

1	LAND USE COMMISSION	
2	STATE OF HAWAI'I	
3	ACTION AND HEARING	PAGE
4	A97-721 MAKENA RESORT CORP.)	6
)	
5	A07-775 CASTLE & COOKE HOMES HAWAII,)	
	INC.)	14
6	_____)	

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9 TRANSCRIPT OF PROCEEDINGS

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11 The above-entitled matters came on for a Public
 12 Hearing at Conference Room 405, 4th Floor, Leiopapa A
 13 Kamehameha, 235 S. Beretania Street, Honolulu,
 14 Hawai'i, commencing at 9:30 a.m. on Wednesday, April
 15 21, 2010 pursuant to Notice.

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

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1 A P P E A R A N C E S cont'd

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

5 For the Petitioner: BENJAMIN MATSUBARA, ESQ.

 CURTIS TABATA, ESQ.

6 WYETH MATSUBARA, ESQ.

7 For the County: DAWN TAKEUCHI-APUNA, ESQ.

 Deputy Corporation Counsel

8 MATTHEW HIGASHIDA, DPP

9 For the State: BRYAN YEE, ESQ.

 Deputy Attorney General

10 ABBIEY MAYER

 Office of Planning

11

12 For Intervenor Sierra Club: COLIN YOST, ESQ.

 ROBERT HARRIS, ESQ.

13

14 For Intervenor Neighborhood Board #25:

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16 RICHARD POIRIER

 KAREN LOOMIS

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1 CHAIRMAN PILTZ: This is the meeting of the
2 Land Use Commission April 21st, in the conference room
3 405 on the 4th floor, Leiopapa A Kamehameha, Beretania
4 Street. At this time we're looking for approval for
5 the minutes from April 8th, 9th. Any corrections or
6 additions to these minutes? Commissioner Wong.

7 COMMISSIONER WONG: Mr. Chair, I move that
8 the minutes for April 8th and April 9th be approved.

9 CHAIRMAN PILTZ: Motion by Commissioner Wong
10 to approve. Second?

11 COMMISSIONER CONTRADES: Second.

12 CHAIRMAN PILTZ: Second by Commissioner
13 Contrades. All those in favor of approving the
14 minutes signify by saying aye.

15 VOICE VOTE: Aye.

16 CHAIRMAN PILTZ: Any no's? Okay.
17 Mr. Director, our tentative meeting schedule.

18 MR. DAVIDSON: Commissioners, you have the
19 meeting schedule for your review. Next meeting will
20 most likely involve two site visits. We're going to
21 be in Kona so we'll be working on putting that
22 together.

23 One brief mention about today's meeting.
24 Originally we were going to be in Kona doing the
25 Forest City affordable housing project. When that was

1 withdrawn by the Petitioners we did plug in as the
2 main agenda item today Castle & Cooke Homes, Inc.
3 And the parties have worked together to put together a
4 way to deal with everything today. And I appreciate
5 their effort to kind of fill the puka today.

6 So we are going to show some flexibility --
7 I request some flexibility on how they proceed today
8 when we get to Castle & Cooke. Thank you.

9 CHAIRMAN PILTZ: This morning we have an
10 action meeting to consider Receiver's Motion for Fifth
11 Amendment to the Findings of Fact, Conclusions of Law,
12 Decision and Order filed on February 19, 1998.

13 Before we go any further, Commissioner Judge
14 has a statement and actually she's recused herself
15 because she's been involved with the Project.

16 On March 17th, 2010 the Commission received
17 Receiver's Motion for a Fifth Amendment to the
18 Findings of Fact, Conclusion of Law and Decision and
19 Order filed on February 19, 1998; Affidavit of Stephen
20 K.C. Mau; Affidavit of Valerie J. Lam.

21 On April 15th, 2010 the Commission received
22 county of Maui's Statement of No Opposition to the
23 Receiver's motion.

24 On April 21, 2010 the Commission received
25 written correspondence from Thomas D. Welch, Jr.

1 attorney for Keaka, LLC, owners of Tax Map Key No.
2 2-1-5:83, 84 and 85 which are a portion of the
3 145.943 acres of land in Makena, Maui, Hawai'i
4 converted from State Land Use Agricultural District
5 into the State Land Use Urban District.

6 Let me briefly describe our procedure for
7 today on this docket. First, we'll have the parties
8 identify themselves for the record. I will then give
9 opportunity for the Petitioner to comment on the
10 Commission's policy governing reimbursement of hearing
11 expenses.

12 I will then call for those individuals
13 desiring to provide public testimony for this public
14 hearing to identify themselves. All such individuals
15 will be called in turn to our witness box located
16 there. After completion of the public testimony the
17 Commission will hear the Receiver's presentation.
18 After the Receiver's presentation we'll receive any
19 comments from the state Office of Planning.

20 Are there any questions on our procedures
21 for today? Hearing none, will the parties identify
22 themselves for the record.

23 MR. MAU: Mr. Chairman, members of the
24 Commission, my name is Stephen Mau. I'm the attorney
25 for the court-appointed Receiver in the Makena Beach

1 and Golf Resort foreclosure action.

2 CHAIRMAN PILTZ: Thank you.

3 MR. YEE: Good morning. Deputy Attorney
4 General Bryan Yee for the OP, on behalf of the Office
5 of Planning. With me is Abbey Mayer from the Office
6 of Planning.

7 CHAIRMAN PILTZ: Good morning, Mr. Mau and
8 Mr. Yee. Mr. Mau, has our staff informed you on the
9 Commission's policy regarding the reimbursement of
10 hearing expenses?

11 MR. MAU: They have, Mr. Chairman, and we
12 have no objection to reimbursement of hearing
13 expenses.

14 CHAIRMAN PILTZ: Okay. Thank you. Are
15 there any individuals desiring to provide public
16 testimony at that time? (no comments) Okay. Mr. Mau,
17 please make your presentation.

18 MR. MAU: We have filed a motion on behalf
19 of the Receiver seeking an amendment to the 1998
20 decision and order issued by this Commission. The
21 1998 decision and order required an agreement with the
22 Department of Transportation as to the level of
23 funding and participation for local and regional
24 transportation improvements.

25 We understand over the years there have been

1 discussions and there have been drafts circulated
2 between the developers and the state of Hawai'i but no
3 final agreement has been reached.

4 On behalf of the owners of the Makena
5 Resort, Makena Resort owners own approximately
6 120 acres of the 145 acres which are subject to this
7 decision and order. We are requesting a two-year
8 extension to reach agreement with the Department of
9 Transportation to satisfy that condition.

10 The resort property, which includes the
11 hotel and the two golf courses, is presently in
12 foreclosure. The sale has been rescheduled and is for
13 May 28th of this year. And we expect that the
14 properties will be transferred to a new owner sometime
15 this summer.

16 CHAIRMAN PILTZ: Thank you. Mr. Yee?

17 MR. YEE: The Office of Planning is not
18 opposed to the extension request. However, it clearly
19 has to be acknowledged that this has taken some time
20 and that numerous amendments extending this have
21 already occurred. Therefore, the Office of Planning
22 wishes to note that it would -- it wants to signal it
23 would likely oppose any further extensions to this.

24 There is, as I understand, some further
25 discussions and possible disagreement as to who or

1 which property owner of the Petition Area, because the
2 Petition Area is now owned by multiple entities, has
3 to pay for what improvements.

4 Ultimately that's not really the primary
5 concern of the state. The state just wants the
6 improvements made. Nevertheless, we do understand
7 that there are some practical difficulties that have
8 to be ironed out. So we are not going to be opposed
9 to an additional two-year extension.

10 But as I said before, this is a two-year
11 extension to reach an agreement. So that really seems
12 to be more than ample time to accomplish this. And
13 that any further extensions would not be favorably
14 reviewed by the Office of Planning.

15 CHAIRMAN PILTZ: Questions? Commissioner
16 Wong.

17 COMMISSIONER WONG: Mr. Chairman, my
18 question to the Petitioners is that aside from the
19 fact that this was in receivership and foreclosure,
20 what's the reason why it has been amended two years at
21 a time, from two years to four years and so on so that
22 now you're on the fifth amendment? Can you give us
23 the reasons?

24 MR. MAU: I don't have the reasons prior to
25 the receivership. The receivership was -- the

1 foreclosure and the receivership was commenced in
2 September of 2009. From what I can tell the drafts
3 that have been circulated there has been no agreement
4 reached. And I assume that there also has been some
5 substantial delay in the development of the property.
6 I think they had anticipated, for various reasons,
7 that the property would have been developed much
8 sooner.

9 I understand there has been, as I said, a
10 draft circulated but there's been no agreement as yet
11 with the state Department of Transportation as to the
12 amount of funding or the phasing of the improvements
13 to be completed.

14 COMMISSIONER WONG: My second question has
15 to do with what has been -- what is the negative or
16 adverse effect on traffic conditions by reason of
17 these additional delays?

18 MR. MAU: Well, as far as -- I can only
19 speak as to the Makena Project. As far as I know
20 there has been no development in the particular area
21 of the petitioned areas. And as far as traffic
22 conditions generally I couldn't speak to that.

23 COMMISSIONER WONG: Thank you.

24 CHAIRMAN PILTZ: Maybe I can shed some light
25 on it being the Commissioner from Maui. The original

1 owner, Seibu Company, had to go through a whole bunch
2 of public hearings. And in the last public hearing
3 before they sold to these new owners there was some 40
4 different conditions that had to be met. The county
5 of Maui has not been kind to this particular Project.
6 And it's too bad.

7 I feel that this particular Project was an
8 asset for the county of Maui and it's just too bad
9 that it's in this condition right now. Any other
10 comments or questions for either the state or the
11 Petitioner? Okay.

12 COMMISSIONER WONG: Mr. Chairman, I know
13 that the County of Maui filed a Statement of No
14 Opposition, but have they indicated why they're not
15 present, Mr. Executive Director?

16 MR. DAVIDSON: I spoke to the attorney for
17 Maui County. And due to the fact that they have no
18 opposition to the motion they elected not to, not to
19 appear.

20 COMMISSIONER WONG: Thank you.

21 CHAIRMAN PILTZ: Go ahead, Commissioner.

22 COMMISSIONER WONG: Mr. Chairman, I move
23 that the Receiver's Motion for a fifth amendment to
24 the Findings of Fact, Conclusions of Law, Decision and
25 Order filed here on February 19th, 1998 be approved.

1 CHAIRMAN PILTZ: We have a motion on the
2 floor by Commissioner Wong. Do we have a second?

3 COMMISSIONER CONTRADES: Second.

4 CHAIRMAN PILTZ: Commissioner Contrades
5 second. Discussion, members? Call for the vote.

6 MR. DAVIDSON: Mr. Chairman, it's a motion
7 for fifth amendment to Findings of Fact, Conclusions
8 of law and Decision and Order in Makena Resort Corp.

9 Commissioner Wong?

10 COMMISSIONER WONG: Yes.

11 MR. DAVIDSON: Commissioner Contrades?

12 COMMISSIONER CONTRADES: Yes.

13 MR. DAVIDSON: Commissioner Chock?

14 COMMISSIONER CHOCK: Yes.

15 MR. DAVIDSON: Commissioner Lezy?

16 COMMISSIONER LEZY: Yes.

17 MR. DAVIDSON: Commissioner Kanuha?

18 COMMISSIONER KANUHA: Yes.

19 MR. DAVIDSON: Commissioner Teves?

20 COMMISSIONER TEVES: Yes.

21 MR. DAVIDSON: Chair Piltz?

22 CHAIRMAN PILTZ: Yes.

23 MR. DAVIDSON: Motion passes seven/zero,
24 Chair.

25 MR. MAU: Thank you very much.

1 CHAIRMAN PILTZ: Thank you. Let's take a
2 five minute break while they're setting up.

3 (Recess was held.)

4 CHAIRMAN PILTZ: We're back on the record.
5 This is a continued hearing on Docket No. A07-775 to
6 amend the agricultural land use boundary into the
7 urban district for approximately 767.649 acres at
8 Waipio and Waiawa, Island of O'ahu, State of Hawai'i.

9 From March 22nd, 2010 'til April 15, 2010
10 the Commission received 73 postcards similar to those
11 received on February 19th, 2010 and written
12 correspondence from Connie Kawamoto.

13 On April 14th, 2010 the Commission received
14 OP's Third Amended List of Exhibits and
15 Exhibits 27-28.

16 On April 15th, 2010 the Commission received
17 written correspondence from Ashley McQuillan, Bill
18 Sager, Rexann Dubiel, Mary A. Wilkowski, Jay Ogden,
19 Rob Kinslow, Alan Ewell, Chong Kim, Steven Prindle, M.
20 James Haas, Geraldine McKillip, Otis Schaper, Patricia
21 Corbaley, Julianna Harman, also from Joseph DeMarco.

22 Then on April 16th the Commission received
23 Mililani/Waipio/Melemanu Neighborhood Board No. 25's
24 Amended List of Exhibits, Exhibit No. 18.

25 They also received the Sierra Club's Second

1 Amended List of Exhibits.

2 Then on April 19th, 2010 the Commission
3 received Petitioner's Second Amended List of Exhibits
4 including Exhibit No. 53.

5 On April 21, the Commission received written
6 correspondence from William "Buzz" Hong.

7 Let me briefly review and run over our
8 procedures for today. First, we'll have the parties
9 identify themselves for the record. I will then call
10 for those individuals desiring to provide public
11 testimony on this docket to identify themselves.

12 All such individuals will be called in turn
13 to our witness box where they will be sworn in prior
14 to their testimony. After completion of the public
15 testimony I will give the opportunity for the parties
16 to admit their new exhibits to the record.

17 After admission of the exhibits to the
18 record, by agreement of the parties, Intervenor
19 Mililani/Waipio/Melemanu Neighborhood Board No. 25
20 will begin its case.

21 Once the Neighborhood Board No. 25 is
22 completed with its witnesses for today it will be then
23 followed in turn by completing OP's case, then the
24 Sierra Club.

25 The Chair would also note for the parties

1 and the public that from time to time I will call for
2 short breaks. Are there any questions on our
3 proceedings today?

4 MR. MATSUBARA: No questions, Mr. Chair.

5 CHAIRMAN PILTZ: Mr. Yee, questions?

6 MR. YEE: No questions.

7 CHAIRMAN PILTZ: City?

8 MS. TAKEUCHI-APUNA: No questions.

9 MR. HARRIS: No questions.

10 MR. POIRIER: No questions.

11 CHAIRMAN PILTZ: Good morning, Mr. Matsubara
12 Ms. Takeuchi-Apuna, Mr. Yee.

13 MR. MATSUBARA: Good morning, Mr. Chairman.
14 Ben Matsubara, Wyeth Matsubara, Curtis Tabata on
15 behalf of Castle & Cooke. With me today is Laura
16 Kodama, director of development and planning and
17 Rodney Funakoshi, project manager.

18 COMMISSIONER KANUHA: Good morning. Dawn
19 Takeuchi-Apuna, deputy corporation counsel on behalf
20 of the director of planning and permitting. Here with
21 me is Matt Higashida.

22 CHAIRMAN PILTZ: Mr. Yee.

23 MR. YEE: Good morning. Deputy Attorney
24 General Bryan Yee on behalf of the Office of Planning.
25 With me is Abbey Mayer from the Office of Planning.

1 MR. HARRIS: Good morning, aloha,
2 Commissioners. My name is Robert Harris. I'm
3 appearing on behalf of the Sierra Club Hawai'i
4 Chapter. Mr. Yost is caught up in a district court
5 hearing right now. And he'll be here as soon as he
6 can.

7 CHAIRMAN PILTZ: Okay.

8 MR. POIRIER: Good morning. Dick Poirier of
9 Board No. 25. With me here today is Karen Loomis of
10 our board.

11 CHAIRMAN PILTZ: Are there any individuals
12 desiring to provide public testimony at this time?
13 Okay. We have a list here. First person will be
14 Wayne Ogasawara followed by Roy Amemiya. Wayne?

15 WAYNE OGASAWARA,
16 being first duly sworn to tell the truth, was examined
17 and testified as follows:.

18 THE WITNESS: Yes, I do.

19 CHAIRMAN PILTZ: Have a seat. State your
20 name and address for the record and proceed.

21 THE WITNESS: Good morning. My name is
22 Wayne Ogasawara. My address is 94-350 Kaholo Street
23 Mililani Town.

24 CHAIRMAN PILTZ: Go ahead.

25 THE WITNESS: I'm a farmer and I lease

1 500 acres of land from Castle & Cooke in an area that
2 they refer to as Mililani South mainly because it's, I
3 guess, it's the southernmost part of Mililani Town. I
4 call it the Mililani Agricultural Park. I started
5 this farming operation, what, 12 years ago. Obviously
6 500 acres is a lot of acres to farm.

7 So when I took on this project here I
8 obviously didn't have any resources to start a full-on
9 farming operation. So what I could handle was maybe
10 about five or 10 acres, which we started.

11 But in the meanwhile what we did was sublet
12 to other small farmers, you know, farmer groups from
13 the Filipino communities, the Laotian communities, the
14 Vietnamese communities. And after a while we
15 attracted people like the sod farmers. I've got
16 several major sod farmers that grow sod for the
17 construction industry, the golf course industries,
18 sizable farms, you know, 30, 40 acres.

19 And as we went along we made room for an
20 interesting agriculture operation called Kodama Koi
21 Farm. They're, I believe, probably one of the larger
22 commercial operations outside of Japan. They take up
23 about 10 acres of my farm. And here they grow out
24 these prized kois and they ship it via FedEx and UPS
25 throughout the world. It's an ongoing operation.

1 They employ a whole bunch of people.

2 And I also had a little bit of room for one
3 of the seed corn people also, Pioneer. But all of
4 this was necessary so that I could keep up with my
5 rent payment and hang onto whatever land I could farm.

6 But in the meanwhile I've increased my
7 farming operations. Initially I started with nursery
8 crops. Trees primarily for that was supplied for many
9 years for construction projects, large monkey pod
10 trees, the street trees for all of the developments.

11 The rational in back of that was with the
12 ornamental crops the larger they get the more
13 expensive and more valuable they become when they're
14 less prone to all the ups and downs of the market.
15 There's no, really, a limit to where you have to sell
16 it like veg crops. So it's been, I've expanded
17 operations to about 20 acres of field-grown stock.

18 A little background on myself. I grew up on
19 a pineapple plantation, Pomoho, as part of the Del
20 Monte people. I spent most of my years in the
21 fertilizer business selling fertilizers primarily to
22 the small farmers throughout the island of O'ahu.

23 I also sold fertilizers in the golf course
24 market as the golf course business started to explode,
25 you know, in the '90s.

1 I'm also involved in community work
2 particularly the Waipahu Community Association with
3 my -- where my business is located and has been
4 located for the last 30 years. We've got a unique
5 project out in Waipahu. I can say I've been with the
6 board as the board president for 10 years now.

7 We started a unique marketplace called the
8 Waipahu Festival Marketplace receives grants from the
9 government, from financial institutions locally.

10 This particular festival marketplace was an
11 economic development project for the Waipahu community
12 in the demise of O'ahu Sugar. With all of the little
13 farms like myself and some of the other sugar land
14 becoming available in the area, there was a need -- I
15 could see a need for a venue for all of these small
16 farmers to sell their goods, their produce those
17 people in the Waialua area, the Mililani area in my ag
18 park, the Kunia area.

19 What we started was this festival
20 marketplace which is open seven days a week. We have
21 24 vendors located in the site that was once the
22 BigWay Supermarket. The community association bought
23 this property, renovated it and leased it out to many
24 of these immigrants who had farms or wanted to
25 establish a business to start an operation similar to

1 what we have in Chinatown.

2 So today we've got about 24 vendors selling
3 fresh produce from the area, a lot of fresh fish.
4 We've got people selling fresh pork. It's a real
5 thriving operation. And, again, it all tied into this
6 commitment to -- my commitment in agriculture being a
7 product of the plantations.

8 But being a community leader within the
9 Waipahu area I was also invited to join this Koa Ridge
10 vision team. For the past seven years I've made every
11 one of those 16 meetings. It's really been an
12 impressive journey developing this Koa Ridge housing
13 development. They took every effort to make sure all
14 of us in the community was aware and had an input as
15 to how they formulated this future development.

16 I'm obviously here to support this Koa Ridge
17 Project. I know I'm a farmer and land, ag land is
18 really precious. But my take on this is that I
19 sincerely believe there's ample land for agriculture
20 for farmers, small farmers.

21 Myself, for example, I continually -- I've
22 had ads out in the trade publications on lands that I
23 can lease out and sublet to farmers. I'm on the radio
24 advertising. I've spent some dollars in that
25 direction. And I tell you I've only -- out of all

1 that monies I've thrown in that direction, several
2 thousand dollars, I have had only one response that
3 actually turned into a farmer.

4 It kind of points out to the fact it's
5 really tough to find farmers that really want to get
6 out there, commit themselves to a substantial acreage
7 and farm.

8 There's only a handful of large farmers
9 around. And when we talk we look around, hell,
10 they're all my age. Where are the young farmers? You
11 know, they're hard to find, really. And we'd like to
12 encourage them to farm.

13 My son's an aggie from the University of
14 Hawai'i. He's not involved in farming. He's doing
15 his growing of vegetation on slopes to prevent
16 erosion. He found it more lucrative, you know.

17 There's only a handful of us large guys that
18 can handle a hundred acres or so. And looking down
19 the road, gee, 20, 30 years ago, we were talking about
20 this, who's going to be the next generation of
21 farmers?

22 For us in Hawai'i it's been lucky in the
23 sense, I guess, through no effort on our part the
24 immigrants came in and took over and they really
25 spearheaded the charge when it came to diversified

1 agriculture. It's the Laotians, Vietnamese, Filipino
2 immigrants that are really doing the frontline farming
3 today. I'm having a difficult time trying to fill all
4 of my acreages despite the ads I put in.

5 So I think the concern should be: What are
6 we doing to encourage, you know, our youth to go into
7 farming? I think, really, that's the message I have
8 here.

9 Let me tell you what -- obviously the
10 construction industry is not that great so my
11 landscaping plants, my trees, so forth, are not moving
12 as fast. Luckily they can stay in the ground. I
13 don't have to harvest them. Hopefully, as they get
14 larger they become more expensive.

15 But I recently decided to go and raise, grow
16 sweet potatoes. I grow longan, I grow breadfruit, a
17 lot of these niche crops that I don't have to consider
18 and fight over prices as a commodity.

19 Let me tell you about what it takes to grow
20 potatoes, sweet potatoes, you know, the Okinawan ones
21 with the purple inside, the white outside and the red
22 skinned one with white inside.

23 First of all you need land. Okay? In doing
24 some research with the Ag Extension people and so
25 forth, they tell you that to grow a successful

1 sustainable crop of sweet potatoes you need a
2 four-year cycle for rotation.

3 In other words, you can plant this acre,
4 harvest it. And to minimize your disease and insect
5 pressures you can't come back and plant potatoes for
6 four years if you want a sustainable, you know, potato
7 crop.

8 So that means I need to set aside, if I
9 wanted to harvest an acre a month which will probably
10 yield between 15 to 20,000 pounds, I need to prepare a
11 minimum of 30 acres, probably closer to 50 acres to
12 really become a serious player in this sweet potato
13 market.

14 And that's probably a pretty well-known fact
15 most of it is grown on Molokai. And the guy has 20+
16 acres that's dedicated to sweet potatoes. Sure
17 there's a few of 'em that's growing it here. But,
18 again, will it be sustainable over the long haul
19 because you don't have the rotation cycle.

20 Besides that, to clear the 30 to 50 areas I
21 bought a tractor. That's, what, \$70,000? I need
22 something to plow, right? I have a disc for another
23 \$10,000. I have a sprayer that costs another \$10,000,
24 you know.

25 I've got -- obviously to harvest an acre you

1 can't do it by hand. You need a mechanical harvester.
2 That's another \$6,000. That's not even including the
3 land preparation. That's the kind of investment that
4 a typical farmer has to put in. That's, I guess, the
5 reason why a lot of these young guys don't wanna go
6 into farming.

7 It's probably worse than trying to be a
8 dentist. Dentists got high cost as far as start up.
9 But farmers have an equally difficult time getting
10 started.

11 I farm in an urban area. That's a job in
12 itself trying to appease all these houses that's
13 adjacent to my place. I have to dedicate about
14 50 acres just in buffer zone that I can't really do
15 anything.

16 I mean it is a fire break but I get phone
17 calls saying, "Why are you spraying?" You know, well,
18 I can't afford to have guys going in with a weed
19 eater. And if you did send in a guy with a weed eater
20 you'd get complaints with noise.

21 We've got some runoff problems. We work
22 with the NRCS, the Natural Resource Conservation
23 people, come up with conservation plans. They
24 start -- they start a project to mitigate some of this
25 erosion, you get phone calls every day, "What are you

1 doing?"

2 Every homeowner that I have I probably have
3 abutting our property probably 50, 60 homes, every one
4 of 'em got a different take. They don't come to you
5 collectively. They come to you individually.

6 I put in a road at the entrance to my place,
7 a paved road, about five years ago, four years, five
8 years ago cost me about \$40,000.

9 CHAIRMAN PILTZ: Mr. Ogasawara, could you
10 kind of wind up.

11 THE WITNESS: It's a tough one when it comes
12 to farming. All I said finding farmers is going to be
13 a tough road. Taking away these what, 500 acres,
14 700 acres from this particular farmer, I tell you
15 there's ample land throughout the whachucal that's
16 available. It would be a shame for this Commission to
17 deny Castle & Cooke with the excellent planning that
18 they've done with their Project because there's,
19 there's ample land. Just get more farmers. I think
20 that's the message.

21 CHAIRMAN PILTZ: Could I ask you something?

22 THE WITNESS: Sure.

23 CHAIRMAN PILTZ: Do you have an agreement
24 that your acreage will be there in perpetuity?

25 THE WITNESS: No. I signed a 20-year -- I

1 believe initially it was a 20-year lease.

2 CHAIRMAN PILTZ: You think you'll have a
3 problem 20 years from now or whenever that expires?

4 THE WITNESS: Well. I'm 66
5 so...(laughing)...

6 CHAIRMAN PILTZ: Okay. 'Nuf said.

7 THE WITNESS: But I really enjoy what I'm
8 doing. And, you know, I'm an advocate for farmers.

9 CHAIRMAN PILTZ: It sounds like it.

10 THE WITNESS: I've got enough energy to
11 carry on. But they have been excellent people to work
12 with. They communicate well. I'm happy.

13 CHAIRMAN PILTZ: Okay. That's good. Let me
14 see if the Petitioner has some questions for you.

15 MR. MATSUBARA: Just have two quick
16 questions. Mr. Ogasawara, the lands in your ag farm
17 that you're attempting to lease out, is water
18 available to those properties?

19 THE WITNESS: Yes.

20 MR. MATSUBARA: So you have water for those.

21 THE WITNESS: Yes. The project uses
22 anywhere from 800 to a million gallons a day.

23 MR. MATSUBARA: Okay. Is security an issue
24 for the farmlands you have?

25 THE WITNESS: Big issue. For us it's ideal.

1 With one way in, one way out so I can afford a
2 security officer who checks in everybody who goes in
3 and everybody who goes out. I spend about -- this
4 year will be about a little over a hundred thousand
5 dollars.

