

1 LAND USE COMMISSION

2 STATE OF HAWAI'I

3 CONTINUED HEARING

4 A07-774 NORTH KONA VILLAGE, LLC)
5 'O'OMA 2nd KALOKO, NORTH KONA,)
6 HAWAI'I.)
_____)

7

8 TRANSCRIPT OF PROCEEDINGS

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11 The above-entitled matter came on for a public hearing
12 at Ballroom #1, King Kamehameha's Kona Beach Hotel,
13 75-5660 Palani Road, Kailua-Kona, Hawai'i commencing
14 at 10:00 a.m. on Wednesday, May 5, 2010 pursuant to
15 Notice.

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

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A P P E A R A N C E S

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COMMISSIONERS:

KYLE CHOCK

4

THOMAS CONTRADES

VLADIMIR DEVENS

5

NORMAND LEZY

RANSOM PILTZ (Chairman)

6

NICHOLAS TEVES, JR.

7

EXECUTIVE OFFICER: ORLANDO DAVIDSON

8

ACTING CHIEF CLERK: RILEY HAKODA

STAFF PLANNERS: SCOTT DERRICKSON

9

DEPUTY ATTORNEY GENERAL: DIANE ERICKSON, ESQ.

10

AUDIO TECHNICIAN: WALTER MENCHING

11

Docket No. A07-774 NORTH KONA VILLAGE, LLC

12

For the Petitioner: STEVEN LIM, ESQ.

JENNIFER BENCK, ESQ.

13

For the County:

BRANDON GONZALEZ, ESQ.

14

Deputy Corporation Counsel

BOBBY JEAN LEITHEAD-TODD, ESQ.

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Director, County Planning Dept.

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For the State:

BRYAN YEE, ESQ.

Deputy Attorney General

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ABBEY MAYER, Director

Office of Planning

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For the Intervenor NPS: GREGORY LIND, ESQ.

Office of the Solicitor,

21

U.S. Dept. of the Interior

National Historical Parks

22

SALLIE BEAVERS,

Kaloko-Honokohau National Historical Park

23

24

For the State:

BRYAN YEE, ESQ.

Deputy Attorney General

25

ABBEY MAYER, ABE MITSUDA

Office of Planning

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Judy Taggerty

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2 CHAIRMAN PILTZ: Good morning, ladies and
3 gentlemen. This is the Land Use Commission meeting of
4 May 5th, 2010. And we're at the King Kamehameha's
5 Kona Beach Hotel ballroom number 1. At this time
6 adoption of the minutes. Are there any additions or
7 corrections to the minutes? Seeing none, all those in
8 favor signify by saying aye.

9 VOICE VOTE: Aye.

10 CHAIRMAN PILTZ: Any dissenting vote? Okay.
11 Director, our tentative meeting schedule.

12 MR. DAVIDSON: Thank you, Chair. Couple of
13 things. May 20 on O'ahu will be a one-day meeting,
14 for your planning purposes. And then on June 4 we are
15 going to endeavor to have a three-island video
16 conference meeting with Maui, Kauai and O'ahu for the
17 approval of the Ka Iwi D&O. We anticipate resuming
18 this docket in the second meeting in June. Thank you,
19 Chair.

20 CHAIRMAN PILTZ: This is a continued hearing
21 on Docket No. A07-774 North Kona Village, LLC, 'O'oma
22 2nd-Kaloko, North Kona, Hawai'i, to consider the
23 reclassification of approximately 181.169 acres of
24 land currently in the Conservation District into the
25 Urban District at 'O'oma 2nd Kaloko, North Kona,

1 Hawai'i, Tax Map Key Nos: (3) 7-3-009:004 (portion),
2 and 7-3-009 (portion of State right-of-way) for
3 beachside residential community with mixed uses.

4 On March 3rd and 4th, 2010 the Commission
5 received written correspondence from 22 individuals.

6 On March 17th, 2010 the Commission received
7 written correspondence from Faye Daniel.

8 On April 29, 2010 the Commission received
9 OP's Second List of Exhibits and Exhibits 3, 5A, 8,
10 23, 27, and 28.

11 On May 3, 2010 the Commission received
12 written correspondence from Lorraine Kohn,
13 Petitioner's Fourth List of Exhibits, Petitioner's
14 Exhibits 81 through 95.

15 On May 4, 2010 as of 4:00 p.m., the
16 Commission received written correspondence from 22
17 individuals.

18 Let me briefly describe our procedure for
19 today on this docket. First, we'll have the parties
20 identify themselves for the record. I will then call
21 for those individuals desiring to provide public
22 testimony to identify themselves.

23 All such individuals will be called in turn
24 to our witness box, located there, where they will be
25 sworn in prior to their testimony.

1 After completion of the public testimony
2 portion of the proceedings, I will give opportunity
3 for the parties to admit to the record their new
4 exhibits.

5 After the admission of exhibits to the
6 record the Petitioner willing present its case. Once
7 the Petitioner is completed with its presentation, it
8 will be followed in turn by Hawai'i County, the State
9 Office of Planning and the National Park Service. The
10 Chair would also note for the parties and the public
11 that from time to time I will be calling for short
12 breaks as are necessary.

13 Any there any questions on our procedures
14 for today? County? Hearing none would --

15 MR. GONZALEZ: No questions.

16 CHAIRMAN PILTZ: Hearing none, we'll
17 proceed. Identify yourselves for the record.

18 Ms. BENCK: Good morning, Commissioners,
19 executive officer and deputy AG, this is Jennifer
20 Benck representing Petitioner North Kona Village, now
21 known as 'O'oma Beachside Village. And to my right is
22 Steven Lim who also represents Petitioner.

23 MR. GONZALEZ: Good morning, Mr. Chair,
24 members of the Commission and Staff. Deputy
25 Corporation Counsel Brandon Gonzalez for the county of

1 Hawai'i Planning Department. To my right is the
2 Planning Director for the County of Hawaii,
3 Ms. Bobby Jean Leithead-Todd.

4 CHAIRMAN PILTZ: Good morning.

5 MR. LIND: Good morning. This is Greg Lind
6 from the Office of the Solicitor U.S. Department of
7 the Interior, representing the National Park Service.
8 With me is Sallie Bucal, also known as Sallie Beavers,
9 acting superintendent Kaloko-Honokohau National
10 Historical Park, National Park Service.

11 CHAIRMAN PILTZ: Just for the record the
12 Office of Planning is on their way but we'll proceed.

13 Before I call on the witness let me remind
14 you that all the public testimony from March 3rd has
15 been transcribed and is part of the record.

16 Accordingly, we will first hear from those
17 who did not testify on March 3rd. For those who did
18 testify on March 3rd, the Commission would appreciate
19 it if you would confine your testimony to new
20 information.

21 In addition, a three-minute time limit on
22 testimony will be enforced. The reason for this is to
23 allow the parties to present their respective cases to
24 the Commission.

25 Just to let you know, we're operating on a

1 one-year deadline. And in order to take action on
2 this matter we have to limit the time we have for
3 public testimony. We will hear you.

4 MR. DAVIDSON: We have 75, 80.

5 UNIDENTIFIED SPEAKER: Can anybody ask
6 questions?

7 CHAIRMAN PILTZ: Pardon?

8 UNIDENTIFIED SPEAKER: If the people who
9 testified before, where are you going to put them?
10 Later tonight or are they going to go later?

11 CHAIRMAN PILTZ: As soon as we get to
12 everybody else.

13 UNIDENTIFIED SPEAKER: Oh, that's not fair.

14 CHAIRMAN PILTZ: Okay. We're going to
15 proceed now. We have 78 people that have signed up
16 for public testimony. First person will be Gabby
17 Waite followed by Megan Kaipo. So would you, Gabby
18 please come forward and Megan.

19 (Hotel staff opening room divider. Loud
20 applause).

21 CHAIRMAN PILTZ: Please hold on your
22 applause please. We have a real extensive docket
23 today. We're trying to get our work done. And the
24 applause will just delay things. Please also turn off
25 your cell phones or put it on silent mode. Okay.

1 Gabby --

2 MR. HAKODA: All three of them want to
3 testify.

4 CHAIRMAN PILTZ: Okay. Let me swear you in,
5 all three of you, please. (applause) Do you swear to
6 tell the truth before this Commission?

7 (Answering in unison) Yes.

8 CHAIRMAN PILTZ: Okay. The first person
9 identify yourself.

10 THE WITNESS: Shianne Moniz-Metcalf.

11 CHAIRMAN PILTZ: And your address please.

12 THE WITNESS: 75-5776 Kuakini Highway.

13 CHAIRMAN PILTZ: Next person.

14 THE WITNESS: I'm Gabby Waite. 77-121 Queen
15 Kalama Avenue.

16 THE WITNESS: Megan Kaipo, 75-775 -- 5776
17 Kuakini Highway.

18 CHAIRMAN PILTZ: Okay. Proceed with your
19 testimony.

20 THE WITNESS: We're here to speak for the
21 youth of Kona. 'O'oma is one of the last open spaces
22 on our island, on our side of the island. We need to
23 keep it that way, not change it from conversation
24 (sic) lands to urban. There's more than enough urban
25 land with thousands of homes already on their way. We

1 have empty businesses all over Kona. Why would we
2 need more to build.

3 THE WITNESS: Even in our lifetime we have
4 seen how much our community has changed like by the
5 beaches and because of the development. Look at Pine
6 Trees and look at Queen Liliuokalani, the land. No
7 one wants to admit it but this development is all
8 about money. No one thinks about the permanent damage
9 it is doing to our lands and to the ocean.

10 THE WITNESS: We want you to think about our
11 future, what it would mean for the future generation
12 if you turn this beautiful land into another huge
13 community. We don't want it and we don't need it.
14 Please vote to keep 'O'oma conversation (sic) land.
15 Please save it for the future. Thank you.

16 (Applause)

17 CHAIRMAN PILTZ: All right. Petitioner, any
18 questions?

19 MS. BENCK: No questions.

20 CHAIRMAN PILTZ: County?

21 MR. GONZALEZ: No questions.

22 CHAIRMAN PILTZ: Bryan?

23 MR. YEE: No questions.

24 MR. LIND: No questions.

25 CHAIRMAN PILTZ: Thank you very much. Next

1 person is Apua Hubner followed by Michael Thomas.

2 APUA HUBNER

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

5 THE WITNESS: Yes.

6 CHAIRMAN PILTZ: Have a seat. State your
7 name and address for the record.

8 THE WITNESS: My name is Apua Hubner, 74-491
9 Mamalahoa Highway. And I will do this testimony on
10 behalf of my Uncle Tyler Paikule Campbell.

11 "I would like to address the Land Use
12 Commission, the representatives and the owners of
13 'O'oma Beachside as well as the community of Kona. I
14 will not be providing any scientific or statistical
15 data regarding the use of the conversation (sic) lands
16 in the county of Hawai'i.

17 "I would just like to emphasize the common
18 sense side of this situation. No matter if you are a
19 member of the Land Use Commission or a member of the
20 'O'oma Beachside Village development and consultant
21 team, especially Mr. Peter Young, or a member of the
22 community of Kona, it is much obvious why the lands
23 are classified as conservational.

24 "These lands at 'O'oma have been classified
25 as conservation as long as I know, which was years

1 before the current landowner purchased these lands.

2 For generations these land have provided life and

3 recreation to the inhabitants of the Kekaha area.

4 "These lands continue to provide life and

5 recreation to the people of the county of Hawai'i. On

6 a daily basis youth and kupuna enjoy the open space at

7 'O'oma providing them with nutritional, spiritual

8 communal benefits.

9 "Changing these lands out of conservation

10 will most definitely have a negative impact not only

11 for the life of the land but to the health of the

12 members of the county of Hawai'i.

13 "As a former chairperson of the Department

14 of Land and Natural Resources of the state of Hawai'i

15 Mr. Peter Young is most aware of the state of Hawai'i

16 motto. "Ua mau ke ea o ka aina i ka pono o Hawai'i."

17 "As stated in both the Hawaiian Constitution

18 and the Hawai'i Revised Statutes the phrase is

19 translated into English to mean, "The life of the land

20 is perpetuated into righteousness" -- although I'm not

21 born of these lands like Mr. Young and others here

22 today --

23 CHAIRMAN PILTZ: Just a minute. Hold on.

24 Okay. (Outside hotel maintenance interruption) You

25 can continue but would you slow it down a little bit

1 so the court reporter can get all your testimony.

2 THE WITNESS: Okay. "I believe the meaning
3 of this phrase is to remind us of our kuleana to this
4 island. Ho'o Kuleana is a powerful and personal
5 movement that must be so. The Land Use Commission
6 must also have this motto in the forefront of all
7 discussions and decision-making.

8 "In 1961 the Hawai'i State Legislature
9 determined that a lack of adequate controls had caused
10 the development of Hawai'i's limited and valuable land
11 for short-term gain for the few, while resulting in a
12 long-term loss to the income and growth potential of
13 our state economy.

14 "Development of a scattered subdivision
15 creating problems of expense, yet reduce public
16 services and encumbrance of prime archaeological lands
17 to residential use are key reasons for establishing
18 the statewide zoning system.

19 "To administer the statewide zoning law the
20 Legislature established the Land Use Commission. The
21 Commission is responsible for preserving and
22 protecting Hawai'i's land and encouraging those uses
23 to which lands are best suited.

24 "As a fulltime resident of the county of
25 Hawai'i, I fully realize the hard times that we are

1 all experiencing. In hard times we must buckle down
2 and realize what's most important to use. In these
3 hard economic times we must lend a hand to our friends
4 and family. We must not sell off our first born and
5 we must not give away the 'aina we depend on.

6 "Responsible and long-term productive
7 development is needed these days. Rezoning of
8 sensitive valuable conservation land is not the answer
9 and should not be considered illegal.

10 "Mahalo to all of you for taking the time to
11 address this most important issue. To the Land Use
12 Commission, I expect you to make the correct decision.
13 And if you're not able to fulfill your required duties
14 as determined by the president of the Hawai'i State
15 Legislature in 1961, and the current administrative
16 rules and Hawaii Revised Statutes, I will ask you to
17 resign your position.

18 "As a property owner in the county of
19 Hawai'i, a taxpayer in the state of Hawai'i and most
20 importantly, a father of three kanaka ma'oli, I humbly
21 submit my testimony."

22 (Applause)

23 CHAIRMAN PILTZ: Thank you. Petitioner?
24 Hold your applause, please.

25 MS. BENCK: No questions.

1 MR. GONZALEZ: Thank you, Mr. Chair. County
2 no questions.

3 MR. YEE: No questions.

4 MR. LIND: No questions.

5 CHAIRMAN PILTZ: Okay. Next person is
6 Michael Tomas followed by Ia'n Hamer.

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

10 THE WITNESS: Aye.

11 CHAIRMAN PILTZ: Please state your name and
12 address for the record and proceed.

13 THE WITNESS: First, I'm goin' to state I'm
14 really nervous. But anyway, my name is Michael,
15 74-1064 Loloe Drive. I live in Kona. I reside in
16 Kona. I work in Kona. I'm a construction worker.

17 Anyways, my testimony's, I guess couple
18 things when you hear from your kapuna -- I never prep
19 one paper -- I just goin' say 'em. You hear our
20 kupuna talk like "Oh, boy, I remember Anaeho'omalua."
21 I remember no more nothin'. So for me I no can
22 remember that. I neva see 'em. All I remember all
23 over here by Pine Trees no more nothin', just surf.

24 Okay. I remember Kukio, those kinds of
25 places. Nowadays we feel we da downside of 'em. We

1 nevah belong ovah dare. So for this place I take my
2 kids, I raise my kids. Before, before they all, "Dad
3 where we going? Over there by Pine Trees? Yeah,
4 'O'oma. Ah, no mo sand."

5 They wen' relate but they wen' grow up.
6 It's the place we love. You know why, you turn around
7 you no can see the highway, no can see the cars. I
8 guess not remember but in your heart you feel you
9 remember how our people wen' live on these lands.
10 They grow up on these lands. No take 'em away.

11 Like for develop this place la'dat, my kids
12 going be saying the same thing like our kupuna was
13 saying, "I remember this place." So I think jus' do
14 the right thing. Get plenny other places fo' build
15 houses. Not ovah hea. It's one of the last place we
16 get left.

17 For me, my kids, how we shed one tear for my
18 kids it's a place they nevah like go ovah hea. No
19 more place fo swim. Then they found their little
20 pond. "Daddy, go move a little bit rocks, make place
21 for swim." I love this place.

22 They stop the camping. It's all right. We
23 can still can go enjoy da kine, go down there, surf,
24 crowded, dats all right. Come back ovah here little
25 while eat, go swim in this little hole two feet water.

1 We go. That's how our ancestors they made use of the
2 land how it is. Not chain 'em. So I tink over there
3 no more room for urban development. Tha's my
4 testimony.

5 (Applause)

6 CHAIRMAN PILTZ: Petitioner?

7 MS. BENCK: No questions.

8 MR. GONZALEZ: County, no questions.

9 CHAIRMAN PILTZ: State?

10 MR. YEE: No questions.

11 MR. LIND: No questions.

12 CHAIRMAN PILTZ: Ia'n Hamer followed by
13 Tracy Solomon -- I'an followed by Rebecca Villegas.
14 Okay. I'an?

15 UNIDENTIFIED SPEAKER: I'an left.

16 CHAIRMAN PILTZ: Okay. Rebecca Villegas?

17 UNIDENTIFIED SPEAKER: Tracy Solomon or
18 Rebecca Villegas?

19 CHAIRMAN PILTZ: No. Tracy, we'll have to
20 get you later. Followed by Janice-Palma -- hold on.

21 UNIDENTIFIED SPEAKER: I also have new -- I
22 also testified before, but I have new testimony and
23 letters to read from our Senator Josh Green.

24 CHAIRMAN PILTZ: And you are?

25 UNIDENTIFIED SPEAKER: Rebecca Villegas.

1 CHAIRMAN PILTZ: Okay.

2 UNIDENTIFIED SPEAKER: And I request that we
3 stay in the order if we can.

4 CHAIRMAN PILTZ: Would you sit down, please.
5 Come on up.

6 UNIDENTIFIED SPEAKER: I thought I was next.
7 Sorry.

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

11 THE WITNESS: Aye.

12 CHAIRMAN PILTZ: You have three minutes.

13 THE WITNESS: Aloha. I'm Rebecca Villegas.
14 I live 77-6639 Walua Road, Kailua-Kona, Hawai'i 96740.

15 Aloha. I humbly stand before you again
16 today. I appreciate the opportunity to speak to you
17 again. I bring new testimony, over 3,000 signatures
18 combined from humans, people that reside in this
19 community in 96740 and on the island as a whole.

20 These signatures were gathered by
21 organizations of grassroots people who fundamentally
22 believe deep within their being.

23 These organizations include Surfrider,
24 Sierra Club, A Pono Hawai'i, Kohanaiki O'hana, Hui O
25 He'e Nalu and Plan to Protect. These are powerful

1 grassroots organizations with a deep belief system
2 that the conservation zoning at 'O'oma should not be
3 changed.

4 We are pro-conservation. We are not
5 anti-development. We choose to be positive in our
6 endeavors. I have with me a letter from Senator Josh
7 Green and I'd like to read it to you.

8 "May 1, 2010. Dear Land Use Commission:
9 Please allow me to reiterate my concerns about any
10 reclassification of 'O'oma until all infrastructure
11 matters are resolved, especially transit, healthcare
12 facilities and schools.

13 "Petitions signed by over 2200 of my trusted
14 constituents are compelling. Sincerely, John Green,
15 M.D. Senator, West Hawai'i."

16 I also have with me a letter that I will not
17 read in honor of the 3-minute time constraint from
18 Stewart H. Coleman, the Hawai'i coordinator of the
19 Surfrider Foundation, also pro-conservation and in
20 opposition of any zoning change at 'O'oma.

21 I'd like to present to you also these
22 approximately now 3,000 signatures. Mahalo for your
23 time. And we do sincerely hope that you can reach
24 deep within yourselves and make the decision that is
25 pono and represents your jobs as community servants

1 and represent the will of the people in this
2 community. Mahalo.

3 (Applause)

4 CHAIRMAN PILTZ: Petitioner?

5 MS. BENCK: No questions.

6 CHAIRMAN PILTZ: County? State?

7 MR. GONZALEZ: No questions.

8 MR. YEE: No questions.

9 MR. LIND: No questions.

10 CHAIRMAN PILTZ: Next person is Calvin Dawn
11 followed by Ocean Sargis. Calvin Dawn.

12 UNIDENTIFIED SPEAKER: I'm just following
13 your rules. I'm Tracy Solomon. I don't understand.
14 You said new testimony?

15 CHAIRMAN PILTZ: Tracy, you had some
16 previous testimony on April 3rd.

17 UNIDENTIFIED SPEAKER: I've been providing
18 testimony. I've been around for three years. It's a
19 new rule I didn't know of.

20 CHAIRMAN PILTZ: Do we have Calvin Dawn?

21 UNIDENTIFIED SPEAKER: Yes.

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

25 THE WITNESS: Yes.

1 CHAIRMAN PILTZ: Would you sit down and
2 state your name and address for the record?

3 THE WITNESS: Calvin Dawn, 77-6559 Iwi
4 Circle, Kailua-Kona Hawai'i 96740.

5 CHAIRMAN PILTZ: Okay. Bring the mic
6 closer, to you, would you please. Okay. Go ahead
7 with your testimony.

8 THE WITNESS: Pine Trees is one of my
9 favorite camping and surfing spots. I love to go and
10 camp there on the weekend with all my friends and
11 family and have fun and surf. We will not be able to
12 do that if they continue to develop on and destroy
13 Kohanaiki.

14 If they build all of those houses, their
15 pesticides and trash and waste will destroy the
16 amazing sparkling waters of Kohanaiki, and turn them
17 into an underwater landfill and will be devastating
18 for all the fathers and mothers and uncles and aunties
19 and children that spend their time here at Kohanaiki.

20 This is why we should never destroy the
21 beautiful land and water of Kohanaiki.

22 (Applause)

23 CHAIRMAN PILTZ: Let me swear you in.

24 OCEAN DONALDSON-SARGIS
25 being first duly sworn to tell the truth, was examined

1 and testified as follows:

2 THE WITNESS: Yes.

3 CHAIRMAN PILTZ: Would you state your name
4 and address for the record.

5 THE WITNESS: I'm Ocean Donaldson-Sargis,
6 75-55789 Makamai Place, Kailua-Kona, Hawai'i 96740.
7 There are, like, seven thousand ahupua'as that have
8 already been developed. And, what? Like a few that
9 have not? If you develop 'O'oma there'll only be like
10 a couple native ahupua'as left. You can still develop
11 on the ahupua'as that have already been developed on.
12 Please don't develop 'O'oma.

13 (Applause)

14 CHAIRMAN PILTZ: Krista Donaldson followed
15 by Karen Eoff.

16 UNIDENTIFIED SPEAKER: Karen Eoff isn't
17 going to be here until later this afternoon. I'm
18 wondering if Tracy or myself could take their place.

19 CHAIRMAN PILTZ: We'll take the next person
20 in line. Karen Eoff followed by Cathy McMillan.
21 Krista Donaldson.

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

25 THE WITNESS: I swear to tell the truth

1 before this Commission. My address is 75-5789 Makamai
2 Place, Kailua-Kona 96740. And I'm a garden teacher.
3 And I'm co-founder of Malama Waiaha. I'm the author
4 of two books about local native Hawaiian history here
5 in Kona.

6 MS. ERICKSON: Would you slow down, please,
7 for the court reporter. Slow down, thank you.

8 THE WITNESS: And most importantly I'm a
9 mother. I'm here on behalf of Keahi, Kalani, Lana,
10 Kioni, Sydney, Jordan, Sierra, Tia and the hundreds of
11 children who are unfortunately in our public schools
12 right now and unable to attend this event.

13 We don't have buses that bring our kids to
14 these events. We don't have opportunity to work these
15 public democratic processes into our schools. So I'm
16 here to speak for the children that would like to
17 maintain open space.

18 Families and children need space, open space
19 and conservation lands to preserve safe and healthy
20 ecosystems and just for family fun.

21 Small children, my son and the other
22 children, they are wise enough to know that this land
23 should be saved as conservation space and open space.
24 I hope that you all, folks will be, will see this and
25 choose to follow the wisdom of our youngest kids that

1 were able to come here and speak out.

2 So please listen to the children. They are
3 inheriting the decisions that you make today. In the
4 words of Jordan, who could not come today -- she
5 didn't do her chores so she had to stay at the school
6 today -- on behalf of Jordan who said, "I'm really
7 worried for my grandkids." This is an eighth grader.
8 Mahalo for your time. Thank you for opening this up
9 for public discourse. Have a great day.

10 (Applause).

11 CHAIRMAN PILTZ: Thank you. Judy Taggerty?

12 JUDY TAGGERTY

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

15 THE WITNESS: I'm Judy Taggerty, 73-1065
16 Loloa Drive Kailua-Kona, Hawai'i. 96740. I didn't
17 prepare a paper and I wasn't really ready to speak.
18 But when I got here I thought I would have to say
19 something.

20 This area that's being presented today I
21 believe should be saved. There's hardly anything on
22 our island for anyone to go to to really enjoy and
23 open up. We're not like on the other islands have all
24 these beach areas.

25 I too as a youth used to frequent these

1 areas. And at that time you could camp, fish, swim,
2 do whatever and it was, just -- uhm, it was just there
3 and it was very friendly and hospitable. It was just
4 wonderful.

5 And now you go down there, I feel like I'm
6 trespassing. And we go to Anaeho'omalu. I went there
7 not too long ago with a friend and I couldn't
8 recognize the place. And these were areas we used to
9 go to and camp. And there was freshwater/brackish
10 ponds. When it's lost it's gone forever.

11 This is something, a decision you're going
12 to make, it's forever. You can't take it back. We
13 had a fellow friend that passed away and there was
14 celebration of life at 'O'oma Beach. And I had a hard
15 time just getting through the guard there to tell him
16 why I was going down there to celebrate the friend's
17 life.

