this Agreement. The RESPONDENT shall give notice of this Agreement to any successors in interest prior to transfer of ownership and to any contractor performing activities contemplated by this Agreement and shall submit a copy of each such notice to the DOH. No change in ownership or corporate status of the RESPONDENT or of the site shall alter the RESPONDENT'S responsibilities under this Agreement without written consent by the DOH.

## **IV. RIGHTS RESERVED BY DOH**

8. DOH reserves the right to take actions consistent with any applicable law, against the responsible entities, and to exercise rights the director may have under any applicable law including recovering costs and taking enforcement actions.

## **V. PENALTY AND SUPPLEMENTAL ENVIRONMENTAL PROJECT**

9. HRS sections 342H-9 and 342H-10 authorize an administrative penalty of up to \$10,000 per day for each violation of any provision of Chapter 342H, any rule adopted thereunder, or any term or condition of a permit issued pursuant to Chapter 342H. For the violations described in section I, RESPONDENT shall pay a cash penalty in the sum

of \$50,000, which shall be due within 90 days of the signing of this agreement; and perform DOH-approved supplemental environmental projects (SEPs) at a cost of at least \$70,000, as further described in paragraph 10.

10. RESPONDENT shall submit SEP proposals and associated cost estimates and implementation schedules to the DOH within ninety (90) days of the signing of this agreement. The DOH shall review and provide comment and/or approval of the SEP proposals within 21 days of receipt of the proposals. If SEP proposals are not submitted within 90 days of signing of this agreement, or not agreed upon within 6 months of the signing of this agreement, then the RESPONDENT shall pay the full penalty amount described in paragraph 3.

11. The completion of the SEP shall be within a reasonable period of time as agreed to in the proposed SEP. If the RESPONDENT chooses to provide in-kind support to carry out the SEP, this support shall not be conducted with staff resources that are otherwise providing normal services for solid waste management within the county. The project also shall not include any actions that will merely address issues associated with regulatory compliance.

If the SEP projects are not completed within the time period agreed to at the time of SEP approval, the county shall pay full penalty amount minus the value of any completed SEP projects.

12. The RESPONDENT shall pay the penalty as set forth in Section VII (Form of Payment).

## **VI. STIPULATED PENALTIES**

13. Failure by the RESPONDENT to implement SEP within the time period agreed at the time of SEP approval as required by section V above, unless excused pursuant to section VIII (Delays or Impediments to Compliance) herein and/or excluding the implementation of paragraphs 10 and 11 if full penalties are paid in accordance with paragraphs 10 and 11, shall obligate the RESPONDENT to pay \$1,000 per day for each day that such failure continues.

14. The RESPONDENT shall pay stipulated penalties within seven (7) days of demand as set forth in section VII (Form of Payment).

15. The provisions of this section shall not be construed to limit any other remedies, including but not limited to institution of proceedings for civil or criminal liability, available to DOH for violations of this Agreement or of any other provision of law.

## **VII. FORM OF PAYMENT**

16. The penalty payable under sections V (Penalty) and VI (Stipulated Penalties) shall be paid by cashier's check, payable to the State of Hawaii, and shall be received at the DOH as set forth in section X (Notification).



## **VIII. DELAYS OR IMPEDIMENTS TO COMPLIANCE**

17. The RESPONDENT shall notify the DOH orally, as soon as feasible, and in writing within ten (10) calendar days of any delay or anticipated delay which does or may affect compliance with the Agreement. The notice shall describe in detail the anticipated length of the delay, the precise cause(s) of the delay, the measures taken and to be taken by the RESPONDENT to prevent or minimize the delay, the timetable by which those measures will be implemented, and the expected effect on the environment of the delay. The RESPONDENT shall take all reasonable measures to avoid or minimize any such delay.

18. The burden of proving that any delay is caused by circumstances entirely beyond the control of the RESPONDENT shall rest with the RESPONDENT.

## **IX. ENTRY AND INSPECTION**

19. Any authorized representative of the DOH, upon presentation of credentials, may enter upon the premises and/or inspect the records of the RESPONDENT at any time for the purpose of monitoring compliance with the provisions of this Agreement. This provision shall not be deemed to limit any authority the DOH otherwise has to enter and inspect.

## **X. NOTIFICATION**

20. Whenever, under the terms of this Agreement, a notice, report, or payment is required to be given by one party to another, such notice, report, or payment shall be directed to the individuals specified below, at the addresses given, unless a party gives notice in writing to the other party that another individual has been designated to receive such communications:

Steven Y.K. Chang, P.E., Chief  
Solid and Hazardous Waste Branch  
Environmental Management Division  
Hawaii State Department of Health  
919 Ala Moana Blvd., Room 212  
Honolulu, Hawaii 96814  
Telephone: (808) 586-4226  
Telefax: (808) 586-7509

Kyle K. Ginoza, P.E., Director  
Department of Environmental Management  
County of Maui  
2200 Main Street, Suite 100  
Wailuku, Hawaii 96793  
Telephone: (808) 270-8230  
Telefax: (808) 270-8234

## **XI. AUTHORITY OF SIGNATORIES**

21. Each undersigned representative of a party to this Agreement certifies that he or she has full authority to enter into the terms of this Agreement and legally to bind the party which he or she represents.

