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LAND USE COMMISSION  
STATE OF HAWAI'I

A11-793 CASTLE & COOKE HOMES, HAWAI'I, INC.)  
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TRANSCRIPT OF PROCEEDINGS

The above-entitled matter came on for a public hearing  
Conference Room 204, 2nd Floor Leiopapa A Kamehameha,  
235 S. Beretania Street, Honolulu, Hawai'i, commencing  
at 9:00 a.m. on April 5, 2012, pursuant to Notice.

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

## A P P E A R A N C E S

## COMMISSIONERS:

KYLE CHOCK  
THOMAS CONTRADES  
LISA M. JUDGE  
NORMAND LEZY (Chairman)  
CHAD McDONALD  
JAYE NAPUA MAKUA  
NICHOLAS TEVES, JR.

EXECUTIVE OFFICER: ORLANDO DAVIDSON

CHIEF CLERK: RILEY HAKODA

STAFF PLANNERS: BERT SARUWATARI, SCOTT DERRICKSON

DEPUTY ATTORNEY GENERAL: SARAH HIRAKAMI, ESQ.

AUDIO TECHNICIAN: WALTER MENCHING

Docket No. A11-793 Castle & Cooke Homes, Hawai'i, Inc.

For the Petitioner: BENJAMIN MATSUBARA, ESQ.  
CURTIS TABATA, ESQ.

For the County: DON KITAOKA, ESQ. (AM)  
MIKE WATKINS, DPP  
KRISHNA JAYARAM, ESQ. (PM)  
Deputy Corporation Counsel  
TIM HATA, DPP

For the State: BRYAN YEE, ESQ.  
Deputy Attorney General  
JESSE SOUKI, Drt. OP

For Intervenor Board #25: RICHARD POIRIER  
KAREN LOOMIS

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

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1           CHAIRMAN LEZY: (Gavel) Morning. This is  
2 a meeting of the state of Hawai'i Land Use Commission.  
3 The first item on the agenda is a continued hearing on  
4 Docket No. A11-793 to amend the Agricultural Land Use  
5 District Boundary into the Urban District for  
6 approximately 767.649 acres at Waipio and Waiawa  
7 island of O'ahu, state of Hawai'i TMK Nos. (1)9-4-06:  
8 portion 1, portion 2, portion 3, portion 5, portion  
9 29, portion 31, 38, portion 39:9-5-03; portion 1 and  
10 4; and 9-6-04:21.

11           Will the parties please make their  
12 appearances.

13           MR. MATSUBARA: Morning, Mr. Chair, Members  
14 of the Commission. Ben Matsubara and Wyeth Matsubara  
15 on behalf of Castle & Cooke Homes, Hawai'i, Inc.  
16 Seated to my right is Laura Kodama, director of  
17 planning and development.

18           CHAIRMAN LEZY: Morning.

19           MR. KITAOKA: Good morning, Mr. Chair,  
20 Commission Members, Don Kitaoka Deputy Prosecute --  
21 Deputy Corporation Counsel (laughter) on behalf of the  
22 city and county of Honolulu. Along with me is Mike  
23 Watkins from the Department of Planning and  
24 Permitting.

25           CHAIRMAN LEZY: Good morning.

1 MR. YEE: Good morning. Deputy Attorney  
2 General Bryan Yee on behalf of the Office of Planning.  
3 With me is Jesse Souki from the Office of Planning.

4 CHAIRMAN LEZY: Good morning.

5 MR. POIRIER: Good morning. Dick Poirier,  
6 Board No. 25. With me this morning is Karen Loomis.

7 CHAIRMAN LEZY: Good morning.

8 MR. SEITZ: Morning. Eric Seitz for  
9 Intervenors Senator Clayton Hee and the Sierra Club.  
10 And with me this morning is my associate Sarah Devine.  
11 And Senator Hee will be here shortly.

12 CHAIRMAN LEZY: Good morning. Let me  
13 update the record relative to this hearing. On  
14 February 10, 2012 the Commission received written  
15 correspondence from the Oahu Farm Bureau advising that  
16 it opposes the Petition.

17 On February 23, 2012 the Commission  
18 received a copy of Intervenors The Sierra Club and  
19 Senator Clayton Hee's Motion for Issuance of Subpoena  
20 to William Tam.

21 On March 7, 2012 the Commission issued an  
22 order granting Intervenors The Sierra Club and Senator  
23 Clayton Hee's Motion for Issuance of a subpoena to  
24 William Tam.

25 On March 8, 2012 the Commission received

1 Office of Planning's Statement of No Objection to  
2 Intervenor's Motion for Issuance of a Subpoena to  
3 William Tam and Intervenor Clayton Hee's  
4 correspondence to the county of Honolulu regarding  
5 City Council Resolution No. 12-23.

6 On March 9, 2012 the Commission received  
7 Office of Planning's First Amended Witness List,  
8 Second Amended Exhibit List and Exhibits 18 and 19.

9 On March 13, 2012 the Commission received  
10 correspondence from the county of Honolulu regarding  
11 Intervenor Clayton Hee's correspondence to the county  
12 regarding City Council Resolution No. 12-23.

13 On March 20, 2012 the Commission received a  
14 copy of correspondence to the State Department of  
15 Agriculture from Petitioner regarding Koa Ridge Makai  
16 and Waiawa Project-Waiahole Ditch.

17 On March 30, 2012 the Commission received  
18 Petitioner's Second Amended List of Exhibits and  
19 Exhibits 53, 54.

20 On April 2nd, 2012 the Commission received  
21 Office of Planning's Third Amended List of Exhibits  
22 and Exhibit 20.

23 On April 4 and 5 the Commission received  
24 written correspondence by e-mail from Marina Miller,  
25 Gladys Bautista, Robert Sanders, Bryan Emons, Sky

1 White, Charley Boger. (phonetic)

2 And on April 3, 2012 the Commission  
3 received written correspondence by e-mail from Natalya  
4 Merkuryeva-Dennet and a subpoena for William Tam  
5 signed by the LUC Chair, which was served March 14.

6 Let me explain our hearing procedures for  
7 today. First, I will give the opportunity for the  
8 parties to offer any new exhibits into the record.  
9 After admission of any exhibits Petitioner will  
10 complete its case in chief.

11 After Petitioner has completed its case in  
12 chief the Office of Planning will present its case  
13 followed by Intervenor The Sierra Club and Senator  
14 Clayton Hee and then Mililani-Waipio-Melemanu  
15 Neighborhood Board No. 25.

16 As noted on the agenda public testimony  
17 will be taken at 2:00 p.m. When public testimony is  
18 taken individuals desiring to provide testimony will  
19 be called in turn to our witness box where they will  
20 be sworn in.

21 I ask that any individuals who intend to  
22 provide public testimony please sign the public  
23 testifiers list. As noted on the agenda the  
24 Commission has a scheduled executive session that's  
25 expected to occur at about 1:30 p.m.



1           For the benefit of the public and the  
2 parties the Commission intends to take a brief 30  
3 minute lunch between 11:30 and 12. I also note for  
4 the parties and the public that from time to time I'll  
5 call for short breaks. Are there any questions  
6 regarding our procedure for today?

7           MR. MATSUBARA: No questions.

8           MR. SEITZ: Yes.

9           CHAIRMAN LEZY: Mr. Seitz.

10          MR. SEITZ: We've had some e-mail  
11 correspondence back and forth. But what I would  
12 request and propose to do is that we be allowed to  
13 call our witnesses this morning, particularly Mr. Tam,  
14 who's now here pursuant to the subpoena, and  
15 Dr. Flachsbart both of whom I expect will be  
16 relatively short so that they don't have to stay here.

17          I would also request of your consideration  
18 to call Russell Kokubun, who's sitting here, who we  
19 have asked to be brought here so that we can allow him  
20 to go back to his duties as soon as possible.

21          So my proposal is to do those three  
22 witnesses if we can first. And I think that would be  
23 in everybody's best interest.

24          CHAIRMAN LEZY: Makes sense to me. Any  
25 problems?

1 MR. MATSUBARA: We have no objections.

2 MR. KITAOKA: No objection.

3 MR. YEE: We have no objection to calling  
4 them early, though we would note that Russell Kokubun  
5 is the Office of Planning's witness. So we would ask  
6 to start with direct with Office of Planning.

7 CHAIRMAN LEZY: Neighborhood Board, any  
8 problems?

9 MR. POIRIER: No, no problem.

10 CHAIRMAN LEZY: Mr. Seitz, are you okay  
11 with Mr. Yee's proposal?

12 MR. SEITZ: Yeah, I was assuming that,  
13 frankly, my first two witnesses would be very short.  
14 That's why I suggested we do them before we call  
15 Mr. Kokubun.

16 MR. YEE: No, I have no objection to  
17 calling those two first.

18 MR. SEITZ: Oh, that's fine. Then I think  
19 we understand. But he's going to do direct first with  
20 Russell. That was my understanding as well.

21 CHAIRMAN LEZY: Right. I think that's the  
22 only issue is whether Mr. Yee can do direct.

23 MR. SEITZ: Oh, of course.

24 CHAIRMAN LEZY: All right. Okay. As I  
25 said makes sense to me so we'll go with that. Thank

1 you. Turning to exhibits. Petitioner, do you have  
2 any additional exhibits to offer?

3 MR. MATSUBARA: Yes, Mr. Chair. We  
4 submitted two additional exhibits. Exhibit 53 is the  
5 direct testimony of William Tam in the Ho'opili case.  
6 Exhibit 54 -- oh, 53 includes the direct examination  
7 and the cross-examination of Mr. Tam in the Ho'opili  
8 case. And Exhibit 54 is the transcript of Mr. Nance's  
9 rebuttal to Mr. Tam's testimony.

10 Mr. Seitz and I agreed that it would  
11 expedite matters if the transcripts from that Ho'opili  
12 proceedings relating to Mr. Tam were introduced to the  
13 Commission as opposed to having live testimony and  
14 cross-examination since all of you have just gone  
15 through that.

16 CHAIRMAN LEZY: Is that the case,  
17 Mr. Seitz?

18 MR. SEITZ: Yes.

19 CHAIRMAN LEZY: Does anybody have  
20 objections to admission of those exhibits?

21 MR. KITAOKA: No objection.

22 MR. YEE: No objection.

23 CHAIRMAN LEZY: Petitioner's Exhibits 53  
24 and 54 are admitted. Those are the only two exhibits?

25 MR. MATSUBARA: That's correct. Thank you.

1 CHAIRMAN LEZY: And, County, I assume no  
2 exhibits. You've rested your case, correct?

3 MR. KITAOKA: That's correct.

4 CHAIRMAN LEZY: Office of Planning?

5 MR. YEE: Office of Planning has  
6 Exhibits 18 through 20 regarding Department of  
7 Transportation and a recent letter received from the  
8 Department of Agriculture.

9 CHAIRMAN LEZY: Any objections?

10 MR. MATSUBARA: No objections.

11 MR. KITAOKA: No objection.

12 MR. POIRIER: No objection.

13 MR. SEITZ: No objection.

14 CHAIRMAN LEZY: Office of Planning's  
15 Exhibits 18, 19 and 20 are admitted. Neighborhood  
16 Board?

17 MR. POIRIER: None.

18 CHAIRMAN LEZY: Mr. Seitz?

19 MR. SEITZ: No further exhibits.

20 CHAIRMAN LEZY: Great. Thank you.

21 Mr. Matsubara, are you prepared to proceed?

22 MR. MATSUBARA: Yes, I am.

23 CHAIRMAN LEZY: Oh, wait. Mr. Seitz, are  
24 you prepared to proceed?

25 MR. SEITZ: Yes. At this time we would

1 call William Tam.

2 CHAIRMAN LEZY: Nice to see you again.

3 THE WITNESS: Good morning.

4 WILLIAM TAM,

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

7 THE WITNESS: Yes, I do.

8 CHAIRMAN LEZY: Please state your name and  
9 your business address.

10 THE WITNESS: My name's William Tam. I'm  
11 Deputy Director of the Department of Land and Natural  
12 Resources, for the Water Commission, 1100 Punchbowl  
13 Street, Honolulu 96813.

14 CHAIRMAN LEZY: Mr. Seitz.

15 DIRECT EXAMINATION

16 BY MR. SEITZ:

17 Q Mr. Tam, what is the position you currently  
18 hold?

19 A I'm Deputy Director of the Department of  
20 Land and Natural Resources for the State Water  
21 Commission.

22 Q And you're appearing here pursuant to a  
23 subpoena that we served upon you, is that correct?

24 A That's correct.

25 Q The Commissioners have already received a

1 transcript of your testimony that was given just a few  
2 weeks ago in another matter. Since that time I  
3 understand you have prepared a report of some sort, is  
4 that correct?

5 A Very briefly, yes. I found that the method  
6 of getting information across was difficult because  
7 there was a lot of references. So I've summarized  
8 that testimony with a couple of specific references to  
9 this case in a letter that I prepared for you, and I'm  
10 prepared to submit to the Commission.

11 Q Well, that hasn't been seen by anybody, and  
12 I haven't seen it. So my suggestion is that if, in  
13 your capacity because of your job, you wish to submit  
14 that to the Commission you can do so at some point.  
15 But I don't think it would be appropriate for us to  
16 submit it at this point.

17 A That's fine. There are only two or three  
18 major differences from the previous testimony. And I  
19 can summarize 'em in about two minutes.

20 Q Okay. Well, that's what I'm going to ask  
21 you to do. Can you summarize, in addition to what  
22 you've already testified to, any other concerns you  
23 have which you had not previously articulated to the  
24 Land Use Commission.

25 A This Project is --

1           MR. MATSUBARA: Mr. Chair, the only comment  
2 I would like to make is that in regard to the  
3 understanding we had prior to Mr. Tam appearing, was  
4 that the transcripts of the prior case would be  
5 introduced. No new additional testimony was  
6 contemplated. Otherwise, perhaps, we would have had  
7 our water expert sit in today's hearing.

8           I'd just like to note that for the record  
9 that this is coming as a total and complete surprise.  
10 It was our understanding that his testimony, cross and  
11 rebuttal in the prior hearing, would be the extent of  
12 his participation in our hearing. I'd just like to  
13 note that for the record.

14           CHAIRMAN LEZY: Mr. Seitz.

15           MR. SEITZ: I think that was somewhat of a  
16 misunderstanding because otherwise I wouldn't have had  
17 a necessity to bring him here. So I wanted to bring  
18 him here. And as I indicated I think to everybody,  
19 that I had a few preliminary questions and then that  
20 was it. And that he would then be available for  
21 cross-examination in addition to what has already been  
22 heard. If that was unclear, then I certainly  
23 apologize for that.

24           CHAIRMAN LEZY: Mr. Matsubara, I note your  
25 objection. I would suggest you obviously should have

1 an opportunity on cross-examination to address any  
2 issues, additional issues that Mr. Tam may raise.  
3 Although I would like to avoid it, if you feel that  
4 you need to bring your water expert back in order to  
5 rebut any points that Mr. Tam makes, we will certainly  
6 make time for you to do that.

7 MR. MATSUBARA: Thank you.

8 MR. SEITZ:

9 Q So my question to you was: Are there  
10 additional concerns that you wish to bring to the  
11 attention of the Land Use Commission that were not  
12 testified to the last time you appeared?

13 A Three points. Primarily because of the  
14 location of this Project, it is within a designated  
15 water management area for potable water, therefore,  
16 all water use permits -- water use permits will be  
17 required for potable water.

18 The issue about the -- three points I want  
19 to make. One is the sustainable yield numbers in the  
20 overall Pearl Harbor area over the last 30 years have  
21 declined from approximately 225 million gallons to  
22 about 177 million gallons.

23 As I testified in the prior case we are  
24 currently re-evaluating those numbers even today based  
25 upon some USGS Army Corps and Board of Water Supply



1 work. And we expect those numbers to decline.

2 We don't know the magnitude of it yet. But  
3 if the rainfall data is any indication, might be on  
4 the order of ten percent.

5 We don't dispute the statements in the  
6 Petitioner's petition about what the current  
7 sustainable yield is for that area, which is that  
8 particular system, which is 104 million gallons. We  
9 also agree that the current allocation is on the order  
10 of 84 million gallons. Current pumpage is slightly  
11 below that at present.

12 Two last points: The Board of Water Supply  
13 under the Water Code is required to prepare county  
14 water use and development plans. They have done  
15 Ko'olauloa. They've done Wai'anae. They almost  
16 finished Ko'olaupoko. They started the North Shore.  
17 They're about to start 'Ewa. They have not yet  
18 started, to my knowledge, Central O'ahu, which is  
19 where this land is located.

20 So we do not have, currently, a county  
21 water use and development plan integrating long-term  
22 water and land use. That's somewhat important because  
23 without that it's difficult to know what the future  
24 uses are going to be or projected to be. And this  
25 brings up the last point.

1           The Land Use Commission's looking as to  
2 future land uses as things get built out. My  
3 understanding of the petition is this Project will be  
4 built out somewhere between 2025 and 2030. By then we  
5 would expect, given current trends, that sustainable  
6 yields will continue to decline. So that the numbers  
7 you have to work with are not the present numbers.  
8 There's obviously water in the ground today because  
9 agriculture went out of business largely.

10           So that the issue's not so much is there  
11 water today. But the question is what's going to be  
12 the condition in 2030 and thereafter. And how do you  
13 integrate that with all the other needs that will  
14 occur in that area, and the revitalization, hopefully,  
15 of agriculture in Central O'ahu.

16           So that's a point that I don't think I have  
17 articulated well enough before. That's the long-term  
18 interest the Commission has. So the timeframe for  
19 analyzing this is probably the most important thing,  
20 you've got to start looking at 2030 and beyond. Those  
21 are the only additional points I had.

22           MR. SEITZ: No further questions.

23           CHAIRMAN LEZY: Mr. Matsubara?

24           MR. MATSUBARA: Just a few questions.

25       XXXX

## 1 CROSS-EXAMINATION

2 BY MR. MATSUBARA:

3 Q Mr. Tam, you indicated that one of the  
4 concerns was that the sustainable yield numbers may  
5 change because of a decrease in rainfall.

6 A Among other things. Also lacks return  
7 irrigation water and also stormwater --

8 Q I'm just going on the basis what you stated  
9 or your direct. And that was decreased rainfall. And  
10 as I understand it, if these numbers change it will be  
11 a process that your Commission on Water Resource  
12 Management would go through before these sustainable  
13 yield numbers are changed?

14 A That's correct.

15 Q And that hasn't been done yet.

16 A We are in the process of doing that.

17 Q But that hasn't been done yet.

18 A Not today.

19 Q Okay. Now, in regard to the Board of Water  
20 Supply, in regard to your reference to the fact that  
21 they hadn't completed a study of Central O'ahu, that  
22 would be a matter between the Petitioner and Board of  
23 Water Supply in regard to the allocation of water  
24 they're permitted?

25 A No. It's a matter for the Water Commission

1 and the Board of Water Supply to resolve. That's a  
2 planning document that was required 25 years ago. It  
3 hasn't happened yet.

4 Q But it's a matter that is further down in  
5 the entitlement process?

6 A No. It's not an entitlement issue.

7 Q Well, in regard to your reference to the  
8 fact that it's in a designated water management area.

9 A That's independent of whether there's water  
10 use in the development plan.

11 Q But the Commission on Water Resource  
12 Management would be involved in this process?

13 A The county prepares the plans. The  
14 Commission would then review them. It would be vetted  
15 publicly. Then eventually the County Council must  
16 adopt it. And it is then viewed as the county's  
17 long-term plan for Central O'ahu.

18 Q The county creates it. You have input,  
19 your Commission has input and the County Council  
20 adopts it.

21 A And then the Water Commission adopts it,  
22 yes.

23 Q And that's not done yet.

24 A No.

25 Q Okay. Did you review the incremental plan

1 in regard to the development schedule for this  
2 Project?

3 A I skimmed through it. I don't know the  
4 phasing.

5 Q It's 2022 that this Project will be  
6 completed, approximately ten years down the line from  
7 now as opposed to 2025 or 2030.

8 A On page 43 and 44 of your petition, page 58  
9 references 14 years after adoption. So it would be  
10 2026.

11 Q Under the incremental plan, though, if you  
12 note, there's two portions to it. This portion that  
13 we're going through now is Koa Ridge Makai.

14 A I was looking at the larger picture.

15 Q For both.

16 A Yes.

17 Q Even the incremental.

18 A Yes.

19 MR. MATSUBARA: Okay. Thank you. I have  
20 no further questions.

21 CHAIRMAN LEZY: Mr. Kitaoka?

22 MR. KITAOKA: No questions.

23 CHAIRMAN LEZY: Mr. Yee?

24 MR. YEE: No questions.

25 CHAIRMAN LEZY: Mr. Poirier?

1 MR. POIRIER: No questions.

2 MR. SEITZ: Nothing further.

3 CHAIRMAN LEZY: Commissioners? Thank you  
4 very much, sir.

5 THE WITNESS: Thank you.

6 MR. SEITZ: At this point, then, we call  
7 Dr. Flachsbart.

8 CHAIRMAN LEZY: Morning.

9 PETER FLACHSBART, B.S.  
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 and  
14 your business address.

15 THE WITNESS: My name is Peter Flachsbart.  
16 I'm an Associate Professor for the Department of Urban  
17 and Regional Planning, University of Hawai'i at Manoa.

18 CHAIRMAN LEZY: Thank you. Mr. Seitz.

19 DIRECT EXAMINATION

20 BY MR. SEITZ:

21 Q Dr. Flachsbart, I have a curriculum vitae  
22 which was prepared by you and dated January 2010 which  
23 is an exhibit in this case. Have there been any  
24 changes or additions to that CV that you'd like to  
25 advise us of?

1           A       Just a few more publications.

2           Q       You're currently employed at the University  
3 of Hawai'i you said as an associate professor, is that  
4 correct?

5           A       Yes.

6           Q       And what are the areas that you teach?

7           A       I teach courses in urban land use planning,  
8 transportation planning, planning methods and research  
9 design.

10          Q       And you have a Bachelor's of Science in  
11 Civil Engineering, is that correct?

12          A       Yes.

13          Q       And a Master's in Urban and Regional  
14 Planning?

15          A       Yes.

16          Q       And you received a Ph.D. at Northwestern  
17 University in Urban Systems Planning, is that correct?

18          A       Yes.

19          Q       How long have you been teaching at the  
20 University of Hawai'i?

21          A       Thirty-two years.

22          Q       And you have also done work as a consultant  
23 or as an expert for the state of Hawai'i, number of  
24 different agencies, is that correct?

25          A       Yes.

1 Q For the Honolulu City Council?

2 A Yes.

3 Q And for a number of other entities both  
4 national and international, is that correct?

5 A Yes.

6 MR. SEITZ: I would like to offer  
7 Dr. Flachsbart as an expert at this point.

8 CHAIRMAN LEZY: Any objections?

9 MR. MATSUBARA: No objections.

10 MR. KITAOKA: No objection.

11 MR. YEE: No objection.

12 CHAIRMAN LEZY: He's admitted.

13 MR. SEITZ: Thank you.

14 Q Dr. Flachsbart, you've been asked to submit  
15 and you did submit, written testimony. I don't want  
16 you to read that testimony. But what I would like you  
17 to do, if you would, is to summarize the points in  
18 your testimony and to indicate to the Commission what  
19 the reasons are for your opinions and concerns.

20 A Okay. I was asked by the Attorney Colin  
21 Yost, representing the Sierra Club, two years ago, if  
22 I would comment on the Petition in regards to Smart  
23 Growth. Because the Petitioner claims that their  
24 Project satisfies ten Smart Growth principles.

25 These principles are mixed land use, which



1 I believe it does. First principle is mixed land use.  
2 It does have a mixture of commercial and residential  
3 land use. And in connection with residential it's a  
4 variety of low density, moderate and high density  
5 development.

6 Secondly, it does take advantage of compact  
7 building design.

8 Thirdly, it creates a range of housing  
9 opportunities and choices.

10 Fourthly, it does create walkable  
11 neighborhoods. Although here it may be difficult for  
12 some people the extremity of the Project. The Project  
13 extends about two and-a-half miles in length and less  
14 than a mile in width.

15 Most of the commercial employment  
16 opportunities are at the southern end of the Project.  
17 And low-density residential is kinda at the northern  
18 end, which would be a long walk.

19 It does foster distinctive, attractive  
20 communities with a strong sense of place, although  
21 there might be some argument as to whether it's a  
22 Hawaiian sense of place. The website suggested more  
23 of a mainland sense of place.

24 Sixth. It's questionable whether it  
25 preserves open space and farmland. There's been some

1 contention about this, as you know. It's my  
2 understanding that this site is class A and B prime ag  
3 lands which are currently being used for ag purposes.

4 And I think relocating the farmers there  
5 would really do nothing to preserve the ag land there  
6 which could be used for organic farming that claims a  
7 premium in terms of price.

8 Seventh, I think is debatable. This one  
9 refers to strengthening and directing development  
10 toward existing communities. It's true that it's  
11 between Mililani and Waipio. So in that sense it is  
12 between existing communities. But I think if you look  
13 at other phrasing of this particular principle, and  
14 I'll cite what principle as articulated by Anthony  
15 Downs in his paper: *What Does "Smart Growth" Really*  
16 *Mean?* He says, "Redevelopment in the inner core areas  
17 and encouraging development on infill sites." So  
18 there's some debate as to whether this principle is  
19 satisfied.

