

1 LAND USE COMMISSION

2 STATE OF HAWAI'I

3 HEARING

4 A11-790 KULA RIDGE, LLC (Maui) )

5 \_\_\_\_\_ )

6

7

8 TRANSCRIPT OF PROCEEDINGS

9

10

11

12 The above-entitled matter came on for a Public Hearing

13 at the Haleakala Room, Makena Beach and Golf Resort,

14 5400 Makena Alanui, Makena, Maui, Hawai'i, commencing

15 at 9:30 a.m. on July 14, 2011, pursuant to Notice.

16

17

18

19

20

21

22

23

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

25

COMMISSIONERS:  
RONALD HELLER  
NORMAND LEZY (Chairman)  
JAYE NAPUA MAKUA  
ERNEST MATSUMURA  
CHAD McDONALD  
NICHOLAS TEVES, JR.

EXECUTIVE OFFICER: ORLANDO DAVIDSON  
ACTING CHIEF CLERK: RILEY HAKODA  
STAFF PLANNERS: BERT SARUWATARI

DEPUTY ATTORNEY GENERAL: DIANE ERICKSON, ESQ.

AUDIO TECHNICIAN: WALTER MENCHING

Docket No. A11-790 Kula Ridge, LLC

For the Petitioner: MARTIN LUNA, ESQ.  
CLAYTON NISHIKAWA, Managing Dir.

For the County: MICHAEL HOPPER  
Deputy Corporation Counsel  
JEFFREY DACK, Staff Planner

For the State: BRYAN YEE, ESQ.  
Deputy Attorney General  
JESSE SOUKI  
Director Office of Planning

1	I N D E X	
2	PUBLIC TESTIMONY	PAGE
3	Bobby Patnode (KCA)	11
4	Richard Mayer (KCA)	13
5	C. Mike Kido	29
6	David Gleason	32
7	Perry Artates	34
8	Alan Kaufman	36
9	Bruce U'u	41
10	Penny Humphries	43
11	Mariya Dones	45
12	John Wilson	49
13	Maria Rawe	52
14	Fred Rawe	55
15	Scott Prather	57
16	Dana Naone Hall	60
17	Richard Pohle	67
18		
19		
20		
21		
22		
23		
24		
25		

1	I N D E X cont'd	
2	DOCKET WITNESSES	
3	MICHAEL MUNEKIYO	
4	Direct Examination by Mr. Luna	77
5	Cross-Examination by Mr. Hopper	81
6	TOM NANCE	
7	Direct Examination by Mr. Luna	84
8	Cross-Examination by Mr. Hopper	91
9	Cross-Examination by Mr. Yee	95
10	Redirect Examination by Mr. Luna	106
11	MICHAEL DEGA	
12	Direct Examination by Mr. Luna	111
13	Cross-Examination by Mr. Hopper	115
14	Cross-Examination by Mr. Yee	116
15	KIMOKEA KAPAHULEHUA	
16	Direct Examination by Mr. Luna	120
17	Cross-Examination by Mr. Yee	123
18		
19		
20		
21		
22		
23		
24		
25		

1           CHAIRMAN LEZY: This is a meeting of the  
2 state of Hawai'i Land Use Commission. Commissioners,  
3 the minutes from the June 30, 2011 meeting have been  
4 circulated. Are there any corrections or additions?

5           COMMISSIONER TEVES: Make a motion to  
6 accept.

7           COMMISSIONER MATSUMURA: Second.

8           CHAIRMAN LEZY: There's been a motion made  
9 and a second. All in favor?

10          (Voting) Aye.

11          CHAIRMAN LEZY: Against? Hearing none,  
12 Executive Director Davidson, would you please go  
13 through the tentative meeting schedule.

14          MR. DAVIDSON: Thank you, Chair. Couple of  
15 comments. It looks like the August 4, 5 meeting on  
16 O'ahu will only be August 4 with the primary agenda  
17 item being dealing with any new petitions for  
18 intervention in the D.R. Horton case.

19          And also scheduling for the afternoon of the  
20 4th, for those Commissioners that are interested, a  
21 Ho'opili site visit.

22          And then the only other thing that I have is  
23 the logistics for the HCPO conference late September  
24 have proven way more challenging than we thought they  
25 were going to be in terms of they're already out of

1 hotel rooms and it's two months. So Riley has been  
2 trying as hard as he can to accommodate folks at the  
3 neighboring hotel. Anyway, just as you always do,  
4 make sure we know your preferences when you want to  
5 come, when you want to leave and we will do our very  
6 best to accommodate everybody. That's it, Chair.  
7 Thanks.

8 CHAIRMAN LEZY: Thank you. Let's move on to  
9 the action matter before us. This is a hearing on  
10 Docket No. A11-790 Kula Ridge, LLC, Maui to consider  
11 the reclassification of approximately 34.516 acres of  
12 land from the Agricultural District to the Urban  
13 District and approximately 16.509 acres of land from  
14 the Agricultural District to the Rural District at  
15 Kula, Maui, Hawai'i for a mix of residential, park and  
16 open space uses TMK Nos. 2-3-001:174 and 023.

17 Would the parties please identify themselves  
18 for the record.

19 MR. LUNA: Mr. Chair, Martin Luna, Carlsmith  
20 Ball, representing the Petitioner Kula Ridge, LLC.  
21 Managing director of Kula Ridge, LLC is Clayton  
22 Nishikawa who is seated to my right.

23 CHAIRMAN LEZY: Good afternoon.

24 MR. HOPPER: Thank you, Mr. Chair and  
25 members of the Land Use Commission. Michael Hopper

1 for the County of Maui Department of Planning, Deputy  
2 Corporation Counsel. With me is staff planner Jeffrey  
3 Dack.

4 CHAIRMAN LEZY: Good afternoon.

5 MR. YEE: Good afternoon. Deputy Attorney  
6 General Bryan Yee on behalf of the Office of Planning.  
7 With me is Jesse Souki, director of the Office of  
8 Planning.

9 CHAIRMAN LEZY: Good afternoon. Let me  
10 update the recent record in this docket. On May 5,  
11 2011 the Commission received Petitioner's second  
12 amendment to its Petition and advised Petitioner that  
13 the Petition was complete and accepted for processing  
14 as of that date.

15 On May 16, 2011 Notice of Hearing was  
16 published in this docket as required by law.

17 On June 3, 2011 the Commission received the  
18 position statement of the Maui County Planning  
19 Department.

20 On June 8, 2011 the Commission received OP's  
21 position statement.

22 On June 9, 2011 the Commission held a  
23 pre-hearing conference for this docket.

24 On June 20, 2011 the Commission received  
25 Petitioner's List of Exhibits, List of Witnesses and

1 Exhibits 1 through 30; Petitioner's written  
2 correspondence advising the status of witness and  
3 exhibits and requesting leave to provide the resumé of  
4 the replacement geologist/hydrologist and aerial  
5 photos of the Petition Area.

6           The Commission also received OP's List of  
7 Witnesses, List of Exhibits and Exhibits 1 through 3,  
8 5 and 7 through 11.

9           On June 21st, 2011 the Commission received  
10 Maui County's List of Witnesses, List of Exhibits and  
11 Exhibits 1 through 6 and comments letters from the  
12 Department of Human Services/Luanne Murakami,  
13 Department of Health Indoor and Radiological Health  
14 Branch/Jeffrey Eckerd and Department of Health -  
15 Wastewater.

16           On June 26, 2011 the Commission received  
17 Petitioner's First Amended List of Witnesses, First  
18 Amended List of Exhibits and Exhibits 5 and 23.

19           On June 30, 2011 the Commission received  
20 Maui County Planning Department List of Exhibits  
21 Amendment 1.

22           On July 1, 2011 the Commission received  
23 Petitioner's Second Amended List of Witnesses and  
24 Exhibits 31 through 43 and OP's First Amended List of  
25 Exhibits, Exhibits 3A, 4, 6 and 12.

1           On July 6, 2011 the Commission received a  
2 letter from the Kula Community Association requesting  
3 to represent the Kula community and participate in the  
4 hearings.

5           On July 8, 2011 the Commission received a  
6 letter from the Kula Community Association stating  
7 concerns and the proposed conditions about the  
8 proposed Project.

9           The Commission also received OP's Exhibit 13  
10 and a copy of a letter to the State Office of Planning  
11 from the Department of Health, Wastewater Branch.

12           On July 11, 2011 the Commission received  
13 Petitioner's Exhibits 29 and 38. From July 12 through  
14 14, 2011 the Commission received written  
15 correspondence from Curt Hashimoto, Jocelyn Romero  
16 Demirbag, Chair of Haleakala Waldorf School.

17           Petitioner, has our staff informed you of  
18 the Commission's policy regarding the reimbursement of  
19 hearing expenses?

20           MR. LUNA: Yes, it has.

21           CHAIRMAN LEZY: And is that acceptable to  
22 Petitioner?

23           MR. LUNA: Certainly.

24           CHAIRMAN LEZY: Thank you. At the outset  
25 let me please acknowledge the request that's been made

1 by the Kula Community Association to participate in  
2 this hearing. Chapter 205-4(f) allows a  
3 representative of a community group to provide  
4 testimony.

5 The Chair's inclined to allow the Kula  
6 Community Association 15 minutes to express its views  
7 in this docket as the initial public witness in this  
8 matter. Do the parties have any comments or  
9 objections to that course of action?

10 MR. YEE: No objection.

11 MR. HOPPER: No objection.

12 MR. LUNA: No objection.

13 CHAIRMAN LEZY: Let me describe our  
14 procedure for today. First, I will call for those  
15 individuals desiring to provide public testimony on  
16 this matter to identify themselves. All such  
17 individuals will be called in turn to our witness box  
18 where they will be sworn.

19 A 3-minute time limit on testimony will be  
20 enforced to ensure that all public witness have an  
21 opportunity to testify.

22 Following that the parties will present  
23 their cases starting with Petitioner followed by the  
24 County Planning Department and then the State Office  
25 of Planning. I would also note for the parties and

1 the public that from time to time I'll be calling for  
2 short breaks.

3 I'd now invite the representatives of the  
4 Kula Community Association to please present your  
5 testimony.

6 MR. DAVIDSON: Mr. Chair, if I could... for  
7 the court reporter the representatives are Bobby  
8 Patnode and followed by Dick Mayer.

9 CHAIRMAN LEZY: Ma'am, may I swear you in?

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

13 THE WITNESS: Yes.

14 CHAIRMAN LEZY: I'll have to swear you in  
15 individually. Can you please state and spell your  
16 name and provide your mailing address.

17 THE WITNESS: Yes. My name is Bobby  
18 P-a-t-n-o-d-e. I live at 16-547 Haleakala Highway,  
19 Kula, 96790.

20 CHAIRMAN LEZY: Please proceed.

21 THE WITNESS: My name is Bobby Patnode and I  
22 am the vice president of the Kula Community  
23 Association. The KCA has been following the Kula  
24 Ridge Project since 2006, and we have asked to be  
25 included in this hearing as community representative

1 under the provisions of HRS 205-4.

2 I chaired a meeting of the KCA board last  
3 week. And we subsequently sent the LUC a letter with  
4 our Kula Ridge concerns and several proposed  
5 conditions for the Project if the LUC decides to  
6 approve this boundary change amendment. The top two  
7 concerns are water and safety.

8 First, there is the issue of water.  
9 Upcountry Maui is short of water. And there's a long  
10 waiting list for water meters. Our community does not  
11 agree with the Project jumping the line for meters.  
12 Also as there's no clear indication of where the  
13 Project would get its water, we are concerned about  
14 where the water for this Project is going to come  
15 from. And we are concerned about the quality of the  
16 water.

17 Second, there is the issue of traffic and  
18 safety. There's great concern about the increase in  
19 traffic this Project will generate. The road is old  
20 and narrow and there are no safe sidewalks for the  
21 kids to walk to school so they walk in the street.

22 Cars already travel faster than the posted  
23 20 miles per hour. This Project would add to this  
24 dangerous situation. There's several other concerns  
25 as well.

1           I have Dick Mayer here with me today who is  
2 chair of our planning committee. And he is here to  
3 take you through the concerns and the proposed  
4 conditions from the Kula Community Association Board.  
5 Thank you.

6           CHAIRMAN LEZY: Parties, any questions of  
7 the witness? Hearing none --

8           MR. YEE: Ma'am, I have one question. One  
9 quick question. Just for the record you said the road  
10 was old and narrow. Could you give us the name of the  
11 road?

12          THE WITNESS: Lower Kula.

13          MR. YEE: Thank you.

14          CHAIRMAN LEZY: Are you finished?

15          THE WITNESS: Yes, I am.

16          CHAIRMAN LEZY: Sir, can I swear you in?

17                        RICHARD MAYER

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

20          THE WITNESS: Yes, I do.

21          CHAIRMAN LEZY: Please proceed.

22          THE WITNESS: My name?

23          CHAIRMAN LEZY: I'm sorry. I need your name  
24 spelled please and your mailing address.

25          THE WITNESS: Legal name is Richard David

1 Mayer. Most people know me as Dick Mayer. My address  
2 is 1111 Lower Kimo Drive, Kula, 96790.

3 CHAIRMAN LEZY: Thank you.

4 THE WITNESS: Thank you very much, LUC  
5 members. What I'd like to do is go through the  
6 testimony which we did submit to you in paper, but I'd  
7 like to highlight some of the points. I'd first like  
8 to circulate a map. Just hand it around?

9 CHAIRMAN LEZY: You can actually give it to  
10 our clerk please.

11 THE WITNESS: Okay. This map indicates the  
12 area in the Upcountry Community Plan as it was  
13 originally proposed. I was vice chair of that  
14 Upcountry Community Plan back in the '90s. And we  
15 particularly set aside a small area for single family  
16 neighboring the business area there in Waiakoa and  
17 then large, larger area in rural.

18 The proposal you have in front of you now  
19 reverses that, with a very small area for the urban --  
20 larger area for the urban and very small area for  
21 rural.

22 Let me go through the issues we have before  
23 us: Water. The Kula Community Association has  
24 supported the Upcountry Plan which calls for the two  
25 highest priorities for water to be the Hawaiian Home

1 Lands Project Waiohuli and also agriculture and a  
2 lower level of priority for the other areas.

3           We've long supported affordable homes and we  
4 feel that the Hawaiian Home Lands area in our  
5 community affords people a large area of potentially  
6 affordable homes. Land would be free, people could  
7 put up a house of \$2-300,000 and have an affordable  
8 home.

9           We are hoping that the water, limited amount  
10 of water that's available, would be allocated to that  
11 particular Project. That would be, according to the  
12 county records, over 2,000 potential affordable homes.  
13 So any other use of that water would perhaps deprive  
14 Hawaiian Home Lands of fulfilling its mission of  
15 providing homes.

16           A second concern. There's been a water  
17 meter list in the Upcountry area for the past 15  
18 years. That list now has grown to 1450 according to  
19 go the Water Department this week.

20           People on that list, that's the number of  
21 applicants, but it represents well over  
22 2,000, probably closer to 3,000 actual potential water  
23 meters since many of those applications are for  
24 subdivisions as is the Kula Ridge Project.

25           The Kula Ridge Project and the Kula Ridge

1 Mauka Projects stand on that list out of the 1450 as  
2 Nos. 1115, and 1189, very far down on that list. And  
3 would have to wait their turn, we feel, to get their  
4 water.

5 Bobby mentioned the apparent lack of a  
6 source for a water. In the environmental assessment  
7 that was done for this Project it was stated very  
8 clearly over and over again that it would not rely on  
9 county water; that they would drill a well on the  
10 neighboring Kula Ridge Mauka Project and then would  
11 provide the infrastructure on the two projects to  
12 provide water for this Project.

13 Subsequently when they went before the  
14 county for their 201H-38 application, they changed the  
15 story completely and said, "We're now going to go to  
16 Pi'iholo South. We have an agreement with the well  
17 driller for that Project and we would be using that  
18 water entirely."

19 Subsequently now the county has made no  
20 agreements with the well developer to accept that  
21 well. There have been some chemicals in that water.  
22 The water, as far as we know, has not been further  
23 tested to find it whether its water quality is proper.

24 And the bore hole for that well, the county  
25 has said publically that it's not large enough for

1 acceptance. It could be larger perhaps but this time  
2 there seems to be no water source for this well. And  
3 one of the conditions we think the PUC utilized is  
4 that availability of water when it makes a boundary  
5 amendment.

6               So what we are asking for is some conditions  
7 on this Project, one of which would be the Applicant  
8 must waive all claims to any priority water allocation  
9 for both the Kula Ridge and the large lot Kula Ridge  
10 Mauka Project until their respective places come on  
11 the water meter list.

12              Another condition we are asking for is that  
13 the water that is eventually used, wherever that  
14 source might be, be tested for water safety, water  
15 quality and adequate quantity.

16              Third condition, that a water tank as  
17 described in the environmental assessment be provided  
18 at the top of the mauka project \$500,000 tank at the  
19 cost of the developer. That's what they said they  
20 would do in the EA, one 500,000 gallon water tank.