6 MR. MATSUBARA: If you didn't have security,
7 would safeguarding the crops grown on the property be
8 at risk?

9 THE WITNESS: Yeah. Not only the crops, the
10 equipment.

11 MR. MATSUBARA: So that's an important
12 component to farming today.

13 THE WITNESS: I don't think you can farm
14 without it. I don't know how the rest of the guys do
15 it, but I know it's costing them. We don't lose
16 equipment, we don't lose crops.

17 MR. MATSUBARA: Thank you.

18 CHAIRMAN PILTZ: City, questions?

19 MS. TAKEUCHI-APUNA: No questions.

20 CHAIRMAN PILTZ: Mr. Yee.

21 MR. YEE: I take it you support this
22 particular reclassification.

23 THE WITNESS: Yes.

24 MR. YEE: I take it you also support farming
25 and the agricultural industry generally?

1 THE WITNESS: Yes.

2 MR. YEE: Would you support the
3 establishment of a permanent agricultural land base in
4 Hawai'i?

5 THE WITNESS: Yeah.

6 MR. YEE: If that's true would you also
7 support a requirement for developers to dedicate land
8 somewhere else other than where they're urbanizing for
9 agriculture to mitigate the loss of those ag lands?

10 THE WITNESS: Yeah, I would support that
11 whachucal. But obviously it's their land they can do
12 what they want with it make their best use for it.

13 MR. YEE: Thank you.

14 CHAIRMAN PILTZ: Go ahead, Sierra Club.

15 MR. HARRIS: Thank you for coming to testify
16 this morning.

17 THE WITNESS: Thank you.

18 MR. HARRIS: A couple of hopefully quick
19 questions. What's the length of the subleases
20 typically that you're giving to the people that are
21 subleasing on your property?

22 THE WITNESS: They can -- they can lease the
23 property as long as my lease is. But in most cases I
24 advise them to be reasonable about it because things
25 change. And I hate to hold them to something long

1 term when their short-term plans changes and they
2 can't find a way out.

3 MR. HARRIS: How many more years do you have
4 left on your lease currently?

5 THE WITNESS: I believe I've got about
6 eight, nine years left.

7 MR. HARRIS: I recently attended a Hawai'i
8 Farm Bureau meeting. You're right. The average age
9 was perhaps in their 60s. I did meet one young Thai
10 couple who said they were desperately looking for a
11 long-term lease on a hundred-acre or larger. They
12 were currently doing a 10-acre. They had substantial
13 opportunities for investment. But they didn't want to
14 invest that on the short-term month-to-month lease
15 they currently have.

16 Do you find that surprising? Do you think
17 that is an obstacle for young farmers trying to find
18 long-term leases or property?

19 THE WITNESS: No, I don't think so. I think
20 if you talk to some of these landowners, these large
21 landowners, they will be able to give you a long-term
22 lease. I really think it's, you know -- I've come
23 across a lot of people that talked to me about wanting
24 to lease land.

25 They all start with large acreages. But

1 when you break them down and you ask them, "What kind
2 of equipment have you got? What are you growing?" It
3 just doesn't add up. Oftentimes I told them, "Hey,
4 I'd be glad to take your money but I think you better
5 put it elsewhere."

6 MR. HARRIS: Do you currently have a
7 100-acre parcel for sublease?

8 THE WITNESS: No. It's been parceled out.

9 MR. HARRIS: What's the largest property you
10 have available right now?

11 THE WITNESS: Probably 20 acres.

12 MR. HARRIS: Thank you.

13 CHAIRMAN PILTZ: Mr. Poirier?

14 MR. POIRIER: No questions.

15 CHAIRMAN PILTZ: Commissioners, any
16 questions? Commissioner Lezy.

17 COMMISSIONER LEZY: Just one brief question.
18 Thank you for your testimony, Mr. Ogasawara, very
19 interesting. We haven't heard a lot from folks
20 directly involved in the agricultural injury -- maybe
21 that's a little Freudian slip there, agricultural
22 industry, so it's nice to hear from you.

23 You have mentioned, I think, that you are
24 part of a working group that was organized by Castle &
25 Cooke.

1 COMMISSIONER CONTRADES: Yes, its vision
2 team primarily because I was board president of
3 Waipahu Community Organization, the owners of the
4 Waipahu Festival Marketplace.

5 COMMISSIONER LEZY: And that's how you
6 became involved. You were invited by Castle & Cooke.

7 THE WITNESS: As a, yeah, as a community
8 leader for the Waipahu Community Association of which
9 I'm the board president.

10 COMMISSIONER LEZY: And can you give us an
11 idea of who else is a member of that vision team?

12 THE WITNESS: Man, I'll tell you there was
13 people from all over the community. I remember the
14 principal from the St. Joseph School, he was invited.
15 My son happened to be the president of the Waipio
16 Little League Baseball. He was the president of the
17 league.

18 They were invited so they could provide
19 input on to recreation facilities, so forth. I mean
20 there was tons of people. I mean it was -- I was
21 impressed because they had seeked out as much
22 community input as they could possibly do I guess. I
23 really, not to butter them up any, but they did a good
24 job.

25 COMMISSIONER LEZY: Any other farmers or

1 folks involved in the agricultural industry?

2 THE WITNESS: Farmers or agricultural
3 industry? Not that I remember.

4 COMMISSIONER LEZY: Thank you.

5 CHAIRMAN PILTZ: Commissioners, any other
6 questions? Okay, Nick.

7 COMMISSIONER TEVES: Yes, I have a question.
8 Hello, Mr. Ogasawara. Your 500 acres is it on the
9 Petition Area?

10 THE WITNESS: No. It's -- the Petition Area
11 is Koa Ridge. I'm in Mililani south where --

12 COMMISSIONER TEVES: That's between Koa
13 Ridge and Mililani.

14 THE WITNESS: Koa Ridge and Mililani.
15 (Using wall map) We're here (indicating). This is
16 Mililani Town. This is where it ends. This is Kipapa
17 Gulch. This is Waikele Gulch. I farm in this area
18 here that comes all the way down to Waikele. It was
19 former pineapple lands.

20 COMMISSIONER TEVES: Do you know any of the
21 farmers on the Petition Area?

22 THE WITNESS: The Alouns. I know them but I
23 don't know --

24 COMMISSIONER TEVES: Are they going to be
25 leasing from you?

1 THE WITNESS: They will be -- Castle & Cooke
2 has arranged for them to move above the Dole
3 Plantation, correct? An area that's north of Wahiawa.

4 COMMISSIONER TEVES: If they build more
5 houses there do you think you'll have a problem with
6 your pesticides, the noise, your weed-eaters?

7 THE WITNESS: Where at?

8 COMMISSIONER TEVES: In your property. The
9 Petition Area is going to be right adjoining your
10 property, right?

11 THE WITNESS: No. The Petition Area is...

12 COMMISSIONER TEVES: Further south.

13 THE WITNESS: Quite a distance from us.

14 COMMISSIONER TEVES: Thank you.

15 THE WITNESS: Thank you.

16 CHAIRMAN PILTZ: Any other questions? Thank
17 you, Mr. Ogasawara. Very enlightening.

18 THE WITNESS: Thank you.

19 (Mr. Yost is now present at counsel table)

20 CHAIRMAN PILTZ: Next person is Roy Amemiya
21 followed by Randy Kimura.

22 ROY AMEMIYA,
23 being first duly sworn to tell the truth, was examined
24 and testified as follows:

25 THE WITNESS: Yes, I do.

1 CHAIRMAN PILTZ: Please have a seat. State
2 your name and address.

3 THE WITNESS: Chair Piltz, members of the
4 Land Use Commission, my name is Roy Amemiya, 95-1120
5 Koalapa Street, Mililani.

6 CHAIRMAN PILTZ: Go ahead.

7 THE WITNESS: I'm here to testify as a
8 private citizen in strong support of the Castle &
9 Cooke's application to amend the Agricultural Land Use
10 district boundary for the purpose of developing Koa
11 Ridge.

12 By way of background, I'm a lifelong
13 resident of the Central O'ahu area. In 1969 my
14 parents moved the family from Whitmore Village,
15 coincidentally, like Mr. Ogasawara, I'm also from a
16 plantation community -- to upstart Mililani Town, some
17 41 years ago. I was 13 years at the time.

18 I know what it's like to live in a planned
19 community, excellent schools, numerous parks, been
20 used to eat and shop and lots of family activities for
21 the children. I can't think of a better place to
22 raise a family.

23 As an adult Castle & Cooke afforded me the
24 opportunity to realize the American dream of owning a
25 home, again in Mililani Town, where my wife and I

1 started with a two-bedroom affordable unit. Moved up,
2 as our family grew, to a larger home and eventually to
3 our third home, a custom home where we reside today.

4 We are very fortunate to have been able to
5 move up the housing ladder in a well-planned
6 community. We have every confidence that Koa Ridge,
7 the development by Castle & Cooke, will be equally a
8 great community.

9 But as the parents of two young adults in
10 their mid 20s we have come to the realization that
11 that opportunity may not be available to them.
12 There's quite a housing inventory shortage here on the
13 islands. They may have to raise their families in
14 some high-rise unit in a congested area of the island
15 or they may have to move to the mainland.

16 Koa Ridge is currently part of the urban
17 growth boundary in the Central O'ahu Sustainable
18 Communities Plan. It is for that reason that it's
19 both consistent with the plan and also what I feel is
20 a reason for you to approve their application.

21 A denial would be unfair to the developer.
22 And it would send a message to the development
23 community that inclusion in the plan means very
24 little.

25 Keeping land in agriculture is a very noble

1 goal. But the reality is there is ample land to grow
2 our food elsewhere on the island. Young people as
3 well as the aging will benefit from the homes, the
4 jobs, the medical facilities and the other amenities
5 that are planned for Koa Ridge.

6 Accordingly, I ask that you support Castle &
7 Cooke's application. I thank you for the opportunity
8 to testify. Glad to answer any questions.

9 CHAIRMAN PILTZ: Petitioner, questions?

10 MR. MATSUBARA: No questions.

11 MS. TAKEUCHI-APUNA: No questions.

12 CHAIRMAN PILTZ: Mr. Yee?

13 MR. YEE: No questions.

14 MR. YOST: No questions.

15 CHAIRMAN PILTZ: Good to have you.

16 MR. POIRIER: No questions. Commissioners,
17 questions? Thank you. Randy Kimura followed by
18 Dr. Craig Thomas.

19 RANDY KIMURA,
20 being first duly sworn to tell the truth, was examined
21 and testified as follows:

22 THE WITNESS: Yes, I do.

23 CHAIRMAN PILTZ: Be seated. State your name
24 and address for the record.

25 THE WITNESS: Hi. I'm Randy Kimura. My

1 address is 95-968 Wikau Street H-102 and that's in
2 Mililani.

3 CHAIRMAN PILTZ: Go ahead.

4 THE WITNESS: I've lived in Mililani for 11
5 years. And I've been a pastor of Hope Chapel West
6 Oahu for nine years. I've also been a part of the
7 visioning team of Castle & Cooke for the last four
8 years, I believe.

9 It's been an amazing experience where I get
10 to actually play a part in shaping a community, in
11 being a part of this community where, you know, I see
12 lives, I see homes, I see families that can raise
13 their family.

14 And it's an amazing opportunity that Castle
15 & Cooke afforded me that they invited me. I didn't
16 show up and just become part of their team. I was
17 invited to play a part and because I had a diversified
18 occupation as a pastor.

19 Why am I in support of the Project? The
20 planned community will be an amazing place to live:
21 new homes, an elementary school, parks, a community
22 center, places and shops to go to. Being able to take
23 my family and walk or ride bikes there, opportunities
24 not only for myself but for many others to own a home
25 and live in Hawai'i.

1 My wife and I have two young children and
2 can only imagine the hope that we could be there
3 raising our children in this community. It's a place
4 to work. There'll be retail, there'll be hotel, a
5 real hotel, a medical center, a school and more, job
6 opportunities and income that will not only bring
7 income to the individual but to the community and the
8 state.

9 It's healthy and so needed, not to mention
10 the jobs created during construction and the
11 management of the community. In a world where jobs
12 and making a living is so difficult, Koa Ridge brings
13 opportunity. It's a place to play. I envision
14 baseball and soccer fields, sporting tournaments,
15 community events and open markets. And it takes me
16 back to my childhood and growing up in a place where
17 everyone knew one another.

18 I see community nights, fairs and
19 gatherings. It's a place for senior citizens to not
20 only exist but to live comfortably and to get around
21 the community with ease.

22 As I drove in from Mililani today -- and I
23 drove past Koa Ridge on my right -- the words that
24 came to me were "potential" and "hope". I could
25 actually feel this place and imagine it for what it

1 would be.

2 I've been a part of an amazing church, Hope
3 Chapel West O'ahu. And for the last nine years we
4 have had an amazing church. And the things that got
5 me excited about planting a new church in Waikele, are
6 the same that I have for Koa Ridge.

7 Our vision, and continues to be our vision
8 was to reach over 110,000 people in the life of our
9 church. Again, we started with 40 people. But we had
10 a vision to really reach more than we could ever
11 imagine. Last week our attendance was 2,000 people.

12 And every day for the last nine years we
13 have made a difference. However, it took a vision
14 from God and to our senior pastor and the obedience
15 with that to make that, to make it what it is today.
16 We are in the business of seeing lives change and
17 equipping people to reach their potential and more.
18 And we provide hope, a hope that gives people a reason
19 to live and a purpose in life.

20 Koa Ridge has the potential to do so much
21 more for our communities in the state. It will be a
22 light that others will look to admire. I and many
23 others want this Project to come to fruition.

24 I believe Castle & Cooke Ridge in the Koa
25 Ridge Project is going to make a difference not only

1 for Central O'ahu but will inspire other communities
2 to raise their levels of excellence and make Hawai'i
3 home for many.

4 I want to thank Castle & Cooke that their
5 efforts and hard work and allowing me to participate
6 in the visioning process. Thank you.

7 CHAIRMAN PILTZ: Mr. Matsubara, questions?

8 MR. MATSUBARA: No questions.

9 CHAIRMAN PILTZ: City?

10 MS. TAKEUCHI-APUNA: No questions.

11 MR. YEE: No questions.

12 MR. YOST: No questions.

13 MR. POIRIER: No questions.

14 CHAIRMAN PILTZ: Commissioners, questions?
15 Nick.

16 COMMISSIONER TEVES: Hi, Mr. Kimura. You
17 mentioned you're on the visioning team.

18 THE WITNESS: Yes.

19 COMMISSIONER TEVES: And you live in
20 Mililani.

21 THE WITNESS: Yes.

22 COMMISSIONER TEVES: Is the Neighborhood
23 Board for or against this Project?

24 THE WITNESS: Um, I'm not sure. I'm not
25 really sure. I just come to the visioning meeting.

1 COMMISSIONER TEVES: You never had the
2 opportunity to check if the Neighborhood Board was for
3 the --

4 THE WITNESS: No, I never checked. I live
5 in the Mililani Tech Park.

6 COMMISSIONER TEVES: I'm just curious why.
7 I'm just curious the visioning team, I'm sure you
8 can't speak for the whole team, but you don't even
9 know how the Neighborhood Board, which is the
10 representative of the community, feels about this
11 Project?

12 THE WITNESS: Well, I never had an
13 opportunity to check with everyone. But I feel as a
14 citizen and I live in Mililani --

15 COMMISSIONER TEVES: Shouldn't you have
16 checked? I mean to come here testify in your
17 position. That's all I have thank you.

18 CHAIRMAN PILTZ: Any other questions? Thank
19 you. Dr. Craig Thomas followed by Bob Cherry.

20 CRAIG THOMAS, M.D.
21 being first duly sworn to tell the truth, was examined
22 and testified as follows:

23 THE WITNESS: I do.

24 CHAIRMAN PILTZ: State your name and address
25 for the record.

1 THE WITNESS: Good morning. My name is
2 Craig Thomas. And I live at 356A Ke'elapua Drive.
3 That's Kailua. Thanks for hearing my testimony.
4 Wahiawa General -- I'm here speaking on behalf of
5 Wahiawa General's portion of the Project.

6 Wahiawa General has a really wonderful place
7 in my heart because I came to Hawai'i in 1983 and
8 started work as an emergency doctor there. And you
9 always remember your first shift. It was a very
10 sobering moment.

11 For the next nearly 20 years I worked
12 primarily at Wahiawa, actually part of a group that
13 covers Wahiawa, Castle, Hilo and North Hawai'i. My
14 job was mostly Wahiawa and some Hilo. And it was a
15 great combination.

16 And I lived for years in Waialua. The
17 community welcomed me as a part it. When you're
18 involved in the medicine of the community you get a
19 real feel and you're enmeshed in it. And it was
20 wonderful.

21 And at the time the E.D. volume was about
22 eight or 9,000 annual visits and the inpatient volume
23 I think was on the order of somewhere around 3500
24 annual admins. Even early on it was clear the
25 department, which is the last renovated in the '70s,

1 needed some work. In fact in the late '80s some
2 monies were dedicated to renovating the E.D. and the
3 ICU, both good projects.

4 Unfortunately, and this, of course, some you
5 may remember, was about the same time they went on an
6 asbestos hunt in the capitol building. That cost
7 quite a bit of money. Well, the same thing happened,
8 unfortunately, at Wahiawa which as they started the
9 renovation it turned into an asbestos abatement
10 project. All that got fixed up. But the hospital
11 otherwise structurally didn't change.

12 This has become a challenge for us because
13 we have a seven-bed department. I think soon we're
14 going to hit 20,000 annual visits. And it has become
15 difficult to maintain the level of service that we
16 like to provide. We're doing it. It's hard.

17 And in the interim the other parts of the
18 facility, which is on a small footprint built out of
19 poured reinforced concrete, has become strained. And
20 as a consequence patients that we used to care for and
21 consultants we used to attract transferred. So the
22 inpatient admissions dropped over a period of time.

23 This makes me sad because I love the
24 patients there. My personal career arc is over time I
25 became the administrator of the group. And I work

1 half time clinically and half time in administration
2 running the group.

3 But it makes me sad 'cause Wahiawa is still
4 my favorite hospital. And I want to see it strong and
5 vibrant for the future and serving the community. I
6 believe that the best way for it to do that is to be
7 able to have a facility that supports those efforts.

8 Medicine has changed a lot since 1983. And,
9 of course, the last renovation was really before that.
10 And I think we need a department that can better serve
11 our patients and are a variety of inpatient and
12 diagnostic services that the community deserves. I
13 believe the best chance to do this is in a campus that
14 can provide those services.

15 My actual personal hope is that it happens
16 in time for me to quit being an administrator. I'd
17 love to finish out my days out there. That's my
18 piece. Any questions?

19 CHAIRMAN PILTZ: Mr. Matsubara?

20 MR. MATSUBARA: No questions.

21 MS. TAKEUCHI-APUNA: No questions.

22 MR. YEE: No questions.

23 MR. POIRIER: No questions.

24 CHAIRMAN PILTZ: Commissioners, questions?

25 COMMISSIONER JUDGE: Just for clarification.

1 So you're in support of the new facility at Koa Ridge.

2 THE WITNESS: I am, yes, absolutely.

3 COMMISSIONER JUDGE: Not improving the
4 facility that you --

5 THE WITNESS: No. And the reason is I'm not
6 sure exactly when the current structure was built. I
7 think it was in the '60s. Medicine has changed
8 dramatically. The community has changed dramatically
9 too. And the needs have changed.

10 It's key to us to be able to provide the
11 services and the specialists to provide the spectrum
12 of services that a community hospital -- and all four
13 of our hospitals are community hospitals, so I'm
14 pretty conservant with those needs -- the needs they
15 can have. It really can't happen at Wahiawa. The
16 footprint's very small. It's about three acres. And
17 the building is prohibitive to renovate, and I don't
18 think it could be done.

19 And there's some other services that are
20 going to be needed too. I'm not getting any younger
21 and neither are the rest of us. There's going to be a
22 need in accommodation in skilled nursing facilities,
23 for example, as well as other things like improved
24 imaging. It would be very nice to have an MRI. It's
25 become a necessary complement for moderate sized ERs

1 and we're becoming one.

2 And it's, I think, crucial to have a medical
3 office building that can support a variety of
4 specialists and attract the people we need to serve
5 the community. That's my dream of it happening.

6 COMMISSIONER JUDGE: Great. Thank you.
7 Thank you for the clarification.

8 CHAIRMAN PILTZ: Okay, thank you. The next
9 person up is Bob Cherry followed by Mike Conway. Bob
10 Cherry? How about Mike Conway?

11 MICHAEL CONWAY
12 being first duly sworn to tell the truth, was examined
13 and testified as follows:

14 THE WITNESS: I do.

15 CHAIRMAN PILTZ: Have a seat and state your
16 name and address for the record.

17 THE WITNESS: My name is Michael Conway.
18 I'm the agriculture manager for Dole Food Company
19 Hawai'i. My address is 1255 Nu'uanu Avenue in
20 Honolulu.

21 The title of my testimony here is the myths
22 and realities of modern farming in Hawai'i. I've
23 been -- I've been in the agriculture industry here for
24 over 35 years now, many of them associated with Dole
25 Food Company. But I have been associated in the past

1 with the floral industry, the coffee industry
2 currently, the pineapple industry and other crops,
3 papaya and so on in the past.

4 So I believe I can provide a unique
5 perspective on where agriculture currently is in
6 Hawai'i. We all know where it has been in the days of
7 sugar and pineapple which they were kings and to where
8 it is now.

9 I believe there are a lot of myths that are
10 associated with this. And that a lot of people who
11 don't really and truly understand Hawaiian agriculture
12 probably are in denial. And I want to provide some
13 realities to all of this too.

14 I'll get through this as quick as I can.
15 I'm sure it's probably going to spawn some questions.
16 Some of the myths I believe that we live amongst, that
17 farmlands, large and small alike are becoming
18 increasing difficult to find here on O'ahu. I believe
19 that's a myth.

20 Available farmlands have adequate
21 infrastructure in place for ready farming. That is
22 not always true.

23 There's a lot of people waiting for land.
24 They're standing in line waiting for land to start or
25 expand their current enterprises. They believe that

1 there's a huge demand for Hawaiian-grown products and
2 the relative ease to produce, market and deliver them.

3 There's a lot of myths associated with this
4 statement.

5 That keeping the farmlands idle and out of
6 production because there's nothing to put on 'em is
7 always the best alternative to any type of
8 nonagricultural enterprise. I believe this is a myth.

9 That the state, city and county and federal
10 government support and protect Hawai'i's farmers with
11 reasonable laws, taxation and regulation. I believe
12 that's a myth.

13 That farm businesses within the state of
14 Hawai'i receive adequate and continued assistance
15 promoting brand awareness, funding for research and
16 development. This is a long way from the truth.

17 Hawai'i needs to support itself more with
18 locally grown produce because it's cheaper, fresher
19 and safer than mainland-grown products.

20 That the beef and dairy industry requires
21 large tracts of land and that overgrazing during
22 periods of drought is not a major problem.

23 Finally, and this brings into light some of
24 the current thinking, that crops designated for
25 production of biofuels represent a tremendous

1 potential for the state's idle farmlands. I believe
2 there's myth associated with this as well.

3 Some of the realities of farming in Hawai'i
4 right now: The truth is there are sufficient lands
5 available for lease, sale between Waipio, Kunia,
6 Wahiawa, Waialua and Haleiwa. They are there. And
7 there's adequate infrastructure on a great deal of
8 these lands to sustain people who want to get into the
9 farming business.

10 In fact, the acreage in these areas is more
11 than the number of farmers available. I can't really
12 speak for Campbell, Bishop Estate, Galbraith Estate
13 which occupy most of those lands in addition to our
14 Dole/Castle & Cooke lands. But there's a lot of idle
15 farmland out there.

16 Much of this former sugar and pineapple land
17 is now in fallow. There is decent infrastructure,
18 roads, water, electricity in place but it is barely
19 maintained. And the longer it sits there not farmed
20 the worse things get because somebody's gotta take
21 care of that infrastructure. And it is deteriorating.

22 I'm talking about water delivery systems,
23 lack of soil conservation plans over many of these
24 lands, theft, vandalism, trespassing, illegal dumping.
25 These problems are there and they're growing.

1 I believe the overall trend in Hawai'i
2 agriculture is for large farming operations to slowly
3 give way to small family-run farms basically growing
4 niche crops which do not require that much land.

5 The beef and dairy industries appear to be
6 fading. I can't speak for them, but they appear to be
7 fading from the scene just by the number of closures
8 of cattle farms and in particular dairies. Basically
9 they're unable to compete with mainland-source
10 products, another reality.

11 Farm production in Hawai'i is becoming
12 increasingly difficult and limited. It is becoming
13 increasing difficult and unlimited. Taxes,
14 over-regulation, high fuel and fertilizer costs,
15 increased concerns for food safety, which is not
16 necessarily a bad thing until you realize that every
17 year there's more and more and more regulation coming
18 our way which ties up resources. All of this
19 negatively affect our bottom line.

20 The increased cost of packaging, marketing,
21 shipping, distribution, basic simple and easy to bring
22 many products in from the mainland and Asia.

23 Lack of facilities at Honolulu Airport and
24 the harbor for perishable products. I'm talking about
25 cold storage, irradiation, some of these things which

1 would allow exports to be profitably moved out of
2 Hawai'i. None of this exists. So export potential
3 out of Hawai'i is not -- it's just not good at this
4 point right now.

5 Ag theft and vandalism are on the rise,
6 believe me. Current laws are transparent and poorly
7 enforced. Security is an additional and significant
8 expense. The liabilities for trespassers is a major
9 concern.

10 Let me give you two quick little stories
11 here just to hammer my point home. And this one just
12 happened last week. We have farmlands that go around
13 the Lake Wilson area out in Wahiawa. We have had
14 homeless problems out there. We are continuously
15 moving people off of our lands only to find they have
16 gone somewhere else.

17 We sent in a crew of 20 people the latter
18 part of last week to go clean up all the trash, knock
19 down the shanties, remove all the rubbish that was in
20 place. We had it stacked, ready to be moved out
21 yesterday when someone set it all on fire. Okay.

22 So I had to send the same 20 people back
23 there, reclean up that mess. And I believe as we
24 speak they're probably getting it out there. But I
25 can tell you the people that we displaced on that

1 land, they've quickly moved somewhere else out there
2 and we'll find out where they are in the not too
3 distance future.

4 Invasive species, particularly in terms of
5 control of feral animals, they're on the rise. I've
6 never seen so many pigs in my life coming out of
7 gulches now and crossing our lands. Just in pineapple
8 alone -- and you might have seen some of the things on
9 TV last week regarding other crops, papaya, so on,
10 other areas of the island. We're losing thousands of
11 boxes of pineapple a year due to feral pig damage.

12 And it's not an easy thing to control these.
13 There's liability concerns. There's lands that are
14 not our properties where these pigs' coming and
15 abandoned farmlands from some of our neighbors.

16 Yesterday I drove through our coffee field,
17 I counted 18 pigs in five minutes. It looked like a
18 cattle roundup where I was driving.

