



February 9, 2016

LAND USE COMMISSION
STATE OF HAWAII

2016 FEB -9 A 11:19

Via Hand Delivery

Daniel E. Orodener
Executive Officer
State of Hawai'i Land Use Commission
Department of Business, Economic Development & Tourism
State Office Tower
Leiopapa A Kamehameha Building
235 South Beretania Street, Room 406
Honolulu, Hawaii 96813

Re: Annual Compliance Report for Special Use Permit - Docket No. SP15-405 Waipio PV, LLC

Dear Mr. Orodener,

Pursuant to Condition No. 6 in the Land Use Commission's Order in Docket No. SP15-405, transmitted herewith is an annual compliance report for the Waipio PV, LLC project.

The project is making progress against key milestones and is in compliance with the conditions set forth in Land Use Commission's Order, effective March 25, 2015.

Please feel free to contact us regarding any questions on the project at ndoss@sunedison.com or phone 808 695 3335.

Best regards,

A handwritten signature in dark ink, appearing to be "ND", written over a light blue horizontal line.

Nicola Doss
Senior Manager, Project Development
SunEdison

Annual Compliance Report

In the Matter of:

Special Use Permit for 47-Megawatt Photovoltaic
(PV) Energy Generation Facility Waipio PV, LLC

LAND USE COMMISSION
STATE OF HAWAII

2016 FEB -9 A 11:19



Prepared by:

Waipio PV, LLC (owned by SunEdison)
December 2015

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1.0 Introduction

This Annual Compliance Report has been prepared in compliance with Condition No. 6 of the State Land Use Commission's Decision and Order, Special Use Permit, Docket No. SP15-405, effective on March 25, 2015 (the "Special Use Permit" or "SUP").

This is the first annual report by Waipio PV, LLC ("Waipio PV") demonstrates the status of compliance of the Solar Energy Facilities ("SEF") with the conditions of the SUP. This report covers the period from March 25, 2015 through December 31, 2015.

2.0 Annual Compliance Report on Conditions of Special Use Permit

2.1 SUP Condition #1

Usable lands of the Petition Area, including areas under PV panels, shall be made available for compatible agricultural use at a lease rate that is at least 50 percent below the fair market rent for comparable properties, as long as the Project is in operation. Compatible agricultural operations shall be established, or Applicant shall be actively seeking to have such operations established, within one year of the start of commercial power generation. Extensions to this deadline may be granted by the Director of the DPP for unforeseen extenuating circumstances.

2.1.1 Waipio PV LLC Response SUP Condition #1

Waipio PV will make available the area under the PV panels for compatible agricultural uses and executed a Letter of Intent to license the property at below 50 percent fair market rent for pasture of sheep. This Letter of Intent was included as part of the approved Application. Waipio PV intends to execute a License Agreement with Tin Roof Ranch closer to the date when the compatible agricultural operation would commence, no later than a year after the solar project has been constructed and is operational, which is targeted for December 31, 2016.

2.2 SUP Condition #2

The Applicant shall submit for review and obtain the approval of the following from the Director of the DPP, prior to the issuance of a grading or building permit:

- a. A survey map accompanied by a metes and bounds description of the approved Petition Area.*
- b. A site plan showing the area required under Condition 1, above, relating to the minimum land area to be made available for compatible agricultural use.*

2.2.1 Waipio PV LLC Response SUP Condition #2

Waipio PV has complied with both portions of SUP Condition #2.

- a. A survey map with metes and bounds description of the approved Petition Area was submitted to the Director of the DPP for review and approval (Appendix 1).
- b. A site plan showing the area required under Condition #1 relating to the minimum land area to be made available for compatible agricultural uses was submitted to the Director of the DPP for review and approval (Appendix 2).

See Appendix 3 for a copy of the letter of approval from the Director of DPP related to both components of SUP Condition #2. Grading and building permits have been issued, subsequent to these approvals.

