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2

LAND USE COMMISSION

3

STATE OF HAWAI'I

4 HEARING

5

AO6-771 D.R. HORTON-SCHULER HOMES, LLC)

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TRANSCRIPT OF PROCEEDINGS

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

13 at Conference Room 205, Second Floor, Leiopapa A

14 Kamehameha, 235 S. Beretania Street, Honolulu,

15 Hawai'i, commencing at 9:10 a.m. on March 2, 2012,

16 pursuant to Notice.

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

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Certified Shorthand Reporter

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1 PRESIDING OFFICER CHOCK: Good morning.

2 This is a continued hearing of AO6-771. I'd like to
3 call the meeting to order and we're back on the
4 record. Senator Hee, your witness.

5 MR. SEITZ: Yes, thank you. At this time
6 we'll call William Tam.

7 PRESIDING OFFICER CHOCK: Mr. Tam, can I
8 swear you in please.

9 THE WITNESS: Yes.

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

13 THE WITNESS: Yes.

14 PRESIDING OFFICER CHOCK: Name and address
15 for the record, please.

16 THE WITNESS: My name's William Tam. I'm
17 the Deputy Director of the Department of Land and
18 Natural Resources for the Water Commission. Do you
19 want home or business address?

20 PRESIDING OFFICER CHOCK: Business is fine.

21 THE WITNESS: Business address is care of
22 Department of Land and Natural Resources, 1151
23 Punchbowl Street, Room 227, Honolulu, 96813.

24 PRESIDING OFFICER CHOCK: Please proceed.

25 MR. SEITZ: Good morning, Mr. Tam.

1 THE WITNESS: Good morning, Mr. Seitz.

2 DIRECT EXAMINATION

3 BY MR. SEITZ:

4 Q First of all, you're appearing here pursuant
5 to a subpoena we served on you, is that correct?

6 A That's correct. I'm not a voluntary
7 witness. I'm here only pursuant to that subpoena.

8 Q And you are currently employed as a Deputy
9 Director of the Department of Land and Natural
10 Resources?

11 A That's correct.

12 Q And what is your official title?

13 A Deputy Director of the Department of Land
14 and Natural Resources for the Commission on Water
15 Resources Management.

16 Q How long have you occupied that position?

17 A I was appointed by Governor Abercrombie last
18 year and began serving in January 2011.

19 Q Would you tell us a little bit about your
20 academic background starting with college.

21 A I attended Wesleyan University in
22 Connecticut, graduated with a degree, Bachelor's in
23 1970 in History. Spent a couple years in the Peace
24 Corps in West Africa, then attended Boston University
25 School of Law, graduated in 1976. Came to Hawai'i --

1 do you want a quick summary?

2 Q Yeah. What was your first job in Hawai'i?

3 A I was recruited to work for the Legal Aid
4 Society on Kauai and later --

5 Q So let's get that on the table. Who was
6 it -- who recruited you?

7 A Actually you and Paulson recruited me sight
8 unseen thinking the person I was Chinese.

9 Q Yes, indeed. That was our affirmative
10 employment procedure at the time. (Laughter)

11 A I've never sent my picture with my resumé
12 since.

13 Q So you worked for Legal Aid for how long?

14 A Four and-a-half years.

15 Q After that what was your next position?

16 A I then became a Deputy Attorney General at
17 the Attorney General's Office representing the Board
18 of Land and Natural Resources from 1982 to 1987.
19 During that time I was also involved -- when the Water
20 Commission was created in '87 I represented the Water
21 Commission from '87 to '97.

22 While I was there I was co-counsel in all
23 the State's water cases Robinson vs Ariyoshi which we
24 prevailed on the U.S. Supreme Court. I was counsel in
25 the Waiahole case up through the contested case

1 hearing. I was the principal co-author of the State
2 Water Code.

3 Q And after that position as a deputy attorney
4 general what happened next?

5 A I then became Of Counsel. I left the
6 Attorney General's office in '97 and became Of Counsel
7 at Alston Hunt Floyd & Ing where for 13 years I
8 practiced water and natural resources law, and did
9 some Clean Water Act cases, and continued to work on
10 water issues.

11 Q What are your current duties in the position
12 you now hold?

13 A In terms of the Water Commission I'm
14 essentially the equivalent of an executive director of
15 the Water Commission staff. Our staff has been cut
16 from 24 to 13, so we are all us working equal two jobs
17 right now. I oversee the overall responsibilities for
18 the Commission, prepare or oversee the presentation of
19 submittals to the Commission for action as well as the
20 long-term planning for the water use.

21 In particular there's a provision in the
22 State Water Code requiring the integration of water in
23 land use planning, section 31. That's a task that
24 involves coordinating with all the counties, with the
25 federal government, with other state agencies. And it

1 has been a long process since '87 to try to do that.
2 But we are now trying to pick up the pace from where
3 we were 15 years ago. So that is one of the major
4 pieces we're involved with.

5 I also, by virtue of my prior experience as
6 counsel to the Land Department, get involved in a lot
7 of other water-related matters including dam safety
8 issues, including how it relates to agriculture.

9 I'm currently -- William Aila who's the
10 Chair of the Land Board and the Water Commission --
11 his appointee to the Ag Government Corporation Board.
12 So I'm involved in a lot of the coordination with
13 that.

14 We're also involved with coordinating with
15 the Department of Hawaiian Home Lands and dealing with
16 the water rights which they have under their statute
17 as well as under the Water Code.

18 Q Are you involved at all in activities
19 relating to O'ahu's groundwater resources and the
20 management of those resources?

21 A Yes, I am. Initially back in 1992 when the
22 first designation occurred under the Water Code as it
23 was initially enacted or initially anticipated there
24 will be one statewide law.

25 In order to get that through the Legislature

1 there was a compromise made whereby areas would be
2 first designated for management that showed that there
3 were problems coming up. There were a series of
4 triggers. So in '92 the first trigger involved the
5 Windward side of O'ahu. So I was involved in that
6 decision-making.

7 And then subsequently in overseeing both
8 studies and the work of the Commission with the USGA,
9 with the Board of Water Supply, with the Army Corps
10 and with the Health Department to look at O'ahu's
11 groundwater and look at what we need to do
12 prospectively in order to protect that.

13 Q And are there currently ongoing studies with
14 respect to assessment of both current and future water
15 resources for O'ahu, and how a planning and
16 development of those resources should be engaged in?

17 A Yes. Let me step back just a second. As
18 most of you know the Water Commission was created
19 pursuant to the constitutional amendment 1978 that was
20 the result of an admonition of the Hawai'i Supreme
21 Court in litigation that making decisions about the
22 future based on sort of a rearview mirror of the law
23 was not a useful way to go forward.

24 And in the constitution there were a series
25 of rights that were protected and a series of

1 requirements to start the plan prospectively. It took
2 10 years or nine years after that constitutional
3 amendment in '78 to get a Water Code adopted. There
4 was a governor's commission. There was a legislative
5 commission. And they established a framework. That
6 framework was the result of a number of meetings over
7 a couple years that led to a structure which probably
8 no one themselves would ever have designed but which
9 everyone decided they could live with because it kept
10 a balance of things.

11 Part of the key to that whole arrangement is
12 that we have to integrate science and land use and
13 health issues into a single going-forward model. As a
14 consequence we are now undertaking studies.

15 First of all, I understand that
16 Dr. Giambelluca has already testified before you. The
17 Water Commission hired him a couple years ago to
18 update his Rainfall Atlas. As you know the Rainfall
19 Atlas was first done essentially in 1986 based on some
20 older data.

21 So the data we've been using is more than 25
22 years old. He did that update. He prepared and
23 finalized that report in October 2011. So we now have
24 that information. It's online.

25 I have some citations for the reference for

1 the record if you'd like so you can get that and a
2 copy of sort of the basics of what he said. And I
3 won't try to repeat what he's already apparently
4 testified about.

5 Secondly, we have ongoing contracts with the
6 U.S. Geological Survey based on stream gauges, many of
7 which are 80 or 90 years old, unfortunately because as
8 the plantation agriculture has gone out we've lost a
9 lot of those gauges.

10 Rain gauges and stream gauges, it's hard to
11 maintain them. So our databases are getting thinner.
12 It's also getting more expensive because of remote
13 sensing issues.

14 On O'ahu right now we have a contract with
15 the USGS and Board of Water Supply to do two things.
16 One, USGS and Board of Water Supply are studying the
17 Pearl Harbor area. And we separately with USGS are
18 doing the rest of the island.

19 Essentially we're looking at what is called
20 a recharge. A recharge is essentially rainfall less
21 evapotranspiration, less runoff that goes into the
22 ground. Some of that water goes into the ground, then
23 goes out towards the ocean just by the natural process
24 of things.

25 Then from that we calculate something called

1 sustainable yield or safe yield. That is a number,
2 although it's a moving number, that is a rough
3 estimate of the amount of water given the current
4 infrastructural patterns, that's really important to
5 understand, that could be safely extracted to maintain
6 a certain head level.

7 Historically what happened was around 1900
8 head levels were high. Then the plantation
9 agriculture came in and head levels dropped. In the
10 1970s the sustainable yield in the Pearl Harbor region
11 was thought to be around 225 million gallons a day
12 you could take out.

13 That was predicated on furrow irrigation
14 which about 30 percent returned to the ground after
15 you irrigated the sugarcane. It became more
16 efficient, the sugar companies primarily, to change to
17 drip irrigation, because you put the water right to
18 the root of the plant. But it also meant there was
19 less recharge into the ground.

20 So over time from the '70s and '80s going
21 forward as that changed as a business practice the
22 amount of water that actually went back into the
23 ground diminished.

24 Concurrently as lands reclassified from ag
25 to urban and you got hard surfaces, Mililani Town and

1 so forth, that water -- not only did the rainwater not
2 go through but there wasn't irrigation water and it
3 ran off. So that that, of course, lead to some soil
4 erosion, then would go into Pearl Harbor and then
5 settle on the reefs.

6 So that the conversion of land between an
7 irrigation culture, if you will, and a hard urban
8 surface alters to the recharges in the sustainable
9 yield to ways that most people don't quite anticipate:
10 Lost irrigation recharge, runoff and the rain doesn't
11 percolate through because it hits a hard surface and
12 runs off.

13 So the dynamic is not just arithmetic, it's
14 exponential. So we are studying these right now
15 because the data on which we based our sustainable
16 yield calculations, which is the best we had at the
17 time, was pre-1986.

18 So what we have asked the USGS to do, the
19 Board of Water Supply, is to go back and take
20 Dr. Giambelluca's new 2011 Rainfall Atlas and
21 recalculate the recharge. Not the sustainable yield
22 but the recharge.

23 Now, there's another factor in this which
24 has been the best science to date, but not good
25 enough. We've also contracted with Dr. Giambelluca to

1 look at what are called evapotranspiration studies.
2 And he has given a briefing to the commission, the
3 Water Commission, back in December about the science
4 of the evapotranspiration study. And it will probably
5 be the first genuine state-of-the-art
6 evapotranspiration study that's been done. And that's
7 probably going to take another year.

8 So it won't be until probably mid-2013 that
9 we get both the new recharge, new sustainability yield
10 and from the evapotranspiration studies for O'ahu.

11 This has implications in our water use
12 planning. Because, very briefly, under the Water Code
13 there's a requirement for the counties to prepare
14 water use and development plans, which is the attempt
15 to integrate water and land use.

16 City and county of Honolulu back in 1992,
17 like the other counties, prepared a plan, but it was
18 basically not much more than an inventory, frankly.
19 So none of those plans were actually approved by the
20 commission. Then there's a long period in between
21 when things are sort of not been done. And recently
22 it's been geared up. And the city and county has
23 stepped up on a couple areas.

24 But there are essentially seven or eight
25 regions of O'ahu. They've done Wai'anae. They've

1 done Ko'olaupoko. They've almost finished Ko'olaupoko.
2 This is the draft which will go out to public hearing
3 on Ko'olaupoko. As you can see there's a lot of
4 information in it.

5 This was, by comparison, the 1990 plan for
6 all the islands. This is the Wai'anae plan. This is
7 the Ko'olaupoko plan. So these are substantial pieces
8 of work. The North Shore plan I'm told has started.
9 There is a kick off for 'Ewa. Central Honolulu hasn't
10 been started yet. And critically for this proceeding,
11 also for the commission, Central O'ahu has not been
12 started.

13 Now, that creates a problem for us because
14 that is the key -- that's the key source of our water.
15 The Pearl Harbor aquifer has generally been considered
16 one of the finest natural aquifers in the world. It's
17 been subject to the risk of overpumping back in the
18 '70s when the Land Board under prior authority started
19 issuing water permits to restrict the pumping. Has
20 also been subject to the problem of hepta-chlorides
21 and other agricultural pesticides and herbicides. And
22 that's getting cleared up mostly.

23 Last month the commission approved a
24 conceptual study of the potential reuse of wastewater
25 and reclaimed and stormwater for Central O'ahu. Lake

1 Wilson, as you know, has -- the City puts its R2
2 water -- will be R1 water -- into Lake Wilson now.
3 The Army has an R1 facility at Wheeler which it treats
4 as wastewater and is going to be reusing the
5 wastewater back on its own land for landscaping and at
6 Leilehua for the golf course.

7 So the issue of how we reuse that water's
8 going to be critically important. Right now we
9 estimate about 25 million gallons a day of potable
10 water goes to non-potable purposes.

11 But we're also faced with the problem, as
12 Dr. Giambelluca probably testified, that the climate
13 change issues and the decline in overall rainfall is
14 going to have an impact on our aquifers.

15 The basic take away I take from what he said
16 to the Water Commission in a couple briefings is in
17 the whole about ten, a little bit more than 10 percent
18 of the rainfall has declined relative to the last 20
19 years compared to the prior 50, which corresponds to
20 the USGS calculation that under extremes over the last
21 eight years it's declined somewhere between 10, and 15
22 percent.

23 So if you take those as base levels the
24 numbers are trending down. This has been true in our
25 estimates we've obtained from hydrologists about

1 groundwater on O'ahu and on Maui. The early science,
2 John Mink did a lot of the early work based on some
3 early work by Stearns and others. And he said, "This
4 is a first best guess." And he recognized that the
5 assumptions that he made will change.

6 So that's what we're faced with. We're
7 faced with changing assumptions which are all tending
8 to go smaller. The numbers of the sustainable yield
9 calculations over time have not been going up.
10 They've been going down.

11 And some of this is just better science. So
12 they're measuring better. So it's not actual
13 conditions in the field changing but better
14 measurements.

15 But there's a danger in assuming that these
16 numbers are hard numbers the same way you think of a
17 bank account or a survey as being hard numbers.
18 They're not. Water moves and it changes and affects
19 everything. It's not like a plot of land where you
20 can sort of look at and see what it's about. It
21 integrates land use and our needs for water in a
22 variety of ways.

23 It ends up in the ocean, comes back around.
24 So it's a more complex understanding than simply:
25 Here's a survey of the land. Here's what you do.

1 That's why these studies are so important
2 because it's an attempt to bring together what's the
3 effect on the forest. I mean if, in fact, the rain
4 clouds are getting narrower hitting mountains, and
5 there's less water coming in, and the exotics are
6 moving mauka, and invasives are coming in, we're
7 losing our ability to capture the water. Now, that
8 has major consequences for everyone. It's not just
9 one location.

10 One of the things that's also, I think, hard
11 to switch on -- and this is something that you as the
12 Land Use Commission and we as the Water Commission,
13 the Land Board have some special responsibilities
14 about -- that is our timeframes are often too short.
15 We're making decisions that will affect people
16 essentially for the future, not simply today.

17 So there's a danger that you tend to look at
18 the numbers in these charts, for example. Say, "Okay,
19 here's how much we're pumping. Here's how high the
20 sustainable yield is. Like a bank account. I can
21 write a check on the difference." Doesn't work that
22 way.

23 First of all, the numbers are -- however
24 good the science may be you're, like, putting
25 thermometers, if you will, down into a black hole to

1 see what's down there. We don't know.

2 Simple example: On the Big Island they're
3 finding deep, half a billion year-old water under
4 Pohakuloa. Who would have known? The science is
5 changing rapidly on that. So we're faced with making
6 decisions about the long future.

7 So when you folks have to think about a
8 decision, it's not just going to just be 10 years, 20
9 years, 30 years. We're talking 50 to 100 years.

10 When the Water Commission's making decisions
11 likewise, we are increasingly having to realize once
12 you make commitments it's very hard to withdraw them.
13 Once you change from ag/urban, for example, it's an
14 intensity and inelastic demand. It's not like
15 agriculture which can come and go.

16 So the kinds of -- the kinds of
17 understanding we have to have to deal with water is
18 much more complex than: Here's a permit. Or here's a
19 check on a bank account.

20 There are a couple other factors that are
21 often overlooked and have been slow to have been
22 integrated into this. And that has to do with water
23 quality. The USGS is now measuring in parts per
24 trillion. Not billion, but trillion.

25 And so as they do that and the Health

1 Department starts to catch up with these measurements
2 we're going to find things. There's no way around it.
3 So the issue of water quality is going to raise its
4 head more dramatically in the future than it has in
5 the past.

6 Hawai'i, for example, soils in Hawai'i have
7 a high level of arsenic in it. That's just the way it
8 is. There are places where there are dioxins.
9 There's the remnants of a hundred years of
10 agriculture. The EPA and the Clean Water branch are
11 struggling with some of these new problems. And their
12 regulatory regime has not caught up yet. Even the
13 measuring, the science hasn't caught up yet.

14 So there's some things out there we're going
15 to have to be aware of. There are more and more sort
16 of forces that are beginning to converge. And we're
17 trying to get our hands on this by working with people
18 more and more.

19 There have been in the last hundred years in
20 Hawai'i some very significant litigation over water
21 issues. That has sort of framed where we got to.
22 Finally, with the Water Code we created an instrument
23 to go forward rather than just looking back.
24 Nonetheless, we have a lot of things we have to take
25 care of.

1 We have some constitutional obligations to
2 Native Hawaiians with regard to taro, with regard to
3 riparian rights, with regard to how those practices
4 are carried out.

5 We have some obligations with the federal
6 government with regard to water quality, with regard
7 to how we manage our nearshore waters.

8 This is an aside. One of the things we're
9 doing we're about to sign an agreement with the Army
10 Corps and other federal agencies to look at West Maui
11 as a model for what happens to what you do on the land
12 and how does that affect the ocean and the nearshore
13 fisheries, because our agricultural practices impact
14 what goes on in the ocean.

15 So this integration of water and land use
16 which has been slowly coming is now coming much more
17 quickly.

18 It's a long answer to your question, but
19 there's no simple way to figure out what's this going
20 to look like in 50 or 60 years. Because the more we
21 sort of fix in commitments, the less flexibility we're
22 going to have for the next generation to deal with the
23 things they're going to have to deal with.

24 We don't want to foreclose the future
25 generations from having some options in their life.

1 And the difficulty is the more we build our
2 infrastructure a particular way, the more we're going
3 to be tied into that delivery system.

