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LAND USE COMMISSION

STATE OF HAWAI'I

CONTINUED HEARING

A06-771 D.R. HORTON-SCHULER HOMES, LLC)
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TRANSCRIPT OF PROCEEDINGS

The above-entitled matter came on for a Public Hearing
at Leiopapa A Kamehameha, Second floor, Conference
Room 204, 235 South Beretania Street, Honolulu,
Hawai'i, commencing at 9:40 a.m. on Thursday, January
5, 2012 pursuant to Notice.

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

COMMISSIONERS:
KYLE CHOCK
RONALD HELLER
LISA JUDGE
NORMAND LEZY (Chair)
CHAD McDONALD
JAYE NAPUA MAKUA
ERNEST MATSUMURA
NICHOLAS TEVES, JR.

EXECUTIVE OFFICER: ORLANDO DAVIDSON
ACTING CHIEF CLERK: RILEY HAKODA
STAFF PLANNERS: SCOTT DERRICKSON

DEPUTY ATTORNEY GENERAL: DIANE ERICKSON, ESQ.

AUDIO TECHNICIAN: WALTER MENCHING

Docket No. A06-771 D.R. Horton-Schuler Homes, LLC

For the Petitioner: BENJAMIN KUDO, ESQ.
NAOMI KUWAYE, ESQ.
YUKO FUNAKI, ESQ.

For the County: DAWN TAKEUCHI-APUNA, ESQ.
Deputy Corporation Counsel
TIM HATA - DPP

For the State: BRYAN YEE, ESQ.
Deputy Attorney General
MARY LOU KOBAYASHI
Office of Planning

For Intervenor Friends of Makakilo: DR. KIONI DUDLEY
LINDA PAUL, ESQ.

For Intervenor Sierra Club: TATYANA CERULLO, ESQ.

For Intervenor Senator Clayton Hee: ERIC SEITZ, ESQ.
SARAH DEVINE, ESQ.

Also Present: SENATOR CLAYTON HEE

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1 CHAIRMAN LEZY: (Gavel) Good morning. This
2 is a meeting of the state of Hawai'i Land Use
3 Commission. First things first, happy new year to
4 everybody. First item on the agenda is adoption of
5 minutes from the December 1st, 2011 meeting.
6 Commissioners, any revisions?

7 COMMISSIONER CHOCK: Move to approve.

8 COMMISSIONER MATSUMURA: Second.

9 CHAIRMAN LEZY: All in favor?

10 (Voting) Aye.

11 CHAIRMAN LEZY: Any opposed? Mr. Davidson,
12 the tentative meeting schedule.

13 MR. DAVIDSON: Thank you, Chair. You have
14 the tentative meeting schedule for the next few
15 months. We anticipate reconvening in this docket
16 January 19 and 20. And as always any questions on the
17 schedule or conflicts contact Riley or myself. Thank
18 you.

19 CHAIRMAN LEZY: Thank you. The next item on
20 the agenda is a continued hearing on Docket No.
21 A06-771 D.R. Horton-Schuler Homes, LLC a Delaware
22 Limited Liability Company, dba D.R. Horton-Schuler
23 Division, Honouliuli, 'Ewa, O'ahu to amend the
24 Agricultural Land Use District Boundaries into the
25 Urban Land Use District for approximately

1 1,525.516 acres of land at Honouliuli, 'Ewa District
2 O'ahu, Hawai'i tax map key Nos. (1)9-1-17:4, 059 and
3 072; (1)9-1-18;001 and 004.

4 Will the parties please make their
5 appearances.

6 MR. KUDO: Good morning and happy new year
7 to all of you. Ben Kudo and Naomi Kuwaye representing
8 the Petitioner Horton-Schuler. With us at the table
9 also is Mike Jones of Horton-Schuler.

10 CHAIRMAN LEZY: Good morning.

11 MS. TAKEUCHI-APUNA: Good morning. Deputy
12 Corporation Counsel Dawn Takeuchi-Apuna on behalf of
13 the Department of Planning and Permitting. Here with
14 me today is Tim Hata.

15 CHAIRMAN LEZY: Good morning.

16 MR. YEE: Good morning. Deputy Attorney
17 General Bryan Yee on behalf of the Office of Planning.
18 Behind me is Mary Lou Kobayashi from the Office of
19 Planning. I'd like to introduce Mr. Rodney Funakoshi,
20 to the side, who is the new Land Use Head for the
21 Office of Planning. Thank you.

22 DR. DUDLEY: Good morning. Dr. Kioni Dudley
23 for the Friends of Makakilo. And with me is my
24 counsel Linda Paul.

25 CHAIRMAN LEZY: Good morning.

1 MS. CERULLO: Good morning. Tatyana Cerullo
2 on behalf of Sierra Club.

3 MR. SEITZ: Good morning. Eric Seitz
4 appearing on behalf of Intervenor Senator Clayton Hee.
5 And with me to my left is my associate Sarah Devine.

6 CHAIRMAN LEZY: Good morning. Let me update
7 the record relative to this hearing. From
8 November 17, 2011 to January 5, 2012 the Commission
9 received written correspondence and e-mail from 24
10 individuals and organizations whose names are on file.

11 On December 6, 2011 the Commission received
12 a copy of an e-mail to Petitioner from Intervenor
13 Friends of Makakilo concerning Intervenor Friends of
14 Makakilo providing a copy of its Exhibit R-5 page 2.

15 Let me briefly explain our hearing procedure
16 for today. The City and County of Honolulu Department
17 of Planning and Permitting will begin presentation of
18 its case. Once the county is finished with its
19 presentation the remaining parties will present their
20 cases in order starting with the state of Hawai'i
21 Office of Planning. We'll take a break for lunch at
22 around noon.

23 As noted on the posted agenda public
24 testimony today will be taken at 2:00 p.m. and will
25 conclude by 3:30 p.m. in order to accommodate an

1 executive session that's been agendized. Individuals
2 desiring to provide public testimony will be called at
3 that time to our witness box where they will be sworn
4 in and provide testimony.

5 The hearing today is planned to be adjourned
6 at 3:30 p.m. to accommodate the executive session that
7 I mentioned earlier. I note for the parties and the
8 public as well that from time to time we'll call for
9 short breaks. Are there any questions regarding our
10 procedures for today? Hearing none, County, are you
11 prepared to proceed?

12 MS. TAKEUCHI-APUNA: Yes.

13 DR. DUDLEY: Mr. Chair?

14 CHAIRMAN LEZY: I'm sorry.

15 MS. PAUL: Mr. Chair, we did have a phone
16 discussion with Mr. Davidson a while back regarding
17 the order of the remaining Intervenors. And he
18 indicated that we could request from you our preferred
19 order. And we would like to request that Sierra Club
20 go first, Friends of Makakilo go second and Senator
21 Clayton Hee go at the end.

22 CHAIRMAN LEZY: Sierra Club, are you in
23 agreement with that?

24 MS. CERULLO: Yes.

25 CHAIRMAN LEZY: Mr. Seitz?

1 MR. SEITZ: Yes.

2 CHAIRMAN LEZY: Commissioners, any problems
3 with that? I don't see a problem with that. Anything
4 else? Ms. Takeuchi-Apuna, are you prepared to
5 proceed?

6 MS. TAKEUCHI-APUNA: Yes.

7 CHAIRMAN LEZY: Thank you. Please do.

8 MS. TAKEUCHI-APUNA: The City calls Bob
9 Stanfield.

10 CHAIRMAN LEZY: Mr. Stanfield, if I could
11 swear you in.

12 BOB STANFIELD

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

15 THE WITNESS: I do.

16 CHAIRMAN LEZY: Please state your name and
17 proceed please, Ms. Takeuchi-Apuna.

18 THE WITNESS: I'm Bob Stanfield.

19 DIRECT EXAMINATION

20 BY MS. TAKEUCHI-APUNA:

21 Q Mr. Stanfield, where are you employed?

22 A I'm employed at the Department of Planning
23 and Permitting.

24 Q And how long have you been employed at DPP?

25 A I've been employed for 18 years.

1 Q What is your current position and how long
2 have you held that position?

3 A I'm the chief of the Development Plans and
4 Zone Change Branch what was created by the city's
5 reorganization in 1999. Prior to that I was chief of
6 the Plans Evaluation Revision Branch of the Planning
7 Department beginning in 1996.

8 Q Are you familiar with the proposed project
9 that is the subject of this Petition?

10 A Yes. I've reviewed various project documents
11 and participated in discussions about the project at
12 various stages of the project's evolution.

13 Q And what is the Department's position with
14 regard to the Petition?

15 A DPP supports the Petition to reclassify the
16 land from Agricultural District to the Urban District.

17 Q Why does DPP support the Petition?

18 A Because the Petition is consistent with all
19 relevant city plans.

20 Q Can you identify all city plans which are
21 relevant to this Petition?

22 A There are many city plans relevant to this
23 Petition. Most relevant from a land use and
24 infrastructure planning standpoint are the city's
25 General Plan and the 'Ewa Development Plan which are

1 my areas of expertise. Other important plans include
2 the draft East Kapolei Neighborhood Transit-Oriented
3 Development Plan, the 'Ewa Highway Master Plan and the
4 Oahu Regional Transportation Plan. In addition, there
5 are a number of other Functional Plans that are
6 relevant.

7 Q When was the current version of the 'Ewa
8 Development Plan adopted?

9 A 1997.

10 Q How does the Petition conform to the General
11 Plan and what are the key General Plan policies with
12 regard to the Petition?

13 A Since the General Plan was adopted in the
14 lated 1970s the Project Area has been part of the 'Ewa
15 urban fringe area identified in the General Plan for
16 eventual low and moderate density residential
17 development.

18 The project is one of the last components of
19 the very successful growth management policy
20 established in that General Plan whose purpose was to
21 keep the country country by fully developing the
22 primary city from Kahala to Pearl City; developing a
23 Second City around Kapolei and 'Ewa and developing low
24 and moderate density master planned residential
25 communities in urban fringe areas in 'Ewa and then

1 Central O'ahu.

2 As a result of this policy's implementation
3 almost 80 percent of the growth since the 1980s has
4 gone into three designated growth areas.

5 Q How does the Petition conform to the 'Ewa
6 Development Plan and what are the key development plan
7 policies with regard to the Petition?

8 A This Petition is consistent with the 'Ewa
9 Development Plan adopted in 1997. The adopted plan
10 identifies the Project Area as within the Urban Growth
11 Boundary in an area designated for development of a
12 low and medium density residential community and
13 planned to be served by two transit centers around
14 which transit-ready development is to be encouraged.

15 The proposed project design is consistent
16 with the sustainable practices that the adopted plans
17 say should be implemented in all Master Planned
18 residential developments in 'Ewa, including landscaped
19 buffers and green belts, easy access to transit and
20 design that encourages walking and biking.

21 Q Does the Urban Growth Boundary serve to
22 protect prime agricultural lands? And if so how does
23 the Urban Growth Boundary protect prime agricultural
24 lands?

25 A The Urban Growth Boundary, which was adopted

1 as part of the plan, is intended to give long-range
2 protection from urbanization for over 3,000 acres of
3 prime agricultural land in 'Ewa and for preservation
4 of open space while still providing adequate land for
5 urban development in 'Ewa for the foreseeable future.
6 The adopted plan specifically states on Page 2-11 "No
7 proposals for urban uses will be considered outside
8 the Urban Growth Boundary."

9 As a result before proposal for an urban use
10 outside the boundary could be considered, an amendment
11 to the plan to move the Growth Boundary would have to
12 be approved through a process that involves
13 significant community consultation, department
14 analysis and review of comments from public agencies
15 in the community, review by the Planning Commission
16 and review and action by the City Council.

17 And unlike a zone change application there's
18 no time limit for how long that amendment process can
19 take.

20 Q And how much ag land is protected by the
21 'Ewa DP?

22 A Approximately 3,000 acres are protected by
23 the growth boundary for 'Ewa. However, as shown in
24 Exhibited 90B (displaying exhibit) the growth boundary
25 for Central O'ahu Sustainable Communities Plan

1 protects another 10,000 acres. And the North Shore
2 Sustainable Communities Plan growth boundary protects
3 30,000 acres.

4 In addition, there are protected
5 agricultural areas in other development plan areas.

6 Q And what is the quality of these lands? Are
7 they as good or as better as the Petition land?

8 A I'm not an expert on agricultural lands.
9 And I would defer to Bruce Plasch on such matters. I
10 believe he's testified there are lands available
11 outside the growth boundary that are as good or better
12 than the Petition lands and that seems to be what is
13 shown by Exhibit 90B.

14 Q Are the city's rail transit stops
15 contemplated by the 'Ewa DPP? And if so when were
16 they contemplated?

17 A Yes. The adopted plan calls for
18 establishment of a rapid transit corridor linking the
19 City of Kapolei, the Villages of Kapolei, the UH West
20 O'ahu campus and Waipahu with residential and
21 commercial developments centered around six transit
22 nodes shown on both the urban land use map and the
23 public facilities map at the back of the plan.

24 The planning for this transit corridor began
25 in '94 or '95 and it was part of the adopted plan.

1 The currently planned Kroc Center station and the UH
2 West O'ahu station, which will serve portions of
3 Ho'opili Project, were anticipated by the plan. The
4 Ho'opili station was not. However, the absence of the
5 Ho'opili station from the adopted plan is not an
6 obstacle to it being part of the rail transit project.

7 This was made clear by the council which
8 insisted in '97 on adding specific language at the
9 beginning of Chapter 4 which concerns public
10 facilities and infrastructure, language that stated
11 each public facility and infrastructure project
12 proposal identified in the plan is only identified and
13 presented conceptually.

14 And that more detail on the specific need,
15 route alignment and other specifications for each
16 project as applicable, will be prepared at the master
17 planning stage which precedes approval of actual
18 development.

19 Council wanted to make it clear just because
20 a project appeared in the plan does not mean it was a
21 slam dunk to be approved by the council. Nor did the
22 absence of a detail of the plan of a project require
23 that you had to go back and amend the development plan
24 to include it when they were doing capital improvement
25 project approvals.

1 Q Can you explain the 30,000 permitted homes
2 and how they relate to the number of homes to be built
3 by this Project?

4 A Are you referring to the city's most recent
5 estimates of housing development capacity in 'Ewa?

6 Q Yes.

7 A The city recently completed its evaluation
8 of implementation of the 'Ewa Plan since its adoption
9 in '97. As part of that review we estimated that as
10 of July 2009 projects in 'Ewa which either had zoning
11 needed to submit development applications or they were
12 exempt from City zoning, combined, had a capacity to
13 build about 35,000 units.

14 And a recent update suggests that capacity
15 as of July 2010 was about 34,000 units. As Ann
16 Bouslog so masterfully pointed out last month to the
17 Commission, not all of that capacity is immediately
18 available or even likely, due to a number of factors.

19 The number of homes proposed to be built by
20 this Project would add to that capacity and it would
21 provide competition with those projects for buyers.
22 Our most recent long-range projections are that an
23 average of 1800 units a year will be needed in Central
24 O'ahu and 'Ewa to successfully divert growth away from
25 the country areas and from Windward and the East

1 Honolulu Sustainable Community areas.

2 Q Are the city's plans consistent with the
3 Hawai'i State Plan? And if so how?

4 A Yes. The O'ahu General Plan and the eight
5 development plans and sustainable community plans
6 which implement that General Plan are consistent with
7 the Hawai'i State Plan Chapter 226 HRS. First,
8 they're consistent because the city's plans address
9 the multitude of goals, objectives, policies and
10 priorities contained in Chapter 226, and provide, as
11 specified in the Act, a more detailed and specific
12 vision for how those goals, objectives, policies and
13 priorities should be realized in the future
14 development of O'ahu, at least for those topics that
15 are the responsibility of the city and county.

16 Secondly, they're consistent because they
17 were established and are regularly updated through
18 processes that are consistent with the Chapter 226
19 planning coordination and implementation provisions.

20 Those provisions call for the city's plans
21 to indicate desired population and physical
22 development patterns, to address unique problems and
23 needs for the city and county, to further define the
24 overall theme, goals, objectives, policies and
25 priority guidelines of the State Plan to take into

1 account the State Functional Plans to be formulated
2 with input from the state and city agencies and the
3 general public, to be based on sound rationale, data
4 and analysis and to contain objectives, policies
5 required by city charter as well as those related to
6 population density land use, transportation systems,
7 public and community facilities locations, water and
8 sewage systems, visitor destinations, urban design and
9 all other matters necessary for coordinated
10 development of the city. And also to contain
11 implementation priorities and actions.

12 And our plans do contain all these elements
13 and do -- are prepared following these requirements.

14 Q Aside from these plan consistency issues do
15 you have any other comments on the Petition?

16 A My written testimony submitted to the Land
17 Use Commission in 2009 is still valid. And as stated
18 in the testimony Ho'opili is consistent with the
19 General Plan growth management policies for O'ahu and
20 for 'Ewa.

21 It's consistent with the adopted 'Ewa
22 Development Plan vision and policies and including
23 creation of master planned communities, transit-ready
24 development along the rapid transit corridor,
25 restriction of urban development to areas inside the

1 growth boundary, protection of sufficient land for
2 diversified agriculture and phasing development.

3 Some points that have changed since 2009,
4 for your information, regarding implementing the
5 vision for transit-ready development along the
6 corridor: In April 2010 the department circulated for
7 review and comments public review draft of East
8 Kapolei neighborhood Transit-Oriented Development
9 Plan. The final version of that TOD plan, when
10 approved, will be the basis for Transit-Oriented
11 Development zoning for all of East Kapolei including
12 Ho'opili.

13 The Project's also consistent with the
14 findings from the recently completed 'Ewa Development
15 Plan review and the vision and policy changes the
16 department is proposing for the revised plan.

17 In October the department transmitted to the
18 Planning Commission a review report on the 'Ewa
19 Development Plan's evaluation with a proposed plan for
20 review and action.

21 The Planning Commission hearing on the
22 review report and proposed plan is tentatively
23 scheduled for February. It's expected the Council
24 will begin its review in March.

25 Finally, as the written testimony stated, I

1 want to emphasize the city has in place procedures to
2 assess and assure infrastructure adequacy and
3 concurrency. The city council has the ability to
4 place conditions on the Project to address concerns
5 about infrastructure.

6 Infrastructure adequacy is a key vision
7 element for the 'Ewa Plan which calls for public
8 agencies and private developers to work together to
9 address current deficiencies and meet needs caused by
10 new development.

11 With regard to transportation as shown in
12 our updated Exhibit 9B, the city, state and private
13 developers have made a sustained effort spending
14 millions of dollars to improve both connectivity
15 within 'Ewa and the commute between 'Ewa and downtown
16 Honolulu. And have updated plans to continue spending
17 millions as shown in the March 2011 update to the 'Ewa
18 Highway Master Plan and the April 2011 update to the
19 O'ahu Regional Transportation Plan.

20 The city is moving aggressively to build a
21 new rapid transit system between 'Ewa and downtown
22 Honolulu. When completed in 2019 it will add the
23 equivalent of six freeway lanes to peak hour commute.

24 Ho'opili residents will be much more likely
25 to use that system than residents in new homes in

1 Kapolei West, Makaiwi Hills or Royal Kunia, projects
2 that already have entitlements.

3 If the redistricting is approved the
4 department will require the Applicant to do even more
5 transportation analysis and roadway master planning.
6 And if needed will recommend improvements be required
7 as a condition of any zone change approval or
8 subdivision approval to ensure that the circulation
9 system needed to support the Project is provided.

10 With regard to water, as part of the zone
11 change approval expected, the Applicant will be
12 required to develop and use a dual water system to
13 save potable water for human consumption. This is
14 required by the 'Ewa Development Plan and has been a
15 standard requirement for all new 'Ewa developments.

16 With regard to wastewater and drainage. An
17 adequate wastewater Master Plan and regional drainage
18 Master Plan, updated as necessary, will also be
19 required of the Applicant as part of the zone change
20 review and/or subdivision process.

21 Finally, we have the tool of unilateral
22 agreement conditions. The 'Ewa Plan provides a robust
23 list of policies and guidelines for residential and
24 commercial development in 'Ewa which can guide and be
25 used in zone change approvals as conditions required

1 as part of the zone change approval.

2 In addition to conditions related to the
3 infrastructure, which I previously mentioned, typical
4 requirements for other 'Ewa developments include
5 provision of affordable housing, preparation of and
6 completion compliance with urban design plan which
7 should be approved by the department and fair-share
8 contributions towards development, funding and
9 construction of schools as required by the state
10 Department of Education.

11 Failure to comply with conditions would
12 result in denial of approval for subdivision
13 construction permits or building permits. That
14 concludes my testimony.

15 MS. TAKEUCHI-APUNA: Mr. Stanfield is now
16 available for cross-examination.

17 CHAIRMAN LEZY: Thank you. Petitioner?

18 MR. KUDO: No questions.

19 CHAIRMAN LEZY: Mr. Yee?

20 MR. YEE: No questions.

21 CHAIRMAN LEZY: Dr. Dudley?

22 CROSS-EXAMINATION

23 BY DR. DUDLEY:

24 Q Mr. Stanfield, I was struck -- good morning.

25 A Good morning.

1 Q Happy new year to you.

2 A Happy new year to you again.

3 Q I was struck by the fact that you said the
4 'Ewa Development Plan has a transit corridor that
5 includes all kinds of stops and things like that.
6 Isn't it true that the only 'Ewa Development Plan
7 which has been approved by the city council is the one
8 from 1997?

9 And is it not true that the only transit
10 corridor bus system, system that they were talking
11 about, is actually a bus system? And that the 'Ewa
12 Development Plan from 1997 repeatedly -- ?

13 MR. YEE: I'm going to object. There are
14 multiple questions being asked. I would ask to ask
15 one question, wait for the answer and then ask the
16 next question.

17 Q (Dr. Dudley): Is it a bus system?

18 A Well, I hear two questions. Yes, it was
19 adopted in '97. That's the only one on the books. We
20 have proposed revisions to the plan that are basically
21 tweaks to the '97 plan.

22 It's not correct that transit corridor
23 referred to a bus system. It simply said that a
24 transit corridor for rapid transit should be reserved
25 in 'Ewa. And it identified where -- it identified

1 conceptually where six transit nodes or transit
2 stations should be located on that corridor.

3 At the time that the plan was adopted in '97
4 it was very unclear what kind of rapid transit system
5 would eventually come to 'Ewa. So the reservation of
6 corridor simply says there should be land set aside
7 for that point in the future when a rapid transit system
8 is extended out to 'Ewa, to the City of Kapolei.

9 Q Is rail mentioned in the 'Ewa Development
10 Plan of 1997?

11 A I don't believe it is.

12 Q Are buses mentioned?

13 A The buses are mentioned as part of the bus
14 transportation systems, yes.

15 Q And as part of the rapid transit system
16 there's no mention of buses in the 1997 version?

17 A It says "There shall be a plan, a rapid
18 transit corridor could provide for an 'Ewa shuttle
19 service and a commute service. Could carry express
20 bus service or even higher speed dedicated to transit
21 service." That's on Page 4-9.

22 Q Thank you.

23 A It says "Express bus service or even higher
24 speed dedicated transit service."

25 Q Thank you. Okay. Mr. Stanfield, it seems,

1 like you said, that this Project was included in the
2 'Ewa Development Plan. But is it not true that the
3 property was bought by Horton in 2006 and the 'Ewa
4 Development Plan was completed in 1997?

