

COUNCIL OF THE COUNTY OF MAUI  
**COMMITTEE OF THE WHOLE**

November 6, 2009

**Committee  
Report No.** \_\_\_\_\_

Honorable Chair and Members  
of the County Council  
County of Maui  
Wailuku, Maui, Hawaii

Chair and Members:

Your Committee of the Whole, having met on October 15, 2009, makes reference to County Communication No. 09-14, from Michael J. Molina, Chair of your Committee, regarding litigation matters submitted by the Department of the Corporation Counsel.

By correspondence dated October 7, 2009, the Department of the Corporation Counsel requested consideration of the possible settlement of Department of Health, State of Hawaii vs. County of Maui; Docket Nos. 06-CW-EO-08, 06-CW-EO-15, and 06-CW-EO-16. Attached to the request is a proposed bill entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF HAWAII FOR THE SETTLEMENT OF ALLEGED VIOLATIONS AT THE MOLOKAI, LANAI, AND HANA LANDFILLS". The purpose of the proposed bill is to authorize the Mayor to enter into an intergovernmental agreement with the State Department of Health (DOH) for the settlement of alleged violations of environmental laws at the Molokai, Lanai, and Hana landfills.

A Deputy Corporation Counsel explained that at its site inspections of the Molokai, Lanai, and Hana landfills in 2006, the DOH alleged that the County discharged polluted storm water and caused polluted discharge at the Molokai and Lanai facilities. The DOH further alleged the County did not maintain adequate containment of used motor oil, storm water detention basins, and run-on diversion swales at the Hana facility. Moreover, the County improperly engaged in scrap vehicle processing activities at the Hana facility. On January 31, 2007, the DOH issued a Notice of Violation (Violation) for each facility, with a penalty of \$32,000 for the Molokai Violation; \$17,600 for the Lanai Violation; and \$12,700 for the Hana Violation.

The Deputy Corporation Counsel explained that, in some circumstances, the EPA will allow for the construction of a Supplemental Environmental Project (SEP), in lieu of, or to offset a portion of, a cash penalty. He said that, under the terms of the settlement agreement, the County is permitted to construct a SEP, in lieu of the payment of a \$62,000 penalty to the DOH. The SEP (a concrete pad, overhead structure, and fencing)

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will be constructed at the Molokai landfill to accommodate recycling of derelict vehicles and to prevent hazardous materials from running offsite and polluting the surrounding environment. Although the expense of the SEP will far exceed \$62,000, the SEP will provide an environmental benefit to the community. Under the terms of the settlement agreement, the SEP must be completed by December 31, 2010.

The Director of Environmental Management noted that the Department has corrected the violations cited by the DOH, and that the Molokai, Lanai, and Hana landfills are in compliance with environmental laws.

Your Committee voted 6-0 to recommend passage of the proposed bill on first reading. Committee Chair Molina, Vice-Chair Mateo, and members Kaho'ohalahala, Nishiki, Pontanilla, and Victorino voted "aye". Committee members Baisa, Johnson, and Medeiros were excused.

Your Committee of the Whole RECOMMENDS that Bill No. \_\_\_\_\_ (2009) entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF HAWAII FOR THE SETTLEMENT OF ALLEGED VIOLATIONS AT THE MOLOKAI, LANAI, AND HANA LANDFILLS" be PASSED ON FIRST READING and be ORDERED TO PRINT.

This report is submitted in accordance with Rule 7 of the Rules of the Council.

  
\_\_\_\_\_  
MICHAEL J. MOLINA, Chair

ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_ (2009)

A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR  
OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL  
AGREEMENT WITH THE STATE OF HAWAII FOR THE SETTLEMENT OF  
ALLEGED VIOLATIONS AT THE MOLOKAI, LANAI, AND HANA LANDFILLS

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Purpose. The State of Hawaii ("State") alleged violations regarding the Molokai, Lanai, and Hana Landfills pursuant to Notices and Findings of Violation and Orders ("NOVs") issued on or about January 31, 2007. The County of Maui ("County") disputed the allegations, and requested a contested case hearing. County and the State have agreed to enter into a negotiated settlement agreement instead of proceeding with a contested case hearing. To avoid incurring expenses and the uncertainty of an administrative hearing officer's determination of the parties' respective rights and liabilities, the Department of Environmental Management has reviewed the proposed Settlement Agreement, attached hereto as Exhibit "1" ("Agreement"), and agrees with the terms and conditions therein.