18 And I mean there's going to be crossroads;
19 there's going to be deadends. It's not good, the
20 restriction. And I think it's not good for people of
21 Hawai'i. Please I ask for you not to change this
22 conservation area. Keep Hawai'i Hawai'i. That's it.

23 (Applause.)

24 CHAIRMAN PILTZ: Questions?

25 MS. BENCK: Thank you, Ms. Taggerty. Your

1 testimony was moving. I know there's been a lot of
2 maybe misunderstanding with the public on how much
3 open space is going to be left available for the
4 public to use at 'O'oma.

5 I just wanted to make sure that you had an
6 opportunity to look at the concept plan and see that
7 there's about 103 acres of open space that are going
8 to be left open. In fact the shoreline park will be
9 completely available for public use. I just wasn't
10 sure if you had seen the concept plan.

11 THE WITNESS: Okay. Yeah. Even now with
12 our roads and stuff, in order to get downtown I just
13 hate to drive on the roads. I have to go early in the
14 morning to go shopping or late at night.

15 And with development you're going to have
16 increased traffic. That's a major problem we have
17 here in West Hawai'i. (Audience applauding)

18 And we don't want to bring in this
19 population. You know, sanitation, the water,
20 everything, it's going to be adding more pressure to
21 what we have already burdened. Our infrastructure
22 just can't handle it. And that's a second concern.
23 So...

24 MS. BENCK: Thank you.

25 THE WITNESS: My main thing is for the land,

1 gotta keep it.

2 CHAIRMAN PILTZ: County?

3 MR. GONZALEZ: County, no questions.

4 CHAIRMAN PILTZ: State?

5 MR. YEE: No questions.

6 MR. LIND: No questions.

7 CHAIRMAN PILTZ: Next person is Danielle
8 Onaga followed by Matthew Solomon.

9 DANIELLE TAGERTY-ONAGA

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

12 THE WITNESS: Yes.

13 CHAIRMAN PILTZ: Have a seat. State your
14 name and address for the records.

15 THE WITNESS: My name is Daniel Taggerty-
16 Onaga, 73-1065 Loloe Drive. Same as my mom. Yeah,
17 life-long resident born and raised here in Kona. I
18 oppose the reclassification of 'O'oma. And, yeah, it
19 is neither wanted or needed.

20 CHAIRMAN PILTZ: Okay. Questions?

21 MS. BENCK: No questions.

22 MR. GONZALEZ: No questions.

23 MR. YEE: No questions.

24 MR. LIND: No questions.

25 CHAIRMAN PILTZ: Thank you. Matthew Soloman

1 followed by Dorothy Weber.

2 UNIDENTIFIED SPEAKER: Hi. Matthew had to
3 leave.

4 CHAIRMAN PILTZ: Okay. Dorothy Weber
5 followed by Nancy Sweatt.

6 DOROTHY WEBER
7 being first duly sworn to tell the truth, was examined
8 and testified as follows: swear to tell the truth
9 before this Commission

10 THE WITNESS: I do.

11 CHAIRMAN PILTZ: Have a seat. State your
12 name and address for the record.

13 THE WITNESS: My name is Dorothy Weber. I
14 live at 75-6009 Ali'i Drive. I've taken time off work
15 this morning to ask you to allow this Project to move
16 forward. I am in support of 'O'oma being reclassified
17 from conservation to urban.

18 I firmly believe that the county of Hawai'i
19 and the state of Hawai'i need to be proactive in
20 encouraging Smart Growth in all development along the
21 pristine shorelines of Hawai'i. 'O'oma is that Smart
22 Growth-planned development.

23 I have been watching the progress of this
24 Project since 2006 when I gave input to a consultant
25 on what type of community I would like to live in. I

1 dreamt of living on the ocean in an affordable home
2 where I could walk to the grocery store, pick up my
3 mail at the post office, listen to music in the park
4 and enjoy walks along the beach in the evenings.

5 If 'O'oma is built I can realize that dream
6 and feel good about the light impact of development on
7 this land.

8 I would feel good knowing that I bought a
9 home in a community that planned and thought outside
10 of the box to set Best Practices for shoreline
11 setbacks. This developer plans 1100 feet to 1700 feet
12 setbacks. That is significant as it protects and
13 preserves our shoreline while allowing access for the
14 public to come and enjoy the beach.

15 If I live at 'O'oma I will be proud knowing
16 my home was built on the Best Practices of leading
17 Smart Growth planners where building green is not just
18 a concept thrown around but is applied to its fullest.

19 I ask you to allow this development to move
20 forward so that I and many like me can realize a
21 dream to live at 'O'oma Beachside Village, a planned,
22 Smart Growth community.

23 (Audience indistinct comments)

24 CHAIRMAN PILTZ: Can you hold on? You know,
25 have some respect for the other speakers. They're

1 listening to you. We all listened to you. And have
2 some respect for the Commissioners. We need to hear
3 it all. And cat calls and laughter and clapping
4 does... not... help... our... situation. Please.
5 Sorry. Continue.

6 THE WITNESS: Thank you. That was all I had
7 to say.

8 CHAIRMAN PILTZ: Thank you very much.

9 MS. BENCK: No questions, thanks.

10 CHAIRMAN PILTZ: County?

11 MR. GONZALEZ: County, no questions.

12 MR. YEE: No questions.

13 MR. LIND: No questions.

14 CHAIRMAN PILTZ: Okay. Nancy Sweatt.

15 UNIDENTIFIED SPEAKER: She had to leave to
16 go to the doctor. She said she'll be back later.

17 CHAIRMAN PILTZ: Okay. Claire Inman.

18 Followed by next person's spelling name is F-a- I
19 can't make it out -- last name M-a-m-y -- or M-a-n. I
20 don't know. Sorry.

21 CLAIRE INMAN

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

24 THE WITNESS: I do.

25 CHAIRMAN PILTZ: Please have a seat. State

1 your name and address for the record.

2 THE WITNESS: My name is Claire Inman. I
3 live at 75-229 Mauna Lani Drive. And I'm here to
4 oppose urbanization of that area. I just believe it
5 compromises the integrity of the beauty of all that
6 area. Thank you.

7 (Applause)

8 CHAIRMAN PILTZ: Any questions?

9 MS. BENCK: No questions.

10 MR. GONZALEZ: No questions.

11 MR. YEE: No questions.

12 MR. LIND: No questions.

13 CHAIRMAN PILTZ: Is there a Faith or Fay?

14 Sorry, can't read the name. Next person will be Frank
15 Delaney (phonetic) followed by Joy Delaney.

16 FRANK D. DEYOUNG

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

19 THE WITNESS: You bet. My name is Frank
20 DeYoung y-o-u-n-g. I live at 77-5778 Wai'ola Place.
21 And I don't think I checked on there to testify. I
22 was here to witness what's happening. I'm glad I'm
23 here. I'm glad I'm standing before all you. And I
24 really -- well, I'm here because I support our
25 protection of the shoreline of Hawai'i.

1 I oppose the commodification of our lands.
2 And feel pretty strongly about that. And I just want
3 to -- I don't even know -- I'm really rushing right
4 now. I'll just have a seat.

5 But I think it's super, super important you
6 guys realize that, I know it's already said, maybe a
7 little redundant and I know I'm not the only one that
8 thinks this, but this is a huge, huge thing.

9 Like you guys go: Oh, yeah, it's okay you
10 build all this stuff. And then you get all this
11 runoff or however smart and green your beautiful
12 little pipe dream condos are. It's still, like, that
13 land is gone. That land is turned into houses.

14 That land is not something we can just walk
15 on. That's not conversation -- conservation. That's
16 the word right there. Conservation for now, for the
17 future.

18 And you don't even know the impact that
19 bringing all those houses and all that development
20 into that area is gonna have down the road. It's
21 obvious that it's not wanted right now by a large
22 portion of this community, a large portion that's not
23 here saying anything. So I hope that you guys keep it
24 conserved. I speak for Joy DeYoung as well.

25 CHAIRMAN PILTZ: All right. Any questions?

1 MS. BENCK: No questions.

2 MR. GONZALEZ: No questions.

3 MR. YEE: No questions.

4 MR. LIND: No questions.

5 (Applause)

6 CHAIRMAN PILTZ: Next person will be Esta
7 Marshall followed by Ted Leaf. Esta?

8 ESTA MARSHALL

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

11 THE WITNESS: I will.

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

14 THE WITNESS: My name is Esta Marshall. I
15 live on the road down to the City of Refuge, City of
16 Refuge Road in Ho'onaunau.

17 So what am I here to tell you, I think that
18 I require of you that you leave 'O'oma in your
19 protective conservation classification. I've been
20 here over 30 years. This is the third time we're
21 having, we're making a mountain out of a mole hill.
22 Twice we won.

23 I mean it seems to me that you are required
24 to take up any application but you're not required to
25 make a reclassification. Twice before it was refused.

1 And these were two public victories to the last two
2 decades and the reasons are the same, maybe even worse
3 now because there's less and less place for all of us
4 to go and to play. You've heard that.

5 I also want to say that this is a
6 developer-generated plan. And as far as I know they
7 didn't follow the protocols that I spent a year
8 working of my life on this Kona Community Development
9 Plan.

10 I also know that it's not -- you cannot
11 require that if you would change the classification,
12 and if they start building -- you can't say: Well, if
13 it's not built the way you say da-da-da-da-da in two
14 or three years we are going back. You can't do that.
15 That's not what you do. What you do is keep the land
16 in conservation or you change it.

17 But we have no way of knowing if these
18 people are gonna do what they say or if they're going
19 to subdivide it, sell it to God knows who. You know,
20 really, it's really important that you remember that
21 the public land at this point that's in conservation
22 there's less and less of it. There's -- it's really
23 required that you, that you don't in any way change
24 the situation.

25 I also wanted to say that we don't need any

1 improvements at 'O'oma. It's perfect the way it is.

2 Have you been there?

3 (Audience hooting and clapping)

4 It's really a beautiful place, you know.

5 And the waters there are the cleanest and the most

6 perfect. It's getting to be an issue, you know.

7 There's fish farming. God knows the 35 years I've

8 been here it's terrifying to see the degradation of

9 our island.

10 And here you are able to just say no. And I

11 just hope that you understand that when these people

12 bought it they knew very well that they were owning

13 conservation land. They didn't buy it to build a

14 city. All right?

15 Therefore, you have -- I see no

16 justification whatsoever in making a reclassification

17 because these people have applied. And there you are.

18 CHAIRMAN PILTZ: Thank you. Questions?

19 (Audience loud clapping)

20 MS. BENCK: No questions.

21 MR. GONZALEZ: No questions.

22 MR. YEE: No questions.

23 MR. LIND: No questions.

24 CHAIRMAN PILTZ: Okay. Curtis Muraoka.

25 Curtis? Followed by Glennon Gingo.

1 xx

2 CURTIS MURAOKA

3 being first duly sworn to tell the truth, was examined
4 and testified as follows:.

5 THE WITNESS: I cannot tell a lie.

6 CHAIRMAN PILTZ: State your name and address
7 for the record.

8 THE WITNESS: I'm Curtis Muraoka. I'm
9 co-director of West Hawai'i Explorations Academy. And
10 I'm speaking in my capacity as co-director. The
11 address is 73-4460 Queen Ka'ahumanu Highway, No. 105,
12 probably the longest address of any public school.

13 I'm speaking in favor of the 'O'oma
14 development. And I apologize to my friends, family
15 and neighbors and hopefully that this is a respectful
16 disagreement because this is America.

17 The reason I speak in favor of it is that I
18 was on the citizens advisory group that helped
19 Mr. Moresco kind of conceptualize, go through some of
20 the pieces of the plan as they were thinking about
21 moving forward.

22 And one of the pieces is a public charter
23 school. This is a detail that -- this is a detail
24 that most people don't consider when they come in and
25 create a development, that they would like to create a

1 neighborhood school that fuels and serves as a glue
2 for the community that they're trying to build. Most
3 of the assumptions are that the DOE school will take
4 over and will take care of the kids there.

5 So I'm speaking primarily on that particular
6 element as being a really good idea. That's the basis
7 of my support for Mr. Moresco.

8 The other pieces that I would like to point
9 to have already been pointed out in a lot of the
10 testimony, the far setback being the one that I like
11 in particular. Because we've seen the degradation at
12 Kohanaiki with our project work for our students.

13 And I have some former students in the
14 audience. They know what I'm talking about. That is
15 not something I am in favor of, degradation of
16 coastlines, conservation areas.

17 And when I looked at the plan that
18 Mr. Moresco had, he had taken, in my view, a lot of
19 time to address those concerns.

20 CHAIRMAN PILTZ: Thank you. Questions?

21 MS. BENCK: No questions.

22 MR. GONZALEZ: County, no questions.

23 MR. YEE: No questions.

24 MR. LIND: No questions.

25 CHAIRMAN PILTZ: Thank you. Glennon Gingo

1 followed by Hawaii Island -- Gene Leslie? Glennon?

2 THE WITNESS: Yes.

3 GLENNON GINGO

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

6 THE WITNESS: I do.

7 CHAIRMAN PILTZ: State your name and address
8 for the record.

9 THE WITNESS: Glennen Thomas Gingo,
10 G-i-n-g-o. Thank you. I appreciated hearing Curtis'
11 remarks. I have spent a good part of my life running
12 educational programs. Some people labeled me a reef
13 hugger. Some people labeled me a tree hugger. But the
14 one thing I've done is with values and actions.

15 I've worked with lots of kids. Some of the
16 parents are in this room of the kids I've worked with.
17 I've worked on shorelines from the ahupua'as
18 throughout Ho'onaunau, Kealakekua, all the way north,
19 'O'oma, Kawaihae. And I have worked with hundreds of
20 kids over the last 16 years.

21 My emphasis has always been shoreline first
22 because that's our pathway. A lot of people focus on
23 the land only. They don't realize what exists past
24 the beach area and the shoreline.

25 I would be the first to be called to action

1 and protest if I felt the development at 'O'oma didn't
2 take the steps to ensure the highest level of water
3 quality with their own water treatment plant.

4 Actually you could ask the DPW of our county
5 at what level the treatment will be done on that
6 development as it compares to our own wastewater
7 treatment plant, which is near the police station.

8 I do support the Project. You have every
9 right to boo me or throw hot coffee on me at
10 Starbuck's if you like. But I speak my word. People
11 that know me in this room know I will speak my mind.
12 And I will do that.

13 I do have the same concerns on water
14 quality. I have the same concerns on education for
15 our children and shoreline. I see the mistakes that
16 have been made. A lot of people have tried to compare
17 this Project to Anaeho'omalu Bay. They have tried to
18 compare it to Kukio. They've tried to compare it to
19 Four Seasons in Hualalai. It's not the same.

20 If you look at the setback, if you look at
21 the open space there's no comparison. It's the
22 comparison in our favor as citizens. People that like
23 to access the shoreline, other than those that can
24 afford a 4-wheel drive truck with a 16-inch ground
25 clearance.

1 So my support for 'O'oma is to the request
2 to reclassify the Project. We cannot afford to pass
3 on opportunities that are well-planned, akamai
4 developer can do for us. We do have an unprecedented
5 setback.

6 If you don't agree with that, take a look at
7 the map. Do the research, as I have done. Look at
8 the wastewater treatment plant. Look at water quality
9 on the shoreline.

10 If all of you have lived here long enough
11 you know that if you jumped in the water on Ali'i
12 Drive you'd still be dealing with untreated wastewater
13 that spills off onto the reef.

14 That's not going to happen with the proper
15 wastewater management. So you don't like development,
16 folks, don't shop at Costco, don't go to Sports
17 Authority, don't shop at any other places in town.
18 Because if I felt the same way about development I
19 wouldn't shop there either. So thank you very much
20 for allowing testimony.

21 CHAIRMAN PILTZ: Thank you. Questions?

22 MS. BENCK: No questions.

23 MR. GONZALEZ: County no questions.

24 MR. YEE: No questions.

25 MR. LIND: No questions.

1 UNIDENTIFIED SPEAKER: I have a question.

2 THE WITNESS: (Still on the stand) Am I
3 being cross-examined by the audience?

4 CHAIRMAN PILTZ: No, you don't. You can do
5 it outside. Gene Leslie followed by Fritz Glade.

6 UNIDENTIFIED SPEAKER: I have a question.
7 Is there any requirement about the getting a paycheck
8 from the developer?

9 CHAIRMAN PILTZ: Ma'am, you have your turn
10 to speak. If you signed up you'll be given a turn.

11 UNIDENTIFIED SPEAKER: You asked if there
12 were any questions.

13 CHAIRMAN PILTZ: Not you, Ma'am.

14 UNIDENTIFIED SPEAKER: Excuse me.

15 CHAIRMAN PILTZ: We have the Petitioner, the
16 County, the State, and the Intervenors. Okay. Gene
17 Leslie? Fritz Glade? Marni Herkes? (Lights
18 flickering) We'll take a five minute recess.

19 (Recess was held. 11:15)

20 CHAIRMAN PILTZ: We're back on the record.
21 First person is Marnie Herkes.

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

25 THE WITNESS: I do swear to tell the truth.

1 CHAIRMAN PILTZ: Your name and address.

2 THE WITNESS: My name is Marni Herkes.

3 75-5721 Mamalahoa Highway, Holualoa, 96725.

4 I'm testifying this morning for myself. I
5 sent written testimony in before and I have other
6 things to add. I'm taking very seriously the "swear
7 to tell the truth" and I hope everyone will because
8 we're on record to tell the truth not as we see it but
9 the truth.

10 We do know that the planning director of our
11 county is a decision-maker as far as plans outside
12 after the Land Use Commission. We have a community
13 development plan in Kona that's award winning.

14 Hopefully we will soon have a design center
15 set up to advise the planning director on the
16 applicability of plans relating to the Kona Community
17 Plan.

18 We just had a presentation -- I'm on the
19 action committee but not speaking for them -- we just
20 had a presentation by consultants that have taken all
21 of the improvements for the -- or developments or
22 investments in the urban area, the transit-oriented
23 development of the Kona plan and made a proposal to
24 build it out.

25 'O'oma's part of that, but all of it is part

1 of it. The question I asked is whether there would be
2 open space left. They said, "Yes, there's a lot of
3 open space left, but we need to designate it." So we
4 already know that we will have open space after a full
5 build-out of the urban area of our Kona Community
6 Plan.

7 So I just hope that you'll take into
8 consideration that for Hawai'i County the planning
9 director decides what fits with the Kona Community
10 Plan. We can make every effort to make different
11 decisions and to make things comply or make things
12 better with the plan, but the planning director does
13 make the decisions.

14 Thank you very much for the opportunity to
15 testify.

16 CHAIRMAN PILTZ: Thank you. Questions by
17 Petitioner?

18 MS. BENCK: No questions.

19 MR. GONZALEZ: Nothing from the county.

20 CHAIRMAN PILTZ: State?

21 MR. YEE: No questions.

22 CHAIRMAN PILTZ: Intervenors?

23 MR. LIND: No questions.

24 CHAIRMAN PILTZ: Thank you. Jesse Hughes?

25 JESSE HUGHES

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

3 THE WITNESS: Yes.

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

6 THE WITNESS: Jesse Hughes, 77-155 Kaipoi
7 Place Kona, Hawai'i. Hi. I'm a Kona resident here, a
8 boat captain, a dive master and a soon-to-be graduate
9 from the University of Hawai'i with a degree in marine
10 science.

11 Although this land proposed is the most
12 sustainable development plan we have seen yet on this
13 island, the location is inappropriate and
14 irresponsible. The 'O'oma land is currently
15 classified as conservation land and is one of our last
16 pieces of the conservation land from here to the
17 airport.

18 The land represents not only culture
19 importance but also has a recreational use for this
20 whole community. If we change the status of this
21 land, what's next? The development of our state
22 parks? The 'O'oma conservation land is important to
23 this community and should be kept preserved for the
24 enjoyment of future generations. Thank you.

25 (Applause)

1 CHAIRMAN PILTZ: Thank you. Petitioner,
2 questions?

3 MS. BENCK: No questions.

4 CHAIRMAN PILTZ: County questions?

5 MR. GONZALEZ: No questions.

6 MR. YEE: No questions.

7 MR. LIND: No questions.

8 CHAIRMAN PILTZ: Diane Cochran?

9 DIANE COCHRAN

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

12 THE WITNESS: I certainly do.

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

15 THE WITNESS: Good afternoon. My name is
16 Diane Cochran. My address is 77-297 Kalani Way,
17 Kailua-Kona 96740. Drop me a line if you like.

18 (Laughter)

19 I'm totally opposed to developing this area.
20 We don't have enough open space left. And I'm really
21 concerned about the lack of guarantees that the people
22 that want to develop. I mean their plan looks great
23 but what guarantee that they're going to follow the
24 plan?

25 I've heard developers here promise this and

1 that. It doesn't always come through this way. Maybe
2 the intent is good. But intentions are not always
3 realized. And because the developers have good
4 intentions doesn't mean good things will come of it.

5 I'm very concerned even as a person -- how
6 do you get to sell conservation land? That doesn't
7 even seem like it could be legal. Conservation land
8 should not even be for sale I would think. That's
9 something someone might look at one day.

10 (Audience laughter).

11 Who buys conservation land? Oh, I'm going
12 to buy a piece of conservation land with utter respect
13 for the people that make it conservation land and
14 leave it conservation land. I'm just going buy
15 conservation land because I need to get rid of some
16 money. (Laughter).

17 No. People buy conservation land because
18 they want to develop it, meaning they have already
19 disrespected the people's wishes that want to make it
20 conservation land. You know? There's a reason it's
21 conservation land in the beginning.

22 It should never have been sold. I feel
23 sorry for the poor developers that get sold a piece of
24 land, they're really not going to get to develop it.
25 Injustice. Thank you for listening to me. You all

1 have a good day.

2 (Loud applause)

3 CHAIRMAN PILTZ: Petitioner, questions?

4 MS. BENCK: No questions.

5 CHAIRMAN PILTZ: County?

6 MR. GONZALEZ: No questions.

7 CHAIRMAN PILTZ: State?

8 MR. YEE: No questions.

9 MR. LIND: No questions.

10 CHAIRMAN PILTZ: Thank you. Cynthia Hose or
11 Hughes?

12 UNIDENTIFIED SPEAKER: She had to leave and
13 go back to work. Okay. The next person is Cheryl
14 Kornberg.

15 CHERYL KORNBERG
16 being first duly sworn to tell the truth, was examined
17 and testified as follows:

18 THE WITNESS: I do.

19 CHAIRMAN PILTZ: Go ahead.

20 THE WITNESS: My name is Cheryl Kornberg and
21 I live at P. O. Box 1433, Kailua-Kona.

22 CHAIRMAN PILTZ: Go ahead.

23 THE WITNESS: Thank you very much for being
24 here, and thank you for having it in Kona. It makes
25 an opportunity for all of us to be here that are in

1 opposition to changing this from conservation.

2 Thank you for letting me speak my piece. I
3 camp there, I hike there. It's the most special place
4 on this coastline. And I think we should really keep
5 it in conservation. It's important for us to have the
6 open space. Once it's gone it's gone. The kids don't
7 have anything.

8 Soon you get development in they start
9 restricting access sometimes. You can't camp, maybe
10 once a month. I have apprehensions about what they
11 say they're going to do. Very likely they're going to
12 sell it, turn it into a resort, maybe another hotel,
13 do some golf course.

14 So I have this concern about the runoff.
15 They say runoff never goes from the golf courses into
16 the water. But, you know, do we really know that? Is
17 it always really protected?

18 I think the whole community has questions
19 about where this is going to really go. And, you
20 know, they say: Hey, we'll do this, we'll do that,
21 we'll make guarantees. We have seen developments in
22 this county say: I'll put a road in. Didn't do it.

23 People fall on hard times, they have to sell
24 and this Project won't go through as they say. So I
25 say keep it in conservation just like where it was

1 supposed to be, like the lady said right before me,
2 you know. That's what conservation is. Save it for
3 the people. Once it is gone it is gone. Thank you.

4 (Applause)

5 CHAIRMAN PILTZ: Petitioner?

6 MS. BENCK: No questions.

7 CHAIRMAN PILTZ: County?

8 MR. GONZALEZ: No questions from the county.

9 MR. YEE: No questions.

10 MR. LIND: No questions.

11 CHAIRMAN PILTZ: Thank you. Jeffrey

12 Keana'aina? Okay, no. Jeffrey J. Akahi. They're all

13 gone? Okay. Russ Robinson followed by Nate Clark.

14 Russ?

15 UNIDENTIFIED SPEAKER: Akahai Keana'aina.

16 CHAIRMAN PILTZ: I'm sorry?

17 UNIDENTIFIED SPEAKER: Keana'aina.

18 CHAIRMAN PILTZ: And you're Jeffrey?

19 UNIDENTIFIED SPEAKER: No, I'm below him.

20 I'm Akahai.

21 CHAIRMAN PILTZ: Okay. All right.

22 UNIDENTIFIED SPEAKER: Aloha. 'Oia'i'o

23 kou--

24 CHAIRMAN PILTZ: Let me swear you in, sir.

25 AKAHAI KEANA'AINA, JR.

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

3 THE WITNESS: What was that again?

4 CHAIRMAN PILTZ: Do you swear to tell the
5 truth before this Commission?

6 THE WITNESS: For over sixty years --

7 CHAIRMAN PILTZ: Sir --

8 THE WITNESS: -- I have sworn to tell --

9 CHAIRMAN PILTZ: -- would you answer --

10 THE WITNESS: -- the truth.

11 CHAIRMAN PILTZ: Okay.

12 THE WITNESS: Today is no difference.

13 CHAIRMAN PILTZ: Okay.

14 THE WITNESS: I'm the kahu of Kekaha
15 Protestant Church, the parish of Honokohau to
16 Anaeho'omalu. I am the kahu. The property that you
17 taking about, 'O'oma, 'O'oma means, the definition
18 "cultivation." 'O'oma means "culture." That's what
19 it means.