20 The eighth principle: Providing a range of  
21 transportation choices. Because of its compact design  
22 it does foster walking, biking, transit use. However,  
23 offsite it's going to create congestion on H-2 and  
24 downstream on H-1. I think the Traffic Impact  
25 Analysis Report needs to be updated. Previous report

1 was based on the seventh edition of the ITE Trip  
2 Generation Model. There's now the eighth edition.  
3 And it may even be to the benefit of the Petitioner to  
4 do that because there have been improvements in  
5 modeling to reflect mixed-use development.

6 No. 9 and 10. Nine refers to: Make  
7 development decisions predictable, fair and cost  
8 effective. That really doesn't -- can't really speak  
9 to that in this case. And encourage community and  
10 stakeholder --

11 No. 10. Encourage community and  
12 stakeholder collaboration in development decisions. I  
13 think Petitioner has done that in terms of involving  
14 the community. So I think that's a summary of what I  
15 wrote in my testimony.

16 Q In particular your testimony you spent some  
17 time addressing the impact on the freeway traffic.  
18 Can you expand a little bit on what your concerns are  
19 in that regard?

20 A Yes. Give me a moment to review that a  
21 second here. Between 1998 and 2007 I wrote that  
22 traffic volumes on H-1 increased by over 25 percent.  
23 This is according to a recent, a presentation that was  
24 made by the State DOT to the Hawai'i Chapter of the  
25 American Planning Association in January 2010.

1           As a result, peak travel periods on H-1  
2 have increased by 41 percent during the morning  
3 commute and by 71 percent during the afternoon  
4 commute.

5           The growth in the peak hour travel periods  
6 on H-1 can partly be explained by the concept of  
7 latent demand. Latent demand is a phenomenon that has  
8 been documented by transportation experts, but has  
9 often been ignored in land use planning decisions,  
10 according to Anthony Downs in his book, *Stuck In*  
11 *Traffic*.

12           "Latent demand explains the failure of new  
13 and wider roads to reduce traffic congestion. Once  
14 roadway capacity increases it is quickly absorbed by  
15 motorists who previously avoided the congested road."

16           In other words, they're traveling earlier,  
17 they're leaving home earlier in order to avoid  
18 congestion. So as soon as you increase capacity they  
19 jump back into the peak period and the congestion  
20 returns.

21           And this concept of latent demand was  
22 confirmed in the study covering 30 California counties  
23 between 1973 and 1990. The study found that for every  
24 10 percent increase in metropolitan roadway capacity  
25 vehicle miles traveled increased 9 percent within four

1 years' time.

2 Q Have you seen, in connection with this  
3 Project, any documentation that the Project attempts  
4 or adequately addresses the potential for increased  
5 traffic on the freeway as a consequence of its  
6 ultimate development?

7 A Are you referring to amended testimony from  
8 the State DOT March 7, 2012?

9 Q In part, yes.

10 A Yes, I've seen that. And it basically  
11 calls for Petitioner to mitigate direct and regional  
12 improvements.

13 Q And does that satisfy your concerns?

14 A There's not enough specifics here to form  
15 an opinion.

16 Q Okay. Thank you. Is there anything  
17 further you wish to apprise the Commission in  
18 connection with your testimony?

19 A What I'd like to see, speaking to that, is  
20 some sort of busway. I think there's going to be  
21 along the Koa Ridge Boulevard an opportunity for  
22 residents to walk to transit and then ultimately, if  
23 that bus takes them down H-2, let's say through a  
24 busway to H-1 or to the rail, once it's built, that  
25 will be ideal.

1 I'm not too sure rail will eventually be  
2 extended to this location because it would have to  
3 climb a 12 percent grade. And I'm not sure the  
4 current technology can do that.

5 Q Okay. Thank you. No further questions.

6 CHAIRMAN LEZY: Mr. Matsubara.

7 CROSS-EXAMINATION

8 BY MR. MATSUBARA:

9 Q Thank you. Professor, for the record, the  
10 testimony you submitted for purposes of this Petition  
11 was Sierra Club's Exhibit 6, is that correct? That's  
12 the testimony you were referring to?

13 A I don't know if it's Exhibit 6. My  
14 testimony is dated April 16, 2010. That's the same  
15 testimony.

16 Q That's correct. And that's the written  
17 testimony you've submitted for purposes of today's  
18 hearing.

19 A Yes.

20 Q Now, in your testimony you reference the  
21 Smart Growth Principles that were issued by the Smart  
22 Growth Network which you compared this Project to?

23 A Yes, I did -- I compared it because those  
24 are the principles that the Petitioner claimed to  
25 satisfy.

1           Q       And in your testimony you indicated that  
2 those ten principles are divided into two categories.

3           A       Yes.

4           Q       Is that correct? One is internal design  
5 and the other is regional location.

6           A       Yes.

7           Q       Now, those ten principles are listed or  
8 enumerated on Page 2 of your testimony, is that  
9 correct?

10          A       Yes.

11          Q       Also on that same page you indicated that  
12 as far as the internal design principles that would  
13 incorporate Principles 1 through 5, 9 and 10. And it  
14 was your opinion that the proposed Koa Ridge Project  
15 appeared to satisfy the seven internal design  
16 principles, is that correct?

17          A       Yes. With the caveats I articulated this  
18 morning.

19          Q       I didn't have your caveats here. I'm just  
20 looking at your written testimony.

21          A       I was asked -- I've learned additional  
22 things since April 2010.

23          Q       Did you submit written updated testimony?

24          A       I wasn't asked to.

25          Q       You weren't asked. Okay. The concern you

1 had with the ten principles listed is that the  
2 regional location Principles of 6, 7 and 8 you felt  
3 remain completely unsatisfied.

4 A Yes.

5 Q And 6 relates to the fact that it is a  
6 development that's occurring on ag land.

7 A Yes.

8 Q So it's the location in that particular  
9 principle?

10 A Six is preserving open space, farmland,  
11 natural beauty and critical farmland areas.

12 Q Right. Six, 7, and 8 basically relate to  
13 the location of this Project.

14 A Yes.

15 Q So no matter what, the fact that it's  
16 located there in your opinion would not satisfy those  
17 principles.

18 A Yes.

19 Q Now, Principle 7, which relates to  
20 strengthen and direct development toward existing  
21 communities, you were looking at rather than this  
22 being a regional infill. Do you think this is a  
23 regional infill Project between Mililani, Crestview  
24 and Wahiawa?

25 A One could make that interpretation, I can



1 see, because it's within the -- it's in the Urban  
2 Growth Boundary that the city has for their  
3 Sustainable Communities Plans. I can see -- and it  
4 does fall between Mililani and Waipio. But as I  
5 mentioned a few moments ago --

6 Q Right.

7 A -- my other interpretation is it doesn't.

8 Q The infill you're looking for would be in  
9 existing urban areas, for example.

10 A Infill, yeah, in urban, existing urban  
11 areas.

12 Q And we talked about it last time. That  
13 would be in Kaka'ako and Moili'ili.

14 A Yes.

15 Q And at that time the question was there  
16 would be some difficulties one would face in  
17 developing in existing urban areas. I think you  
18 mentioned there's existing lots encumbered with  
19 buildings. There's no large lots in Moili'ili. And  
20 there's many small landowners which would require the  
21 consolidation of many separate parcels. You recognize  
22 that as problems.

23 A Yes, yes.

24 Q And those problems would still exist today.

25 A Yes. But they're -- and what I've been

1 reading in the paper there's lots of new condo  
2 development in that area so, Kaka'ako especially.

3 Q Okay.

4 A So that calls into question whether we  
5 really need this additional supply because we have a  
6 lot of supply coming on line.

7 Q Coming on line but not entitled and built.

8 A Not entitled.

9 Q Okay. Now, you also reference that because  
10 of the size of this Project it would be difficult to  
11 find a singular lot within the urban core at this  
12 time.

13 A Oh, definitely.

14 Q So it would be separate lots throughout  
15 Kaka'ako and Moili'ili and I think you also reference  
16 to include the transit corridor from downtown to  
17 Kapolei.

18 A Yes.

19 Q So that would be the type of infill you're  
20 considering that would satisfy the Smart Growth  
21 Principle 7.

22 A Yes.

23 Q Principle 8 relates to the provision of  
24 transportation choices which I imagine you raised. In  
25 terms of your analysis of this Project, both in the

1 previous hearing and now, you're of the opinion that  
2 there should be no development such as this outside  
3 the projected rail corridor, is that correct?

4 A If you're going to increase transportation  
5 capacity, of which the rail corridor is an example, it  
6 makes more sense to me to allow development along that  
7 corridor.

8 The bill that's wending through Congress,  
9 the Highway Bill, to replace the existing one, calls  
10 for more maintenance of our existing infrastructure  
11 and not a whole lot of new construction.

12 Q Okay. You were asked in the last  
13 hearing -- and the only reason I raise that, you were  
14 asked in the last hearing by Commissioner Lezy, now  
15 Chairman Lezy, that based on what -- the question was:  
16 "So regardless of what the other merits may be to any  
17 given project within the Smart Growth Principles that  
18 we have been discussing today, if it's not on the  
19 corridor as it's currently schemed, then development,  
20 at least in your opinion, should be denied?"

21 And your answer was, "Yes". Is that  
22 basically reflective of what your position?

23 A If it's not on the H-1 corridor?

24 Q No, no, no. You were talking about the  
25 rail corridor.

1           A       Rail corridor.

2           Q       Yeah.

3           A       If it's not on the rail corridor, yes, I  
4 think it should be denied. Because I don't see any  
5 additional capacity to Central O'ahu coming online to  
6 our transportation system.

7           Q       You've reviewed the TIAR for this Project.

8           A       The one that -- all I had -- I didn't have  
9 the TIAR. I had the testimony of the consultant from  
10 Wilson Okamoto, Pete Pascua.

11          Q       Yes. But you haven't reviewed the TIAR.

12          A       No, I haven't reviewed the TIAR.

13          Q       Are you aware that there are revisions that  
14 have been requested by the Department of  
15 Transportation on the TIAR?

16          A       Yes, I am. I've heard.

17          Q       And they're in the process of being  
18 addressed?

19          A       Yes, yes. I think that will improve the  
20 connectivity and the immediate congestion problem in  
21 the vicinity. But beyond that vicinity there's going  
22 to be additional traffic on H-1.

23          Q       Okay. Well, have you authored any TIARs?

24          A       No.

25          Q       Okay. None that -- okay. And you haven't

1 reviewed this TIAR.

2 A No.

3 Q Are you a traffic engineer?

4 A No.

5 Q Have you conducted any independent traffic  
6 counts on the area of the Project?

7 A No, I haven't.

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

10 CHAIRMAN LEZY: Mr. Kitaoka.

11 CROSS-EXAMINATION

12 BY MR. KITAOKA:

13 Q Just to clarify in my mind. Are you saying  
14 that there should be no further development in Central  
15 O'ahu?

16 A No, I didn't -- ah, it's a misstatement. I  
17 said I wouldn't, I wouldn't recommend further  
18 development in Central O'ahu until we increase the  
19 transportation capacity of our, our existing  
20 transportation capacity, which includes the rail in  
21 addition to highways.

22 Because there's so much latent demand  
23 people are traveling on the shoulder of the peak in  
24 order to avoid congestion. That's prior to the peak  
25 and after the peak they're traveling on the shoulders

1 of the peak. So they're leaving home earlier, 4:30 in  
2 the morning.

3 So if you increase the capacity of the  
4 freeway, if you double deck H-1, in fact, you simply  
5 allow people to sleep in later. And the congestion  
6 still returns. The traffic congestion still returns.

7 Q It's basically a traffic issue. If a  
8 traffic issue wasn't a concern, then you wouldn't be  
9 opposed to further development in Central O'ahu?

10 A Well, as I said there are these other  
11 criteria. If you're trying to -- there are other  
12 criteria. There's farmland criterion. Then there's  
13 infill criterion. I would still be opposed on those  
14 grounds.

15 Q So expansion of Mililani wouldn't be a good  
16 idea in your mind either.

17 A Oh, expansion. No. Not really, no. I  
18 would put all the development along the H-1 corridor  
19 between here and the Second City.

20 Q In the 'Ewa Plain?

21 A Yes.

22 MR. KITAOKA: No further questions.

23 CHAIRMAN LEZY: Mr. Yee.

24 CROSS-EXAMINATION

25 BY MR. YEE:

1           Q       In your testimony you had various  
2 statements like "some people might say" or "there may  
3 be concerns about". So I want to get back to the  
4 issues of your opinion with respect to the Principles  
5 1 through 5 and 9 and 10 because I read your written  
6 testimony.

7                   So with that in mind, correct me if I'm  
8 wrong, in your written testimony you said Principles 1  
9 through 5 and 9 and 10 were satisfied. That's what  
10 your written testimony said.

11          A       That's what my written testimony says...

12          Q       Okay.

13          A       And I wanted to articulate some caveats to  
14 that this morning orally.

15          Q       I heard you -- and I guess I'm getting to  
16 the point of what does it mean to get a caveat. Do  
17 you believe that principles -- do you continue to  
18 believe that Principles 1 through 5 and 9 and 10 are  
19 satisfied by this Project?

20          A       For the most part in some cases they're  
21 partially satisfied. I didn't make that clear in my  
22 written testimony two years ago.

23          Q       So that would be more in the way of an  
24 evaluation than a judgment when you say it's satisfied  
25 but it's not perfect?

1           A       Right.

2           Q       Okay. That's all I wanted --

3           A       I had two more years to study the Project  
4 so...

5           Q       So have I. Thanks. I have no further  
6 questions.

7                   CHAIRMAN LEZY: Mr. Poirier.

8                               CROSS-EXAMINATION

9 BY MR. POIRIER:

10          Q       Hi, good morning.

11          A       Morning.

12          Q       A couple of questions. On Page 4 of your  
13 written testimony you referred to the peak hour travel  
14 time.

15          A       Yes.

16          Q       Between 1998 and 2007 with respect to  
17 morning and afternoon. In the morning you cite a time  
18 of 5:45 to 8:45 a.m.

19                   In 2007 it goes up to 5:15 to 9:30 a.m. In  
20 the afternoon peak it starts off in 1998 at 2:45 to  
21 7:00 p.m. By 2007, 12:30 to 7:45 p.m.

22                   Have those figures been updated to your  
23 knowledge?

24          A       Not to my knowledge, no.

25          Q       Would you surmise that these peak hours are



1 getting worse rather than better?

2 A Yes. I would assume so.

3 Q Would you hazard a guess by how much?

4 A I can only give you my personal opinion as  
5 a commuter on that stretch of highway. And I  
6 encounter traffic 10 o'clock, 10:30, 11 o'clock in the  
7 morning. It appears to be Level of Service D or E.  
8 There's a range of Level of Service, as you may know  
9 from A to F.

10 Q Right. Thank you. And one final point.  
11 On page 4, I'm sorry, page 5 of your written testimony  
12 you have a paragraph to wit: "Concurrency is a policy  
13 and regulatory requirement first mandated in the state  
14 of Florida, that requires state and county agencies to  
15 assure that roads are adequate based on Level of  
16 Service standards..." which you just talked about.

17 Then you say, "...at the time the impacts  
18 of the new land development occur." And that's  
19 underlined. Can you explain what that means or why  
20 it's underlined?

21 A Well, here it seems that our infrastructure  
22 in terms of, say, roads, is built after the projects  
23 are permitted. So basically in Florida they're saying  
24 that there should be concurrency in terms of the  
25 expansion of -- the transportation system should occur

1 simultaneously with the new development, not lag  
2 behind five, ten years as we've seen in the 'Ewa  
3 Plain, for example.

4 Q Okay. Then the final sentence of that  
5 paragraph says, "The Land Use Commission should adopt  
6 as policy and disapprove of any land development  
7 proposal that generates more traffic on roadways that  
8 already fail to meet LOS standards." Do you still  
9 hold that as your opinion?

10 A Yes. Right.

11 Q Thank you.

12 MR. POIRIER: No further discussion.

13 CHAIRMAN LEZY: Mr. Seitz, redirect?

14 MR. SEITZ: Nothing further.

15 CHAIRMAN LEZY: Commissioners, questions?

16 I have a question for you, Dr. Flachsbart, a couple  
17 questions actually. Assuming that Governor Cayetano  
18 becomes our next mayor and the rail disappears, where,  
19 then, would, in your opinion, be the appropriate  
20 location on the island of O'ahu for further  
21 residential development?

22 THE WITNESS: Well, there are two choices.  
23 One is to locate it in town, Kaka'ako, for example.  
24 And that's beginning to occur, and there are plans for  
25 further development, as you may know.

1           The other is to try and manage the existing  
2 demand through something called Travel Demand  
3 Management. There are other ways to manage the  
4 existing demand besides providing capacity. You can  
5 manage demand. But they're to me, in my mind not as  
6 effective.

7           There's just simply so much pent-up demand,  
8 latent demand or hidden demand that we definitely need  
9 some kind of additional capacity whether that's a rail  
10 or double decking Nimitz Highway or something. And  
11 these are political decisions that are not, you know  
12 -- our community, our island is just going to have to  
13 face.

14           CHAIRMAN LEZY: But setting aside traffic  
15 solutions and just looking at residential development,  
16 in your opinion the solution would be to drive  
17 residential development into the urban core.

18           THE WITNESS: Yeah. I think there are good  
19 market reasons to do that because the upcoming demand,  
20 first-time homebuyers are smaller households and  
21 they're not going to be buying single-family homes in  
22 the suburbs.

23           CHAIRMAN LEZY: And that would presuppose,  
24 then, essentially you're forcing a choice on home  
25 buyers.

1 THE WITNESS: Not providing an additional  
2 choice to what we have. We do have a foreclosure  
3 crisis. We have lots of stock, housing stock in the  
4 suburbs that I'm not sure we just need more of it.

5 CHAIRMAN LEZY: Then just out of curiosity,  
6 you teach at Manoa.

7 THE WITNESS: Yes.

8 CHAIRMAN LEZY: And you live where?

9 THE WITNESS: I live in Kaneohe.

10 CHAIRMAN LEZY: Okay. Thank you very much.

11 COMMISSIONER JUDGE: I have a question.

12 CHAIRMAN LEZY: I'm sorry. Commissioner  
13 Judge.

14 COMMISSIONER JUDGE: This is pertaining to  
15 the traffic congestion question. And you keep  
16 referring to "adding capacity". Could you -- if I  
17 understand you correctly that you're saying that you  
18 don't believe that any housing should be approved  
19 until there's added capacity to move those folks into  
20 the downtown corridor. Is that correct?

21 THE WITNESS: Well, let me give you a  
22 briefing on -- basically there are three paradigms of  
23 transportation planning. The first was increasing  
24 capacity, which the example is building the Interstate  
25 Highway System, which the last example would be H-3.

1 I suspect if we don't permit this  
2 development in Koa Ridge -- if the Commission doesn't  
3 allow that, what will happen is that there'll be more  
4 pressure to build where there *is* capacity than along  
5 on both sides of H-3, basically on the Windward side.

6 And so there'll be more pressure to put  
7 development on the Windward side because there's  
8 plenty of capacity on H-3 right now.

9 The second paradigm is to make more  
10 efficient use of our existing transportation systems.  
11 And there are lots of examples of that. To cite one:  
12 HOV lanes, high occupancy vehicle lanes.

13 And the third paradigm is to improve access  
14 which an example of that is through Transit-Oriented  
15 Development particularly around rail projects and high  
16 occupancy bus projects, busways.

17 COMMISSIONER JUDGE: Also earlier in your  
18 testimony you were talking about legislation that  
19 you're aware of now that would only -- or how do I say  
20 this -- would only do maintenance. Are you aware of  
21 any legislation that is currently pending that would  
22 increase the capacity or provide additional capacity?

23 THE WITNESS: I'm referring -- when I made  
24 that comment I was referring to an article that I read  
25 on the Web that's a bill wending its way through

1 Congress. There's a 2-year transportation bill  
2 approved last week. This was on the Web, posted on  
3 the Web March 20, 2012, a \$109 billion two-year  
4 transportation bill approved last week by the U.S.  
5 Senate has garnered praise from groups as diverse as  
6 the Transportation for America, ASHTO, the American  
7 Association of State Highway and Transportation  
8 Officials, The Sierra Club, the U.S. Chamber of  
9 Commerce, and National Complete Streets Coalition.

10 And one of the things it says is that:  
11 This bill includes a provision that at least  
12 60 percent of highway expenditures are required to go  
13 toward repair of roads and bridges.

14 So it doesn't sound like a whole lot of new  
15 money for highways, but for repair. Our  
16 infrastructure is crumbling. It's 50 years old. Our  
17 highway infrastructure, H-1, for example.

18 COMMISSIONER JUDGE: I'm just looking for  
19 clarification. So what you're talking about is federal  
20 legislation.

21 THE WITNESS: Yes.

22 COMMISSIONER JUDGE: That you're aware  
23 of --

24 THE WITNESS: Yes. Right.

25 COMMISSIONER JUDGE: For --

1           THE WITNESS: -- to replace the existing  
2 bill's safety which expired. And now there's  
3 continuing resolution to just to keep it going.

4           COMMISSIONER JUDGE: But there may be other  
5 bills in our state legislation allocating funds for  
6 additional capacity or other --

7           THE WITNESS: There may be. But I might  
8 point out that under the Lingle Administration a few  
9 years ago, there was a bill to modernize our system  
10 that did not pass the Legislature. So that's not a  
11 good sign.

12          COMMISSIONER JUDGE: Okay. So I'm just  
13 trying to find out what your knowledge is of the  
14 existing bills at the state. So you're not testifying  
15 that there's no state legislation for additional  
16 capacity. You're just saying that this federal money  
17 is only going to be the new monies just for repairs.

18          THE WITNESS: There are projects -- if you  
19 look at the O'ahu Regional Transportation Plan for  
20 2035 there are projects to increase capacity here and  
21 there around the island, including the site that we're  
22 in question here.

23                So, yes, there are things to make things a  
24 little better, adding a lane here and there, putting  
25 in interchanges. Those things will help. But it will

1 not totally relieve congestion because of all the  
2 latent demand.

3 As I said when people see that additional  
4 capacity, they say, "Oh, I can now stay in bed another  
5 hour and drive at a normal time." And if everyone  
6 does that the highway is still congested.

7 COMMISSIONER JUDGE: So there are plans to  
8 improve the capacity, but in your opinion it's not  
9 enough?

10 THE WITNESS: There are plans, but it's not  
11 clear that there's funding to implement those plans.  
12 They're on the -- they're on -- the plans of the Oahu  
13 Regional Transport-- -- part of the O'ahu Regional  
14 Transportation Plan prepared by the O'ahu Metropolitan  
15 Planning Organization just came out a year ago.

16 COMMISSIONER JUDGE: So there're plans but  
17 you're not sure that they're going to be --

18 THE WITNESS: Implemented.

19 COMMISSIONER JUDGE: -- implemented because  
20 there's not any funding for them.

21 THE WITNESS: And I'm just citing Brian  
22 Gibson who spoke publicly on this point. He said  
23 we're not sure what the federal government is going to  
24 do as far as paying for this stuff.

25 COMMISSIONER JUDGE: So is it only federal?



1 So do we rely purely on federal money?

2 THE WITNESS: We rely on federal for  
3 90 percent of the funding of highway projects. And  
4 that comes from the gas tax which, by the way, that  
5 Highway Trust Fund is running out of, out of money.

6 COMMISSIONER JUDGE: The State Highway Tax  
7 Fund.

8 THE WITNESS: No. Well, there's a federal  
9 and a state. The federal pays for 90 percent of  
10 highway improvements. The state pays for 10 percent.  
11 The state is also responsible for maintaining and  
12 repairing our roads. So there's a State gas tax and  
13 there's a Federal gas tax.

14 But because cars are becoming more energy  
15 efficient or gas efficient, we're not going to be  
16 buying as much gas. So they're looking for ways to  
17 restore that fund, maybe through a VMT tax, vehicle  
18 miles of travel tax. That hasn't been implemented  
19 across the country. Some states are experimenting  
20 with that idea, but we haven't yet.

21 COMMISSIONER JUDGE: All right. Thank you.

22 CHAIRMAN LEZY: Commissioners, any other  
23 questions? Thank you for your testimony. Mr. Yee.

24 MR. YEE: At this time we'll call Director  
25 Russell Kokubun.

1 RUSSELL KOKUBUN

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

4 THE WITNESS: Yes.

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

7 THE WITNESS: Russell Kokubun. 1428 South  
8 King Street, 98614.

9 CHAIRMAN LEZY: Mr. Yee.

10 DIRECT EXAMINATION

11 BY MR. YEE:

12 Q Thank you. Could you state your current  
13 position and title.

14 A Yes. I'm Chair of the Board of Agriculture.

15 Q As the Chair of the Board of Agriculture  
16 you're also the head of the Department of Agriculture.

17 A Yes, it's a dual role, correct.

18 Q And have you prepared a letter or sent a  
19 letter to the Office of Planning on this matter?

20 A Yes, I have.

21 Q Could you summarize your position and your  
22 testimony in this case.

23 A Certainly. Basically we reviewed the  
24 subject Petition and the exhibits. And we do not  
25 object to the Petitioner's request for

1 reclassification provided that the Petitioner carries  
2 out its commitments and representations made in the  
3 Petition, and through additional information that we  
4 discussed, and that was provided to the Department  
5 regarding the relocation of Aloun Farms to 335 acres  
6 of replacement lands north of Wahiawa.