Section 2.20.020, Maui County Code ("MCC"), provides that, unless authorized by ordinance, the Mayor shall not enter into any intergovernmental agreement or any amendment thereto which places a financial obligation upon the County or any department or agency thereof.

Section 3.16.020(B), MCC, provides that any settlement in excess of \$7,500 shall require Council authorization.

SECTION 2. Authorization. The Council approves attempts to reach resolution of the Molokai, Lanai, and Hana Landfill NOV's by way of the Agreement, in substantial conformance with Exhibit "1", which includes payment of a penalty in an amount not to exceed SIXTY-TWO THOUSAND AND NO/100 DOLLARS (\$62,000.00). SIXTY-TWO THOUSAND AND NO/100 DOLLARS (\$62,000.00) of the penalty amount may be used to implement a Supplemental Environmental Project subject to certain conditions as set forth in the Agreement. In the event that County fails to meet the conditions and deadlines governing the Supplemental Environmental Project provided for in the Agreement, the County must pay the full penalty amount of SIXTY-TWO THOUSAND AND NO/100 DOLLARS (\$62,000.00). The Council hereby authorizes the Mayor to execute the Agreement, all other necessary documents relating to the Agreement, and any amendments thereto.

SECTION 3. Effective date. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:

  
\_\_\_\_\_  
DAVID A. GALAZIN  
Deputy Corporation Counsel  
County of Maui

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IN THE DEPARTMENT OF HEALTH

STATE OF HAWAII

DEPARTMENT OF HEALTH,	)	DOCKET NO. 06-CW-EO-08
STATE OF HAWAII,	)	DOCKET NO. 06-CW-EO-15
COMPLAINANT,	)	DOCKET NO. 06-CW-EO-16
	)	
vs.	)	
	)	
COUNTY OF MAUI,	)	Settlement Agreement
	)	
	)	
RESPONDENT.	)	
_____	)	

**SETTLEMENT AGREEMENT**

This is a Settlement Agreement ("Agreement") between the Department of Health, State of Hawaii (DOH), and the County of Maui (RESPONDENT), to resolve outstanding issues between DOH and Respondent with respect to Respondent's Molokai Integrated Solid Waste Management Facility (Molokai Facility), Hana Sanitary Landfill (Hana Facility), and Lanai Sanitary Landfill (Lanai Facility), all of which are operated and controlled by Respondent. The Department and Respondent are collectively referred to herein as the "Settling Parties."

The Settling Parties enter into this Settlement Agreement pursuant to Hawaii Revised Statutes ("HRS") Chapters 321, 322 and 342D and Hawaii Administrative Rules ("HAR") Chapters 11-54 (Water Quality Standards) and 11-55 (Water Pollution Control), intending to resolve disputes connected with the alleged discharge of water pollutants into State waters at the Respondent's Molokai and Lanai Facilities and various alleged permit violations at the Respondent's Hana Facility.

**I. PRELIMINARY STATEMENT**

**MOLOKAI FACILITY**

1. On or about January 27 and May 6, 2006, Complainant, DOH, inspected the Molokai Facility. DOH alleged that the Respondent had recently discharged polluted storm water to Manawainui Gulch from the Molokai Facility and violated its issued National Pollutant Discharge Elimination System (NPDES) Notice of General Permit Coverage (NGPC) by failing to maintain Best Management Practices including drainage swales, a detention basin and secondary containment for potential pollutants, causing polluted

discharges. DOH also alleged that the Respondent had violated its NGPC by failing to conduct storm water sampling or submit Discharge Monitoring Reports (DMRs) since 1999, and that the Respondent failed to make significant changes between March 15 and the Department's follow-up inspection on May 6, 2006.