## **XII. BINDING EFFECT**

22. The provisions of this Agreement shall apply to and be binding upon the parties to this action, their officers, agents, trustees, servants, employees, successors, assignees and attorneys. The RESPONDENT shall give notice of this Agreement to any successors in interest prior to transfer of ownership and to any contractor performing activities contemplated by this Agreement and shall submit a copy of each such notice to the DOH.

## **XIII. ENTIRE AGREEMENT**

23. This Agreement sets forth the entire agreement between the parties with respect to this matter.

## **XIV. EFFECTIVE DATE**

24. This Agreement shall become effective as soon as it has been signed by the parties.

## **XV. MODIFICATIONS**

25. This Agreement shall not be modified except in writing, signed by the parties.

## **XVI. TERMINATION**

26. The RESPONDENT must demonstrate to the DOH's satisfaction that the RESPONDENT has complied with all of the terms of this Agreement. Within thirty (30) working days after such a showing by the RESPONDENT, the DOH shall issue a letter to the RESPONDENT certifying satisfactory compliance, which shall terminate this Agreement.

## **XVII. EFFECT**

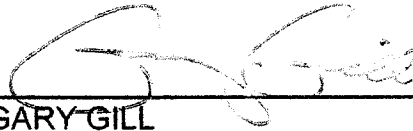
27. This Agreement constitutes final resolution of all disputed issues in this case.

**XVIII. COSTS**

28. Each party shall bear its own costs and attorneys' fees.

Dated: Honolulu, Hawaii 5/28/14.

DEPARTMENT OF HEALTH  
STATE OF HAWAII




GARY GILL  
Deputy Director for Environmental Health

COUNTY OF MAUI




ALAN M. ARAKAWA  
Mayor

APPROVED AS TO FORM:


  
\_\_\_\_\_  
KATHLEEN S.Y. HO  
Deputy Attorney General

APPROVAL RECOMMENDED:

COUNTY OF MAUI  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

  
\_\_\_\_\_  
KYLE K. GINOZA  
Director

APPROVED AS TO FORM  
AND LEGALITY:

  
\_\_\_\_\_  
RICHELLE M. THOMSON  
Deputy Corporation Counsel

IN THE DEPARTMENT OF HEALTH

STATE OF HAWAII

DEPARTMENT OF HEALTH, STATE OF HAWAII,	)	DOCKET NO. 13-SHW-SWS-002
	)	Central Maui Municipal Solid Waste
	)	Landfill
	)	
COMPLAINANT,	)	
	)	
	)	
vs.	)	
	)	
	)	
COUNTY OF MAUI	)	NOTICE AND FINDING OF
Department of Environmental Management	)	VIOLATION
2200 Main Street, Suite 175	)	
Wailuku, Hawaii 96793	)	
	)	
RESPONDENT	)	

---

NOTICE AND FINDING OF VIOLATION

A. INTRODUCTION

1. This is an administrative enforcement action instituted pursuant to §342H-7 of the Hawaii Revised Statutes ("HRS"), and the Department of Health's ("DOH's") Solid Waste Management Control Rules, Chapter 11-58.1, Hawaii Administrative Rules ("HAR"). Complainant is the DOH, Solid Waste Section ("SWS"). RESPONDENT is County of Maui, Department of Environmental Management ("RESPONDENT").
2. At all times pertinent hereto, RESPONDENT owned, operated, controlled, or managed a solid waste disposal facility at the Central Maui Municipal Solid Waste Landfill ("facility") located in Pulehu Road, Puunene, Maui.
3. The DOH issues this Notice and Finding of Violation and Order (NFVO), based on an inspection conducted on April 4, 2011, and submissions from the RESPONDENT.
4. On the basis of information obtained during the course of investigation, the SWS has determined that RESPONDENT has violated HRS 342H, HAR 11-58.1, and RESPONDENT's solid waste management permit, LF-0089-08.

B. **JURISDICTION**

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

6. RESPONDENT is a "person" as defined in HRS §342H-1.

7. At all relevant times pertinent hereto, RESPONDENT held a Solid Waste Management Permit ("permit"), Permit Number LF-0089-08, which was issued in November 2009 and expires on October 31, 2014.

C. **STATEMENT OF FACTS**

**COUNT I**

(Failure to maintain leachate compliance levels in Phase IV-A wet well for a period of three months)

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

9. Solid Waste Management Permit Number LF-0089-08, Special Condition, Section G, Item 4.b. provides:

*Leachate shall be removed from the landfill in a manner that maintains a maximum depth of 12-inches of leachate above any part of the liner in the leachate manhole for IV-A, ... The compliance level for the leachate manhole for IV-A is 210 feet above MSL (mean sea level)...*

10. On January 14, 2011, RESPONDENT notified the SWS by fax that the facility was in noncompliance with its solid waste permit due to significant amount of rainfall (over 4.5 inches) received at the landfill on January 10, 12 and 13, 2011.

11. On January 11, 2011, the RESPONDENT measured leachate levels in Phase IV-A wet well and Phase IV-B sump and the leachate was above the compliance level for both leachate systems.