7           And the availability and provision of  
8 irrigation water for that parcel.

9           There are additional issues that were  
10 raised. But I think the primary for me was the -- for  
11 the Department was the availability of irrigation  
12 waters. And the commitment was made that Tanada  
13 Reservoir would be the source for that. So that  
14 satisfied the fact that there would be a provision of  
15 water to those lands.

16           We also understand that there is some  
17 discussion going on in that Dole Foods has offered to  
18 Aloun Farms an additional 333 acres adjacent to the  
19 original 335 acres of replacement lands.

20           The other major concern for the Department  
21 was Waiahole Ditch. And that is a system that runs  
22 through a portion of the Petition lands and serves  
23 many users in Kunia. So that's an essential  
24 infrastructure component that we need to maintain.

25           So we did receive a letter from the

1 Petitioner indicating that they would follow through  
2 on certain conditions. I think that was offered as an  
3 exhibit. Based on those primary issues we do not  
4 object to the Petition.

5 Q For the record I believe, Director Kokubun,  
6 you're referring to a letter from Castle & Cooke  
7 Homes, Inc. to you dated March 19th, 2012?

8 A Yes.

9 Q For the record that's OP Exhibit 20. And  
10 just to clarify. Your concern about the Waiahole  
11 Ditch is to ensure that the Waiahole Ditch is covered  
12 or undergrounded, is that correct?

13 A Yes. And all that, you know, the water  
14 flow will not be interrupted during the development of  
15 the Project.

16 Q And what's the reason why you wanted the  
17 Waiahole Ditch covered or undergrounded?

18 A Well, that's a -- like I stated, it's a  
19 very critical infrastructure need for the farmers in  
20 Kunia.

21 Q Does an open ditch present a potential  
22 attractive nuisance and potential problems for  
23 maintenance?

24 A Yes. Any time you can protect the ditch in  
25 any way it's a good thing.

1           Q       And was there an agreement regarding the  
2 maintenance aboveground of the ditch?

3           A       Yes. That would be maintained by the  
4 parties occupying the land and not the Agribusiness  
5 Development Corporation.

6           Q       But ADC would remain -- would continue to  
7 have the right to go in and maintain the operation,  
8 correct?

9           A       (Witness nodding.)

10           MR. YEE: I have nothing further. Thank  
11 you.

12           CHAIRMAN LEZY: Mr. Matsubara?

13           MR. MATSUBARA: No questions.

14           CHAIRMAN LEZY: County?

15           MR. KITAOKA: No questions.

16           CHAIRMAN LEZY: Mr. Poirier?

17           MR. POIRIER: Got one.

18                   CROSS-EXAMINATION

19 BY MR. POIRIER:

20           Q       Hi. Morning.

21           A       Hi, Dick.

22           Q       The City Council recently has a sudden  
23 interest in terms of the classification of Important  
24 Ag Lands in accordance with Act 183. Would you have  
25 any objection if they did that?

1           A       Is that the resolution that's been  
2 proposed?

3           Q       Yes.

4           A       You know, frankly, I have not really  
5 reviewed that resolution. But in my mind resolution  
6 is not, does not have the same authority as ordinance  
7 at the city and county level. So I think if the idea  
8 was to have that be a specific guideline or a specific  
9 criteria, then that would be something that they would  
10 adopt by ordinance.

11          Q       Right. Okay. Would you favor them doing  
12 that rather than not doing anything at all with  
13 respect to preserving this piece of ag land?

14          A       I think, you know, the counties need to --  
15 and all the counties, I speak collectively in this  
16 regard -- I think the counties need to assess for  
17 themselves within their own individual jurisdictions  
18 what could fall into the category of Important  
19 Agricultural Lands. And I think each county is so  
20 unique that they really have to do what they have to  
21 do.

22                   I think for the city and county of Honolulu  
23 their planning process is more sophisticated in many  
24 ways than what's occurred on the neighbor islands,  
25 particularly with respect to Urban Growth Boundary

1 areas.

2 So there's a varying degree, I guess, what  
3 I'm saying, within the county government structures.  
4 But the whole point was in adopting the IAL law, in my  
5 opinion, was that the counties should have that  
6 opportunity to determine for themselves eventually  
7 what constitutes Important Agricultural Lands.

8 Q Thank you.

9 A You're welcome.

10 CHAIRMAN LEZY: Mr. Seitz.

11 MR. SEITZ: Thank you.

12 CROSS-EXAMINATION

13 BY MR. SEITZ:

14 Q Good morning.

15 A Good morning.

16 Q The position that you have articulated with  
17 respect to this Petition this morning, is that your  
18 position or is that the position of the Board of  
19 Agriculture?

20 A That is my position and the Department's  
21 position.

22 Q Has the Board of Agriculture ever voted on  
23 a position with respect to this?

24 A No.

25 Q Is it your understanding that the land in

1 question is, under the old system, rated as A and B  
2 prime lands for agriculture? Is that your  
3 understanding?

4 A Yes.

5 Q And do you know whether if, in fact, the  
6 county were to proceed to look at these lands, whether  
7 they would qualify to be listed as Important  
8 Agricultural Lands under the 2005 statute?

9 A I think they would have to weigh a number  
10 of issues.

11 Q But am I correct that certainly in weighing  
12 those issues the county could determine that these are  
13 Important Agricultural Lands based on what we now know  
14 about the uses of those lands at the current time,  
15 correct?

16 A Yes. They would have a number of different  
17 criteria to look at though.

18 Q So as I understand your position you do not  
19 object to taking lands that are prime agricultural  
20 lands out of agricultural production and paving them  
21 over in order to allow this Project to proceed. Is  
22 that essentially your position?

23 A There have been a number of decisions made  
24 about this land prior to my coming onto the Department  
25 of Agriculture. And I acquiesce to that. I recognize



1 and respect those decisions.

2 Q I'm not sure what decisions you're  
3 referring to.

4 A The county's Urban Growth Boundary  
5 decisions.

6 Q Any other decisions?

7 A No. That's the one that comes to mind.

8 Q So notwithstanding the county's designation  
9 of this area as part of an urban development area, if  
10 the county now were to proceed and to designate these  
11 lands as Important Agricultural Lands, would that  
12 affect your opinion?

13 A It would.

14 Q Don't you think, then, we should wait and  
15 see what the county does?

16 A No.

17 Q Are you familiar with this pamphlet  
18 entitled, "Hawai'i, the Past 50 Years"?

19 A Yes.

20 Q And are you familiar with the author of  
21 that pamphlet?

22 A Yes.

23 Q So are you aware that as long ago as the  
24 publication of this pamphlet, which I think  
25 occurred -- well, this is with respect to a long

1 period of time, but that Governor Ariyoshi very  
2 strongly recommended that we preserve the agricultural  
3 lands that we presently have. Is that your  
4 understanding?

5 A Mm-hmm.

6 Q And did you have an opportunity to review  
7 or hear about the testimony that occurred in another  
8 matter before the Land Use Commission by former  
9 Governors Waihe'e and Cayetano?

10 A I only followed it in the media.

11 Q Are you aware of the position with respect  
12 to this particular Petition that was taken by the  
13 Lingle Administration?

14 A Yes.

15 Q What was that position?

16 A They were opposed unless there were  
17 replacement lands provided.

18 Q Have you been following the progress of a  
19 bill that was just finally approved by the State  
20 Legislature yesterday, House Bill 2703, with respect  
21 to food self-sufficiency?

22 A Yes.

23 Q Do you have an opinion with regard to that  
24 bill?

25 A I think it sets a good goal. It's just how

1 do we measure to get there that's the key.

2 Q Do you concur with the language of that  
3 bill, which passed the Legislature virtually  
4 unanimously over the course of several hearings, that  
5 Hawai'i is dangerously dependent on imported food?

6 A Yes.

7 Q Do you agree that as stated in this Act  
8 that Hawai'i is the most geographically isolated state  
9 in the country and that we currently import 92 percent  
10 of our food?

11 A I would agree with the first statement, but  
12 the 92 percent is, to me it's not hard fact.

13 Q Do you have an estimate of the ability of  
14 what we are now importing?

15 A I've heard estimates from 85 to 90.

16 Q Okay. Do you agree, as stated in this law  
17 and as found by the Legislature this term, that  
18 currently Hawai'i has a supply of fresh produce for no  
19 more than ten days?

20 A I've heard that statement. And, again,  
21 it's difficult to really quantify that.

22 Q Do you concur with the Legislature that  
23 currently Hawai'i's reliance on out-of-food (sic)  
24 sources of food places us at a severe risk of food  
25 shortages in the event of natural disasters and other

1 events?

2 A Yes.

3 Q So why then, why possibly would you at this  
4 point in time recommend to the Land Use Commission  
5 that we take A and B land on which produce is being  
6 currently produced out of production?

7 A Because there are additional lands that can  
8 come into production that can meet our needs.

9 Q Well, is it your understanding that if we  
10 were to cease production on those lands today that the  
11 farmers currently working there have a place to move  
12 to?

13 A My understanding is that they would be  
14 phased out. So -- and, in fact, the current farmer,  
15 Aloun Farms, is actually already doing work to  
16 prepare the replacement lands.

17 Q Are those replacement lands, lands on which  
18 the produce that are currently grown on the lands at  
19 issue in this Petition, have ever been grown before  
20 to, your knowledge?

21 A Not to my knowledge.

22 Q Currently is there water available for the  
23 purposes of agriculture on those replacement lands?

24 A Yes.

25 Q Is there infrastructure that needs to be

1 provided in order for that water to be accessed?

2 A I think the infrastructure would need to be  
3 found.

4 Q Do you have any reasonable assurance that  
5 anybody's going to pay for the construction and  
6 upgrading of that infrastructure?

7 A My understanding is that that is an  
8 agreement that's going to be worked out between the  
9 Petitioner and Aloun Farms.

10 Q Wouldn't you prefer that that agreement be  
11 worked out with reasonable insurance and  
12 enforceability prior to the land being allowed to be  
13 used for other than agricultural purposes?

14 A All that certainty would be good.

15 Q Currently does the Department of  
16 Agriculture or the Land Board have funds to provide  
17 the infrastructure that would be needed to irrigate  
18 these potential replacement lands?

19 A We do not have funds specifically for that  
20 Project.

21 Q Do you have any estimate of what the cost  
22 is going to be to provide that infrastructure?

23 A No.

24 Q Have you requested any studies to be done  
25 to determine what the costs would be?

1           A       Not for this particular parcel.

2           Q       Do you know if the Legislature has before  
3 it this session any requests for funding to provide  
4 the infrastructure that would be needed to make these  
5 replacement lands useable?

6           A       No. But that is all subject to  
7 legislation.

8           Q       But there's nothing pending at this point.

9           A       No. But decisions are being made on those  
10 issues right now.

11          Q       Are you familiar with the document that's  
12 called "The Hawai'i 2050 Sustainability Plan"?

13          A       Yes.

14          Q       Are how are you familiar with it?

15          A       I served as the Chair of the Task Force to  
16 develop the plan.

17          Q       And you signed this plan when it was  
18 completed, is that correct?

19          A       As the Chair, correct.

20          Q       This plan was then submitted to the  
21 Legislature, was it not, and was accepted by the  
22 Legislature, is that correct?

23          A       Correct.

24          Q       And part of that land, was it not -- I'm  
25 sorry -- part of that Sustainability Plan was that

1 Hawai'i should move in the direction of providing  
2 sustainability as a daily practice in Hawai'i, is that  
3 correct?

4 A That was one of the guiding principles,  
5 yes.

6 Q Also in that plan there is language that  
7 says that, "Hawai'i is now at a crossroads and it's  
8 critical for us to address those issues of continuing  
9 and increasing local food supply," is that correct?

10 A Yes.

11 Q And there was also recognition that  
12 currently the traffic problems on this island are  
13 horrendous. And, in fact, it says in the plan, "We're  
14 sitting in traffic much too long." That was  
15 recognized at the time that the 2050 Sustainability  
16 Plan was completed and was adopted by the Legislature,  
17 correct?

18 A Yes.

19 Q There are also some graphs in the  
20 Sustainability Plan with respect to Hawai'i's market  
21 supply of fresh vegetables and fruits which indicate a  
22 need for far greater dedication of land to  
23 agricultural purposes if we're going to move toward  
24 sustainability, correct?

25 A Yes.

1           Q       So, again, in light of all those concerns  
2 by the commission that developed this 2050  
3 Sustainability Plan, of which you were the Chairman,  
4 how could you possibly at this point recommend  
5 development on a parcel of land that is producing  
6 vegetables and fruits for use in Hawai'i?

7           A       Because there are areas of land available  
8 for that use. And there's a process now where the  
9 Important Agricultural Lands would be identified and  
10 utilized for agricultural purposes. So in my opinion  
11 there's much land to be used for agriculture.

12          Q       But most of that land currently, although  
13 potentially suitable for agriculture, does not now  
14 have the demonstrated capacity or the infrastructure,  
15 does it?

16          A       It varies from parcel to parcel.

17                 MR. SEITZ: Thank you. I have no further  
18 questions.

19                 CHAIRMAN LEZY: Mr. Yee, redirect?

20                         REDIRECT EXAMINATION

21 BY MR. YEE:

22          Q       With respect to the loss of this particular  
23 Petition Area to agriculture, is it your understanding  
24 that these are replacement lands rather than  
25 additional lands to that Petition Area? Do you know



1 what I mean when I say --

2 A No.

3 Q Okay. Let me rephrase. Is it your  
4 understanding that Aloun Farms has additional land  
5 from Dole Foods over the last couple of years?

6 A In addition to what has been proposed in  
7 this Petition or the 335 acres?

8 Q Let me start again. There are several  
9 parcels of property. Let's start with there's the  
10 Petition Area, correct?

11 A Mm-hmm.

12 Q And Aloun Farms is currently on the  
13 Petition Area, right?

14 A Right.

15 Q And Aloun Farms also received some  
16 additional property from Dole Foods, correct?

17 A Currently.

18 Q Currently.

19 A I'm not aware of that.

20 Q You're not aware of that.

21 A No.

22 Q You're not aware they're currently putting  
23 on or preparing land for use that's going to be  
24 irrigated by Tanada?

25 A Yes. I think we're having a

1 misunderstanding here. So the 335 acres that are  
2 being proposed as replacement lands for what will be  
3 taken at Koa Ridge, is being worked on now and will be  
4 irrigated by Tanada.

5 Q And that was the motivation or the catalyst  
6 for receiving that land was this Petition. Fair  
7 enough?

8 A Yes.

9 Q So when we talk about the loss of land  
10 except for this Petition, Aloun Farms, is it your  
11 understanding, was unlikely to have received that  
12 additional land?

13 A I cannot offer an opinion on that.

14 Q Okay. And then in addition to the 335  
15 acres that they're currently on, there's an option to  
16 receive additional land.

17 A Yes.

18 Q And with respect to the irrigation for this  
19 private property, you're saying that's a matter that's  
20 currently being worked on by Aloun Farms and the  
21 Petitioner.

22 A Correct.

23 Q And Aloun Farms presumably has -- when they  
24 took the lease for 335 acres, is aware of the  
25 infrastructure issues involving that land.

1           A       Yes.

2           Q       Then with respect to the IAL, are you aware  
3 that Castle & Cooke has submitted or, well, the larger  
4 Castle & Cooke companies, have submitted a petition  
5 and received an IAL designation?

6           A       They have.

7           Q       And so in addition to the replacement lands  
8 in this case, at least the larger Castle & Cooke has  
9 also contributed to the designation of Important Ag  
10 Lands to O'ahu -- on O'ahu.

11          A       Yes.

12                   MR. YEE: I have nothing further.

13                   CHAIRMAN LEZY: Commissioners, questions?  
14 Commissioner Makua.

15                   COMMISSIONER MAKUA: Aloha. I just wanted  
16 to see if you could briefly describe to me the process  
17 that you go through before you folks decide to support  
18 a docket. It just sounds like there's a lot that's  
19 unknown.

20                   Not knowing -- we know there's other ag  
21 land out there. But not knowing how much it's going  
22 to cost the farmers to relocate, not knowing how much  
23 infrastructure is going to cost, or if the same  
24 produce can be grown at a different location just  
25 seems like a lot of information that's not known to be

1 able to come out in support of something. So if you  
2 can just briefly describe what are -- the process.

3 THE WITNESS: Yes, certainly. Thank you,  
4 Commissioner. You know, we have within the Department  
5 of Agriculture staff planners and other engineers who  
6 help us analyze our comments for the Petition, help us  
7 formulate our comments before we submit them to the  
8 Office of Planning.

9 And that covers the whole gamut of all the  
10 issues that you just raised. Are there replacement  
11 lands? Is there infrastructure? Those kinds of  
12 issues.

13 In many instances, though, we do not get  
14 down to the specific: What is it going to cost the  
15 farmer to have water delivered to their site? We are  
16 more concerned that there *is* water available and that  
17 that is something that would be worked out with the  
18 Petitioners and the farmer or the company.

19 So we try our best to do due diligence on  
20 these type of needs and then back up as well.

21 COMMISSIONER MAKUA: I would just think the  
22 cost is key to whether it's possible or not, you know.

23 THE WITNESS: And that is something that,  
24 again, that's a business decision that would have to  
25 be made. And we can assist. Sometimes actually, as

1 was mentioned earlier, the state can do the capital  
2 improvement projects to assist with irrigation, but  
3 usually on a much more general level that would  
4 provide for a number of different users, not just one  
5 specific user.

6 COMMISSIONER MAKUA: Mahalo.

7 CHAIRMAN LEZY: Commissioners, any other  
8 questions? Thank you for your testimony.

9 THE WITNESS: Thank you.

10 CHAIRMAN LEZY: We'll take a ten minute  
11 break.

12 (Recess was held 10:30)

13 CHAIRMAN LEZY: Mr. Matsubara, are you  
14 prepared to proceed?

15 MR. MATSUBARA: My next witness would be  
16 Pete Pascua.

17 MR. SEITZ: My understanding was we were  
18 going to call Senator Hee so that he could get back to  
19 the capital. I'm sorry. I thought that was what we  
20 had agreed upon.

21 CHAIRMAN LEZY: I'm sorry. We didn't  
22 discuss that earlier, but...

23 MR. SEITZ: I thought I did ask that I  
24 could call him out of order as well.

25 CHAIRMAN LEZY: I think that makes sense.

1 MR. SEITZ: Unless it's a problem with  
2 scheduling, I'm sorry.

3 MR. MATSUBARA: It's not a problem. No  
4 objections.

5 MR. SEITZ: Thank you. And we'll call  
6 Senator Hee.

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

10 THE WITNESS: I do.

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

13 THE WITNESS: I'm Clayton Hee. Business  
14 address is the state capital.

15 CHAIRMAN LEZY: Mr. Seitz.

16 DIRECT EXAMINATION

17 BY MR. SEITZ:

18 Q What is the position you currently occupy?

19 A I'm a member of the State Senate.

20 Q How long have you been a Senate Senator?

21 A Approximately 12 years.

22 Q And have you held any other elective or  
23 appointed positions in state or city government?

24 A I was a member of the Office of Hawaiian  
25 Affairs from 1990 to 2002, which I served seven years

1 as its chair. I was also a member of the State House  
2 of Representatives for one term.

3 Q Briefly would you reiterate for the  
4 Commission what your educational background is.

5 A I'm a high school graduate from the  
6 Kamehameha Schools; graduated three times from the  
7 University of Hawai'i at Manoa.

8 Q What are your degrees in?

9 A I've a BA, Liberal Arts BA, a Teaching  
10 Certificate from the University of Hawai'i College of  
11 Education and a Master's Degree in Pacific Islands  
12 Program.

13 Q What is the basis for your interest in  
14 agriculture in Hawai'i?

15 A I guess I'm at the age where having served  
16 in public life as long as I have, first being elected  
17 30 years ago in 1982, and at my age I've seen the  
18 demise of agriculture in my lifetime.

19 I grew up around taro fields and dairies.  
20 There were five dairies around me on the Windward  
21 side. They're all gone. I'm acutely aware in the  
22 '80s of a position that no longer exists in the state  
23 government. That was that of the Milk Commissioner,  
24 because there was a time that Hawai'i produced a  
25 hundred percent of its milk. It imports 90 percent of

1 its milk today.

2           So there has been several diametrical  
3 changes that are not good for the state of Hawai'i.  
4 And it's my own opinion, as someone who is approaching  
5 60, that we should do all we can to ensure that the  
6 next generation and the following generation after the  
7 next, that we leave for them what was left for us by  
8 the succeeding two generations.

9           I think it's also important to note in the  
10 context of who I am that my grandfather was born  
11 during the kingdom. We oftentimes look at ourselves  
12 as being disconnected from who we are. When we think  
13 about it, my grandfather was born five years before  
14 the Overthrow. My grandmother was born 17 years  
15 before the death of Queen Liliuokalani.

16           I think anybody my age or older who's been  
17 in Hawai'i for several generations, if you think about  
18 it you can understand that when I say I think it's  
19 important to leave Hawai'i a better place for the next  
20 two generations, that my grandfather could have said  
21 the same thing as a five year-old at the time of the  
22 Overthrow.

23           So we're not disconnected from our  
24 ancestors. And the kuleana of leaving future  
25 generations is more important today than ever before.



1           Q       What is the basis for your interest in food  
2 security?

3           A       Well, as I said earlier, and as the  
4 Director of Department of Ag had alluded to, it is, I  
5 believe, an accurate statement that during the time of  
6 my grandfather a hundred percent of *his* needs for his  
7 family and extended family were taken care of in  
8 Hawai'i.

9                   I don't think it's -- it should be a  
10 surprise to anyone that if Matson went on strike or if  
11 a natural disaster occurred, that people would  
12 gridlock the highway system to find something as basic  
13 as a case of Arrowhead water from Costco. And that  
14 suggests to me that we have failed as policy-makers,  
15 and we have failed as simple adults to take care of  
16 our youngsters.

17          Q       How has your legislative experience  
18 affected you regarding the way in which leaders of the  
19 state have dealt with issues of food security and  
20 protection of agriculture?

21          A       Well, it's my own view that we have placed  
22 economic -- economics over sustainability. And it is  
23 at the detriment of the citizenry. This proceeding is  
24 an example, respectfully, of that statement.

25                   I read something from Governor Ariyoshi

1 which you referred to earlier. Some of you may be  
2 offended, but I'm going to read it again. Because  
3 whether you're offended or not is really not the  
4 issue. The issue is whether Governor Ariyoshi is  
5 accurate.

6 He said on Page 19 of his, of the pamphlet  
7 he published last year, he said, "At the beginning of  
8 statehood our system of land management was the envy  
9 of other governmental jurisdictions. Originally the  
10 job of the Land Use Commission was to serve the broad  
11 public interest over the long term."

12 Ariyoshi said, "When I came into office I  
13 appointed a representative from the League of Women  
14 Voters to the Commission because the League had worked  
15 hard in understanding land use decisions.

16 "I also appointed a young Hawaiian activist  
17 who spoke eloquently from a Hawaiian cultural  
18 viewpoint about the land. I felt her views needed to  
19 be represented.

20 "Today the intent and functioning of the  
21 land use law has been extensively subverted. The  
22 Commission membership prominently includes a realtor,  
23 a development lawyer, a corporate lawyer, members with  
24 large constituencies are similarly tied to development  
25 such as electrical contractors and the Carpenters'

1 Union.

2 "The Commission's executive director  
3 previously headed the Land Use Research Foundation, a  
4 lobbying group for developers and large landowners.

5 "The decisions of the Land Use Commission  
6 to urbanize go a long way toward explaining why the  
7 number of construction workers in Hawai'i has doubled  
8 in the past decade, and why the general public is  
9 increasingly disturbed by the congestion that results  
10 from overly rapid development.

11 "Contrary to the original idea of the land  
12 use law the public is substantially shut out of the  
13 process. The Commission's quasi-judicial proceedings  
14 intended to elicit thoughtful and well-informed  
15 testimony have limited participation to only those  
16 with a direct interest in the outcome. Attorneys  
17 examine, cross-examine and redirect examination of  
18 witnesses as if in a court of law.

19 "Developers seeking rezoning arrive with  
20 attorneys, consultants and expert witnesses to pursue  
21 their agenda. But the public interest is not  
22 represented.

23 "The most widely embraced goal of the land  
24 use law was the preservation of prime agricultural  
25 land. The collapse of the plantation agriculture is

1 at the heart of our confusion about how to manage land  
2 today.

3 "The 1978 Constitutional Convention  
4 mandated the protection of agricultural important  
5 lands. We should be doing all we can to diversify  
6 agriculture but we are not.

7 "When farmland is rezoned urbanization is  
8 nearly irreversible. The land is no longer available  
9 for farmers. The best protection of agricultural land  
10 is productivity and profitability. Farms that make  
11 money are much less in danger of being rezoned."

12 I don't think that's a true statement but  
13 that's Ariyoshi's statement. I don't think it matters,  
14 quite frankly. "Agriculture in turn virtually  
15 guarantees the preservation of open space."

16 Q What is it that impels you to intervene in  
17 this case and to appear before the Land Use  
18 Commission?

19 A It's really simple for me. And I suppose  
20 at this point in my life and at this point in my  
21 political life I have been more focused on leaving  
22 Hawai'i better than when I became a part of the  
23 political fabric of this state.

24 I have seen through the last, well, 29  
25 years, because I was elected 30 years ago, the

1 Legislature move from a sensitivity towards  
2 agriculture to an obsession with suburban sprawl.

3           It is only now, for some reason that's not  
4 yet clear to me, that it appears to me that the  
5 Legislature is beginning to recall its duty toward the  
6 constitution by enacting legislation which mandates  
7 the protection of prime ag land.