4 One of the problems that happened in Pearl
5 Harbor was the wells were largely drilled close to
6 each other, close to Waipahu, close to Pearl Harbor
7 right mauka of there. And they were -- obviously you
8 don't want to have to build more pipelining than you
9 want to in order to get the water out. So they're
10 building wells often close, deep and big. Well, all
11 those wells are like straws all drawing from the same
12 bottom part of it, like soda if you will. And they
13 start to interfere with each other.

14 So one of the things the Board of Water
15 Supply is having to do over time is cut back, if you
16 will, or stop pumping the big, deep wells that are
17 close to the ocean. Because what happens is it pulls
18 up, it sucks up that bottom. You get this cone of
19 depression that brings up saltwater.

20 Sea level rise and desalinization aside,
21 that problem alone has the danger of making brackish
22 what was otherwise potable water. So you want to
23 spread out your pumps and your wells ideally in a
24 pattern where you're skimming off the top of the whole
25 aquifer.

1 But we don't actually know, despite all the
2 wells that are out there, what that all looks like.
3 That's why the sustainable yield is not the same as
4 the recharge. The recharge may be a mathematical
5 calculation of how much water is going into the
6 ground. But how much you can take out is a function
7 of where your wells are. If they're too close to each
8 other they start interfering, you can't pump them at a
9 maximum level.

10 If you don't distribute it evenly then you
11 can't take out that sustainable yield, which is a
12 magical number. But the reality is it's not actually
13 that number. It's what you can do without hurting
14 each other's wells.

15 Some of that water may be perched in a place
16 you just can't get to it. Yet mathematically that
17 number's there.

18 One thing that we've been very interested in
19 trying to do in that regard is look at the cost
20 benefit of the conservation versus new source
21 development.

22 During the Waiahole hearings 15 years ago, I
23 guess, the Board of Water Supply testified that if
24 they had to do new source development on O'ahu where
25 they know there's water, which is on the North Shore,

1 it's such a great distance and they have to go so
2 deep, then estimate was approximately \$7 million to
3 drill a well to get a million gallons out. Not the
4 operating expense. The capital expense.

5 So we started asking the question what if we
6 took the same \$7 million, invested it in the forest,
7 captured the water, would you get more water into your
8 ground, which was the best storage you could have, use
9 your existing infrastructure so you don't have to
10 drill a new well and get more water out that way?

11 Could you just demonstrate on a cost-benefit
12 basis that conservation makes more sense than new
13 source development.

14 The answer seems to be yes, pretty clearly.
15 But it's more difficult to organize that because you
16 have to deal with multiple landowners who own the
17 watersheds. And they're all starting to head in that
18 direction because they realize the truth of it.

19 Not only do you help your watershed in terms
20 of native forest and rain capture, you don't have to
21 put in more infrastructure. So you use the existing
22 infrastructure. And it's on a pure cost benefit
23 basis. It makes more sense to do that.

24 As you may know the Department of Land and
25 Natural Resources has, in light of this, initiated

1 something called the rainfalls/the rain forest which
2 is a program -- I've got a website, a white paper we
3 presented to the Legislature and others to do
4 precisely that.

5 To take -- our goal is to take \$11 million,
6 a million per watershed in each of the 11 watershed
7 partnerships across the state, and essentially hire
8 more professional staff to go up and identify the best
9 places to fence out, frankly, the ungulates were the
10 problem. We only fence about 4 percent of the forest
11 right now, 10 percent maybe of the state land. And
12 we're losing it.

13 If you simply would start to fence out those
14 critical places where you know the rain's going to
15 come down, make sure you kept the native forest --
16 these are very mauka areas. These are not close
17 down -- we could one. Save some of the native forest,
18 but, two, help with our recharge in a serious fashion.

19 Because as those invasives go up the
20 mountain -- strawberry guava, strawberry guava has a
21 very high evapotranspiration rate. It not only
22 evaporates, it also takes water out of the ground.
23 It's everywhere.

24 In that white paper we did at the very back,
25 not the one on the website, but I've got a copy to

1 show you. Essentially strawberry guava is moving,
2 taking over our forests. Sumner Erdman is on the
3 Water Commission, owns Ulupalakua Ranch. In his
4 lifetime he's watched certain weeds and certain
5 invasives come from an 800-foot level to about a
6 1300-foot level in one person's lifetime. He's seen
7 that happen to his own cattle ranch, and he's really
8 very concerned.

9 This is something that's really important to
10 him. Because if they don't -- we don't reverse this
11 process or stop it, essentially you're not going to
12 have cattle if you don't have water.

13 So the future of Hawai'i's agriculture
14 depends on this in a way that people hadn't thought
15 about before.

16 There's a similar parallel going on because,
17 again, this is how these things get related. After
18 the Kaloko Dam breach in 2006 the Legislature passed
19 an act in 2007 saying you gotta bring your dams up to
20 speed. We have 138 unregulated -- I'm sorry --
21 regulated dams. They're mostly 80 year-old earthen
22 dams built during the plantation era.

23 And so a lot of people are going, "It's
24 expensive to fix it." But if we don't keep it, if we
25 don't keep that storage capacity, in about ten

1 years -- I don't know if Tom talked about this in his
2 testimony -- but there's a phenomena called the
3 Pacific Decadal Oscillation that occurs as a weather
4 pattern north of the Hawaiian Islands. It's about a
5 20 to 30 year cycle.

6 We happen to be, believe it or not, in the
7 slightly wetter phase of that for the next 10 years.
8 We have a little breathing room right now. But in
9 about 10 years that cycle, which is like a sliding
10 curve, is going to go into its down cycle which means
11 the leeward sides of the island are going to get much
12 drier.

13 Now, we don't have our storage to capture
14 the rain as well the forests, the Leeward sides of the
15 island -- I mean look what's going on in Kona -- are
16 going to suffer in ways we haven't yet anticipated.

17 So our goal from the dam safety side is
18 actually to help landowners keep their dams and to
19 bring them up to speed.

20 Now, the problem is they're all 80 year-old
21 earthen dams with one exception. We've got to meet
22 the FEMA standards. We can't have another Kaloko. So
23 it's gotta get fixed.

24 But if we do fix them and we get the
25 irrigation system back working, and the governor and

1 the legislature appropriated funds to do a lot of
2 this, we have the ability to store that water. And
3 that storage capacity can be critical in the dry
4 season in the down time.

5 If we don't have that storage capacity
6 agriculture is not going to work. In fact we're going
7 to have trouble with drinking water problems.

8 And so one of the things we did -- unrelated
9 to issues here -- but we've actually proposed a
10 constitutional amendment to allow special projects
11 bonds in some instances that would qualify so we can
12 issue bonds to help fix the reservoirs and pay 'em
13 back over a period of time.

14 So that the problems we're facing are
15 integrated. They're not -- you can't just sort of
16 break it off and say, okay, we're going to do this
17 without regard to what it means elsewhere.

18 The agriculture practices of the soil, for
19 example in West Maui, the runoff that occurs in
20 Lahaina, Army Corps has been working building sediment
21 basins. But we need to develop much more nuanced,
22 smaller kind of remedies that work in communities.

23 Look at the south shore of Moloka'i or off
24 of Haleakala. That area had once been forested,
25 inhabited and supported agriculture. Hawaiians had

1 check dams in theses gullies that would keep -- as the
2 rainwater'd come down, collect the soil, build up an
3 area, and that's where you grow your food. So the
4 area's -- the dryland forests were very productive.
5 But we've degraded them terribly.

6 Nu'uaniu. Nu'uaniu in 1900 was denuded of
7 trees. And they started replanting them because they
8 were worried not about the forest per se but about
9 their water supply. They understood back then.

10 That's how the forestry division got
11 started, to protect the water sources. So they
12 understood how they treat their land is critical to
13 their long-term water supply.

14 We're relearning what people knew a long
15 time ago we forgot. So the Water Commission, like you
16 folks, and like the Land Board, is having to relearn
17 some old knowledge. And these plans look sort of, you
18 know, it's a lot of material to read, a lot of
19 material to assimilate.

20 What we think this will do is use these
21 plans, use these scientists, use the experiments we're
22 doing to get people to have a conversation about how
23 we do this in a new way.

24 Going through contested cases,
25 notwithstanding everything you folks are going through

1 today, is one way to learn a new area. But once
2 you've learned it you shouldn't having to go through
3 this again and again.

4 And we're trying to use advanced working
5 groups to get people to start to have this dialogue.
6 On Maui, in Kona -- I was in Kona last week talking
7 with folks there. We're trying to get the National
8 Park Service, the land users, hydrologists and
9 geologists to have more of a conversation so we can
10 head off conflicts.

11 I've been through two large contested cases
12 in the history of Hawai'i: The Campbell Geothermal
13 project and the Waiahole project which went on for
14 years. That was a very intense way to learn a lesson.
15 We don't have to do that again if we start some of
16 these coordinating, some of these integrations.

17 There are a lot of tools in the Water Code.
18 It is not -- it is not a form of logic that you can
19 follow and get the answer. Just like the decisions
20 you have to make is not just one form of logic. It's
21 a series of values you've got to integrate.

22 What we'd like to do -- actually, I came
23 here -- 10 years ago or 12 years ago I came before
24 your predecessors, the Land Use Commission, we spent a
25 couple hours talking about this. Unfortunately

1 institutional knowledge sometimes gets lost. But it's
2 something we hope to do more in the future.

3 Frankly, I'd like to offer an invitation.
4 Maybe we can get the Water Commission and you folks to
5 sit down together sometime. Hui ma ia style is come
6 to my kitchen and have a cup of coffee. Let's talk
7 story. Because I think we need to understand the
8 tasks both of us face. You have the land. We have
9 the water. Land Board's got the Conservation
10 District. These are all critical interrelated
11 activities. I'm not sure what else I want to...

12 Q I think we can stop there. I don't have any
13 further questions. Because although I had a bunch of
14 questions you've answered them all so at this point I
15 have no further questions. Thank you.

16 PRESIDING OFFICER CHOCK: Petitioner?

17 CROSS-EXAMINATION

18 BY MR. KUDO:

19 Q Mr. Tam, from what you've just stated I
20 gleaned basically three points of what you're saying.
21 Maybe there's a fourth or fifth. I might have missed
22 it. Correct me if I'm wrong.

23 One is you're saying that the nature of
24 water is a resource which is affected by many factors:
25 Weather, soil conditions, geological formations, et

1 cetera. That it's very difficult to predict the
2 future of water resources because, first of all it's
3 very difficult to predict what the weather patterns
4 might be, for instance. Is that one of you positions?

5 A Not quite. Let me add one other thing just
6 before. I should have said it right at the beginning.
7 I'm here by virtue of a subpoena. The Water
8 Commission does not take a position with regard to
9 this application because it may face the very
10 application in the future.

11 So I've avoided talking about the specifics
12 of this application and will not just because we can't
13 be in the position of commenting directly on the
14 particular facts if, in fact, we are later faced with
15 the same application.

16 So please don't take my testimony as
17 suggesting I support or the commission supports or
18 opposes the Project. We can't say anything about
19 that. I'm here to help and provide you as another
20 commission with information about what we do and what
21 we think needs to be done.

22 Now, to your particular point, I don't think
23 you could say it's unpredictable; we don't anything.
24 We know a lot. I'm talking about the range of
25 uncertainty that exists within trends we already know.

1 We know, for example, that sustainable
2 yields on O'ahu have changed over time. And we have
3 volumes of information about that. We can't speak
4 with it with a mathematical certainty the same way you
5 do like a survey line. Okay.

6 So the uncertainty levels we're talking
7 about are factors that we're discovering. But the
8 trends in the overall structure in the situation is
9 pretty well documented.

10 Q Well, I was going back to Professor
11 Giambelluca, he mentioned that he had done that
12 survey --

13 A Uh-huh.

14 Q -- the annual rainfall survey in 1986 that
15 you mentioned. Is that correct?

16 A That's my understanding.

17 Q And I gather that in that study he used data
18 he had gathered at that time based on the best
19 information that he was receiving, and that he also
20 used certain assumptions in terms of his methodology.

21 And one of the assumptions he mentioned
22 yesterday was, I believe I get this correct:
23 assumption of stationarity. That was the basis of his
24 rainfall study in 1996.

25 What he testified yesterday was that the

1 climatologists have discovered that that particular
2 base assumption of the methodology that was used in
3 1986 is invalid. So they've developed a new set of
4 assumptions, I presume, that he has used for the
5 current study.

6 I'm not sure if 20 years from now
7 climatologists will find those assumptions are
8 invalid.

9 And what I was trying to get at is that the
10 nature of the art or the science of climatology is
11 unpredictable in so far as predicting what future
12 weather patterns might be one day from now, a year
13 from now or 10 years from now. Would you agree with
14 that?

15 A Well, it's hard -- it's hard to respond to
16 that because clearly the quality of the science has
17 gotten better everywhere. It's not to say you have
18 certain knowledge and there's a certain randomness in
19 events that are difficult to predict. But the
20 consequences on the ground are apparent.

21 It is clear that we are, have declining
22 groundwater sources. It is clear that the stream
23 water flows in undiverted streams have diminished.
24 It's clear that invasives plants are moving up the
25 mountain due to changes in climate. So I mean the

1 consequences are more visible.

2 Whether the science could predict in the
3 same way a mathematical equation can get you a fixed
4 number, I don't disagree that that's changing. But
5 it's not sufficient to say well, we don't know
6 anything. No, we know a great deal. The science is
7 getting better.

8 I mean physics has gotten more elaborate
9 over time, which is not to say we've figured out the
10 four fundamental forces of the universe with any
11 more -- well, with some more precision. But the
12 uncertainty exists because of the quality of the
13 work's getting better. Nothing's ever going to be
14 final. But we do see the trends and the consequences.

15 Q Well, all I'm saying is that based on
16 historical patterns of weather, I believe what
17 Dr. Giambelluca is saying it, that it still is
18 difficult to predict what the future trends are going
19 to be simply because we don't know. I mean weather
20 patterns are somewhat unpredictable. I think you'd
21 agree with that.

22 A They're somewhat unpredictable. But
23 aggregately when you look at USGS data on stream
24 gauges, for example, on un-diverted streams in over 80
25 years the trend is down. We may not know on a

1 day-to-day basis which number it is because Hawai'i's
2 streams are short and flashing.

3 You get a rainfall event and you get 10
4 times increase in the volume going down that stream
5 unlike the mainland which are more steady.

6 So it's an ecology that's different from the
7 mainland. And it's a varying ecology. And it will
8 vary from year to year. But to say it varies doesn't
9 mean we don't know directions.

10 Q No. What I'm saying is Dr. Giambelluca
11 seemed to indicate that the rainfall has been
12 decreasing over the last 20 years, is it?

13 A If you look at his Rainfall Atlas his
14 summary suggests -- and I don't want to misstate
15 him -- that in the last 20 years there appears to have
16 been a decline of about 10 percent, maybe more in some
17 cases, of the aggregate rainfall compared to the prior
18 50 years.

19 Now, those are statistical kinds of
20 calculations. They're very subject to a lot of
21 statistical recalculation. Notwithstanding that, we
22 do see trends the same way we've seen a general trend
23 in climate temperature. I mean it's not that it won't
24 change from day to day, week to week, month to month.
25 But if you look at long-terms trends and the

1 consequences those trends are more generally accepted
2 now. Not to say we have certainty.

3 Q Yeah. I don't disagree with you. I think
4 he's saying that there's a trend over the last 20
5 years of declining rainfall.

6 All I'm saying is that because of the nature
7 of the science and the methodology being used and
8 also, as you just mentioned, the data gauges and such
9 being compromised because of the economics of it or
10 whatever, that predicting the future and extrapolating
11 that the same trends are going to continue is
12 problematic at least.

13 A Yes and no. I mean I can't accept the
14 notion we don't know certain things. The fact that
15 there's some uncertainty, that's true like getting up
16 in the morning, but that doesn't mean we don't go to
17 work.

18 So I'm not inclined to accept the
19 proposition we don't have information about trends
20 because we have to make judgments based on the
21 information we have. We have a lot of information.

22 Q Exactly. As you said we go to work. The
23 next day we have to go to work, which is my next
24 point. In light of this uncertainty that you've
25 mentioned, a commission like this particular

1 Commission must make decisions on petitions that are
2 currently before it based on the best information that
3 they have.

4 At the present time at the Waipahu/Waiawa
5 Aquifer, as I understand there's, based on testimony
6 of Mr. Nance who preceded you, there's about
7 104 million gallons a day sustainability yield in that
8 particular aquifer.

9 Would you agree with that?

10 A I'd have to look at the charts. I don't
11 know the number off my head.

12 Q Mr. Nance also testified that
13 85 million gallons of that 104 is permitted. But only
14 55 million gallons per day is actually used. And the
15 testimony of Mr. Usugawa from the Board of Water
16 Supply explained the difference is because many of the
17 permitted uses are using conservation measures such as
18 low water flush toilets, et cetera, et cetera.

19 And these conservation measures have
20 resulted in significant reductions in the actual uses
21 that were requested via the permits.

22 So, therefore, the actual usage today is
23 around 55 million gallons. So the difference between
24 104 and 55 million gallons is available in the
25 Waipahu/Waiawa Aquifer.

1 This particular Project will be applying for
2 that particular amount of water. Would you say that
3 there's sufficient water for this Project, potable
4 water for this Project, based on that information?

5 A I can't make that judgment. First of all,
6 as I mentioned earlier, because this matter may come
7 before the Commission I can't make an ultimate
8 judgment on those ultimate decisions.

9 But one of the things I'm trying to bring to
10 the Commission's attention is you can't look simply --
11 this is a generic problem, it's not just this
12 application -- you can't look simply what the current
13 sustainable yield is, what the current pumpage is and
14 say it's available. That's the checkbook account kind
15 of logic.

16 The question we have to look at is 50, 80
17 years from now when the entire region has land use,
18 what does the allocation look like. There's a lot of
19 water that's not being pumped now because agriculture
20 has declined in Central O'ahu. But if it comes back
21 and needs water, where is that going to come from?

22 So there are lands like Dole, for example,
23 Kamehameha Schools on the North Shore, they're not in
24 production now but they anticipate being in
25 production. So the decision that that water is,

1 quote, "available" sort of miscasts the notion that
2 we're going to make a decision right now about
3 everything or it's first come, first serve.

4 Now, water law in Hawai'i is not first come,
5 first serve. That's something people don't
6 understand. This is not a prior appropriation state.
7 Unlike the Western United States this is a riparian
8 and appurtenant rights state. What that means in
9 water law terms is it's a Shared Use Doctrine. It
10 happens to correspond to the old Hawaiian practices.
11 But in western law the correlative is that Hawai'i, on
12 streams or on the groundwater you share your use.

13 First come, first serve does not apply.
14 That's going to be a shock to a lot of people, but
15 it's actually the old Hawaiian style. And it's
16 actually what they have to do on an island. 'Cause if
17 you deny a landowner the ability to drill a well in
18 1929 in the City Mill case, Hawai'i Supreme Court
19 expressly said that "we'll decide what the Water Code
20 does to it."

21 The notion that I got here first, therefore
22 it's mine, or I get first use of it, you might have a
23 temporary use of it, but at some point you may have to
24 cut back. One of the things that is in the Water
25 Commission permits, and one of the things we haven't

1 faced yet, which we will at some point, is the
2 situation when we had finally allocated out an area.

