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U.S. ENVIRONMENTAL PROTECTION AGENCY
REGIONAL OFFICE

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6

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

7

BEFORE THE ADMINISTRATOR

8

9 In the Matter of:

Docket No. CAA-09-2008- **00 37**

10 Waste Management of Hawaii, Inc.
92-460 Farrington Highway
11 Kapolei, Oahu, Hawaii 96707, and

CONSENT AGREEMENT AND FINAL
ORDER PURSUANT TO 40 C.F.R.
§§ 22.13 AND 22.18

12 County of Hawaii
25 Aupuni Street
13 Hilo, Hawaii 96720

14 Respondents,

15 Proceeding under Section 113 of
the Clean Air Act,
16 42 U.S.C. § 7413

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CONSENT AGREEMENT

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I. JURISDICTION AND AUTHORITY

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1. Pursuant to Section 113(d) of the Clean Air Act, 42 U.S.C. §§ 7401-7671q (“CAA” or

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“Act”) and 40 C.F.R. §§ 22.13(b) and 22.18(b) of the Consolidated Rules of Practice

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Governing the Administrative Assessment of Civil Penalties, the Director of the Air

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Division (“Complainant”), U.S. Environmental Protection Agency (“EPA”), Region 9, is

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simultaneously commencing and concluding this proceeding against Waste Management

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of Hawaii, Inc. (“WMH”) and the County of Hawaii (“CH”) (collectively,

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“Respondents”) through the filing of this Consent Agreement and Final Order Pursuant to

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40 C.F.R. §§ 22.13 and 22.18 (“CAFO”).

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2. Complainant is duly delegated the authority to file this action and sign a consent

- 1 agreement settling this action.
- 2 3. Section 113(d)(1) of the Act limits EPA’s authority to issue administrative complaints to
3 matters where the total penalty sought does not exceed \$270,000,¹ and the first alleged
4 date of violation occurred no more than 12 months prior to the initiation of the action,
5 unless EPA and the Attorney General for the U.S. Department of Justice (“DOJ”) jointly
6 determine that a matter involving a larger penalty or longer period of violation is
7 appropriate for administrative action. Because this CAFO contains alleged violations that
8 occurred more than 12 months ago, Complainant has obtained the required joint
9 determination from EPA Headquarters and DOJ.
- 10 4. This CAFO notifies Respondents of Complainant’s determination that Respondents have
11 violated Section 111 of the CAA and 40 C.F.R. §§ 60.757(b) and 60.757(c) at the West
12 Hawaii Sanitary Landfill (“West Hawaii Landfill”).

13 **II. STATUTORY AND REGULATORY AUTHORITY**

- 14 5. Pursuant to Section 111 of the Act, EPA promulgated the Standards of Performance for
15 Municipal Solid Waste Landfills (“NSPS Subpart WWW” or “Subpart WWW”), at 40
16 C.F.R. Part 60, Subpart WWW, §§ 60.750 – 60.759, effective March 12, 1996.
- 17 6. NSPS Subpart WWW applies to each municipal solid waste landfill (“MSW landfill” or
18 “landfill”) that commenced construction, reconstruction or modification on or after May
19 30, 1991.
- 20 7. Pursuant to NSPS Subpart WWW, each owner or operator of an MSW landfill having a
21 design capacity \geq 2.5 million megagrams (“mg”) and 2.5 million cubic meters (“m³”)
22 must calculate its nonmethane organic compounds (“NMOC”) emissions potential using
23 procedures specified in 40 C.F.R. § 60.754 and report the results to EPA on an annual
24 basis. *See* 40 C.F.R. §§ 60.752(b) and 60.757(b).
- 25 8. The annual NMOC emission rate report must include all the data, calculations, sample

26 _____
27 ¹ As adjusted for inflation under the Debt Collection Improvement Act and implementing
28 regulations at 40 C.F.R. Part 19.

1 reports and measurements used to estimate annual emissions. *See* 40 C.F.R.

2 § 60.757(b)(2).