19 Limits imposed on use of recycled water for
20 agriculture. Lake Wilson, which is a primary water
21 resource out on the Wahiawa plateau that's capable of
22 feeding water all the way out to Mokuleia and at one
23 time went pretty darn far past Haleiwa on its way to
24 Kahuku.

25 This is recycled R2 water City and County --

1 excuse me -- Wahiawa Sewage Treatment Plant is located
2 in that area. And water is -- recycled water is sent
3 and can only be used for subsurface irrigation, in
4 other words drip irrigation, anything that goes
5 underground. Cannot be used for overhead irrigation,
6 sprinklers or anything else. So this is a limitation.

7 So we've got the lands, we got water, we got
8 the means to deliver it. The quality of water poses
9 some limitation.

10 Finally, on that issue there were a lot of,
11 and there still are, large tracts of land, former
12 sugar and some pineapple lands that are out there,
13 they're slowly being subdivided by the landowners for
14 small farming.

15 Someone wants to come to farm a small piece
16 we're more than welcome to have them come in. We'll
17 give them oftentimes a 5 year lease and a separate
18 water lease. And that lease is renewable after five
19 years. They have first right of refusal. And we'll
20 listen to special cases of longer term leases that may
21 arise for perhaps longer-term crops like orchard
22 crops.

23 One of the problems on these lands when you
24 subdivide them up is the water delivery systems which
25 were formerly designed for sugar cross through their

1 areas. Everybody's going to be taking their share of
2 water. At the end of the day when you have a dry year
3 like we did last year, you've got water wars going on
4 out there and that's not a pleasant thing to have to
5 manage. So it gets complicated very quickly.

6 So this is a real reality when you're
7 farming. All of these pose challenges and they keep
8 people from wanting to get into the farming business.

9 I just want to mention very quickly in the
10 economic climate that we have right now we've had a
11 loss of reduction of critical services because of
12 cutbacks in the state department of agriculture.
13 State department of agriculture now is primarily a
14 regulatory agency.

15 We look to them for a lot of other things,
16 but because of the cutbacks seems like all we can do
17 is get regulated by them in terms of pesticide
18 regulation and other things. We wish they had the
19 ability to do more.

20 There was a time when they provided funding
21 to farmers. They did marketing on the mainland and a
22 whole lot of other things that really helped our
23 farmers out. It's not there anymore. And it's
24 unlikely to come back in my opinion.

25 CHAIRMAN PILTZ: Can I ask you a question.

1 THE WITNESS: Yes, sir.

2 CHAIRMAN PILTZ: You talk about diversified
3 agriculture.

4 THE WITNESS: Hmm hmm.

5 CHAIRMAN PILTZ: At one time there was a
6 note way back that 5,000 acres of diversified
7 agriculture could feed the population back in '82.
8 What do you think would it take now in diversified
9 agriculture? Do you have any figures on that?

10 THE WITNESS: Actually I was getting to
11 that. It was coming right up on here because I wanted
12 to share an experience that I went through back in the
13 '90s at the closure of Waialua Sugar when Waialua
14 Sugar closed in 1996.

15 Mr. David Murdock, our CEO along with some,
16 let's say, agreements we had with the federal
17 government to accept treated effluent water from the
18 Schofield Barracks area, about \$9 million was
19 dedicated to put together a diversified agriculture
20 program down in the Waialua area. And I was put in
21 charge of it.

22 Our mission here was to find work for
23 displaced sugar workers, be able to continuously tie
24 up the land for a farming community like Waialua which
25 knows really nothing else except farming and to be

1 able to continue to use all the infrastructure that
2 was created during sugar time down in there.

3 So we went out with this plan and we
4 literally were planting out there in hundred-acre
5 blocks, some cases more than that. We had 600 acres
6 of papaya. We had 100 acres of cut flowers, 200 acres
7 of coffee and cacao, 300 acres of cattle feed and
8 forage. We really mixed it up.

9 We went so fast that we didn't even have
10 time to do a real market plan. We just went out, said
11 this is -- I believe it was the biggest probably
12 diversified ag enterprise ever to take place in the
13 state by one company. If there's others I'm not aware
14 of it.

15 We had these projects spread out over about
16 9,000 acres because these are niche crops that require
17 certain areas to grow. You can't just put them all in
18 one spot. So we spread them out. We had everything
19 going for us. We became -- we got through the
20 agriculture learning curve, very, very quickly. We
21 became-- we had some of the best, I'd say the best
22 papaya in the state without a doubt.

23 It was a matter of time before we flooded
24 the market with it. Ticked off all the guys on Maui
25 and Big Island because they have been the traditional

1 suppliers of papaya to the state. Suddenly we are
2 right here on O'ahu flooding the market with papaya so
3 some minor wars erupted out of.

4 We had hundred acres of mango. We got that
5 certified to be able to export exotic varieties of
6 mango to Japan and to Canada. And we had a hundred
7 acres of cut flowers and so on.

8 So my point is we ran into problems.
9 They're not there anymore. What are the reasons why
10 1500 acres suddenly disappeared? Many of them are the
11 realities I just spoke about. We became over-
12 producers very quickly. Six hundred acres of papaya
13 hitting the market I believe there's probably
14 600 acres total in the state. Suddenly we doubled
15 what was there. We went at it. And we failed. We
16 couldn't make a cent off of it. We were throwing
17 papaya away, literally.

18 Some of that happened with flowers as well,
19 as well as mango. And theft, vandalism came into play
20 very seriously. We were losing mangoes by the
21 truckloads. We just could not control people coming
22 in to steal stuff.

23 There's a big area. The security alone
24 would have taken away our margin if we would have just
25 put those kinds of people in place to guard everything

1 we had.

2 So you had the cattle. The feed and forage
3 finally that we put in place for cattle we were going
4 to supply the dairies with everything they needed,
5 turns out they could buy it cheaper on the mainland.
6 No matter what we did they could buy hay, forage crops
7 easier than we could ever produce them. It was just
8 the cost of production.

9 Right now we're left with coffee and cacao,
10 two very promising niche crops that we still maintain
11 out there, about 200. We're very excited about them.
12 There are challenges imposed with them just going out
13 trying to create brand awareness and farming them.

14 My point, Mr. Chair, is, no, we don't need
15 5,000 acres to feed all the people in the state. We
16 could probably get by with significantly less land on
17 that, but it has to be carefully thought out with very
18 good market plans.

19 And this is where the state can come in to
20 help us because this is where the state Department of
21 Agriculture really provided resources for us in terms
22 of surveys and the data that we needed to be able to
23 make an informed decision on what we should plant and
24 how much we should plant.

25 Finally, on that note, one of the big things

1 that always helped us farmers in the past was good
2 research and development programs that really promoted
3 Hawai'i. Exotic varieties of cut flowers, new flowers
4 that were unique to Hawai'i, they're coffee, papayas
5 that really only existed here in Hawai'i. We were
6 selling Hawai'i out there.

7 A lot of that research and development due
8 to lack of funding isn't there anymore. So we're
9 rather mundane in what we're pushing out there. And I
10 hate to say pineapple, which we have about close to
11 3,000 acres that we're farming out there right now, is
12 in its sunset years. It's a tough row to hoe, if I
13 could use a farming term, out there to just keep that
14 going. It's, it's just not easy.

15 So in the end, some of my conclusions, I
16 know I've been kind of windy, but we view the local
17 market as probably the best opportunity for farmers to
18 be able to make money around here. That export
19 potential out of here is very limited for lack of
20 infrastructure and just the high cost of sending that
21 stuff off these rocks to get to the mainland.

22 Growing on a large scale is rather high
23 risk. The bigger you get the more you're stepping
24 into unknown areas these days. Theft, vandalism,
25 feral animals, all of this sort of thing, trespassers,

1 they're all hurting our bottom line one way or the
2 other.

3 That niche crops have their place in
4 Hawai'i, that the remaining overlands that are
5 overgrown with noxious weeds and trees and slowly
6 destroying water delivery systems are becoming places
7 for illegal dumping and access points for trespassers.

8 So at the end of the day I think I've tried
9 to provide you with a rather broad-based perspective
10 of where agriculture is in Hawai'i. It's at a cross
11 roads. And we all, farmers, state, everybody alike.
12 has to step up.

13 I am for dedicated farmlands in perpetuity.
14 I am for that. But we need some really good studies
15 to be able to identify those lands and have them there
16 for people who want to farm.

17 I also believe there's ample farmlands
18 available here on this island alone just in the
19 Central O'ahu and the Wahiawa plateau that are just
20 sitting there waiting to be used. I think that's it.

21 CHAIRMAN PILTZ: Thank you. Mr. Matsubara,
22 was he one of your witnesses?

23 MR. MATSUBARA: He's an innocent, neutral
24 public witness and I have no questions.

25 CHAIRMAN PILTZ: Very informative. Thank

1 you. City?

2 MS. TAKEUCHI-APUNA: No questions.

3 CHAIRMAN PILTZ: Mr. Yee.

4 MR. YEE: I understand you're and ag manager
5 for Dole?

6 THE WITNESS: Yes, sir.

7 MR. YEE: You support the dedication of
8 lands in perpetuity for farming?

9 THE WITNESS: I do support that concept yes,
10 I do.

11 MR. YEE: Thank you. Nothing further.

12 CHAIRMAN PILTZ: Thank you. Sierra Club?

13 MR. YOST: Yes. Mr. Conway, you are,
14 actually to be fair, essentially a witness for the
15 Petitioner, correct?

16 THE WITNESS: Yes.

17 MR. YOST: Because you work for Dole and
18 Dole's all part of the Castle & Cooke family and
19 that's your employer.

20 THE WITNESS: Castle & Cooke is not my
21 employer. Well, we're sister companies.

22 MR. YOST: Right, you've got the same
23 overall owner of those two companies, Mr. Murdock.

24 THE WITNESS: Yes, sir.

25 MR. YOST: Thank you. You know what struck

1 me is when you answered Chairman Piltz's question
2 about how much acreage do we need to feed Hawai'i.
3 The answer that you gave to me sounded like we just
4 can't do it no matter how much acreage we have.

5 It was a very defeatist vision, and
6 understanding of what exists and also what the
7 potential was in the way that I heard it. And let me
8 just say why.

9 It just sounded like when you tried to go
10 large and produce a lot of food you fail. You don't
11 have sufficient export markets. And you've got
12 extremely intense and overbearing competition from
13 import markets coming from outside of Hawai'i.

14 So it sounds like really your answer is the
15 way to feed Hawai'i is to import food under the
16 current realities, is that right?

17 THE WITNESS: No. What I'm saying that the
18 example that I put out there is that it's easy to go
19 out and overproduce and flood the market. Then nobody
20 wins.

21 MR. YOST: Okay.

22 THE WITNESS: That was one point I was
23 trying to make. We went out with 600 acres of papaya.
24 Had we planted 2 or 300 acres of papaya, more or less,
25 we might have done better. But we had the ability.

1 We had the land. We had the resources. We had the
2 means and the money at that time to be able to go out
3 and hit a market that at that time was ravaged by
4 disease. Okay. Just the papaya market in general.

5 So we did too good of a job of farming and
6 knocked the heels out from everybody underneath that.

7 However, I believe that very thoughtful and
8 judicious thought goes into how an agricultural
9 enterprise is put together. One needs to really look
10 at the market surveys out there and understand where
11 the niches are.

12 There are certain crops here that will, flat
13 will fail here in Hawai'i no matter how hard we try to
14 grow them. They're not going to be as good as some of
15 the mainland produce. Okay. So there are
16 limitations. But on the other hand there are some
17 very good items out there.

18 And as a grower over all those past three
19 decades I've looked for that new and unique product
20 that will fit here in Hawai'i, that unique variety of
21 flower, that unique type of papaya, that unique type
22 of pineapple and so on which is kind of what's keeping
23 us going right now in pineapple. Because I think
24 we're growing some of the best pineapple anywhere and
25 these sorts of things.

1 So, yes, I take a defeatist attitude over
2 certain types of crops in here. A lot of farmers they
3 just jump into this thing not really wondering where
4 it's going to go. Then they end up failing.

5 So there's a lot that falls in between the
6 cracks that I think has some good sides to it.

7 MR. YOST: Do you agree that right now we
8 produce in Hawai'i only about 15 percent of the food
9 that we consume?

10 THE WITNESS: That's probably correct.

11 MR. YOST: Do you think that that is a low
12 number? That we should be producing a higher
13 percentage of the food we consume in order to have
14 some level of food security?

15 THE WITNESS: Yes, I do.

16 MR. YOST: Do you have any estimate as to
17 what that number should be in percentage terms?

18 THE WITNESS: I really don't know. But I
19 would like to see, probably from a visionary
20 standpoint I'd like to see probably 30 percent minimum
21 of the crops we see on our market shelves, coming out
22 of Hawai'i.

23 MR. YOST: Do you have concerns about
24 changes in the future regarding fuel prices, oil
25 prices, other barriers to imports that may make it

1 more expensive and more difficult for Hawai'i to
2 obtain food from outside the islands?

3 THE WITNESS: Yes. Well -- yes. There are
4 some concerns there. At the same time many of those
5 concerns impact us as farmers too. A year and a half
6 ago fertilizer prices in Hawai'i virtually doubled on
7 us. We had to do severe cutbacks in our fertilizer
8 programs for pineapple.

9 We just flat couldn't -- first of all we
10 couldn't afford it and we couldn't source some of
11 these fertilizers that were coming out of China. They
12 put huge tariffs on exportation of fertilizers out of
13 China. And we were limited so it kind of worked both
14 ways.

15 MR. YOST: Doesn't that mean that it might
16 be a good idea to have a better supply of fertilizer
17 produced locally?

18 THE WITNESS: Hard to, hard to produce
19 fertilizer locally here when the raw materials have to
20 come from the mainland.

21 MR. YOST: Well, do they necessarily have
22 to? You've got cattle. Cattle can produce
23 fertilizer, right? You've got other means of
24 producing fertilizer.

25 THE WITNESS: Those, those resources are

1 there, yes.

2 MR. YOST: You talked about leases being
3 offered now to farmers in the area that you're
4 involved in. You've offering people five-year leases.

5 THE WITNESS: That may have to be updated.
6 But this is the way we used to do it when I was more
7 involved on that side. But, yeah, on average they're
8 five-year leases, very renewable. The leaseholder has
9 the first right of refusal.

10 And in general I'd probably say there are no
11 conditions that are put onto that, unless conditions
12 have drastically changed, that requires that contract
13 be amended in some way. But they always have first
14 right of refusal.

15 MR. YOST: Don't the contracts generally
16 also incorporate a unilateral right of the landowner
17 to cancel the lease for some sort of fee?

18 THE WITNESS: Yes, they do.

19 MR. YOST: Do you have any idea how much
20 that fee is?

21 THE WITNESS: No, I do not, sir. I don't
22 know what that it. Not very much.

23 MR. YOST: When you were talking about the
24 crops when you tried to go big and produce lot of
25 food, you had 1500 acres in production I understand

1 you said.

2 THE WITNESS: That's correct.

3 MR. YOST: Because of the -- these were all
4 fairly discrete crops, papaya, other things that
5 people are sort of familiar with already in Hawai'i,
6 right?

7 And you spread that over the 9,000 acres
8 because these crops have microclimate features to
9 them, right, you need to put 'em in the right spot,
10 the right elevation, the right cool and so forth. So
11 you had to spread it out over 9,000 acres.

12 Doesn't that factor into your thinking and
13 analysis about how much land we should keep in our ag
14 inventory 'cause we're not going to be able to put
15 this all in one 5,000-acre plot that's all next to
16 each other, right?

17 THE WITNESS: It does.

18 MR. YOST: Okay. And what estimates do we
19 have in terms of how much land we need to be able to
20 spread things out sufficiently so we give the crops
21 their breathing room?

22 THE WITNESS: You put me on the spot on that
23 one. But if I were to take a stab at it, probably six
24 to 10,000 acres probably on this island alone would
25 be, I would like to see.

1 MR. YOST: You think that would be
2 potentially --

3 THE WITNESS: I think that'd be potentially
4 sufficient in all the different growing zones --

5 MR. YOST: But then you've got --

6 THE WITNESS: -- up to it.

7 MR. YOST: I'm sorry, I didn't mean to cut
8 you off.

9 THE WITNESS: That's okay.

10 MR. YOST: Then you've got water issues too,
11 right? Because you have Lake Wilson water right now
12 is not suitable for the growing of aboveground
13 vegetables, correct?

14 THE WITNESS: Well, that is correct from
15 being the most abundant resource that we have out
16 there. But we have numerous other sources of
17 freshwater. We have deep well pumps that were created
18 during sugar time that still function. They have
19 electric motors on 'em and they're very costly to run.

20 So a lot of water can be pumped out of the
21 lense probably more, just like it was during sugar
22 time but you would have to convert, take them off of
23 electricity and put 'em onto diesel. So there's a
24 cost associated. And that would be more efficient to
25 provide freshwater. That capability is there. The

1 landowner just needs to make that investment.

2 We also have some freshwater reservoirs that
3 are available to lessees. The lessee on the land in
4 question for Castle & Cooke is being relocated. And a
5 source of freshwater, surface freshwater with pumping
6 capacity is right, is adjoining that land.

7 So he's very happy, I believe, about where
8 he's being relocated. I don't think he's being put at
9 a disadvantage.

10 Probably the only difference between where
11 he's farming now and where he's going to be is an
12 elevation difference. So he may have to look at that
13 see how that impacts him, but he's got water, he's got
14 land, he's got everything he needs.

15 MR. YOST: But the ag land that's the
16 subject of this petition for which reclassification is
17 sought, that land once it's urbanized that's not going
18 to turn back into ag land, correct?

19 THE WITNESS: Probably not.

20 MR. YOST: So even if Aloun Farms gets
21 another place to go you're gonna have a net loss of
22 acreage in the agricultural inventory of A and B land
23 on this land, is that correct?

24 THE WITNESS: That's probably a fair
25 statement. Although I would say there's still ample

1 lands out there available with freshwater supplies
2 available.

3 MR. YOST: Are the lands that are out there,
4 they're mostly plantation lands, former plantation
5 lands, correct?

6 THE WITNESS: I think that's a fair
7 statement. That probably speaks for our neighbors
8 Bishop Estate, as well as Campbell as well.

9 MR. YOST: And there are heavy use of
10 pesticides and herbicides and other chemicals in the
11 production of those --

12 THE WITNESS: Hmm, not anymore. Not
13 anymore.

14 MR. YOST: In the past, though?

15 THE WITNESS: Probably in the past, yes.

16 MR. YOST: So if you wanted to convert those
17 lands to organic produce, I don't know if you have any
18 knowledge in that area, but do you know how long it
19 would take.

20 THE WITNESS: Well, there's a timeframe, my
21 understanding there's a timeframe that the land needs
22 to be idle before it can be used for organic purposes.
23 I'm not sure how many years that is.

24 MR. YOST: Three years, right?

25 THE WITNESS: At least three years yeah.

1 MR. YOST: But then --

2 THE WITNESS: A lot of that land's been
3 sitting there now for 15 years.

4 MR. YOST: Okay. But then it has to go
5 beyond that. Don't you have some saturation in the
6 soil itself of the chemical residue?

7 THE WITNESS: There could be in certain
8 areas. I really can't speak to that. The soil would
9 have to be tested, you know, and evaluated for
10 pesticide content, particularly on former sugar or
11 pineapple land.

12 MR. YOST: So a five-year lease wouldn't be
13 long enough, probably, to get an organic farm started?

14 THE WITNESS: Probably not.

15 MR. YOST: The lack of infrastructure for
16 exports, is that primarily the responsibility of the
17 state or city and county to develop that
18 infrastructure?

19 THE WITNESS: Well, I think farmers do all
20 that they can do. What I'm saying on that is these
21 are -- if produce is to be held at a port before it's
22 sent out, then some refrigeration capacity beyond what
23 is done now in basically refrigerated Matson
24 containers should be available.

25 LD3 containers, for example, that contain

1 floral products and nursery products that are being
2 air flown out, they usually sit out in the sun over at
3 FedEx and cook. This kind of stuff. That's, I
4 believe, should be the responsibility of either the
5 state or the carrier to determine that.

6 Irradiation facilities like you have on the
7 Big Island, which is a, in my opinion, a fabulous
8 facility, has a lot of papaya to be exported off of
9 the Big Island, is something that I know that state
10 Department of Agriculture has been soliciting and
11 would probably be a great help to anyone who wants to
12 get into farming over here that's interested in
13 exporting would help.

14 MR. YOST: So do you think it's fair to say
15 that the impediments to farming now could dramatically
16 change and be alleviated if the state and county put
17 more emphasis and subsidies, and incentives and so
18 forth into the agricultural industry perhaps in the
19 way we're doing with photovoltaics?

20 THE WITNESS: I think that's a fair
21 statement. It's hard to envision that right now in
22 the current economic climate. But I think it's
23 probably fair long-term statement.

24 MR. YOST: The last question for you. Do
25 you have any actual knowledge, really, about biofuels

1 and how much land you need to produce biofuels? Have
2 you been involved in that personally?

3 THE WITNESS: I really only kind of touched
4 on it a little bit. Dole has asked me to look at some
5 of the potential crops out there that might be, that
6 might be utilized.

7 When we closed down Waialua Sugar we were
8 actually one of the first to try and use old cane and
9 other residues growing out in our field to be able to
10 burn in the furnaces and generate electricity for the
11 electrical grid that came out of the sugar mill down
12 there. It was separate from HELCO. Basically the
13 state shut us down.

14 I don't have too much history on that. But
15 that was the sorry thing that happened in the past.
16 That was really the first thing that took place in
17 there.

18 But some of these other crops that are
19 available for biofuels, about the best thing I can say
20 is you'll never find anything better than sugarcane as
21 your best number one biofuel out there in the world.
22 That's why Brazil grows so much sugarcane and
23 primarily fuels themselves with ethanol. Sugarcane is
24 quite possibly the best.

25 Other crops take a decided step back in

1 terms of their recovery and what you can use to get
2 bio-diesel or ethanol from. Not saying they're not
3 possible to do. A lot more challenges.

4 MR. YOST: Do you have any idea how much
5 acreage you'd need to plant with sugarcane in order to
6 provide enough ethanol to serve 30, 40 percent of our
7 population? You don't know?

8 THE WITNESS: I really don't. You'd have to
9 ask a sugarcane guy, you know. No, I really don't.

10 MR. YOST: Then I've got, I actually do have
11 one last thing. Are you familiar with the barrel tax
12 legislation that was going through the Legislature
13 recently?

14 THE WITNESS: I didn't pay too much
15 attention to it. You might have to refresh me a
16 little bit.

17 MR. YOST: Do you know it was going to
18 provide money in part to the Department of
19 Agriculture?

20 THE WITNESS: Mm-hmm. Okay.

21 MR. YOST: Did you agree that was a good
22 thing?

23 THE WITNESS: Oh, absolutely.

24 MR. YOST: Do you know why Castle & Cooke
25 didn't support the barrel tax in the Legislature?

1 THE WITNESS: I was not aware that they did
2 not support that barrel legislation. I just don't
3 have details on it. Personally as a farmer I think if
4 it's involved with growing biofuels out there I'm for
5 something like that.

6 I think we are a long way before we can even
7 consider putting anything in the ground for all of the
8 realities that I think I put forth in here.

9 MR. YOST: Unless the state made a decision
10 to do things differently.

11 THE WITNESS: Yes.

12 MR. YOST: No further questions.

13 CHAIRMAN PILTZ: Mr. Poirier?
14 Commissioners, do you have any questions. Go ahead,
15 Lisa.

16 COMMISSIONER JUDGE: Thank you. It was very
17 interesting. I just have a question regarding local
18 products and the economic feasibility of continued
19 farming.

20 I'm from Maui. And it's always -- it's
21 always interesting to me that I can go down to a store
22 and I can buy a product from Chile cheaper than I can
23 buy a product from Kula. I still don't understand it,
24 even after listening to all that you said.

25 Because I would think Chile has some of the

1 same constraints, they still have all the
2 transportation issues. So how can it be it's cheaper
3 to buy the same product from Chile or California than
4 it is 15 miles away?

5 THE WITNESS: Simplest answer to that
6 question, and there's other things that go with it, is
7 the farm labor, the high cost of labor. Hawai'i's
8 farm labor is the highest in the world particularly if
9 you're using a bargaining unit labor it's very
10 expensive.

11 I mean you're out there paying people \$12 to
12 \$14 an hour to grow some of the same things that are
13 grown down in Chile.

14 Dole has pineapple here in Hawai'i. We also
15 have it in Latin America and in the Philippines. And
16 we pay very good wages to those people down there.
17 But I can tell you it's less than half of what we pay
18 our people out here.

19 So the cost of labor is probably the single
20 biggest one that we're facing in there. But then
21 there's just the cost of packaging, the cost of
22 marketing, some of these other things, transportation.
23 Once you get it over there to the other side who's
24 going to handle it over there for you?

25 I think the coffee industry, which I'm quite

1 deeply involved with right now because we have
2 150 acres of coffee on the North Shore, has these
3 challenges right now.

4 We have some of the best coffee in the world
5 very, very recognized. Kona coffee, all those guys
6 over there they get what they want. They have the
7 name. They have everything else.

8 Waialua coffee, Molokai coffee, Kauai
9 coffee, we don't have that name. So we have to pump
10 three times what we do into marketing just to get our
11 brand awareness out there. And in the end that cost
12 comes back to us and we have to raise it up. At the
13 same time you can still go buy cheap, great coffee
14 from Nicaragua.

15 COMMISSIONER JUDGE: Did you say that
16 prior -- in the past that marketing dollars that went
17 to establish the Kona name was from state funds from
18 the Department of Agriculture?

19 THE WITNESS: Oh, definitely.

20 COMMISSIONER JUDGE: Definitely.

21 THE WITNESS: Definitely. Great assistance
22 I think, from state Department of Agriculture and the
23 University of Hawai'i, most significant research and
24 development. There still is some continuing but it's
25 small compared to what it used to be.

1 COMMISSIONER JUDGE: So one of the
2 challenges you're facing is that the government is
3 overregulating and under-assisting the farmers. It's
4 kind of going -- the regulation's going one way and
5 the economic or marketing assistance is backing up.

6 THE WITNESS: I'm afraid so. That's my
7 personal view of it, yes.

8 COMMISSIONER JUDGE: Right. I understand.
9 So it's not really -- it's not that there's a lack of
10 available lands for farming. It's more that there's
11 overregulation, labor costs, fewer dollars coming
12 from --

13 THE WITNESS: Taxation and the cost to keep
14 those existing lands idle. I think if we don't hear
15 anything else out of this room just what it's costing
16 us. Right after this meeting I'm gonna have to go out
17 there and fight those battles of kicking people off
18 the land, of picking up their mattresses and their
19 abandoned cars and engine blocks that they leave at
20 our gates down there.

21 Continuing to fight the battle and keeping
22 the infrastructure going. Keeping the water delivery
23 system, the ditches, the electricity, the roads open
24 for future use. But there's a cost associated with
25 all that and we're still being taxed whether we're

1 using that land or not.

2 So it really hurts. And it's not even my
3 money. It's my company's money. But I see where it's
4 goin' and it hurts. At the end of the day I wanna
5 farm.

6 COMMISSIONER JUDGE: Right. Last question.
7 You were talking about the sustainability, the
8 diversified ag, rather. And I think I heard you say
9 that when you had with your papaya project, when you
10 did acres you flooded the market.