21              MS. ERICKSON: Can you slow down just a  
22 little bit for the court reporter.

23              THE WITNESS: We've got 15 minutes.

24              MS. ERICKSON: Well, but she's got to take  
25 it down for the record.

1                   THE WITNESS: Okay. And, finally, when  
2 water is developed, if the developer does go through  
3 with their original plan to provide water from a well  
4 that they drill on their own, that the cost of that  
5 water will be very expensive to bring that up  
6 4,000 feet to the water tank, which would be roughly  
7 at a cost of \$5 to \$6; that that cost is much higher  
8 than the county would charge for a similar water and  
9 may be prohibitively expensive particularly for  
10 affordable homes.

11                   So provision should be put in there, a  
12 condition should be put in that the water rates should  
13 be charged at the same rate that the county would  
14 charge for a similar supply of water.

15                   Now, with regard to safety, the road below  
16 the Kula Community Center, which many of you saw this  
17 morning, is a very narrow road and has a lot of danger  
18 in it because it's just below the community center.  
19 About 500 feet away is a school which we suspect many  
20 of the students would be attending from this Project.

21                   Even if they aren't going to that school the  
22 students in that school will be walking up that road,  
23 a very narrow road, which already is dangerous, to the  
24 gym which is located to the left looking down from the  
25 Project.

1           We ask that a sidewalk be provided as a  
2 condition of this Project on the makai side of the  
3 road. If it's put on the mauka side, as the Applicant  
4 is suggesting in his application, it will be very  
5 dangerous. The students would have to cross three  
6 very busy roads: First, Lower Kula Road, then the  
7 road coming down from the Kula Ridge Project and then  
8 again crossing over the Lower Kula Road. We think a  
9 makai sidewalk alignment would be much, much safer and  
10 should be required, and we give some quotes from the  
11 police department on that.

12           And it's also county code requires sidewalks  
13 shall be provided on one side of the street within  
14 half mile of a school. The Applicant did write to the  
15 Kula Community Association as it was going through its  
16 application process.

17           And I'm quoting from a letter that they sent  
18 to us: "Upon securing the required private easements  
19 from the adjoining property owners and upon approval  
20 of sidewalk construction plans by the County of Maui,  
21 Kula Ridge, LLC will construct the 4-foot wide  
22 sidewalk and related improvements between Alanui Place  
23 and Haleakala Waldorf School," unquote.

24           That would be an alignment on the makai side  
25 of the road. That's what they promised to our

1 association in a letter to us. This would be  
2 excellent and we agree they should be required to do  
3 it on that side of the road.

4           And we've gotten agreement from both the  
5 landowners on that side of the street that they would  
6 be willing to work with the county and sell their  
7 property. And you'll at some point get a letter  
8 saying that. We also requested that that sidewalk be  
9 put in prior to the occupancy of the units in the Kula  
10 Ridge Project.

11           Furthermore, the TIA for the Project  
12 requires that the intersection at the Lower Kula Road  
13 and Kula Highway be modified with turn lanes, possibly  
14 lights as well and whatever is said in the TIA as  
15 recommendation should be made as a condition for this  
16 Project.

17           We are very concerned that this Project, the  
18 Kula Ridge Project, has meshed very closely with the  
19 Kula Ridge Mauka Project. We saw the map that you  
20 sent out with this announcement. And the two projects  
21 are listed on the same map.

22           It's not that you just put in the Kula Ridge  
23 Project on your public announcement, you showed the  
24 Kula Ridge Mauka Project and the Kula Ridge Project  
25 and all inter-ties between the two Projects.

1           This leads us to think that this is really a  
2 market project with a small allocation of land. Only  
3 3 percent of the total land of this overall Project to  
4 be dedicated to affordable housing.

5 Ninety-seven percent of it will be either market  
6 houses in the Kula Ridge Project or on the adjoining  
7 Kula Ridge Mauka Project.

8           The water system, the roads, everything,  
9 will be tied together as one large Project essentially  
10 when it would be completed. This gives us pause in a  
11 number of areas. It gives us problems because the  
12 owners of these two parcels have been declared at  
13 times to be separate owners and at other times that  
14 they're one in the same; that they can do things  
15 almost the same.

16           For example, the road that will be needed by  
17 Kula Ridge, the Project that you're looking at, will  
18 have an exit road at the top of the Project that runs  
19 through the Kula Ridge Mauka project. The water  
20 systems would be tied together as one joint water  
21 system. That shows the two of 'em working closely  
22 together in other areas.

23           On the other hand, next to the Kula Ridge  
24 Project is the Kula Ridge Community Center which you  
25 all saw this that morning. The Kula Community Center

1 is a county facility with the tennis courts, the gate  
2 ball, the community center, the parking lot, all  
3 that's built by the county. But that's on a long-term  
4 lease of land. And that land --

5 MS. ERICKSON: Could you slow down again.

6 THE WITNESS: Hmm?

7 MS. ERICKSON: Could you slow down.

8 THE WITNESS: I will.

9 CHAIRMAN LEZY: Sir, we'll make sure you get  
10 a chance to provide the testimony you're going to  
11 give. But it's going to drive the court reporter  
12 crazy your speaking so fast.

13 THE WITNESS: I'm glad to slow down.

14 CHAIRMAN LEZY: Okay.

15 THE WITNESS: The land under the community  
16 center is owned by Kula Ridge/Kula Ridge Mauka. This  
17 is a sudden land deal that was done about a year or  
18 two ago where they purchased that piece of land from  
19 the same people they purchased the Kula Ridge and the  
20 Kula Ridge Mauka, same family, different entities in  
21 the family.

22 They purchased that land. And what we are  
23 asking is that a condition be placed that the land  
24 under the community center, that whole parcel 7 acres,  
25 be dedicated over to the county as part of the parks

1 dedication. This would benefit the community greatly  
2 because otherwise that owner of that area could at  
3 some point hold it against the county and say, "Well,  
4 we won't do this, we don't do that 'cause we won't  
5 give you the community center."

6           We think it's such an important public  
7 facility that we need that land to be part of the  
8 county. Then the planning can be done with the 3-acre  
9 park that they're dedicating and this into a joint  
10 facility.

11           There are burial sites on the property that  
12 you saw today and other archaeological sites. We're  
13 not experts in that. But we do hope that you place a  
14 condition that approval be done not just by SHPD, but  
15 also by the Burial Council here on Maui, approving the  
16 plan that they propose to protect and preserve the  
17 proper sites.

18           Electricity. One of the conditions that you  
19 have in making the boundary amendment is electricity.  
20 And the electric -- Maui Electric Company wrote a  
21 statement, and I'm going to quote a paragraph here:  
22 "The existing area is currently served from our Kula  
23 substation.

24           Since this substation is nearly filled to  
25 capacity, the addition of this project's anticipated

1 electrical load demand will have a substantial impact  
2 to our system.

3 "Therefore, in addition to electrical line  
4 extension other upgrades may be necessary to  
5 accommodate a Project of this magnitude."

6 We are asking that a condition be placed  
7 that it be the developer of this Project who will  
8 provide that upgrade to the Maui Electric system as  
9 part of their requirements.

10 Our next condition was the solar water  
11 heaters. We understand now that the state law  
12 requires or the County Board requires that solar water  
13 heaters be placed on new residences. And that's  
14 probably not going to be a necessary condition.

15 Senior housing and affordable housing are  
16 both on this property. We're asking that the senior  
17 housing be kept in perpetuity as senior housing, that  
18 if a senior passed away or moves on that it be then  
19 resold to seniors.

20 The affordable housing -- our association is  
21 asking for at least 15 years commitment that this be  
22 kept as affordable housing. But I would also note in  
23 the Countywide Policy Plan, which is part of our  
24 General Plan here in Maui County and has been approved  
25 by the County Council that it says that affordable

1 housing should be in perpetuity. I leave it up to you  
2 to see whether you want to waive that particular  
3 requirement.

4           Drainage. You saw today the Project, when  
5 you walked up through the Project and were told about  
6 the retention basin on the far side of the Project. I  
7 also call your attention to the side that you walked  
8 up along that road. Where would the water that would  
9 rush down that road -- and we have in Kula when Kona  
10 storms hit, 20 inches of rainfall in one day at times.

11           That amount of rainfall going down that  
12 steep road that you went up on partly creek and dirt  
13 you saw, will actually continue another, looks like  
14 half a mile up above the community center. And that  
15 water would rush down right into the church property  
16 down below and the residences below that. There seems  
17 to be very little way to get that water over to the  
18 other side of the property where the retention basins.  
19 And it could cause severe damage to the church.

20           I talked to the priest of the church today  
21 and he said he had no knowledge that this Project was  
22 even being proposed. I hope that your staff can  
23 investigate that.

24           School impact fees I hope will be  
25 appropriately applied, at least for all the market

1 units. One concern that we have is the 4-acre lots  
2 being applied for for Rural Boundary Amendment be kept  
3 as Agriculture. We see no reason why there needs to  
4 be such large lots placed in the Agricultural -- in  
5 the Rural Classification. They seem very adequate to  
6 be kept in the Agricultural Classification as are  
7 their adjoining lots.

8 In regard to agricultural land the EA  
9 mentions when it describes agricultural lands it used  
10 the word "other" on Page 31 of the EA.

11 THE REPORTER: Mr. Mayer, would you slow  
12 down a little.

13 THE WITNESS: I will. It mentions the word,  
14 "other" but doesn't finish that phrase. It really  
15 should have said "Other Important Agriculture Lands."  
16 There are three categories of agricultural --  
17 Important Agricultural Lands: Prime, Unique and  
18 Other. And this is in one of those categories as  
19 Other Important Agricultural Lands.

20 And, lastly, the county did not place a real  
21 time limit on this Project as to when it would start  
22 when it would have to be completed. And we urge  
23 you -- we have some verbiage in the document here --  
24 we urge you to please place limits as to when they  
25 have to start and when this Project has to be

1 completed. Otherwise, as has happened in the past,  
2 entitlements are given out and it sits there for  
3 decades.

4           The last thing I would like to do is hand  
5 out to you -- and I'll have the staff do that -- those  
6 conditions which we are asking for. I've summarized  
7 them on the two pages that you'll have as conditions  
8 that you can look at. That's the end of my testimony.

9           CHAIRMAN LEZY: Okay. Thank you.

10           THE WITNESS: I do have one last comment.  
11 The county has prepared its report which we will not  
12 have a chance to rebut. We note many errors in that.  
13 We don't have time in our thing to go through each of  
14 those.

15           We're hoping when you meet again in  
16 August -- and we are hoping you do come back in  
17 August -- that we'll be able to point out a number of  
18 those errors that are in the County's staff report.  
19 Thank you very much.

20           CHAIRMAN LEZY: Thank you. Both the  
21 documents that you've offered will be made part of the  
22 record. And as we discussed prior you'll have another  
23 opportunity through public testimony, or again as  
24 representative of the Association, to provide further  
25 testimony.

1 THE WITNESS: Thank you.

2 CHAIRMAN LEZY: Parties, do you have  
3 questions of the witness? Mr. Yee.

4 MR. YEE: Just regarding the sidewalks. I  
5 think in your testimony you stated that there was a  
6 promise made to the Association for the sidewalks, is  
7 that right?

8 THE WITNESS: In a letter it was stated that  
9 the sidewalks would be produced on the makai side of  
10 the road.

11 MR. YEE: Was that letter attached to your  
12 testimony?

13 THE WITNESS: I didn't have it. I do have a  
14 copy of it here.

15 MR. YEE: So would we be able to get a copy  
16 of that?

17 THE WITNESS: I will supply that to the  
18 staff.

19 MR. YEE: The second thing you noted on the  
20 sidewalks is that you said police supported the  
21 construction of the sidewalks on the makai side.

22 THE WITNESS: They said that there was a  
23 severe problem with the traffic on that road and the  
24 pedestrians on the road; that there was a need for a  
25 sidewalk. They did not say which side it should go

1 on.

2 MR. YEE: Okay. And that letter is being  
3 drafted? Is that...

4 THE WITNESS: It's in my testimony as part  
5 of the text. I believe that came directly from  
6 verbatim testimony that was given at a County Council  
7 or county planning committee meeting.

8 MR. YEE: So, okay so?

9 THE WITNESS: We'll try get that to you.

10 MR. YEE: You'll get that written document  
11 to us then.

12 THE WITNESS: I will do that.

13 MR. YEE: Okay. Nothing further, thank you.

14 CHAIRMAN LEZY: Parties, any other  
15 questions? Commissioners, any questions? Hearing  
16 none, thank you very much for your testimony.

17 THE WITNESS: Thank you for listening.

18 CHAIRMAN LEZY: Dan, would you please call  
19 the public testifiers.

20 MR. DAVIDSON: Thank you, Chair. First  
21 public witness Mike Kido.

22 C. MIKE KIDO

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

25 THE WITNESS: Yes, I do.

1           CHAIRMAN LEZY: Please state and spell your  
2 name and provide your mailing address.

3           THE WITNESS: C. Mike Kido, 1100 Alakea, 4th  
4 floor, Honolulu, Hawai'i. 96813.

5           CHAIRMAN LEZY: Thank you. Please proceed.

6           THE WITNESS: Thank you, Chair, members of  
7 the Land Use Commission. My name is C. Mike Kido,  
8 external affairs for Pacific Resource Partnership, a  
9 labor/management consortium representing over 240  
10 signatory contractors of the Hawai'i Carpenters Union.

11           PRP supports a reclassification of  
12 approximately 34.516 acres of land from the  
13 Agricultural District to the Urban and approximately  
14 60.509 acres Agricultural to Rural in Kula, Maui for  
15 mixed residential, park and open space uses.

16           The proposed Kula Ridge affordable housing  
17 subdivision involves development of 116 lots  
18 subdivision including 70 affordable single-family  
19 senior duplex, 42 market single-family lots and 4  
20 rural lots.

21           PRP notes the growing public demand for  
22 affordable housing indicated by a shortage of  
23 single-family housing on Maui. Kula Ridge would  
24 provide affordable residential units within the  
25 proposed subdivision which would help to address this

1 critical need.

2           The Project was designed based on input from  
3 the Kula community as well as the Project's adjacent  
4 neighbors. It took four years of planning,  
5 implementing the community's input and resulting in  
6 the current community-based plan.

7           The Project complies with the  
8 Makawao-Pukalani-Kula Community Plan designation and  
9 has obtained all approvals from the State Historic  
10 Preservation Division; was included in the Maui  
11 Planning Commission recommendations for rural growth  
12 boundaries on Maui Island Plan and meets all the  
13 requirements of the County Department of Housing and  
14 Human Concerns.

15           We note that the proposed Project would  
16 generate a short-term economic impact associated with  
17 construction spending and employment. The total  
18 construction cost for the proposed 116 residential  
19 units is estimated at \$34.7 million.

20           Another positive short-term economic impact  
21 associated with the Project would increase the  
22 employment and earnings. The construction of 116  
23 residential units would generate an estimated 352  
24 direct, indirect and induced jobs.

25           In summary, PRP again, finds the Project

1 noteworthy for its affordability and the sensitivity  
2 to the area. And we thank you for the opportunity to  
3 voice our opinion. And hope for a favorable approval  
4 for this Project. Thank you.

5 CHAIRMAN LEZY: Parties, any questions of  
6 the witness? Commissioners? Hearing none, thank you  
7 very much for your testimony.

8 MR. DAVIDSON: Next witness is David Gleason  
9 followed by Perry Artates.

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

13 THE WITNESS: Yes.

14 CHAIRMAN LEZY: Please state your name,  
15 spell it and provide your mailing address.

16 THE WITNESS: David Gleason, 437 Kolohala  
17 Drive in Kula. My family has lived in Kula for over  
18 30 years on Kolohala Drive. Kolohala Drive you've  
19 seen on the map is adjacent to the property that's  
20 being considered today.

21 I have had three children all born on Maui.  
22 The oldest daughter is 34 and married and has two  
23 children. She and her husband are looking for a home  
24 in Kula. That is a very difficult task. Affordable  
25 housing in Kula is nonexistent possibly with Hawaiian

1 Homes exception. My family doesn't have enough  
2 Hawaiian percentage to move into Hawaiian Homes. So  
3 at this point we're kind of at a stalemate. My  
4 daughter and son are living in a cottage on our  
5 property, in a 700-square foot cottage for a family is  
6 just not big enough.

7           So we're really looking for this type of  
8 Project to come along. It is close to our home. And  
9 we've been in the area for a long time and understand  
10 some of the concerns. But at the same time hopefully  
11 those concerns can be abated.

12           My mother-in-law is also born on Maui and is  
13 currently living in Kalama Heights. Kalama Heights is  
14 a senior housing facility here in Kihei. My wife must  
15 have two, three, four times a week she comes down to  
16 Kihei from Kula to see that her mom is doing fine. If  
17 we had a senior facility Upcountry it would be  
18 marvelous. So we are very much in favor of that as  
19 well.

20           So basically I'm in favor of the Project, as  
21 you can probably hear, because it affords those people  
22 who really can't get into homes the possibility of  
23 that, both from a senior perspective and from a young  
24 adult perspective.