3 9. If the calculated NMOC emissions \geq 50 mg/yr, the owner or operator must submit a gas
4 collection and control design plan (“design plan”) within 1 year, and install a gas
5 collection and control system (“GCCS”) within 30 months of the first report indicating
6 emissions \geq 50 mg NMOC/yr, unless the landfill performs site-specific Tier 2 or 3
7 measurements that show NMOC emissions $<$ 50 mg/yr. *See* 40 C.F.R. §§ 60.752(b) and
8 60.757(c).

9 10. If the calculated NMOC emissions \geq 50 mg/yr and the owner or operator elects to
10 perform Tier 2 NMOC sampling and analysis pursuant to 40 C.F.R. § 60.754(a)(3), a
11 revised NMOC emission rate report, with the recalculated emission rate, based on Tier 2
12 sampling and analysis, must be submitted to EPA within 180 days of the first calculated
13 exceedance of 50 mg/yr. *See* 40 C.F.R. § 60.757(c)(1).

14 11. On January 30, 2006, EPA delegated authority to implement and enforce NSPS Subpart
15 WWW to the State of Hawaii, Department of Health.

16 III. GENERAL ALLEGATIONS

17 12. At all times relevant to this CAFO, WMH was a “corporation,” incorporated under the
18 laws of Delaware, and CH was a “municipality,” and both were “person[s]” within the
19 meaning of Section 302 of the Act.

20 13. At all times relevant to this CAFO, WMH was the operator and CH was the owner of the
21 West Hawaii landfill, an MSW landfill located at 71-1111 Queen Kahumanu Hwy.,
22 Waikoloa, on the Island of Hawaii.

23 14. WMH commenced construction of the West Hawaii Landfill on or after May 30, 1991.

24 15. Beginning March 12, 1996, the West Hawaii Landfill became subject to NSPS Subpart
25 WWW.

26 16. On March 12, 1996, the West Hawaii Landfill had a design capacity that exceeded 2.5
27 million mg and 2.5 million m³.

28 17. On June 9, 1996, WMH submitted an Initial Design Capacity Report and Initial NMOC

1 Emission Rate Report (collectively, "Initial Report") for the West Hawaii Landfill to
2 EPA pursuant to 40 C.F.R. §§ 60.757(a)(1), 60.757(a)(2) and 60.757(b).

3 18. In the Initial Report for the West Hawaii Landfill, submitted by WMH to EPA on June 9,
4 1996, Tier 1 calculations indicated that the NMOC emission rate < 50 mg/yr.

5 19. By letter to EPA dated August 29, 2005, WMH voluntarily disclosed to EPA that WMH
6 failed to provide annual NMOC reports since 2001 and failed to perform a Tier 2 test of
7 NMOC emissions. After EPA review of WMH's disclosure, EPA concluded that it did
8 not satisfy the conditions of EPA's "Incentives for Self-Policing: Discovery, Disclosure,
9 Correction and Prevention of Violations," 65 *Fed. Reg.* 19618 (April 11, 2000).

10 20. EPA issued a Finding and Notice of Violation to Respondents dated April 4, 2006,
11 Docket Number R9-06-07 ("the NOV").

12 21. On April 18, 2006, WMH submitted to a Tier 2 Sampling and Analysis Report, and a
13 Fixed Gas Sampling and Analysis report.

14 **IV. SPECIFIC ALLEGATIONS**

15 22. WMH or CH was required to submit Annual NMOC Emission Rate Reports for 2001,
16 2002, 2003, 2004 and 2005 for the West Hawaii Landfill to EPA on an annual basis.

17 23. WMH and CH failed to timely submit Annual NMOC Emission Rate Reports for 2001,
18 2002, 2003, 2004 and 2005 for the West Hawaii Landfill to EPA on an annual basis.

19 24. The failure of WMH and CH to timely submit Annual NMOC Emission Rate Reports for
20 2001, 2002, 2003, 2004 and 2005 for the West Hawaii Landfill to EPA on an annual
21 basis constitutes five (5) violations of Section 111 of the Act and 40 C.F.R. §§ 60.757(b).

22 25. On August 8, 2005, WMH completed Tier 1 calculations for the West Hawaii Landfill
23 that revealed an NMOC emission rate \geq 50 mg/yr in 2002.

24 26. In April 2006, Tier 2 calculations revealed an NMOC emission rate for the West Hawaii
25 Landfill < 50 Mg/yr in 2002.

