

ORIGINAL

LAND USE COMMISSION
STATE OF HAWAII

LAND USE COMMISSION
STATE OF HAWAII

2015 FEB 26 A 9:46

	PAGE
HEARING and ACTION DR14-52 (O'ahu)	4
TRUSTEES OF BERNICE PAUAAHI BISHOP	
2015 LEGISLATIVE COMMITTEE STATUS REPORT	131

TRANSCRIPT OF PROCEEDINGS

The above-entitled matter came on for a public hearing and action at the Airport Conference Center, 400 Rodgers, Blvd. Suite 700, Room #3, Honolulu, Hawaii'i, commencing at 9:34 a.m. on February 18, 2015 pursuant to Notice.

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

A P P E A R A N C E S

COMMISSIONERS:

Chad Mcdonald, Chairman

Arnold Wong

Edmund Aczon

Kent Hiranaga

Brandon Ahakuelo

Jonathan Scheuer

Neil Clendeninn

EXECUTIVE OFFICER: Dan Orodenker

STAFF PLANNER/CHIEF CLERK: Riley Hakoda

STAFF PLANNER: Scott Derrickson

DEPUTY ATTORNEY GENERAL: Diane Erickson, ESQ.

AUDIO TECHNICIAN: Walter Menching

Docket No. 14-52 Trustees of Bernice Pauahi Bishop dba
Kamehameha Schools

For the Petitioner: CALVERT CHIPCHASE, ESQ.
LISA AYABE, ESQ.

For the County: RICHARD LEWALLEN, ESQ.
Deputy Corporation Counsel
TIM HATA, DPP

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

I N D E X

1		
2		
3		
4	DOCKET WITNESSES	PAGE
5	Sidney Keliipuleole	
6	Direct Examination by Mr. Chipchase	9
7	Giorgio Calderone	
8	Direct Examination by Mr. Chipchase	31
9	Tom Witten	
10	Direct Examination by Mr. Chipchase	76
11	Rodney Funakoshi	
12	Direct Examination by Mr. Yee	97
12	Further Examination by Mr. Yee	105
13	Richard Lewallen, Esq. DPP	109
14	Earl Yamamoto, DOA	118
15		
16	Legislative Committee Status Report	131
17		
18		
19		
20		
21		
22		
23		
24		
25		

1 CHAIRMAN McDONALD: Good morning. I'd
2 like to call to order the state of Hawaii Land Use
3 Commission February 18, 2015 meeting. Commissioners,
4 any revisions to the minutes? Hearing none do I have
5 a motion to approve?

6 COMMISSIONER WONG: So moved.

7 COMMISSIONER ACZON: Second.

8 CHAIRMAN McDONALD: Moved by Commissioner
9 Wong, second by Commissioner Aczon. All those in
10 favor say aye. "Aye". Any opposed? Minutes are
11 adopted. Mr. Orodenger, can you please review the
12 tentative meeting schedules with the Commissioners.

13 MR. ORODENER: Thank you, Mr. Chair.
14 March 4th and 5th we will be in Kona at the airport
15 for the McClean Honokohau Properties Motion to Amend
16 Conditions. March 5th for the Waiawa PV Special Use
17 Permit. That will be here on O'ahu. Continuation on
18 March 4th and 5th continuing Waiawa Special Use
19 Permit. And the calendar through April is clear.

20 CHAIRMAN McDONALD: Thank you,
21 Mr. Orodenger. This is a hearing and action meeting
22 on DR14-52 in the matter of Petition of the Trustees
23 of the Estate of Bernice Pauahi Bishop dba Kamehameha
24 Schools, for a declaratory order to designate
25 Important Agricultural Lands for approximately

1 9,171.161 of land at Kawaiiloa, O'ahu and 420.887 acres
2 of land at Punalu'u, O'ahu as Important Agricultural
3 Lands for approximately 9,171.161 acres at Kawaiiloa,
4 O'ahu identified by TMK Nos. (1)K 6-1-005: 001
5 portion; parcel 1, 6-1-006:001 portion; parcel
6 6-1-007: 001; parcel 1, 6-2-009:001 portion of parcel
7 1, 6-2-10:001 portion; 6-2-011: 001 portion 6-2-11:
8 parcel 021 and approximately 420.887 acres at
9 Punalu'u, O'ahu identified as TMKs No. (1) 5-3-001:041
10 portion; 5-3-003: 001 portion 5-3-004: 005;
11 5-3-004:007; 5-3-004: 013; 5-13-004: 018 portion;
12 5-3-004:019; 5-3-007:023 portion.