2.3 SUP Condition #3

Within one year of the completion of construction or prior to the closing of the building permit for the solar energy facility, the Applicant shall submit to the DPP proof of financial security, such as a posted letter of credit or similar mechanism from a creditworthy financial institution, in favor of the owner of the land subject to the SP, in the amount of four million dollars (\$4,000,000.00), which security shall remain in place for the duration of the operation of the Project, with evidence of same provided to the Director of the DPP on an annual basis, to decommission the Project and restore the Petition Area to substantially the same physical condition as existed prior to the development of the SEF.

The Applicant shall decommission the SEF within twelve (12) months following the termination of operation of the SEF, with the exception of the HECO switchyard, which may remain within the Petition Area after termination of the SP. A change in Project ownership or a change of ownership of the land subject to the SP, which warrants a new proof of financial security to decommission the Project, shall be submitted to the DPP for processing through the Planning Commission, within three months of the ownership change.

2.3.1 Waipio PV LLC Response SUP Condition #3

Decommissioning security of \$4,000,000 will be posted for the purpose of meeting SUP Condition #3 and ensuring funds available to decommission the SEF within 12 months following termination of operations. These funds will be put in place at completion of construction of the project and prior to closing the building permit for the project which is targeted for December 31, 2016.

2.4 SUP Condition #4

As needed, the Applicant shall work with the U.S. Fish & Wildlife Service regarding the protection of endangered or migratory bird activity at the Petition Area.

2.4.1 Waipio PV LLC Response SUP Condition #4

Waipio PV has held discussions with the U.S. Fish & Wildlife Service in order to ensure the protection of endangered or migratory bird activity at the Petition Area. No species of concern have been identified or any impacts expected from the SEF. Regular observations of the project will take place and any injured or downed listed wildlife be reported to the appropriate agencies.

2.5 SUP Condition #5

The Applicant shall establish the Project within two years of the date of the State Land Use Commission's (LUC) Decision and Order approving the SP. Requests for extension of this deadline shall be submitted to the Director of the DPP prior to the expiration of the deadline. The Commission may grant an extension to the deadline to establish the Project due to unforeseen circumstances that were beyond the control of the Applicant. This SP shall be valid for a period of thirty-five (35) years from the date of the State LUC's Decision and Order approving the SP, subject to further extensions upon a timely request for extension filed with the Commission at least one-hundred twenty (120) days prior to the SP's expiration.

2.5.1 Waipio PV LLC Response SUP Condition #5

Waipio PV is expected to commence operation by December 31, 2016. The effective date of the SUP is March 25, 2015 which allows until March 25, 2017 to establish the project operations.

The Power Purchase Agreement with Hawaiian Electric extends 22 years with the ability to extend up to 27 years with a Banked Curtailed Energy Term. In no event shall the project extend beyond 35 years from approval to decommissioning.

2.6 SUP Condition #6

On or before December 31 of each year that the Special Permit is in effect, the Applicant or its successor shall file an annual report to the Land Use Commission, the State Office of Planning, and the DPP that demonstrates the Applicant's compliance with conditions of the SP.

2.6.1 Waipio PV LLC Response SUP Condition #6

This first annual report constitutes compliance with SUP Condition #6. Going forward, Waipio PV will be more timely in the filing of our annual compliance report and ensure the report is submitted prior to the December 31st due date each year for review by the Land Use Commission, State Office and Planning and the DPP.

2.7 SUP Condition #7

Major modifications to:

- (1) the Project plans, including but not limited to significant increases in the number of PV panels;*
- (2) amendments to the conditions of approval;*
- (3) significant expansions of the approved area; or*
- (4) changes in uses stated herein, shall be subject to the review and approval of the Planning Commission and the Land Use Commission.*

Minor modifications including minor additions to accessory uses and structures, and new incidental uses and structures in the approved area are subject to review and approval by the Director of the DPP.

2.7.1 Waipio PV LLC Response SUP Condition #7

Waipio PV confirms that there have been no major modifications as described in 1-4 of SUP Condition #7, nor are any major modifications anticipated. The project has not increased the number of PV panels, has not amended the conditions of approval under the Condition Use Permit, has not expanded the approved area boundary, and has not modified the use of the property.