20 Now if these people here don't know what it
21 means, then they're not telling the truth. But today
22 I would like to tell you the truth. I grew up here in
23 Kona. Over 60 years I have been here. I have walked
24 the land. I have saw the burials on the property. We
25 lived there. We moved. We are all 'ohana. From

1 Anaeho'omalu to Honokohau is one family.

2 I am heir and successor of Kamehameha Ekahi.

3 And today I am telling you the truth that I don't like

4 the development. I don't. It's enough. Hewa that

5 was brought to Hawai'i. Too much our taxes go up and

6 they don't care. All they want is their money. And

7 they walk away and leave us here hanging with the

8 problem. But the truth is the truth. Don't give in.

9 'O'oma belongs to the people. It does not

10 belong to any commission or state or county. It

11 belongs to the people. It means 'O'oma, cultivation,

12 conservation. It belongs to you.

13 It doesn't mean that I am saying this to

14 spite anyone. But I am telling the truth. Because He

15 who said, "I am the way, the truth and the life," is

16 what this young man asked of me today to swear to tell

17 the truth. And his name is Jesus. Ke Akua.

18 So I'm not going to go into development

19 because I don't like it. I'm going to ask of you to

20 continue to push no development, especially in 'O'oma

21 because you have been asking for that.

22 And we have brought this up in 142 nations

23 that I am working with with prayer that this

24 development will not succeed the same as Kohanaiki.

25 Kohanaiki, "I am one" that they're not able to

1 develop. It's in the Bureau of Conveyances. And I
2 will not allow any development there outside of our
3 people Hawai'i mahalo.

4 (Applause). Any question?

5 CHAIRMAN PILTZ: Petitioner?

6 MR. LIM: Kahu, good morning.

7 THE WITNESS: Good morning.

8 MR. LIM: Did your family participate in the
9 good faith agreement for Kohanaiki? I see some
10 signatures by Keana'aina family, Anna and Francis.

11 THE WITNESS: That is my family, yes.

12 MR. LIM: So they agreed with the county and
13 the developer in that case to develop Kohanaiki with
14 an open front park area fronting the ocean?

15 THE WITNESS: A'ole. That means no.

16 MR. LIM: Isn't that what they're doing now?

17 THE WITNESS: Well, they're trying to.

18 MR. LIM: Right.

19 THE WITNESS: That's all they're doing.
20 They're trying.

21 MR. LIM: But they did sign the good faith
22 agreement for development of Kohanaiki.

23 THE WITNESS: I have not agreed to that.

24 MR. LIM: Not yourself but other family
25 members?

1 THE WITNESS: I am, my name is on the
2 property, not the rest of the Keana'aina.

3 MR. LIM: Okay. I understand. Thank you.
4 No further questions.

5 THE WITNESS: Thank you. Any other
6 question?

7 CHAIRMAN PILTZ: County?

8 MR. GONZALEZ: No questions.

9 CHAIRMAN PILTZ: State?

10 MR. YEE: No questions.

11 MR. LIND: No questions.

12 CHAIRMAN PILTZ: Thank you, Kahu.

13 THE WITNESS: Thank you.

14 CHAIRMAN PILTZ: Next person is Russ
15 Robinson followed by Nate Clark.

16 THE WITNESS: I'm Russ Robinson.

17 RUSS ROBINSON

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

20 THE WITNESS: Yes. I've lived in Kona for
21 nine years. I've been a member of Kona Outdoor Circle
22 for eight of those years, a member of the Kona Lodge
23 of Masons for eight of those years. And I've been a
24 member of a national group known as the Pickens Army
25 for about three years.

1 I mention those not because I speak for any
2 of them because I don't. I just want you to know my
3 'ohana.

4 I believe in the definition of conservation
5 that says "Conservation is the wise use of resources."
6 Based on that I oppose this plan because I think that
7 building more houses in Kona is lolo.

8 The motivation for this Project is greed.
9 Comes from the commission earners, the real estate
10 people, the mortgage-makers and so forth who get a
11 commission as the property turns over and over and
12 over. But it isn't real economy. It may be great for
13 their pocketbook but it doesn't help the overall
14 economy of our community.

15 Building houses is kind of like a railroad
16 company building passenger cars when they don't have
17 locomotives to pull 'em.

18 We do that and we overload our
19 infrastructure, but we don't have an economic engine
20 to drive our community to pay for the infrastructure,
21 to maintain the infrastructure, to keep our kids in
22 school full time, et cetera.

23 What we need is an industry. So if you must
24 take this land, if it's such a crisis in the economy
25 that we have to do something to save our community,

1 then put in an industry, not houses.

2 I would argue that the industry that you
3 should consider is one which uses abundant natural
4 resources in Hawai'i to make products that we sell to
5 Asia and that we use to stabilize our agriculture and
6 our economy.

7 I would promote an energy industry that uses
8 the water in the ocean. As a former chemistry teacher
9 at Kealakehe High School I can tell you two out of
10 every three atoms and every molecule of water in the
11 ocean out there, there's more molecules in the ocean
12 than you or any human being can even imagine, two of
13 those molecules are hydrogen. One's oxygen.

14 Hydrogen and oxygen can be separated using
15 electricity. Well, where you going to get the
16 electricity? I say from the tradewinds, from the
17 tropical sun, from the waves that beat on our shores,
18 from the heat from the volcano.

19 That electricity can be wheeled to a plant
20 made into hydrogen and oxygen. Hydrogen used to run
21 the tugboats that bring our goods, run the trucks, run
22 the cars, run the buses.

23 It even can be put into the generating
24 plants that we have now to replace oil and make
25 electricity again.

1 But to take this land for houses is not wise
2 use of a resource. If the emergency is so great, then
3 let's build an energy industry that cuts down the flow
4 of money that leaves our economy to buy oil that
5 increases the flow of capital that comes from Asia.

6 Let's get back some of the money that
7 Wal-Mart sends over there and build a strong
8 community, run our schools fulltime, maintain our
9 parks like the beach park, maintain our roads, build
10 new schools like a college campus on this side.

11 That would be a much wiser use of our
12 resource, not the greed of the real estate industry
13 and the developers who want to take our land and run.

14 Please remember the Polynesian proverb, "The
15 canoe is an island and the island is a canoe." While
16 you're talking about that remember the picture taken
17 by the astronauts 40 years ago called Earth Rise, a
18 picture of the Earth in space with a barren Moon
19 below. That's our canoe. That's our island of life.
20 It's the only island of life 6,500,000,000+ human
21 beings know about.

22 Finally, "Ua mau ke ea i ka aina i ka pono."
23 Pardon be for the lousy pronunciation but I am a
24 haole. "The life of the land is perpetuated in
25 righteousness." That is our state motto. Mahalo.

1 CHAIRMAN PILTZ: Thank you. Petitioner?

2 (Applause)

3 MS. BENCK: No questions.

4 CHAIRMAN PILTZ: County?

5 MR. GONZALEZ: No questions?

6 MR. YEE: No questions.

7 MR. LIND: No questions.

8 CHAIRMAN PILTZ: Thank you. Nate Clark

9 followed by Ian Hamar.

10 NATE CLARK

11 being first duly sworn to tell the truth, was examined

12 and testified as follows:

13 THE WITNESS: Yes, I do.

14 CHAIRMAN PILTZ: State your name and address

15 for the record. Have a seat.

16 THE WITNESS: Nate Clark. 73-1171 Ahikawa

17 Street, Kailua-Kona, Hawai'i, 96745.

18 I've been a resident here in Kona for about

19 two years now. I by no means can claim that I have

20 history here in the islands.

21 At the same time I found a peace in the

22 ocean and the natural space around here unlike

23 anything I've ever experienced anywhere in the world.

24 I've done quite a bit of traveling.

25 Years and years of outdoor education have

1 really shown me a lot of power and ability and energy,
2 whatever you want to call it, in the natural spaces
3 that really cannot be found in urban, commercialized
4 areas. It's changed my life. It's changed the lives
5 of many people. I've worked in many different
6 settings in that aspect. And I really think it would
7 be a travesty to lose a lot these spaces.

8 The island here is small enough as it is.
9 We're losing spaces right and left. I mean in the
10 short time I've been here I've seen things start to
11 change.

12 I sure think it would be a real loss to lose
13 that land to urban development which we can have
14 anywhere else. We don't need another Mauna Kea. We
15 don't need another Mauna Lani.

16 We can go anywhere in the world and have
17 these things. But land sections such as 'O'oma, areas
18 that still are undeveloped, areas that still have that
19 power of the natural land that can really speak to
20 people, we don't have many of those. I think as
21 conservation land it should be left that way.

22 CHAIRMAN PILTZ: Petitioner, questions?

23 MR. LIM: No questions.

24 CHAIRMAN PILTZ: County?

25 MR. GONZALEZ: No questions.

1 CHAIRMAN PILTZ: State?

2 MR. YEE: No questions.

3 MR. LIND: No questions.

4 CHAIRMAN PILTZ: Thank you. Ian Hamar

5 followed by Aaron Davis. Ian? Aaron? Kawika

6 Marquez? Okay. Winfield Chang?

7 UNIDENTIFIED SPEAKER: I testified earlier.

8 CHAIRMAN PILTZ: Okay. Just hold back,

9 thank you. Colleen Sullivan?

10 UNIDENTIFIED SPEAKER: Pass.

11 CHAIRMAN PILTZ: Robin Fasiano? Robin?

12 Flaunn Jamieson?

13 THE WITNESS: Yes. My name is Flaunn

14 Elder-Jamieson.

15 CHAIRMAN PILTZ: Let me swear you in,

16 please.

17 THE WITNESS: Yes, sure.

18 FLAUNN ELDER-JAMIESON

19 being first duly sworn to tell the truth, was examined

20 and testified as follows:

21 THE WITNESS: Yes, sir, I do.

22 CHAIRMAN PILTZ: Go ahead.

23 THE WITNESS: I'm Flaunn Elder-Jamieson,

24 73-1115 Oluolu Street, Kona 96740.

25 First of all, I made this sign, Save Our

1 Coast. This is our land. Everyone here is so
2 passionate about it. There's people for it and
3 there's people opposed. I guess the first question
4 that I'd actually like to ask is, um, do we know what
5 year this land was actually deemed conservation?

6 CHAIRMAN PILTZ: You can ask the question,
7 we'll bring it up later.

8 THE WITNESS: Oh, I'm asking. So we don't
9 have that information? No? Okay.

10 CHAIRMAN PILTZ: Proceed with your
11 testimony.

12 THE WITNESS: Well, I feel that the men, the
13 men and women, maybe, who deemed this land
14 conservation years ago, they foresaw this. We live on
15 the Big Island of Hawai'i. We have the most land, all
16 the other lands combines. But all of our land is
17 inhospitable. There's no white sand beaches. It's
18 not easily accessed like Kaua'i, O'ahu.

19 And my great-grandfather was here in the
20 early 1920's. He helped start fishing here, sport
21 fishing. I think it's these men who saw this. They
22 were the good old boys. They saw that, you know, the
23 land was gonna grow.

24 There was going to be less and with less
25 land. It's just -- we don't have -- we have scarce

1 land here so why are you -- why are we even
2 questioning to change this what was already set and
3 deemed conservation?

4 The whole coast is built. We've got the
5 Queen Shops and the King Shops in Kukio. We've got it
6 all. We don't need Sports Authority. We don't need
7 Costco.

8 We all need the land. We all want the land
9 to be just open and free. Fine. No one's opposed to
10 it. Do it on the mauka side of the highway. Leave
11 one little space for everyone to enjoy.

12 There was tutu wahine here earlier. She
13 said it. She said it all. We're here. She's been
14 here for years. I've been here 35 years. Why are we
15 even questioning this? Again that's what I'd like to
16 say.

17 And I'd also like to bring up me and my
18 friends we camp down at Kohanaiki all the time. I
19 feel that a major thing is the noise factor. The
20 airplanes come right over this area.

21 We have had our own tarps, tarpaulins,
22 canopies flipped over by the whirly winds because the
23 planes come so low. It's noisy. It's just not the
24 place for it. It just really isn't.

25 We have from the harbor now to where, um,

1 Anaeho'omalu, that's it. That's the last strip of
2 land that we have left. So, you know, I really ask
3 that we question all these things, especially just
4 what the people want here, the taxpayers, the people
5 who love this land.

6 We're not here to make a buck. We're not
7 here because there's real estate. We are here 'cause
8 we love the Big Island. You want more? Go to O'ahu.
9 You get off of the plan, you're in six lanes of
10 traffic.

11 That's why we can fly over there, go see
12 concerts, go shopping, la, la, la. But we come, you
13 pull off the airport and you're just like, "Yeah, I'm
14 home."

15 There's like, yeah, there's only one lane
16 and, yeah, the traffic is bad but that's how we like
17 it. We like it country. So let's keep the country
18 country, guys. Please do not vote to change this
19 land. It's conservation not development.

20 CHAIRMAN PILTZ: Thank you. Questions?

21 MS. BENCK: No questions.

22 MR. GONZALEZ: No questions.

23 MR. YEE: No questions.

24 MR. LIND: No questions.

25 CHAIRMAN PILTZ: Tom Lawson?

1 UNIDENTIFIED SPEAKER: I spoke last time.

2 CHAIRMAN PILTZ: Okay. Just hold off, Tom.

3 We'll hold off until the next -- just hold off.

4 Christian La Cuesta? Leilani Kaiwai? Leilani?

5 Shawna Sale? Mark Sale?

6 UNIDENTIFIED SPEAKER: Pass.

7 CHAIRMAN PILTZ: Mark Sale?

8 UNIDENTIFIED SPEAKER: All the Sales pass.

9 CHAIRMAN PILTZ: Then we have Jesse Lambeth.

10 JESSE and MISTY LAMBETH

11 being first duly sworn to tell the truth, were

12 examined and testified as follows:

13 (Jesse, Misty & Baby Kaninau Alii Lambeth)

14 together)

15 THE WITNESS: (Jesse) I do.

16 THE WITNESS: (Misty) I do. My baby's

17 sleeping. But I'm Misty Lambeth. I've lived here my

18 whole life. Sorry, I'm very emotional about this.

19 (Crying) I have had some of the best times of my life

20 on that chunk of land. I remember when the trees were

21 still there. I remember when you could camp. I

22 remember when you could take your dog. I remember

23 running up and down that beach playing in the

24 tidepools. My first waves were caught there.

25 I just had a son. He's seven months old.

1 And I'm scared to death that we will never get to
2 experience some of the beauty that I have gotten to
3 experience on that piece of land.

4 I ask you, please, for our children's sake,
5 for even my grand kids some day, for all the kids and
6 people, that you wouldn't develop this land. It is so
7 special to me, to my family. I met my husband there.
8 I -- please, please, think before you do this. It
9 means so much to so many people. That's all.

10 CHAIRMAN PILTZ: Okay. Jesse, you have
11 something to say?

12 THE WITNESS: Yeah. I think we have enough
13 open lots that aren't developed that are already, you
14 know, that are already developed who needs stuff to
15 put on it. Put it there. Why do you need to put it
16 at 'O'oma? That's all.

17 CHAIRMAN PILTZ: Thank you. Any questions,
18 Petitioner?

19 MS. BENCK: No questions.

20 MR. GONZALEZ: No questions.

21 MR. YEE: No questions.

22 MR. LIND: No questions.

23 (Applause)

24 CHAIRMAN PILTZ: Alexis Whitehill followed
25 by Sharon Guillermo. Alexis? Sharon? Daniel

1 Vanderford? James Dickson? You are?

2 THE WITNESS: James Dickson.

3 JAMES DICKSON

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

6 CHAIRMAN PILTZ: Would you state your name
7 and address for the record.

8 THE WITNESS: James Dixon, 75-5776 Kuakini
9 Highway.

10 CHAIRMAN PILTZ: Okay. You're going to tell
11 the truth, right?

12 THE WITNESS: Oh, yeah.

13 CHAIRMAN PILTZ: Okay. Good.

14 THE WITNESS: Basically I've listed to
15 people prior to me. Conservation is conservation.
16 Conservation meaning that this is for all, not just a
17 few. And there was a lady speaking a little bit
18 earlier how her dreams were to have this for herself
19 in a small community. This is not for a small
20 community but for everybody.

21 I'm new on the islands but six years old in
22 experience. I've seen this other coastlines taken
23 from the majority and given to a minority. And it's
24 just wrong to do this. It should be for all, not for
25 just an isolated few that can afford it.

1 You have plenty of room for development
2 here, a lot of development that hasn't been developed,
3 just doesn't need to happen on the water.

4 CHAIRMAN PILTZ: Okay. Thank you. Anything
5 else, sir?

6 THE WITNESS: That's it.

7 CHAIRMAN PILTZ: Questions, Petitioner?

8 MS. BENCK: No questions.

9 MR. GONZALEZ: County no questions.

10 MR. YEE: No questions.

11 MR. LIND: No questions.

12 THE WITNESS: Phillip J-a-e-n-t-s-c-h?

13 Dionne Miller? Michael McMichael? Victoria Clark?

14 UNIDENTIFIED SPEAKER: Pass.

15 CHAIRMAN PILTZ: Carole Ward Fawcett?

16 UNIDENTIFIED SPEAKER: Pass.

17 CHAIRMAN PILTZ: Dana Richardson? Vivian
18 Landrum?

19 UNIDENTIFIED SPEAKER: I'm still here.

20 CHAIRMAN PILTZ: Followed by Lily Anne
21 Souza. And you're Vivian?

22 THE WITNESS: I'm Vivian.

23 CHAIRMAN PILTZ: Let me swear you in,
24 please.

25 xx

1 xx

2 VIVIAN LANDRUM

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

5 THE WITNESS: Yes.

6 CHAIRMAN PILTZ: State your name and address
7 for the record.

8 THE WITNESS: My name is Vivian Landrum.
9 I'm speaking on behalf of the Honokohau Chamber of
10 Commerce. I'm their president. The Honokohau Chamber
11 of Commerce represents over 580 business members.

12 And we are the leading business advocacy
13 organization on the West side of Hawai'i Island. We
14 do actively work to enhance the environment, unique
15 lifestyle and quality of life in West Hawai'i for both
16 our residents and our visitors.

17 Acknowledging that our chamber membership
18 consists of a diverse cross-section of the community
19 and that we cannot speak for 100 percent of our
20 members, the Chamber is in support of the
21 reclassification for the following reasons: We feel
22 that 'O'oma is drafting a use for this property that's
23 respectful of the land and consistent with our Kona
24 Community Development Plan.

25 'O'oma has entered into an agreement with

1 the National Park Service addressing water, wastewater
2 runoff and pollution prevention. And feel this offers
3 evidence that 'O'oma will ensure the protection of our
4 water quality and quantity.

5 'O'oma has presented a plan that
6 incorporates the preservation of open space,
7 responsible shoreline setback, a residential coastline
8 community design that encourages sustainability and
9 efficiency, a charter school component, and affordable
10 housing opportunities.

11 The Project can bring much needed jobs in
12 construction and later with office and retail space.
13 We are impressed with the recognition that was
14 bestowed upon 'O'oma with the Outstanding Planning
15 Award by the American Planning Association, the
16 Hawai'i chapter.

17 We feel that their plan being quoted as a
18 visionary process for sustainable community is an
19 innovative idea and something we should truly
20 consider. Thank you for the opportunity to submit
21 testimony.

22 CHAIRMAN PILTZ: Okay. Petitioner,
23 questions?

24 MS. BENCK: No questions.

25 MR. GONZALEZ: No questions.

1 MR. YEE: No questions.

2 MR. LIND: No questions.

3 CHAIRMAN PILTZ: Thank you. Lily Anne
4 Souza? Jeffrey Middleton followed by David Hickey.
5 I'm sorry. Jeffrey, you're going to have to wait
6 because you testified before. I'm sorry. We have
7 just a few more here that haven't. Huebner, Hono?
8 Hono Huebner? Chris Krueger? And your name is?

9 THE WITNESS: Honokanai'a.

10 CHAIRMAN PILTZ: Okay. Let me swear you
11 in.

12 HONOKANAI'A HUEBNER
13 being first duly sworn to tell the truth, was examined
14 and testified as follows:

15 THE WITNESS: Yes.

16 CHAIRMAN PILTZ: Have a seat. State your
17 name and address for the record.

18 THE WITNESS: Honokanai'a Huebner, 74-4981
19 Mamalahoa Highway 96725.

20 I've been here for almost five years. I've
21 lived in O'ahu but now I'm here. And Kohanaiki and
22 'O'oma it's my home. It's hard to watch it go away
23 because we already have a golf course at Kohanaiki.

24 Now, 'O'oma, if you guys build those 1200
25 houses it's going to be really sad. It's sad because

1 queens and kings and your ancestors and our ancestors
2 have walked on that land and they're even buried under
3 all that lava. And how many people here consider
4 'O'oma and Kohanaiki your home?

5 (Applause)

6 See? You have to realize that if you're
7 gonna build these 1200 houses you're taking their home
8 away from them.

9 You say that the houses that you guys are
10 going to build are going to be affordable, but
11 probably won't. Rich people will have to live there
12 because it probably will be expensive.

13 You gotta realize that we're aren't gonna
14 give up. We're always going to fight for our land.
15 Thank you. (Loud applause).

16 CHAIRMAN PILTZ: Thank you. Okay. And you
17 are Chris?

18 THE WITNESS: Chris Krueger.

19 CHAIRMAN PILTZ: Okay.

20 CHRIS KRUEGER

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: Chris Krueger, 77-287
2 Ho'okaana Street, Kailua-Kona. I'm here because
3 yesterday I just found out about this meeting. And
4 I'm here to state that I'm in opposition to the
5 decision to change the land designation.

6 I'm really grateful to see all the young
7 people that are involved in this process. I think
8 that should say something to each and every one of you
9 who are on the Commission.

10 For too long Kona has been treated as the
11 illegitimate child. And we need to recognize that.
12 We have been disrespected, disregarded, and as the
13 young people say just plain dissed on. We need to be
14 heard above the voices of the developers.

15 I'm not going to sit here and tell you what
16 a lot of the other people have said about keeping this
17 very special land in conservation. They have spoken
18 much better than I have. I want to speak about two
19 other areas in which I have personal experience in the
20 development of this side of the island.

21 There have been promises of jobs that come
22 with all these developers. As a human resources
23 executive on this coastline I can tell you we don't
24 need any more jobs. It was pretty hard trying to find
25 people to fill those jobs.

1 Um, I can also tell you that the promise of
2 open land and to allow the people back into the
3 coastline to swim, to surf, really it's a promise
4 that's made over and over again and really not kept.

5 For any of us that have been to some of the
6 resorts, Kukio was my last experience in which I was
7 turned away, only to find out that there were open
8 spaces for cars to park and they said there weren't
9 any. And there was a private party being held on the
10 beach. So much for public beaches being public. We
11 know, for those of us that live here, they become very
12 private.

13 Working in the resorts I can tell you that
14 there have been times in which I have sat in meetings
15 only to hear that they didn't want the local people on
16 the beaches when the resorts were full.

17 So from these two experiences I can tell you
18 that to change this with promises of jobs, with
19 promises of open space, I'm totally, totally against.
20 And I wanted to speak and have my voice be heard.

21 And to use a word that our president used
22 probably a little over a year ago in his speech, I say
23 to each and every one of you enough, enough. Thank
24 you.

25 (Loud applause).

1 CHAIRMAN PILTZ: Petitioner, questions?

2 (Applause continuing)

3 MS. BENCK: No questions.

4 MR. GONZALEZ: County has no questions.

5 MR. YEE: No questions.

6 MR. LIND: No questions.

7 CHAIRMAN PILTZ: David Hickey?

8 THE WITNESS: Good afternoon.

9 DAVID HICKEY

10 being first duly sworn to tell the truth, was examined

11 and testified as follows:

12 THE WITNESS: I do, sir.

13 CHAIRMAN PILTZ: Have a seat. State your
14 name and address for the record.

15 THE WITNESS: Aloha. My name is David
16 Hickey. I live at 75-6081 Ali'i Drive in Kailua-Kona
17 96740. I get pretty choked up about this issue. I've
18 been living in Hawai'i for 22 years. I come from
19 California. The reason I came from California is why
20 California is the way it is.

21 If you've been to Southern California, the
22 places where I grew up, there are no more beaches,
23 there are no more places, there are no more private
24 places, there are no more orange groves. There are no
25 more strawberry groves.

1 That's the why it was 50, 60 years ago. And
2 I'm a real estate agent. And I do believe in good
3 development and good plans. But I believe that
4 there's a line that must be drawn.

5 And in times like this when I'm not sure as
6 how I feel because I have mixed allegiances. On one
7 side I want to make money. This is a great Project.
8 This is great plan. It looks great.

9 And on the other hand I want to protect and
10 conserve what we have been given by our fathers. And
11 in times like this I think I defer to my elders and
12 the wisdom that comes with them.

13 And so I would oppose changing this land
14 from conservation to urban, not that the Project isn't
15 a good Project. I think we need good projects on this
16 island. But it needs to be somewhere else I believe.
17 Thank you.

18 CHAIRMAN PILTZ: Thank you. Petitioner,
19 questions?

20 MS. BENCK: No questions.

21 MR. GONZALEZ: No questions.

22 MR. YEE: No questions.

23 MR. LIND: No questions.

24 CHAIRMAN PILTZ: Larry Ford. And he's
25 followed by Tracy Solomon.

1 xx

2 LARRY FORD

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

5 THE WITNESS: I do.

6 CHAIRMAN PILTZ: Have a seat, state your
7 name and address for the record.

8 THE WITNESS: My name's Larry Ford. I live
9 at 81-950 Makahiki Lane, in Captain Cook. And I'm
10 here today to tell you I'm opposed to the 'O'oma
11 Project where it is.

12 It's good to see so many people here because
13 these people are what Hawai'i planning is for, the
14 people who are here, the people who live here, the
15 people who already call this home.