11 THE WITNESS: Yes.

12 COMMISSIONER JUDGE: But that if you had
13 done maybe 200 acres it could have been successful.
14 In seeing that why didn't you just scale back the
15 operation instead of...

16 THE WITNESS: Basically we did but at that
17 time we had created facilities, treatment facilities
18 to handle large volumes of fruit. Some of this was
19 naive I have to say. When we stepped into it we
20 jumped into it and just said, "Papaya. The state
21 wants papaya and we have great export opportunities.
22 Let's do it."

23 We created heat-treatment facilities, not
24 irradiation, but regular vapor treatment facilities to
25 be able to send all of our fruit to the West Coast.

1 And that's what we were doing. And at that time we
2 were probably the only people that were sending
3 refrigerated containers of papaya to the West Coast.
4 It was the best fruit you could ever see on the
5 shelves over there.

6 But that worked good for a while but then
7 the marketing problems came into place, just trying to
8 market that stuff. Then we started intercepting fruit
9 coming out of Brazil and Mexico at the same time. So
10 it got complicated very quick. And I think the
11 company just made a corporate decision to end it.

12 Actually, what we ended up doing was
13 divesting ourselves of those projects and some other
14 people took it over. It was really up to them. They
15 really don't exist anymore. Maybe there's 30 acres
16 left.

17 COMMISSIONER JUDGE: Thank you.

18 CHAIRMAN PILTZ: Anybody else? Let's take a
19 5 minute break. (11:15).

20 (Recess was held. 11:35)

21 CHAIRMAN PILTZ: We are back on the record.
22 Bob Cherry? Bob Cherry? (no response) Okay. Next
23 person up is Elizabeth Dunn followed by Joy Marshall.
24 Elizabeth? (no response) How about Joy Marshall?

25 JOY MARSHALL

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

3 THE WITNESS: I do.

4 CHAIRMAN PILTZ: State your name and address
5 for the record.

6 THE WITNESS: My name is Joy Marshall. My
7 address is 95-013 Kuahealani Avenue. That's Nihoa in
8 Mililani.

9 CHAIRMAN PILTZ: Go ahead.

10 THE WITNESS: I came to Hawai'i in 1965
11 lived in Wahiawa, attended the university, commuted
12 from there, became a nurse and was fortunate to buy my
13 condominium in 1974. So I'm a long-time resident.

14 Number one with the building of the Koa
15 Ridge I have a concern with the increase in traffic.
16 We are already in a big jam. We have been in a jam
17 since I commuted to the university back in the '70s
18 and it's not getting any better. It's getting worse.
19 Adding all these additional people to the mix is just
20 going to make it even worse.

21 I sometimes wonder if somebody goes into
22 that triangle if they're going to come out on the
23 other side it's so bad.

24 My second concern is that we're moving our
25 emergency department even further from our friends on

1 the North Shore. If wishes were fishes my wish would
2 be the hospital went north of Wahiawa instead of to
3 Central O'ahu. So that's concern for me because the
4 access for the emergency department is so limited for
5 them and they are my neighbors.

6 And lastly of all, I'm worried about losing
7 this exceptionally wonderful piece of prime
8 agricultural land that can never be retrieved and
9 never be replaced as it is. Those are my three
10 concerns.

11 Additionally, I have concerns because we
12 don't have enough food here to sustain ourselves if
13 anything should go wrong. We only have 15 percent of
14 the food to feed ourselves. And we don't have -- we
15 aren't giving ourselves enough food to even moderately
16 sustain ourselves for a few days. So thank you very
17 much for hearing my testimony. I have reservations
18 about Koa Ridge. Thank you.

19 CHAIRMAN PILTZ: Hold on.

20 MR. MATSUBARA: No questions.

21 CHAIRMAN PILTZ: City, do you have
22 questions?

23 MS. TAKEUCHI-APUNA: No questions.

24 MR. YEE: No questions.

25 MR. YOST: No questions.

1 MR. POIRIER: No questions.

2 CHAIRMAN PILTZ: Commissioners, any
3 questions for Joy? Thank you, Joy.

4 THE WITNESS: Mahalo.

5 CHAIRMAN PILTZ: I called on Bob Cherry.
6 How about Elizabeth Dunn? No. Mike Dau D-A-U
7 followed by Amy Peruso.

8 MICHAEL DAU
9 being first duly sworn to tell the truth, was examined
10 and testified as follows:

11 THE WITNESS: Yes, I do.

12 CHAIRMAN PILTZ: State your name and address
13 for the record.

14 THE WITNESS: My name is Michael Dau, 94-500
15 G Kam Highway.

16 CHAIRMAN PILTZ: Go ahead.

17 THE WITNESS: Good morning, Commissioners.
18 It's been a long process here. I want to talk about
19 three things: Traffic, agriculture land and water. I
20 know you've heard them all but I'm just a different
21 twist on it. I'll start with traffic first.

22 Too many cars. Ka Uka Boulevard is a
23 25-mile-an-hour street, a lot of small driveways on it
24 delivery trucks parking along the way. It would be a
25 mess. It's not like a major roadway.

1 Kam Highway has weekly traffic accidents.
2 The state's plan to widen the highway is years away.
3 And the last plan I saw they're going to use Kipapa
4 Bridge, which is 80 years old already. I don't think
5 that's a good idea.

6 I live in Kipapa Gulch just off Kamehameha
7 Highway. And traffic is already a nightmare. On my
8 morning walks there's been times where there's been an
9 accident in Pearl City and the H-1 Freeway backed up
10 Kam Highway all the way into Kipapa Gulch.

11 With the cars not moving it's actually
12 really quiet. You can hear the birds chirping. One
13 day I was walking I heard a little girl in the car
14 say, "Mommy, that man's walking faster than us."
15 Pretty bad.

16 Last December during the holidays I made a
17 mistake of making a left turn from Kam Highway onto Ka
18 Uka Boulevard which is it two turning lanes headed up
19 towards Costco, which is two turning lanes southbound
20 on the H-2. It took me half an hour. It was just
21 gridlock. That's now. That's not even before this
22 Project started.

23 Let me see. I love traffic engineers.
24 They're artists. They draw straight lines, curved
25 line, circle lines, but they never put any cars on

1 their lines. I don't believe traffic engineers with
2 charts and lines and no cars on them.

3 I watch the morning news with the green
4 arrows turn to yellow arrows, then to red arrows.
5 Drive times from Mililani go from 50 minutes to 60
6 minutes to 90 minutes. Between the traffic news and
7 the engineers the figures just don't match. That's
8 for traffic.

9 Now we got the agriculture land we have been
10 talking about. Tit for tat. Is that the game we are
11 playing? This ag land for that ag land? This is
12 active agriculture lands growing, taro, taro leafs for
13 laulau, banana, corn, green bell peppers, a whole
14 bunch of different types of vegetables.

15 It has one of the best water systems in the
16 world. Think green. This is all gravity fed.
17 There's no electric pumps, no reservoirs, it's gravity
18 fed off Waiahole Ditch. It just doesn't get any
19 better than that.

20 Sustainability is more than a buzz word.
21 It's an essential, practical approach to our survival
22 and livelihood of the state. This agriculture land
23 should remain in agriculture production.

24 As a side note to this, Waiahole Ditch and
25 Kipapa Ditch were built by hand in 1913 or started to

1 be built in 1913, almost coming up a hundred years
2 old. They were cut out of solid blue cut lava rock.
3 They're a work of art. However, they're not deemed
4 historical.

5 And the developer wants to bury parts of it.
6 These ditches are part of Hawai'i plantations and
7 should be considered historical. Hawai'i plantation
8 ditches, better known as sugar water 'cause these
9 mostly fed the sugarcane fields, if this Project does
10 get approved there should be conditions set not to
11 touch these ditches.

12 Okay. On the water part. I take care of
13 Kipapa Water System. We're a private little water
14 system but we're regulated by the EPA and the state.
15 Koa Ridge Development overlies our zone C area, the
16 Hawai'i Source Water Protection.

17 Kipapa Water System, we are close to
18 incurring millions of dollars of fines for exceeding
19 the contaminant levels of trichloropropane. It's also
20 known as TCP which is an organic chemical and a
21 by-product of pesticides used in the pineapple fields
22 mostly back in the '60s and '70s before a lot of 'em
23 were outlawed. The newer chemicals are better but
24 this stuff still remains in the ground.

25 The Department of Health has determined

1 trichloropropane as a health concern at certain levels
2 of exposure, which our well is over their limit. The
3 chemicals have been known to cause cancer in
4 laboratory animals, in rats and mice, when they did
5 over high levels in short periods of time.

6 Therefore to protect public health they
7 think that this could also cause cancer in humans when
8 exposed over long periods of time.

9 Kipapa Water System did not put these
10 pollutants into the water, but we are getting the
11 possible fines, very risky health effects from them.

12 Kipapa Water System zone C area should be
13 left open and let the rainwater leach the pesticides
14 out of the groundwater. Experts from the Board of
15 Water Supply said in recent water pollution seminars,
16 it may take 30 to 40 years to leach pollutants out of
17 the groundwater in Central O'ahu.

18 Kipapa Water System requests that no
19 development take place over our zone C wellhead
20 protection area until all contaminants have leached
21 through the soil and groundwater and no longer pose a
22 risk to human health.

23 I went over agriculture, traffic and water
24 that's my spiel. Any questions?

25 CHAIRMAN PILTZ: Mr. Matsubara?

1 MR. MATSUBARA: No questions.

2 MS. TAKEUCHI-APUNA: No questions.

3 MR. YEE: No questions.

4 MR. YOST: I do have a question. I just
5 want to clarify what you just said about the zone C
6 Kipapa Gulch area that you're in.

7 THE WITNESS: Yes.

8 MR. YOST: So are you saying that the land
9 that's currently not paved, its soil and use for
10 agriculture, that rainwater going through that land,
11 filtering through that land is somehow benefiting your
12 water area?

13 THE WITNESS: Well, what I'm hoping that
14 it'll wash these pollutants out sooner if you build
15 homes over it. The one seminar I went to they said in
16 a forest like 10 percent of the water runs off,
17 90 percent soaks into the grounds.

18 If you take a high density development like
19 this, maybe only about 40 percent gets into the
20 ground, 60 percent runs off. So it will take longer
21 and longer to leach the pollutants out of the
22 groundwater.

23 All of Central O'ahu has this problem. It's
24 a big problem with us. The Safe Drinking Water guys
25 they're always on our case. I put in filters. Now I

1 got a filter violation, just tons and tons of rules
2 and regulations that we're trying to get through here.

3 MR. YOST: So essentially the open land, the
4 natural land that exists there now is providing
5 ecological services that benefit your water source.

6 THE WITNESS: Yes. I would say so. When
7 the pineapple was growing, when it would rain, the
8 water would come down very quickly. If it rained real
9 hard after a certain point the water would start
10 coming down real fast in the ditches just above us.

11 Then they quit farming the pineapple in '93
12 or so. The bushes, trees and grass grew up like
13 9 feet high. Then in '96 they had election day
14 flooding. I went checked the ditch, just a trickle of
15 water coming down. A lot of water would be soaking
16 into the ground. So being left open more water will
17 absorb into the ground.

18 MR. YOST: Thank you. No further questions.

19 CHAIRMAN PILTZ: Commissioners, questions?
20 Thank you.

21 THE WITNESS: Thank you.

22 CHAIRMAN PILTZ: Next person is Amy Peruso.

23 AMY PERUSO

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

1 THE WITNESS: I do.

2 CHAIRMAN PILTZ: State your name and address
3 for the record.

4 THE WITNESS: My name is Amy Peruso. My
5 address is 95-1319 Wikao Street Mililani, 96789. I
6 actually hasn't planned to speak. When I heard the
7 earlier speakers I became very concerned because this
8 is a rarefied atmosphere. This is not the
9 conversation I here when I talk about the Koa Ridge
10 development.

11 I actually came to see if it was possibly
12 true that you could be considering this. And I also
13 come -- I'm a Mililani High School teacher. And I
14 come representing my students and they are also in
15 shock that this could be under consideration.

16 I understand that there are powerful
17 commercial interests at stake. And I understand the
18 relationships that have developed over time. But I
19 wanted to remind the people on the Commission that you
20 have a public obligation. And I think that you should
21 not foreclose possibilities for the future based on
22 short-term thinking.

23 And I think that to allow this application
24 to go forward would be a prime example of that kind of
25 thinking. And I've heard a lot of discussion today.

1 And I think, I think that it's also useful to keep in
2 mind how much of it is motivated by personal and
3 professional interests and I hope you keep that in
4 mind.

5 CHAIRMAN PILTZ: Thank you. Questions?

6 MR. MATSUBARA: No questions.

7 CHAIRMAN PILTZ: City?

8 MS. TAKEUCHI-APUNA: No questions.

9 MR. YOST: One question.

10 CHAIRMAN PILTZ: Go ahead.

11 MR. YOST: I just wanted to understand when
12 you said that your students were shocked, you've
13 talked about this with your students?

14 THE WITNESS: At great length because we
15 have, as many high schools do, we have an
16 environmental club on campus. And students, I think
17 it's exciting, actually, because students are much
18 more knowledgeable about these issues about
19 environmental implications, economic implications of
20 continuing this kind of economic pattern, this kind of
21 development pattern.

22 And they are well aware of the lack of food
23 sovereignty. They talk about these kinds of things.
24 It's everyday conversation. And the fact that this
25 was being planned and considered the students wanted

1 to come today and I wouldn't let them because they
2 would have missed school. And I came to kind of
3 speak, say the things that they were telling me.

4 MR. YOST: So they're concerned about the
5 loss of ag land? Is that --

6 THE WITNESS: The loss of ag land to be used
7 for concentrated development plans. And I think there
8 is language in the Koa Ridge Development Plan about
9 sustainable communities.

10 And I honestly think that ah, that kind of
11 development does not lend itself to sustainability in
12 the ways my students talk about it, having space in
13 which to grow their own food or, you know, those kinds
14 of things.

15 MR. YOST: Okay. No further questions.

16 CHAIRMAN PILTZ: Mr. Poirier?

17 MR. POIRIER: No.

18 CHAIRMAN PILTZ: Commissioners? Is there
19 anyone else in the audience that would like to speak
20 at this time? We are going to take a lunch break and
21 be back at ten after one.

22 MR. MATSUBARA: Mr. Chair, the order of
23 presentation will still be the same that you indicated
24 earlier?

25 CHAIRMAN PILTZ: Yes. That's the intent.

1 MR. MATSUBARA: Thank you.

2 CHAIRMAN PILTZ: We're in recess --one
3 second.

4 MR. DAVIDSON: Everybody's here now.

5 MR. YEE: I did want to address the issue
6 and we're happy to try to make accommodations for the
7 neighborhood board who have witnesses perhaps who have
8 to testify.

9 But to be quite honest we were not aware of
10 this change in order until you'd announced it. I
11 don't know what agreement had or had not been reached,
12 but we would like to have Mr. Mayer finish up his
13 cross-examination today.

14 So while I think we're set everyone's here,
15 Mr. Yost is here which I think was the reason for the
16 change in order of appearance. So we would like to
17 have Mr. Mayer to finish his cross-examination.

18 CHAIRMAN PILTZ: Any problems with that?

19 MR. YOST: I don't have any problem with
20 that. My understanding was that was to accommodate
21 me, which I appreciate. I just made it clear to Dan
22 that I wanted to be here when Mr. Mayer took the stand
23 again. But I was able to escape from court in Kaneohe
24 faster than I thought I'd be. But I know there are
25 issues with witness availability.

1 I think we might be able to talk amongst
2 ourselves and figure out a way to get Mr. Mayer on
3 today and also accommodate Mr. Poirier's certain
4 witness concerns. I've got witness availability
5 issues as well. So we can talk amongst ourselves.

6 If the Commission would be so kind as to
7 allow us to work out a reasonable order, then we can
8 figure that out and present it in an orderly manner.

9 CHAIRMAN PILTZ: Any problems with that?

10 MR. MATSUBARA: No problems.

11 CHAIRMAN PILTZ: City?

12 MS. TAKEUCHI-APUNA: No problems.

13 CHAIRMAN PILTZ: Let us know when we return.

14 MR. YOST: Thank you.

15 (Recess was held. 1:20)

16 CHAIRMAN PILTZ: We're back on the record.
17 At this time would the parties please indicate the new
18 exhibits that you seek to introduce starting with the
19 Petitioner.

20 MR. MATSUBARA: Mr. Chair, we submitted one
21 additional exhibit. That's Exhibit 53, which
22 basically is a chart reflecting the O'ahu and
23 statewide ag land status as indicated by the Land
24 Study Bureau. And that's identified as Exhibit No.
25 53. Ask that that be introduced into evidence.

1 CHAIRMAN PILTZ: Okay. City, do you have
2 any questions about the introduction of that exhibit?

3 MS. TAKEUCHI-APUNA: No objection.

4 MR. YEE: No objection.

5 MR. YOST: No objection.

6 MR. POIRIER: None.

7 CHAIRMAN PILTZ: Questions? Okay.
8 Admitted.

9 MR. MATSUBARA: Thank you.

10 CHAIRMAN PILTZ: City, do you have any
11 exhibits to admit?

12 MS. TAKEUCHI-APUNA: No, we do not.

13 CHAIRMAN PILTZ: Mr. Yee.

14 MR. YEE: We have two exhibits, OP Exhibit
15 27 which, as you may recall, we had been asked at the
16 last hearing how much A and B land does the state own.
17 So we went back and did a GIS calculation. And that
18 information's provided in OP Exhibit 27.

19 And then we also had heard, actually the
20 Chair referenced a 1982 study. So we went back to
21 look for a 1982 study. We weren't able to find one
22 but we were able to find a 1984 study that looked at
23 the amount of land that would be needed to be
24 self-sufficient.

25 So we've attached as OP Exhibit 28 that

1 study from 1984 that looked at by category how much
2 land would be needed for each type for market space,
3 the 1990-1995. So we have the executive summary
4 that's attached just as I said in response to your
5 recollection.

6 CHAIRMAN PILTZ: Right.

7 MR. YEE: So that would be OP Exhibit 27.
8 We would ask to admit those exhibits into evidence.

9 MR. MATSUBARA: No objection.

10 MS. TAKEUCHI-APUNA: No objections?

11 MR. POIRIER: No objections.

12 CHAIRMAN PILTZ: Any objections here? Okay.
13 They're admitted. Do you have any?

14 MR. YOST: Yes, Chair. Sierra Club offered
15 Exhibits 10 through 16. We're going to be withdrawing
16 Exhibit 12 which is of a different place than we
17 thought it was, we have been informed by Castle &
18 Cooke. So we're withdrawing Exhibit 12. But we ask
19 that Exhibits 10, 11, 13 and 14 are photographs. The
20 first two are photographs of the Koa Ridge Makai area.
21 The second two with the cattle are photographs from
22 the Koa Ridge Waiawa area.

23 The Exhibit 15 is a federal DOT report that
24 was discussed in past hearings. And I believe the
25 Commission and also the Petitioner expressed interest

1 in seeing a copy of it. So we provided a copy of that
2 federal DOT report that discusses congestion and
3 bottlenecks.

4 Then Exhibit 16 is the written testimony and
5 resumé of Professor Peter Flashbart from UH. And we
6 would ask that Exhibits 10, 11, 13, 14, 15 and 16 be
7 admitted.

8 CHAIRMAN PILTZ: Any objections?

9 MR. MATSUBARA: I have some clarification I
10 would request. Exhibit 10, which is the photo
11 identified as Koa Ridge Makai taro field, the plant
12 there is actually a toon T-O-O-N. It's raised for
13 export, it is not taro, and exported to Indonesia.

14 And the other clarification is that
15 Exhibit 13 and 14 which is identified as Koa Ridge
16 cattle field and Koa Ridge/African tulip.

17 That's not Koa Ridge. That's Waiawa. And
18 unless you can identify Waiawa Ridge. But we have had
19 no cattle operations on Koa Ridge Makai. The cattle
20 operations were on the Waiawa portion across the
21 freeway.

22 MR. YOST: That's what I just said was that
23 they were at Koa Ridge Waiawa, the cattle.

24 MR. MATSUBARA: As long as it's Waiawa.

25 MR. YOST: It didn't specifically say

1 "Waiawa". It just said, "Koa Ridge". The other two
2 said "makai" and the other one just said "Koa Ridge
3 cattle". I omitted the word "Waiawa" and I apologize
4 for that omission. But that is, I believe, where the
5 photographs were taken.

6 MR. MATSUBARA: Because technically in the
7 Petition it's Castle & Cooke Waiawa. It's not -- we
8 have Koa Ridge Makai and the other portion is Castle &
9 Cooke Waiawa to distinguish it from Waiawa Ridge. So
10 the only thing I would ask is that it's not Koa Ridge.
11 Actually I don't know where it is, but we have had no
12 cattle on Koa Ridge Makai.

13 MR. YOST: I'll file an Amended Exhibit List
14 if that's all right to identify it's Castle & Cooke
15 Waiawa for those two photographs, that's my
16 understanding of where those photographs were taken.

17 CHAIRMAN PILTZ: Is that suitable for you?

18 MR. MATSUBARA: Fine. Thank you.

19 CHAIRMAN PILTZ: Okay. Any objections,
20 Mr. Yee?

21 MR. YEE: No objections.

22 CHAIRMAN PILTZ: How about Mr. Poirier.

23 MR. POIRIER: No.

24 CHAIRMAN PILTZ: Any objections? Do you
25 have some exhibits that you would like to enter?

1 MR. POIRIER: Yes. We have one exhibit,
2 Exhibit 18 which is a board resolution requesting the
3 approval of the proposed city and county of Honolulu
4 'Ewa Development Plan be deferred.

5 CHAIRMAN PILTZ: Any objections to that?

6 MR. MATSUBARA: No objections.

7 MS. TAKEUCHI-APUNA: The city does object to
8 Exhibit 18 by Intervenor Mililani Board 25 because
9 it's a resolution requesting the city council to defer
10 approval of the 'Ewa Development Plan which we don't
11 think has any relation to Koa Ridge or is irrelevant
12 to Koa Ridge.

13 CHAIRMAN PILTZ: Mr. Yee?

14 MR. YEE: No objections.

15 CHAIRMAN PILTZ: Is that acceptable to you?
16 I'm not really sure what your -- you want to enter it?

17 MR. POIRIER: Yes, please.

18 CHAIRMAN PILTZ: But she's objecting to it.

19 MR. POIRIER: That's okay. She can object.

20 CHAIRMAN PILTZ: Commissioners, any problems
21 with that? Let me see a show of hands who will accept
22 all of these. Let's start with Petitioner's exhibits
23 show of hands that we accept.

24 COMMISSIONER LEZY: Mr. Chairman?

25 CHAIRMAN PILTZ: Okay.

1 COMMISSIONER LEZY: Just on this question of
2 Intervenor's, pardon me, I lost the exhibit number but
3 I guess I question as well --

4 CHAIRMAN PILTZ: I can't hear you, I'm
5 sorry.

6 COMMISSIONER LEZY: I join with the county.
7 Can we get some offer of proof on what the relevance
8 is of a resolution concerning the 'Ewa development?

9 MR. POIRIER: Yeah. I'd like to refer to
10 the second and third "whereas" clause where we mention
11 Central O'ahu. We also mention the relationship of
12 the traffic in 'Ewa as it relates to Central O'ahu
13 because of H-1.

14 COMMISSIONER LEZY: So you intend to offer
15 this as proof of what?

16 MR. POIRIER: Proof that there is a
17 relationship between what happens in 'Ewa and what
18 happens in Central O'ahu.

19 COMMISSIONER LEZY: You intend to offer this
20 as proof of the position of your Neighborhood Board on
21 that issue I assume, correct?

22 MR. POIRIER: Ah, yes. That is the position
23 of the board because it was adopted by the board, yes.

24 COMMISSIONER LEZY: All right. Thank you.

25 CHAIRMAN PILTZ: We've already accepted your

1 exhibits and everybody else and at this time the Chair
2 will accept your exhibit. And if there's a problem
3 they can take it up elsewhere. I hope that's
4 acceptable to you.

5 MR. POIRIER: Thank you.

6 CHAIRMAN PILTZ: City?

7 MS. TAKEUCHI-APUNA: That's fine.

8 CHAIRMAN PILTZ: Okay. Let's move on.

9 Mr. Yee, your witness.

10 MR. YEE: Thank you. Just for the
11 Commission's information the parties have, over the
12 last period, discussed the schedule. We will be
13 putting on, finishing Mr. Abbey Mayer's
14 cross-examination. I understand Sierra Club would
15 like to call Mr. Jeff Mikulina next. And after that
16 to the Neighborhood Board.

17 Tomorrow's schedule may also be a little
18 more complicated because of witness availability, but
19 why don't we deal with that tomorrow.

20 CHAIRMAN PILTZ: We'll do that. Thank you.
21 You're still under oath.

22 MR. YEE: Yes, I believe Mr. Mayer is now
23 going to begin cross-examination by the city.

24 CHAIRMAN PILTZ: Your witness.

25 xx

1 CROSS-EXAMINATION

2 BY MS. TAKEUCHI-APUNA:

3 Q Mr. Mayer, I'm going to ask you questions
4 regarding the permanent ag easement, the one-to-one ag
5 easement that OP is proposing as a condition to this
6 petition. First of all, I'd like to ask is this a new
7 policy by OP?

8 A You know, there was this question posed to
9 the agricultural witness as to whether this is a
10 policy of the Department of Agriculture or a policy of
11 the Office of Planning.

12 And I guess the easy answer is yes.
13 Although I'd like to point out that when we're
14 presented with petitions we have to -- we do our best
15 to mitigate the impacts of the petitions and those
16 that are revealed in the petition and in the EIS.

17 And if we decide not to seek a mitigation
18 measure for an impact of a petition, that is also a
19 policy. And while it's not, perhaps, stated in
20 writing explicitly or approval by a board it,
21 nonetheless, becomes a policy.

22 The same way when the Land Use Commission
23 makes decisions that become precedent they too set
24 policy.

25 So I don't think attempts to perhaps

1 discredit the request for this mitigation measure by
2 questioning whether it's policy or not, I think that
3 might be a little bit misguided.

4 Q Okay. And then so for future projects
5 before the Land Use Commission that require
6 reclassification of ag lands, could we expect that
7 this type of condition would be proposed again?

8 A The proposed reclassifications of A and B
9 lands on O'ahu would definitely have a request for
10 this same one-to-one agricultural easements.

11 Q So with this proposed condition as a policy,
12 is the goal to retain a certain amount or a certain
13 percentage of A and B lands?

14 A The goal is to mitigate the impact of the
15 reclassification. So as you heard from the Department
16 of Agriculture, they don't support this petition.
17 They would rather not see any ag lands be
18 reclassified.

19 From the state perspective and from OP's
20 perspective we work with the Department of Ag to say
21 if this petition does go forward, if the
22 reclassification does happen, is there a way we can
23 provide some mitigation to not only the loss that
24 occurs here, but we have a cumulative loss, a gradual
25 and incremental, cumulative loss of ag lands that is

1 occurring through the state. So it's an effort to
2 seek ways to mitigate that trend as well.