2.8 SUP Condition #8

The Applicant and/or landowner shall notify the Director of DPP of:

- a. Any change or transfer of licensee on the property;*
- b. Any change in uses on the property;*
- c. Termination of any uses on the property; and/or*
- d. Transfer in ownership of the property.*

The Planning Commission, in consultation with the Director of the DPP, shall determine the disposition of this Special Permit, and the facilities permitted herein.

2.8.1 Waipio PV LLC Response SUP Condition #8

Waipio PV has not changed or transferred licensee of the property, has not changed any uses on the property, has not terminated any uses of the property and has not transferred ownership of the property.

A Purchase & Sale Agreement has been executed with D.E. Shaw Group, Madison Dearborn Capital Partners IV LP and Northwestern University, which anticipates future potential sale to the parties of the Waipio PV project by SunEdison. However, the sale has not yet taken place and constitutes a financing of the project only. SunEdison will likely remain the management entity performing operations and maintenance of the asset. SunEdison will advise DPP, OP and LUC if the transaction is going forward and include further details in our next annual report.

Should any of these changes occur as part of the project financing or otherwise, Waipio PV will notify the Director of the DPP.

2.9 SUP Condition #9

Enforcement of the conditions of the SP shall be pursuant to the Rules of the Planning Commission, including the issuance of an order to show cause as to the reason the SP should not be revoked if the Planning Commission has reason to believe that there has been a failure to perform the conditions imposed herein.

2.9.1 Waipio PV LLC Response SUP Condition #9

Waipio PV is confident in meeting all conditions of the SUP pursuant to the Rules of the Planning Commission and that there has not been a failure to perform the conditions imposed by the SUP.

2.10 SUP Condition #10

If the photovoltaic array creates a hazardous condition for pilots or motorists, the facility operator shall immediately mitigate the hazard upon notification by the Department of Transportation, Airports Division or the Federal Aviation Administration.

2.10.1 Waipio PV LLC Response SUP Condition #10

A Reflectivity analysis was conducted for the SEF and no hazardous conditions are expected. Should the array create an unexpected hazardous condition for pilots or motorists once the project is operational, Waipio PV will immediately mitigate the hazard in cooperation with direction from the Department of Transportation Airports Division or the Federal Aviation Administration.

2.11 SUP Condition #11

Petitioner shall obtain approval of the draft archaeological assessment, dated August 2014, from the State Historic Preservation Division (SHPD) prior to commencement of construction of the solar farm.

2.11.1 Waipio PV LLC Response SUP Condition #11

Waipio PV has obtained approval of the AIS dated August 2014 from the State Historic Preservation Division (SHPD).

See Appendix 4 for a copy of the approval letter from SHPD.

2.12 SUP Condition #12

In the event that historic resources, including human skeletal remains, structural remains, cultural deposits, artifacts, sand deposits, or sink holes, are identified during demolition and/or construction activities, all work shall cease in the immediate vicinity of the find, the find shall be protected from additional disturbance, and the SHPD, and O'ahu Island Burial Council, shall be contacted immediately. Without any limitation to any other condition found herein, if any burials or archaeological or historic sites are discovered during the course of construction of the Project, all construction activity in the vicinity of the discovery shall stop until the issuance of an archaeological clearance from the SHPD that mitigation measures have been implemented to its satisfaction.

2.12.1 Waipio PV LLC Response SUP Condition #12

Waipio PV confirms that should any historic resources including human skeletal remains, structural remains, cultural deposits, artifacts, sand deposits or sink holes be identified during these activities, all work shall cease in the immediate vicinity, and the find shall be protected from additional disturbance. Waipio PV will follow protocol of contacting SHPD and Oahu Island Burial Council regarding any find.

2.13 SUP Condition #13

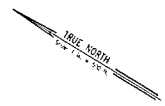
The Petitioner shall develop the Property in substantial compliance with the representations made to the City and County of Honolulu Planning Commission and the State Land Use Commission in obtaining the State Special Permit. Failure to so develop the Property may result in revocation of the permit.

2.13.1 Waipio PV LLC Response SUP Condition #13

Waipio PV confirms that all development activities related to the SEF continue to remain in compliance with all the representations made to the City and County of Honolulu Planning Commission and the State Land Use Commission including all Findings of Fact, Conclusions of Law and other documentation in the State Special Permit.