26 27. WMH and CH failed to submit a revised NMOC emission rate report based on Tier 2
27 sampling and analysis for the West Hawaii Landfill within 180 days of June 9, 2002, or
28 by December 9, 2002.

1 28. WMH and CH also failed to submit a design plan for the West Hawaii Landfill to EPA
2 with one year of June 9, 2002 or by June 9, 2003, and failed to install a GCCS within 30
3 months of June 9, 2002 or by December 9, 2004.

4 29. The failures of WMH and CH described in the preceding two paragraphs constitute a
5 violation of Section 111 of the Act and 40 C.F.R. § 60.757(c).

6 **V. RESPONDENTS' ADMISSIONS**

7 30. Without trial or litigation of the issues or any adjudication of the facts set forth in this
8 CAFO, Respondents (i) admit that EPA has jurisdiction over the subject matter of this
9 CAFO and over Respondents; (ii) admit the general allegations contained in Section III
10 of this CAFO; (iii) neither admit nor deny the specific allegations contained in Section IV
11 of this CAFO; (iv) consent to the terms of this CAFO, including the assessment of the
12 civil administrative penalty under Section VI and implementation of a Supplemental
13 Environmental Project ("SEP") under Section VII of this CAFO; (v) waive any right to
14 contest the allegations in this CAFO; and (vi) waive the right to appeal the proposed final
15 order contained in this CAFO.

16 **VI. PENALTY ASSESSMENT**

17 31. In settlement of the violations and facts alleged in Section IV of this CAFO, and in
18 consideration of the statutory penalty factors set forth in Section 113(e)(1) of the CAA,
19 embodied in EPA's Clean Air Act Stationary Source Civil Penalty Policy ("Penalty
20 Policy"), dated October 25, 1991, Respondents shall pay a civil administrative penalty of
21 thirty-three thousand five hundred dollars (\$33,500) within 30 calendar days after the
22 effective date of this CAFO. Payment shall be made by electronic fund transfer ("EFT")
23 or cashier's or certified check payable to the "Treasury, United States of America."

24 Payment by EFT shall be transferred to the following address:

25 Federal Reserve Bank of New York
26 ABA = 021030004
Account = 68010727
27 SWIFT address = FRNYUS33
33 Liberty Street
New York NY 10045
28 Field Tag 4200 of the Fedwire message should read,

1 "D 68010727 Environmental Protection Agency"

2 Payment by cashier's or certified check shall be sent by certified mail, return receipt
3 requested, to the following address:

4 US Environmental Protection Agency
5 Fines and Penalties
6 Cincinnati Finance Center
7 PO Box 979077
8 St. Louis, MO 63197-9000

9 The check shall note the case title and docket number. Concurrent with the delivery of
10 payment, Respondents shall send a copy of the transfer or check to the following
11 addresses:

12 Brian P. Riedel
13 Assistant Regional Counsel (ORC-2)
14 U.S. Environmental Protection Agency
15 Region 9
16 75 Hawthorne Street
17 San Francisco, CA 94105

18 Regional Hearing Clerk (ORC-1)
19 U.S. Environmental Protection Agency
20 Region 9
21 75 Hawthorne Street
22 San Francisco, CA 94105

23 32. Payment of the above civil administrative penalty shall not be used by WMH or any other
24 person as a tax deduction from WMH's federal, state, or local taxes.

25 **VII. SUPPLEMENTAL ENVIRONMENTAL PROJECT**

26 **A. General Description**

27 33. Respondents shall cause the completion of the following SEP, which the Parties agree is
28 intended to secure significant environmental or public health protection and
improvements, at the Kailua-Kona Landfill located approximately three miles north of
Kailua-Kona on the Island of Hawaii. Respondents shall cause the completion of the
work described in the attached SEP Workplan, dated March 14, 2008, within 16 months
of the filing date of this CAFO. The SEP Workplan describes the following work to be
completed at the Kailua-Kona Landfill: a) a screening investigation of landfill conditions,
and b) a demonstration of subsurface fire suppression using fire-retardant foam.