12. On January 12 to 22, 2011, the RESPONDENT began hauling leachate to the Maui Wastewater Treatment Plant (MWWTP) and a total of 335,500 gallons of leachate was delivered to MWWTP.

13. On a follow-up written report to the SWS, dated April 18, 2011, RESPONDENT stated that on January 14, 2011, the RESPONDENT re-measured both leachate systems and the leachate levels in both, the Phase IV-A wet well and Phase IV-B sump, were at 218 feet above MSL.

14. In a letter dated January 21, 2011, the RESPONDENT estimated that 268,000 cubic feet of leachate must be removed to lower the leachate level on the liner to below one foot, and to be within compliance.

15. In a letter dated January 21, 2011, the RESPONDENT estimated that they could be back in compliance (below the one foot level of leachate on the liner system) within six weeks by hauling leachate to the MWWTP and by applying leachate to the daily working face without over saturating the workface area.

16. Based on the RESPONDENT's leachate logs for Phases IV-A, IV-B, and V, from January 12 to 22 and February 12, 2011, RESPONDENT transported 342,000 gallons of leachate to the MWWTP for disposal. Leachate logs provided by RESPONDENT from January to May 2011 shows that leachate was transported to MWWTP on the dates indicated above and no leachate was transported to the wastewater treatment plant after February 12, 2011.

17. From January 11, and periodically from January 17 to April 18, 2011, the RESPONDENT applied a total of 2,108,000 gallons of leachate at the workface in Phase V.

18. On April 4, 2011, a SWS Inspector visited the facility, requested copies of the leachate logs and learned that the leachate levels in Phase IV-A wet well still exceeded the compliance level by 3.90 feet (213.90 feet, MSL).

19. Based on leachate logs provided to the SWS inspector from April 11, 2011 to May 31, 2011, via fax and e-mails from the RESPONDENT, the head on the liner system exceeded the compliance level from January 11 to April 15, 2011, by six feet to three feet, with an average of about five feet over an approximate three-month period.

20. After three months of noncompliance with no follow-up written notification to the SWS on the progress of leachate removal, on April 18, 2011, the SWS received from the RESPONDENT, "Follow-Up written report for faxed notification of noncompliance at Central Maui Landfill (CML)." The notification indicated that CML had reached compliance with leachate levels for both the Phase IV-A wet well and Phase IV-B sump and aboveground tank farm. RESPONDENT's efforts to return to compliance with leachate levels were noted strong for the first two weeks of January, but then only restarted after the SWS inspection.

21. RESPONDENT failed to maintain leachate compliance levels in Phase IV-A wet well for a period of about three months (January 11 to April 15, 2011), which has resulted in violations of the facility's Solid Waste Management Permit Number LF-0089-08, Special Condition, Section G, Item 4b.

## **COUNT II**

(Failure to maintain leachate compliance levels in Phase IV-B sump  
for a period of three months)

22. Paragraphs 1 through 21 above are incorporated herein by this reference as if they were set forth here in their entirety.

23. Solid Waste Management Permit Number LF-0089-08, Special Condition, Section G, Item 4.b. provides:

*Leachate shall be removed from the landfill in a manner that maintains a maximum depth of 12-inches of leachate above any part of the liner in the leachate manhole for IV-A, and the cell outside the sump area in IV-B...The compliance level for leachate in the IV-B sump is 212 feet above MSL.*

24. Based on leachate logs provided to the SWS inspector from April 11, 2011 to May 31, 2011, via fax and e-mails by the RESPONDENT, the head on the liner system at the IV-B sump exceeded the compliance level from January 11 to April 12, 2011, by 4.5 feet to 1.37 feet, with an average of about three feet over an approximate three-month period.

25. According to Mike Kehano and leachate logs provided, Phase IV-B sump was manually operated during the storms and became automated sometime early April 2011. Leachate records provided by the RESPONDENT show that from January 19 to February 1, 2011, RESPONDENT manually operated the sump pump, stopped pumping from February 2 to 17, 2011 and averaged about three feet of leachate exceedance. On February 24, 2011, RESPONDENT re-started pumping leachate for one day and stopped pumping until April 7, 2011.

26. RESPONDENT failed to maintain leachate compliance levels in Phase IV-B sump for a period of about three months (January 11 to April 12, 2011), which has resulted in violations of the facility's Solid Waste Management Permit Number LF-0089-08, Special Condition, Section G, Item 4b.

### COUNT III

(Failure to monitor and record leachate levels before and after leachate pumping on a daily basis and after a storm event)

27. Paragraphs 1 through 26 above are incorporated herein by this reference as if they were set forth here in their entirety.

28. Solid Waste Management Permit Number LF-0089-08, Special Condition, Section G, Item 5. provides:

*If measured leachate levels exceed the levels specified in Special Conditions Section G, Item 4.b, leachate level monitoring shall be performed before and after leachate pumping on a daily basis until the level has remained within the allowable limit for a period of one week. All monitoring activities and measured levels shall be recorded and maintained by the permittee.*

29. Based on leachate logs provided to the SWS inspector from April 11, 2011 to May 31, 2011, via fax and e-mails by the RESPONDENT, the head on the liner system exceeded the compliance level from January 11 to April 15, 2011 in the Phase IV-A wet well and from January 11 to April 12, 2011 in the Phase IV-B sump.



measurements were not recorded before and after leachate pumping and were not measured on a daily basis as required by the facility's permit for a period of six (6) days during the month of January, sixteen (16) days for the month of February, nineteen (19) days for the month of March and seven (7) days for the month of April 2011 (48 days total).