3 Q So your answer would probably be, no, there
4 isn't a certain percentage or amount of A and B lands
5 that OP would be overall looking to retain.

6 A No.

7 Q More of a case-by-case basis would you say?
8 On a case-by-case?

9 A Not necessarily case-by-case. But it's an
10 effort to mitigate the impacts, an effort to find a
11 balance between allowing for development, economic
12 opportunities and still retaining agricultural lands.

13 Q Okay. And with these ag easements I
14 understand that an ag easement restricts the land, the
15 use of the land to ag in perpetuity, is that correct?

16 A That's correct.

17 Q So of the Land Use Commission were later
18 to -- were later to decide the land that has this ag
19 easement would like to reclassify the land into urban
20 or even conservation, the Department of Ag could come
21 in and void any use other than ag, based on the ag
22 easement?

23 A The easement would cover uses of the land,
24 not necessarily moving the land from district to
25 district or changing zoning. But certainly there

1 wouldn't be too much of a purpose in urbanizing if the
2 uses are restricted to agricultural uses.

3 Q So the Commission, the Land Use Commission,
4 if they were able to reclassify the land that had this
5 ag easement on it to urban or conservation, it would
6 still be agricultural uses that would only be allowed?

7 A The uses would bind and restrict the uses of
8 the property, not necessarily the district that the
9 property is in.

10 So, for example, if the Petitioner had or
11 knew of some acreage, say 500 acres of urban land that
12 had not been developed, but it's A and B land, it's
13 proximately close in characteristics to the land that
14 we're talking about in this case, they could seek
15 agricultural easements over that urban land.

16 But I would assume that would be a lot more
17 expensive because there's development rights there
18 involved. So you'd think it would be a lot easier to
19 protect lands that are in the ag district, restrict
20 them to agricultural uses.

21 Q Okay. But, say we take that same land and
22 the Commission wants to classify it as conservation,
23 in order to just restrict it to conservation? What
24 would happen? What would ... as far--

25 A To be -- put it in a more restrictive

1 classification so to eliminate the use of that land
2 for agricultural purposes. I think that would be
3 within the -- and depending on the wording of the
4 easement itself, I think that would be within the
5 Commission's powers still.

6 I think in my mind an agricultural easement
7 prevents uses that are above agriculture or restricts
8 the uses to agriculture. That's not to say it must be
9 farmed or it constantly has to be actively farmed, but
10 the uses are restricted from impacts that would, that
11 would deprive the land of its agricultural
12 capabilities.

13 Q Okay. And the land that is to be designated
14 under these ag easements, are there any restrictions
15 on where the land should be taken from?

16 A Just from O'ahu.

17 Q So the Petitioner, he could identify any
18 land that he owns that's A and B and use it towards --
19 and put the ag easement onto it?

20 A I think the way we have worded the proposed
21 condition was that -- actually we have -- in rereading
22 it I'm reminded we have asked that all the proposed ag
23 easements be on lands within the Ag District. And
24 that the lands with equivalent qualities as determined
25 by the Department of Agriculture or its assignee.

1 Q Okay. And, again, this land is decided or
2 is designated based on the Petitioner, not by the Land
3 Use Commission or Department of Ag. It's basically
4 the Petitioner who says which land from which location
5 that this ag easement will be applied.

6 A As long as it would have equivalent
7 qualities as the land in the Petition Area, then they
8 would have the ultimate choice as to which lands,
9 whether it's their lands on someone else's lands, that
10 would be their choice.

11 Q But it is not the Department of Ag or the
12 Land Use Commission is deciding which lands would have
13 this easement placed upon it.

14 A Right.

15 Q And are you familiar with the city's urban
16 community or growth boundaries?

17 A Yes.

18 Q And the basic concept behind that is that
19 within the boundary the city tries to concentrate
20 urbanization and development within the boundary while
21 preserving open land, ag land, conservation land
22 outside of the urban boundary.

23 So it's possible that these ag easements
24 could be placed on land within these urban growth
25 boundaries, is that right?

1 A They could be placed on lands within the
2 urban growth boundary. And it's also something that
3 could exist in the future to guide the city when it
4 begins to redefine its urban growth boundaries.

5 So, for example, what's already designated
6 as urban growth becomes urbanized and landowners,
7 developers seek more opportunities for development and
8 growth, one would presume that the city would
9 eventually revise those urban growth boundaries to
10 include more lands. And at that point, again, there's
11 this cumulative loss of agricultural land, which we're
12 trying to prevent.

13 So if the city at that point were to
14 contemplate putting lands with agricultural easements
15 inside an urban growth boundary, they would probably
16 be advised against that because it would be a conflict
17 on what's found on the title.

18 Q I'm sorry. You're saying the Department of
19 Ag would probably discourage any of the --

20 A No. The fact that the land itself is
21 restricted by its use on its title should guide future
22 planning efforts, whether it's the city's or the
23 state's as to which lands should be your urbanized.
24 Right? You wouldn't want to plan for urban growth and
25 expansion on lands that have restricted use.

1 Q Right. So if we have ag lands in the urban
2 community boundary now that are A and B, it's possible
3 for the Petitioner to put the ag easement on those
4 lands within the boundary now.

5 A Yeah.

6 Q Which could restrict the city's vision for
7 the urban community areas if the, for instance, the
8 Central O'ahu Sustainable Communities Plan that
9 establishes the boundary believes that there should
10 be -- that eventually there'll be reclassification
11 from ag to urban within that area, don't you think
12 that conflicts with the City's vision to allow ag
13 easements within the boundary?

14 A Well, one would presume that the Petitioner
15 would take the lands that aren't predicted to be
16 urbanized in the near future and that the lands that
17 are predicted to be urbanized have a greater value.

18 So you'd think that they would have the
19 ability to choose.

20 Now, if that was their choice for another
21 reason, if they didn't believe the lands had
22 development potential and that the city had erred for
23 some reason in its description of the urban growth
24 boundary, then again that would be their choice.

25 Q So it is a Petitioner's choice to do that.

1 I mean there aren't any restrictions on the DOA's part
2 or within the condition that would disallow any ag
3 easements within the urban community boundaries, is
4 that right?

5 A No. But if that is something that would
6 make the condition more palatable or supportable to
7 the city that's something we could consider.

8 Q Is there flexibility to change the ag
9 easements after they are given over to DOA?

10 A From my understanding the process for
11 removing an easement, a dedicated easement on a piece
12 of land is very complicated. The reason we chose an
13 agricultural easement rather than some other easement,
14 it was the most permanent and secure form of limiting
15 and restricting development on those lands.

16 Q So what was the technical process for
17 removing an easement, an ag easement?

18 A That information I don't have.

19 Q Okay. You're familiar with the Important
20 Agricultural Lands policy, are you?

21 A The legislation.

22 Q Yes, the IAL.

23 A Yes.

24 Q How would -- let's see. So would designated
25 areas under these ag easements be subject to future

1 IAL designations?

2 A They could be and that would be up to the
3 landowner. So the agricultural easement doesn't
4 prevent designation as IAL.

5 Q Okay.

6 MS. TAKEUCHI-APUNA: No further questions.
7 Thank you.

8 THE WITNESS: Thank you.

9 CHAIRMAN PILTZ: Mr. Yost, your witness.

10 CROSS-EXAMINATION

11 BY MR. YOST:

12 Q Thank you. Mr. Mayer, getting back to the
13 Central O'ahu Sustainable Communities Plan for a
14 moment. You're aware of the earlier testimony that
15 between 1997 and 2002 Koa Ridge Makai was not inside
16 the Urban Growth Boundary that the city had for that
17 period, correct?

18 A I vaguely remember the testimony. I'm not
19 an expert on the history of the urban growth
20 boundaries.

21 Q If Koa Ridge was still outside the urban
22 growth boundary would the Office of Planning be
23 opposing reclassification?

24 A I haven't done that analysis. Certainly it
25 would depend on a number of factors. We've had --

1 we've had other requests for reclassifications on this
2 island that were not -- and on other islands -- that
3 were not in the counties' urban growth boundaries
4 where we have recommended approval of partial approval
5 of those petitions.

6 We do know it's a requirement that the
7 Commission consider the community plans. So we'd
8 have to look at all the factors involved, what the
9 order of operations is for the petitioners and the
10 counties in their planning processes, et cetera, what
11 the land itself is, what the impacts are.

12 It takes a different kind of analysis.

13 Q Is the fact that Koa Ridge is inside the
14 urban growth boundary as it now exists, is that a
15 significant factor in Office of Planning's decision to
16 not just flat out oppose this reclassification?

17 A It's a factor. The weight of its
18 significance I can't really say.

19 Q The Sustainable Communities Plan is not
20 binding on the Land Use Commission, is it?

21 A As far as I know, no, it's not.

22 Q It's not binding on Office of Planning in
23 terms of making its determination about statewide
24 planning, correct?

25 A Correct.

1 Q The Sustainable Communities Plan focuses
2 only on the County of Honolulu, correct, in terms of
3 its planning perspective?

4 A I'm sorry. Can you say that again.

5 Q When the city and county develops these
6 plans --

7 A Yes.

8 Q -- it's doing so from a city and county
9 perspective, not a statewide perspective, correct?

10 A Correct.

11 Q Are you familiar with the scheme that the
12 Sustainable Communities Plan is supposed to be
13 reviewed by the public every five years?

14 A Yes.

15 Q Do you know why it's supposed to be reviewed
16 by the public every five years?

17 A Most plans are considered living documents.
18 So a periodic update and review of those plans is
19 typically normal. Conditions change both on the
20 island and surrounding different areas, communities.

21 Q Would you agree that since December of 2002
22 when this plan was finalized, that conditions have
23 changed with regard to gas and oil prices?

24 A Yes.

25 Q And that that has an impact on planning

1 determinations, correct? The price of energy, that's
2 significant?

3 A Yes.

4 Q Would you agree that since December of 2002
5 conditions have changed in terms of traffic congestion
6 on the H-1 corridor coming from the west side into
7 town?

8 A I've seen some documents that show that,
9 yes.

10 Q The congestion, in fact, has substantially
11 worsened since 2002.

12 A I can't tell you how substantially or
13 significantly, but, yes, it's increased.

14 Q Is it also the case that the sustainable --
15 you may not know this but let me ask you this. Do you
16 know whether the Sustainable Communities Plan
17 contemplated rail, high speed rail transit routes at
18 the time it was formulated?

19 A I don't know.

20 Q Now, if the plan's supposed to be reviewed
21 every five years that would mean it should have been
22 up for review in 2007 by the public, correct?

23 A There's a process and you're probably better
24 to get the particulars of it from the county, but
25 there's a process. I don't know if it starts with the

1 public or if it starts internally. I don't remember
2 the details of that update process.

3 Q Office of Planning -- was Office of Planning
4 involved at all in the formulation of the Sustainable
5 Communities Plan in 2002?

6 A In general the Office of Planning's
7 typically asked to provide comments. I don't recall
8 from my examination what the Office of Planning
9 comments were, if there were any at the time.

10 Q All right. I'd like to talk a little bit
11 about traffic issues. The DOT Director Morioka
12 testified that the peak period that exists for travel
13 from the west side into town is now 5:45 a.m. to
14 8:30 a.m. Do you remember that testimony?

15 A Yes.

16 Q Do you remember that he also -- well,
17 actually let me ask you this first. Is that current
18 peak period of 5:45 a.m. to 8:30 a.m., is that
19 considered acceptable for the length of a peak morning
20 travel period? Didn't it used to be "rush hour" as
21 opposed to "rush three hours"?

22 A Acceptable to who?

23 Q From a planning perspective.

24 A Well, there are and have been petitions
25 which the Office of Planning has objected to based on

1 excessive and unmitigated traffic impacts. In this
2 case we worked very diligently with the Petitioner and
3 the Department of Transportation to make sure that the
4 traffic impacts were mitigated.

5 Q Do you recall Director Morioka's testimony
6 that the peak period could potentially expand if this
7 development is approved? He wasn't sure how much, but
8 he said it could expand -- when I asked him if it
9 could expand to be 5:15 a.m. in the morning to
10 9:00 a.m. in the morning he said that was possible.

11 Do you have any opinion on that expansion of
12 the peak period?

13 A Well, I know in general as growth occurs the
14 peak periods tend to expand. But, again, it's also
15 dependent on what mitigation measures, what
16 infrastructure improvements are also made. Routes of
17 commuting can alter as different areas become
18 developed.

19 So for those detailed and technical analyses
20 you're better to refer Mr. Morioka's or Petitioner's
21 traffic experts for their opinions.

22 Q Would you agree that as peak periods expand
23 people who are affected by those peak periods
24 expanding are gonna lose productivity in their lives?
25 They're going to have to spend more time in their

1 cars?

2 A I agree, yes.

3 Q Would also agree that there's going to be
4 increased air pollution because cars aren't traveling
5 as quickly and they're sitting around emitting
6 emissions for longer periods of time?

7 A Assuming the technology of automobiles stays
8 constant then, yes, that would be true.

9 Q All right. What about impacts on family
10 lives? Does that come into play when you're making
11 planning decisions? If a family has to wake up their
12 child before 5:30 in the morning in order to get them
13 to school on time, is that kind of factor taken into
14 account when you're thinking about these expansion of
15 peak periods?

16 A That was why we look so carefully at a
17 project's impacts and what are the appropriate
18 mitigation measures for those impacts.

19 Q But isn't the status quo already
20 unacceptable as to the peak periods for this corridor?

21 A That would depend on where you live in the
22 corridor and who you ask and what your family
23 situation is.

24 Q Well, H-1 at the bottleneck points is Level
25 of Service F, right?

1 A Yep.

2 Q And that's unacceptable. That means that's
3 it not moving as traffic is designed to move. It's
4 simply congested, correct?

5 A That means that during those peak hours
6 yeah.

7 Q Are you aware of the INRIX traffic score
8 board report at all?

9 A No.

10 Q You're not aware of media reports here in
11 Hawai'i in February of this year that talk about how
12 Honolulu is now the second worst congested city behind
13 Los Angeles?

14 A If I read it or not I don't recall
15 specifically that report.

16 Q Assuming that the report is accurate, isn't
17 that significant in terms of a planning perspective in
18 thinking about whether we should add even more cars to
19 a corridor which is second in the nation behind Los
20 Angeles?

21 A I think this came up earlier. And I think
22 we had asked that you submit those as exhibits so we
23 could take a look at what they say.

24 So without looking at those reports it's
25 difficult to give any judgment affirmatively or

1 negatively on this.

2 Q Okay. I'm just now asking you to assume if
3 that's true as.

4 A hypothetical we are second behind Los
5 Angeles, isn't that a cause for concern from a
6 planning perspective?

7 A Traffic conditions are cause for concern
8 without a doubt, yes.

9 Q So if the status quo is unacceptable why
10 would we worsen the status quo? I don't understand
11 how that makes sense from a planning perspective.

12 A Because you're looking at one impact and
13 you're looking at -- and there's various reasons to
14 allow for development and positive things that
15 development brings.

16 So maybe I didn't do as good a job at
17 highlighting them. But certainly there's jobs,
18 economic possibilities, there's needs for housing.
19 It's going to bring a new medical facility which
20 you've heard a lot about.

21 And in talking about the traffic concerns we
22 really defer to Department of Transportation. As I
23 mentioned we pushed both the department and the
24 Petitioner on this one to come in to the Commission
25 and describe not only what the impacts would be, and

1 you heard the Petitioner talk about, they gave what
2 the travel time and differences in travel time would
3 be, but also what mitigation measures were positively
4 going to be done.

5 So we have a loop ramp instead of a triple
6 left-hand turn at Ka Uka Boulevard Interchange. We
7 have a revised timing of the Pineapple Interchange.
8 There was access changes made to the Project Area, and
9 some affirmative commitments made by the Petitioner to
10 under take these.

11 There's not small commitments. They're big
12 dollar commitments. So we very much wanted to present
13 to the Commission what exactly the impacts would be.
14 There are certain petitions that come in that don't do
15 a good enough job at that. So we wanted to eliminate
16 that.

17 So we feel like we have described very
18 clearly what the impacts would be. We've also
19 described how to mitigate it.

20 Q Do you agree with the number they presented,
21 only about 667 vehicles would be commuting from the
22 5,000 homes that are proposed to be constructed?

23 A Again, those kinds of technical details are
24 better left to the traffic experts.

25 Q All right. I know you were involved in

1 those discussions. I didn't know the extent to your
2 involvement so I thought I'd ask you.

3 A I get involved in facilitating the
4 conversation on both ends. If there's a technical
5 issue that's at stake I might delve into it. But as
6 far as how many vehicles I don't have that information
7 right off the top of my head.

8 Q Other than the proposed Project here before
9 the Commission, do you know how many houses are
10 already permitted for Central O'ahu?

11 A I've taken a look at O'ahu as a whole but
12 the majority of those houses are out in 'Ewa. Central
13 O'ahu I know the Waiawa Ridge development has over
14 7,000 entitled homes at the state level but
15 approximately 5,000 at the city level. And beyond
16 that I don't know numbers off the top of my head for
17 Central O'ahu.

18 Q If you add in 'Ewa, the 'Ewa traffic is
19 going to wind up on H-1 eventually too, is that
20 correct?

21 A The 'Ewa traffic that's commuting toward
22 Honolulu would end up on H-1.

23 Q Do you have any estimate -- and I imagine
24 you probably don't but I'll just ask anyway -- for
25 additional cars that would be placed on H-1 for all

1 the houses that are already permitted for developments
2 that would wind up sending cars downtown, people that
3 are commuting downtown, do you have any numbers?

4 A I don't know numbers. But I do know that
5 the Department of Transportation when they look at the
6 traffic impact analysis they do factor in the other
7 developments that's already entitled into their
8 analysis.

9 So those assumptions are some of the key
10 areas which improvements will be made by other
11 developers and what other developments are going to
12 happen are the key assumptions that go into preparing
13 the TIAR.

14 Q I understand about the assumptions, but I
15 was just hoping for some specifics as to --

16 A Number of vehicles?

17 Q Yes.

18 A No idea.

19 Q Waiawa Ridge, the Gentry development upon
20 which the Castle & Cooke Waiawa development will
21 depend for infrastructure, you're familiar with that
22 one, that development I'm talking about, right?

23 A Yes.

24 Q That received its redistricting in the late
25 1980s, is that correct?

1 A Yeah, I believe the decision and order was
2 issued in '88.

3 Q Was there an EIS prepared for that?

4 A I believe there was around the same time
5 period. I don't know the exact date.

6 Q Are you aware of the recent Hawai'i Supreme
7 Court decision regarding the Turtle Bay development
8 supplemental EIS preparation?

9 A I am.

10 Q Do you think that generally Waiawa Ridge can
11 move forward with their now more than 20-year old
12 plans?

13 A That's not an analysis I have done. The
14 Kuilima decision, as the Supreme Court stated in it
15 that it was specific to the Kuilima case. It talked
16 about whether -- you know, I'm not familiar enough
17 with the Waiawa Ridge development myself to know what
18 some of the impacts were that were identified there,
19 what additional impact may or may not exist now, what
20 the timeframe of that was contemplated at the time, so
21 that level of analysis.

22 And it would also depend on whatever Waiawa
23 Ridge development needed to seek further permits and
24 whether those permits are ministerial or discretionary
25 are all factors. It's a complicated undertaking.

1 Q Do you think one of the lessons, though,
2 from the recent Hawai'i Supreme Court decision, is
3 that decisions that are made quite a long time ago
4 can't be taken as a given that they will be upheld in
5 perpetuity, but that the law will consider changing
6 conditions in terms of whether or not those ancient
7 approvals are still valid?

8 Is that a general principle that we can take
9 from that case?

10 A I would take the principle that an EIS may
11 not be able to exist in perpetuity. But whether an
12 entitlement or permit could is another question.

13 Q Fair enough. You've recommended that the
14 Castle & Cooke Waiawa portion be sort of preliminarily
15 approved under the incremental plan scheme, correct?

16 A Yes.

17 Q Given the recent Hawai'i Supreme Court
18 decision does that give you have any pause at this
19 point in thinking perhaps it's better not to approve
20 it at all, given that the law is beginning to
21 recognize more explicitly the importance of
22 understanding changing conditions over time?

23 That we would be better off just waiting and
24 seeing what the conditions are 20 years from now or
25 whenever it is that infrastructure may or may not

1 exist, before we decide to take that important ag land
2 out of our inventory?

3 A Well, an incremental redistricting wouldn't
4 take the land out of the inventory. The incremental
5 redistricting says in so much as the Petitioner can
6 gain access to their property then they can be
7 urbanized.

8 So if they fail to get the access, whether
9 that's Waiawa Ridge's development's failure due you
10 financing or due to EIS issues or perm -- whatever the
11 reason, if they failed, that incremental piece doesn't
12 get urbanized.

13 I don't think that the Kuilima decision in
14 and of itself would lead me to change my
15 recommendation from an incremental approval to a
16 partial approval or partial denial in that there's
17 still questions as to when and whether WRD will move
18 forward and when or whether that access will get
19 there.

20 So I think the incremental approval affords
21 us the greatest amount of flexibility. Certainly it
22 would give me additional concern to approve the whole
23 project area. But I've already had concerns about
24 that regardless of the decision.

25 Q Okay. But isn't it-- aren't we setting

1 ourselves up for regret, perhaps, if we make a
2 decision now for something that is, may never happen
3 and may not start for 20 years?

4 When that actual commencement of the Project
5 begins isn't it true that conditions for agricultural
6 purposes or energy or a host of other things could be
7 substantially different than the conditions we're
8 considering now?

9 A Not between an incremental approval and a
10 partial approval. For me an incremental approval is
11 kind of no harm no foul. The land never gets
12 urbanized so there's no loss per se.

13 Q Well, but all they need is access and that's
14 the last hurdle, right?

15 A And what we're saying is if they get the
16 access they should go ahead with the development.

17 Q I'd like to ask you about water a little
18 bit. You're aware that the residents are now being
19 asked to, by the state Commission on Water Resource
20 Management has just recently asked that people
21 conserve water because of the drought.

22 (Pause)

23 A I'm sorry. Was there a question?

24 Q Yeah. I said are you aware that the state
25 Commission on Water Resource Management asked on

1 April 21st of this year for residents to start
2 conserving water?

3 A I didn't see the actual notice but I've
4 heard about it.

5 Q Are you aware that the U.S. drought monitor
6 shows that Hawai'i is under drought conditions ranging
7 from D-0 abnormally dry, to an unprecedented D-4
8 drought exceptional, some of the worst conditions in
9 the country? Are you aware of that?

10 A I wasn't aware of drought ratings, no.

11 Q Are you concerned about drought causing
12 problems with the availability of water to this
13 Petition Area if it should continue for an unusual
14 length of time?

15 A In our examination of the water
16 infrastructure we didn't identify the potential of a
17 long-term drought as being of risk for this Project.

18 Q So you think that adequate analysis has been
19 done regarding climate change and other potential
20 impacts on Hawai'i and how that might relate to this
21 Project?

22 A If you're saying that there may be an
23 interminable prolonged open ended drought that we
24 should be taking into consideration, no, we didn't do
25 that.

1 Q Would you agree with the idea that while
2 we're maybe not in any immediate danger of running out
3 of drinking water, but climate change does have the
4 potential to bring us a severe lengthy drought. Then
5 we would be in trouble as a state? Do you agree with
6 that statement?

7 A It can just as likely bring us more rain.

8 Q That's your opinion on what basis?

9 A I'm Chair of the state's Climate Change Task
10 Force and Chair of the Ocean Resource Management Plan
11 policy group for the state which presently does most
12 of the state planning for climate change.

13 Q Do you have any background studying weather
14 patterns to give you expertise to state whether or not
15 it's more likely to bring us drought than more rain?

16 A I have been briefed by scientists with the
17 University of Hawai'i, National Marine Fisheries
18 Service, National Park Service on potential climate
19 change variability.

20 And it will be subject to a huge range of
21 factors including elevation at specific sites, Leeward
22 and Windward sitings within the islands, how quickly
23 ocean levels rise and temperature change. Even an
24 ocean acidification becomes a variable in weather
25 patterns.

1 So all of those studies that I've heard have
2 noted possible bigger storm events, bigger
3 fluctuations of weather patterns but no more
4 likelihood for drought than for flooding per se.

5 Q So it's difficult to predict, in other
6 words, whether we'd have a lot more rain or
7 substantially less rain.

8 A Some factors are difficult to predict.

9 Q And therefore there's a risk that we might
10 have substantial and continued drought for lengthy
11 periods of time? That risk exists?

12 A Not a very great risk that I'm aware of for
13 that.

14 Q You're familiar with the Hawai'i 2050
15 Sustainability Task Force?

16 A I'm familiar with it, yes.

17 Q Are you associated with it in any way?

18 A I'm a member. Although when I took office
19 there was only one meeting left. So I attended one,
20 the last final congratulatory pat-on-the-back meeting.
21 So I didn't have very much in the way of involvement
22 in participating in the task force.

23 Q Are you aware that that task force issued an
24 interim report in 2005 raising concerns about
25 over-development and traffic congestion among other

1 things?

2 A I don't remember specifically that report.

3 Q Let me ask you about the agricultural
4 easement that we have discussed. Even with that
5 mitigation that's only partial mitigation, correct?
6 Because we're still going to have a net loss in our ag
7 land inventory.

8 A Yes.

9 Q Do you agree with the Department of
10 Agriculture that future needs for agricultural land
11 may far exceed our present understanding of what we
12 need based on unpredictable things that may happen to
13 us in the future?

14 A Yes, I agree with that.

15 Q Is that in large part because we're out in
16 the middle of the ocean all by ourselves? We're
17 ultimately kind of over-reliant at this point on
18 outside sources of energy and food?

19 A Yes. And global economics might change so
20 where agriculture became more viable again in the
21 state.

22 Q Also what about use of ag land for biofuel?
23 Is that another reason why we might need substantially
24 more land than we foresee at this point?

25 A Yes.

1 Q On energy issues, one of the things that's
2 being touted by Castle & Cooke is that their houses
3 are going to be 25 percent more energy efficient than
4 the typical home. But I think they also say they're
5 going to use around 684-kilowatt hours per house.

6 Are you familiar with the average energy
7 usage of houses on O'ahu being already less than
8 684 kilowatts?

9 A I'm sorry, I'm not aware of the per house
10 kilowatt usage.

11 Q Do you think that 25 percent more efficient
12 claim is significant? Or do you think are we starting
13 from such a low bar to begin with -- like, for example
14 I could weigh 500 pounds. If I lose 25 percent of my
15 weight I'm still pretty overweight.

16 Do you think the energy efficiency claim is
17 significant or it's not all that significant in terms
18 of energy efficiency?

19 A I don't remember that claim and what the
20 baseline that it's based on. That would be kind of
21 one of the better questions for our energy witness.
22 That level of technical detail I don't have, sorry.

23 Q We'll have Jeff Mikulina testify.

24 A I mean as you know we have recommended LEED
25 Silver condition for the market homes. And we are

1 certainly very much interested as a state to see that
2 our resources, be they energy, water, construction
3 materials, landfill, et cetera, are used as wisely as
4 possible.

5 Q Would you also support greater photovoltaic
6 product from these houses beyond what's already been
7 proposed?

8 I mean if the Land Use Commission were to
9 ask that 25 to 30 percent of the houses in this area
10 actually be constructed with PV systems already
11 installed on them, would you support that kind of
12 condition?