- 1 34. Respondents shall expend no less than \$184,400 for completion of the SEP in accordance
2 with the specifications set forth in the SEP Workplan. Respondents shall include
3 documentation of the expenditures made in connection with the SEP as part of the SEP
4 Completion Report.
- 5 35. Any expenditures made by WMH in implementing the SEP are, for purposes of federal
6 law, neither tax-deductible expenditures nor eligible to be added to the basis of assets or
7 property for depreciation purposes. WMH shall not use any expenditure associated with
8 this SEP to obtain favorable federal tax treatment.
- 9 36. Each Respondent hereby certifies that, as of date of this Consent Agreement, it is not
10 required to perform or develop the SEP by any federal, state or local law or regulation;
11 nor is it required to perform or develop the SEP by any other agreement, grant or as
12 injunctive relief in this or any other case. Each Respondent further certifies that it has not
13 received, and is not presently negotiating to receive, credit in any other enforcement
14 action for the SEP.
- 15 37. Any public statement, oral or written, in print, film, or other media, made by either
16 Respondent making reference to the SEP shall include the following language, "This
17 project was undertaken in connection with the settlement of an enforcement action taken
18 by the U.S. Environmental Protection Agency for violations of the Clean Air Act."

19 **B. SEP Completion Report**

- 20 38. One or both Respondents shall submit a SEP Completion Report to EPA within 60 days
21 after completion of the SEP required in this CAFO. Documentation required under this
22 Paragraph shall be submitted to the following address:

23 Brian P. Riedel
24 Assistant Regional Counsel (ORC-2)
25 U.S. Environmental Protection Agency
26 Region 9
27 75 Hawthorne Street
28 San Francisco, CA 94105

39. The SEP Completion Report shall contain the following information:
(i) A detailed description of the SEP as implemented;

- 1 (ii) A description of any operating problems encountered and the solutions thereto;
- 2 (iii) Itemized costs;
- 3 (iv) Certification that the SEP has been fully implemented pursuant to the provisions
- 4 of this CAFO; and
- 5 (v) A brief description of the environmental and public health benefits resulting from
- 6 the implementation of the SEP (with a quantification of the benefits and pollutant
- 7 reductions, to the extent feasible).

8 40. In the SEP Completion Report required by this CAFO, the Respondent or Respondents

9 submitting the report shall sign and certify that the information contained in the report is

10 true, accurate, and not misleading by signing the following statement:

11 I certify under penalty of law that I have examined and am familiar

12 with the information submitted in this document and all

13 attachments and that, based on my inquiry of those individuals

14 immediately responsible for obtaining the information, I believe

15 that the information is true, accurate, and complete.

16 **C. EPA Acceptance of SEP Completion Report**

- 17 41. After receiving the SEP Completion Report, EPA shall notify Respondents whether they
- 18 have satisfactorily completed the SEP. If EPA has identified any deficiencies in the SEP
- 19 Completion Report, EPA will notify the Respondents, in writing, regarding such
- 20 deficiencies along with a grant of an additional thirty (30) days for Respondents to
- 21 correct any such deficiencies.
- 22 42. EPA shall permit Respondents the opportunity to object in writing to the notification of
- 23 deficiency given pursuant to this Paragraph within ten (10) business days of receipt of
- 24 such notification. EPA and Respondents shall have an additional thirty (30) days from
- 25 the receipt by EPA of the notification of objection to reach agreement on changes
- 26 necessary to the SEP Completion Report and/or to the SEP, as appropriate. If agreement
- 27 cannot be reached on any such issue within this thirty (30) day period, EPA shall provide
- 28 a written statement of its decision on the adequacy of SEP Completion Report and/or SEP
- to Respondents, which decision shall be final and binding upon Respondents.
- Respondents agree to comply with any requirements imposed by EPA as a result of any

1 failure to comply with the terms of this CAFO. In the event the SEP Completion Report
2 and/or SEP are not completed as contemplated herein, as determined by EPA, stipulated
3 penalties shall be due and payable by Respondents to EPA in accordance with Section
4 VIII of this CAFO.

