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2	STATE OF HAWAI'I	
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	(Hawai'i))	6
5)	
	CONTINUED HEARING)	
6)	
	A07-775 CASTLE & COOKE HOMES)	25
7	HAWAII, INC. (Oahu))	
8	_____)	

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10 TRANSCRIPT OF PROCEEDINGS

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12 The above-entitled matters came on for a Public
 13 Hearing at Conference Room 406, Fourth Floor, Leiopapa
 14 A Kamehameha, 235 S. Beretania Street, Honolulu,
 15 Hawai'i, commencing at 9:10 a.m. on Friday, January
 16 22, 2010 pursuant to Notice.

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22 REPORTED BY: HOLLY M. HACKETT, CSR #130, RPR
 23 Certified Shorthand Reporter

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1 APPEARANCES CONT'D.

2

3 Docket No. A07-775 Castle & Cooke Homes Hawaii, Inc.

4 For the Petitioner: BENJAMIN MATSUBARA, ESQ.
CURTIS TABATA, ESQ.
5 WYETH MATSUBARA, ESQ.

6
7 For the County: DAWN TAKEUCHI-APUNA, Esq.
Deputy Corporation Counsel
MATTHEW HIGASHIDA DPP

8
9 For the State: BRYAN YEE, ESQ.
Deputy Attorney General
ABBIEY MAYER,
10 Office of Planning

11 Intervenor Sierra Club: COLIN YOST, ESQ.

12 Intervenor Neighborhood Board NO. 25:

13 KAREN LOOMIS
14 RICHARD POIRIER

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1 A07-774 North Kona Village, LLC

2 CHAIRMAN PILTZ: Good morning. This is the
3 Land Use Commission meeting of January 22nd. And
4 we're in Room 406. This is an action meeting on
5 Docket No. A07-774 North Kona Village, LLC, Hawai'i to
6 consider the National Park Service's Petition to
7 Intervene in the North Kona Village, LLC's Petition
8 for Land Use District Boundary Amendment.

9 Since the last meeting on this docket the
10 following has occurred:

11 On January 27, 2009 the Commission served
12 the Findings of Fact, Conclusions of Law and Decision
13 and Order accepting the final EIS.

14 On November 23rd, 2009 the Petitioner filed
15 an Amended Petition for Land Use Boundary Amendment.

16 On January 5, 2010 the Commission received
17 the County of Hawai'i Planning Department's Statement
18 of Position in Support of the Petition.

19 On January 13th, 2010 the Commission
20 received the National Park Service's Petition to
21 Intervene and Notice of Appearance of counsel.

22 On January 14, 2010 the Commission received
23 Petitioner's first list of witnesses; first list of
24 exhibits and Exhibits 18 through 27.

25 On January 19, 2010 the Commission received

1 OP's Statement of No Opposition to the National Park
2 Service's Petition to Intervene and was notified via
3 phone call from Hawai'i County Planning Department to
4 advise that they had no position on this Petition to
5 Intervene.

6 On January 20, 2010 the Commission received
7 the Petitioner's Memorandum on the National Park
8 Service's Petition to Intervenor, Exhibits A through
9 B.

10 Let me briefly describe our procedures on
11 this docket for today. First, we'll have the parties
12 identify themselves for the record. I will then call
13 for those individuals desiring to provide public
14 testimony to identify themselves. All such
15 individuals will be called in turn to our witness box,
16 where they will be sworn in prior to their testimony.

17 Mr. Lind, representative for the National
18 Park Service, will then make his presentation on the
19 Petition to Intervene. Following that presentation we
20 we'll hear in turn from the Petitioner, and the State
21 Office of Planning. At the conclusion of the
22 presentations by the parties the Commission will
23 conduct its deliberations.

24 Are there any questions on our procedure for
25 today? Petitioner?

1 MS. BENCK: No.

2 CHAIRMAN PILTZ: State?

3 MR. YEE: No.

4 CHAIRMAN PILTZ: Intervenors?

5 MR. LIND: No.

6 CHAIRMAN PILTZ: Okay. Is there anyone here
7 signed up for public testimony?

8 MR. DAVIDSON: No sign-ups.

9 CHAIRMAN PILTZ: No sign-ups, okay. Anyone
10 desiring to testify? Seeing none, will the parties
11 now identify themselves, Petitioner.

12 MS. BENCK: This is Jennifer Benck attorney
13 for Petitioner North Kona Village, LLC now known as
14 O'oma Beachside Village, LLC. To my right is Steven
15 Lim, also attorney for Petitioner North Kona Village,
16 LLC. And seated against the wall are Tom Whitten, the
17 senior planner from PBR Hawai'i and Tom Schnell from
18 PBR Hawai'i, also a planner of the project.

19 CHAIRMAN PILTZ: Thank you. State.

20 MR. YEE: Good morning. Deputy Attorney
21 General Bryan Yee on behalf of the Office of Planning.
22 With me is -- actually no one's with me. Just me.

23 CHAIRMAN PILTZ: Intervenor?

24 MR. LIND: Hi. This is Gregory Lind. I'm
25 from the Office of the Solicitor U.S. Department of

1 the Interior. I'm here representing the National Park
2 Service. With me is...

3 MS. BELL: Aloha everybody. I'm Geri Bell,
4 the Park superintendent.

5 MS. BEAVERS: Aloha, I'm Sallie Beavers, the
6 Park Resource Manager.

7 CHAIRMAN PILTZ: Thank you. Mr. Lind,
8 please proceed with your presentation.

9 MR. LIND: Thank you. The Park Service
10 seeks to intervene in this proceeding because we have
11 a definite interest in protecting Kaloko-Honokohau
12 National Historical Park which is located less than a
13 mile from the Project site or O'oma Beachside Village.

14 We have worked last year with Petitioner to
15 come up with a set of what we call development
16 conditions that try to address the interest of the
17 Park Service in protecting the cultural and natural
18 resources of the Park that are dependent on
19 groundwater which flows through the Park and into the
20 ocean, as well as the marina environment.

21 That agreement is now before you in the
22 memorandum which the Petitioner has filed.

23 In addition, we have reached a stipulation
24 with the Petitioners about our intervention, that if
25 granted intervention status that we would limit our

1 participation in the hearings to ensuring that the
2 development conditions outlined in the agreement with
3 the Petitioner and the Park Service would be
4 implemented as a condition in the Decision and Order
5 and that the Petitioner would comply with those
6 conditions.

7 So our interests, the federal government's
8 interest is protecting a property interest, but in
9 addition to that is protecting a cultural and natural
10 resources that represents Hawaiian culture as it
11 existed prior to European contact with the islands.

12 CHAIRMAN PILTZ: Questions, Commissioners?

13 COMMISSIONER KANUHA: Actually I have a lot
14 of questions but maybe I'll wait for Petitioner.

15 CHAIRMAN PILTZ: Petitioner.

16 MS. BENCK: As Mr. Lind stated we filed our
17 memorandum regarding their Petitioner to Intervene
18 indicating that the Petitioner, as filed, as submitted
19 by the National Park Service, had exceeded the scope
20 of the agreement that the two parties had executed.

21 And the reason for that was simply a matter
22 of timing. We executed that agreement -- both parties
23 executed the agreement that Mr. Lind referenced on
24 January 13 which also happened to be the same day that
25 they filed their Petitioner for Intervention.

1 So they filed the Petitioner, the agreement
2 got executed and the agreement is before you and our
3 memorandum along with the stipulation that was signed
4 by the National Park Service and by the Petitioner
5 Petitioner stipulating, again, to the limited
6 parameters of their intervention.

7 And that was signed on the 19th and 20th and
8 filed with you on the 20th. So with the agreement in
9 place and the stipulation that both parties have
10 agreed to, then under those conditions we don't have
11 an opposition to their Petitioner.

12 CHAIRMAN PILTZ: Okay. State, do you have
13 any comment for that?

14 MR. YEE: Office of Planning has no
15 opposition to the Petitioner for Intervention.

16 CHAIRMAN PILTZ: Mr. Kanuha.

17 COMMISSIONER KANUHA: Thank you,
18 Mr. Chairman. So to the, National Park, are you in
19 agreement with this stipulation for limited
20 intervention?

21 MR. LIND: Yes.

22 COMMISSIONER KANUHA: But, nevertheless, you
23 still have this Motion to Intervene on the table.
24 Will that modified stipulation amend this motion?
25 Because this motion is for full on intervention.

1 MR. LIND: Right. We agreed with the
2 Petitioners Petitioner to limit the intervention
3 according to the stipulation we both signed and filed.

4 COMMISSIONER KANUHA: Okay. Is there going
5 to be something presented to the Commission to that
6 effect? Right now we just have the Petitioner saying,
7 "This is what we agreed to."

8 MS. BENK: It's signed.

9 MR. LIND: The --

10 MS. BENCK: Stipulation is signed and it's
11 in front of you now.

12 COMMISSIONER KANUHA: Okay. I know the area
13 really well. I've been there before that road was
14 born and maybe before some of you even, before that
15 road was in there before some of you have been.

16 Just for the purposes of orienting the rest
17 of the Commissioners who may not be that familiar with
18 the site, can somebody show us exactly where the
19 Petition Area is in relation to where the National
20 Park properties is.

21 MS. BENCK: Excuse me. We should have a
22 picture in the EIS. Give me a minute, please, and
23 we'll get it out. For the record this is Figure 2
24 from the 'O'oma Beachside Village Final EIS. And
25 Figure 2 is the regional location map. Should I bring

1 it over to you?

2 COMMISSIONER KANUHA: No, we all have copies
3 of it. So descriptively where is the Petition Area in
4 relation to the National Park?

5 MS. BENCK: The Petition Area is north of
6 the National Park, I think just a couple of miles
7 north.

8 MR. LIND: I think less than a mile.

9 MS. BENCK: It's there. You can see the red
10 cross-hatched I'm pointing to here separated by
11 Kohanaiki. And then below that is the National Park.

12 COMMISSIONER KANUHA: So elevation-wise are
13 both properties at the same elevation? Is one higher
14 than the other?

15 MR. LIND: I think roughly the same
16 elevation because it is roughly the same location on
17 the coast. There's no major feature between them.

18 COMMISSIONER KANUHA: Okay. The National
19 Park has requested to intervene or provided comments
20 to that effect for a number of petitions that have
21 occurred in the, let's just say, the Kona area.

22 I think at one of the last petitions we had
23 where the National Park expressed the concern over the
24 same issues, that property was, you know, a fair
25 distance away and mauka. And I had asked if the Park

1 had established parameters for where they felt the
2 impacts to the Park would be validated, let's say. I
3 believe at that time the National Park said they had
4 not. So, in other words, it was kind of a wide open
5 deal.

6 So is there anything further you want to add
7 to that?

8 MR. LIND: I would add that it depends on
9 the development. If it's a small, if you're referring
10 to the Shopoff Group's intervention --

11 MR. DAVIDSON: Make sure you talk into the
12 mic.

13 MR. LIND: -- in their petition that was a
14 small residential area. That's different than, for
15 example, the TSA or Lani Hau Petitions that we
16 intervened in which were industrial parks immediately
17 adjacent.

18 So it's a combination of the nature of the
19 development, the location of the development and the
20 size.

21 COMMISSIONER JUDGE: Could you talk more
22 into the mic, please.

23 MR. LIND: From the Petitioner here it's a
24 matter of proximity to the Park along the same
25 coastline. And the issues that were addressed in the

1 agreement with the Petitioner and the stipulation deal
2 with: Groundwater pollution issues from stormwater
3 and practices in the businesses or residences that
4 will be built there, as well as the wastewater
5 treatment system and groundwater withdrawal especially
6 when it's combined with our immediate neighbor at
7 Kohanaiki it's already withdrawing groundwater from
8 the uppermost aquifer immediately adjacent to the
9 Park.

10 So we're concerned with cumulative effects
11 of withdrawal of groundwater as well as direct effects
12 from pollution.

13 COMMISSIONER KANUHA: In the course of
14 participating with other Petitioners either through
15 the Commission or through agreements, individual
16 agreements with other projects, has there been any
17 consistency in what the Park has required these
18 Petitioners to do?

19 MR. LIND: Yes. In fact the conditions that
20 were imposed in the TSA hearing a few years ago, we
21 wouldn't say cover everything necessary but set a good
22 starting point. And they were then adopted in the
23 Lanihau Petitioner next year.

24 They were adopted in the Maclean property
25 petition which is upslope from the Park, as well as

1 the Kula Nei Shopoff Development they reached
2 agreement. And they serve as the basis for the
3 agreement we have with this Petitioner for the
4 pollution aspect.

5 The difference here is we also negotiated
6 issues about their proposed groundwater withdrawal
7 which was not an issue in the other four Petitioners
8 that the Park Service has been involved indirectly.

9 COMMISSIONER KANUHA: Why is it different on
10 the groundwater withdrawal if you're at the same
11 elevation?

12 MR. LIND: It's different because those
13 other Petitioner were not proposing to withdraw
14 groundwater on their own. They were going to get
15 their water from the existing wells or Department of
16 Water Supply.

17 COMMISSIONER KANUHA: But doesn't that come
18 out of the same aquifer?

19 MR. LIND: Not necessarily, no. The
20 Department of Water Supply gets a lot of its water, I
21 don't know what the percentage is right now, from the
22 upper aquifer which is freshwater.

23 What the Petitioner as well as Kohanaiki are
24 proposing to do is take water out of the basal aquifer
25 near the coast. And that's -- all the aquifer system

1 feeds into the Park Service resources. But the basal
2 aquifer is the one that's most immediately impacted if
3 you pull water out of it that close to the Park.

4 COMMISSIONER KANUHA: It would seem to me
5 that if you do have some criteria that you have
6 established through negotiations with these other
7 parties that you say has been, you have a template,
8 let's say, for that, it would seem to me that if in
9 the course of a petition being filed with the
10 Commission that if the National Park said: These are
11 our -- this is our template, this is what we would
12 like to see, you know. Rather than having to try to
13 intervene in every proceeding, I think that would at
14 least give us a good template.

15 Because otherwise what it seems like to me
16 is that there's side negotiations with every
17 Petitioner that comes in. Okay? And the threat of
18 intervention seems to be enough to make these
19 Petitioners want to work with the Park to accomplish
20 what they can do and what the Park needs.

21 Again, if there's a template for that,
22 generally speaking, I think the Commission would be
23 fine if you submit that as part of the proceedings
24 that we'll certainly look at it because there's
25 something uniform across the board. When there's

1 these individual agreements unless we go through them
2 precisely we don't know what the differences are.

3 If there are differences then that's one
4 thing. But if there aren't -- anyway that's my
5 personal preference on this, again, having been at
6 that Park a number of times when I was much younger.

7 To the Petitioner I would say I really don't
8 have a problem if you negotiate to the last minute and
9 accomplish whatever agreements you need to accomplish.

10 But I think myself and some of the other
11 Commissioners may not necessarily appreciate a
12 predetermination that, some predetermined language
13 that in the event we approve this Petitioner that we
14 also include certain language, certain conditions to
15 enforce this agreement that you have with the Park.
16 To me either you have it or you don't.

17 MR. LIND: I would add the Park Service is
18 not asking you to enforce the agreement with us.

19 COMMISSIONER KANUHA: As I said this comment
20 is directed to the Petitioner because that's part of
21 their agreement for this limited, you know,
22 intervention. That's the way I read it.

23 Again, that's just my personal feeling
24 because it does indicate some predisposition on the
25 Commission to -- if we approve the condition but did

1 not include the language of enforcement that you did,
2 then made then what happens?

3 So to me if you're going to negotiate an
4 agreement, then negotiate it all the way through.
5 Don't leave it hanging. Don't leave it to the extent
6 you make it incumbent upon the Commission to actually
7 enforce what people have agreed to do. That's all I
8 have, Mr. Chairman.

9 CHAIRMAN PILTZ: Okay. Commissioner Judge.
10 Go ahead.

11 COMMISSIONER JUDGE: Thank you. Just a
12 follow up on Commissioner Kanuha's statements. That
13 raises, I guess, a question in my mind. I see this
14 executed agreement that all the parties have signed.

15 If the LUC -- theoretically if it was to get
16 approved and we didn't include -- we made reference
17 but didn't include this document and didn't include
18 the conditions that you wanted in this document, what
19 happens is this document still an enforceable document
20 between the two parties?

21 MS. BENCK: Yes. The agreement, whether or
22 not the Commission agrees to insert the conditions
23 into the Decision and Order the agreement is still
24 binding on both of the parties.

25 COMMISSIONER JUDGE: So it's a recorded

1 document. It will still be binding.

2 MS. BENCK: Yes, it will be -- the
3 memorandum will be recorded upon issuance of the SMA
4 permit. So once we're at the end of the entitlements
5 we are going to go ahead and record it. That's
6 assuming that the Commission hasn't included the
7 conditions in the Decision and Order.

8 COMMISSIONER JUDGE: So to that extent then
9 the National Park Service intervention is, basically
10 will be arguing for us why we should include this in
11 our -- if we were to choose to approve it why it would
12 be a good thing for the LUC to include your agreement?
13 Is that your....

14 MR. LIND: Include the terms, what we'll
15 refer to as development terms.

16 COMMISSIONER JUDGE: Development conditions.

17 MR. LIND: Right. Development conditions.
18 Yes, that would be -- and the Petitioner has, actually
19 is including it as part of their Project saying "We're
20 going to do this."

21 So it's kind of already part of the Project.
22 In essence it would be, we'd be here to answer any
23 questions about those conditions or follow up with any
24 testimony that you needed to address those conditions.

25 COMMISSIONER JUDGE: So you've agreed that

1 your purpose is for the limited purpose of
2 implementing the development conditions.

3 MR. LIND: Yes.

4 COMMISSIONER JUDGE: Thank you.

5 COMMISSIONER KANUHA: I had one more
6 comment, Mr. Chairman. You know, in your Petition for
7 Intervention the first item that you cite is that your
8 interest in this proceeding is clearly distinguishable
9 from that of the general public.

10 MR. LIND: Yes.

11 COMMISSIONER KANUHA: Isn't the National
12 Park -- what could be more general public than the
13 National Park? So what makes a difference?

14 MR. LIND: The Park Service itself has a
15 mission, congressionally-mandated mission to protect
16 the resources and make sure the resource are in repair
17 and kept, the state we receive them for future
18 generations.

19 That is the interest of the public. But
20 it's different, the mission itself of the Park Service
21 is different than any other agency in the federal
22 government as well as the state and county
23 governments. They overlap quite a bit with, say, the
24 Office of Planning or the County Planning Division or
25 DLNR. But the Park Service's mission is unique in

1 that it protects those particular resources and
2 threats to those resources and manages and interprets
3 them for the public.

4 COMMISSIONER KANUHA: But the purpose of all
5 of that is for the general public, right?

6 MR. LIND: Yes, it's for the public of the
7 United States, yes.

8 COMMISSIONER KANUHA: Okay.

9 CHAIRMAN PILTZ: Commissioner Devens, go
10 ahead.

11 COMMISSIONER DEVENS: This is a question for
12 the Petitioner. I think Commissioner Kanuha's point
13 is well taken on the agreement and the stipulation.
14 But the way I read your position was that you're
15 limiting the Park's intervention to certain issues not
16 so much that you were forcing on us the terms and
17 agreements of the stipulation agreement.