2. As a result of the January 27 and May 6, 2006 inspections and information gathered thereafter, on or about January 31, 2007, DOH issued a Notice of Finding and Violation and Order (incorporated herein as "Molokai NOV" and "Molokai Order") against Respondent for operations at the Molokai Facility, Tax Map Key No. (2) 5-2-011:027 (por.), wherein DOH alleged, and continues to allege, that Respondent violated Hawaii Revised Statutes (HRS) section 342D-50(d), and Hawaii Administrative Rules (HAR) sections 11-55-03, 11-55, Appendix B, and 11-54-04. See, Molokai NOV.

3. Pursuant to HRS section 342D-30, DOH assessed a total penalty of \$32,000.00 against Respondent. See, Molokai Order.

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

#### LANAI FACILITY

5. On or about May 16, 2006, Complainant, DOH, inspected the Lanai Facility. DOH alleged that the Respondent had recently discharged polluted storm water to Kalamaiki Gulch from the Lanai Sanitary Landfill and violated its issued NGPC by failing to maintain Best Management Practices, including drainage swales, a detention basin and secondary containment for vehicle oil, causing a polluted discharge. DOH also alleged that the Respondent had violated its issued NGPC by failing to conduct storm water sampling or submit DMRs since 1999.

6. As a result of the May 16, 2006 inspection and information gathered thereafter, on or about January 31, 2007, DOH issued a Notice of Finding and Violation and Order (incorporated herein as "Lanai NOV" and "Lanai Order") against RESPONDENT for operations at the Lanai Sanitary Landfill, Tax Map Key No. (2) 4-9-002:001 (por.) (referred to as the "facility"), wherein DOH alleged, and continues to allege, that RESPONDENT violated HRS section 342D-50(d), and HAR sections 11-55-03, 11-55, Appendix B, and 11-54-04. See Lanai NOV.

7. Pursuant to HRS section 342D-30, DOH assessed a total penalty of \$17,600.00 against RESPONDENT. See Lanai Order.

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

## **HANA FACILITY**

9. On or about May 18, 2006, Complainant, DOH, inspected the Hana Facility. DOH alleged that the Respondent had violated its issued NGPC for the Hana Sanitary Landfill by failing to maintain Best Management Practices such as adequate containment for used oil, storm water detention basins, and run-on diversion swales that it had detailed in submittals to the Department. DOH alleged further that the Respondent failed to disclose the scrap vehicle processing activities that it was conducting at the Hana Sanitary Landfill in the Notice of Intent that it submitted to the Department. The Respondent also allegedly violated its issued NGPC by failing to conduct storm water sampling or submit DMRs since 1999.

10. As a result of the May 18, 2006 inspection and information gathered thereafter, on or about January 31, 2007, DOH issued a Notice of Finding and Violation and Order (incorporated herein as "Hana NOV" and "Hana Order") against Respondent for operations at the Hana Facility, Tax Map Key No. (2) 1-3-006:012 (por.), wherein DOH alleged, and continues to allege, that RESPONDENT violated HRS section 342D-50(d), and HAR sections 11-55-03, 11-55, Appendix B, and 11-54-04. See Hana NOV.

11. Pursuant to HRS section 342D-30, DOH assessed a total penalty of \$12,700.00 against Respondent. See Hana Order.

12. DOH and Respondent have agreed to conclude this enforcement action by entering into this Agreement.

## **II. AUTHORITY OF THE DEPARTMENT**

13. The Department is authorized to abate nuisances and to take enforcement actions and assess penalties of up to \$25,000.00 for each day of each violation of Hawaii Revised Statutes ("HRS") chapter 342D, or HAR chapters 11-54, Water Quality Standards, and 11-55, Water Pollution Control (collectively "Hawaii Clean Water Law"). See, HRS §§ 321-11, 322-1, 322-8, 342D-4, 342D-9, 342D-30, 342D-31, and 342D-50.

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

14. Respondent neither admits nor denies any allegations of fact or law set forth in the Molokai NOV, Hana NOV, and Lanai NOV (collectively "NOVs"). Pursuant to HRS §91-9(d), 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 Molokai NOV and Order, Hana NOV and Order, and Lanai NOV and Order (collectively "NOVs and Orders").