5 **VIII. STIPULATED PENALTIES**

6 43. In the event that the full assessed penalty required under Paragraph 31 is not postmarked
7 on or before its due date, Respondents shall immediately pay the full assessed penalty,
8 along with stipulated penalties in the amount of fifty thousand dollars (\$50,000)
9 immediately, plus interest and costs as allowed by law.

10 44. a. In the event that Respondents fail to comply with any of the terms or provisions of this
11 CAFO relating to the performance of the SEP and/or to the extent that actual
12 expenditures for the SEP do not equal or exceed the cost of the SEP described in
13 Paragraph 33 above, Respondents shall be liable for stipulated penalties according to the
14 provisions set forth below:

15 (i) Except as provided in subparagraph (ii) immediately below regarding a SEP
16 which has not been completed satisfactorily pursuant to this Consent Agreement,
17 Respondents shall pay a stipulated penalty to the United States in the amount of
18 \$100,000.

19 (ii) If the SEP is not completed in accordance with this Consent Agreement, but EPA
20 determines that the Respondents A) made good faith and timely efforts to
21 complete the project; and B) certify, with supporting documentation, that at least
22 90 percent of the amount of money which was required to be spent was expended
23 on the SEP, Respondents shall not be liable for any stipulated penalty with respect
24 to SEP implementation.

25 (iii) If the SEP is completed in accordance with this Consent Agreement, but
26 Respondents spent less than 90 percent of the amount of money required to be
27 spent for the project, Respondents shall pay a stipulated penalty to the United
28 States in the amount of \$20,000.

1 (iv) If the SEP is completed in accordance with this Consent Agreement, and
2 Respondents spent at least 90 percent of the amount of money required to be spent
3 for the project, Respondents shall not be liable for any stipulated penalty with
4 respect to SEP implementation.

5 (v) For failure to submit the SEP Completion Report required by Section VII.B. of
6 this Consent Agreement, Respondents shall pay a stipulated penalty in the amount
7 of \$1,000 for each day after the due date until the report is submitted.

8 b. The determinations of whether the SEP and/or SEP Completion Report have been
9 satisfactorily completed and whether Respondents has made a good faith, timely effort to
10 implement the SEP and/or SEP Completion Report shall be in the sole discretion of the
11 EPA.

12 c. Respondents shall pay stipulated penalties not more than fifteen (15) business days
13 after receipt of written demand by EPA for such penalties. Method of payment shall be in
14 accordance with the provisions of Paragraph 31 of this Consent Agreement. Interest and
15 late charges shall be paid as stated in Paragraph 46 of this Consent Agreement.

16 d. Subject to the provisions of Section IX (Effect of Settlement/Retention of Rights),
17 nothing in this CAFO shall be construed as prohibiting, altering or in any way limiting
18 the ability of EPA to seek any other remedies or sanctions available by virtue of
19 Respondents' violation of this Agreement or of the statutes and regulations upon which
20 this Agreement is based, or for the violation by either or both Respondent(s) of any
21 applicable provision of law.

22 45. Additionally, Respondents' failure to pay any of the penalty installments by its due date
23 may lead to any or all of the following actions:

24 a. The debt being referred to a credit reporting agency, a collection agency, or the
25 Department of Justice for filing of a collection action in the appropriate United States
26 District Court. 40 C.F.R. §§ 13.13, 13.14 and 13.33. In any such collection action, the
27 validity, amount, and appropriateness of the assessed penalty and of this CAFO shall not
28 be subject to review.

1 b. The debt being collected by administrative offset (*i.e.*, the withholding of money
2 payable to the United States to, or held by the United States for, a person to satisfy the
3 debt the person owes the Government), which includes, but is not limited to, referral to
4 the Internal Revenue Service for offset against income tax refunds. 40 C.F.R. Part 13,
5 Subparts C and H.

6 c. EPA may (i) suspend or revoke the licenses or other privileges of either or both
7 Respondent(s); (ii) suspend or disqualify either or both Respondent(s) from doing
8 business with EPA or engaging in programs EPA sponsors or funds; (iii) convert the
9 method of payment under a grant or contract from an advanced payment to a
10 reimbursement method; or (iv) revoke a grantee's or contractor's letter-of-credit. 40
11 C.F.R. §§ 13.14 and 13.17.