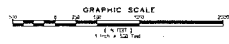
3.0 Appendices

3.1 Appendix 1 – Survey Map of Petition Area



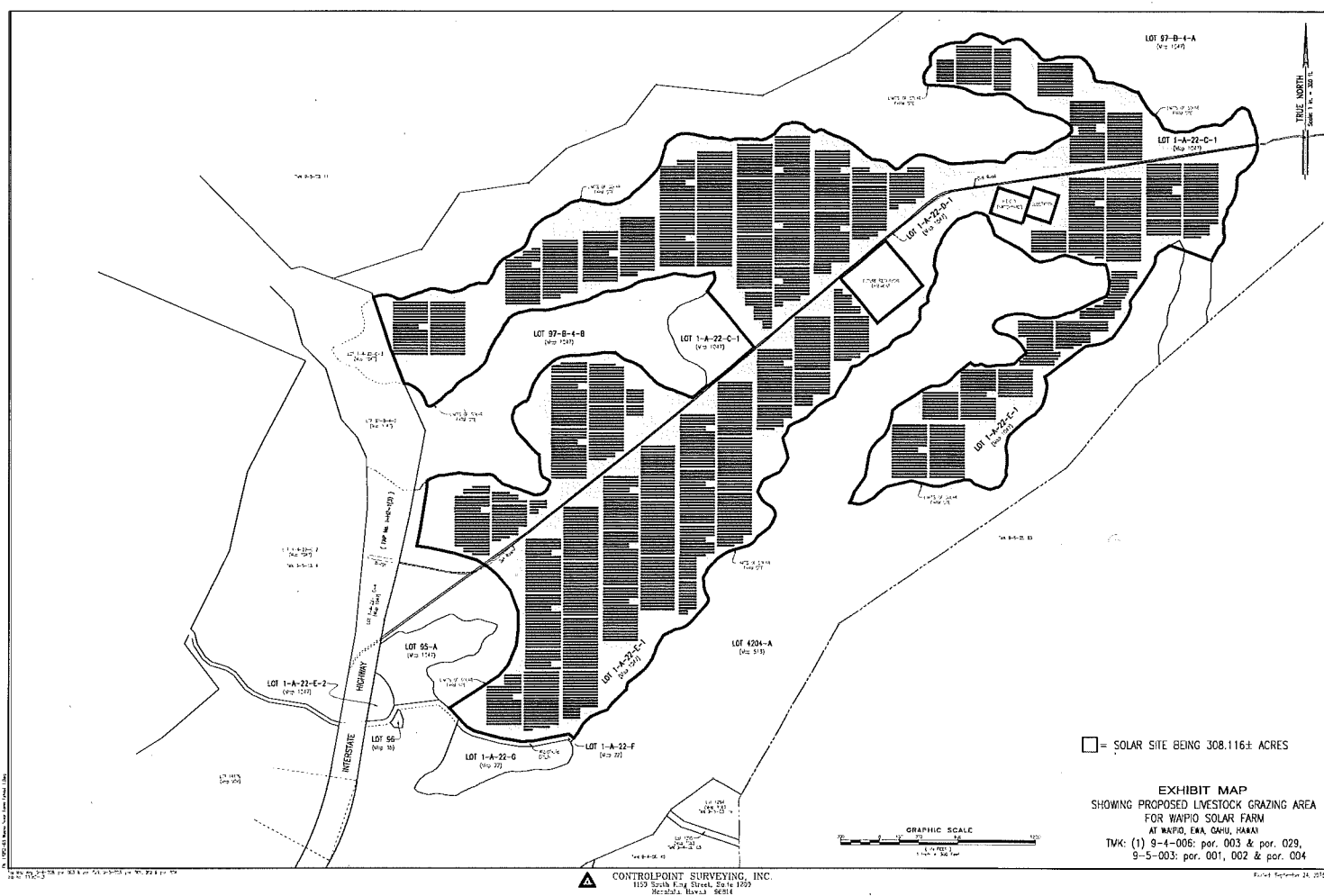
NOTES:
1. Survey of this tract for the Waipio Solar Farm was completed by the Waipio Solar Farm Survey, Inc. on May 12, 2011.
2. The property lines shown are based on the Waipio Solar Farm Survey, Inc. Survey of May 12, 2011, and are not to be used for any other purpose.
3. Survey monuments are not shown for any other reason.
4. The Waipio Solar Farm is located on the Waipio River.
5. The Waipio Solar Farm is located on the Waipio River.
6. The Waipio Solar Farm is located on the Waipio River.
7. The Waipio Solar Farm is located on the Waipio River.
8. The Waipio Solar Farm is located on the Waipio River.
9. The Waipio Solar Farm is located on the Waipio River.
10. The Waipio Solar Farm is located on the Waipio River.