15. 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.

16. DOH and Respondent admit and agree that entering into this Settlement Agreement resolves all enforcement actions against Respondent brought by the Clean Water Branch of the Department of Health, State of Hawaii, for all violations alleged in the above-referenced NOV's and Orders against Respondent for operations at the Molokai Facility, Hana Facility, and Lanai Facility issued by DOH on or about January 31, 2007. DOH and Respondent admit and agree that the scope of this Settlement Agreement is limited solely to those violations specifically alleged in the above-referenced NOV's and Orders against Respondent for operations at the Molokai Facility, Hana Facility, and Lanai Facility. DOH and Respondent admit and agree that this Settlement Agreement does not preclude any DOH enforcement actions for matters that were not alleged in said NOV's and Orders.

#### **IV. PARTIES BOUND**

17. This Agreement shall apply to and be binding upon DOH and Respondent. Respondent agrees to carry out all actions required of 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. 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 DOH. No change in ownership or operation of the site shall alter Respondent's responsibilities under this Agreement without written consent by DOH.

#### **V. PAYMENTS AND CONSIDERATION FOR SETTLEMENT**

18. Supplemental Project. Respondent agrees to perform at its expense, by December 31, 2010, the Supplemental Environmental Project (SEP) described in Exhibit A, attached hereto and incorporated herein, in lieu of payment of a penalty valued as of the Effective Date of this Settlement Agreement at SIXTY-TWO THOUSAND DOLLARS (\$62,000.00). The Settling Parties agree that the SEP is intended to secure significant environmental benefits. The SEP may be replaced by an alternative SEP with the written agreement of both of the Settling Parties. The cost of an alternative SEP or SEPs shall not be less than the original SEP that it is replacing. For SEPs to meet the requirements of this Settlement Agreement, the following criteria must be met:

- a. Completion or implementation of the SEP(s) shall not be required under any state, local or federal law or regulation,
- b. The SEP(s) shall not be required by any other agreement to which the Respondent is a party,
- c. The Respondent shall not have made a decision to complete or implement the SEP(s) prior to July 1, 2008, and



d. The Respondent shall not receive any reimbursement in any way from any person for creditable SEP expenditures.

The Respondent shall submit a Final SEP Report in which the Respondent shall certify in writing under penalty of law that these criteria have been satisfied in full with respect to the SEP(s).

19. Cash Payment. If the Respondent does not perform a SEP by December 31, 2010, or spends on the SEP a total that is less than SIXTY-TWO THOUSAND DOLLARS (\$62,000.00) adjusted for present value, it shall pay the Department by cashier's check within forty-five (45) days of demand the amount needed to bring the total value up to \$62,000.00 adjusted for present value, to be delivered to the Department's address listed in section X (NOTIFICATION) below. All adjustments to SEP expenditure calculations to reflect present value of expenditures using the Effective Date of this Settlement Agreement as a base shall employ, at the Respondent's election, one of the following discount rates:

a. The average annual interest rate paid by the Respondent on bonds issued by the Respondent during the time period between the Effective Date of this Settlement Agreement and the SEP expenditure, or

b. The discount rate specified by the EPA PROJECT model.

If the Respondent elects to use the average annual interest rate on the bonds it paid as the discount rate, the Respondent shall calculate this average annual interest rate and submit this calculation with supporting documentation to the Department as set forth in section X (NOTIFICATION) below. If the Respondent elects to use the discount rate specified by the EPA PROJECT model, the Respondent shall obtain this rate in writing from EPA to the Respondent, calculate appropriate present value discounting, and submit this calculation with supporting documentation to the Department as set forth in section X (NOTIFICATION) below. The Respondent shall submit a Final SEP Report that sets forth in detail the Respondent's creditable SEP expenditures.

20. If Respondent is delayed or prevented from performing any corrective action required hereunder by reason of strikes, lock-outs, labor troubles, inability to procure materials, utilities, or services, governmental laws or regulations, riots, insurrection, war, weather conditions, or other reason of a like nature not the fault of Respondent, then Respondent SHALL notify DOH within twenty-four (24) hours of the time for performance of such act. If DOH agrees that Respondent is delayed or prevented from performing any corrective action as described in this paragraph, DOH may agree to extend the time to perform the obligations under this settlement agreement.