16 This West Hawai'i land was put in
17 conservation for the people of West Hawai'i. And I
18 believe that any commission's fiduciary duty would be
19 to listen to the people of West Hawai'i and give the
20 people of West Hawai'i what they need for themselves.
21 They're the ones who live here. This is their home.

22 This is not O'ahu. This is nowhere else. I
23 know you work in those areas. But this particular
24 area should be determined by the needs of the people
25 in this area.

1 You're also here to consider the effect of
2 this development on the Keahole Airport. I hope
3 there's somebody here from the Airport Commission or
4 whatever. And they'll let you know what their future
5 plans are. It's going to be in contention with the
6 people who want to live in this area. We don't need
7 that kind of contention.

8 We don't need to stunt the growth of our
9 airport, which is good for our business. It's good
10 for our tourists. It's good for the local people.
11 It's good for the economy here which needs all the
12 help it can get.

13 The people of West Hawai'i and the airport
14 are greatly impacted by this Project. Now, this
15 Project -- the county provided or offered some land on
16 the other side of Ka'ahumanu Highway, which is a
17 better place for this.

18 A fellow, I think his name was Jesse, said
19 somethin' about: How about filling up all the lots we
20 have already which are somewhere around 50,000 on this
21 island already. Not that we need more -- not that we
22 need more lots -- we need to build on the lots we've
23 got.

24 The area in question is porous lava. If
25 there's planting there, then all of the water, the

1 insecticides, the fertilizer will all go down into the
2 water that's going out to the ocean and destroy our
3 pristine waters that are there already and impact the
4 ocean ecosystem that's there.

5 It's been there for millions of years now.
6 Well, I guess the island's only 750,000 years old but
7 it's been there. It's developed over that period of
8 time.

9 This will kill that ecosystem. This will
10 impact fishing and diving, recreation, tourism and all
11 the other aspects of our economy here.

12 Any suggestion that this complies with the
13 General Plan is erroneous because the General Plan
14 does provide for preserving our sight lines, our
15 views, our vistas, our ecosystem, our natural beauty,
16 and maximizing our recreational facilities and, of
17 course, preserving our pristine waters.

18 Now, we do want jobs here. I know the
19 construction industry has been hit pretty hard. But
20 moving the Project over to mauka or developing some of
21 the other -- or building homes on some of the other
22 lots would give them plenty of jobs. No jobs would be
23 lost. No taxes would be lost.

24 Right now I'm thinking of the citizens of
25 West Hawai'i. I'm thinking about the Keahole Airport

1 expansion --

2 CHAIRMAN PILTZ: Could you wrap it up
3 please?

4 THE WITNESS: Yes, I will. I'm thinking
5 about recreation. I'm thinking about our pristine
6 ocean waters. I think about retaining the pristine
7 and the beauty of West Hawai'i. Therefore I do not
8 support this plan. It will work at some other
9 location. Thank you. (Applause)

10 CHAIRMAN PILTZ: Thank you. Petitioner?

11 MS. BENCK: No questions.

12 MR. GONZALEZ: County, no questions.

13 CHAIRMAN PILTZ: State?

14 MR. YEE: No questions.

15 MR. LIND: No questions.

16 CHAIRMAN PILTZ: Thank you.

17 THE WITNESS: You're welcome.

18 CHAIRMAN PILTZ: Tracy Solomon followed by
19 Janice Palma Glennie.

20 TRACY SOLOMON

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

23 THE WITNESS: Yes.

24 CHAIRMAN PILTZ: Name and address, please.

25 THE WITNESS: Tracy Solomon, P. O. Box

1 39-1060 Keauhou, 96739. Kind of hoped you guys would
2 recognize me by now or at least recognize my name.
3 And I can comfortably say you look about the most
4 bored bunch of people. Please appreciate I'm losing
5 money being here.

6 CHAIRMAN PILTZ: So am I.

7 THE WITNESS: And I live paycheck to
8 paycheck. Okay. I definitely -- I hope you guys make
9 more than I do. But, and so do the community members
10 I know we irritate you folks. It's very obvious. But
11 thank you for allowing us to do this because we've
12 been festering for two years about this.

13 Three things: Palamanui, Kohanaiki and
14 Hokulia, a sea of failed developments in Kona. These
15 were developments that were all gone through
16 reclassification slash rezoning based on
17 contingencies.

18 As we all know Hawai'i County filed suit
19 just last week against Hokulia based on the fact they
20 are not following through with their contingencies,
21 what they had to do in order to be approved to have
22 the development go through.

23 Kohanaiki is the biggest mess of dirt in an
24 unused golf course that any of us can see. Every
25 single one of us is disgusted, whether we're driving

1 to Costco, whether we're driving down to Pine Trees to
2 surf, it's just a mess.

3 Who does it employ? What is it doing there?
4 It was definitely a poorly planned project. Along
5 with Hokulia these things are pushed in.

6 And we have Palamanui. Palamanui is kind of
7 an unknown factor right now. They had plans. Certain
8 plans fell through. I have been lucky enough to be
9 asked to be an advisor with the UH Community College
10 for the culinary school and implementing energy
11 conservation practices. What my job is actually I'm a
12 sustainability consultant.

13 MS. ERICKSON: Please slow down.

14 THE WITNESS: Okay. And I've been able to
15 have conversations with them. The contingency for
16 Palamanui was to build a college.

17 Well, there's definitely a lot of promises
18 that have fallen short, some of the major ones being
19 the green building promise, the LEED certification
20 promises. Their current architect doesn't even know
21 what LEED is. And those were his words.

22 There are promises that are falling short.
23 Palamanui also has no water source yet. Their private
24 source they were planning on has fallen through. They
25 also have no wastewater.

1 These are our major developments in Kona
2 that we're dealing with. Please do not burden us with
3 another one where infrastructure, financially
4 supported is highly questionable for the customer base
5 they would have to charge for the wastewater and the
6 RO system.

7 And also, once again, as everyone has said,
8 the location and the amount of houses and empty
9 businesses, foreclosed homes that are already
10 available.

11 Let us get out of this sea, this mess.
12 Please oppose this for the fourth time. The three
13 times -- the two times the Land Use Commission has
14 denied this, what makes this any different?

15 Is it economically feasible? Has it been
16 financially proven that it's able? Are these
17 things -- I know these are in your HRS statutes. I've
18 read through them clearly.

19 I personally know where I'm at. And I just
20 really hope that all you folks are in this and looking
21 at it whether you can't stand to hear us here because
22 we're very irritating.

23 These folks are actually -- I know these
24 guys are paid to be here. They're stakeholders. I'm
25 actually not a stakeholder. I could make money off

1 this development, as a sustainability consultant who's
2 implementing solar, low-flow, water conservation,
3 waste -- I work with wastewater, composting waste
4 reduction.

5 I do all of these things in my job. I don't
6 care about this. It's the wrong place, the wrong
7 time. It's not needed. Please maintain the land in
8 conservation. Thank you for your time.

9 (Applause)

10 CHAIRMAN PILTZ: Thank you. Petitioner?

11 MS. BENCK: No questions.

12 CHAIRMAN PILTZ: County?

13 MR. GONZALEZ: No questions.

14 CHAIRMAN PILTZ: State?

15 MR. YEE: No questions.

16 CHAIRMAN PILTZ: Intervenor?

17 MR. LIND: No questions.

18 CHAIRMAN PILTZ: Janice Palma Glennie --

19 JANICE PALMA GLENNIE

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

22 THE WITNESS: Aloha. My name is Janice
23 Palma Glennie. I swear to tell the truth again and
24 again.

25 CHAIRMAN PILTZ: -- followed by Jeff Rener.

1 Go ahead.

2 THE WITNESS: Before we begin, I want to
3 send my aloha to the Commissioners. I got upset when
4 the order of testifying was being taken, not so much
5 for myself, but because rules seem like rules. And I
6 know there were so many people that made an attempt to
7 be here. And I took work off and timed everything. I
8 just believe in democracy. And I wanted their voices
9 to be heard.

10 And I appreciate that new voices did get to
11 be heard. Thank you so much. And I send my aloha
12 again to you. Oh, one other thing. As everybody
13 looks at you like you're gods, so if we seem nervous
14 it's because you hold the future of a huge chunk of
15 our lands, and as that little girl said, our home in
16 your hands.

17 You've already been made aware of the many
18 compelling reasons why the proposed 'O'oma development
19 doesn't fit with the Kona Community Development Plan,
20 nor the vision which this community has for this land.

21 The county support for this Project only
22 proves the county administrators have yet to come to
23 the party of forward-thinking regional planning.
24 Without even reading past the inside cover --

25 MS. ERICKSON: Could you please slow down.

1 THE WITNESS: Sorry. I'm always worried the
2 three minute limits. Without even reading past the
3 inside cover it's clear that reclassification of
4 coastal conservation lands doesn't jive with the CDP's
5 first guiding principle which is to protect Kona's
6 natural resource and culture.

7 That point is elaborated upon in sections
8 like 4.2.3 which states, "The current LUPAG should be
9 amended only for compelling reasons." unquote.

10 That section is also consistent with state
11 law cited by this body in making its prior ruling
12 against reclassification of 'O'oma.

13 Though there have been exceptional prior
14 decisions made by the LUC, in the Kim administration
15 against the development there, the vast majority of
16 development plans pushed by government developers and
17 speculators haven't just been unpopular, unnecessary
18 and illegal.

19 Incredibly, though the projections and
20 promises sounded like cure-alls, they've been
21 financially unrealistic as well. It reminds me of
22 offshore drilling and struggles to stop it and how the
23 short-sightedness of the government and business
24 leaders has led to the environmental disaster that's
25 occurring right now.

1 Just like what's happening in Hawai'i though
2 less obviously and dramatically. The good news is
3 that this body has the greatest power to change that
4 for this community.

5 Besides the lengthy legal battles preceding
6 their approval, development promises and projections
7 have led to white elephants scarring the landscape of
8 Kona with empty shell residential and commercial
9 space. They don't just look bad. They're disrupting
10 and draining the economy, destroying environmental and
11 cultural landscapes and negatively affecting the local
12 psyche.

13 Like the idle Shores of Kohanaiki and
14 Hokulia, formerly treasured and unspoiled lands now
15 looms ruined over critical shoreline creating "we told
16 you so" environmental damage to nearshore reefs
17 stemming from contaminated golf course runoff, not to
18 mention larger potential disasters like occurred at
19 Hokulia.

20 Meanwhile, public confidence erodes in the
21 ability of government bodies to make sound, legal and
22 economically viable decisions. That in large part has
23 led to costly lawsuits that could have been avoided.

24 If the state layer of land use protection is
25 functional, and the county mandate to implement the

1 CDP is followed, all stakeholders can henceforth focus
2 on working toward win/win growth planning that include
3 reclassification of conservation lands and the
4 destruction of fragile, natural resources.

5 A developer disconnect can be seen clearly
6 on the Project's maps. A significantly large finger
7 of land included in requested rezoning juts close to
8 the existing Jeep access road and shoreline, far
9 within setbacks promised by the landowners and those
10 set as a minimum in the CDP.

11 If commissioners follow the dots through
12 decades of similar promises, they'll agree that once
13 lands urbanized under the guise of becoming a canoe
14 hale, it could just as well end up being an enclave of
15 private \$10,000 per night bungalows like at Mauna
16 Lani.

17 Since the county has given its nod to this
18 plan, once OVB flips this property, as they will
19 undoubtedly do, urban is urban; meaning that just
20 about anything goes once the permitting process is
21 within county control.

22 This makes the gravity of your job stunning
23 and auspicious since the laws of natural open
24 conservation space cannot in any way be mitigated.
25 And in your position you have the power to stop that

1 loss.

2 In closing, since the first time I testified
3 before this body three years ago regarding this
4 proposal there's been no additional proof of
5 long-term viability, developer competence, nor
6 justification that could legally divert the LUC from
7 its earlier decisions that denied 'O'oma's
8 reclassification.

9 In fact, it's just the opposite given
10 current economic and land use planning realities. It
11 is this community's hope that the LUC will continue to
12 uphold and honor state and county law, as you have
13 done in the past, by ruling for the protection of
14 critical conservation land and against unfounded hopes
15 and impossible-to-keep promises.

16 Mahalo for this opportunity to speak. And
17 thank you so much for all the people that came here
18 including you and took the day off. And we're all
19 losing money. Thank you very much. But hopefully we
20 won't lose our lands.

21 (Applause)

22 CHAIRMAN PILTZ: Jeff Rener? Shannon Rudolf
23 followed by Kathy McMullen.

24 THE WITNESS: Aloha.

25 xx

1 xx

2 SHANNON RUDOLF

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

5 THE WITNESS: Yes. Absolutely.

6 CHAIRMAN PILTZ: Name and address, please.

7 THE WITNESS: My name is Shannon Rudolf.
8 My address is Post Office Box 243 Holualoa, Hawai'i
9 69725.

10 Aloha. I want to thank you, first of all,
11 for babysitting our county even though some on our
12 council tried to abolish you. I would also like to
13 say mahalo for having this meeting in town.

14 However, if the purpose of this meeting is
15 to gather comments from the public, I'll let you in on
16 a little secret. The public works during the day.

17 And many residents are furious that they
18 have been effectively been shut out from testifying
19 before you in person.

20 UNIDENTIFIED SPEAKER: Hear hear.

21 THE WITNESS: If these daytime meetings for
22 the public, if these are daytime meetings for the
23 public, then you've got your schedule bassackwards. I
24 sincerely hope you get it right next time you come to
25 Kona.

1 I would also like to thank you very, very
2 much for inviting the public to your 'O'oma site visit
3 tomorrow at 11:30, mile marker 93. On this site visit
4 you will hear the roar of the jets. They will be even
5 louder once the \$30 million C-17 runway goes in.

6 And, by the way, the taxpayers do not want
7 to have to buy these proposed houses back like as
8 what's happening across the country. Due to airport
9 expansion they can't expand if there's a subdivision
10 in the way. We don't want to pay for that. So let's
11 get that straight right now.

12 I ask you when you visit the site amid all
13 that noise that you take a sincere moment, five
14 seconds of your time to stand on the land, to close
15 your eyes and listen with your heart and your brain to
16 the wisdom of the elders coming through your shoes.

17 The bottom line on this Project, Kona will
18 be the fastest growing area in the state for the next
19 25 years. And we are going to need these few last
20 areas of conservation land close to town to keep
21 people sane. Do not rezone this land. Thank you.
22 (Applause).

23 CHAIRMAN PILTZ: Petitioner?

24 MS. BENCK: No questions.

25 CHAIRMAN PILTZ: County?

1 MR. GONZALEZ: No questions.

2 MR. YEE: No questions.

3 MR. LIND: No questions.

4 CHAIRMAN PILTZ: Kathy McMullen. Michelle
5 Tomas.

6 MICHELLE TOMAS

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

9 THE WITNESS: I do.

10 CHAIRMAN PILTZ: Name and address, please.

11 THE WITNESS: Aloha. My name is Michelle
12 Tomas. I reside at P. O. Box 337 -- that's my mailing
13 address Kailua-Kona, Hawai'i.

14 I just wanted to add something to what she
15 said. I work for United Airlines. I do not represent
16 them right now, but the majority of the flights that
17 come in are at night, American, Delta, Northwest, West
18 Jet, United.

19 So a lot of the noise will be at nighttime
20 and you guys won't be able to experience that
21 tomorrow. So just FYI.

22 Okay. When you guys came into town, airport
23 and here, 'O'oma's right in the middle. We know not
24 to drive during that peak time between seven and, say,
25 six.

1 So if we have to do anything, it's our day
2 off, we either take another route, which is the top
3 road going all the way around, or we just wait, you
4 know, wait 'til another time.

5 I don't know if you guys were aware, but
6 'O'oma is where Kamehameha III grew up. And that
7 would make it necessary to keep it as conservation
8 land because it's where Kamehameha I died. It's
9 'Ahu'ena He'iau. That's preserved.

10 Kamehameha III where he was born, Keauhou,
11 that's preserved. This is very important. I can't
12 say enough about it.

13 Another thing I want to bring up is when a
14 developer, they see a bunch of rocks, they say, "Wow,
15 dollar signs. We can put this here. We can put that
16 here."

17 I want to show you guys something. Do you
18 know what this is? This is not another piece of rock.
19 This is a poi pounder that was found in the Holualoa
20 ahupua'a given to us by a Mexican friend who found it
21 because we're Hawaiian. He wants to keep this in
22 Hawaiian hands.

23 Now, when you take your site walk, you're
24 not gonna to see a bunch of rocks. You may not be
25 able to see the caves on that land. They're living

1 caves. People used to live there. There's Mamalahoa
2 Trail. It's overrun by keawe, everything else. But
3 it doesn't need to be another sideshow for the people
4 that can afford to live there.

5 Yeah, they'll take care of it, but it won't
6 be the same. All the rocks there, they were used for
7 he'iaus, Hawaiian basalt adze for cutting. There's so
8 many different uses for the rocks.

9 When you develop, when you take that
10 tractor, when you take that D-9, that D-11 -- my
11 husband he was the guy earlier that works for
12 construction company -- it's gone. You cannot get it
13 back. I know this is redundant but please don't
14 change the land into urban.

15 We need this for my kids, for the future.
16 And tomorrow when you guys go on the site visit, when
17 you're there, take a look around, turn your head, you
18 see right next door broken promises. Broken promises.

19 I volunteer. I pick up trash off the
20 beaches. I've been doing this for years. I take my
21 kids with me. When it rains up Mauka the water
22 percolates down through the lava, comes up at the
23 sand. You see it when it's low tide.

24 Tell me that it won't do the same thing at
25 'O'oma. They said at the last meeting on the 4th

1 there's no water coming in, there's no water going
2 out. Come on now. It's a no-brainer. There's going
3 to be runoff. Consider everything that I've said
4 today. Thank you.

5 (Applause).

6 CHAIRMAN PILTZ: Petitioners?

7 MS. BENCK: No questions.

8 CHAIRMAN PILTZ: County?

9 MR. GONZALEZ: No questions.

10 CHAIRMAN PILTZ: State?

11 MR. YEE: No questions.

12 CHAIRMAN PILTZ: Intervenor?

13 MR. LIND: No questions.

14 CHAIRMAN PILTZ: Thank you. George Wilkins?
15 Marsha Wilkins. Oh, George.

16 GEORGE WILKINS

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

19 THE WITNESS: I sure do.

20 CHAIRMAN PILTZ: Name and address please.

21 THE WITNESS: My name is George Wilkins. I
22 live at 73-14A Kaloko Drive here in Kailua-Kona,
23 96740. I've lived for 20 years in Kona and before
24 that 22 years on O'ahu as a scientist, ocean scientist
25 and ocean technologist.

1 And I wish to address certain unique aspects
2 of West Hawai'i's shorelines that are especially
3 germane to the dangers of development at 'O'oma.

4 My area of expertise related to these
5 statements is that in the early '90s George Curtis of
6 Honomu and I worked as researchers with the University
7 of Hawai'i to map freshwater flows into the ocean.

8 Our research tool was an infrared video
9 camera that we used to photograph the West Hawai'i
10 shoreline from Upolu Point to South Point while flying
11 along the coastline.

12 Our observations were taken in the middle
13 infrared between 8 and 13 microns wave length, 20
14 times the wave length of human vision.

15 In this interval we imaged the Earth by its
16 own heat radiation and could easily differentiate the
17 warm land and ocean from the cold and less dense
18 freshened water that floated out to sea.

19 You'd literally would see rivers of cold
20 freshwater floating from the shoreline. It was
21 visible for more than a mile off shore.

22 This research proved to us that the
23 so-called drainage surface of coastal Hawai'i is
24 actually two surfaces. The first is the surface of
25 the land, the interface between the land and the

1 atmosphere. Now, almost all the attention paid by
2 local governments, coastal developers is to this
3 interface.

4 When storms cause runoff into the ocean, we
5 are all aghast and clammer for preventive measures.
6 When no such runoff occurs we all relax and do little
7 more than call for drywells to more effectively duct
8 the storm waters into the ground.

9 But no matter how hard we try to ignore it
10 there is a second surface formed by sea level water as
11 the ocean's water permeate our islands to great
12 distances inland from the sea.

13 All island waters, rain, cloud, mist,
14 irrigation, sewage and accidental spills that soak
15 into the ground, will gradually move downward until
16 they meet the ocean surface at sea level.

17 There as freshened water they float on the
18 saltwater surface while obeying three primary laws of
19 hydrology. The first law is buoyancy. The freshwater
20 must float on top of the seawater.

21 For every foot that the surface raises
22 because of freshwater there must be 40 feet of the
23 freshwater below the seawater interface. That's an
24 enormous reservoir that we have been drawing on for
25 our potable water consumption for a century, a century

1 and a half.

2 The second law is hydraulic pressure. As
3 this freshwater builds up it exerts a force so that
4 the water moves towards the ocean. It may meander.
5 It may take a very long time to get to the ocean,
6 anywhere from days to centuries, but it will get
7 there.

8 And the final factor is impedance of the
9 rock or resistance which will determine the speed of
10 the flow. It may be in feet per minute. It may be in
11 inches per year.

12 The danger is that while floating to and
13 along the second surface, water will carry all the
14 additives and contaminants that it picks up along the
15 way. These include, but are not limited to
16 pesticides, fertilizers, solvents, metals and their
17 oxides, pharmaceuticals, sewage, and other soluble
18 wastes.

19 They will follow the same path as the
20 freshwater flowed as though they were flowing in the
21 same stream bed or the same pipe.

22 And if you pollute the freshwater with the
23 wastewater you cannot use the freshwater. You have
24 destroyed it.

25 And this is what is happening all along the

1 coast. We see huge flows of water out of Honokohau
2 Harbor, out of Kaloko Pond, out of Kailua Bay, out of
3 Kealakekua Park, up at Anaeho'omalu.

4 The water used to be potable. Natives used
5 to drink that water because they lived along the
6 shoreline. Today it is dangerous to drink that water
7 because of all the contamination that has been added
8 on land.

9 Now, we could suddenly stop the
10 contamination on the shoreline or up in the hills and
11 it might be a century before those freshwater flows
12 would be flushed out to the point where they would be
13 fit for human consumption.

14 I call this the second surface drainage and,
15 and it is real. And I don't know what the answer is.
16 But I think there are certain rules that you should be
17 aware of.

18 The first is that fresh and polluted waters
19 follow the same path to the ocean, ends up in the same
20 coastal waters. Polluted water is freshwater. And if
21 pumped into injection wells because of its buoyancy it
22 will rapidly raise up to the top of the seawater.

23 If you have injection, as they did at
24 Ma'alaea on Maui a few years ago, you must pump the
25 water very far below sea level and angle your

1 pipeline, your disposal pipeline so that the polluted
2 water emerges well offshore. Get it away from the
3 shoreline.

4 You have an option. You might, as 'O'oma
5 has proposed to do, mix this sewage water with a great
6 deal of seawater so that it has a specific gravity
7 approaching that of seawater, and then use the options
8 of drilling deep, hundreds of feet, maybe thousands of
9 feet, and angle your drills so that the water emerges
10 far from the coastal shoreline.

11 This is not being done by any other
12 development group that I know of in West Hawai'i. It
13 is imperative that it be done.

14 I'll finish with four topics that I think --
15 I call stepping stones towards an answer to these
16 problems.

17 The first is research. Much more research
18 through the university and similar agencies so we gain
19 a better understanding of the manifold ways in which
20 freshwater can flow down our slopes and into the
21 ocean.

22 Drilling of deeper wells, monitoring wells,
23 modeling of what we learn from these wells to create a
24 better understanding of the freshwater flow to the
25 ocean.

1 Second is oversight. Workshops, local study
2 groups as much expertise as we can get, and drag in
3 the people from the ivory towers of the university to
4 devise more insightful and incisive methods of guiding
5 and correcting development steps.

6 Third is enforcement. Forty-two years ago at
7 a conference in Honolulu I heard it stated that
8 Hawai'i has the strictest unenforced laws of any state
9 in the union. That has not changed.

10 (Audience laughter)

11 We've got to make it change.

12 And, finally, wisdom to realize that we are
13 facing a flood of future developments, all of which
14 will carry with them a burden of insult to the
15 environment and to the offshore waters.

16 Some of these developments may be needed if
17 only to help our economy respond to population and our
18 desired standard of living. But we must be extremely
19 selective and our guidance must be wise, strict and
20 strong. Thank you.

21 (Applause)

22 CHAIRMAN PILTZ: Petitioner?

23 MS. BENCK: No questions.

24 THE WITNESS: I would like to add my wife is
25 testifying, I believe, right after me. And she has a

1 question about 'O'oma right-of-way for transit to the
2 beach. And I hope she asks that question to you,
3 young lady. (indicating Ms. Benck)

4 CHAIRMAN PILTZ: County, do you have any
5 questions?

6 MR. GONZALEZ: No questions.

7 CHAIRMAN PILTZ: State?

8 MR. YEE: No questions.

9 MR. LIND: No questions.

10 CHAIRMAN PILTZ: All right.

11 MIRIAM WILKINS

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

14 THE WITNESS: I do.

15 CHAIRMAN PILTZ: Name and address, please.

16 THE WITNESS: My name is Miriam Wilkins. I
17 live at 73-1410A Kaloko Drive, Kailua-Kona, Hawai'i
18 96740. Well, I think I can't follow that too well but
19 except that we know none of that is happening yet.
20 When we think about the next development we know
21 that's not going to happen but he's saying would have
22 to happen.

23 So starting with my testimony I have very
24 serious concerns about the whole development because
25 we will need more open space in the future for the

1 sure-to-be growing population of West Hawai'i.

2 We lived on O'ahu for 23 years and we have
3 lived here for, I forget, about, we have lived here in
4 Hawai'i 42 years. And I see what's happened
5 constantly all over.

6 So, anyway I want to, I want to focus on one
7 problem that I see with the development that other
8 people have touched on too. On the map it shows that
9 the public access to the beach area will be on a road
10 that I guess doesn't exist or maybe it's there, but
11 the land that the road is on is in Kohanaiki property.