3 Now, it's not as apparent on O'ahu but you
4 think of Moloka'i. The sustainable yield may be
5 7 million, may be 5, may be 3. So it's a small
6 number.

7 Now, Hawaiian Homes happens to have a first
8 call on water on public lands. It hasn't used the
9 water it needs yet. But if Hawaiian Homes comes
10 along and said, "By the way, we need this water for
11 our project," by federal law, through the Hawaiian
12 Homes Commission Act and by virtue of the Admissions
13 Act, and the State Constitution, Hawaiian Homes will
14 get a first call on that water.

15 That means we may have to cut back somebody
16 who's currently using that water. Now, we haven't
17 reached that level yet. But people need to understand
18 this. I represented the state for 9 or 10 years in
19 the Robinson litigation. It was a taking case. And
20 the predicate of that was that someone had a right to
21 own water.

22 That doctrine is dead. But the problem's
23 going to arise if we as a Water Commission, for
24 example, require or do grant a permit to someone, 10
25 years from now turns out we have maxed out our

1 allocations, and somebody else comes along and says,
2 "I want to drill a well on my land here," they have a
3 right to drill a well. And they have a right to take
4 some water, don't know how much -- but we're going to
5 at some point get to the place where we have to pull
6 back water from existing users. That day's coming.

7 Having done takings law for a long time --
8 and Mr. Kudo is a little familiar with this area of
9 the law -- it's going to be tricky, but it's going to
10 happen. So we've got to start to think about, as we
11 approach that asymptotic curve, what kind of
12 commitments are we making to people we know we may
13 have to tell to cut back.

14 Now, we're going to have a cushion for a
15 while with conservation efficiency, better measures,
16 the very points he was making a moment ago. They're
17 only going to take us so far. I don't know how long,
18 20 years, 25, 30? But by the time your grandchildren
19 are sitting in your seats they're going to be faced
20 with a whole 'nother task.

21 They're going to be faced with the task of
22 rolling back uses 'cause somebody else has a
23 legitimate claim to take some water from that well.

24 That's where we're headed. This is an
25 island. There's no Colorado River. And the desalt

1 option is a very, very expensive proposition.

2 So I don't presume desalt is going to do
3 anything more than an isolated place, provide water
4 that otherwise can't be available. But to have the
5 entire social system on this island depend upon
6 desalinization plants with very high energy costs is a
7 proposition I don't encourage you to look at very much
8 as an answer.

9 Q Mr. Tam?

10 A That's a long answer to your question.

11 Q I didn't mean you to go off on a lecture to
12 the Commission.

13 A I'm just tryin' to connect the dots.

14 Q I'd like to ask you -- and I know you've
15 been subpoenaed to be here today --

16 A Yes.

17 Q -- were you able to look at the Ho'opili
18 conceptual Water Master Plan filed in this particular
19 Petition done by Bills Engineering?

20 A I've read it. I'm reluctant to comment on
21 because I don't have a working knowledge of it. I
22 intentionally avoided trying to learn the details of
23 it so I wouldn't be asked ultimate questions on the
24 question of that.

25 Q Are you aware that no new wells will be

1 required for this particular Project?

2 A As proposed I understand that may be the
3 case.

4 Q Now, you talked about protecting the
5 watershed as a way to improve the efficiency of
6 recharge. That means, as I take it, maintaining our
7 forest lands, the mountain areas especially, planting
8 trees, et cetera, to capture more of the water so that
9 more of the rainfall is able to be recharged through
10 the ground and into our aquifers.

11 Is that a correct statement?

12 A Yes. That's a program we're trying to
13 support right now because we are actually losing our
14 native forest very rapidly.

15 (Chairman Lezy is now present)

16 Q Are you familiar with the Ho'opili lands?

17 A Not personally.

18 Q They're located --

19 A I mean I know where they are but I haven't
20 walked them.

21 Q Those are relatively flat lands in 'Ewa.
22 They're, as I understand it, over the 'Ewa caprock.
23 Do you consider those to be, those lands to be in the
24 watershed area?

25 A They're not watershed, no. But all lands

1 receive rainfall.

2 Q Okay. Now, the reason I'm asking you this
3 is a witness yesterday, I believe it was Mr. Martinez,
4 I could be wrong, made a statement that we shouldn't
5 be building homes or other structures on flat lands
6 like Ho'opili.

7 Instead, we should be building homes on the
8 mountains and in the valleys. Would you agree with
9 that position?

10 MR. SEITZ: I'm going to object that that
11 correctly states the testimony. The testimony was a
12 little bit more sophisticated than that. But if he
13 can answer the question then proceed.

14 THE WITNESS: I don't know the testimony,
15 first of all. I don't recommend building homes in
16 watershed areas because by definition they're probably
17 in the conservation protected subzones. So you
18 probably can't build there anyway. The watershed
19 areas that are mauka, the watersheds are the areas we
20 need to protect as watersheds.

21 Q (Mr. Kudo): I agree. Now, are you aware
22 that most of the Ho'opili Project site overlies the
23 Pu'uloa sector of the 'Ewa caprock?

24 A Yes.

25 Q It doesn't overly the Waipahu/Waiawa

1 Aquifer. It's over the 'Ewa caprock area.

2 A There may be -- I'm not sure exactly where
3 the boundary lines are off the top of my head. But I
4 know roughly where it is.

5 Q Okay. Isn't it true that a majority of the
6 recharge that the Ho'opili Project site goes into --
7 in other words, the rainfall that falls on the
8 Ho'opili site goes into the 'Ewa caprock aquifer
9 rather than the Waipahu/Waiawa Aquifer?

10 A That's my understanding. But I don't have a
11 hydrologic map before me.

12 Q And that the 'Ewa caprock aquifer is a
13 non-potable caprock aquifer?

14 A That's generally correct, yes.

15 Q It's saltwater.

16 A It's brackish.

17 Q Brackish water?

18 A Yes.

19 MR. KUDO: I have no further questions.

20 PRESIDING OFFICER CHOCK: County?

21 CROSS-EXAMINATION

22 BY MR. KITAOKA:

23 Q Good morning, Mr. Tam.

24 A Good morning.

25 Q As you know the Ho'opili Project is going

1 through a land use approval process. I just want you
2 to describe briefly how the Commission on Water
3 Resource Management fits into the land use approval
4 process and integrates into that process from the
5 approvals of various agencies?

6 A How the commission itself works?

7 Q Yeah. And how approvals for water
8 allocations work.

9 A Okay. Chapter 174C, which is the Water
10 Code, provides that in areas that are designated for
11 water resource management -- this is an area that's a
12 designated water management area -- all water uses
13 must have a water use permit.

14 Now, that does not include systems totally
15 under the Board of Water Supply. Board of Water
16 Supply has large permits for its internal processes.
17 But in terms of individual wells or surface water uses
18 that divert from a stream, a landowner in a designated
19 water management area must obtain a water use permit.

20 Now, for groundwater that involves, first of
21 all, installing a well and a pump installation --
22 getting a pump installation permit, and testing it so
23 you can figure out whether that well is going to
24 interfere with the surrounding wells and what its
25 pumping capacity is, and what it would do to the

1 sustainable yields.

2 For surface, but I take it there's no
3 surface water in this land, so I'm not sure it's worth
4 going into, they have a separate set of issues
5 involving water use permits, instream flow standards
6 from diversion water permits.

7 With regard to groundwater, however, the
8 principal first question is what does that well do to
9 surrounding areas? Is there potable water that can be
10 pumped?

11 Historically it's been the case, because we
12 haven't been close in many areas, that when an
13 application comes in and there's enough water in the
14 sustainable yield, then the permit has generally been
15 granted.

16 There's a provision in the Code, the Water
17 Commission just went through this last month, actually
18 with regard to Waialua where there's been a long
19 period of non-use. Actually some of the people gave
20 up their permits. And then some people could reapply
21 and get that water.

22 The longer term issue which is going to
23 become important to the commission is going to be not
24 simply looking at wells on a case-by-case basis, but
25 looking at a region and saying: How does this whole

1 region work? Because as I mentioned earlier the
2 location of wells is critical for wells interference
3 issues. And it's also critical in terms of maximizing
4 actually the amount of groundwater you can take out so
5 you don't put too many wells close to each other.

6 So those are the kinds of patterns you look
7 at. We are -- the commission's required to follow the
8 plans that are prepared under the Water Use and
9 Development Plans, the State Water Resource Protection
10 Plan, which looks like this. (showing document)

11 These are plans that have been put together
12 over a period 20, 25 years and are periodically
13 updated. They're living documents. They're not just
14 a one-time event.

15 So there's a series of tests that you go
16 through for a water use permit under the code. And I
17 won't bother with all the details that are in the
18 statutes. We have to make sure we don't interfere
19 with existing water uses.

20 They must be "reasonable and beneficial"
21 which is a term of art defined in the code. It must
22 be, not interfere with Hawaiian Homes' needs. There
23 are a whole series of criteria that if you meet those
24 statutory criteria then a permit issues.

25 Q So there will be permits that will be

1 necessary for this Project to progress?

2 A My assumption is they will come -- yes, if
3 the Project proceeds, and they're not doing
4 agriculture, yes, they'll have to get water use
5 permits.

6 Q And for those water use permits all of the
7 factors that you mentioned, including a sustainable
8 yield, water management and design practices, will be
9 taken into consideration by the commission?

10 A Yes.

11 Q And the commission would make a learned or
12 the best decision that they can with respect to all of
13 these factors as to how much water there is, yield and
14 all of those factors.

15 A That's correct.

16 Q So this Commission, Land Use Commission,
17 will just need to have an understanding of the basic
18 tenets of water resource management in order to make
19 an educated decision.

20 Because if, in fact, it goes through a water
21 permit process, then the minutia of sustainable yields
22 and all of that will be taken into consideration at
23 that time.

24 A Yes and no. It's not sufficient to simply
25 say clearly the commission, Water Commission will have

1 to go through that process and analyze it. But what's
2 important is not to be confined, if you will, to
3 looking at all these as one-offs.

4 The point what I was explaining earlier is
5 there's an integration now that has to occur between
6 water and land use that has been a long time in
7 coming. So it's really critical that people think
8 about the regional issues and understand that. So
9 it's not simply we're going to pass this off to
10 somebody else.

11 Q Right.

12 A But the commission, the Water Commission
13 will have to do what you say.

14 Q Well, what I'm trying to say is that the
15 minutia and the details of sustainability yield and
16 all of that will be addressed by the Water Commission.

17 A Wouldn't call it minutia. But the details
18 of sustainable yields and those calculations will have
19 to come back before the commission, Water Commission,
20 that's correct.

21 Q "Minutia" is not a good word.

22 A Not to me. (Laughter)

23 Q The details.

24 A Thank you. Yes.

25 Q Okay.

1 MR. KITAOKA: I have no further questions.

2 PRESIDING OFFICER CHOCK: State?

3 MR. YEE: No questions.

4 PRESIDING OFFICER CHOCK: Dr. Dudley?

5 CROSS-EXAMINATION

6 BY DR. DUDLEY:

7 Q I'd like to go back to the desalination.

8 The Board of Water Supply has publications that say
9 they're going to start desalination in 2018. And
10 you've talked about the carrying capacity of the
11 island.

12 Are you telling us that if there is only
13 going to be spot use of desalination, that we need to
14 become aware of carrying capacity for the island? And
15 did you ever see that we're going to into limiting
16 in-migration because of the lack of water?

17 A That's a very big question. I'm not
18 qualified to speak on those broad issues. My
19 hesitancy of desalination has to do with some
20 experience I had back in the early '90s reviewing some
21 of the projects in Hawai'i when I was in the Attorney
22 General's Office.

23 And the cost, the amount of energy required,
24 how do you treat the brine. Now, clearly the
25 technology's improved significantly 20 years.

1 What concerns me is clearly desalination is
2 used in isolated places where you have no choice:
3 Saudi Arabia does it, I think South Africa does it,
4 Santa Barbara does it, San Diego does it, I believe.
5 But I'm sceptical of large-scale reliance on it.
6 That's the problem. It's because when you -- it's
7 like lowering yourself off the end of the diving board
8 and saying you're going to count on the water being
9 there but you haven't checked yet.

10 It's not -- you can clearly do it. Clearly
11 the technology is there. It's getting better, no
12 question about it. But it's taking a risk if you're
13 counting on it for large-scale supply on an island.

14 Now, some day that may happen. But I'm
15 thoroughly sceptical of those kind of solutions when
16 we have so many obligations.

17 Q Okay. So basically what you're saying is we
18 should work with the water we've got rather than think
19 about desalination.

20 A Well, we will be working with the water we
21 have. So I'm not not counting on having new water
22 separate from what the natural world provides right
23 now. That's my obligation right now.

24 MR. DUDLEY: Okay. Thank you.

25 PRESIDING OFFICER CHOCK: Sierra Club?

1 MS. DUNNE: No questions.

2 PRESIDING OFFICER CHOCK: Redirect?

3 MR. SEITZ: No further questions.

4 PRESIDING OFFICER CHOCK: Commissioners, any
5 questions? Commissioner Heller.

6 COMMISSIONER HELLER: I know you're trying
7 to avoid specific opinions on this particular parcel
8 of land. But I'd just like to kind of be clear if we
9 can on the bottom line here.

10 The question before us is a classification
11 of this parcel as either agriculture or urban. And
12 potentially that could have an impact on both the
13 supply of water and the demand for water.

14 As to supply, if I understood correctly,
15 you're basically saying that the use of this parcel in
16 and of itself would probably not have much impact on
17 the supply of potable water because it's mostly above
18 the caprock and it's not going into the potable water
19 aquifer. Is that right?

20 THE WITNESS: That's a fair summary, yes.

21 COMMISSIONER HELLER: Okay. On the demand
22 side are you expressing any opinion as to whether the
23 use of this particular parcel in agriculture versus
24 urban would have a significant effect on the overall
25 demand for water?

1 THE WITNESS: I'm not going to express an
2 opinion on that on behalf of the commission. I'm
3 trying to just simply bring to your attention what the
4 consequences are in the long term on a regional basis.
5 So I'm going to reserve for the commission to make a
6 decision about that when they face that issue, if they
7 do.

8 COMMISSIONER HELLER: Okay. And I
9 understand your point about the difficulty of making
10 long-term predictions and all of that. But as a
11 general principle is the water demand greater in
12 agricultural use or greater in urban use? Or is that
13 something you can identify either way?

14 THE WITNESS: Agriculture uses can be
15 greater in different time periods. But it is also
16 more elastic. You may fallow fields. You may not
17 plant for a while. Its actual aggregate demand varies
18 because you may have some fields in production, other
19 fields not. So it's much more variable.

20 When you think of diversified ag as
21 requiring somewhere between 2500 and 3500 gallons per
22 acre per day, you calculate that also in what crops
23 you have, how you rotate them. It's a much more
24 flexible arrangement. But the aggregate water is
25 usually higher.

1 Urban demand, once you commit, is fairly
2 fixed. You can do some conservation but you've
3 essentially committed that amount of water based on
4 whatever the densities are. That's pretty much there.

5 The other aspect of that is that once you
6 harden the surface you tend not to, then, have much
7 recharge. And you end up with runoff which creates
8 other sets of problems. So it's not a -- it's not a
9 linear kind of relationship.

10 COMMISSIONER HELLER: Thank you.

11 PRESIDING OFFICER CHOCK: Commissioners, any
12 other questions? Thank you for your testimony.

13 THE WITNESS: Thank you.

14 PRESIDING OFFICER CHOCK: We're going to
15 take a five minute recess. (10:10-10:20 recess).

16 CHAIRMAN LEZY: Dr. Dudley, ready to go?

17 MR. DUDLEY: I think so. Dr. Prevedouros,
18 do you know how to get through your own stuff, huh?

19 THE WITNESS: Yes, I do.

20 PRESIDING OFFICER CHOCK: Dr. Prevedouros, I
21 need to swear you in.

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

25 THE WITNESS: Yes, I do.

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

3 THE WITNESS: My name is Panos D.
4 Prevedouros. My address is 2944 Pacific Heights Road,
5 Honolulu, Hawai'i 96813.

6 CHAIRMAN LEZY: Dr. Dudley.

7 DIRECT EXAMINATION

8 BY DR. DUDLEY:

9 Q Dr. Prevedouros, could you give us some,
10 just a history of your experience, really your life
11 experience would be fine.

12 A Sure. We'll get it quickly done. Sure.
13 I've been a professor at the University of Hawai'i in
14 Civil Engineering, specializing in transportation
15 engineering since 1990. I am SAC committee Chair of
16 the Freeway Operations Committee of the Transportation
17 Regents Board, a unit of the National Academy of
18 Sciences.

19 I'm probably immodest but I am one of the
20 nation's foremost experts when it comes to corridor
21 analysis that include freeways. And I have
22 participated in developing and correcting several of
23 the models that are out in the field including the
24 Highway Capacity Manual.

25 I am an author of about, well, well over now

1 100 technical publications and two versions of a very
2 successful text book by Prentice Hall. It's
3 internationally adopted in its third edition. It's
4 called Transportation Engineering and Planning.

5 I've been blessed with, I received a number
6 of national awards including as recently as 2011 the
7 Transportation System Ability Award from the
8 International Road Federation in Mexico City. And
9 more relevant to what we're going to be talking today,
10 for over 20 years I've been teaching 462 Traffic
11 Engineering class that over one-third of it
12 specializes in the type of analysis that we have in
13 front of us in part, the TIAR, the Traffic Impact
14 Analysis Report.

15 And I'm here mostly to report on this very
16 specific report using only the report, and not
17 additional past processing analysis. So essentially
18 it's a professional review of the report.

19 Q Thank you.

20 DR. DUDLEY: Mr. Chairman, I'd like to offer
21 Dr. Prevedouros as an expert witness in
22 transportation.

23 CHAIRMAN LEZY: Objections?

24 MR. KUDO: No objection.

25 MR. KITAOKA: No objection.

1 CHAIRMAN LEZY: He's admitted.

2 Q (Dr. Dudley): Dr. Prevedouros, as you just
3 said, what we're going to be concentrating on here is
4 the TIAR. This is the most recent TIAR that was done
5 for the Project. It's the one which the Petitioner's
6 witness offered us all copies of after his testimony.
7 Because it is the most recent update that's the one
8 thing that we're going to be talking about here today.

9 A This is the document I reviewed shown behind
10 me on the screen. I have a printed copy. It's the
11 LUC Docket A06-771. That's the material from the CD
12 that I reviewed.

13 Q Thank you. Please proceed.

14 A I will give you, if you don't mind, a few
15 minutes of my overview and specifics of the problems I
16 have with this particular document that is in front of
17 me.

18 MR. YEE: I'm sorry. Can I interrupt for
19 just a moment before you get started?

20 THE WITNESS: Sure.

21 MR. YEE: Chair, I'm not sure this document
22 is an exhibit in this case. So if he's going to refer
23 to it and it's not an exhibit I think it's
24 inappropriate.