18 Is that a correct reading of your position?

19 MS. BENCK: Yes, that's a correct reading.
20 If the Commission in its discretion chooses to include
21 some or all of the development conditions in the
22 Decision and Order, we have no opposition to that.

23 We have agreed to that, again, if the
24 Commission chooses to do so. If the Commission
25 chooses to not include any of them or to include only

1 some of them we are still bound by the terms of the
2 agreement.

3 COMMISSIONER DEVENS: Thank you for the
4 clarification. So it's basically limiting the issues
5 for which they want to intervene on.

6 MS. BENCK: Yes.

7 COMMISSIONER DEVENS: That's the point of
8 your memo.

9 MS. BENCK: Yes.

10 COMMISSIONER DEVENS: Thank you very much.

11 CHAIRMAN PILTZ: Any other questions? Okay.
12 Commissioners, what's your pleasure? Commissioner
13 Wong.

14 COMMISSIONER WONG: Mr. Chairman, I move
15 that the Park Service be allowed to intervene in this
16 action.

17 COMMISSIONER KANUHA: Second.

18 CHAIRMAN PILTZ: We have a motion by
19 Commissioner Wong to allow the Petition to Intervene
20 and a second by Commissioner Kanuha.

21 COMMISSIONER KANUHA: Mr. Chairman, again,
22 just for clarification it's just for that limited
23 reason as agreed to?

24 CHAIRMAN PILTZ: Right.

25 COMMISSIONER KANUHA: Okay.

1 CHAIRMAN PILTZ: Any discussion?

2 COMMISSIONER WONG: That's correct.

3 CHAIRMAN PILTZ: Seeing none, go ahead.

4 MR. DAVIDSON: This is a motion to grant
5 Park Service's Petition to Intervene as limited to the
6 issues that are set forth in the stipulation, but not
7 necessarily binding the Commission to the stipulation.

8 Commissioner Wong?

9 COMMISSIONER WONG: Yes.

10 MR. DAVIDSON: Commissioner Kanuha?

11 COMMISSIONER KANUHA: Yes.

12 MR. DAVIDSON: Commissioner Chock?

13 COMMISSIONER CHOCK: Yes.

14 MR. DAVIDSON: Commissioner Devens?

15 COMMISSIONER DEVENS: Yes.

16 MR. DAVIDSON: Commissioner Judge?

17 COMMISSIONER JUDGE: Yes.

18 MR. DAVIDSON: Chair Piltz?

19 CHAIRMAN PILTZ: Yes.

20 MR. DAVIDSON: Motion passes 6/0, Chair.

21 MS. BENCK: Thank you very much.

22 (Recess in place 9:45)

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1 A07-775 Castle & Cooke Homes Hawai'i, Inc.

2 CHAIRMAN PILTZ: We are back on the record.

3 We have a continued hearing on A07-775 Castle & Cooke
4 Homes Hawai'i, Inc. to amend the agricultural land use
5 district boundary amendment into the urban district
6 for approximately 767.649 acres at Waipio and Waiawa,
7 Island of O'ahu, state of Hawai'i, Tax Map Key No.
8 1-9-4:06 por. 1, por. 2, por. 3, por. 5, pors. 29, 31,
9 38 and 39; another TMK 9-5-05 por 1, por 4, and
10 9-6-04:21.

11 Do we have anybody signed up from the
12 public? Okay. Then we'll proceed. Petitioner.

13 MR. WYETH MATSUBARA: Good morning, Chair
14 Piltz, Wyeth Matsubara, Curtis Tabata on behalf of
15 Petitioner. Before we start into the witness just a
16 housekeeping matter. We discussed with the other
17 parties the order of witnesses. We just wanted to --
18 we know Sharla is going to start off today. We are
19 going to continue with Don Olden who is in order.

20 But we ask to take Rick Guinther, Hal
21 Hammatt fourth, Ann Bouslog fifth, Todd Beiler sixth,
22 and then Garret Matsunami seventh if we were to get
23 that far today.

24 I discussed it with the other parties and
25 they had no objections to that order of witnesses, if

1 that's okay with the Commission.

2 CHAIRMAN PILTZ: So our first witness will
3 be Sharla, Don, Eric, Hal and Ann -- is Ann going to
4 be in?

5 MR. WYETH MATSUBARA: Correct.

6 CHAIRMAN PILTZ: Ann, then Todd, then
7 Garret.

8 MR. WYETH MATSUBARA: Correct.

9 CHAIRMAN PILTZ: Okay. Also, let me remind
10 all of you one of our Commissioner's having a hard
11 time because of that fan's blowing. So if you will
12 speak into the mic and speak clearly so she can hear
13 and she can comment. Proceed.

14 MR. WYETH MATSUBARA: Petitioner would like
15 to call Sharla Nakashima to the stand.

16 SHARLA NAKASHIMA,
17 being first duly sworn to tell the truth, was examined
18 and testified as follows:

19 THE WITNESS: Yes.

20 CHAIRMAN PILTZ: Would you state your name
21 and address and speak into the mic. You can have a
22 seat. Name and address for the record and then you
23 can proceed.

24 THE WITNESS: My home address?

25 CHAIRMAN PILTZ: Either one.

1 MR. WYETH MATSUBARA: Work address.

2 THE WITNESS: Okay. Sharla Nakashima, 505
3 Ward Avenue, suite 202, Honolulu, Hawai'i.

4 CHAIRMAN PILTZ: Proceed.

5 MR. WYETH MATSUBARA: For the record,
6 Ms. Nakashima's written testimony has been admitted
7 into in evidence as Exhibit 46. At this time I'd like
8 to admit Ms. Nakashima as an expert in environmental
9 sciences.

10 CHAIRMAN PILTZ: City, any objections?

11 MS. TAKEUCHI-APUNA: No objections.

12 MR. YEE: No objections.

13 MR. YOST: No objections.

14 MR. POIRIER: No objections.

15 CHAIRMAN PILTZ: Any questions? Go ahead.

16 MR. WYETH MATSUBARA: Thank you, Chair.

17 DIRECT EXAMINATION

18 BY MR. WYETH MATSUBARA:

19 Q Ms. Nakashima, you've provided your written
20 testimony to us which is Exhibit 46. Do you have any
21 changes or modifications to your report?

22 A No.

23 Q Could you, then, briefly summarize your
24 report's conclusions please.

25 A In 2008 we conducted two Phase 1

1 environmental site assessments for both properties
2 separately to identify recognized environmental
3 conditions associated with those two properties. And
4 we did find one or more associated with those
5 properties primarily to do with the historic usage,
6 and solid waste on property.

7 Q Thank you.

8 Ms. Nakashima is available for cross at this
9 time.

10 MS. TAKEUCHI-APUNA: The City has no
11 questions.

12 CHAIRMAN PILTZ: State?

13 MR. YEE: We have no questions.

14 CHAIRMAN PILTZ: Intervenor?

15 MR. YOST: I'll defer to the Neighborhood
16 Board first.

17 CHAIRMAN PILTZ: Okay. Go ahead.

18 CROSS-EXAMINATION

19 BY MR. POIRIER:

20 Q When you did your survey and analysis, did
21 you include Kipapa Gulch which abuts?

22 A The Kipapa Gulch itself?

23 Q Yes.

24 A The portions of the gulch which were
25 accessible safely we did inspect.

1 Q And did that include the light industrial
2 area below Kipapa Bridge?

3 A Which area?

4 Q There's a light industrial area -- in
5 essence there's ag zoning. And the County allowed
6 these people to go in. So now it's becoming from a
7 couple of farms to a, basically a light industrial
8 area where all sorts of untoward things are happening
9 industrial-wise speaking.

10 So my questions is: As part of your survey
11 did you include that area?

12 A What exact area are you speaking of?

13 Q When you go down Kam Highway, then you go
14 across the Roosevelt Bridge going up towards Wahiawa.
15 If you look to the right side of Kipapa Bridge.

16 A Oh, inside the gulch area. No, that's not
17 part of the property, that bottom area --

18 Q Yes.

19 A -- where there's, like, farms and chicken
20 farms and things --

21 Q Oh, there's much more than chicken farms.

22 A Yeah. No, that was -- I believe, the
23 portion of the gulch that's included was on the ridge
24 area and I don't think that's part of it.

25 Q And have you any idea of the nature and

1 extent of the contaminants, as a result of pineapple
2 growing on some of these before?

3 A No, we do not know.

4 MR. POIRIER: Thank you.

5 CHAIRMAN PILTZ: Go ahead.

6 MR. YOST: No questions.

7 CHAIRMAN PILTZ: Commissioners, questions?
8 Thank you.

9 MR. BEN MATSUBARA: Mr. Chair, our next
10 witness is Don Olden. He'll be dealing with
11 Exhibits 31 and 37.

12 CHAIRMAN PILTZ: May I swear you in, sir.

13 DON OLDEN,
14 being first duly sworn to tell the truth, was examined
15 and testified as follows:.

16 THE WITNESS: Yes.

17 CHAIRMAN PILTZ: Would you speak into the
18 mic and give us your name and address.

19 THE WITNESS: Yes. My name is Don Olden.
20 My address 1615 Wilder Avenue, No. 603, Honolulu
21 96822.

22 CHAIRMAN PILTZ: Thank you. Mr. Matsubara,
23 go ahead.

24 MR. BEN MATSUBARA: Thank you.

25 xx

1 DIRECT EXAMINATION

2 BY MR. BEN MATSUBARA:

3 Q Mr. Olden, you're currently the CEO of
4 Wahiawa General Hospital, are you not?

5 A Yes.

6 Q What responsibilities and duties does that
7 require of you?

8 A The basic responsibilities is do manage the
9 day-to-day activities of the hospital; to develop a
10 strategic plan for the hospital, okay, and to try and
11 keep the hospital solvent.

12 Q Thank you. And you've been in that position
13 since 2006?

14 A Yes, three years now.

15 Q Prior to becoming the CEO of Wahiawa
16 Hospital you were Chief Executive Officer of Kahuku
17 Hospital from 2002 and 2006?

18 A Correct.

19 Q And were your responsibilities there
20 similar?

21 A Similar.

22 Q Your whole professional career, to a large
23 extent, has been involved in medical facilities
24 management and development?

25 A Yes.

1 MR. BEN MATSUBARA: Mr. Chair, I'd like to
2 qualify Mr. Olden as an expert in medical facilities,
3 management and development.

4 CHAIRMAN PILTZ: City, any objections?

5 MS. TAKEUCHI-APUNA: No objection.

6 MR. YEE: No objection.

7 MR. YOST: No objection.

8 MR. POIRIER: No objections.

9 CHAIRMAN PILTZ: Commissioners, okay? All
10 right.

11 MR. BEN MATSUBARA: Thank you.

12 Q Mr. Olden, pursuant to our request you have
13 prepared written testimony which we've identified as
14 Exhibit 31, is that correct?

15 A Correct.

16 Q We have also submitted to the Commission a
17 study identified as Exhibit 11 entitled "Koa Ridge
18 Medical Center Facilities Planning Forecast 2015 to
19 2025." Are you familiar with that study?

20 A Yes.

21 Q That study was developed under your guidance
22 and supervision?

23 A Correct.

24 Q So you're very familiar with that study
25 marked as Petitioner's Exhibit 11, is that correct?

1 A Yes.

2 Q Let me ask you then to briefly summarize
3 your written testimony and utilize whatever portions
4 of the attached study 11 that you deem appropriate
5 that is also referenced in your testimony.

6 A Okay. Based on the discussions that went on
7 yesterday -- I sat through the hearings yesterday as
8 well -- and I would like to talk about Wahiawa
9 Hospital for about a couple minutes, then I'll segue
10 into the rest of it.

11 Wahiawa Hospital is a 162-bed general acute
12 care hospital of which there are 103 skilled nursing
13 beds, and we have 59 acute care beds.

14 It's kind of a general idea is to, you know,
15 the number of patients we see there we generally see
16 about 90 to a hundred patients in the skilled nursing
17 facility. We average about 30 patients in the acute
18 care facility.

19 Our emergency room generally treats about
20 30, 45 patients a day in the emergency room. Now,
21 that's based upon annual averages, not day to day. It
22 oscillates a little bit on a day-to-day basis. That's
23 a real good idea in terms of what happens there.

24 Over the last several years Wahiawa has been
25 in a distressed situation, okay, financially,

1 operationally as well. The medical community in
2 around Honolulu has changed fairly dramatically and
3 particularly true out in the area we're in. Basically
4 like 1989 and '90. Pali Momi was placed in service in
5 '89. The old St. Francis Medical Center West was
6 placed in service in 1990.

7 From that period of time until the current
8 date we've seen about an 8000 admission increase in
9 those two hospitals. And over that same period of
10 time we have seen Wahiawa Hospital go from about 3,000
11 admissions per year to about 1800. So we have
12 declined over the period of time.

13 I would suggest that at the time those two
14 hospitals were put in Wahiawa was a community
15 hospital. It probably would be characterized as a
16 rural hospital now. So the range of services there
17 are generally considered to be primary care-based
18 services.

19 The physicians who practice there are
20 general, they're family practice physicians and
21 general internists. I think of the discussions that
22 went on yesterday with Dr. Jim Walsh and Dr. Suzuka in
23 particular talking about the medical staff issues.
24 The lack of specialist physicians there was accurate.
25 I think that's in the record.

1 The number of admissions we see there, over
2 90 percent of them come through the emergency room.
3 Normally that would be 50 percent or less. So the
4 specialist complement of physicians is not there.

5 We have consulting specialists that help the
6 family practice and the general internists treat the
7 patients there.

8 I think there was another question asked if
9 Wahiawa Hospital was fully utilized. I think it was,
10 paraphrasing it some, but that was the general context
11 of the question yesterday.

12 No, Wahiawa Hospital, independent of what
13 the nurse said, it's not a fully utilized hospital.
14 It's about 50 percent utilized probably on the acute
15 care side. There are peak periods of time that stress
16 the nurses out when we get peak periods of admission.

17 Currently in December and January it's kind
18 of a peak period so the nursing people are scurrying
19 to get the proper staffing in, so on, so forth. So I
20 think that's probably the context of that.

21 There was another discussion, something
22 about dialysis at the hospital being the only
23 profitable service. We don't really do dialysis at
24 the hospital except Fresenius or Liberty, who does all
25 the dialysis primarily on the island, would come in

1 and do that.

2 The hospital itself in total it was running
3 a period of time almost a decade where it has almost
4 continuous losses. There is about 17 million losses
5 accumulated over the period of time before I went to
6 work there.

7 My responsibility was to develop a plan to
8 stabilize the hospital and try and set up some
9 conditions so that the hospital can migrate into the
10 future.

11 So that's really what this is about today
12 with respect to what we're doing here.

13 About ten years ago the board of directors
14 of the Wahiawa Hospital Association figured that they
15 had to do something different with the hospital, okay,
16 and move it to a new location for it to survive in the
17 future, and continue to meet the needs of the
18 community.

19 That old plan had to be abandoned. Okay?
20 So it was a different plan. Some of you are familiar
21 with it, some of you aren't. I'm not sure how
22 relevant the old plan was. I'm not going to really
23 address it, okay. But we restructured the plan.

24 In 2008 Castle & Cooke and Wahiawa Hospital
25 Association, we negotiated a new plan, okay, for when

1 Wahiaawa's involvement, okay, the development of the
2 Koa Ridge Project. And it was a collaborative effort.
3 And it's been a collaborative effort over basically a
4 three year period of time.

5 Castle & Cooke agreed to donate 20 acres of
6 land, which you've gone over with some of the
7 presentations that occurred yesterday, to Wahiaawa
8 Hospital Association for the development of a medical
9 complex there.

10 The donation of that -- this is in the
11 written testimony -- that it's conditional on the
12 Project being feasible. Okay.

13 Then also conditional upon Wahiaawa being
14 able to form partnerships, okay, with people who have
15 the operational and the financial capacity to make it
16 an achievable Project or create achievable Project
17 plans.

18 Well, in preparation of looking at what
19 would be feasible or not feasible, we did a
20 feasibility study.

21 A firm called Cattaneo & Stroud, which is
22 the tab that was just mentioned, Tab 11, we Cattaneo &
23 Stroud to do that. Cattaneo & Stroud has excellent
24 experience for a large number of years helping develop
25 feasibility studies for hospitals and looking at the

1 demographics and so forth.

2 So we spent sometime doing that. We have
3 projections that we looked at, the master plan
4 projections, we look at the regional demand for
5 healthcare services in the area, demand for
6 physicians, demand for hospital beds and services, and
7 we did staffing forecasts for the facility types, the
8 building types, the building sizes, parking, parcel
9 sizes, et cetera.

10 The planning objectives we wanted to
11 establish essentially the concept of a full service
12 medical center. We wanted to be able to phase it over
13 time, okay, which I think is in the information that
14 you have as well.

15 And we wanted to have the area designed and
16 the layout of it so it had high visibility with
17 respect to the Koa Ridge area and the entrances off of
18 Ka Uka Boulevard.

19 We wanted to be sensitive with respect to
20 the Koa Ridge Development and its master planning
21 objectives. The primary service area -- now the
22 primary service area we have, we have a chart...

23 Q For the record the demonstrative we have on
24 the easel there is Page 3 of Exhibit 11.

25 A If it's okay I'm going to put three little

1 things up here because I think we were talking about
2 the -- I don't know if you can see that -- but there
3 were questions yesterday about where is Wahiawa and so
4 forth.

5 I think the primary service area that is
6 appropriate for the discussions we're having, it
7 really ranges from where Kahuku Hospital is at the
8 current time around the coast into Wahiawa, down to
9 the Koa Ridge area. Everybody see now okay?

10 That's about a, depending on exactly where
11 you start and stop it's about a 30, 35-mile stretch of
12 road, okay, that goes around from this area, okay,
13 through the Koa Ridge area.

14 Now, the demographics, okay, of the area for
15 Wahiawa as it stands now that's probably a population
16 area of about 25,000 people that services our acute
17 care area.

18 Then for emergency services we run about 50,
19 55,000 people, okay, that comes through to our
20 emergency for emergency services.

21 Now, the key factors involved in trying to
22 decide whether hospital is viable or not viable in
23 areas is probably two key things on a macro basis.
24 One is the population density or the critical mass of
25 the population in and around the area.

1 And the second thing is the critical mass of
2 physicians, okay, that are available to help treat the
3 patients in the hospital.

4 So with there being about 25 to 50,000
5 people maximum, okay, that is available for the
6 Wahiawa Hospital in moving into this area here, Koa
7 Ridge, it triples. Basically it goes from about
8 50,000 to almost 150,000 people.

9 So the thoughts were that, one, Wahiawa
10 Hospital where it stands now would never be anything
11 other than a small rural hospital. They're probably
12 struggling for survival forever as long as it stays
13 there, just like all the rural hospitals in the state
14 of Hawai'i.

15 If I take all the smaller rural hospitals
16 there's not a single one of them in the state that's
17 not tremendously distressed financially. It's just
18 the way it's going to be.

19 Now, Wahiawa in looking at either rebuilding
20 in this location or rebuilding at Koa Ridge obviously
21 the population density or the population in around
22 this area being triple what it is here is a real
23 benefit.

24 Moving the hospital to this location and
25 then being close in proximity to -- there's Hawaii

1 Medical Center West is about here. And I think, if
2 I'm not mistaken, I think about right in here is where
3 Pali Momi is.

4 So the logistics of physicians supporting
5 the hospital on the specialist side would be far
6 superior in that location. And it would be a much
7 better fit, and much better benefit for the community
8 in the long term.

