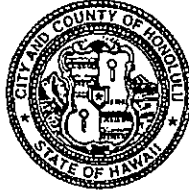


SB 202

DEPARTMENT OF ENVIRONMENTAL SERVICES
CITY AND COUNTY OF HONOLULU

1000 ULUOHIA STREET, SUITE 308, KAPOLEI, HAWAII 96707
TELEPHONE: (808) 768-3486 • FAX: (808) 768-3487 • WEBSITE: <http://envhonolulu.org>

PETER B. CARLISLE
MAYOR



TIMOTHY E. STEINBERGER, P.E.
DIRECTOR

MANUEL S. LANUEVO, P.E., LEED AP
DEPUTY DIRECTOR

ROSS S. TANIMOTO, P.E.
DEPUTY DIRECTOR

IN REPLY REFER TO:
PER 11-21

February 9, 2011

The Honorable Mike Gabbard, Chair
and Members of the Committee on
Energy and Environment
The Honorable Donovan M. Dela Cruz, Chair
and Members of the Committee on Water,
Land, and Housing
State Senate
State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chairs Gabbard and Dela Cruz and Members:

Subject: Senate Bill 202, Relating to Landfills

The City and County of Honolulu's Department of Environmental Services (ENV) opposes Senate Bill 202, Relating to Landfills, which proposes to amend Chapter 342H, HRS, to require public approval from residents within a one-mile radius for the permitting of a new landfill or the expansion of an existing landfill.

The bill provides any owner or lessee of real estate situated within one mile of the proposed landfill, person who resides within one mile of the proposed landfill, park manager of any park within one mile of the proposed landfill, and/or school principal of any school within one mile of the proposed landfill can protest the granting of a permit to build a new landfill or expand an existing landfill. Furthermore, if a majority of any one of the designated categories opposes the new landfill or expansion of the landfill, the permit application shall be denied.

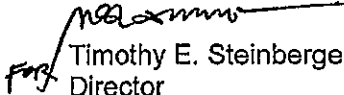
Siting a landfill is not a voting issue. If this bill were passed, there would most likely be no future landfills because no one wants a landfill in their backyard. However, a landfill is an integral part of the City and County of Honolulu's integrated solid waste management plan and is required to handle every City and County of Honolulu resident's waste. Consequently, landfill locations are selected because of the site's ability to meet certain defined criteria.

The Honorable Mike Gabbard, Chair
The Honorable Doovan M. Dela Cruz, Chair
February 9, 2011
Page 2

Landfills are not sited and excluded from siting for local benefit, but rather for the benefit of all the residents of a county.

For such reasons, the City and County of Honolulu strongly opposes Senate Bill 202.

Sincerely,


Timothy E. Steinberger, P.E.
Director

William P. Kenoi
Mayor



BJ Leithead Todd
Director

Margaret K. Masunaga
Deputy

County of Hawai'i

PLANNING DEPARTMENT

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720
Phone (808) 961-8288 • Fax (808) 961-8742

February 9, 2011

The Honorable Mike Gabbard, Chair,
and Members of the Committee on Energy and Environment
The Honorable Donovan M. Dela Cruz, Chair,
and Members of the Committee on Water Land and Housing
The Honorable Clayton Hee, Chair
and Members of the Committee on Judiciary and Labor
Hawai'i State Capitol
415 South Beretania Street
Honolulu, Hawai'i 96813

Dear Chair Gabbard, Chair Dela Cruz, Chair Hee and Committee Members:

**SUBJECT: Testimony in Opposition of Senate Bill 202, Relating to Landfills
Hearing: February 10, 2011, 4:30 p.m., Conference Room 225
BJ Leithead Todd, Director, Planning Department, County of Hawai'i**

Aloha, during my tenure with the County, I have served as a Deputy Corporation Counsel, was appointed as the Legislative Auditor, was elected four times to the County Council, and was also the Director for the Environmental Management Department prior to being appointed as the Planning Director. I also served on the Manoa Neighborhood Board.