5 A I'm not certain as to the date of the
6 purchase of the property.

7 Q Okay. Thank you. I'd like to move and come
8 to the questions I have written down. First topic
9 area I want to talk about is the O'ahu General Plan.
10 You make the statement that this Project is consistent
11 with the O'ahu General Plan objectives and policies.
12 But the very first section of the General Plan, the
13 very first thing mentioned, isn't that controlling
14 population growth?

15 A There is discussion of controlling
16 population growth in the General Plan, that's correct.

17 Q And doesn't policy 1 of objective A read
18 that, "The city should participate in state and
19 federal programs which seek to develop controls over
20 population growth"?

21 A Yes, there's language expressing the desire
22 to control population growth.

23 Q Doesn't policy 5 even go so far as to say
24 the city should encourage family planning?

25 A I'm sorry, that's not my expertise.

1 Q I believe it's in the --

2 A Yes. It does. Policy 5 says "encourage
3 family planning."

4 Q Thank you. As a planner are you aware that
5 the people of O'ahu are not producing -- reproducing
6 even their own numbers?

7 A I'm not a demographic expert. I'm not the
8 projections expert for the department. I understand
9 that that might be the case. I understand that
10 in-migration is making up the difference so that there
11 is growth in the population.

12 Q Okay. That's what I'd like to address then.
13 So if we're not reproducing our own numbers and
14 in-migration is making up for it, can you tell us
15 something about the relationship between in-migration
16 and the need for new homes? I mean -- that's a good
17 question.

18 A Can I tell you something about the
19 relationship between in-migration and the need for new
20 homes?

21 Q Yes.

22 A The relationship is that if there's
23 population growth there will be need for new homes.

24 Q So are we principally building homes, then,
25 for malahini, for people coming in?

1 A As a malahini, I guess, yeah, we're building
2 some of these homes for people who come from the
3 mainland or from foreign countries to live here. Just
4 as in those countries the people that come from here
5 to go there, they're building homes for them there.

6 Q Okay. How does building all of these new
7 houses, which your department goes along with, square
8 with the first objective in the O'ahu General Plan
9 which is to limit population growth?

10 A It says that "growth should be controlled in
11 order to avoid socio-economic and environmental
12 disruptions." It's a very important statement for the
13 General Plan whose history came out of attempt to
14 reduce social disruptions that were caused about
15 uncertainty about where development should go.

16 It addresses that by saying growth should
17 not go on the Windward side, which is where the social
18 disruptions were occurring in the '70s. I'm sure you
19 may have been here at that time. I certainly was. It
20 was "keep the country country" was a valid politically
21 powerful slogan. And it still is.

22 And the answer to how to "keep the country
23 country" was to direct the growth of the population to
24 three areas, 'Ewa, Primary Urban Center and Central
25 O'ahu. Now, with regard to controlling total

1 population growth there's, I believe, a history of
2 constitutional law in cases that says American
3 citizens have the right to move throughout the
4 country.

5 I'm not aware of any successful tool that
6 the state or the city is able to use to prevent people
7 from moving here. They move here principally to find
8 jobs that are available or to reunite themselves with
9 family. And they have a right to housing. And the
10 city has the responsibility to determine where that
11 housing should be provided and how that housing will
12 be served by infrastructure. And that's what the
13 General Plan directs us to do. And that's what the
14 'Ewa Development Plan does.

15 Q Okay. Mr. Stanfield, doesn't policy 6 say
16 "to publicize the desire of the city and county to
17 limit population growth"?

18 A Yes, it does.

19 Q Thank you. In the 'Ewa Development Plan on
20 Page 2-5 this would be in section 3B -- Exhibit 3B.
21 It says, "sufficient" -- does it not say, "sufficient
22 land will be reserved in the corridor so that an
23 at-grade separated rapid transit system could be
24 developed on the corridor at some point in the
25 future"?

1 A Yes, it does. And the reason it says that
2 is because if you reserved only the land necessary for
3 an elevated system it would not be sufficient for an
4 at-grade system. So if you reserve enough land that
5 you can build an at-grade system, you can either build
6 it at-grade or elevated.

7 It was not clear at this point in '94, '95,
8 '96, '97 what the future rapid transit system might
9 be. There was already on the books requirements for
10 the Campbell Estate to reserve such a rapid transit
11 corridor. It was wide enough for an at-grade
12 separated system. And the development plans simply
13 continued, carried forward that requirement that such
14 an amount of land should be reserved in the medians or
15 in the right-of-way along the various paths of the
16 corridor.

17 Q If that's true then the continuing sentence
18 which says, "An at-grade separated system would not"
19 and that's emphasized, "an at-grade separated system
20 would not be elevated and would have its own exclusive
21 right-of-way."

22 A This is correct. That's a definition of
23 what an at-grade separated rapid transit system would
24 be. That's defining how much land -- that's helping
25 define how much land would be required to reserve the

1 corridor.

2 Q Okay. And so you don't see any problem with
3 the sentence that says, "An at-grade separated system
4 would not be elevated and would have its own exclusive
5 right-of-way"?

6 A I don't see any problem with that because an
7 at-grade system means that it's not elevated.
8 "At-grade" means not elevated. This is the
9 definition. An at-grade system is not elevated. It's
10 at-grade. It's on the ground.

11 Q Thank you. I'd like to move on to the Urban
12 Growth Boundary and discuss that for a bit. Were you
13 involved with the drawing of the Urban Growth
14 Boundary?

15 A Yes, I was.

16 Q Could you tell us about it, how it was first
17 drawn, when, how it was redrawn, how it got its
18 present shape?

19 MS. TAKEUCHI-APUNA: Objection. If you
20 could ask a more specific question.

21 CHAIRMAN LEZY: Dr. Dudley, please try to
22 ask a single question at a time --

23 DR. DUDLEY: Okay.

24 Q Could you tell us about how it was first
25 drawn?

1 CHAIRMAN LEZY: Dr. Dudley, let me finish.

2 DR. DUDLEY: Yes, sir. I'm sorry.

3 CHAIRMAN LEZY: Please ask the witness one
4 question at a time so he can respond appropriately.

5 DR. DUDLEY: Okay. Thank you.

6 Q Could you tell us how it was first drawn up?

7 A I'm not certain what you mean by "first".
8 It's implying that there's a series of drawings of the
9 boundary. But just let me recount the history and
10 we'll see if you get your answer. The way we
11 proceeded in analyzing the land use planning revisions
12 for 'Ewa and Central O'ahu -- they were being done at
13 the same time as a combined project -- was to try to
14 determine what lands should be protected for the
15 foreseeable future.

16 And start, identify those and then decide
17 within the boundary established by that what the
18 other -- how the other uses should be arranged.

19 We sought the advice of the State Office of
20 Planning and the Department of Agriculture, who
21 produced a land use map showing areas, agricultural
22 areas that they said, "Here's the highest priority,
23 here's the second priority, here's the lowest
24 priority." And for the most part the lands that are
25 protected, protect those areas.

1 In the case of the area between the City of
2 Kapolei and Waipahu, which was the lowest priority
3 lands, decision was made that it would be not feasible
4 to protect those lands for the long run, but that the
5 short run they should be protected.

6 That would give separation between the City
7 of Kapolei and Waipahu for those lands to remain in
8 agriculture for a period of time. But then eventually
9 that link between the city of Kapolei and Waipahu was
10 the link that would be served by rapid transit and
11 that it would be, it had been shown as part of the
12 urban fringe area would eventually be developed.

13 So the Urban Growth Boundary was drawn to
14 protect the 2,000 acres above the H-1 Freeway and the
15 thousand acres in the blast zone area around the West
16 Loch. And to my knowledge it was drawn that way one
17 time. And there was not a multiple variation of those
18 in 'Ewa for where the boundary should go.

19 Q So the Urban Growth Boundary you're saying
20 was the entire Urban Growth Boundary or just for 'Ewa
21 was built one time?

22 A An Urban Growth Boundary for 'Ewa and
23 Central O'ahu was drawn at the same time as part of an
24 analysis of where growth should go in 'Ewa and
25 Central. We ran several scenarios looking at where

1 growth should go. There was discussion of it.

2 And the combination of trying to focus most
3 commercial job development in 'Ewa and significant
4 residential in 'Ewa and some residential development
5 in Central O'ahu was the scenario that was chosen and
6 was approved by the council.

7 Q So I want to get really clear. So there was
8 never an expansion of the Central 'Ewa Growth Boundary
9 to join the 'Ewa Growth Boundary and really to change
10 in the concept the Urban Growth Boundary was?

11 A There was, to my knowledge, my recollection
12 the 'Ewa Growth Boundary that we have in the '97 Plan
13 was boundary as it was initially drawn to protect the
14 2,000 acres above H-1 and to protect the area around
15 the blast zone.

16 There was never any drawing of the boundary
17 to go farther into 'Ewa to protect the ag lands in
18 'Ewa. There was phasing that was put into the plan
19 that was to slow down the pace of urbanization for
20 parts of 'Ewa to give a period of adjustment for the
21 farming activities there to continue for a while and
22 then eventually be phased out.

23 But the boundary itself ran in the locations
24 that it's shown in the '97 plan in the first
25 iterations that I recall of the boundary.

1 Q And in the '97 plan wasn't it really
2 understood by the people who worked on the '97 plan?
3 I mean there was a lot of community activity, yeah?
4 Wasn't it understood by the people working that this
5 boundary was something that could be changed and that
6 it would be changed in three years, five years if
7 necessary?

8 A Quite the opposite. What we have said about
9 the growth boundary islandwide is that this growth
10 boundary is not like the old DP boundaries which were
11 just the ones that provided the current brand of
12 development plans, essentially the boundary there
13 between agriculture and residential was just a holding
14 boundary until the next bite and the next bite and the
15 next bite.

16 We drew those boundaries in 'Ewa, in Central
17 O'ahu and islandwide with the idea that that boundary
18 was not meant to be changed at the five year review,
19 was not meant -- because it was not needed for there
20 to be a change.

21 Ample land is provided inside that boundary
22 islandwide to handle the future growth of the island
23 for the foreseeable future. When asked what's the
24 foreseeable future, it's easily 40 or 50 years down
25 the pike. There's enough land inside the boundary to

1 take care of the growth islandwide. And it was drawn
2 specifically to be a long-term boundary.

3 The reason for that was one of the problems
4 that the farmers told us was they were on short-term
5 leases on this land they were trying to keep in
6 agriculture, which makes it very hard to make the
7 necessary investments to get the financing because
8 they're on short-term leases.

9 We thought that if we have established a
10 relatively permanent Urban Growth Boundary that would
11 encourage the landowners beyond that boundary saying
12 we're not going to get residential developments for
13 these properties. We can offer a long-term lease.
14 We're not going to be -- we're not going to have a
15 problem that way.

16 That was the intent for establishing a very
17 long-term Urban Growth Boundary. And to this date as
18 of this point there have been no amendments to the
19 growth boundary.

20 In fact, the growth boundary, even the
21 concept of it, was strong enough to detour one of our
22 prominent developers who was looking at some property
23 that was just on the other side of the growth
24 boundary, went around to all the 'Ewa Boards and they
25 said, "Well, it's a beautiful project, but you're

1 outside the growth boundary we've already agreed
2 should be put in place." The growth boundary had not
3 even been adopted by council. And he said, "Oh, I'm
4 not going to fight with you guys about that." And he
5 went away.

6 It's of the achievement of the development
7 plan process that growth boundary is our strongest,
8 our most successful accomplishment.

9 Q And, Mr. Stanfield, is it true, though, that
10 Ho'opili is the last part to be filled in the Urban
11 Growth Boundary in the 'Ewa area?

12 A There may be a couple of other pieces of the
13 puzzle inside the growth boundary that still do need
14 entitlements. But it is one of the last pieces of the
15 area that is designated for growth.

16 That has been designated for growth since
17 the '70s, has been shown on the General Plan, has been
18 shown on Master Plans as it was approved for
19 development, eventual development long term by the
20 council in '97.

21 Q Okay. Just one last question on this
22 matter. Did you not tell the Friends of Makakilo at a
23 meeting in 2005 that the Urban Growth Boundary could
24 be redrawn below the freeway?

25 A It would be possible, Dr. Dudley, for the

1 boundary to be redrawn if you can convince six -- five
2 to six members of the City Council to do so.

3 Q Thank you very much. Okay. I'd like to
4 move on to the next topic, then, I'd like to cover
5 which is the buffer zone. Was there ever any
6 consideration given to separating the First City from
7 Second City with a buffer?

8 A Could you be more specific about what you
9 mean by a buffer?

10 Q The one I'm talking about is open space,
11 green space.

12 A Yes, very definitely. And that's part of
13 the justification for both the Urban Growth Boundary
14 in setting aside areas that long term would be
15 retained as open space. It's also the justification
16 for the open space network within the Urban Growth
17 Boundary, which is to provide greenways and landscaped
18 areas to break up and to separate the more urbanized
19 areas.

20 Q If this Project is approved won't the only
21 thing separating the First City from the Second City
22 be Fort Weaver Road?

23 A And a variety of landscaped areas including
24 golf courses and other large areas that are in open
25 space.

1 Q But, Sir, I'm asking about the separation
2 between the First City and the Second City.

3 A We'll have to agree to disagree, as
4 frequently happened in the past, Dr. Dudley. I
5 believe there are landscape buffers and greenways that
6 do meet the requirements for there to be green areas
7 separating the residential areas.

8 Q Would you agree that the Second City, its
9 eastern side, is Fort Weaver Road?

10 A Would I agree that the Second city's eastern
11 side is Fort Weaver Road? No.

12 Q Okay.

13 A The urban fringe area is in that location
14 but the Second City, which is shown on maps in the
15 General Plan, is, and I apologize, I think you may
16 have this exhibit, but it's the darker area on the
17 west end of 'Ewa. Yes, I agree the urban fringe area
18 does touch Fort Weaver Road. But the Second City area
19 is on the east -- excuse me -- it's on the west end of
20 'Ewa, centered around the city of Kapolei.

21 Q Okay.

22 A It's also very clearly shown on the land use
23 maps in the back of the plan, this large red area.
24 That's the city of Kapolei. That's the Second City.

25 Q All right. Thank you. Let's move directly

1 to discussing the Second City. I understand the Second
2 City is the downtown business district of Kapolei. Is
3 that what you're pointing to there?

4 A The city of Kapolei is at the core of the
5 Second City. It also includes the resort area and the
6 business areas around it. It's an attempt to
7 replicate the way that downtown Honolulu with its
8 business district, its resort area, its industrial
9 areas, serves as a job center for this island.

10 It's an attempt to provide that same variety
11 of jobs at another location on the island so that
12 instead of having to commute to downtown Honolulu, to
13 Waikiki, to the airport area, there would be jobs in
14 'Ewa that people could go to.

15 Q Okay. Could you tell us what do you think
16 of as the most essential part of the Second City?

17 A I think -- very good question. I think the
18 most critical part of it is getting a critical mass of
19 people, residents, jobs in that location so it begins
20 to sort of gain some momentum to attract more jobs,
21 more people to become more of an urban setting.

22 We're not there yet. We're close to seeing
23 the possibility of getting there because -- not
24 intending to disrespect Campbell Estate, but they sort
25 of adopted a doughnut approach to development in that

1 they have developed what is more like suburban level
2 around. And the middle for a long time has been
3 empty.

4 But we're starting to see the immergence of
5 that central core at urban densities. It's beginning
6 to feel more like a city. And part of our concerns
7 with the evaluation of the Development Plan was
8 efforts by other agencies and entities to pull away
9 regional attractions from that core.

10 Q Okay. When you're talking about the core
11 and the center of the doughnut, I presume we're
12 talking about the downtown business district of
13 Kapolei.

14 A The areas that are zoned for and planned for
15 quite high densities. It's probably a six block area
16 at the core with the current Campbell Estate Building,
17 the Bank of Hawai'i Building actually at the outskirts
18 of that. And that internal core is meant to be fairly
19 high-rise, definitely for high-rise for 'Ewa and to be
20 quite dense.

21 Q Good. And this is an empty area right now
22 pretty much. It's kind of a ghost town.

23 A No. I wouldn't agree with that.

24 Q Are the streets built, sir?

25 A Most of the streets are built.

1 Q Are they complete?

2 A If I say "most" that implies some are not
3 complete. Most -- most of them are built or are in
4 the process of being built. I believe that we've
5 provided an exhibit that gives further details on that
6 for the Commissioners. But with the combined effort
7 of Campbell Estate and the city will complete the
8 major roadway network within that corridor area within
9 the next two or three years.

10 Q Two or three years. Meanwhile we're
11 building all around the doughnut but we're not doing
12 anything for the downtown business district.

13 A I would beg to differ with you. And I'm not
14 an expert on the property sales and development of the
15 city of Kapolei. But the last reports I showed showed
16 very few lots that were not sold. And major
17 projects -- I was quite surprised to drive through the
18 area recently, had not been back there for maybe
19 three, four, five, months. And there are an amazing
20 number of buildings that have come up since that time.

21 So I don't think it's accurate to describe
22 it as a ghost town without any development there.
23 There definitely is development going on in the city
24 of Kapolei. There's definitely development going on
25 throughout 'Ewa.

1 Q Mr. Stanfield, is it not true that the
2 development is really malls, strip malls?

3 MR. KUDO: I'm going to object on the
4 grounds of relevancy. I'm not sure where FOM is going
5 with this line of questioning.

6 DR. DUDLEY: What we're trying to get to
7 here is the question of where is the Second City.

8 Q Could you tell me about the jobs in the
9 Second City? How many jobs were anticipated for the
10 Second City?

11 A We're projecting growth of 17,871 jobs
12 between 2000 and 2035.

13 Q Those would be jobs in the Second City.
14 Thank you very much.

15 A In the city of Kapolei.

16 Q In the city of Kapolei.

17 A Not counting the jobs in the
18 Kalaeloa/Campbell Industrial Park or jobs at Ko Olina,
19 West Kapolei which also technically are in what is
20 called the secondary urban center.

21 Q Of those 17,000 how many are not service
22 related? Do you have any idea?

23 A Twenty-four hundred in public
24 administration, 95 in industrial, 2700 in finance,
25 insurance, real estate. Services is 8300. Retail is

1 6200.

2 Q Thank you very much. Mr. Stanfield, these
3 jobs would take people off of the freeway, would they
4 not?

5 A Depends on where the folks live. They would
6 take them off -- they would take them off the freeway
7 if they were commuting in the west direction, yes. I
8 mean they would take them off the commute to downtown,
9 if that's what your point is.

10 Q Thank you.

11 A That is one of the ways in which we were
12 attempting to reduce the burden on the into-Honolulu
13 commute is to attract people to go the other
14 direction.

15 Q Thank you. That's good.

16 A But I would like to note that Honolulu is
17 the 800-pound -- downtown Honolulu is the 800 pound
18 gorilla in the room. It has the vast majority of the
19 jobs, not only on the island but in the state. It's a
20 major employment center and it's going to continue to
21 be a major employment center.

22 And the growth of jobs in 'Ewa, while
23 substantial, will not eliminate the number, the share
24 of people that will still want to live in 'Ewa and
25 commute to town.

1 Q Thank you very much. I'd like to just talk
2 about the rail and this downtown business district.
3 Would the rail bring more people? Would it not bring
4 workers, and would it not bring customers into the
5 downtown business district of Kapolei?

6 A Oh, if the rail system was extended to the
7 city of Kapolei?

8 Q Yes.

9 A Yes, definitely. And that's definitely part
10 of the plan is that the rail system would be extended
11 through Kalaeloa to the city of Kapolei and on to
12 Kapolei Commons, the east end of Ko Olina. And would
13 provide a -- each one of the stations is intended to
14 provide a node around which there would be residential
15 and commercial development.

16 Q Okay. But the rail, you understood, does
17 stop 3 miles short of Kapolei at the present time,
18 downtown Kapolei.

19 A This is true.

20 Q Then the rail will not be extended there for
21 at least another 20 years, is that correct?

22 A I don't know. And I don't have a crystal
23 ball to say when people would want it to be extended,
24 would ask for the financing to be found to make it
25 possible to support the Project. That's something

1 that will undoubtedly be a question after 2019, the
2 anticipated completion of the first segment.

3 Q One last question on this matter. And that
4 is you talked about the doughnut and the fact that
5 Campbell Estate, for whatever reason, is not
6 developing inside of the doughnut.

7 A I did not say that. I said that they
8 started with the outside of the doughnut and now are
9 moving towards the middle.

10 Q Okay. If the inside of the doughnut would
11 take all of these people off the freeway and would
12 give a central, a center to the Second City, why is
13 your department supporting this other project rather
14 than getting behind the development of the Second
15 City?

16 A We were supporting development of the Second
17 City and we are supporting this Project. They are
18 part of the puzzle for how development, the city's
19 policy for where development should go on the island.

20 The creation of low and medium density
21 residential communities, Master Planned communities in
22 the urban fringe, actually help support the creation
23 of a regional office and retail center at the city of
24 Kapolei by providing people who would see that as
25 their downtown in the way that now people out in East

1 Honolulu drive into Kahala Mall, or farther into the
2 central city, to get the sort of amenities that are in
3 the big city. People in the 'Ewa, Wai'anae, Central
4 O'ahu area would drive to the city of Kapolei for
5 those kinds of urban experiences.

6 It's not inconsistent to have these low and
7 medium density residential communities, especially if
8 they're linked together by the transit system
9 eventually so that people in Ho'opili, UH West O'ahu,
10 DHHL, East Kapolei, Kalaeloa could all jump on the
11 train and go to downtown, city of Kapolei for that
12 downtown urban experience and get on the train, go
13 back to their suburban sort of experience. That's not
14 inconsistent at all. That's what was approved in the
15 '97 plan.

16 Q In the meantime, though, what we have out
17 there is just a big bedroom community, is that not
18 true?

19 A I don't think that the people who are
20 working in the judiciary center or the office
21 buildings in the city of Kapolei and who live in the
22 area would say that that's a correct statement.

23 There are jobs in 'Ewa. The job growth in
24 'Ewa has exceeded the rate of residential growth in
25 'Ewa since the plan was adopted in '97. That's

1 another one of the successes is that 'Ewa is one of
2 the major growth areas, not just for housing but also
3 for jobs on this island. It's doing what it was
4 supposed to do. It's serving as a new nucleus for
5 economic growth on the island.

6 It's certainly much more of a growth center
7 than the area, say, of East Honolulu or Ko'olaupoko
8 where job growth is relatively anemic compared to
9 what's going on in 'Ewa.

10 Q I'd like to move for a minute and talk about
11 the adequate facilities requirements.

12 CHAIRMAN LEZY: Dr. Dudley, how much longer
13 do you think you have with this witness?

14 DR. DUDLEY: Maybe another 10 minutes?

15 CHAIRMAN LEZY: Please proceed.

16 Q (Dr. Dudley) Does the 'Ewa Development Plan
17 contain an adequate facilities requirement?

18 A There's language in the plan requiring that
19 adequate facilities be provided to meet both existing
20 needs and projected needs. And it calls for public
21 and private partnerships to ensure that that happens.

22 Q And does the adequate facilities requirement
23 section state: Zoning and other development approvals
24 for new developments should be approved only if the
25 responsible city and state agencies indicate that

1 adequate public facilities and utilities will be
2 available at the time of occupancy?