8           You spoke a few minutes ago about House  
9 Bill 2703 entitled Relating to Food Self-sufficiency.  
10 In it, regardless that the Department of Ag Chair may  
11 disagree, he's really dealing with, he's really  
12 dealing with the minute areas when he says, for  
13 example, he doesn't agree that 92 percent of the food  
14 is imported. He thinks it's between 85 and 90  
15 percent. Okay. We give you that. It really doesn't  
16 matter, does it? We take his low number 85.

17           In the legislation that he supported it  
18 says 96 percent of the beef we eat is imported;  
19 67 percent of all vegetables is imported; 65 percent  
20 of fresh fruits is imported, and 80 percent of all  
21 milk imported.

22           I don't think anyone here will ask me if I  
23 think fresh fruits and vegetables are higher in  
24 nutritional value. I think we know the answer to  
25 that.

1           The Legislature, in particular the  
2 Committee on Ways and Means, yesterday voted to send  
3 this legislation to the floor which says that "Hawai'i  
4 shall double its productivity in agriculture beginning  
5 from the year -- double the amount grown in 2014." At  
6 this rate if Ho'opili and Koa Ridge are approved,  
7 double the amount will be less in two years than it is  
8 today. And that says it all to me.

9           Why the Chairman of Ag took a unilateral  
10 decision and not a decision he sought from the Board  
11 of Agriculture, is a question that will likely be  
12 asked in a later proceeding. The fact of the matter  
13 is policy decisions are governed by the board, not by  
14 an individual. And the individual staff involvement  
15 governs the policy decision recommended to the board,  
16 not by the director.

17           And I can give you tangential examples.  
18 You only can take certain kinda fish during certain  
19 times of the year. You only can take a minimum size  
20 of a certain fish and other marine resources. Those  
21 designations were made by the Board of Land and  
22 Natural Resources, not by the Laura Thielen, not by  
23 William Aila, not by any director. Because those  
24 decisions are inherent in why a board is constructed.

25           I said at the last proceeding that if --

1 and some of you have said in your testimony when I was  
2 Chairman of the Committee on Water, Land, Ag, and  
3 Hawaiian Affairs, and sat for seven of you -- I asked  
4 you questions about Governor Ariyoshi's statement and  
5 you folks responded. And not a one of you said  
6 anything contrary regarding the preservation of prime  
7 ag land.

8 But even by your own rules in Subchapter 8  
9 section 15-15-77(6) "Lands in intensive agricultural  
10 use for two years prior to the date of filing of a  
11 Petition, or lands with high-capacity for intensive ag  
12 shall not be taken out of the Agricultural District,"  
13 shall not, not *may not*, shall not, "unless the  
14 Commission finds that either the action will not  
15 substantially impair actual or potential agricultural  
16 production in the vicinity that is self-evident or is  
17 reasonably necessary for urban growth.

18 And as I said earlier, depending on who you  
19 believe, the most conservative estimate of urban  
20 growth -- approved urban growth in the vicinity  
21 exceeds 20,000 units.

22 Our job as legislators and your job as a  
23 Land Use Commission is not difficult. We like to  
24 think it is but it really isn't. Because our job is  
25 what we swore to do: Support and defend the

1 Constitution of the United States and the Constitution  
2 of the state of Hawai'i.

3           In the host culture when there was  
4 confusion there was a Pu'uhonua where people went to  
5 for safety. As policy-makers our Pu'uhonua is the  
6 constitution because it's the will of *all* the people,  
7 not the neighborhood boards in the case of Ho'opili,  
8 not the county of the city and county of Honolulu, but  
9 the voice of all the people. And that is why the  
10 constitution is our Pu'uhonua as policy-makers.

11           So in the confusion when we look at section  
12 3 of the Pu'uhonua it says very clearly: "The state  
13 shall conserve and protect ag lands, promote  
14 diversified agriculture, increase agricultural  
15 self-sufficiency, and assure the availability of  
16 agricultural suitable lands."

17           This is our Pu'uhonua which we swore to  
18 support and defend. When we go home to our Pu'uhonua  
19 our life becomes clearer, our jobs become easier.  
20 That is why your job and my job is not difficult.  
21 It's actually quite simple.

22           During the confirmation of some of you, one  
23 person in particular said, "I will follow the law."  
24 The laws are byproducts of the Pu'uhonua.

25           Q       What are you asking the Commissioners to do



1 in this particular case?

2 A Well, I guess officially for the record I'm  
3 intervening because I believe we are past the tipping  
4 point on sustainability. It's not about my friends  
5 who work for Castle & Cooke. It's not about my  
6 friends who work for the unions. I myself used to  
7 belong to Local 368 and HSTA. My mother was Local 5.  
8 My father was UPW Unit 10.

9 I believe passionately when the tide comes  
10 in all boats float. However, it would be difficult  
11 for me to understand, given your own rules, given the  
12 constitution, and given common sense, common sense,  
13 the developer has no other rights vested than the  
14 zoning.

15 And no one should feel sorry for any  
16 landowner or developer any more than they should feel  
17 sorry for their mo'opuna who's going to climb over  
18 that mass of humanity for the last roll of toilet  
19 paper when the longshoremen go on strike. That's why  
20 I'm an intervenor.

21 MR. SEITZ: No further questions.

22 CHAIRMAN LEZY: Mr. Matsubara?

23 MR. MATSUBARA: No questions.

24 CHAIRMAN LEZY: Mr. Kitaoka?

25 MR. KITAOKA: No questions.

1 CHAIRMAN LEZY: Mr. Yee?

2 MR. YEE: No questions.

3 CHAIRMAN LEZY: Mr. Poirier?

4 MR. POIRIER: No questions.

5 CHAIRMAN LEZY: Commissioners?

6 Commissioner Contrades.

7 COMMISSIONER CONTRADES: Senator, could you  
8 tell me, you mentioned that you were on the committee  
9 that approved seven of us.

10 THE WITNESS: Yes.

11 COMMISSIONER CONTRADES: And that we  
12 testified. Was I one of them?

13 THE WITNESS: Yes.

14 COMMISSIONER CONTRADES: I testified?

15 THE WITNESS: Yes.

16 COMMISSIONER CONTRADES: What did I say?

17 THE WITNESS: With respect to what in  
18 particular?

19 COMMISSIONER CONTRADES: To anything.

20 THE WITNESS: You said, and I'll quote you,  
21 "As a business agent for the ILWU I spent a great deal  
22 of time with agricultural workers which gave me an  
23 appreciation of agricultural land."

24 COMMISSIONER CONTRADES: And when did I  
25 make this statement?

1 THE WITNESS: Dated April 8th, 2009.

2 COMMISSIONER CONTRADES: April 8, 2009.

3 THE WITNESS: And signed by you.

4 COMMISSIONER CONTRADES: Oh, but that  
5 wasn't -- that was an answer to a question that you  
6 sent to us.

7 THE WITNESS: Yes.

8 COMMISSIONER CONTRADES: Okay. But at our  
9 actual approval meeting did we actually make any  
10 statements that day? The reason I ask that is because  
11 people have questioned me, you know, "In your  
12 statements that you've been making and stuff that's  
13 been covered," people have asked me how come I made  
14 these statements before you in public, and now I seem  
15 to be not living up to them. And I don't remember  
16 ever making a statement before you.

17 I wrote that as example of, yes, I was a  
18 business agent at the time for the ILWU and I did  
19 represent agricultural workers. And I do respect  
20 agriculture. But the way it's being portrayed it's as  
21 if we did anything to approve any kind of agriculture,  
22 then we're against agriculture. And I don't think  
23 that's true. I don't think, you know -- I respect  
24 your opinions. It doesn't necessarily reflect my  
25 opinions.

1           I never, ever heard of Governor Ariyoshi's  
2 pamphlet until you folks brought it up. I find it  
3 interesting that the governor talked about two people  
4 on a committee of nine people. He did not talk about  
5 some of the other people that they represented, many  
6 of whom I knew, who approved a great deal of change  
7 from Ag to Commercial and Urban.

8           And now we are being portrayed as people  
9 that, I don't know, sometimes I even feel like we're  
10 bad people because of the statement that you read.  
11 And I disagree with that, of course. But I don't  
12 think it's fair to portray us the way that we are  
13 being portrayed when we never did those things.

14           THE WITNESS: Is that a question or is that  
15 a statement? Are you asking me the question?

16           COMMISSIONER CONTRADES: Okay. I'll ask  
17 you the question. When did I make such statements  
18 before your committee?

19           THE WITNESS: The statement I read?

20           COMMISSIONER CONTRADES: Yeah.

21           THE WITNESS: You made it before the  
22 committee on your reappointment to the Land Use  
23 Commission.

24           COMMISSIONER CONTRADES: But never before  
25 the committee. Was it before the committee?

1           THE WITNESS: I don't know if you want to  
2 split hairs. But this is your testimony before the  
3 committee.

4           COMMISSIONER CONTRADES: No. I never  
5 testified before the committee. That's what I'm  
6 trying to say. You sent me a questionnaire. I filled  
7 it out and I sent it back to you. When I went to my  
8 confirmation hearing you openly stated that you're  
9 going to recommend that we all be approved, and the  
10 best thing for us was not to say anything. So I  
11 didn't.

12           And now it's being portrayed that I made  
13 all of these statements and I'm going back on my word  
14 *if* I were to approve anything. And that's not fair.

15           THE WITNESS: Let me respond this way. I  
16 don't know who these people that --

17           COMMISSIONER CONTRADES: The public.

18           THE WITNESS: -- are portraying you in a  
19 certain way. I certainly will take full  
20 responsibility for everything I say. I will not take  
21 responsibility for others who may be portraying you a  
22 certain way.

23           I will not take responsibility for the  
24 words that I read out of a published document authored  
25 by Governor Ariyoshi, but I will stand with him in

1 agreement with his document. If you want to take  
2 issue with what he wrote, then you ought to do so.

3 Just so you understand, and if there's any  
4 question in anybody's mind, these documents that were  
5 addressed to Senator Clayton Hee, Chair of the Senate  
6 Committee, Water, Land, Ag, and Hawaiian Affairs  
7 regarding reappointment to the Land Use Commission are  
8 official statements and public record before the  
9 committee and the Legislature and the public.

10 If you want to change your mind, if you  
11 want to suggest you've had an epiphany that's your  
12 business. I only rely on what was submitted before  
13 the committee.

14 COMMISSIONER CONTRADES: I'm not changing  
15 my mind. What I don't like is it is being represented  
16 in there that of the seven of us -- you never named  
17 anybody -- we made statements and now it seems like  
18 we're going against our statements. And if we did  
19 anything but follow what you are telling us today, we  
20 would be going against our statements. And that's not  
21 right.

22 THE WITNESS: Actually I'm saying just the  
23 opposite. If you folks followed what you guys said to  
24 the committee you would deny this Petition. I'm  
25 saying just the opposite.

1                   COMMISSIONER CONTRADES: I disagree with  
2 you.

3                   THE WITNESS: That's why we live in a  
4 democracy.

5                   COMMISSIONER CONTRADES: True.

6                   CHAIRMAN LEZY: Commissioners, any other  
7 questions? Commissioner Teves.

8                   COMMISSIONER TEVES: Hello, Senator Hee.

9                   THE WITNESS: Hello, Nick.

10                  COMMISSIONER TEVES: You know, you talked  
11 about the rules of the land use and the State  
12 Constitution. We heard from the Chairman Kokubun.  
13 And my question to you is because I have a problem  
14 with Office of Planning.

15                  How come they don't back up the rules and  
16 the constitution when it comes to subdivision approval  
17 of ag land? I just want your opinion. I'm not asking  
18 'cause they never came up to testify, but I want your  
19 opinion on that.

20                  THE WITNESS: Let me answer it this way,  
21 Commissioner Teves. I cannot speak for how come they  
22 testify a certain way. But I've been around in  
23 politics 30 years. And I have seen political  
24 decisions during that time made for reasons which I  
25 didn't understand.

1           And that's why after this length of time  
2 when there's confusion that swirls around us, we go  
3 back to what we swore to support and defend because it  
4 provides clarity.

5           And I couldn't tell you this 30 years ago.  
6 I couldn't tell you this 15 years ago, Nick, but I can  
7 tell you now you know. And the rules are there. I  
8 read them in the record for a specific reason. And  
9 why they did, why they do they may disagree. They may  
10 disagree with my interpretation, but this is my  
11 interpretation.

12           They may disagree with the language of the  
13 Hawai'i State Constitution. I think it's pretty clear  
14 you know. I think that -- I don't think there's any  
15 question from our lifetime, yours and mine, that you  
16 would disagree about the demise of our ability to feed  
17 each other.

18           I have, for example, just as a side bar,  
19 introduced in 2005, this is seven years, an effort to  
20 give opihi a rest. Not kapu, just rest. You go pick  
21 five months out of the year. You let the opihi rest.  
22 Because over the long run then everybody gets. Just  
23 as an example of sustainability.

24           And that legislation cannot pass. Why is  
25 that? It's this. (Indicating rubbing thumb and index



1 fingers together).

2 Because people die every year, Nick, you  
3 know and I know, usually on the Big Island repelling  
4 off one cliff, going over choppy water, wash over  
5 the -- why? Why they go there? Why they go there to  
6 pick the opihi? This. (Indicating rubbing thumb and  
7 index fingers together.) Dynamics are the same.

8 So what's the consequence of that?  
9 Thirty-five dollars a pound at Tamashiro. Where's the  
10 kole? No more kole. Where's the kumu? No more kumu.  
11 We eat uhu now. When I grew up we no eat uhu. Shrimp  
12 head, gotta put mayonnaise and tomato. People eat  
13 palani now. We nevah eat palani. When you eat kala?  
14 Unless you catch 'em fresh and bleed 'em on the sand.  
15 What happened?

16 COMMISSIONER TEVES: Thank you.

17 THE WITNESS: Thank you, Nick.

18 CHAIRMAN LEZY: Commissioners, any other  
19 questions? Thank you for your testimony, Senator.

20 THE WITNESS: Thank you, Mr. Chairman.  
21 Thank you, Members.

22 CHAIRMAN LEZY: I think it probably makes  
23 sense to take a lunch break at this point. We'll pick  
24 back up at noon.

25 (Lunch recess was held 11:25-12:08)

1 CHAIRMAN LEZY: Before we move on to  
2 Petitioner's case, Mr. Seitz, just want to confirm you  
3 rest your case now.

4 MR. SEITZ: Yes. We will be presenting the  
5 written testimony, the prior testimony of Hector  
6 Valenzuela by agreement, from the other hearing,  
7 including the cross-examination. And we will prepare  
8 that as the next exhibit in order and submit that.  
9 But subject to the submission of that exhibit we rest.

10 CHAIRMAN LEZY: Thank you. Just to  
11 confirm, then, that is the agreement?

12 MR. MATSUBARA: Yes. And we will be  
13 submitting the cross-examination -- this is for the  
14 prior Koa Ridge hearing. Right, Eric?

15 MR. SEITZ: No, I was going to use his  
16 testimony -- I haven't seen his Koa Ridge testimony.  
17 I was going to use his testimony from the Ho'opili  
18 case. But let me look and we'll prepare an exhibit  
19 that is suitable. We'll get approval from all parties  
20 before we submit it.

21 MR. MATSUBARA: That's fine.

22 CHAIRMAN LEZY: Good. Thanks.  
23 Mr. Matsubara.

24 MR. MATSUBARA: Yes, my next witness is  
25 Pete Pascua.

1 PETE PASCUA

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

4 THE WITNESS: Yes.

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

7 THE WITNESS: My name is Pete Pascua.  
8 Address is 1907 South Beretania Street, suite 400,  
9 Honolulu, Hawai'i 96826.

10 DIRECT EXAMINATION

11 BY MR. MATSUBARA:

12 Q Mr. Pascua, and that business address is  
13 the location of what firm?

14 A Wilson Okamoto Corporation.

15 Q And you're employed there in what capacity?

16 A Yes. I'm the Vice President of Engineering  
17 and Director of Traffic Engineering.

18 Q Pursuant to our request you prepared an  
19 exhibit which we've numbered Exhibit 42, did you not?

20 A Yes, that's correct.

21 Q You've been previously qualified as an  
22 expert in traffic engineering and in the preparation  
23 of TIAR's before the Land Use Commission, have you  
24 not?

25 A Yes, I have.

1 Q On numerous occasions?

2 A Yes, correct.

3 MR. MATSUBARA: Thank you. I'd like to  
4 have Mr. Pascua qualified as an expert in traffic  
5 engineering and in the preparation of TIARs.

6 CHAIRMAN LEZY: Objections?

7 MR. YEE: No objection.

8 MR. JAYARAM: No objection.

9 MR. POIRIER: No objection.

10 MR. SEITZ: No objection.

11 CHAIRMAN LEZY: He's admitted.

12 MR. MATSUBARA: Thank you.

13 Q Let me ask you to briefly summarize the  
14 testimony you provided that's incorporated in  
15 Exhibit 42.

16 A Okay. We were retained by Castle & Cooke  
17 to address the traffic impacts associated with the  
18 proposed Project, the proposed Project being the Koa  
19 Ridge Makai as well as Castle & Cooke Waiawa  
20 developments. This was back in 2007.

21 Then that report was prepared. And it's  
22 based on the collection of data that spanned from --  
23 in the vicinity that spanned from 2007 to 2008. I'd  
24 like to go through, show via the exhibit what  
25 locations if I may.

1 MR. MATSUBARA: For the record the figure  
2 4-2 that's currently up there is from the Petitioner's  
3 EIS Exhibit 7. And it's in the Traffic Impact Study,  
4 figure 4-2.

5 THE WITNESS: For orientation this is the  
6 Petition Area right here, Koa Ridge Makai, the Waiawa  
7 portion, H-2 Freeway, Kamehameha Highway and Ka Uka  
8 Boulevard that connects the two regional north-south  
9 highways of the freeway as well as Kamehameha Highway.

10 We collected data, traffic data at numerous  
11 locations in the vicinity. One in particular is the  
12 Waipio Interchange, collected data in 2007 during  
13 various times of the year as well as 2008 various  
14 times of the year, as well as 2009 various times of  
15 the year, 2011, and most recently last month this year  
16 2012.

17 What we collected was actual turning  
18 movement counts of traffic traversing the interchange,  
19 how many vehicles were on all of the ramps, how many  
20 vehicles were turning left onto Ka Uka, how many  
21 vehicles were turning right, essentially every single  
22 movement that occurs at the interchange.

23 On top of that, all the intersections along  
24 Ka Uka Boulevard all the way to Kamehameha Highway, we  
25 collected data as well, during the morning peaks,

1 during the afternoon peaks, during the Saturday peaks,  
2 during the Sunday peaks for several times of the year  
3 for several years.

4 On top of that, Kamehameha Highway  
5 intersections from Ka Uka Boulevard all the way down  
6 to Waipahu Street, which is about two miles away.  
7 Again, several times a year, several years during the  
8 morning peak and afternoon peak. So we have this  
9 whole set of data that we use in analysis to determine  
10 the impacts associated with the Project.

11 Now, that's our baseline data. That is  
12 used to establish what is there now. Obviously there  
13 are some existing deficiencies that occur now, as some  
14 of you may know, in particular the left-turn movements  
15 into Moaniani Street which is that left turn, once you  
16 come out of the freeway onto the exit is that left  
17 turn going to Costco.

18 If you recall or have driven that area,  
19 that oftentimes backs up. So that's an existing  
20 deficiency that occurs there now.

21 Even in the other direction, when you're  
22 headed towards the cemetery on Ka Uka Boulevard, an  
23 existing deficiency with the left turn going onto the  
24 freeway. That left-turn storage lane is pretty short.  
25 You oftentimes back up into the lanes, the through

1 lanes. So that was identified as well. There are  
2 other locations that are currently deficient in terms  
3 of traffic operations.

4 Q Mr. Pascua, just briefly, how were these  
5 locations selected that you conducted the traffic  
6 counts on?

7 A Through consultation with DOT staff.  
8 Initially we had just limited the study area to Ka Uka  
9 Boulevard. But DOT had suggested or recommended that  
10 we go all the way to Waipahu Street.

11 Q So these locations are in concurrence with  
12 DOT's request on areas that should be checked.

13 A Yes, that's correct. And that's just all  
14 baseline conditions, the existing conditions that  
15 exist day and the past five years.

16 Next step in the analysis --

17 Q Sorry. The baseline counts you had between  
18 the earliest taken and the one just taken this year,  
19 2012, any major variance?

20 A No. No. It's generally the same in terms  
21 of traffic demand on these arterials and  
22 intersections. Nothing significant in terms of  
23 changing the operational characteristics or quality of  
24 the intersection.

25 Q So we're looking at 2012. And what's the

1 first year you did it?

2 A 2007.

3 Q 2007. Between that time period the  
4 baseline is relatively similar.

5 A That's correct.

6 Q Thank you.

7 A The next step was to determine what is the  
8 Project traffic generation. I understand previous  
9 testimony regarding traffic someone mentioned ITE or  
10 Institute of Transportation Engineers Trip Generation  
11 Rates that should have been used, I believe it was an  
12 eighth edition version that was identified in previous  
13 testimony.

14 But when we first prepared this report the  
15 eighth edition wasn't out yet. By the way, I was part  
16 of the development of the eighth condition on the  
17 national level.

18 But in any case, this new updated traffic  
19 study we're doing will be based on the eighth edition,  
20 latest Institute of Transportation Engineers Trip  
21 Generation Rates.

22 Okay. I don't want to bore everybody.  
23 (laughter) But that was just the baseline condition.  
24 Next is to determine what the traffic generation would  
25 be from the Koa Ridge Project. That is based again,



1 will be based in this update on the ITE eighth  
2 edition. And that will be superimposed over the  
3 baseline counts that we did to determine how much  
4 traffic would be traveling along the roadways.

5 The impacts will be measured by a concept  
6 called "Level of Service". Anything that reduces the  
7 Level of Service to D or worse -- I'm sorry -- worse  
8 than D, Level of Service D -- will be identified as a  
9 deficiency and recommendations to mitigate those  
10 deficiencies will be identified.

11 The study that we prepared, the last one of  
12 the five I had mentioned earlier, was dated or is  
13 dated May 2010. And that study identifies several  
14 mitigating measures that were recommended.

15 If I can refer to another exhibit to  
16 identify or at least illustrate these mitigating  
17 measures. I believe this was part of my written  
18 testimony, this graphic.

19 Q The graphic was attached to Exhibit 42.

20 A This is the existing Waipio Interchange or  
21 Ka Uka Interchange, if you will. This is the H-2  
22 Freeway. Up is headed towards Wahiawa. Down is  
23 headed towards town. This roadway here is Ka Uka  
24 Boulevard. Petition Area is up here for the Koa Ridge  
25 Makai site, the Waiawa -- Castle & Cooke Waiawa site

1 is located around here.

2 As you can see in blue, if you can see it,  
3 that there's substantial recommendations at that  
4 interchange which includes couple loop ramps on the  
5 northeast quadrant of this interchange as well as a  
6 loop ramp on this side.

7 But I think the most significant  
8 improvement is the widening of the overpass from, I  
9 believe it's five lanes -- or four lanes to seven  
10 lanes.

11 This improvement itself is on the order of  
12 about a hundred million dollars, closer to 90 million.  
13 But it will help not only traffic operations in the  
14 vicinity but also traffic utilizing the freeway. Can  
15 I refer to the next graphic?

16 MR. MATSUBARA: All these exhibits are  
17 attached to his written testimony, Exhibit 42.

18 A This graphic shows Ka Uka Boulevard with  
19 all the intersections between the interchange located  
20 here as well as Kamehameha Highway on the left, the  
21 far left.

22 Recommended improvements include widening  
23 Ka Uka Boulevard from four lanes to six lanes, an  
24 additional lane in each direction to accommodate the  
25 increase in traffic flow in the area as well as

1 providing a double right turn on Ka Uka onto  
2 Kamehameha Highway. That's right around, if you're  
3 familiar with the area, the Okinawan Center, the  
4 corner.

5 Another recommendation was a signalized  
6 intersection which the city did recognize and already  
7 installed since we started this last. As well as the  
8 DOT had installed some improvements on the southbound  
9 offramp at the Waipio Interchange that they also  
10 recognized as a need and have since implemented since  
11 we last studied this area.

12 So essentially that's the recommendations  
13 that were included in the May 2010 report.  
14 Improvement costs are in the order of hundred fifty to  
15 almost \$200 million. The next phase -- well, this is  
16 just recommendations associated with the first phase.

17 The next phase of the proposed development,  
18 which is the second half of the Koa Ridge Makai  
19 portion of the Project, is to develop the or implement  
20 a new interchange further north of this location which  
21 is the proposed Pineapple Road Interchange. That in  
22 itself is another, roughly, 60 to \$80 million.

23 That's, essentially, in a nutshell the  
24 analysis and recommended improvements associated with  
25 the studies that we've done to date. Next step is to

1 update the traffic study based on new numbers, new  
2 information and comments that we received from DOT.

3 Q Now, you continue to have ongoing  
4 discussions with DOT in regard to areas of concern  
5 they would like your revisions to the TIAR to be  
6 addressed, correct?

7 A That's correct.

8 Q You're in the process of finalizing that  
9 which in turn will then be submitted to the Department  
10 of Transportation for their review and analysis?