25 MR. KUDO: Although it's our document it's

1 not been produced because Department of Transportation
2 is not going to review this document. They're waiting
3 for another document that we're going to be doing,
4 another TIAR. So it basically is irrelevant.

5 MR. SEITZ: Well, we'll offer it. It's not
6 irrelevant. It's been produced by the Petitioner. So
7 we'll offer it in evidence right now.

8 CHAIRMAN LEZY: Mr. Kudo, it's been provided
9 to all the parties, correct?

10 MR. KUDO: I beg your pardon?

11 CHAIRMAN LEZY: The document has been
12 provided to all the parties.

13 MR. KUDO: Yes. But not for purposes of
14 being an exhibit.

15 CHAIRMAN LEZY: I understand. And what's
16 the distinction now with the Department of
17 Transportation?

18 MR. KUDO: The Department of Transportation
19 will not be reviewing -- and was pursuant to his
20 testimony of the Department of Transportation -- it
21 won't be reviewing this version of the TIAR. They're
22 awaiting a new version of it. So that's the one
23 they're going to be reviewing.

24 CHAIRMAN LEZY: And what are the anticipated
25 substantive changes to the next TIAR?

1 MR. KUDO: This is a request that came from
2 the former administration to do a 2020. We did it.
3 For the EIS we did a 2030. So the Department of
4 Transportation is asking for another TIAR with a new
5 planning horizon on it and with new assumptions.

6 CHAIRMAN LEZY: Okay. Mr. Yee, do you know
7 anything about this?

8 MR. YEE: Yes. My understanding is that the
9 purpose of this -- normally TIARs look -- from the
10 begin to the end, look at final buildout what are the
11 traffic conditions. Because the Project was so long
12 the Department of Transportation had asked for in
13 addition to their normal TIAR, a sort of a look at
14 what happens in the middle, what happens after the
15 first ten years.

16 So that's what this was. It was just to
17 give the Department of Transportation an idea of
18 what's going to happen after the first ten years. So
19 this is not -- in some sense it is not a revision of
20 the first TIAR which went from beginning to end. It's
21 just another TIAR that the Department of
22 Transportation was interested in seeing.

23 So with that understanding, you know, that's
24 the purpose of the April 2011 TIAR.

25 THE WITNESS: If I may interject a comment.

1 The gentleman that spoke before, he said that the DOT
2 asked for the 2020 analysis, is that correct?

3 MR. KUDO: The prior administration asked.

4 THE WITNESS: Right. So this is the 2020
5 analysis.

6 MR. KUDO: But they're not going to be
7 reviewing this.

8 MR. SEITZ: Well, may I address that? First
9 of all, we'll offer this document into evidence
10 because it is a document prepared by Petitioner's
11 experts as an indication of what it is they intend to
12 do.

13 Now, if what the objection, then, is that
14 it's irrelevant to have the witness testify about that
15 at this point because there's a further document forth
16 coming, then I would suggest to the Commission that we
17 ought to delay the testimony of this witness until
18 that document is forth coming.

19 And we'll be happy to come back at that
20 point when the Petitioner has done its homework and
21 provided us with a TIAR.

22 Because obviously traffic is a critical
23 ingredient of this proposition. So I will then, if
24 that is their desire, if they're saying this is
25 irrelevant because there's another report forthcoming,

1 then I will formally move at this time that we adjourn
2 the proceedings for the present time and return when
3 and if that document is produced.

4 CHAIRMAN LEZY: How do you respond to that,
5 Mr. Kudo?

6 MR. KUDO: The next -- we did a TIAR already
7 for this. The next one is the normal course of what
8 DOT normally requires one prior to zoning application.
9 And that's the one we're going to be producing. He
10 could review the 2030 one which is the FEIS.

11 We're not objecting to his testimony. We
12 just said that this particular document is not going
13 to be reviewed by the Department of Transportation.
14 And we believe it's irrelevant. But he's welcome to
15 comment on it.

16 CHAIRMAN LEZY: Mr. Seitz, I'm not inclined
17 to defer the witness for that reason. This is the
18 normal course with the Department of Transportation in
19 the preparation of the Traffic Impact Analysis
20 Reports.

21 I guess the real question, Dr. Dudley, is do
22 you still want to examine the witness on this report,
23 given the information that's been disclosed?

24 MR. DUDLEY: Mr. Chair, I see this as a part
25 of the entire problem that we faced about the

1 transportation issue. We were given -- when they came
2 and did their presentation it was based on the 2008
3 TIAR or 2007 TIAR. I remember Commissioner Judge
4 saying: We can't make any decision on this old
5 material. Will you give us the new TIAR?

6 They did not say at the time they gave us
7 this TIAR that it was anything other than what we're
8 going to expect as the final TIAR. That's what was
9 given to all of us.

10 To this moment, to the time that we're
11 sitting here, none of us had any idea in the world
12 that TIAR which they gave us is only a partial thing
13 before the next TIAR.

14 This is a move by the Petitioner to move the
15 whole transportation thing to the city where they know
16 it will get approval and just push the thing through
17 there.

18 It is -- it is their obligation to give this
19 Commission the real, real facts. Now, I do have down
20 on my List of Witnesses the exhibit numbers. And I
21 have down there for Dr. Prevedouros "TIAR April 2011".
22 I don't see -- I would like to move that this be
23 accepted as an exhibit because, you know, it was one
24 of those things which we went through. So it should
25 be.

1 CHAIRMAN LEZY: So, Dr. Dudley, you would
2 like to proceed and examine the witness on this
3 particular document.

4 DR. DUDLEY: Yes, I sure would. And as the
5 final word coming from them because that is what they
6 have given to us as. It really is, Sir.

7 CHAIRMAN LEZY: Dr. Dudley, you can
8 certainly argue that. There will be no finding as to
9 that. You and the other Intervenor are free to argue
10 that the TIAR that has been submitted is somehow
11 insufficient. And certainly the Commission will
12 consider those arguments. But we're not going to make
13 a finding to that effect at this juncture.

14 DR. DUDLEY: Thank you.

15 MR. KUDO: Actually this is in OP's
16 Exhibit 12B which is a letter from the State
17 Department of Transportation. It says that they're
18 not going to review this.

19 CHAIRMAN LEZY: I'm sorry? One more time,
20 Mr. Kudo.

21 MR. KUDO: The fact that DOT is not going to
22 review this, it was stated in a letter from DOT which
23 is marked as OP's Exhibit 12B all the parties have.

24 CHAIRMAN LEZY: I understand.

25 MS. DUNNE: I have an inquiry.

1 CHAIRMAN LEZY: Just a moment. (Pause)

2 COMMISSIONER TEVES: Mr. Chairman, I'd like
3 to make a motion to go into executive session to
4 consult with the board's attorney on questions and
5 issues pertaining to the board's powers, privileges,
6 immunities and liabilities.

7 COMMISSIONER McDONALD: Second.

8 CHAIRMAN LEZY: All in favor? (Aye) All
9 opposed? We'll go into executive session. You can
10 stay in place. We'll leave. We'll be back as soon as
11 we can.

12 (Executive session recess was held. 10:30 to 10:45)

13 CHAIRMAN LEZY: Okay, Dr. Dudley. So you've
14 offered then what's titled Final Traffic Impact
15 Analysis Report as an exhibit, correct?

16 DR. DUDLEY: Yes.

17 CHAIRMAN LEZY: I understand that would be
18 Exhibit B37 for Friends of Makakilo?

19 DR. DUDLEY: Yes.

20 CHAIRMAN LEZY: It will be admitted and you
21 can examine the witness.

22 MR. DUDLEY: Good. Thank you very much.

23 CONTINUED DIRECT EXAMINATION

24 BY DR. DUDLEY:

25 Q Dr. Prevedouros, then, could you go on with

1 your analysis of the analysis report.

2 A Sure. But I will be respectful of your time
3 because this is a 163-page report and 600 pages of
4 computer simulation of it. So we could take days but
5 I will try to do this in minutes. It is a significant
6 report. It is titled Final Traffic Environmental
7 Impact Analysis Report. It is not a draft. It
8 doesn't say Phase I or anything.

9 So the title of the report is that this is
10 it. And it was submitted to you to take it under
11 advisement for decision-making. So it is a
12 decision-making report on a significant part of the
13 inputs of the Project which are the traffic impacts.

14 So what is my summary assessment of this
15 report? This report is technically competent in some
16 respects but overall as a decision-making document it
17 is unacceptable for three reasons. Number one is its
18 partial coverage.

19 I will show you the specific page where it
20 says that that report covers only 33 percent of the
21 development of the property.

22 Nowhere in this report there is any future
23 scenario for what is typically called the full
24 buildout. A typical final TIAR will have at least one
25 scenario that tells you what is the impact of the full

1 buildout. This one has nothing. So everything you
2 see in the report is one third of the impact.

3 Typically in traffic terms the more you add
4 vehicles the input is nonlinear. So adding another
5 third component is not 30 percent more. It could be
6 50, or a hundred percent more of traffic input because
7 of the nonlinear nature of traffic.

8 In many respects this TIAR includes invalid
9 models -- not strictly invalid but invalidly used in
10 the context. This is a major congested freeway
11 corridor. And it's been analyzed with very, very
12 basic equation models.

13 In fact, from a professional standpoint the
14 Federal Highway Administration prohibits these models
15 for use for anything else than sketch analysis.

16 It is very sad that these models are
17 actually routinely accepted in Hawai'i. It is a poor
18 statement for our state, not necessarily a poor
19 statement for the consultant. But this has to change
20 because we've been doing the wrong thing for too long.

21 The third one is really the very major one
22 in the study is the total neglect of the H-1/H-2
23 merge. The Project is literally in the vicinity of
24 that very critical merge. And it will generate a lot
25 of traffic that will go through that merge. And this

1 merge is not even mentioned anywhere. And it's never
2 been analyzed.

3 In my opinion as a reviewer this is a fatal
4 flaw. The state and you should never accept this
5 study from anybody that develops in that area of the
6 island -- so that's a generic statement -- that does
7 not address the H-1/H-2 merge.

8 I want to bring to your attention that in
9 one hour this property, only one third developed, can
10 generate upward of 4,000 trips in the peak hour.
11 Therefore, this analysis, if it was done in
12 California, Texas, New York, anywhere else it would
13 also address the Middle Street merge because of its
14 pervasive impacts in the whole network.

15 You cannot possibly generate 4,000 trips and
16 narrow your analysis in one mile corridor around the
17 Project. It is not acceptable.

18 So based on that now I'm going to show you a
19 few exhibits because I know you're quite busy and you
20 probably haven't read it page for page.

21 So if I go to -- some of you may have. I
22 don't assume that you don't read what you receive. So
23 I want to quote from Page E2 that "The plan 2020 level
24 of development is expected to occupy approximately
25 one-third of the total Ho'opili Project site." This

1 is a direct quote out of the report. So please be
2 continuously mindful that everything in this report is
3 about is only one-third of the impact.

4 Then quickly if we move to -- let's go to
5 table 2-25. I want to quickly flash this. It's a lot
6 of pages so it will take a minute. I'm sorry. Table
7 2-8. It is a table that summarizes things. And it is
8 titled "Existing Conditions".

9 This is something that definitely needs to
10 be improved and re-reviewed because it shows what the
11 output is, but at no point it tells me what they used
12 on the ramps. Okay? Because later on in this
13 document it says that the consultant did the
14 redistribution of the traffic and provided outputs
15 with the Project.

16 Okay. My problem is now as a reviewer with
17 the data provided that I cannot do a before/after
18 review because all the numbers that you see here,
19 there's no actual traffic. There's existing
20 conditions. What are the existing conditions?

21 For example, you read for the Kunia
22 westbound offramp. Okay. What was the number there?
23 What was the traffic? It is something they have. It
24 needs to be reported. Why? Because if you go to
25 page -- I'm sorry, table 3-4 which becomes

1 interesting. And these are things that, you know, you
2 can do even yourself by comparing what -- there it is,
3 table 3-4.

4 Now, it tells you results for the year 2020.
5 And interestingly, as you see, it has capacity and
6 volume. So in the future I know what's going on but
7 existing conditions I don't. So I have no idea of how
8 the volumes were assigned.

9 Strictly speaking when you review a document
10 you should be able to check. So this calls to
11 transparency of the document. Some of the numbers may
12 have been rerouted in a number that cannot -- in a way
13 that cannot be reviewed.

14 Then it goes to far more important things.
15 So this can easily be corrected really, but it needs
16 re-review so the numbers can be vetted.

17 I believe that I am on Page 4-4. This is a
18 very interesting list. I doubt that you can read it.
19 But I find it quite amazing actually. WSA, Wilbur
20 Smith Associates, in general a reputable firm
21 nationally, assumed that the proposed Project will
22 adopt -- assumed that the proposed Project will adopt
23 a TDM, a Transportation Demand Management composed of
24 nine major actions. All of them are listed in the
25 bar. These are no good. It's a textbook example.

1 However, absolutely no other place in
2 Hawai'i has four of these nine, let alone nine of
3 them. So at a minimum I believe that this assumption
4 is possible but not probable. It is possible but not
5 probable. Nobody else has done it. It is very
6 difficult to do several of these things as it is
7 guarantied to ride home.

8 Do you know how expensive it is to guaranty
9 people a ride home? I mean it's interesting to write
10 it there, but who's going to drive that van to go up,
11 pick up that person from work or from where they're
12 stranded? So a guarantied ride home is, really is
13 very, very difficult.

14 Now, where does it go? Where does all of
15 this go? Well, they took it together with some OMPO
16 recommendation. And I quote now, "The internal trip
17 percentages was calculated in the OMPO model. And
18 combined with this they took" -- hold on. Please make
19 a note of that-- "a 30 percent trip reduction,
20 30 percent trip reduction, due to the integrated
21 character of the community."

22 Which means that if you generated 3,000
23 trips this immediately dropped down to 2,000 trips,
24 2100 trips because of 30 percent. So please keep it
25 in your mind.

1 First of all, this is only one third of the
2 Project. And on top of that they took one third
3 discount because they say it's an integrated
4 community.

5 Q Dr. Prevedouros, that's for the whole --
6 that's for the whole freeway? Is that what we're
7 saying?

8 A That's for the whole Project, the whole
9 traffic that it generates, the intersections and the
10 freeway. So if it was to develop to create 1,000
11 trips -- now these trips are discounted down to 700
12 because it's an integrated community.

13 I would give you an example. I find this
14 rate of reduction not acceptable. And I'll give you
15 an example from right in our backyard. I cannot think
16 of a more integrated community than Kalihi.

17 And anybody in the profession claiming that
18 Kalihi folks do 30 percent fewer trips I don't know
19 that's reasonable. And that's what it means. That
20 because they're building Ho'opili they're taking
21 30 percent off.

22 Kalihi is tremendously integrated, the most
23 bus lines you could have, small stores, large stores,
24 big box stores, everything. Do folks in Kalihi do
25 30 percent more trips? Where's the proof of that? So

1 why should we accept that?

2 So for the afternoon peak they did assume
3 that deduction and this is what is reflected in their
4 numbers. Even with, again, they did not go to the
5 H-1/H-2 merge to even address it because, you know,
6 nobody can touch that. It is really a very terrible
7 situation.

8 Now, I want to address also -- it's
9 impossible for you to see -- but in this table which
10 is, you know, a very typical table, very complicated,
11 it provides the trip generation how many trips will be
12 generated.

13 In there also is a discount for the rail.
14 Many of you feel that either the rail will carry a lot
15 of the traffic or it's going to solve the problem.

16 However, the consultant is being fairly
17 honest here. I really don't see anything wrong with
18 their calculation. They talk about transit trips, not
19 rail trips. Transit trips. In typical metropolitan
20 areas over 70 percent of the transit trips are done by
21 bus, 30 percent by rail. I will give them the credit
22 of 50/50, 50 percent rail.

23 So if 50 percent of the transit trips are by
24 rail in the peak hour which is rush hour, how many
25 rail trips are those? 166. One big bus in their

1 numbers. So this gives you a sense of what rail will
2 do in general in this city and for Ho'opili itself.

3 So in the morning peak the consultant
4 predicts roughly 166 trips from Ho'opili by rail.
5 This doesn't make any difference one way or another.
6 So the picture I want you to get from here is whether
7 you have buses or rail, Ho'opili would generate oodles
8 and oodles of car traffic even by their own numbers.

9 So do not expect rail or express buses to be
10 any type of traffic savior. It never worked anywhere
11 else. And the consultant is honest enough to say it
12 in this table. Okay? So you will have a tremendous
13 traffic impact.

14 Finally, when I go down to analyze it, if I
15 can find the numbers -- 624. So I need to go forward
16 quite a few pages. We'll get finally to the freeway
17 analysis which I want to show you one exhibit only.
18 Then I'll open it to any questions you may have.

19 This is the type of analysis literally we
20 should not be doing. Much to my disappointment
21 essentially the State DOT ordered them to do it.

22 So this is not really a negative on the
23 consultant, although the consultant could have
24 strenuously objected to doing an analysis based on a
25 manini tool really.

1 What we have here is the freeway. In the
2 red is their modification of adding lanes. Now, the
3 freeway has multiple choke points. Every short
4 section you see is a choke point.

5 Now, you see this is in the bottom is the
6 direction going to town. First of all, as you see
7 H-1/H-2 merge does not show anywhere.

8 Now, what they did, and actually the State
9 DOT may have misled them in that, is that they added
10 some lanes in between and they said, "Wow, it's going
11 to work pretty good." Now, all this traffic is in the
12 morning, right? It's coming onto the freeway.

13 Before H-1/H-2 look at this section, it's a
14 three-lane choker. It's a three-lane choker. It
15 doesn't matter how many lanes you add upstream. If
16 you have 10 lanes upstream and then they come down to
17 three lanes down here, it doesn't take a civil
18 engineer to tell you that, you know, you haven't
19 solved the problem.

20 It's a choker. A choker is a choker is a
21 choker. Either you choke it or you don't. (Laughter)
22 Adding lanes is stupid. What are you doing? So here
23 is a paint job. It's a paint job on the freeway. I
24 mean this is -- I am very discouraged by the level of
25 analysis and acceptance that the state is asking

1 people to do. I mean it's really Mickey Mouse.

2 The same thing for another scenario. They
3 have similar scenarios of paint jobs. Even in the
4 afternoon if you look in the other direction the
5 freeway is choked again at three lanes. And all the
6 paint jobs are going to be upstream.

7 Now, some of this will luckily work a little
8 bit instead of having congestion in the ramps. The
9 ramps will work okay. And the consultant correctly
10 predicts the Level of Service will be adequate.

11 Our problems is not the ramps. Our problems
12 is the mainline. And the mainline is choke full all
13 the way to Kunia. So it is really very bad.

14 Now, there are solutions to this. There are
15 solutions. If we get serious about this we can solve
16 it. This study doesn't solve it. And luckily the
17 government doesn't seem to be solving it. So that's
18 the picture I want you to have.

19 So we're not gonna -- I don't want to hold
20 the consultant -- like their consultant at Ho'opili is
21 responsible for all this stuff. But the situation is
22 very bad. And it needs serious solutions. None of it
23 is here.