9 After going through all the demographics of
10 the area and looking at the admitting patterns and the
11 admitting patterns from the different zip codes that
12 are in those areas, we came to the conclusion that,
13 yes, the hospital is a, it's viable, it would be a
14 viable hospital at that location.

15 Not only would it be viable but the size of
16 hospital would be about a hundred beds, okay,
17 migrating to 120 beds over a period of time.

18 I think the old model was about a 50-bed
19 hospital that was suggested about a 50 years ago --
20 no -- it was only about ten years ago.

21 Then the other thing, all the other medical
22 services that would be needed there would really be
23 complementary to them. We thought it would be -- just
24 as a -- let me walk through the proposed building
25 types and so forth on it.

1 The hospital, like I said, would be a
2 hundred to 120 beds. We'd have an ambulatory care
3 center, okay, which would have such things such as
4 ambulatory surgery, diagnostic centers, et cetera.

5 Skilled nursing. There's plenty of demand
6 for skilled nursing anywhere on O'ahu literally
7 because the number of skilled nursing beds is half
8 what you have on a national average basis. It's very,
9 very low relative to that.

10 Medical office buildings, certainly needed
11 to support it and then some central plant. We would
12 do a phased development. The first ten acres would
13 probably be about 2015.

14 The second 8 acres maybe at 2024. Then --
15 well, the second, 8 acres would be about 2020. Then
16 by 2024 would be the additional ten.

17 Now, whether that would be precisely phased
18 that way whether or not we don't really know at this
19 point. But that's certainly within the realm of
20 possibility.

21 The partnering with someone to help us
22 develop it, we haven't identified a partner at this
23 point. We will be doing that kinda in conjunction
24 with the Land Use Commission hearings, and any zoning
25 that goes on.

1 Because until we know that it is actually
2 going to be a doable Project and it's going to be
3 approved we're not spending more money on the Project
4 at this point.

5 I guess the conclusions from the feasibility
6 study and all the analyses that we have done on it is,
7 one, the Project is viable. It's a very viable
8 Project.

9 It requires putting the Project together at
10 this point. And the opportunity is there and the
11 demand is there.

12 Q Thank you. Just one follow-up question.
13 Once the Koa Ridge medical facility is developed and
14 on its way, what will be the status of the current
15 Wahiawa Hospital?

16 A Okay. The current Wahiawa Hospital, the
17 feasibility study we assumed as part of the study that
18 the acute care services and emergency services at
19 Wahiawa would be moved to the Koa Ridge Project.

20 Wahiawa Hospital would be restructured into
21 probably skilled nursing and geriatric approach. Now,
22 precisely what would happen on the geriatric side at
23 this point, I can't say. But I can give you one
24 example.

25 We have a senior behavior health program at

1 Wahiawa which is the only one in the state. That
2 could stay there. The skilled nursing facility would
3 probably stay there as well. We would probably
4 convert some of the other beds in the acute side to
5 skilled nursing.

6 One of the thoughts we would, in lieu of
7 emergency services there we'd have some type of urgent
8 care center in lieu of the ER services that we have
9 there at this time.

10 MR. BEN MATSUBARA: Thank you. Mr. Olden is
11 available for cross-examination.

12 CHAIRMAN PILTZ: City, any questions?

13 MS. TAKEUCHI-APUNA: No questions.

14 CHAIRMAN PILTZ: Mr. Yee, any questions?

15 CROSS-EXAMINATION

16 BY MR. YEE:

17 Q Just for clarification. When you say that
18 the existing Wahiaawa General would put a greater
19 emphasis on geriatric and skilled nursing, how does
20 that differ from a nursing home?

21 A A nursing home/skilled nursing is the same.

22 Q So your intention is to convert the existing
23 Wahiaawa General into a nursing home?

24 A Well, currently Wahiaawa Hospital in total
25 has 103 beds of skilled nursing and 59 beds of acute

1 care. So the 59 beds that's acute care now would be
2 converted to skilled nursing or some other
3 geriatric-related service or some other service that's
4 probably non-acute.

5 Q And no further primary care services there.

6 A Well, the primary care services there, as I
7 described them, okay, is that our hospital is served
8 by physicians who are primarily primary doctors.

9 Most of the services there on the acute side
10 are medical in nature, okay, and to a minor extent
11 surgical in nature. Those kinds of services would be
12 transferred to the new hospital.

13 Now, there could be and there probably will
14 be a continuation of family practice physician offices
15 in the area and internal medicine physician offices in
16 the area or in the town of Wahiawa, okay, along with a
17 not ambulatory care but urgent care clinic.

18 But the finalization of that, exactly how it
19 would work we haven't really defined it yet. Okay,
20 but that's probably more likely what will happen.

21 MR. YEE: No further questions.

22 CHAIRMAN PILTZ: Mr. Yost?

23 MR. YOST: No questions.

24 CHAIRMAN PILTZ: Mr. Poirier.

25 xx

1 CROSS-EXAMINATION

2 BY MR. POIRIER:

3 Q Yes, I have some questions. Given the
4 proximity of St. Francis and Pali Momi and the fact
5 that Wahiawa General is still going to be there in
6 some form or capacity, what's the likelihood of your
7 being granted a Certificate of Need?

8 A Well, we think it will be fine. And we
9 think we would be granted a C-O-N provided we move the
10 acute care services from Wahiawa down to the new
11 location.

12 There will probably be some dissent with one
13 or more of the other two hospitals. There may not be.
14 I'm not really sure at this point.

15 The number of acute patients who are seen at
16 Wahiawa now is approximately half what is needed for
17 this to be a viable Project. So we're looking at
18 picking up a fairly smaller portion of the hundred
19 thousand people that's in that general area going
20 forward.

21 The other thing, and this is kind of
22 anecdotal in my mind, okay, but there is somewhat of a
23 landlocked issue at Pali Momi. And also the
24 population in around that area over the next few years
25 is going to age.

1 So the amount of hospital utilization is
2 going to go up higher than it is now on a percentage
3 basis. So whether it will be difficult or not I can't
4 really say for sure, but we really don't think it will
5 be.

6 Q What kind of a timeframe is there in terms
7 of being granted a Certificate of Occupancy?

8 A A Certificate of Need?

9 Q Yeah, "Need". I mean does it take months or
10 years? I mena how long does that take?

11 A Hospitals in this state being granted a
12 C-O-N is kind of like a roll of the dice as to whether
13 it's a short thing or it's a long thing. I heard what
14 was said yesterday about what's gone on over on Maui.
15 So unfortunately it's part of a political process as
16 well as part of a real need process.

17 How that plays out I can't really say. I
18 don't think it would be a real long, involved thing
19 that would take multiple years to do it. I would
20 think it would be done within a year once it was
21 submitted.

22 Q Your old plan was a much larger slide and
23 you had things like retirement, communities plan, et
24 cetera. By not having those kinds of things now does
25 that mean you're going to have more difficulty getting

1 somebody to come in to actually construct the hospital
2 and fund it?

3 A I don't think so. I think the old plan,
4 okay, was a lot different, okay, than this plan like
5 you're saying. This plan is pretty much a key medical
6 services centric design.

7 The old plan was about 20 percent medical
8 centric and about 80 percent with peripheral kinds of
9 things that made it extraordinarily difficult to move
10 forward with.

11 So I actually think this is more around the
12 type of model that you normally see in most other
13 communities. The other one was -- I would consider it
14 to be completely atypical.

15 Q My final question is, we learned yesterday
16 in terms of access there's going to be only one way
17 in, one way out, at least for the first five, six
18 years, whatever it is.

19 Is that going to pose a problem for you
20 people in terms of getting your vehicles in there?

21 A I heard that discussion. And for the
22 hospital, though, I think there's two way in and out.
23 Because you come in off of Kamehameha Highway and you
24 also come in off of H-2.

25 So that one way in and one way out is for

1 the people that are father back up in the development.

2 The hospital is located right adjacent to
3 the Ka Uka Boulevard. So it's very easy to get out
4 and get onto Ka Uka Boulevard which gives you two ways
5 in and out, okay.

6 And there will be more than one entrance
7 into the hospital in that area. So I think that's --
8 we're probably better positioned, okay, than...

9 Q Than you are now.

10 A Yes.

11 MR. POIRIER: Thank you.

12 CHAIRMAN PILTZ: Mr. Yost?

13 MR. YOST: I'm sorry, I do have one thing
14 I'd like to ask about.

15 CROSS-EXAMINATION

16 BY MR. YOST:

17 Q That is you mentioned the other site that's
18 available closer to Wahiawa General is now for
19 development. And I'm wondering --

20 A Excuse me. I did not.

21 Q I'm sorry. The other tag that's on the map
22 maybe I misunderstood?

23 A What I was taking about I was trying to lay
24 out the general area and the geographical area that we
25 cover at the hospital. And the upper corner way up

1 here on the top side, it's on the North Shore that's
2 in the area of Kahuku.

3 Q Yes.

4 A So looking around the coastal line in the
5 central area of O'ahu, the one in the middle is where
6 Wahiawa is located now. Then the bottom red is where
7 the Ka Uku Boulevard or Koa Ridge Project would be.

8 Q I'm sorry, I misunderstood.

9 A That's understandable.

10 Q Have you considered other sites besides the
11 Koa Ridge Makai area for building a new facility?

12 A They had in the past before I went to work
13 there, and also before they originally selected the
14 Koa Ridge site quite sometime ago.

15 Okay. Any site that is farther back towards
16 Wahiawa runs into the problem that I talked about
17 before, is like there's a critical mass in the
18 population density that's needed to support a modern,
19 full service hospital like this.

20 And the farther you get away from Koa Ridge,
21 okay, the higher risk you run of not having sufficient
22 population density.

23 So I don't think there's another site in the
24 other direction that really would be appropriate in my
25 mind.

1 Q Okay. Have you carefully tried to consider
2 those alternatives or that's just your guess?

3 A Well, it's not my guess.

4 Q Okay.

5 A There was a tremendous amount of
6 consideration made to locating it at other places back
7 before 2002, 2003, and, in that area. Okay. I saw
8 some of these things. Why would you do this? Okay.
9 Because there's not enough population density to
10 support it.

11 The second thing is that physicians and
12 logistics of physicians of practicing in hospitals and
13 there's a real increasing centralization of physicians
14 in more either inner city or quasi-inner city areas.

15 Okay. So here on O'ahu you have a
16 tremendous density of hospitals in Honolulu itself
17 where the specialist physicians primarily concentrate.

18 Then out on the west side, which is supposed
19 to be the new development for the state, we need a
20 higher density of hospitals in and around an area
21 where it makes it easier for physicians to practice
22 there.

23 If we don't do that we won't be able to get
24 the cardiologists and the neurologists and
25 nephrologists, okay, orthopedists, okay, et cetera, to

1 practice in the area so they'll support it.

2 So the farther you get out into the rural
3 areas the bigger problems you have, okay, with the
4 specialist physicians. We've got that problem all
5 over the state now.

6 Every outer island has that problem or
7 neighborhood islands. And we've got the problems here
8 on O'ahu when you get outside of the downtown area.

9 Q Right. It's about a 20-acre site that you
10 need, correct?

11 A It's 28 acres --

12 Q Twenty-eight.

13 A Yeah, has been -- Castle & Cooke is going to
14 donate the 28 acres for the development of the
15 facility.

16 MR. YOST: Thank you. I have no further
17 questions.

18 CHAIRMAN PILTZ: Commissioners, any
19 questions?

20 COMMISSIONER JUDGE: I do.

21 CHAIRMAN PILTZ: Commissioner Judge.

22 COMMISSIONER JUDGE: Good morning,
23 Mr. Olden.

24 THE WITNESS: Good morning.

25 COMMISSIONER JUDGE: If you just help me.

1 I'm not very well versed in healthcare. Help me
2 understand what's the difference between skilled
3 nursing versus acute care?

4 THE WITNESS: Okay. The acute care
5 generally is short episodes of care. Someone comes in
6 with something that has to be treated immediately
7 because -- appendicitis, for example.

8 The skilled nursing is a, sometimes they
9 call it a lower level of care but it's somewhat more
10 extended. People have chronic things where they have
11 to be hospitalized. They need skilled nursing for the
12 extended periods of care, 30 days, 60 days, 90 days a
13 year.

14 Okay. Acute is probably for this hospital,
15 for example, the stays are probably about four days
16 for acute. You come into the emergency room with a
17 problem, okay, that you can't wait to go see your
18 family physician in two, three weeks or a month.
19 Okay? And you have to be treated immediately.

20 Maybe they need antibiotics quickly. Maybe
21 they need to do some diagnostic work to see if you're
22 having a heart problems with chest pain, et cetera.

23 So the acute side to those types of problems
24 or illnesses, or problems, okay, that needs immediate
25 attention.

1 COMMISSIONER JUDGE: So in general you need
2 more skilled nursing beds or acute care beds?

3 THE WITNESS: Well, there's, there's
4 probably going forward, okay, immediate needs in this
5 state on the skilled nursing side, and it's probably
6 the senior population or elderly population, they
7 probably comprise, I would guess, 95 percent of all
8 the people that are in the skilled nursing types of
9 facilities.

10 There's half as many beds in this state,
11 okay, as there are in the other states. Okay. So the
12 hospitals collectively in this state have patients who
13 stay in the acute side way too long which causes
14 tremendous financial industries on the hospitals.

15 And you probably read some articles. There
16 was something in Pacific Business News not too long
17 ago about the losses in hospitals and some of the
18 factors that were causing that.

19 But keeping the patients longer in the acute
20 side than they should stay based on national averages
21 because we get paid today based on how Medicare
22 programs and Medicaid programs pays us. And it's all
23 driven based on national indices.

24 So we keep patients in two days longer in
25 this state for the Medicare population, for example,

1 than on the mainland. And that costs us probably a
2 thousand dollars more per case than you should be
3 being costed.

4 So not having enough skilled nursing
5 facilities is a major factor that's driving that. So
6 we need more skilled nursing facilities.

7 And this site here when we looked at it we
8 thought, well, the skilled nursing facilities
9 generally are built in 50 bed, 60 bed modules. That's
10 kind of the breakover point for efficiency.

11 So we figured here we would be a hundred to
12 150 bed skilled nursing facility. It could be viable
13 today literally.

14 COMMISSIONER JUDGE: So is it a correct
15 statement that the status today Hawai'i has a shortage
16 of skilled nursing beds?

17 THE WITNESS: Absolutely correct.

18 COMMISSIONER JUDGE: Okay. Then urgent care
19 versus emergency care?

20 THE WITNESS: Urgent care takes care of some
21 type of condition like somebody if they had a cut and
22 they need to run in to get the cut stitched. You
23 could do that on the urgent care side.

24 You typically don't have the diagnostic
25 capabilities on the urgent care side as you've got on

1 the emergency side.

2 Because in the emergency services you have
3 ready access to quick turnaround of emergency services
4 and quick turnaround of radiology services, CT scans,
5 general radiology, ultrasounds, okay, et cetera.
6 Those are not normally available quickly in an urgent
7 care center.

8 COMMISSIONER JUDGE: People today if they
9 live in Mililani, where do they go for their emergency
10 care?

11 THE WITNESS: Well, there's a portion of the
12 people in Mililani that are coming to Wahiawa. When
13 you look at the population in and around Wahiawa and
14 the North Shore, it's about 25,000 people that live
15 from the North Shore through the Wahiawa area.

16 I think there's about 60,000 people roughly
17 that live in the Mililani area. We have seen about
18 somewhere -- it's about 55,000 plus or minus a little
19 bit, okay, as far as the population that comes to our
20 emergency room. So we're picking up maybe half,
21 maybe, of the Mililani.

22 Part of the people in Mililani certainly
23 they'll go to Kaiser. Okay. I'm not sure of the
24 exact percentage. But it's somewhere around 17,
25 20 percent that are Kaiser members.

1 We actually do about one Kaiser patient per
2 day in our ER because they don't have time to either
3 go into town or it's off hours or they can't go to a
4 Kaiser clinic. I'm not sure all the reasons, but they
5 do come to our hospital.

6 COMMISSIONER JUDGE: My last question is the
7 Wahiawa Hospital Association, is that a private entity
8 or is that a public entity?

9 THE WITNESS: Well, it's a tax exempt
10 entity. It's like a 501(c)(3) hospital. Most of the
11 hospitals that are -- well, except for the state
12 hospitals, pull them out of it, the ones that are part
13 of Hawai'i Health Systems Corporation.

14 But all the other hospitals in the state
15 other than what the Hawai'i Medical Centers that are
16 for profit run by the doctors now, okay, they're all
17 501-C-3 tax exempt corporations.

18 For Wahiawa the way it's structured the
19 parent company is Wahiawa Hospital Association, a
20 501-C-3 tax exempt corporation. Then we have Wahiawa
21 General Hospital as the corporation that runs all the
22 hospital activities.

23 So the Wahiawa Hospital is really a
24 subordinate corporation to the Association. The
25 Association is the one that's been involved in trying

1 to develop a new hospital. The Association has
2 basically no real operating assets. Okay? It's a
3 development arm for the organization and the parent
4 company for it.

5 COMMISSIONER JUDGE: So this isn't a
6 state-run hospital.

7 THE WITNESS: No. The tax exempt 501(c)(3)
8 Corporations typically have a board of directors,
9 okay, that are responsible for their governance.
10 Typically those are all volunteer people.

11 Sometimes it's a self-perpetuating board.
12 Sometimes they're elected by somebody else. But
13 nevertheless those boards are generally responsible
14 for the governance process of the hospitals.

15 There aren't any stockholders in it. There
16 are no private investors in it, et cetera. So all of
17 the earnings just go back into the running the
18 hospital and improving the hospital.

19 COMMISSIONER JUDGE: What happens when
20 there's a loss?

21 THE WITNESS: Well, you have to make it up
22 somewhere. The better run tax exempt hospitals in
23 this country are not really a lot different than the
24 ones that are for profit as far as the need for
25 profitability.

1 The biggest difference, though, is that all
2 of the earnings are turned back in to the hospital,
3 okay, to buy new capital equipment, do renovations, do
4 improvements, add new programs and add new services.

5 You have to -- if you're not generating a
6 profitable margin in the tax exempt hospitals, even
7 though they're non-profit.

8 Say a nonprofit is somewhat illusionary as
9 far as need is concerned. Because they have to be
10 profitable or they don't survive if they're not making
11 enough profits to buy new equipment, okay, and
12 continue adapting into new medical -- new medical
13 treatments, new medical protocols, et cetera.

14 It's a tremendous cost involved continuing
15 to evolve it and adapt it in the hospital. So they're
16 really not nonprofit. Being "nonprofit" means they
17 don't pay taxes. That's really the bottom line of it,
18 yeah.

19 COMMISSIONER JUDGE: And if I understood
20 correctly from your testimony that there's a direct
21 correlation between a population base and the ability
22 for a hospital to be feasible or profitable.

23 THE WITNESS: Oh, absolutely. That's the
24 top of the pyramid on the feasibility studies and
25 trying to figure it would work or not work if you

1 build a hospital.

2 You know, the smaller the population the
3 closer you get to having to fund it by state support,
4 county support, city support, some form of taxation or
5 some form of the property tax or sales tax.