13 A We tend to like the LEED system because it
14 gives the developers and the homebuyers more leeway
15 and flexibility of how they meet energy efficiency
16 standards.

17 As far as mandating PV on a certain
18 percentage of housing we'd have to talk to HECO about
19 what about their abilities are as far as net metering
20 and their ability to accept certain amounts of energy
21 in certain districts and do that research. That we
22 just haven't done.

23 Q Assuming that HECO was able to absorb the
24 additional net metering energy that was coming in from
25 those PV systems, wouldn't that be helpful in terms of

1 the state meeting its goals for increasing energy from
2 renewable resources?

3 A Yeah, that would be very helpful.

4 MR. YOST: Okay. I have no further
5 questions.

6 CHAIRMAN PILTZ: Questions?

7 MR. POIRIER: No questions.

8 CHAIRMAN PILTZ: Mr. Matsubara?

9 CROSS-EXAMINATION

10 BY MR. MATSUBARA:

11 Q Mr. Mayer, in regard to the ag easement, the
12 questions asked by DPP, you indicated that the policy
13 of setting aside on an ag easement a like amount of A
14 and B lands that was reclassified only applies to the
15 Island of O'ahu?

16 A Yes, right now. Although there's, you know,
17 only a couple islands with significant amounts of A
18 and B-graded lands. But right now we're looking at
19 O'ahu.

20 Q Is there a particular reason for this
21 rationale as to your policy only applying to O'ahu
22 land?

23 A Because development is greater on O'ahu,
24 because there is the availability of market is greater
25 here on O'ahu, and that we've been raised with the

1 issue on two big petitions within the last two years
2 on O'ahu. So we haven't tackled on the other islands
3 yet.

4 Q This policy you referenced was developed in
5 conjunction with the Department of Ag?

6 A Typically when a petition comes in we ask a
7 wide variety of state agencies for their comments.
8 Department of Agriculture, as they have expressed, had
9 big concerns because of the, especially on the loss of
10 farmland. So we worked with them on ways in which we
11 can mitigate the impacts, the areas of their concern.

12 Q Was there any effort made to get input on
13 this policy from agencies or individuals outside of
14 state government?

15 A We asked -- certainly the Petitioner's
16 involved what their opinions were. But that was most
17 of it.

18 Q There was no public hearing, for example, on
19 this particular policy?

20 A No. I think that's going on right now.

21 Q Right here. Okay. The other question that
22 was asked as far as the ag easement is concerned it
23 doesn't affect the ability to reclassify, to
24 reclassify the land use classification.

25 So, for example, if there's an ag easement

1 on ag land the landowner could petition the Land Use
2 Commission to reclassify the land to urban which, if
3 granted, you'd have urban designated land with an
4 easement on it?

5 A Yeah, that's my understanding. For example,
6 let's say you wanted to build some kind of
7 agricultural facility. And for whatever reason that
8 facility was not likely but wasn't allowable in the
9 agricultural district. But it fit the restrictions,
10 the agricultural restrictions of that particular
11 easement might be a reason.

12 But from my mind the easement is just
13 restricting uses. It's not restricting what the state
14 or county land use classification or zoning may or may
15 not be on the land.

16 Q So if it's designated urban with an ag
17 easement, you could have a situation where
18 incompatible uses are existing right next to each
19 other.

20 A Incompatible?

21 Q Urban use versus ag easements restricting
22 the use just to agricultural uses.

23 A Are you talking about a neighboring parcel
24 being urban --

25 Q No.

1 A -- to this ag easement?

2 Q No. Let's assume an individual has an ag
3 easement placed on his property.

4 A Okay.

5 Q And you indicated that more than likely that
6 individual will put up ag land to have that ag
7 easement placed on because that makes sense. Lands
8 that could be developed urban you wouldn't want to
9 place an ag easement on it.

10 A I would think, yes.

11 Q But what if that individual only had that
12 parcel of land available to him, which is also
13 amenable to an urban use? He goes in and gets it
14 reclassified. So you get the urban designation with
15 an ag easement on it.

16 A You're still restricted to use.

17 Q Right.

18 A So the urban designation might not be all
19 that meaningful because you can't put urban-like
20 facilities or concentrations of people in urban uses
21 on a land that has an agricultural easement regardless
22 of its classification.

23 Q You couldn't have residences on the
24 urban-designated portion that's outside of the ag
25 easement?

1 A If it's outside of the ag easement --

2 Q Right.

3 A -- then that's a different story. That's a
4 neighboring parcel then, right?

5 Q No. It's the same parcel, same owner but he
6 has an ag easement on his property. It doesn't divide
7 ownership.

8 A Same owner or parcel?

9 Q Same owner, same parcel.

10 A But it has an ag easement on it.

11 Q Yes.

12 A Then it's restricted from urban uses whether
13 it's in the urban district or not, no matter what
14 district it's in.

15 Q Just within the ag easement, though.

16 A If the ag easement only covered a portion of
17 the parcel?

18 Q Yeah.

19 A Right.

20 Q Okay. So you could have incompatible uses
21 next to each other.

22 A You could.

23 Q Thank you.

24 A That's why you should choose your land
25 carefully.

1 Q I do. I do.

2 (Laughter.)

3 I gather you've had your ag easement
4 condition vetted by your legal counsel in the attorney
5 general's office?

6 A Yes.

7 Q Okay. And there is no constitution issue as
8 far as the Office is concerned with regard to that
9 condition.

10 A None has been brought to my attention.

11 Q Not brought to your attention.

12 A I don't know of any. I'm not a
13 constitutional lawyer.

14 MR. MATSUBARA: Thank you. No further
15 questions.

16 CHAIRMAN PILTZ: Cross?

17 MS. TAKEUCHI-APUNA: No.

18 CHAIRMAN PILTZ: Mr. Yee?

19 MR. YEE: No.

20 CHAIRMAN PILTZ: Commissioners, any
21 questions? Commissioner Lezy.

22 COMMISSIONER LEZY: Just one quick question.

23 Thank you, Chair. Thanks for your testimony,
24 Mr. Mayer. You mentioned that your office has had
25 discussions with Petitioners about the swap out

1 agricultural easement. I'm just curious to know what
2 those discussions were.

3 THE WITNESS: They're kind of like, "Will
4 you do it?" And they say, "No."

5 (Laughter).

6 COMMISSIONER LEZY: That was the extent of
7 the discussions.

8 (Laughter).

9 THE WITNESS: No. We asked, "Is there
10 anything you can offer to mitigate the impact?"
11 Because we're all facing this condition. We have all
12 heard a lot of public testimony, testimony from
13 legislators, testimony at the Legislature. There's
14 legislative proposals banning development altogether
15 on A and B lands.

16 So I try to -- I try to make the point that
17 in so much as we could mitigate this impact and
18 satisfy those concerns, which we believe are real
19 concerns, then we're all better off.

20 The project is stronger. We show the public
21 and the other voices out there that we're doing our
22 jobs, that the system is working and that we're on top
23 of the game. We're not just selling the state down
24 the river, so to speak.

25 So that's my pitch. And they say, "You're

1 asking us to encumber our lands for perpetuity. Maybe
2 we'll do IAL and maybe we won't. Let's agree to
3 disagree."

4 COMMISSIONER LEZY: So there was no, I
5 guess, definitive agreement reached along those lines?

6 THE WITNESS: No. There was no counteroffer
7 either. It wasn't, "Hey, how about a third of the
8 acreage or half of the acreage?" It was just, "Nah,
9 we'll fight this one."

10 COMMISSIONER LEZY: Thank you.

11 THE WITNESS: You're welcome.

12 CHAIRMAN PILTZ: Commissioner Kanuha.

13 COMMISSIONER KANUHA: Thank you, Abbey. I
14 also had a couple questions along those lines. First
15 of all, the intro to your recommendation, I mean the
16 Office of Planning's recommendation says that "subject
17 to clear and appropriate mitigation measures that the
18 petition would meet the decision-making amendments."

19 If -- and I don't know how many of these
20 mitigation measures there are, but if they can't
21 mitigate one are you saying it doesn't meet the
22 criteria? Or they can't meet five? It almost seems
23 to me like a pocket denial. You know, you're saying
24 unless you comply with everything --

25 THE WITNESS: Is this on our position

1 statement or our testimony?

2 COMMISSIONER KANUHA: This is your
3 testimony. It's an intro to your recommendation.

4 THE WITNESS: It's on Page 1? I'm sorry.

5 COMMISSIONER KANUHA: Page 22.

6 THE WITNESS: I think the most critical --
7 well, certainly there's been other petitions where
8 I've identified if such and such mitigations are not
9 met our position would go to denial.

10 COMMISSIONER KANUHA: Right.

11 THE WITNESS: I do that here. I can do that
12 one-by-one or are there specific conditions that
13 you're more curious about?

14 COMMISSIONER KANUHA: I was just interested
15 in the phrasing. Because with the mitigation
16 measures, you know, you're saying that they meet the
17 criteria.

18 THE WITNESS: Mm-hmm.

19 COMMISSIONER KANUHA: Are you saying without
20 mitigation measures that they wouldn't meet the
21 criteria?

22 THE WITNESS: Without some of them --

23 COMMISSIONER KANUHA: Okay.

24 THE WITNESS: -- they wouldn't. And I'm
25 kind of on the spot here. Certainly the school

1 facilities and affordable housing conditions are
2 critical. The water resource allocation and
3 wastewater conditions are critical. Storm management
4 and drainage are critical. Archaeological/historic
5 preservation, the burials, civil defense, air quality,
6 waste management, Best Management Practices, access
7 rights.

8 COMMISSIONER KANUHA: So that's more than
9 half already, I guess, yeah?

10 THE WITNESS: Yeah. There's a few that, you
11 know, we've come and argued in the past. For example,
12 LEED, which if you're not going to impose a LEED
13 condition I think this petition would still meet the
14 criteria. I think the DOT conditions are critical.

15 COMMISSIONER KANUHA: Okay. Again, on this
16 agriculture easement concept, you know, don't get me
17 wrong. I think it's an interesting way to approach
18 it, I mean as a concept. I'm not sure that the
19 details are quite there yet. I don't think you're
20 quite sure that they're there yet.

21 Except as how I read the wording in your
22 recommended condition, assuming the Commission adopts
23 this or something similar to it, it basically says
24 that: We don't know where or when this exchange
25 property is gonna be.

1 So it's like a blank check. Okay? You
2 know, you approve the condition. The Petitioner goes
3 and finds something, gets the approval from DOA, and
4 then they convey it. And the way it's worded here
5 they convey it one year after they have filed their
6 subdivision. Which means they're already into zoning,
7 you know.

8 So it's way down the line. And until -- I'm
9 just kind of wondering at what point the Commission
10 itself knows exactly what we got out of the deal.

11 THE WITNESS: We tried to be clear about it.
12 We chose subdivision as the trigger to give them time
13 to find and identify the lands, to construct the
14 easement language and to convey, get the approval of
15 DOA. We didn't want to prevent them from going in for
16 zoning and going through that process.

17 We feel like this is a solid enough trigger
18 to prevent the development of the property without
19 the, without meeting the condition if it were applied.
20 Also gives them flexibility to choose the land.

21 And then, again, we kind of made it one of
22 the preconditions for coming in for the second
23 increment as well, that they've completed the full
24 dedication on the additional acreage for the Waiawa
25 piece.

1 So we felt, yeah, we kicked it down the line
2 to give them the flexibility to continue making
3 progress on the project, but still we feel it's a
4 solid enough trigger to stop, to guarantee the
5 fulfillment of the condition.

6 COMMISSIONER KANUHA: Mm-hmm. Except what
7 I'm getting at is the Commission itself doesn't know
8 where it is at any given point in time that this
9 exchange property's gonna be.

10 THE WITNESS: We're assuming when they come
11 in with their annual status reports they typically do
12 an analysis per condition of where they're at at
13 meeting that condition. So I think there would be
14 feedback to the Commission at least on an annual
15 basis.

16 COMMISSIONER KANUHA: Again, I think it's a
17 worthwhile concept worth pursuing. Obviously, I think
18 there needs to be more work in the language, clearing
19 that up a little bit.

20 The final question I have for you is on OP's
21 recently submitted Exhibit No. 27, that's the chart
22 you have on the state lands --

23 THE WITNESS: Yep.

24 COMMISSIONER KANUHA: -- productivity. And
25 I'm looking at that and I'm also looking at the

1 Petitioner's Exhibit 53 which is kind of the same kind
2 of information except that the acreage is about 30,000
3 acres off.

4 THE WITNESS: Ours is the state-owned land
5 only.

6 COMMISSIONER KANUHA: State-owned land.

7 THE WITNESS: Right.

8 COMMISSIONER KANUHA: So it doesn't include
9 any private land.

10 THE WITNESS: Right. 'Cause there was a
11 question: How many A and B acres does the state own?

12 COMMISSIONER KANUHA: Okay.

13 THE WITNESS: So we were trying to get just
14 information, just directly on the state-owned land. I
15 did have my GIS staff look over the Petitioner's
16 submission. And we're pretty close on agreement with
17 their concept as the overall picture of the inventory.

18 COMMISSIONER KANUHA: Okay. Good, thanks.
19 Appreciate it.

20 CHAIRMAN PILTZ: Commissioner Judge.

21 COMMISSIONER JUDGE: Good afternoon.

22 THE WITNESS: Hi.

23 COMMISSIONER JUDGE: I'm looking at the
24 agricultural easement language. One of the things
25 that always makes me nervous is when you leave

1 something up to a department for its approval and you
2 have adequacy, availability, sufficiency of soil, the
3 irrigation water source, blah, blah. I mean they
4 could just pick one and say, "No."

5 And there's no -- what defines adequacy?
6 What defines availability? What -- there's no
7 definitions on those. So that's one of those, you
8 know, there's a lot of discretion there that could, I
9 mean could be fine but it also could pose a lot of
10 problems down the line.

11 And I'm thinking about all the time and
12 energy that went into the IAL bill where the A and B's
13 it's defined so well of what meets it, what doesn't.
14 And I think -- I guess this is my question: When
15 you're looking at the end result, how does an
16 agricultural easement differ from land being in IAL?

17 THE WITNESS: From our reading of the IAL
18 legislation, IAL is simple resource overlay. So it's
19 a way the state has of identifying which lands meet
20 certain good agricultural criteria.

21 There are some restrictions or additional
22 hoops to jump through to use IAL for certain land
23 uses, for example landfills. It's way more difficult
24 to put in a landfill on IAL.

25 But there's nothing in the IAL legislation

1 per se that would prevent someone from redistricting
2 their IAL lands. So urbanizing their IAL lands.

3 Whereas, the easement is actually bound on
4 the title of as restricted of uses. So we have a lot
5 more security in easement than IAL legislation in
6 general. The IAL legislation is unproven. And, as I
7 said, there's nothing to prevent urbanization of IAL
8 lands.

9 COMMISSIONER JUDGE: I haven't read the
10 legislation lately. But that's sort of way different
11 than what my understanding of what it was. I
12 understand you could put it back but it was a major
13 hoop to put it back.

14 THE WITNESS: Taking it out of IAL is a
15 major process, you're right. Requires legislative
16 approval. But that doesn't mean you can't take your
17 IAL land that's in the ag district and urbanize it.

18 COMMISSIONER JUDGE: So you're saying that
19 somebody designates IAL. Then they come to the Land
20 Use Commission and say, "I want to take this and I
21 want to put -- I want to urbanize it."

22 THE WITNESS: Yeah. Four years from now
23 that's in the urban growth boundary now. The city's
24 revised their plan and all that was designated as IAL,
25 yet it meets all these criteria of IAL but now I want

1 to urbanize it. I'm going to leave it in IAL but I
2 want to urbanize it. As the law stands now that's
3 possible.

4 COMMISSIONER JUDGE: Okay. So they urbanize
5 it. Now it's urban but it's still IAL. What can they
6 do with it? Can they build houses on it?

7 THE WITNESS: Yeah. That's the concern we
8 have.

9 COMMISSIONER JUDGE: So IAL legislation
10 doesn't prohibit -- it doesn't give uses. You're
11 saying the difference -- I'm just trying to clarify --
12 you're saying that with this agricultural easement
13 you're defining the uses of --

14 THE WITNESS: We're limiting the uses of the
15 land.

16 COMMISSIONER JUDGE: And the IAL is
17 simply -- the IAL does not you're saying.

18 THE WITNESS: Correct. There are certain
19 uses under IAL that take extra steps to achieve, but
20 other than that it doesn't restrict use.

21 COMMISSIONER JUDGE: Okay. I think I see
22 your differentiation. Thank you.

23 CHAIRMAN PILTZ: Director Mayer, would the
24 Office of Planning recommend this same type of
25 easement condition, for, say, a project like Ho'opili?

1 THE WITNESS: Yeah. In fact I think we had
2 recommend it on Ho'opili before the petition was
3 withdrawn.

4 CHAIRMAN PILTZ: Okay. Any other questions?

5 Commissioner Kanuha.

6 COMMISSIONER KANUHA: So I think I heard you
7 say earlier that this policy, whatever you want to
8 call it, is not an across-the-board deal,
9 recommendation coming out of the Office of Planning
10 but more on a case-by-case basis?

11 THE WITNESS: Definitely on O'ahu. We
12 haven't looked at the other islands. It'd be mainly
13 Maui and Kaua'i that have A and B-rated lands. We
14 haven't worked with the Department of Ag yet looking
15 at those islands mainly because we haven't had a
16 petition there yet.

17 COMMISSIONER KANUHA: Okay. What I was
18 getting at is what if the petition is for 62 acres.
19 Would that Petitioner have to go find --

20 THE WITNESS: Yeah. Or if it was a petition
21 for 500 acres, 62 of which were A and B we would ask
22 for 62 acres of A and B.

23 COMMISSIONER KANUHA: Want 16 acres all A
24 and B?

25 THE WITNESS: Sixteen, I would think they

1 would go to the county for 14.9. But 16 we'd ask,
2 yes.

3 COMMISSIONER KANUHA: Make it 19.

4 THE WITNESS: Nineteen too, yeah, we would
5 ask.

6 COMMISSIONER KANUHA: Interesting. Thank
7 you.

8 CHAIRMAN PILTZ: Go ahead, Commissioner
9 Judge.

10 COMMISSIONER JUDGE: Still mulling this
11 around. In theory, then, going back to the IAL, in
12 theory the OP would want the IAL legislation to be
13 amended to conform more to your concept here of
14 putting uses in the IAL bill -- or IAL legislation.

15 THE WITNESS: One of the issues we had when
16 the legislation was moving through and what comments
17 we made in our testimony, was that it didn't prevent,
18 you know, non-agricultural uses of the land. So that
19 was one of the problems we had with the legislation.

20 We were hoping and per the constitution we
21 were hoping that IAL would restrict use. But we don't
22 feel like this legislation necessarily does.

23 Certainly it would be a strong reason for
24 any of us to come before the Commission and say,
25 "Let's not urbanize it. It's IAL."

1 But it's not to say that some indeterminate
2 future time from now another decision can get made
3 without taking the land out of the IAL designation.

4 COMMISSIONER JUDGE: Right. Most of the
5 land that, if it gets designated IAL would already be
6 in the county agricultural districts, correct? Would
7 that be a good assumption?

8 THE WITNESS: Probably. But no guarantee.
9 Likely it would be in the agricultural or conservation
10 district, yeah, but most likely agricultural.

11 COMMISSIONER JUDGE: I'm trying to think
12 typically of where the uses are defined. The county
13 ordinance have pretty good, their strict uses of
14 agricultural along with the state uses.

15 THE WITNESS: So an ag subdivision on IAL
16 nothing really prevents it.

17 COMMISSIONER JUDGE: Okay. Thank you.

18 THE WITNESS: The other thing I guess I
19 would note is that the Petitioner has said, "We're
20 likely gonna come in with an IAL petition." They
21 haven't wanted to link it to this petition. And there
22 are incentives for the Petitioner to come in for IAL
23 designation. Those incentives don't exist for an
24 agricultural easement for this petition.

25 So they haven't said: How about we will

1 commit to coming in for an IAL petition of this many
2 acres? They never countered even along those lines.
3 So regardless of our concerns about IAL our feeling
4 that ag easements are more secure, that offer wasn't
5 made or on the table.

6 CHAIRMAN PILTZ: Commissioner Lezy.

7 COMMISSIONER LEZY: Just one follow up
8 piece, Chair. I guess behind some of the concerns
9 that were raised by Commissioner Judge and
10 Commissioner Kanuha, regarding the specifics of the
11 easement language. Has the Office of Planning pursued
12 the option of making this policy law?

13 Have you approached -- obviously the
14 Legislature, certain portions of the Legislature have
15 been very focused on agricultural lands issue this
16 session. I'm just wondering if that's something you
17 folks are --

18 THE WITNESS: We do include that in our
19 testimony as an alternative especially on the
20 moratorium bills that are on A and B lands. We say we
21 would prefer laws or measures that would mandate
22 mitigation of impacts, but not all-out moratoriums
23 against development on A and B lands.

24 So we have made that point before the
25 Legislature. And the Legislature even took note of

1 the policy during some of the LUC Commissioners'
2 confirmation hearings this session. So it's something
3 the Legislature is aware of.

4 CHAIRMAN PILTZ: Before we go,
5 Mr. Matsubara, we need to give our recording secretary
6 some time to relieve herself. (2:55)

7 (Recess was held.

8 CHAIRMAN PILTZ: We're back on the record.
9 Mr. Matsubara, you have a question for Mr. Mayer?

10 MR. MATSUBARA: Just to follow up on the IAL
11 questions that Commissioner Judge asked.

12 FURTHER CROSS-EXAMINATION

13 BY MR. MATSUBARA:

14 Q Mr. Mayer if the land is agricultural
15 designated and has an IAL overlay, then the only
16 dwellings you could have on that property would be
17 farm dwellings, is that correct?

18 A That's correct.

19 Q And that's under 2050-45.5 Hawai'i Revised
20 Statutes?

21 A That's correct. But no real definition of
22 an ag dwelling, right?

23 Q Well, if you go through that section there's
24 maybe seven criteria that talk about the "Farm
25 dwellings and employee housing units shall be used

1 exclusively by farmers and their immediate family
2 members who actively and currently farm on Important
3 Ag Lands upon which the dwelling is situated, provided
4 further that the immediate family members' families of
5 the farmer may live in separate farm dwelling units
6 situated on the same designated land."

7 A We have seen ag housing in the Ag District
8 in which it's very clearly a residential subdivision
9 in ag clothing where the homeowner may have a goat in
10 the yard or they may have a horse.

11 But as far as quantifying and defining what
12 becomes bona fide farming operation, that's always
13 something that the counties and the state have never
14 been able to successfully tackle.

15 Q The IAL statute attempted to do that to a
16 certain extent. Because of the other criteria's, "The
17 total land area upon which the farm dwellings and
18 employee housing units and all appurtenances are
19 situated, shall not occupy more than five percent of
20 the total Important Ag land area controlled by the
21 farmer or employees."

22 So, you know, they've attempted to limit the
23 size.

24 A They have, yes.

25 Q So there are criteria which are trying to

1 address the concerns you have for unscrupulous
2 landowners who attempt to have ag subdivisions.

3 A If the land stays in the Ag District.

4 Q Right. Now, if, if they want to change the
5 designation of IAL designated land, there's a process
6 a procedure for that under the IAL legislation, is
7 there not?

8 A There's additional criteria that have to be
9 met.

10 Q Okay. So under 205-50 if I represented a
11 landowner who wanted to designate his IAL land to
12 another category, let's assume urban, there's a whole
13 series of additional criteria that the landowner must
14 establish in order to get the higher classification,
15 is that correct?

16 A That's correct.

17 Q Such as: The designation of the property
18 will not harm the productivity or viability of
19 existing ag activities and so on. So there are
20 hurdles that any landowner would have to go through to
21 designate IAL lands into another and higher use?

22 A Right. But those criteria are also way
23 easier to change and revise by the Legislature than
24 the restrictions of an ag easement.

25 So, yes, there are additional steps,

1 criteria that a Petitioner would have to meet in order
2 to redesignate if it's IAL.

3 Q Do you agree that the concerns of the
4 condition you have relating to ag easements in regard
5 to the discretion relating to adequacy of the land,
6 availability of infrastructure, et cetera, so on, are
7 quite wide open in terms of the discretion allowed to
8 the Department of Ag to determine whether the land is
9 suitable or not?

10 A As it is now, yeah, but that doesn't mean we
11 might not be open to revising that to meet your needs
12 better. For example, if you said, "We'll do other A
13 and B land, we might agree to stipulate on that."

14 Q So the IAL legislation does have its
15 benefits in regard to protecting important ag lands.

16 A It does have, does place additional
17 protections, but it's not as solid as an agricultural
18 easement.

19 Q But the Office of Planning as a general
20 policy encourages landowners to designate their lands
21 as IAL, does it not?

22 A If it meets the criteria. We take it
23 actually on a case-by-case basis whether the lands
24 that are being proposed are suitable, and what the
25 incentives being sought on the petition are.

1 Q Correct. Pursuant to this other policy of
2 yours on a case-by-case basis, if the land meets the
3 IAL criteria Office of Planning encourages landowners
4 to utilize the IAL statutory designation mechanism and
5 designate the land as IAL.

6 A Yes.

7 Q And it is agreed that it is -- it is a
8 commendable land use planning device to maintain
9 important ag lands in ag production.

10 A It's a big step for the state. It is. It's
11 not insignificant. It's not rock solid but it's not
12 insignificant.

13 MR. MATSUBARA: Thank you.

14 CHAIRMAN PILTZ: Mr. Yee?

15 REDIRECT EXAMINATION

16 BY MR. YEE:

17 Q You were asked questions regarding
18 incompatible uses between land -- a nearby parcel that
19 might be urban and land that has an easement. Would
20 the land with an ag easement still be subject to
21 zoning requirements?

22 A The land with the ease --

23 Q With an easement.

24 A Yes.

25 Q So the regulation of compatible uses would

1 still fall within county jurisdictional authority?

2 A Yes, on that land and on the neighboring
3 land, yes.

4 Q You were asked a variety of questions
5 regarding the IAL and how the ag easement in IAL
6 interrelate. Would it be acceptable to have an ag
7 easement on IAL property?

8 A It would be acceptable, encouraged,
9 wonderful even.

10 Q So if the Petitioner was going to put land
11 into IAL, the placement of an ag easement on that IAL
12 property would satisfy this requirement.

13 A Yeah, it would.

14 MR. YEE: I have nothing further. Thank
15 you.

16 CHAIRMAN PILTZ: Thank you.

17 THE WITNESS: Thank you, Commissioners.

18 CHAIRMAN PILTZ: Thank you, Mr. Director.
19 Go ahead. Your witness.

20 MR. YOST: In the order of things the Sierra
21 Club is going to present its first witness. That's
22 going to be Jeffrey Mikulina. Please take the stand.