24 So this document as a decision-making
25 document is, you know, it can go to the trash. It

1 really doesn't tell you anything. The picture is too
2 limited, too biased. With that I'll conclude. Thank
3 you.

4 Q Dr. Prevedouros, could you go back to the
5 very beginning of that and show us the front cover?

6 A Of the study?

7 Q Yes.

8 A Can we do it like this? (Taking out of
9 binder.)

10 Q And could you read us the top line, please?

11 A It says, "Final Traffic Impact Analysis
12 Report."

13 Q Could you read that again slowly with the
14 emphasis on the first word?

15 A Final Traffic Impact Analysis Report.

16 Q Thank you, sir. So your conclusion, then,
17 Doctor, is that this report is as far as the freeway
18 problem is concerned is bogus, is that correct?

19 A It is not useful at all. It is not useful
20 at all, yes.

21 Q Okay. Doctor, tell us about that -- tell us
22 how long this choke problem at the H-1/H-2 merge has
23 been a problem? How long has that been a problem?

24 A It's been a problem for decades. And it was
25 partially relieved in 1997-98 I believe that they

1 instituted the AM zipper. That provided some extra
2 capacity, but that was the last time we did any
3 improvement in that area.

4 Q Okay. So no matter how many lanes the
5 Petitioner would pay for to have added up to the
6 H-1/H-2 merge, we would have problems on the H-2 merge
7 because that is a choke point and everybody has to get
8 into the three lanes?

9 A Right. In fact every time you try to bring
10 motorists faster to the freeway, once they hit the
11 choke point then the queue, the line of cars extends
12 faster and longer. So it is really counter productive
13 adding lanes upstream and not correcting your
14 bottleneck. The basic premise of flow is clearing up
15 the bottleneck, not adding capacity upstream.

16 Q Doctor, again, could you name the tools that
17 were -- the inadequate tools that were used for this
18 Project?

19 A The tool is called Highway Capacity
20 Software. And if people look into, you know, the
21 federal guidelines of usage of these models, they say
22 that they recommend, number one, for isolated
23 locations and for sketch level analysis. This is
24 clearly not an isolated location. It's 5, 6 to 12
25 interchanges. And it is not a sketch analysis. It is

1 a planning level analysis for major approval for major
2 development. So it is not acceptable as a tool.

3 Q Okay. Now, Doctor, the time that people
4 spend on the freeway, we're going to have more trips
5 and more problems.

6 Can you tell us about how the time grows one
7 spends on the freeway and just the relationship of
8 traffic to time?

9 A The relationship is actually very
10 interesting, if I can describe. And we have a clear
11 example of that locally. We call it how traffic in
12 Honolulu is when UH is not in session. UH accounts
13 for only 7 to 10 percent of the traffic maximum. But
14 then it's like the hockey stick.

15 The delay goes, you know, a little bit
16 climbs and when you reach what is called 90 percent
17 saturation it explodes.

18 So at that point every additional vehicle
19 you add it creates much and much more backlog. So
20 when you have a big development adding a lot more
21 you're really gonna get, you know, sky high on delays.
22 And basically it's an inconvenience for their own
23 customers essentially. So it's counterproductive. We
24 need to get serious about finding a solution for the
25 entire 'Ewa Plain so that those folks really deserve

1 mobility. And none of this gives them mobility.

2 Q Can you tell us -- if Ho'opili is built can
3 you tell us how much more time will be added in your
4 estimation to our stay on the freeway?

5 A It would be very hard to estimate. I would
6 say that because I didn't do the analysis. So I would
7 simply just casually guesstimate and it's just to give
8 you an impression on morning rush on the H-1/H-2, it
9 will add at least five minutes on everybody that goes
10 through H-1/H-2 the one third. The next one may add
11 next 10-15 minutes.

12 And the full phased development if the
13 current patterns remain could add all the way to 20 to
14 30 minutes more travel because everybody will try to
15 get through the same number of lanes.

16 Q And is that 20 to 30 minutes more travel
17 time getting to the H-1/H-2 merge?

18 A Yes. Additional time to go through the
19 major bottleneck. Again, as human same patterns as
20 today, patterns might change. So, you know, as I said
21 this is simply as guesstimate.

22 DR. DUDLEY: That concludes my questions.

23 CHAIRMAN LEZY: Mr. Kudo.

24 xx

25 xx

1 CROSS-EXAMINATION

2 BY MR. KUDO:

3 Q Dr. Prevedouros, in regard to your answers
4 on timeframes for this Project and the delay that
5 Dr. Dudley just asked you, have you done any time
6 travel studies or any empirical evidence to back up
7 what you just said?

8 A I have done actually on almost solely since
9 1997 to 2008 we have done an unimaginable number of
10 time studies along the H-1 Freeway from -- and I had
11 three or four contracts from the State DOT -- from
12 Kahala, 'Aina Koa all the way to Waikele. And none of
13 them involved Ho'opili, yes. Clearly, I mean none of
14 them. It was evaluation of existing conditions up to
15 2007 and potential mitigations.

16 Q Dr. Prevedouros, you ran for mayor in 2010,
17 is that correct?

18 A And 2008.

19 Q And 2008. In 2010 were you the only
20 candidate that was anti-rail?

21 A And I still remain very much so.

22 Q Did you participate in the rally at Kapolei
23 a few days ago?

24 A I had a high level technical panel and we
25 were picketed by Go Rail Go, yes.

1 Q And are you familiar with an organization
2 called The American Dream Coalition, I believe?

3 A One of the speakers was affiliated with the
4 American Dream Coalition, yes.

5 Q Are you a member of American Dream
6 Coalition?

7 A No.

8 MR. KUDO: No further questions.

9 CHAIRMAN LEZY: Mr. Kitaoka.

10 CROSS-EXAMINATION

11 BY MR. KITAOKA:

12 Q Dr. Prevedouros, good morning.

13 A Morning.

14 Q I understand that you're saying that
15 Ho'opili Project, if built, would have traffic
16 impacts. But you also said that there would be --
17 there are solutions to those kind of impacts.
18 Just --

19 A Yes.

20 Q I guess theoretically or potentially what
21 could those kinds of solutions be?

22 A There's only one word for it. It's called
23 lanes, traffic lanes. You cannot add houses, schools,
24 people, water lines, main lines, utilities, no traffic
25 lanes. The existing land does not. Hawai'i's one of

1 the few places that has developed a habit of doing
2 that. And we all pay a very heavy price for it.

3 Q Okay. So in your opinion, then, more cars
4 equals more lanes in order to alleviate traffic
5 concerns.

6 A Sir, it's not my opinion. It is the data
7 over here shows you that 4,000 more trips will be
8 generated. So as a reasonable person, not a traffic
9 engineer, if somebody tells you that you will have
10 4,000 more car trips what are you going to do with
11 them? Helicopter them? I mean the only solution is
12 traffic lanes.

13 Q Well, there's alternative modes of
14 transportation.

15 A Yes, sir, there are. And they account for 3
16 to 6 percent. What are we going to do with the
17 94 percent?

18 Q And, in fact -- if, in fact, the Second City
19 is successful in theory in having people live, work
20 and play in the Second City, that might have an effect
21 about the volume of cars that are headed towards down
22 so to speak.

23 A Yes. I will fully agree with you. And that
24 is the intent. However, in the planning numbers here
25 the traffic distribution assumes that some of these

1 trips will be going in the opposite direction.

2 Q I understand.

3 A Okay? I believe the consultant has already
4 accounted for that.

5 Q I was trying to explore with you whether you
6 believe there are any other solutions besides adding
7 lanes. But I guess there isn't, right?

8 A There are but they're all small and partial,
9 yes. The bulk of the thing remains that, you know,
10 we're dependent on the first city.

11 MR. KITAOKA: No further discussion.

12 CHAIRMAN LEZY: Mr. Yee.

13 CROSS-EXAMINATION

14 BY MR. YEE:

15 Q With respect to your guesstimates of the
16 amount of time spent on the freeway, if I understood
17 you correctly you're saying -- first, you're assuming
18 the traffic behavior doesn't change, right?

19 A Right. Assuming the same pattern. For
20 example, if we assume that Kapolei will become a
21 quarter million city, then of course people will --
22 but assuming similar patterns to what is in the study,
23 yes, five minutes additional, yes.

24 Q Would you also assume that there are no
25 significant improvements to the H-1 corridor? That

1 would change your estimates, wouldn't it?

2 A Well, I've been sworn to tell the truth and
3 nothing but the truth. But truthfully I do not know
4 of any planned improvements other than the one that's
5 on the HDOT, Hawai'i State DOT website that talks
6 about the conclusion of my study, the approval of
7 monies to fix the Middle Street by adding a lane and
8 adding the p.m. zipper lane, which the Lingle
9 administration was, you know, willing to do, but then
10 the economy collapsed and none of these projects
11 occurred.

12 Q I was just asking what the assumptions were
13 in your guesstimates. So were the assumptions when
14 you move from five minutes to ten minutes, et cetera,
15 that's assuming there are no significant changes in
16 between to improve the H-1 corridor.

17 A That's correct. Because there's nothing --
18 nothing has been on the planning table, let alone on
19 the implementation table, yes.

20 Q And your thought is that if you could add
21 more lanes that would at least be one major
22 improvement to the traffic on the H-1 corridor.

23 A Lanes can be a game changer as the H-3
24 Freeway showed.

25 Q Then early in your testimony I think I heard

1 you say that this was submitted to you for
2 decision-making. I think you're referring to Friends
3 of Makakilo Exhibit 37B, the 2011 TIAR.

4 A Not for me. I'm by no means a
5 decision-maker. This document was submitted to this
6 panel for decision-making, yes.

7 Q So your assumption is this document was
8 submitted to the Land Use Commission and based upon
9 that your conclusion is it's not a good document to
10 rely on for their decision, is that --

11 A That is correct.

12 MR. YEE: That's it. Nothing further.

13 CHAIRMAN LEZY: Ms. Dunne?

14 MS. DUNNE: No questions.

15 CHAIRMAN LEZY: Mr. Seitz?

16 MR. SEITZ: No.

17 CHAIRMAN LEZY: Dr. Dudley, redirect?

18 DR. DUDLEY: I was just -- the way the last
19 thing was phrased was a little bit questionable, but I
20 think I'll just leave it as is.

21 CHAIRMAN LEZY: Commissioners, questions?
22 Commissioner Judge.

23 COMMISSIONER JUDGE: Good morning.

24 THE WITNESS: Morning.

25 COMMISSIONER JUDGE: Thank you for your

1 testimony.

2 THE WITNESS: Sure.

3 COMMISSIONER JUDGE: At one point in your
4 testimony you were talking about sort of the
5 inaccuracy of this particular document in that the
6 scope of it only looks at one mile around the
7 development. And that if it were done anywhere else
8 in the country it would have to look at a greater
9 scope.

10 THE WITNESS: Hmm-hmm.

11 COMMISSIONER JUDGE: Why -- is that
12 something -- why does that occur? Is that a choice --
13 I guess if you know, is that a choice that the
14 Petitioner makes? Or is it a DOT requirement that you
15 only have to have a narrow scope?

16 THE WITNESS: It's mostly the choice and the
17 power of the choice rests with the authority that
18 reviews the document being that you are the state. So
19 they can request a large regional study or they can
20 request a very localized study.

21 So, unfortunately, there is no guidelines.
22 There's no guidelines. The situation is very poor
23 the way we have structured it. And that's why it puts
24 extra stress on your panel because there are no clear
25 guidelines as to how far, how long and how much they

1 should be doing.

2 If I could consult to my amazement -- if I
3 read, I'm sorry, from Page 59, I quote, "Neither the
4 City and County of Honolulu nor the State of Hawai'i
5 have guidelines for identifying the transportation
6 impacts caused by a project."

7 Basically anything goes until somebody says
8 it doesn't. It's really a very bad way of doing
9 business, but this is it.

10 COMMISSIONER JUDGE: In your professional
11 opinion what should the scope of the document be?

12 THE WITNESS: It should be pretty evident to
13 any planner and traffic engineer that this is a
14 significant project that has pervasive inputs with
15 their analysis that they've conducted. Even with a
16 30 percent discount this Project has the ability to
17 generate upward of 4,000 trips.

18 That is two lanes, two freeway lanes. It's,
19 you know, let's stop and see what is going on here.
20 And they didn't.

21 COMMISSIONER JUDGE: Okay. So that would
22 lead me to -- so in your solution just given the data
23 that you looked at, this document, you're saying one
24 of your solutions is a requirement, a mitigation would
25 be two extra lanes to the freeway?

1 THE WITNESS: Yes.

2 COMMISSIONER JUDGE: Are you aware that
3 they're in discussion for adding one lane?

4 THE WITNESS: Not through the H-1/H-2 merge
5 that this document contains. If it's somewhere else
6 I'm not aware of it and I do not know if it's an
7 official position.

8 COMMISSIONER JUDGE: Okay. Let me step back
9 again. So your solution is -- could you be more
10 precise about what you're -- I'm trying to get what
11 your solution, your mitigation would be with respect
12 to this document and the, you're saying 4,000 cars.

13 THE WITNESS: Truthfully I cannot sit here
14 after having reviewed just this document that doesn't
15 even have the basic volumes and pretend that I got a
16 solution for you. So I'm sorry but I cannot answer
17 your question the way you're wording it.

18 The basic solution is add lanes. Clearly
19 they project thousands of vehicular traffic. The
20 situation we have is already choked and at Level of
21 Service F.

22 So now whether you need one, two, or three
23 lanes because of it I am in no position to tell you
24 what is needed right now.

25 COMMISSIONER JUDGE: Where should those

1 lanes go? Would you have an opinion on that?

2 THE WITNESS: Well, one of these lanes may
3 have to go all the way, if you can believe it, from
4 Ho'opili to essentially UH Manoa which essentially
5 tells you that we're reaching levels of infeasibility.
6 In other words, unfortunately, I'm actually not
7 against development. But we don't have the
8 infrastructure to support the development. Unless
9 we're willing to live with travel times of 75 and a
10 hundred minutes UH to Kapolei.

11 It's a choice that the community has to
12 make. We've been making the wrong choice for several
13 years and perhaps we'll continue to do the same.

14 COMMISSIONER JUDGE: Okay. Thank you.

15 CHAIRMAN LEZY: Commissioners, any other
16 questions? I have a question for you,
17 Dr. Prevedouros. You testified earlier that you've
18 done work for the state as a consultant, is that
19 correct?

20 THE WITNESS: As a UH researcher, those were
21 all UH contracts.

22 CHAIRMAN LEZY: And so you've worked with
23 traffic engineers that work for the state.

24 THE WITNESS: Hmm-hmm.

25 CHAIRMAN LEZY: Would it be fair to assume

1 that those traffic engineers who are going to have to
2 review the TIAR in this case would identify the same
3 types of flaws that you have with the TIAR?

4 THE WITNESS: Quite possible if left alone.

5 CHAIRMAN LEZY: And are you aware of what
6 Department of Transportation's testimony has been with
7 regard to the traffic situation in connection with
8 this Petition?

9 THE WITNESS: Vaguely, yes. In other words,
10 I have seen some of the remarks that Brennon Morioka,
11 Dr. Brennan Morioka, the previous Director of
12 Transportation, made. Since then I'm not aware of any
13 additional State DOT remarks in the traffic impacts.

14 CHAIRMAN LEZY: So you're not aware of what
15 the current administration's Department of
16 Transportation has said.

17 THE WITNESS: Not at all. Not at all.

18 CHAIRMAN LEZY: Because they said that with
19 certain mitigations that they don't oppose this
20 development.

21 THE WITNESS: Okay. I just hope that those
22 mitigations are not the paying jobs that this report
23 has. If there are something more substantive I will
24 be welcome to review it.

25 CHAIRMAN LEZY: So I guess my last question

1 would be you have faith in the state as far as vetting
2 the traffic situation and providing their opinion as
3 to whether or not there can be effective mitigation?

4 THE WITNESS: It's a very strong question.
5 But I think my answer would lean to no as far as
6 faith. Based on -- and actually again I'm putting the
7 onus on the state, not on the consultant, based on
8 this 2009 memo and the things they asked him to do,
9 this is not in the best interest of the public.

10 I don't know whose interests it is, but it's
11 not in the best interest of the public. And the
12 state, their fiduciary duty is to the public. That
13 clearly says what they're bet was at the time. As we
14 say now a new administration. I know nothing about
15 it.

16 CHAIRMAN LEZY: Thank you. We're all done,
17 Doctor.

18 THE WITNESS: Thank you.

19 CHAIRMAN LEZY: Let's take a five minute
20 break in place. Then as was indicated yesterday at
21 the close of the proceedings we'll go ahead and take
22 public testifiers now.

23 The public testimony has been published on
24 the agenda for 3:00 p.m. but our hope is that we can
25 at least front load some of that.

1 So a five minute break in place and then
2 we'll take up public testimony. Thank you.

3 (11:20 recess. Ms. Erickson is no longer
4 present.)

5 CHAIRMAN LEZY: We'll take up public
6 testimony now. Mr. Davidson.

7 MR. DAVIDSON: Thank you, Chair. We have
8 seven signed up. We'll see who's here. First is Tom
9 Berg followed by Dana Anderson followed by Cyrus
10 Cariaga. I'm having trouble with that name. I think
11 Councilmember Tom Berg may not be here.

12 UNKNOWN SPEAKER: He is here.

13 MR. DAVIDSON: Okay. Front and center.

14 TOM BERG
15 being first duly sworn to tell the truth, was examined
16 and testified as follows:

17 THE WITNESS: Absolutely.

18 CHAIRMAN LEZY: Please state your name and
19 address and proceed.

20 THE WITNESS: Tom Berg, 91-203 Hanapouli
21 Circle, 'Ewa Beach, Hawai'i 96706. May I, Chair,
22 inquire if there's a clerk available to pass out my
23 testimony? There should be 18 copies if that's
24 sufficient. May I commence?

25 CHAIRMAN LEZY: Please.

1 THE WITNESS: I'm here today to apprise you
2 of some recent activity at the council that had to do
3 with mapping and identification of Important Ag Lands.
4 This was set out by state statute a few years ago to
5 request the counties parlay and determine how we can,
6 with the Sustainability 2050 Plan, come to a
7 conclusion with a mathematical formula the number of
8 acreage that will sustain us.

9 This formula is to come about with a new
10 agricultural liaison of which the council has approved
11 and budgeted. Her name is Laura Thielen. She's to do
12 such mapping and identification.

13 However, in the Resolution 12-23 when it was
14 heard at council in committee it was determined that
15 the Urban Growth Boundary would defeat such purpose.
16 It made absolutely no sense to the council in its
17 deliberations. That if they were to identify a map
18 that of which was to sustain us, that of which is in
19 productivity and has water, should be included in such
20 mapping, thus identified.

21 The conference draft 1 reflects that. The
22 floor draft 1 that was passed upon its adoption of
23 which was a unanimous nine to nothing vote, was to
24 merely provide for the communication that Laura
25 Thielen, acting as the agricultural liaison in the

1 mayor's administration, could indeed accomplish this
2 task by April of 2012, this year.