13 Will the Petitioner please identify itself
14 for the record, please.

15 MR. CHIPCHASE: Yes, Chair. Cal Chipchase
16 and Lisa Ayabe for Petitioner for the Estate of
17 Kamehameha Schools.

18 CHAIRMAN McDONALD: Thank you,
19 Mr. Chipcase. Let me update the record. On
20 December 12, 2014 the Commission received Petitioner's
21 Petition for Declaratory Order to designate Important
22 Agricultural Lands, and Exhibits A through J and a
23 \$1,000 application fee.

24 On January 28, 2015 the Commission mailed
25 the February 4th, 2015 site visit agenda notice to the

1 Parties and State and O'ahu mailing lists.

2 On February 2, 2015 the Commission
3 received the Department of Agriculture's comments to
4 the Petition.

5 On February 4th, 2015 a site visit was
6 conducted by the LUC Commission and staff, and the
7 parties as scheduled.

8 On February 10, 2015 the Commission
9 received OP's comments to the Petition and OP's
10 Exhibits A through E and figures 1 through 3.

11 On February 10, 2015 the Commission mailed
12 out the February 18, 2015 LUC meeting agenda to the
13 Parties and the State and O'ahu mailing lists.

14 On February 17, 2015 the Commission
15 received a letter from the Punalu'u Community
16 Association and an additional 19 form letters from the
17 public via email from the Petitioner's Representative.

18 Also on this date the City and County of
19 Honolulu Department of Planning and Permitting
20 notified the Commission via phone that they would be
21 filing its comments at the February 18, 2015 hearing
22 date. Subsequently we have received DPP's comment
23 letter.

24 On February 18, the Commission received
25 the Petitioner's PowerPoint presentation, proposed

1 Findings of Fact, Conclusion of Law, and Decision and
2 Order as well as additional public comments.

3 Mr. Chipcase, has our staff informed you of the
4 Commission's policy regarding the reimbursement of
5 hearing expenses? If so, could you state your
6 client's position.

7 MR. CHIPCHASE: Chair the staff has not in
8 formed me of the Commission's policy of reimbursement.

9 MR. ORODENKER: Mr. Chipchase, pursuant to
10 Chapter 15-15 the Petitioner is responsible for
11 expenses for the hearing.

12 MR. CHIPCHASE: Understood and accepted.

13 CHAIRMAN McDONALD: Thank you
14 Mr. Chipchase. Let me briefly describe our procedures
15 for today on this docket. I'll first call those
16 individuals desiring to provide public testimony to
17 identify themselves. All such individuals will be
18 sworn in prior to their testimony. After completion
19 of public testimony portions of the proceedings the
20 Petitioner will make its presentation.

21 After completion of the Petitioner's
22 presentation we will receive any public comments from
23 the city and county, DPP, Office of Planning and
24 Department of Agriculture. Thereafter the Commission
25 will conduct its formal deliberations. The Chair

1 would also note that from time to time I will call on
2 short breaks. Are there any questions on our
3 procedures for today?

4 MR. LEWALLEN: No, Chair.

5 MR. YEE: Chair if I could make one
6 comment. After we submitted figures which we have
7 described as containing a 200-foot contour line as a
8 demarcation. I apologize. That's actually the 100
9 foot contour line. We have mistakenly identified as
10 200-foot. The line is correct on the figure. It
11 should have been referenced as the 100 foot contour
12 line.

13 CHAIRMAN McDONALD: What figure is that,
14 Mr. Yee?

15 MR. YEE: I believe on figure 1. Figure 1
16 and 2. So the figure is correct and the description
17 of the characteristics is correct. But we
18 mis-identified it as the 200-foot contour line in our
19 letter. We apologize.