- 12 46. In accordance with the Debt Collection Act of 1982, 31 U.S.C. § 3717, and 40 C.F.R.
13 Part 13, interest, penalties charges, and administrative costs will be assessed against the
14 outstanding amount that Respondents' owe to EPA for Respondents' failure to pay in full
15 the civil penalty by its due date. Interest will be assessed at an annual rate that is equal to
16 the rate of current value of funds to the United States Treasury (*i.e.*, the Treasury tax and
17 loan account rate) as prescribed and published by the secretary of the Treasury in the
18 Federal Register and the Treasury Fiscal Requirements Manual Bulletins. 40 C.F.R.
19 § 13.11(a)(1). Penalty charges will be assessed monthly at a rate of 6% per annum. 40
20 C.F.R. § 13.11(c). Administrative costs for handling and collecting Respondent's
21 overdue debt will be based on either actual or average cost incurred, and will include both
22 direct and indirect costs. 40 C.F.R. § 13.11(b). In addition, if this matter is referred to
23 another department or agency (*e.g.*, the Department of Justice, the Internal Revenue
24 Service), that department or agency may assess its own administrative costs, in addition
25 to EPA's administrative costs, for handling and collecting Respondent's overdue debt.

26 **IX. EFFECT OF SETTLEMENT/RETENTION OF RIGHTS**

- 27 47. In accordance with 40 C.F.R. § 22.18(c), this CAFO only resolves Respondents' liability
28 for federal civil penalties for the violations and facts alleged in this CAFO. Nothing in

1 this CAFO is intended to or shall be construed to resolve (i) any civil liability for
2 violations of any provision of any federal, state, or local law, statute, regulation, rule,
3 ordinance, or permit not alleged in this CAFO; or (ii) any criminal liability. In addition to
4 any other authority, right, or remedy available to EPA, EPA reserves any and all
5 authorities, rights, and remedies available to it (including, but not limited to, injunctive or
6 other equitable relief or criminal sanctions) to address any violation of this CAFO or any
7 violation not alleged in this CAFO.

- 8 48. This CAFO does not exempt, relieve, modify, or affect in any way Respondents' duty to
9 comply with all applicable federal, state, and local laws, regulations, rules, ordinance, and
10 permits.

11 X. FORCE MAJEURE

- 12 49. If any event occurs which causes or may cause delays in the completion of the SEP as
13 required under this Consent Agreement, Respondents shall notify Complainant in writing
14 not more than 10 days after the delay or Respondents' knowledge of the anticipated
15 delay, whichever is earlier. The notice shall describe in detail the anticipated length of
16 the delay, the precise cause or causes of the delay, the measures taken and to be taken by
17 Respondents to prevent or minimize the delay, and the timetable by which those
18 measures will be implemented. The Respondents shall adopt all reasonable measures to
19 avoid or minimize any such delay. Failure by Respondents to comply with the notice
20 requirements of this paragraph shall render this paragraph void and no effect as to the
21 particular incident involved and constitute a waiver of the Respondents' right to request
22 an extension of its obligation under this Consent Agreement based on such incident.
- 23 50. If the parties agree that the delay or anticipated delay in compliance with this Consent
24 Agreement has been or will be caused by circumstances entirely beyond the control of
25 Respondents, the time for performance hereunder may be extended for a period no longer
26 than the delay resulting from such circumstances. In such event, the parties shall
27 stipulate to such extension of time.
- 28 51. In the event that the EPA does not agree that a delay in achieving compliance with the

1 requirements of this CAFO has been or will be caused by circumstances beyond the
2 control of the Respondents, EPA will notify Respondents in writing of its decision and
3 any delays in the completion of the SEP shall not be excused.

4 52. The burden of proving that any delay is caused by circumstances entirely beyond the
5 control of the Respondents shall rest with the Respondents. Increased costs or expenses
6 associated with the implementation of the actions called for by this Consent Agreement
7 shall not, in any event, be a basis for changes in this Consent Agreement or extensions of
8 time under Paragraph 50 of this CAFO. Delay in achievement of one interim step shall
9 not necessarily justify or excuse delay in achievement of subsequent steps.