12 'O'oma doesn't own it. What's with that,
13 you know? I heard there was -- I'm going to read this
14 because I'm not great at public speaking. Okay.

15 It appeared that a handshake agreement with
16 Kohanaiki owners to shared access, but it doesn't
17 belong to Kohanaiki. If this is true we have a real
18 problem. As someone once said that agreement is not
19 worth the paper it's not written on.

20 And I can see that with Hukulia. The road
21 that was supposed to be for the public did not come
22 and they're in bankruptcy. There's a lawsuit now the
23 county taxpayers are going to have to put up with.
24 Everybody is suing.

25 We cannot even look at this plan without

1 public access being on the land. That's the
2 developers are developing. This is crazy. Anyway,
3 thank you. I hope that you do take this into
4 consideration.

5 And that the public parking in almost every
6 resort area here that the public is supposed to have
7 access to, it consists of inadequate parking. A lot
8 of the places now put fees on them.

9 I have had -- I know people that bicycled in
10 to the Mauna Kea. They say they weren't allowed
11 because bicycles weren't allowed. This is the thing
12 we put up with all the time when supposedly these
13 things are going to be for the public. And we just
14 have to stop.

15 I cannot understand why we keep doing it. I
16 said we have legal agreements with these people even
17 and they don't fulfill them, like Hokulia.

18 When you folks, if you change the land use,
19 we have -- we have no one to rely on anymore but our
20 county government. And we know the record of that.
21 We have a terrible record. We just can't -- no, we do
22 have a terrible record.

23 Even before I moved to this island I could
24 see what was happening of the types of developments
25 that were allowed and how there's not even fees.

1 So please think about this because you are
2 almost our last resort to keep some open space for the
3 public. That's all I can say. Thank you very much.

4 CHAIRMAN PILTZ: Thank you. Petitioner?

5 MS. BENCK: No questions.

6 CHAIRMAN PILTZ: County?

7 MR. GONZALEZ: No questions.

8 CHAIRMAN PILTZ: State?

9 MR. YEE: No questions.

10 MR. LIND: No questions.

11 CHAIRMAN PILTZ: Okay. We have one more
12 before we take a break for lunch.

13 UNIDENTIFIED SPEAKER: That's bull. I came
14 hear earlier, first come first serve. I waited all
15 day. Just because I testified before should not mean
16 I cannot testify because I have to wait for everybody.

17 CHAIRMAN PILTZ: It's just a courtesy. If
18 you don't want to testify that's your option.

19 UNIDENTIFIED SPEAKER: I'll leave this right
20 here. If you people want to read it you can read it.
21 Otherwise I don't care.

22 CHAIRMAN PILTZ: Okay.

23 UNIDENTIFIED SPEAKER: You made me mad, you
24 guys, I ain't going to do it.

25 CHAIRMAN PILTZ: Thank you. We're going to

1 break for lunch. Oh, this is Leaf. I thought that
2 was Leaf.

3 THE WITNESS: Pardon?

4 CHAIRMAN PILTZ: Go ahead. Your name is?
5 Let me swear you in, sir.

6 THE WITNESS: Stand up?

7 DR. THEODORE N. LEAF

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

10 THE WITNESS: Yes. My name is Dr. Theodore
11 N. Leaf, P. O. Box 45 Kailua-Kona, Hawai'i. I'm known
12 in the community as Ted. "Dear State Land Use
13 Commissioners" -- also Diane Stone is on this letter.

14 "We are writing in support of the proposed
15 Project 'O'oma Beachside Village in Kailua-Kona,
16 Hawai'i. We have lived in this county for the past 16
17 years and have seen many changes. And 'O'oma
18 Beachside Village is one change we welcome. Okay.

19 "For us personally the most important
20 aspects of this Project are: Shoreline setback will be
21 between 1,100 and 1,700 feet. This will be the --
22 this will be a first. Okay.

23 "Homes will be affordable with single-family
24 town homes and workforce housing. Live-work units are
25 planned so people can live near their place of work.

1 "Approximately 100 acres out of total
2 300 acres will be usable open space. This means
3 parks, hiking and biking trails through the village
4 and a 75-acre coastal open space and preserve.

5 "These are not only great features but
6 necessary features for our visual and mental
7 well-being.

8 "West Hawai'i residents have not had a
9 developer think of the citizens and our community in
10 this way before.

11 "'O'oma will apply building criteria from
12 Smart Growth practices, many green and sustainable
13 practices and apply for LEED certification.

14 "'O'oma will have its own seawater
15 desalination plant and collaborate on the water
16 quality with the National Park Service. From the
17 beginning 'O'oma has been considerate and respectful
18 of the cultural and history of place," Thank you.

19 CHAIRMAN PILTZ: Petitioner, question?

20 MS. BENCK: No questions.

21 CHAIRMAN PILTZ: County?

22 MR. GONZALEZ: No questions.

23 CHAIRMAN PILTZ: State?

24 MR. YEE: No questions.

25 MR. LIND: No questions.

1 CHAIRMAN PILTZ: Thank you. We're going to
2 take a lunch break. We'll be back at 1:40 (Gavel)
3 We're in recess.

4 (Lunch recess was held.)

5 (Commissioner Lezy is now present)

6 CHAIRMAN PILTZ: (2:00) We're back on the
7 agenda. We're still hearing public testimony. I just
8 want to thank all of you for being patient. We're
9 trying to get everybody. And we will. And we will
10 also hear the Petitioners later on this afternoon.

11 Some of the Commissioners will have to leave
12 early, but we will have a full complement of
13 Commissioners to hear your testimony. And those that
14 aren't here we'll get it on the record.

15 At this time Barbara Scott followed by
16 Bonnie Jones.

17 BARBARA SCOTT
18 being first duly sworn to tell the truth, was examined
19 and testified as follows:

20 THE WITNESS: Yes, I do.

21 CHAIRMAN PILTZ: Your name and address
22 please.

23 THE WITNESS: My name is Barbara Scott. I
24 live on Lopeka Place, Kailua-Kona.

25 CHAIRMAN PILTZ: And you have new testimony

1 for us?

2 THE WITNESS: Yes, I do.

3 CHAIRMAN PILTZ: Thank you.

4 THE WITNESS: Sort of adding to the old one.

5 My testimony is in support of the Project. The 'O'oma

6 parcel has been the subject of more than a few

7 development proposals, most recently in 2004.

8 A lot has happened in North Kona since 2004

9 when Mayor Harry Kim vetoed the Clifto's development
10 application.

11 At that time Queen Ka'ahumanu Highway was
12 beyond traffic capacity and long overdue for
13 improvement by the State Department of Transportation.
14 At long last the Queen Ka'ahumanu widening project is
15 underway and Phase I appears to be actually completed.

16 Phase II of the widening project from
17 Honokohau Harbor to Keahole Airport is finally
18 proceeding after a shaky RFP process caused delays.

19 The traffic impacts caused by the proposed
20 Project are mitigated by DOT's widening project and
21 the county road projects that have improved local
22 connectivity, something a lot of us are concerned
23 about. One lane isn't really enough.

24 Keahole Airport is located north of 'O'oma
25 Beachside Village Project. In October 2004 the

1 Department of Defense proposed a plan for the short
2 austere airfield construction project at Keahole
3 Airport.

4 This year the SAAF project funding request
5 includes a new runway at Keahole Airport to
6 accommodate the C-17 aircraft that will train there.
7 The new runway is proposed for north of the airport,
8 not on the south end toward the development.

9 In the environmental assessment for the SAAF
10 project noise levels were considered to be within
11 Department of Health limits for surrounding
12 residential areas that will be affected by the
13 training flights.

14 The Natural Energy Lab, NELHA, is located
15 between 'O'oma Beachside Village Project and Keahole
16 Airport.

17 In 2006 NELHA received foreign trade zone
18 status which supports economic expansion in North Kona
19 by providing foreign trade zone's benefits to the
20 NELHA facilities that support the development of
21 research, commercial businesses and technologies that
22 use ocean resources.

23 Housing is needed in the Project Area and to
24 support the workforce at Keahole Airport, NELHA, and
25 North Kona. If there is any doubt that additional

1 North Kona housing is needed, that can be confirmed by
2 the stream of traffic that commutes daily to and from
3 South Kona, Ka'u, Puna and Hilo to employment in the
4 North Kona area. That's quite a load of traffic.

5 Concerns about airport noise affecting the
6 health of the residents in the Project Area are not
7 supported by the Department of Health decibel
8 limitation standards.

9 The airport location is obvious. The people
10 would not -- the Project, I'm sorry, would not attract
11 anyone who would find living near an airport an
12 intolerable lifestyle.

13 In previous testimony I expressed my support
14 for the Project which I considered a culturally,
15 environmentally and historically responsible asset to
16 the Kona community. I hope you'll approve the
17 requested urban land use reclassification. Thank you.

18 CHAIRMAN PILTZ: Petitioner, questions?

19 MS. BENCK: No questions, thank you.

20 CHAIRMAN PILTZ: County?

21 MR. GONZALEZ: No questions, thank you.

22 CHAIRMAN PILTZ: State?

23 MR. YEE: No questions.

24 MR. LIND: No questions.

25 THE WITNESS: Thank you.

1 CHAIRMAN PILTZ: Thank you. Next person is
2 Bonnie Jones followed by Debbie Hecht.

3 UNIDENTIFIED SPEAKER: Bonnie Jones is not
4 here. Debbie Hecht is not here.

5 CHAIRMAN PILTZ: Tom Lawson followed by
6 Robert Freitas. Actually, Tom, after you will be
7 Kathy McMullen.

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

11 THE WITNESS: I do.

12 CHAIRMAN PILTZ: Proceed with your name and
13 address.

14 THE WITNESS: My name is Tom Lawson and I
15 live Keopu. And my address is P. O. Box 1614
16 Kealakekua 96750. I want to start off by saying thank
17 you to all you gentlemen and ladies being here again
18 and everybody out here.

19 I want to make sure you know that I'm
20 against changing this from conservation to any other,
21 especially urban, designation.

22 Last time when I talked I threw out a word
23 "overwhelmed." And it seems now that we're getting
24 into this point where the developers are trying to
25 overwhelm us.

1 Let's be honest here and not call 'em
2 developers because I don't believe they are. Let's
3 call them speculators. That's because that is the
4 real definition of these people, speculators.

5 Let me read this -- I brought a dictionary.
6 I'm turning to Page 258. The word of the week then is
7 "Conserve: To keep in a safe or sound state.
8 Preserve from loss, decay, waste or injury. To keep
9 unimpaired."

10 And somebody in their wisdom -- quite a few
11 people in their wisdom -- decided a long time ago to
12 designate this as conservation for good reasons. This
13 is a very small piece of ground.

14 When you go all up and down Kona Coast it's
15 a very small piece of ground we're talking about. And
16 that's all that's left. It's not like we're trying to
17 preserve a great area, hundreds of acres. This is a
18 very small area.

19 And I know that you're going to go down
20 tomorrow and see this 'O'oma. After you feel the
21 rocks coming up through your feet and you feel the
22 mana of 'O'oma and this whole area, raise your eyes up
23 then, look north, see what's there.

24 Look over to the east and you'll see
25 Palamanui. Lot of local people call it "Pali Manure".

1 And then look way up. The whole coastline is built
2 up. Look south. What do you see? Another Kohanaiki
3 golf course unsold.

4 All these 300 guys are back on wherever they
5 came from, a lot of them from Mexico, a lot of them
6 from Hilo, a lot of us here. I've been a construction
7 worker all my life. I can see what's going on.

8 We did the cart paths at Kohanaiki. There
9 were times when as you flew over -- as you did your
10 work the planes flew over and you couldn't hear the
11 people right next to you.

12 I mentioned before, the "Ke'ehi pause". In
13 Honolulu there's a very nice harbor. And it's called
14 Ke'ehi Lagoon, but nobody lives there. Nobody can be
15 there for just a few minutes because these jets keep
16 coming over. And you have to have this Ke'ehi pause.

17 So here we're seeing all around us, all this
18 failed, vacant, bankrupt, and bailed out properties.
19 And you could go up to Waikoloa, A&B, Charles Schwab
20 at Palamanui, Hokulia, Royal Hualalai Gardens,
21 Kohanaiki Golf Course, I mean we could go on and on.

22 So all this energy has been spent to get us
23 to where this is actually a conservation designation.
24 And now another speculator comes along who may be
25 Clifto again, I've heard that. And they're trying to

1 say this is something that we should buy into. But
2 there are so many bad problems with this.

3 The Ke'ehi pause, JAL isn't coming in
4 anymore with their 747's, Aloha Air isn't but the
5 military is coming in. They have even bigger planes.
6 And I'm almost finished here.

7 Also the desalting plant. Do you know how
8 much energy it takes to desalt ocean water? Campbell
9 Park in O'ahu has one that the state built during
10 Waihe'e's term. And that hasn't worked, never did.
11 Just a very little bit, started out and they found out
12 it didn't work.

13 How about sewage treatment? Where's that
14 energy gonna come from? So, again, location,
15 location, location. All the bells and whistles and
16 all these wonderful people sitting in the back row who
17 are very knowledgable, but location, location,
18 location. Not in this place, please. That's it.

19 CHAIRMAN PILTZ: Thank you. Petitioner?

20 MS. BENCK: No questions.

21 CHAIRMAN PILTZ: County?

22 MR. GONZALEZ: No questions.

23 CHAIRMAN PILTZ: State?

24 MR. YEE: No questions.

25 MR. LIND: No questions.

1 CHAIRMAN PILTZ: Thank you. Kathy McMullen
2 then followed by Robert Freitas.

3 KATHY McMULLEN
4 being first duly sworn to tell the truth, was examined
5 and testified as follows:

6 THE WITNESS: I do.

7 CHAIRMAN PILTZ: Name and address please.

8 THE WITNESS: Kathy McMullen, 75-5768
9 Makalina Place, Kailua-Kona. Well, I was here this
10 morning. I didn't realize if we testified before that
11 we have to go to the bottom of the line. But at this
12 point I thank you for that because in the meantime I
13 got a little piece of information.

14 It's obvious to me, but may not be obvious
15 to you when you do your site visit tomorrow. I went
16 to work in between, came back. And I'm glad I had
17 this opportunity to come here and talk.

18 On the way to the job site I was going to I
19 drove right by the site. And as I was driving by
20 there was a large aircraft, a jet aircraft flew, was
21 talking off from Runway 17, flew directly over 'O'oma
22 and actually did not turn to the ocean until it was
23 over the next development, which is Kohanaiki. So
24 there's definitely flights going over on a regular
25 basis.

1 But the critical information that you may
2 not be aware: Tomorrow when you do your site visit
3 what's important to know what runway the flights are
4 taking off from.

5 Runway 17 is where the majority of the
6 aircraft take off from. It goes from north to south
7 so that's why it's flying over this parcel of land.

8 But, if wind conditions change tomorrow and
9 they're taking off from Runway 35, they will not be
10 flying. They will be flying in the other direction.
11 But that is not the dominant runway.

12 So please take note of the time you're doing
13 your site visit, verify which runway they're using,
14 whether it's 35 or 17. It makes a huge difference.

15 If you happen to be there for 35 you won't
16 hear the usual noise. So I wanted to make sure you
17 realized that, in case you didn't.

18 The other thing I wanted to say, I did talk
19 about noise from the airport last time. And I have
20 some more information that I wanted to talk about.

21 One being that the first line of mitigation,
22 should it become obvious that noise is a problem --
23 it's very obvious to me -- but the first line of
24 mitigation by the FAA is usually limiting the time
25 that the airport can operate, meaning usually

1 nighttime when people are sleeping, midnight to
2 6:00 a.m. particularly.

3 You should be aware that a huge percentage
4 of cargo flights come into the Kona Airport between
5 midnight and 6:00 p.m. (sic)

6 This includes all kinds of food that stock
7 our grocery stores, mail services such as UPS, FedEx,
8 Postal Service. They all fly during those hours.

9 We absolutely cannot afford to limit the
10 hours of operation at this airport. These services
11 are a critical part of our local economy and food
12 supply.

13 We cannot afford to risk the possibility
14 that our local economy will be held hostage because of
15 complaints from housing built too close to that
16 airport.

17 Also I want you to know that even if you
18 ignore the recommended 55 DNL noise level that the EPA
19 and Hawai'i DOTA have clearly indicated should be used
20 for noise threshold, even if you ignore that and you
21 go with the old 65 DNL, the 65 DNL right now is right
22 along the coastal area and the park area.

23 The 65 DNL is unquestionably intolerable.
24 It's unquestionable. And it's very close to the
25 houses. So that makes the recreation area very noisy

1 that you're planning. It's only a matter of time
2 before the airport's gonna expand.

3 This airport's expanding almost
4 exponentially since I moved here 20 years ago.

5 A little bit of reiteration. There are --
6 there's data on radar flight tracks recorded at the
7 airport that shows a large number of aircraft that do
8 fly directly over this property.

9 Again, you have to pay attention which
10 runway but Runway 17, which is the predominant runway.

11 And reiterating, we live with our windows
12 and doors opens. Sound mitigation on housing doesn't
13 work in our climate.

14 And I'd also like to note that, you know, I
15 read in the paper that the developer is gonna have
16 somebody to explain -- the quote from the paper was "A
17 further explanation as to how noise issues work and
18 what the reality of the site is."

19 I'm sure a lot of work has gone into this by
20 the developer. And I expect there'll be a lot of data
21 will be presented to support their position. I ask
22 the Commissioners to listen with a critical ear.

23 We all know data can be gathered to argue
24 almost any position. I ask that you rely on some very
25 basic facts, use common sense in your final decision.

1 I also want to note that I work with
2 developers. I'm not antidevelopment. I'm in the
3 surveying business. I work with developers all the
4 time. I work with estate agents.

5 My point on this development is this
6 development does make sense where it's located. It's
7 a great development.

8 It's just a really bad location. It's just
9 time to stop illogical development in Kona. If you
10 approve the rezoning, the political structure of this
11 island will make it nearly impossible to stop it
12 later.

13 Please take a strong stand and stop this
14 type of development on this parcel in the near and the
15 long-term future.

16 CHAIRMAN PILTZ: Thank you. Petitioner,
17 questions?

18 MS. BENCK: No questions.

19 CHAIRMAN PILTZ: County?

20 MR. GONZALEZ: No questions.

21 CHAIRMAN PILTZ: State?

22 MR. YEE: No questions.

23 MR. LIND: No questions.

24 CHAIRMAN PILTZ: Okay, thank you.

25 (Applause)

1 Debbie Hecht and Robert Freitas. Could you
2 wait 'til after and you'll be next.

3 UNIDENTIFIED SPEAKER: 'A'ole pilikia.

4 CHAIRMAN PILTZ: Okay.

5 DEBBIE HECHT

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

8 THE WITNESS: Yes, I do.

9 CHAIRMAN PILTZ: Name and address please.

10 THE WITNESS: My name is Debbie Hecht. I
11 live at 73-4540 Iki Place in Kona. I am for
12 responsible development. And I am very worried about
13 the proximity of this development to the airport.

14 Last Sunday I was having a potluck picnic
15 with friends at 'O'oma during dinner watching the
16 sunset and we couldn't talk when the planes flew over.

17 NELHA is right next to 'O'oma. So that's
18 where the planes go. And the last time that we were
19 here we listened to people from the airport. They
20 said, "Well, it goes out from the runway, then kind of
21 takes out over the ocean." Well, I sat there for two
22 hours and I didn't see that at all. And that's not
23 peak period.

24 When I visited with one of the managers at
25 the airport he said Sundays aren't peak times. Most

1 of the time, the lowest peaks are during the mornings,
2 I think, in mid-afternoon and then it just ramps up on
3 most of the weekday nights. That's when most of the
4 tourists go in and out.

5 So I understand you're going tomorrow for a
6 site visit. Is that true?

7 CHAIRMAN PILTZ: Yes.

8 THE WITNESS: Do you know what time you'll
9 be there?

10 CHAIRMAN PILTZ: 11:30.

11 THE WITNESS: 11:30. So that probably won't
12 be a peak time. But I hope you spend some time there
13 and really listen and see. It's very plain to me if
14 there's houses built there and they need to keep their
15 doors and windows closed in order to mitigate the
16 sound, that just won't work. We don't live that way
17 in Hawai'i.

18 Also I did some research. And where
19 airports have expanded in San Jose, California; San
20 Francisco, California; Tucson, Arizona where small
21 subdivisions were built there, as the airports
22 expanded they had to float bonds to buy people out of
23 their houses because as the noise increased with
24 increased air traffic, those homes became less and
25 less desirable.

1 And, of course, as homes become less
2 desirable the demand decreases and therefore the
3 prices go down.

4 So those communities had to pass bonds in
5 order to buy out those subdivisions.

6 So I think it's also in a tsunami zone. I
7 think, really, it should be left in conservation. It
8 might be appropriate for industrial or commercial uses
9 where people are inside all day long.

10 But I think, really, that most of 'O'oma
11 should be left alone and in conservation as it was
12 zoned. So thank you.

13 CHAIRMAN PILTZ: Petitioner?

14 MS. BENCK: No questions.

15 CHAIRMAN PILTZ: County?

16 MR. GONZALEZ: No questions.

17 CHAIRMAN PILTZ: State?

18 MR. YEE: No questions.

19 MR. LIND: No questions.

20 (Applause)

21 CHAIRMAN PILTZ: Robert Freitas followed by
22 Jeffrey Middleton. Robert, let me swear you in.

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

1 THE WITNESS: All the time.

2 CHAIRMAN PILTZ: Okay. Name and address,
3 please.

4 THE WITNESS: My name is Robert Freitas, Jr.
5 and I reside at 73-4369 Ahiahi Place -- Ahiahi Street
6 which is the middle of the ahupua'a of Kalaoa.

7 Aloha, distinguished members of the panel,
8 invited guests, fellow members of our community,
9 honored members of our 'ohana and cherished friends.
10 We are once again repeating ourselves trying to
11 protect one of the last open areas that we have left
12 on this Kona coast.

13 When are you, the Planning Commission, going
14 to wake up and smell the roses and pay attention to
15 what is really going on?

16 When are you going to take accountability
17 for the mistakes that you have already made?

18 In approving zoning changes for developments
19 and investors who already have and continuing to do
20 more and more damages to our lands and oceans such as
21 the nitrogen problem at OTEC and the locking of the
22 gates to not only hide it but to take away our
23 gathering rights and public access as well. It's the
24 same old story.

25 Give them the approval that they want and

1 before you know it they're complaining about us being
2 at the beach. They're putting up gates to protect
3 their privacy. And public access is under their total
4 control, just as they had always intended.

5 It is bad enough we're already overdeveloped
6 with a huge inventory of unoccupied, overpriced homes,
7 and condominiums, and yet you dare to say we need
8 more.

9 We already have two developments, Palamanui
10 and Kohanaiki, with connections to the same
11 development company as 'O'oma Beachside Village just
12 sitting in limbo. And yet you dare to approve
13 another?

14 Our roads and infrastructure is already
15 seriously inadequate. If the Kohanaiki Development is
16 having landownership, water and other problems what
17 makes you think that the addition of 'O'oma Beachside
18 Village is going to make things any better?

19 It appears that with their political
20 connections, Discovery Land, this guy and their
21 investors, are turning out coastline from Kohanaiki
22 from Kiholo to their very own playground for the rich
23 and only the rich.

24 Like most developers and investors 'O'oma
25 Beachside Village's main objective is money. So the

1 developer's statement about caring for the land and
2 its people is all a bunch of bull because you are no
3 different from the other rodeo clowns who came before
4 you making false promises when you care for no one but
5 yourself and your pocketbook.

6 As they say, "Talk is cheap." And we have
7 been listening to a whole lot of it in support for
8 this development and the request for zoning change.
9 In taking a closer look at the core of these
10 statements in support of this development what do you
11 find as the motivating factor? Money, money, money.

12 You came to our shores as Kamehameha had
13 done, lost. And our people took care of you. You
14 returned in the name of God. And we listened to what
15 you had to say about someone we already knew as Akua.

16 You saw an opportunity to make money by
17 making us wear cloths and soon we were working for
18 you. You needed supplies and soon we were buying from
19 you.

20 You asked for permission to build a
21 lighthouse at Keahole Point. And my great-grandfather
22 not only granted your request, but he even volunteered
23 to be the lighthouse keeper.

24 You claimed we needed your protection. So
25 in 1941 you brought in the military. And how did you

1 protect us?

2 You burned down our family home at Keahole
3 Point, barbed wire off our access to the ocean, and
4 marched us off our land along these very shores of
5 'O'oma by gunpoint, due the possible invasion by enemy
6 submarines while the so-called enemy submarine never
7 landed on the shores of Keahole or 'O'oma for that
8 matter. The lighthouse remains to remind us of how
9 you conned us out of our lands.

10 Your state building sits on the very spot
11 where our home once stood. How dare you.

12 And now you claim that 'O'oma belongs to you
13 because of your expensive attorney and the bogus Tax
14 Map Key that says so? Your documents are seriously
15 inaccurate, and you do not and will never have clear
16 title.

17 As I have said time and time again, we are
18 the family of Keaowa, of Kamehameha the Great and his
19 half brother High Prince Kaleimamahu. My 'ohana have
20 been on this land long before Captain Cook ever
21 landed. We utilized the entire ahupua'a from the
22 mountain to the sea by way of the old 'O'oma Trail.

23 In 1943 under the direction of certain
24 distinguished businessmen a plan was devised to
25 overthrow our kingdom. Why? Land and money.

1 In 1941 your military burnt down our
2 family's home at Keahole Point. Why? Land and money.

3 One hundred seventeen years since the
4 overthrow and 69 years since you burned down our
5 family's home here we are once again with you now
6 trying to steal and develop 'O'oma. Why? Why else?
7 Land and money.

8 Is this what they call the American dream?
9 Because for many of us this is not a dream but a
10 nightmare. Why should you care? Isn't this all part
11 of the overthrow, the power of politics, money and you
12 play the game to get what you want?