20 CHAIRMAN McDONALD: Thank you, Mr. Yee.
21 Mr. Chipchase, the Chair intends to declare the
22 documents submitted by the Department of Ag, Office of
23 Planning, the City and County of Honolulu Department
24 of Planning and Permitting, and the Petitioner part of
25 the record in this matter. Do you have any objections

1 to this?

2 MR. CHIPCHASE: No objection, Chair. Just
3 for clarification that would include the PowerPoint as
4 well?

5 CHAIRMAN McDONALD: Yes.

6 MR. CHIPCHASE: Understand.

7 CHAIRMAN McDONALD: Okay. Is there anyone
8 in the audience who desired to provide public
9 testimony? Seeing none, Mr. Chipchase, are you
10 prepared to proceed with your presentation?

11 MR. CHIPCHASE: I am, Chair.

12 CHAIRMAN McDONALD: Please proceed.

13 MR. CHIPCHASE: Mr. Chair, Petitioner
14 would ask to have Mr. Sidney Keliipuleole take the
15 stand.

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

19 THE WITNESS: I do.

20 CHAIRMAN McDONALD: Please proceed.

21 DIRECT EXAMINATION

22 BY MR. CHIPCHASE:

23 Q Thank you. Good morning,
24 Mr. Keliipuleole. Would you please introduce
25 yourself.

1 A My name is Sidney Keliipuleole. My title
2 at Kamehameha Schools is Director of Asset Management
3 Operations in the Land Asset Division.

4 Q How long have you been with Kamehameha
5 Schools?

6 A Okay. I'm been employed at Kamehameha
7 Schools since 1983 in various land and real estate
8 positions. I've been in my current role since 2008.

9 Q In your current role what is your
10 responsibilities with respect to management at the
11 Kamehameha Schools agricultural lands?

12 A I have statewide responsibilities for
13 directing Kamehameha Schools staff in agricultural
14 leasing and agricultural strategic implementation.

15 Q In your position as responsible for those
16 statewide areas can you tell us what Kamehameha
17 Schools' goals are with respect to their agricultural
18 lands?

19 A Sure. We have a statewide goal really is
20 to bring back these productive lands statewide that
21 are in agriculture from what was in a very passive
22 lessor position that we operated in. Meaning we just
23 collected the rents, to a very active position
24 especially in areas that were formally leased by
25 plantation agriculture.

1 Q Is the identification and designation of
2 lands as Important Agricultural Lands part of that
3 shift to more active management?

4 A Yes, most definitely.

5 Q We're here today because Kamehameha
6 Schools, as the Chair read, is proposing to designate
7 9,593.04 acres of land as Important Agricultural
8 Lands. As you can see from the first slide 9,171.161
9 of those acres are in the Kawaiiloa areas. With
10 another 420.887 acres in Punalu'u. Why is Kamehameha
11 Schools proposing to designate these lands IAL?

12 A You know, Mr. Chipchase, and to the Board,
13 I think how I would answer that to say is "why not"?
14 IAL is very consistent with our approach on
15 agricultural lands according to our strategic Ag
16 plans. It's about making our agricultural lands
17 productive again statewide.

18 I believe that's about what -- that's what
19 IAL is intended to do is to protect, not only protect
20 but also ensure those lands are put in productive use.

21 Q You explained that part of that is the
22 Kamehameha Schools' strategy on agricultural planning
23 I was hoping you could let us know what that plan is
24 that plays a role in the management of these.

25 A So our plan is a plan that our Trustees

1 approved in 2009. It came on the heels of many
2 plantation closures. It was developed by a vision, a
3 goal, if you will, for optimal management of our 204
4 (sic) or so acres of agriculture land.

5 We recognize our 200,000 acres of
6 agricultural lands, but only about half of it, maybe
7 about 90,000 at best is real productive lands. So the
8 point of the Strategic Ag Plan is to provide a vision
9 and strategy, not only a strategy, for bringing those
10 90,000 acres into the best, highest agricultural use.

11 Q Let's move then from Kamehameha Schools
12 planning at a state-wide level to planning at a
13 regional level. Can you talk about the regional
14 planned proposed designations of these lands at
15 Kawaihoa and Punalu'u lands and Important Lands?