31. For Phase IV-B, leachate level monitoring were not recorded before and after leachate pumping and were not measured on a daily basis for a period of ten (10) days for the month of January, (17) seventeen days for the month of February, twenty (20) days for the month of March, and five (5) days for the month of April 2011 (52 days total).

32. RESPONDENT failed to monitor and record leachate levels before and after leachate pumping and on a daily basis as specified in Special Conditions Section G, Item 5 for an average of fifty (50) days for both leachate systems, which has resulted in violations of the facility's Solid Waste Management Permit Number LF-0089-08, Special Condition, Section G, Item 5.

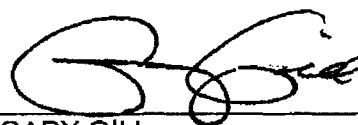
**D. FINDINGS**

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

33. RESPONDENT is therefore subject to the provisions of sections 342H-7 *Enforcement*, 342H-9 *Penalties*, 342H-10 *Administrative Penalties*, and 342H-11 *Injunctive Relief*, HRS, including penalties not to exceed ten thousand dollars (\$10,000) for each day of each violation.

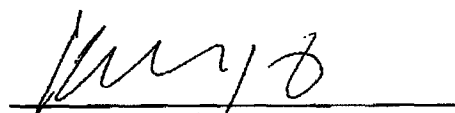
DATED: Honolulu, Hawaii 2/4/13

DEPARTMENT OF HEALTH  
STATE OF HAWAII



GARY GILL  
Deputy Director for Environmental Health

APPROVED AS TO FORM:

  
KATHLEEN HO  
Deputy Attorney General

IN THE DEPARTMENT OF HEALTH

STATE OF HAWAII

DEPARTMENT OF HEALTH, STATE OF HAWAII,	)	DOCKET NO. 13-SHW-SWS-002
	)	Central Maui Municipal Solid Waste
COMPLAINANT,	)	Landfill
	)	
	)	
vs.	)	
	)	ORDER
	)	
COUNTY OF MAUI	)	
Department of Environmental Management	)	
2200 Main Street, Suite 175	)	
Wailuku, Hawaii 96793	)	
	)	
RESPONDENT	)	

ORDER

Pursuant to Chapter 342H, Hawaii Revised Statutes (HRS), the Department of Health's (DOH's) Solid Waste Management Control rules, and the attached Notice and Finding of Violation made this day in Docket No. 12-SHW-SWS-008, County of Maui, Department of Environmental Management, hereinafter "RESPONDENT," is hereby ordered to:

1. Maintain the following records. The daily records shall be summarized with monthly, quarterly and annual totals. The records and copies of the records shall be made available to the DOH upon request.
  - a. Leachate management reports for Phase IV-A wet well and Phase IV-B sump that includes date and time measurements taken/data recorded, leachate head measurements, quantity of leachate removed/pumped, disposition of leachate, and name of individual, who conducted the measurement and data recording. If automated leachate measurements and pumping are used to comply with the requirements for leachate monitoring and management, then manual leachate level measurements shall be conducted at least monthly to validate automated readings.

b. Leachate management report for aboveground tank farm that includes daily leachate measurements before and after leachate pumping, volume of leachate pumped, date and time of leachate measurement and pumping, disposition of leachate, and name of individual conducting the measurements and data recording.

2. Send to the Director of Health, within ten (10) days after this Order becomes final, a certified check payable to the State of Hawaii in the amount of one hundred twenty-one thousand, nine hundred dollars (\$121,900.00).

The provision of this Notice and Finding of Violation and Order (NFVO) shall become final unless, within twenty (20) days after receipt, you submit a written request for a hearing, along with a copy of the NFVO to:

Hearings Officer  
c/o Director of Health  
Department of Health  
1250 Punchbowl St., Third Floor  
Honolulu, Hawaii 96813

Your written request for hearing, along with the NFVO, must be filed with the Hearings Office within the twenty (20) day period. You may file the hearing request in person at the Director's office, during regular business hours, or may mail the same to the above address within the allotted time. Failure to timely file the hearing request and related documents may result in a denial of your hearing request.

If a hearing is properly requested, a pre-hearing conference will be set by the Hearings Officer and you will be notified of the date, time, and place of the pre-hearing conference.

The hearing will be conducted in accordance with Chapter 91 of the HRS and Title 11, Chapter 1 of the Hawaii Administrative Rules. If you have special needs due to a disability and these needs will aid you in participating in the hearing or pre-hearing conference, please contact the Hearings Officer at (808) 586-4409 (voice) or through the Telecommunications Relay Service (711), at least ten (10) working days before the hearing or pre-hearing conference date.

At the hearing, parties may present relevant evidence and argument on the issues raised by this case. Parties may also examine and cross-examine witnesses and present exhibits.