13 It is obvious that you have been talking to
14 the wrong people. It's clear that you want to use our
15 land. And is even clearer that you need to speak to
16 the true owners of these lands.

17 Earlier my Uncle Norman Akahai, a kahu, had
18 spoken about the Kohanaiki. The same thing will
19 happen to 'O'oma.

20 Again, my name is Robert Freitas Jr. And on
21 behalf of my 'ohana we demand that 'O'oma remains
22 conservation and we look forward to meeting with you
23 at your earliest convenience. Thank you.

24 CHAIRMAN PILTZ: Thank you.

25 (Applause)

1 CHAIRMAN PILTZ: Petitioner?

2 MS. BENCK: No questions.

3 CHAIRMAN PILTZ: County?

4 MR. GONZALEZ: No questions.

5 CHAIRMAN PILTZ: State?

6 MR. YEE: No questions.

7 MR. LIND: No questions.

8 CHAIRMAN PILTZ: Jeffrey Middleton followed
9 by Jason Cullum.

10 JEFFREY MIDDLETON

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

13 THE WITNESS: I do.

14 CHAIRMAN PILTZ: Name and address, please.

15 THE WITNESS: I'm Jeff Middleton, 77-558
16 Ali'i Drive, Kailua-Kona, 96740. I only have two
17 things to say. This is my second time up here. I've
18 looked a little bit more into this development. And
19 it does appear that the speculators have proposed a
20 really good Project with a lot of attention to the
21 community and the setbacks.

22 But what concerns me is that they're not
23 bound by any of this. If you convey this -- allow
24 them to convey it into an urban development, that's
25 the last chance we have to control this property.

1 What I'm trying to say is they have rights.
2 If you give them an urban permit, then they have
3 rights. If they wanna sell it the next day they can
4 sell it.

5 I betcha they quite possibly have already
6 had -- they have opportunity right now. They may get
7 out before they even develop the property and take
8 their wins or their profits and go and let someone
9 else deal with the problems. I'm not saying they're
10 doing that.

11 What I am saying this is the last chance for
12 the conservation land to be maintained. If you let it
13 go the issue's over.

14 The other thing I'm concerned about is the
15 word "culture". The man just before me alluded to a
16 lot of history that no one seems to know anything
17 about. Where did you get your title? Did you get
18 your title from a quitclaim title?

19 This property was stolen in 1941. That's
20 yesterday. This didn't happen 200 years ago. Real
21 estate law in the United States still holds true. So
22 what's going to happen, and I think you guys should
23 ask this question, what if there is a cloud on the
24 title?

25 Don't these things need to be looked into

1 before you change the zoning? Let's see the titles.
2 Let's see -- let's do a title search. Let's see if
3 there's a cloud on this title.

4 What happened to Kohanaiki? How come that
5 shut down? How come they don't have water? Because
6 if you don't have clear title you cannot have clear
7 utilities.

8 If you look at the Palm Tree Café you'll see
9 a fire hydrant and all the hoses coming out out of --
10 going under the ground to support Kohanaiki, because
11 they can't get utilities because they don't have clear
12 title.

13 Unfortunately, this is all brand new
14 history. It may go back to be real estate law as
15 transferred from the Mahele and interpretation but
16 it's all going to end up in U.S. courts.

17 The problem is not federal's. It's the
18 state. And when it goes to the federal law they're
19 going to go to the letter of the law. They're going
20 to go like at real estate law where heirs have rights.

21 So to round this all off, I just think that
22 you need to think of two things: Is it clear -- No.
23 1. Is the titles clear? Secondly: Culture. We do
24 know that there was Hawaiian people, during the fear
25 of invasion in 1941, were eliminated from the coast.

1 We also know that the land was never
2 condemned and they were never paid for it. So this
3 issue still has not yet been resolved. It's gonna
4 need to be resolved. They're not going anywhere.

5 The man before me, Mr. Freitas, he still
6 lives on the same ahupua'a. Ahiahi Street is on the
7 same ahupua'a.

8 Their mountain property is still there. The
9 house is still there. It's still being used. It's
10 still being inhabited by the family. They have
11 maintained every legal requirement in order to hold
12 onto their lands. I think that's just about it.

13 I just think you need to look into these
14 issues. Thank you very much.

15 CHAIRMAN PILTZ: Petitioner, questions?

16 MS. BENCK: No questions.

17 CHAIRMAN PILTZ: County?

18 MR. GONZALEZ: No questions.

19 CHAIRMAN PILTZ: Mr. Yee?

20 MR. YEE: No questions.

21 MR. LIND: No questions.

22 (Applause)

23 CHAIRMAN PILTZ: Jason Cullum? Jason?

24 Sammie Stanbro?

25 xx

1 xx

2 'SAMMIE' SHARON STANBRO

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

5 THE WITNESS: Yes. Legally my name is
6 Sharon Stanbro, if that makes anything to do with
7 anything. That's Box 118, Holualoa 96725.

8 CHAIRMAN PILTZ: Go ahead.

9 THE WITNESS: I don't know where to start.
10 I am -- excuse the expression -- I'm a school
11 teacher -- but I am pissed off. Mr. Clifto brought
12 this whole matter here about four years ago. We dealt
13 with this, we hopped, once and for all.

14 The gentleman is a liar. He's not to be
15 trusted. And that's why he's not here. That's why he
16 has other people, this lovely young lady here and the
17 gentleman in the back from California here in his
18 stead.

19 He lied through his teeth trying to get this
20 zoning changed about four years ago. And we worked
21 hard. We went to Hilo, we did everything we possibly
22 could to make people understand.

23 Thank God we had a mayor that had a brain
24 and wasn't greedy at that time. And Harry Kim saw
25 through a lot of what was happening, and he used an

1 issue being the roads to veto this development.

2 If my voice seems nervous, I'm usually not
3 this way. I'm used to speaking in front of a bunch of
4 high school kids. You have no idea how excited I was
5 to see the high school kids here this morning.

6 Do you know how hard -- how many times do
7 high school kids come and speak to you? Not very many
8 anymore. They're disillusioned by what happens with
9 politics, especially here in Kona.

10 And to see those kids out -- when I was at
11 the high school the kids wanted the day off so they
12 could come speak here. And they have finals and it's
13 not a good time. But these kids believe in their
14 future in Kona. And something like 'O'oma is
15 something that is really apparent to them.

16 I want to give you some facts, and talk fast
17 if I can, but since I've dealt with this for as many
18 years as I can I hope I have more than three minutes.

19 I wasn't here earlier. I was at the council
20 meeting. (adjusting mic) Sorry. I'm tall, don't want
21 to bend over. I understand that 'O'oma is now telling
22 you they're going to get their water from NELHA and do
23 a desalinization plant. Ah, hello? NELHA has hardly
24 any water left.

25 They already have a lot of issues going on

1 with all of their developers now that are within the
2 state properties.

3 And I would like to see the paper, the
4 agreement that 'O'oma has with NELHA that they're
5 going to get water from them for desalination. No,
6 there is none, is there.

7 Before Clifto did a verbal agreement with
8 the director of NELHA, who is no longer there, who did
9 some shady dealings himself, and made some agreements
10 with Clifto -- in fact he went and spoke in favor of
11 this at the council meeting -- and he made a lot of
12 deals under the table with Clifto.

13 And when that guy was fired and Clifto was
14 gone, that was the end of it. There's never been any
15 discussions as far as NELHA.

16 Another thing about NELHA is it's heavy
17 industry. I don't know if the 'O'oma people know that
18 there have been papers signed and there is a company
19 that's doing waste-to-energy that's going to be your
20 neighbor? They're getting ready to do their EIS.
21 They've put down their money and they have their lot.
22 So that's another issue.

23 You have a heavy industry, big, heavy
24 industry place right nextdoor to you. Now, 'O'oma is
25 zoned heavy industry. The reason why, in the wisdom

1 of the people that zoned things back in the day, the
2 reason why we have conservation by the ocean and the
3 reason why the 80 acres that Mr. Clifto purchased was
4 only \$2 million and he sent \$2 million for basically
5 80 acres.

6 We tried to buy it to keep it open. The
7 county said we don't have the money. So Mr. Clifto
8 bought it, \$2 millions, 80 acres, heavy industry. And
9 that's what he paid them money for. And that makes
10 sense.

11 But while he was trying to go for a zone
12 change, on the Internet he had it advertised for
13 \$23 million. And he had advertised that he already
14 had the zone change.

15 Virginia Isbell, most of you know her, I
16 mentioned that to her that somebody had said they saw
17 it on the Internet. She didn't believe me. She went,
18 made the copy, came to one of our meetings and said,
19 "What's this, Mr. Clifto?" And he was really
20 embarrassed, and he walked out the door.

21 He was advertising the property for sale
22 with a zone that he didn't have, for \$23 million. He
23 was going to make a lot of money.

24 He's still an owner on the property but he's
25 not here because he knows what a bad face he's made

1 already in the community.

2 And that's why I'm upset because, you know,
3 all these people have gone before have all made really
4 good points and really true points. And Mr. Freitas
5 speaking about the land. I mean it's obvious.

6 We all know how Hawaiians, what has happened
7 here. But, you know, and the kids and the future,
8 everything, it's just underhandedness, the big money
9 that comes in from Nevada and California to try to get
10 the development and then they're gone. Then we have
11 to deal with the rubbish that's left over.

12 And we love this place. We're all going to
13 die here. We all live for it, fight for it, and
14 everything.

15 But when people come in from another state
16 and try to push something down our throat -- and it's
17 been done before, the same man, the same -- there are
18 so many other things.

19 It's, like, do you know that our
20 planning com-- our water has already been allocated to
21 10,000 lots metering that haven't even been built yet
22 in North Kona? So where's all this water going to
23 come from?

24 And if they're needing how many gallons per
25 day from NELHA, they don't even have that much. I

1 mean that 55-inch pipe is pretty amazing. And if you
2 have the time to run over and see it when you're over
3 in that area, it's pretty fantastic. But they're
4 using a lot of that water already.

5 So where's this going to come from? Ten
6 thousand places have already been permitted that
7 haven't been built in Northern Kona. Now, you're
8 looking at giving us more to deal with?

9 Our wells are already maxed out. Our
10 biggest well, Kahulu'u, which is terrible, has so much
11 salt in it that it's not healthy drinking water. And
12 people, you know, it's really painful that our wells
13 are not being adequate to the population that we have.

14 If you give me just a second here. I just
15 wrote some things down, but I think I basically
16 covered it all. And I just, you know, you guys are
17 smart. That's why they picked you to be on this
18 Commission. And, gentlemen from the state and
19 everything, I'm not telling you anything you don't
20 know.

21 And when a development comes and they're
22 trying to tell you the best thing, Mr. Clifto used to
23 come to the council meetings and say to me, "Sammie,
24 what do you want? I'll give it to you. Just support
25 me. Do you want a theater?" Somebody said, "Ah, I'm

1 into theater."

2 He says, "Oh, I'll give you a theater in the
3 round, anything you want so that you won't oppose my
4 zoning because I wanna make some money."

5 And he told me his wife was the Hawaiian
6 princess that was part of that land, that her family
7 was part of that land, so he wanted to do the best
8 thing for that land. I was, like, "Yeah, well."

9 It's just, you know, you kind of get it up
10 to here. I have land over on O'ahu. I have, you
11 know, I know you guys come from, from where you're
12 coming from is different than this place.

13 But just, you know, make your best decision.
14 But just know that this isn't new. This went on
15 before with the same land. Thank you.

16 CHAIRMAN PILTZ: Thank you. Petitioner?

17 MS. BENCK: If I may just ask one quick
18 question.

19 THE WITNESS: Sure.

20 MS. BENCK: Because you've obviously been
21 watching this land for some time.

22 THE WITNESS: For a long time.

23 MS. BENCK: I want to pick up on one point
24 that you made, which is absolutely correct. The last
25 time the mauka piece the developer tried to develop

1 the mayor vetoed.

2 THE WITNESS: It was the whole land, the
3 whole piece. Mr. Clifto, I don't know that he was
4 asking to change the conservation area, but it was for
5 the whole piece or that's what he indicated to me.

6 MS. BENCK: The data I wanted to ask you
7 about now --

8 THE WITNESS: Sure.

9 MS. BENCK: -- and I wouldn't at all hold it
10 against you if you haven't read this, but it's
11 something we filed with the Commission. It's a letter
12 from Mayor Harry Kim in support of this Project.

13 THE WITNESS: Mayor Harry Kim, you don't
14 know him, obviously. If you showed him the things
15 that you've been showing everybody else and from what
16 I understand the little bits I've seen about it, it's
17 a great development.

18 And his concern, a big concern of his was
19 the -- since you've asked me I get a few more minutes?

20 CHAIRMAN PILTZ: Okay.

21 THE WITNESS: One of his concerns was the
22 traffic. And it was really, really, really, really
23 bad, worse than now.

24 However, one of the things now which is very
25 interesting that's happened with Kohanaiki and with

1 our access to the beach, is like all this
2 development's been going on and all of a sudden we
3 can't turn left anymore off the highway.

4 So what is going to happen when we have more
5 development and we still can't turn left off the
6 highway because it's unsafe? All the while they were
7 developing it it was fine.

8 Now that they have stopped development in
9 Kohanaiki, no one can turn left off the highway.

10 So where your access is off to the highway,
11 are people going to have to go all the way to the
12 airport and then turn, and come back to get into your
13 development, all thousands and thousands of people?
14 They've totally closed off the highway for left-hand
15 turns.

16 MS. BENCK: We can address that question if
17 you'd like. But I'd rather it come out through later
18 testimony.

19 THE WITNESS: Okay. But Harry Kim is a very
20 good friend of mine. And he was very wise and very
21 good and very generous with his mana'o and very fair.

22 He still lives in the tiny little HPM house
23 that he came into office with, and he's going out
24 with. He didn't make any money off being a mayor that
25 I know of.

1 He's really sweet. And if you gave him a
2 nice development he'd probably thought, ah, wow, this
3 is really a nice development. And his name carries a
4 lot in this island. We all think a lot of him.

5 MS. BENCK: I'm glad you think so.

6 THE WITNESS: However, if you go and look at
7 the physical mess, and if he saw what the highway
8 still looks like and why we can't turn left off that
9 road, I mean what's going to happen with this
10 develop --

11 CHAIRMAN PILTZ: We're going to cover that
12 later on.

13 THE WITNESS: Okay. Thanks.

14 MS. BENCK: Thanks.

15 CHAIRMAN PILTZ: Any others? County.

16 MR. GONZALEZ: No questions.

17 MR. YEE: No questions.

18 MR. LIND: No questions.

19 CHAIRMAN PILTZ: Winfield Chang followed by
20 Simmy McMichael.

21 WINFIELD CHANG
22 being first duly sworn to tell the truth, was examined
23 and testified as follows:

24 THE WITNESS: I do.

25 CHAIRMAN PILTZ: Name and address, please.

1 THE WITNESS: My name is Winfield Chang.
2 And my residence is 74-1432 Kaloko Drive. I'm
3 testifying as a very concerned private citizen and a
4 native Hawaiian. Quite honestly, I'm a little
5 surprised to be expressing again my opposition for the
6 reclassification for coastal conservation to urban
7 zoning for the purpose of yet another development.

8 My only conclusion is that the passionate
9 testimony presented to this Commission two months ago
10 on March 3rd was not compelling enough to convince you
11 that the majority of the Kona community is vehemently
12 opposed to this Project.

13 At your last public hearing it was apparent
14 that the overwhelming opinion expressed was not only
15 sincere and passionate, but was presented with the
16 kind of intensity that would have moved you to act in
17 the best interest of the Kona community at large.

18 I found it more than interesting that
19 most -- much of the testimony in favor of
20 reclassification was presented by individuals not from
21 our community but from East Hawai'i: Labor unions,
22 notwithstanding, they have no vested interest in the
23 lifestyle of the families that reside here.

24 They do not live and play along our
25 coastline, but just perceive it as yet another

1 opportunity to make money.

2 The data presented from credible
3 organizations like the airline pilots, the surfers,
4 and ordinary citizens of West Hawai'i would have
5 convinced anyone that this is an ill-conceived Project
6 for that area directly in the flight path of Kona's
7 International Airport.

8 More importantly, the reclassification would
9 deprive your community of recreational activities that
10 they currently enjoy. Rather than restating the
11 obvious reasons previously expressed, there are many
12 peripheral issues that should be presented in the
13 light of day.

14 The article in West Hawai'i Today announcing
15 this public hearing stated that, "According to the
16 County Planning Commissioner, Ms. Leithead-Todd," who
17 in my humble opinion is the quintessential bureaucrat,
18 "stated that, quote, 'The county is in support of this
19 Project.'"

20 It was amazing that her obvious and long-
21 standing bias toward development here in West Hawai'i
22 would be so all-encompassing.

23 Even as a councilwoman this bias served as
24 an advocate for developers and only reaffirms her
25 previous position. I don't believe she ever met a

1 development in West Hawai'i that she didn't like
2 because she lives in East Hawai'i.

3 I'm still wondering who she meant in the
4 article as, quote, "the County." I always thought the
5 citizenry was the county. I'm still confused if it
6 was this mayor she was referring to, the county
7 council, or just herself in the powerful position as
8 the planning director that supports this
9 reclassification over the objections of our community.

10 Is it any wonder that developers will
11 knowingly purchase conservation land, equipped with
12 the knowledge that at sometime down the road they
13 could apply for rezoning to a very sympathetic county
14 official?

15 We here in West Hawai'i are familiar with
16 developers promising public access. We have learned
17 from prior developments that public access meant 25
18 parking spaces like at Kaua Beach at Mauna Kea.

19 Public access is also meant constructing
20 gate houses that intimidate many people from enjoying
21 the ocean that belongs to everyone.

22 It could also take the form of excessive
23 parking fees that prohibit ordinary families from
24 convenient access to the ocean, as in the case of the
25 Hilton.

1 The Hawaiian culture is one that is
2 extremely sensitive. We have a word call mahaoi which
3 means that Hawaiians, especially kupuna, are reluctant
4 to go to places that they know that they're not
5 welcome or wanted.

6 Another concept known as hilahila, shame or
7 embarrassment, because of the obvious disparity
8 between the haves and the have-nots. These kinds of
9 social issues should be addressed.

10 Finally, my last point is directed to the
11 Petitioner. In the interest of full disclosure it is
12 my hope that the language in purchasing properties at
13 'O'oma include the knowledge of the facts presented
14 here at these meetings such as decibel levels, future
15 proximity to the airport.

16 It should also include a signed waiver
17 indicating that they have no redress at either the
18 county or the state level when the inevitable
19 expansion of the Kona International Airport occurs.

20 As I mentioned in the prior testimony, the
21 never ending mantra of developers of providing jobs is
22 just one half of the equation. The other side of the
23 equation is the loss of conservation land forever for
24 all generations to come.

25 Once the Project is built out the jobs are

1 gone, the developer is gone with the fist full of
2 dollars, and the 'aina is desecrated in perpetuity.

3 Mahalo for the opportunity to expand on my
4 initial testimony. Again, on behalf of the Kona
5 community we hope this petition be denied again for
6 the third time. Are there any questions?

7 (Applause)

8 MS. BENCK: No questions.

9 CHAIRMAN PILTZ: County?

10 MR. GONZALEZ: No questions.

11 CHAIRMAN PILTZ: State?

12 MR. YEE: No questions.

13 MR. LIND: No questions.

14 CHAIRMAN PILTZ: Next person is Simmy
15 McMichael.

16 SIMMY McMICHAEL

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

19 THE WITNESS: Yes.

20 CHAIRMAN PILTZ: Name and address, please.

21 THE WITNESS: Simmy McMichael, 75-5702
22 Nakana Lane. I'm an owner of a surf shop since 1978.
23 And we have an organization called the Hawaiian
24 Surfing Association.

25 I need to bring up the fact that this is

1 probably the second best surfing spot on the Kona
2 Coast. It's a beginner's spot and an advanced spot.
3 Lots of keikis go there, families go there. It's just
4 wonderful to be there. And surfing is an Hawaiian
5 ancient sport.

6 I need to bring up the example of what has
7 happened to our number one spot, which is Banyans.
8 They built the Bali Kai, the Kona Bali Kai back in the
9 '90s. I can show you a certified shoreline survey.
10 And they had built this on conservation district. And
11 you can see the erosion that's happening right now.

12 This here is in 1995, this line here. This
13 line goes all the way to 2009. As you can see the
14 high wash water is all the way up to the building.
15 Right now they want to build seawalls to protect this
16 building.

17 The Kona Bali Kai should have never been
18 built in the first place. We never had problems in
19 the beginning finding parking, access to the beach.
20 This is a similar pattern of what it going on here.

21 So what it is is you're going to allow them
22 to build? You get the erosion problem. And they want
23 to build seawalls. When you build seawalls it hardens
24 the ocean and it diverts the natural flow. We will
25 lose the beach.

1 This is a whole pattern of repeat. Says,
2 "Sandy beaches are the backbone of Hawai'i's
3 multi-million dollar visitor economy which provides
4 the bulk of the State's jobs and income."

5 "Hawaiian beaches are tremendously popular
6 around the world and our leading tourist destination.
7 The State's economic prosperity is directly linked to
8 the quality of the beaches."

9 There's also -- everyone made up good points
10 here. I listened from 10 o'clock this morning. I
11 kinda don't want to repeat. Everyone had really
12 excellent points. And I learned a lot from them.

13 What I needed to add is I'm there at
14 Kohanaiki at five days a week surfing. If only you
15 could only experience what that beach is like. It's,
16 it's, it's amazing. And I need to bring up an example
17 of what could possibly happen now in this scenario
18 pattern.

19 Back in, I believe it was 2006, there was
20 that huge earthquake that it was multimillion dollars
21 damage to us. Well, I was in the water at quarter to
22 seven in the morning. And there was probably only
23 about five of us. It was Sunday morning. And I heard
24 this big BOOM. And I thought, "Oh, my God! Why are
25 they doing construction at quarter to seven in the

1 morning on a Sunday?"

2 I had no idea. I absolutely -- the water
3 shook all around me like this. Then I heard the
4 tremor underneath. I thought, "God, that's insane
5 they allow construction."

6 Well lo and behold the security came out in
7 the water and paddled out to me and said, "You need to
8 get out as fast as you can." I said, "Why?"

9 "Because there could be a possible tsunami."
10 Oh, my God, my heart dropped to my feet. My husband
11 said, "Shower." And I said, "What do you mean shower?
12 We need to get outta here as fast as we can!"

13 So what I'm saying is: What happens when
14 you have a tsunami? You're saying it's 1100 to 1700
15 back foot, right? What happens when the tsunami or
16 hurricane attacks that beach? I mean it's a surfing
17 beach. There's a lot of wave action there. Where's
18 the guarantee for our beach? You have the development
19 there.

20 Then they're going to build their seawall.
21 Then what? We'd lose our beach. We don't have the
22 lateral. It says here there's been all these studies
23 here.

24 You can pull it up and it says that "Coastal
25 property owners bear tremendous risk. Their property

1 is vulnerable to tsunamis, storm surges, floods and
2 hurricanes.

3 "In addition, owners along the shoreline
4 bear the risk of their property may erode. Under
5 common law the rotarian landowner loses title to lands
6 that are submerged through the process of erosion.

7 "Because the land seaward of upper reaches
8 the wash of the waves including the beach is public
9 trust resources. A private property owner does not
10 have the right to impair public trust resources."

11 Thank you. Please don't let this
12 conservation change to urban. It's really, really
13 important. Don't let the whole scenario repeat
14 itself. Thank you.

15 CHAIRMAN PILTZ: Petitioner, questions?

16 MR. LIM: Just one clarification question.
17 Thank you, Ms. McMichael. You said in your testimony
18 that this is the number two surf spot in the Kona side
19 and you're talking about Kohanaiki.

20 THE WITNESS: Yes. And if you go there on
21 this month, I wish that you would go on the 22nd.
22 There's going to be camping for three days there. And
23 we're having a contest there that the community is all
24 there to support. There will be over 90 kids. There
25 were supposed to be only 70 but they couldn't turn

1 down all the kids. It's going to take all day to run
2 the contest. But you'll see the enjoyment there.
3 It's unreal.

4 MR. LIM: Thank you. No further questions.

5 CHAIRMAN PILTZ: County?

6 MR. GONZALEZ: No questions.

7 CHAIRMAN PILTZ: State?

8 MR. YEE: No questions.

9 MR. LIND: No questions.

10 CHAIRMAN PILTZ: We have Brent Carman?

11 UNIDENTIFIED SPEAKER: He had to go back to
12 work.

13 CHAIRMAN PILTZ: Let's take a break,
14 five-minute break.

15 (Recess was held. 3:20)

16 CHAIRMAN PILTZ: We're back on the record.
17 Next person is Hawai'i Island Economic Development
18 Board.

19 LAURA AQUINO

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

22 THE WITNESS: I do.

23 CHAIRMAN PILTZ: Name and address, please.

24 THE WITNESS: I'm reading on behalf of
25 Jackie Hoover, executive director of the Hawai'i

1 Island Economic Development Board, 250 Keawe Street
2 Hilo, Hawai'i.

3 MS. ERICKSON: Could you also state your
4 name, please.

5 THE WITNESS: My name is Laura Aquino.

6 CHAIRMAN PILTZ: Thank you.

7 THE WITNESS: "On behalf of the Hawai'i
8 Island Economic Development Board we support this
9 petition to amend the current land use into urban
10 land.

11 "The Hawai'i Island Economic Development
12 Board is made up of more than 125 members who support
13 balanced growth in Hawai'i County in partnership with
14 both public and private resources. This Project is a
15 perfect example of just this type of balanced growth.

16 "I would like to focus my testimony on some
17 of the misinformation being circulated about
18 conservation districts and the notion that this plan
19 before you does not comply with the Kona CDP or
20 community development plan.

21 "First, the Project has a general subzone
22 conservation district use as noted in HAR Title 13
23 Chapter 5.