25           Being from Kula and those that haven't been

1 there, it's a great spot for children to grow up. And  
2 we'd love to see our family close together. And  
3 that's the reason I'm testifying today. Thank you  
4 very much.

5 CHAIRMAN LEZY: Parties, any questions?  
6 Commissioners? Hearing none, thank you very much.

7 THE WITNESS: Thank you.

8 MR. DAVIDSON: Next is Perry Artates  
9 followed by Helen Kaufman.

10 PERRY ARTATES

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

13 THE WITNESS: Yes.

14 CHAIRMAN LEZY: Please state and spell your  
15 and provide your mailing address.

16 THE WITNESS: My name is Perry Artates  
17 P-e-r-r-y A-r-t-a-t-e-s. I'm here testifying in  
18 support. I represent the Hawai'i Operating Engineers  
19 Industry Stabilization Fund which is similar to PRP.  
20 We have our labor management entity.

21 I'm a product of Keokea, Kula. I'm a lessee  
22 on Hawaiian Homestead Lands. I've been a resident of  
23 Kula for 53 years. The reason I'm here is that in our  
24 industry, you know, it's about construction. Our  
25 contractors built the Hawaiian Homes project in Kula.

1 And they put a lot of men on our out-of-work list back  
2 to work.

3               Right now statistically the Operating  
4 Engineers is drastically in a stage that I don't think  
5 anybody can really comprehend of the social activity  
6 and their livelihood. They go back to their bad  
7 habits because they can't find a job, substance,  
8 physical abuse. And it always equals to where they  
9 can't handle the pressure or they become suicidal. We  
10 had three members commit suicide already because of  
11 the economical downfall.

12              This type of Project will put some of our  
13 members, not all of our members, back to work. But I  
14 feel it's a necessity for the livelihood of the  
15 families themselves, especially for the children that  
16 witness how hard it is when daddy's not working and  
17 he's the sole provider of the household.

18              To see our members come in our Hall and ask  
19 us, "Where's the jobs?" it's a difficult answer to  
20 give them. And for them to ask what the union is  
21 doing for us it's even a harder answer.

22              We supported the Kula Ridge Project down the  
23 street and we continue to support it. I'm only one  
24 voice, but I'm seeking your support. Because with  
25 this voice we represent more than 300 something, 376

1 members that are out there trying to make a living.

2           And what I truly express is we can't wait  
3 any longer. We need the jobs now. 'Cause I don't  
4 want to witness anybody else coming through that door  
5 who's a spouse saying, "My husband couldn't take it  
6 anymore."

7           So what I'm saying is let's move along.  
8 Let's get this thing wrapped up. And let's get our  
9 working families back to work no matter what trade.  
10 It can be operators, it can be carpenters, it can be  
11 plumbers, it can be laborers, electricians, the whole  
12 nine yards. But we gotta get back out. We're a major  
13 contributor to this economy too. Okay?

14           CHAIRMAN LEZY: Parties, any questions?  
15 Commissioners? Hearing none, thank you.

16           THE WITNESS: Thank you.

17           MR. DAVIDSON: Alan Kaufman followed by  
18 Bruce U'u.

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

22           THE WITNESS: Yes, I do.

23           CHAIRMAN LEZY: Please state and spell your  
24 name and provide your mailing address.

25           THE WITNESS: My name is Alan Kaufman

1 A-l-a-n, K-a-u-f-m-a-n and I live at 458 Na'alae Road  
2 in Kula. I'm a veterinarian and a goat farmer. I  
3 raise goats on 28 acres of land that I lease. It's  
4 immediately adjacent to this Project. And every  
5 muscle in my body is sore. Tuesday I hiked into  
6 Paliku with my 11 year-old and yesterday we came back  
7 by Switchbacks. So even my jaw is gonna move slowly  
8 today.

9           As a goat farmer I would prefer there be no  
10 development immediately next to the pastures that I  
11 use. I've seen lots of goats torn to pieces by dogs.  
12 And even with good fences that can happen. But I also  
13 know that it's my job to build good fences.

14           And while I would prefer no development and  
15 like many others I love Kula as it is, I also  
16 appreciate that if previous Maui residents had not  
17 accepted change there would be no place for me to  
18 live.

19           The Maui Foundation was a group that was  
20 created some 20 years ago for the purpose of bringing  
21 senior housing to Kula. Despite the best efforts of a  
22 group of talented and knowledgeable individuals, 20  
23 years later there is still no senior housing in Kula.

24           And without Kula Ridge I doubt that senior  
25 or affordable housing will come to Kula in our

1 lifetimes.

2           And I want to comment. Several times in the  
3 last few months I've heard Hawaiian Homes referred to  
4 as "affordable housing". And that is not the case.  
5 Hawaiian Homes is a unique situation where you have  
6 affordable leases, where people construct homes within  
7 their own budgets.

8           Some of the homes are very modest and others  
9 are very, very nice. But to call that development  
10 "affordable housing", no it's not affordable housing.  
11 It is unique and it is a special situation.

12           I can support Kula Ridge, but I do have a  
13 very legitimate concern, and we've already heard it  
14 expressed here today. And that has to do with safety.  
15 The idea of approving more than a hundred homes coming  
16 onto Lower Kula Road, well appreciate we actually have  
17 a situation abutting Kula Ridge Mauka which has over a  
18 hundred homes, which comes down onto Lower Kula Road  
19 and goes through the business district.

20           I believe, and I'm not the traffic engineer,  
21 but I drive the roads of Kula and have for three  
22 decades as a large animal veterinarian, is it's  
23 possible to mitigate the safety issues. How do you do  
24 that?

25           I was involved with my local community on

1 Na'alaie in getting speed humps put in. And it's  
2 worked. The traffic has slowed down. I think that  
3 when you get down to Lower Kula Road from this  
4 development I'd love to see left-turn only during  
5 hours of school drive off and pick up. I think the  
6 traffic issues can be mitigated.

7 And I'm done. If there's any questions I'll  
8 be happy to answer them.

9 CHAIRMAN LEZY: Parties, any questions?  
10 Mr. Yee.

11 MR. YEE: Thank you. If I understand your  
12 testimony correctly you're willing to live in harmony,  
13 I suppose, with the residential neighborhood that may  
14 be coming up.

15 THE WITNESS: That's correct.

16 MR. YEE: I take it by that same token you  
17 would want them to live in harmony with your  
18 agricultural operation nextdoor.

19 THE WITNESS: That's correct.

20 MR. YEE: So it would be fair to say that  
21 you would like any purchasers of this property to at  
22 least be informed that there is an agricultural  
23 operation nextdoor and that there could be what some  
24 people might regard as nuisances arising from your  
25 operation?

1                   THE WITNESS: What I would like is for  
2 people who own dogs to be responsible for them. I  
3 don't think they need notification of that because  
4 they either are or they are not.

5                   MR. YEE: Well, you would want them to know  
6 that they have a goat farm next to them, right?

7                   THE WITNESS: They'll see the goats.

8                   MR. YEE: Okay. But before they purchase  
9 the property you want them to know before they  
10 purchase the property, "You should know there's a goat  
11 farm next door."

12                  THE WITNESS: I would think that might be a  
13 disclosure item.

14                  MR. YEE: And then, as you said, you want to  
15 make sure they don't do anything that's going to  
16 interfere with your operations like have wild dogs or  
17 unleashed dogs roaming free.

18                  THE WITNESS: County regulations dogs can't  
19 be off-leash. They have to be confined.

20                  MR. YEE: Okay. I take it that the land  
21 that you're on it is classified agricultural.

22                  THE WITNESS: Correct.

23                  MR. YEE: And it's adjacent to the Kula  
24 Ridge Project.

25                  THE WITNESS: That's correct.

1 MR. YEE: Nothing further, thank you.

2 CHAIRMAN LEZY: Commissioners? Thank you.

3 MR. DAVIDSON: Bruce U'u followed by Penny  
4 Humphries.

5 BRUCE U'U

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

8 THE WITNESS: Yes.

9 CHAIRMAN LEZY: State and spell your name  
10 please and provide your mailing address.

11 THE WITNESS: My name is Bruce U'u,  
12 B-r-u-c-e last name U'u, easy to spell. Address 249  
13 Kupa'a Street, Paia, Maui.

14 I am the operation coordinator for the  
15 Hawai'i Carpenters Union here on Maui. And I'm in  
16 support of the Project. I'm a product of low income  
17 housing. I should say my mom is a product of low  
18 income housing that I so happily inherited.

19 And as I sat back there and listened to some  
20 of the testimony given by KCA as their concerns  
21 towards this Project, I understood why we have a lack  
22 of affordable housing.

23 It was brought to my attention that when you  
24 add the existing conditions, say, the engineering  
25 report, the soil studies, the assessments, the permit

1 fees, the cost of consulting fees, the time, the cost  
2 of labor and material that is going up due to the fuel  
3 increase, the infrastructure cost, the school cost,  
4 the water, the potential water contamination, power  
5 source, drainage, properties to be donated, sidewalks  
6 to be constructed, the purchase of the properties, I  
7 was blown away. I said that's why we are short of  
8 affordable homes.

9           This is part of the problem that got us here  
10 in the first place for me to testify in support of a  
11 project that's needed for years. I'm not even talking  
12 about the work that we could use in the unions.

13           I'm just talking about the homes that is  
14 needed. And you multiply that by two when you're  
15 dealing with Upcountry. I can't remember the last  
16 project of senior homes or affordable homes being  
17 available up in that Kula area.

18           My wife is a life-long resident of Kula  
19 until she married me and moved to Paia. Her dream was  
20 always to go back home to move back to Kula. I can't  
21 afford it. I have a job.

22           The prices is incredibly outrageous and I  
23 know it. But given the right time in the right  
24 situation a project like this could be afforded to me.

25           And I would love an opportunity to people

1 who are placed into situations like my wife and myself  
2 we're not giving -- nobody inherited a house or the  
3 potential to own a home where she was raised. I would  
4 not want to be responsible to tell that potential  
5 house buyer that I was against that project. So I sit  
6 here in support of the Project. Thank you.

7 CHAIRMAN LEZY: Parties, any questions?  
8 Commissioners? Hearing none, thank you for your  
9 testimony.

10 THE WITNESS: Thank you very much.

11 MR. DAVIDSON: Penny Humphries followed by  
12 Mariya Dones.

13 CHAIRMAN LEZY: Raise your hand, please.

14 THE WITNESS: Which one?

15 CHAIRMAN LEZY: Your right hand.

16 PENNY HUMPHRIES

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

19 THE WITNESS: Of course, yes.

20 CHAIRMAN LEZY: Would you please state your  
21 name spell it and provide your mailing address.

22 THE WITNESS: Penny Humphries P-e-n-n-y  
23 H-u-m-p-h-r-i-e-s 51 Kalihi Place, Kula. I've lived on  
24 Maui 32 years and in the house on Kalihi Place for 28.  
25 And Kalihi Place is directly below the Holy Ghost

1 Church. So this subdivision will directly impact me  
2 in every sense of the word. I don't know if the  
3 developers of the Project will be so impacted  
4 themselves.

5           They have requested for an urban designation  
6 which is not consistent with Kula which is ag, rural  
7 and residential. I believe that should be stricken  
8 from their Project completely. When I was doing the  
9 walk around today I was told that the urban  
10 designation was 51 acres. And then it was brought  
11 down to 27.

12           When I did my own math and they can tell me,  
13 they can correct me if this is in error, 116 homes or  
14 units times 6,000 square foot lots divided by an acre,  
15 43,560 square feet equals 16 acres divided by 116  
16 units actually makes it almost 14 units per acre.  
17 It's just way too dense. It's just not in keeping  
18 with what I thought I was buying into.

19           I would also like to mention about water.  
20 In the 32 years that I've been here maybe six years  
21 there were no water restrictions during the summer.  
22 Every other summer there have been forced water  
23 restrictions mandated. Yet they continue to build.  
24 And so we all cut back. But the base that is using  
25 the water has increased. At some point it's just not

1 going to work.

2 A lot of time and energy was put into the  
3 Upcountry Plan. Yet it seems to be undermined by this  
4 Project. The fact that the owners of the Kula Ridge  
5 Development actually own the land underneath the Kula  
6 Community Center to me is politically dangerous. And  
7 to me that's too much leverage.

8 They should, as was suggested by Dick, that  
9 land should be deeded over to the county so that  
10 there's no conflict of interest later on. That's it.

11 CHAIRMAN LEZY: Parties, any questions?  
12 Commissioners? Hearing none, thank you for your  
13 testimony.

14 MR. DAVIDSON: Mariya Dones followed by John  
15 Wilson.

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

19 THE WITNESS: Yes.

20 CHAIRMAN LEZY: Please state and spell your  
21 name and provide your mailing address.

22 THE WITNESS: Thank you. My name is Mariya  
23 Dones. It's spelled M-a-r-i-y-a. The last name is  
24 D-o-n-e-s. And my mailing address is P. O. Box 146 or  
25 440 Kalihi Place, Kula 96790.

1                   CHAIRMAN LEZY: Please proceed.

2                   THE WITNESS: Aloha kakou. I have been a  
3 resident of Waiakoa since 1994. And I'm here today to  
4 discuss how I feel what I've seen take place and what  
5 I'm fearful of taking place actually.

6                   Thinking about the reclassification from ag  
7 land to whatever it's gonna be. Thinking about zoning  
8 changes in general. When I bought into this piece of  
9 stewardship, which I call it, I don't believe I own  
10 anything. I believe I'm a steward of the land up  
11 there basically. When I bought into that I have kept  
12 my word. And my behavior has been suitable and  
13 respectful to the land and the people I'm surrounded  
14 by.

15                  Today we took the tour up there. And I was  
16 quite fearful seeing that there's going to be no  
17 drainage coming anywhere but right onto my house.  
18 What we looked at we saw this huge hill and then  
19 there's another hill and it hits Holy Ghost Church.  
20 And then it goes through Penny's yard, and then it  
21 comes onto my yard which my yard is surrounded with a  
22 drainage ditch on the property. And then it goes  
23 around the corner onto the highway.

24                  So I'm looking at this and I'm thinking of  
25 the tragedy we had up in Hawaiian Homestead two years

1 ago was it, when the houses went off down the hill.

2 And I'm thinking about my own home. And I'm thinking  
3 of the farming that we do too up there.

4 Because I spend my entire day doing farming  
5 so that I can eat and so that we can have sustainable  
6 food on Maui, it's really upsetting to me to see this.

7 Basically I'd like to point out too that  
8 who's going to be responsible with the flooding  
9 insurance and stuff like that? Because my friend on  
10 Halama Street recently twice had this situation with  
11 the county.

12 Whose problem is it when your house floods?  
13 Does flooding insurance cover it? No, it does not.  
14 They kick you back to the county. The county tells  
15 you, "Oh, so the sewer was clogged. So what? It's  
16 not our problem." So who do you go to? Well, she's  
17 8,000 in the whole to redo her home because nobody's  
18 going to pick up the tab. And I'm concerned about  
19 that as well.

20 I'm concerned that there doesn't seem to be  
21 measures in the plan for these little inconveniences  
22 which could flood the entire area.

23 So I'd like to see what the plan is going to  
24 be to cover this. As far as density, I've seen that  
25 too, big time. There's very little land for a lot of

1 homes up there. The sidewalks and the danger it's no  
2 joke and it's serious because Kula Highway right now  
3 is very serious. They're doing 70 miles per hour in a  
4 20-mile an hour zone right in front of my home.

5 And I can just see that backup when it stops  
6 to a halt at that turnoff to the left to go up there.  
7 It's not going to be pretty, folks. And with kids  
8 involved it's gonna be disastrous.

9 So I'd like to just say that I'm not for  
10 this in the condition it's in. And I'd like to see  
11 some kind of a plan put forth to cover all these  
12 areas. The safety issues are humongous. And I don't  
13 see that. I see that -- I understand our boys need to  
14 go back to work. I understand that.

15 But to put a boy back to work for six months  
16 or eight months, whatever it's going to be, is not  
17 equal to the proportion of devastation it's going to  
18 do to the land and the people up there. So thank you  
19 very much.

20 CHAIRMAN LEZY: Parties, any questions?  
21 Commissioners? Hearing none, thank you for your  
22 testimony.

23 MR. DAVIDSON: John Wilson followed by Maria  
24 Rawe.

25 THE WITNESS: My name is John Wilson,

1 J-o-h-n W-i-l-s-o-n. I live at 1167 Ho'opuni Road,  
2 commonly known as Kula Glen, a 2-acre ag subdivision.

3 CHAIRMAN LEZY: Sir, I'm sorry. I need to  
4 swear you in first.

5 THE WITNESS: Oh.

6 JOHN WILSON

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

9 THE WITNESS: Yes, I do.

10 CHAIRMAN LEZY: Thank you.

11 THE WITNESS: What part should I repeat?

12 CHAIRMAN LEZY: You can proceed with your  
13 testimony. You've covered it.

14 THE WITNESS: We need affordable housing in  
15 Kula. I'm not opposed to that idea, that concept. We  
16 don't need urban development in Kula. I am opposed to  
17 that concept. So how do we make this work? I live on  
18 a 2-acre ag subdivision in which a third is in a  
19 gulch.