It doesn't matter what hat you wear, whatever you put next door is almost always something that someone doesn't want in their backyard. When I served on the Manoa Neighborhood Board, virtually all of the residents next door to the proposed Ronald McDonald House opposed it being there. They even hired lawyers to make their case. If even the Ronald McDonald House can raise the ire of neighboring residents, you can imagine what the prospect of a landfill does. For that matter, if we were to put many public and private facilities up to a vote of residents within a mile of a proposed project such as a wastewater treatment plant, a freeway, a major highway, an airport, or a power plant, I can think of a multitude of projects that would never have been built and many future projects that would be in jeopardy.

The Honorable Mike Gabbard, Chair,
and Members for the Committee on Energy and Environment
The Honorable Donovan M. Dela Cruz, Chair,
and Members for the Committee on Water Land and Housing
The Honorable Clayton Hee, Chair
and Members of the Committee on Judiciary and Labor

Page 2

February 9, 2010

All of our counties struggle with solid waste issues. Siting and operation of landfills is a long arduous process that pits the needs of the many against the wishes and needs of those directly impacted by the proximity of a landfill. This is frequently the case with many capitol improvement projects. The reality is that there are very few suitable places to site either landfills or other municipal facilities. It takes years of planning, studies and public hearings to site and construct a landfill. Once sited and constructed, it represents a capitol investment of millions of dollars.

As long as we create solid waste, we will need to dispose of it. While you can reduce the amount of waste going to a landfill through waste to energy projects, recycling and other diversion programs, our society has not reached a point where we no longer need landfills. Over the years the County of Hawai'i has looked at many alternatives to landfills, including waste to energy, barging trash to the mainland, gasification, pyrolysis, plasma arc, aerobic and anaerobic digestion and either due to cost, or the state of existing technology, the county has come back to the realization that a new landfill, even in a city with a lot of rain, must remain an option. This bill would effectively undermine any chance of building a new landfill or expansion of our two existing landfills.

The County of Hawai'i Planning Department **opposes** SB 202 and respectfully asks that the bill be held in committee.

Thank you for the opportunity to submit testimony.

Sincerely,



BJ LEITHEAD TODD
Planning Director

BJLT:rl

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xc: William P. Kenoi, Mayor, County of Hawai'i
Mr. Kevin Dayton, Executive Assistant
Mr. Frank Demarco, Director, Environmental Management

GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

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TO: Senator Mike Gabbard
Chair, Committee on Energy & Environment
Senator Donovan M. Dela Cruz
Chair, Committee on Water, Land, and Housing
Via Email: ENETestimony@Capitol.hawaii.gov

FROM: Gary M. Slovin

DATE: February 9, 2011

RE: S.B. 202 – Relating to Landfills
Hearing: Thursday, February 10, 2011 at 4:30 p.m., Room 225

Dear Chairs Gabbard and Dela Cruz and Members of the Committees:

I am Gary Slovin, testifying on behalf of PVT Land Company (“PVT”), the construction and demolition landfill located in Nanakuli on Oahu.

PVT opposes S.B. 202, which requires public approval from residents within a 1-mile radius for the permitting of a new landfill or the expansion of an existing landfill.

This bill would lead to the closure of currently permitted landfills – it would require a public hearing for any “lateral expansion” of an existing landfill, which would include each cell within the landfill.

This measure would make the siting of landfills impossible, and it is inconsistent with both the City’s Landfill Siting process and with DOH rules to permit landfills (which already include the opportunity for public hearing and comment).

Closure of PVT’s C&D landfill would stop nearly all construction projects, including rail and transit-oriented development and shipyard maintenance. It would also prevent recycling for renewable energy.