10 **XI. ATTORNEYS' FEES AND COSTS**

11 53. Each party shall bear its own attorney's fees, costs, and disbursements incurred in this
12 proceeding, except as provided for elsewhere in this Consent Agreement.

13 **XII. EFFECTIVE DATE**

14 54. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CAFO shall be effective
15 on the date that the Final Order contained in this CAFO, having been approved and
16 issued by either the Regional Judicial Officer or Regional Administrator, is filed.

17 **XIII. BINDING EFFECT**

18 55. The undersigned representative of Complainant and the undersigned representatives of
19 each Respondents each certify that he or she is fully authorized to enter into the terms and
20 conditions of this CAFO and to bind the party he or she represents to this CAFO.

21 56. The provisions of this CAFO shall apply to and be binding upon Respondents and each of
22 its officers, directors, employees, agents, trustees, servants, authorized representatives,
23 successors, and assigns.

24 **XIV. MISCELLANEOUS**

25 57. In any future enforcement action, any violation alleged in this CAFO may be considered
26 a "prior violation," as that term is used in the Penalty Policy.

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FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 9:

Date: 9/26/2008

M. Waldon for
DEBORAH JORDAN
Director, Air Division
U.S. Environmental Protection Agency,
Region 9
75 Hawthorne Street
San Francisco, California 94105

FOR WASTE MANAGEMENT OF HAWAII, INC.

Date: 9/2/2008

Robert Longo
Name: ROBERT LONGO
Title: VICE PRESIDENT ; ASSISTANT SECRETARY

FOR THE COUNTY OF HAWAII

Date: / / 2008

[Signature]
Name: _____
Title: _____

APPROVED AS TO
FORM AND LEGALITY:

[Signature]
DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII
Date 9/22/08

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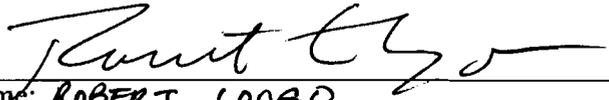
FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 9:

Date: / /2008

DEBORAH JORDAN
Director, Air Division
U.S. Environmental Protection Agency,
Region 9
75 Hawthorne Street
San Francisco, California 94105

FOR WASTE MANAGEMENT OF HAWAII, INC.

Date: 9/2/2008



Name: ROBERT LONGO
Title: VICE PRESIDENT ; ASSISTANT SECRETARY

FOR THE COUNTY OF HAWAII

Date: / /2008



Name: DIXIE KAETSU
Title: ACTING MAYOR

APPROVED AS TO
FORM AND LEGALITY:



DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII
Date: 9/22/08

FINAL ORDER

EPA Region 9, Waste Management of Hawaii, Inc., and the County of Hawaii,
having entered into the foregoing Consent Agreement,

IT IS HEREBY ORDERED that this Consent Agreement and Final Order
Pursuant to 40 C.F.R. §§ 22.13 and 22.18 (Docket No. CAA-09-2008-0037) be entered, and
Respondents shall pay a civil administrative penalty and cause completion of the Supplement
Environmental Project in accordance with the terms set forth in the Consent Agreement.

Date: 10/29/2008


Steven L. Jawgiel
Regional Judicial Officer
United States Environmental
Protection Agency, Region IX
75 Hawthorne Street
San Francisco, California 94105-3143

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3 **CERTIFICATE OF SERVICE**

4 I certify that the original of the foregoing Consent Agreement and Final Order Pursuant to 40
5 C.F.R. §§ 22.13 and 22.18, Docket No. CAA-09-2008-⁰⁰³⁷, was placed in the United States Mail,
6 certified mail, return receipt requested, addressed to the following persons authorized to receive
7 service of process in this matter:

8
9 Mr. Andrew M. Kenefick
10 Senior Legal Counsel
11 Waste Management
12 Western Group Legal Department
13 801 2nd Avenue, Suite 614
14 Seattle, WA 98104

15 Mr. Ivan Torigoe, Esq.
16 County of Hawai'i
17 Office of the Corporation Counsel
18 101 Aupuni Street, Suite 325
19 Hilo, Hawai'i 96720

20 Certified Return Receipt No. 7006 2150 0001 4941 1973

21 Date: ^{SEP} 29 / 2008

By:



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