23 JEFFREY MIKULINA,
24 being first duly sworn to tell the truth, was examined
25 and testified as follows:

1 THE WITNESS: I do.

2 CHAIRMAN PILTZ: State your name and address
3 for the record.

4 THE WITNESS: Jeffrey Mikulina. P. O. Box
5 2801 Honolulu, Hawai'i 96803.

6 CHAIRMAN PILTZ: Mr. Yost, your witness.

7 MR. YOST: Thank you, Chair.

8 DIRECT EXAMINATION

9 BY MR. YOST:

10 Q Jeff, can you please start off by giving us
11 just briefly some background in your education?

12 A Sure. I graduated with a Bachelor of Science
13 degree from the University of Illinois in Champaign/
14 Urbana in General Engineering and then a Master's of
15 Science from the University of Illinois in General
16 Engineering as well studying decision theory.

17 Q Did you also study environmental design?

18 A Exactly, for undergraduate.

19 Q And then what other education do you have,
20 training or seminars or other such things?

21 A Oh, sure. Was trained by former Vice
22 President Al Gore as a climate presenter and
23 subsequently appointed as a district manager for his
24 climate project.

25 Q What's your current position for employment?

1 A Executive director of the Blue Planet
2 Foundation, a local 501-C3 focused on energy issues.

3 Q What was your position prior to working at
4 Blue Planet?

5 A Before that I was the director of the Sierra
6 Club Hawai'i Chapter.

7 Q For how many years?

8 A For 10 years.

9 Q I'd like to offer -- well, actually let me
10 ask you this. In the course of your work with Sierra
11 Club and Blue Planet and also in your educational
12 background, have you dealt with energy efficiency
13 issues?

14 A Sure. Definitely with Sierra Club and Blue
15 Planet we've policy advocates for a number of policies
16 in this state regarding clean energy and energy
17 efficiency. In graduate school I published a handful
18 of papers on energy efficiency and clean energy.

19 MR. YOST: I'd like to submit Mr. Mikulina
20 as an expert on clean energy and energy efficiency
21 issues.

22 CHAIRMAN PILTZ: Petitioner?

23 MR. TABATA: Petitioner has no objection.

24 CHAIRMAN PILTZ: City?

25 MS. TAKEUCHI-APUNA: No objection.

1 CHAIRMAN PILTZ: State?

2 MR. YEE: No objection.

3 CHAIRMAN PILTZ: Commissioners, any
4 objections? We'll accept him as an expert witness.
5 Go ahead.

6 Q (By Mr. Yost): Jeff, did you prepare
7 written testimony for this proceeding?

8 A I did.

9 Q I'd like you, if you could, just summarize
10 the high points of that testimony for the Commission?

11 A Sure. In looking at the Koa Ridge Project
12 from the energy perspective there are three main
13 issues that there are of concern or of note. And
14 these three concerns are kind of born out of a
15 changing landscape for Hawai'i when it comes to
16 energy.

17 It's certainly a new era, new age for
18 energy. We have been talking about these issues for
19 generations I know in Hawai'i. We like to highlight a
20 1974 report from the state that said Hawai'i was going
21 to be energy independent by the year 2010. We're a
22 little bit off the mark so far.

23 But there have been some recent initiatives
24 including the governor's Hawai'i clean energy
25 initiative which is an unprecedented partnership

1 between the state of Hawai'i, the Department of Energy
2 and National Renewable Energy Labs to make Hawai'i, to
3 trend Hawai'i towards energy independence with the
4 goal of 70 percent clean energy for the state by the
5 year 2030.

6 Some of that's informed by really the
7 changing landscape for the price of oil, world order,
8 what we know about climate change, and it's
9 significantly changing our policies and how we
10 approach energy issues in Hawai'i and how we build
11 Hawai'i.

12 So with that background: We're still highly
13 dependent on imported petroleum, in fact between 40 to
14 50 million barrels a year we bring into the state.
15 That costs Hawai'i residents and businesses upwards of
16 \$6 or \$7 billion, money that leaves the state's
17 economy to pay for imported fuel.

18 Ninety-seven percent of our oil comes from
19 foreign countries, only 3 percent comes from America.
20 One in four barrels in 2008 came from the Middle East.
21 So it's a very tenuous situation on how much fuel we
22 have to run our economy, run our homes.

23 The 2009 Hawai'i Electric Industries annual
24 report highlighted that only 35 days of supply are
25 stored here in Hawai'i to keep our power plants

1 running should something disrupt that steady flow of
2 supertankers coming to Hawai'i. I like to joke that
3 we're one supertanker away from becoming Amish.

4 So we really have a huge challenge in
5 keeping the lights on, keeping our economy running
6 unless we turn to indigenous sources. Those
7 indigenous sources will be two-fold. One will be
8 efficiency. That's something that the state has set
9 into law last year with Act 155. A 30 percent
10 reduction in energy demand for our homes and
11 businesses by the year 2030.

12 Then a 40 percent renewable portfolio
13 standard for clean energy sources. So of all of our
14 electricity about 40 percent would be coming from
15 clean sources.

16 So as this relates to Koa Ridge in looking
17 over the plans and the addendum and things that came
18 with that Project as planned, our first concern is the
19 increased electricity demand that these homes will
20 have on the grid.

21 They estimate 49.9 megawatts of electricity
22 will be required to power the homes and the additional
23 improvements on the land.

24 That's approximately 3 percent of the
25 current peak of Hawaiian Electric Company's grid on

1 this island. So about 3 percent addition when our law
2 is calling for 30 percent reduction in energy demand.

3 We understand that the homes -- or I
4 understand that the homes are going to be built with
5 an eye toward efficiency. But that claim of
6 25 percent more efficient than current homes No. 1
7 doesn't seem like that's a binding sort of condition
8 on these homes.

9 No. 2. We think it's, frankly, kind of weak
10 when you look at what's possible. And what's possible
11 has really been evolving because of the changes in
12 technology.

13 The Hawai'i Clean Energy Initiative
14 forwarded a policy this year saying that we should
15 build all new homes by the year 2015 as zero net
16 energy capable homes. A zero net energy capable home
17 would be one that's approximately 50 percent more
18 efficient than the current building codes.

19 The reason why they say zero net energy
20 capable, is that remaining electricity demand can
21 easily be killed off, as they say, with a photovoltaic
22 or some other renewal energy system on the home.

23 So already we have some state policy
24 suggestions that are far more aggressive than proposed
25 by what Castle & Cooke is proposing here.

1 No. 2. (sic) The estimate for the usage for
2 each of these homes is approximately 684-kilowatt
3 hours monthly. That's what they're estimating for the
4 Koa Ridge homes based on, I guess -- I'm looking at
5 the Koa Ridge sustainability plan for December 2009:
6 648 kilowatt hours is actually on par with the average
7 household usage on O'ahu today which is estimated
8 around 600 kilowatt hours.

9 Granted, that 600 kilowatt hours looks at
10 all housing units, condos, single-family dwellings,
11 multi-family dwellings, but still here homes being
12 proposed that will actually consume more energy than
13 the average home is in Hawai'i today.

14 We really believe, or I believe that new
15 homes should be contemplating far greater steps
16 towards high-efficiency, high-performance homes but
17 also net zero energy. We should think of new homes as
18 being power plants instead of consumers of energy.

19 Our organization, Blue Planet, last year did
20 a Hawai'i home energy makeover show that some of you
21 might have seen. What we did there was took two homes
22 and showed how you can cut the energy bill in half or
23 more.

24 We did a home in Nanakuli, family of 10 that
25 was paying about \$800 a month on their electricity

1 bill. And through a few simple improvements cut it
2 down to \$285 per month, putting in solar hot water,
3 redesigning some of their air conditioning systems.

4 Then we did a home in Kalihi. They were
5 paying \$120 per month. And we got rid of their bill
6 altogether by putting in a photovoltaic and making
7 some other improvements.

8 So in 2009 building zero net energy homes is
9 possible. But making high-performance,
10 high-efficiency homes is also very easy and it's
11 something that will pay for itself certainly over the
12 life of the mortgage but sometimes much, much shorter
13 time horizons.

14 So any new homes that are being contemplated
15 in the next five or 10 years ought to be held to a
16 pretty high standard, given our number one, our policy
17 of energy efficiency, but also out of the uncertainty
18 of the price of oil, what the price of electricity is
19 going to be, out of respect for those homeowners that
20 are going to be footing the bill.

21 I did a little math on these 684 kilowatt
22 hours estimate for those new homes that are proposed
23 at Koa Ridge. And over a 30 year mortgage a homeowner
24 would be -- if the price of electricity didn't
25 increase -- they'd be paying around \$68,000 for

1 electricity over a 30 year mortgage.

2 So looking at the price of homes and the
3 price of living in Hawai'i you have to think of that
4 monthly expense. So we can just tack on \$68,000
5 unless some aggressive efficiency measures are put in
6 place or the homes are designed for photovoltaic, or
7 built ready for photovoltaic.

8 Finally, on this point I note that some
9 other developers are considering this. I know this
10 came up in testimony prior. But ACTUS lend-lease at
11 Schofield Barracks has been building some zero net
12 energy homes. Department of Hawaiian Home Lands is
13 preparing to break ground on 18 zero energy homes at
14 the Kaupuni Village Project.

15 So, again, looking at today's technology
16 this stuff is capable. I'm getting the signal to talk
17 a little slower.

18 The second point that I want to raise is in
19 regards to the transportation energy that would be
20 necessary for this Project. I guess we kind of
21 separate this into two pieces. One is within the
22 Project limits the energy consumption and that's sort
23 of what I was just discussing.

24 No. 2 (sic) is the placement of the Project
25 and what would be the expected energy consumption

1 depending on where the Project's placed. It's a
2 really essential distinction to make that you can have
3 an excellent designed Project but if it's placed
4 somewhere that's going to require a lot of energy to
5 travel to and from and to bring resources to and from
6 you can often exceed the energy savings of those
7 buildings themselves.

8 On O'ahu we have focused or we have planned
9 to focus our growth in the 'Ewa Plain and Kapolei and
10 the Second City. And to that end a rail project has
11 been proposed and voted on by the residents of O'ahu.
12 That's moving forward, a multibillion light rail
13 project along that corridor out to Kapolei.

14 This Project is removed from that rail
15 corridor and would really require automobiles to get
16 to. We think or I think that in the maximizing
17 efficiency for ground transportation on this island
18 that we really need to focus growth along that
19 corridor, make maximum use of a rail, particularly if
20 there's going to be such a massive investment of
21 taxpayer dollars into building that.

22 This will be a very, suboptimal outcome if
23 you build off that rail line and force people to get
24 into cars to make their trips.

25 Then the third area, just to touch on about

1 this Project, is since it will be essentially covering
2 over a thousand productive acres of agricultural land
3 or land in general, you are foreclosing the
4 opportunity to either produce energy on that land or
5 produce biofuel crops.

6 There's been a lot of media on this recently
7 with the Air Force and the military interested. Then
8 obviously a lot of the other landowners in Hawai'i
9 interested in finding the right mix of biofuel crops
10 to provide liquid fuels for our islands.

11 Biofuels play a really critical role in
12 Hawai'i because we can do the solar, we can do the
13 wind, we do those other technologies for electricity.

14 But for things that move like cars and ships
15 and airplanes you really need a liquid fuel
16 substitute, particularly for airplanes. And that's
17 been a big challenge.

18 That's why the Air Force is so interested in
19 finding substitutes that they can crack and find
20 something close to jet fuel.

21 This land -- made some estimates in my
22 testimony about the different technologies and how
23 much you could produce per acre. Again, this has been
24 historical productive. I understand that this is
25 farmland. And if put to use to grow biofuel crops you

1 could potentially grow upwards of maybe a million
2 gallons of ethanol or more depending on -- or biofuel
3 bio-diesel and similar components if the right crops
4 were grown, if particularly we see evolution in
5 technology for algal fuel crops.

6 There's been some experimentation, I think,
7 around Wahiawa to do an algae project. So there's a
8 potential for growing a lot of biofuel on historically
9 productive land.

10 Then the final point is Castle & Cooke
11 actually should be commended for being a vanguard in
12 solar technology in their La Ola project on Lanai.
13 That was pretty exciting, that one and-a-half megawatt
14 project.

15 If you did something similar on these lands,
16 putting in photovoltaic or concentrating solar like
17 SOPAGE or something similar, potentially you could,
18 you could harvest a lot of the sun that's out there.
19 This is a 450 sun zone which means 450 calories per
20 square centimeter per day on those lands. So there's
21 a lot of sun to be collected.

22 Hawai'i is really the Saudi Arabia of sun.
23 We have a lot of solar energy to put to use. If you
24 did do a La Ola-style photovoltaic project, those
25 1300 acres you could collect about -- or build about a

1 200-megawatt facility on these petitioned lands. So a
2 substantial, substantial power plant could be placed
3 on these lands.

4 What's more likely, a mix of maybe
5 concentrating solar, maybe some biofuel crops if the
6 Petitioner chose to make this into a power-producing
7 area instead of a power-consuming area, which would be
8 residential homes.

9 So I guess the gist of the testimony overall
10 is we ought to hold developers who are looking at
11 adding to the inventory over the next five or 10
12 years, hold them to a very high standard, given our
13 new state goals, given the new realities of the ground
14 for the price of oil and challenges in securing our
15 energy supply.

16 So at a minimum building the most efficient
17 homes, homes that are ideally zero energy, or that
18 contribute power back to the grid. And in thinking
19 really where is the most optimal place to put new
20 housing units that will make sure we have the most
21 efficient transportation system on our island.

22 And then, finally, maybe there's a better
23 alternative, either growing fuel or producing fuel
24 from a photovoltaic or technologies. Thanks.

25 Q Thanks, Jeff. Now, understanding the

1 position of the Sierra Club, as you know, is in
2 opposition to the petition overall. But should the
3 petition be approved by the LUC, I'd like to ask you
4 some questions about whether certain conditions could
5 be placed on the Project beyond what Office of
6 Planning has already asked.

7 What we've talked about the energy usage,
8 the plus energy usage of this development it's going
9 to further burden our energy infrastructure.

10 What if you were to require that 30 to
11 40 percent of the houses in this development come with
12 pre-installed PV energy systems on them? Would that
13 help to substantially mitigate the energy usage in the
14 community?

15 A Certainly. And we talk about some of the
16 projects that are doing that. Photovoltaic is one of
17 these really exciting evolutions in Hawai'i when it
18 comes to clean energy.

19 I think it's kind of lost when we're looking
20 at all of these other clean energy projects like big
21 wind projects. But photovoltaic is really, it's
22 happening. And I think we have a chart we can share,
23 is that possible?

24 Q We do. Actually, Robert, would you mind
25 setting that up. We'll have Robert set that up while

1 we talk about that in a moment. Yes. Can you
2 explain, though, what kind of impact would that have
3 if you had a substantial number, say, 30 to
4 40 percent?

5 A Sure. It will have a substantial impact
6 depending on the sizing. Typically when most folks do
7 photovoltaic the system is sized to do about half of
8 their load or half to all the way.

9 Most people don't oversize their system so
10 it becomes a net-energy producer. I think that's
11 important to note because as soon as you size it where
12 you're producing more energy than you use, then you're
13 kind of relying on the utility for buying that energy
14 or taking that energy. Some people have battery
15 backup. That's a way of really becoming completely
16 self-sufficient.

17 Q This chart we're about to look at, this is
18 just for demonstrative purposes. It's not being
19 submitted into evidence. It's been shared with the
20 other parties here in advance. But we want to talk
21 about whether there is a demand for this type of net
22 metering system. And what does the chart behind you
23 show?

24 A Like I said, this is a really exciting
25 evolution in clean energy. This comes from folks at

1 the Hawai'i Solar Energy Association tracking the
2 number of net energy metering installations in the
3 state.

4 So this is in terms of kilowatts of
5 installed photovoltaic. What you see over the past
6 three or four years there's been a huge, huge
7 exponential growth in installations statewide.

8 And this is due to a number of things:
9 Changing technologies so the price is coming down.
10 Increase in the price of electricity. Then added
11 incentives that we had to make it more attractive for
12 folks to install photovoltaic.

13 But it's exciting for us because this means
14 more and more homes are getting this. People are
15 putting down tens of thousands of dollars to reduce
16 their energy usage at home and to tap into the sun and
17 actually use that energy.

18 But it's also creating a lot of local jobs.
19 This has been one of the exciting growth industries in
20 Hawai'i like clean energy jobs like photovoltaic
21 installations.

22 We see a really maturing of the industry and
23 a lot more players coming in and becoming very
24 established and incredible. I look at this and see
25 there's this growing demand out there.

1 More and more folks are asking for this,
2 looking for this. We think new homebuyers will also
3 want this as a standard feature in new homes.

4 Starting January this year all new homes
5 have to have solar hot water. So far we're about 90
6 percent of new homes have solar hot water. A certain
7 percentage are getting variances. With that the next
8 expectation is: Well, are these homes also going to
9 power themselves?

10 That's where photovoltaic comes in. So
11 looking at this, just kind of extrapolating thinking
12 the demand is growing new home buyers might be looking
13 for this as an added amenity and they might be willing
14 to pay a premium for it.

15 Q So you think this chart in part demonstrates
16 that there are a substantial number of people who are
17 interested in paying a premium upfront like a capital
18 investment so they can save substantial amounts of
19 energy over time?

20 A Right. Exactly. Most of these folks that
21 install photovoltaic the payback period is between
22 seven, 12 years or so.

23 Q Even if 30 to 40 percent of the homes in Koa
24 Ridge area had pre-installed PV systems and cost more
25 because of that initially, you believe there's likely

1 to be a market for those types of homes?

2 A I think so. We have to be careful in saying
3 "cost more" because it's all in terms of what's
4 peoples' -- what's your monthly cost of living? And
5 that's a function of your mortgage. It's a function
6 of what you're paying to the utility every month.

7 Q Right. So you could actually, if you did a
8 calculation as to, let's say you had a \$300 month
9 electricity bill and you put that into a mortgage
10 calculation, that could actually represent a much
11 larger percentage of the purchase price.

12 A Right. Aside from that add value to the
13 home.

14 Q Okay. In terms of the houses that aren't PV
15 already pre-installed, what's the importance of having
16 the other houses be what's called "PV ready"? I mean
17 essentially designed and constructed so that
18 photovoltaic systems could be more easily installed.
19 How important is that?

20 A One of the challenges with solar installers,
21 people say, "I want to do solar." They come out.
22 They check out the roof. The first problem is the
23 roof actually pointing south or some angle south,
24 southeast, southwest. If not that's number one
25 challenge.

1 The number two challenge is is it shaded by
2 a nearby building or by a tree. Shade is obviously
3 the whatever of solar.

4 Q The Cryptonite?

5 A Exactly. The third thing is the actual
6 wiring in the house. Sometimes just like solar hot
7 water they have to do these wild sort of replumbing,
8 rewiring of the entire house to make it work.

9 So another measure that came out of --
10 policy that came out of the Hawai'i Clean Energy
11 Initiative was all new homes should be built
12 photovoltaic ready. That's simply putting a conduit
13 in place, making sure wiring that system, that box can
14 be accessed. Makes it easy for the installation.

15 It can add a few thousand dollars if an
16 installer has to do a rewiring of the house to make it
17 work for photovoltaic. But as part of that too, it's
18 not just putting in the conduit and making sure you
19 can access the circuit, but making sure the house is
20 oriented in the right way to start. So that requires
21 some design work up front.

22 Q You talk about orientation of the house to
23 maximize solar radiation capture. How significant is
24 that?

25 A That's in the range of 4 to 6 percent. So

1 it does matter. And 4 to 6 percent over 30, 40 years
2 makes a big difference in how much energy you capture.
3 But that's something, again, that happens when you
4 have a blank slate you can sketch out where the homes
5 are gonna go.

6 Q Sure. Obviously it's very difficult to
7 change that after the fact?

8 A It's that and then it's also the angle of
9 the roof. I'm not familiar what these, what the
10 rooftop angle is. We're at 22 degrees here in Hawai'i
11 so something around 22 degrees works best for solar.

12 Q What about charge stations for electric
13 vehicles?

14 A This is another area that's evolving very
15 quickly. Nissan is going to start selling their
16 electric vehicles later this year. Our founder of our
17 foundation has an electric vehicle but it's kind of
18 the chicken and the egg sort of problem. Do people
19 buy the cars first or get the charging infrastructure
20 in place?

21 So there have been a number of -- well, a
22 measure that passed last year that requires parking
23 lots of a certain size to be equipped with charge
24 spots by the end of next year.

25 We think that should apply to new homes as

1 well. At least they're ready for this charging
2 infrastructure for electric vehicles.

3 The reason why it's important is electric
4 vehicles aren't just clean, quiet mobility solutions,
5 they also enable us to do more clean energy. You have
6 a bunch at batteries driving around, in essence.

7 Those batteries can store solar energy or
8 wind energy help smooth out the grid and provide that
9 storage piece that we're missing on our power grid
10 right now.

11 So having homes that are equipped with
12 charge spots would be key. At a bare minimum making
13 sure that they can be charge spot-ready.

14 Q Okay. And the charge spots, that wouldn't
15 add an enormous amount to the construction initially
16 right?

17 A Not at all.

18 Q It's pretty minor.

19 A Right.

20 Q For agriculture, I think you have already
21 covered this. But it's just the Department of
22 Agriculture testified that one of the reasons why
23 they're concerned about keeping the Koa Ridge lands in
24 the agricultural inventory is that it's unpredictable
25 how much we're going to need in the future for uses

1 such as biofuel production.

2 You touched on that. But you would agree
3 with that I understand?

4 A Certainly. I don't think anyone has a
5 crystal ball on the acreage needed for biofuels or for
6 food crops.

7 Q But because we're so isolated would you
8 would agree it's better to be safe than sorry,
9 essentially?

10 A I think that's generally a principle.

11 Q Okay. Well, thank you very much for your
12 testimony.

13 CHAIRMAN PILTZ: Petitioner, questions?

14 MR. TABATA: Yes, thank you.

15 CROSS-EXAMINATION

16 BY MR. TABATA:

17 Q Mr. Mikulina, you mentioned, I believe it
18 was the second page of your written testimony, you
19 talked about the 684 kilowatt hours monthly --

20 A Uh-huh.

21 Q -- that you attribute but to the estimated
22 household electricity usage for the Koa Ridge Project.
23 Isn't it true this 684-kilowatt hours monthly pertains
24 to a single family residence with four household
25 members?

1 A If that was the estimate, I think that was
2 the estimate by the consulting group Trinity?

3 Q And the 600-kilowatt hours that you compare
4 that to is the average household usage on O'ahu. And
5 you mentioned that includes all types of homes
6 including studios with a single household member in
7 addition to single family homes, correct?

8 A Yep.

9 Q Given that disparity in what appears to be
10 and apples and oranges comparison, don't you feel that
11 comparison is somewhat unfair?

12 A I disagree with that because I do think
13 we're looking at housing units. Some housing units
14 like the one we found in Nanakuli had 10 people under
15 one roof. Some might just have one person.

16 So I think we might have to do a little math
17 and see exactly the number of housing units on O'ahu
18 vis-a-vis the population. But we're looking at
19 housing units.

20 The ones proposed here, Koa Ridge, 684
21 kilowatt hours for a family of four it sounds like,
22 that's 600 average per housing unit on O'ahu. I don't
23 know if that's for two and-a-half people, for three
24 people, I bet you it's in that range, though.

25 Q So in your opinion it's not necessary to

1 compare averages with averages then. You're willing
2 to pick and choose the numbers you feel appropriate.

3 A I think looking at it per capita would be
4 the most fair way to compare those. But per housing
5 units is pretty fair as well. But the overarching
6 message was I think we can do much better than that
7 number.

8 Q Thank you. You also mentioned that you
9 would encourage -- first of all, you're against this
10 petition, correct? You recommend denial.

11 A No, I have no recommendation on the actual
12 petition. Talking about the energy issues here. I do
13 think there are some huge challenges with the
14 placement of where it is. And from the energy
15 perspective it would make more sense to place it
16 elsewhere.

17 Q So from your own perspective you're not
18 recommending that this petition be denied.

19 A I'm making no recommendation on the
20 petition. I'm talking about the energy issues. And
21 I think it's a big challenge for overcoming -- the bar
22 is pretty high to overcome the locational issue of
23 where this is placed.

24 Q From your own perspective personally you
25 would be okay with this petition being granted subject

1 to your concerns being addressed?

2 A I wouldn't say that either. I think there's
3 some big issues that need to be addressed with
4 transportation. It's not an ideal place for a project
5 like this.

6 Q Fair enough. Now, in your testimony you
7 also mention that you would like to see future
8 development take place along the rail line, correct?

9 A Along the rail line or even focused downtown
10 redeveloping some areas. Like Iwilei would be a great
11 place to develop and places along that.

12 Q So I believe you're talking about
13 transit-oriented development, correct?

14 A Mm-hmm.

15 Q Wouldn't that lead, however, to basically
16 high-rise apartment dwellings?

17 A Not necessarily. But certainly that's one
18 possible housing type or the loft style or
19 multi-family dwellings. But I think there's -- along
20 that corridor there's still ample single family
21 dwelling and redevelopment that we can do to provide
22 single family detached units too.

23 Q So would it be fair to say, then, you're in
24 favor of giving new homebuyers the option of buying
25 single family residences?

1 A I think that's fair to say.

2 Q Thank you. Now, we took a look at that
3 chart you had on the wall there talking about
4 photovoltaic installations by utility. When you look
5 at it, when you look at 2008 and 2009 it looks like a
6 pretty large increase, right?

7 A (Witness nods head.)

8 Q Right? And I believe you mentioned it was a
9 huge increase.

10 A (Witness nods head)

11 Q I'm sorry. You have to answer yes or no.

12 A Oh, yes, yes. Very large increase.

13 Q Now, during this time period 2008 and 2009
14 when we had this large, huge increase in PV
15 installations, was there any law that mandated the
16 installation of photovoltaic?

17 A Nope, no. There was incentives, certainly
18 but no law. That's just organic growth.

19 Q Market driven.

20 A Mm-hmm.

21 Q Correct?

22 A Right. So the point I'm showing that is to
23 show that people are willing to put the money down to
24 buy photovoltaic.

25 Q And it also shows that there are market

1 forces that are effectively getting new or existing
2 homeowners to install photovoltaic, correct?

3 A There are.

4 Q Thank you.

5 MR. TABATA: I have no more questions.

6 Thank you.

7 CHAIRMAN PILTZ: City, questions?

8 MS. TAKEUCHI-APUNA: No. No questions.

9 CHAIRMAN PILTZ: Mr. Yee?

10 MR. YEE: No questions.

11 CHAIRMAN PILTZ: Commissioners, do you have
12 questions? Commissioner Judge.

13 COMMISSIONER JUDGE: Thank you, Jeff. I
14 just have a question about the graph you showed. Is
15 that pure residential or does that include commercial
16 as well?

17 THE WITNESS: It does include some
18 commercial as well.

19 COMMISSIONER JUDGE: So do you have the
20 breakdown of residential versus commercial? Because
21 I'd be interested in that. I know the incentives you
22 talk about it's much easier from a commercial
23 perspective than a residential perspective. I
24 believe.

25 THE WITNESS: Yeah, that's true. With

1 accelerated depreciation and the cap is a hundred
2 million for commercial. I'm sorry, half a million for
3 commercial. So, yeah, there is much stronger
4 incentive for commercial. But still that represents
5 about 800 to a 1,000 homes last year that got
6 photovoltaic. And just watching that growth I think
7 we're going to see a lot of growth in the future.