11 A Yes.

12 Q And once that Revised TIAR is acceptable to  
13 the Department of Transportation, a Memorandum of  
14 Agreement or Agreement in Principle will be  
15 undertaken, is that correct?

16 A That's my understanding, yes.

17 Q What's the estimated time period to finish  
18 the revisions to the TIAR you're undertaking?

19 A Like I mentioned we already collected the  
20 data at all these intersections that I mentioned  
21 earlier. We are currently monitoring the traffic  
22 conditions based on those numbers, also running or  
23 rerunning the projections associated with the Project.  
24 Then formal documentation in the next couple months or  
25 so.

1 Q The next few months?

2 A Yes, correct.

3 Q Thank you. How many TIARs have you been  
4 the principal author of?

5 A Over a thousand, maybe closer to 1200.  
6 Last count as of last year was over a thousand.

7 Q How many of those were for purposes of DOT  
8 review and acceptance?

9 A Associated with DOT? All. All was  
10 approved. I'm sorry --

11 Q The number that were prepared which were  
12 required for DOT approval. Of the 1200 TIARs you  
13 prepared, some again are for federal projects, some  
14 are for county projects, some require DOT approval as  
15 it relates to state highways and improvements.

16 Of those 1200 how many related to a DOT  
17 project?

18 A Maybe, I would have to guess, I would say  
19 perhaps 60 percent.

20 Q Okay. Thank you.

21 MR. MATSUBARA: I have no further  
22 questions.

23 CHAIRMAN LEZY: County?

24 MR. JAYARAM: No questions.

25 CHAIRMAN LEZY: Mr. Yee?

## CROSS-EXAMINATION

BY MR. YEE:

Q With respect to figure 1 in your testimony, who's paying for the improvements in figure 1?

A I believe Castle & Cooke is committed to fund those improvements in association with other developers in the area at no cost to the state.

Q And with respect to the improvements in figures 2 and 3, do you know who's paying for those improvements other than the ones that have already been made?

A That would be Castle & Cooke.

Q And then with respect to Pineapple Junction, who's paying for that improvement?

A That would be Castle & Cooke as well.

Q Roughly how many times have you met with the Department of Transportation, you or someone in your company?

A With respect to this Project?

Q Yes.

A Over two dozen times. I don't know exactly.

Q So you've been consulting with the Department of Transportation fairly intensely and closely. Fair enough to say?

1           A       Yes.

2           Q       Has this Project -- let's backtrack.  
3 Typically with respect to a transportation analysis  
4 there'd be sufficient planning done by the time of  
5 zoning approval, is that correct?

6           A       Sufficient planning...to what level?

7           Q       Okay. Yeah, I mean projects typically  
8 change between the LUC as it moves forward in the  
9 land use process, right?

10          A       They could, yes.

11          Q       By the time a project reaches zoning  
12 approval with respect to transportation issues, the  
13 project is pretty well laid out in terms of what's  
14 gonna happen and where it's going to happen in the  
15 project, correct?

16          A       Correct.

17          Q       And that's the essential information you  
18 need to know what goes into or to confirm that the  
19 TIAR is a good analysis.

20          A       At that point, yes.

21          Q       Because if either the type of use or the  
22 location of the use has changed then you have to  
23 relook at your TIAR.

24          A       It may or may not affect traffic  
25 operations, yes.

1           Q       But typically by the time you get to zoning  
2 that's a good time by which you have a fairly firm  
3 idea typically, at least, of what is going to -- what  
4 the project will consist of and where it will be for  
5 purposes of a transportation analysis.

6           A       Yes, in terms of planning parameters, yes.

7           Q       And you're anticipating the submission of  
8 the Revised TIAR when?

9           A       Sometime in May.

10          Q       So that will occur, you would anticipate,  
11 well before any zoning approval would occur?

12          A       The submission of a revised TIAR?

13          Q       Yes.

14          A       Yes.

15                 MR. YEE: Those are all the questions I  
16 have. Thank you.

17                 CHAIRMAN LEZY: Mr. Poirier.

18                         CROSS-EXAMINATION

19 BY MR. POIRIER:

20          Q       Hi.

21          A       Morning, Dick.

22          Q       Could you tell us something about the RI/RO  
23 access from Kam Highway?

24          A       Yes. In terms of traffic operations?  
25 Or...



1           Q       I mean what it is and what it's supposed to  
2 do.

3           A       The RI/RO, or in other words, right turn  
4 in/right turn out intersection on Kamehameha Highway  
5 along the Project frontage is being proposed to  
6 distribute traffic or access to the Project site, to  
7 and from the Project site, as another access point.

8                   It's roughly located about a thousand feet  
9 north of the intersection of Kamehameha Highway and Ka  
10 Uka Boulevard. If I may refer to the exhibit again.  
11 Location right up here. (indicating)

12          Q       And has Department of Transportation given  
13 you approval for this?

14          A       The Department of Transportation has  
15 requested that we analyze the effects of utilizing  
16 that intersection as an access point. That's gonna be  
17 incorporated in the current TIAR we're preparing right  
18 now.

19          Q       Oh, it is. Okay.

20          A       Yes.

21          Q       One of the problems that we have is that  
22 DOT is also gonna recommend that this be removed once  
23 the Pineapple Road Interchange is built. Could you  
24 tell me what the reason is for that?

25          A       What I believe, what DOT is suggesting it

1 be removed is because they want to maintain the  
2 integrity of traffic flow along Kamehameha Highway.  
3 Since Kamehameha Highway is a limited access roadway,  
4 the less friction or interference to traffic flow the  
5 better in terms of moving traffic through the  
6 corridor. That's my understanding.

7 Q Does that make sense from your point of  
8 view? Meaning that this thing could be in operation  
9 for years, frankly, before the Pineapple Road Junction  
10 is built.

11 A If what? I'm sorry, Dick. If what makes  
12 sense?

13 Q I mean does it make sense to remove this  
14 once the Pineapple Road Interchange is built? Namely  
15 this provides access at one end of the Project,  
16 Pineapple Road, it terminates at the other end of the  
17 Project. So what you're saying is there's going to be  
18 some adverse impact because of the RI/RO?

19 So they want to get rid of that despite of  
20 the fact it's going to continue to provide access  
21 which is needed on that part of the highway? I  
22 just -- I just don't understand.

23 A Why that they may want to remove it after?

24 Q Yeah.

25 A Well, like I mentioned before, the

1 integrity of the flow on the highway. But I think a  
2 decision to remove it should be made after an update  
3 traffic study is done --

4 Q Right.

5 A -- to determine what the true impacts would  
6 be associated with that access point. We're analyzing  
7 right now, but not only this study would determine or  
8 would identify the need or, or the removal of that  
9 intersection, but subsequent updates should be  
10 completed.

11 And I think it's agreed upon by Castle &  
12 Cooke to prepare subsequent updates every three years  
13 at which time a decision can be made whether that  
14 right-turn in/right-turn out intersection along  
15 Kamehameha Highway should be removed or not.

16 Q Okay. My final question is that the  
17 Department of Transportation wants you to pay your  
18 fair share with respect to what's happening down  
19 towards -- you know, downstream. Have you had any  
20 type of negotiations with them thus far on that?

21 A Not myself. I'm not sure if Castle & Cooke  
22 did. But my task was to evaluate the impacts  
23 associated with the Project as opposed to negotiating  
24 costs between proposed improvements with DOT.

25 MR. POIRIER: Thank you.

1 CHAIRMAN LEZY: Mr. Seitz.

2 CROSS-EXAMINATION

3 BY MR. SEITZ:

4 Q Do you have any information that you can  
5 provide to us about the number of vehicles that would  
6 be added if this community were built out as  
7 projected?

8 A Added overall or to a specific facility?

9 Q The number of vehicles that would be added  
10 to this region or area if this Project is constructed  
11 as requested.

12 A Approximately, it varies between the  
13 morning and afternoon peak periods, but approximately  
14 2,000 vehicles on the roadway. Not all on the H-2.  
15 There are some vehicles heading north on Kamehameha  
16 Highway. And some vehicles would be heading south on  
17 Kamehameha Highway as well. So distributed throughout  
18 the region roughly 2,000 vehicles.

19 Q Have you done any studies as to what the  
20 impact of those added vehicles would be when they  
21 reach the H-1/H-2 Interchange?

22 A What we did as recommended or requested by  
23 Neighborhood Board No. 25 to conduct some travel time  
24 surveys, what we did was conduct travel time surveys  
25 through the area in addition to the locations what DOT

1 had suggested we analyze as part of this Project.

2 Q Well, what I'm specifically asking you is:  
3 What would the impact be of these additional vehicles  
4 as they reach the H-1/H-2 Interchange?

5 A There would be some increased queuing at  
6 the H-1/H-2 merge and also travel time delays or  
7 increase in travel time through the corridor.

8 Q Are you aware of any current rating as far  
9 as the level of use with respect to the interchange?

10 A Level of use?

11 Q Well, you testified earlier that the  
12 Department of Transportation has asked that with  
13 respect to this Project that there be nothing worse  
14 than that D. Is that correct?

15 A That's correct.

16 Q What is the rating at this point for the  
17 interchange, do you know?

18 A It varies depending on what you're looking  
19 at at the interchange. But it ranges from Level of  
20 Service C to D currently.

21 Q Has it ever been rated as F?

22 A The interchange?

23 Q Yes.

24 A I presume you're talking about Waipio  
25 Interchange.

1 Q I'm talking about the H-1/H-2 merge.

2 A That's F. No, that's F. You're correct.

3 Q And so basically what is going to happen is  
4 you're going to add vehicles to an interchange which  
5 already is rated as F, is that correct?

6 A The interchange again is the H-1/H-2  
7 Interchange.

8 Q Yes.

9 A Also known as the Waiawa Interchange.

10 Q Yes.

11 A Yes, we'll be adding vehicles.

12 Q Have you been asked to look at any ways in  
13 which that situation can be alleviated?

14 A No.

15 Q To your knowledge has Castle & Cooke made  
16 any commitments in connection with its application for  
17 this particular Project to address the issue of the  
18 impact on the H-1/H-2 Interchange?

19 A I'm not familiar with any negotiations, if  
20 that's what you're asking.

21 Q I believe that you testified here this  
22 afternoon that with respect to all of these requested  
23 modifications to widen the Ka Uka Boulevard crossover,  
24 to build the interchange for Pineapple Road, that  
25 those are all items which Castle & Cooke has committed

1 to funding, is that correct?

2 A Certain items. Specific items include that  
3 Castle & Cooke has been negotiating with adjacent  
4 landowners as the cost to implement specific  
5 improvements along, at the Waipio Interchange, not  
6 necessarily all Castle & Cooke.

7 Q Is it your understanding, however, that  
8 based upon the figures that you offered earlier that  
9 Castle & Cooke apparently is either itself or with  
10 other parties willing to come up with another 150 to  
11 \$200 million to make those necessary improvements?

12 A If they're willing to come up with?

13 Q Yes.

14 A That's my understanding.

15 Q In your experience and work is their  
16 expressed willingness to do that enforceable in any  
17 manner? Do you know?

18 A No. What I do is identify the deficiencies  
19 and recommend mitigating measures to address those  
20 deficiencies. I'm not sure about any enforceable, or  
21 not aware of any enforceable desires.

22 Q At this juncture, as you testify here today  
23 there is no TIAR that's been accepted with respect to  
24 Project, is that correct?

25 A That's correct.

1           Q       And you are still in the process of  
2 revising and resubmitting the TIAR in accordance with  
3 the discussions and negotiations you've had with the  
4 Department of Transportation, is that right?

5           A       That's correct.

6           Q       And you estimated in response to Mr. Yee's  
7 questions, I believe, that you believe that process  
8 will take at least another few months, is that  
9 correct?

10          A       Correct.

11          Q       Is there any reason that you can think of  
12 as you sit there today why we shouldn't delay any  
13 determination of this proceeding to see whether or not  
14 an agreement is able to be reached on a TIAR?

15          A       No. And the reason I say that is because  
16 we already collected traffic data in the region and  
17 that's fairly consistent with what was collected in  
18 the past.

19                   Therefore, traffic operations as analyzed  
20 in the previous traffic reports wouldn't change much  
21 from this current report.

22          Q       Including the impact on the H-1/H-2  
23 Interchange that I asked you about earlier, correct?

24          A       That's correct.

25                   MR. SEITZ: I have no further questions.



1 Thank you.

2 CHAIRMAN LEZY: Redirect?

3 MR. MATSUBARA: Briefly.

4 REDIRECT EXAMINATION

5 BY MR. MATSUBARA:

6 Q Briefly. Were you asked to study the  
7 H-1/H-2 merge and impact of Koa Ridge by the  
8 Department of Transportation?

9 A No.

10 Q Is it because the H-1/H-2 merge reflects a  
11 regional traffic issue and would require regional  
12 traffic improvements?

13 A That's correct.

14 Q How would you define "regional traffic  
15 improvements"?

16 A Well, when the influences of traffic demand  
17 at a particular facility is being contributed by other  
18 entities in the region, overall region. In the case  
19 of H-1/H-2, traffic associated with or projected  
20 traffic that's anticipated to utilize H-1 in the  
21 townbound direction is a significant contributor to  
22 the operations of or the anticipated operations of the  
23 H-1/H-2 merge.

24 Q Thank you. You were asked earlier by  
25 Mr. Yee that at the zoning level planning in regard to

1 traffic improvements should be pretty much final  
2 because of that stage of entitlement.

3 A Yes.

4 Q And the finality of plans assist in  
5 defining what mitigation measures are necessary  
6 because of the traffic volume, the traffic pattern and  
7 the design related to that project.

8 A Yes.

9 Q Now, one step further in the entitlement  
10 process relates to subdivision approval, is that  
11 correct?

12 A Yes.

13 Q Would the plans relating to traffic  
14 movements, highway design, be more refined and  
15 definitive in regard to a TIAR or revisions to a TIAR  
16 which the Department of Transportation could utilize  
17 in terms of making their final decision?

18 A Yes, correct.

19 Q In other words, the closer to the time  
20 construction actually starts is probably the point in  
21 time where you would want to submit to DOT the TIAR or  
22 revisions to the TIAR so that they can make a  
23 decisionn based on the most current information on  
24 volume and so on.

25 A Yes, that's correct. Not only current but

1 more detailed information, when detailed information  
2 is more readily available at that time.

3 Q Okay. Thank you. No further questions.

4 CHAIRMAN LEZY: Commissioners, questions?  
5 Thank you for your testimony. Mr. Yee.

6 MR. YEE: Our next witness is Alvin  
7 Takeshita from the Department of Transportation.

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

11 THE WITNESS: Yes, I do.

12 CHAIRMAN LEZY: Please state your name and  
13 your business address.

14 THE WITNESS: My name is Alvin Takeshita.  
15 My business address is 869 Punchbowl Street. That's  
16 Honolulu, Hawai'i 96813.

17 DIRECT EXAMINATION

18 BY MR. YEE:

19 Q Mr. Takeshita, what is your current  
20 position with the state of Hawai'i?

21 A I'm the Highways Division Administrator for  
22 the Department of Transportation.

23 Q Have you submitted revised testimony to the  
24 Office of Planning exhibit -- I'm sorry, I'm missing  
25 the particular number, but have you submitted that --

1 MR. MATSUBARA: 18.

2 MR. YEE: Thank you.

3 Q Exhibit 18. Was that prepared by you or on  
4 your behalf?

5 A It was prepared on my behalf, but approved  
6 and -- reviewed and approved by myself.

7 Q Could you please summarize your written  
8 testimony.

9 A Yes, I will. I believe you all have a copy  
10 of my testimony so I'll briefly summarize the  
11 testimony for you.

12 Whenever there's a development of this size  
13 and nature the Department of Transportation is always  
14 concerned because there will be impacts to our  
15 existing transportation system and infrastructure as  
16 stated by concerns that you've heard before this.

17 We have identified our state facilities  
18 that will be impacted. This will be the H-2 Freeway,  
19 that'll be Kamehameha Highway. And of course, the  
20 impacts to the interstate route H-1, H-1 Freeway.

21 So that being said, you know, that's gonna  
22 be our focus with the State Department of  
23 Transportation. There are other facilities, roadway  
24 facilities that are under the city, city and county of  
25 Honolulu. However, that's for them to determine as

1 they have jurisdiction over those roads.

2 We've heard previous testimony that, yes, a  
3 TIAR has not yet been approved and accepted by the  
4 Department of Transportation. You know, we are  
5 continuing to work with the Petitioner to develop a  
6 TIAR that will be acceptable to the Department of  
7 Transportation.

8 We are also working on an Agreement in  
9 Principle with the Petitioner. We have received, I  
10 believe, the second draft right now that we are  
11 working with on this Agreement in Principle. I feel  
12 that we are very close in reaching some agreement and  
13 consensus of this. So we are, we are very hopeful  
14 that we'll get it done very soon.

15 Now, for the specifics of our DOT concerns  
16 from the impacts of this Project, what was mentioned  
17 earlier is a concern for the Department of  
18 Transportation. And when I say "concern" it's our  
19 focus. We're gonna focus on these particular issues  
20 relating to our roadway.

21 One of them is the temporary right in/right  
22 out on Kamehameha Highway. This provides the needed  
23 access for the, for the Project before the completion  
24 of the Pineapple Interchange.

25 So therefore we're asking that the, this

1 right in/right out on Kamehameha Highway be on a  
2 temporary basis until a completion of the interchange.

3 Second, of course, is the TIAR. We want  
4 the TIAR to be developed with the Project phasing in  
5 mind. We need to make sure that, because this Project  
6 is being done in phases, that the appropriate  
7 mitigative improvements be made on a timely basis as  
8 they open up the Project in various phases.

9 We wanna make sure that the recommended  
10 improvements and the Project phasing be worked out  
11 hand in hand so it'll take care of the traffic as they  
12 are generated.

13 We are also mindful that we need to have  
14 mitigation measures taken for both direct and regional  
15 impacts. And I think we've heard earlier what direct  
16 impacts are. For us that'll be on Kamehameha Highway,  
17 Waipio Interchange and, of course, we're also mindful  
18 of regional impacts such as the H-1 corridor that we  
19 have heard earlier about.

20 We also need to work out after the  
21 Agreement in Principle and the TIAR, a Memorandum of  
22 Agreement, an MOA. That MOA must reflect the findings  
23 of the TIAR and the Agreement in Principle. And so,  
24 just to develop consistency we want to make sure that  
25 the MOA does consider all the recommendations in the

1 TIAR and the Agreement in Principle.

2 Another area that we're very mindful of  
3 because quality of life is very important to us, is  
4 the noise study. We need to make sure that the  
5 traffic, the noise generated by the traffic from this  
6 particular Project will be, will hold noise to an  
7 acceptable level. And all mitigative measures for  
8 noise generated by the traffic be mitigated to make  
9 sure that they are below the acceptable national  
10 requirements.

11 Then, of course, the design and  
12 construction of the Pineapple Interchange will be a  
13 focus for us. 'Cause that will provide true access.  
14 It won't be -- at this time it should be a sole access  
15 for them. It's not a shared access. So, you know,  
16 that's really gonna help. So we want to make sure we  
17 have -- our focus is going to be on design and  
18 construction of that particular Pineapple Interchange.

19 We are recommending amendments to the  
20 highway conditions for this particular Project. One  
21 is to make sure that we have DOT acceptance and  
22 approval of a TIAR before zone changes are made. We  
23 just need to make sure that we're all on the same page  
24 on this.

25 The Petitioner, we need to make sure that

1 they will commit to funding all improvements per the  
2 approved TIAR and the Memorandum of Agreement.

3 The TIAR must also address their pro rata  
4 contribution for regional improvements consistent with  
5 the MOA that will be developed.

6 Of course, design and construction of the  
7 Pineapple Interchange in accordance with Project  
8 thresholds. We don't want the interchange  
9 construction to begin after this whole Project is  
10 built out. That's not gonna work.

11 So there's a threshold in my, noted in my  
12 testimony that you have before you, that gives you  
13 that threshold that we want the interchange to be  
14 designed and constructed.

15 And, of course, closure and the removal of  
16 the temporary right in and right out on Kamehameha  
17 Highway after the completion of the Pineapple  
18 Interchange.

19 Q Couple questions starting with the  
20 Kamehameha Highway right in/right out. As you may  
21 have heard from questioning from the Neighborhood  
22 Board, what is it about the Pineapple Junction access  
23 point that allows you to then close the right in/right  
24 out at Kamehameha?

25 A Well, you already have access from the



1 makai side of this Project through the Waipio  
2 Interchange. The Pineapple Interchange will provide  
3 access for the mauka portion of this Project. And,  
4 you know, we try to minimize access, if you will,  
5 because it preserves the integrity of our roadway  
6 system.

7           What you don't want is to add an  
8 intersection every so many feet. That would really  
9 add to inefficiencies of our roadway system. So we  
10 try to keep that in mind.

11         Q       During the discussions at one time is it  
12 correct the Department of Transportation resisted any  
13 access to Kamehameha?

14         A       That is correct.

15         Q       And it's actually through discussions with  
16 the Petitioner that you've agreed to allow a temporary  
17 access for right in/right out.

18         A       That is correct.

19         Q       Then to be clear for the record, who owns  
20 Kamehameha Highway?

21         A       That is under the jurisdiction of the  
22 State Department of Transportation.

23         Q       So regardless of what any planning agency  
24 may approve or not approve, ultimately as the  
25 landowner you have the right to decide who does or

1 does not have access to your roadway, correct?

2 A That is correct.

3 Q With respect to the timing of the TIAR  
4 acceptance, at what point in the land use process are  
5 you asking that the TIAR be finally accepted by DOT?

6 A Well, you know, earlier is better than  
7 later. And this is to give the Petitioner, for the  
8 benefit of the Petitioner and the Department of  
9 Transportation. You know, the sooner you have an idea  
10 of what improvements are needed and what the  
11 Petitioner has to do, I think it's to the benefit of  
12 both parties. So sooner better than later.

13 Q And zoning is a point in the land use  
14 process that you think would be an appropriate time to  
15 have it soon enough and yet final enough to have a  
16 good TIAR?

17 A That is correct.

18 Q And with respect to regional improvements,  
19 not specifically about the regional improvements that  
20 need to be made by Petitioner, but more generally with  
21 respect to the H-1/H-2 merge and the H-1 corridor. Is  
22 the Department of Transportation acting on or  
23 responding to any concerns about the congestion in  
24 these areas?

25 (Indicating easel maps)

1           A       This exhibit here, by the way, is the H-1  
2 corridor from the Project. And this is to downtown  
3 Honolulu. So you just get an idea of what area we're  
4 talking about.

5           Q       To be clear that's OP Exhibit 19.

6           A       I'm sorry?

7           Q       You're referring to a map which is OP  
8 Exhibit 19.

9           A       Okay. I'm not sure about the number but  
10 this is the exhibit. You know, the Department of  
11 Transportation, you know, it doesn't take an engineer  
12 like myself to determine that our H-1 is congested,  
13 right? We all know that.

14                   The last survey I did or evaluation that I  
15 did back in January of 2012 identified \$760 million in  
16 projects for the H-1, entire H-1 corridor, that are  
17 either in planning, design or construction.

18                   So, you know, anybody that tells me that,  
19 hey, we're not doing anything, let me show you  
20 \$760 million worth of things that we are doing.

21                   Some of the major things that we are doing  
22 right now: Anybody who lives out here in the  
23 afternoon, you folks know that Waipahu offramp in the  
24 westbound, H-1 westbound direction it is Pearl City,  
25 right? You get that -- you have the H-1, you got that

1 offramp to Waipahu? Hey, that thing is backin' up  
2 traffic all the way to the airport. So we all know  
3 that.

4           We have a huge project going on that's in  
5 design right now that is going to improve getting  
6 traffic off at Waipahu offramp. And we feel that that  
7 would be a major contribution to traffic relief in  
8 this area.

9           We have right now also in design our PM  
10 contraflow project, an \$80 million project for the  
11 H-1. We are at the 50 percent design completion stage  
12 right now. That is gonna provide relief for traffic  
13 in the westbound direction from town.

14           So, you know, we are doing all these  
15 things. And I didn't want to tell you folks this, but  
16 next month we are going to have a media break, news  
17 break, if you well. We are intending right now to add  
18 one lane in each direction to the most congested  
19 section of the H-1 Freeway.

20           I've heard -- I was here in the morning, by  
21 the way, so I heard a lot of testimony about  
22 transportation demand management. Of course I know  
23 about TDM. That program was under me at one time just  
24 last year. So, you know, I am very familiar with  
25 transportation demand management programs and

1 strategies. Those include, like, your HOV system,  
2 your ride share. At one time it was a van pool  
3 program. There's a lot of different transportation  
4 demand management.

5           You're just trying to manage the demand.  
6 You listen to the demand by two strategies such as  
7 ride sharing and car pooling. So we also are very  
8 heavily, knowing the federal budget environment right  
9 now that we are undergoing, we are very focused on  
10 making the best use of what we have.

11           And we are going to apply those strategies  
12 in adding one lane in each direction now, again to the  
13 most congested section. And for those of you that  
14 don't know, the most congested section of H-1 is  
15 between Punahou and Middle Street. That's the most  
16 congested section morning and afternoon.

17           I worked in Kapolei for 14 years and I live  
18 in Hawai'i Kai, and I went through that traffic every  
19 morning, every afternoon. So I know the pain. I feel  
20 the pain.