16 A Sure. You're right. I'm going to use the
17 term SAP, S-A-P Strategic Agriculture Plan, a
18 statewide use of our agricultural land. We're
19 fortunate in that these 2 regions we're talking about
20 today, Kawaihoa and the North Shore on the other side
21 of the island --

22 (Sound equipment adjustment)

23 MS. ERICKSON: Thank you. Please just a
24 moment.

25 THE WITNESS: Sure. So the SAP, Strategic

1 Agricultural Plan is an approach on a statewide basis
2 for our agricultural lands. We're fortunate in that
3 these two areas we're talking about today, Kawaihoa on
4 the North Shore and Punalu'u, actually have regional
5 community master development plans, if you will.

6 In the case of Kawaihoa and Punalu'u the
7 agricultural lands are a very important, integral part
8 of those community, regional community development
9 plans. I will add that on a regional basis the
10 Kawaihoa Master Plan, North Shore Master Plan, and the
11 Punalu'u Plan also the non-agricultural lands that are
12 in the community. Thus it is a regional Community
13 Plan not just about agriculture. Agriculture,
14 however, is the main component of those lands.

15 Q We put up a slide for the Commission, an
16 excerpt from the North Shore Plan. As you can see
17 from the image to what would be to our right the areas
18 that we propose to designate as Important Agricultural
19 Lands are designated for Agriculture in that North
20 Shore Plan. Is that right?

21 A Yes.

22 Q So as I understood your explanation of the
23 planning, the designation of these lands as Important
24 Agricultural Lands is consistent with your commitment
25 to keeping those lands in productive agricultural use,

1 is that right?

2 A Yes.

3 Q And so as we move down the road to
4 Punalu'u, I'm sorry -- we didn't address the Punalu'u
5 ahupua'a plan. Can you just touch on briefly the
6 relationship between that plan and the land that you
7 designate for Punalu'u as IAL.

8 A Yes. The IAL lands were proposed to have
9 designation is all in the Punalu'u ahupua'a plan.
10 Being that Punalu'u is a much smaller area, most of
11 the focus of the land is agriculture. Punalu'u
12 ahupua'a plan.

13 Q So looking back at Kawaihoa then what area
14 composed the proposed IAL designates?

15 A If we look at this map there are 2 areas
16 that are known as Kawaihoa and Opaeha. Opaeha being
17 on the right side of your map and Kawaihoa on the left
18 side of the map.

19 Q Have these lands been actively farmed in
20 the past?

21 A Yes. These lands have been actively
22 farmed and/or actively leased in modern times as well
23 as in traditional Hawaiian times as well. For these
24 lands they were once master leased by Wailoa Sugar
25 Planation up until 1999 when the lease came to an end.

1 Even before that the traditional Hawaiian uses of
2 these lands as well. In the lower lands where
3 population was most abundant, this was the area that
4 included lo'i, the water courses, taro, awa, hala. In
5 the upper-lands where the lands are much drier the
6 lands were used for dryland agriculture, mostly
7 orchard crops and fruits.

8 Q Since Waialua Sugar left in 1999 how has
9 KS used these lands for agriculture?

10 A Well, at least to say that was a traumatic
11 event when the Waialoa Sugar left where we were left
12 with their fields in disarray, no commitment to
13 maintain or repair the irrigation systems. We had to
14 tend to that first. We had to establish security,
15 control trespassing. Illegal dumping was going on.

16 Since that time we've established
17 security. We have security cameras on the property.
18 We have a security person. We have a contractor
19 that's responsible for maintaining our ditches and our
20 flumes.

21 The biggest commitment -- the biggest
22 change we had to do was recognizing it is agriculture.
23 We needed to maintain the auwai stream immediately.
24 So we spent nearly 12 to \$13 million just on the
25 irrigation piping itself, reestablishing the well

1 system. Then, of course, we went to work finding
2 farmers. We're still finding farmers for these lands.

3 Q So if we look, not at the present, but 10,
4 to 15 years down the road, what are KS' long-term
5 plans for the Kawaiiloa area?

6 A That's a good question. I think it's
7 somewhat the same for both of these areas. We view
8 Kawaiiloa, we view Punalu'u as priority agricultural
9 redevelopment, repurposed areas for us. And we look
10 at the view and hope to see a landscape of agriculture
11 with multiple agriculture uses at the top, not only in
12 production but hopefully for that it will become an
13 agriculture destination, a place for production, for
14 processing. Hopefully potentially connecting the
15 lower lands redeveloped with opportunities for
16 processing.