20 Originally that should have been classified  
21 as rural not ag. That was a cost to the developer. I  
22 would think if any of these properties are going to be  
23 less than 2 acres, you should consider a rural  
24 classification rather than an ag classification.  
25 That's just one thought.

1           As far as the urban classification, that may  
2 be what, the only way you can get around this, but I  
3 really think the amount of houses in the land that's  
4 shown was much more reasonable in the original  
5 proposal than it is in the one currently proposed.

6           We still have that consideration about the  
7 safety and the infrastructure and the water. So I  
8 would just remind you, Commissioners, of the criteria  
9 which you make your decisions, the extent the proposed  
10 reclassification conforms to the applicable district  
11 standards. I don't know what those district standards  
12 are but I've mentioned a couple concerns.

13           The maintenance of other natural resources  
14 related to Hawai'i's economy including but not limited  
15 to ag resources. And one of the real resources we  
16 have to be concerned about here is water. And I don't  
17 know how you can mitigate that concern, but I think  
18 it's something you should consider.

19           Representations and commitments made by the  
20 Petitioners in securing the boundary change: I think  
21 Dick Mayer may have indicated some of the concerns  
22 that were presented. I've heard the original  
23 testimony to the Kula Community Association. I do  
24 happen to be a member of the Board of the Kula  
25 Community Association, and have heard some of the

1 changes that have taken place since then.

2 I have not been privy to all of the  
3 conditions and considerations that Dick has. And I  
4 think you should also take into account the General  
5 Plan of the respective counties.

6 Maui County's General Plan is about four or  
7 five years out of date. It's supposed to be revised  
8 every 10 years. The current planning that's going on  
9 indicates rural boundaries and urban boundaries.

10 In that planning process they're considering  
11 Waiiokea as a rural area. So classifying it as urban  
12 is something I think is really of a concern.

13 Maybe you could have this condition as rural  
14 with some sort of housing limitation so we could  
15 afford the affordable housing on the same land to some  
16 degree. The concern of the density is really a  
17 problem. That's what leads to the traffic and  
18 infrastructure. So please consider conditions if you  
19 go ahead and approve this. Thank you.

20 CHAIRMAN LEZY: Parties, any questions?  
21 Commissioners? There being none, thank you very much  
22 for your testimony.

23 THE WITNESS: You're welcome.

24 MR. DAVIDSON: Four more witnesses signed  
25 up: Maria Rawe followed by Fred Rawe.

1                                MARIA RAWE

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

4                                THE WITNESS:    Yes.

5                                CHAIRMAN LEZY:   Please state and spell your  
6    name and provide your mailing address.

7                                THE WITNESS:   Maria Rawe, M-a-r-i-a R-a-w-e.  
8    32 Kalihi Place, Kula.   I'm here to testify in  
9    opposition to the Project.   I feel I need to have my  
10   voice heard this afternoon and to give my personal  
11   testimony to you, the State Land Use Commission, at  
12   the state level so that you may hear my personal  
13   concern because I live right down makai, below this  
14   Project on Kalihi Place where the Kula Ridge proposed  
15   subdivision is supposed to go in.

16                               I'm opposed to this Project for several  
17   reasons:   1.   The Project did not go through the  
18   Upcountry Plan.   Then why do we have an Upcountry  
19   Plan?   Why do we spend hours, months and years making  
20   sure that Kula remain rural?   Where did the urban come  
21   in?

22                               Well, to my recollection, the urban came  
23   after it was first rejected.   And then it was brought  
24   back with senior housing and affordable housing.   And  
25   that's how the urban came in.   That's my recollection.

1 So that was my first concern.

2           My second concern is safety. We enjoy the  
3 rural setting where I now live, but I worry about my  
4 grandchildren being able to walk to my home. My  
5 grandchildren are now with me. I take care of them  
6 while my daughter works.

7           As you know in Hawai'i both husband and wife  
8 have to both work so they can afford to live here and  
9 to afford their housing.

10           Well, the anticipated increase in traffic in  
11 this subdivision really scares me. It's alarming to  
12 me, and I worry about the safety of my own  
13 grandchildren, and I also worry about the safety of  
14 the Haleakala School children who use that road all  
15 the time. With more traffic it's going to be  
16 horrendous.

17           The third concern I have is the rain  
18 drainage from the entrance road. I did walk the  
19 property this morning. And what I realized is that  
20 there's a drainage system put in at the lowest point  
21 of the total acreage.

22           And that drainage system is opposite from  
23 the road entrance, from the entrance road which is  
24 right above the church. I understand the drainage  
25 system needs to be there because it's at the lowest

1 point.

2               However, even if you're trying to bring the  
3 rainwater toward that area with all kinds of technical  
4 terms that civil engineers use, I worry about the rain  
5 that's gonna come down the entrance road which is  
6 going to go over the church which has no grass except  
7 for the cemetery. And that water is going to come  
8 through to my house.

9               I live below the church. And I worry about  
10 flooding. And I worry about the rain that I don't  
11 think we can control because how can you put -- I'm  
12 not a civil engineer, but how can you control the rain  
13 coming down that road if the drainage system is way  
14 opposite on the other side?

15              I wish I could describe to you the rivers  
16 that form during a Kona storm in Kula. I've seen  
17 them. I've lived in my house for over 20 years. I  
18 worry that this rainwater, as I said, will come down  
19 to my house into the Kalihi Road cul-de-sac. We have  
20 a cul-de-sac.

21              I ask you to look carefully at this future  
22 problem. And I ask that a second drainage system be  
23 put in place at that entrance road side if the state  
24 will approve this Project. However, I want you to  
25 know that deep down inside I totally oppose this whole

1 Project. Thank you.

2 CHAIRMAN LEZY: Parties, any questions?  
3 Commissioners? Hearing none, thank you for your  
4 testimony.

5 MR. DAVIDSON: Fred Rawe followed by Scott  
6 Prather.

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

10 THE WITNESS: Yes, I do.

11 CHAIRMAN LEZY: State your name and address  
12 and spell it please and provide your mailing address.

13 THE WITNESS: My name is Fred Rawe, R-a-w-e.  
14 I live at 32 Kalihi Place in upper Kula. I'm married  
15 to the previous speaker. I wish we could have had  
16 lunch at our meeting at Cafe 808 in Waiakoa. I like  
17 that community. I would hope the Commissioners had an  
18 opportunity to experience the intimacy of where we  
19 live.

20 I want to ask a thesis question how we  
21 determine a representative voice. I went to the Kula  
22 Association meeting when the councilmembers heard  
23 testimony, testimony that evening seem skewed to me.  
24 I realized soon after the testimony began, testimony  
25 in favor of Kula Ridge, that the speakers all wore

1 blue T-shirts.

2           It seemed to me this was an opportunity for  
3 an organized voice but not necessarily a  
4 representative voice. One by one the blue T-shirts  
5 spoke in favor of the Ridge. I realized then too with  
6 subsequent testimony that the other speakers who spoke  
7 against the development were scattered and somewhat  
8 unorganized.

9           However, there was a packed house. And I  
10 believe, and I can only say I believe this, the packed  
11 house had a great number of people who were in my  
12 opinion, opposed to the development of the Ridge but  
13 didn't necessarily speak out.

14           I would add one other thing. That later in  
15 the meeting we encountered somebody we knew who wore  
16 one of those blue T-shirts. That person explained. I  
17 said, "Well, you live Downcountry. Are you intending  
18 to move Upcountry and live at the development?" And  
19 he said, "Oh, no. This is an investment for us."

20           So it had nothing to do with the commitment  
21 of being a resident in the community. It had to do  
22 with his business opportunity under the circumstances.

23           I think, again I don't have an answer  
24 necessarily to how we determine a representative voice  
25 short of a referendum. But those of us who live close

1 to the Ridge as I do, below it, as my wife spoke to  
2 that effect, are deeply concerned about its effect on  
3 us in the several ways that have already been  
4 mentioned. Thank you.

5 CHAIRMAN LEZY: Parties, any questions?  
6 Commissioners? There being none, thank you for your  
7 testimony.

8 MR. DAVIDSON: Scott Prather followed by  
9 Dana Naone Hall.

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

13 THE WITNESS: Yes I do.

14 CHAIRMAN LEZY: Please state and spell your  
15 name and provide your mailing address.

16 THE WITNESS: My name is Scott Prather  
17 S-c-o-t-t P-r-a-t-h-e-r. I live at 2731 Oma'opio  
18 Road, Oma'opio Road, Kula.

19 I'm a -- I was born and raised on Maui. I  
20 grew up on the farm in lower Kula. And it's a great  
21 place to live. It's a place that even as I went off  
22 to school and traveled to different countries I always  
23 knew I wanted to come back because Maui is Maui.

24 In Maui there's certain places that just  
25 kind of grab your heart and Kula is one of them. I'm

1 a new father. And I want to be able to raise my  
2 daughter in the same place I grew up, at least in the  
3 same vicinity.

4           Currently I live off my gramma's property  
5 who, my grandparents' property which is good for now,  
6 you know, it's safe. It's simple. But it will never  
7 be mine. And as much as I want to live here, it's  
8 without affordable housing opportunities for people  
9 like myself it's next to impossible to stay here.

10           So as much as I would love to live here,  
11 without this kind of project going through I have to  
12 accept the fact either I'm going to live off my  
13 grandparents or whoever inherits that land, or I'm  
14 going to have to move.

15           And it's a reality. And I accept that. But  
16 if projects like this go through it gives me, people  
17 like me and my family hope for my future. That's all  
18 I'm really looking for.

19           I never realized that when I came after  
20 school to live in Maui, I didn't realize it was going  
21 to be this difficult to really live here. I knew I  
22 could rent here. But I didn't know it was going to be  
23 -- I mean if I married into a Hawaiian family maybe it  
24 would be possible to get land Upcountry. But I  
25 didn't. It just seems there's no options. There's

1 very little options for people like myself. I just  
2 want to know that Maui isn't just for, just for people  
3 that are wealthy that are immigrating to Maui as they  
4 retire. I want to know that -- I want to believe that  
5 it's good enough for the people that grew up here.  
6 And that people that don't just grow up here but want  
7 to stay here.

8           And I think this Project, although it has  
9 its issues that need to be worked out, I think the  
10 pros outweigh the cons. For someone like myself who  
11 spends a lot of time at Cafe 808, my wife was working  
12 there, spends a lot of time at Kula gym, I play  
13 basketball there weekly still and I work Upcountry,  
14 this is from my perspective this Project is like a God  
15 send.

16           It gives me the chance to believe in kind of  
17 like the American dream of having your own piece of  
18 paradise. That's why I'm here in support of the  
19 Project and that's it.

20           CHAIRMAN LEZY: Parties, any questions?  
21 Commissioners? Hearing none, thank you for your  
22 testimony.

23           THE WITNESS: Thank you very much.

24           MR. DAVIDSON: Last signed up witness Dana  
25 Naone Hall.

1                   CHAIRMAN LEZY: Are there any other  
2 individuals who wish to give public testimony today?  
3 If you please approach the clerk you can sign the  
4 public testifiers' list.

5                   UNIDENTIFIED SPEAKER: Is it my turn to  
6 testify?

7                   MR. DAVIDSON: Well, sign up.

8                   UNIDENTIFIED SPEAKER: I submitted my  
9 testimony.

10                  CHAIRMAN LEZY: Do you have any documents  
11 you'd like to put into the record?

12                  MS. HALL: Yes.

13                  CHAIRMAN LEZY: Please give them to the  
14 clerk.

15                                 DANA NAONE HALL,  
16 being first duly sworn to tell the truth, was examined  
17 and testified as follows:

18                  THE WITNESS: Yes. That's it?

19                  CHAIRMAN LEZY: Can you please state your  
20 name, spell it and provide your mailing address. And  
21 for the court reporter's benefit could you please  
22 speak into the microphone.

23                  THE WITNESS: My name is Dana Naone Hall,  
24 D-a-n-a N-a-o-n-e H-a-l-l, 2087 Wells Street, Wailuku,  
25 96793.

1                   CHAIRMAN LEZY: Please proceed.

2                   THE WITNESS: Good afternoon, Commissioners.

3   In the District Boundary Amendment Petition the  
4   Applicant proposes to install offsite waterline  
5   improvements on the adjacent Kula Ridge Mauka  
6   subdivision Kula Ridge site to service the proposed  
7   residential subdivision.

8                   Initially Kula Ridge pursued the development  
9   of an offsite well at an elevation of 2,900 feet on  
10  the adjacent mauka parcel. Water was to be pumped  
11  from the well site to a new 500,000-gallon tank  
12  located near the mauka boundary of the parcel 23 at an  
13  elevation of approximately 3,600 feet.

14                  The 500,000-gallon tank would have two  
15  distribution lines. And if you will refer to figure  
16  14 you will see these lines. It's the top figure.  
17  Two distribution lines, one on the north side of  
18  Keahuaiwi Gulch and one along the south side.

19                  Water would be transported to the lower  
20  parcel 174 by a new 8-inch transmission line. The  
21  waterline would cross Keahuaiwi Gulch to provide  
22  service to the Kula Ridge Project on parcel 174.

23                  This is one of the major elements that links  
24  the upper parcel 23 to the lower parcel 174 and makes  
25  the Kula Ridge housing project part of a larger

1 project.

2 Another element linking the two parcels is  
3 the access road that will serve both parcels. If you  
4 will refer to the second exhibit, which is labeled  
5 Exhibit 1 you'll see the access road. This brings  
6 into question the effect of the District Boundary  
7 Amendment request on significant irreplaceable  
8 cultural and historic resources located on parcel 23.

9 These pre-contact and historical cultural  
10 sites form a remarkable intact upland agricultural  
11 habitation field system that's found throughout parcel  
12 23, and once extended throughout parcel 174.

13 There are vestigial remains of this  
14 archaeological and cultural process on the lower  
15 parcel including a burial site you saw today  
16 identified after the AIS was completed, Archaeological  
17 Inventory Survey. The burial and its preservation  
18 buffer covers approximately 2,500 square foot area.

19 I believe that this burial preservation is  
20 located where the senior duplexes are proposed for  
21 construction, yet I have not seen any revision to the  
22 Project maps which show this preservation area in  
23 relation to the proposed housing units.

24 I am very concerned that if this District  
25 Boundary Amendment request is approved that there will

1 be significant impact on the upper parcel. The  
2 Archaeological Inventory Survey conducted for the upper  
3 parcel purportedly identified 49 sites, 39 of which  
4 were newly recorded and one site previously  
5 identified. Please refer to figure 4.

6           The vast array -- however, only 9 sites have  
7 been recommended for some kind of preservation. By  
8 way of contrast the Archaeological Survey of parcel  
9 174, a 48-acre parcel, identified 18 sites nearly half  
10 the number of sites as were identified as parcel 23's  
11 272-acre area. If you refer to figure 5 please note  
12 that the vast array of features numbering 1,254  
13 features in all are lumped together as site 6338.

14           This is unprecedented. I don't know  
15 anywhere in the state at any time where an  
16 archaeological site has encompassed so many features  
17 over such a broad area of land.

18           If you read the Archaeological Inventory  
19 Survey you will note in a number of places where it  
20 says due to time constraints they were not able to  
21 more specifically identify these features, not even to  
22 plan map them or to determine their age or function.  
23 And that's the case for hundreds of features.

24           Only nine sites on parcel 23 have been  
25 recommend for some kind of preservation. Five of the

1 sites are being preserved at the landowner's request  
2 as data banks. In other words, information contained  
3 in the subsurface deposits of these sites will be  
4 stored, in other words not disturbed, until an  
5 undetermined future day.

6           Only four sites will be preserved in  
7 perpetuity. One of these sites, site 1015, is a  
8 well-known petroglyph pictograph site in Keahuaiwi  
9 gulch.

10           Two of the sites, 6332 and 6334 each of  
11 which consists of only one feature, an enclosure, are  
12 both located on the south side of Keahuaiwi Gulch.  
13 This means that if their data is extracted, their  
14 information is extracted they can be destroyed. So  
15 there will be nothing of this vast historical and  
16 cultural complex on the south side of Keahuaiwi Gulch.

17           If you look carefully at Figure 5 you will  
18 notice the orange/brown markings which depict the  
19 multitudinous sites at risk of destruction.

20           And the following exhibits I have for your  
21 review have to do with looking at these sites. But  
22 before I go to that may I just tell you the name of  
23 the gulch that borders parcel 174 on the north and  
24 bisects parcel 173 is, again, called Keahuaiwi which  
25 means the bone altar or the bone plain. This is the

1 quintessential kula iwi, the bone plain of our  
2 ancestors.

3           To provide you with an idea of the  
4 relatively intact nature of this archaeological  
5 cultural complex, the first photograph, this is an  
6 aerial photograph. It also gives you a sense of how  
7 undeveloped it is relatively around this area. You  
8 see in the bottom portion of the photograph the Holy  
9 Ghost Church. Then you're looking east or upland.