21           But we are going to start next month  
22 informing the public that we are going to add one lane  
23 in each direction on H-1 using the existing facility  
24 between Punahou Street -- everybody knows where  
25 Punahou Street is -- all the way to Middle Street, the

1 vicinity of Middle Street.

2 Right now in that section you have just  
3 three lanes in each direction. You know, right now  
4 you've got three lanes in each direction. By adding  
5 one more lane in each direction we anticipate  
6 increasing the capacity of the H-1 by 30 percent.

7 Now you have four lanes. Now every -- even  
8 the public knows this because a lot of you call me and  
9 you guys feel you guys are traffic engineers  
10 (laughter) so you know, we all know that you folks  
11 know.

12 When you have four lanes the right-most  
13 lane will be used as a merge and weave lane for  
14 offramps and onramps. Now you will have *three* lanes  
15 that are going through. So, you know, we see that as  
16 a major improvement.

17 Governor's office has told me, "Alvin, get  
18 Phase I done." That's between Punahou Street and  
19 Punchbowl Street or Pali Highway. "Get it done by  
20 summer of this year."

21 Q Okay. Can I ask just to bring it back a  
22 little bit (laughter) and you can sit down now  
23 actually. (laughter) What impact, if any, will the  
24 improvements between Punahou and Middle Street do to  
25 the traffic west of the Middle Street merge? Will it

1 have any impact?

2 A Absolutely. Right now the reason why I had  
3 stated earlier that this is the most congested section  
4 of H-1, everybody knows that on H-1 by Aiea you got  
5 ten lanes, you know, got ten lanes going into a  
6 six-lane highway. Go figgah.

7 By improving the capacity of this section,  
8 Punahou to Middle, you will have a marked, marked  
9 improvement in congestion. Especially over Moanalua  
10 Road going townbound and coming in from the H-1 on the  
11 airport viaduct.

12 Q So it will also increase the congestion at  
13 the Middle Street merge -- it will *improve* the  
14 situation of congestion at the Middle Street merge.

15 A Absolutely.

16 MR. YEE: That's all the questions I have.  
17 Thank you.

18 CHAIRMAN LEZY: Mr. Matsubara.

19 CROSS-EXAMINATION

20 BY MR. MATSUBARA:

21 Q I'm going to let you go a little further.  
22 Are there any other improvements you're at liberty to  
23 share with us that might relieve some of the  
24 congestion we have at the H-1/H-2 merge, or in that  
25 general area?

1           A       Yes. I believe the Legislature right now  
2 has a bill in there for us to conduct a study to  
3 extend the current zipper lane. And they wanted it  
4 extended to west of Kunia Interchange. I realize that  
5 that's going the other direction that this Project is  
6 coming from. But that is gonna provide relief for the  
7 H-1/H-2 merge, if you will.

8           Q       Thank you. The Department of  
9 Transportation has the authority in a Project such as  
10 this to request a TIAR or updates to a TIAR once  
11 already been submitted prior to construction.

12          A       That is correct.

13          Q       And nothing can happen until you give your  
14 approval, basically?

15          A       That is correct.

16          Q       And you have that authority even after  
17 construction begins for a phased project that covers a  
18 number of years. If there's significant changes in  
19 the traffic situation in the general area, you can  
20 request updates or revisions to the TIAR.

21          A       Yes, we can make requests.

22          Q       So the DOT has the mechanism by which it  
23 can continue to monitor the flow of traffic and tie it  
24 in to any requests for additional construction of the  
25 a project such as this.



1           A       That is correct.

2           Q       Okay. Conceptually is it more convenient  
3 for the DOT to enter into a MOA within a short period  
4 of time after the final TIAR has been accepted, so  
5 that you're assured that the MOA covers all the things  
6 you were provided, all the information you were  
7 provided in the final revised TIAR?

8           A       Yes. The MOA must follow the completion of  
9 the TIAR.

10          Q       The shorter the time period between the two  
11 the more likelihood that that will happen.

12          A       Absolutely.

13          Q       Thank you.

14                 MR. MATSUBARA: No further questions.

15                 CHAIRMAN LEZY: County?

16                 MR. JAYARAM: No questions.

17                 CHAIRMAN LEZY: Mr. Poirier.

18                         CROSS-EXAMINATION

19 BY MR. POIRIER:

20          Q       Hi.

21          A       Hi.

22          Q       One of the conditions you have: That  
23 Petitioner will be required to come up with its pro  
24 rata share. How are your negotiations going in this  
25 regard?

1           A       Um, I haven't checked within the last  
2 couple of couple weeks with my planning staff. But my  
3 understanding is that they have already communicated  
4 with the Petitioner that it must be included in the  
5 TIAR.

6           Q       And how would this arrangement differ from  
7 what the developers did in 'Ewa when all the  
8 developers got together and agreed on some kind of a  
9 scheme that also involved the county, I believe?

10          A       Yeah, well, you know, the concept is  
11 basically the same for 'Ewa and this region. In 'Ewa  
12 you had that 'Ewa Impact Fee.

13          Q       Right.

14          A       Yeah. So, you know, for this particular  
15 area you do not have that, benefit of that.

16          Q       Right.

17          A       So this is an effort to develop something  
18 like that, an effort such as that.

19          Q       Have you any idea what the order of  
20 magnitude would be in terms of the pro rata share that  
21 would be assessed? Is it thousands of dollars?  
22 Millions of dollars?

23          A       No. There are different methodologies out  
24 there on assessing a pro rata share of regional  
25 impacts. So, you know, I'll let them do the analysis

1 for our review and approval.

2 Q Would one possible regional improvement be  
3 a dedicated road lane from Ka Uka Boulevard down H-2  
4 to the Pearl Highlands Rapid Transit Station -- Rail  
5 Station?

6 A I really -- I can't give you, without the  
7 benefit of a, you know, a good engineering analysis, I  
8 would be hesitant to tell you whether it's a go, no  
9 go, good or bad.

10 Q But if Central O'ahu is going to benefit  
11 from rail, something like that will definitely have to  
12 be done. And I'm not sure that there's any rail  
13 transit funds that are going to do this. This might  
14 be an opportunity to get a head start on that if  
15 possible.

16 A Well...it --

17 MR. YEE: I'm sorry, I don't --

18 THE WITNESS: -- it is possible.

19 Q (Mr. Poirier) Go ahead.

20 A It would have to be tied into the rail  
21 which is under HART and under the city. So, you know,  
22 if there are efforts that will improve access to the  
23 rail, that would have to be, become part of the HART  
24 effort.

25 Q Okay. Given the fits and starts in terms

1 of the approval of the TIAR for this Project, come and  
2 go, come and go, and it's still not done. Do you  
3 think it makes sense to actually allow this Project to  
4 go forward before this Agreement in Principle or in  
5 fact are basically approved?

6 A Well, you know, I'm comfortable. I've been  
7 with the Department of Transportation for 40 years  
8 now, 25 years in the field of traffic. So I've seen  
9 my share of TIARs and development proposals. You  
10 develop a feel that, hey, we're close to coming to  
11 some kinda agreement.

12 So, you know, I'm comfortable. We have  
13 never run into a situation where I tell the  
14 Petitioner, "Hey, go take a hike." There's always a  
15 common ground that we can reach. So I feel pretty  
16 comfortable.

17 MR. POIRIER: Okay. Thank you.

18 CHAIRMAN LEZY: Mr. Seitz.

19 CROSS-EXAMINATION

20 BY MR. SEITZ:

21 Q Mr. Takeshita, you've been with the  
22 Department for 40 years?

23 A Yes.

24 Q Twenty-five years you said in Traffic.

25 A That is correct.

1           Q       And in those 40 years, which is also the  
2 length of time I've been living in Hawai'i, it is my  
3 perception that despite the millions and millions of  
4 dollars of major projects that have been invested on  
5 H-1 and H-2, that the traffic situation has gotten  
6 worse and worse. Would you agree with that?

7           A       Well, it's very vastly different from my  
8 hanabata days. You're right.

9           Q       And so the question I ask of you is: If we  
10 build more homes on West O'ahu and increase the number  
11 of vehicles on the roads, is there a plan in the  
12 foreseeable future that you see that's going to make  
13 it more feasible for those residents of West O'ahu or  
14 in this case the Waipio-Mililani area, to get back and  
15 forth from where they have to go on the state  
16 highways?

17          A       I believe there are planning processes that  
18 are ongoing right now, one of which is our  
19 Department's long-range plan for this island as well  
20 as for all the other islands, because we're a  
21 statewide agency.

22                   We also have the ORTP and some of the  
23 proposals in there. So there are proposals for  
24 relief.

25                   From an old school approach to it there's

1 much more that we can do. And it's my job right now  
2 as the administrator to get that done.

3 Q Well, let me ask you. You were here this  
4 morning, is that correct?

5 A That is correct.

6 Q And you heard some testimony about the  
7 Federal Transportation Act that's currently bottled up  
8 in Congress, is that right?

9 A I've heard, yes, I believe that professor  
10 from the University.

11 Q And is it your understanding that in terms  
12 of any federal funding that will be forthcoming for  
13 roads, that it's likely that that funding will be  
14 overwhelmingly for improvement of the current system  
15 or upkeep? Is that your understanding? Rather than  
16 building new highways?

17 A Well, to make the best use of what we have.

18 Q But even at that, right now there is some  
19 question whether any federal funding is going to be  
20 approved by this Congress for more than just a couple  
21 months at a time. Isn't that true?

22 A I can't speak for them. I really don't  
23 know.

24 Q Without federal funding would it be  
25 feasible and possible for your department to undertake

1 the major projects to improve the H-1 corridor?

2 A Well, federal funds make up a little over  
3 50 percent of our Department of Transportation Hawai'i  
4 budget. Our budget is roughly 280, 300 million. I  
5 believe 150 of that is federal funds. The rest are  
6 state funds. So it would be a big chunk, sure.

7 Q Lastly, let me ask you about the  
8 enforceability of some of these commitments that a  
9 developer, in this case Castle & Cooke, would make  
10 when it says they're going to fork out 150 to  
11 \$200 million to widen overpasses, to build new lanes,  
12 to construct an entirely new interchange.

13 Is it your belief that if Castle & Cooke  
14 were to sign a Memorandum of Understanding with  
15 respect to those matters, that you would be able to  
16 enforce those commitments if, in fact, they don't  
17 follow through?

18 A I believe there are mechanisms that are in  
19 use today that will assure that.

20 Q Have you ever seen that done?

21 A I've never seen them renege.

22 Q Well, we have an example, maybe you're not  
23 aware that, of Hasegawa Komuten reneging on the  
24 construction of a marina. Are you aware of that  
25 situation?

1           A       Like the UH professor, I read it in the  
2 paper.

3           Q       Are you aware of any mechanisms or  
4 intentions on the part of the state to compel them to  
5 follow through on that kind of a commitment?

6                   MR. YEE: I'm going to object on the basis  
7 that there's no facts in evidence on this matter, and  
8 this witness has no particular background with respect  
9 to the, I believe you're talking about the Haseko  
10 Marina. It's not a Department of Transportation  
11 Highways issue.

12                  MR. SEITZ: That's all true. But if he  
13 doesn't know then he can say he doesn't know.

14                  THE WITNESS: I don't know.

15                  MR. SEITZ: Thank you. No further  
16 questions. (Laughter)

17                  CHAIRMAN LEZY: Redirect?

18                  MR. YEE: No redirect.

19                  CHAIRMAN LEZY: Commissioners, questions?

20                  COMMISSIONER JUDGE: I have. Good  
21 afternoon.

22                  THE WITNESS: Good afternoon.

23                  COMMISSIONER JUDGE: I'm not a traffic  
24 engineer. I don't pretend to be. So bear with me.  
25 I'm curious about the right in/right out access road



1 off of Kamehameha 'cause the first time this docket  
2 came through that wasn't there. And there was some  
3 testimony about the concerns about having a one way  
4 in/one way out. So personally I'm happy that the DOT  
5 is granting that second access.

6 I'm just a bit confused, still, about why  
7 you would want to take it away. Because to me the  
8 Pineapple Interchange goes onto the highway, right?  
9 That's simply going onto the H-2 and off H-2, is that  
10 correct?

11 THE WITNESS: That is correct.

12 COMMISSIONER JUDGE: And then the other one  
13 is on the other side of the development going onto  
14 surface roads.

15 THE WITNESS: Yeah. Ka Uka Boulevard and  
16 access to H-2 via Waipio Interchange.

17 COMMISSIONER JUDGE: Okay. And then the  
18 Kamehameha one that's on the other side of the Project  
19 than where the Pineapple Interchange is going to be,  
20 is that correct?

21 THE WITNESS: That is correct.

22 COMMISSIONER JUDGE: If you're going to --  
23 I'm just having a hard time understanding why you  
24 would think those are similar accesses so once you  
25 open one you're going to shut the other.

1           THE WITNESS: I think that as a business  
2 practice we apply this statewide. So we're not  
3 picking on Kamehameha Highway or Koa Ridge. But, you  
4 know, as a business practice the State DOT, we try to  
5 minimize access to our highways.

6           If there's no glaring compelling need for  
7 an access we do not want it to impact the integrity  
8 and effectiveness of the highway. So we try to really  
9 minimize access points.

10          COMMISSIONER JUDGE: Would it be fair to  
11 say that this road, the right/in right is going to  
12 take place first? So that you'll have a body of  
13 evidence or experience with that right in/right out to  
14 see how much of an impact it's going to have on  
15 Kamehameha Highway before they even do the Pineapple  
16 Interchange?

17          THE WITNESS: Yes. In my discussions with  
18 the Petitioner, although our position is we should  
19 close the right in -- temporary right in/right out on  
20 Kamehameha Highway after the completion of the  
21 Pineapple Interchange, they are free to come in to  
22 request that at any time an access onto Kamehameha  
23 Highway which we will consider.

24          I mean we're not gonna say no forever and  
25 ever. But these are all taken into, we take into

1 consideration the existing situation and the need for  
2 the situation and, of course, the safety of the  
3 situation.

4 COMMISSIONER JUDGE: Okay. So what you're  
5 saying is that it's not a, it's not a definite as soon  
6 as you open that one you've gotta close the other one.  
7 There's some leeway for discussion. Perhaps that  
8 could become a permanent access.

9 THE WITNESS: That is correct. However,  
10 the temporary, *temporary* right in/right out -- don't  
11 get me wrong, I'm not closing off Kam Highway to  
12 anyone. But the temporary measure or temporary access  
13 we would like to have it closed after the completion  
14 of the Pineapple Interchange.

15 COMMISSIONER JUDGE: Unless they can prove  
16 otherwise that it's had -- unless they -- I don't  
17 know. I just have a hard time with that because  
18 having a one way in/one way out 'cause that other one  
19 is just gonna go to the highway, that means you only  
20 have one way out to a surface road from a very large  
21 development that's going to have a hospital.

22 So I'm just kind of struggling with the  
23 absoluteness of we're going to want to close that  
24 second access road.

25 THE WITNESS: Well, it may be selfish on

1 our part but we try to protect the integrity of  
2 Kamehameha Highway. If we allow too many accesses it  
3 will become like King and Beretania Streets. So we  
4 don't want that.

5 COMMISSIONER JUDGE: Right. I'm just  
6 trying to see if there's a commitment that you will  
7 actually -- that the DOT will actually look at the  
8 body of evidence of this road that's been open now for  
9 X amount of years, because the Pineapple Interchange  
10 probably isn't going to get built for I don't know how  
11 many years afterwards.

12 Just to look at that without just saying,  
13 "Hey, we want to close to down in principle because  
14 this is what we said 10 years ago." It's been  
15 operating for eight years without incident. Maybe you  
16 could take a look at that.

17 THE WITNESS: Yes. Like I said the  
18 Petitioner is free to evaluate all of that data that  
19 you have been referring to and come in with a request.

20 COMMISSIONER JUDGE: Okay. The other  
21 question is we've heard a lot of testimony about  
22 traffic in this area. And, you know, that's great.  
23 You've just talked about the added capacity in the H-1  
24 corridor to downtown.

25 But I'm not hearing anything, really, about

1 any concrete improvements to the H-1/H-2 merge which  
2 everybody keeps referring to as a big trouble spot.  
3 And I also wanted -- I guess what I want to ask is  
4 neither one of the TIARs that we've been looking at in  
5 this docket or the next docket are even being asked to  
6 look at that exchange and, I guess, make  
7 recommendations to improve it. And I'm wondering why  
8 that is with the Department of Transportation.

9 THE WITNESS: Well, actually we are  
10 alluding to something by having them address their  
11 regional impacts. I think I had mentioned earlier  
12 that we are requiring the TIAR to also evaluate the  
13 regional impacts.

14 COMMISSIONER JUDGE: So that's different  
15 than what the gentleman before testified to that they  
16 were *not* being required by the DOT to look at the  
17 H-1/H-2 merge. So you're saying that they *are*  
18 required to look at the H-1/H-2 merge in the TIAR?

19 THE WITNESS: They need to evaluate the  
20 regional impacts. Whether that is identified as one  
21 of the regional impacts that's for discussion. But I  
22 think my testimony is very clear in black and white  
23 that they need to look at the regional impacts and  
24 given us pro rata contribution for those regional  
25 impacts.

1           COMMISSIONER JUDGE: I'm just curious  
2 because you're the DOT, would you consider the H-1/H-2  
3 merge a regional impact?

4           THE WITNESS: Yes.

5           COMMISSIONER JUDGE: You mentioned there  
6 are \$760 million worth of projects going on right now.  
7 Are those all funded projects?

8           THE WITNESS: Well, that's up to Congress  
9 but, because, you know, we have our funding in place  
10 now. But, you know, again we are -- this is planned.  
11 We can't control what Congress will do. So, you know,  
12 it's based on what we project and we forecast to  
13 receive.

14           COMMISSIONER JUDGE: So you've identified  
15 \$760 million worth of work that needs, that could be  
16 achieved. But you don't have \$760 million in the bank  
17 to do those things, is that correct?

18           THE WITNESS: Oh, yeah. Yes, definitely  
19 not.

20           COMMISSIONER JUDGE: And the adding the one  
21 lane in either way from Punahou to Middle Street is  
22 that -- are you adding concrete or is that just  
23 restriping?

24           THE WITNESS: We are actually changing the  
25 character of the roadway itself. I don't want to go

1 into details because our public relations people would  
2 go nuts if I did. But someone did tell me once that  
3 better to go 40 miles an hour in this section than  
4 5 miles an hour.

5 COMMISSIONER JUDGE: Changing the  
6 character. Okay. I'll go with that.

7 CHAIRMAN LEZY: Has to be done by summer.  
8 (Laughter).

9 COMMISSIONER JUDGE: That's what I was  
10 wondering. Wow! Okay. That's all. Thank you.

11 CHAIRMAN LEZY: Commissioners, any other  
12 questions? Commissioner McDonald.

13 COMMISSIONER McDONALD: Hi, Alvin. Thanks  
14 for your testimony.

15 THE WITNESS: Hi, Chad.

16 COMMISSIONER McDONALD: As a follow up to  
17 Commissioner Judge's line of questioning, your request  
18 to the Petitioner is to look at the regional impacts.

19 THE WITNESS: That is correct.

20 COMMISSIONER McDONALD: So as part of the  
21 regional impacts is the Petitioner going to be  
22 required to look at the Project, meaning Koa Ridge, as  
23 well as the potential projects before the Commission,  
24 meaning Ho'opili? Are they going to be required to  
25 look at the Project with both scenarios?

1           A           I'm sorry, I didn't quite get...

2                   COMMISSIONER McDONALD: Okay. As far as  
3 the Waiawa Interchange --

4                   THE WITNESS: Yes.

5                   COMMISSIONER McDONALD: -- you identified  
6 that the Petitioner is going to be required to look at  
7 the regional impacts, meaning coverage at the Waiawa  
8 Interchange specifically. I think that's on  
9 everybody's mind.

10                  THE WITNESS: Yes.

11                  COMMISSIONER McDONALD: Will the Project,  
12 meaning Koa Ridge, before us, need to also consider  
13 the impacts with the addition of Ho'opili traffic  
14 coming to that interchange?

15                  THE WITNESS: No. I believe I think I  
16 mentioned earlier, Chad, that there's different  
17 methodologies in determining regional impacts and  
18 let's just say pro rata share. So those would be  
19 based on your traffic that you generate. It's not  
20 based on traffic that another development is  
21 generating. It's based on your generated traffic.

22                   So there's a method to the madness, if you  
23 will, about determining what their fair-share is.

24                  COMMISSIONER McDONALD: Okay. Thanks.

25                  CHAIRMAN LEZY: Commissioner Makua.



1           COMMISSIONER MAKUA: Aloha. I just wanted  
2 to clarify again. So you said earlier that you  
3 consider the improvements to the H-1/H-2 a regional  
4 improvement. Or it's something that they would be  
5 required to look at.

6           THE WITNESS: Well, let's not say "regional  
7 improvement". I consider it a regional impact because  
8 they are impacting it.

9           COMMISSIONER MAKUA: 'Cause earlier we  
10 heard they weren't being asked to alleviate the  
11 congestion there or to look at that.

12          THE WITNESS: Well, I think they're  
13 obligated to look at it. We were -- the DOT is the  
14 approving agency in this case.

15          COMMISSIONER MAKUA: Okay. And I just  
16 wondered in your opinion because, you know, I was  
17 saying earlier that I live on Maui. And so my alarm  
18 every morning at 5:30 is the news. So I wake up and I  
19 watch the news and the traffic Jasmine. And I'm just  
20 amazed every morning at 5:30 how packed that area is.

21                 And so the millions of dollars for  
22 improvement and all these proposed improvements, would  
23 you consider them to be keeping up with development  
24 and what's going on or actually improving, you said  
25 earlier, the quality of life is important? Is it

1 improving it or just keeping up with what's happening?

2 THE WITNESS: I definitely think it's going  
3 to be an improvement. But, you know, let me give a  
4 little disclaimer there. Everything depends on the  
5 General Plan for each island. In your case Maui.  
6 Over here it's O'ahu.

7 But the General Plan and what they come up  
8 with as the defined General Plan for that island, that  
9 is really the one that has the most impact and should  
10 be driving our planning efforts.

11 COMMISSIONER MAKUA: Thank you.

12 CHAIRMAN LEZY: Commissioner Teves.

13 COMMISSIONER TEVES: Hello, Mr. Takeshita.  
14 Thank you for your testimony. You testified earlier  
15 that the corridor from School Street to Punahou -- or  
16 Middle Street to Punahou is going to be widened one  
17 lane in each direction. Am I correct to say that?  
18 You said that, right?

19 THE WITNESS: Yeah, but don't tell the  
20 newspaper.

21 COMMISSIONER TEVES: Okay. I don't want  
22 you to divulge anything. (Addressing Reporter Andrew  
23 Gomes)

24 MR. SEITZ: Too late. (Laughter)

25 COMMISSIONER TEVES: That was going to help

1 me because I travel from Kalihi Street to past  
2 Punahou. And that should also help alleviating the  
3 traffic west of Middle Street too, is that a correct  
4 statement?

5 THE WITNESS: Yep.

6 COMMISSIONER TEVES: Under the Middle  
7 Street Bridge, are any of those lanes going to be  
8 widened?

9 THE WITNESS: No. It's going to be just  
10 short of -- the extra lane will begin just where the  
11 H-1/H-2 -- no, H-1 and the Moanalua Road meet. So  
12 it's that Middle Street overpass structure that you  
13 see on H-1.

14 COMMISSIONER TEVES: Yeah.

15 THE WITNESS: It's a little east of that.  
16 So we don't touch that area because if we were to  
17 improve that particular section right underneath the  
18 overpass, I probably would have to raise your GET tax  
19 by 1 percent more. So let's not go there.

20 COMMISSIONER TEVES: Okay. I was just  
21 curious about that. Thank you.

22 CHAIRMAN LEZY: Any other questions? No.  
23 All right. Thank you, Mr. Takeshita.

24 MR. YEE: I'm sorry. Chair, could I --  
25 maybe Mr. Matsubara probably should go first. But I

1 would like an opportunity to clarify just one issue  
2 that Commissioner Judge was raising regarding the  
3 Pineapple Junction access.

4 MR. MATSUBARA: My clarification would go  
5 to the H-1/H-2 merge and the regional impacts of that.

6 RECROSS EXAMINATION

7 BY MR. MATSUBARA:

8 Q Just basically one question. You classify  
9 the H-1/H-2 as having a regional impact. In  
10 determining the developer's responsibility you  
11 mentioned there are different methodologies in  
12 determining the pro rata share each developer will  
13 responsible for for the impact they contribute to that  
14 regional impact, so to speak. Is that correct?

15 A Yes.

16 Q So that's what you were referring to that  
17 you would be responsible for a pro rata share, once  
18 that methodology is determined, to assess us for the  
19 degree of impact we have on that regional problem.

20 A Yes. That's correct.

21 MR. MATSUBARA: Thank you.

22 CHAIRMAN LEZY: Mr. Yee.

23 MR. YEE: Thanks. I wanted to show the  
24 witness two pages from Laura Kodama's written  
25 testimony and PowerPoint presentation, Exhibit 32.

1 And I just wanted to have him look at that because I  
2 may have been using shorthand when I was referring to  
3 the Pineapple Junction.

4 I just wanted him to look at those  
5 documents and ask him whether there was going to then  
6 be a surface street access from the Petition Area  
7 outside, once the Pineapple Junction was completed.  
8 Because she had been referring to having only two  
9 access points. And you close off one.