24 "The objective of the subzone is to
25 designate open space where specific conservation uses

1 may not be defined but where urban use would be
2 premature. It's safe to say because the subzone was
3 adopted in the early 1960s we can now say that 40 plus
4 years later urban use would now be appropriate.

5 "The general subzone from conservation land
6 goes on to note that lands not presently needed for
7 urban, rural or agricultural uses shall be encompassed
8 into the subzone.

9 "Again, it is safe to say fast forward 40+
10 years and, yes, this request before you is the right
11 time for this reclassification change.

12 "Further, the Kona Community Development
13 Plan does not say lands with conservation use shall
14 remain as such.

15 "What it does say is the Community
16 Development Plan shall serve as a policy guide for
17 county decisions regarding physical development.

18 "The Kona CDP also states that areas
19 designated within the Kona urban area are potential
20 areas for rezoning. The idea that Queen Ka'ahumanu
21 Highway should be a line for no development makai is
22 not what the Kona CDP states. The land use chapter of
23 the CDP policy LU 1.5 states that, "It shall be a
24 priority to maintain a minimum of a thousand foot open
25 space, no-build setback for undeveloped lands adjacent

1 to the shoreline."

2 "'O'oma has planned all along that its
3 shoreline setback would be an unprecedented 1100 to
4 1700 feet. This well-planned development that goes
5 hand in hand with the Kona CDP should be recognized
6 for the measures it took to comply.

7 "As a community we all spent hundreds of
8 hours giving our input to the Kona CDP and the end
9 result is this. According to the Kona CDP this is the
10 right Project in the right place." Thank you.

11 CHAIRMAN PILTZ: Thank you. Petitioner?

12 MS. BENCK: No questions.

13 CHAIRMAN PILTZ: County?

14 MR. GONZALEZ: No questions.

15 CHAIRMAN PILTZ: State?

16 MR. YEE: No.

17 CHAIRMAN PILTZ: Intervenor?

18 MR. LIND: No questions.

19 CHAIRMAN PILTZ: The gentleman in the back?

20 Yes.

21 ROSS WILSON, JR.

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

24 THE WITNESS: I do.

25 CHAIRMAN PILTZ: State your name and

1 address, please.

2 THE WITNESS: My name is Ross Wilson, Jr.
3 My address is 75-5751 Kuakini Highway. I'm reading
4 testimony on behalf of Fritz Harris Glade who couldn't
5 be here today. He's on Kauai.

6 "Thank you for the opportunity to provide
7 this testimony in support of 'O'oma Beachside Village.
8 I apologize for not presenting this statement in
9 person, but due to lack of jobs in Kona I have taken a
10 project management position for a project that was
11 approved on Kaua'i.

12 "My name is Fritz Harris Glade. I'm a
13 long-time resident of Kona. I'm a licensed architect
14 and I'm a LEED accredited professional. It is my
15 understanding that there have been wild statements
16 opposing 'O'oma, and want to use this opportunity to
17 address and correct three of the most blatant
18 misconceptions.

19 "Several have raised objections to taking
20 the land out of the conservation district suggesting
21 that the property has historic, environmental or
22 geological features that must be protected in
23 perpetuity. While portions of the property are
24 presently designated conservation, a closer look into
25 its subzones note that the bulk of the property is in

1 the general subzone.

2 "As you know the conservation district
3 general subzone is the least protected subzone and
4 serves more as a land-banking designation because
5 specific conservation features are not found in the
6 property. And when it was designated, urban use was
7 considered premature.

8 "Given that the designation was made 45
9 years ago and Kona has significantly changed since the
10 designation, now is the right time to have it conform
11 to present planning for the area. And you should
12 approve the change to urban.

13 "Speaking of present day planning, several
14 suggest 'O'oma is not consistent with the Kona CDP.
15 This is not true. And a simple review of the planning
16 will verify that.

17 "The Kona CDP does not say you can't build
18 makai of Queen Ka'ahumanu. In fact, it contemplates
19 coastal development and suggests a shoreline setback
20 of 1,000 feet which 'O'oma exceeds.

21 "The Kona CDP does not say that the
22 development is limited to the mid-level road. In
23 fact, it calls for projects on the secondary transit
24 corridor makai of the highway and elsewhere.

25 "'O'oma is located on the secondary transit

1 corridor, and 'O'oma plans to incorporate a transit
2 station in its Project. 'O'oma conforms to the Kona
3 CDP, and serves to implement that plan.

4 "Several have expressed concern about the
5 Project's proximity to the Kona Airport and airport
6 noise. While airport noise can be a concern for some,
7 as an architect I know that the design and
8 construction techniques can minimize noise impacts to
9 the occupants in the homes at 'O'oma.

10 "In fact, the county green building
11 standards recently adopted by the council include wall
12 and ceiling insulation and other requirements that
13 will automatically reduce heat and sound impacts in
14 the homes.

15 "'O'oma Beachside Village is consistent with
16 the County General Plan and Kona CDP and its land use,
17 transportation, concurrency and other official maps.
18 Changing the land use to urban is appropriate and
19 consistent with those plans. And construction
20 standards will mitigate impacts of the property's
21 proximity to the airport.

22 "'O'oma is the right Project in the right
23 place being developed at the right time. Thank you."

24 CHAIRMAN PILTZ: Petitioner, questions?

25 MS. BENCK: No questions.

1 CHAIRMAN PILTZ: County, questions?

2 MR. GONZALEZ: No questions.

3 CHAIRMAN PILTZ: State?

4 MR. YEE: No questions?

5 MR. LIND: No questions.

6 CHAIRMAN PILTZ: Okay. That concludes our
7 public testimony. Petitioner, could you describe your
8 exhibits for the record.

9 MS. BENCK: Yes, thank you, Chairman. In
10 addition to the 94 exhibits that we had admitted at
11 the first hearing on March 3rd and March 4th, we have
12 since filed Petitioner's Exhibits 81 through 95.

13 If you like I can read those exhibit
14 numbers -- I'm sorry the titles of those exhibits.

15 CHAIRMAN PILTZ: That's not necessary. Are
16 there any objections?

17 MR. GONZALEZ: None from the county.

18 MR. YEE: No objection.

19 MR. LIND: No objections.

20 CHAIRMAN PILTZ: Commissioners, any
21 objection to the exhibits? Seeing none, we will admit
22 that to the record. Mr. Yee, do you have exhibits for
23 the record?

24 MR. YEE: Yes. The Office of Planning would
25 like to submit Exhibits 3, 5A, 8, 23, 27 and 28 into

1 evidence.

2 CHAIRMAN PILTZ: Any objections?

3 MS. BENCK: No objection.

4 MR. GONZALEZ: No objection.

5 MR. LIND: No objection.

6 CHAIRMAN PILTZ: Commissioners, any
7 objections to those? They will be admitted to the
8 record. Ms. Benk, please proceed with your case.

9 MS. BENCK: Thank you very much. We'd liked
10 to call today as our first witness on redirect now
11 will be Yoichi Ebisu. He's our noise expert. And he
12 is who we were speaking with at the close of the last
13 hearing. This is Mr. Ebisu. You've already qualified
14 him as an expert. I don't know if you care to do it
15 again today.

16 CHAIRMAN PILTZ: That's on the record.

17 MS. BENCK: Thank you.

18 YOICHI EBISU,
19 being first duly sworn to tell the truth, was examined
20 and testified as follows:

21 THE WITNESS: I do.

22 CHAIRMAN PILTZ: And state your name and
23 address for the record again.

24 THE WITNESS: My name is Yoichi Ebisu. My
25 address is 1523 Oliver Street, Honolulu, Hawai'i.

1 CHAIRMAN PILTZ: Go ahead.

2 CONT'D DIRECT EXAMINATION

3 BY MS. BENCK:

4 Q Yoichi, when we were here last time there
5 was still an awful lot of confusion over the noise
6 levels that are going to be over the property and
7 specifically the status of the FAA's acceptance of the
8 DOT's recent noise exposure maps.

9 I know when we asked you that last time you
10 weren't sure if those maps had been accepted yet. Do
11 you know if those maps have been accepted?

12 A My understanding is that the FAA accepted
13 the state DOT Airports Division noise exposure maps
14 for Kona International Airport on January 12, 2010.

15 Q And what do those maps show? What are the
16 years that those maps show, please?

17 A The maps that were approved were the 2008
18 base year noise exposure map for the airport as well
19 as the 2013 future or forecast noise exposure map for
20 Kona International Airport.

21 The 2013, and there was also a long-range
22 forecast noise exposure map included with the Part 150
23 study information on their website which takes into
24 account the DOT's future plans for an additional
25 runway at the airport, as well as increases in

1 operations and activity at the airport.

2 Q So if I could I just want to make sure
3 that's clear. The maps that the FAA accepted and that
4 the DOT had submitted for the FAA to accept, take into
5 account expanded activity at Kona International
6 Airport?

7 A That's correct.

8 Q What sort of additional activity, or what
9 sort of airport expansions?

10 A Well, in preparing the noise exposure maps
11 for the future they rely on forecasts that were
12 developed by the master plan study. As far as I know
13 the forecast in the out years, the long-range
14 forecast, go out to the year 2030.

15 So in developing these maps they look at
16 what is required in terms of maintaining or improving
17 the capacity of the airport at Kona International
18 Airport.

19 So because air traffic activity is expected
20 to grow, they had some plans for improving the airport
21 which included in addition to the C-17 Austere
22 airfield runway that was mentioned earlier in other
23 testimony, they also have plans fo build a new runway
24 on the makai side of the existing airport runway.

25 And also to relocate the helicopter

1 operations from the more south side of the airport to
2 the north side of the airport property. And these are
3 the future expansion plans, so to speak, for the
4 airport that they can foresee as being required.

5 MS. BENCK: If the Commissioners care to
6 look, we filed as Petitioner's Exhibit 81, the maps
7 that were from the DOT, the maps that the FAA have
8 accepted.

9 Q Yoichi, if we could, I want to take a look
10 at the map that is entitled the "2013 noise exposure
11 contour." Would be 81B. And then I'd like to
12 contrast that with the long-range noise exposure map.

13 Maybe you can again explain how these noise
14 contours are changing or expected to change over time.
15 So if we could start by looking at the 2013 map. And
16 you can identify, please, what additional airport
17 features are shown on this map that aren't right now
18 at the Kona Airport.

19 A The 2013 noise exposure map includes the
20 planned new runway for the C-17 training flights. And
21 in these maps they take into account the forecasted
22 operations of both the civilian and military aircraft.
23 Most of the operations occur on Runway 17, 85 percent
24 of them.

25 And the 65 DNL contour line in the 2013 map

1 just touches the northwest corner, just the northwest
2 corner of the 'O'oma property.

3 In 2008 the 65 DNL contour line did not
4 cross into the property. So from 2008 to 2013 we have
5 a slight increase in the noise.

6 And the primary contributor to that are the
7 forecasted C-17 training operations which will put a
8 big spike in the operations at the airport.

9 Q Yoichi, if you could please explain how
10 those noise contours are expected change from 2013 and
11 then on the long-range forecast.

12 A Okay. In looking at the Exhibit 81-C, I
13 believe, you have presented the, what the airport plan
14 calls their long-range noise exposure forecast. And
15 if you read into the report it kind of represents the
16 forecasted operations for the year 2030.

17 And according to the master plan draft
18 reports, the airport will start to have capacity
19 problems in the near term.

20 And so they have to do some things to
21 essentially keep the delays from getting out of hand.
22 In other words, they have to increase the capacity of
23 the airport to accommodate the future demand by 2030
24 timeframe.

25 And as part of this expansion plan, so to

1 speak, they've decided that they need a new runway
2 makai of the existing long runway and also makai of
3 the planned C-17 runway.

4 So they're planning -- their long range
5 planning essentially assumes a second parallel runway
6 for commercial use, and in addition, a relocation of
7 the helicopter operations from the south side of the
8 airport, southeast side, to the northeast side. And
9 all of this is to increase the capacity of the
10 airport.

11 But the net result of all that capacity
12 increase is actually a reduction in the forecasted
13 noise levels at properties like 'O'oma. And the
14 primary reason for that is because in constructing a
15 new seaward runway makai of the existing runway,
16 they're relocating the aircraft noise events further
17 makai.

18 It's essentially the same effect that
19 Honolulu had when they built the Reef Runway and they
20 added another runway away from the coastal areas.

21 So in the long term the projections are that
22 the noise contours at 'O'oma will actually go down
23 rather than go up, even with increased capacity at the
24 airport.

25 Q Yoichi, you had mentioned a few minutes ago

1 that under the DOT/FAA-accepted maps, the 2013 noise
2 contours shows that the 65 DNL line touches just at
3 the northern-most makai corner of our property.

4 Does it touch our property under the
5 long-range forecast?

6 A I believe it doesn't. It moves offshore.

7 Q That's correct. If I could, how do the
8 current accepted noise exposure maps vary from what
9 your projections were in the Draft EIS and what your
10 report was in the Final EIS?

11 A I believe we have Petitioner's Exhibit 82
12 which -- 82A, 82B and 82C. And it's a little
13 confusing. But when we performed our noise study for
14 'O'oma's Project, the State DOT had not finalized
15 their noise exposure maps. But we were essentially by
16 schedule forced to publish our noise exposure maps.

17 Prior to them finalizing their noise
18 exposure maps there was a serious discrepancy between
19 our maps and their draft maps. Their draft maps
20 showed higher noise exposure over the property than
21 what we were showing. And this was fully disclosed in
22 our noise study report.

23 So this added to some confusion. But after
24 the DOT finalized their noise exposure maps, then we
25 got better agreement between their final maps and our

1 forecasted noise exposure lines.

2 So Exhibits 82A,B and C are comparisons of
3 what we had projected the noise contour lines to be
4 over the Project site versus the DOT's final
5 FAA-approved noise exposure map contour lines.

6 So in 82A, which is the base year noise
7 exposure maps, there's a group of about six lines, one
8 dashed and one solid per -- the solid one is the state
9 FAA-approved noise exposure map contour lines. And
10 the dashed ones are what we had in our study.

11 So you can see for the 60 contour line
12 they're pretty much in agreement. And our contour
13 lines were actually now slightly less favorable to
14 'O'oma than the state's contour lines.

15 So right now I can say that the noise
16 exposure maps that were approved -- the official noise
17 exposure maps for Kona are essentially the same as
18 what we had forecast and used in our analysis.

19 Q If we could all refer, please, to
20 Exhibits 83, A, B and C, that's the 'O'oma concept
21 plan with the FAA-accepted noise exposure, noise
22 contours on there.

23 It's like Yoichi said, the exhibit
24 immediately before is a little confusing to follow.
25 This one shows you the site plan and then the lines

1 that the FAA had accepted.

2 A So 83A would be the base year or 2008
3 condition. And you can see that none of the developed
4 areas of the property, excluding the buffer zone, will
5 be at noise levels greater than 60 DNL.

6 Then as you go to Exhibit 83B the 60 contour
7 line has actually moved more mauka.

8 So part of the western-most tip of the
9 commercial area is now enclosed within the 60 DNL
10 contour line. But none of the planned noise-sensitive
11 uses such as the residential, schools, et cetera, are
12 enclosed within this critical 60 DNL contour line.

13 Then on Exhibit 83C, which I mentioned was
14 the long range forecast with the new runway, with the
15 relocation of the helicopter operations, you can see
16 the 60 contour line has again receded back towards
17 the makai direction and is now off of the commercial
18 areas even.

19 Q Yoichi, you made a point of bringing our
20 attention to the contour line of the 60 DNL. What's
21 the significance of the 60 DNL line?

22 A The State DOT Airports Division recommends
23 that no noise-sensitive land uses be located within
24 areas subject to 60 DNL or louder or higher. And this
25 is more quiet or more conservative than the US FAA or

1 HUD or VA federal noise standard of 65 DNL.

2 Q I know we had spoke at the last hearing, and
3 you explained that the 60 is the state-accepted level
4 maybe because it takes into account that we have a
5 more open air living environment in Hawai'i than there
6 would be other places.

7 A That's correct. I mean one of the reasons
8 for going to the more conservative 60 DNL level rather
9 than using the federal 65 DNL level, was the fact that
10 the open living lifestyle here results in lower noise
11 reduction from outside to inside.

12 Q So we're talking about noise-sensitive uses.
13 Are homes noise-sensitive uses?

14 A That's correct.

15 Q So when we look on the long range plan do
16 you see any noise-sensitive uses on our site plan
17 within the 60 DNL or louder?

18 A No.

19 Q What sort of uses would be permitted in the
20 60 DNL area?

21 A Residential uses, single-family or
22 multi-family, transient lodging like hotels, schools,
23 hospitals and outdoor music shells.

24 Q Commercial uses are the kind of uses that
25 are planned for the most makai edge of the makai

1 village.

2 Looking again at the FAA lines, do you see
3 any proposed uses in the makai village that are
4 contrary to what the State DOT thinks are compatible
5 land uses within the 60 DNL line?

6 A Okay. At noise levels higher than 60 DNL
7 then uses such as commercial or industrial become
8 compatible or acceptable.

9 So in that Exhibit 83B, which is the 2013
10 forecast map, the eastern-most tip of the developed
11 area of 'O'oma is within the 60 DNL contour. But it
12 is considered acceptable because it is not a
13 noise-sensitive land use.

14 Q And could you please walk us through just a
15 little bit Exhibit 84, what that table is and explain
16 these different noise-sensitive uses that you've been
17 talking about?

18 A Exhibit 84 or table 6A is a land use
19 compatibility table or matrix which describes the
20 types of land use in the left-most column,
21 residential, public use, commercial, manufacturing,
22 recreational uses.

23 Then on the columns to the right we have
24 different categories of noise levels from 55 DNL up to
25 85 DNL in six DNL bands or increments. So what this

1 table or matrix contains is essentially
2 recommendations either yea or nay: Yea, being Yes
3 with a Y letter and Nay being No not compatible, using
4 the N letter.

5 So if you look at the left-most narrow
6 column of 55 to 60 DNL -- and this is all land uses
7 outside of the 60 DNL contour -- you'll see that
8 essentially all the land uses from residential to
9 recreational have a Y in the column which essentially
10 means that essentially all land uses are considered
11 compatible or acceptable.

12 Then as you move one column to the right we
13 get into the noise exposure zone of above 60 DNL but
14 up to 65 DNL.

15 And the big change that occurs going from
16 the 55 to 60 to the 60 to 65 is the residential
17 categories of land uses go from Y to N. In other
18 words, from acceptable to not acceptable.

19 And also uses such as the schools and uhm --
20 basically the schools and the open outdoor music
21 shells.

22 And then as you go up higher, then other
23 land uses start to become incompatible. But for
24 'O'oma that shoreline setback area, which is typically
25 used for beach recreational uses, if you look on the

1 bottom row "recreational uses" the line with
2 "amusements, beach parks" which is typical of
3 shoreline area, and you go across you'll see it's,
4 "yes, yes, yes, yes" up to 75 DNL.

5 So for that kind of recreational use because
6 the noise contours that are forecast over the property
7 do not exceed 70 DNL and do not get up to 75+ DNL,
8 then the noise levels there on the shoreline are and
9 will continue to be compatible for the existing beach
10 recreational uses.

11 Q So you explained that FAA says 65 is the
12 cutoff point for noise sensitive uses. And the state
13 of Hawai'i has said, no, it should be 60 for
14 noise-sensitive uses. So why do we even show a 55
15 contour line? What's the significance of that?

16 A The reason for depicting the 55 DNL contour
17 line is that United States Environmental Protection
18 Agency has determined that 55 DNL, outdoor noise
19 level, is the threshold for unconditionally being
20 acceptable.

21 In other words, it's a threshold below which
22 we don't need to worry about health and welfare
23 effects from noise, whether it's aircraft noise,
24 traffic noise, whatever environmental noise sources.
25 So the 55 DNL line is health and welfare

1 unconditionally acceptable level.

2 So in Hawai'i even though the FAA doesn't
3 require it, there is a state law that requires
4 disclosure of sellers whenever there's a published
5 aircraft noise exposure map such as there is for Kona
6 or any other state airport that the sellers -- that
7 buyers -- that the sellers disclose to the potential
8 buyers that there is a noise exposure line out to the
9 55 DNL contour level.

10 So any property that's contained within this
11 55 DNL contour are within the required disclosure
12 provisions of the law.

13 Q So when we sell residential lots or homes
14 within this area, we'll need to disclose the fact that
15 we're next to an airport or that we're close to an
16 airport.

17 A Or that you're going to be exposed to
18 aircraft noise.

19 Q Tell me this. We're talking about what the
20 levels are when you're outside. What happens as soon
21 as you're enclosed, once you put up four walls and a
22 roof?

23 What does the interior noise level sound
24 like? If I'm in the 55 DNL -- you know, what makes it
25 the 60? What's does it sound like on the inside?

1 A Typically if you have a naturally ventilated
2 home and you go from outside at 60 DNL to inside, then
3 the inside DNL level will be approximately ten points
4 less. So if it's 60 outside, inside will be 50 DNL.

5 Q You and I have talked about the fact that
6 the Office of State Planning has asked that we, that
7 Petitioner uses sound attenuation measures in all of
8 the residential construction to result in a 45 -- I
9 think it's 45 decibels interior.

10 Will we be able to do that if we've got a
11 residence that's built in the, let's say, 55 or just
12 shy of the 60 line? Will we be able to get to the 45?

13 A Technically no. Between 55 and 60 the
14 interior noise levels should be from 45 to 50, ten
15 points less for the lower level and the higher level.

16 So we won't be able to meet the 45 DNL
17 interior noise requirement for a naturally ventilated
18 house that's located between the 55 and 60 contour
19 lines.

20 Q If we air condition the house?

21 A That's what will be required is that you
22 will have to essentially close the windows and the
23 door, essentially close off the natural ventilation
24 and then you'll have to air condition.

25 Q Even though we're talking about noise

1 levels, and tomorrow some of us are going to be going
2 to the site, I don't know very many people have a
3 solid appreciation of what these noise levels really
4 sound like. Could you give me an example of what 65
5 DNL sounds like?

6 A It's not, it's not correct to say that I can
7 describe to anyone what 65 DNL sounds like because 65
8 DNL is essentially a scientific abstraction. It's a
9 cumulative number that represents a loudness of many
10 noise events, the total number of them that occur
11 during a typical 24-hour day.

12 And also includes a nighttime penalty if
13 those events occur from 10:00 p.m. to seven in the
14 morning. So because you can get 65 DNL from many
15 different combinations of noise sources and many
16 number -- many different types of noise sources,
17 there's no way I can describe 65 DNL to you.

18 But I can give you some examples of what 65
19 DNL may sound like. Let's start with 55. 55 is
20 typical of a suburban community that's not close to a
21 busy collector road.

22 In other words, if you live in a suburban
23 community and you have your local street, but you're
24 not next to a major collector road, you'll probable
25 experience a DNL value of 55 outside your house.

1 Once you get to a major collector road like
2 Mililani, Meheula Parkway or in Hawai'i Kai, Keaholi
3 Street, Hawai'i Kai Drive, those kinds of major
4 roadways, the frontage homes will typically experience
5 65 DNL or more. And this is before you put up a sound
6 wall in front of, on your property line.

7 So on a busy roadway collector street the
8 typical noise levels will be 65.

9 When you get next to a freeway condition,
10 even Queen Ka'ahumanu Highway, you're looking at 70,
11 70+ DNL.

12 Q What do you think the noise levels would be
13 like on along Mamalahoa Highway here on the Big
14 Island?

15 A If you look at Mamalahoa Highway near
16 Kaiminani Drive intersection and south of it, the
17 frontage homes will typically be 65 DNL. And as you
18 go more north it'll probably taper down to more 60
19 DNL.

20 Q Thanks. Yoichi, as you know the Land Use
21 Commission did reclassify to urban the mauka portion
22 of the 'O'oma Project, the 83-acre mauka portion. I'm
23 wondering if you could read the DOT Airports-related
24 conditions that are right now imposed on that parcel
25 22. That's in Petitioner's Exhibit 85.

1 A Petitioner's Exhibit 85 the title is "Order
2 granting motion to delete or modify condition of the
3 decision and order dated February 6, 1986; Docket No.
4 A85-592 May 19, 1992."

5 And Condition 1 reads "Petitioner shall
6 grant to the state of Hawai'i an avigation,"
7 parenthesis "(right of flight" end of parenthesis, and
8 noise easement in the form prescribed by the State
9 Department of Transportation on any portion of the
10 subject property subject to noise levels exceeding 55
11 LDN," where LDN essentially was the old nomenclature
12 for DNL that we use.

13 "Condition 1.5 reads 'Petitioner shall not
14 construct residential units or condominium units
15 within areas of the subject property exposed to noise
16 levels of 60 LDN or greater.'"

17 Q So, again, are you aware that we've got any
18 residential our condominium units proposed within the
19 60 LDN or greater on our parcel 4?

20 A For our Project we do not.

21 Q Couple of just last few questions. You've
22 been a noise expert for how many years?

23 A Thirty-five to 40 years.

24 Q These are two big questions so please take
25 your time answering them. First part is: You've

1 looked through the DOT master plan. You've looked
2 through the FAR Part 150 Study.

3 Do you see any proposed airport expansion
4 plans that might be impacted by the development of our
5 Project?

6 Then the second part of the question is: Do
7 you have any concerns with there being residential and
8 commercial uses on our Project in light of its
9 proximity to the airport?

10 A To answer to the first question about
11 whether the development may inhibit any expansion
12 plans at Kona Airport, I think we can conclude, and I
13 conclude that the development will not inhibit any
14 uses at Kona Airport at all.

15 In fact, the planned expansion of Kona
16 Airport, which is necessary for their increase in
17 capacity, will actually result in lower noise levels
18 on the 'O'oma property.

19 And even if the Kona improvements do not
20 occur, the current noise levels and the forecasted
21 noise levels are entirely consistent with residential
22 development as shown on the projected -- our Project
23 concept plan.

24 Now, to answer the second question about
25 whether I think the -- whether my opinion is regarding

1 the proposed development at 'O'oma regarding aircraft
2 noise.