6 COMMISSIONER JUDGE: And that's the point
7 where you're at with the current location at Wahiawa.

8 THE WITNESS: That's where Wahiawa is
9 currently getting some state support to keep it alive.

10 COMMISSIONER JUDGE: And you believe if you
11 were able to go into the Koa Ridge Makai facility you
12 would not require state support. It could --

13 THE WITNESS: That's correct.

14 COMMISSIONER JUDGE: -- it could be
15 profitable on its own.

16 THE WITNESS: Yes.

17 COMMISSIONER JUDGE: Okay. Thank you.

18 CHAIRMAN PILTZ: Any other questions? Thank
19 you. Before we start we'll take a break.

20 (Recess was held. 10:33-10:45)

21 CHAIRMAN PILTZ: Okay. We're back on the
22 record. Mr. Matsubara.

23 MR. TABATA: For the record, Curtis Tabata
24 for the Petitioner. Petitioner calls as its next
25 witnesser Eric Guinther.

1 ERIC GUINTHER,
2 being first duly sworn to tell the truth, was examined
3 and testified as follows:

4 THE WITNESS: I do.

5 CHAIRMAN PILTZ: Would you state your name
6 and address for the record and go ahead.

7 THE WITNESS: Yes. My name is Eric
8 Guinther. I work for AECOS, Inc. The address for the
9 office is 45-939 Kamehameha Highway, Suite 104 in
10 Kaneohe, Hawai'i.

11 CHAIRMAN PILTZ: Thank you.

12 DIRECT EXAMINATION

13 BY MR. TABATA:

14 Q Mr. Guinther, did you prepare the stream
15 biological and water quality impacts assessment for
16 this Project, which is Petitioner's Exhibit 7A?

17 A Yes, I did.

18 Q And did you also prepare your written
19 testimony and curriculum vitae which is Petitioner's
20 Exhibit 45?

21 A Yes, I did.

22 Q And does your curriculum vitae provide your
23 qualifications and experience in the field of stream
24 resources assessment?

25 A Yes, it does.

1 MR. TABATA: Mr. Chairman, Petitioner
2 requests that Mr. Guinther be qualified as an expert
3 witness in the field of stream resources assessment.

4 CHAIRMAN PILTZ: City, objections?

5 MS. TAKEUCHI-APUNA: No objections.

6 CHAIRMAN PILTZ: State?

7 MR. YEE: No objection.

8 MR. YOST: No objection.

9 MR. POIRIER: No objection.

10 COMMISSIONER PILTZ: Commissioners? Fine,
11 he will be admitted.

12 MR. TABATA: Thank you.

13 COMMISSIONER PILTZ: Go ahead.

14 Q (By Mr. Tabata): Mr. Guinther, could you
15 please summarize for us your written testimony.

16 A Yes. I'm an ecologist with AECOS. I'm also
17 president of the company. In 2008 I took a team of
18 other biologists and we looked at all of the streams
19 and any other aquatic resources that might occur in
20 the area of the Project, and particularly at the sites
21 that were proposed for detention basins and the like
22 that were close to or in potential streams.

23 We also collected, in addition to looking at
24 the stream conditions, the biota that was there. We
25 have also collected water samples and analyzed those

1 to characterize the streams what kind of properties
2 they had that would be, that things that live in the
3 stream would be subject to.

4 They're actually two stream systems. And
5 one is Waikele Stream System which is one of the
6 largest stream systems on O'ahu. The other being Ki'i
7 Ki'i which is the system that flows to the north.
8 This one flows to the south.

9 The other system is part of Waiawa Stream
10 that's affected only by the smaller development,
11 Castle & Cooke Waiawa over there. So we have looked
12 at both systems and the streams in the area.

13 In addition, we've had a lot of experience
14 with these streams so a lot of our past reports apply.
15 We also looked at the literature available, other
16 studies that had been done, their information that had
17 been collected on those streams and used that for our
18 analysis.

19 The report primarily describes the existing
20 conditions, what has been found in the past. It
21 covers both water equality and biota in the streams.

22 The assessment process is really one of
23 looking at what is being developed on the property,
24 how it might affect the stream water quality, the
25 nature of the biota that occur in the streams, and

1 what actions or physical things that are being
2 implemented to reduce adverse impacts on the stream.

3 So the thrust of the report is really
4 descriptive followed by what is being proposed, what
5 impacts that might have and what is being proposed to
6 mitigate those impacts.

7 Then, of course, that feeds into the EIS
8 process and is carried further by those that develop
9 the EIS.

10 Our conclusions were basically that
11 mitigations were being implemented that would
12 essentially provide for minimal adverse if no adverse
13 impacts on the stream systems as they exist today by
14 the development of the Project.

15 MR. TABATA: Thank you. Mr. Guinther is now
16 available for cross-examination.

17 CHAIRMAN PILTZ: City?

18 MS. TAKEUCHI-APUNA: No questions.

19 COMMISSIONER PILTZ: State?

20 CROSS-EXAMINATION

21 BY MR. YEE:

22 Q Mr. Guinther, I noticed in your testimony
23 you indicated that with the exception of detention
24 basin 3 the other detention basins would be located
25 above the stream banks, correct?

1 A Yes. They're all alongside Kipapa Stream or
2 in the case of Koa Ridge Makai two are being proposed
3 for a side gulch. One of those detention basins would
4 be within the flow channel through that gulch.

5 And that's probably a stream that hasn't
6 actually been determined yet. We've been tasked with
7 that with another company to look at whether, in fact,
8 it's a stream by federal definition.

9 But, yes, one would be in the flow -- or one
10 is proposed for the flow channel in that side gulch.
11 I believe not all of them will necessarily be built.
12 There were included options.

13 So I can't say whether that's one's been
14 considered as a first place or a last place in the
15 determination of which will be built.

16 Q The location is important because some fish
17 have a migratory pattern that needs to go from the
18 mountain streams down into the ocean, correct?

19 A Yes. It certainly would be for a stream
20 that had, that had the primary characteristic of being
21 able to support a population of migrating fishes.

22 In the case of that side gulch we followed
23 that gulch actually during this job and even further
24 up in another project in the past for Mililani, I
25 think, when the drain lines were being built.

1 That particular side gulch gets drier and
2 drier as you go up. In fact above the Mililani drain
3 2 it loses really all properties that would support
4 any kind of native, in fact very little aquatic life
5 other than mosquitoes and things that can fly into the
6 area.

7 So anything blocking that side gulch would
8 have no effect on any population of native fishes.
9 There's simply nothing upstream for them to go to.
10 The stream is dry a majority of the time.

11 Q The side gulch you're referring to involved
12 detention basin 3? Is that correct?

13 A (Using diagram off mic) This is hard to
14 see. But this is Kipapa Stream is coming along here.
15 The side gulch is this little thing here which is
16 going up that way there.

17 So there's detention basin 2 and detention
18 basin 3. Detention basin 3 is at the mouth of that
19 side gulch but still in that side gulch as opposed to
20 the main gulch for Kipapa.

21 And the higher up detention basin is --
22 because the stream sort of ends in the vicinity of the
23 drain line there, it's actually off to the side, but
24 down in the floor of the gulch. It's a small gulch
25 compared to Kipapa.

1 Q And to confirm, would a Corps of Engineers
2 permit or other permit be required to ensure that
3 there is no impact upon the aquatic life of the stream
4 from the detention basins?

5 A Yeah. That's the process we're just
6 beginning. We're going to go in now and determine
7 where Corps jurisdiction occurs in the vicinity of
8 each of these structures.

9 Corps jurisdiction ends at essentially
10 what's called an ordinary high-water mark. But you
11 could just say the top of the stream bank, in effect.

12 So if you're putting anything in the stream,
13 in other words, from the top of the stream bank into
14 the stream, then you would require a permit. So that
15 process is just beginning. I believe it will show
16 that Kipapa is certainly a stream under Corps
17 jurisdiction.

18 My feeling that side gulch it's likely a
19 stream up to drain line 2 which includes the detention
20 basin you're talking about. So if that all comes to
21 be the truth, then a Corps permit would be required
22 for that basin.

23 For all of the others it would depend on
24 what part of the basin impinges on that line. So they
25 may have to do some, where the flow comes out of a

1 detention basin, for example, some hardening there to
2 prevent erosion of that side of the detention basin.
3 I understand a Corps permit might be required for
4 that.

5 Q What type of Corps permit may be required?

6 A It's called a Department of the Army Permit.
7 There are individual permits as well as a number of
8 nationwide permits and things that I haven't really
9 looked into whether these would fall under other than
10 an individual.

11 But in any event it would still be a permit.
12 The process is just a little easier if you can get it
13 under what's called a Nationwide Existing Permit
14 definition.

15 Q So you're not sure if there is a federal
16 consistency review required for the permit.

17 A No, I'm not at this point.

18 Q But also, then, either the detention basin
19 will receive a Corps permit or it will be constructed
20 outside of the stream, is that right?

21 A Yes. In every case what we will determine
22 is any part of this detention basin taking them all
23 within the Corps jurisdiction.

24 If all parts of every one of those detention
25 basins is not within Corps jurisdiction there wouldn't

1 be a permit requirement.

2 In case of that one because it is really
3 proposed for the mouth of a gulch, if that part of the
4 gulch is determined to be jurisdictional then that
5 would, obviously would require.

6 I can't say for any of the others. That's
7 the only one that really stands out as being the most
8 likely to require a permit.

9 Q I just want to double check your written
10 testimony where you said: It would not impact or
11 would not adversely affect migratory patterns of the
12 native aquatic fauna.

13 I assume you actually meant to say it's just
14 not going to affect impacts of any aquatic fauna,
15 correct?

16 A Ah...

17 Q I mean will it affect non-native aquatic
18 fauna?

19 A That particular one? Or any of the
20 detention basins?

21 Q The whole sentences reads: With the
22 exception of DB3 located just upstream of the H-2
23 Viaduct, the Project's drainage facilities will be
24 located above the stream banks and will not adversely
25 affect migratory patterns of the native aquatic fauna.

1 So I'm asking are there non-native aquatic
2 fauna that will be impacted.

3 A Well, if it's outside the stream then the
4 physical -- I guess there are two different concerns.
5 The primary concern of putting anything within the
6 ordinary high water mark with respect to the fauna is
7 largely: Does it impede that migration?

8 So you can still put things within that
9 jurisdiction and not impede migration. Would it have
10 an effect on non-native things? Probably not. In
11 fact very likely not as long as it's not -- I mean as
12 long as the stream is flowing normally past that point
13 there's no reason why it should.

14 Would it affect non-native migrating things?
15 There really aren't anything in that category. So I
16 guess there's one, one species of prawn that would be,
17 would be a migratory.

18 But it really -- its distribution is really
19 limited to the lower parts of the stream that are
20 perennial as opposed to the upper parts that have
21 constant flow.

22 So I guess the answer -- I'm getting
23 there -- is that, no, it shouldn't have an effect.
24 The primary concern is the migrating pattern that's
25 being expressed there.

1 So I guess if it doesn't affect that it
2 doesn't really affect anything else adversely.

3 Q With respect to your conclusions about
4 impacts from nearshore coastal waters, my
5 understanding is that a TMDL calculation has not yet
6 been made for this Project.

7 Do you have a different understanding?

8 A Well, I was, in fact, involved in the
9 calculations. And that wasn't accepted by the
10 Department of Health. It's a very difficult process to
11 calculate. And EPA is looking for lots of unique ways
12 for states, other entities to arrive at those
13 calculations.

14 So the group that I was doing that study
15 with had a unique approach. And we utilized that.
16 The Department of Health was a little skittish about
17 using it.

18 They haven't, as far as I know, proceeded
19 with any other process either. So you could say
20 they're really in a data-gathering phase as opposed to
21 an implementation phase of the TMDL.

22 Q Is your conclusion regarding the lack of
23 impact to nearshore coastal waters relying upon the
24 TMDL calculation that was not accepted by Department
25 of Health?

1 A No, not at all. A TMDL calculation is
2 really a way of, I guess, first distributing how
3 pollutants are going into a stream among the people
4 that particularly might be contributing to that
5 whether it's by land development or end of pipe.

6 So it's really more -- the ultimate goal is
7 to cut back on those pollutants, obviously. But it's
8 a way of distributing those impacts.

9 So the fact that there isn't a calculation
10 hasn't prevented the Department of Health from
11 attempting to implement the best means possible to
12 reduce those impacts from all of the various sources.

13 They have very little if no control over
14 existing land uses. There's simply no way to take a
15 farm, for example, and make it implement something
16 under that program.

17 But a development like Koa Ridge, they do
18 have the ability to at least start influencing how the
19 pollutants from that project are contributed to the
20 stream.

21 Q So your conclusion is the impact would be
22 minimized but you're not concluding that there will be
23 no impacts.

24 A Well, yeah. It's always -- to say there's
25 no impacts when you have a land change would probably

1 be foolish. Obviously in my mind changing of a
2 utilized agricultural use to an urban use is simply a
3 change in the kinds of pollutants that come off.

4 You could return it to a forest and then it
5 would probably, you would see reductions in runoff
6 from that land, from that land use. But obviously
7 there will be, there has to be impacts of one sort or
8 another from any, any land use.

9 Anything we do on the land, that's going to
10 have an impact on the stream.

11 Q Has your study determined, then, what, after
12 these impacts are minimized what those impacts would
13 be?

14 A Well, you can take -- you can measure things
15 in terms of different quantities of substances that go
16 into the stream. Then you're kind of one step removed
17 from actually determining what effect that might have
18 which becomes very difficult.

19 And so, yeah, we can look at what sorts of
20 things come off from urban developments. We can look
21 at what the stream water quality is now. It's awfully
22 hard to say what effect that will have with no
23 mitigation on the life that's there.

24 But we can generate numbers that might say,
25 well, this is going to go up. This is going to go

1 down. But all you really have is the ability to take
2 those numbers and see if there are ways to reduce or
3 mitigate or minimize or remove various numbers of
4 pollutants, substances and the like that are going
5 into the stream.

6 So that's really all you have. When I think
7 of impacts my mind tends to go further onto stream
8 life and things like that. That gets very difficult
9 to even predict.

10 Q Before you can even analyze then, if I
11 understand you testimony, before you can analyze what
12 the impacts, minimal though they may be, would might
13 occur you need to figure out what's going into the
14 stream.

15 A Um, well, we do have quite a bit of
16 information on what's going into the stream, probably
17 more so for this stream than most other systems in the
18 state. So we do know what kinds of things are coming
19 off.

20 We actually have a study that we cite in our
21 report that was done specifically for the purpose of
22 looking at urban runoff. And the study was done in
23 Mililani.

24 So they took two parts of Mililani and
25 monitored the runoff quality over time periods. So

1 there's a lot of information on what's going into the
2 stream, less information on what the adverse impacts
3 of that on stream fauna and flora. Certain things
4 that are obvious, others that are not.

5 So, yeah, we have quite a bit of
6 information. And then we simply use that to predict
7 what the Koa Ridge Project might contribute. We don't
8 have the Project there to, you know, to measure or
9 anything.

10 So we have to go out on a limb a bit and
11 predict based on what's known to other similar
12 developments.

13 Q So you have information about what goes into
14 the stream currently from other projects. But you
15 have not yet done -- but the TMDL calculation is part
16 of what you figure out is going to occur because of
17 Koa Ridge, correct?

18 A Not really. To my -- I believe the TMDL
19 process, while it does involve calculations of the
20 sort that you're alluding to, it's really a way of
21 partitioning the different contributions.

22 So I suppose if we had the calculations we
23 could say: Okay, well, the natural watershed up above
24 is contributing X amount and Mililani is contributing
25 Y amount. And since the stream doesn't meet the

1 criteria for that particular pollutant what we're
2 going to do for Koa Ridge, is we're going to say,
3 "Okay, your amount's going to be Z. But we're going
4 to require that the natural environment somehow cut
5 down its contribution and Mililani cut down its, then
6 we'll distribute it among the three of you in a fair
7 and equitable way."

8 So that's really the purpose. I'm not sure
9 it's a goal that's ever achievable. But it does serve
10 to allow the Department of Health and allow EPA and
11 Department of Health to start regulating these
12 non-point sources.

13 So it becomes a sort of carrot stick that
14 they can use that they didn't have before. Of course
15 without it developments would proceed without any --
16 without the mitigations that might reduce those
17 pollutants.

18 So it becomes, I think, the driving -- the
19 driver of the why do we put in detention basins. Why
20 do we put in water quality basins?

21 Q You know, listening to you it sounds like
22 you were essentially saying the Department of Health,
23 the existing Department of Health regulations for
24 nonpoint source regulation -- the regulation of
25 nonpoint source pollution is inadequate.

1 A Well, it has -- not just theirs. Everywhere
2 in the world it's inadequate. To the extent it isn't
3 a black and white thing.

4 You can't -- there is nothing in place right
5 now that would require the kinds of cleanup of runoff,
6 assuming anybody could afford to do it.

7 So it's the best we have. It's a system
8 that's constantly evolving. It's evolving toward more
9 regulation of these, of the pollutants in runoff. But
10 it's certainly not -- it's far from perfect.

11 And the Department of Health is simply
12 implementing an EPA program which is a national
13 program.

14 Q Here's my concern then. If the Department
15 of Health regulation is inadequate, why should this
16 Petitioner be approved?

17 Or how can this -- how can the approval of
18 this condition without other conditions be sufficient
19 to protect the environment?

20 A Well, it's inadequate in the sense that it,
21 that it can't prevent all pollution from reaching the
22 stream.

23 It's not necessarily inadequate in its
24 purpose which is to get everyone moving towards a
25 reduction in the pollutants they put in the stream.

1 So you can't expect a regulation that
2 doesn't absolutely prevent you from doing things to be
3 other than inadequate in absolutely preventing things
4 from going into the stream.

5 So it's the system we have. And the purpose
6 of the system is to -- if you take just the system is
7 developed under what's called the National
8 Pollution -- um, what is it, NP National Pollution
9 Elimination System basically.

10 Elimination is a ludicrous goal because you
11 can't eliminate pollutants. You have to do something
12 with them.

13 So from that standpoint I would say it's
14 inadequate. From the standpoint it's the system we
15 have and it's the best system that we have because it
16 forces people, forces developments to look at the
17 pollutants that they might be contributing and to do
18 something about it in advance.

19 So this particular development's going to be
20 subject to more regulations along those lines than,
21 say, Mililani was. Because each year this process
22 advances forward.

23 Q So at this point have you provided pre- and
24 post-development pollutant loads?

25 A Have we?

1 Q Yes.

2 A No, we have not.

3 Q Are you going to be doing that?

4 A As far as I know that would be up to the
5 Department of Health to require. They certainly will
6 be looking at it during the construction phase because
7 we have done that -- do that for most projects now.

8 And that, again, is not necessarily a
9 pollutant loading but a, you're allowed to put certain
10 levels into the stream during the construction phase.
11 So I assume that will be part of the water quality
12 certificate process.

13 Q You're not aware of the Department of Health
14 request in the EIS?

15 A Excuse me?

16 Q You're not aware of the Department of Health
17 request for pre- and post-development loads to be
18 provided to them?

19 A Pre- and post-? No, I'm not.

20 Q Okay. Are you familiar with the method to
21 reduce -- the mitigation measures to reduce the amount
22 of pollution that goes into the stream?

23 A I'm familiar with what's being proposed here
24 and with the general concepts, yes.

25 Q Where are these mitigation measures located?

1 Are they within the Petition Area or outside?

2 A Well, in this case -- and we do address this
3 in our report -- because of limited space in the
4 downstream areas this Project is proposing to build at
5 least some, a majority of the detention basins
6 upstream of the Project, basically, or at least half
7 of them.