In addition, this bill would have implications beyond closing landfills – it would also have the potential of shutting down and leaving the operations of HPOWER and AES

February 9, 2011
Page 2

with nowhere to dispose of the ash residue from these critical facilities, metals recycling with nowhere to dispose of auto fluff, and wastewater treatment plants with nowhere to dispose of sludge.

For the reasons stated above, we respectfully ask that you hold S.B. 202.



THE RESORT GROUP

**TO THE SENATE COMMITTEE ON ENERGY AND THE ENVIRONMENT;
AND
TO THE SENATE COMMITTEE ON WATER, LAND, AND HOUSING**

**TWENTY SIXTH LEGISLATURE
Regular Session of 2011**

**Testimony of Abbey S. Mayer, Vice President, Government Relations
THE RESORT GROUP**

In Support of SB 202, Relating to Landfills

Thursday, February 10, 2011 -- Room 225

Aloha Chair Gabbard, Chair Dela Cruz, Vice-Chair English, Vice-Chair Solomon and
Members of the Joint Committee,

BACKGROUND

The Honolulu-based The Resort Group (TRG) acquires, master develops, repositions and markets domestic and international mixed use and master-planned resort communities. Led by Jeffrey R. Stone, TRG's resort development projects are carefully designed to balance resident, visitor and employee needs with community interests, local cultural values and adjacent land use requirements. Current projects include Ko Olina Resort & Marina and Makaha Valley Country Club on O'ahu, Princeville at Hanalei (Kaua'i), Lands of Kapua (Big Island), the Newport Beach Hotel in California and Cape Eleuthra, Bahamas.

For over ten years, TRG and Ko Olina Resort & Marina have been vocal and active opponents of the continued citing and operation of a landfill at Waimanalo Gulch, which is located directly across Farrington Highway, mauka of Ko Olina Resort. We have made countless objections to WGSL, based on the risks to the safety, health and welfare of residents and guest of Ko Olina and the surrounding communities of West Oahu, as well as to the impacts to the environment, businesses and the economy of the region. These objections have included formal intervention in the permitting processes for WGSL and appeals of the adequacy of the City's latest EIS for the landfill expansion.

Often cited are the ongoing, day-to-day impacts of noise, dust, smells, wind-blown litter, increased traffic, and vibrations from blasting. Despite a long history of permit violations and fines – there have been approximately 20 violations cited by EPA and DOH and over \$3 million in fines assessed since 2005 -- the more catastrophic potential impacts from the failure of one of the landfill's toe-berms, cell liners or cell walls have largely been ignored.

Beginning in December, 2010 Ko Olina and the communities of West Oahu began realizing their worst fears about WGS. Landfill cell E6, located in the new 92-acre expansion area permitted in 2009, was constructed and put into operation *prior* to the completion of the drainage and stormwater runoff infrastructure necessary for the safe function of that cell. According to an Investigation Report written by the Department of Health (DOH) Clean Water Branch dated 12/23/2010, due to heavy rains on Dec. 19, 2010 storm water flowing down Waimanalo Gulch flooded cell E6. Pumping equipment connecting the flooded cell E6 directly to the storm drain system that discharges into State waters at the border of Ko Olina Resort were observed, photographed and documented.

Then on the night of January 12, 2011 more rains further flooded cell E6 and dislodged waste previously buried there. Mixed municipal solid waste (MSW), sludge from Oahu's wastewater treatment plants and medical wastes – which can contain what is termed medical solid waste, sharps, chemotherapy wastes and pathological wastes – were washed out of the cell and into the storm drain system connecting straight to the ocean.

By the morning of January 13, 2011 significant quantities of medical waste and other landfill debris was washing up in the Ko Olina Lagoons. Quickly this waste spread to beaches up the Leeward Coast and east as far as Nimitz Beach. DOH monitored the continuous pumping of the flooded cell directly into the Pacific Ocean for three days, until the U.S. Environmental Protection Agency (EPA) stepped in to cease the pumping of leachate into the ocean on January 16, 2011. Cleanup of the spill was ongoing and beaches at Ko Olina and up and down the Coast remained closed until Sunday, January 23, 2011 (assorted photos attached).