3 A Yes, that's -- that is correct. And that's
4 what we do enforce through the zoning process, through
5 the unilateral agreement conditions process, through
6 the subdivision process, through the building permit
7 process. There is substantial analysis of
8 infrastructure adequacy.

9 We do not approve building permits if
10 there's not sufficient water pressure to put out fires
11 or to provide potable water. We don't approve the
12 subdivisions unless there's a roadway Master Plan in
13 place. We don't approve if there's not a drainage
14 Master Plan in place.

15 There's assessment of adequacy and there's
16 requirements for developers to meet those adequacy
17 requirements throughout the process of moving from
18 entitlements to occupancy.

19 Q And does the 'Ewa Development Plan also
20 contain a section under 'general policies' titled
21 Transportation System Functions?

22 A Yes, it does.

23 Q And does this section say, "The
24 transportation system should provide adequate capacity
25 for major peak hour commuting to work in the Primary

1 Urban Center"?

2 A That's the policy.

3 Q And is it true that our freeway commutes
4 during peak rush hours currently are among the worst
5 in the nation?

6 A Are you asking me --

7 Q Are you aware of that?

8 A I'm not a transportation expert. I've not
9 done a comparative analysis of the roadways.

10 Q And with the addition of 12,000 cars from
11 this Project, which is what they estimate, with the
12 addition of these 12,000 cars on the freeway, won't
13 traffic get even worse?

14 MR. KUDO: Objection. I don't believe that
15 was the statement or position that we've taken.

16 CHAIRMAN LEZY: Dr. Dudley, I think it's
17 outside the scope of this witness's knowledge.

18 THE WITNESS: I'm not a transportation
19 engineer.

20 DR. DUDLEY: I'm trying to nail down,
21 though, just the requirement.

22 CHAIRMAN LEZY: I think in order to nail
23 that down you're going to have to provide a lot more
24 information and foundation for that information in
25 order to do that. I see where you're going with this,

1 but I think the witness has responded this is not his
2 area of expertise. So please move on.

3 THE WITNESS: If I could respond? It's not
4 my area of expertise, but the point that I was making
5 earlier that I made in my testimony, is that this
6 issue will be laboriously investigated by the council
7 through the zone change process. There's a
8 requirement for transportation assessment to be made.
9 Council clearly has the ability to place conditions on
10 the Project to meet any anticipated shortfall.

11 And further down through the process people
12 who are much more qualified than I, both at the state
13 and at the city, would be making assessments of what's
14 required of the developer.

15 Q (Mr. Dudley): Mr. Stanfield, while that is
16 certainly true, does not the adequate facilities
17 requirement say "zoning and other development
18 approvals"? Now, that's talking about in this same
19 section we have city and state mentioned. So this is
20 one of those approvals we're talking about. Okay?

21 A Are you saying that the Land Use Commission
22 is one of those development approvals?

23 Q I am saying that, yes.

24 A I saw that in your submittal. I don't agree
25 with that interpretation of what this language means.

1 This language -- and perhaps it's something we need to
2 tweak in the definitions in the ordinance -- but as it
3 was interpreted when it was put in in '97 we were
4 talking about the things that followed zoning:
5 Subdivision, construction plans, building permits.

6 Those were the development approvals that
7 were meant by this term 'development approvals' not
8 the Land Use Commission district amendments that might
9 precede zoning.

10 Q You would agree, though, that you're not a
11 lawyer and that this is...

12 A No, I don't think this is a matter of a
13 lawyer's interpretation. It's that I was there at the
14 writing and the editing of this document, and
15 knowledgeable about what the intent was of the people
16 who wrote that language.

17 And the intent was we were talking about
18 what happens after you get to zone change application
19 and subdivision application and construction plan
20 permit applications. We're not talking about
21 something that preceded zoning.

22 Q Okay. Let's just turn for one last second
23 to the phrase in the transportation section which
24 says, "The transportation system should provide
25 adequate capacity for major peak hour commuting to

1 work in the Primary Urban Center."

2 Will you guarantee that there will be
3 adequate capacity for major peak hour commuting to
4 work in the Primary Urban Center before the time of
5 occupancy for this Project?

6 A I think you're confusing policy and
7 implementation.

8 Q If the policy --

9 A The policy is -- the policy objective that
10 the City is pursuing that City Council adopted is that
11 these are our goals: To provide adequate access within
12 'Ewa, to provide improved access between adjacent
13 areas, to provide adequate capacity for major peak
14 hour commuting.

15 That doesn't -- providing adequate capacity
16 for major peak hour commuting does not mean
17 necessarily that the roadways are not highly
18 congested. If, as I testified earlier, the rail
19 system is in place and is providing the equivalent of
20 six lanes of freeway, that's providing additional
21 capacity for major peak hour commuting. It's doing it
22 in a way that doesn't tax the streets in downtown
23 Honolulu.

24 That was one of the determinations that was
25 made since '97 was that adding more freeway lanes

1 would simply pile more cars into downtown Honolulu
2 which is already at capacity.

3 What we're trying to do is move people to
4 jobs in downtown Honolulu not necessarily move cars to
5 parking lots in downtown Honolulu. I disagree with
6 your statement that we're not meeting this policy
7 because there's going to be congestion on the freeways
8 or that congestion will increase because we have more
9 people on the island. By providing alternative to
10 that commuting we are meeting this policy objective.

11 Q Okay. Finally, then, Mr. Stanfield, are you
12 the person from the city who is prepared to answer
13 questions about the Farmland Conversion Impact Rating?

14 A Ah, I have some knowledge about that, but I
15 certainly don't consider myself an expert on it.

16 Q Are you the person from the city I should be
17 asking the questions to or would that be another?

18 A I'm not certain who it would be in the city.
19 I'm pretty sure I'm not the person. I'm not
20 knowledgeable enough about that program to feel that I
21 would provide definitive answers for the
22 Commissioners.

23 DR. DUDLEY: Thank you. That's the end of
24 my questions.

25 CHAIRMAN LEZY: Thank you. Let's take a

1 5-minute break.

2 (Recess was held. 10:47)

3 CHAIRMAN LEZY: (11:05) Back on.

4 Ms. Cerullo, are you prepared to proceed?

5 MS. CERULLO: Yes.

6 CHAIRMAN LEZY: Please do.

7 CROSS-EXAMINATION

8 BY MS. CERULLO:

9 Q Good morning, Mr. Stanfield.

10 A Good morning.

11 Q I want to ask you about your reference to
12 Petitioner's expert Ann Bouslog, her testimony.

13 A I'm sorry. Say again.

14 Q Ann Bouslog. You referred to her testimony
15 regarding housing capacity and need. Are you aware
16 that her conclusions about housing capacity and need
17 were based on the hypothetical that there would be no
18 further entitlements over the next 20 years?

19 A No further entitlements where?

20 Q By the Land Use Commission.

21 A In 'Ewa?

22 Q Right.

23 MR. KUDO: I'm not sure that's what the
24 testimony of Ms. Bouslog --

25 CHAIRMAN LEZY: Could you lay some

1 foundation for that?

2 Q (Ms. Cerullo): Ms. Bouslog testified that
3 her numbers for housing capacity and need were based
4 on the premise that there would be no further
5 entitlements over the next 20 years. Are you aware of
6 her testimony?

7 A I didn't -- I don't recall that statement in
8 her testimony. I may not have been here for that
9 point of her testimony.

10 Q Okay.

11 A Our estimates are based on approvals being
12 given for all of the properties designated for
13 development within the Urban Growth Boundary in the
14 '97 plan.

15 Q Okay. Are you familiar with the Hawai'i
16 State Plan?

17 A Somewhat.

18 Q Are you familiar with the Governor's New Day
19 Plan?

20 A No, I'm not familiar with the New Day Plan.

21 Q Are you aware of the State's policy to
22 preserve and increase agricultural land and
23 diversified agriculture?

24 A Are you referring to the policies in the
25 Hawai'i State Plan?

1 Q Yes. And the Governor's New Day plan.

2 A Yes. I'm aware of the policies that are in
3 the Hawai'i State Plan. As I said I don't know about
4 the Governor's New Day Plan.

5 Q Would you agree that in order to achieve
6 these goals to preserve agricultural land for
7 diversified agriculture, that in order to achieve this
8 goal the city and state need to be working together?

9 A It would be really good if the city and
10 state would work together to preserve ag land and to
11 accomplish the multitude of other goals that we have
12 for O'ahu.

13 Q As a planner don't you think the city could
14 consider the State's policies and objectives when
15 preparing or revising long-range plans?

16 A The contention seems to be that we don't. I
17 want to disagree with the contention implied in the
18 question. We do consult with the state regularly. We
19 do request their comments on our plans. We do receive
20 comments. We have done major things to preserve
21 agricultural land on O'ahu.

22 As I stated in my responses to Dr. Dudley, I
23 view the Urban Growth Boundary as the singular best
24 accomplishment of our revised Development Plans.

25 Q Did you know that --

1 A That they have to protect thousands of acres
2 of agricultural land. In addition to that, under a
3 previous administration we proposed identification of
4 ag lands that were to be protected. We await the
5 State's funding of the identification of Important Ag
6 Lands, and stand willing to do what the state
7 constitution says should be done to protect Important
8 Ag Lands. We have identified wherever Important Ag
9 Lands are on O'ahu, we have identified where growth
10 should go. And we have protected those lands against
11 development.

12 Q Are you aware of one of the Hawai'i State
13 Plan's policy objectives to preserve ag land that is
14 currently in use for diversified agriculture?

15 A Would you care to provide a citation?

16 Q I don't have it in front of me. I'm just
17 asking you if you're aware of the Hawai'i State Plan
18 policy to preserve ag land that's currently in use for
19 diversified agriculture?

20 A I know there are three objectives, two of
21 which are out of date. Same as the sugar and pine
22 industries, viability should be maintained. And that
23 the ag industry should be a dynamic and essential
24 component of Hawai'i's strategic economic and social
25 well-being.

1 At least with regard to economic to be a
2 dynamic and essential component of the economy. It's
3 hard to see how something that's providing only
4 .8 percent of the jobs on O'ahu can play that role.

5 I agree that agriculture is important to
6 O'ahu's development and to its social well-being. But
7 in terms of awareness of the 16 policies, yes, we
8 support diversified agriculture. There's a strong
9 commitment in the 'Ewa Development Plan for
10 diversified agriculture.

11 That's why we set aside the land in 'Ewa,
12 Central O'ahu, North Shore and other place to provided
13 lands for diversified agriculture.

14 Q My question is regarding ag land that is
15 currently being used for diversified agriculture today
16 in use for diversified agriculture.

17 A I could do what I've been encouraged not to
18 do. I could go to the book and look at the state Act
19 and see if I recognize the particular one. But since
20 you aren't able to provide a citation I'll not do
21 that. I'm aware generally of the policies supporting
22 diversified agriculture and agriculture.

23 Q Do you think that the 'Ewa Development
24 Plan's Urban Growth Boundary within which Ho'opili
25 lies, is consistent with the Hawai'i State Plan's

1 policy objective of preserving ag land that is
2 currently in use for diversified agriculture?

3 A I think that the 'Ewa Development Plan taken
4 as part of the O'ahu General Plan and the seven other
5 Development Plans is consistent with the State Plan.
6 It does provide lands for diversified agriculture. It
7 does support the continuation of diversified
8 agriculture in 'Ewa and throughout the island.

9 Q The O'ahu General Plan is currently being
10 revised, is that correct?

11 A The General Plan is being reviewed and
12 possible changes are being considered.

13 Q The deadline for comments was November 30,
14 2011, is that correct?

15 A I don't know. It sounds correct.

16 Q So the O'ahu General Plan definitely could
17 change based on those comments?

18 A I don't know.

19 Q Are you aware of DPP's community survey
20 about the O'ahu General Plan?

21 A No, I'm not.

22 Q So you're not aware of the survey results
23 where --

24 CHAIRMAN LEZY: Ms. Cerullo, he just
25 testified he's not aware of the survey.

1 Q (Ms. Cerullo): Two of the top priorities of
2 the survey results, two of the top priorities of the
3 participants were (1), reducing traffic.

4 CHAIRMAN LEZY: Ms. Cerullo, he just
5 testified that he's not aware of the survey. You're
6 asking him about the contents of the survey.

7 MS. CERULLO: I understand. I was laying
8 the foundation and then I was going to ask a follow up
9 question.

10 Q Two of the results, two of the top
11 priorities that participants listed were (1) reducing
12 traffic and (2) protecting ag land. Are you aware of
13 the question after recognizing that circumstances have
14 changed since the 1970s, asking participants what
15 economic policies the plan should encourage?

16 A I don't understand.

17 MR. KUDO: I object. The document is not in
18 evidence and we don't have a copy of it so...

19 Q (Ms. Cerullo): So you're not aware that 62
20 percent stated that the plan should include --

21 CHAIRMAN LEZY: Ms. Cerullo, we've covered
22 this now. He's stated that he's not aware of the
23 survey. The survey, as was just pointed out by the
24 Petitioners, has not been offered into evidence. So
25 it is improper for you to ask him questions about what

1 information is contained in the survey.

2 If you want to ask him a question based on
3 your interpretation of that information, that's fine.
4 But please don't reference the survey itself.

5 Q (Ms. Cerullo): Okay. My goal was to try to
6 reference the information in there and to see if it
7 would surprise you or you would agree that that is
8 what people -- the public opinion --

9 CHAIRMAN LEZY: Then ask the witness about
10 the information that you're interested in.

11 THE WITNESS: I'll help you out. I think
12 you're trying to ask me if traffic and ag land
13 protection is important. Yeah, I agree. It is, it's
14 important in the General Plan. That importance is
15 recognized in the 'Ewa Development Plan.

16 There's extensive sections talking about how
17 we're gonna protect ag land in 'Ewa. There's
18 extensive sections talking about how we're going to
19 deal with transportation in 'Ewa.

20 Q (Ms. Cerullo) Would you agree that
21 preserving the Petition land area would help local
22 food production?

23 A No.

24 Q Would you agree that there would be less
25 traffic if the Petition Area is not developed?

1 A No.

2 Q Would you agree that preserving the area
3 land is consistent with the priority of the state's
4 priorities of protecting and preserving ag land?

5 A No.

6 MS. CERULLO: No further questions.

7 CHAIRMAN LEZY: Mr. Seitz.

8 CROSS-EXAMINATION

9 BY MR. SEITZ:

10 Q Mr. Stanfield, you were here in the 1970s
11 when Waiahole Waikane Valleys were being discussed for
12 development purposes, is that correct?

13 A That's correct.

14 Q And you're aware that in that situation the
15 city approved of the development of those valleys for
16 small farms essentially or residential development for
17 smaller lots than what currently existed, correct?

18 A I don't remember the exact details of who
19 approved what. But I do know that prior to the
20 adoption of the existing General Plan there was
21 proposals for development in many, many locations
22 including Waiahole Waikane, He'eia, Kunia, and other
23 places that in retrospect were not appropriate
24 locations in that.

25 What happened with the adoption of the

1 General Plan then Development Plans that carried out
2 the direction was to move development away from those
3 kinds of locations to 'Ewa, Central O'ahu and full
4 development of the Primary Urban Center.

5 Q But is it your recollection that in so far
6 as those developments on the Windward side were
7 concerned the city basically had approved of the
8 developments and issued permits? Is that your
9 recollection?

10 A I don't recall the exact details of it.

11 Q Do you recall that at some point the state
12 came in and actually either purchased or arranged for
13 land swaps in order to preserve agriculture in those
14 locations? Do you recall that?

15 A That seems consistent with my memory.

16 Q Now, would you see any analogy in that
17 history to the present situation where, as you've been
18 asked here today repeatedly, there appears to be at
19 least some conflict between the city's plans that have
20 been adopted over the past 30 years and the state's
21 repeated policy and even constitutional enactments
22 requiring that agricultural land be protected? Do you
23 see any conflict there?

24 A I don't see a conflict between or a parallel
25 between the two situations because of the history that

1 has occurred since those situations, particularly the
2 history of adopting proactive conceptual Development
3 Plans that drew lines in the red clay saying: We're
4 not going to allow agricultural areas to be developed
5 beyond these lines.

6 That wasn't the case in the '70s. The city,
7 as I testified in response to your previous question,
8 had a set of land use plans that were very proactive,
9 pro-development in many, many locations including
10 building a power plant at He'eia Kea which would have
11 created smog, unbelievable smog in Kaneohe Bay,
12 development of areas throughout the Windward side.

13 That changed when we changed direction and
14 said: No, we're going to have directed growth. We're
15 going to direct growth to these areas and keep the
16 country country.

17 Then there's a history from that time of the
18 city backing that up with money, with land use
19 decisions that direct growth away from those areas to
20 these areas. I don't see the parallel at all.

21 I don't see the state stepping in to protect
22 agricultural land when they can't even find the money
23 to fund the city's identification of ag lands, which
24 is the only reason why Important Ag Lands have not
25 been identified on this island. If the state

1 Legislature would pony up the money, we have been
2 standing ready to identify where the Important Ag
3 Lands are that are to be protected.

4 We have gone ahead on our own and drawn
5 these urban growth boundaries that protect the
6 Important Ag Lands. We have done more to protect ag
7 lands than the state has. That's my contention.

8 Q If I were to summarize your testimony here
9 today, would I be correct, essentially, in saying that
10 you are supporting the current proposal before the
11 Land Use Commission because it is consistent with city
12 plans for land use that have been developed over the
13 past 30 years? Is that a fair statement?

14 A It is consistent with city policy developed
15 over 30 years.

16 Q Now, has anything changed in your estimation
17 over the 30 years that ought to mandate a
18 reconsideration of any of those city plans?

19 A We continually have been reconsidering city
20 plans based on new information, new changes. So we
21 just completed a review of the 'Ewa Plan with regard
22 to the current situation. We did look at the
23 agriculture protection issue with regard to the 'Ewa
24 Plan. I am convinced, based on analysis that the city
25 has paid for, that there is sufficient land to meet

1 the concerns about sustainability, about local food
2 production, about self-sufficiency; that all those
3 concerns can be addressed given the thousands of acres
4 of agricultural land that we have protected with our
5 Urban Growth Boundaries throughout the island.

6 Did I answer your question with regard to
7 whether we had considered the current conditions in
8 reviewing the 'Ewa Plan? Yes, we have.

9 Q Okay. Now, my next question to you is this:
10 Isn't it true that when these plans were adopted that
11 Aloun Farms and the productivity of the particular
12 parcel that we're talking about had never really been
13 demonstrated or established? You would agree with me,
14 correct?

15 A No, I wouldn't.

16 Q Would you agree with me that Aloun Farms in
17 particular is a very important agricultural
18 institution in so far as the amount and type of local
19 produce that it provides for people in Hawai'i?

20 A I'd agree with you that Aloun Farms is an
21 important diversified agricultural business. It's one
22 of the two largest on the island. We did consult with
23 them. We have consulted with them in the past.

24 The activities of Aloun Farms, Larry Jefts
25 and other farmers in the Ho'opili area, and other

1 parts of East Kapolei was recognized in '95, '96, '97.
2 That's the reason why there is phasing in the '97 plan
3 which was meant to give protection for those farmers.
4 Say: Okay, there's going to be a period of time here
5 which we're not going to allow any development to
6 happen. You can go ahead and continue farming there.
7 But it's not -- it's not an open ended thing. You're
8 going to eventually going to have to move out when
9 development comes to these areas.

10 Q Well, since you've lived in Hawai'i and been
11 actively in planning for a long time, you are aware,
12 are you not, that it has been exceptionally difficult
13 for farmers to provide viable businesses to produce
14 the kinds of crops that Aloun Farms provide? Isn't
15 that correct?

16 In other words, the state has been
17 encouraging diversified farming for as long as you and
18 I have been in Hawai'i. But, in fact, it's been very
19 difficult for anybody engaged in diversified farming
20 to run an economically viable business. Isn't that
21 true?

22 A Well, I don't see how you can say that and
23 then point to Aloun Farms or Larry Jefts and say, well
24 okay, why did -- why is Larry Jefts successful? Why
25 is Aloun Farms successful?

1 Q Well, that's my next question. Isn't it
2 true that they are the exceptions, in fact the most
3 successful operations that have arisen in the last 10
4 years in a movement that goes back 30 or 40 years?
5 Isn't that true?

6 A I'm not an agricultural industry expert. I
7 think that they definitely are the industry leaders.
8 The reason, as explained to me by Mr. Jefts, was that
9 he has sufficient lands that he can compete with
10 anybody in the world. And that in effect they do
11 dominate the local market for many crops because of
12 their location in Central O'ahu and their location in
13 other parts of the island.

14 Q Would you agree with me that the lands that
15 we're talking about here if, in fact, anyone were to
16 do so, would be classified as Important Agriculture
17 Lands?

18 A No, I don't think that they would be
19 classified as Important Ag Lands.

20 Q You don't think they meet the statutory
21 criteria?

22 A I'm not saying -- I should not go down that
23 path because I'm not the expert on that. But when we
24 did our assessment of ag lands they were not included.

25 Q Well, that's because, as you say, the

1 process of designating Important Agricultural Lands
2 has not really gotten off the drawing boards, correct?

3 MS. TAKEUCHI-APUNA: Objection. We have
4 another witness coming up that could speak to the IAL
5 questions. And we don't believe that Mr. Stanfield is
6 the appropriate witness to testify on IAL.

7 MR. SEITZ: Mr. Stanfield has already opened
8 the door by making comments in his direct testimony
9 about these subject matters. I'm only examining him
10 as to what he's already said.

11 CHAIRMAN LEZY: I tend to agree with you,
12 Mr. Seitz. But if you could, I guess, try to compress
13 your question.

14 MR. SEITZ: I'm certainly going to do to
15 that. I understand we've been here a while.

16 Q So, Mr. Stanfield, my question to you isn't
17 it true that the only reason that the particular lands
18 in question have not been classified as Important
19 Agricultural Lands is because the process of doing
20 that classification has not really gotten off the
21 drawing boards? Isn't that right?

22 A You're making a technical statement which is
23 under -- are they Important Agricultural Lands under
24 the state law.

25 Q Under the criteria in the statute.

1 A Under the criteria in the statute. I will
2 confess that I don't know and do not have in front of
3 me what the criteria are. It is my understanding that
4 when we identified lands they were not included, these
5 lands were not included under those that would be
6 mapped using the state funds. But as Counsel, our
7 Counsel has said, I'm probably not the best person to
8 talk about what is going on with that program.

9 Q Mr. Stanfield, are you aware as a planner of
10 the increasing public interest in sustainability and
11 food production?

12 A Yes.

13 Q And that's not merely just a question of job
14 producing industries. It's a question of providing
15 adequate food at reasonable prices for people who live
16 in areas where the food is produced, is that correct?

17 A I... that sounds reasonable. I'm not an
18 expert on sustainability with regard to food.

19 Q Why would the city and county support any
20 kind of development proposal that proposes to remove
21 one of the major producers of local produce as a
22 consequence of this development?

23 A That is your assertion that that is what the
24 consequence will be.

25 Q Well, if the Land Use Commission were to

1 agree that that is a consequence, why should they
2 allow that occur in this day and age at this point
3 consistent with plans that were developed 30 or 40
4 years ago that didn't take into account sustainability
5 of food production?