8 So, for instance, the phases 3 and 1 are
9 entirely upstream of the Project. And the point is
10 these detention basins are designed primarily to take
11 the peak flow off of the runoff when there's big
12 storms, large amounts of runoff.

13 So it doesn't really matter where you take
14 that peak flow off as long as you end up at the
15 downstream with no contribution to the -- additional
16 contribution to the peak flow.

17 Basically the peak flow increases for
18 development, land development like this because
19 there's so many impermeable surfaces. They obviously
20 will be contributing to more water going into the
21 stream during a storm than would be the case right
22 now; and certainly would have been the case when it
23 was undeveloped entirely.

24 Q So the idea is you're going to be reducing
25 someone else's pollution into the stream and then you

1 could allow more of your pollution to go in.

2 A Pollution is really not the right word.

3 Peak flow is what we're talking about here. Peak
4 flows affect streams in a way different than, say,
5 pollutants do.

6 Basically when a storm is either long term
7 or lots of rain over a short period of time, the
8 amount of water that enters that stream become a flood
9 basically and roars down the stream, causes a lot of
10 erosion.

11 So those are the periods in the stream's
12 life when, in fact, the most damage is going to occur
13 to banks and certainly to houses or anything else
14 downstream.

15 So if you can -- what happens in a natural
16 environment is that water from the big storm takes so
17 long to get to the stream that even though the same
18 amount of water comes out, it doesn't come out over
19 the short period of time.

20 So, yeah, detention basin is designed to
21 take that peak flow down. But I wouldn't call that a
22 pollutant, but it is a factor that's important in the
23 stream ecology.

24 Q So to rephrase then. There are going to be
25 detention basins upstream which reduce the amount of

1 water flowing for other pieces of property. Then you
2 can have an unattenuated flow from the Koa Ridge
3 Project.

4 A Yes. Basically the peak flow is simply a
5 fact that water's arriving in that area from Mililani
6 as well as this particular Project. Where you capture
7 that water and hold it back and then let it go more
8 slowly isn't important.

9 The important thing is that you do, you do
10 that. So Mililani wasn't required to put in detention
11 basins. That's, again, something that's been
12 developed in the last several decades.

13 So this will reduce the peak flow off of the
14 Mililani development. It will reduce the peak flow in
15 the stream therefore.

16 So the Koa Ridge Project won't need to
17 attenuate their flow as much because they've already
18 taken that off upstream of their Project.

19 Q And what other projects on O'ahu have you
20 worked on where they have done something similar?

21 A I don't recall anything similar. I thought
22 it was unique to this Project as far as I know. It
23 seems most -- detention basins haven't been around
24 that long in terms of this requirement.

25 So there isn't a lot of -- there aren't a

1 lot of detention basins in the state.

2 Q So you're not aware of any another project
3 that's done something similar?

4 A Not where they've taken it off from another
5 project, no. Obviously as we develop that's going to
6 be a more common thing since there will be less space
7 for detention basins.

8 They do take space. And you've got more
9 developments now. Before, we had all ag, you could
10 put a detention basin anywhere you develop a project.

11 MR. YEE: All right. Thank you. I have no
12 further questions.

13 CHAIRMAN PILTZ: Mr. Yost, questions.

14 MR. YOST: Thank you, Chair. I do have a
15 few questions.

16 CROSS-EXAMINATION

17 BY MR. YOST:

18 Q Following up on some of the things you just
19 spoke about. It's my understanding that as you say in
20 your report both the Waikele and the Waiawa Stream
21 systems are currently categorized as impaired waters?

22 A Right.

23 Q And there isn't really, though, a precise
24 understanding of the degree of an impairment because
25 of the TMDL calculations have not been completed, is

1 that right?

2 A No. Actually the degree of impairment is a
3 function of the studies and things that have been
4 done. And come to the TMDL it's sort of the last step
5 in the process.

6 So these stream systems have gone through a
7 number of studies, some rough TMDL approaches have
8 been done. But, again, the Department of Health
9 believes, I think, that there isn't sufficient data to
10 do the TMDL calculations.

11 They have a way of categorizing how much
12 information they have about each stream when they list
13 it as impaired. Sometimes it's admittedly a guess.
14 So for these two streams they do -- they do know what
15 parameters they are concerned about.

16 So things have been done to that extent
17 which is, which means that you would then look at
18 those parameters and any requirements for permits or
19 trying to direct people to clean things up. Those
20 would be the target parameters.

21 Q Once a stream has been identified as being
22 impaired, is it your understanding that the State then
23 has a goal of trying to restore the quality so that
24 it's not listed as impaired in the future?

25 A Yeah, that's exactly the process.

1 Q And --

2 A The purpose.

3 Q But given that this development will have
4 some impact on the -- and some negative impact on the
5 stream quality, isn't it the case that it's going to
6 make it more difficult to restore the already impaired
7 water by adding in some additional negative impact
8 onto it?

9 A I think every stream on O'ahu is impaired.
10 Obviously the reason is because this is where the
11 majority of the population lives. Whether we can, in
12 fact, return any of those streams is questionable.

13 I'm presently involved with the Ala Wai
14 Project which is a large Army Corps project that's
15 looking at Manoa, Palolo, Makiki basins to see is
16 there any way that we can both reduce floods and
17 improve these streams back to unimpaired or
18 non-impaired state. It's wrestling with a very
19 difficult problem.

20 Q I understand that it's challenging. But
21 isn't it just a matter of fact when you are going to
22 increase the impact on a stream that's impaired it's
23 going to make it more difficult to eventually restore
24 it to an unimpaired state?

25 A It is. Like I say, if the option were to

1 take this land and put it back in a native forest you
2 might be able to start moving things in the correct
3 direction, assuming you also got everybody else on
4 board.

5 But the Project isn't necessarily going to
6 make it more difficult, given the present land use,
7 which is agriculture. And agriculture is contributing
8 primarily nutrients and pesticides and things to the
9 stream.

10 The proposed development will probably
11 reduce those. It may have other, maybe other
12 pollutants but they're not the ones that are currently
13 listed as what it's impaired for.

14 So I think trash is one of the ones listed
15 for Waiawa Stream. Clearly more people probably means
16 more trash. On the other hand, you do have the basins
17 that will allow you to trap a lot of that trash.

18 So in one sense you might be actually
19 reducing that particular aspect of the reason that
20 it's impaired.

21 Q But the basins will be trapping trash that
22 comes from other areas not from the --

23 A Well, I was speaking of Castle & Cooke
24 Waiawa. That stream system is impaired for trash.
25 They all should be impaired for trash if you've been

1 on any other streams on O'ahu or anywhere else in the
2 Hawaiian Islands.

3 But, yeah, you know, it doesn't really
4 matter. A beer can's a beer can. So if you
5 contribute one from your Project and take two off the
6 guy upstream you've reduced the number of beer cans in
7 the stream.

8 Q You mentioned that you don't actually know,
9 don't have a pre- and post-pollutant load analysis for
10 the Project.

11 A We're not tasked -- we haven't been tasked
12 to do that. I guess that's my answer. There may be
13 one being done. I understand that another engineering
14 firm may be tasked to do that.

15 But I've just learned that recently and
16 haven't had a chance to see what it is they're doing
17 exactly.

18 Q My question is if you don't have one
19 currently, how do you know what the impact is going to
20 be on the development once it's finished?

21 Isn't that essential to understanding what
22 impact, understanding what the impact is now and what
23 the impact will be afterwards?

24 A You're saying that I need to know before and
25 after what the load's gonna be? All I can know about

1 the load after is to take existing data from other
2 developments and use that.

3 We do have that information. And we have
4 looked at it in our report. We haven't done it as a
5 calculation.

6 Very difficult to extend these. You get so
7 much variability when you look at one small area of
8 Mililani, you look at a small area of Mililani,
9 they're both quite different.

10 Do you assume that they're -- average the
11 two? Is one more typical of Koa Ridge? So it gets
12 very difficult to come up with meaningful calculations
13 of the sort you're saying.

14 Q Doesn't Koa Ridge include some greater
15 amount of commercial retail elements, and hospital,
16 other things that might change the runoff and so
17 forth?

18 A They probably would. But not -- roads are
19 roads. You've got the same amount of roads pretty
20 much. You obviously would have more traffic and
21 parking lots in an industrial area or commercial area
22 than you would in a neighborhood.

23 So, yeah, the mix would clearly affect
24 certain pollutants.

25 Q Another question about peak flow. You

1 mentioned it's going to be unattenuated from Koa Ridge
2 into the surrounding streambeds because of the
3 mitigation that's occurring upstream.

4 A Not totally unattenuated but would be less
5 attenuated than you would require of a project.

6 Q You mentioned the peak flow in your view
7 that time during a storm runoff is not pollution. But
8 isn't that water to a large extent coming off of
9 streets that have oil and have other pollutants --

10 A They contain pollutants. But the peak flow
11 itself is not pollution. It's a factor that affects
12 the stream ecology. But it's not...

13 Q But beyond the factors that affect stream
14 ecology you mentioned that there can be greater
15 erosion of stream banks and other things like that.

16 There is going to also be an increase of
17 inorganic pollutant materials that are coming out of
18 the development in that kind of large rushing out of
19 water, correct?

20 A Sure. The pollutants that might be
21 associated with peak flows are going in there now for
22 Mililani. And they're not going in from Koa Ridge.
23 It hasn't been built.

24 You build Koa Ridge, some of those
25 pollutants are going to go in from Koa Ridge and

1 you're taking them off the stream from Mililani. So
2 on balance the stream is getting a reduction or no
3 change in those pollutants. So it's not an addition.
4 It becomes hopefully a reduction.

5 Q Are you actually going to be taking them
6 off? Are those pollutants going to be somehow
7 filtered out?

8 A That's really a different question.
9 Detention basins primarily serve to reduce peak flow.

10 Q Right.

11 A Which has other beneficial effects: Reducing
12 solids and things like that that might be eroded from
13 the stream banks.

14 But there are a lot of pollutants that pass
15 right through detention basins. It's not meant to be
16 a scrubber of all pollutants that might be in the
17 stream.

18 Q My last question for you, Mr. Guinther is:
19 Are you familiar with the green infrastructure
20 improvement pilot project that Castle & Cooke is
21 planning to implement for this Project?

22 A Not really, no.

23 Q Okay. You weren't aware they're going to
24 start off by installing a number of median and other
25 vegetative improvements throughout the development to

1 try to better control runoff, perhaps filter out some
2 pollutants that come off the roadways and so forth?
3 You weren't aware they were planning to do that?

4 A Well, I was aware in a general sense. I'm
5 not aware of all of the plans. Obviously any -- the
6 way that we control nonpoint source pollution,
7 probably the only way we can practically do it is to
8 develop wisely.

9 So I presume that with a new development you
10 would develop wisely to what is known at this point in
11 time to do that.

12 Q Do you think that those kinds of green
13 infrastructure improvements would be helpful in
14 reducing the impact on the surrounding streams?

15 A Oh, yeah. Definitely. Usually the worst
16 pollutants come from light and heavy industrial areas
17 where there's really no attempt to do anything with
18 the water. It's coming off of slag piles and roofs
19 and roads and things like that.

20 As soon as you get a little more green into
21 the environment and ways of filtering this runoff
22 before it gets there. There's also water quality
23 basins and things that are incorporated into the
24 plans.

25 So the detention basins are really to take

1 the peak flow off. There are other basins that the
2 City and County requires that are really there to
3 handle more of these pollutants rather than, rather
4 than the peak flow.

5 MR. YOST: Thank you. I have no further
6 questions.

7 CHAIRMAN PILTZ: Mr. Poirier?

8 MR. POIRIER: We have no questions.

9 CHAIRMAN PILTZ: Commissioners, any
10 questions? Thank you.

11 MR. TABATA: Mr. Chair, brief redirect?

12 CHAIRMAN PILTZ: Go ahead.

13 MR. TABATA: Thank you.

14 REDIRECT EXAMINATION

15 BY MR. TABATA:

16 Q Mr. Guinther, on Page 4 of your written
17 testimony, on the first full paragraph starting with
18 "Operational period, stormwater quality" you mentioned
19 that in addition to the detention basins that were
20 discussed on cross-exam, that the Project would need
21 to meet city requirements and provide either detention
22 ponds or flow through base treatment devices on site.
23 This is in addition to the off-site detention basins,
24 correct?

25 A Yeah. That's what I just mentioned. The

1 detention basins really are there to take the peak
2 flow off.

3 But there are other requirements that are
4 going to have to be met for the drains, specifically
5 from the site that you can't -- these aren't going to
6 be moved to Mililani. Mililani, the latest
7 developments have these same sort of retention -- the
8 City and County calls them water quality basins.

9 They're dry extended detention basins. But
10 their purpose really is to catch pollutants from the
11 sort of moderate sized storms on down as opposed to
12 the detention basins which are really taking the peak
13 flow off the big storms.

14 Q And these treatment devices are intended to
15 mitigate the runoff and catch the pollutants that flow
16 from the Project.

17 A Right. More so than a detention basin per
18 se. Which is -- a detention basis has a pipe at the
19 bottom.

20 The water comes in, goes and right out.
21 There's nothing -- but it comes in so fast that it
22 fills up the basin faster than it can go out.

23 The size of the pipe going out simply causes
24 the outflow to be retained over a period of time.

25 These actually catch the smaller runoff and

1 then hold it allowing it to infiltrate through the
2 soil as well as the plants and things that might take
3 up pollutants and scrub. And then they need to be
4 cleaned on some schedule.

5 So their design is different. They're
6 really designed to take pollutants out of water as
7 opposed to the peak flow off which is what the
8 detention basins are designed to do.

9 MR. TABATA: Thank you.

10 CHAIRMAN PILTZ: That's it? Okay. Next
11 witness.

12 MR. WYETH MATSUBARA: Petitioner would like
13 to call Dr. Hammatt.

14 HALLETT H. HAMMATT, Ph.D.
15 being first duly sworn to tell the truth, was examined
16 and testified as follows:

17 THE WITNESS: Yes.

18 COMMISSIONER PILTZ: Would you state your
19 name and address in the microphone for the record.

20 THE WITNESS: Yes. My name is Hallett
21 Hammatt. My company address is the Town Center
22 Waimanalo, Kalaniana'ole Highway.

23 CHAIRMAN PILTZ: Go ahead.

24 xx

25 DIRECT EXAMINATION

1 BY MR. WYETH MATSUBARA:

2 Q Dr. Hammatt, for this petition you've
3 prepared various archaeological inventory surveys and
4 cultural impact assessments for the Koa Ridge and
5 Waiawa Project, correct?

6 A That's correct.

7 Q Those are reflected in Petitioner's
8 Exhibits 7E, 7F and 19. You also prepared a written
9 summary, which has been already accepted into
10 evidence, of your various archaeological inventory
11 surveys and your culture impact assessments, correct?

12 A That's correct.

13 Q That's Exhibit 39. Also attached to your
14 written testimony you provided you referred to your
15 resumé which details your experience in both these
16 fields?

17 A That is correct.

18 Q You've testified before the Land Use
19 Commission as an expert in both these fields, correct?

20 A That is correct.

21 MR. WYETH MATSUBARA: Chair, at this time
22 the Petitioner would like to have Dr. Hammatt admitted
23 as an archaeological and cultural assessment expert.

24 CHAIRMAN PILTZ: So noted. Let me check.

25 Any objection?

1 MR. YEE: No objection.

2 MS. TAKEUCHI-APUNA: No objection.

3 MR. YOST: No objection.

4 MR. POIRIER: No objection.

5 CHAIRMAN PILTZ: Okay. Go ahead.

6 Q (By Mr. Wyeth Matsubara) Dr. Hammatt, since
7 we already had your written testimony submitted could
8 you briefly summarize your archaeological and cultural
9 impact assessments for us today?

10 A Yes. As a result of the eight studies that
11 were completed from, starting from 1996 for this
12 Project, first of all, the background study included
13 an examination of the traditional settlement patterns
14 for the area.

15 Traditionally and in pre-contact times the
16 Hawaiians were a concentrated population along the
17 coastal areas particularly in Waipio peninsula.

18 This was traditionally a forested area used
19 for traversing to get to other areas and used to
20 collect forest resources. Of course there was a
21 minimum of settlement in this area.

22 In terms of the archaeology and the
23 findings. As a result of five archaeological studies,
24 virtually all of the archaeological sites identified
25 are assigned to the post-contact period associated

1 with plantation and military use.

2 And I would also mention that the vast
3 majority of the Project Area, the 767 acres, has been
4 in pineapple and commercial cultivation since the
5 early part of the last century.

6 And there have been many modifications over
7 those years which have changed the landscape and
8 erased the former evidence of any settlement.

9 Q Dr. Hammatt, you proposed various mitigation
10 assessments in your report, to my understanding all of
11 which have been accepted by the State Historic
12 Preservation Division, SHPD?

13 A That is correct.

14 MR. WYETH MATSUBARA: Chair, Dr. Hammatt is
15 available for cross-examination.

16 CHAIRMAN PILTZ: Cross?

17 MS. TAKEUCHI-APUNA: The City has no
18 questions.

19 CHAIRMAN PILTZ: State, cross?

20 CROSS-EXAMINATION

21 BY MR. YEE:

22 Q I understand the archaeological inventory
23 survey has been accepted by SHPD, correct?

24 A That's correct.

25 Q What remains to be done at some point in the

1 future?

2 A There are actually six sites, six
3 archaeological sites in which the intention is to
4 either preserve or do data recovery. There's further
5 study required for those six sites. And for those
6 there will be data recovery plans and preservation
7 plans prepared for each of those sites.

8 And there will also be consultation with
9 SHPD particularly in regards to the Waiahole Ditch.

10 Q And SHPD will eventually need to approve the
11 data recovery and preservation plans, correct?

12 A That is correct.

13 Q That will need to be done before, certainly,
14 ground disturbance?

15 A Yes.

16 Q Will that be done by Petitioner?

17 A Yes.

18 MR. YEE: I have no further questions.

19 Thank you.

20 CHAIRMAN PILTZ: Thank you. Mr. Yost?

21 MR. YOST: No questions.

22 MR. POIRIER: No questions.

23 CHAIRMAN PILTZ: Commissioners, questions?

24 Okay. Thank you.

25 THE WITNESS: Thank you very much. That was

1 the shortest ever. (Laughter)

2 CHAIRMAN PILTZ: Your next witness.

3 MR. TABATA: Chair, we were planning on
4 calling our next witness after lunch. Would that be
5 possible?

6 CHAIRMAN PILTZ: That works for me.

7 MR. TABATA: Thank you very much. We were
8 too efficient.

9 CHAIRMAN PILTZ: How about 1:00 we will be
10 back.

11 (Lunch recess was held 11:30)

12 CHAIRMAN PILTZ: We're back in session.
13 Petitioner, your next witness is Ann Bouslog?

14 MR. TABATA: That's correct.

15 CHAIRMAN PILTZ: Let me swear you in,
16 please.

17 ANN BOUSLOG, Ph.D.
18 being first duly sworn to tell the truth, was examined
19 and testified as follows:

20 THE WITNESS: I do.

21 CHAIRMAN PILTZ: Would you state your name
22 and address for the record.

23 THE WITNESS: My name is Ann Bouslog. My
24 address is P. O. Box 62074 Honolulu 96839.

25 CHAIRMAN PILTZ: Petitioner.

1 DIRECT EXAMINATION

2 BY MR. TABATA:

3 Q Thank you. Dr. Bouslog, did you prepare the
4 market assessment for Koa Ridge Makai and Waiawa and
5 Economic Fiscal Impact Assessment for Koa Ridge Makai
6 and Waiawa which are both comprising Petitioner's
7 Exhibit 7G?