17 In both areas we look to agriculture on
18 both of these lands to be a community asset as well as
19 a place for another employment, but building not only
20 but economics to both those respective communities.

21 Q Mr. Keliipuleole, I understand that you've
22 read the comments submitted by the different agencies
23 in this matter. So just to put things in context, the
24 Office of Planning has supported the designations in
25 the Kawaiiloa area. The Department of Agriculture

1 supports the designation in the Kawaiiloa area but had
2 a question with respect to the portion of the property
3 that's going to be dual uses as grazing and interim
4 solar farm. I was hoping you could touch on that
5 portion specifically. Could you explain the solar
6 components of that dual use?

7 A Sure. This map, this chart that you have
8 up on the screen shows the footprint of the solar
9 panels, the solar farm. It's about 384 or so acres.
10 It's a relatively small footprint for all the lands
11 that are being proposed for Kawaiiloa. The solar
12 panels will be mounted on an elevated frame. The area
13 will be fenced by perimeter fencing.

14 But also what's interesting to note that
15 the solar panels will actually be installed high
16 enough so the ground will still be available for
17 agricultural use.

18 So in the case of this solar developer,
19 they've already started talks and are very interested
20 in bringing in sheep to graze under the panels. It
21 still really remains in agricultural use with this
22 dual use of renewable energy as well.

23 Q Has Kamehameha Schools committed to
24 maintaining that agricultural component of the dual
25 use?

1 A Yes. As a matter of fact, the solar part
2 of the dual use, in our view as a perpetual
3 organization, we'll get somewhat of an interim use.
4 There's a life to it. And potentially could not be
5 there 30 years from now, 40 years from now when the
6 lease expires. But the agriculture will continue to
7 be a dedicated use of these lands.

8 Q The revenue from the solar farm, I
9 understand, is an integral part of KS' management and
10 improvement of these Kawaihoa lands. And what we put
11 up on the slide is a copy of the infrastructure board
12 that we showed the Commissioners during the site
13 visit. This infrastructure board details some of the
14 investments that Kamehameha Schools has made.

15 We'll talk about the board in more detail
16 a little later on in the presentation. But what I
17 wanted to ask you about was the connection between the
18 revenue at the solar farm or from the solar farm,
19 improvement of these lands and to the benefit of
20 agriculture.

21 A I think what you're asking about is what
22 component does the revenue -- what agricultural
23 benefit comes from the solar renewable use. So when
24 my colleagues put together the North Shore Master Plan
25 and recognized that agriculture is a big component of

1 the Master Plan, but also recognized that agriculture
2 at best takes a long time to become economically
3 sustainable. So at best it would take years and years
4 and years. And we've learned that. The sugar
5 plantations went out in 1999. Here we are decades
6 later still not fully leased, still not in an ongoing
7 operation.

8 So it was essential for us to look for a
9 source of revenue that could in the long term justify
10 us making these kinds of improvements to the land, so
11 that we have an economically sustainable operation
12 here that is primarily agriculture but has the benefit
13 of a renewable energy source as well compatible with
14 the lands we have.

15 Q So do I understand correctly, then, that
16 Kamehameha Schools was able to make the upfront
17 investments in the Kawaiiloa area in anticipation of
18 the revenue from the renewable energy components?

19 A Yes.

20 Q So is Kamehameha Schools committed to
21 continuing that direct relationship between the
22 revenue from the solar or renewable energy operation
23 and improvements in Kawaiiloa area?

24 A Yes, we are, Mr. Chipchase. Just to make
25 sure I clarify that. We manage these lands as a

1 portfolio. We don't necessarily manage the renewable
2 energy in isolation, agriculture in isolation as a
3 part of the portfolio. Our main focus of these lands
4 as our institution is agriculture. So the
5 multi-sources of revenue in this case renewable energy
6 is what we're talking about, go to the profitability
7 of agriculture.

8 And we know that it has to be there as
9 long as it takes for us to continue to make
10 agricultural infrastructure improvements for as long
11 as it takes for us to develop viable agricultural
12 operations on these properties.