## **VI. RIGHTS RESERVED BY DOH**

21. The provisions of this Settlement Agreement shall not be construed to limit any other remedies, including but not limited to institution of proceedings for civil or criminal liability, available to the Department for non-compliance with any provision of law, other than the non-compliance events alleged in the NOV's and Orders.

22. By consenting to this Settlement Agreement, the Department is not warranting that the Respondent's compliance with this Settlement Agreement will constitute or result in

compliance with any applicable state, federal or local law or regulation. This Settlement Agreement is neither a permit nor a modification of existing permits under any applicable state, federal or local law or regulation and in no way affects or relieves Respondent's or any subsequent owner's responsibility to comply with all applicable state, federal or local laws or regulations.

23. Nothing in this Settlement Agreement shall be construed as a release or covenant not to sue for any claim or cause of action, administrative or judicial, past or future, in law or equity, which the Department may have against the Respondent for:

- a. Failure to comply with the terms of this Settlement Agreement; or
- b. Violations of any statute, law or regulation whatsoever.

24. This Settlement Agreement in no way affects or relieves the Respondent of any responsibility to comply in the future with any applicable federal, state, or local laws or regulations. Nothing in this Settlement Agreement shall be construed as prohibiting, altering, or in any way limiting the ability of the Department to seek any other remedies or sanctions otherwise available by virtue of the Respondent's violation of the requirements of this Settlement Agreement.

25. This Settlement Agreement in no way affects the authority of the Department or the Respondent to respond to an emergency as provided by law.

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

26. The cash payment, if applicable, payable under section V (PAYMENTS) shall be paid by check, payable to the State of Hawaii, and shall be received at DOH as set forth in section X (NOTIFICATION).

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

27. Respondent shall notify 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 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. Respondent shall take all reasonable measures to avoid or minimize any such delay.

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

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

29. Any authorized representative of DOH, upon presentation of valid credentials, may enter upon the premises and/or inspect the records of 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 DOH otherwise has to enter and inspect.

#### **X. NOTIFICATION**

30. 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:

Alec Wong, P.E.  
Chief, Clean Water Branch  
Hawaii State Department of Health  
919 Ala Moana Boulevard, Room 301  
Honolulu, Hawaii 96814  
Telephone: (808) 586-4309  
Telefax: (808) 586-4352

Cheryl K. Okuma, Director  
Department of Environmental Management  
County of Maui  
200 South High Street  
Wailuku, Hawaii 96793  
Telephone: (808) 270-8230  
Telefax: (808) 270-8243

#### **XI. AUTHORITY OF SIGNATORIES**

31. Each undersigned representative or 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**

32. 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. 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 DOH.

#### **XIII. ENTIRE AGREEMENT**

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

#### **XIV. PUBLIC NOTICE AND COMMENT**

34. As required by 40 C.F.R. § 123.27(d)(2)(iii), notice of this Settlement Agreement shall be published in *The Maui News*. The public comment period shall run for thirty (30) days from the last date of publication.

35. Respondent shall arrange and pay for publication of the notices contemplated above and shall provide affidavits of publication.

36. The Department reserves the right, in its sole discretion, to withdraw from this Settlement Agreement within ten (10) days after the end of the public comment period, and before this Settlement Agreement is executed, if comments received during the public comment period indicate that this Settlement Agreement is inappropriate, improper or inadequate. The Department also reserves the right, after withdrawing its consent, to attempt to renegotiate the settlement, to proceed to hearing, or take other action that the Department deems appropriate. In any such event, this Settlement Agreement shall not be admissible in any further hearing on this matter and is subject to Rule 408 of the Federal Rules of Evidence and the Hawaii Rules of Evidence. Within ten (10) days after the end of the public comment period, the Department shall notify Respondent of whether the Department withdraws its consent to this settlement.

#### **XV. EFFECTIVE DATE**

37. This Settlement Agreement shall become effective immediately upon the execution by both the Department and the Respondent after completion of a public comment period. The effective date ("Effective Date") shall be the date upon which the Department or the Respondent, whoever is later in time, executes this Settlement Agreement.