8 A Yes, I did.

9 Q And did you also prepare your written
10 testimony and curriculum vitae for this proceeding
11 which is Petitioner's Exhibit 34?

12 A Yes.

13 Q And does your curriculum vitae describe your
14 qualifications and experience in the fields of real
15 estate market assessment and economic impacts?

16 A Yes.

17 MR. TABATA: Mr. Chair, the Petitioner
18 requests that Dr. Bouslog be qualified and admitted as
19 an expert in the fields of real estate market
20 assessment and economic impacts.

21 CHAIRMAN PILTZ: Any objection?

22 MS. TAKEUCHI-APUNA: No objection.

23 MR. YEE: No objection.

24 CHAIRMAN PILTZ: Intervenors?

25 MR. YOST: No objections.

1 MR. POIRIER: No objections.

2 CHAIRMAN PILTZ: Commissioners? We'll
3 accept her as an expert witness.

4 MR. TABATA: Thank you.

5 Q Dr. Bouslog, would you briefly summarize
6 your written testimony.

7 A Sure. Both of my studies were completed in
8 2008, late 2008. They addressed the 5,000 residential
9 units at Waiawa and Koa Ridge Makai and the 410,000
10 square feet of commercial area. They also considered
11 light industrial area.

12 On the residential side what we found is
13 that even with the complete buildout of everything
14 that is entitled and planned for residential
15 development on the island, that there could still be a
16 shortfall of about 29,000 primary housing units by
17 2030.

18 And at least 6500 of those would appear to
19 be needed in Central O'ahu based on DPP's own 2009
20 projections that were prepared.

21 Of the residential units about 30 percent or
22 at least 30 percent would be proposed to be affordable
23 units in conformance with current county guidelines.

24 And the developer would -- that's based on
25 today's standards -- the developer will meet whatever

1 the standards are at the time an agreement is
2 negotiated.

3 We estimated that Koa Ridge and Waiawa
4 together could close between 360 to 450 units per
5 year. That would lead to complete market absorption
6 of all of these units by somewhere between 2022 and
7 2025.

8 On the commercial side the 410 square feet
9 of commercial area, the primary retail area for that
10 would be considered to be the Central O'ahu
11 development area.

12 Whereas on the office side of it it might
13 stretch a little further into some of the 'Ewa
14 districts since people are more willing to travel
15 farther to work than they typically are to shop.

16 Even with the Project's additions to the
17 area's inventory there could still be some
18 1.8 million square feet of additional supportable but
19 unplanned commercial space in Central O'ahu by 2030.
20 That's based on projected population levels in Central
21 O'ahu and in the case of office uses also, in 'Ewa
22 areas.

23 In terms of the economic and fiscal impact
24 assessments, the Project would lead to considerable
25 employment and tax benefits for both the state and the

1 county. During the period of infrastructure
2 development in the beginning years the Koa Ridge Makai
3 and Waiawa are estimated to generate about 1909
4 full-time equivalent jobs per year through direct,
5 indirect impacts related due to development.

6 And in the later period after about 2010 --
7 excuse me, 2015, the figure would be about 1730
8 full-time equivalent development related jobs.

9 Those jobs could generate personal earnings
10 within the state of about 119 million per year in the
11 2009 to 2015 -- excuse me. That's total. Not per
12 year. 2009 to 2015 period. And a hundred million
13 from 2016 to 2025.

14 By the time of the Project's expected
15 completion in 2025, it could be expected to have
16 accommodated about 2,460 direct full-time equivalent
17 jobs on site.

18 And some 1490 of those could be considered
19 net new jobs for the county and state. In other
20 words, jobs that would not have existed anywhere in
21 the county or state if Koa Ridge and Waiawa were not
22 developed.

23 Those jobs could generate personal earnings
24 for Hawai'i residents of about 90 million per year by
25 the time of the Project's stabilization in 2025 or an

1 average about 60,000 per full-time equivalent job.

2 In terms of the benefits, fiscal benefits to
3 the county and state government: New county
4 government revenues derived from the Project are
5 estimated to be about 13 times the new operating
6 revenues because there are tremendous differences in
7 the real property taxes that would be generated off
8 this site.

9 The State would also benefit considerably.
10 During buildout the State's revenue/expenditure ratio
11 is estimated at 9.4. So more than nine times the
12 additional revenues compared to the additional
13 expenses that the Project could generate.

14 And once the Project is completed and the
15 tax benefits that might be associated with
16 development, particularly GET, once those subside on a
17 going forward basis, the net fiscal benefit to the
18 State is estimated at about four times the initial --
19 four times -- the revenues are estimated at four times
20 the initial expenditures.

21 MR. TABATA: Dr. Bouslog is now available
22 for cross-examination.

23 CHAIRMAN PILTZ: City?

24 MS. TAKEUCHI-APUNA: City has no questions.

25 CHAIRMAN PILTZ: Mr. Yee?

1 CROSS-EXAMINATION

2 BY MR. YEE:

3 Q I understand -- or did you conclude that
4 even through worst case economic cycles this Project
5 is still economically feasible?

6 A Yes, I believe it is still economically
7 feasible.

8 Q And I understand your market study was done
9 before the incremental development plan was submitted.
10 But are you familiar or aware of the incremental
11 development plan?

12 A Yes, I am.

13 Q And would it still be your conclusion that
14 based upon your market study and absorption rate that
15 the incremental development plan as submitted by the
16 Petitioner would still be consistent with your
17 conclusion that this Project is economically feasible?

18 A Well, actually our plan assumed that Koa
19 Ridge Makai would be developed before Waiawa. And my
20 understanding is that is the incremental development
21 plan that you would focus on Koa Ridge Makai first.
22 So it's still consistent with our study.

23 Q So Koa Ridge Makai could go independent of
24 Waiawa Ridge Increment I side.

25 A Waiawa Ridge?

1 Q I'm sorry. Let me rephrase and make sure I
2 use the right words. The Increment I which is the Koa
3 Ridge Makai and Increment II which is the Castle &
4 Cooke Waiawa, in your calculation you assumed
5 Increment I goes first, correct?

6 A When I first did the studies we were
7 assuming that there might be overlap between the two
8 but they could be developed sequentially also.

9 Q And that would not affect your final
10 conclusion that the Project's nevertheless
11 economically feasible, correct?

12 A No, it would not.

13 MR. YEE: Thank you. Nothing further.

14 CHAIRMAN PILTZ: Mr. Yost.

15 CROSS-EXAMINATION

16 BY MR. YOST:

17 Q Thank you. Dr. Bouslog, first question for
18 you. Do you know how much revenue is currently
19 generated on the Koa Ridge Makai side by ag uses on an
20 annual basis?

21 A I did have an estimate of, I think
22 employment and certainly taxes that were generated
23 there. I can't tell you offhand what the revenues
24 are.

25 Q When you did your calculations about net

1 benefits to the state and so forth, did you take into
2 account the current value of all of the economic
3 activity related to the ag land and its present use?

4 A I know we took out the taxes. I'm not
5 really sure, for instance, if GET was taken out on the
6 ag uses there.

7 Q What about jobs?

8 A I can check if you'd like me to.

9 Q I'm sorry. What about jobs?

10 A Can you give me a minute?

11 Q Sure.

12 A No, the ag jobs were not backed up.

13 Q And you didn't also consider any ancillary
14 effects, economic benefits that may exist from the
15 local production of agricultural products and their
16 distribution and sale on the islands? You didn't
17 consider those either, did you?

18 A You mean the indirect effect of being able
19 to buy locally versus buying from the mainland?

20 Q There are some. Also the vendors, there are
21 other jobs that are created by the distribution of
22 agricultural products. There are other jobs related
23 to the provision of fertilizers and other, you know,
24 things that the ag operation needs to continue going,
25 that sort of stuff.

1 Did you consider those economic benefits
2 when you were trying to compare what net benefit may
3 exist to the state?

4 A No, those are not in there.

5 Q You mentioned that to Mr. Yee that you could
6 go independently Phase I, Phase 2 of this development
7 and that it would still be economically viable, is
8 that right?

9 A Um, yes.

10 Q So it would be possible, then, for Koa Ridge
11 Makai to be developed and for Koa Ridge -- for the
12 Castle & Cooke Waiawa to not be developed and Koa
13 Ridge Makai would still be economically viable and
14 wouldn't run into any issues because the Waiawa
15 portion was not developed?

16 A Certainly if you can provide a bigger
17 operation that's more efficient for the developer.
18 But I think they are both viable independently.

19 Q When you get into the affordable housing
20 calculations and projections are you relying on both
21 of the two sites being developed in order to achieve
22 the 30 percent affordable housing threshold that's
23 currently required?

24 Or are you -- are you assuming that each of
25 these two separate sites would both have to have

1 30 percent affordable housing?

2 A We did not develop a plan, I'm not aware of
3 any, as to exactly where the affordable housing would
4 go.

5 It's just my understanding that the
6 developer would meet county guidelines for affordable
7 housing. So they would provide 30 percent of whatever
8 inventory they're building as affordable housing under
9 current guidelines.

10 Q So they weren't relying -- as far as you
11 know they weren't -- the developer's not relying on
12 Castle & Cooke Waiawa being developed to fill,
13 perhaps, a larger percentage of the affordable housing
14 requirement than Koa Ridge Makai may be able to be
15 achieve?

16 There isn't some sort of tradeoff or
17 interaction between those two sites?

18 A There may be. I'm not aware of what that
19 is.

20 Q Okay. In terms of the demand for housing
21 you mentioned that, you know, the 5,000 houses that
22 are proposed or residential units are well within your
23 understanding of what the regional demand is on a
24 forward thinking basis.

25 How far out is that projection? You said

1 6500 homes. Is that by when? By 2030? Or by some
2 other date?

3 A That was by 2030.

4 Q Do you know how many homes are projected to
5 be needed by 2015 or 2020?

6 A The County has developed some of their own
7 projections of that which, by the way, are actually
8 considerably higher than what I had assumed would go
9 into Central O'ahu.

10 Q Okay. Is there any reason from your market
11 analysis that the 5,000 residential units proposed by
12 Castle & Cooke couldn't all be medium density
13 residential as opposed to a mix of medium and
14 low-density?

15 A I think any time you want to sell that many
16 units or develop a community it's very important to
17 have a mix of product types.

18 And I would not be as confident, the market
19 for this, if it were all of one type. Historically
20 that area, Mililani, Central O'ahu area has had about
21 30 percent of the units multi-family and the rest
22 single family.

23 It would be difficult to try to sell a whole
24 community that was multi-family. I just don't think
25 Hawai'i is ready for that.

1 Q Have you done any market analysis
2 specifically on whether or not you could do all 5,000
3 units medium density and whether or not they would be
4 viable economically?

5 A Meaning have I done surveys of potential
6 buyers? What do you mean by that?

7 Q You've done market analysis generally to try
8 to determine whether or not this proposed Project is
9 economically viable, correct?

10 A I have not done a financial feasibility
11 analysis of it. My study is a market study.

12 Q Okay. So you don't have any opinion as to
13 whether or not 5,000 medium density residential units
14 would be marketable or not.

15 You don't have any actual figures or facts
16 to say one way or the other; is that right.

17 A I do have figures and facts in talking to
18 agents who sell units about what types of units there
19 is demand for.

20 And there is just tremendous historical data
21 to show that there is a demand for single-family homes
22 as well as multi-family homes throughout O'ahu, but
23 particularly in Central O'ahu.

24 Q Let's say that you had just Koa Ridge Makai
25 going forward with 3500 residential units. And they

1 were all medium density. And they were all less
2 expensive than the average stand-alone single-family
3 residence.

4 Do you have any information that indicates
5 they would not be sold readily and taken up by the
6 population on O'ahu?

7 A Yes. The absorption figures we can see from
8 what sells in Hawai'i would probably not allow you to
9 get the 360 to 400 unit sales per year that we
10 projected if it were all multi-family.

11 That type of robust absorption assumes a mix
12 of product types so that you can hit many markets and
13 not just one relatively narrow market.

14 Q Okay. That's fine.

15 MR. YOST: I have no further questions about
16 that.

17 CHAIRMAN PILTZ: Mr. Poirier?

18 MR. POIRIER: Yes, one question.

19 CROSS-EXAMINATION

20 BY MR. POIRIER:

21 Q You stated in your written testimony as well
22 as your verbal testimony that county government
23 revenues derived from the Project estimated about 13
24 times the new operating expenditures incurred by city
25 government. And the State government revenue

1 expenditure ratios estimated at 9.4 in 2025. And it
2 goes down to 4.0.

3 I didn't see any analysis of capital costs
4 accruing to state and county governments. My question
5 is: Did your analysis include the impact, the fiscal
6 impact of State and County governments in terms of
7 providing a central mauka road estimated at \$160
8 million, dedicated access road from Ka Uka Boulevard
9 to Pearl Highlands station which are going to be in
10 the tens of millions of dollars?

11 Did it include school construction in the
12 amount of 30 to \$50 million per school plus the usual
13 add-ons that people want such as football fields and
14 all-weather tracts?

15 Did it include the regional parks, community
16 parks and neighborhood parks that the City and County
17 is going to have to provide in the way of swimming
18 pools, gymnasiums, play courts of all types,
19 playgrounds of all types, play fields of all types,
20 dog park and skateboard parks?

21 A There is a provision for capital
22 expenditures. Because if you look at the county and
23 state budgets a very significant part of their
24 operating budget is to debt service.

25 In other words, if a county or state

1 government has to build a \$160 million project they
2 don't take \$160 million out of their coffers. They
3 typically finance that. And that gets supported by
4 debt service.

5 So all of the existing debt service is in
6 there. In fact I'm just looking at the County's
7 budget that I used here. About more than 10 percent
8 of it is debt service.

9 Q I'm not talking about debt service. I'm
10 talking about capital cost that somebody is going to
11 have to pay for these facilities, not debt service.

12 A Well, debt service is how governments pay
13 for capital costs. That's how they support capital
14 outlays.

15 Q They do so by floating bonds which incur the
16 debt service.

17 MR. TABATA: Excuse me, Mr. Chairman. I
18 believe this question goes beyond the scope of direct.
19 Therefore I'll lodge an objection.

20 CHAIRMAN PILTZ: Do you understand the
21 objection?

22 MR. POIRIER: Yes, I do. I have no more
23 questions.

24 CHAIRMAN PILTZ: Redirect?

25 MR. TABATA: If I may, thank you, Chair.

1 REDIRECT EXAMINATION

2 BY MR. TABATA:

3 Q Dr. Bouslog, are you aware that Castle &
4 Cooke is relocating the ag operations on Koa Ridge
5 Makai to similar acreage above Wahiawa?

6 A Yes, I did hear that that will be done.

7 Q When that occurs would that mean that there
8 would be little or no loss of jobs or income with
9 respect to the impacts to the state?

10 A Yes, it would. If those jobs were replaced
11 elsewhere from the county and state's standpoint the
12 impacts would be nil.

13 Q Thank you.

14 CHAIRMAN PILTZ: Commissioners?

15 Commissioner Judge, go ahead.

16 COMMISSIONER JUDGE: Good afternoon,
17 Dr. Bouslog. I had a question. I think I heard you
18 say that yours is a market study versus a feasibility
19 study?

20 THE WITNESS: Yes.

21 COMMISSIONER JUDGE: How do those differ?

22 THE WITNESS: Well, in other words, I didn't
23 run cash flows and put in development costs and see if
24 the sales of residential units, for instance, justify
25 the expenditure on roads, parks and building those

1 units.

2 What I did was to determine whether or not
3 there was a market for that product, whether there was
4 a need for these products in the county and state
5 marketplaces.

6 COMMISSIONER JUDGE: So when you say in your
7 opinion that the Project is feasible or viable, what
8 do you mean by that?

9 THE WITNESS: If I used the word "feasible"
10 I did not mean it as financially feasible. What I'm
11 saying it's viable as a market plan. So it can be
12 marketed.

13 I believe it would find acceptance in this
14 marketplace and that there is, in fact, a great need
15 for the housing and the commercial areas that are
16 planned here on O'ahu.

17 The question as to whether, you know, can
18 you sell it at a price that justifies the development
19 costs would be one answered in a financial feasibility
20 analysis, which I did not do.

21 COMMISSIONER JUDGE: So you didn't look at
22 pricing, what they would have to price these things at
23 to make it...

24 THE WITNESS: I projected prices based on
25 what I think the type of product that's being proposed

1 here would be supportable for at in this marketplace.

2 So I did project sales prices for the homes.

3 COMMISSIONER JUDGE: Okay. So in this
4 marketplace I think when you were testifying you
5 stated that your studies were conducted in 2008, is
6 that correct?

7 THE WITNESS: Correct.

8 COMMISSIONER JUDGE: And would it be fair to
9 say that market conditions for both residential real
10 estate and commercial real estate have changed, I
11 don't know if dramatically, but have changed with the
12 financial turmoil that started back in October of
13 2008?

14 THE WITNESS: Yes. Certainly they're softer
15 at this moment.

16 COMMISSIONER JUDGE: So how would -- would
17 these different economic times, would that change your
18 conclusions regarding the viability or the absorption
19 for this Project?

20 THE WITNESS: No. What it might do is shift
21 some of the demand further out in time. But this
22 Project, even if it were to be approved by the Land
23 Use Commission relatively soon, it would not be
24 selling a unit until 2012 when you look at the
25 timeline of the additional approvals that are needed,

1 building infrastructure, then doing the vertical
2 construction of a residential unit.

3 So you're really looking at a marketplace
4 beginning in 2012. And when you have a project that's
5 thousands of units you're not so much looking,
6 concerned about what today's market is like.

7 What you're concerned about is what a
8 long-term average is. And you're not as certain with
9 trying to predict the business cycles.

10 What we're in now is a down business cycle.
11 And it's one that's been a little more dramatic than
12 some of our other downs. But I believe it is a
13 business cycle.

14 And I don't think there's almost anybody
15 that doesn't believe that this is a business cycle and
16 Hawai'i will come back.

17 Certainly no matter what happens to the
18 economy there are kids that are now 18 years old, who
19 were born 18 years ago and in 5 years they will be 23
20 years old.

21 After that they will be 25 years old and
22 some of them will be looking to form their own homes.
23 So there will be demand for new homes going forward.

24 And longer term that's where demand comes
25 from is population growth.

1 COMMISSIONER JUDGE: So if I understand
2 you're saying basically there will still be demand but
3 the absorption just may take longer.

4 THE WITNESS: Actually I believe the period
5 when this Project comes on could be a really climbing
6 real estate market. I think the period between now
7 and 2012 could still be soft years.

8 I think prices may continue to decline. But
9 there are many people, households now that are not
10 being formed because young people don't have jobs or
11 they can't afford to.

12 People are doubled up with their in-laws,
13 with their parents, and so forth. That is pent-up
14 demand that wouldn't be satisfied even today
15 necessarily if you put supply out there.

16 But in three or four years if you put supply
17 out there and those people then have jobs, I would
18 expect to see a pretty rapid rise in demand. So we
19 may see a strong rise in demand starting around 2012.