6 A Well, obviously they didn't because at the
7 time that wasn't an issue of awareness. At this point
8 in time it is an issue of awareness, as I testified
9 earlier. We did look at the agricultural land
10 protection issue as part of the review.

11 It is our contention that there is ample
12 land elsewhere on the Island of O'ahu, other than the
13 Petition Area, to provide more than enough land to
14 grow all the crops that have been successfully raised
15 in Hawai'i, completely eliminating imports.

16 Q And with respect to subject matter you would
17 have to defer to other witnesses who have more and
18 better knowledge than you as to the suitability of
19 those lands, as to the suitability of the water
20 supplies for those lands, as to whether or not those
21 lands can actually support the crops that are already
22 being grown in 'Ewa, correct?

23 A That is the conclusion of a city study
24 completed as part of the General Plan review and
25 revision process, which I have read and am convinced

1 by. But you are right, I'm not the expert on that,
2 but that is what the city's publication says.

3 Q Now, I just want to ask you about a couple
4 things that you testified to or comments you made
5 earlier. For example, you made a comment about people
6 working in the judicial center, the family court
7 building in 'Ewa.

8 Do you know has any study been done to
9 determine how many of the people working there
10 actually moved out there or live in the area around
11 there?

12 A I'm not aware of any study.

13 Q Were any of the people --

14 A That's not to say there has not been.

15 Q Well, you made some off-the-cuff comment
16 about we should ask the people who work there about
17 something. And I'm just wondering if you know if any
18 of those people who actually live in Kapolei or the
19 'Ewa area?

20 A Do I personally know people who work --

21 Q Do you know of any statistics or information
22 that would justify any conclusion that by building
23 that building there it has attracted people who live
24 in the Kapolei area?

25 A I cannot document that.

1 MR. SEITZ: I have no further questions.

2 CHAIRMAN LEZY: Redirect?

3 MS. TAKEUCHI-APUNA: I have a couple of
4 questions.

5 REDIRECT EXAMINATION

6 BY MS. TAKEUCHI-APUNA:

7 Q At the time the 'Ewa DP was written the
8 estimated number of housing units for the Petition was
9 approximately 16,000 units?

10 A That sounds about right. We looked at the
11 table earlier. That seems in the ballpark.

12 Q And now with what would be -- would that
13 estimate go up or down?

14 A We understand and we're using a revised
15 figure in our proposed revised plan reflecting the
16 Petitioner's plans for the area which didn't use as
17 much of the area for residential development as we had
18 assumed might happen in '95, '96, '97.

19 Q So the current number would be estimated at?

20 A I think we said 11,000 something.

21 Q Can you explain Petitioner's contribution to
22 the 'Ewa impact fee for the Ho'opili Project?

23 A All building permits for projects in 'Ewa
24 are assessed a fee that goes towards supporting
25 transportation improvements in 'Ewa. So that fee

1 would be applied to all building permits in the
2 Ho'opili Project.

3 Q And do you know how much the Petitioner
4 would pay out towards these?

5 A I don't know.

6 MS. TAKEUCHI-APUNA: Okay. No further
7 questions.

8 CHAIRMAN LEZY: Thank you. Thank you,
9 Mr. Stanfield. Pardon me. Commissioners, questions?
10 Thank you, Mr. Stanfield. I think it makes sense for
11 logistics purposes to break for lunch now. We'll take
12 a short lunch, forty-five minutes, and ask the parties
13 to be back promptly at quarter past 12 so we can pick
14 up with the county's next witness. Thank you.

15 (Recess was held 11:35-12:26)

16 CHAIRMAN LEZY: Ms. Takeuchi, do you have
17 your next witness?

18 MS. TAKEUCHI-APUNA: Yes. The city calls
19 Kathy Sokugawa.

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

23 THE WITNESS: Yes.

24 CHAIRMAN LEZY: Please state your name.

25 THE WITNESS: Kathy Sokugawa.

1 CHAIRMAN LEZY: Proceed, please.

2 MS. TAKEUCHI-APUNA: Thank you.

3 DIRECT EXAMINATION

4 BY MS. TAKEUCHI-APUNA:

5 Q Thank you. Ms. Sokugawa, where are you
6 employed?

7 A City and County of Honolulu Department of
8 Planning and Permitting.

9 Q How long have you been employed by DPP?

10 A Since its inception in 1998.

11 Q What is your current position and how long
12 have you held that position?

13 A I was chief planner division head. I've
14 been in that position since the inception of the
15 Department of Planning and Permitting and before that
16 with the Department of Land Utilization.

17 Q Are you familiar with the proposed Project
18 that is the subject of this Petition?

19 A Yes.

20 Q Are you familiar with the Important Ag Lands
21 legislation?

22 A Yes.

23 Q So under Chapter 205 Hawaii Revised Statutes
24 what are the two ways of designated IAL lands?

25 A The two ways are for the private landowner

1 or farmer to request such a petition or for the county
2 to present its recommendations to the City Council.
3 But in both cases the State Land Use Commission is the
4 final decision-maker.

5 Q And under Chapter 205 HRS what is the city's
6 role in executing IAL legislation?

7 A The city's role is to create recommended
8 countywide maps for consideration by the Land Use
9 Commission. Once that's done, incentives at the
10 county level which should also be considered for
11 designated IAL lands.

12 The process of the state law also proceeds
13 to say that the process of identifying the county maps
14 should include a community involvement process.

15 Q Has the county identified IAL's as required
16 under Chapter 205?

17 A Not yet.

18 Q And why not?

19 A As it was already previously mentioned this
20 morning, the state law allowed, stipulated that the
21 county process will begin once the state gave funds to
22 the counties to do so. How --

23 Q I'm sorry, go ahead.

24 A However, in its wisdom the City Council has
25 budgeted its own funds, county funds, to start the

1 process without the state funding.

2 Q Okay. Are you aware of any other counties
3 that have designated IAL lands?

4 A I think at various levels the counties,
5 other counties, neighbor island counties are looking
6 at, I think Kaua'i is the most farthest along in the
7 process.

8 They have developed preliminarily maps. But
9 to my knowledge none of the counties has submitted
10 maps to the Land Use Commission yet.

11 Q Can you say whether the county would
12 designate this Petition Area IAL?

13 A Again, because it's a long process with
14 specific requirements about the process, it would be
15 premature for me to guess about that. But initially I
16 would say that the department would be not
17 recommending this area as a potential IAL area.

18 Q Why would that be?

19 A Because the state law says under section
20 205-47(a) that in considering lands for IAL
21 designation, lands that are already been planned for
22 urban use by the county plans or state plans are
23 excluded from consideration.

24 Q Can you explain why the city would weigh
25 heavily the criteria which allows the counties to

1 designate IAL consistent with city plans?

2 A Okay, and I guess I should explain. One of
3 the criteria, eight criteria used to designate IAL
4 lands by the state law is consideration or
5 consultation or coordination with county plans, namely
6 the County General Plan and the Development Plan in
7 this case.

8 So we would put a high level of importance
9 on that criteria. From a simplistic standpoint it
10 would seem inconsistent for the county to recommend as
11 IAL lands, Important Agricultural Lands, for areas
12 that it already decided should be urbanized.

13 Q So at this point in time is the Petition
14 Area from the point of view of the county considered
15 IAL?

16 A At this point, no.

17 Q Should the county designate the area IAL if
18 it fulfills seven of the eight criteria that you
19 mentioned?

20 A Again, the state law allows for flexibility
21 in applying the criterion. We're very appreciative of
22 that. It allows specifically that the criteria be
23 weighted against each other. And I believe that the
24 department's recommendation would put a lot of weight
25 on that particular criteria, compliance or consistency

1 with county plans.

2 MS. TAKEUCHI-APUNA: This concludes
3 Ms. Sokugawa's testimony and she's now open for
4 cross-examination.

5 CHAIRMAN LEZY: Thank you. Mr. Kudo?

6 MR. KUDO: No questions.

7 CHAIRMAN LEZY: Mr. Yee?

8 MR. YEE: No questions.

9 CHAIRMAN LEZY: Dr. Dudley? Would you
10 prefer to go out of order?

11 DR. DUDLEY: Prefer to go out of order.

12 COMMISSIONER LEZY: Sierra Club?

13 MS. CERULLO: No questions.

14 COMMISSIONER LEZY: Mr. Seitz?

15 MR. SEITZ: Thank you.

16 CROSS-EXAMINATION

17 BY MR. SEITZ:

18 Q Ms. Sokugawa, what is your understanding
19 with respect to classification or current
20 classification of the lands that are the subject of
21 this Petition?

22 A It is under the state Agricultural District.

23 Q And to your knowledge have those, has this
24 particular parcel of land ever been designated or
25 identified as a prime agricultural land?

1 A I don't recall what the designation is under
2 the state Agricultural Lands of Importance to the
3 state of Hawai'i program is but it may have prime
4 designation.

5 Q You're familiar with the Important
6 Agricultural Lands of Importance to the state of
7 Hawai'i, correct?

8 A Yes.

9 Q That's a process employed by the state
10 Department of Agriculture, right?

11 A It was -- it's a long-outdated process but
12 we still use it as a reference, correct.

13 Q And if I were to show you a map that was
14 prepared in 1981 in connection with that process,
15 would that help to refresh your recollection as to
16 whether the subject lands here were designated as
17 prime agricultural lands? Would that help refresh
18 your recollection?

19 A I don't know if "refresh recollection" is
20 the correct term. I don't know what it was. I don't
21 remember.

22 MR. SEITZ: May I approach the witness?

23 CHAIRMAN LEZY: Can you give an offer,
24 please.

25 MR. SEITZ: Yes. I have a map which was

1 prepared in connection with the Agricultural Lands of
2 Importance to the state of Hawai'i process which
3 clearly shows that these lands are prime agricultural
4 lands as far as the state of Hawai'i is concerned.
5 And that designation has never changed.

6 CHAIRMAN LEZY: What's the source of that
7 map?

8 MR. SEITZ: Well, it's published by the
9 Department of Agriculture.

10 CHAIRMAN LEZY: Okay. Anybody want to look
11 at it?

12 MS. TAKEUCHI-APUNA: I'd object because we
13 haven't looked at it.

14 MR. SEITZ: It's not an exhibit. I'm just
15 asking to refresh her recollection 'cause she
16 indicated she's familiar with the process.

17 CHAIRMAN LEZY: Would you like to look at
18 it?

19 MR. KUDO: I'd like to look at it.

20 CHAIRMAN LEZY: Please share it with the
21 parties, Mr. Seitz.

22 THE WITNESS: I'd like to clarify I'm not
23 familiar with the process. I am familiar with the
24 program.

25 MR. KUDO: We would have concerns of this

1 document being used to so-call refresh the
2 recollection of Ms. Sokugawa as I believe Ms. Sokugawa
3 has already testified she was obviously not the
4 drafter of this document and may not have been around
5 when this document was done by the state agency that
6 was in charge of it.

7 MR. SEITZ: I understand that.

8 CHAIRMAN LEZY: You can show it to her if
9 your want, Mr. Seitz.

10 MR. SEITZ: Thank you.

11 Q Have you had a chance to look at what I've
12 just shown you?

13 A Yes.

14 Q Okay. And does that refresh your
15 recollection that with respect to the Agricultural
16 Lands of Importance to the state of Hawai'i that the
17 subject lands with regard to this Petition have been
18 designated as prime agricultural lands?

19 A Again, I would say I have never memorized
20 this map or the designation on any particular process.
21 So it's not a refreshment of a recollection.

22 Q Okay. If I were to indicate to you that
23 these lands are prime agricultural lands, do you have
24 any information to the contrary?

25 A No.

1 Q Let me retrieve that before I forget. Well,
2 your counsel in her questions of you suggested -- I
3 don't know whether that was, whether you agree with
4 that or not -- that perhaps with regard to the
5 determination of under the current statute, 2005
6 statute of Important Agricultural Lands, that the
7 present parcel meets seven of the eight criteria. Is
8 that your testimony?

9 A It could on a cursory check. But, again, we
10 have not started the process so I'm not going to say
11 with conclusion that it does.

12 Q Okay.

13 A That would be one estimate.

14 Q But your testimony is that at least as far
15 as the county is concerned that you would be inclined
16 not to identify the subject property because of urban
17 plans that permit this particular property to be
18 developed, is that correct?

19 A I am, based on my reading of the state law.

20 Q Okay. And were you here when the previous
21 witness testified basically that it is his
22 understanding and the position of the department that
23 this Petition should be granted because it's
24 consistent with existing county plans?

25 A Yes.

1 Q And that is the position of your department,
2 correct?

3 A Yes.

4 Q But you're not able to testify that this
5 Petition is consistent with state policies and
6 practices, are you? You can't represented that.

7 A I believe by merely the passage of these
8 adopted city policies represented by the General Plan
9 and the county plans, our position is that they are
10 consistent with state policy.

11 Q And is it your position that the state would
12 agree?

13 A You'd have to ask the state.

14 Q Well, you would agree that the state's
15 policies and practices with regard to protection of
16 agriculture are paramount in any conflict between
17 county and state policies, would you not?

18 A I would not be able to agree with that.

19 Q Why not?

20 A For example, it is paramount more -- I would
21 be more comfortable with saying it is the state policy
22 of paramount importance to provide for affordable
23 housing.

24 Q So that, as far as you're concerned, is more
25 important than preserving and protecting agricultural

1 lands; is that correct?

2 A I did not say that.

3 Q Okay. Well, are you aware of the
4 importance, the growing importance of providing local
5 sources of production of food?

6 A I understand the growing appreciation for
7 that.

8 Q And is that a goal of your department?

9 A That is one of the many goals that we seek
10 to maintain, adopt, promote, implement. But it's not
11 the only one.

12 Q Do you take the position that the county,
13 the city and county of Honolulu can designate property
14 differently than it's been designated by the state?

15 A Yes. And I need to qualify that by saying
16 the zoning can only go to the extent that it is
17 consistent with the state Land Use Law. But the
18 planning, the long-range planning of the properties
19 can be determined by the counties outside of
20 compliance at the present time with the state land use
21 boundaries.

22 Q You can make plans. But can you implement
23 those plans if they're inconsistent with state
24 policies?

25 A At the zoning level the zoning law must

1 comply with the state Land Use law.

2 MR. SEITZ: Thank you, nothing further.

3 CHAIRMAN LEZY: Dr. Dudley.

4 CROSS-EXAMINATION

5 Q (Dr. Dudley): Ms. Sokugawa, if I understand
6 you correctly, the only reason that you think that
7 this land should not be designated as IAL land, the
8 only reason you're not considering it for IAL lands is
9 because it is planned by the city for future
10 development, is that correct?

11 A It's one way of saying it. There are lots
12 of subparts to that.

13 Q Okay. Is it -- then is it true to say that
14 you haven't really looked into the land itself and the
15 value of the land, that there's this overriding thing
16 of we've already planned that for development so
17 there's no real in depth study of what's going on with
18 the land at the present time?

19 A I'm not sure I understand the question.

20 Q Okay. Let's just not try there. If this
21 farm does not exist, have you looked to other places
22 where the farm could be replaced?

23 A I'm sorry. What farm are you talking about?

24 Q The farms in the Ho'opili area, the area
25 that we're talking about in this case. If the farms

1 on the property that would be planned for Ho'opili, if
2 those farms were replaced by houses, have you looked
3 at other places on the island where those farms might
4 be re-established?

5 A I believe you already had heard from a
6 witness that there's more than ample supply of
7 agricultural land on this island.

8 Q There's a big difference, though, between
9 land and its availability as far as good clean water
10 for the crops that touch the ground, as most of these
11 do.

12 A Again, I believe there was extended
13 discussion already at the previous meeting about
14 substitutable land.

15 Q And so my question to you, then, is have you
16 really -- do you folks study all of that stuff? Or do
17 you just simply go by the designation that we planned
18 this land for development and therefore we're going to
19 have it as not IAL?

20 A As an urban regional planner for 30 plus
21 years I kinda would like to think that the word
22 "plan", even though it only has four letters, is a
23 really important, deep process. And it is not lightly
24 done without consultation, without thousands of hours
25 of community input.

1 I'd like to say that wasn't -- and I wasn't
2 there in 1976-77 when the city and county decided on
3 this idea of a Second City in the 'Ewa Plain. Some of
4 you may have been. Most of you probably not. But
5 just as there is today there is a critical issue of
6 affordable housing.

7 And one of the driving forces of that
8 decision on the Second City was weighing a balance of
9 protecting these plantation acreages with well-drained
10 soil, good climate, easy to develop and this crying
11 need for affordable housing.

12 And at the time the decision was made that
13 would be a good idea as well as, of course, preserving
14 country country. So we knew how much population was
15 coming down the tram. So previous discussion had the
16 word control. I'm not sure that that has a lot more
17 force than I think I'm at least comfortable with. But
18 I wouldn't say the city is intently committed to
19 managing its growth.

20 And that's why we developed this growth
21 management strategy of encouraging much of our new
22 development that was expected in the 'Ewa Plain.

23 So, again, it was deliberately done
24 understanding balances and tradeoffs between
25 agriculture, affordable housing and other competing

1 public policy. It was not an easy decision. It was
2 very controversial, as it remains controversial today.

3 Q So your drive for affordable housing, are
4 you aware that 70 percent of this housing will not be
5 affordable?

6 A I don't know that for sure. At the present
7 time the city has a policy of making each new
8 community provide its share of 30 affordable. But a
9 developer can provide more than that. Some developers
10 have provided significantly more than that. I can't
11 give you specific numbers but there are developers who
12 we've been blessed with who have provided more than
13 they're required.

14 Q Thank you. Ms. Sokugawa, I presume you're
15 the person that would be answering the questions that
16 I have about the farmland conversion impact rating?

17 A Unfortunately, no.

18 Q Well, can you answer any questions about the
19 farmland conversion impact rating?

20 A Is that that one form that was raised as
21 part of your exhibits?

22 Q Yes, that is.

23 A That is the sum of my knowledge.

24 Q Very good. So the city has provided nobody
25 to answer questions on the farmland conversion impact

1 rating and the city's part in it?

2 CHAIRMAN LEZY: Dr. Dudley, the city is
3 responsible for putting on its case. They're not
4 responsible for producing witnesses to respond to
5 questions that you may have.

6 MR. DUDLEY: Thank you. Good. I have no
7 further questions. Thank you very much.

8 CHAIRMAN LEZY: Redirect?

9 MS. TAKEUCHI-APUNA: No questions.

10 CHAIRMAN LEZY: Thank you very much,
11 Ms. Sokugawa. Pardon me. I keep forgetting the
12 Commission. (Laughter). It was a long new years.
13 Commissioners, questions? I was right to begin with
14 then. Thank you.

15 MS. TAKEUCHI-APUNA: Our third and final
16 witness is on his way.

17 CHAIRMAN LEZY: Any idea how long it's going
18 to take for him to get here?

19 MS. TAKEUCHI-APUNA: I think he's, like,
20 he's not at the office. He's definitely in transition
21 from BWS. So he should be here soon. I apologize.

22 CHAIRMAN LEZY: That's fine. Why don't we
23 take just a brief break then. As soon as he's here
24 please let us know.

25 (Recess in place 12:50-12:55. Commissioner Heller also

1 present)

2 BARRY USAGAWA

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

5 THE WITNESS: Yes.

6 CHAIRMAN LEZY: State your name.

7 THE WITNESS: Barry Usagawa.

8 CHAIRMAN LEZY: Please proceed.

9 MS. TAKEUCHI-APUNA: Thank you.

10 DIRECT EXAMINATION

11 BY MS. TAKEUCHI-APUNA:

12 Q Mr. Usagawa, where are you employed?

13 A I'm employed at the Honolulu Board of Water
14 Supply.

15 Q And how long have you been employed at the
16 Board of Water Supply?

17 A For 26 years.

18 Q What is your work experience?

19 A Well, first my title is Water Resources
20 Program Administer. I oversee the four sections, the
21 hydrogeology section, which develops new sources for
22 demand. They monitor the resource for health of the
23 aquifers.

24 The other section is long-range planning.
25 They do the long-range capital program and the water

1 resource plan.

2 The third section is water systems planning.

3 And they do the water system design for expansion of
4 the potable and non-potable water systems under the
5 Board's responsibility.

6 And, lastly, the last section is marine
7 conservation. So that's demand-side management as
8 well as infrastructure, water loss mitigation.

9 Q Are you familiar with the proposed Project
10 that is the subject of this Petition?

11 A Generally familiar with it.

12 Q Where does the water for the Petition Area
13 come from?

14 A The water that will serve this area, and
15 actually it does serve this area, is called the
16 Waipahu Waiawa aquifer system area as defined by the
17 state Water Commission. It extends between Waiawa
18 Stream and Kunia Road and from the coast up to in
19 between Mililani and Wahiawa.

20 We have, the Board of Water Supply has a
21 number of sources within this aquifer system primarily
22 above the freeway. There's also a non-potable water
23 supply that also taps from this aquifer on the Project
24 site.

25 Q And the Board of Water Supply is requiring a

1 dual system, is that correct, from the Petitioner?

2 A That's correct. As part of the policies in
3 the 'Ewa Development Plan for 'Ewa developments the
4 directed growth area is being required to utilize the
5 brackish water, recycled water that's available in
6 'Ewa to put dual water systems to extend the high
7 quality drinking water supply further.

8 We also have a water Master Plan that was
9 approved in 1987 that the Board approved that set
10 forth the dual water system criteria for all future
11 developments in 'Ewa.

12 Q Can you tell the Commission what has been
13 the historical impact of agriculture on water
14 resources in the Project Area?

15 A Historical impact of agriculture. There are
16 two I can think of. One is that the agricultural
17 pesticides and fertilizers have, do leach into the
18 groundwater aquifer and contaminates the drinking
19 water.

20 The other impact is that -- well, it's
21 actually a benefit -- once the sugar plantations
22 closed it released a lot of agricultural water back to
23 the state Water Commission that has been made
24 available to certain amounts of, well, development for
25 other uses.

1 Q How does the City determine how many gallons
2 of water are needed for the 'Ewa Development Plan
3 area?

4 A There are two ways. One is we utilize the
5 population projections that are provided by the
6 Department of Planning and Permitting. And we also
7 used the potable and non-potable Master Plans that are
8 reviewed for, submitted to us for review and approval
9 upon which we size the water system infrastructure for
10 the particular land use. So domestic and fire
11 protection.

12 Q And how much water is needed for the
13 Ho'opili Project?

14 A Well, the water Master Plan is still
15 conceptual. It hasn't been approved by us. So I'd
16 like to refer to the developer's consultant Tom Nance
17 who testified, I believe, 3.95 million gallons per day
18 on the potable side and 1.75 million gallons per day
19 on non-potable side.

20 Q Is there enough water supply for the
21 Ho'opili development at full buildout?

22 A There should be with accommodation of both
23 potable water, brackish water for irrigation -- I mean
24 brackish non-potable and recycled water for irrigation
25 and advanced conservation measures. There should be

1 sufficient water supplies for the entire development
2 potable and non-potable.

3 Q Will this Project affect the aquifer for the
4 area?

5 A From two standpoints. From the standpoint
6 of -- from the pumping standpoint I don't see an
7 additional impact. Whether this land use is
8 agricultural or urban you still utilize approximately
9 the same amount of water supply. And it's drawn from
10 the same aquifer.