10           And the south side of Keahuaiwi Gulch, all  
11 those little dark markings are sites. Then if you go  
12 to the next photograph we are now hovering over the  
13 northern site of Keahuaiwi Gulch and you see that vast  
14 array of sites.

15           And if you look at the left-hand corner of  
16 the photograph you see what look like parallel walls  
17 going -- then perpendicular, going off in a  
18 perpendicular fashion. I believe I included a  
19 photograph that is a closer up view of that particular  
20 section.

21           Then if you look at this next paragraph this  
22 is the south side of Keahuaiwi Gulch. This is the  
23 access road that was bulldozed to terraces and walls.  
24 So I'm just showing you this to show you the kind of  
25 destruction that can occur and the fact that all the

1 sites we are looking at here would no longer exist  
2 should parcel 23 be involved with the development of  
3 parcel 174.

4           And there are sites here that have not been  
5 adequately recorded. And there are sites -- I mean in  
6 my 20 some years of being involved with historic  
7 preservation issues I've never seen in my life. For  
8 instance, this photograph is a closer up version of  
9 this series of four mounds.

10           There were almost -- nearly a quarter of the  
11 features found were mounds, rock mounds. But they're  
12 not just simple rock pilings from agricultural castoff  
13 activity. If you look at this closer up view you'll  
14 see these have formal faces which means that they're  
15 dry stonework architecture. They were deliberately  
16 placed.

17           And if you were to put this human scale and  
18 put a person next to it these are approximately  
19 10 feet tall. So these are all remarkable sites that  
20 have not been adequately identified. And I'm  
21 concerned about their destruction.

22           I'm also concerned that this is really the  
23 wrong project in the wrong place. Because not only is  
24 it not in an area that's characterized by city-like  
25 concentrations of people as both the aerial

1 photographs and your own site visit today  
2 demonstrates, but the fact that they would want to  
3 change the upper part of the panhandle into more rural  
4 lots is not appropriate either. Because that, you  
5 know, transition to rural would mean that the larger  
6 272-acre parcel 23 could more readily be changed to  
7 rural once that happens. Anything goes for upper lots  
8 should be kept agriculture.

9 But I think that there are such significant  
10 problems with this Project that the District Boundary  
11 Amendment should not be granted. Particularly the  
12 fact that they have no water and the traffic impacts  
13 and most significantly the cultural and historic  
14 impacts. Thank you very much.

15 CHAIRMAN LEZY: Parties, any questions?  
16 Commissioners? Hearing none, thank you very much for  
17 your testimony.

18 MR. DAVIDSON: Richard Pohle.

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

22 CHAIRMAN LEZY: Please state and spell you  
23 name and provide your mailing address.

24 THE WITNESS: My name is Richard  
25 R-i-c-h-a-r-d Pohle. P-o-h-l-e. Rhymes with "roly".

1 I'm a protea farmer, reside at 4,000 feet on Haleakala  
2 Highway. I support the Kula Ridge project.

3 I've been on the meter priority list since  
4 2003, numerically far ahead of the Kula Ridge project.

5 MS. ERICKSON: Could you slow down, please.

6 THE WITNESS: Usually I'm trying to fit into  
7 3-minute testimony. Okay. I founded the Upcountry  
8 Meter List Association to address Upcountry water  
9 issues. Our website [www.UMLA.WS](http://www.UMLA.WS), is a reference  
10 archive for water issues and contains 20 of my  
11 testimonies and various articles relating to water. I  
12 submit that website as evidence.

13 For 20 years Maui County has restricted  
14 Upcountry development by refusing to issue meters.  
15 This satisfies the vocal anti-development movement and  
16 avoids the unique Upcountry expense of pumping water  
17 uphill. But it violates the state policy "Ke Kahawai  
18 Pono", the rightful sharing of water.

19 Faced with the unpleasant choice of  
20 spreading the development cost over all of Maui or  
21 just Upcountry, the county has done nothing. The  
22 legal mechanisms they use are the fire flow  
23 regulations which require applicants to fund expensive  
24 infrastructure themselves alone, and the meter  
25 priority list which prevents neighborhood huis.

1           The Kula Community Association is, in my  
2 opinion, a prominent anti-development force. Given a  
3 choice between growing Upcountry cabbages, or kids the  
4 KCA will pick cabbages every time.

5           But farmers must receive subsidies to  
6 survive while families, if they are allowed, are able  
7 to pay their fair-share and perhaps a little more to  
8 enjoy the Upcountry. The KCA policy is expensive and  
9 devious but it gets results.

10          People use little water for personal use.  
11 Irrigation uses a lot. The Department of Water Supply  
12 water consumption tables, which is on the website, for  
13 2009 shows that high population centers with small  
14 lots in cool areas like Makawao, consumption is  
15 440 gallons per day per meter. While Kula Ag Park uses  
16 10,500 gallons per meter.

17          To maximize dollars to the Department of  
18 Water system for each gallon consumed you cannot do  
19 better than to house families on small lots and  
20 surround them by large scenic lots unsuitable for  
21 farming.

22          That is what Kula Ridge does. And that is  
23 why Kula UMLA strongly supports this Project. We  
24 would rather have houses spread out all over the  
25 Upcountry according to the zoning. But the county

1 policy has forbidden that effectively, so that's why  
2 we're here supporting this. Short of a lawsuit this  
3 seems to be -- the Kula Ridge project seems to be the  
4 only way to get funding for new Upcountry water  
5 sources like Pi'iholo South and get water meters for  
6 other Upcountry users.

7           The KCA arguments relating to Kula Ridge  
8 water are false, although expensive ample Upcountry is  
9 available. The discriminatory (sic) priority list is  
10 thus unjustified and there's no basis for the divisive  
11 line-jumping argument pitting neighbor against  
12 neighbor. And I say that because Mayor Arakawa has  
13 said it. And a water availability -- Karl Friedman  
14 said water is available but it is three times more  
15 than the county is willing to charge.

16           Kula Ridge has demonstrated a willingness to  
17 contribute more than their fair share for water source  
18 and infrastructure development. There's been ample  
19 testimony, in my opinion, that Kula Ridge developer's  
20 are trustworthy and have the respect of the community.

21           The KCA in contrast has consistently  
22 demonstrated a willingness to delay, obfuscate,  
23 object, nitpick and add unnecessary conditions all of  
24 which increase the cost of an excellent and unique  
25 affordable housing project for Upcountry.

1                   And now I will give you three examples. The  
2 KCA never mentions that the Kula Ridge project has  
3 offered \$2 million as an exaction fee for the use to  
4 help the Pi'iholo South well go online, \$2 million.  
5 That is a reasonable exaction fee.

6                   The narrow well shaft that was mentioned by  
7 previous testimony, I think it's 20 inches, it's  
8 narrower than the county standards, but this was built  
9 with new technologies that use vertical pumps. The  
10 designer of the well was Mink and Associates, the  
11 husband of Patsy Mink, the late Patsy Mink.

12                  Finally, the contamination mentioned as an  
13 aside is eight times less than the state requirements.  
14 That is never mentioned in any of the KCA testimony.  
15 And I suppose that we could go on and find more. But  
16 if you read the website you will find justification, I  
17 hope, for my statements here. Thank you.

18                  CHAIRMAN LEZY: Parties, any questions?  
19 Commissioners? Hearing none, thank you for your  
20 testimony. We'll take a 10 minute recess.

21                               (Recess was held. 3:06)

22                  CHAIRMAN LEZY: (gavel (3:25) This hearing  
23 is reconvened. Before we turn to the Petitioner's  
24 case I'd just like to ask one last time if there are  
25 any other individuals desiring to provide public

1 testimony today. Seeing none, Petitioner, would you  
2 please describe the exhibits that you wish to have  
3 admitted into the record.

4 MR. LUNA: Yes. We have 43 exhibits. And  
5 we have submitted an Exhibit 5 aerial map. We also  
6 submitted a secondary map so maybe that could be 5A.

7 Then Mr. Nance initially gave us a resumé  
8 that kind of stopped at 2007. So we have a later one  
9 that goes up to at least 2009. And we'll provide that  
10 as a substitute for his, which I think Exhibit 23. So  
11 we can make that 23A and I'll provide those to Riley.

12 CHAIRMAN LEZY: Okay. Anything else?

13 MR. LUNA: We do have a stipulation not to  
14 call, stipulation among the County and the Office of  
15 Planning, not to call two witnesses.

16 CHAIRMAN LEZY: I'm sorry. Before we move  
17 on to that let's dispose of the exhibits. Any  
18 objections, County, OP?

19 MR. HOPPER: No objection.

20 MR. YEE: No objection.

21 CHAIRMAN LEZY: Hearing no objections the  
22 Petitioner's Exhibits 1 through 43 with the revisions  
23 as noted are admitted into the record.

24 Let me just finish with the exhibits first  
25 Petitioner, and then we'll move on to the witnesses.

1 County, would you please describe the exhibits that  
2 you wish to have admitted to the record.

3 MR. HOPPER: Thank you, Mr. Chair. We have  
4 as listed in our First Amended Exhibit List we have  
5 Exhibits 1 through 7. Today you received Exhibit No.  
6 8 which was the updated and amended version of chapter  
7 14.12 of the Maui County Code. So a total of 8  
8 exhibits are being proposed for acceptance.

9 CHAIRMAN LEZY: Anything else?

10 MR. HOPPER: No, Mr. Chair.

11 CHAIRMAN LEZY: Petitioner, any objections?

12 MR. LUNA: No.

13 CHAIRMAN LEZY: OP any objections?

14 MR. YEE: No objection.

15 CHAIRMAN LEZY: Hearing none, County of Maui  
16 Exhibits 1 through 8 are admitted into the record.  
17 OP, could you please describe your list of exhibits  
18 that you wish to be admitted into the record.

19 MR. YEE: The Office of Planning has 13  
20 exhibits. I just want to point out that we have  
21 Exhibit 3 and Exhibit 3A. Basically they're both  
22 maps. And what we did is we highlighted the wrong  
23 intersection on Exhibit 3 so we included the correct  
24 highlighted intersection on 3A.

25 So we are submitting into evidence Exhibits

1 1, 2, 3A then 4 through 13. So we're not submitting  
2 Exhibit 3 into evidence as it's been substituted by  
3 3A.

4 CHAIRMAN LEZY: Anything else?

5 MR. YEE: That's it.

6 CHAIRMAN LEZY: Petitioner, any objections?

7 MR. LUNA: No.

8 CHAIRMAN LEZY: County, any objections?

9 MR. HOPPER: No.

10 CHAIRMAN LEZY: Hearing none, then State  
11 Office of Planning Exhibits 1 through 13 with the  
12 revision noted are admitted into the record. Thank  
13 you, Parties. Petitioner, then I'm sorry, you'd  
14 offered up a stipulation?

15 MR. LUNA: Yes. The stipulation with the  
16 County and the Office of Planning to not call as  
17 witnesses for personal testimony the surveyor  
18 Mr. Bruce Lee of Newcomer-Lee Surveying, who did the  
19 descriptions of the maps.

20 And also not to call Mr. Robert Hobde who  
21 was the, did the study on flora and fauna for the  
22 Project. He prepared his testimony. We'll rely and  
23 rest on that testimony.

24 There were two others, but based on public  
25 testimony I think we will call them as witnesses.

1                   CHAIRMAN LEZY: Okay. Those two additional  
2 experts or consultants are?

3                   MR. LUNA: Mr. Mike Dega and also the other  
4 witness was Mr. Plasch. And Mr. Plasch did the  
5 agricultural study.

6                   CHAIRMAN LEZY: Mr. Dega was your  
7 archaeological expert?

8                   MR. LUNA: Yes. And he's here today and  
9 we'll bring Mr. Plasch tomorrow.

10                  CHAIRMAN LEZY: County, OP that's an  
11 accurate statement of the stipulation?

12                  MR. HOPPER: Yes.

13                  MR. YEE: Yes.

14                  CHAIRMAN LEZY: Okay. Thank you. Are there  
15 any other housekeeping matters that we need to take  
16 up? Okay. Petitioner, then please proceed.

17                  MR. YEE: I'm sorry. Chair, just for  
18 purposes of moving forward if it would be helpful the  
19 Office of Planning is willing to stipulate to the  
20 expertise of their list of experts.

21                  CHAIRMAN LEZY: County, are you in agreement  
22 then?

23                  MR. HOPPER: Yes.

24                  CHAIRMAN LEZY: So for all of the experts  
25 that have been offered up by the Petitioner the

1 parties are in agreement that they are qualified?

2 MR. HOPPER: Yes.

3 MR. LUNA: Thank you.

4 CHAIRMAN LEZY: Thank you very much. Just  
5 one outhouse housekeeping matter if I may. Petitioner,  
6 we discussed early it's the Commission's preference  
7 because we have the consultants, the experts' reports  
8 in the record, unless there is some specific area that  
9 you wish to elicit in addition to those reports on  
10 direct, we would prefer that you stand on the reports,  
11 allow for cross-examination by the other parties and  
12 then you're free obviously to redirect if you wish.

13 MR. LUNA: Thank you.

14 CHAIRMAN LEZY: Thank you. Call your first  
15 witness.

16 MR. LUNA: Our first witness is Mr. Michael  
17 Munekiyo who's the lead consultant for this Project.  
18 And Mr. Munekiyo has his written testimony and plus  
19 his resumé.

20 His purpose right now is just to lay the  
21 groundwork for the next witnesses that will be  
22 testifying this afternoon as to what has happened with  
23 this Project up to the time that the County Council  
24 approved it in October 2010. Mr. Munekiyo.

25 CHAIRMAN LEZY: Allow me to swear him in.

1                               MICHAEL MUNEKIYO

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

4                       THE WITNESS:   I do.

5                       CHAIRMAN LEZY:   Would you please state your  
6   name for the record.

7                       THE WITNESS:   My name is Michael Munekiyo.  
8   I'm with Munekiyo and Hiraga.

9                       CHAIRMAN LEZY:   Please proceed.

10                               DIRECT EXAMINATION

11   BY MR. LUNA:

12               Q     Mr. Munekiyo, you've been the lead  
13   consultant since this Project was conceived?

14               A     Yes.

15               Q     And can you tell us it was initially a 201H  
16   project that was to be proposed to the council and to  
17   the LUC?

18               A     That's correct.   A 201H application was  
19   filed with the Maui County Council back in 2008.  
20   Following the issuance of a Finding of No Significant  
21   Impact by the Department of Housing and Human Concerns  
22   so that was the Final EA.   That Final EA was issued in  
23   September of 2008.

24                       The Maui County Council, as I mentioned,  
25   then received the first, the initial filing of the

1 201H affordable housing application. And in October  
2 the County Council recommended or rejected or denied  
3 that 201H application. The reasons for the denial  
4 were a number of issues that were raised during the  
5 proceedings.

6           No. 1. The council felt that the 3-acre  
7 park should have been equipped with a comfort station  
8 or restroom. During that initial filing a restroom  
9 was not presented.

10           The council also believed that pedestrian  
11 safety was a concern along Lower Kula Road. And at  
12 that time there was no sidewalk proposed as part of  
13 the Petition.

14           Finally, the council at that time believed  
15 that the water source considerations were still of  
16 concern that the nature of the commitments with the  
17 Applicant's proposal for his onsite well were not  
18 sufficiently advanced. And so for those reasons the  
19 council did not accept the 201H application.

20           Subsequently Mr. Nishikawa relooked at his  
21 proposal, did add to the plan a comfort station to the  
22 park, as originally requested by the council, did  
23 conduct an engineering study to provide a sidewalk  
24 from his property to the Haleakala Waldorf School.  
25 That sidewalk as it's currently proposed lies on the

1 mauka side of the lower Kula Highway, Lower Kula Road.

2 Q Mr. Munekiyo, why is it proposed for the  
3 mauka as apposed to the mauka side?

4 A The sidewalk was proposed or is proposed on  
5 the mauka side because the right-of-way or the  
6 acquisition of easements along the mauka side was more  
7 readily secured from adjoining landowners.

8 So for implementation feasibility purposes  
9 that was the side of the road that was selected.

10 Q Okay. Is this the first time you've heard  
11 that landowners on the makai side would be willing to  
12 provide easements for that sidewalk?

13 A I believe at that time -- I'm not familiar  
14 with the details of the negotiation -- but I believe  
15 it was not as readily available as the mauka side.

16 So again the intent, then, is to address  
17 the council's concerns with respect to the so-called  
18 deficiencies during the initial round of the 201H  
19 process.

20 The third issue was that of providing  
21 sufficient evidence that the Applicant was committed  
22 to develop a well source. And that was done through  
23 an agreement between Kula Ridge, LLC and at that time  
24 Pi'iholo South, the developers of Pi'iholo South well.

25 So with those three issues being resolved

1 the Kula Ridge, LLC then refiled a second 201H  
2 application and that was done back in September 2010.

3 In October of 2010 the Maui County Council,  
4 after a number of meetings, very lengthy meetings,  
5 approved that resolution and approved the plan as  
6 proposed.

7 And it was approved with a number of  
8 modifications or conditions. And those are found  
9 within the exhibits that Mr. Luna has submitted.