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

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

The written request for a hearing, along with the related documents and pleadings in this case shall be directed to:

Hearing Officer  
c/o Director of Health  
Department of Health  
1250 Punchbowl Street, Third Floor  
Honolulu, Hawaii 96813

All other inquiries regarding this matter shall be directed to:

Steven Y.K Chang, P. E., Chief  
Solid and Hazardous Waste Branch  
Department of Health  
919 Ala Moana Boulevard, Room 212  
Honolulu, Hawaii 96814  
(808) 586-4226

DATED: Honolulu, Hawaii 2/4/13

DEPARTMENT OF HEALTH  
STATE OF HAWAII



GARY GILL  
Deputy Director for Environmental Health

APPROVED AS TO FORM:



KATHLEEN HO  
Deputy Attorney General

IN THE DEPARTMENT OF HEALTH  
STATE OF HAWAII

DEPARTMENT OF HEALTH, STATE OF HAWAII,  COMPLAINANT,  vs.  COUNTY OF MAUI, DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  RESPONDENT.	DOCKET NO. 13-SHW-SWS-003 Molokai Integrated Solid Waste Management Facility, County of Maui  SETTLEMENT AGREEMENT
--	--

**SETTLEMENT AGREEMENT**

This is a Settlement Agreement ("Agreement") between the Solid Waste Section (SWS), Department of Health, State of Hawaii (DOH), and the County of Maui, Department of Environmental Management (hereinafter referred to as "RESPONDENT"), to ensure settlement and agreement of payment in cash penalty in the sum of \$20,000.00.

**I. PRELIMINARY STATEMENT**

1. On April 11, 2011, COMPLAINANT, DOH, inspected the Molokai Integrated Solid Waste Management facility, which is owned, operated and controlled by the RESPONDENT. The inspection was conducted pursuant to DOH's authority under Hawaii Revised Statutes (HRS) section 342H-6. DOH's investigation included the review of documents provided by the RESPONDENT at the facility at the time of investigation.
2. On or about February 7, 2013, DOH issued a Notice of Finding and Violation and Order (incorporated herein as "NFV" and "Order") against RESPONDENT for operations at the Molokai Integrated Solid Waste Management facility, TMK 5-2-11:27 and 30 (referred to as the "facility"), wherein DOH alleged, and continues to allege, that RESPONDENT violated HRS chapters 342H, Hawaii Administrative Rules (HAR) chapter 58.1, and solid waste management permit, LF-0092-04. See NFV, Part C, "Statement of Facts."

3. Pursuant to HRS sections 342H-9 and 342H-10 and according to DOH's "Office of Solid Waste Management Draft Administrative and Civil Penalty Policy," DOH assessed a total penalty of \$20,955.00 against RESPONDENT. See Order.

4. DOH and RESPONDENT have agreed to conclude this enforcement action by entering into this Agreement.

## **II. ADMISSIONS AND WAIVERS OF RIGHTS**

5. RESPONDENT neither admits nor denies any allegations of fact or law set forth in the NFV. RESPONDENT hereby agrees to waive any rights RESPONDENT may have to a hearing on any issue relating to the factual allegations or legal conclusions set forth in the Complaint.

6. RESPONDENT admits and agrees that DOH has jurisdiction to enter into this Agreement and to enforce its terms. Further, RESPONDENT agrees that DOH has jurisdiction and authority to compel compliance with the terms and conditions of this Agreement in an enforcement proceeding, either administrative or judicial, or to impose reasonable sanctions for violations of this Agreement. RESPONDENT hereby consents to the issuance of this Agreement without adjudication.

## **III. PARTIES BOUND**

7. This Agreement shall apply to and be binding upon the DOH and RESPONDENT. The RESPONDENT agrees to carry out all actions required of the RESPONDENT by this Agreement. The signatories to this Agreement certify that they are authorized to execute and legally bind the parties they represent to this Agreement. The RESPONDENT shall give notice of this Agreement to any successors in interest prior to transfer of ownership and to any contractor performing activities contemplated by this Agreement and shall submit a copy of each such notice to the DOH. No change in ownership or corporate status of the RESPONDENT or of the site shall alter the RESPONDENT'S responsibilities under this Agreement without written consent by the DOH.

## **IV. RIGHTS RESERVED BY DOH**

8. DOH reserves the right to take actions consistent with any applicable law, against the responsible entities, and to exercise rights the director may have under any applicable law including recovering costs and taking enforcement actions.

## **V. PENALTY**

9. HRS Sections 342H-9 and 342H-10 authorize an administrative penalty of up to \$10,000 per day for each violation of any provision of Chapter 342H, any rule adopted thereunder, or any term or condition of a permit issued pursuant to Chapter 342H. For the violations described in Section I, RESPONDENT agreed to pay a cash penalty in

the sum of \$20,000.00 which shall be due within 90 days of the signing of this agreement.

10. The RESPONDENT shall pay the penalty as set forth in Section VII (Form of Payment).

#### **VI. STIPULATED PENALTIES**

11. Failure by the RESPONDENT to pay the penalty in section V (Penalty) above, unless excused pursuant to section VIII (Delays or Impediments to Compliance) herein, shall obligate the RESPONDENT to pay \$1,000 per day for each day that such failure continues.

12. The RESPONDENTS shall pay stipulated penalties within seven (7) days of demand as set forth in section VII (Form of Payment).