DISCUSSION

Compounding the disturbing nature of this catastrophe were public statements made by officials from both Waste Management (the landfill operator) and the City. Firstly, officials made numerous statements to the press, to the City Council and under oath to the State Land Use Commission (LUC) that the spill was “unavoidable” and could not be prevented. If this true, it would appear self-evident that the continued operation of WGS must cease immediately, as incidents as bad as this last one, or far worse, may too be unavoidable and strike us at any time in the future.

Secondly, in the midst of the cleanup and the assessment and repairs to WGS, City officials stated that they planned to submit further applications to the City Planning Commission and the State LUC for further time extensions on the permits. Business as usual would recommence. The City has failed to implement sufficient alternatives to landfilling and has failed to identify any alternative landfill sites, including emergency landfill sites required by State Civil Defense. And this failure has perpetuated the ongoing monopolization of MSW landfilling, at the great detriment to the safety of our environment, our economy, our tourism industry and of our residents, visitors, families and children.

I am the first to admit that the safe and efficient disposal of waste is an essential need of every society. There are municipalities, large and small, around the globe – San Francisco being a prime example -- that carry out effective waste management **without landfilling**. In this case, on Oahu, those charged with the responsibility of providing this service have failed us. WGSL is technically referred to as a ‘canyon fill’. It is a man-made mountain of opala built into a steep, natural watershed valley, being suspended against the constant push of gravity and the flow of an ephemeral stream. Be it rain, wind, earthquake, human error or negligence, or some combination of these factors, gravity will eventually again defeat human engineering. At risk is not only our resort, but Hawaii’s entire tourism industry, the health of our environment and of our people.

SB 202

SB 202 requires public approval from residents within a 1-mile radius for the permitting of a new landfill or the expansion of an existing landfill. Increased notice requirements are established for owners, lessees, condominium residents, park managers and school principals within a 1-mile radius of a landfill. If a majority of these individuals protest the approval of a landfill permit application, the application shall be denied.

TRG strongly supports this measure, as we feel this measure provides an avenue of effective participation for those citizens most directly impacted by landfills – those that reside within one mile. This method of participation is more direct than standard intervention currently allowed on certain permits, and is far more accessible to the average citizen.