3 The deliberations of which lasted for more
4 than a hour were really about if we're going to expend
5 funds from the taxpayer to identify and map Important
6 Ag Lands, it would be futile and moot to not include
7 that of which is truly in production sustaining us
8 viability and water.

9 Now, Dr. Dudley, who did testify, did
10 mention some properties, some parcels so named. But
11 the CD1 had referenced what's considered prime ag
12 lands classification A and B. So the classification
13 was determined, the definition made known.

14 So it's an honor and a privilege to come
15 before you and let you know of what recently took
16 place upon full adoption on such measure of
17 February 15 of this year of the unanimous vote that
18 the Urban Growth Boundary shall be obsolete in making
19 any such determination of which that can sustain us in
20 this identification and mapping of Important Ag Lands.
21 Mahalo.

22 CHAIRMAN LEZY: Parties, questions?
23 Dr. Dudley.

24 MR. DUDLEY: All right. So, Mr. Berg,
25 before this resolution was passed in its original form

1 it was a resolution to get Laura Thielen to bring
2 forth all of the properties for the city to consider
3 for IAL, is that correct?

4 THE WITNESS: That is correct. To meet the
5 state statute of recommendation.

6 DR. DUDLEY: And so what happened in that
7 meeting was we discussed the fact that this did not
8 include Ho'opili and Koa Ridge and perhaps other
9 properties which were within the Urban Growth Boundary
10 and which were planned for urbanization by the City;
11 is that correct?

12 THE WITNESS: That's correct.

13 DR. DUDLEY: And so what the City did then
14 was they voted to, nevertheless, consider all
15 properties that are prime ag lands even though they're
16 within the Urban Growth Boundary. And even though
17 they were considered by the City for urbanization,
18 they voted that they would put those into the kitty
19 also, into the pot also, and study all of them for
20 Important Ag Lands designation, is that correct?

21 THE WITNESS: The deliberations and
22 conclusions of those deliberations found it to be not
23 relevant of the mission at hand, skewed, if you will,
24 in the deliberations that if they were to exclude from
25 the onset those lands of productivity made absolutely

1 no sense to the councilmembers.

2 DR. DUDLEY: Absolutely no sense. And so
3 even though the -- even though the rules of the Land
4 Use Commission say that they need to pay particular
5 attention to lands that are set aside by the counties
6 for urbanization, the City was kind of pulling back
7 from that, right? And saying: Well, we're going to
8 reconsider these lands for IAL designation, is that
9 correct?

10 THE WITNESS: If I can elaborate on your
11 question. The 'Ewa, the Mililani, the Kailua, the
12 Kapolei, Makakilo, 'Ewa Neighborhood Boards had asked
13 the General, O'ahu General Plan be completed first.

14 If I can answer, then, your question of your
15 inquiry is that this seems to be a natural fit to
16 determine just exactly in the identification of
17 mapping process what those important ag lands, prime A
18 and B classification, that they be a party, then, to
19 the final public hearing process in the O'ahu General
20 Plan.

21 So the conclusion, then, would be it made
22 all sense to have the data, the facts, the inventory
23 before the public so that the public in such process
24 of finalizing the O'ahu General Plan with the council
25 seemed to be roughly a year from now, that this data

1 that tasked from the agricultural liaison could be
2 again included in this those deliberations for the
3 public on their behest.

4 DR. DUDLEY: Okay. So as it stands right
5 now when all of this is said and done it could be that
6 the City would designate the Ho'opili lands and the
7 Koa Ridge lands as Important Agricultural Lands, is
8 that correct?

9 THE WITNESS: The process that I understand
10 it to be would -- after the inventory is made
11 available to the public, that it is meant to serve a
12 purpose.

13 The purpose of which the tool is to be
14 utilized for is just that: deliberations on the O'ahu
15 General Plan for the greater good of all its
16 participants on the Island of O'ahu, yes.

17 DR. DUDLEY: Thank you very much.

18 CHAIRMAN LEZY: Any other questions?

19 MR. SEITZ: No questions.

20 CHAIRMAN LEZY: Commissioners, questions?

21 No.

22 THE WITNESS: Thank you so much for your
23 time. Mahalo.

24 MR. DAVIDSON: Dana Anderson followed by
25 Cyrus Cariaga.

1 DANA ANDERSON

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

4 THE WITNESS: I do.

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

7 THE WITNESS: My name is Dana Anderson. I
8 reside at 2854 Park Street, Honolulu, 96817. And I'm
9 here to speak in opposition to Ho'opili, honorable
10 Commissioners. I ask that you urgently reflect on the
11 impact of the decision before you regarding
12 reclassifying this particular verdant agricultural
13 land to urban and developmental uses and the precedent
14 that this will set.

15 Please keep before you the wisdom of the
16 Empty Chair. And there's one here in front of me.
17 The Empty Chair is the guiding principle of ancient
18 practitioners in our 'aina. The empty chair is a
19 place where all who have gone before us have a seat,
20 all of our ancestors, and all the generations to come
21 are already finding a place to watch our decisions and
22 our actions. We must honor the past and vow safe,
23 fertile future.

24 As stewards of land use you have heard may
25 voices pro and con. I pray that you will continue to

1 hear voices of trees, trees in which winds can be
2 heard and the sounds of earth where rains can puddle
3 and the sounds of birds in the morning and evening
4 when they fill our spirits.

5 From Leavittown, Pennsylvania to Orange
6 County, California we have already endured the worst
7 of development. West O'ahu is rapidly rising to
8 eclipse, outstrip such barren expanses of soul-searing
9 concrete.

10 Will there be enough freshwater? No one yet
11 has a good answer for this singularly important
12 question. Where will the heat be mitigated? Will
13 more small farmers have less land to work? I am a
14 child of this land of five generations, not to be
15 confused with the wealthy descendants of movies.

16 Of course we want affordable homes for our
17 children, but not at the expense of water and food
18 security, and certainly not in the nightmare of
19 choking traffic commutes.

20 I pray for clarity and balance in your
21 decision-making. And I thank you for your time and
22 thoughtful consideration.

23 CHAIRMAN LEZY: Parties, questions?
24 Commissioners, questions? Thank you for your
25 testimony, ma'am.

1 MR. DAVIDSON: Cyrus Cariaga followed by
2 Dennis Lombardi followed by Mike Nojima.

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

6 THE WITNESS: Yes.

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

9 THE WITNESS: Cyrus Cariaga, 87-229 Laulele
10 Street. Morning. I'm an unemployed carpenter of the
11 Carpenters Union. And we have little or no choice the
12 way we work. We work wherever they send us out to
13 work. When we get there we do the best job that we
14 can. No crying, you know, no -- you don't bring
15 anything from home or anything. You just do your work
16 the best that you can.

17 I'm single with no dependents. I live in my
18 parents' house since 1980. I inherited my father's
19 property taxes. And people talk about taxes and they
20 pay, like, 35 percent in taxes and half percent sales
21 tax. Well, I pay, like, over 50 percent in taxes and
22 I pay property taxes. It's okay, you know, if people
23 get to eat and pay their bills. I figure if my
24 parents could do that for me I can do that for others.
25 No need to be selfish. I definitely pay my fair share

1 of taxes.

2 I'd like to say continue with the Ho'opili
3 Project. Come May I haven't been -- that will be the
4 start of being unemployed four years already. And we
5 carpenters we need work now, not 20 years from now.
6 And, you know, let's get the jobs so I can pay my
7 taxes 50 percent and property taxes and so people can
8 eat and pay their bills. Thank you.

9 CHAIRMAN LEZY: Parties, questions?
10 Commissioners, any questions. Thank you for your
11 testimony.

12 MR. DAVIDSON: Dennis Lombardi, Mike Nojima,
13 Henry Kwok.

14 DENNIS LOMBARDI
15 being first duly sworn to tell the truth, was examined
16 and testified as follows:

17 THE WITNESS: I do.

18 CHAIRMAN LEZY: Please state your name, your
19 address and proceed.

20 THE WITNESS: My name is Dennis Lombardi. I
21 live at 133 Hanapepe in Hawai'i Kai, 96825. I'm here
22 today to testify in favor of Ho'opili. But
23 principally I wanted to give the Commission, to the
24 extent they may not have already heard, a little bit
25 of background on the company that's here asking for

1 approval of this application.

2 I've been privileged to work with D.R.
3 Horton and its predecessor Schuler Homes, for almost
4 25 years now. They have been able to deliver some
5 10,000 homes approximately in that period of time to
6 the families in Hawai'i.

7 A good number of those homes are affordable
8 as classified by this Commission. I would say that
9 large percentage of them are gap group in the manner
10 that this Commission would classify them.

11 These are -- this is a local grown company
12 that builds homes for local people. And it's done so
13 with a mantra that I think persists through today.
14 And that is: Build a quality home for the people who
15 live here. Build it right. And live up to your
16 commitments fully and always.

17 That's the mantra that Jim Schuler believed
18 in. It's what he applied to his life as he moved
19 forward, expanded operations in this state throughout
20 the four principle islands and then to the mainland.

21 And then was blessed to meet others in
22 another company that had the same vision that he had
23 and merged in 2002 to form the current D.R.
24 Horton-Schuler Division is before you as an Applicant.

25 These are very, very important components to

1 a company's character and morality. I want the
2 Commission to know from my perspective that this is a
3 company who will live up to its representations, and
4 will do the job it says it's going to do. It will
5 bring homes to Hawai'i's people, which are desperately
6 needed, as you just heard. Thank you.

7 CHAIRMAN LEZY: Parties, questions?
8 Commissioners, questions? Thank you. Mike Nojima,
9 Henry Kwok and Representative Gil Riviere.

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

13 THE WITNESS: I do.

14 CHAIRMAN LEZY: Please state your name,
15 address and proceed.

16 THE WITNESS: My name is Michael Nojima. I
17 reside at 1069 Kamehameha Drive, Honolulu, 96825. I
18 also wanted to give testimony in support of the
19 Ho'opili Project, and to give a little of my
20 perspective of D.R. Horton.

21 Over the many years of my professional
22 career that I have worked as a civil engineer I have
23 worked with D.R. Horton-Schuler Division on many
24 projects in the state of Hawai'i.

25 Our involvement together spanned many years

1 and went back to the early beginnings with Jim Schuler
2 and Schuler Homes and continues to the present date.

3 Although the corporate structure may have
4 changed from D.R. Horton from the early days of
5 Schuler Homes, their commitment to building local
6 communities, and their vision to doing so remains
7 strong.

8 It is evident looking at the multiple
9 developments that are in the community, developments
10 such as Makakilo, Kapolei, and Waikele to name a few
11 and also the thousands of homes that Schuler Homes,
12 D.R. Horton has built over the years.

13 Sometimes people might view a development
14 like a series of roads, infrastructures and houses.
15 But it's not infrastructure that's being proposed.
16 But it's communities.

17 At one point in time the land under all of
18 our homes was probably vacant land. And, you know,
19 somebody had the vision to develop it. And what's
20 important to us is that, you know, that's what we each
21 call our home.

22 It gives me a great sense of pride when I
23 look at many of the developments that I have worked
24 with D.R. Horton. And there are communities where
25 people live and called it home.

1 In terms of quality care that D.R. Horton
2 invests, they do spend a lot on the planning, design
3 and construction of these projects. There are
4 countless number of design professionals that they use
5 which include architects, engineers, surveyors,
6 attorneys.

7 They also utilize a lot of local contractors
8 to perform their work. They have a keen sense of
9 sensibility to the community needs. And they are also
10 willing to support and utilize kama'aina businesses.

11 In terms of their quality and their customer
12 satisfaction, example is that, you know, their
13 customer care support does not end once the house is
14 sold. It goes far beyond that. A recent example is
15 where a homeowner had an issue and it's probably maybe
16 six years after the homeowner moved in. But D.R.
17 Horton stepped in and is reviewing the situation now.

18 So, like I said, their commitment to
19 customer satisfaction, customer care goes far beyond
20 the time that the person occupies their home. I'm
21 confident that D.R. Horton-Schuler Division will
22 provide the same quality and care on the Ho'opili
23 Project. And I believe that the Ho'opili Project can
24 be a very vibrant and thriving community. It will be
25 good for West O'ahu. It will be good for working

1 families and keikis. And it will give them
2 opportunities for housing. And with that I would
3 kindly ask for your support for the Ho'opili Project.

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

6 THE WITNESS: Thank you.

7 MR. DAVIDSON: Henry Kwok followed by
8 Representative Gil Riviere.

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

12 THE WITNESS: Yes.

13 CHAIRMAN LEZY: Please state your name, your
14 address and proceed.

15 THE WITNESS: My name is Henry Kwok. I
16 reside at 91-100 Opaepala Street, 'Ewa Beach, Hawai'i,
17 96706.

18 I'm here today to support the Ho'opili
19 Project. If you don't mind I'll just read from my
20 testimony. Dear Members of the Land Use Commission,
21 thank you for this opportunity to allow me to share my
22 support for the D.R. Horton-Schuler Division's
23 proposed Ho'opili community in East Kapolei.

24 I've been a resident and homeowner in West
25 Loch Estates since 1990 thanks to the vision of the

1 late Mayor Frank Fasi's vision of the future. Back
2 then I was in my mid-30s, had a college degree,
3 working two jobs and I still couldn't afford to buy a
4 house in town.

5 In the early '90s when West O'ahu was
6 beginning to develop new houses that are finally
7 affordable in the low 200,000s compared to 500,000s in
8 Honolulu. I was lucky enough to purchase one of these
9 homes. Imagine of all these West O'ahu housing
10 development during the last 23 years were farmland.

11 The average prices in Honolulu might have
12 been over \$2 million for a single-family home right
13 now. The homeless problems would have been
14 exponentially increased.

15 Please don't let the same group of selfish
16 people who stopped the SuperFerry and now they're
17 trying to stop our rail development, to stop a new
18 housing development. And they say how and where our
19 future generations live.

20 Many of these individuals who live in East
21 O'ahu and have many fancy houses, say that they want
22 to keep farmlands for locally grown produce and
23 develop urban Honolulu for more homes.

24 The fact is that there remain enough land
25 for agricultural purposes. But new high rise

1 condominiums for 2-bedroom unit cost around \$550 --
2 550,000, with the maintenance fee over \$800 a month.
3 Ho'opili will not adversely affect your food costs,
4 and will help housing choices in the near future.

5 If any development could have their way and
6 stop development in 'Ewa we would be left with an
7 affordable condo unit in congested urban Honolulu.

8 We need a balanced approach to provide
9 residents with choices of work and living styles. The
10 activist groups want to limit our choices. Enough is
11 enough. We are paying more for interisland travel
12 because a minority group killed the SuperFerry.
13 There's a recent proposal to increase the height limit
14 to 600-foot tall for condo towers to provide more
15 density.

16 Just imagine Honolulu with the urban
17 congestion of two other island cities, Hong Kong and
18 Singapore, overpriced high rise condo with a mere \$600
19 per square foot providing little privacy, and daily
20 traffic jams in urban Honolulu raise stressful living.

21 Hawai'i's people do not deserve this quality
22 of living. Those cities might not have choice. But
23 we are lucky enough to still have options. Your
24 approval for this Project may be the only way for most
25 middle income families to afford a single-family home

1 or a townhouse on O'ahu. The American dream of owning
2 a home with a yard can still exist for them.

3 The other day on the T.V. news I heard a
4 woman argue that Ho'opili will take away jobs from
5 farm workers. Think about it. Ever since the
6 plantation days young people have fled the fields.
7 Agribusinesses have modernized so there are fewer
8 workers and more machines.

9 Ho'opili would provide more jobs than farm
10 would. From the conception, which involved architects
11 and engineers to construction, which provides jobs for
12 carpenters, plumbers, masons, painters to the final
13 product that will need teachers, merchandisers, and
14 professionals, Ho'opili is planned to be an
15 environmentally sustainable community that would
16 provide a unique opportunity for Hawai'i's people.

17 Ho'opili will provide tens of the thousands
18 of jobs including 7,000 permanent jobs. An estimated
19 4.6 billion in direct investment by D.R. Horton will
20 go a long way towards stability of Hawai'i's economy.

21 With an increased population of a new city,
22 we can support a major shopping mall larger than Ala
23 Moana, new schools, recreation, transportation
24 choices.

25 Ho'opili would make available a variety of

1 housing options at affordable prices creating
2 homeownership possibility for a diversity of families.

3 Ho'opili's in the city and county of
4 Honolulu's Urban Growth Boundary and has been planned
5 for planning development for over 20 years. It would
6 represent a final piece of the City and State's plan
7 to transform the 'Ewa Plain and Kapolei region to a
8 true new city along with the new University of Hawai'i
9 West O'ahu campus, the Kroc Center, and DHHL East
10 Kapolei, Ho'opili fulfills the vision of a robust
11 second urban center on O'ahu.

12 I respectfully encourage you to approve this
13 Project. It is good not only for West O'ahu but also
14 good for the generations of Hawai'i's working
15 families. Twenty-two years ago I purchased my home in
16 'Ewa. And with the approval of this Project my son
17 will be able to return to Hawai'i and afford to
18 purchase a home in Ho'opili. Thank you.

19 (Applause)

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

22 MR. DAVIDSON: Is Representative Riviere
23 here? That concludes the signed up witnesses, Chair.

24 CHAIRMAN LEZY: Okay. We will break then
25 until 3:00 p.m.

1 (Recess was held. 12:00)

2 (Proceedings recommencing at 3:15 p.m.)

3 MR. DAVIDSON: We have five people to
4 testify, 3-minute rule. First is Wynn timer followed
5 by Jason Espero followed by Kevin Killeen.

6 MS. DUNNE: Excuse me. Representative Gil
7 Riviere is here, who was called this morning and
8 wasn't here.

9 MR. DAVIDSON: We'll call him right after
10 her.

11 MS. DUNNE: Okay. Thank you.

12 CHAIRMAN LEZY: Ma'am, raise your right for
13 me, please.

14 WYNNIE HEE

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

17 THE WITNESS: Yes, as far as I know.

18 (laughter)

19 CHAIRMAN LEZY: State your name and your,
20 address if you will.

21 THE WITNESS: Wynn timer Hee, 95-1523 Ainamakua
22 Drive, Apartment 93, Mililani, Hawai'i, 96789.

23 THE REPORTER: Could you slow down a little
24 bit, please? Thank you.

25 THE WITNESS: Wyn...nie.... Hee -- is this

1 part of my 3 minutes?

2 CHAIRMAN LEZY: No.

3 THE WITNESS: 95-1523 Ainamakua Drive,
4 Apartment 93, Mililani.....Hawai'i 96789-4420. Thank
5 you for hearing me. You know, I'm tired of Sierra
6 Club speaking up to defend the public good. And after
7 reading their articles in the newspaper this week I
8 decided I had to come down and speak up for myself.

9 You know, earlier this week I read in the
10 newspaper something that boggled my mind. The
11 Horton-Schuler representative said, "Land is not the
12 limiting factor to the growth of diversified
13 agriculture." And at first I didn't get it. But when
14 I thought about it, hydroponics you need greenhouses,
15 that takes land. Ah, but then I got it! Land is not
16 the limiting factor for the growth of marijuana,
17 right? They've been growing marijuana indoors for
18 years. And then they even caught some renters. They
19 set the garage on fire.