13. The provisions of this section shall not be construed to limit any other remedies, including but not limited to institution of proceedings for civil or criminal liability, available to DOH for violations of this Agreement or of any other provision of law.

#### **VII. FORM OF PAYMENT**

14. The penalty payable under sections V (Penalty) and VI (Stipulated Penalties) shall be paid by cashier's check, payable to the State of Hawaii, and shall be received at the DOH as set forth in section X (Notification).

#### **VIII. DELAYS OR IMPEDIMENTS TO COMPLIANCE**

15. The RESPONDENT shall notify the DOH orally, as soon as feasible, and in writing within ten (10) calendar days of any delay or anticipated delay which does or may affect compliance with the Agreement. The notice shall describe in detail the anticipated length of the delay, the precise cause(s) of the delay, the measures taken and to be taken by the RESPONDENT to prevent or minimize the delay, the timetable by which those measures will be implemented, and the expected effect on the environment of the delay. The RESPONDENT shall take all reasonable measures to avoid or minimize any such delay.

16. The burden of proving that any delay is caused by circumstances entirely beyond the control of the RESPONDENT shall rest with the RESPONDENT.

#### **IX. ENTRY AND INSPECTION**

17. Any authorized representative of the DOH, upon presentation of credentials, may enter upon the premises and/or inspect the records of the RESPONDENT at any time for the purpose of monitoring compliance with the provisions of this Agreement. This provision shall not be deemed to limit any authority the DOH otherwise has to enter and inspect.

## **X. NOTIFICATION**

18. Whenever, under the terms of this Agreement, a notice, report, or payment is required to be given by one party to another, such notice, report, or payment shall be directed to the individuals specified below, at the addresses given, unless a party gives notice in writing to the other party that another individual has been designated to receive such communications:

Steven Y.K. Chang, P.E., Chief  
Solid and Hazardous Waste Branch  
Environmental Management Division  
Hawaii State Department of Health  
919 Ala Moana Blvd., Room 212  
Honolulu, Hawaii 96814  
Telephone: (808) 586-4226  
Telefax: (808) 586-7509

Kyle K. Ginoza, P.E., Director of Environmental Management  
County of Maui  
2200 Main Street, Suite 100  
Wailuku, Hawaii 96793  
Telephone: (808) 270-8230  
Telefax: (808) 270-8234

## **XI. AUTHORITY OF SIGNATORIES**

19. Each undersigned representative of a party to this Agreement certifies that he or she has full authority to enter into the terms of this Agreement and legally to bind the party which he or she represents.

## **XII. BINDING EFFECT**

20. The provisions of this Agreement shall apply to and be binding upon the parties to this action, their officers, agents, trustees, servants, employees, successors, assignees and attorneys. The RESPONDENT shall give notice of this Agreement to any successors in interest prior to transfer of ownership and to any contractor performing activities contemplated by this Agreement and shall submit a copy of each such notice to the DOH.

## **XIII. ENTIRE AGREEMENT**

21. This Agreement sets forth the entire agreement between the parties with respect to this matter.



**XIV. EFFECTIVE DATE**

22. This Agreement shall become effective as soon as it has been signed by the parties.

**XV. MODIFICATIONS**

23. This Agreement shall not be modified except in writing, signed by the parties.

**XVI. TERMINATION**

24. The RESPONDENT must demonstrate to the DOH's satisfaction that the RESPONDENT has complied with all of the terms of this Agreement. Within thirty (30) working days after such a showing by the RESPONDENT, the DOH shall issue a letter to the RESPONDENT certifying satisfactory compliance, which shall terminate this Agreement.

**XVII. EFFECT**

25. This Agreement constitutes final resolution of all disputed issues in this case.

**XVIII. COSTS**

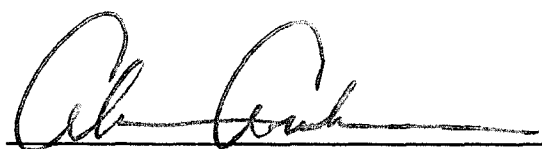
26. Each party shall bear its own costs and attorneys' fees.

Dated: Honolulu, Hawaii 5/20/14.

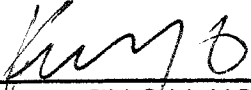
DEPARTMENT OF HEALTH  
STATE OF HAWAII

  
\_\_\_\_\_  
GARY GILL  
Deputy Director for Environmental Health

COUNTY OF MAUI

  
\_\_\_\_\_  
ALAN M. ARAKAWA  
Mayor

APPROVED AS TO FORM:



---

KATHLEEN S.Y. HO  
Deputy Attorney General

APPROVAL RECOMMENDED:

COUNTY OF MAUI  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT



---

KYLE K. GINOZA  
Director

APPROVED AS TO FORM  
& LEGALITY:



---

Richelle M. Thomson  
Deputy Corporation Counsel

IN THE DEPARTMENT OF HEALTH  
STATE OF HAWAII

DEPARTMENT OF HEALTH, STATE OF HAWAII,	)	DOCKET NO. 13-SHW-SWS-003
	)	Molokai Integrated Solid Waste
COMPLAINANT,	)	Management Facility
	)	
	)	
vs.	)	
	)	
	)	
COUNTY OF MAUI	)	NOTICE AND FINDING OF
Department of Environmental Management	)	VIOLATION
2200 Main Street, Suite 175	)	
Wailuku, Hawaii 96793	)	
	)	
RESPONDENT	)	