20 COMMISSIONER JUDGE: Thank you.

21 CHAIRMAN PILTZ: Commissioners, any other
22 questions? Thank you. Petitioner, your next witness.

23 MR. TABATA: Petitioner calls Todd Beiler.

24 xx

25 TODD BEILER, P.E.

1 being first duly sworn to tell the truth, was examined
2 and testified as follows:

3 THE WITNESS: I do.

4 CHAIRMAN PILTZ: Would you state your name
5 and address for the record and take the questions from
6 the counsel.

7 THE WITNESS: Sure. My name is Todd Beiler.
8 My address is address is 602 Auwai Street in Kailua
9 96734. (check st spelling)

10 DIRECT EXAMINATION

11 BY MR. TABATA:

12 Q Mr. Beiler, did you prepare the
13 Environmental Noise Assessment Report for Koa Ridge
14 Makai and Waiawa, which is Petitioner's Exhibit 7J?

15 A Yes, I did.

16 Q Did you also prepare your written testimony
17 and curriculum vitae which is Petitioner's
18 Exhibit 43?

19 A Yes, I did.

20 Q Does your curriculum vitae describe your
21 qualifications and experience --

22 A Yes.

23 Q -- in noise assessment?

24 A Yes, it does.

25 Q Thank you.

1 MR. TABATA: Mr. Chair, Petitioner requests
2 that Mr. Beiler be admitted as an expert witness in
3 the field of noise assessment.

4 CHAIRMAN PILTZ: City, any objection?

5 MS. TAKEUCHI-APUNA: No objection.

6 MR. YEE: No objection.

7 MR. YOST: No objection.

8 MR. POIRIER: No objection.

9 COMMISSIONER PILTZ: Anyone? Counsel, we'll
10 admit that. Go ahead.

11 MR. TABATA: Thank you.

12 Q Mr. Beiler, could you briefly summarize your
13 written testimony for us?

14 A Sure. We completed a noise assessment of
15 the Project site, the Petition Area, not only for
16 noise to the property but also noise that may impact
17 surrounding communities based on the Project.

18 Our noise assessment was completed in 2008.
19 One of the first things we do is just review the
20 entire area and try and identify what potential noise
21 impacts might be in the area.

22 We took long-term noise measurements, two to
23 four days in duration at four different locations
24 within the Petition Area.

25 Noise levels that we measured they ranged,

1 obviously depending on the location, but at spots that
2 are near the noisiest part which would be along H-2
3 Freeway, noise levels ranged from 53 decibels to
4 around 66 decibels.

5 Some of the more quieter sections of the
6 property on the Northeast side of the Castle & Cooke
7 Waiawa area, noise levels are ranging from 30 dBA at
8 night to 57 dBA during the day. So those are some
9 average noise levels.

10 For this Project the largest noise concern
11 or noise source, if you will, is traffic noise which
12 is kind of common for some of these different
13 developments. So that's what we focused a lot of our
14 study on.

15 And we used the Federal Highway
16 Administration's traffic noise model, the model of
17 what the traffic noise would be in the area.

18 What we found was that the increase in the
19 peak hour traffic is less than 2 dB due to the Project
20 which is not considered to be significant. A just
21 noticeable difference is around 3 decibels for most
22 people.

23 For traffic noise that might be impacting
24 the Project site or the Petition Area for the new
25 homes that might be built, what we found that homes

1 that would be built within 150 feet of the H-2 Freeway
2 would be exposed to noise levels that exceeded the
3 Federal Highway Administration noise limits of 67 dBA.
4 Again that's for peak hour traffic.

5 In addition, homes that were built within a
6 hundred feet of the Kamehameha Highway similarly would
7 exceed that FHWA noise limit.

8 These predictions of the 150 feet for H-2
9 and 100 feet for Kamehameha Highway are based on a
10 worst case scenario which means you have completely
11 flat land with a clear view of the roadway; does not
12 consider topography changes, natural berms or anything
13 like that. So it's a worst case scenario.

14 We also looked at the possibility of noise
15 impact on schools. And based on the location within
16 the Petition Area as we're aware of it a noise impact
17 is not expected.

18 The State Board of Education has a policy on
19 exterior noise which, let's see, it says: For air
20 conditioning should be installed in locations where
21 the school's exposed to a noise level, an L10 of 65
22 dBA or greater.

23 Based on our estimations we do not think the
24 school would be exposed to that noise level. But if
25 it is, then air conditioning could be provided to

1 mitigate some of that noise. I think that might sum
2 up pretty much for our noise study.

3 Q Mr. Beiler, just so I understand this
4 correctly. You mentioned that this 150 foot setback
5 area, the freeway, is a worst case scenario.

6 A Correct.

7 Q You also mentioned that there are terrain
8 factors like berms or perhaps trees or other factors
9 that could lower the decibel levels.

10 A That's correct, yes.

11 Q Between the home and the freeway?

12 A Right, correct.

13 Q So you're not proposing a hard and fast rule
14 that there should be a hundred fifty foot setback from
15 the freeway, is that correct?

16 A Correct. I mean, again, that would be for
17 the worst case scenario for areas where it's flat land
18 and has a clear view of the highway. If there are
19 other areas where the roadway is blocked or partially
20 blocked, the homes could be built closer.

21 The main idea would be to do an analysis and
22 maintain that 67 noise limit, if you will. So if
23 we're looking at one specific location happened to be
24 partially blocked by the topography or the terrain and
25 that is within the 150-foot recommended setback, if

1 you will, but because it's -- based on that terrain
2 the noise level is less than 67 dBA, then that should
3 also be considered acceptable.

4 MR. TABATA: Thank you. Mr. Beiler is now
5 available for cross-examination.

6 CHAIRMAN PILTZ: City, cross?

7 MS. TAKEUCHI-APUNA: No.

8 CHAIRMAN PILTZ: Mr. Yee?

9 CROSS-EXAMINATION

10 BY MR. YEE:

11 Q Mr. Beiler, is it your understanding that
12 any homes that are constructed would have mitigation
13 measures built in to ensure that they meet the Federal
14 Highway Administration maximum noise limits?

15 A The way that the noise criteria is written
16 it just assumes standard building construction is used
17 in those special conditions.

18 Q Let me rephrase that. Is it your assumption
19 that mitigation measures will be implemented to ensure
20 that the actual noise levels within the homes even
21 under worse case scenarios would be below 67 dBA?

22 A The 67 dBA would be for exterior noise only,
23 criteria for exterior noise only.

24 Q Oh, so there's no interior noise limit by
25 the Federal Highway Administration.

1 A They do list a guideline for interior noise.

2 I just want to make sure I tell you the right one.

3 (Pause) Yes, the guideline for interior noise is 52

4 dBA, so a reduction of 15 decibels.

5 Q Some of the mitigation measures seem to be

6 applicable to the exterior of the house and some of

7 them seem to be applicable to the interior of the

8 house, right?

9 A Correct, yes.

10 Q What are the standards, if any, that we met

11 then or do you understand would be met with respect to

12 these houses regarding noise? Are there any?

13 A I'm not sure if I understand the question.

14 Q You've identified that houses built within a

15 certain distance from the highway would be above --

16 would be above the Federal Highway Administration

17 decibel limit, right?

18 A Correct.

19 Q You say there are things that could be done

20 to reduce the decibel level, correct?

21 A Hmm hmm, correct.

22 Q What I'm looking for you is to say: What

23 would that reduction result in? Do you know?

24 A Well, it would have to be a design feature.

25 So, for example, a noise barrier wall or an earth

1 berm. If we blocked the line of sight we get about 5
2 decibel reduction.

3 There's sort of a practical limit of maybe
4 15 decibels reduction if you had a really all sound
5 barrier wall, a really tall berm.

6 Those are the limits for, say, earth berm or
7 barrier wall. And, again, that's for exterior noise.

8 Q Let me be clear. I'm not asking you to plan
9 out the Project. But is there a standard the Project
10 is intending to meet after you put in whatever design
11 plans that's eventually put in?

12 A From a noise standpoint the goal would be to
13 meet the exterior noise limit of 67 decibels.

14 Q Outside of the house?

15 A Yes.

16 Q So the things like carpeting wouldn't affect
17 that, right?

18 A Um, well, it certainly wouldn't do anything
19 for that exterior noise level. But it can help on the
20 insides of the house.

21 Q So the goal would be to design -- to either
22 locate the house in a particular area either further
23 away or to put in various design features so that the
24 exterior noise level is below 67.

25 A Correct, yes.

1 Q And that's the goal. Is it your
2 understanding that's how it will be designed? That is
3 what will be achieved after it's finally built?

4 A That's my understanding, yes.

5 Q Is it your understanding that it will also
6 meet the interior noise requirements of 52?

7 A That's correct, yes.

8 Q So the specifics you're not sure with, but
9 the final end result should be that it will meet
10 Federal Highway Administration noise limits, right?

11 A That's correct, yes.

12 Q With respect to the schools. You've seen
13 -- are you aware the Department of Education is
14 looking for locations of schools where air
15 conditioning will not be needed due to noise?

16 A I was not aware of that department
17 requirement or request.

18 Q Okay. If the Department of Education asks
19 that the site location be selected so that air
20 conditioning is not needed for noise, are the current
21 locations of the schools -- would the current location
22 of the schools allow for that?

23 A Based on the plans I've seen, yes.

24 Q Then you talked about in your testimony that
25 additional temporary noise mitigations may be required

1 if construction activities occur in the vicinity of
2 the elementary schools. Do you remember that?

3 A Yes, right.

4 Q What would be these temporary noise
5 mitigation measures?

6 A Well, the measures are usually developed by
7 the Department of Health. Or at least there are
8 requirements that they may ask. It's very site
9 specific.

10 But many times what we have seen is a tall
11 fence made of plywood, solid plywood so that that
12 would help keep in the noise a little bit. It doesn't
13 get rid of all the noise but it helps drop down the
14 noise levels maybe five to ten decibels which helps
15 out.

16 Q And these are done by the developer, right?

17 A Right, yes. Other times they may develop a
18 hotline for many noise complaints that the local
19 community complains: Hey, we've got noise issues.
20 There's just some common things we've seen.

21 Q But if the noise mitigation measures are
22 required because of the construction activity, it's
23 the person doing the construction activity that's
24 responsible for the noise mitigation measure.

25 A That's correct, yes.

1 MR. YEE: I have nothing further. Thank
2 you.

3 MS. TAKEUCHI-APUNA: No questions.

4 CHAIRMAN PILTZ: Mr. Yost?

5 MR. YOST: No questions.

6 CHAIRMAN PILTZ: Mr. Poirier?

7 MR. POIRIER: I don't have any questions.

8 CHAIRMAN PILTZ: Commissioners? Let me ask
9 you. On noise abatement for the exterior construction
10 of walls along with vegetation, would it increase the
11 abatement? Say along the highways you know you have
12 the concrete walls. How much would you abate? Only
13 five?

14 THE WITNESS: Well, if you just get -- the
15 main thing when looking at an earth berm or a barrier
16 wall is to block the line of sight. If you don't
17 block the line of sight you really get zero reduction.

18 If you block the line of sight, so if I
19 start building my wall up until I'm blocking the line
20 of sight I almost immediately get five decibel
21 reduction.

22 As I start getting higher than that then I
23 start going over 5. But there's --even if I build a
24 really tall wall there's an upper limit of 15 decibel
25 reduction.

1 CHAIRMAN PILTZ: How about if you put in
2 front of those vegetation, trees and that kind of
3 stuff? Does that help at all?

4 THE WITNESS: There's a psychological
5 effect. If you can't physically see the highway with
6 blocking with vegetation, but trees and other bushes,
7 shrubs typically don't do very much to attenuate the
8 noise levels if you were to measure it.

9 CHAIRMAN PILTZ: Along with the walls, would
10 that?

11 THE WITNESS: Unless it's about 300 feet
12 deep or more of thick vegetation then you start to see
13 a reduction in noise level. Otherwise you don't.

14 CHAIRMAN PILTZ: Good. Okay. Redirect?

15 MR. TABATA: Petitioner has no redirect.

16 CHAIRMAN PILTZ: Thank you. Do you have one
17 more?

18 MR. BEN MATSUBARA: We have a final witness.
19 Garret Matsunami.

20 GARRET J. MATSUNAMI, P.E.
21 being first duly sworn to tell the truth, was examined
22 and testified as follows:

23 THE WITNESS: Yes.

24 CHAIRMAN PILTZ: Please state your name and
25 address for the record.

1 THE WITNESS: My name is Garret Matsunami.

2 My address is 400 Kahelu Ave. Mililani 96789.

3 CHAIRMAN PILTZ: Go ahead.

4 MR. BEN MATSUBARA: Thank you.

5 DIRECT EXAMINATION

6 BY MR. BEN MATSUBARA:

7 Q Garret, you're the director of engineering
8 and site construction for Castle & Cooke, right?

9 A Yes.

10 Q So you have been primarily responsible for
11 site engineering and construction work that's been
12 done?

13 A Yes.

14 Q Have you done this for other projects
15 undertaken by Castle & Cooke?

16 A Yes.

17 Q Could you name those other projects?

18 A Mililani, Kapolei, Makakilo, Waipio Point.

19 MR. BEN MATSUBARA: Thank you. If I may I'd
20 like to qualify Mr. Matsunami as an engineering and
21 site construction expert.

22 CHAIRMAN PILTZ: Okay. City?

23 MS. TAKEUCHI-APUNA: No objection.

24 CHAIRMAN PILTZ: State?

25 MR. YEE: No objection.

1 MR. YOST: No objections.

2 MR. POIRIER: No objection.

3 CHAIRMAN PILTZ: Okay.

4 Q (By Mr. Ben Matsubara): Thank you. Prior
5 to assuming your position with Castle & Cooke you were
6 with the Board of Water Supply.

7 A Correct.

8 Q You were there for ten years?

9 A Correct.

10 Q At the time you left you were head of their
11 new construction division, were you not?

12 A Correct.

13 Q You've prepared written testimony.

14 A Yes.

15 Q Which we have marked Exhibit 32.

16 A Yes.

17 Q Could you summarize that testimony for the
18 Commission, please.

19 A Sure. The infrastructure reports that were
20 prepared for the development include drinking water,
21 water resources, wastewater, stormwater, electrical,
22 communication, traffic impacts, preliminary soils
23 report. I'm going to briefly go over each one real
24 quick.

25 Water. The water usage for Koa Ridge Makai

1 will be about 2 million gallons per day and .7
2 million gallons per day for Castle & Cooke Waiawa. We
3 expect this demand to be met from the 19
4 million gallons per day of remaining sustainable yield
5 in the Waipahu-Waiawa Aquifer.

6 To serve Koa Ridge Makai two additional
7 wells and a new 1.5 million-gallon reservoir will be
8 constructed adjacent to the existing Board of Water
9 Supply site now situated on Koa Ridge Makai adjacent
10 to the freeway. You can see it from the freeway, when
11 you drive past there.

12 Another well site to serve Koa Ridge Makai
13 will be located to the northeast mauka of the H-2
14 Freeway and will consist of three wells and a
15 1.5 million-gallon reservoir.

16 Castle & Cooke Waiawa area will be served by
17 one well along with a one-and-a-half million gallon
18 reservoir mauka of the site.

19 And because the neighboring Waiawa Ridge
20 Development also requires a drinking water system at
21 the same elevation, the necessary improvements will be
22 coordinated between the two developers.

23 Regarding sewer: Koa Ridge Makai and Castle
24 & Cooke Waiawa are estimated to generate peak
25 wastewater flows of 5 million gallons per day and

1 1.6 million gallons per day respectively.

2 For Koa Ridge Makai a new 36-inch main is
3 proposed from Koa Ridge to Waipahu pump station along
4 approximately a 10-foot easement through Central O'ahu
5 Regional Park and through Waipahu Town.

6 A Castle & Cooke Waiawa on-site sewer system
7 will connect to a proposed off-site sewer improvement
8 system planned for Waiawa Ridge Development. And that
9 wastewater will flow to the Pearl City pump station.

10 Regarding drainage: New on and off-site
11 drainage improvements will be constructed per City and
12 County storm drainage standards to address the
13 increase in stormwater runoff at both Koa Ridge Makai
14 and Castle & Cooke Waiawa.

15 As we heard earlier the detention basins
16 will be constructed to dampen the peak flow rates into
17 the adjacent streams by controlling the rate of
18 outflow leaving the basin.

19 The detention basins will satisfy stormwater
20 discharge rates. So the net impact of the Project
21 and its mitigation measures will be no increase or
22 potentially a net decrease in discharge at the point
23 of contribution from the site.

24 In addition to the City and County drainage
25 standards, the installation of green infrastructure

1 from stormwater capture and reuse is being discussed
2 with the appropriate City and State agencies.

3 The types of green infrastructure being
4 considered in addition to the previously discussed
5 detention basins are tree-well bio-retention systems,
6 vegetated swales and flow-through planters.

7 The intent is for the stormwater to be
8 captured in these systems and transported through a
9 gravity pipe network to be stored in underground
10 vessels beneath parks and other open spaces to be
11 reused for irrigation purposes.

12 Regarding electrical: Hawaiian Electric
13 anticipates that its generation system will be
14 adequate to carry the Project's demand of 50 megawatts
15 since the annual load growth for the Project is
16 anticipated to be gradual.

17 The existing 138 kV lines will be relocated
18 to accommodate the Project but will remain overhead.
19 Easements for the 138 kV line typically about 75 feet
20 wide will be required along the entire route for each
21 pole line.

22 We'll work with HECO who will design and
23 construct the pole line, to secure the necessary PUC
24 approvals as well as equipment procurement processing.

25 Finally, for preliminary soils report. It

1 indicates both Castle & Cooke Waiawa and Koa Ridge can
2 be developed as proposed.

3 In a later stage of the development a
4 geotechnical engineer will conduct an extensive
5 geo-tech exploration of the Project site, provide
6 specific design parameters for the proposed
7 improvements.

8 Surface soils that exhibit poor to
9 moderately expansive engineering characteristics under
10 their current conditions will be removed, recompactd,
11 replaced or capped with low expansion materials.

12 Appropriate erosion and sediment controls
13 will be instituted during the Project grading
14 operations and construction site work activity in
15 compliance with the City and County of Honolulu's
16 grading ordinance and the Department of Health
17 National Pollution Discharge Elimination System
18 program.

19 MR. BEN MATSUBARA: Mr. Matsunami is
20 available for cross-examination, Mr. Chairman.

21 CHAIRMAN PILTZ: City.

22 xx

23 xx

24 xx

25 CROSS-EXAMINATION

1 BY MS. TAKEUCHI-APUNA:

2 Q I have one question regarding detention
3 basins. What is your understanding as far as if the
4 areas on which they are located are sold off by Castle
5 & Cooke, how would they be preserved or would they be
6 preserved?

7 A If for the basins where they're located --

8 Q Yes.

9 A If we were to sell off the land?

10 Q Yes.

11 A Right now as we construct it we'd be
12 responsible. We intend to -- we would like the city
13 to own and operate the basins but we don't expect that
14 will happen.

15 In that case we will have the association
16 own and maintain the basins.

17 MS. TAKEUCHI-APUNA: Okay. Thank you.

18 CHAIRMAN PILTZ: Mr. Yee.

19 CROSS-EXAMINATION

20 BY MR. YEE:

21 Q You discuss the potential installation of
22 green infrastructure. Could you go into that in some
23 additional detail about what these are.