11 From a recharge reduction standpoint I don't
12 see an impact of this development on the underlying
13 aquifer largely because this area is a low rainfall
14 area. There's not a whole lot of recharging that
15 goes on anyway.

16 If this was a proposal that was in a higher
17 rainfall area, say, over 50, 60 inches per year -- and
18 by the way, this site gets about 20 inches per year --
19 if you were to urbanize an agricultural land, for
20 example, in the 50 to 60-inch rainfall a year, the
21 hard surfaces would cause the rainfall to run off
22 instead of percolate.

23 And if the recharge is reduced in those
24 areas, then there's an impact to, potential impact to
25 the sustainable yield of the groundwater. But in this

1 case there's not a whole lot of recharge that goes on
2 so I don't see a major impact.

3 Q Is there enough water supply for all new up
4 and coming developments currently planned for the 'Ewa
5 region?

6 A This is a harder question to answer. I will
7 say that there should be through accommodation of
8 groundwater for drinking, brackish water and recycled
9 water for irrigation. That's conservation. And I
10 have to have add desalinization because now we're
11 talking about a larger demand.

12 What is that demand? Currently the 'Ewa
13 area on the potable side uses approximately
14 16 million gallons per day. And our review of the
15 Master Plans that have been approved and some are
16 currently under review, and these Master Plans include
17 areas like Ho'opili, West O'ahu campus, DHHL, East
18 Kapolei, city of Kapolei, Kalaeloa, Makaiwa Hills,
19 West Kapolei, Harbor Side and Kapolei Business Park.

20 When you total them up and add that to the
21 existing we're looking at approximately
22 35 million gallons per day as the ultimate demand.
23 And that's just an estimate. But currently we're
24 using 16. So in the ultimate it will more than double
25 the water demand.

1 I should take the time to say that in
2 reference the revised 'Ewa Development Plan table 4.2,
3 that title is Potential Sources of Potable and
4 Non-potable Water for 'Ewa.

5 In there we have identified four sources of
6 potable water, four well stations basically, that
7 total 17 million, approximately 17 million gallons per
8 day. So that includes the 'Ewa shaft which is
9 10 million gallons per day; Kunia 3, which is
10 3 million; Waipahu 4, which is 3 million and partial
11 capacity, an allocated capacity from the Honouliuli
12 wells. So together it's 17 mgd.

13 So if you add that to 16 we have about
14 33 million gallons per day is our current capacity for
15 the 'Ewa water system. If the ultimate is 35 then
16 we're short a couple million. And that's why in that
17 table we also identify the opportunity or the option
18 to develop additional Central O'ahu wells.

19 I believe Tom Nance also previously
20 testified that the sustainable yield for the
21 Waipahu/Waiawa aquifer is 104 million gallons per day
22 of which approximately 85 million has been already
23 permitted to other sources.

24 And, however, the pumpage from that 85 is a
25 lot lower. It's 55 million. So there's a lot of

1 unused sustainable yield in the Waipahu/ Waiawa area
2 that could utilize the water. We just need to
3 identify additional sources.

4 In terms of non-potable water for the
5 ultimate, that is -- we did an environmental
6 assessment in the early 2000's for non-potable water.
7 So the ultimate is approximately 27 million gallons
8 per day. We utilize about 16 now through a
9 combination of recycled water and private brackish
10 wells.

11 So when we start talking about -- the
12 opportunities to expand the recycled water plant are
13 there. By 2024 the city has entered into a consent
14 decree with EPA to expand or to convert the Honouliuli
15 Wastewater Treatment Plant to full secondary
16 treatment.

17 At that time the opportunity to expand our
18 tertiary plant will be there. And so from the
19 non-potable standpoint there should be ample
20 irrigation and water for industrial purposes for the
21 'Ewa area.

22 Q Is water available for other ag lands? And
23 is the infrastructure adequate to serve ag lands other
24 than the Petition Area?

25 A I think that's a question that may be better

1 posed to the state Department of Agriculture. They by
2 State Water Code Chapter 174C are required to develop
3 the state Agriculture Water Use and Development Plan.
4 They've done pieces of that up to this point. They've
5 only included state-owned agricultural water systems.
6 And they have not or have not yet been able to address
7 the private agricultural water systems.

8 So whether or not water supply's available,
9 the condition of the infrastructure systems that
10 irrigate those ag lands, they haven't been addressed
11 yet. But that is a state function.

12 What we're trying to do is we've started our
13 North Shore Watershed Management Plan, which is also
14 required by the State Water Code. So now we are
15 trying to evaluate the urban and agricultural water
16 demands, the supplies in the systems in the North
17 Shore Development Plan area, but we have just only
18 started a few months ago and we don't have any results
19 yet.

20 Q And at what point, or based on what
21 circumstances may desalinization become part of the
22 water resources for the Project Area?

23 A Timing. Desalination depends on Project
24 timing, and the extent of when feasible groundwater is
25 fully tapped or developed to its sustainable yield.

1 We certainly have plans in there for the desal plants.
2 We have two sites, the Kalaeloa, seawater and our
3 Kapolei brackish water plant.

4 And so -- but we've tested, we've done some,
5 a lot of engineering studies but we haven't, we
6 haven't built the plants largely because our
7 conservation programs, our strategies to diversify
8 water supplies to reduce the demands in 'Ewa as well
9 as other places around the island have been
10 successful.

11 So the more successful our diversification
12 strategies are, the more successful our conservation
13 strategies are, the farther we can desalinize into the
14 future. We may approach desalinization closer to full
15 buildout, but I don't see that any time soon.

16 Q And generally speaking how is water
17 allocated by the Board of Water Supply?

18 A Well, we applied for water use permits, like
19 all other users of water, from the State Commission on
20 Water Resource Management or the Water Commission. We
21 based those water use permit applications on
22 population projections and water Master Plans.

23 Once we obtain those water use permits for
24 our sources, we then commit that water on a first
25 come/first serve basis to municipal and agricultural

1 developments, whoever wants to tap in and obtain water
2 from the Board of Water Supply. That commitment,
3 though, happens at the very end of the land use
4 planning and permitting process.

5 So we commit water only at building permit
6 approval or approval of residential construction --
7 residential subdivision construction plans. A
8 commitment doesn't occur prior to that. If, water is
9 not available at the time of permit, then we withhold
10 our approval until such time as water is available.

11 And, for instance, if there's contamination
12 or one of our wells is not completed yet, we have the
13 option to withhold the approvals until such time as
14 the water is available because we're talking about
15 domestic water and fire protection for our customers.

16 MS. TAKEUCHI-APUNA: Thank you. This
17 concludes Mr. Usagawa's testimony. He's now available
18 for cross-examination.

19 CHAIRMAN LEZY: Mr. Kudo.

20 CROSS-EXAMINATION

21 BY MR. KUDO:

22 Q Mr. Usagawa, you mentioned the testimony of
23 Tom Nance given during these hearings, and in
24 particular the Waipahu/Waiawa aquifer. Perhaps you
25 can define some of the terms that you used in your

1 discussion there. You used the term "sustainable
2 yield" and I believe it was 104 million gallons per
3 day. Can you tell us what "sustainable yield" means?

4 A Thank you. It is actually defined in the
5 State Water Code Chapter 174C. I can't recall exact
6 verbatim, but it's basically the amount of water that
7 can be withdrawn from a source without impacting the
8 utility of that source's quality and quantity.

9 And how they develop that is they do a
10 hydrologic budget. They measure rainfall, runoff,
11 recharge, evapotranspiration. They calculate it in a
12 mathematical model and come up with a sustainable
13 yield.

14 So that is, in theory you could pump to 104
15 million gallons per day in the Waipahu/Waiawa aquifer
16 without detrimentally impacting the utility of the
17 aquifer.

18 Q So if I got you correct, if you did a
19 hydrologic study of a particular aquifer, and it was
20 estimated that aquifer had 100 million gallons in it,
21 doing the mathematical calculations that you folks do,
22 the sustainable yield would be something less than a
23 100 million gallons. Is that probable or correct?

24 A If the recharge is 100 million gallons?

25 Q No. If your estimate of the total capacity

1 of that aquifer is 100 million gallons, would the
2 sustainable yield be something less than, say
3 80 percent of it or something like that?

4 A They take a percentage of the total
5 recharge. By the way, the Water Commission does this.
6 The Board of Water Supply doesn't. We just utilize
7 the sustainability numbers for planning purposes,
8 right?

9 But as I understand it, and this may be a
10 question more apt for the commission, the Water
11 Commission, but they take a percentage of the recharge
12 going into the aquifer to develop the sustainable
13 yield and that is generally lower.

14 Q So based on the Waipahu-Waiawa aquifer which
15 is estimated to have 104 mgd sustainable yield, you
16 mentioned that there's permitted uses from that
17 aquifer of about 88 mgd or so, is that correct?

18 A I believe it's 85.

19 Q 85 mgd. Can you explain to us what
20 "permitted uses" are?

21 A Okay. So a permitted use is the amount of
22 water that the Water Commission grants a user to pump
23 on a 12-month moving average. So the Applicant would
24 submit a water use permit to the commission. They
25 would evaluate it for compliance to the Water Code and

1 their internal procedures and policies and grant a
2 permit.

3 For instance, from a well, say, like the
4 'Ewa shaft, well, strike that -- for a well they have
5 a permitted use you can pump up to that amount, say 1
6 million gallons per day on a 12 month moving average
7 you can pump no more than that.

8 Q You also mentioned that in the
9 Waipahu/Waiawa aquifer that besides the 104 mgd
10 sustainable yield and the 85 mgd permitted uses, that
11 the actual usage is around 56 mgd, is that correct?

12 A I said 55 but it's point something, so in
13 that range, yes.

14 Q Can you explain to us why the difference
15 between the actual usage and the permitted usage? Are
16 there specific reasons why it is lower?

17 A Yeah. If the demand isn't there the source
18 is not pumped. In this case conservation measures
19 have been successful and we actually are seeing a
20 decrease in pumpage islandwide over the last 10 years
21 largely due, I think, to our conservation measures.

22 So even though the permitted use is at 85,
23 we only pump to meet the demand. And that demand is
24 less and therefore the pumpage is less. It happens to
25 be 55.

1 Q What type of conservation measures are you
2 referring to specifically?

3 A We have a whole host of measures in our
4 program. The one that has had the most benefit I
5 believe is the low flow fixture regulation that was
6 set forth by ordinance in the early '90s. Basically
7 low flow toilets. The old toilets used to flush
8 7 gallons per flush. Then the next generation 3
9 and-a-half, 3 to 5 gallons per flush. Now 1.6. The
10 latest ones, the high efficiency toilet's 1.28.

11 So when you multiply that through all the
12 thousands and thousands of toilets in the entire
13 island we're just flushing less, basically. So that
14 has been the most successful.

15 I think there are economic incentives to use
16 less water to save money. And then education, public
17 education, rain barrel catchment systems that we've
18 been trying to promote; leak detention, trying to
19 insure that water goes from point A to point B as
20 efficiently as possible with the least amount of water
21 loss. And that goes from our sources to the property
22 line where our meter is and also from the meter
23 internally into the property.

24 Those kind of leak detection and repair
25 programs have been quite successful for us. And I

1 think contributed greatly to the declining water use
2 numbers that we're seeing.

3 Q So projects like Ho'opili in this area and
4 elsewhere in the island that utilize low flush toilets
5 and conservation measures should help with actual
6 pumpage of water from the various aquifers in the
7 island?

8 A Yes, that combined with the dual water
9 system utilizing a separate source of water, basically
10 matching lower quality water for irrigation also helps
11 to extend the potable resource.

12 MR. KUDO: No further questions.

13 CHAIRMAN LEZY: Mr. Yee.

14 MR. YEE: No questions.

15 CHAIRMAN LEZY: Dr. Dudley, Friends of
16 Makakilo in its admission as Intervenor agreed that it
17 would not address the issue of water. I will give you
18 some leeway, allow you to ask some questions, but
19 please keep your line of questioning brief.

20 DR. DUDLEY: Thank you.

21 CROSS-EXAMINATION

22 BY DR. DUDLEY:

23 Q Mr. Usagawa, I'm interested in the brackish
24 water and the seawater that is used for non-potable
25 water. Can you tell us where, again, you get the

1 brackish water? That comes out of wells in the 'Ewa
2 area, is that correct?

3 A Correct. There are two aquifer systems in
4 the 'Ewa area. For the Petition Area the EP18
5 battery, sometimes called EP5 and 6, that taps the
6 basal, the Waipahu/Waiawa aquifer which in that area
7 is, tends to be more brackish, is non-potable because
8 it's open to atmosphere. So you get the
9 brackish/basal sources.

10 The other main source is the -- overlying
11 that basal aquifer is 'Ewa caprock. It was all under
12 water at one time so it's sediments and coral. It's
13 physically separate for the most part from the basal
14 aquifer.

15 There's wells that tap the 'Ewa caprock
16 aquifer for non-potable irrigation. It tends to be
17 higher in chlorides but usable for certain types of
18 drought-tolerant -- salt-tolerant plants.

19 Q And if the seawater would come in to a
20 greater degree with this rising seas and with lack of
21 recharge, would that water turn more salty?

22 A If sea level rises they're predicting a 1
23 meter by 2100. The more seaward brackish wells that
24 are tapping the cap rock will probably become more
25 saline and perhaps unusable.

1 Q Unusable.

2 A Perhaps, yeah.

3 Q And these wells that are currently being
4 used in the Ewa Plain for brackish water for
5 non-potable water, is there any possibility that with
6 lack of recharge that those would become more saline?

7 A You know, I'm not a hydrologist/geologist so
8 pardon me. I'm an engineer. There is an amount --
9 there is an amount of recharge that occurs just from
10 irrigating parks and landscaped areas. As I
11 understand the 'Ewa caprock also gets some water from
12 the basal aquifer.

13 But, yeah, if recharge starts to decrease,
14 say, if rainfall trends were decreasing that would
15 also result in more brackish water quality in those,
16 in those caprock wells. That's why we have the
17 recycled water system too because the main backup.
18 Because that is our drought-proof supply. But, yeah,
19 to answer your question.

20 Q And let's say that all those became so
21 saline that they could not be used. Would there be
22 enough in the backup, the recycled water to actually
23 supply the non-potable needs for the island?

24 A From a quantity side I would say yes because
25 there is -- there is, I think the brackish water

1 totals in the range of about 3 to 4 million gallons
2 per day but they're spread out. Like 'Ewa Gentry has
3 them, Villages of Kapolei uses brackish wells for
4 irrigation.

5 But in terms of having enough recycled water
6 to replace it, they need to be in proximity of our
7 recycled water system. Those two particular projects
8 are within close proximity. So we could reconnect
9 them if they got brackish, too brackish to use.

10 Q You said that at full buildout there's the
11 possibility that we will be going to desalinated
12 water.

13 A (Witness nodding.)

14 Q Okay. And there's an article in the paper
15 that said it would cost \$40 million to complete that
16 plant. Is that correct?

17 A Yes. That was actually an estimate that was
18 done about 10 years ago. So it would probably be a
19 little higher now.

20 Q Okay. And it said that it would cost about
21 \$5 million a year to run the plant. I presume that's
22 at 5 million gallons per day, though, is that correct?

23 A I think that assumption is correct.

24 Q So Tom Nance in his earlier testimony said
25 that we might need as much as 15 million gallons per

1 day. That would mean it would cost us 15 million
2 gallons -- \$15 million a year to run the plant?

3 A I think I testified that the ultimate demand
4 is approximately 35 million on the potable side. And
5 we have about 33 mgd of groundwater wells. We could
6 easily, well, not easily, but we could develop
7 additional groundwater wells to defer desal.

8 If we didn't do that, we pursued
9 desalination, I don't think we would need to produce
10 that much, not to 15 mgd. The first increment we're
11 planning was 5. But we understand that desalinated
12 seawater is expensive.

13 And so we would operate that with cost
14 mitigation measures such as not operating it all the
15 time. So we wouldn't be -- it wouldn't be producing
16 5. We would use it for severe drought periods, severe
17 peak hour demand where our other sources cannot meet
18 that demand.

19 So we would use the desalinated water for
20 those times. It helps us make the system more
21 reliable and more resilient to drought impacts and
22 other -- for example, contamination.

23 We could replace other sources with
24 desalinated water. So I don't think it would be that
25 high. But, you know, first the more you operate it

1 the more costly it would be.

2 Q Okay. And, finally, you mentioned that --
3 well, my basic question is there are places on the
4 island where there are already approvals for housing,
5 like Waiawa I believe has 10 million houses (sic)
6 That are already approved but they're just not
7 building them right now.

8 If you don't actually give them the water
9 allocation until the building permit approval, then
10 all those 10,000 houses, for instance, they don't have
11 any water allocation right now. So if they all of a
12 sudden came on then we would, we'd have them fighting
13 for this and push us into desalinization earlier, is
14 that correct?

15 A Well, Waiawa has their own water use
16 permits. They're building in an area that we have no
17 water system. Their option was to build their own
18 system, obtain their own water use permits, then
19 dedicate it to the Board of Water. That was the plan
20 for Waiawa. But, of course, it didn't mature.

21 But to your point the Pearl Harbor aquifer
22 has close to 45 million, 104 minus 55 sustainable
23 yield minus water use pumpage. So that's a lot of
24 water, 45. But you're right.

25 The Pearl Harbor aquifer is not only

1 reserved for 'Ewa, it also provides water for Central
2 O'ahu as well as Honolulu all the way to Hawai'i Kai.
3 So there are demands for that water. There are other
4 aquifers in our system. And it's all interconnected.
5 We provide Pearl Harbor water to Wai'anae as well.

6 So all of those demands will tend to absorb
7 the available sustainability yield in Waipahu/Waiawa.
8 That's another reason why desalination is in our
9 long-range plan because we don't know how much. It
10 also provides water for agriculture in Central O'ahu,
11 the Pearl Harbor aquifer does.

12 So we, more so we should have alternative
13 sources of water as long as it's cost effective to
14 meet all demands, both urban and ag.

15 Q And the problem is that it's going to cost
16 40 million for the plant, another \$5 million to run
17 it. Then we're raising our rates by 70 percent over
18 the next five years. So there's a real problem there,
19 is that right?

20 A Yeah. We have to ensure that there are --
21 we have to proceed with costs in mind.

22 DR. DUDLEY: Thank you. That's all.

23 CHAIRMAN LEZY: Ms. Cerullo.

24 xx

25 xx

1 CROSS-EXAMINATION

2 BY MS. CERULLO:

3 Q Hi. You testified that in order to meet the
4 demand for the 'Ewa region for water needs, that the
5 demand will have to be met by a combination of
6 groundwater, non-potable brackish water, desal and
7 conservation measures, is that correct?

8 A Yes.

9 Q So is it fair to say, then, that the water
10 needed for the entire Ho'opili Project in the 'Ewa
11 region cannot be provided by currently available water
12 sources?

13 A No, it can be. Because of that table 4.2 we
14 had the list of four groundwater sources. Three of
15 them are actually online now. Oneawa shaft is under
16 construction. That provides a 17 mgd more than
17 current. So we have the sources. So not only that
18 there's a lot of groundwater available, we also have
19 the source capacity to accommodate 17 mgd of growth.
20 That exceeds the 3.9 of Ho'opili.

21 Q Is that with Ho'opili at full buildout and
22 all the other planned developments in the 'Ewa region?

23 A It's a matter of pace and timing. So if
24 Ho'opili was built out first before the others, you
25 know, we have enough source. If Ho'opili was last and

1 the others, other developments got their commitments
2 prior to, then it would -- at some point we would have
3 to develop the next series of water sources.

4 Q Okay. You mentioned low flush toilets and
5 the dual system. What conservation measures will be
6 required of Ho'opili since that's part of the plan for
7 having enough water resources?

8 A That would be part of our review of the
9 water Master Plan which is still under review.
10 Generally we would require -- the low flow toilets are
11 part of the ordinance. So you can't get the high flow
12 anymore. So that's automatic. It's plumbing code
13 already. We would ask for, for the large landscaped
14 areas for moisture sensors so that automatic
15 irrigation systems don't operate in the rain; to
16 utilize drought-tolerant landscaping.

17 Our zeriscape garden at Halawa proves that
18 you can attractively landscape your area and not use a
19 whole lot of water. Use a combination of mulch and
20 low, drought-tolerant plants.

21 There are some sophisticated irrigation
22 control systems, small weather stations that are
23 fairly cost effective now, about a thousand bucks.
24 Wind, ET, rainfall, and if you set these weather
25 stations around your development it could control the

1 irrigation systems to only irrigate the amount that's
2 needed. So it's an efficient use of whatever
3 irrigation water that you have.

4 There's numerous types of conservation
5 measures. And although we don't get into the
6 specifics of each one, there is that economic
7 incentive to use less so you pay less.

8 Q So if necessary the city will require that
9 of D.R. Horton in developing Ho'opili, those various
10 measures?

11 A We would require conservation measures the
12 characteristics of all, the different types I don't
13 know yet until we actually get to that point. But we
14 definitely will be requiring it.

15 Q Okay. So we can't look at water resources
16 in a vacuum. We have to look at Ho'opili in the whole
17 region. And you said all the aquifers are connected.

18 So I just want to understand there's another
19 development being proposed at Koa Ridge. Could you
20 explain, though, whether the water issues at Ho'opili
21 are the same or different than the water resource
22 issues at Koa Ridge?

23 A By the way, I said that our water system is
24 integrated.

25 MS. TAKEUCHI-APUNA: Objection. What is the

1 relevancy of the Koa Ridge projected to...?

2 MS. CERULLO: The aquifers are related. The
3 water resources for Ho'opili are directly related to
4 water resources of other areas. I want to understand
5 if they're different or not on a resource issue.

6 CHAIRMAN LEZY: You're asking whether that
7 particular development's water issues somehow match or
8 parallel the water issues that this Petitioner has?

9 MS. CERULLO: Yes, exactly.

10 CHAIRMAN LEZY: If the witness knows.

11 THE WITNESS: They're all from the same
12 aquifer, Waipahu-Waiawa. So it's not like it's an
13 interconnected aquifer. It's the same aquifer.
14 They're more upstream. I don't know Koa Ridge
15 development as well. It was -- I know they submitted
16 and they got, I guess they got, there's a stay or
17 denial. So I haven't been following it. It's a
18 subdivision urban development.

19 The similarities will require conservation
20 measures as well, non-potable system if a non-potable
21 supply is identified. I believe that's the
22 similarities I can think of.

23 Q (Ms. Cerullo): Okay. We've heard a lot of
24 testimony about the existence of other ag land, in
25 particular on the North Shore. Isn't it true that

1 much of these other ag lands do not currently have
2 adequate or affordable water supply for irrigation?

3 A I don't know.

4 Q Are you aware of problems currently with the
5 irrigation system in terms of water distribution?

6 A I believe they have the same issue as us,
7 aging infrastructure. They need to maintain it to
8 ensure that it's operating efficiently: Reduce the
9 water loss, ensure there's enough water for, to meet
10 their demand.

11 But I'm not familiar with the agriculture
12 irrigation systems. I'm more familiar with the Board
13 of Water Supply systems because that's where my focus
14 is.

15 MS. CERULLO: Okay. No further questions.

16 CHAIRMAN LEZY: Mr. Seitz.

17 CROSS-EXAMINATION

18 BY MR. SEITZ:

19 Q Who is it who would be familiar with and
20 responsible for delivering water to the North Shore
21 and other agricultural areas that have been identified
22 in this case as possible substitute areas for the
23 agriculture that is currently located in the 'Ewa
24 Plain?