10 So effectively, Commissioners, what  
11 happened was there were concerns raised during the  
12 initial round of the 201H-1 process. Kula Ridge, LLC  
13 sought to resolve those. They made the necessary  
14 changes to the plans.

15 And I should add that in the course of  
16 changing the plans or addressing those comments they  
17 also at that time changed product types replacing 34  
18 single-family units with 34 senior duplex units. That  
19 was the product modification that also occurred during  
20 those 201 reversion processes.

21 So that generally is the process that led  
22 to the filing of the Petition. But, again, they did  
23 go through quite a series of review by County Council  
24 and ultimately was approved by the Council in 2010.

25 MR. LUNA: Commissioners, for the record the

1 approval resolution No. 1057 by the County Council is  
2 Exhibit 12. Thank you, Mr. Munekiyo.

3 CHAIRMAN LEZY: I'm sorry, were you finished  
4 with the witness?

5 MR. LUNA: Yes, we will finish with him at  
6 this time and call him back later if we have to. He's  
7 now provided the groundwork where we can call the  
8 other witnesses.

9 CHAIRMAN LEZY: Thank you. County,  
10 questions?

11 MR. HOPPER: I just had a few questions  
12 regarding the conditions of approval for the 201H  
13 process.

14 CROSS-EXAMINATION

15 BY MR. HOPPER:

16 Q Mr. Munekiyo, based on the Project  
17 modifications and the resolution you referenced the  
18 minimum lot size for these, the affordable single  
19 family lots will be 6,000 square feet, is that  
20 correct?

21 A That's correct.

22 Q And accessory dwellings are prohibited in  
23 this development, correct?

24 A That's correct, with the exception of the  
25 four large lots at the mauka extent of the property.

1           Q     Yes, thank you. The buildout rate, there  
2 was a project modification regarding that. Could you  
3 explain the rate regarding the ratio of affordable  
4 homes to market homes that must be constructed?

5           A     The ratio is two affordable units or one  
6 senior duplex unit for each market rate unit so  
7 2-to-1.

8           Q     So as it's constructed you'll be building  
9 two affordable homes for every market home that's  
10 constructed.

11          A     Yes.

12          Q     And for this Project total how many  
13 affordable units will you be providing?

14          A     For this Project there will be 59 affordable  
15 units. Although within the Project in total there are  
16 a total of 70 affordable units. The remaining 11  
17 units over and beyond the 59 will be set aside for  
18 workforce housing for the Kula Ridge Mauka project.

19          Q     And if that project is not approved, the  
20 Kula Ridge Mauka, will these 11 units still be kept as  
21 affordable units?

22          A     Yes.

23          Q     Just briefly regarding the water condition  
24 that was placed on the Project. You're familiar with  
25 County Code Provision 14.12?

1           A     I am.

2           Q     And this Project is required to comply with  
3 that?

4           A     It is, yes.

5           Q     And I'll leave further questions for the  
6 water expert on that issue. Based on the County  
7 Council's conditions of approval, could you still  
8 within the conditions of that approval provide a  
9 sidewalk on the makai side pending the approval of  
10 that landowner?

11          A     I think that's subject to discussion with  
12 that particular landowner. So I'm not in a position  
13 to say right now. But certainly open to discussion.  
14 I think that's what Mr. Nishikawa's position would be.

15          Q     And then considering the 34 duplex units,  
16 just wanted to clarify. The Project went from 24  
17 single-family units to 34 duplex units, not duplex but  
18 a duplex being two units for each duplex?

19          A     That's correct. So no net increase in unit  
20 count.

21               MR. HOPPER: Thank you very much.

22               CHAIRMAN LEZY: OP?

23               MR. YEE: If I could ask for some  
24 clarification from Petitioner. My understanding is  
25 you, I thought, were going to be calling back

1 Mr. Munekiyo. Is that incorrect?

2 MR. LUNA: I'm sorry?

3 MR. YEE: My understanding I guess prior to  
4 this was that you were intending to call Mr. Munekiyo  
5 back after some of your witnesses testified?

6 MR. LUNA: Right.

7 MR. YEE: If that's true, then, with your  
8 permission I'd like to defer cross-examination until  
9 he finishes his testimony and do my entire cross at  
10 once.

11 CHAIRMAN LEZY: Sure, there's fine.

12 MR. YEE: In that case we'll defer.

13 CHAIRMAN LEZY: Commissioners, any  
14 questions? Hearing none, thank you for your  
15 testimony.

16 MR. LUNA: Our next witness is Mr. Tom  
17 Nance, hydrologist.

18 TOM NANCE

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

21 THE WITNESS: I do.

22 CHAIRMAN LEZY: State your full name please.

23 THE WITNESS: Tom Nance. Last name is  
24 N-a-n-c-e. Address is 560 North Nimitz Highway,  
25 Honolulu, 96817.

1 xx

2 DIRECT EXAMINATION

3 BY MR. LUNA:

4 Q Mr. Nance, you were retained by Kula Ridge  
5 to do what?

6 A To take a look at the water options,  
7 determine the viability of developing a well onsite  
8 for drinking water purposes.

9 Q Have you been able to come up with a  
10 proposal for that?

11 A Well, I developed a layout of what might be  
12 the most efficient water system that you could do for  
13 this Project. And if it's a stand-alone system the  
14 need to put a second or backup well for the  
15 reliability of service.

16 Q The Exhibit 8, Petitioner's Exhibit 8  
17 section 4, section 4 being the final environmental  
18 assessment has figure 14 which shows the proposed  
19 water system that was initially proposed. You've seen  
20 that before, have you not?

21 A Yes, I have.

22 Q Could you explain -- I think that was the  
23 one that Ms. Hall had submitted earlier. And it is in  
24 our final Environmental assessment as figure 14 which  
25 is the same as that.

1           A       That system has a single well at 2900 feet  
2    which would pump all the water that comes out of the  
3    ground all the way up to the top of the Project to a  
4    tank at 3600 feet, and then allow the water to move by  
5    gravity down through the Kula Ridge project and the  
6    Kula Ridge Mauka Project.

7                    You're pumping all of the water at the top  
8    of the Project, although all of it is not needed at  
9    the top of the Project. So the scheme has for easily  
10   more than half, maybe 60 percent of all the water use  
11   an extra 5- or 600 feet of pumping.

12                   So if you wanted to do this more  
13   efficiently, they try to keep the operating costs as  
14   reasonable as possible, you put the two wells and a  
15   lower storage tank at about 3100-foot elevation above  
16   Kula Ridge, all the water would go into that tank.  
17   That tank would serve 60, 70 percent of all the water  
18   use.

19                   You'd have two other storage tanks up  
20   higher, probably 3300 and 3500 feet. And they would  
21   be smaller in size. Water would be boosted to them  
22   just for the uses up in the higher elevation areas  
23   which are a relatively small part of the total water  
24   use.

25           Q       You think that there might be another way of

1 developing a well for this Project, a private well?

2 A Another way of developing?

3 Q Another location for that well.

4 A You mean other than the 2900-foot site?

5 Q Yeah.

6 A I would put it at 3100-foot elevation right  
7 above the Kula Ridge project.

8 Q What would be the purpose of doing that?

9 A Well, you divide the Project or the area to  
10 be served by the water system into service pressure  
11 zones, in this case three. So the water has to go as  
12 high as at least the first service zone. And that's  
13 3100 feet.

14 You don't put a well down at 2900 and stick  
15 a pipeline and move the water up to the 3100. You  
16 just put the well right next to the tank and pump  
17 right into the tank. Just a more efficient way to go  
18 about doing.

19 Q Would that result in any savings?

20 A Well --

21 Q Operationally?

22 A -- the savings here is that as it's  
23 configured in your exhibit, every gallon of water is  
24 pumped to 3600-foot elevation. For this one all the  
25 water would be pumped to 3100-foot elevation. That's

1 still a large lift. But only the water used above  
2 that elevation would be pumped higher. So you would  
3 save in that respect.

4 Q Is it your opinion that there's -- if they  
5 do drill that there's water below the surface within  
6 that property?

7 A Yes. We've got four wells that are north,  
8 south and down-gradient of this site all of which  
9 produce water of drinking water quality, all of which  
10 draw water from the basal lens in the Honomulu  
11 volcanic formation.

12 Q You're familiar with the water situation in  
13 Kula as far as what the Department of Water Supply is  
14 trying to do to increase the water supply?

15 A I'm generally familiar with what they're  
16 trying to do.

17 Q You met with the director of Water Supply?

18 A Yes.

19 Q What was the gist of your discussion with  
20 respect to what the department is doing to increase  
21 the water supply in Kula?

22 A Well, first I want to say he'll be  
23 testifying on his own, but -- and he didn't want to be  
24 very specific about what they're doing because  
25 there're negotiations that are ongoing and he didn't

1 want to necessarily tip his hand and somehow influence  
2 those negotiations.

3           But they're looking at sources to add and  
4 operating costs are an overwhelming consideration. To  
5 the extent that they can increase the surface water  
6 from Upcountry, which goes through a treatment plant,  
7 that's by far the least expensive source available to  
8 them. So they're looking at options to increase that  
9 surface water supply.

10           The other options are to take more water at  
11 the Kamaoli Weir from the Waialua Ditch that has to go  
12 through a treatment plant and get pumped uphill. And  
13 the reality is that that water operationally is every  
14 bit as expensive if you drilled a well here at  
15 3100 feet and pumped it to the surface. They're  
16 pretty much about the same kind of cost.

17           They're also looking at the acquisition of  
18 existing well sites. Pi'iholo South has been  
19 mentioned. There's another well drilled by Maui Land  
20 and Pine, some people refer to it as Pi'iholo North.  
21 There's also the possibility that the well that would  
22 be on site here some sort of agreement might be worked  
23 out with the Department of Water Supply.

24           Q     So the first -- what would be their first  
25 choice for this Project for water supply?

1           A     You mean the developer's first choice?

2           Q     Yes.

3           A     I believe he'd like to be working with the  
4 county assisting in acquiring or developing new  
5 sources.

6           Q     And supplementing it with the water from the  
7 property as well?

8           A     Well, drilling a well on the site is a  
9 possibility. The preference would be to do that in  
10 conjunction with working with the Water Supply. The  
11 reality is that if that weren't to come to pass and it  
12 had to be drilled as a private water system, there  
13 still would be the possibility of entering into a  
14 sales agreement where the backup supply at Kula Ridge  
15 could be made available during the summertime, sold to  
16 DWS when its sources are low.

17          Q     And is it in your opinion that the private  
18 water system if everything else fails is a viable  
19 option?

20          A     Yeah, from an engineering perspective  
21 absolutely it's possible to accomplish.

22                   MR. LUNA: I have no other questions.

23                   CHAIRMAN LEZY: County?

24                               CROSS-EXAMINATION

25 BY MR. HOPPER:

1           Q     Thank you.  Mr. Nance, are you familiar with  
2 Chapter 14-12 of the Maui County Code?

3           A     Yes.

4           Q     And this would require you to provide a  
5 reliable long-term source of water prior to final  
6 subdivision approval.  Are you aware of that?

7           A     That's my understanding.

8           Q     I think you summarized your discussions with  
9 the county.  Have you had any kind of a firm agreement  
10 with the county on how water will be supplied for this  
11 Project at this point?

12          A     I don't believe one has been reached.

13          Q     But you would need to have that in place  
14 prior to final subdivision approval for the Project.

15          A     Right.  Either as the county being the  
16 supplier or a well drilled, proven out and  
17 demonstrated that a source is available.

18          Q     You mentioned the Pi'iholo South plans.  
19 Could you give a little more -- because that was --  
20 that was -- a water agreement was submitted by  
21 Petitioner.

22                 And could you give us -- first of all, are  
23 you familiar with the Pi'iholo South arrangement and  
24 sort of the developer's proposal?

25          A     My understanding, and I might not be the

1 best person to tell you this, but my understanding is  
2 that in exchange for commitment of 120,000 gallons the  
3 developer has agreed to contribute \$2 million to the  
4 county in the process of acquiring the well and  
5 connecting it to its system.

6 Q Are you confident that this Project will be  
7 able to meet the requirements of 14.12 prior to final  
8 subdivision approval?

9 A I believe so. You must meet it or you won't  
10 get subdivision approval so...

11 Q If the county solution involves public rates  
12 or -- I'm sorry, public water sources, that would be  
13 county water public rates, correct?

14 A That's correct.

15 Q And if the private system option is  
16 undertaken, can you give an estimate on what the water  
17 rates per thousand gallons a day may be for the  
18 private system that you're proposing?

19 A What I can give you is an idea of operating  
20 costs. The rates are subject to some decisions  
21 whether you're going to try to recover capital for the  
22 infrastructure in the rate base or not.

23 But if we just look at operating costs  
24 alone, pumping into what I've referred to previously  
25 as the first service pressure zone will be on the

1 order of \$6 a thousand. That's based on the  
2 assumption that the average power costs are around 35  
3 cents a kilowatt hour.

4           There would be a slight increase over that  
5 getting up to the two upper service zones on the order  
6 of 50 to 70 cents a thousand additional costs for the  
7 booster pumping up the hill.

8           If it's a private company you'd enter into  
9 an operating contract with one of the entities  
10 providing that service. You'd create a sinking fund  
11 to replace costs and like. Even if you took out the  
12 capital recovery component you're still talking about  
13 7 to \$8 a thousand.

14       Q     So can you give any kind of estimate  
15 ultimately? Those are the costs. I mean do you have  
16 any estimate that you could provide on how much a  
17 ratepayer may pay in that situation?

18       A     If the capital is not recovered in the rate  
19 base maybe it's a 7 to \$8 a thousand cost.

20       Q     Okay. You heard -- there was some reference  
21 in the testimony earlier about the Project, you know,  
22 jumping in line or jumping in line with the water  
23 meter list.

24           Could you explain how a private system or an  
25 agreement for, like, Pi'iholo South -- first of all,

1 in your opinion is that an accurate characterization  
2 of what would happen with either a public well or a  
3 first reservation credits for development of a well  
4 like Pi'iholo South?

5 A It is not an accurate characterization. In  
6 fact it's essentially impossible to jump. The people  
7 who are on the waiting list are people who will get  
8 meters for sources developed by DWS on its own. This  
9 Project is 1100 on a list that's 1400 odd people on  
10 the waiting list long.

11 The other ways that water can be gotten,  
12 one is by developing a well and dedicating it to the  
13 county or participating in the development of a source  
14 by the county.

15 And by an agreement, which I believe has to  
16 be approved by the council, an assignment of water was  
17 made to the Project. So it's not jumping the list.  
18 It's a totally different kind of process.

19 The third way is that they develop their  
20 own stand-alone private water system. There the meter  
21 waiting list is not applicable at all.

22 Q You said your ideal choice was county water?

23 A I believe that's the developer's preference.

24 Q If that was, if that was the situation the  
25 developer would have to wait for the other thousand

1 plus people on the list?

2 A Well, if he was going to not contribute, not  
3 participate in the development of the source with the  
4 county or not develop one and dedicate it to the  
5 county, then he'd be on the waiting list line. I  
6 don't think -- I don't think he's banking on that  
7 happening.

8 MR. HOPPER: Thank you. I have no further  
9 questions.

10 CHAIRMAN LEZY: OP.

11 CROSS-EXAMINATION

12 BY MR. YEE:

13 Q Mr. Nance, you said that you reviewed the  
14 possibility of a private water system and that you  
15 found it was technically viable. Do you remember  
16 that?

17 A Yes.

18 Q Assuming that the capital costs are not  
19 passed on to the consumers, did you do any type of  
20 financial or economic analysis to determine whether it  
21 was viable for the Project?

22 A No, I have not done that.

23 Q Did you look at how much it would cost to  
24 construct a private water system?

25 A The first cost, initial cost?

1 Q Yes.

2 A As I've sort of described how I would  
3 reconfigure it the approximate cost is 10 million:  
4 Two wells, three storage tanks, three booster  
5 stations, PRP pipelines, some money for the designer.

6 Q You concluded that the cost or the rate  
7 payers of the Project, assuming a private system,  
8 would be in the 7 to \$8 per thousand gallons cost, is  
9 that right?

10 A Without capital recovery, yes.

11 Q I'm sorry, without capital recovery. Does  
12 this include any costs associated with the replacement  
13 of infrastructure?

14 A Yeah. A portion of that would be a sinking  
15 fund towards replacement, repair, maintenance.

16 Q Did you review Stacy Otomo's written  
17 testimony in this case?

18 A No, I haven't seen it.

19 Q Are you aware that according to that  
20 testimony the County Department of Water system  
21 decided not to pursue the dedication scenario based on  
22 production and operational considerations, in  
23 particular that the well depth of 2900 feet was  
24 greater than other wells and therefore the electricity  
25 cost of pumping?

1           A     I've seen a letter from DWS that sort of  
2 indicates that. But if you'll bear with me with a  
3 little bit of perspective.