20 And I remembered earlier this year there was
21 in the news about roof top garden out in Kaka'ako. It
22 used to be CompUSA. They have a flat roof. In fact I
23 looked it up. It was going to be an organic garden.
24 And they were going to sell the veggies to the upscale
25 restaurants that didn't want to just serve ice berg or

1 cabbage.

2 You don't even need to have a flat roof
3 because my father -- I remember seeing a picture
4 before. And I dug through my old magazines and sure
5 enough -- and I'll pass this around if you want to see
6 if -- if you have a sloping roof all you need is to
7 build little ledges so that your trays don't fall
8 down.

9 So land is not the defining factor, the
10 limiting factor for agriculture. And then I found
11 this other one, sod roof. You can raise goats. They
12 can eat the grass. You can get milk and cheese and
13 meat.

14 So, Sierra Club, the Horton-Schuler
15 lobbyist was right. Land is not the limiting factor.
16 And I have great news for you. The Land Use
17 Commission and Horton-Schuler because land's not the
18 limiting factor for construction of new homes.

19 You saw this in the Sunday paper? Six,
20 seven, towers? And I tried to add is up. Three
21 towers alone 950 units. And three, four, more towers.
22 That's going to be a thousand housing units in prime
23 area, Kaka'ako to 'Ewa side of Waikiki, all around Ala
24 Moana Shopping Center. Don't have to build a rail to
25 take people from Kapolei to shop at Ala Moana. Just

1 build it where they live. Thousands of jobs at Ala
2 Moana Shopping Center and Waikiki. Build it where
3 they want to live and work and shop. And then
4 Wednesday's paper --

5 MR. DAVIDSON: Excuse me. You have 30
6 seconds.

7 THE WITNESS: Okay. Okay. "900 units to
8 build prisons." Construction workers: Jobs, jobs,
9 jobs. You don't need to take ag land for jobs. Thank
10 you.

11 CHAIRMAN LEZY: Parties, questions?

12 THE WITNESS: You want to see my magazine?
13 It's Yes Magazine. It's published in Washington
14 State. They're kind of progressive over there.

15 CHAIRMAN LEZY: Thank you, Ma'am.

16 MR. DAVIDSON: Representative Gil Riviere.

17 CHAIRMAN LEZY: Sorry, we're going to take
18 the representative out of order, if you don't mind.

19 MR. DAVIDSON: Followed by Jason Espero.

20 REP. GIL RIVIERE

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, your
25 address and proceed.

1 THE WITNESS: My name is Gil Riviere. And I
2 live at 65-137 Hukilau Loop, Waialua 96791. Thank
3 you. Is this too close?

4 CHAIRMAN LEZY: You're fine.

5 THE WITNESS: I'm here to testify in
6 opposition to the land use change. As the
7 representative of the North Shore we have very grave
8 concerns about development in many areas that are
9 sensitive. And what I'd like to share with you, which
10 I do not believe has been presented yet, is
11 developers -- and this may seem funny, but I'm not
12 anti-development. I'm just -- appropriate
13 development. And what I think is interesting that we
14 fail to see or sometimes to acknowledge what's going
15 on is developers have a long-term interest in a
16 long-range plan. They're seeing over the horizon.

17 The public only finds out about land use
18 changes when they come. What is often said, as I've
19 seen this before, is the developers will say, "Oh,
20 man, the community approved this ten years ago. What
21 are you talkin' about now? You can't change it. You
22 guys agreed to this ten years ago."

23 And I'll give an example. In 1972 the
24 Turtle Bay Hilton was built. And it was built
25 because -- for the reason of re-employing people who

1 were getting laid off from the Kahuku Sugar Plantation
2 which just shut down. There was opposition at the
3 time to the hotel. But the hotel came out and it's
4 turned out to be a great asset for the community.

5 The Turtle Bay Hotel in its present form is
6 a wonderful asset for the community. Provides a
7 certain amount of jobs, provides income stability.

8 In 1986 the city agreed to allow it to
9 expand to 4,000 units from its current 500. So that's
10 a massive eight-fold increase. The project began in
11 1991 and then financially went bust, and laid dormant
12 for many, many years.

13 In 2005 word got out that they were going to
14 resuscitate the plan. You folks are well aware of
15 Turtle Bay issue. I don't mean to be going over old
16 news here.

17 But one of the arguments, one of the
18 strongest arguments that Oak Tree Development tried to
19 present was: "Hey, it's right here in the
20 sustainability community plan. Five years ago the
21 community reaffirmed this is what the community wants.
22 The community said in the Sustainable Community Plan
23 that they want 4,000 hotels -- hotel rooms."

24 Obviously that wasn't the community
25 sentiment. What had happened was the developers

1 planning ahead said: Oh, let's make sure we get that
2 in there. And then later on we'll say it was always
3 there.

4 And going back to Ho'opili. In 1988 -- I've
5 seen a map from the General Plan in 1988. It has this
6 nice big swath of agriculture. It's got the Second
7 City. It's got Kapolei. It's got the 'Ewa Villages
8 in 'Ewa. It's got this massive section of
9 agriculture, 1988.

10 But we're being led to believe now: Oh,
11 it's always been the Second City. They were always
12 going to build that out.

13 Same thing happened. The Urban Growth
14 Boundary got changed years ago because the developers
15 were looking over the horizon planning ahead. I don't
16 blame 'em. That's good business practice for them.
17 But there comes a time when a community has to look at
18 the plan and say: Is that what we really want?

19 And I think you folks have been hearing
20 again and again and again the majority of people in
21 this state are very, very concerned about the loss of
22 agriculture lands.

23 Developers will say, yeah, this is already
24 in the plan. This is already in the plan. Meanwhile
25 they're planning for some other horizon that we're not

1 even lookin' at yet. So when that's all built out
2 then they'll say, "Well, we've got plenty of land. We
3 need to do this."

4 MR. DAVIDSON: Thirty seconds,
5 Representative.

6 THE WITNESS: Thank you. I'll wrap up. I
7 think you folks get the gist of that. It's an unfair
8 playing field when you look at guys that are planning
9 years ahead and planning plans and projects. And then
10 they discount community opposition when it arises.

11 I think that community should be listened
12 to. And I think everyone who's standin' up to this
13 should be considered. So thank you very much for
14 allowing me to testify. (applause)

15 CHAIRMAN LEZY: Parties, questions?
16 Commissioners, questions? Thank you for your
17 testimony.

18 MR. DAVIDSON: Jason Espero followed by
19 Kevin Killeen followed by Cynthia Frith.

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

23 THE WITNESS: Yes, sir.

24 CHAIRMAN LEZY: Please state your name, your
25 address and go ahead.

1 THE WITNESS: Jason Espero, 91-944 Waihua
2 Place 'Ewa Beach 96706. I'm from the Leeward side of
3 O'ahu. I grew up in that neighborhood. I still live
4 at home in my family's house. And I do hope to move
5 out one day to buy a brand new home of my own one day.

6 But I do want to stay on the Leeward side.
7 That's why I support the changing in the agriculture
8 to urban. And that's why I support Ho'opili.
9 Hopefully I can give you a different perspective
10 through a future homeowner. I feel that I also
11 represent the next generation of homeowners.

12 I also represent the young professionals who
13 wanna move out of their family's house one day and a
14 brand new home, not a used home, but a brand new home.

15 And I feel that Ho'opili can provide us with
16 that opportunity to buy a brand new home in -- lack
17 for a better word -- a pretty cool community, a
18 community that will be first of its kind here in the
19 state of Hawai'i.

20 When I see communities in the mainland where
21 there's transit incorporated in it and it's a mixed
22 usage of commercial and residential and a walking
23 community with parks in it, I see -- or I feel oh, I
24 wish Hawai'i had a community like that.

25 And I feel that Ho'opili can bring that type

1 of community to Hawai'i. And a community where people
2 like myself who are young professionals starting their
3 career looking for a home to buy, that we can purchase
4 a home in such a community. Thank you for giving me
5 this time to testify. Have a good weekend.

6 CHAIRMAN LEZY: Parties, questions?
7 Commissioners, questions? Thank you.

8 MR. DAVIDSON: Kevin Killeen followed by
9 Cynthia Frith followed by Thad.

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

13 THE WITNESS: Yes.

14 CHAIRMAN LEZY: Please state your name, your
15 address proceed.

16 THE WITNESS: My name's Kevin Killeen, 1750
17 Kapiolani, Honolulu, Hawai'i 96826. I attended a
18 Faith Action Community Equity summit last
19 January 2011, January 22nd. And there was a speaker
20 there named Terrence Ware he's the head of the TOD for
21 the city, for the city's rail project.

22 So I think it's surprising if he hasn't been
23 called to speak about this Project because it's billed
24 as a TOD project. But he said that he has over 30
25 years experience. And he said that there aren't

1 enough primary jobs in Hawai'i. Primary jobs generate
2 secondary jobs. He said it's almost all secondary
3 jobs.

4 So what you might call affordable housing is
5 not affordable for people with secondary jobs. He
6 said there are no Fortune 500 companies here. He said
7 people with skills will leave and buy a bigger house
8 four or five times less in cost. He said he doesn't
9 see why that wouldn't happen.

10 So that leaves people coming from other
11 states to buy second homes -- or other countries. So
12 this isn't a Project for citizens of the state. This
13 is -- this is a Project for people with primary jobs
14 that can afford second, third, fourth homes.

15 The construction business has systemic
16 unemployment. You work six months, go on unemployment
17 six months. When this Project is over people will be
18 back where they started. They still won't be able to
19 afford these homes.

20 Terrence Ware also said that TOD will only
21 work -- it won't be at every station. So they need to
22 justify, you know, how to spend this 5 or 10 billion,
23 maybe 15 by the time the change orders come through.
24 So they need a place where they can do it. Almost
25 every place else it's infill. It's not -- it's not

1 TOD.

2 MR. DAVIDSON: Excuse me, sir, 30 seconds.

3 THE WITNESS: Okay. So the only place you
4 can do it is on prime ag land. The last thing I want
5 to say is when HCDA approved the 20 or 30 new high
6 rises in Kaka'ako, it gave them, the owners, great
7 profit. One was in bankruptcy, but it allowed them to
8 sell the property for more money.

9 Even if the economy doesn't get better and
10 the projects never get built, you're -- you're using
11 the public benefit to make a private entity richer.
12 Thank you.

13 CHAIRMAN LEZY: Parties, questions?
14 Commissioners, questions? Thank you.

15 MR. DAVIDSON: Cynthia Frith followed by
16 Thad. That's the remaining signed up witnesses.

17 CHAIRMAN LEZY: Afternoon.

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

21 THE WITNESS: Yes, I do.

22 CHAIRMAN LEZY: Please state your name and
23 your address and proceed.

24 THE WITNESS: My name is Cynthia Frith. I
25 live at 42-128 Ko'oku Place in Kailua, 96734. I've

1 come to testify today in opposition to Ho'opili. But
2 not really so much in opposition to Ho'opili, but more
3 about talking about preserving prime farmland.

4 And I ask you to seriously consider, which I
5 think you will -- you've heard an awful lot of
6 testimony in the last few months -- just exactly what
7 your job is. I don't consider you just the Land Use
8 Commissioners. I think of you as the best Land Use
9 Commissioners. And that really is your mission. What
10 is the best use of this property?

11 Mine is to save O'ahu farmlands by coming
12 together to protect the land that feeds us. That's my
13 mission and the mission of the group I'm working with.
14 Unfortunately we can't control the plight of the
15 farmers who are really just share croppers, renters of
16 the land. Nor can we guaranty a job for everyone who
17 wants or needs one in their chosen field.

18 As you've heard over the last few months we
19 have a truly finite amount of resources. Land use,
20 water and energy along with food sustainability are
21 the main ones of greatest concern, a concern that
22 needs to reach far into the future, not just a few
23 short years down the road.

24 In order to build Ho'opili the LUC must
25 change the zoning from Ag to Urban, a change that will

1 forever alter not only the landscape but also greatly
2 diminish the puny 10 percent of goods we currently
3 produce there, 10 percent of the goods meaning that
4 90 percent are imported. Okay?

5 D.R. Horton is not really the problem per
6 se. Developers will come and go. It's the precious
7 land here that is the issue. We may be able to move
8 the farms, but will all of the same conditions also be
9 available? The answer is no. This is a prime, prime
10 area, already a proven producer of four to five crops
11 a year. Almost impossible to replace.

12 Will the developer be able to fulfill all of
13 their promises to the LUC or future residents? Will
14 the TOD come to fruition, this Transit-Oriented
15 Development? Or fall far short of expectations, much
16 as the fashion of Portland's TOD's?

17 At the end of the day do we come together to
18 protect the land that feeds us --

19 MR. DAVIDSON: Excuse me, 30 seconds, ma'am.

20 THE WITNESS: -- or do we let it fall by the
21 wayside? Food sustainability is everyone's issue, the
22 rich, the poor, the homeowners, the renters, and a
23 common need to eat healthful food. Thank you very
24 much.

25 CHAIRMAN LEZY: Parties, questions?

1 Commissioners, questions? Thank you, Ma'am.

2 MR. DAVIDSON: Thad.

3 THAD SPREG

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

6 THE WITNESS: I do.

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

9 THE WITNESS: My name is Thad Spreg. I live
10 in Makakilo. My testimony is a little bit longer
11 today. And I was hoping I could have a couple extra
12 minutes.

13 CHAIRMAN LEZY: Three minutes, sorry.

14 THE WITNESS: Okay. One second then. Okay.
15 I wanted to begin with a little, maybe anecdotal item
16 that came to my attention yesterday. For those people
17 who don't think that Ho'opili makes a big difference I
18 want you to think about this little thought.

19 At lunchtime yesterday I passed the
20 gentleman across the room from me -- I'm sorry I don't
21 know your name -- but I passed you when you were
22 carrying the box that contained the Commissioners
23 lunches.

24 In big letters on the side of that box it
25 said Sugarland Farms. So the farms and the food way

1 out there in 'Ewa in the 'Ewa Plains reaches a lot
2 farther than many people probably think. It reaches
3 all the way to the stomachs of our Commissioners.

4 I'd like to pause from the expert testimony
5 that we've heard over the last two days, even though
6 it's been great, and just take a simple look at why
7 we're here, not an oversimplification, but just a
8 basic look.

9 Horton's basic idea is to take the farms and
10 move them to areas that are probably not as good for
11 growing crops as where they are now. And they put
12 people where the farmlands currently are. But
13 wouldn't it make more sense to put the people where
14 they want to put the farms and just leave the farms
15 alone?

16 Commissioners, I don't know if any of you
17 live in the 'Ewa area, but it's common knowledge to
18 those of us who live on the Island of O'ahu that 'Ewa
19 is hot. I have a friend with electric bills that run
20 7- to \$900 a month because they have to run their air
21 conditioners virtually all the time.

22 Do you recall how hot it was in the buses
23 that day you took your tour? Mr. Jones passed out
24 water on our bus because it was so hot. Do you
25 remember how much cooler it was at the second stop up

1 the hill at the quarry?

2 Wouldn't it make more sense to build homes
3 in the cooler, higher locations where the experts are
4 saying that the crops won't grow as well? People
5 living there would enjoy a better quality of life than
6 on the hot 'Ewa Plains.

7 So if we do it the Horton way we end up with
8 the people where the crops should be and crops where
9 the people should be. We end up with both the people
10 and the crops in the wrong places. That's a lose/lose
11 situation.

12 But if, instead, we put the people in the
13 cooler areas and keep the crops on the land with the
14 abundant sunshine, then we get a win/win. So there's
15 the Horton way and the right way. The Horton way and
16 the right way. Horton's way is lose/lose. The right
17 way is win/win. Deny the Petition because it's a
18 lose/lose proposition.

19 Let Horton come back with a Petition that
20 makes sense and one where the people end up where the
21 people belong and where the crops end up where the
22 crops belong, not the other way around. The other way
23 around is lose/lose. The Horton way is lose/lose.
24 Give us win/win. Mahalo. (Applause).

25 CHAIRMAN LEZY: Parties, questions?

1 Commissioners, any questions? Thank you for your
2 testimony. That's the last of the folks that have
3 signed up for public testimony. Is there anyone else
4 who wishes to provide public testimony? Please step
5 forward. Afternoon.

6 GUY ARCHER

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

9 THE WITNESS: I do.

10 CHAIRMAN LEZY: Please state your name and
11 your address and proceed.

12 THE WITNESS: My name is Guy Archer. My
13 address is 2499 Kapiolani Boulevard, Honolulu, Hawai'i
14 96826. I'm here on behalf of the Hawai'i Chapter of
15 Americans for Democratic Action. Earlier this week we
16 filed written testimony with the LUC. We're in
17 opposition to the Petition. And I basically want to
18 stand on our testimony and see our written testimony
19 made part of the record.

20 CHAIRMAN LEZY: The testimony has been made
21 part of the record already.

22 THE WITNESS: Thank you.

23 CHAIRMAN LEZY: Thank you. Is there anyone
24 else who would like to provide public testimony? Step
25 forward, please.

1 JAMES McKAGEN

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

4 THE WITNESS: I do.

5 CHAIRMAN LEZY: Could you please state your
6 name, your address and proceed.

7 THE WITNESS: My name is James McKagen. I
8 live at 2957 Kalakaua Avenue, suite 216. Well, thank
9 you for your time, Commissioners. I know this is a
10 very interesting proposal. And it's obviously quite
11 challenge for you to sit here like this.

12 My testimony comes from a place obviously
13 not locally to Hawai'i, but in a way I feel like I've
14 traveled to here from the future in that I just came
15 in from Arizona. So I guess I want to start with a
16 quote I've heard, one that's rung true. And it's one
17 by Dr. Martin Luther King. "Our lives begin to end
18 the day we become silent about the things that
19 matter."

20 So I work in solar and it's extremely busy,
21 but I feel that this is a really important issue that
22 does matter to all of Hawai'i.

23 So obviously working in the solar industry
24 my focus is on energy. But I've come into the solar
25 world through green building. And that's got me sort

1 of a broad perspective of sustainable enterprises.

2 So I think they're quite alike because it's
3 got a few aspects to it that the things that matter --
4 I think that goes back to the gentleman's focus --
5 what are we really talking about? It's really the
6 long-term sustainability of Hawai'i.

7 So while we've got the Clean Energy
8 Initiative which focuses on energy, food is the other
9 massive threat to Hawai'i's future. And as oil prices
10 are only gonna go up, both energy and food supplies
11 are a dire threat to the future.

12 So while I have not even been here a year,
13 there's a few things that I really appreciate about
14 the Hawaiian mindset and culture. And that's the talk
15 story one. So really my story is after over a decade
16 in Arizona, even though I was only there, really, for
17 a blink of an eye, I just saw these suburbs upon
18 suburbs getting just cranked out.

19 And there's a movie called "End of Suburbia"
20 that really stuck with me when there's this bulldozer
21 just chewing up desert and it spits out houses out of
22 the end of the bulldozer.

23 That to me is a great picture of what could
24 happen in this area for a corporate developer that's
25 basically international has bought agricultural land

1 at a greatly subsidized rate and just flipping it to
2 make a ton of money off houses is really only
3 benefiting them, not Hawai'i.