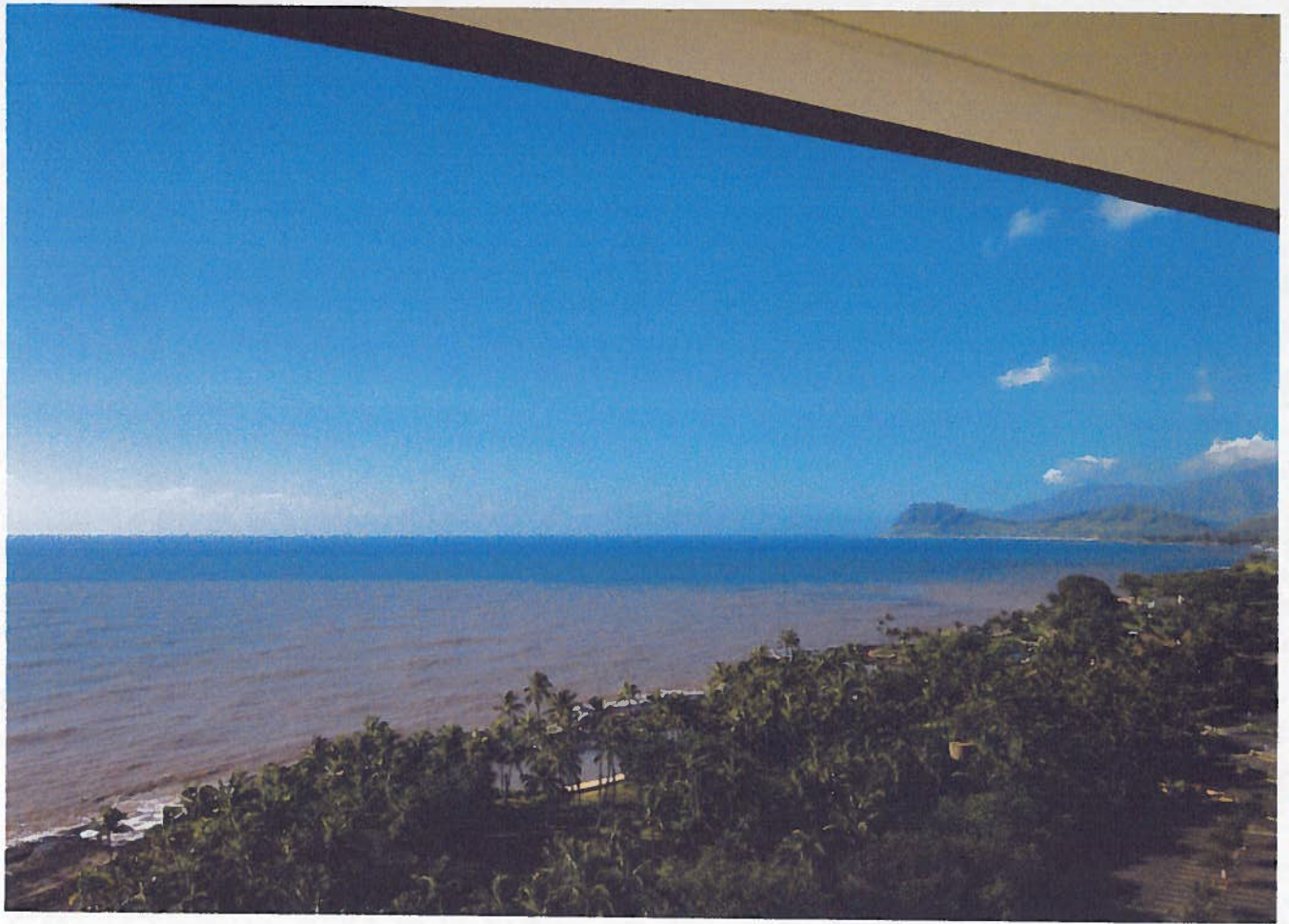
TRG respectfully requests that the scope of this legislation is expanded to also include permits for extension of time for the operation of landfills, rather than being limited to applications for new landfills or lateral expansions of existing landfills.

Thank you for your patience and for the opportunity to provide testimony.

Encl.























TESTIMONY OF CYNTHIA REZENTES
PROVIDING COMMENTS FOR SB 202
February 10, 2011

To: Chairs Mike Gabbard, Will Espero, and members of the Committee on Energy and Environment, and Committee on Public Safety, Government Operations, and Military Affairs

My name is Cynthia Rezentes and I am a resident of the Wai`anae Coast.

I believe that 100 percent of residents within one mile of a proposed new landfill or an expansion of an existing landfill should be sent notices regarding the proposal. Anything less could lead to questionable tactics if only certain people are notified and others not. After experiencing concerns and comments for the past number of years from residents within a neighborhood downwind of a construction and demolition landfill, I will tell you that anything less would not be acceptable.

Also, I would encourage you to consider allowing others to protest the new landfill or expansion, especially if they live within any area that will be affected by the landfill or expansion. An example of this concerns the traffic implications. If the trucks going to the landfill or expansion will traverse on a highway through a heavily residential area, even though more than a mile from the proposed expansion, I believe it is fair to allow them to protest also. I would recommend that you allow the current process of the Planning Commission or the Land Use Commission to either use their discretion as to who should be an "intervener" or allow everyone from the community (broadly construed) the ability to protest the proposal.

Thank you for the opportunity to provide comments on SB202.

Cynthia K.L. Rezentes
Wai`anae resident