EXHIBIT MAP
SHOWING PROPOSED SITE LIMITS AND
RESERVOIR EASEMENT
FOR WAIPIO SOLAR FARM
AT WAIPIO, HAWAII
TWK: (1) 9-4-006: por. 003 & por. 029,
9-5-003: por. 001, 002 & por. 004



CONTROLPOINT SURVEYING, INC.
1000 KALANAN KULU DRIVE, SUITE 100
HONOLULU, HAWAII 96813

3.2 Appendix 2 – Map of Agricultural Use Area



3.3 Appendix 3 - Letter of Approval from Director of DPP for Survey and Agricultural Footprint

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAII 96813
PHONE: (808) 768-8000 • FAX: (808) 768-6041
DEPT. WEB SITE: www.honolulu.gov • CITY WEB SITE: www.honolulu.gov

KIRK CALDWELL
MAYOR



GEORGE I. ATTA, FAICP
DIRECTOR

ARTHUR D. CHALLACOMBE
DEPUTY DIRECTOR

September 30, 2015

2014/SUP-3(ry)

Mr. Wren W. Wescoatt
Senior Director of Development
SunEdison
Alii Place
1099 Alakea Street, Suite 2440
Honolulu, Hawaii 96813

Dear Mr. Wescoatt:

The map entitled "Exhibit Map Showing Proposed Livestock Grazing Area for Waipio Solar Farm," received on September 25, 2015, and the metes and bounds survey map of the Special Use Permit area and acreage, also received on September 25, 2015, satisfy Condition No. 2 of the State Land Use Commission's (LUC) Decision and Order dated March 25, 2015, and are APPROVED. A copy of this letter and the approved maps have been forwarded to the LUC for their files under Docket No. SP15-405.

Should you have any questions, please contact Raymond Young of our staff at 768-8049.

Very truly yours,

George I. Atta, FAICP
Director

GIA:kms
cc: Land Use Commission w/ maps

Doc 1286302

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAII 96813
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KIRK CALDWELL
MAYOR



GEORGE I. ATTA, FAICP
DIRECTOR

ARTHUR D. CHALLACOMBE
DEPUTY DIRECTOR

September 30, 2015

2014/SUP-3(ry)


Mr. Wren W. Wescoatt
Senior Director of Development
SunEdison
Alii Place
1099 Alakea Street, Suite 2440
Honolulu, Hawaii 96813

Dear Mr. Wescoatt:

The map entitled "Exhibit Map Showing Proposed Livestock Grazing Area for Waipio Solar Farm," received on September 25, 2015, and the metes and bounds survey map of the Special Use Permit area and acreage, also received on September 25, 2015, satisfy Condition No. 2 of the State Land Use Commission's (LUC) Decision and Order dated March 25, 2015, and are APPROVED. A copy of this letter and the approved maps have been forwarded to the LUC for their files under Docket No. SP15-405.

Should you have any questions, please contact Raymond Young of our staff at 768-8049.