3 Based on all the evidence available and as
4 well as our own studies, I have to conclude that the
5 development, the proposed development at 'O'oma is not
6 inconsistent with recommendations for land use
7 compatibility near an airport.

8 In other words, I don't see any problems
9 with the proposed development as proposed, given the
10 existing and the future noise levels that are forecast
11 for the airport.

12 First of all, the forecasted noise levels in
13 the noise sensitive areas of 'O'oma are not any -- I
14 mean they're on the lower end of the noise exposure
15 levels that are typical for residential developments
16 statewide.

17 I mean, they're not on the high side of the
18 typical noise levels that our residents are exposed
19 to, particularly because they'll be at 60 DNL or less.

20 And because of this, the planned
21 noise-sensitive land uses are, have to be considered
22 acceptable by the State DOT Airports land use
23 compatible planning criteria.

24 And then, finally, the DOT's master plan
25 shows that in the future even with expansion of the

1 airport, which are gonna be required to increase the
2 capacity of the airport and maintain the delays at
3 some acceptable level, all of these plans can occur.

4 And if they do occur they'll actually create
5 a more favorable noise environment in the future
6 because of the planned makai runway and the relocation
7 of the helicopter operations to the north.

8 So, you know, given all of these
9 information, I mean I have to conclude that, you know,
10 it doesn't look unfavorable. It looks favorable.

11 MS. BENCK: Thank you very much. That's all
12 my questions.

13 CHAIRMAN PILTZ: County, questions?

14 MR. GONZALEZ: Thank you, Mr. Chairman. No
15 questions from the county.

16 CHAIRMAN PILTZ: Mr. Yee.

17 CROSS-EXAMINATION

18 BY MR. YEE:

19 Q Thank you. I'm going to try to go through
20 the new exhibits in order, not all of them, just a few
21 of them. Turning first to the long range noise
22 contour.

23 CHAIRMAN PILTZ: We have to take a break, a
24 five minute break.

25 (Recess was held.)

1 CHAIRMAN PILTZ: We're back on the record.

2 Mr. Yee, your witness.

3 MR. YEE: Thank you.

4 Q Referring to Exhibit 81, which is the, I
5 think Exhibit E3 within that exhibit which is the long
6 range noise exposure contours. Do you see that?

7 A 81C.

8 Q 81. And within Exhibit 81 I think you have
9 several contour maps referring to Exhibit E3 which is
10 within that which is the long range noise exposure
11 contours?

12 A Correct.

13 Q All right. These, I assume, are predictions
14 of noise contours in later years, is that correct?

15 A That's correct.

16 Q I just wanted to make clear that these would
17 be predictions, not guarantees, correct?

18 A Nothing's guaranteed.

19 Q And you described for us, I think, an
20 example of the DNL at 55. Do you remember that?

21 A You mean an area?

22 Q Yeah, an area.

23 A Residential area.

24 Q Right.

25 A Correct.

1 Q A DNL, as I understand it, is an average
2 amount, is that correct?

3 A It's an abstraction. It's an abstraction
4 that was designed to create an equivalent noise level
5 or an average noise level.

6 Q It stands for day/night average level?

7 A Average day/night sound level.

8 Q Okay. DB would be a decibel level for a
9 particular instant, is that correct?

10 A Yeah, you could interpret DB as being a
11 meter reading DB, correct.

12 Q Do you have an example of what would be a 55
13 DB?

14 A What DNL or --

15 Q Decibel level.

16 A -- meter reading DB?

17 Q Meter reading.

18 A Typically it'll be a noisy office, an open
19 office with a lot of typewriters going.

20 Q Because that would be the high level
21 within -- that would be the high decibel level allowed
22 within a residential neighborhood generally, correct,
23 a 55 DB?

24 A Allowed by who? Department of Health?

25 Q Yes.

1 A Okay. The Department of Health 55 dBA level
2 is more typical to a sound level meter reading. It's
3 allowed during the daytime from fixed machinery at the
4 property line. That's correct.

5 Q So in the day it's 55 DB, correct?

6 A Correct.

7 Q And at night it's 45 DB?

8 A Correct.

9 Q That would be the maximum amount you're
10 allowed.

11 A From the fixed machinery --

12 Q Yes.

13 A -- correct.

14 Q Okay. And even though -- and you described
15 about the various DNL levels and what's acceptable or
16 not acceptable to the FAA and the Department of
17 Transportation and the EPA.

18 But moving past perhaps -- and I don't know
19 if you feel comfortable answering this, but moving
20 past those particular federal standards, would it be
21 fair to say from a planning perspective that even if
22 you are outside the 55 DNL, people can still complain
23 about the noise, can't they?

24 A Of course, yes.

25 Q Typically people will complain if the noise

1 level is too high for them?

2 A It's hard to generalize. What we do know is
3 that when you get down to those lower noise levels
4 like 55 and less, the problem we get into is that
5 people's -- it's not just the sound level or the meter
6 reading itself that controls whether people will
7 complain or not complain about the event.

8 What we do know is that the person's
9 attitudinal factors, in other words how he feels about
10 the noise source, how he feels with the noise maker,
11 what he thinks about the appropriateness of the noise
12 event, et cetera, those attitudinal factors influence
13 whether he will complain or not.

14 A good example, if you want one, is let's
15 say we have a resident in a house. And 2:00 in the
16 morning an ambulance is stuck in traffic outside of
17 his house with the sirens blaring at 90 decibels,
18 90 decibels on the meter.

19 So that person with no attitude or no biases
20 complain, all right, to the ambulance company.

21 But on the other hand let's take another
22 situation where the person at 2:00 in the morning
23 hears the same siren on the same street at the same
24 decibel level knows that his daughter or relative is
25 in that ambulance going to the hospital. Then he

1 wouldn't complain.

2 So these attitudinal variables make it very
3 difficult to try to monotonically relate noise levels
4 with acceptability.

5 Q You pointed out Exhibit 85, a requirement
6 for an avigation and noise easement. Do you remember
7 that?

8 A Let me find it.

9 Q Sure. On Page 2 I believe condition one
10 refers to --

11 A Okay. I have it Docket 85-592.

12 Q Are you aware that the avigation and noise
13 easement required that person to release and indemnify
14 the Department of Transportation? Are you aware of
15 that?

16 A The easement?

17 Q Yes.

18 A I believe so, yes.

19 Q So you can understand, then, given the fact
20 that DNL is an average level that different people
21 react differently to noises and that the noise contour
22 maps that you've provided are predictions but not
23 guarantees.

24 You would then be able to understand why the
25 Department of Transportation would want an avigation

1 and noise easement across the entire property rather
2 than just by particular contour level.

3 A No. No, I can't, I can't understand that.
4 Because why limit it to that property? You know? If
5 you're saying that you're not going to fine or define
6 the easement property by noise, right, why not go to
7 the next property, you know, or the one further mauka?

8 In other words, if you're saying it's a
9 noise easement, then I should think the easement
10 premises should be defined by noise levels.

11 And I think I've never seen an easement, a
12 noise easement that is not, does not have the easement
13 premises defined by noise level.

14 Q So would you say -- well, let me backtrack.
15 The particular property before us we only have one
16 piece of property, correct?

17 A 'O'oma, correct.

18 Q 'O'oma. Kohanaiki is not before us,
19 correct?

20 A Correct.

21 Q NELHA is not before us, correct?

22 A Correct.

23 Q The only condition that this Land Use
24 Commission -- only piece of property that can be
25 conditioned by this Commission is going to be the

1 'O'oma, right?

2 A Correct.

3 Q So if the Department of Transportation is
4 looking to impose a condition, the only -- the largest
5 area that it can impose a condition on is on the piece
6 of property before this Commission, right?

7 A I guess so.

8 Q So don't you, then, understand since people
9 may complain regardless of the particular noise level
10 and because noise contours can change over time, and
11 your predictions can be wrong, don't you then
12 understand why the Department of Transportation would
13 want to ensure that whoever moves into 'O'oma now or
14 later has already understood and has signed a waiver
15 to aviation and noise easement to waive their rights
16 to contest or object to the operation and the
17 continued operation and change in operations of the
18 Kona Airport?

19 A No, I can't really understand that because
20 it's never been done before, as far as I know. In
21 other words, if you look at the other easements, for
22 instance, on Kohanaiki, they did define the easement
23 premises by the noise level.

24 And in addition under the state disclosure
25 law regarding airport noise, and disclosure is for the

1 purposes of minimizing risk of complaints. It does
2 limit it to noise contours, lines developed by
3 approved FAA Part 150 programs or APIS programs.

4 In other words, it does define the
5 boundaries of the disclosure by noise levels.

6 Q So if you were the owner -- I know you're
7 not -- if you were the owner, and the choice you were
8 given to the Department of Transportation was, "I'm
9 only going to give you this much, but I'm not going to
10 give you it over the entire property."

11 Then the Department of Transportation's
12 decision, then, is whether or not to accept that or to
13 object to the entire land use reclassification?

14 A Well, I have no control over that.

15 Q Thank you. I have nothing further.

16 MR. LIND: No questions.

17 CHAIRMAN PILTZ: Commissioners, questions?
18 One question. In 2013 and future you say that the
19 noise level will be reduced due to delays. I don't
20 understand what part of the delays. They're not going
21 to have as many flights? What's that?

22 THE WITNESS: Okay. The logic here is that
23 beyond 2013 the airport capacity gets -- does not keep
24 up with the demand for aircraft operations and
25 passengers.

1 So as a result of that, if they don't do
2 physical improvements like new runways, et cetera,
3 then the delays increase, in other words, the delays
4 of bringing a passenger in and out of the airport.

5 So because in the future if nothing is done
6 to improve the airport facilities to increase
7 capacity, then the delays in moving people through the
8 airport will go up.

9 And as a result of that increase in delays
10 the airport has to make improvements to these runways
11 in this case as well as the terminal. But for noise
12 the key ones are improvements to the runways and the
13 helicopter operations.

14 So as a result of that requirement to reduce
15 delays or at least keep them from getting worse, the
16 noise levels will actually go down in 'O'oma because
17 the methods that will be used, or that are proposed to
18 be used in their master plan for improving airport
19 capacity in the future, this new makai runway and the
20 relocation of the helicopter operations, have the net
21 effect of actually reducing the future noise levels at
22 'O'oma, not increasing them.

23 CHAIRMAN PILTZ: Okay. Makes sense now.
24 Thank you.

25 COMMISSIONER LEZY: Thank you, Chair. Thank

1 you for your testimony, Mr. Ebisu. One quick question
2 following up on the question that was posed by the
3 attorney for the Office of Planning.

4 Have you ever seen an instance where an
5 aviation easement that was imposed that fell outside
6 of the 60 DNL contour?

7 THE WITNESS: Fifty-five.

8 COMMISSIONER LEZY: Fifty-five?

9 THE WITNESS: DNL contour, yes.

10 COMMISSIONER LEZY: So the aviation
11 easement would go up to the outer limit of the 55
12 contour.

13 THE WITNESS: Let me explain. It could be
14 anywhere. But it has to -- in my opinion it has to be
15 a noise-related line. It cannot be like a property
16 boundary.

17 If you're going to call it a noise easement,
18 the easement premises should be defined by noise level
19 of some kind. It could be the 55, which in the case
20 of Kohanaiki was used. The 55 DNL contour was used as
21 the outer easements premises. Or it could be the 50.
22 It could be 55. But you'd have to have some rational
23 reason for picking a number.

24 And the reason why I think the 55 is
25 typically the most rational number is because that's

1 where the science such as the U.S. EPA says outside of
2 that, sure people may complain, but there is no
3 adverse health and welfare effect from noise, whether
4 it's aircraft noise, traffic noise, et cetera.

5 So the line of demarcation of 55 DNL has
6 some scientific basis.

7 COMMISSIONER LEZY: So from your standpoint,
8 then, the critical factor in imposing the avigation
9 easement is this scientific basis as opposed to --

10 THE WITNESS: Right. At least there is a
11 scientific basis.

12 COMMISSIONER LEZY: So, for instance, if
13 there were a property where the 55 DNL contour
14 covered, say, 9/10 of a residential area and there was
15 a 1/10 area remaining that was outside the 55, it
16 wouldn't make sense to you to include that small
17 portion in the avigation easement?

18 THE WITNESS: Technically it's crossing
19 hairs, but if that line went through the property,
20 maybe 1/4 of it or whatever, that whole property I
21 would think would still be included within the
22 easement.

23 COMMISSIONER LEZY: Okay. Thank you.

24 CHAIRMAN PILTZ: Your next witness.

25 MS. BENCK: Thank you, Yoichi. Thanks very

1 much. We'd like to call as our next witness Bob
2 Rechtman from Rechtman Consulting. And I know this is
3 a little out of order.

4 We had indicated on the list that we sent
5 out the other day that Yoichi would be followed by
6 Petitioner Dennis Moresco and then Tom Schnell and
7 then Bob.

8 But in light of the short time before the
9 hearing ends today we'd like to try to get
10 Mr. Rechtman up. He's our expert in archaeology and
11 also in Hawaiian cultural assessments.

12 CHAIRMAN PILTZ: Okay. Let me swear him in.

13 ROBERT RECHTMAN,
14 being first duly sworn to tell the truth, was examined
15 and testified as follows:

16 THE WITNESS: Yes.

17 CHAIRMAN PILTZ: Your name and address,
18 please.

19 THE WITNESS: Robert Rechtman, 507-A East
20 Laniakula Street, Hilo, Hawai'i 96720.

21 CHAIRMAN PILTZ: Go ahead.

22 MS. BENCK: And, again, we have asked
23 everybody and all the parties have agreed to our
24 expert's qualifications.

25 CHAIRMAN PILTZ: Let me check if there's any

1 objections to his qualifications.

2 MR. YEE: No objections.

3 MR. GONZALEZ: No objections from the
4 county.

5 MR. LIND: No objection.

6 CHAIRMAN PILTZ: Okay. Commissioners, any
7 objections? Okay. Your witness.

8 MS. BENCK: Thanks, very much.

9 DIRECT EXAMINATION

10 BY MS. BENCK:

11 Q Bob, if you would you did two studies for
12 the AIS, two studies of the 'O'oma property. And I
13 know you provided a summary of the Archaeological
14 Inventory Survey and also of the Cultural Impact
15 Assessment.

16 Those are filed as Exhibits 45 and 46
17 respectively. If you could just give us your oral
18 rendition of the AIS, please.

19 A Okay. Rechtman Consulting, LLC prepared the
20 most recent in a series of Archaeological Inventory
21 Studies of the subject property. Between 1985 and
22 2002 the study property was in whole and part subject
23 to inventory survey and data recovery. This work was
24 approved by DLNR-SHPD.

25 However, given the sensitive nature of the

1 archaeological resources in the immediate vicinity of
2 the Project Area and the inadvertent discoveries at
3 neighboring Kohanaiki, the ownership thought it'd be
4 prudent to reexamine the entire Project Area to assess
5 current conditions of the known preservation and data
6 recovery sites, and to identify any additional sites
7 that may have gone undocumented during their earlier
8 work. SHPD approved this update approach to the
9 inventory survey.

10 So we completed an intensive resurvey of the
11 Project Area. Ten sites that had earlier been
12 approved for preservation were investigated. Five
13 sites slated for data recovery were reassessed and two
14 sites were discovered that had not been previously
15 documented.

16 Both of these two sites are lava tubes that
17 contain human skeletal remains.

18 As a result of our inventory survey, which
19 has already been approved by DLNR-SHPD, 15 sites are
20 now identified for preservation: Three burial sites
21 and 12 other archaeological sites.

22 What is yet to be prepared is a burial
23 treatment plan which needs to be prepared as well as
24 an archaeological site preservation plan.

25 We also recommend in that study that an

1 archaeological monitoring take place during
2 ground-altering development activities. We also did a
3 Cultural Impact Assessment as well. I can summarize
4 that.

5 Q Please do.

6 A In conjunction with Kumu Pono Associates we
7 also completed a Cultural Impact Assessment for the
8 subject property. The archival, historical research
9 and oral historical interviews that were conducted for
10 this study were performed in a manner consistent with
11 federal and state laws and guidelines for such
12 studies.

13 While the physical study area was limited to
14 portions of 'O'oma II ahupua'a that lie makai of Queen
15 Ka'ahumanu Highway, extending to the shoreline, in an
16 effort to provide a comprehensive and holistic
17 understanding of the current study area --

18 MS. ERICKSON: Could you slow down just a
19 tiny bit.

20 THE WITNESS: Sorry -- the cultural impact
21 assessment and the entire ahupua'a and its
22 relationship to neighboring lands within the larger
23 Kekaha region.

24 Over the last 12 years Kepa Mali, of Kumu
25 Pono Associates, has researched and prepared several

1 detailed studies in the form of review and translation
2 of accounts from Hawaiian language newspapers,
3 historical accounts recorded by Hawaiian and
4 non-Hawaiian residents and government land use records
5 all for the land of the Kekaha region of which 'O'oma
6 is a part.

7 Most of this archival historical research
8 and oral interviews were previously assembled for an
9 earlier unrelated project that had been proposed
10 within the current study area.

11 A number of detailed oral history interviews
12 were previously conducted with elder kama'aina
13 documenting their knowledge of the Kekaha region that
14 are highly relevant to the current Cultural Impact
15 Assessment.

16 As part of the current study, several new
17 informal interviews were undertaken, including an
18 updated interview with later Kupuna Peter Park.

19 All of these interview participants, both
20 past and present, shared their personal knowledge of
21 the lands and practices of the families who lived in
22 'O'oma and vicinity.

23 As previously mentioned the numerous
24 archaeological studies have documented a number of
25 archaeological resources within the study area, 15 of

1 which merit preservation.

2 While there were no specific ongoing
3 traditional cultural practices identified relative to
4 the land within the proposed development area, there
5 are potential cultural impacts both specific and
6 nonspecific relating to coastal and nearshore
7 subsistence and recreational and activities primarily
8 among beach goers, fishermen and surfers.

9 As these activities could be characterized
10 as traditional and customary practices, the locations
11 of these activities could thus be considered
12 traditional cultural properties, and as such would be
13 significant.

14 As the proposed development would in no way
15 inhibit coastal access, and as most of the proposed
16 development elements are significantly set back a
17 minimum of 1100 feet from the shoreline, it is
18 envisioned that the protection and preservation of the
19 'O'oma shoreline will be enhanced and no traditional
20 and customary practices will be impacted.

21 To place this within the context of
22 three-part Ka Pa`akai analysis, while potential
23 cultural resources and practices have been identified,
24 part one, no such resources or practices will be
25 impacted, part two. Thus, no need for formal

1 mitigation measures, part three.

2 There is one additional resource that
3 deserves consideration as it is associated with
4 traditional practices.

5 During the botanical survey of the study
6 area stands of maiapilo or pilo, which is used in
7 traditional Hawaiian medicine, were documented within
8 the subject property.

9 While there's no evidence that this plant is
10 currently being collected within the study area, pilo
11 habitat could be conserved where it exists in the
12 coastal preserve areas and the plants being made
13 available to the culture practitioners. Thank you.

14 Q Bob, behind you to your left is a picture of
15 the concept plan for 'O'oma Beachside Village. Can
16 you point generally or identify generally where most
17 of the sites on the property were found?

18 A The significant majority of these sites are
19 found in this band area here. There is the Mamalahoa
20 Trail, as it is named, which extends through here.
21 There is additional, three additional sites, two
22 burial sites and another sort of rest cave area that
23 occur in this area up here.

24 Not necessarily want to point out where the
25 burial sites are. But everything seems to fall in a

1 preservation area. Preservation areas are created
2 around these sites.

3 Q So the record should reflect that -- I
4 actually couldn't see where you were pointing, but I
5 know where the sites are. Most of them are in the
6 northern coastal preserve area?

7 A Most of them are in the coastal preserve,
8 shoreline preserve area. There is a trail, historic
9 trail site that crosses the property towards its mauka
10 side. And there are three other additional lava tube
11 sites scattered about the south central portion of the
12 Project Area.

13 Q Thanks, Bob. You know, there's been a
14 little bit of confusion, and it looks like the DLNR
15 letters have come to a common understanding on the
16 state right-of-way on the Mamalahoa Trail.

17 But just for the Commissioners' benefit
18 could you please explain to us, and again describe
19 where it is on the concept plan, where the state
20 right-of-way is and then where the Mamalahoa Trail is,
21 please.

22 A Starting on the Kohanaiki -- off of the
23 property in Kohanaiki and extending to the northwest
24 you can see there's a corridor outlined here. I don't
25 believe it extends beyond here.

1 I actually think it stops here -- this may
2 be a mapping error here -- which is labeled as state
3 right-of-way, trail right-of-way.

4 It is coincident with the Mamalahoa Trail
5 until a point about 400 feet into the property from
6 its southern boundary, at which point the corridor
7 continues straight.

8 There's nothing on the ground there, but the
9 trail diverges slightly inland.

10 Typically -- and I've seen this on other
11 places -- typically this trail was laid out by
12 surveyors in this area, I believe, around 1847.

13 And I'm pretty sure that when they were
14 building it, when they got to this point they could --
15 from this point you can actually see where that trail
16 is going to extend and will put you in the ocean and
17 not continuing up the coast.

18 So they made a deviation in the
19 construction, like an as-built, and changed the
20 direction and built it in a straight line here which
21 left a reserve on the map that was continued and
22 continued and continued over the years to be placed on
23 a map, but actually did not reflect where the actual
24 trail was built.

25 Q It may be easier for the Commissioners to

1 follow along if you look at Petitioner's Exhibit 5
2 which is the survey map, the Petition Area map. It
3 clearly shows the Mamalahoa Trail and the state
4 right-of-way lines.

5 I don't have any more questions for you,
6 Bob. I'll turn him over.

7 CHAIRMAN PILTZ: County, questions?

8 CROSS-EXAMINATION

9 BY MR. GONZALEZ:

10 Q Thank you. At this time do you have a
11 proposal on what you plan to do with the state
12 right-of-way that's being depicted?

13 A I don't know that that's my --

14 Q If you can't answer --

15 A Yeah.

16 MR. GONZALEZ: Thank you. No further
17 questions.

18 CHAIRMAN PILTZ: Mr. Yee?

19 CROSS-EXAMINATION

20 BY MR. YEE:

21 Q Are you aware that a right-of-way
22 constitutes a property interest?

23 A No.

24 Q Is it that you don't know or you don't think
25 it constitutes a property interest?

1 A I'm not aware.

2 Q Okay. Let me just move on. So as I
3 understand it there are burial plans or a preservation
4 plan that needs to be prepared and submitted to the
5 State Historic Preservation Division.

6 A Correct.

7 Q Is there a commitment to getting those
8 approvals before any ground disturbance?

9 A Typically that's the commitment. I don't
10 have necessarily anything in writing at this point,
11 but that is typically the condition or the commitment
12 that's put on it: Prior to any ground disturbance a
13 monitoring plan will be prepared as well as burial
14 treatment and preservation plan.

15 Q And will you be providing SHPD -- or are you
16 aware that SHPD has asked for a map of the
17 preservation sites with an overlay of the planned
18 development?

19 A I have not been asked for that.

20 Q Can that be provided?

21 A I believe so, yeah.

22 Q The burial sites and rest cave, you don't
23 need to show me where they are, but that would be --
24 let me backtrack. You're aware that there's a costal
25 preserve area.

1 A Correct.

2 Q The burial, two burial sites and the rest
3 cave are outside of that coastal preservation area,
4 correct?

5 A Correct. There's one burial site within
6 that area and two burial sites in another cave outside
7 of that area.

8 Q So typically a separate buffer and
9 preservation area and plan would be prepared for those
10 sites, correct?

11 A The buffers and the preservation plan
12 information would be detailed in one single plan. But
13 the sites would be treated independently.

14 Q So at this time SHPD would then need to look
15 at the planned -- let me backtrack.

16 Do you know now, or is it something that'll
17 be determined later as to whether the conceptual plan
18 will be consistent with whatever preservation plan is
19 eventually approved?

20 A By looking at this plan, this conceptual
21 plan that's behind me on the wall --

22 Q Right.

23 A -- it looks to me as though it's consistent
24 with the location, the preservation locations of those
25 sites.

1 Q Okay. So there's no plans to build a house
2 over a burial site, correct?

3 A Correct.

4 Q And would that be part of the impact of
5 mitigation analysis under Ka Pa`akai?

6 A Yes. It's -- correct.

7 Q So just so we clarify, when you originally
8 said there's nothing to mitigate, that was in
9 addition -- that was besides the burial sites and rest
10 cave?

11 A Correct. It's assuming those sites will be
12 treated properly.

13 Q And do you know if there is a commitment to
14 comply with whatever requirements may be imposed by
15 SHPD pursuant to the preservation plan?

16 A I would assume there is a commitment to
17 comply to SHPD's requirements.

18 MR. YEE: That's it. No further questions.
19 Thank you.

20 MR. LIND: No questions.

21 CHAIRMAN PILTZ: Commissioners, questions?
22 Thank you.

23 MS. BENCK: If I can, for the sake of
24 formality, I want to make sure we reflect that the
25 concept plan that Mr. Rechtman was pointing to was

1 filed in the EIS. It's conceptual master plan Fig.

2 No. 1. Thank you very much.

3 CHAIRMAN PILTZ: Okay. Your next witness?

4 If there isn't anything right now we'll close for the

5 day. We're adjourned. (Gavel)

6 (The proceedings were adjourned at 4:35 p.m.)

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I, HOLLY HACKETT, CSR, RPR, in and for the State
of Hawai'i, do hereby certify;

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That I was acting as court reporter in the
foregoing LUC matter on the 5th day of May 2010;

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That the proceedings were taken down in
computerized machine shorthand by me and were
thereafter reduced to print by me;

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That the foregoing represents, to the best
of my ability, a true and correct transcript of the
proceedings had in the foregoing matter.

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DATED: This _____ day of _____ 2010

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HOLLY M. HACKETT, CSR #130, RPR
Certified Shorthand Reporter