25 A Can you name some of the areas, systems? I

1 wasn't following the case. Waialua?

2 Q Waialua is one area. Basically the entire
3 North Shore from Kahuku, I guess, to Waialua has been
4 identified as having possible locations from which or
5 to which the farms that are currently affected by this
6 Petition could move.

7 So the question has come up whether or not
8 there's water adequate enough to supply agricultural
9 operations in a similar manner. Who is it who would be
10 able to tell us whether or not that water exists or
11 the delivery systems exist? And if not what kind of
12 expense would be involved to replace them?

13 A All good questions. I would start with the
14 State Water Commission, the State Commission on Water
15 Resource Management. Because -- and the other would
16 be the Department of Agriculture through the
17 Agriculture Water Use and Development Plan. Let me
18 start with that.

19 As I said the Ag Water Use and Development
20 Plan only addresses state water systems. So they
21 didn't address Kaukonahua, Kawaiiloa, or Mokuleia, only
22 Waiahole, Waimanalo on this island.

23 And they need to address the private water
24 systems to determine whether or not there's enough
25 water, how much ag can be accommodated, what kind of

1 improvements to the infrastructure that are needed,
2 how you pay for it. All of that stuff, all of those
3 issues should be addressed in the scope of the update
4 of the state Ag Water Use and Development Plan.

5 That is done by the state Department of
6 Agriculture and it's submitted to the state Commission
7 on Water Resource Management for adoption. So it has
8 to meet the Commission's, the state Water Commission's
9 criteria as set forth in the Water Code and in their
10 statutes. Other than that would be the landowners
11 themselves.

12 Q Hang on a second. (pause) Thank you. No
13 further questions.

14 CHAIRMAN LEZY: Redirect?

15 MS. TAKEUCHI-APUNA: No questions.

16 CHAIRMAN LEZY: Commissioners? Commissioner
17 McDonald.

18 COMMISSIONER McDONALD: Good afternoon,
19 Mr. Usagawa.

20 THE WITNESS: Good afternoon.

21 COMMISSIONER McDONALD: Quick question. If
22 Ho'opili is allowed to move forward, will there be any
23 impacts, maybe, along the West Coast meaning Makaha,
24 Lualualei, Wai'anae, with regards to the current water
25 use limit I believe you folks currently have out

1 there?

2 Might be 25 -- excuse me 50 units or
3 25,000 gallons per day for these smaller developments,
4 maybe it's schools or affordable housing projects.
5 Would Ho'opili impact those smaller developments
6 along the West Coast?

7 THE WITNESS: I would say no. The water for
8 the Wai'anae district, half of the water that Wai'anae
9 uses comes from the Pearl Harbor aquifer. So water is
10 pumped from sources in Waipahu, around Barbers Point
11 into Wai'anae.

12 But you mentioned the 25,000-gallon limit.
13 What that is is a partial building moratorium for
14 those areas, is the north Makaha side of Hakimo Road.
15 The reason for that is because our line booster
16 station is too small. It needs to be enlarged. So it
17 needs to be increased in size.

18 We need to add another pump. So once we --
19 that is under design right now. Once we complete
20 those improvements we'll lift the partial building
21 moratorium in the Wai'anae area. Because that will
22 allow -- that pumping station will allow us to draw
23 more of Pearl Harbor water into Wai'anae. So that
24 will happen whether Ho'opili goes forward or not.

25 COMMISSIONER McDONALD: So it's more of an

1 issue of transmission rather than source.

2 THE WITNESS: And line pump capac-- line
3 booster pump capacity, correct.

4 COMMISSIONER McDONALD: Thank you.

5 CHAIRMAN LEZY: Commissioner Heller.

6 COMMISSIONER HELLER: Yes. We're looking at
7 a project where they're proposing, obviously, to build
8 a number of homes, schools, et cetera. That's going
9 to require a certain amount of water supply. Now, if
10 we assume just for purposes of discussion that those
11 homes could be built somewhere else, they would
12 require roughly equivalent water supply in whatever
13 location they're built, right?

14 THE WITNESS: Yes.

15 COMMISSIONER HELLER: From the viewpoint of
16 the Board of Water Supply would it be significantly
17 easier to supply that water if this development were
18 happening somewhere else on the island?

19 THE WITNESS: Rather than Ho'opili side?

20 COMMISSIONER HELLER: Right. Assume the
21 same number of homes is going to be built, but it's
22 going to be built somewhere else on O'ahu. Would that
23 make the water supply issue any easier?

24 THE WITNESS: It depends where. The benefit
25 of development in 'Ewa is that the Development Plan,

1 and I guess the General Plan, directs growth there.
2 And so for decades we've been oversizing our water
3 infrastructure in anticipation of that growth. So
4 we're planning for it. We invested in it. So if it
5 happens in 'Ewa it should be more feasible than, say,
6 in an area that we don't have a water system, but it
7 depends on where.

8 COMMISSIONER HELLER: So basically you're
9 saying you're prepared to deal with it at the proposed
10 Project site.

11 THE WITNESS: Yes.

12 COMMISSIONER HELLER: And if those
13 equivalent number of homes were to be built somewhere
14 else, whether or not you're prepared to deal with it
15 depends on where the "somewhere else" is.

16 THE WITNESS: That's correct.

17 COMMISSIONER HELLER: What about the
18 agricultural use that exists there now? If that same
19 agricultural use were transplanted somewhere else,
20 would it be easier to deal with "somewhere else" in
21 terms of water needs?

22 THE WITNESS: I wouldn't know. I'm not an
23 agricultural expert or planner. So it depends on
24 where and... so I wouldn't know.

25 COMMISSIONER HELLER: Okay. Thank you.

1 CHAIRMAN LEZY: Commissioners, any other
2 questions? (no response) I have one question for you
3 Mr. Usagawa. I wasn't sure if I heard you correctly,
4 but I thought you testified on direct that the
5 existing agricultural operations use the same amount
6 of water as would the potential development of
7 Ho'opili. Did I hear you correctly?

8 A If I said "same" then I was in error. It's
9 approximately. And the reason why I say that is
10 because we're talking about the same parcels of land
11 and whether it's urban or agriculture use certain
12 amount of water.

13 From -- I based that statement on my
14 knowledge of the design demand standards for
15 agriculture according to the State Agriculture Water
16 Use and Development Plan for planning. They say use
17 3400 gallons per acre. For golf courses and parks,
18 large landscaped areas our standards say 4,000 gallons
19 per acre. Residential uses 2500 -- 2,500 gallons per
20 acre. So it's approximately the same amount of water
21 demand per acre.

22 I said it in the context of impact to the
23 aquifer. If you're pumping water for this particular
24 parcel there's not much difference whether you pump it
25 for ag or you pump it for urban.

1 CHAIRMAN LEZY: Would there be a difference
2 in the type of water being used, though?

3 THE WITNESS: Yes. There could be. There
4 could be. Because right now it's brackish basal,
5 would irrigate with the same source or recycled water.
6 Drinking water, of course, would be from our better
7 quality wells mauka of the freeway.

8 CHAIRMAN LEZY: Okay. Thank you for your
9 testimony.

10 THE WITNESS: Thank you. And I apologize
11 for being late.

12 CHAIRMAN LEZY: That's okay.

13 MS. TAKEUCHI-APUNA: Those are all of our
14 witnesses. So this concludes our case.

15 CHAIRMAN LEZY: You reserve for potential
16 rebuttal?

17 MS. TAKEUCHI-APUNA: Yes, thank you.

18 CHAIRMAN LEZY: We have about 20 minutes
19 before the scheduled agendized public testimony.
20 Mr. Yee, do you want to press forward?

21 MR. YEE: Yes.

22 CHAIRMAN LEZY: I suggest you do so.

23 MR. YEE: Yes, yes. I think we have a
24 witness who might be able to sort of fit nicely into
25 that window. Our first witness for today would be

1 Ms. Heidi Meeker.

2 HEIDI MEEKER

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

5 THE WITNESS: Yes.

6 CHAIRMAN LEZY: State your full name and
7 proceed, please.

8 THE WITNESS: I'm Heidi Anna Meeker. I'm
9 based in the facilities branch office at Kalani High
10 School.

11 DIRECT EXAMINATION

12 BY MR. YEE:

13 Q Ms. Meeker, what's your position with the
14 state?

15 A My title is land use planner.

16 Q Ms. Meeker, are you familiar that about two
17 years ago there was an issue regarding the location
18 of, I think it was a middle school next to or adjacent
19 to a state highway? Do you remember there was an
20 issue about its location?

21 A We have an agreement that has just in very
22 broad terms where different schools might be located.
23 I don't know a particular time that the issue has come
24 up, but I believe you're talking about a high school
25 and the location close to the freeway.

1 Q I was just asking a foundational question
2 because my next question is whether the location of
3 the high school has been resolved between Department
4 of Education and the Petitioner.

5 A The final location of the high school would
6 probably be done sometime prior to large lot
7 subdivision I would guess. And could be some ways
8 into the future.

9 Q Let me be a little more specific then. Has
10 there been a Memorandum of Agreement of some type
11 executed between the Department of Education and the
12 Petitioner?

13 A Yes. We have an agreement that was signed
14 in November of 2009.

15 Q And in that agreement does the Department of
16 Education have the ability to approve or disapprove
17 the ultimate location of the high school?

18 A Yes. The agreement says that where the
19 school exactly would be located could change in
20 location, size, shape, things like that.

21 Q Subject to the approval of the Department of
22 Education?

23 A Yes.

24 Q And are you familiar that there was a
25 question raised by the Department of Transportation

1 regarding noise if a high school were to be located
2 adjacent to a state highway?

3 A I'm aware that something had been raised,
4 the issue had been raised by the Department of
5 Transportation.

6 Q And is it your understanding that the
7 location is going to be moved away from -- that it
8 will not be at least adjacent to the state highway?

9 A We have discussed different possible
10 locations. And our last discussion was that the high
11 school site would probably be moved closer to
12 Farrington Highway.

13 Q So from the perspective of the Department of
14 Education is the location of the high school and the
15 issue of noise with respect to the freeway adequately
16 addressed?

17 A Yes. We have Department of Education and
18 the Department of Health noise standards which would
19 have to be met.

20 MR. YEE: That's all the questions I have.

21 CHAIRMAN LEZY: Mr. Kudo?

22 MR. KUDO: No questions.

23 CHAIRMAN LEZY: Ms. Takeuchi?

24 MS. TAKEUCHI-APUNA: No questions.

25 CHAIRMAN LEZY: Dr. Dudley.

1 CROSS-EXAMINATION

2 BY DR. DUDLEY:

3 Q Just a question or two. How many schools
4 will be built on this Project?

5 A We expect three elementary schools, a middle
6 school and a high school.

7 Q Who will pay for those schools?

8 A The land will be donated by the Petitioner.
9 The construction would be provided by Legislature.

10 Q So actually, then, the building of the
11 schools would be the taxpayers.

12 A Correct.

13 Q Okay. In the O'ahu General Plan section 7
14 Physical Development and Urban Design, Objective A.
15 Policy 4, are you aware that it reads that "The City
16 will require new developments to provide or pay the
17 cost of all essential community services including
18 roads, utilities, schools, parks and emergency
19 facilities that are intended to directly serve the
20 development"?

21 A I'm not aware of that requirement.

22 DR. DUDLEY: Okay. Well, that's fine. Then
23 I think that's the end of my questions. Thanks so
24 much.

25 CHAIRMAN LEZY: Ms. Cerullo?

1 MS. CERULLO: No questions.

2 CHAIRMAN LEZY: Mr. Seitz?

3 MR. SEITZ: No questions.

4 CHAIRMAN LEZY: Redirect?

5 MR. YEE: No redirect.

6 CHAIRMAN LEZY: Thank you, Ma'am. Oh, pardon
7 me. Commissioners, any questions? Thank you. Why
8 don't we just take a break and we'll go straight into
9 public testimony.

10 MR. YEE: And then after public testimony
11 we'll be coming back to evidentiary hearing?

12 CHAIRMAN LEZY: Depending how long public
13 testimony goes.

14 MR. YEE: Okay. Thank you.

15 (Recess was held 1:50).

16 CHAIRMAN LEZY: Back on the record. We're
17 prepared now to take public testimony. Mr. Davidson,
18 who is first on the list?

19 MR. DAVIDSON: Pearl Johnson is first
20 followed by Jarrean Kaikaina followed by Mitchell
21 Shimabukuro. Incidentally, we're going to be imposing
22 a two minute time limit this afternoon.

23 COMMISSIONER LEZY: Good afternoon, ma'am.

24 xx

25 PEARL JOHNSON

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

3 THE WITNESS: Yes.

4 CHAIRMAN LEZY: Would you please state your
5 name, provide your address and proceed.

6 THE WITNESS: Pearl Johnson, 2404 Kaneali'i
7 Avenue, Honolulu 96813. I am Pearl Johnson speaking
8 for the League of Women Voters of Honolulu. The
9 people of Hawai'i cannot afford to lose the Ho'opili
10 land to development.

11 These 1550 acres are the best farmland in
12 the state. Not only is the soil deep and rich, the
13 land is flat, the sunshine is abundant and groundwater
14 is right there.

15 Furthermore, good transportation is nearby,
16 both air and ground. This combination of qualities is
17 available nowhere else in the state, probably the
18 world. The Land Use Commission now has the
19 opportunity to preserve a truly precious asset for all
20 of us.

21 Horton's Ho'opili website claims this
22 Project would complete plans for O'ahu's Second City.
23 However, more suburban sprawl is the more likely
24 outcome if the Petition is approved. That has been
25 the fate of the Campbell land around what was to be

1 our Second City Kapolei.

2 That has been the fate of the land around
3 Columbia, Maryland which was touted as the model for
4 new urban development but is now mostly a bedroom
5 community for Washington and Baltimore.

6 Testimony has been presented saying that the
7 high cost of labor makes agriculture uneconomical in
8 Hawai'i. However, we know of hundreds of farmers on
9 O'ahu who would jump at the chance to farm land on a
10 long-term lease.

11 It is the belief of large landowners that
12 they can get their land reclassified to urban, as
13 Horton is requesting, that keeps these landowners from
14 offering long-term leases.

15 Your approval of Horton's request would only
16 encourage these landowners to keep their lands fallow
17 and unproductive.

18 The ongoing rise in sea level will remove
19 considerable land from productive use. We need this
20 land which is high enough and far enough from the
21 ocean to produce food for the future. Please, guard
22 the future of our land and reject the Petition. Our
23 children will thank you.

24 CHAIRMAN LEZY: Parties, questions?
25 Commissioners, any questions? Thank you, Ma'am.

1 MR. DAVIDSON: Jarrean Kaikaina followed by
2 Mitchell Shimabukuro followed by Donovan Lewis.

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

6 THE WITNESS: Yes, I do.

7 CHAIRMAN LEZY: Please state your name and
8 your address and proceed.

9 THE WITNESS: My name is Jarrean Kaikaina.
10 My address is 85-1394 Kaneaki Street, Wai'anae,
11 Hawai'i 96792. First of all, hau'oli makahiki ka kou
12 akahi apau. Happy new year, everyone. We're back
13 again in this new year. And I sit here as a, first a
14 proud resident of O'ahu and a proud member of the
15 Carpenters Union. And I firmly support the Ho'opili
16 Project.

17 I see it as my constituents, fellow members,
18 also other brothers and sisters in the trades, as a
19 way to revitalize a presently dismal construction
20 industry, to bring it back alive and give it a jump
21 start. It will definitely bring thousands of jobs,
22 not just at the forefront but throughout its
23 existence.

24 The fellow communities that'll rise up
25 around Ho'opili I foresee as a way for our future

1 generations to be able to live and reside and be able
2 to continue their residency here in Hawai'i with the
3 plan, part of it as affordable homes for people to
4 remain here, work here, play here.

5 The rise in future for schools, communities,
6 open spaces for our children, our future children as
7 we are tasked to provide not only for ourselves not in
8 our lifetime.

9 We are supposed to be able to lay a
10 foundation for each and every one of us for times that
11 is unforeseen when we're not going to be here for our
12 children, their children.

13 This place will provide other areas for
14 education, educational outlets, schools that were
15 mentioned earlier. Talking about other resources and
16 stuff, the resources should be --

17 MR. DAVIDSON: Excuse me, 30 seconds.

18 THE WITNESS: Thank you. And, you know, the
19 jobs, the economic boost, you know, just the
20 opportunity for a lot of us to do what we are able to
21 do and remain here, home, and be able to do our skills
22 whether it be farming or residing or construction,
23 name it, that we'd be able to put our skills here,
24 live here. And hopefully each and every one of us,
25 whether it's for farms as well as development, that we

1 can get together and ho'opili such as the word, to
2 come together. Mahalo.

3 CHAIRMAN LEZY: Parties, questions?
4 Commissioners, questions? Thank you.

5 MR. DAVIDSON: Mitchell Shimabukuro followed
6 by Donavan Lewis followed by Georgette Stevens.

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

10 THE WITNESS: Yes.

11 CHAIRMAN LEZY: Please state your name and
12 address.

13 THE WITNESS: My name is Mitchell
14 Shimabukuro. I live at 92-1226 Hauone Street,
15 Kapolei. Good afternoon, Chairman Lezy and members of
16 the board. My name is Mitchell Shimabukuro. I'd like
17 to testify in favor of the Ho'opili Project. I've
18 been a resident of Makakilo since 1979. I seen the
19 changes throughout the years in my neighborhood and
20 neighboring neighborhoods.

21 I'm in favor of this Project because I
22 believe that it will bring much needed jobs for our
23 local residents and also provide much needed
24 affordable housing because Ho'opili is providing
25 30 percent affordable housing.

1 With West O'ahu campus being built along
2 with the Kroc Center, I see Ho'opili just another
3 piece of a puzzle in which our city planned the Second
4 city of Kapolei over 20 years ago.

5 The biggest argument is that we're taking
6 away prime agriculture land and it will be lost. But
7 I believe the developer, D.R. Horton, has addressed
8 this issue because they are planning commercial and
9 residential farming within the community. This, I
10 believe, is a true mixed-use Project.

11 Also there will be a rail transit stop there
12 within the Project, a civic center, three elementary
13 schools, one middle school and a high school. This is
14 to me a well planned project.

15 In closing, bottom line, Ho'opili will
16 provide much needed jobs for our local residents. And
17 besides tourism, the second biggest wheel in the
18 economy right now to help our state is construction
19 jobs. That's why I really believe that this Project
20 should move forward. Thank you.

21 CHAIRMAN LEZY: Parties, questions?
22 Commissioners, questions? Thank you, sir.

23 MR. DAVIDSON: Donovan Lewis followed by
24 Georgette Stevens followed by Victoria Cannon.

25 DONOVAN LEWIS

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

3 THE WITNESS: Yes.

4 CHAIRMAN LEZY: Please state your name, your
5 address and proceed.

6 THE WITNESS: My name is Donovan Lewis. I
7 live at 91-1035 Haulele Street, Kapolei, Hawai'i
8 96707.

9 Aloha, Chair, committee members, happy new
10 year. My name is Donovan Lewis. I've been a resident
11 of Makakilo/Kapolei since 1978. When I first moved to
12 the area I was told by our realtor, Finance Factors,
13 of all the developments that was being planned in the
14 area.

15 He showed us a map that included a lot of
16 developments that was being planned in the area. He
17 said that there was gonna be shopping centers, state
18 and county office buildings, schools, parks, and all
19 of the future planned communities including the area
20 of Ho'opili.

21 I was told in 1978 that the original
22 developer, Campbell Estate, was to name this area the
23 Second City, not "country" but "city". All of this
24 was not a surprise to me. In fact, regularly
25 advocated over the years for these developments

1 because it was promised over 40 years ago. And I knew
2 that it would benefit me, it would benefit my
3 children, my grandchildren to live, work and play in
4 Kapolei so my family could have a better quality of
5 life with all of these amenities living in Kapolei.

6 I'm also a master plumber by trade. And
7 being in the construction business I have witnessed
8 over the years good times and downtimes. I am in
9 support of the Ho'opili Project because it will bring
10 jobs to my children and grandchildren who also reside
11 in the area, as well as bring much needed jobs to our
12 construction industry.

13 I also state that throughout Hawai'i history
14 that when the construction industry has been busy and
15 our local people have jobs, we're able to take care of
16 our families, that the economy of Hawai'i becomes
17 healthy.

18 I believe in our government and know that
19 healthy decisions for our future will be made so our
20 members in the construction industry can get back to
21 work.

22 Last of all, there is a lot of the land
23 north of H-1 Freeway in the
24 Kunia/Waipio/Wahiawa/Haleiwa area not being utilized
25 that is currently zoned for ag ever since the shutdown

1 of the sugar and pineapple industry which land can be
2 used for more farming.

3 I ask that you approve this Project and
4 others planned in the area for the sake of our future.
5 Mahalo for the opportunity to testify in support of
6 Ho'opili.

7 CHAIRMAN LEZY: Parties? Commissioner?
8 Thank you.

9 MR. DAVIDSON: Georgette Stevens followed by
10 Victoria Cannon followed by Thad Spreg.

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

14 THE WITNESS: Yes.

15 CHAIRMAN LEZY: Please state your name, your
16 address and proceed.

17 THE WITNESS: Georgette Stevens, P. O. Box
18 75414 Kapolei. Thank you for this opportunity to
19 speak in support of D.R. Horton-Schuler Homes'
20 Ho'opili Project. I'm here as a member of the
21 Ho'opili Task Force since it started six years ago.
22 Not only have I lived in this community for many
23 years, I work in the community of Kapolei.

24 Why is Ho'opili important to our growing
25 community? I see my 'ohana and friends leaving

1 Hawai'i because they cannot afford to live here
2 anymore. Ho'opili will offer many different options
3 to be able to continue to either own or rent a home
4 here at reasonable prices.

5 Many people from my generation from across
6 this island have come to live in Kapolei because they
7 can't afford to live where they grew up. Imagine if
8 we didn't have Ho'opili. Where will they go? Please
9 approve this much needed Project.

10 When I think of other communities that don't
11 want growth and development in their neighborhood it
12 makes me wonder where will our children live, when
13 they become adults if there are no homes to let them
14 into? Kapolei is designed for growth. And to be in
15 alignment for that growth the development of Ho'opili
16 must happen. Mahalo for this opportunity to give my
17 mana'o.

18 CHAIRMAN LEZY: Parties, questions?
19 Commissioners? Thank you, ma'am.

20 MR. DAVIDSON: Victoria Cannon followed by
21 Thad Spreg. Those are the final two signed up
22 witnesses.

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

1 THE WITNESS: Yes, I do.

2 CHAIRMAN LEZY: Please state your name, your
3 address and proceed.

4 THE WITNESS: Victoria Cannon, 92-102 Oloa
5 Place, O-l-o-a Place in Makakilo. I've lived there
6 for 24 years. Commissioners, there's one big elephant
7 in the room. And it's the already planned and
8 permitted 34,000 homes that are in the 'Ewa
9 Development Plan document given to us by the city and
10 county. The Petitioner can spin it any way it wants
11 to. There are 34,000 homes planned.