10 CHAIRMAN LEZY: Okay.

11 REDIRECT EXAMINATION

12 BY MR. YEE:

13 Q Have you had a chance to look at those two  
14 pages from the testimony?

15 A Yes.

16 Q Based upon that does it appear that there's  
17 going to then be a surface street access from the  
18 Petition Area out once the Pineapple Junction is  
19 completed?

20 A See, why I'm getting confused is -- yeah,  
21 I'm a traffic engineer, by the way, by trade, so, you  
22 know, they're all surface streets. (Laughter). You  
23 mean through a side street other than a main corridor?

24 Q Well, if you're not sure, then I don't want  
25 you to answer the question. We could ask -- I'd like

1 to show whether or not there's going to be a second  
2 access point that will be available once the Project's  
3 Koa Ridge Makai is fully developed: One onto Ka Uka  
4 and the second further north that connects up to the  
5 Pineapple Junction. Because I think that was the  
6 question you were having of why there's only one.

7 A No, I believe, you know, by looking at this  
8 it's obvious that there are going to be multiple  
9 access points to surface -- if you consider Ka Uka a  
10 surface street, yeah, there are going to be more than  
11 one.

12 Q From the Petition Area.

13 A Yeah, from this, the makai section of this  
14 Project.

15 Q So when you close Kamehameha there will be  
16 multiple access points after that to get into and out  
17 of the Petition Area.

18 A Yes.

19 MR. YEE: That's all I wanted to ask.

20 Thank you.

21 COMMISSIONER JUDGE: Can you just give me a  
22 reference of a map that I can see that on?

23 MR. YEE: Sure. One second.

24 COMMISSIONER JUDGE: Because my  
25 understanding is there's only that one onto Ka Uka,

1 that there aren't more than one if you close -- once  
2 you close. And my concern is -- like a fire truck. A  
3 fire truck is not going to come up the freeway to get  
4 into -- to get in there. They're going to use one  
5 access. If there's a fire blocking that one access,  
6 then everyone's going to have to go onto the highway  
7 to get out of the development? It's just a common  
8 sense type of thing for me.

9 MR. YEE: There are a number of maps that  
10 are contained in Laura Kodama's PowerPoint  
11 presentation. So I'll just pick one which is the  
12 community circulation.

13 COMMISSIONER JUDGE: Okay.

14 MR. YEE: So if you look at that, it's  
15 Exhibit 32, there will be one arrow pointed this way,  
16 I believe, onto Kamehameha, one arrow pointed this way  
17 onto Ka Uka, another arrow this way pointed onto,  
18 toward the freeway, toward the Pineapple Junction.  
19 That would be one example of a map.

20 And I'm sorry the pages aren't numbered.  
21 I'm sorry there's a small number. We just can't read  
22 it.

23 MR. MATSUBARA: It's the 21st slide.

24 MR. YEE: Slide 21.

25 COMMISSIONER JUDGE: Just for clarity I

1 understand there would be the Pineapple Interchange.  
2 That's the last one that would be established. The  
3 one onto Ka Uku, that's the one right across from  
4 Costco, correct?

5 MR. YEE: Yes.

6 COMMISSIONER JUDGE: And the third one is  
7 the one that's being proposed as a temporary right  
8 in/right out off of Kamehameha.

9 MR. YEE: Yes.

10 COMMISSIONER JUDGE: Those are the three  
11 that I'm understanding will exist. But once the  
12 Pineapple Interchange gets established, then DOT's  
13 going to want to close the right in/right out.

14 So that still leaves, in my mind, just one  
15 out unless you're going to the highway, you only have  
16 one out. And that's that one on Ka Uka Street across  
17 from Costco. Am I incorrect?

18 MR. YEE: You mean because you're thinking  
19 you cannot get out of the Petition Area onto the  
20 freeway? Or you cannot get into the Petition Area  
21 because of the freeway? Or you're just not  
22 considering that an access point at all.

23 COMMISSIONER JUDGE: I'm considering it an  
24 access point. But I mean that's only if you're going  
25 to go to the freeway. I mean if you want to go three



1 blocks down to somewhere else or go up to Mililani, I  
2 mean do you really want to -- I mean I thought the  
3 idea was to try to keep everybody off this congested  
4 freeway instead of making that and forcing -- that  
5 just forces everybody to get on the freeway if they  
6 can't get out.

7 MR. YEE: In that case I think we have the  
8 facts. I'm satisfied with the establishment of the  
9 facts.

10 COMMISSIONER JUDGE: Okay.

11 MR. YEE: When you were talking I had heard  
12 you say there's only one access point. So...

13 COMMISSIONER JUDGE: Okay. No. There  
14 was -- yeah, one access out to a non-freeway. Put it  
15 that way.

16 MR. YEE: Thank you. I have nothing  
17 further.

18 CHAIRMAN LEZY: Mr. Poirier, Mr. Seitz, any  
19 follow-up comments?

20 MR. SEITZ: No.

21 COMMISSIONER McDONALD: This is a follow-up  
22 to Mr. Matsubara's confirmation. But I do understand  
23 the pro rata sharing. I was just wondering who's  
24 going to identify the improvements?

25 THE WITNESS: We want them to do that

1 evaluation and analysis in the TIAR. I believe it's  
2 in my testimony, should be part of the TIAR.

3 COMMISSIONER McDONALD: Okay. Thanks,  
4 Alan.

5 CHAIRMAN LEZY: Anything else? Thank you  
6 Mr. Takeshita.

7 THE WITNESS: Thank you.

8 MR. YEE: Our next witness is Jesse Souki.

9 JESSE SOUKI

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,  
14 your business address.

15 THE WITNESS: Jesse Souki, Director of  
16 Office of Planning, 235 South Beretania Street,  
17 Honolulu, Hawai'i 96814.

18 DIRECT EXAMINATION

19 BY MR. YEE:

20 Q Mr. Souki, could you please list your  
21 current position.

22 A I am the Director of the state of Hawai'i  
23 Office of Planning.

24 Q Was OP Exhibit 2 OP's written testimony as  
25 well as OP Exhibit 1 Statement of Position prepared by

1 you or on your behalf?

2 A Yes.

3 Q Could you summarize the position and  
4 testimony of the Office of Planning.

5 A Yes. First, I'd like to address one issue  
6 that came up during the proceedings. That was about,  
7 the question about Office of Planning following the  
8 State Constitution. We take that obligation very  
9 seriously. We do follow the constitution and the  
10 statutes of the state of Hawai'i.

11 Personally, as an attorney, the  
12 constitution and the statutes of the state are very  
13 important to me. And serving the public interest is  
14 why I do this job.

15 The Commission has a tough decision to make  
16 on these type of land use decision mostly because  
17 95 percent of the state is in Ag or Conservation.  
18 Just 5 percent of the state is urbanized. So whenever  
19 there's a project proposed they're going to have to  
20 come here for a new project.

21 But we have factors to work from. We're  
22 not working blind. We have Chapter 205, which is the  
23 land use law, the criteria under 205-17. We have the  
24 Hawai'i State Planning Act, Chapter 226. And I think  
25 those two statutes effectuate the constitutional

1 provisions that we worry about.

2 I think that if we follow those and balance  
3 those factors that are laid out in there we can come  
4 up with a solution that meets the goals and objectives  
5 of the constitution in principle.

6 Office of Planning does not ultimately make  
7 a decision. What we hope to provide to the  
8 Commission, as one of five parties, is facts and  
9 information about the docket as we understand the  
10 Project based on our consultation with all of the  
11 agencies in the state who are impacted by the Project  
12 the facilities that they run. And also the Petitioner  
13 and what they're proposing. So I thank my staff for  
14 doing a lot of hard work in that regard.

15 So for this particular Project, Koa Ridge,  
16 the Office of Planning recommends approval of the  
17 Petition subject to the Petitioner's commitments to  
18 avoid, minimize or mitigate Project impacts as  
19 represented in this proceeding and the imposition of  
20 conditions by the Commission.

21 Office of Planning recommends the  
22 Commission impose the same conditions and  
23 preconditions as imposed in the prior docket on the  
24 same matter, Docket No. A07-775 Findings of Fact,  
25 Conclusions of Law, and Decision and Order dated

1 October 15, 2010, except we request the following: A  
2 revised Highways condition to address DOT concerns  
3 regarding access to Kamehameha Highway and the timing  
4 of completion of the proposed Pineapple Road  
5 Interchange.

6 And a new condition regarding mitigation of  
7 impacts to state-owned Waiahole Ditch where it  
8 traverses the Petition Area as discussed by Director  
9 Kokubun in his testimony.

10 To summarize the analysis that we  
11 undertook: The proposed boundary amendment does not  
12 conflict with HRS Chapter 205 and generally meets the  
13 Commission's decision-making criteria under HRS  
14 Chapter 205 and HAR Chapter 15-15 as follows: The  
15 proposed boundary amendment generally meets the  
16 standards for determining state Urban District  
17 boundaries set forth in HAR Section 15-15-18.

18 With mitigation the proposed Project is  
19 generally consistent with the Hawai'i State Plan, in  
20 particular, promotion of economic opportunities,  
21 development of affordable housing and sustainability  
22 guidelines.

23 With mitigation the proposed Project  
24 generally conforms to CZM, that's the Coastal Zone  
25 Management Act, objectives and policies set forth in

1 HRS section 205A-2.

2           With respect to the areas of state concern,  
3 the Project contributes favorably to the creation of  
4 jobs and business opportunities as well as affordable  
5 housing. And with appropriate mitigation the  
6 Petitioner can minimize impacts on other areas of  
7 state concern.

8           The proposed Project complements the  
9 Administration's priorities in its New Day  
10 Comprehensive Plan by building workforce housing,  
11 promoting expansion of O'ahu's medical and healthcare  
12 infrastructure, and facilitating business and  
13 employment opportunities in the proposed mixed use  
14 village center and light industrial area.

15           Housing is a very important matter to the  
16 Administration. And, in fact, the HHFDC's recent 2011  
17 Hawai'i Planning Study, one of the findings was that  
18 we need affordable housing and that there's a  
19 dwindling supply of affordable housing in the state of  
20 Hawai'i.

21           The proposed Project is consistent with the  
22 City's General Plan population objectives, and  
23 policies and development pattern for Central O'ahu as  
24 urban fringe. It lies within the Urban Community  
25 Boundary on the City's Central O'ahu Sustainable

1 Community Plans Urban Land Use Map. And except for  
2 some drainage systems, generally conforms with the  
3 Central O'ahu Sustainable Community Plan.

4           Petitioner will be accountable for  
5 compliance with representations made in the Final  
6 Environmental Impact Statement, Incremental Plan,  
7 Sustainability Plan and whatever the Decision and  
8 Order and conditions are in these proceedings and the  
9 representations made herein.

10           Summary of some of the key concerns that  
11 the state had in consultation with its sister  
12 agencies. Regarding water resources: Potable water  
13 source for the Project is the Waipahu-Wahiawa Aquifer,  
14 one of several aquifer systems of Pearl Harbor  
15 Groundwater Management Area regulated by the  
16 Commission on Water Resource Management. The  
17 Petitioner stated that there's a 19 million gallons  
18 per day of unallocated supply of sustainable yield in  
19 this aquifer.

20           Petitioner will need permits and approvals  
21 from the Commission on Water Resource Management for  
22 water use allocation and well and pump installation  
23 permits as well as new public water system approval  
24 from the Department of Health for the Project.

25           We encourage the incorporation of water

1 efficiency conservation, reclamation and reuse of  
2 water, use of non-potable water sources, installation  
3 of dual lines for non-potable water supply, and use of  
4 stormwater Best Management Practices and low-impact  
5 development practices to mitigate impacts on water  
6 resources.

7           Such measures should be incorporated in  
8 implementation of Petitioner's Koa Ridge  
9 Sustainability Plan. Petitioner states it will  
10 install dual water systems if a non-potable water  
11 source is available prior to Project construction.

12           Petitioner should work closely with the  
13 Board of Water Supply to maximize opportunities for  
14 use of R-1 effluent from Wahiawa Wastewater Treatment  
15 Plant and other non-potable water resources, and in  
16 incorporating good practices in the Project's  
17 low-impact development.

18           Regarding drainage and stormwater  
19 management. Stormwater runoff from the Petition Area  
20 flows into the Waikele and Wahiawa Stream systems  
21 which discharge into Pearl Harbor West Loch and Middle  
22 Loch respectively. These streams and lochs are  
23 identified by DOH as having "impaired" water quality.

24           Petitioner proposes to build onsite and  
25 offsite infrastructure to county standards to manage



1 stormwater and drainage runoff flows and water  
2 quality.

3           Petitioner plans to mitigate the  
4 post-development increase in stormwater runoff by  
5 constructing detention basins in adjacent gulches to  
6 detain or impound upstream flows during storm events.

7           We note that the proposed water quality  
8 treatment facilities for Koa Ridge Makai are proposed  
9 to be offsite in Kipapa Gulch. Treatment will occur  
10 prior to discharge into the Kipapa Stream and  
11 Panakawai Gulch. Easements from the U.S. Army Corps  
12 will be required for the Koa Ridge Makai drain lines  
13 and proposed basins.

14           All discharges must comply with DOH's water  
15 quality standards in HAR Chapter 11-54 and/or  
16 permitting requirements in HAR 11-55 and would need to  
17 be addressed in Petitioner's NPDES permits and section  
18 401 Water Quality Certification applications.

19           OP recommends that Petitioner incorporate  
20 low impact development design practices, again such as  
21 rain gardens, pervious pavement, drywells to increase  
22 onsite infiltration and storage, and to reduce the  
23 rate of flow and volume of water directed into the  
24 offsite detention basins in Kipapa Gulch.

25           Regarding archaeological, historical and

1 cultural issues. The Petitioner's Archaeological  
2 Inventory Surveys have been reviewed and accepted by  
3 SHPD, State Historic Preservation Division.

4 Petitioner represents that it will implement  
5 recommendations for preservation of six historic sites  
6 and additional data recovery, including preparation  
7 and submittal for SHPD approval of a cultural  
8 resources preservation plan for short-term and  
9 long-term preservation measures including the Waiahole  
10 Ditch features and modifications.

11 And 2 an archaeological monitoring program  
12 approved by SHPD for work on the proposed sewer line  
13 alignment to Waipahu Wastewater.

14 Site modifications may be required for two  
15 identified historic sites: The Waiahole and Kipapa  
16 Ditches. Petitioner will be subject to SHPD review  
17 and acceptance of any proposed modifications.

18 Petitioner has represented that it intends  
19 to consult with cultural practitioners regarding the  
20 presence of ethnobotanical resources within the  
21 Project area as offsite infrastructure work proceeds.

22 Senator -- "Senator Kokubun" previously,  
23 Director Kokubun of the Department of Agriculture now,  
24 I think he gave a good explanation and description of  
25 the agricultural resources. We would just add or

1 summarize that by saying the Petition Area is one of  
2 several Master Planned communities anticipated to be  
3 developed within the Urban Community Boundary of the  
4 Central O'ahu Sustainable Communities Plan.

5 The purpose of the Urban Community Boundary  
6 is to give long-range protection from urbanization for  
7 10,000-plus acres of other agricultural lands and open  
8 space in Central O'ahu.

9 Petitioner has represented that it will  
10 work with existing tenants to assure that the  
11 relocation of existing agricultural operations results  
12 in minimal disruption to their agricultural  
13 enterprises.

14 Director Kokubun also spoke briefly about  
15 the Waiahole Ditch features and mitigation there. The  
16 Department of Agriculture requests that the Commission  
17 impose a condition on Petitioner to mitigate impacts  
18 on Waiahole Ditch pursuant to the Memorandum of  
19 Agreement -- a Memorandum of Agreement with ADC.

20 Petitioner has seen that letter that we  
21 submitted as Exhibit 20 from Director Kokubun which  
22 outlines the mitigation that they want for Waiahole.

23 Regarding sustainability and energy  
24 resource use. As you know the state of Hawai'i's  
25 Clean Energy Initiative adopted a goal of using

1 efficiency and renewable energy resources to meet 70  
2 percent of Hawai'i's energy demand by 2030: 30 percent  
3 from efficiency measures and 40 percent from  
4 locally-generated renewable sources.

5 Act 181 adopted in 2011 established the  
6 priory guidelines for sustainability in Hawai'i. OP's  
7 recommending to Petitioners to consider the  
8 development of sustainability plans for their projects  
9 along the lines of the Healthy Community Design Smart  
10 Growth Checklist prepared by DOH, that's the  
11 Department of Health, Built Environment Working Group.

12 Petitioner has developed a sustainability  
13 plan, which is Petitioner's Exhibit 14, that  
14 incorporates many sustainable design features and  
15 principles to promote energy efficiency and reduce  
16 energy demand, encourage use of alternative  
17 transportation modes, and reduce auto dependency, and  
18 to otherwise guide development of the Project with  
19 respect to land use and design, transportation,  
20 economics, parks and open space preservation, water  
21 management, energy management, and education. OP  
22 supports Petitioner's implementation of the  
23 sustainability plan.

24 Regarding Highways. I think DOT did a good  
25 job of explaining the issues with the highways. But

1 to summarize: The mitigation that DOT will be seeking  
2 includes that "Petitioner shall be responsible for  
3 funding and constructing improvements to the H-2  
4 Waipio Interchange and the Ka Uka Boulevard overpass  
5 necessary to service the Project.

6           Petitioner will be responsible for funding  
7 and constructing the proposed H-2 Interchange at the  
8 Pineapple Road overpass at the north end of the  
9 Project.

10           Construction of the new interchange will be  
11 phased and coordinated with buildout of Koa Ridge  
12 Makai, so that the traffic operating conditions at the  
13 Waipio Interchange and Kamehameha Highway does not  
14 drop lower than Level of Service D.

15           Petitioner will be permitted temporary  
16 right in/right out access to Kamehameha Highway which  
17 Petitioner will be required to remove at its cost when  
18 the Pineapple Road Interchange is operational.

19           Petitioner will contribute to its pro rata  
20 share to the cost of regional improvements, state  
21 highways and the traffic mitigations to alleviate  
22 impacts by the Project on other urban centers on  
23 O'ahu.

24           Petitioner will revise its TIAR, that's the  
25 Traffic Impact Assessment, for acceptance by DOT and

1 prepare updates of the TIAR for DOT review and  
2 acceptance as the Project builds out.

3 Petitioner will execute a Memorandum of  
4 Agreement with DOT based on accepted TIAR, acceptance  
5 prior to approval of zone change.

6 Petitioner must either create a buffer or  
7 construct sufficient mitigation measures to reduce the  
8 impact of highway noise to future residents. This  
9 includes schools, locating schools sufficiently away  
10 from the freeway so as not to exceed the Department of  
11 Education's external noise levels that would require  
12 air conditioned classrooms to attenuate noise.

13 OP supports DOT's request for a revised  
14 Highways condition that reflects their concerns above.  
15 The proposed language for the revised condition is  
16 provided in the DOT's amended testimony at Exhibit 18  
17 Office of Planning.

18 Regarding public schools the Petitioner  
19 will provide land --

20 CHAIRMAN LEZY: Mr. Souki, if you could  
21 bear with me for a moment. About how much do you have  
22 left to go? I'm asking only because if this is your  
23 written -- this is your testimony that was submitted?

24 THE WITNESS: It's a summary. It could be  
25 longer. But I'll be fast.

1 CHAIRMAN LEZY: Okay. It's just we're  
2 running up against some hard time requirements here.  
3 But I don't obviously want to limit your testimony,  
4 but we do have your written testimony.

5 THE WITNESS: Right, right. So the  
6 Petitioner will provide land and cash contributions  
7 for the three elementary schools, two for 628 students  
8 in the Koa Ridge Makai, one for 198 students in Castle  
9 & Cooke Wahiawa.

10 Regarding the Wahiawa Correctional  
11 Facility. State Department of Public Safety's Wahiawa  
12 Correctional Facility, minimum security lies northeast  
13 of the Project. OP supports DPS's request for a  
14 condition requiring Petitioner to assure that access  
15 to the correctional facility's maintained during  
16 construction and after buildout of the proposed  
17 project.

18 Regarding Civil Defense: They requested a  
19 minimum of three new solar powered, omnidirectional  
20 warning sirens for the Project to be located in  
21 consultation with Civil Defense.

22 Regarding affordable housing: The  
23 Petitioner will develop at least 30 percent of the  
24 Project's units as affordable housing units in  
25 accordance with the City's affordable housing policy.

1           Regarding wastewater: The Petitioner will  
2 need to comply with the applicable state and city  
3 codes and rules related to wastewater systems.

4 Petitioner has represented that it will incorporate  
5 the use of non-drinking water sources should they  
6 become available for use by the Project.

7           This is the last issue: The development  
8 timetable. Proposed Project will take more than ten  
9 years to complete. Petitioner prepared an Incremental  
10 Development Plan which is their Exhibit 31. The first  
11 increment, Koa Ridge Makai, will be developed and  
12 substantially completed by 2022.

13           Increment 2, Castle & Cooke Wahiawa (sic)  
14 is projected to be completed by 2026 provided that  
15 work on essential infrastructure for the adjoining  
16 adjacent Wahiawa Ridge Development project begins by  
17 2019.

18           Petitioner's incremental plan notes that  
19 the Petitioner does not plan to begin any site work on  
20 the Castle & Cooke Wahiawa portion of the Petition  
21 Area until the WRD developer completes its share of  
22 infrastructure improvements. That's the Wahiawa Ridge  
23 Development project.

24           The Wahiawa Ridge Development project  
25 received its urban classification in 1988 under docket



1 A87-610, 20 years ago. The project has not broken  
2 ground. And construction of essential backbone  
3 infrastructure has not been done.

4 The Commission has authority to redistrict  
5 a portion of the Petition Area and indicate its  
6 approval of future redistricting for the entire  
7 property if it appears that the entire property cannot  
8 be developed within ten years of the Commission's  
9 approval. And that's the end of it.

10 Q One quick follow up. You used the term  
11 "Wahiawa" a few times. Did you mean "Waiawa"? Waiawa  
12 Correctional Facility, Waiawa Ridge Development?

13 A Right. Waiawa.

14 MR. YEE: Nothing further.

15 CHAIRMAN LEZY: Mr. Matsubara?

16 MR. MATSUBARA: No questions.

17 CHAIRMAN LEZY: County?

18 MR. JAYARAM: No questions.

19 CHAIRMAN LEZY: Mr. Poirier?

20 MR. POIRIER: (Shaking head)

21 MR. SEITZ: I have several questions. I  
22 don't know whether you want to do it now.

23 CHAIRMAN LEZY: Please go ahead.

24 XX

25 XX

## 1 CROSS-EXAMINATION

2 BY MR. SEITZ:

3 Q Mr. Souki, how long have you been in your  
4 position?

5 A Since February of last year.

6 Q And what was the position with respect to  
7 this Petition that was taken by the previous  
8 administration? Do you know?9 A The Petition was adopted by the Commission.  
10 It was approved.11 Q So the Office of Planning approved, under  
12 the Lingle Administration, approved this Petition?

13 A Well, I understand they had some issues.

14 Q You also understand that if this Petition  
15 were presented under the three previous governors,  
16 Ariyoshi, Waihe'e and Cayetano, there would also be  
17 issues. Do you understand that?

18 A I can't read their minds.

19 Q Why is it that all of a sudden this  
20 administration has departed from the position taken by  
21 the Lingle Administration and now supports this  
22 development?23 A We follow the criteria under 205-17 and the  
24 State Planning Act under 226. And this is the result  
25 we arrived at.

1           Q       And you don't believe that that same  
2 process was followed by your predecessor?

3           A       I don't know.

4           Q       You would agree that, in fact you stated  
5 here, that we're talking about a development on prime  
6 agricultural lands, correct?

7           A       It is highly rated ag land.

8           Q       This is land that's already being used for  
9 diversified agriculture, correct?

10          A       It is being used, yes.

11          Q       It's already producing fruits and  
12 vegetables for sale in local markets to Hawai'i  
13 residents, correct?

14          A       I understand that to be true.

15          Q       Were you here this morning when Senator Hee  
16 testified?

17          A       Yes.

18          Q       And did you hear -- or excuse me -- when  
19 Director Kokubun testified. You were here for that as  
20 well?

21          A       Yes.

22          Q       And did you hear my examination of him with  
23 respect to a bill that's currently going through the  
24 Legislature that mandates the doubling of the  
25 production of crops in Hawai'i in two years?

1           A       Yes.

2           Q       Are you aware of that law?

3           A       I'm aware it exists. I have not reviewed  
4 it.

5           Q       If that law passes would your office  
6 reconsider its support of this petition which would  
7 take out of production a certain number of acreage  
8 which now is being used to produce vegetables and  
9 fruits?

10          A       Well, it's currently not a law. It's a  
11 bill being proposed in the Legislature.

12          Q       Did you hear my question?

13          A       If you've ever dealt with the Legislature  
14 anything can happen. *But* if today the situation was  
15 different we'd take it into consideration.

16          Q       How about if the city were to classify this  
17 particular land as an Important Agricultural Land,  
18 would you then reconsider the position you're taking  
19 here today?

20          A       Today the land is not IAL.

21          Q       I understand that. If you listen to my  
22 question, my question was: If the city were to  
23 classify this land as Important Agricultural Land,  
24 would you then reconsider the recommendations and  
25 position you're taking today?

1           A       So what I was going to say was today the  
2 land is not IAL. If it were we'd have to take it into  
3 consideration.

4           Q       Is it your understanding that the other  
5 project that you mentioned, the Waiawa Ridge  
6 development project, is going forward?