---

NOTICE AND FINDING OF VIOLATION

A. INTRODUCTION

1. This is an administrative enforcement action instituted pursuant to §342H-7 of the Hawaii Revised Statutes ("HRS"), and the Department of Health's ("DOH's") Solid Waste Management Control Rules, Chapter 11-58.1, Hawaii Administrative Rules ("HAR"). Complainant is the DOH, Solid Waste Section ("SWS"). RESPONDENT is County of Maui, Department of Environmental Management ("RESPONDENT").
2. At all times pertinent hereto, RESPONDENT owned, operated, controlled, or managed a solid waste disposal facility at the Molokai Integrated Solid Waste Management Facility ("facility") located in Naiwa, Molokai.
3. The DOH issues this Notice and Finding of Violation and Order, based on an inspection conducted on April 11, 2011, and submissions from the RESPONDENT.
4. On the basis of information obtained during the course of investigation, the SWS has determined that RESPONDENT has violated HRS 342H, HAR 11-58.1, and RESPONDENT's Solid Waste Management Permit, LF-0092-04.

B. JURISDICTION

5. HRS §342H-7 authorizes the DOH to issue orders assessing a penalty for any past or current violation of HRS Chapter 342H, the rules adopted thereunder, or any term or

condition of a permit issued pursuant to the chapter, and to require compliance immediately or within a specified time.

6. RESPONDENT is a "person" as defined in HRS §342H-1.

7. At all relevant times pertinent hereto, RESPONDENT held a Solid Waste Management Permit ("permit"), Permit Number LF-0092-04, which was modified on January 29, 2008.

8. A solid waste management permit renewal application was first submitted by County of Maui on July 24, 2009.

9. HRS §342H-4(e) states, "No applicant for a modification or renewal of a permit shall be held in violation of this chapter during the pendency of the applicant's application provided that the applicant acts consistently with the permit previously granted, the application and all plans, specifications, and other information submitted as a part thereof."

**C. STATEMENT OF FACTS**

**COUNT I**

(Failure to Minimize Free Litter Generation in the Landfill)

10. Paragraphs 1 through 9 above are incorporated herein by this reference as if they were set forth here in their entirety.

11. Solid Waste Management Permit Number LF-0092-04, Special Condition I, Section D, Item 18 provides:

***Litter Control.*** *The permittee shall provide measures to minimize free litter in the landfill and prevent its occurrence beyond the property line of the facility. During the course of the working day of operation, all windblown material shall be collected and be properly disposed. The measures, at a minimum, shall include:*

- a. *The use of portable litter screens which shall be deployed within 100 yards of the active workface.*
- b. *The use of permanent or semi-permanent litter screens or fences in primary and secondary control positions.*
- c. *Litter cleanup in the event of a major windstorm or other incident in which litter escapes the normal litter containment systems.*
- d. *Provisions for a truck clean-out area near the active workface that shall be maintained on a daily basis. The truck clean-out area shall have litter control fencing and disposal receptacles for truck clean-out.*
- e. *The collection of litter shall be quantified with the number of litter pickers and the number of bags of litter collected on a daily basis.*

12. The facility was opened to the public on Saturday, April 9, 2011 and was officially closed for business on Sunday, April 10 and Monday, April 11, 2011.

13. On April 11, 2011, the DOH inspector visited the facility and noted excessive scattered litter on the southeastern area of Phase 3, on the back of the sump riser and within the area of Phase 3 leachate sump and cell's slope.

14. On April 11, 2011, the DOH inspector noticed excessive flagging and litter on the south slope of Phase I Cell.

15. On November 17, 2011, the DOH received from the RESPONDENT a reply to the DOH Compliance Inspection Warning Letter, informing the DOH that corrective actions had been taken along with a photograph, dated November 10, 2011, showing that the RESPONDENT corrected the potential violation.

16. RESPONDENT failed to effectively implement its litter control program, due to excessive amount of scattered litter observed by the inspector throughout the landfill, which has resulted in violations of the facility's Solid Waste Management Permit Number LF-0092-04, Special Condition 1, Section D, Item 18.

#### COUNT II

(Failure to place daily cover on the southern top deck of Phase 1 and part of the active workface of the Molokai Solid Waste (MSW) landfill)

17. Paragraphs 1 through 16 above are incorporated herein by this reference as if they were set forth here in their entirety.

18. Solid Waste Management Permit Number LF-0092-04, Special Condition I, Section D, Item 14 provides:

*Daily Cover Material shall be a minimum of six inches of earthen material or an alternative in accordance with HAR 11-58.1-15(b), with no exposed waste. Aggregate size shall be less than 2.5 inches and well-graded (having the representation of all particle sizes less than the specified maximum)...*

19. On September 30, 2009, the facility submitted a request to use alternative daily cover in the form of a light weight tarp (50 feet by 50 feet) and the request was approved on January 25, 2010

20. On May 28, 2010, the facility submitted a notification to let the SWS know that the facility planned to start using the alternative daily cover at the landfill with an implementation date of July 1, 2010.