4           Q     All right.

5           A     The cost to deliver water from Wailoa Ditch,  
6 Kamaole Weir treated, pump it up the hill and get it  
7 to this site is really no different than pumping on  
8 this site or pumping the Po'okela Well at the Po'okela  
9 Tank and boosting it up to this site. So I'm aware  
10 that that's been stated, but I'm not sure that it's  
11 particularly representative.

12                   I think the costs of yes this would be  
13 deeper than anything they would have, but it's not  
14 particularly more expensive from an operational cost  
15 except for the surface water that they capture at high  
16 elevation treatment pump. That's their cheapest  
17 source.

18                   But if they have to turn on Po'okela or use  
19 Wailoa Ditch, it's pretty much the same operating cost  
20 as pumping 3100 feet in my scenario.

21           Q     So I'm trying to make sure I understand this  
22 correctly. So you're saying the cost to operate a  
23 well at 2900 feet is about the same as just pumping  
24 water from the Kamaole Weir.

25           A     You start at the weir elevation. You have a

1 treatment cost that's pretty much the same as pumping  
2 all the way from sea level to the weir. Now you've got  
3 to boost it up all the way the hill. There's no gift  
4 along the way.

5           If you're going to deliver it to somebody  
6 at 3600 feet you're going to boost it all that way.  
7 And that's no less expensive than pumping it directly  
8 one time with the well on site.

9           Q     But doesn't that assume you're going to be  
10 pumping more water up to Upper Kula? I mean the other  
11 option, the third option was simply not to have the  
12 additional water meters, then the cost would not rise?

13          A     I'm not sure I follow. Could you try that  
14 again?

15          Q     Well, if you don't have this Project you  
16 don't need to pump more water up from Kamaole Weir,  
17 right?

18          A     True enough, sure.

19          Q     Okay. So you're comparing the cost of a  
20 well at 2900 feet versus the cost of pumping  
21 additional water from the Kamaole Weir and treating  
22 it.

23          A     Hmm-hmm.

24          Q     But you're not comparing how much it would  
25 be if you didn't have the Project at all.

1           A     Right. But, for example, the DWS is looking  
2 at alternatives to increase supply. And among them  
3 is, for example, taking more water out of Kamaole Weir  
4 and actually pumping H Poko back into the ditch to  
5 replace what they take. At that point that operating  
6 cost would be more expense than pumping one time at  
7 3100 feet.

8           Q     To give me a perspective on the cost, you  
9 said it would be about \$7 to \$8 per thousand gallons?

10          A     As a private water system rate without  
11 capital recovery, yeah.

12          Q     What is the current cost from the public  
13 system?

14          A     I can't tell you exactly. I think it's  
15 around \$3 a thousand.

16          Q     This assumes that all tenants pay an equal  
17 amount? Well, strike that.

18                You listed in your written testimony three  
19 potential options, right? Do you remember your  
20 written testimony said there were three options? One  
21 would be acquire Pi'iholo South. The second would be  
22 to construct a new we'll adjacent to the property.  
23 The third was a private water system.

24          A     Yes.

25          Q     Okay. So I think we've -- and you were

1 hired in large part, it sounds like, to look at the  
2 possibility of developing a private water system.

3 A More specifically the viability of obtaining  
4 drinking water quality from a well onsite.

5 Q Was that primarily from a technical  
6 perspective?

7 A Yes.

8 Q Do you have -- were you hired to actually  
9 implement the plan or were you just hired to sort of  
10 give testimony to inform the Land Use Commission about  
11 that possibility?

12 A The latter.

13 Q Okay. What else has to happen in order to  
14 develop a private water system?

15 A In order to?

16 Q I mean what's the process you would have to  
17 go through? Let me just tell you now I'm just trying  
18 to have an understanding of each of these three  
19 alternatives and what has to occur for each of these  
20 three alternatives to go forward.

21 A Okay. Well, if we're talking about the  
22 onsite well as a private water system, they've  
23 actually already obtained the drilling permit,  
24 although we've moved the location but we can do that  
25 without a permit.

1           We drill it, case it, run the pump test,  
2 get the water quality analyses done, create the water  
3 system as a preliminary design and go through three  
4 approval processes.

5           One is the county ordinance, the  
6 show-me-the-water ordinance to convince the Department  
7 of Water Supply that we've got a source in perpetuity.

8           The other two are the Department of Health.  
9 One is to certify the well for the drinking water use.

10           The other is to get the private entity, the  
11 water system entity certified so that it provides  
12 service in perpetuity.

13           Then the final step is to build the rest of  
14 the system.

15       Q     And because you have an existing permit you  
16 feel you can move the well to a different location  
17 without having to go back to the Commission on Water  
18 Resource Management?

19       A     I would go back to them, just tell them  
20 we're moving. But I slide 'em all over the place all  
21 the time.

22       Q     One of the issues -- my understanding is one  
23 of the issues in looking at these permits is to  
24 determine whether or not the location well would  
25 impact other wells, is that right?

1           A     Yeah, but...

2           Q     In a general --

3           A     Very vague and I'm not sure they do a good  
4 job since, yes.

5           Q     I take it in your opinion a move with the  
6 property line would not be so significant as to invoke  
7 a different analysis.

8           A     Yeah. What they do when you submit a permit  
9 is they draw a circle around your well site a mile --  
10 "Is there anything within a mile?"

11                    "No, there isn't." So if we moved it --  
12 we're talking about moving it 1200 feet or something  
13 like that. So it's not going to impact anything. But  
14 we would just send them a letter saying, "Here's what  
15 we're doing."

16          Q     Just to make sure, if they had a problem  
17 they would let you know.

18          A     Right.

19          Q     Okay. The same question with respect to  
20 developing the well on the adjacent site. Isn't that  
21 one of the proposals you had, right, to develop a well  
22 on the, was it the Kula Ridge Mauka site?

23          A     Well, the proposal originally was to drill  
24 it on Kula Ridge Mauka. It would still be on Kula  
25 Ridge Mauka, just in a different location, directly

1 above the Kula Ridge residential project.

2 Q And in one scenario you would dedicate that  
3 site to the county?

4 A Well, that's an option. It's not the  
5 private water system option --

6 Q Yes.

7 A -- but it certainly is a possibility.

8 Q I'm sorry. Let me be clear. You had three  
9 potential ways in which they were going to get water.  
10 One was a private system, right?

11 A Okay.

12 Q The second was a dedication to the county of  
13 a well to be constructed by the developer; is that  
14 right?

15 A Yes.

16 Q Was that the well to be located on the Kula  
17 Ridge Mauka site?

18 A No. All well sites being considered are on  
19 Kula Ridge Mauka. If there was going to be a well  
20 dedicated to DWS the reality is exactly where it would  
21 go would be a matter of discussion with DWS. And I  
22 don't believe -- I certainly haven't participated in  
23 any such discussion.

24 Q Okay.

25 A But at that point we're trying to marry up

1 with their service pressure zones. When we make a  
2 private stand-alone we create our own service pressure  
3 zones that don't necessarily match theirs.

4 So if we were gonna pursue the dedication  
5 it might be in still another location.

6 Q And that analysis is not -- you haven't  
7 participated in that analysis.

8 A That's correct.

9 Q And I take it you're aware of the general  
10 concept but you haven't looked at that as applied to  
11 this Project.

12 A Not yet, right.

13 Q If I was going to ask a question about that  
14 would Stacy Otomo or someone else be a better person  
15 to ask?

16 A I doubt that he would know.

17 Q Okay. So no one would have any further  
18 information about the dedication of a new well to be  
19 constructed, to be dedicated to the county.

20 A I think that's accurate.

21 Q Okay. With respect to the Pi'iholo South  
22 well, that's an existing well, correct?

23 A Yes.

24 Q Okay. Then that's, I assume, a private  
25 well?

1           A     At the moment owned by whatever the entity  
2 is who paid for its development.

3           Q     Where does the water from that well, what is  
4 that used for currently?

5           A     It's not used for anything at the moment.  
6 It's got a pump sitting in it and a generator, a  
7 thousand KW generator standing next to it. But other  
8 than every once in a while run for the purposes of  
9 keeping the machinery viable it doesn't go anywhere.

10          Q     So what has to happen for that scenario to  
11 play out?

12          A     You'd have to sit down with DWS, reach an  
13 agreement as to what improvements were going to be  
14 installed to connect the well to their system, who was  
15 going to contribute what and what the allocations of  
16 the well's potential supply capability were going to  
17 be.

18          Q     Are you familiar with those discussions or  
19 is that also not -- you haven't examined that issue as  
20 applied to this Project?

21          A     That's correct. I have not.

22          Q     So your testimony today really is focused,  
23 at least with specific facts, on the private, the  
24 viability of a private water system.

25          A     Yes.

1 MR. YEE: I have no further questions.

2 Thank you.

3 MR. LUNA: Mr. Chair, I have one last  
4 question.

5 REDIRECT EXAMINATION

6 BY MR. LUNA:

7 Q One of the comments made I think has to get  
8 done is a water quality analysis. Mr. Nance, what  
9 would you expect the water quality to be from this  
10 site if a well is drilled there?

11 A Well, the four wells that I mentioned;  
12 Pulehu Farms, which is to the north, two downslope  
13 wells that were drilled for Kula 1800, a well drilled  
14 to the southeast by the USGS on DHHL land, all of them  
15 had drinking water quality meaning no organic  
16 contaminants.

17 The organic contaminants that have been  
18 raised here are primarily the residual effects of  
19 pineapple. And pineapple wasn't in this upslope area.

20 I was not involved in Pi'iholo South, but I  
21 was involved in the Pi'iholo North well. And the  
22 organics that are an issue are primarily in the  
23 capping lava formation which is called Kula series  
24 which is poorly permeable and has a number of  
25 impermeable horizons that water migrates downward and

1 moves laterally.

2                   When we drilled Pi'iholo North we had at a  
3 couple points in the bore hole water pitching into the  
4 bore hole from the Kula volcanics cascading down the  
5 well into the aquifer below.

6                   We grabbed samples of that water coming in  
7 from the Kula volcanics. It has organic contaminants,  
8 residual of pineapple operations. What you do is you  
9 contract the well so that that formation is sealed off  
10 by completely grouting the annular space. You still  
11 have the several months of having the contaminated  
12 water pitch down the hole and into the aquifer that  
13 you ultimately want to pump from.

14                  So that when you run your pump test  
15 initially and you pull that water out, a lot of what  
16 you're pulling is what had leaked into it from the  
17 Kula volcanics above.

18                  You pump it long enough to clear that.  
19 Even in areas where the pineapple has been grown, if  
20 the well has been constructed properly, meaning the  
21 Kula volcanics have been sealed off in the annular  
22 space, you can get water without the contaminants.

23                  And for the wells that I've looked at that  
24 have organic contaminants, including H-Poko, it's a  
25 well construction issue. Yes, the contaminants are

1 there but they're restricted to the Kula formation.  
2 We don't take the water out of the Kula formation but  
3 it will leak in and create a problem if you don't  
4 construct the well correctly.

5 Q Do you expect that situation to be the same  
6 here?

7 A No. I mean we will have Kula volcanics but  
8 the Kulas here will not have the pineapple organic  
9 contaminants that are found over at Pi'iholo.

10 Q Potable water.

11 A Potable quality water.

12 MR. LUNA: No other questions.

13 CHAIRMAN LEZY: Commissioners, any  
14 questions? Commissioner Heller.

15 COMMISSIONER HELLER: Yes. This is a pretty  
16 basic question. But I just wanted to make sure I  
17 understand. You're saying that your recommendation  
18 would be going with the private water system, right?  
19 That's the most feasible.

20 THE WITNESS: No, I don't think that's what  
21 I said. I said it's an option. I think it's, it's  
22 maybe not the most preferable application from the  
23 developer's point of view. But it's certainly  
24 something that can be done and is totally within his  
25 control to implement.

1                   COMMISSIONER HELLER:  Maybe I misunderstood.  
2  But I thought you said relying on getting an  
3  allocation of water from the county system, waiting  
4  until they got to 1115, or whatever, on the waiting  
5  list was not a very workable option.

6                   THE WITNESS:  Well, I don't believe it is.  
7  But there are other ways to do it with the county  
8  where you participate in, for example, the purchase of  
9  Pi'iholo South, or you participate in the development  
10 of another well, or you develop your own well and give  
11 it to them.

12                  In that case you are not on a meter waiting  
13 list.  You've got to deal with DWS blessed by the  
14 County Council that says:  You put these improvements  
15 in, you can have this much water for your  
16 contribution.

17                  COMMISSIONER HELLER:  So are you making any  
18 recommendation as to what to do, whether to do that  
19 kind of -- develop a system that's dedicated to the  
20 county or working with the county versus an entirely  
21 private water system?

22                  THE WITNESS:  You know, that's really a  
23 timing thing with the developer.  He's got -- he's  
24 wanting to explore these options with the Department  
25 of Water.  And if it's just not going to work out in a

1 timely fashion then I'll call it the fall back to  
2 develop the private water system.

3 COMMISSIONER HELLER: And with respect to a  
4 private water system, if you're not relying on the  
5 county at all, then am I correct that it's basically  
6 just a matter of cost as to -- you know you can do it.  
7 Technically it's just a question of how much money  
8 it's going to take?

9 THE WITNESS: Yes, yes.

10 COMMISSIONER HELLER: As far as the  
11 availability of water, you're confident that given  
12 sufficient pumping equipment and so forth that there's  
13 plenty of water there and available?

14 THE WITNESS: Yes. This Project in terms of  
15 availability of water, this Project is a very small  
16 water user, should not be an issue. It's really a  
17 hardware and cost issue, not "is the resource there".

18 COMMISSIONER HELLER: Thank you. I just  
19 wanted to make sure I understood that.

20 CHAIRMAN LEZY: Commissioners, any other  
21 questions? Hearing none, thank you for your  
22 testimony.

23 MR. LUNA: Mr. Chair, our next witness is  
24 Mike Dega, archaeologist.

25 MICHAEL DEGA

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

3 THE WITNESS: Yes, sir.

4 CHAIRMAN LEZY: Please state your full name.

5 THE WITNESS: Michael Dega D-e-g-a. I live  
6 at 725 Kapiolani Boulevard in Honolulu.

7 DIRECT EXAMINATION

8 BY MR. LUNA:

9 Q Mr. Dega, you are familiar with the Project  
10 site, Kula Ridge?

11 A Yes.

12 Q You inspected that site for archaeological  
13 purposes?

14 A That's correct. We conducted an  
15 Archaeological Inventory Survey.

16 Q Your colleagues assisted with that as well?

17 A That's correct.

18 Q So the report on Exhibit 8 Appendix E and  
19 F -- well Appendix E is the Archaeological Inventory  
20 Survey of the property?

21 A Correct.

22 Q This morning -- or this afternoon you heard  
23 Ms. Hall testify that there are a number of  
24 archaeological sites. And it wasn't clear as to where  
25 they were. I just wanted to show you what you had

1 given to the Commissioners and see if you're familiar  
2 with. (off mic) May I for purposes of identification,  
3 Mr. Chair, call this Petitioner's 44A through G?

4 CHAIRMAN LEZY: Yes, thank you.

5 MR. YEE: Chair, if I could just ask -- we  
6 have a variety of pages. So if he could hold up each  
7 as A,B,C so we can tell on our documents which ones  
8 he's referring to that would be helpful as you talk.

9 CHAIRMAN LEZY: Perhaps as the questions are  
10 being asked if you could do that.

11 THE WITNESS: Yes. I'm familiar with these,  
12 yes.

13 MR. LUNA: First A is the map --

14 CHAIRMAN LEZY: Mr. Luna, could you take the  
15 microphone with you, please.

16 MR. LUNA: Sorry.

17 Q I marked it A. Is that a map of the site?

18 A This is actually a map of Kula Ridge Mauka.

19 Q Not the Project site.

20 A That's correct.

21 Q So the archaeological sites that's shown on  
22 the map is not on the Project site.

23 A Correct.

24 Q What about B?

25 A Same. Kula Ridge Mauka.

1 Q What about the photos which are C to G?

2 A These are all of Kula Ridge Mauka sites.

3 Q So as far as your report that was provided  
4 in Appendix E of Exhibit 8, that dealt only with Kula  
5 Ridge Mauka, is that correct?

6 A Our report was for Kula Ridge.

7 Q I'm sorry, Kula Ridge.

8 A Yeah, these are all for Kula Ridge Mauka.

9 Q And for your report you had the State  
10 Historic Preservation Division provide a letter. And  
11 that's found in Appendix F of Exhibit 8? Let me show  
12 that to you. (off mic) Is this the letter that you  
13 folks received?

14 A That's correct.

15 Q You personally.

16 A Yes. That was addressed to me, yes.

17 Q And what's the conclusion of the letter?

18 A Dated February 27. "This inventory survey  
19 report is acceptable to the" --

20 Q Is there any further archaeological survey  
21 required?

22 A No more, no additional survey.

23 Q Now the burial site that was found today,  
24 you submitted a burial report to the SHPD, State  
25 Historic Preservation Division?