4 It's a decision once made you cannot go
5 back. And Arizona is a terrible place now. They've
6 built it all on the promise of jobs. And, frankly, I
7 bought a house there that doubled in value. And now
8 it's worth less than what I bought it for 10 years
9 ago. You go there and the morale is terrible there.
10 There's really no prospect of that place ever
11 recovering, in my opinion.

12 So obviously the decision's a big one that
13 you guys have to deal with. And I know there's
14 pressures from all sides. But my big thing is it
15 really is a boom and bust cycle. And right now you
16 have a fertile petri dish to really do something
17 special with. And I really believe Hawai'i should be
18 the leader of the world in sustainability.

19 Coming from a green building background, in
20 green building there's no such thing as a green
21 building. A green building is a building that does a
22 bit less damage than a normal building. So to say
23 it's a green development, it still has a massive
24 impact on the earth. If you're relocating a farm --

25 MR. DAVIDSON: Excuse me, 30 seconds, sir.

1 THE WITNESS: -- to develop the area then
2 you've lost the ability to grow food, which is
3 obviously the essential life blood of humanity. I
4 think all the points about more energy, more traffic,
5 more density is very valid.

6 But there are ways to build higher density
7 and leave the farms there I believe. So when we've
8 only got 596 square miles we really have to appreciate
9 the land.

10 I think as you judge it's things that matter
11 that really are the importance to all of Hawai'i.
12 Thank you, Commissioners.

13 CHAIRMAN LEZY: Parties, questions?
14 Commissioners, questions? Thank you.

15 MR. DAVIDSON: Is there anyone else who
16 would like to provide public testimony? Step forward,
17 please. Is there anybody else in the audience who
18 wants to provide public testimony, please go ahead and
19 queue up.

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

23 THE WITNESS: I do.

24 CHAIRMAN LEZY: Please state your name and
25 address and proceed.

1 THE WITNESS: My name is Jeff Brun. I'm
2 from 45-328 Kahuwao Place, Kaneohe. I work in turning
3 unhealthy soils into -- not soils -- known as dirt
4 into healthy biological rich soil. And I'd like to --
5 in regards to the 'Ewa Plains farmland that
6 classification as A/B farmland indeed making it a high
7 ranking agricultural land -- so I'd like to present on
8 the defining characteristics of soil and what makes it
9 high or low grade.

10 First, please understand that there are two
11 basic characteristics of soil: Mineral and
12 biological. The mineral components of soil are sand,
13 silt and clay, basically broken down bedrock.

14 The biological components of soil are the
15 mutual beneficial groups of organisms including
16 bacteria, fungi, protozoa and nematodes. If you have
17 sand, silt, and clay and very little or no soil
18 biology, you don't have soil at all. You have dirt.

19 To grow anything in dirt requires a heavy
20 concentration of chemical fertilizers to replace the
21 nutrients in biologically rich soil. And it's these
22 nutrients that have to be plant-ready available,
23 feeding in the forms that a plant can easily absorb
24 through its roots, then into its leaves and seeds and
25 fruit that we then ingest, and convert into nutrients

1 of human ready form.

2 Our very bodies are literally sustained from
3 the soil, and in many cases nowadays from dirt
4 inoculated with high levels of industrial fertilizers.

5 So soil is composed of sand, silt and clay
6 combined with a high concentration of beneficial
7 organisms. And if there's no beneficial organisms you
8 simply have dirt.

9 The biology of soil, the biology in soil
10 does all the work to create nutrients that are
11 plants-accessible, build the soil structure, and
12 suppress disease and pests. Here's a staggering
13 statistic. The biology of one cup of healthy high
14 grade soil, example A/B farmland, may hold as many
15 beneficial bacteria as there are people on earth. A
16 teaspoon of that soil may hold more than 10 miles of
17 fungi.

18 So healthy plants and meat products taste
19 good, satisfy our hunger because they have the proper
20 balance of nutrients. The flavor of fruits,
21 vegetables and meats products depend on the balance of
22 nutrients in the soil. I'll give one example
23 regarding the benefits of a healthy soil. A byproduct
24 of a fungi produces Glomua, a kind of soil glue that
25 binds the tiny clay particles in, together in large

1 pieces which creates an ideal environment for deep
2 products. These large spaces increase soil water
3 holding capacity which means less irrigation is
4 needed.

5 Now, I have not personally evaluated the
6 biologies of the 'Ewa Plains farmlands. And I'm not
7 saying the farmlands does not need some irrigation,
8 some fertilization. But the official classified --
9 classification of prime A/B farmland by experts far
10 more knowledgeable than I stand as such for one reason
11 only. Because the land produces incredible amounts of
12 edible food.

13 The only way the land can produce that kind
14 of productivity is because the soil is naturally rich
15 in biology, and the soil's unique symbiotic
16 relationship to the microclimate that's held in the
17 'Ewa Plains district.

18 I've made this statement to bring awareness
19 to the value of healthy soil as a commodity for our
20 community and our world and for us to consider future
21 generations in making our decisions today.

22 CHAIRMAN LEZY: Parties, questions?
23 Commissioners, any questions? Thank you for your
24 testimony. That concludes the public testimony for
25 this hearing. Sure. Step forward, Mr. Bukoski. I

1 apologize.

2 THE WITNESS: That's okay.

3 KIKU BUKOSKI

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

6 THE WITNESS: Yes.

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

9 THE WITNESS: Kiku Bukoski, 46-118 Kialaie
10 Street, Kaneohe, Hawai'i. I'm here representing the
11 Hawai'i Building and Construction Trades Council.
12 We're made up of construction labor unions. Our
13 membership reaches approximately 20,000 members
14 throughout the state of Hawai'i.

15 I just wanted to offer a couple comments
16 that were brought up in the last couple days in
17 testimony. One of the things that I keep hearing
18 about is food security. You know, I really don't -- a
19 lot of it is very speculative, what could happen, what
20 might happen, water shortages, what could happen what
21 might happen.

22 What I can tell you what is happening right
23 now is that we have a lot of guys losing jobs, losing
24 families, losing their houses which causes just a
25 myriad of social problems, spouse abuse, alcoholism,

1 drug abuse, domestic violence, child abuse, you name
2 it.

3 Every day I drive to my office on Dole, and
4 I pass IHS. For those of you who don't know what IHS
5 is it's the Human Services building. It's a reminder
6 that we're in a crisis today. We're not talking about
7 speculation on what's going to happen in 50 years. I
8 hear contradictions from Representative Gil Riviere
9 talking about plans, we have to update our plans
10 today. We have the Water Commission guy saying we
11 have to plan 50 years out. I mean these guys plan for
12 a living.

13 When do we actually implement these plans?
14 Because this plan was in the works since the '70s. So
15 are we going to now revisit the plans that has been
16 discussed for the last several decades? And we're
17 gonna think about it for another 50 years? When are
18 we actually going to do things to address the problems
19 that we have currently today? That's what we want to
20 know. You know, it's not just about jobs.

21 I'm born and bred in this state of Hawai'i.
22 I'm Native Hawaiian. I'm a graduate of Kamehameha
23 Schools. I definitely respect and honor our
24 traditions and our culture and our resources. But you
25 also have to -- you have to balance and that's a tough

1 job you guys have, balance the well-being. And there
2 is that in the constitution as well.

3 I never really heard it brought up, Article
4 IX which reflects to the welfare and the benefits of
5 the people.

6 I did want to make a comment about the rail
7 because it came up, I don't know why, but it did. The
8 Gresham MAX rail system was brought up. What they
9 failed to tell you was that the population of Gresham
10 is 105,000 people, 25 square miles. So you're talking
11 Kauai or Maui. Maybe that's why it failed. If you
12 guys haven't, please watch the program on Olelo. I'm
13 glad I went. It was the very educational.

14 Because if you look at the slides that they
15 show, there's absolutely no people. Every single
16 slide but one with one guy shoveling snow had
17 absolutely no people. There was a shot of the
18 freeway, no traffic. It's no wonder why the rail
19 failed. They don't need it. It's in the middle of an
20 agricultural rural area.

21 MR. DAVIDSON: Thirty seconds to conclude.

22 THE WITNESS: Like Kula, Maui, if you can
23 imagine that. I don't think a rail would survive
24 there. But it's apples to oranges from what we're
25 talking about here.

1 A couple other things I just want to close
2 with. You know, Ma'o Farms -- I applaud them what
3 they're doing. If you look at their founders and
4 their Board of Directors I don't think they're gonna
5 have a problem getting land. Okay?

6 But when they mention that they're going to
7 help 12 to 16 apprentices, 75 students, we'll help
8 tens of thousands of apprentices that make the kind of
9 wages that might have a chance at buying one of these
10 homes. Tens of thousands of apprentices.

11 And then, ah, just lastly, I do want to just
12 add that, you know, it really bothers me when we talk
13 about saving ag and it sounds great. But where were
14 these -- where was everybody when the neighbor
15 island -- the outer island farmers were begging to
16 keep the SuperFerry in play so that they could bring
17 their locally grown crop to market on O'ahu? Where
18 was everybody then?

19 I just learned that recently there was an
20 auditor's report, we're in debt \$63 million because of
21 that whole debacle. We're going to be paying for it
22 'til 2028 is what the auditor is saying.

23 So if it's really about saving ag and saving
24 farmland, then let's be realistic. Let's not just use
25 the buzz words, but then when really the rubber hits

1 the road it's a whole different story. So we stand in
2 strong support. We hope that you guys -- we
3 appreciate the hard decisions you have to make. Thank
4 you very much.

5 CHAIRMAN LEZY: Parties, questions?
6 (Applause). Commissioners, questions? Thank you.
7 Ma'am, would you like to provide testimony?

8 THE WITNESS: Yes. We have about two more I
9 think. Commissioners, my name is Elaine Kam and I do
10 swear to tell the truth.

11 CHAIRMAN LEZY: Okay. I need to swear you
12 in anyway. I need to let the folks in the audience
13 know we're going to lose quorum in ten minutes. And
14 what we'll have to do then, if there are still people
15 who wish to provide public testimony, we'll have to
16 defer you to the next meeting. But we will take you
17 first in order. Hopefully we'll be able to get
18 through.

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

22 THE WITNESS: Yes.

23 CHAIRMAN LEZY: Please state your name, your
24 address and proceed.

25 THE WITNESS: My name is Elaine Kam. My

1 address is 96816, Honolulu. And I'm a resident of
2 O'ahu and became a cancer advocate of sorts for family
3 and friends.

4 I became aware of the significant
5 differences of imported foods which are sprayed with
6 all kinds of questionable substances to enhance the
7 looks and you would buy it. And by the time it
8 travels here it does get ugly unless they do spray it.
9 But it is very bad for the health.

10 Yes, we are in a dire need of locally grown
11 food. Commissioners, you do have a fiduciary duty to
12 help O'ahu's approximately 950,000 residents -- that's
13 from the 2010 census -- so we'll have food to stay
14 alive as opposed to helping developer D.R. Horton and
15 his consultant Dean Okimoto and his 12,000 potential
16 homeowners, et cetera.

17 Well, if you do subtract 950,000 people
18 from approximately 13 or 14,000, you have about
19 837,000 people. And perhaps you might want to do the
20 greater good in that case. Okay. And thank you for
21 your time. I do oppose that being zoned to be urban.
22 Thank you.

23 CHAIRMAN LEZY: Parties, questions?
24 Commissioners, questions? Thank you.

25 (Young girl approaching witness table)

1 CHAIRMAN LEZY: Would you like to provide
2 testimony?

3 THE WITNESS: Yes, please.

4 CHAIRMAN LEZY: Okay. Can you raise your
5 hand for me, please?

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

9 THE WITNESS: Yes.

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

12 THE WITNESS: My name is Jade Spallina. And
13 my address is 2723 Booth Road.

14 CHAIRMAN LEZY: Please go ahead.

15 MR. DAVIDSON: Excuse me. We didn't get the
16 name for the court reporter.

17 THE WITNESS: Jade Spallina. I feel that
18 Ho'opili needs to be kept as a farmland because
19 they're not that many farmlands in O'ahu. Ho'opili
20 provides most of O'ahu's local food because it can
21 grow four crops a year. Not a lot of farms in O'ahu
22 can do that.

23 Ho'opili can do that because of its good
24 soil and its good weather. Not all O'ahu's farmlands
25 have good soil and good weather.

1 Ho'opili also provides healthy food which
2 Hawai'i needs and O'ahu needs because not a lot of
3 children, especially, are healthy.

4 Ho'opili also provides food sustainability.
5 Lots of foods are imported from the mainland and all
6 over the world.

7 I feel that we need to be able to rely on
8 ourselves for food, O'ahu, just because in case of
9 emergency or in case oil prices become too high or
10 it's not available anymore. We probably won't be able
11 to feed ourselves without Ho'opili.

12 And I feel that food is a lot more important
13 than houses because we need food to survive. Thank
14 you. And then we also have all these posters that a
15 lot of kids drew.

16 MS. KAM: Can we just take a few seconds to
17 say that we are representing 168 children, parents and
18 teachers who did some poster testimonies in favor of
19 having Ho'opili for farmland. They're concerned about
20 for eating for the future. And may we just show them
21 for a second?

22 CHAIRMAN LEZY: Sure.

23 MS. KAM: And some of the schools that were
24 involved and the teachers and the parents were from
25 King Ka'ahumanu School, Maryknoll, Sacred Hearts

1 MidPac and a few others. Thank you for your time.
2 There's lots more. There's is 168. We put them all
3 on the clothesline. (Applause).

4 CHAIRMAN LEZY: Thank you very much. You
5 did a very good job. Any questions, parties? Any
6 questions, Commissioners? Thank you very much. Okay.
7 I think that concludes public testimony. Just a
8 couple of very brief housekeeping matters before we
9 adjourn and the hearing is done.

10 (Unidentified speaker approaching
11 microphone.) Can I speak now or do I have to wait?

12 CHAIRMAN LEZY: Step forward and try to make
13 it quick, please.

14 THE WITNESS: It will be.

15 CHAIRMAN LEZY: Okay. Thank you.

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

19 THE WITNESS: Yes, I do.

20 CHAIRMAN LEZY: Please state your name,
21 your address and proceed.

22 THE WITNESS: My name is Joanna Hukipala. I
23 live at 265 South Vineyard Street, apartment B-204.
24 This is my first testimony so I apologize if I stumble
25 over my words or if I seem like I'm wasting your time.

1 Unlike all the other people that have come
2 up and stated facts I really don't know any of the
3 facts except what has been put up on the news. And
4 basically from my understanding is there is a lot of
5 homes being developed on ag land where maybe those
6 homes can be developed somewhere else.

7 But also there's a lot of questions of if
8 all these homes are being built, where are the, like,
9 basic resources coming from as far as, like, water and
10 stuff? Because clearly we already have a water
11 situation. So are we inviting more people to the
12 islands to buy homes? Or the whole job thing, is that
13 gonna be a permanent thing? Because I know it's
14 supposed to be raising jobs too.

15 But what happens when the homes get built
16 and done? Do they get to build more houses somewhere
17 else? Is there gonna be another development happening
18 in the next couple years that we don't know about?

19 For me it was just a lot of questions that I
20 really don't know where to find as far as answers.
21 And I feel like maybe me, and a few other people out
22 in the general public don't really know what's going
23 on because maybe it's not really being put out as
24 well. I'm not too sure.

25 But I do understand and from what I have I

1 really don't think that at least at this place houses
2 should be in this location houses should be developed.
3 Thank you.

4 CHAIRMAN LEZY: Parties, questions?
5 Commissioners, questions? Thank you very much.
6 Ma'am, I'm sorry. We're going to lose quorum. So if
7 you could sign up for the next meeting we'll take you
8 first in order.

9 As I started to say, just a couple of quick
10 housekeeping matters for the upcoming March 15-16
11 hearing. Ms. Dunne, then you'll have Mr. Deenik ready
12 to go first in order, right, on the 15th?

13 MS. DUNNE: I'm still trying to confirm if
14 he's going to be able to be here on the 15th. That
15 was my last understanding but I actually think he may
16 not be able to be here 'til the 16th. And I'm
17 wondering if it would be possible to have him testify
18 on that day if Paul Brewbaker is, I think, scheduled
19 to testify on that day.

20 CHAIRMAN LEZY: When will you know?

21 MS. DUNNE: As soon as I hear back from him.
22 He's traveling somewhere.

23 CHAIRMAN LEZY: Do you have any idea when
24 you'll know?

25 THE WITNESS: Hopefully in the next few

1 days. I can e-mail as soon as I find out.

2 CHAIRMAN LEZY: Okay. Please let the staff
3 know. Then, Mr. Seitz, on the 15th you will be able
4 to have Senator Hee and Governors Waihe'e and Cayetano
5 ready to go?

6 MR. SEITZ: Yes. I have them scheduled to
7 start at 9:30 on that day.

8 CHAIRMAN LEZY: Okay. Good. And then,
9 Mr. Dudley you'll have Mr. Brewbaker the following day
10 the 16th?

11 DR. DUDLEY: Yes, the 16th. But that day we
12 have Tom Coffman.

13 CHAIRMAN LEZY: Coffman on the 16th?

14 MR. DUDLEY: 15th.

15 CHAIRMAN LEZY: Okay. So Coffman on the
16 15th then. He will, for planning purposes,
17 Dr. Dudley, then he will go after Mr. Seitz's
18 witnesses.

19 DR. DUDLEY: Fine.

20 CHAIRMAN LEZY: All right. And then you'll
21 have Mr. Brewbaker --

22 DR. DUDLEY: On the 16th.

23 CHAIRMAN LEZY: -- on the 16th ready to go
24 first. And perhaps, then Mr. Dean. Understanding,
25 Petitioner, that you may need to hear the testimony of

1 these additional witnesses. As things stand right now
2 do you anticipate having any rebuttal?

3 MR. KUDO: Yes.

4 CHAIRMAN LEZY: How many witnesses as things
5 stand? Just one. And will it be appropriate to offer
6 them on the 15th or the 16th? Do you have a
7 preference?

8 MR. KUDO: The 16th.

9 CHAIRMAN LEZY: So we'll take your rebuttal
10 witness subject to consideration of any further
11 rebuttal after Mr. Brewbaker and perhaps Mr. Dean on
12 the 16th.

13 MR. SEITZ: Can we also have a deadline by
14 which that they will identify who their rebuttal
15 witness is so we can prepare?

16 CHAIRMAN LEZY: Are you willing to disclose
17 who that rebuttal witness is now?

18 MR. KUDO: Yes. Probably be Tom Nance.

19 CHAIRMAN LEZY: Tom Nance. Anything else
20 before we adjourn? I'd just like to thank everybody.
21 We got a lot done over the past two days and I
22 appreciate the hard work. We stand adjourned.

23 (The proceedings were adjourned at 4:00 p.m.)

24 --oo00oo--

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C E R T I F I C A T E

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4

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

6

That I was acting as court reporter in the
foregoing LUC matter on the 2nd day of March 2012;

8

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

11

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

14

DATED: This _____ day of _____ 2012

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17

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19

20

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

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23

24

25