21. On February 25, 2011, the DOH received notification from the facility that they had completed the six-month demonstration program on the use of the tarp as an alternative daily cover. The tarp was utilized three times per week on Tuesday, Wednesday, Friday, and soil cover utilized on Thursday and Saturday to cover the workface at the end of the day. An evaluation report, submitted by the RESPONDENT, was received by the DOH-SWS on March 8, 2010 and dated February 25, 2011.

22. Based on photographs dated December 22 and December 29, 2010, provided in the RESPONDENT's evaluation report, dated February 25, 2011, the southern portion of Phase 1's top deck was exposed of solid waste.

23. On April 11, 2011, the DOH-SWS inspector observed the southern top deck of Phase 1 with a large volume of exposed waste.

24. The location of exposed waste (southern portion of Phase 1's top deck) identified in the December 2010 photos provided by the RESPONDENT, and observed during the April 11, 2011 inspection appears to be the same.

25. On November 17, 2011, the DOH received from the RESPONDENT a reply to the DOH Compliance Inspection Warning Letter, informing the DOH that corrective actions had been taken along with a photograph, dated November 10, 2011, showing that the RESPONDENT corrected the potential violation.

26. RESPONDENT failed to provide six (6) inches of daily soil cover at the end of the day on the aforementioned days and locations, in violation of the Solid Waste Management Permit Number LF-0092-04, Special Condition I, Section D, Item 14.

**D. FINDINGS**

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

27. RESPONDENT is therefore subject to the provisions of sections 342H-7 *Enforcement*, 342H-9 *Penalties*, 342H-10 *Administrative Penalties*, and 342H-11 *Injunctive Relief*, HRS, including penalties not to exceed ten thousand dollars (\$10,000) for each day of each violation.

DATED: Honolulu, Hawaii 2/4/13

DEPARTMENT OF HEALTH  
STATE OF HAWAII



GARY GILL  
Deputy Director for Environmental Health

APPROVED AS TO FORM:

\_\_\_\_\_  
KATHLEEN HO  
Deputy Attorney General

IN THE DEPARTMENT OF HEALTH  
STATE OF HAWAII

DEPARTMENT OF HEALTH,  
STATE OF HAWAII,

COMPLAINANT,

vs.

COUNTY OF MAUI  
Department of Environmental Management  
2200 Main Street, Suite 175  
Wailuku, Hawaii 96793

RESPONDENT

) DOCKET NO.13-SHW-SWS-003  
) Molokai Integrated Solid Waste  
) Management Facility

) (Solid waste management rules  
) and Permit Conditions)

) ORDER

ORDER

Pursuant to Chapter 342H, Hawaii Revised Statutes (HRS), the Department of Health's (DOH's) Solid Waste Management Control rules, and the attached Notice and Finding of Violation and Order (NFVO) made this day in Docket No. 13-SHW-SWS-003, County of Maui, Department of Environmental Management, hereinafter "RESPONDENT," is hereby ordered to:

1. Send to the Director of Health, within ten (10) days after this Order becomes final, a certified check payable to the State of Hawaii in the amount of twenty thousand nine hundred and fifty-five dollars (\$20,955.00).

The provision of this NFVO shall become final unless, within twenty (20) days after receipt, you submit a written request for a hearing, along with a copy of the NFVO to:

Hearing Officer  
c/o Director of Health  
Department of Health  
1250 Punchbowl St., Third Floor  
Honolulu, Hawaii 96813

Your written request for hearing, along with the NFVO, must be filed with the Hearings Office within the twenty (20) day period. You may file the hearing request in person at the Director's office, during regular business hours, or may mail the same to the above address within the allotted time. Failure to timely file the hearing request and related documents may result in a denial of your hearing request.

If a hearing is properly requested, a pre-hearing conference will be set by the Hearings Officer and you will be notified of the date, time, and place of the pre-hearing conference.

The hearing will be conducted in accordance with Chapter 91 of the HRS and Title 11, Chapter 1 of the Hawaii Administrative Rules. If you have special needs due to a disability and these needs will aid you in participating in the hearing or pre-hearing conference, please contact the Hearings Officer at (808) 586-4409 (voice) or through the Telecommunications Relay Service (711), at least ten (10) working days before the hearing or pre-hearing conference date.

At the hearing, parties may present relevant evidence and argument on the issues raised by this case. Parties may also examine and cross-examine witnesses and present exhibits.

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

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

The written request for a hearing, along with the related documents and pleadings in this case shall be directed to:

Hearings Officer  
c/o Director of Health  
Department of Health  
1250 Punchbowl Street, Third Floor  
Honolulu, Hawaii 96813



All other inquiries regarding this matter shall be directed to:

Steven Y.K Chang, P.E., Chief  
Solid and Hazardous Waste Branch  
Department of Health  
919 Ala Moana Boulevard, Room 212  
Honolulu, Hawaii 96814  
(808) 586-4226


DATED: Honolulu, Hawaii 2/4/13

DEPARTMENT OF HEALTH  
STATE OF HAWAII



GARY GILL  
Deputy Director for Environmental Health

APPROVED AS TO FORM:

  
KATHLEEN HO  
Deputy Attorney General