12 The addition of these 34,000 homes and then
13 add on 11,000 would bring us over the
14 publically-agreed upon limit in the 'Ewa Development
15 Plan by over 17,000 homes. It's unacceptable. We
16 have a well-thought out document that was agreed upon
17 between the city and county and the public in 1997.
18 Let's stick to that document.

19 The question of affordable? I'm kind of
20 wanting to remind everyone that Mr. Nekota testified
21 that affordable would be in the \$600,000 range, maybe
22 on the first hearing of this session. The fact that
23 the Petitioner is going to be removing prime ag land,
24 A and B soils from this development because it's
25 unsuitable for home foundations is unacceptable. You

1 cannot replace that soil once it's gone. And,
2 Commissioners, first and foremost you have all the
3 tools you need to proceed with caution regarding the
4 decision on this Petition.

5 You have your own HRS code which clearly
6 states you are commissioned to protect and preserve
7 Hawai'i ag land. You have the state of Hawai'i
8 constitution, Article 9 which clearly says we need to
9 protect ag land. There's no question of that. You
10 already have all the tools we need.

11 Please give special attention to those two
12 requirements: The adequate facilities requirement and
13 the transportation systems functions requirement that
14 are within our 'Ewa Development Plan.

15 The Petitioner cannot mitigate any of the
16 impacts caused by this development regarding these
17 sections. It can't be done.

18 We're a little bit with the cart before the
19 horse here. We need to fix our existing
20 infrastructure islandwide. It's caving in, blowing
21 up, breaking down. We are trucking sewage,
22 Commissioners. That is embarrassing as a state in
23 paradise. We're trucking sewage?

24 Please let's also remember that the Land Use
25 Commission and its Commissioners are not here to

1 create jobs. I feel bad for all the people out of
2 work. This is not what we're here talking about.
3 We're not here to talk about creation of jobs. We're
4 here to talk about protecting land. Thank you.

5 CHAIRMAN LEZY: Parties, questions?
6 Commissioners? Thank you, ma'am.

7 MR. DAVIDSON: Thad.

8 THAD SPREG

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

11 THE WITNESS: I do.

12 CHAIRMAN LEZY: Please state your full name,
13 your address and proceed.

14 THE WITNESS: My name is Thad Spreg. I live
15 in Makakilo. Today I'd like to speak about the
16 incompleteness of the Petition before us. Horton has
17 rested their case. But the information they have
18 failed to give us is extensive.

19 For example, Horton presented information
20 about buildings within Ho'opili that would compromise
21 more than 3 million square feet of space for
22 industrial and business use. Will these buildings be
23 green? What will be done on the roof tops? Will they
24 be LEED certified? There are more questions about
25 these industrial and business areas than there are

1 answers. Horton's Petition is far too incomplete to
2 approve.

3 Cemeteries. Where would those be? How much
4 acreage would be dedicated to them? I've been here
5 for all the testimony in this case so far and I have
6 not heard a word about cemeteries.

7 We've heard testimony about public schools.
8 What about private schools? Would there be any?
9 Where would they be? Horton's Petition is far too
10 incomplete to approve.

11 How much burden would Ho'opili place on the
12 taxpayer? Would the new residents and businesses
13 generate more tax revenue than their support would
14 require? Or would it be the other way around? How
15 much of a tax burden would Ho'opili end up being on
16 the people of O'ahu? We have been given no
17 information.

18 Horton's Petition is far too incomplete to
19 approve. What happens if the city's proposed rail
20 plan doesn't go through? Bob Stanfield testified
21 earlier today that, quote, "Honolulu is the major
22 employment center and will continue to be the major
23 employment center."

24 Without rail how would Ho'opili residents
25 get downtown for work? Current highways don't have

1 the capacity for the additional traffic. Horton's
2 Petition is far too incomplete to approve.

3 Libraries, medical facilities, the list of
4 what we have not heard about goes on and on and on.
5 Horton's Petition is far too incomplete to approve.

6 Commissioners, when the time comes I urge
7 you to do the right thing and deny the Petitioner's
8 request because Horton's Petition is far too
9 incomplete to approve. Thank you.

10 CHAIRMAN LEZY: Parties, questions?
11 Commissioners, questions? Thank you. That's the last
12 of the signed-up testifiers. Is there anyone else who
13 wishes to provide public testimony? Seeing none, then
14 Mr. Yee, is your witness ready?

15 MR. YEE: Yes. Our next witness will be
16 Chair Russell Kokubun who's just outside.

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

20 THE WITNESS: Yes.

21 CHAIRMAN LEZY: Please state your name,
22 and, Mr. Yee, proceed.

23 THE WITNESS: Russell S. Kokubun.

24 DIRECT EXAMINATION

25 BY MR. YEE:

1 Q What is your position with the state?

2 A I'm currently the Chair for the Board of
3 Agriculture.

4 Q Chair Kokubun, was a letter to the Office of
5 Planning dated July 21, 2011 and attached in this case
6 as OP Exhibit 3B, prepared by you or at your
7 direction?

8 A Yes.

9 Q And does that constitute the Department of
10 Agriculture's position in this case?

11 A Yes.

12 Q Could you summarize your position.

13 A We had an opportunity to review the Ho'opili
14 draft Sustainability Plan and its Urban Agricultural
15 Initiative. After noting those new issues that were
16 added to the proposed development, the Department does
17 not object to the Petitioner's request for
18 reclassification.

19 We also, upon reviewing those two documents,
20 had the opportunity to meet with representatives from
21 the Ho'opili Project and to further clarify some of
22 the issues that were found in that document.

23 And we asked that further consideration be
24 made, certain commitments be made to ensure that the
25 provisions of that, of those two plans were included.

1 And in a response back from the developer those were
2 committed to.

3 I guess the aspect that was most intriguing
4 to the Department was the development of 251 acres
5 within the development Project Area to be used for
6 what's being described as an urban agricultural
7 initiative. That's a new concept, at least for me.

8 And it was -- I had great interest in seeing
9 how this would come about just because I think that
10 there's always an opportunity to integrate
11 agricultural practices within urban development
12 projects.

13 So when we took a closer look at the urban
14 agriculture initiative and reached the conclusion that
15 the plan included a 159 acres for what's being termed
16 civic farms, 8 acres for community garden plots and
17 84 acres being committed for home gardens essentially
18 or residential unit gardens, I thought that was a very
19 good part of the proposal.

20 We did, however, want to, again, receive
21 some level of assurance that these were not going to
22 just be part of a plan that was never implemented.
23 And, therefore, we wanted to gain some level of
24 commitment from the developer for those issues. And
25 in discussion we did reach some conclusions there.

1 So, you know, as included in my testimony
2 the -- our understanding is that the 159 acres of
3 civic farms would either be leased or sold in fee to a
4 commercial farming tenant with sufficient irrigation
5 water from a confirmed water source with an existing
6 water use permit.

7 We've always strongly advocated for
8 irrigation water to be supplied to agricultural lands,
9 particularly developments, so that the growers would
10 have that security.

11 We also wanted to be sure that the tenants
12 of the civic farms were able to retain or develop the
13 support infrastructure needed to support agricultural
14 development. And that was also agreed to.

15 We were concerned also that the land rent
16 charged for those civic farm tenants would be used to
17 maintain and operate the infrastructure associated
18 with the farming operations.

19 And we were also concerned about the
20 establishment of a management entity that would
21 enforce the appropriate planning tools and standards
22 to again provide a sense of security between, for
23 continuity between the farming operations and
24 residential communities.

25 Involved also in that latter issue about the

1 a management entity we wanted to also be sure that no
2 cumbersome restrictions be placed on the tenants in
3 terms of limiting their ability to farm those lands.

4 This would be important just because you
5 don't exactly know what's going to be proposed to be
6 grown there. So there needs to be, I think, a fairly
7 high level of assurance that agricultural enterprises
8 can be conducted there.

9 Also tied to what we felt was important was
10 that the current tenants that are conducting
11 agriculture on the Petition lands continue to have
12 access to the lands with irrigation water based on a
13 phasing of the development that would result in
14 incremental termination of existing farming
15 operations.

16 The idea about making a firm commitment
17 again for the 251 acres in total was important and
18 that 159 acres for the civic farms were suitable for
19 economically successful commercial farming operations.

20 So in our meetings with the developer we
21 raised those issues. We received some communications
22 back from the developer in a letter from them, which I
23 excerpted and put in my testimony the Petitioner did
24 agree to those conditions.

25 One of the key points I think that we also

1 wanted to be assured of was that of the acres being
2 pro -- the 159 acres being proposed for civic farms,
3 that those lands be suitable for good agricultural
4 management practices.

5 And in the discussion with the developer
6 there was a commitment made that the Department of
7 Agriculture would serve as, I guess, kind of like a
8 gate keeper with respect to the suitability of those
9 lands for agriculture. And we would agree to do that.

10 Essentially that's the basis for our
11 testimony and our concerns about the Project itself.
12 I also wanted to add, as I did in our testimony and
13 our letter to Office of Planning, is that as a former
14 county planner I think it's important that existing
15 county plans be respected and complied with.

16 And the fact that these lands have been
17 designated for urban development, not only the
18 Ho'opili lands, but much of the Ewa Plain, you know, I
19 think is an important consideration to keep in mind.
20 That played an important role for me in taking my
21 position on this.

22 I understand that there will be a loss of
23 some very, very good agricultural lands. But the
24 department is prepared to make available as much good
25 agricultural land as possible. And that's part of our

1 strategy to expand our agricultural industry in the
2 state.

3 So based on all of that input our position
4 officially is that we do not oppose this development
5 Petition.

6 MR. YEE: I have no further questions.
7 Chair Kokubun is available for cross-examination.

8 CHAIRMAN LEZY: Petitioner?

9 MR. KUDO: No questions.

10 CHAIRMAN LEZY: County?

11 MS. TAKEUCHI-APUNA: No questions.

12 CHAIRMAN LEZY: Dr. Dudley, why don't we
13 take Mr. Seitz first.

14 MR. SEITZ: That's what we've agreed.

15 CROSS-EXAMINATION

16 BY MR. SEITZ:

17 Q Mr. Kokubun, you said you met with
18 representatives of the developer --

19 A Yes.

20 Q -- is that correct, before reaching the
21 position that you've just explained to the Land Use
22 Commission?

23 A Yes.

24 Q Did you meet with Senator Hee?

25 A I did meet with Senator Hee.

1 Q When was that?

2 A I can't recall the exact date. I would say
3 within a three month period?

4 Q Did you meet with Dr. Dudley?

5 A No, I didn't.

6 Q Did you meet with the Sierra Club?

7 A At a conference I was at Mr. Alto did ask me
8 some questions about the Project.

9 Q You afforded the developer an opportunity to
10 talk to you about the reasonableness of their
11 Petition. Did you afford the opponents a similar
12 opportunity?

13 A No.

14 Q Why was that?

15 A I did not solicit the meeting with the
16 developer. They asked for the meeting. If any of the
17 other parties were interested in meeting I would have
18 been happy to accommodate them.

19 Q Well, Dr. Dudley's telling me he asked for
20 an opportunity to meet with you. Are you aware of
21 that?

22 A I can't recall that.

23 Q You've been an advocate for agriculture for
24 a long time, have you not?

25 A Yes.

1 Q How can you possibly square the position
2 that you've testified to today with positions that
3 you've taken in the past?

4 A I don't think I'm being inconsistent.

5 Q How about hypocritical?

6 MR. YEE: I'm going to object to that
7 question.

8 Q (Mr. Seitz): Well, let me ask you this.
9 You were a farmer yourself, is that correct?

10 A Yes.

11 Q And you were involved in the passage of
12 legislation to protect prime agriculture land, were
13 you not, when you were in the State Senate?

14 A Yes.

15 Q In fact you helped to author some of that
16 legislation, correct?

17 A Correct.

18 Q And you are aware that as one of priorities
19 of the constitution of the state of Hawai'i mandates
20 the protection of agricultural lands, correct?

21 A Yes.

22 Q Do you understand why that mandate is there?

23 A Yes.

24 Q Well, let me ask you this: Were you in the
25 state when that mandate was inserted into the

1 constitution at the last --

2 A No.

3 Q You were not here?

4 A No. I was in the state as a resident, but I
5 was not involved in the legislation.

6 Q Do you understand what the foundation or the
7 bases are for that constitutional requirement?

8 A Yes.

9 Q What do you understand them to be?

10 A That agriculture is an important industry
11 for Hawai'i, and that there was a strong desire to
12 protect that industry.

13 Q And are you also aware that there's a strong
14 interest, in fact, a growing interest, in providing
15 some degree of sustainability when it comes to food
16 production for the state of Hawai'i?

17 A Yes.

18 Q Is that something you support?

19 A Yes.

20 Q Then how can you possibly support a Petition
21 that would remove from production one of the most
22 effective and efficient farms, referring to Aloun
23 Farms? How can you possibly square that with the
24 testimony you've given?

25 A I think Aloun Farms, they are, I would agree

1 with you, excellent farmers. And they can produce
2 their product in many different scenarios. So while,
3 again, while they may lose this opportunity at this
4 particular place, I think there are other
5 opportunities that would present good potential for
6 them.

7 Q And what are those opportunities as you
8 understand?

9 A Well, there are a number of agricultural
10 lands that are going to be made available, I think
11 very good agricultural lands.

12 Q Such as?

13 A One of the issues that the Department is
14 working on is there are -- there's a proposed ag park
15 on Kunia Road of 150 acres. There's a parcel again
16 off of Kunia Road, that the DLNR will, is in the
17 process of providing to the Department of Agriculture
18 for agricultural purposes of 400 acres. And we are on
19 the threshold of completing the purchase of the
20 Galbraith Estate or Galbraith Trust Lands.

21 Q Now, with respect to all of those, to your
22 knowledge do they have adequate existing supplies of
23 water to grow the kinds of crops that Aloun Farms is
24 currently growing?

25 A The 150-acre ag park does -- it needs the

1 infrastructure to get the water to the site. But
2 that's something that the Department will do. The
3 400 acres also has access to Waiahole ditch water.
4 That would also have to be a transmission line
5 provided for that that we would be prepared to do.

6 And the Galbraith Trust Lands have one well,
7 but that's not adequate to irrigate the entire
8 1700-acre parcel. So we are working on getting some
9 planning and design money to take a look at this.

10 Q You don't have that money now.

11 A Ah, no.

12 Q And you don't have any assurance in this
13 economy that the Legislature would approve that money,
14 do you?

15 A No, I don't. Uhm --

16 Q So in essence you're proposing that this
17 Project proceed with the possibility that Aloun Farms
18 or other farmers may be able to relocate to these
19 parcels of property that you've just described,
20 correct?

21 A Yes.

22 Q How does that mere possibility square with
23 the existing production figures taking just Aloun
24 Farms, and the percentages of crops that it currently
25 provides to local markets?

1 A I'm sorry. I didn't...

2 Q Well, how are you going to replace what
3 Aloun Farms currently does?

4 A By allowing them to develop lands other than
5 that.

6 Q If, in fact, those lands become available,
7 correct?

8 A Yes.

9 Q And if, in fact, somebody comes up with the
10 money to pay for the infrastructure, correct?

11 A Mm-hmm.

12 Q Otherwise -- your answer was mm-hmm. I
13 assume that's a yes.

14 A That's a yes. Excuse me.

15 Q Otherwise Aloun Farms and other farmers
16 affected by this Petition may simply just go out of
17 business, correct?

18 A Yes.

19 Q Why would you want to jeopardize what you
20 described as an extremely effective farming operation
21 that provides food, that's utilized locally by many
22 people on this island and elsewhere in the state of
23 Hawai'i?

24 A Well, my position would be that I would try
25 to provide that land to them because it is available

1 and accessible.

2 Q Don't you think that an orderly way to go
3 about doing the business would be to, first of all
4 make that land available, provide the infrastructure
5 before this Petition is approved?

6 A That would -- yes.

7 Q Now, your predecessor was Sandra Kunimoto,
8 is that correct?

9 A Yes.

10 Q Are you aware of the positions that the
11 State Department of Agriculture took with regard to
12 this Petition while Ms. Kunimoto was occupying the
13 position that you currently occupy?

14 A I'm aware of her position relative to a
15 different aspect of the proposal or a different
16 concept for the proposal.

17 Q Why do you think it was different?

18 A Because the Urban Agricultural Initiative
19 was not a part of that, for one. And I think the
20 opportunity to provide additional lands like the
21 Galbraith Trust Lands was not available at that time.

22 Q Well, in a letter that she wrote on April 8,
23 2008, Ms. Kunimoto said, and I quote, "The Project
24 site has many of the attributes that would likely
25 qualify it as candidate for Important Agricultural

1 Lands pursuant to Chapter 205 Hawaii Revised
2 Statutes."

3 Do you agree with that?

4 A Yes.

5 Q Do you agree that the site for Ho'opili
6 could, in fact, be classified as an Important
7 Agricultural Land?

8 A It could if it -- my concern would be the
9 overlay of the City Urban Growth --

10 Q Well, there's --

11 A -- designation.

12 Q Well, if there's a conflict between the
13 legislation which you helped to write and support on a
14 state level and the city's urban plans, wouldn't you
15 agree that state policies take precedence?

16 A I think we need to work together in that
17 regard.

18 Q I understand. But the state certainly has
19 some supremacy under its constitutional mandates and
20 statutory mandates when it comes to state policies,
21 laws and rules and regulations as opposed to city
22 policies, isn't that correct?

23 A Not necessarily.

24 Q So it's your understanding that the city
25 policy can trump state law?

1 A Well --

2 MR. YEE: I'm sorry. If I could object at
3 this point to the general questioning which seems to
4 be more on the legal format rather than specific to an
5 area within Chair Kokubun's expertise. He's asking
6 about general principles of state and city comity.
7 So on that basis we would object.

8 CHAIRMAN LEZY: I think the point's well
9 taken, Mr. Seitz.

10 Q (Mr. Seitz) Let me make the question more
11 specific. Is it your understanding that when it comes
12 to protecting agricultural lands that the city's
13 policies and practices have any degree of supremacy
14 over state mandates?

15 A Well, I can give you a particular example
16 which has to do with the designation of Important
17 Agricultural Lands: That the counties have been
18 authorized to identify and map those lands after a
19 certain period of time has passed. And that those
20 petitions from the city -- from the counties then put
21 forward to the Land Use Commission for their action.

22 Q We heard testimony today that none of the
23 counties has done that since the law was passed in
24 2005. Is that your understanding?

25 A My understanding is that Kaua'i County has

1 reached a conclusion with their Important Agricultural
2 Lands mapping process.

3 Q But that process certainly has not been done
4 on O'ahu, has it?

5 A No.

6 Q Isn't that scandalous? I mean that law was
7 passed in 2005 to implement a constitutional mandate
8 for the state of Hawai'i. Is there any justification
9 why six years, excuse me, seven years later there has
10 been no action to classify those lands?

11 MR. KUDO: Objection. I believe the prior
12 witnesses from the city responded that the State
13 Legislature had not funded the work that would be
14 required by the City to prepare those maps. And that
15 in the absence of that funding the City Council in its
16 wisdom has appropriated some money for that work to be
17 done. So that work has just started.

18 MR. SEITZ: That's not an objection. That
19 was their explanation.

20 CHAIRMAN LEZY: You can respond to the
21 question, Chair.

22 THE WITNESS: I'm sorry. Could you repeat
23 the question?

24 Q (Mr. Seitz) Yes. The question was isn't it
25 upsetting to you tha six years after a law that you

1 helped to write and pass, that no action has been
2 taken able to implement the provisions of that law?

3 A My understanding is that, again, going back
4 to Kauai County's plan that they have developed
5 something that is going to go forward that their
6 County Council for approval and then on to the Land
7 Use Commission.

8 The county of Maui has also designated
9 Important Agricultural Lands in their General Plan.
10 But they have not been specifically mapped. So there
11 have been efforts to do that.

12 Q Wasn't your intent, your intent and the
13 intent of the Legislature in 2005, that lands such as
14 the lands that are proposed for this development would
15 be designated as Important Agricultural Lands when you
16 passed that Act?

17 A There were certain aspects to that Act. For
18 instance, there's a provision to allow voluntary
19 designation of the Important Agricultural Lands. And
20 there are also opportunities for the counties, again,
21 to carry out their mandate.

22 But the idea, I think, at least from my
23 perspective, was that we wanted to allow the counties
24 to utilize their planning processes and regimes to
25 come up with what they thought was most appropriate.

1 That's why we allowed that. In my opinion for me but
2 I think it was important for them to develop the maps
3 themselves.

4 Q So is it your testimony that if the county
5 doesn't do that, doesn't do what state law mandates
6 them to do, that then developers can come along and
7 approach the Land Use Commission and say, "Okay. You
8 had your chance. Now we want to develop prime
9 agricultural land"? Is that your position?

10 A No. No. I think the counties are going to
11 follow through. That's my understanding.

12 Q Okay. After this prime agricultural land is
13 already developed, right?

14 A Yes.

15 Q Because you don't oppose it.

16 A Well, no. Because they have done it. The
17 city and county hasn't done it yet.

18 Q What changed in the proposal from the time
19 that Sandra Kunimoto opposed it to now when your
20 department is coming forward and supporting it?

21 A I think I stated earlier that to me the
22 biggest changes were the Urban Agriculture Initiative
23 and the fact that there are more lands available.

24 Q Let me ask you this: Have you ever been out
25 to look at the actual land that's going to be

1 developed if this Petition is granted?

2 A I have not been on site.

3 Q Have you looked at the urban agriculture
4 lands that are supposed to be, that the developer is
5 proposing to be utilized for these civic farms?

6 A I've looked at topo maps and things like.

7 Q Have you looked at the gullies and other
8 places where there's no water where they're proposing
9 that civic farms be used?

10 A Correct, yes. We did notice that.

11 Q And they're also talking about these urban
12 lots that people who have homes can develop on their
13 own. Is that correct? Is that also a feature?

14 A Yes.

15 Q Isn't that just simply saying if you have a
16 backyard you can grow vegetables back there if you
17 choose to do so? Otherwise it's up to you? Isn't
18 that what that proposal amounts to?

19 A Well, my understanding is that a plan would
20 be provided for each perspective buyer. And that it
21 would be professionally done. But then it would be
22 the responsibility of the homeowner themselves to
23 implement that plan.

24 Q Are you aware of the size of these projected
25 backyard plots for each resident?

1 A No.

2 Q Are you aware how small the backyards are
3 going to be because the lots themselves are relatively
4 small?

5 A No.

6 Q So you haven't really investigated what
7 they're talking about when they talk about urban
8 agriculture, have you?

9 A I'm not familiar with that aspect of, you
10 know, each individual home garden. But I am aware of
11 the civic farms and the community gardens.

12 Q And as far as you're concerned the fact that
13 the developer proposed, at least at this point, to
14 have those civic farms on land that has never been
15 used for agricultural purposes before and may not
16 indeed be suitable, that's okay with you?

17 A No. As I stated earlier we asked for a
18 stipulation that we be allowed to review whatever
19 lands are going to be placed in the civic farms. And
20 that we would either approve or not approve and ask
21 for replacement lands.

22 Q Well, they have designated in the maps that
23 they've shown the Land Use Commission during the
24 proceedings currently, they have designated areas
25 where they propose those civic plots to be. Have you

1 gone out and looked at them?