1           A     Yeah, burial treatment plan.

2           Q     The SHPD responded as well to that report  
3 that you submitted?

4           A     Correct.

5           Q     So I'm going to show you Exhibit 43. Is  
6 this the letter from SHPD?

7           A     Yes.

8           Q     What's the conclusion in this letter?

9           A     "We find your burial site component of a  
10 preservation plan in compliance. You may proceed with  
11 its provisions." It's accepted.

12          Q     So the burial site and the Archaeological  
13 Inventory Survey were both accepted by the State  
14 Historic Preservation Division.

15          A     That's correct.

16          Q     Is there further work to be done if you  
17 proceed with development?

18          A     They recommended archaeological monitoring.

19          Q     And are you proceeding with the  
20 archaeological monitoring?

21          A     Yes. The monitoring plan has been  
22 completed. We're just waiting to submit that in the  
23 future.

24               MR. LUNA: I have no other questions,  
25 Mr. Chair.

1 CHAIRMAN LEZY: County.

2 MR. HOPPER: Thank you, Mr. Chair.

3 CROSS-EXAMINATION

4 BY MR. HOPPER:

5 Q Are you familiar with the resolution  
6 approving this Project that we discussed earlier  
7 today?

8 A Which resolution was that? I'm sorry.

9 Q The 201H approval with several Project  
10 modifications attached to it or conditions.

11 MR. LUNA: Let me just show that to you.

12 THE WITNESS: If I can just see an example  
13 from you.

14 MR. HOPPER: I can get you this.

15 THE WITNESS: Thanks.

16 (Document shown to witness).

17 Q (Mr. Hopper) If you could turn to Project  
18 modification No. 9?

19 A Yes, sir.

20 Q Again, this was the County Council's 201H  
21 approval. Modification No. 9 requires archaeological  
22 monitoring to be required for any ground-altering  
23 activities and also requires that, again, a monitoring  
24 plan approved by State Historic Preservation must be  
25 undertaken in accordance with this Project.

1                   And you plan to comply with this Project  
2   modification?

3           A     Yes, sir.

4           Q     You think you would have no trouble  
5   complying with this Project modification?

6           A     None whatsoever.

7           Q     And just to be clear the testimony we heard  
8   this morning from Ms. Hall was in regard to Kula Ridge  
9   Mauka. And none of the sites that she had mentioned  
10  are contained within the boundaries of this Project?

11          A     That's correct.

12                   MR. HOPPER: Thank you.

13                   CHAIRMAN LEZY: OP?

14                   MR. YEE: Thank you.

15                               CROSS-EXAMINATION

16  BY MR. YEE:

17          Q     Just to clarify a little bit of the record.  
18  At times I believe Ms. Hall referred to parcel 23.  
19  I'm not sure which exhibit you've marked this as, but  
20  she also submitted a large, looks like almost a TMK  
21  map which was, I think initially produced by Munekiyo  
22  and Hiraga. Do you have a copy of that?

23          A     The parcel 23 was for Kula Ridge Mauka  
24  actually.

25          Q     So references to parcel 23 was a reference

1 to Kula Ridge Mauka?

2 A Correct.

3 Q Then she had a statement that she believed  
4 that development of the Petition Area would impact the  
5 Kula Ridge Mauka subdivision sites. Do you believe  
6 that's true?

7 A No, I don't. This -- I'm sorry. Should I  
8 elaborate?

9 Q Just explain why.

10 A The sites in Kula Ridge are much more  
11 removed from the boundaries of Kula Ridge itself.  
12 The complex she's talking about occur further mauka.  
13 So there would be no sites along the borders of this  
14 parcel.

15 Q Would the monitoring plan include within it  
16 measures to insure that construction or trucks or  
17 staging areas, et cetera, avoid any of the sites that  
18 they may be working in or traversing across?

19 A That's correct. Yeah, that would be spelled  
20 out in the monitoring plan.

21 Q So if there were trucks or any other  
22 activity that went into the Kula Ridge Mauka site,  
23 that would have to be dealt with in the archaeological  
24 monitoring plan?

25 A That's right. And also those are also dealt

1 with in construction plans.

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

4 CHAIRMAN LEZY: Commissioners? Commissioner  
5 Makua.

6 COMMISSIONER MAKUA: I just wanted a  
7 clarification. So the second fenced-off site that we  
8 saw that was further up is not in the Kula Ridge site.  
9 That's Kula Ridge Mauka.

10 THE WITNESS: Kula Ridge Mauka, correct.

11 COMMISSIONER MAKUA: And just curious as to  
12 how many man hours you estimate you've spent on this  
13 Project.

14 THE WITNESS: Well, let's see, we started  
15 fieldwork in 2005 and 2006. You mean for Kula Ridge,  
16 or just Kula Ridge? We had seven people out there for  
17 almost two months of survey, excavation that's  
18 testing.

19 Then we spent another three months about  
20 writing it up, conducting archival research, oral  
21 histories and consultation.

22 COMMISSIONER MAKUA: Thank you.

23 THE WITNESS: Thank you.

24 CHAIRMAN LEZY: Any other questions?  
25 Hearing none, thank you for your testimony.

1                   MR. LUNA: Mr. Chair, we have one last  
2 witness who's not an expert witness but he has  
3 experience and he has a company that does Cultural  
4 Inventory Surveys. Let me represent that his  
5 testimony is already of record. It's Exhibit 29. We  
6 are willing to stand by that testimony. But he's here  
7 if any of the parties want to cross-examine him.

8                   CHAIRMAN LEZY: And that witness is?

9                   MR. LUNA: Mr. Kimokeo Kapahulehua.

10                  CHAIRMAN LEZY: County?

11                  MR. HOPPER: I have no questions for that  
12 witness.

13                  CHAIRMAN LEZY: OP?

14                  MR. YEE: We will have a few questions.

15                  CHAIRMAN LEZY: Again, if you would please  
16 go ahead and offer.

17                  MR. LUNA: Okay.

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

21                  THE WITNESS: Yes, I do.

22                  CHAIRMAN LEZY: Please state your name.

23                  THE WITNESS: My name is Kimokeo  
24 Kapahulehua.

25                  CHAIRMAN LEZY: Would you please spell that

1 for the court reporter.

2 THE WITNESS: What's that again?

3 CHAIRMAN LEZY: Please spell your name for  
4 the court reporter.

5 THE WITNESS: Kimokeo K-i-m-o-k-e-o  
6 Kapahulehua K-a-p-a-h-u-l-e-h-u-a.

7 CHAIRMAN LEZY: Thank you.

8 DIRECT EXAMINATION

9 BY MR. LUNA:

10 Q Mr. Kapahulehua, Kula Ridge asked you to do  
11 some work on the Kula Ridge property, is that correct?

12 A That's correct.

13 Q And what did Kula Ridge ask you to do?

14 A Was asked to get some mana'o of people  
15 around the area of Kula Ridge.

16 Q And the purpose of that was to -- what was  
17 the purpose of your having to do that?

18 A The purpose was particularly looking at all  
19 the mounds that's on Kula Ridge and how it came about.

20 Q Was it also including any cultural  
21 inventory?

22 A Yes, it was.

23 Q In that connection did you speak to  
24 residents in the area?

25 A Yes, I did.

1 Q Who specifically did you talk to?

2 A I specifically spoke to Lawrence Shim.

3 Q And in your testimony you showed Keali'i  
4 Taua.

5 A Keali'i Taua.

6 Q What was their -- what did they report to  
7 you?

8 A Lawrence Shim reports that the mounds there  
9 were agriculture mounds that came from forming of the  
10 terraces when the Chinese people were farming up  
11 there.

12 They would gather the rocks to make  
13 terraces for the agriculture product, particularly  
14 corn and sweet potato, and make the terraces so they  
15 could also control the erosion.

16 They would have taken those rocks in the  
17 agricultural terraces that you see in the Kula Ridge  
18 and slid them to the sides and piled it up there.

19 Q What kind of farming did they do?

20 A They did corn and sweet potato.

21 Q When they were doing farming was there any  
22 cultural practices that took place on the property?

23 A No culture practices as reported by Lawrence  
24 Shim.

25 Q How 'bout Mr. Taua?

1           A     Mr. Taua did not report any culture  
2 practices, but what Mr. Taua reported, Hawaiian chants  
3 and Hawaiian songs and Hawaiian mele of this area  
4 which is not only particularly include Kula Ridge but  
5 all of mauka of this area including Kula Ridge.

6           Q     Do you know how long the Shims lived in Kula  
7 Ridge in that area?

8           A     They still reside there. And Lawrence is  
9 about, not definitely sure, he's about 80 years old.  
10 His wife is Winona. Here maiden name was Tavares.  
11 They both from this area.

12          Q     Mr. Shim has a cousin Iwalani?

13          A     That's correct, Iwalani Shim. And she had  
14 records kept from their grampa which is Mook Shim  
15 which arrived there in the late 1800s. In these  
16 records it shows the Chinese people was very active in  
17 forming the Pentecostal Church up in Kula.

18          Q     What about on this property? Did they  
19 indicate anything that happened on this property?

20          A     She indicated that her grandpa and her  
21 family knew of all the people that was in that area in  
22 this Chinese population.

23                   And they all shared the talk about where  
24 the water was carried from Polipoli Stream in buckets  
25 to come and water the plants they had there. There

1 was no water at that time.

2 Q So the farming that they were doing there  
3 was not extensive farming?

4 A This farming was particularly, again, for  
5 themselves. There was not something commercial.  
6 There was a large population of the Chinese people in  
7 Kula and this was amongst themselves.

8 MR. LUNA: I have no other questions,  
9 Mr. Chair.

10 CHAIRMAN LEZY: County, do you have any  
11 questions?

12 MR. HOPPER: No.

13 CHAIRMAN LEZY: OP?

14 CROSS-EXAMINATION

15 BY MR. YEE:

16 Q I see from your written testimony you have  
17 some experience in managing or preparing Cultural  
18 Impact Assessments, is that correct?

19 A That's correct.

20 Q Would you consider what you've done for the  
21 Commission today a Cultural Impact Assessment?

22 A We don't have a written Cultural Impact  
23 Assessment for the Kula Ridge. But you could consider  
24 that as a Cultural Impact Assessment of what we  
25 gathered information on.

1           Q     So you're saying it's the same kind of  
2 information.

3           A     Correct.

4           Q     And what was the process that you went  
5 through in order to do this analysis?

6           A     One of the process was first to try to  
7 contact ancestral families within this area. Kumu  
8 Keali'i Taua and his family is from this area. That  
9 would be one process. The other process we do look at  
10 all the genographic (sic) that affected this land from  
11 mauka to makai. Looking at other things might connect  
12 in this area to make not necessarily that the  
13 mauka-makai or our system, just looks at Kula Ridge  
14 particularly.

15                     We look, you know, on what we call ka  
16 hikina which is the east; komohana, which is the west;  
17 akau which is north, and south, hema.

18           Q     And how did you pick the families that you  
19 eventually contacted? Did you send a mailer out? Do  
20 you send a survey? Do you have relationships with  
21 organizations or people? How did you happen to find  
22 these particular people?

23           A     We, we would go out and seek around within  
24 the area for kupunas that's within the area. And in  
25 this particular situation these were the people that

1 we contacted for this particular site in Kula Ridge.

2 Q I guess I was looking for something a little  
3 more specific like you contacted 12, you know, people  
4 and they gave you names and they agreed on -- I mean  
5 can you be more specific about what you did?

6 A Correct. We contacted about eight people.  
7 And four people was available to come to discussion.  
8 That was Lawrence Shim, his wife Winona, which is Shim  
9 but her maiden name is Tavares, Keali'i Taua and  
10 Iwalini Shim.

11 Q I think one of things you said you listened  
12 to chants?

13 A That's correct.

14 Q Did any of the -- so did you examine whether  
15 there were any chants or hulas that specifically  
16 referenced this Petition Area or this area?

17 A No. It represents the whole area around up  
18 in the mauka area. As an example the E Ala E is a  
19 chant that we use, speaks about the sun rising up into  
20 the east, high above the sky over the ocean to the  
21 west, called E Ala E.

22 There's other chants about the sunrise and  
23 the sunset. And also there's chants in reference to  
24 the wind. So these are chants that he spoke about.

25 Q So there are chants about the general region

1 but not about this particular Petition Area.

2 A Correct.

3 Q And did you conclude that the development of  
4 this area would not then have a cultural impact --  
5 would then not have a cultural impact?

6 A For Kula Ridge, yes.

7 Q And did you also look at whether there were  
8 any subsistence or other cultural practices in this  
9 geographic area of the Petition?

10 A That's correct.

11 Q And what did you find out?

12 A We did not find any flora/fauna such as koa  
13 trees or any of the native animals or native forest or  
14 native birds, native plants that was in this area that  
15 would, people would come harvest and use for today's  
16 practices or yesterday's practices and practices in  
17 the future. Not saying that you couldn't plant it  
18 there and couldn't do it.

19 MR. YEE: That's all I have, thank you.

20 CHAIRMAN LEZY: Commissioners, questions?  
21 Commissioner Makua.

22 COMMISSIONER MAKUA: Aloha.

23 THE WITNESS: Aloha.

24 COMMISSIONER MAKUA: So I think as far as  
25 the specifics on trying to contact the families of

1 that area, was anybody from this -- I noticed the  
2 'ohana property on the side is the Kehokahole 'ohana.  
3 Was anybody from that specific family contacted for  
4 their mana'o?

5 THE WITNESS: No, I don't think that name  
6 came up to me particularly so I'm not so sure that.

7 COMMISSIONER MAKUA: And Keali'i's 'ohana is  
8 from this area?

9 THE WITNESS: Keali'i Taua is lower Kula  
10 where the church is. And he's from, his family's from  
11 this area.

12 COMMISSIONER MAKUA: So they moved to Haiku  
13 later?

14 THE WITNESS: Yeah. They moved to Haiku.

15 COMMISSIONER MAKUA: And his mele and chants  
16 that he shared with you were newer chants like E Ala  
17 E?

18 THE WITNESS: He shared E Ala E. And also  
19 shared sunset chant with us.

20 COMMISSIONER MAKUA: So not any ancient  
21 chants because these chants are fairly newer  
22 compositions.

23 THE WITNESS: Correct. His chants were of  
24 pukana po. These were not -- these were fairly new.

25 COMMISSIONER MAKUA: So no mahi 'ai

1 practitioner mele that would reflect the 'uala  
2 practice.

3 THE WITNESS: No.

4 COMMISSIONER MAKUA: Mahalo.

5 THE WITNESS: Mahalo.

6 CHAIRMAN LEZY: Any other questions?

7 Hearing none, thank you for your testimony.

8 THE WITNESS: Thank you, Commissioners.

9 CHAIRMAN LEZY: Petitioner?

10 MR. LUNA: We can rest this afternoon,  
11 Mr. Chair. It's already 4:40. So thank you for  
12 indulging us going beyond 4:30.

13 CHAIRMAN LEZY: Can you tell us, Mr. Luna,  
14 what your lineup of witnesses, intended lineup of  
15 witnesses would be tomorrow?

16 MR. LUNA: Certainly. In the morning we'll  
17 have Harold Nagato, then Bruce Plasch, Stacy and then  
18 finish with Mr. Munekiyo -- Stacy Otomo and  
19 Mr. Munekiyo and then Mr. Nishikawa. Our traffic  
20 consultant is Pete Pascua. And the OP and the County  
21 have graciously allowed us to call him out of turn for  
22 August 25th.

23 CHAIRMAN LEZY: So you will not be resting.

24 MR. LUNA: I'm sorry?

25 CHAIRMAN LEZY: You will not rest your case

1 tomorrow.

2 MR. LUNA: Yes.

3 CHAIRMAN LEZY: Can you give us an estimate  
4 of how much time you think it will take for you to --  
5 understanding there may be questions from the other  
6 parties -- for the five witnesses, an estimate of  
7 time?

8 MR. LUNA: For tomorrow we are thinking it  
9 might go, if we start at 9:30 and certainly right  
10 after lunch we should be through. I think the time we  
11 discussed this with the County they're prepared to  
12 proceed as well.

13 CHAIRMAN LEZY: All right. Thank you. Just  
14 so everybody's on the same page, we're starting at 9  
15 a.m. tomorrow.

16 MR. LUNA: Oh, sorry.

17 CHAIRMAN LEZY: Sure. All right. With  
18 that, anything else from the other parties? Okay.  
19 We'll reconvene tomorrow morning.

20

21 (The proceedings were adjourned at 4:40 p.m.)

22 --oo00oo--

23

24

25

1

2

## C E R T I F I C A T E

3

4

I, HOLLY HACKETT, CSR, RPR, in and for the State  
of Hawai'i, do hereby certify;

6

That I was acting as court reporter in the  
foregoing LUC matter on the 14th day of July 2011;

8

That the proceedings were taken down in  
computerized machine shorthand by me and were  
thereafter reduced to print by me;

11

That the foregoing represents, to the best  
of my ability, a true and correct transcript of the  
proceedings had in the foregoing matter.

14

DATED: This \_\_\_\_\_ day of \_\_\_\_\_ 2011

16

17

18

19

20

---

HOLLY M. HACKETT, HI CSR #130, RPR  
Certified Shorthand Reporter

21

22

23

24

25