#### **XVI. MODIFICATIONS**

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

#### **XVII. TERMINATION**

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

#### **XVIII. EFFECT**

40. This Agreement constitutes final resolution of all disputed issues in these cases.

**XIX. COSTS**

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

**XX. SEVERABILITY OF UNLAWFUL PROVISIONS**

42. Should any provision of this Settlement Agreement be declared or be determined by any court to be illegal or invalid, the validity of the remaining parts, terms, or provisions shall not be affected thereby and said illegal or invalid part, term, or provision shall be deemed not to be a part of this Settlement Agreement.

**XXI. NO PARTY DEEMED DRAFTER**

43. This Settlement Agreement is a product of negotiation between the Settling Parties, and none of the Settling Parties shall be deemed to be the drafter of this Settlement Agreement. This Settlement Agreement or any provision herein shall not be construed or interpreted against any of the Settling Parties as the drafter.

**XXII. GOVERNING LAW**

44. This Settlement Agreement shall be subject to, governed by, construed and enforced in accordance with the laws of the State of Hawaii.

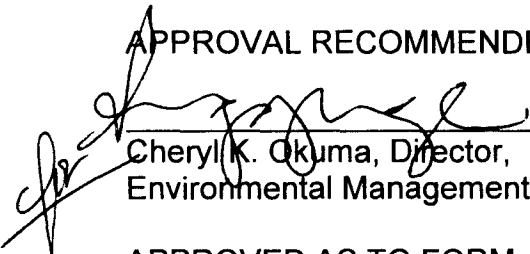
DEPARTMENT OF HEALTH  
STATE OF HAWAII

APPROVED AS TO FORM:

\_\_\_\_\_  
Edward G. Bohlen  
Deputy Attorney General

\_\_\_\_\_  
LAURENCE K. LAU  
Deputy Director for Environmental Health  
Dated: \_\_\_\_\_

APPROVAL RECOMMENDED:

  
\_\_\_\_\_  
Cheryl K. Okuma, Director,  
Environmental Management

COUNTY OF MAUI

APPROVED AS TO FORM  
AND LEGALITY:

  
\_\_\_\_\_  
DAVID A. GALAZIN  
Deputy Corporation Counsel

\_\_\_\_\_  
CHARMAINE TAVARES  
Mayor  
Dated: \_\_\_\_\_

## MOLOKAI SUPPLEMENTAL ENVIRONMENTAL PROJECT

As part of a Supplemental Environmental Project (SEP) agreed to by the Department of Health, State of Hawaii (DOH), and the County of Maui (RESPONDENT), Respondent will construct the following project at the Molokai Landfill:

### Scope of Project:

Respondent will construct a concrete pad and overhead structure to accommodate recycling of derelict vehicles. The purpose of the pad and overhead structure will be to prevent hazardous materials from running offsite and polluting the soil and surrounding environment. The project will also include constructing a perimeter fence and providing for a working surface of crushed compacted rock. The minimum cost for this project shall be \$62,000.00, subject to County Council appropriation.

### Information:

1. The installation of this structure was not part of the current or past Capital Improvement Project planning documents of Respondent's Department of Environmental Management, Solid Waste Division (SWD). SWD will be contracting with a consultant to develop a Molokai Landfill Master Plan within the next few months and would like to include the SEP as part of the Molokai Landfill Master Plan. This will insure that the structure is located and properly planned for based on the current and future development of the landfill.
2. Start of the construction of this project shall commence within 3 years from the date of the NOV. This will allow the SWD to obtain the required funding and to properly design and go to bid on the project. If construction is not started within this time frame, then the SWD will be required to pay the stipulated penalties to the DOH.
3. The structure will be used to insure that pollutants from the following types of material are not allowed to runoff site:

<b>Material</b>	<b>Estimated Quantity (year)</b>
Batteries	1000 ea
Motor Oil	650 gal
Propane tanks	500 ea
Tires	1000 ea

TT(7057.SWL)

EXHIBIT "A"