Very truly yours,


George I. Atta, FAICP
Director

GIA:kms
cc: Land Use Commission w/ maps

Doc 1286302

3.4 Appendix 4 – Letter of Approval from State Historic Preservation Department

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

CARTY S. CHANG
INTERIM CHAIRPERSON
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ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

January 16, 2014

Robert B. Rechtman, PhD
ASM Affiliates
507A East Lanikaula Street
Hilo, HI 96720

LOG NO: 2014.04011
DOC NO: 1501SL16
Archaeology

Dear Dr. Rechtman:

SUBJECT: **Chapter 6E-42 Historic Preservation Review —
Archaeological Assessment for a 342-Acre Property for the Waiawa Solar Farm
Waipi'o Ahupua'a, 'Ewa District, Island of O'ahu
TMK: (1) 9-5-003:004**

Thank you for the opportunity to review your draft report titled *Archaeological Assessment Survey of a 342-Acre Property for the Waiawa Solar Farm TMK: (1) 9-5-003:004 (por.) Waipi'o Ahupua'a 'Ewa District Island of O'ahu* (Barna and Rechtman, August 2014). We received this submittal on September 3, 2014, and a revised pdf version on January 15, 2015.

ASM Affiliates, Inc. conducted the 342-acre archaeological inventory survey (AIS) of the project area at the request of First Wind Energy, LCC (First Wind). Due to negative findings, the AIS results are reported as an archaeological assessment (AA) in accordance with Hawaii Administrative Rules (HAR) §13-284-5(b)(5)(A).

First Wind proposes to develop a 47-megawatt solar farm (Waiawa Solar Farm) on a portion of the AIS project area. The farm will involve installation of a ground-mounted photovoltaic system. The collector system will involve a network of direct-buried underground collection circuits connected to a new electrical substation. The substation and HECO's switchyard will be located immediately proximate to their existing Kahe-Wahiawa 138kV transmission line which traverses the site. The substation and switchyard may both include a control building and be enclosed with a chain-link perimeter fence. Not yet determined is whether communications will be provided by underground fiber optic cabling or by a point-to-point microwave antenna mounted on a new communications tower within HECO's switchyard. The project will make use of most of the existing perimeter fencing that follows the pasture boundary along the top edges of the gulches and the private "plantation road," and will install a series of new gravel interior service roads and fence gates; and also will coordinate with the lessee regarding sheep grazing or other compatible agricultural activities beneath the solar panels, and the installation of temporary fencing to create sheep paddocks, smaller pens, and loading areas.

The AIS field work included a pedestrian survey involving 100% coverage of the project area, which consists of a broad plateau bounded by steep tributary gulches. The property currently is owned by Castle and Cooke Homes Hawaii, Inc. The survey was conducted using systematic sweeps at intervals ranging from 15-40 m apart depending on surface visibility. Because the project area is a geologically stable to erosional environment which was subjected to repeated plowing for nearly a century, subsurface testing was determined unnecessary.

Two prior archaeological reconnaissance-level studies provided partial pedestrian survey coverage of the project area (Goodman and Nees 1991, Hammatt et al. 1996). Both studies recorded archaeological historic properties near, but not within the current project area. Several studies have identified plantation-related historic properties nearby,

Dr. Rechtman
January 16, 2015
Page 2

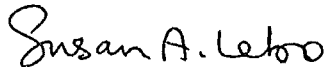
including a portion of Waiahole Ditch (SIHP 50-80-09-2268) adjacent to the southern-most boundary of the project area (Hammatt et al. 1996, Tulchin et al. 2009b).

Due to the negative findings of both the prior and current archaeological surveys of the project area, it was concluded that the proposed Waiawa Solar project will not impact any known historic properties. However, it is recommended that in compliance with HAR §13-280-3, in the unlikely event that any unanticipated archaeological resources are encountered during development activities, work in the immediate area of the finds should be halted and SHPD should be contacted. We concur. Pursuant to HAR §13-284-7, the project determination is no historic properties affected.

The report meets the standards set forth in HAR §13-276-5. It is accepted by SHPD. Please send one hardcopy of the document, clearly marked **FINAL**, along with a copy of this review letter and a text-searchable PDF version on CD to the Kapolei SHPD office, attention SHPD Library.

Please contact me at (808) 692-8019 or Susan.A.Lebo@hawaii.gov if you have any questions or concerns regarding this letter.

Aloha,

A handwritten signature in black ink that reads "Susan A. Lebo". The signature is written in a cursive, flowing style.

Susan A. Lebo, PhD
Oahu Lead Archaeologist
Acting Archaeology Branch Chief