7           A       It's there. I don't know what the status  
8 is.

9           Q       You understand, for example, with respect  
10 to schools, that when the determination was made that  
11 there was sufficient commitment to schools by virtue  
12 of these projects, that the Waiawa Ridge development  
13 was part of that commitment? Do you understand that?

14          A       I don't know. I know that the Petitioner  
15 worked with DOE to arrive at an agreement.

16          Q       Well, at page 14 of your written testimony  
17 you talk about the fact that if Koa Ridge Makai is  
18 developed, and you go on to talk about the fact that  
19 there are going to be three schools in this area, two  
20 elementary schools and one, I assume one middle  
21 school. Is that correct?

22          A       It's three schools.

23          Q       You don't know.

24          A       Yeah. It's the DOE.

25          Q       Well, we're talking about -- well, you've

1 adopted these numbers from the DOE. And in your  
2 report you indicate that there's a projection of 826  
3 elementary students, 244 middle school students, and  
4 288 high school students.

5 Do you know where all those students are  
6 going to go to school if this Project is built, but  
7 the other development, the Waiawa Ridge development is  
8 not constructed?

9 A Our role as the Office of Planning is not  
10 to make that determination. It's the Department of  
11 Education. And that is what they told us. And that's  
12 the information we use.

13 Q But would you agree it's not current if, in  
14 fact, the Waiawa Ridge development is not going to go  
15 forward? That information is not current.

16 A I don't know what was in their head when  
17 they decided to allow that.

18 Q You testified that you were satisfied with  
19 the job that's been done by the Department of  
20 Transportation in analyzing the needs that would be  
21 affected by the granting of this Petition, is that  
22 correct?

23 A Four years of experience.

24 Q And you also heard my examination this  
25 afternoon of Mr. Takeshita?

1           A       Mm-hmm, yes.

2           Q       And you heard his testimony with regard to  
3 the fact that at least as of now no one has taken into  
4 account the impact of this development and/or the  
5 Ho'opili development on the H-1/H-2 Interchange? Did  
6 you hear that testimony?

7           A       I don't believe that's what he said.

8           Q       What did you think he said?

9           A       What was the question you asked him?

10          Q       What do you understand to be the impact of  
11 the development of this Project and potentially  
12 Ho'opili on the H-1/H-2 Interchange?

13          A       There's going to be an impact.

14          Q       What do you understand that impact is going  
15 to be?

16          A       What? The amount?

17          Q       Yes.

18          A       What, are you asking me to give you an  
19 engineering projection of what the level of service  
20 is?

21          Q       No. Is it going to make a situation that's  
22 already as bad as it can be worse? Is that your  
23 understanding?

24          A       The Ho'opili and Koa Ridge will need to  
25 mitigate any impact they have, which is an ongoing

1 negotiation with the Department of Transportation.  
2 They're going to need to mitigate and contribute their  
3 pro rata share.

4 Q Are you aware of any plan to do that?

5 A That's what they're doing now. There's no  
6 project yet.

7 Q Are you aware of any tangible proposal  
8 that's going to enable that to be accomplished?

9 A That's what they're negotiating.

10 Q So don't you think before we build this  
11 Project we ought to see something in writing that  
12 indicates that that problem can even be addressed?

13 A How can you plan for something that hasn't  
14 happened yet? Don't you need to move forward with the  
15 process so you understand what the impacts are?

16 Q I understand your position. Thank you.  
17 Did you also hear Director Kokubun's testimony this  
18 morning with regard to the condition of any  
19 prospective available agricultural lands to which the  
20 current tenants of this particular acreage may move?

21 A I did hear his testimony.

22 Q Did you hear that there is a great deal of  
23 infrastructure work that would need to be done to make  
24 those lands productive?

25 A The substitute lands?



1 Q Yes.

2 A I heard it, yes.

3 Q Are you aware of who's going to pay for  
4 that infrastructure development?

5 A I'm not privy to those conversations.

6 Q Are you aware even if that infrastructure  
7 is created, as to whether or not those lands can  
8 support the productivity of the same crops that are  
9 currently being grown on the lands that are at issue  
10 here?

11 A The goal is to do that. I can't guarantee.  
12 I'm not privy to those discussions.

13 Q Have you seen any studies that indicate the  
14 same crops can be grown on alternative sites?

15 A Same crops *can* be grown on alternative  
16 sites. I'm not sure that site. I don't know.

17 Q You're aware that one of the proposals here  
18 is to build a hundred-bed hospital for Wahiawa General  
19 Hospital. Are you aware of that?

20 A Yes.

21 Q Are you aware of whether or not Wahiawa  
22 Hospital could even obtain a Certificate of Need in  
23 today's conditions to build such a hospital?

24 A It's a completely different process. I  
25 don't know.

1           Q       Well, you've referenced that in your  
2 testimony as being an advantage of building this  
3 Project, namely that it will provide jobs in a medical  
4 center. And you reference the fact that Wahiawa  
5 Hospital is going to move there.

6           A       Sure.

7           Q       So has that been a consideration in your  
8 approval of this Project?

9           A       Sure. And they have a lot of work to do to  
10 get to there.

11          Q       Have you taken into account the recent  
12 closure of the hospital in 'Ewa and the impact that  
13 that might have had on the region as to whether or not  
14 Wahiawa Hospital will ever, in fact, be able to build?

15          A       No.

16                   MR. SEITZ: No further questions.

17                   CHAIRMAN LEZY: Mr. Yee.

18                               REDIRECT EXAMINATION

19 BY MR. YEE:

20          Q       Is it your understanding that the  
21 Department of Education believes that if Waiawa Ridge  
22 development does not move forward, there are  
23 sufficient educational facilities available for the  
24 planned Koa Ridge Makai project, with mitigation  
25 within the Koa Ridge Makai project?

1           A       With mitigation, yeah.

2                   MR. YEE: Nothing further.

3                   CHAIRMAN LEZY: Commissioners, questions?

4 Commissioner Teves.

5                   COMMISSIONER TEVES: Hello, Mr. Souki.

6                   THE WITNESS: Hello.

7                   COMMISSIONER TEVES: Hi. My questions to  
8 Mr. Yee earlier regarding your office, I just wanted  
9 his understanding of the duties of the Office of  
10 Planning. It was never to question your integrity or  
11 the integrity of the office. I just wanted to make  
12 that clear. And I apologize if it was taken the wrong  
13 way.

14                   But since we're on the subject, Office of  
15 Planning, who makes the decision to support or not  
16 support a project?

17                   THE WITNESS: First, thank you for that  
18 clarification. I appreciate that. Who makes the  
19 decision? We go out to the agencies who are impacted  
20 by the project and we get their positions on what the  
21 project is going to cause impact on them.

22                   We look at the Planning Act, we look at the  
23 criteria. And if there aren't any fatal flaws we will  
24 recommend support. And we'll run it by the  
25 Administration just to let them know what the outcome

1 is. But it's a process that we go through. We don't  
2 start from: We're going to support it.

3 COMMISSIONER TEVES: Okay. So it's  
4 basically you go to the admin-- listen to -- do you  
5 have a committee or advisory committee, your staff  
6 when you said "we"?

7 THE WITNESS: Office of Planning has some  
8 staff.

9 COMMISSIONER TEVES: So then you take it to  
10 the Administration.

11 THE WITNESS: We do.

12 COMMISSIONER TEVES: Okay. I understand.  
13 In the last six years has there been any subdivision  
14 that OP has *not* supported?

15 THE WITNESS: Any project?

16 COMMISSIONER TEVES: Yes. Petition.  
17 Subdivision Petition.

18 THE WITNESS: There's been --

19 COMMISSIONER TEVES: Agricultural land or  
20 non-ag land.

21 THE WITNESS: District Boundary Amendment?

22 COMMISSIONER TEVES: Yes.

23 THE WITNESS: I understand that Office of  
24 Planning has taken positions against projects.

25 COMMISSIONER TEVES: In the last six years?

1 THE WITNESS: The only one --

2 COMMISSIONER TEVES: 'Cause I'm trying to  
3 remember. I've only been here six years.

4 MR. YEE: Commissioner Teves, would you  
5 like me to -- historically I can perhaps refer you to  
6 two particular projects and you can see our position  
7 in the documents. In the Knudsen case on Maui the  
8 Office of Planning took no position, saying that it  
9 needed to review the evidence as it came out at  
10 hearing. And we took no position. That was  
11 eventually withdrawn.

12 On the Big Island there was the McCully  
13 case in which it was filed asking for to move land  
14 from Conservation to Agriculture. The Office of  
15 Planning had discussions and expressed its concerns  
16 about the proposal. And that Petition was also  
17 withdrawn.

18 There's been no petition in the last six  
19 years that has gone all the way other than those two  
20 which have been actually filed and the Office of  
21 Planning took a position of no support.

22 We did, however, take a partial support of  
23 the Hawaiian Memorial case in which we suggested not  
24 that the entire property, that only part of the  
25 property should be reclassified. And we took the

1 position part of it should not be.

2 COMMISSIONER TEVES: Thank you. I have a  
3 question on that. When I asked the Director, I asked  
4 about subdivision approval, district boundary  
5 amendments. Was the McCully case a subdivision or was  
6 that just a single owner request to reclassify?

7 MR. YEE: Maybe I misunderstood.  
8 Subdivision processes are before the city and county  
9 or before the counties. So the Office of Planning  
10 doesn't participate.

11 COMMISSIONER TEVES: No, I'm talking about  
12 the McCully case. Was that, like, a subdivision or  
13 farm just trying to get out of Conservation?

14 MR. YEE: Well...

15 COMMISSIONER TEVES: I remember the case.

16 MR. YEE: The term -- maybe put it this  
17 way. The term "subdivision" is incorrect.

18 COMMISSIONER TEVES: Oh, okay.

19 MR. YEE: I think what you mean is District  
20 Boundary Amendment.

21 COMMISSIONER TEVES: They wanted a District  
22 Boundary Amendment for a housing subdivision. Is that  
23 clearer then?

24 MR. YEE: It was -- I think I know what  
25 you're saying. And, yes, it was a piece of

1 Conservation land that in the opinion of the Office of  
2 Planning at the time was not a true agricultural  
3 activity. It was not a true farmer.

4 Instead, they were moving from Conservation  
5 to Agriculture for purposes of putting a gentleman  
6 farm. That was the position of the Office of Planning  
7 at the time. So we opposed the District Boundary  
8 Amendment Petition.

9 COMMISSIONER TEVES: My question was, at  
10 any rate, for housing projects to build homes. Has  
11 the Office of Planning not supported any Petition in  
12 the last six years?

13 MR. YEE: The Knudsen Project would have  
14 been the only -- and I'm only referring you -- I'm not  
15 trying to testify. I'm just referring you to the  
16 cases.

17 COMMISSIONER TEVES: But you were neutral  
18 on that one, right?

19 MR. YEE: We took no position on that one.

20 COMMISSIONER TEVES: Okay. Thank you.  
21 That's all my questions.

22 THE WITNESS: I would also add to that  
23 conversation that sometimes landowners who have ideas  
24 that they might want to have a District Boundary  
25 Amendment and they talk to us about it. And when they

1 realize what the process is, and the conditions are,  
2 what they need to get through, they don't move forward  
3 with it. So there's some of that that happens.

4 COMMISSIONER TEVES: Thank you. I think  
5 that's interesting. Thank you.

6 CHAIRMAN LEZY: Commissioners, any other  
7 questions? No. Thank you, Mr. Souki.

8 THE WITNESS: Thank you.

9 CHAIRMAN LEZY: With that OP rests?

10 MR. YEE: Yes.

11 CHAIRMAN LEZY: Holly, hang in there a  
12 little bit longer. Mr. Poirier, your case. I  
13 understand you are your only and last witness.

14 MR. POIRIER: Yeah, but I cannot present it  
15 today because I am not ready.

16 CHAIRMAN LEZY: You were notified by the  
17 staff that you should be prepared to put your case on  
18 today, correct?

19 MR. POIRIER: Yes. That is true.

20 CHAIRMAN LEZY: The only thing I can  
21 suggest to you is if you're going to be your own  
22 witness, present your testimony now or I'm going to  
23 have to find you resting your case.

24 You were given notice of the fact that you  
25 need to be prepared to proceed today. And we need to



1 finish the docket. So I'll give you the option.

2 MR. POIRIER: Well, that's not, that's not  
3 fair because our case called 14 witnesses. We  
4 presented two of them at the behest of the Vice Chair  
5 last time. After that we decided we're just going to  
6 present one witness, namely myself, doing a  
7 PowerPoint. So we're going to forego 11 witness which  
8 would have kicked us up to the 19th.

9 CHAIRMAN LEZY: I understand that may be  
10 the case. But as I just said -- and I was provided  
11 with copies of email correspondence with you -- that  
12 you were given notice that you were to be prepared to  
13 present your case today. So I'm giving you the  
14 option. You can either provide your testimony now or  
15 I'm going to find that you're resting your case.

16 MR. POIRIER: Do what you have to do.

17 MR. SEITZ: May I be heard?

18 CHAIRMAN LEZY: Mr. Seitz.

19 MR. SEITZ: I would like to object to your  
20 doing that. I think that intervening in a proceeding  
21 of this importance is a major commitment. And  
22 although we were given notice that we were going to be  
23 proceeding today, all of us, we were not given much  
24 notice. Because the schedule has fluctuated  
25 significantly.

1           We were able to be pull ours together by  
2 cutting out several witnesses and by making  
3 accommodations, which we did with other counsel, with  
4 regard to stipulating to testimony that's been given  
5 on previous occasions. But for that I would not have  
6 been able to be available on a short notice either.

7           Mr. Poirier is not a lawyer. And I think  
8 it's intrinsically unfair, especially given his role  
9 in this litigation, to foreclose him from presenting  
10 testimony when we are already at 2:00 when we already  
11 said we are going to take public testimony. And we've  
12 pretty much exhausted the schedule to this point in  
13 time.

14           So I don't think it's fair. I'd like to  
15 object to that. Obviously the call is yours, but I  
16 think it's a mistake. I think it would be far better  
17 for this record and for everybody concerned, including  
18 the Petitioner's interest, to have Mr. Poirier be  
19 given another opportunity which ultimately would be  
20 the last opportunity to present his testimony on  
21 another occasion.

22           CHAIRMAN LEZY: I appreciate your  
23 objection, Mr. Seitz. I also appreciate the fact that  
24 you made the necessary accommodations in order to  
25 provide your witness testimony today. I think you'll

1 recall that when we -- early on there was indications  
2 that the Commission expected for evidence to be  
3 presented in an efficient, timely and orderly manner.

4 And in this case, again, there was prior  
5 notice given to be prepared to put on witnesses today.  
6 And in this instance in particular, and I think it's a  
7 very different circumstance than what you just  
8 outlined. You had folks that had to appear pursuant  
9 to test- -- pardon me, subpoena and witnesses  
10 obviously other than the Intervenor himself.

11 In this instance I understand the only  
12 remaining witness that Neighborhood Board 25 has is  
13 Mr. Poirier himself. And if I'm understanding you  
14 correctly you're saying the only thing that you're  
15 missing is a PowerPoint presentation.

16 So I would expect you to be willing and be  
17 able to provide whatever testimony it is that you wish  
18 to share with the Commission now absent the  
19 PowerPoint.

20 So, again, I'm giving you the option,  
21 Mr. Poirier. You can either testify now or I'm going  
22 to find that you've rested your case.

23 MR. POIRIER: Do what you have to do.

24 CHAIRMAN LEZY: Sir, I'm giving you the  
25 option. You tell me.

1           MR. POIRIER: I told you that I needed to  
2 do a PowerPoint to present my testimony. I do not  
3 have a PowerPoint ready. So how can I testify if I  
4 don't have that which I need to present my case?

5           CHAIRMAN LEZY: Okay. Fair enough. Then  
6 you rest your case. We'll break, take a five minute  
7 break in place to give our court reporter a little bit  
8 of rest and then we'll move into public testimony.

9           (Recess. 2:20.)

10          CHAIRMAN LEZY: We'll now take public  
11 testimony. Mr. Davidson.

12          MR. DAVIDSON: I believe the first signup  
13 up, and forgive me if I get this wrong, is it Lynn  
14 Kobayashi followed by Michael Dau. Just to be safe,  
15 is there a Lynn here? Any Lynn? Michael.

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

19           THE WITNESS: Yes.

20           CHAIRMAN LEZY: Please state your name,  
21 your address employed.

22           THE WITNESS: Michael Dau, 94-500G Kam  
23 Highway, Waipahu, Hawai'i. Good afternoon,  
24 Commissioners. I'm here on behalf of Kipapa Water  
25 System. Our well head protect area, the zone C is

1 covered by Koa Ridge. And we request that there be no  
2 building above our water system.

3 We have a problem with TCP triochlorine  
4 propane. It was used in the pineapple fields back in  
5 the '60s, and '70s. But it's above the state limit.  
6 And we'd like to see this chemical filtered through  
7 the grounds before any building take place.

8 And if you're in a forest, about 90 percent  
9 of the water absorbs back into the ground. In an  
10 urban area with your streets and sidewalks only about  
11 40 percent filters back in and it runs off. In an  
12 industrial area about 90 percent runs off.

13 So my thinking was that I'd like to leave  
14 the area open, let the groundwater take out this  
15 chemical. But in the EIS Castle & Cooke said it  
16 didn't matter because of low rainfall it'd be the same  
17 anyway. So I don't like that part.

18 Then right now they took out the Kipapa  
19 River gauge which was a good gauge for me to figure  
20 out what the level of our well would be over time.  
21 And I'm worried about if they drill more wells  
22 probably a mile from where our well is may be sucking  
23 down into the groundwater system.

24 Right now only about 13 and-a-half feet  
25 above our well intake. And if they start taking out

1 4 million gallons a day I don't know what will happen  
2 with that.

3 I don't think the DLNR and the Water Use  
4 Commission knows either. On many of the water use on  
5 the island seems like they're using a lot of  
6 agriculture water data from before where they used to  
7 water the fields and that would go back in the ground.  
8 And that's the data they're using. So I request that  
9 they don't build over our water system.

10 CHAIRMAN LEZY: Parties, questions?  
11 Commissioners, questions? Thank you for your  
12 testimony. Thank you. Is there anyone else who  
13 wishes to provide public testimony? Step forward  
14 please.

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

18 THE WITNESS: Yes.

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

21 THE WITNESS: Kika Bukoski, 560 North  
22 Nimitz Highway. Thank you for letting me testify.  
23 I'm testifying on behalf of the Hawai'i Building and  
24 Construction Trades Council. We represent building  
25 trades unions within the construction trades industry.

1           You know, a lot of discussion has come up  
2 regarding the designation of IAL Important Ag Lands.  
3 And I just want to clarify -- you may already know  
4 this, but excuse me if I'm being redundant. But  
5 there's been a lot of assertions regarding how the  
6 county may consider some of these lands that are  
7 already been designated for urban growth.

8           And I want to say that I did view the  
9 videotape of that hearing where I believe it was  
10 Resolution 12-25 was passed. There was a floor  
11 amendment that inserted the language that included or  
12 planned to include some of the urban lands that have  
13 already been designated.

14           And it was unclear in the City Council at  
15 the hearing whether or not it was in violation or in  
16 contrast to current state law that was passed by Act  
17 183.

18           What most of the opponents may point to is  
19 the eight criteria of designating IAL. But I want to  
20 draw your attention to a section that is subsequent to  
21 that, to that section, 205-44. If you look further in  
22 that particular Chapter 205-47(a). And excuse me, but  
23 I just want to read this because I think it's  
24 important. "Identification of Important Ag Land;  
25 county process. Each county shall identify and map

1 potential important agricultural lands within its  
2 jurisdiction based on the standards and criteria in  
3 section 205-44," which is the eight criteria everyone  
4 points to, "and the intent of this part except lands  
5 that have been designated through state land use  
6 zoning or county planning process for urban use by the  
7 state or county."

8 I've had discussions with agencies as well  
9 as city councilmembers that were part of that  
10 resolution and presented information that they didn't  
11 have at the time. And I'm fairly confident that when  
12 the time comes lands that have already been considered  
13 for urban development will not be considered in IAL.

14 So on top of that I find if really  
15 disingenuous. Because in the testimony it was made  
16 very clear that those proceedings and that resolution  
17 would not affect or impact any current docket before  
18 any state or city and county agency regarding land  
19 use.

20 The very next thing they did was present it  
21 in these proceedings. I think that's really  
22 disingenuous on their part.

23 The other thing I want to bring up is, you  
24 know, Clayton Hee brings up -- he made a statement  
25 "Economics over sustainability. Economics versus



1 sustainability."

2           There was a previous testifier in another  
3 case before you where they mentioned market-driven  
4 decisions versus non-market-driven decisions. And  
5 that's really at the crux of what we're really all  
6 about. Our organization fights for the working man  
7 and woman.

8           We, you know, if you look there's a recent  
9 study that came out of Stanford University that shows  
10 nationwide there's a decrease in the middle class.  
11 There's an ongoing decrease in the working class. And  
12 that's because of economic decisions that are being  
13 made.

14           And I'm saying that in Hawai'i if we start  
15 to put more emphasis on sustainability and less  
16 emphasis on economics, that we're going to see a  
17 continued downturn in the middle class in social  
18 mobility here in Hawai'i than we've already been  
19 seeing.

20           It's about balance. Senator Hee, Clayton  
21 Hee, brings up the constitution and the preservation  
22 of ag land. And we definitely support that. But we  
23 also have to look at providing and assuring for the  
24 health and well-being of our people. And that's also  
25 in the constitution. So, you know, it's gotta be a

1 balancing act.

2           There's proof that there's enough land.  
3 How much land do we need to provide the kind of food  
4 that we're talking about? There's a lot of land on  
5 the neighbor islands. Just like you to consider that  
6 when you folks make your decision. And appreciate  
7 this opportunity to testify.

8           CHAIRMAN LEZY: Parties, questions?  
9 Commissioners, questions? Thank you. Is there  
10 anybody else who wishes to provide public testimony?  
11 Hearing none, this docket matter then is concluded.

12           Given that the parties have, subject to the  
13 additional submissions that were noted on the record,  
14 completed their cases, the evidentiary portion of this  
15 proceeding is deemed closed.

16           The parties are directed to draft their  
17 individual proposed Findings of Fact, Conclusions of  
18 Law and Decision and Order based upon the record in  
19 this docket, to serve the same upon each other party  
20 and the Commission.

21           In support of any proposed Finding of Fact  
22 there must be a reference to the specific exhibit in  
23 the record or witness testimony relied upon. Any  
24 reference should include the date, page and line  
25 numbers for the transcript testimony.

1 I ask that in preparing your proposed  
2 Orders the parties consider incorporating the  
3 Commission's standard conditions. The standard  
4 conditions may be obtained from the Commission staff.

5 To the extent feasible the parties are  
6 encouraged to stipulate to any portion or all of the  
7 Findings of Fact, Conclusions of Law in their  
8 respective proposed Decisions and Order.

9 Regardless whether the parties pursue a  
10 partial or fully stipulated Decision and Order the  
11 parties are directed to file their respective  
12 submissions with the Commission and to serve copies on  
13 the other parties no later than the close of business  
14 on May 2, 2012.

15 Any objections shall be filed with the  
16 Commission, served upon the other parties no later  
17 than close of business on May 14, 2012.

18 Any response must be filed with the  
19 Commission and served on the other parties no later  
20 than close of business on May 21, 2012.

21 I ask that the parties please consult with  
22 the Commission staff early in this process to ensure  
23 that technical and non-substantive formatting  
24 protocols observed by the Commission are adhered to.

25 Oral arguments will be scheduled after

1 receipt of the parties' submissions. Are there any  
2 questions with respect to our post-hearing procedures?  
3 I knew a question was coming.

4 MR. YEE: Thank you. Pursuant to 15-15-34  
5 Hawaii Administrative Rules, the Office of Planning  
6 respectively requests that we not be required to  
7 submit a separate Decision and Order. In this case  
8 there are five parties. We fully anticipate there  
9 will be a Decision and Order proposing approval from  
10 Petitioner and a Decision and Order proposing denial  
11 by the Intervenors.

12 We don't believe it will be necessary to  
13 have a separate Decision and Order from the Office of  
14 Planning. We'll be happy to cooperate and work with  
15 any and all parties regarding the Findings of Fact.  
16 We will waive our right to file the final response.  
17 Only are requesting that we can file a reply to the  
18 initial D&O's provided by each party.

19 CHAIRMAN LEZY: Any objections from the  
20 parties?

21 MR. MATSUBARA: No questions.

22 MR. SEITZ: No objection.

23 CHAIRMAN LEZY: Finding good cause then,  
24 the Commission will suspend its rule as requested.  
25 Any other questions? Hearing none, then I thank the

1 parties for your work in this matter. And we will  
2 reconvene as staff will advise.

3 MR. MATSUBARA: We'd like to thank the  
4 Commission. Thank you very much.

5 CHAIRMAN LEZY: Is there a motion to go  
6 into executive session?

7 COMMISSIONER McDONALD: So moved.

8 COMMISSIONER TEVES: Second.

9 CHAIRMAN LEZY: All in favor? (Voting:  
10 Aye) Opposed? We're in executive session. Thank  
11 you.

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13 (The proceedings were adjourned at 2:35 p.m.)

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

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

That I was acting as court reporter in the  
foregoing LUC matter on the 5th day of April 2012;

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

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

DATED: This \_\_\_\_\_ day of \_\_\_\_\_ 2012

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