2 A No, I have not.

3 Q If you were to look at them to find that
4 they are totally unsuitable for agriculture, would
5 that raise some questions in your mind about the
6 credibility of the developers?

7 A Well, we did see that on topo maps. And
8 that's why we asked for that stipulation about the
9 Department taking a role in identifying what would be
10 the most suitable lands for civic farms.

11 Q Well, would you be willing now to go out and
12 look at the plots that they have identified in their
13 existing maps and report back to the Land Use
14 Commission as to whether or not those parcels of lands
15 would be suitable for agriculture?

16 MR. YEE: I'm going to object at this time.
17 The request for information's inappropriate during
18 cross-examination.

19 CHAIRMAN LEZY: Mr. Seitz, I don't think
20 that the witness can make a representation about
21 reappearing. I think he can make a representation
22 about his willingness to review the area.

23 Q (Mr. Seitz): Do you have any questions or
24 doubts about the credibility of this developer based
25 upon what they've produced or what they've told you?

1 A Well, as I stated earlier I wanted to get a
2 firm commitment from the developer for the provisions
3 that we were concerned about. And they have provided
4 that.

5 Q And that firm commitment just simply says
6 that you get to look and see what they're proposing
7 and to request changes. Is that what it amounts to?

8 A No. No. There were a number of other
9 issues, the phasing in and allowing the current
10 farmers to continue their operations based on the
11 incremental development of the Project. The fact that
12 there needed to be suitable irrigation water provided
13 for the farms from a substantial source. And that the
14 lease rents actually be provided as a means to
15 maintain and operate the infrastructure.

16 Q And have the developers responded to those
17 concerns as to how they're going to accommodate to the
18 demands of your department? Or they simply said
19 they're going to do it?

20 A They've indicated in a letter to us that
21 they were going to do it.

22 Q Have you followed the testimony in this
23 proceeding at all since it was begun?

24 A No.

25 Q Have you read any of the editorials or news

1 articles about some of the testimony?

2 A Some.

3 Q Has anybody reported to you in any manner
4 whatsoever that the civic farming proposals of this
5 developer are in any way credible?

6 A No.

7 Q You yourself have been involved in projects
8 dealing with sustainability, have you not, food
9 sustainability?

10 A Yes.

11 Q And you have expressed from the standpoint
12 of yourself personally and professionally and your
13 department some interest in supporting the concept of
14 food sustainability for Hawai'i, is that correct?

15 A Yes.

16 Q So, again, I want to ask you if this Project
17 proceeds and Aloun Farms, for one, is not able to move
18 to some other location to continue its business, what
19 would the impact be upon food sustainability efforts
20 in the state of Hawai'i?

21 A Well, any kind of a setback would be a
22 setback. But I believe that we cannot be content with
23 what we have right now. So there's always going to be
24 a need for the Department to advocate for more
25 agricultural lands to be developed.

1 And that's my intent. You know, that's what
2 I want to help Aloun Farms with as we move forward.

3 Q Are you aware of the percentage of crops
4 that Aloun Farms contributes to the local market?
5 Have you reviewed any of the crop reports and
6 statistics pertaining to their production?

7 A No.

8 Q But, again, just to conclude at this point,
9 you are satisfied to recommend this Petition to the
10 Land Use Commission even if there is a reasonable
11 prospect that it would cause Aloun Farms and the other
12 farmers on this land to have go out of business
13 because they cannot relocate, is that correct?

14 MR. YEE: I'm going to object to the form of
15 the question, the assumption regarding the
16 recommendation. I think if you look at his written
17 testimony the Department of Agriculture, as opposed to
18 the Office of Planning, the Department of
19 Agriculture's stating they had no opposition. So if
20 you want to rephrase that I have no objection.

21 Q (Mr. Seitz): Please take the question in
22 terms of the Department of Agriculture. You're
23 content to recommend approval of this Petition even if
24 farms such as Aloun Farms and the other farmers on
25 this parcel of property may ultimately go out of

1 business because they cannot economically relocate, is
2 that correct?

3 A Yes, to the point that I will do whatever I
4 can to help them continue their operations.

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

7 CHAIRMAN LEZY: Ms. Cerullo?

8 MS. CERULLO: No questions.

9 CHAIRMAN LEZY: Dr. Dudley?

10 CROSS-EXAMINATION

11 BY DR. DUDLEY:

12 Q Mr. Kokubun, you were also the head of a
13 program called Hawai'i 2050, is that correct?

14 A There was a task force, yes.

15 Q And wasn't one of the surprising findings of
16 that task force that people really, really supported
17 agriculture, and that they really wanted to see
18 agriculture promoted here in the state?

19 A Yes, it wasn't surprising to me. But just
20 to hear it throughout the state was exciting.

21 Q Thank you. I want to come back to this
22 urban agriculture initiative. The 159 acres of civic
23 farms, you know, you are aware that an awful lot of
24 that is in gulches and gullies. I've heard you say
25 that. Are you aware that much more of it also is on

1 hillsides and rocky areas that can't be cultivated?

2 A No.

3 Q Are you aware that a good part of it runs
4 along the freeway on a section that has never been
5 cultivated?

6 A No.

7 Q Are you aware that there is a major section
8 of it which is on flat land which is in the middle of
9 a runoff section for a major stream and sometimes it's
10 flooded?

11 A No.

12 Q Are you aware that there is a section of it
13 which is also on flat land which is planned for the
14 parking lot for the park-'n-ride for the future train,
15 the rail?

16 A No.

17 Q Thank you. That's what the commercial farms
18 are, sir. Excuse me. I'm going to ask more
19 questions, not make statements. Okay. Let's turn to
20 the steward farms. The steward farms you say are 84
21 acres, is that correct?

22 A Correct.

23 Q Okay. What do you -- what do you think the
24 steward farms look like?

25 A My understanding is that the steward farms

1 are home gardens.

2 Q Is this, like, you have a home and then
3 there's additional area that is a garden?

4 A No.

5 Q No.

6 A My understanding was that it was going to
7 just be part of the parcel.

8 Q So if you buy a 5,000-acre lot --

9 MR. SEITZ: Square foot. 5,000 square foot.

10 DR. DUDLEY: 5,000 acres, pretty big lot for
11 one house. Okay.

12 Q Five thousand square foot lot. Then you
13 have a house on there that's 2,000 square feet with
14 garage. Then you've got 3,000 square foot left on
15 that 5,000 square foot lot. So there are going to be
16 3,000 square feet of farmland there. But then you
17 need to take the front yard away because they're not
18 going to have farms in the front yard, right?

19 A I don't know what the proposal is.

20 Q You don't know. Okay.

21 A But in my opinion that is suitable land for
22 a garden.

23 Q Okay. Now, then we come to the question of
24 in this Project two thirds of the land are soils that
25 need to be scooped up, taken away and coral brought to

1 replace it. Isn't that correct? Are you aware of
2 that?

3 A No.

4 Q Okay. Well, I guess I can't ask many more
5 questions, then, about that because you don't know
6 that on two-thirds of the property they're going to
7 take two-thirds of the land to bring in coral. Okay.

8 If they were to bring in, for two-thirds of
9 the land, if they were to bring in coral, and if they,
10 as they do everywhere else, just bring in coral and
11 lay it everywhere and cover it with a few feet of
12 coral, where are the lands going to be for these
13 gardens with the good dirt you're talking about?

14 A You know, gardens can be grown on all sorts
15 of soils. In fact, one of the additives for soils is
16 calcium which is coral.

17 But beyond that, you know, I think that
18 there are many different technologies now for
19 agriculture. There's hydroponics. There's many other
20 different ways of growing. Raised beds.

21 So, you know, for myself I don't look at the
22 soils as being a complete detriment to gardening. I
23 think there's all kinds of opportunities. You just
24 have to be creative about it.

25 If you can get some expert input, then I

1 think that can be very productive.

2 Q I certainly agree with that. One has to go
3 back, though, to what you just said a minute ago about
4 that "these are lands with really good soils."

5 Okay. And so, I'm sorry, I'm drawing
6 conclusions again. Let me move on to other questions.
7 You say that you have an agreement with the developer
8 that they will have 150 acres of suitable land for
9 agriculture. And you say that some of this might be
10 gulches and gullies, but you have an agreement that
11 you can look at that and say, "Give us some decent
12 land."

13 Are you aware that Mr. Plasch testified that
14 that land, according to your agreement, is going to be
15 on Ho'opili? I mean if you have a gulch and your
16 department says, "We don't like this land," then you
17 can ask them for land and that land will be on
18 Ho'opili.

19 So there will be someplace on the Ho'opili
20 property where you're going to get 159 acres of good
21 land. Okay. Are you aware of that?

22 A Yes.

23 Q Okay. But did you know that Ho'opili now
24 includes their drainage water basin which is separate
25 from the property and is subject to water coming in

1 and filling up? And that that could be the extra land
2 that is going to be given to you, if you have a
3 problem with the gulches and gullies?

4 A The way we asked for consideration on this
5 is that didn't matter where the -- it didn't matter
6 where the -- it didn't matter what the replacement
7 lands were. We wanted to see good cultivatable land
8 provided for the civic farms.

9 So in that hypothetical that you just
10 raised, I don't think we would agree to the fact that
11 the drainage basin or whatever you're talking about
12 would be suitable as a replacement.

13 Q Okay. And do you have an agreement that's
14 in stone? Or do you have an agreement that's subject
15 to something?

16 A I have it in writing in black and white.
17 And, you know, at that point that's all I could ask
18 for. I just wanted to see a firm commitment from the
19 developer that the concerns of the Department would be
20 addressed. And that's what I included in my
21 testimony.

22 Q I think my last question is if you didn't
23 know about the gulches and the gullies and the
24 hillsides and the things like that, and you signed
25 this paper, do you think that the people who got you

1 to sign the paper for farmlands and gulches and
2 gullies, do you think that they are really going to
3 come through and stand behind this 159 acres of good
4 land? Do you really think that's gonna happen?

5 A I have no reason to question that.

6 MR. DUDLEY: Thank you, sir.

7 CHAIRMAN LEZY: Mr. Yee, redirect?

8 REDIRECT EXAMINATION

9 BY MR. YEE:

10 Q You testified, is this correct, that you
11 viewed topographical maps of the Ho'opili Petition
12 Area?

13 A Yes.

14 Q And in your review of the topographical maps
15 did you notice at that time that there were gullies in
16 the areas marked for civic farms?

17 A My staff pointed it out to me. That was one
18 of the main reasons why we raised it.

19 Q Was that the basis by which you then had
20 discussions with Ho'opili and required that they
21 provide civic farms or land that would be suitable for
22 an economically successful commercial farming
23 operation?

24 A Yes.

25 Q And the determination of whether or not that

1 would or wouldn't be commercially successful,
2 economically successful commercial farming operation,
3 you understand that -- is it your understanding the
4 Department of Agriculture would then be able to tell
5 them yes, this is or no that isn't?

6 A Yes.

7 Q And you were asked about whether this was
8 set in stone. Is it the Department of Agriculture's
9 request that this requirement be placed as a condition
10 in this Petition?

11 A I think there should be serious
12 consideration for including that.

13 Q You were also asked about why, you know, six
14 years the county hasn't done any IAL designation. Are
15 you aware that there was a period of time in which the
16 counties were not allowed to bring out an IAL request
17 at the Land Use Commission?

18 A Yes.

19 Q So would it be true, then, that within that
20 six year period a certain period of time was set aside
21 to allow individuals, private landowners to first come
22 to the Commission, and the counties were not allowed
23 during that time period to do so?

24 A Yes.

25 Q Now, with respect to the order in which land

1 should be made available versus when the
2 reclassification should be made, when did the -- when
3 did the Department of Agriculture get the
4 appropriation to purchase the Galbraith Estate Land?

5 A I believe that was in 2008.

6 Q And when is the Galbraith Lands likely to
7 be, that agreement executed?

8 A The purchase agreement has been signed by
9 the Trust. So we are preparing to move forward with
10 that.

11 Q Then is it your understanding that this
12 Project -- are you familiar with the phasing
13 requirements of this Project? Let me backtrack. Are
14 you aware that there is phasing to this Project?

15 A Yes.

16 Q And you're aware that this will occur over a
17 20 year period?

18 A Yes.

19 Q In fact one of the requirements I believe is
20 that they leave the tenants, again to the extent
21 allowed by the phasing to conduct farming to the
22 extent allowed by phasing, is that right?

23 A Yes.

24 Q So with respect to this 20-year period in
25 which additional farming lands would be made

1 available, not all of the lands are going to be needed
2 in year one, correct?

3 A Yes.

4 Q So there will be additional time for the
5 Department of Agriculture to further work on providing
6 water to finally execute and get the land and do
7 further work on the infrastructure for the Galbraith
8 Lands before all of these farming tenants need to move
9 out, is that fair?

10 A Yes.

11 MR. YEE: I have no further questions.

12 Thank you.

13 CHAIRMAN LEZY: Commissioners, questions?

14 Commissioner Heller.

15 COMMISSIONER HELLER: We've heard a lot of
16 different things from different people about the
17 availability of other agricultural lands on O'ahu.

18 Do you happen to know the facts as to how
19 many acres of ag land actually exist on O'ahu that's
20 not actively being used currently in agriculture?

21 THE WITNESS: No, I don't. I can provide
22 that if you give me some time, but I do to have that
23 figure.

24 COMMISSIONER HELLER: Does the Department
25 have any figures or breakdown of how much A and B land

1 exists that's not being actively farmed at this time?

2 THE WITNESS: I think we can make a very
3 educated guess at that.

4 COMMISSIONER HELLER: I think that would be
5 useful information to know.

6 THE WITNESS: Yes.

7 COMMISSIONER HELLER: Thank you.

8 MR. YEE: Commissioner, could I -- was it
9 just that one question or was that the -- did you have
10 a second question?

11 COMMISSIONER HELLER: That was it.

12 CHAIRMAN LEZY: Any other questions?
13 Commissioner Judge.

14 COMMISSIONER JUDGE: I'm sorry if I missed
15 this, but where are the Galbraith Lands that you're
16 talking about?

17 THE WITNESS: The Galbraith Lands are near
18 Wahiawa on the North Shore side of Wahiawa, 1700 --
19 1725 acres. It was part of a trust. And when the
20 last remaining descendant passed away then they had to
21 dissolve the Trust. So the attempts were made -- did
22 you want to hear this?

23 COMMISSIONER JUDGE: Yes, please.

24 THE WITNESS: Okay. So when the Trust was
25 in the process of being dissolved they sought a

1 landowner. They wanted to try to keep it intact. It
2 also does have separate parcels that could be sold.
3 But they were unsuccessful in doing so. There was
4 one parcel that was purchased by a Howard Green.

5 But other than that that's the only parcel
6 out of that whole estate that was sold. So the
7 Department, working with the Trust for Public Lands,
8 Office of Hawaiian Affairs, the military, put together
9 some monies that we put forward as an offer.

10 After long much negotiation that was finally
11 executed. So the lands are Kukaniloko, the birthing
12 stones in Wahiawa. Are you familiar with that?

13 COMMISSIONER JUDGE: No, I'm not.

14 THE WITNESS: That's a site that OHA, in
15 particular Office of Hawaiian Affairs, in particular
16 want to protect. And that parcel is about 500 acres.
17 They have indicated to us, though, that they would
18 only need a buffer -- they would only want a buffer
19 zone around the site and that they would -- they would
20 want the Department to help manage the remaining part
21 of that for agriculture purposes.

22 So, yes, there's great potential there.
23 There's one deep well, but it's expensive to pump
24 water up. But it's also right next to Lake Wilson.
25 And the city and county is putting in an improvement

1 in their wastewater treatment plant to get it to R1
2 standards which hopefully would then allow more use of
3 that water for irrigation purposes. That's the
4 thinking.

5 COMMISSIONER JUDGE: Am I correct in
6 assuming that it's zoned agriculture?

7 THE WITNESS: Yes, it is.

8 COMMISSIONER JUDGE: And is it prime -- is
9 it ALISH, prime land?

10 THE WITNESS: If it's not A I know it's B.

11 COMMISSIONER JUDGE: Thank you.

12 CHAIRMAN LEZY: Commissioner Chock.

13 COMMISSIONER CHOCK: Thanks, Chair Kokubun,
14 for being here this afternoon. Couple of questions.
15 Roughly speaking what's the total acreage of
16 agricultural land currently under the State Land Use
17 classification system in Hawai'i, roughly speaking?

18 THE WITNESS: Gosh. I think there's over a
19 million acres.

20 COMMISSIONER CHOCK: Roughly speaking, of
21 that million acres how much of that ag land would be
22 considered productive ag land in which you could
23 actually have agricultural use on that land as a
24 percentage of that total?

25 THE WITNESS: You know, Commissioner, if you

1 had asked me this 30 years ago I would have told you
2 that it would probably only be those deep soil areas.
3 But the technology and the techniques being employed
4 by agriculture these days, the soil quality is not a
5 necessary factor.

6 In fact, in some areas like West Hawai'i
7 where it's very much lava, that is almost a preferred
8 growing medium because you don't get all the soil
9 borne diseases.

10 So agriculture these days is really, in my
11 opinion, a very creative industry. It just takes the
12 knowhow and the desire to do it and you'll find the
13 right use. So but, if I wanted to, if I go back 30
14 years and try to answer your question I would say
15 probably a tenth of what is zoned agriculture would be
16 considered A or B.

17 COMMISSIONER CHOCK: I guess one of the
18 statistics that's been used quite a bit throughout
19 this Petition is the notion that Hawai'i imports
20 85 percent of its food.

21 And I guess what I'm trying to get do is of
22 that total percentage of land that can be used for
23 agriculture, how much do we need in order to improve
24 that statistic to be more, not energy independent, but
25 a greater percentage of food security and depending

1 less upon imported food? What's the total amount of
2 land that we need in order to feed ourselves in a more
3 sustainable level?

4 THE WITNESS: I cannot give you an answer to
5 that, Commissioner. You know, I'll tell you this;
6 with my Department of Agriculture hat on, I would
7 really want to know. I would really want to see
8 whatever we could develop utilized correctly. But the
9 caveat for me would be we need to respect existing
10 zoning, planning regimes that are taking place
11 throughout the state.

12 CHAIRMAN LEZY: Commissioners, any other
13 questions? I have a few questions for you, Chair
14 Kokubun. Thank you, first, for your testimony. There
15 was reference made in some questions by Mr. Seitz
16 about the availability of other areas to replace the
17 Petition Area's ag land.

18 You just spoke about the Galbraith Trust
19 Lands. Is it the intent of the Department of
20 Agriculture to create an ag park type of a situation
21 in the Galbraith Trust Lands?

22 THE WITNESS: Yes. I think we have --
23 there's enough land there for us to be very flexible
24 in that we've also been approached by ag enterprises
25 like dairies which would require a greater amount of

1 land.

2 So we are being, you know, flexible at this
3 point. But I think we definitely want to see a
4 portion of that land developed as smaller plots for
5 individual farmers.

6 CHAIRMAN LEZY: And would part of that
7 development include Department of Agriculture bearing
8 the expense of installing the water source?

9 THE WITNESS: We are prepared to do that.
10 You know, I think that's a necessity for any
11 agriculture enterprise to be successful.

12 CHAIRMAN LEZY: Would that be all the way
13 down to irrigation of the particular plots? Or that
14 would just be to a transmission into the area?

15 THE WITNESS: Probably just the source and
16 then the transmission.

17 CHAIRMAN LEZY: Then switching gears just a
18 little bit to the Urban Agriculture Initiatives that
19 you were questioned so much about. Do I understand
20 correctly the -- it sounds like an agreement in
21 principle at least that the Department of Agriculture
22 has with the Petitioner here would give DOA final say
23 on what lands that are going to be made part of that
24 Urban Agriculture Initiative would be deemed
25 acceptable. Is that true?

1 THE WITNESS: Yes, it is true. I want to be
2 sure that we are talking about the civic farms.

3 CHAIRMAN LEZY: Right.

4 THE WITNESS: The 159 acres for civic farms.

5 CHAIRMAN LEZY: Right, right.

6 THE WITNESS: That's correct.

7 CHAIRMAN LEZY: One question I had about
8 that, though, is understanding that DOA has final say,
9 though, would that mean that those civic farms would
10 be located on site of the Petition Area? Or could
11 they be located elsewhere?

12 THE WITNESS: My understanding it would be
13 outside.

14 CHAIRMAN LEZY: Mr. Seitz asked you some
15 questions about the letter that your predecessor,
16 Ms. Kunimoto, submitted in connection, in prior
17 proceedings on this docket. I'm just curious. Is
18 Ms. Kunimoto still with the Department of Agriculture?

19 THE WITNESS: No, she's not.

20 CHAIRMAN LEZY: Have you ever talked with
21 her about the position that she took on behalf of the
22 Department of Agriculture?

23 THE WITNESS: No. But I have had
24 conversation with staff who helped in that first
25 proposal.

1 CHAIRMAN LEZY: One final question. You've
2 been involved in various ways with agriculture in the
3 state of Hawai'i for a very long time. And I know
4 that you're obviously very committed, knowledgeable
5 about agriculture in the state.

6 It's no secret in this case that this is, at
7 least from my perception, not your ordinary
8 agricultural area, being the Petition Area. I guess
9 for lack of a better term it's kind of a cookie bite
10 out of a very heavily urbanized area.

11 And I'm not aware of, and I'm wondering if
12 you're aware of, any other similar actively farmed
13 area in the state of Hawai'i that's in that same type
14 of a position, same posture being essentially a chunk
15 taken out of an urbanized area.

16 THE WITNESS: Not that I'm aware of, no.
17 But, Chair, you know, I would also -- I think it's
18 important to also state that not only was that area
19 looked at for urban development, urban growth area,
20 but as part of that discussion the commitment was also
21 made to designate those lands mauka of the freeway and
22 to the west of Kunia Road as agricultural lands, that
23 it would always remain as such.

24 I don't know the exact terminology for the
25 city and county. I think it's ag preservation or

1 something like that. So, you know, I want that to
2 also be clearly understood by the Commissioners and
3 others. Because, you know, I think that's part and
4 parcel of the whole discussion that's going on now
5 with this development. But to answer your question,
6 I'm not aware of any similar situation.

7 COMMISSIONER LEZY: Okay. Thank you very
8 much.

9 MR. YEE: That's the last witness we have
10 today.

11 COMMISSIONER LEZY: Okay. All right. I
12 think, then, as the agenda indicated we have an
13 executive session scheduled for now. I think it makes
14 sense, then, to go ahead and adjourn the hearing for
15 today. Thanks to all the parties for your hard work
16 today. We got a lot accomplished. We're in recess.

17 CHAIRMAN LEZY: I'll entertain a motion to
18 enter executive session.

19 COMMISSIONER JUDGE: So moved.

20 COMMISSIONER McDONALD: Second.

21 CHAIRMAN LEZY: All in favor?

22 COMMISSIONERS VOTING: Aye.

23 CHAIRMAN LEZY: All opposed? Okay.

24 (The proceedings were adjourned at 3:30)

25 --oo00oo--

1 C E R T I F I C A T E

2

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

5 That I was acting as court reporter in the
6 foregoing LUC matter on the 5th day of January
7 2012;

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

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

14

15 DATED: This _____ day of _____ 2012

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18

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20 _____
21 HOLLY M. HACKETT, HI CSR #130, RPR
22 Certified Shorthand Reporter
23
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