24 A With regard to green infrastructure we are
25 working with the City and the State who have come up

1 with guidelines, however, have not necessarily
2 implemented any of those guidelines.

3 We're working with them in taking a look at
4 our Project. We are actually having them be involved
5 with the planning process. So it could be tree well,
6 simple tree well bio-retention system. It could be an
7 open curb.

8 I believe yesterday's testimony by Rodney
9 showed some pictures of that with the planter systems
10 open to accept water, natural water quality system
11 with the vegetation to go into underground parks or
12 vessels. We can reuse that for irrigation.

13 So we're working with the Commission on
14 Water Resource Management, the Water Commission and
15 Department of Planning and Permitting to try to
16 implement some of these things.

17 Q For example, could you just explain what is
18 a tree well bio-retention treatment system?

19 A It's simply a planter that's open, not
20 covered with concrete to allow percolation.

21 Q So instead of having the water simply flow
22 through either a pipe or pavement it would be directed
23 to an area where it could soak into the ground.

24 A Correct.

25 Q And the water is then somehow collected

1 through a pipe?

2 A In that case we'd hope it would recharge --

3 Q Okay.

4 A -- the groundwater. But there could be
5 situations where the soil might not allow that in
6 which case we would capture that and store it for
7 reuse later on.

8 Q And if these turned out to be feasible and
9 practical and acceptable to the city and state
10 agencies, then it's the intention of Castle & Cooke to
11 implement that?

12 A Yes.

13 Q Have you also looked at low impact
14 development possibilities for this Project?

15 A Low impact development?

16 Q Have you, for example, looked at pervious
17 pavements?

18 A Yeah, we are looking at all of that too.
19 The pervious pavement is something we need to work
20 with the City also, another thing we need to work with
21 the City also because they do not accept that at this
22 time.

23 Q Any other low impact measures that are under
24 consideration?

25 A There might be some I can't remember right

1 now. There's a whole list of things that are in the
2 guidelines that mostly follow what's happening in
3 Portland or Washington or in California.

4 Q Do you have a name at all that you could
5 give us for the guidelines to describe these?

6 A No. I can get that for you.

7 Q Regarding the stormwater drainage, my
8 understanding is you're going to build detention
9 basins off site to reduce the amount of flow from
10 other properties in order to allow sort of an -- in
11 order to not attenuate the flow from the Koa Ridge
12 Makai project.

13 A Correct.

14 Q And these detention basins will be no higher
15 than -- will be less than 25 feet.

16 A Correct.

17 Q And 'cause if you went to 25 feet it would
18 fall within the regulation as a dam, correct?

19 A Yes.

20 Q Then you'd be subject to all the DLNR
21 reviews, permitting and monitoring, correct?

22 A Yes.

23 Q So if you don't fall within these DLNR
24 reviews and monitoring, what do you fall within?

25 A There's no regulations for, for that.

1 Q So if you have -- I assume you have four
2 retention basins because you couldn't keep all the
3 water in a single retention --

4 A Detention basin.

5 Q I'm sorry. Detention. You have four
6 detention basins because you couldn't detain enough
7 water in a single one to account for the flow from Koa
8 Ridge Makai.

9 A We didn't want to get into that dam
10 situation where we require an inspection every year.
11 What I think maybe needs to be cleared up a little bit
12 is that the detention basin, if you're thinking that
13 it holds water like a dam would, it doesn't.

14 The water -- in fact it's empty most of the
15 year. Only in heavy storms will it be, will it have
16 water in it. And the water will be allowed to flow
17 out at a certain rate.

18 There's an overflow also that if it did get
19 full it would go over. So it's not going to hold back
20 water.

21 So when you think about a structure breaking
22 and damaging something downstream, it probably would
23 not occur which is why they don't require any
24 regulations on a berm like that.

25 Q So I understand it doesn't normally hold a

1 lot of water, but in a flood presumably it would
2 hold. That's the whole purpose of the berm, right?

3 A Yes.

4 Q So in the case of a flood there are ways to
5 make sure that the structure is strong enough to hold
6 back the water without breaking, right?

7 A Per the design approval process they would
8 look at the structure and determine if it's strong
9 enough.

10 Q Who looks at that?

11 A Department of Planning and Permitting.

12 Q What requirements do they follow?

13 A The City's stormwater drainage standards.

14 Q And in that is there a provision for
15 monitoring?

16 A No.

17 Q So who makes sure that the berm is properly
18 maintained?

19 A Well, there is a maintenance, a maintenance
20 plan that needs to be submitted during the approval
21 process. So that in order for us to get approval we
22 have to submit that plan.

23 Q Assuming the City doesn't take over these
24 detention basins, that the responsibility of the
25 maintenance you intend to provide to the homeowners

1 association.

2 A Yes.

3 Q So who makes sure the homeowners association
4 is properly maintaining these detention basins?

5 A The City inspectors will come out every once
6 in a while, they still do, to make sure that all these
7 basins are maintained properly.

8 Q So if I asked the City, "Do you have a
9 routine of going out to inspect the detention basins?"
10 they'll say, "Oh, yes we go out on this periodic
11 basis"?

12 A Sure.

13 Q How would you ensure that the homeowners
14 association has the capacity to successfully manage
15 the detention basins?

16 A We need to set it up that way. It's
17 something that we did similarly with Mililani.

18 Q I'm not sure I quite understand what you
19 mean.

20 A I'm sorry. "Mililani" is Mililani Town
21 Association. We have spoken with them about having to
22 maintain our basins that we have in Mililani. So the
23 same would occur at Koa Ridge for Koa Ridge's
24 association.

25 Q When did you talk to them about it?

1 A Mililani Town Association?

2 Q Yes.

3 A We continuously talk to them as we have
4 similar basins at Mililani.

5 Q Is this an ongoing process?

6 A Yes. Because we haven't turned it over to
7 the City yet.

8 Q Are there any problems or they're having any
9 challenges? Does Mililani Town Association have any
10 challenges in taking care of and maintaining these
11 detention basins?

12 A No.

13 Q Then why are you continually talking to
14 them?

15 A That's a whole different process of turning
16 something over to the City.

17 Q Okay. What's required for maintenance?

18 A The association would simply ensure that the
19 entryways to the outlet structures are clear of trees
20 or debris and ensure that the access is clear also.

21 Q And there's an overflow.

22 A Yes. So that should be clear. There's also
23 the berm, the 24-foot berm that we talked about, the
24 grass should be cut.

25 Q Are there any examples of detention basins

1 that are located upstream in order to handle the, I
2 guess in order to allow for if the non-attenuation of
3 water on site?

4 A Not that I know of.

5 Q Is the first one you're aware of?

6 A Yes.

7 Q Have you looked at the possibility of using
8 a non-potable water sources for the property from the
9 Board of Water Supply?

10 A Yes.

11 Q And what's the status of that?

12 A We need to prepare a non-potable report for
13 the Board of Water Supply.

14 Q If a non-potable water source is available,
15 will it then be your intention to connect up to the
16 non-potable water source?

17 A Yes.

18 Q Do you know when you're going to make that
19 determination or what stage?

20 A Likely within the next couple of months.

21 MR. YEE: Thank you. I have no further
22 questions.

23 CHAIRMAN PILTZ: Mr. Yost.

24 xx

25 CROSS-EXAMINATION

1 BY MR. YOST:

2 Q Thank you. Good afternoon, Mr. Matsunami.

3 A Good afternoon.

4 Q First question for you relates to the
5 interaction between average daily water demand and
6 then also your separate calculation for estimated peak
7 wastewater flows.

8 I just wanted to make sure I understand
9 you've got an average daily water demand -- let me ask
10 you this first.

11 Do you know what the peak water demand might
12 be for the Koa Ridge Makai development?

13 A 5.14 million gallons per day.

14 Q Five point -- I'm asking about the peak.

15 A That's the peak.

16 Q Use, usage. Do you have --

17 A Did you say "wastewater" or did you say --

18 Q No, drinking water.

19 A I'm sorry.

20 Q So you have -- the peak, you have average as
21 2 million gallons a day. Do you have any sense what
22 the peak might be for drinking water?

23 A Probably three times that. The Board of
24 Water standards is three times the average daily
25 demand for peak.

1 Q When you say "drinking water" you're not
2 including any water that's being used for watering
3 lawns and irrigation of the parks and things like
4 that, or are you?

5 A That's included in there, potable water.

6 Q Okay. So drinking water means potable
7 water?

8 A Yes.

9 Q Right now you're assuming that there are no
10 non-potable water sources.

11 A Yes.

12 Q All the water that's going to be used is
13 going to be potable water.

14 A Yes.

15 Q Okay. Do you have any information about --
16 let me then ask this. If the peak is 6 million that's
17 just for Koa Ridge Makai, right? Then that
18 corresponds to the 5.14 million gallons per day for
19 peak wastewater?

20 Because that's always going to be some
21 amount of absorption or something else so it's not all
22 discharged?

23 A Yes. Except with wastewater there's always
24 infiltration during rain. But, yeah.

25 Q Okay. Do you have any information about the

1 peak potable water needs of the other development
2 that's already been or is potential for the
3 surrounding area like, take, for example, the Waiawa
4 Ridge Development?

5 Do you have any idea what their peak potable
6 water demand might be?

7 A Probably around nine or so.

8 Q About nine?

9 A I would think.

10 Q Are there any other developments that are
11 potential for the surrounding area in addition to
12 Waiawa Ridge that would also --

13 A Royal Kunia Phase 2.

14 Q Do you have any idea how much that might be?

15 A Two.

16 Q So if I'm adding these up correctly, and
17 just from thinking about peak again, six from -- well,
18 let me ask for Castle & Cooke Waiawa too. What's the
19 peak for Castle & Cooke Waiawa? About three times .7?

20 A Yeah.

21 Q So 2.1. If you add all these up together
22 you're getting pretty close to or exceeding the 19
23 million.

24 A Well, 19 is not peak. Nineteen is average
25 day, based on average daily use. So you

1 can't multiply the 19 times three maybe. That's just
2 the average flow 19 million gallons per day.

3 Q I'm asking about the availability from the
4 aquifer.

5 A Correct, 19 million gallons per day based on
6 average use.

7 Q Okay. So what you're saying there's a peak
8 availability from the aquifer?

9 A The peak is determined by the Board of Water
10 Supply for times of maybe fire, the fire flow, peak
11 flow during the evening.

12 So it's not, they use average day because
13 it's what you use daily on average not these peak
14 hours.

15 So the 19 million gallons per day would
16 correlate to an average day usage. So I wouldn't
17 think you could say this is the peak demands, three
18 times everything and compare that to the 19
19 million gallons per day.

20 The 19 million gallons is a sustainable
21 yield amount that's based on a long period of time of
22 what the aquifer can produce, a long period of time.

23 Q So it could produce more than that on
24 short-term basis.

25 A Sure.

1 Q And then on a long-term basis it shouldn't
2 be producing more than 19 million.

3 A According to the Commission's study, yes.

4 Q Are you aware of plans by the Board of Water
5 Supply to at some point build a desalinization plant?

6 A I know there are studies, but, no, it was
7 not feasible.

8 Q So there's nothing in the works that would
9 anticipate that they may have to do that by 2020?

10 A They have conducted studies but not that I
11 know of, no.

12 Q Would the usage of the proposed projects,
13 would that in any way hasten the need to do something
14 like build a desalination plant?

15 A No.

16 Q Why is that?

17 A Because there's still adequate amount at 19
18 million. For our projects using just 2.7.

19 Q For the detention basins has there ever been
20 any consideration to somehow capturing some of the
21 water that gets collected in there at some point, and
22 redirecting it for non-potable irrigation purposes?

23 A Definitely. That's something that I
24 mentioned that we are trying to recapture storm water
25 and hold it in vessels beneath the parking lots,

1 beneath parks, to reuse that for irrigation.

2 Definitely. We're working with the city and state on
3 that.

4 Q I understand that part. But for the
5 detention basins themselves right now I understand
6 it's just a hole with a pipe, one pipe going out. So
7 is there any, ever any --

8 A It's kinda, it's tied together.

9 Q Okay.

10 A Whatever comes on site, whatever comes from
11 on site is going to go to those basins. So it's,
12 we're capturing up top, not necessarily below next to
13 that basin below there, but capturing it up and using
14 it next to the area of need so we don't have to pump
15 water all the way from a basins, extra cost pump it
16 up, extra maintenance.

17 What it would be best for us to do is
18 capture it right beneath that park and use it for that
19 park to minimize costs.

20 Q But the detention basins are largely
21 upstream, right? So couldn't you potentially capture
22 some and do gravity feed down to the areas of need?

23 A It's in a gulch. It's in a gulch. So we
24 probably wouldn't do that.

25 Q Okay. I'm not exactly sure exactly where

1 they are. I know they're not necessarily located in
2 the stream. They're kind of up on the side.

3 A Flat map, yeah, it's in a gulch.

4 MR. BEN MATSUBARA: Just for the record the
5 demonstrative that Garret just referred to Exhibit 15
6 our incremental plan figure 1.

7 MR. YOST: I have no further questions. I
8 think my mic has been turned off -- oh, no, it's back
9 on again. I have no further questions.

10 CHAIRMAN PILTZ: We weren't trying to block
11 you. (laughter) Mr. Poirier, go ahead.

12 CROSS-EXAMINATION

13 BY MR. POIRIER:

14 Q A couple quick things. How many of the five
15 wells proposed do you expect will be contaminated
16 because of previous pesticide use?

17 A All.

18 Q All of them. And so that means they're
19 going to have to be put through some kind of activated
20 charcoal system in order to purify them?

21 A Correct. Granular activated carbon system.

22 Q Who bears the cost of that?

23 A We will.

24 Q You will. Okay. Second question. I'm not
25 sure that I understood you correctly. Do you expect

1 the existing town association is also going to manage
2 or control what happens in Koa Ridge Makai?

3 A I'm sorry. The Koa Ridge Association.

4 Q The Koa Ridge Association. Okay. What
5 happens if they don't want to accept or manage these
6 detention basins?

7 A We're gonna make them.

8 (Laughter).

9 Q But you can't make them, really.

10 A Yeah, we can.

11 MR. POIRIER: No further questions.

12 CHAIRMAN PILTZ: Commissioners, questions?

13 COMMISSIONER JUDGE: One more question.

14 CHAIRMAN PILTZ: Commissioner Judge.

15 COMMISSIONER JUDGE: I just have one
16 question. I was listening to the State's questions
17 about the maintenance of these detention basins.

18 THE WITNESS: Yes.

19 COMMISSIONER JUDGE: And in the last answer
20 I think you said these detention basins were in a
21 gulch. How does that affect the ability to maintain
22 them, mow them?

23 THE WITNESS: There would be access roads to
24 the basins. We need to have them in like that.

25 COMMISSIONER JUDGE: Okay.

1 THE WITNESS: So the access roads would go
2 into the basin area. And we'd maintain them like any
3 other basins.

4 COMMISSIONER JUDGE: Okay. Thank you.

5 CHAIRMAN PILTZ: Questions? Just one. On
6 just a regular drainage at the top of the Project --
7 all I see is a storm drain CFS. What is the current
8 CFS right now?

9 Do you have that? What is it, you know,
10 after they have put in concrete and all of that, solid
11 surfaces?

12 THE WITNESS: One second. According to the
13 written testimony the estimated existing stormwater
14 discharge rate is 19,576 cubic feet per second.

15 CHAIRMAN PILTZ: That's the storm. I mean
16 without any storm and a standard condition when it
17 rains.

18 THE WITNESS: Without.

19 CHAIRMAN PILTZ: Without the storm.

20 THE WITNESS: I don't have that information.
21 I guess it depends on how heavy the rain is.

22 CHAIRMAN PILTZ: And has the figures been
23 put out so that once you have a hardened surface that
24 it doesn't increase at the end of the, at the bottom
25 of the Project? You have to retain all the regular

1 standard drainage on site, is that correct?

2 THE WITNESS: With storm drains, for
3 example?

4 CHAIRMAN PILTZ: Well, yeah, it would go
5 into the storm rain.

6 THE WITNESS: The basins are going to be
7 designed to have a net zero impact on the stream or be
8 better. So we'll capture all of that.

9 CHAIRMAN PILTZ: Okay. All right. Okay.

10 MR. YEE: Can I ask a question of counsel?
11 Is there going to be another witness on water quality?
12 Do you have another witness on the treatment?

13 MR. BEN MATSUBARA: Groundwater resources.

14 MR. YEE: I was thinking more in terms of
15 the -- he talked about flood control but he didn't
16 really talk about the quality of the water.

17 THE WITNESS: The TMDL?

18 MR. YEE: Like TMDL, those kinds of things.
19 I understand that you have a separate detention basin
20 that deals with flooding issues.

21 THE WITNESS: Right.

22 MR. YEE: But there's an on-site --

23 THE WITNESS: Water quality basin.

24 MR. YEE: Is that this witness or another
25 witness?

1 MR. BEN MATSUBARA: For the...

2 THE WITNESS: What's your question on the
3 TMDL? (Laughter)

4 FURTHER CROSS-EXAMINATION

5 BY MR. YEE:

6 Q What are you doing to remediate the water?
7 I know they're just flowing off eventually.

8 A That's the detention basins. Within these
9 detention basins will be a water quality feature in
10 addition to the on-site water quality basins or water
11 quality features.

12 Q My understanding is you have an on-site
13 remediation of the water. Is that wrong?

14 A Yes, on site.

15 Q And then the water flows into the gulch, not
16 into the detention basin from Koa Ridge Makai.

17 A Then it flows into the detention basins --
18 oh, for Koa Ridge Makai?

19 Q Yes.

20 A No. That would go out to the stream.

21 Q So there's a remediation on site and then
22 unattenuated flow into the gulch.

23 A Correct. Water quality -- there'd be water
24 quality on site and then flow into the gulch.

25 Q Are you going to be -- is there -- are you

1 going to be subject to the MS4 requirements or permit
2 requirements for the City?

3 A Likely the City's MS4 requirements.

4 Q That's your intent that the water that flows
5 off Koa Ridge Makai will be subject to the MS4 IV
6 requirements.

7 A Yes.

8 MR. YEE: Okay. Thank you.

9 MR. BEN MATSUBARA: That answers your water
10 questions?

11 MR. YEE: Yes.

12 MR. BEN MATSUBARA: This was the witness for
13 that question.

14 (Audience laughter)

15 Just as a status, we have gone through nine
16 of our witnesses. We have seven more. And I thank
17 the Commission for its patience in providing us the
18 opportunity to do this.

19 CHAIRMAN PILTZ: Thank you. Since we have
20 no other business we're adjourned. Thank you.

21 (The proceedings were adjourned at 3:00 p.m.)

22 --oo00oo--

23

24

25 C E R T I F I C A T E

1

2 I, HOLLY HACKETT, CSR, RPR, in and for the State
3 of Hawai'i, do hereby certify;

4 That I was acting as court reporter in the
5 foregoing LUC matters on the 22nd day of January 2010;

6 That the proceedings were taken down in
7 computerized machine shorthand by me and were
8 thereafter reduced to print by me;

9 That the foregoing represents, to the best
10 of my ability, a true and correct transcript of the
11 proceedings had in the foregoing matter.

12

13 DATED: This _____ day of _____ 2010

14

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17

18 HOLLY M. HACKETT, CSR #130, RPR
19 Certified Shorthand Reporter

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