8 COMMISSIONER JUDGE: So it is easier or more
9 economically feasible for businesses --

10 THE WITNESS: Right.

11 COMMISSIONER JUDGE: -- to install them
12 versus individuals.

13 THE WITNESS: That's true.

14 COMMISSIONER JUDGE: Thank you.

15 CHAIRMAN PILTZ: Questions? Commissioner
16 Wong.

17 COMMISSIONER WONG: Mr. Chairman, my
18 question to the witness has to do with the total
19 Project. While you're suggesting that perhaps it
20 should have some more efficient homes, is it feasible
21 or do they have projects on the mainland where, for
22 example, if you, like in this case, maybe 500 acres of
23 land and you dedicate, say, 20 acres and use that as a
24 power producing area?

25 In other words, set aside a certain amount

1 of land so that you could put photovoltaic or
2 concentrated energy like SOPOGE and so on so that you
3 don't have to always put it on the roofs of homes.

4 Do you have any experience or knowledge
5 along those lines?

6 THE WITNESS: Yeah, I don't know of any
7 projects that have done that. There may be some out
8 there but that would be, definitely be innovative, I
9 think a novel approach.

10 The thinking is if you a roof top put it on
11 the roof top. The only way it might be incompatible
12 is if you were looking at a biocrop or biofuel that
13 probably wouldn't work too well with residential homes
14 right there.

15 COMMISSIONER WONG: Thank you.

16 CHAIRMAN PILTZ: Commissioner Lezy, do you
17 have a question?

18 COMMISSIONER LEZY: Thank you, Chair.
19 Thanks for your testimony, Mr. Mikulina. Mr. Yost
20 asked you some questions about assuming that the
21 petition is approved whether you could suggest some
22 conditions.

23 And he talked about making the homes PV
24 ready or some of the homes actually PV outfitted,
25 things along those lines.

1 As we sit here today do you have any
2 estimate of what the additional construction cost
3 would be per unit if those types of conditions were
4 imposed?

5 THE WITNESS: Again, all of this needs to be
6 looked at, comprehensive cost of living, not just that
7 upfront cost but what's really the return on
8 investment, the life cycle cost of the home.

9 The easiest things to do are efficiency. I
10 forgot to mention the LEED certification would be one,
11 particularly the higher ratings for LEED.

12 Simple things like a charge spot ready and
13 PV ready, a few hundred dollars, really, particularly
14 if you're designing it from scratch, that scale. Easy
15 to do, put in the conduit, make sure the circuit
16 board's accessible. Again, that could save thousands
17 of dollars down the line when they try to retrofit
18 with photovoltaic.

19 To go further and actually put on
20 photovoltaic, what's good about doing it up front with
21 new homes and they're finding this with the solar hot
22 water mandate, is you benefit from doing it at scale.
23 Instead of buying one PV module you buy
24 5,000 inverters. You can command a pretty good price
25 for that installation. Then design it up front too.

1 So you have built the roof ready for it, optimal
2 placement.

3 And it becomes much easier to do than the
4 one off almost consignment-like PV industry they we
5 have today where they go back in, they try to redesign
6 and retrofit.

7 So that cost would probably be on the order
8 of 10 to 15,000 per home for photovoltaic system.
9 But, again, the cost for feeding electricity into
10 these homes for the next 30 years is upwards of
11 \$70,000. I think we have to compare what the real
12 cost of living is for the future residents.

13 COMMISSIONER LEZY: Thank you.

14 CHAIRMAN PILTZ: Any others, Commissioners?
15 Redirect?

16 MR. YOST: No redirect.

17 CHAIRMAN PILTZ: We have the neighborhood
18 board.

19 THE WITNESS: Thank you very much,
20 appreciate it.

21 CHAIRMAN PILTZ: Call your witness.

22 MR. POIRIER: With your kind indulgence,
23 Mr. Chair, we'd like to present three of our witnesses
24 who can't be here tomorrow. Two of them are rather
25 short and the other one's a little longer. So I'll

1 start off with the short ones if that's okay.

2 CHAIRMAN PILTZ: Okay. Let's do it.

3 MR. POIRIER: Okay. The first person is Joe
4 Francher. Joe?

5 JOE FRANCHER

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

8 THE WITNESS: I do.

9 CHAIRMAN PILTZ: Have a seat and state your
10 name and address for the record.

11 THE WITNESS: My name is Joe Francher. I
12 live at 129 Rose Street in Wahiawa.

13 CHAIRMAN PILTZ: Your witness.

14 DIRECT EXAMINATION

15 BY MR. POIRIER:

16 Q Joe, how long have you lived in Central
17 O'ahu?

18 A Five years.

19 Q How long have you been a member of the
20 Wahiawa Neighborhood Board?

21 A Three years.

22 Q Could you give us your community member
23 perspective regarding the proposed Koa Ridge
24 development?

25 A First of all, I'm not here representing the

1 Neighborhood Board.

2 Q Right, no. From a personal view.

3 A My personal view is that the housing is
4 great. The traffic is not great. I don't oppose the
5 Project itself. I oppose going ahead with the Project
6 without adequate mitigation for the traffic problems
7 it's going to create.

8 I live in Wahiawa and I work in Kaka'ako.
9 It takes me 70 minutes to get to work in the morning.
10 And I leave at 6:15. I hit Ka Uka Boulevard about
11 6:20, 6:25 usually. That's the first bottleneck. The
12 rest of the bottleneck is down mostly towards Pearl
13 City H-1.

14 Coming home in the afternoon it takes me
15 hour and a half, 90 minutes. The major part of that
16 bottleneck is back by Red Hill. But there's also a
17 slowdown at the Ka Uka Boulevard offramp going north.

18 And I see in the EIS that that particular
19 offramp area is going to get worse, go from level F to
20 level F basically, stay worse. These times that I've
21 given for my travel is now while we're in a depressed
22 economy and people are out of work.

23 When the economy does improve and the
24 unemployment rate goes back down, there will be more
25 people on the road and my travel times go up. During

1 the past few years my travel times have been ten to 15
2 minutes longer than the 75 to 90 minutes I just
3 reported.

4 I own a construction company and that's time
5 away from my business. That's a big impact on me.
6 That's well over two hours, two and a half hours a day
7 that I'm out of it, two and a half hours a day I could
8 make much better us of.

9 I don't blame Castle & Cooke for all the
10 problem in the traffic. But adding another 5,000
11 homes and the necessary vehicles that are gonna come
12 out of that, I heard somebody mention 666 vehicles and
13 that's ridiculously low. You have 5,000 homes you got
14 5,000 adults minimum. And 660 vehicles is less than
15 20 percent of those 5,000 adults. That's just
16 unbelievably low.

17 Especially if there's going to be at least
18 30 percent of the homes in the affordable area where
19 there will be, likely be one or two adults working
20 full-time jobs there's going to be a lot more traffic
21 generated from those households.

22 And the jobs are not all up in Mililani.
23 The jobs are down -- like I work in Kaka'ako. There's
24 jobs down in Waikiki. So the traffic will feed into
25 the Waiawa Interchange from the Koa Ridge Project and

1 also feed up into Koa Ridge from, going north from the
2 H-2, merge.

3 That projects an increase traffic and it
4 projects an increased time for me. And that is the
5 basis, really, of what I'm testifying today. I'm
6 opposed to increased traffic.

7 There are no mitigations that seem to be
8 firm in the EIS that I've seen. There've been
9 projected commitments from partner developers, Castle
10 & Cooke, and possibly Waiawa Ridge development. I
11 don't know if those commitments are valid or real or
12 ever will exist anymore, to improve the area's
13 upramps, offramps from H-2 to Ka Uka Boulevard.

14 The commitments from the state on
15 improvements of traffic, whether it be widening or
16 alternate routes, is not going to be there for a long
17 time.

18 There are some monies approved but state
19 Department of Transportation is also constrained by
20 the amount of funds that come from the federal
21 government. And that's slowing down greatly.

22 The major, the major alternate route, the
23 central mauka road that's been out there in the ORTP
24 for 10 years is -- well, it's never going to happen
25 because it's \$160 million -- it's the only alternative

1 that would actually reduce traffic and make the
2 increased number of housing in this area more
3 amenable.

4 I should say that living in Wahiawa I
5 appreciate the idea of housing happening down closer
6 to the Ka Uka area, Waipio area. And I appreciate the
7 increased densities that they're trying to achieve
8 down there, almost to the level of TOD's that we're
9 talking about for the rail, mostly because that helps
10 keep growth from happening closer to Wahiawa.

11 We want to try to minimize the amount of
12 growth that goes past Wahiawa if at all possible, keep
13 the country country as it were. Although that's being
14 defeated by what's happening with ACTUS lend-lease.
15 They're going hog wild with building housing over
16 there to the point that it's actually ruined the
17 education system up there where we're having to bus
18 kids off of Scofield Barracks and bring them into
19 Wahiawa to attend different schools, which is not
20 Castle & Cooke's problem.

21 I like the idea of making housing more
22 affordable. I just think there's not enough
23 mitigation to deal with traffic that will be generated
24 by this housing.

25 Do I opposes this Project? I don't oppose

1 the Project in theory. I oppose the Project going
2 forward without adequate mitigation. Thank you.

3 MR. POIRIER: Thank you, Mr. Francher.

4 CHAIRMAN PILTZ: Questions, Petitioner?

5 MR. TABATA: Petitioner has no questions.

6 CHAIRMAN PILTZ: City?

7 MS. TAKEUCHI-APUNA: No questions.

8 CHAIRMAN PILTZ: Mr. Yee.

9 CROSS-EXAMINATION

10 BY MR. YEE:

11 Q Your understanding of the traffic mitigation
12 measures is based on the information in the EIS and
13 TIAR within the EIS?

14 A Yes, sir.

15 MR. YEE: Nothing further.

16 CHAIRMAN PILTZ: Commissioners, any
17 questions?

18 MR. YOST: I don't have any questions.

19 CHAIRMAN PILTZ: Sorry, Mr. Yost.

20 Commissioner Lezy.

21 COMMISSIONER LEZY: Just one question.

22 Thank you for your testimony, Mr. Francher. I'm
23 sorry, you sit on the Wahiawa Neighborhood Board?

24 THE WITNESS: Yes, I do.

25 COMMISSIONER LEZY: And has your

1 Neighborhood Board --

2 THE WITNESS: No, we haven't.

3 COMMISSIONER LEZY: -- taken any position?

4 THE WITNESS: No, we haven't.

5 COMMISSIONER LEZY: Have you had any
6 discussions?

7 THE WITNESS: We have had discussions. They
8 usually break down into arguments about where people
9 want to go during the daytime. (Audience laughing)
10 Wahiawa is an older commun-- literally -- Wahiawa's an
11 older community. And I think I'm the youngest person
12 on the Neighborhood Board and I'm probably the only
13 one that works downtown that's on the board.

14 Actually that brings up another issue which
15 is the ripping Wahiawa General Hospital out of Wahiawa
16 and putting it into this development. It leaves us
17 without an emergency room and without inpatient care
18 and relegates us just to the long-term care center.

19 That takes jobs away and also takes a lot of
20 prestige away from Wahiawa. It makes it farther for
21 the North Shore people to get -- North Shore people to
22 travel to get care. And it no longer becomes Wahiawa
23 General. It becomes Koa Ridge something.

24 COMMISSIONER LEZY: Thank you.

25 CHAIRMAN PILTZ: Anyone else? Redirect?

1 MR. POIRIER: No.

2 CHAIRMAN PILTZ: Your next witness.

3 MR. POIRIER: Our next witness is David
4 Ellis.

5 DAVID ELLIS

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

8 THE WITNESS: I do.

9 CHAIRMAN PILTZ: Okay. State your name and
10 address for the record.

11 THE WITNESS: David Ellis. I live at
12 95-1525 Aina Makua Drive in Mililani. I'm a 35-year
13 resident. I have a short testimony this time. I made
14 the mistake when I spoke before the University of
15 Hawai'i. I wrote regular font. And I got to the
16 podium and I found I couldn't see it so I made it
17 bigger this time.

18 A couple of few short environmental concerns
19 first. I was a member of the Mililani Gun Club for 12
20 years. We shot millions of lead pellets into the air.
21 And in my case because my eyesight was bad I know not
22 where they fell. But they're still up there,
23 millions.

24 We had to close the gun club down because
25 Waiawa Prison was built and there was some concern

1 about people with loaded guns close by for their
2 clients. I don't know why. Kind of tacky, but we
3 closed down anyway. But they're still up there. The
4 pellets are still on the ground. So somebody needs to
5 look at that cleanup, environmental concern certainly.

6 The old-timers have told us on that plain
7 there were two marine divisions camped up there during
8 World War II. And marine divisions always set up
9 rifle range and hand grenade ranges.

10 There are photos, aerial photos and maps
11 showing where they were and their setup. They have it
12 in the history section of Marine Corps Base Hawai'i
13 and at Fort Shafter.

14 And as we all know at the end of World War
15 II they just dug holes and shoved things either into
16 the ground or into the ocean. And we're still paying
17 for that now. Somebody needs to find out whether
18 there's any unexploded ordnance still up there. There
19 needs to be some work in that area before we take
20 chances with a development in that area, badly, 'cause
21 there could be some major problems.

22 But the most important reason I'm here today
23 is Castle & Cooke has come to our neighborhood
24 boards -- and I'm on Neighborhood Board 35, but I'm
25 not here testifying as a member of that board. I'm

1 one of the founding members of that board. But I'm
2 here as an individual only. I'm a 35-year resident of
3 Mililani.

4 Castle & Cooke has come to our boards and
5 they have waived brochures. And they said: Here's
6 where homes are going, here's where schools are going.

7 Now, we all know from our history on boards
8 that the reason they show where schools are going is
9 because they set aside land because they're required
10 to to mitigate their impact fees. But a school's not
11 going there unless somebody builds it.

12 The state -- right now the DOE has come to
13 our boards and said: It will take five to seven years
14 in good times to build a school.

15 It's not good times. We're talking eight to
16 10 years now, at least. Anybody can remember when a
17 new school was built lately? In the last decade? So
18 the problem with schools right now: Mililani High
19 School is the third largest high school in the state.
20 Mililani Middle School is the largest middle school
21 in the state.

22 Each of the elementary schools is at 150 to
23 200 percent of its original intended capacity. We
24 can't take anybody. Right now this district is zoned
25 for Pearl City in the area where this development is

1 going in. Pearl City's middle school, Pearl City's
2 elementary schools are busting at the seams. The high
3 school is darn near it. And my wife taught there for
4 26 years so I know that for a fact.

5 So where are those kids going to go? Now,
6 the DOE has said they may redistrict. We may get them
7 anyway whether we want them or not. When my son went
8 to Mililani High School I counted 26 portables. Where
9 are they gonna go?

10 Now, there was an article I wanted to read.
11 Lester Chuck, who used to be the facilities director
12 for Department of Education, told the residents
13 long-range projections and funding are difficult
14 issues for the department.

15 "The problem is we don't know how much money
16 we are going to get from year to year." He said, "The
17 only way we're going to have adequate facilities is by
18 getting money before development takes place. We're
19 about two to three years behind where we should be
20 getting the money."

21 This was written in October '99. It's still
22 the same problem. The same issue exists eleven years
23 later. This is the Advertiser.

24 I would ask the board to consider because
25 that these special times that the developer, if this

1 development is going to be approved, be charged a
2 special assessment that they say the schools are going
3 in, let them build it or give the DOE the money to
4 build it. You guys can do that. I think you can by
5 law as a special assessment because of the special
6 times.

7 They claim the schools are going in.
8 They're selling homes saying schools are going in
9 here, although they have only set aside the land.
10 That's all. Nothing more. Well, let them build it.

11 But that's what they're selling homes
12 saying. And we have seen it done time and time again.
13 So do it. Be a man of your word. Thank you.

14 MR. POIRIER: Thank you, David.

15 CHAIRMAN PILTZ: Questions? Petitioner,
16 questions?

17 MR. TABATA: Yes, thank you.

18 CROSS-EXAMINATION

19 BY MR. TABATA:

20 Q Mr. Ellis, were you given an opportunity to
21 review any of the exhibits filed by the Office of
22 Planning?

23 A No.

24 Q So you're not aware of any agreement between
25 the Petitioner and the Department of Education?

1 A They made a presentation to our board and
2 they said that there were ongoing discussions and
3 that's the last they told us.

4 MR. TABATA: Okay. No more questions.

5 CHAIRMAN PILTZ: City, questions?

6 MS. TAKEUCHI-APUNA: No questions.

7 MR. YEE: No questions.

8 CHAIRMAN PILTZ: Mr. Yost?

9 MR. YOST: No questions.

10 CHAIRMAN PILTZ: Commissioners? Redirect?

11 MR. POIRIER: No.

12 CHAIRMAN PILTZ: Okay. Thank you very much.

13 THE WITNESS: Thank you.

14 CHAIRMAN PILTZ: Your next witness.

15 MR. POIRIER: Our last witness is Doug
16 Thomas. It's going to take Doug a little time to set
17 up. He's going to be using the slide show. Doug is
18 the chair of our planning and zoning committee. He's
19 going to be referencing or addressing Exhibits 9
20 through 15 on our list.

21 CHAIRMAN PILTZ: While we are waiting for
22 him, let me swear you in.

23 DOUG THOMAS
24 being first duly sworn to tell the truth, was examined
25 and testified as follows:

1 THE WITNESS: I do.

2 CHAIRMAN PILTZ: State your name and address
3 for the record.

4 THE WITNESS: Douglas Thomas, 95-138 Kahela
5 Street in Mililani.

6 DIRECT EXAMINATION

7 BY MR. POIRIER:

8 Q Doug, how long have you lived there in
9 Mililani?

10 A Since 1987.

11 Q How long have you been a member of
12 Neighborhood Board No. 25?

13 A Over 10 years.

14 Q Over 10 years. And you are now the Chair of
15 the planning and zoning committee?

16 A Correct.

17 Q Could you please give us your testimony.

18 A Sure. The purpose of my testimony today is
19 to provide the Commission with some background and
20 summary of the concerns that Neighborhood Board No. 25
21 has had over the years, particularly concerning the
22 provisions for regional transportation facilities and
23 services or, unfortunately, the lack thereof. And I'm
24 going to be using the slides up there.

25 In 2005 the State Legislature appropriated a

1 million dollars to prepare a transportation study for
2 Central O'ahu.

3 And just before the money was scheduled to
4 lapse we met with the DOT in order to enforce a need
5 for the release of these funds before they lapsed.

6 And at that meeting we presented the slide
7 show that we're seeing here today. This is Exhibit 12
8 in the list that you have.

9 CHAIRMAN PILTZ: Which exhibit is this?

10 THE WITNESS: Exhibit 12.

11 CHAIRMAN PILTZ: Go ahead.

12 THE WITNESS: Next slide please. Although
13 Kapolei has historically been referred to as the
14 Second City, actually the 'Ewa Development Plan
15 forecasts about 185,000 residents by the year 2030,
16 while the Central O'ahu Sustainable Communities Plan
17 forecast 189,000 residents by the same year, which is
18 greater population in Central O'ahu than in the
19 so-called "Second City". This includes the homes
20 planned for Koa Ridge and the Wahiawa side of H-2.

21 Next slide, please. Due to the increased
22 development, travel times from Mililani to Ala Moana,
23 a distance of only about 17 miles are forecast by OMPO
24 to exceed two hours each way by the year 2030. Next
25 slide.

1 We asked that the funds be released for
2 Central O'ahu Transportation Study in order to help us
3 forecast the nature and the extent of the
4 transportation issues that face us in Central O'ahu.

5 Also to identify and prioritize the projects
6 to mitigate the impact of increased development. And
7 finally, to identify what solutions are best for
8 Central O'ahu and how we can integrate those plans and
9 projects that are forecast. Next slide.

10 We believe the study should have done two
11 things. First, analyze the impact that this increased
12 development would have on the capacity of our current
13 regional transportation system and also to determine
14 the full impact that a fixed guideway system would
15 have on Central O'ahu travel times.

16 And some specific elements of the study are
17 on the next slide. First of all, we'd like to study
18 the impact of a fully-built interchange at the H-2 and
19 Ka Uka Road Overpass. Also a study about a possible
20 ingress and egress at the Waiawa Interchange for the
21 Waiawa Gentry Development.

22 And the timely construction of a Central
23 Mauka Road parallel to the H-2.

24 At this meeting we learned that this traffic
25 measure couldn't be supported with federal funds

1 because it's too close to the existing H-2. And due
2 to the local, state and budget shortfalls they've also
3 reduced the likelihood of this road ever being built.

4 Next slide, please. In January 2006 our
5 board passed a resolution requiring early construction
6 of a Kamehameha Highway/Paiwa Street connector road
7 through what's currently the Central O'ahu Regional
8 Park Plan in the 2030 ORTP. We asked that it be moved
9 up to the 2006-2015 time bin. That resolution is
10 Exhibit 9.

11 Since the road runs through the park,
12 however due to restrictions on building roads through
13 federal park using federal funds it would need to be
14 funded by the city and county, also preventing or
15 hindering the construction of that road.

16 Local residents that live adjacent in
17 Waikele to the park also oppose construction of this
18 road.

19 We also asked that the study look at
20 widening Kamehameha Highway over Kipapa Gulch. But
21 this was more from a safety standpoint than a carrying
22 capacity standpoint. Currently it's a two-lane road.
23 We would like to see it built up to a four-lane road.

24 In 2002 our board passed another resolution
25 asking for a feasibility study for the construction of

1 a park 'n ride facility on the H-2 corridor. That's
2 Exhibit 8 in your packet.

3 The purpose of this was to facilitate
4 regional transportation connectivity.

5 Next slide. The study was also to include
6 the use of possible contraflow lanes on the H-2,
7 dedicated bus lanes to the proposed park 'n right at
8 Pearl Highlands, also improved bus options with the
9 city and county hub and spoke system.

10 Next slide, please. The final elements of
11 the slide should have included a mechanism for
12 developers that pay for their fair-share of the impact
13 of the development for regional transportation
14 improvements such as was done in 'Ewa and also
15 recommendations for concurrency conditions as part of
16 any LUC decisions and/or city and county ordinances.

17 Next slide, please. As far as the makeup of
18 the study, it would have been led by consultants that
19 were retained by the State DOT and would have had an
20 advisory group consisting of area residents,
21 developers and land use and transportation officials.

22 Next slide. We ask that the study be done
23 in order to avoid the nightmare that was and continues
24 to be the traffic out in the 'Ewa Plain. Also to
25 illustrate to the residents in the state, that the

1 city and county and the state are proactively
2 addressing critical issues such as transportation
3 times and also to coordinate with the developers,
4 while planning is still underway with more likely
5 positive outcomes for the residents.

6 We asked that the study be done before the
7 money lapsed. However the money did lapse. And since
8 the study never happened many, if not most of our
9 concerns still remain unaddressed.

10 Because of this our board has passed
11 numerous resolutions to document our concerns about
12 our perception of the inadequacy of the studies to
13 date which address the regional transportation of
14 infrastructure.

15 Those are Exhibits 10 and Nos. 13 through 15
16 in your packet. And I'll just summarize what they say
17 because they're pretty lengthy.

18 Our concerns about the flexibility of
19 regional -- I'm sorry -- the ability of regional
20 transportation infrastructure to accommodate
21 additional development at the time of occupancy under
22 existing conditions.

23 We're also concerned about the timing for
24 completion of proposed traffic improvements during the
25 period of development or in most cases after

1 development has been completed. We think this will
2 lead to a replay of the traffic woes out in the 'Ewa
3 Plain.

4 And, finally, we're concerned about the
5 overall adequacy of the traffic mitigation measures
6 due to the inadequacy of the traffic studies that have
7 been done up to this point.

8 Recently the Land Use Commission has shown
9 caution and consideration of development by not
10 approving Ho'opili development.

11 In part this was due to concerns expressed
12 by the State DOT about the impact of the developments
13 on traffic congestion.

14 And since Koa Ridge and other developments
15 planned for Central O'ahu will have a similar impact,
16 we hope that Central O'ahu will be afforded the same
17 consideration concerning your deliberations on this
18 Project.

19 So, again just to wrap it up. Over several
20 years we have asked for a thorough study of the impact
21 of the continued development on traffic.

22 At one time we had the money and it was
23 reasonable to do the study but it was never done. So
24 now we're back where we are facing these two-hour
25 commutes in the future. And be happy to answer any

1 questions that you may have.

2 CHAIRMAN PILTZ: Questions?

3 MR. POIRIER: No.

4 CHAIRMAN PILTZ: Petitioner?

5 MR. TABATA: No questions.

6 CHAIRMAN PILTZ: City?

7 MS. TAKEUCHI-APUNA: No questions.

8 MR. YEE: One quick clarification.

9 CROSS-EXAMINATION

10 BY MR. YEE:

11 Q You have a reference to a million dollar
12 appropriation for DOT. Is that the state DOT or
13 county DOT?

14 A That was the state.

15 MR. YEE: Thank you.

16 CHAIRMAN PILTZ: Commissioners? Seeing
17 none, any cross? Do we have anybody else? Who's up
18 to bat?

19 MR. POIRIER: We would prefer to go on
20 tomorrow morning.

21 CHAIRMAN PILTZ: Any problem with that?

22 MR. TABATA: No objections.

23 CHAIRMAN PILTZ: Okay. Seeing none, looks
24 like we're done for the day. Tomorrow we're starting
25 at 9:30 prompt.

1 MR. TABATA: Mr. Chair?

2 CHAIRMAN PILTZ: Yes.

3 MR. TABATA: Could we find out from the
4 parties the numbers of witnesses they have remaining
5 and who they are?

6 MR. POIRIER: Okay. Tomorrow we're going to
7 have Laura Brown, Karen Loomis, Melissa Vomvoris and
8 myself.

9 MR. YOST: And Sierra Club has Professor
10 Flashbart and Professor Valenzuela.

11 MR. TABATA: Thank you.

12 MR. YOST: And in terms of the order of
13 those witnesses is it all right if we discuss that
14 with you this afternoon and evening to figure out the
15 best order in terms of witness availability?

16 MR. TABATA: We should probably do it now
17 while everybody's here.

18 MR. YOST: Does to matter to the Commission?
19 Do you want us to do it on our own? Or do you want us
20 to do it on the record?

21 CHAIRMAN PILTZ: It's not necessary. We can
22 adjourn for the day and you take care of your matters.
23 We're gone.

24 (The proceedings were adjourned at 4:10 p.m.)

25 --oo00oo--

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C E R T I F I C A T E

4

5 I, HOLLY HACKETT, CSR, RPR, in and for the State
6 of Hawai'i, do hereby certify;

7

8 That I was acting as court reporter in the
9 foregoing LUC matter on the 21st day of April 2010;

9

10 That the proceedings were taken down in
11 computerized machine shorthand by me and were
12 thereafter reduced to print by me;

12

13 That the foregoing represents, to the best
14 of my ability, a true and correct transcript of the
15 proceedings had in the foregoing matter.

15

16 DATED: This _____ day of _____ 2010

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19

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21 HOLLY M. HACKETT, CSR #130, RPR
22 Certified Shorthand Reporter

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23

24

25