13 Q I'd like to be move down the road to
14 Punalu'u. You talk about some of the same aspects in
15 Punalu'u that you covered in Kawaihoa starting with
16 the historic uses for these lands.

17 A So first of all, again to go back to your
18 question earlier about the Punalu'u ahupua'a plan we
19 were committed to agriculture on these lands. These
20 lands are part of the Petition. I'm looking back in
21 traditional times. Punalu'u was, use the term
22 loosely, a bread basket for this side of the island.
23 Why? Because of the water resource. That continues
24 to be our long-term goal to have agriculture on these
25 properties as we go forward. And to keep, make sure

1 that they become, as I said earlier, a viable part of
2 the community and provide some sustainable economic
3 development for the community as well as provide food
4 production for our state of Hawai'i.

5 Q The lands in Punalu'u are different in
6 many ways from Kawaiiloa. What kind of agriculture and
7 tenant mix does Kamehameha Schools envision for the
8 Punalu'u area?

9 A I think for the Punalu'u area No. 1 it's
10 obviously a much smaller area than Kawaiiloa. So that
11 leads to how our leasing mix is going to be: Smaller
12 farms, albeit diversified agriculture, but smaller
13 farms. And no doubt because of the water availability
14 here we'll have the advantage of looking for
15 traditional agriculture farmers, lo'i in particular.
16 We're already there. We have a mamake farmer as well.
17 I'm trying to bring that crop into a viable
18 agriculture product.

19 I look for these smaller farmers then to
20 need a farm manager. Part of our operational thinking
21 is that in order for this to be a viable area we need
22 to have -- we need to build storage. We need to build
23 a processing center. We hope to tie the agriculture
24 production into retail opportunities on the property.
25 Farmers market, there's already a restaurant on the

1 highway that all connect and then can make this
2 Punalu'u area a viable agricultural activity.

3 Q So as I understand your testimony then
4 like Kawaiiloa, Kamehameha Schools' long-term plans for
5 Punalu'u are to improve and increase the productivity
6 of these lands, to make them not only available for
7 agriculture but productive agriculture; is that right?

8 A That's correct, yes.

9 Q As part of these long-term plans I
10 understand the Kamehameha Schools has made and
11 continues to make significant infrastructure
12 investments. What we have put up on the board is an
13 image of the infrastructure map that we showed on the
14 site visit. It depicts some of those infrastructure
15 improvements to the area. We'll go over it again in
16 more detail later. But I was hoping we could put
17 these investments in the context of your planning and
18 your commitment to this area.

19 A Sure. Much like the Kawaiiloa area when we
20 instituted the strategic agricultural plan, we
21 recognized, again, that water source is a critical but
22 it's also the strongest asset in Punalu'u. So right
23 off we need to spend some money to upgrade, to
24 protect, to make more efficient the water
25 infrastructure there. We did some work on the

1 diversion. We piped our irrigation ditches. We put
2 distribution into the ground so that farmers can hook
3 up when they need to to the water resource.

4 As I said earlier our plan is to also
5 develop some facilities on the property. But I think
6 the most significant thing we're planning right now is
7 a stream restoration project that will reconfigure the
8 stream into a natural more meandering configuration
9 than it currently is.

10 It's much about -- it's much about having
11 a way to manage the water as it is about creating an
12 environment for water-related agricultural activities.
13 It's as much about a drainage control project because
14 Punalu'u is surrounded by residential property as
15 well. So we wanted to do that as a steward of these
16 lands.

17 The quirky thing about this Project is
18 that until it's done we can't really nail down the lot
19 configuration in the lower area because of the way its
20 project is designed to reconfigure the lower area and
21 what will then become a drainage basin for the stream
22 restoration project.

23 It needs to take into account the kind of
24 crops that will be compatible and that drainage basin.
25 So that's sort of the next big expensive investment we

1 have to make here in Punalu'u.

2 Q I just want to focus on one part of that.
3 You mentioned crops that are compatible with the
4 drainage basins. Is the Kamehameha Schools'
5 commitment to identify tenants and farmers to use that
6 drainage basin area there for crops that were suitable
7 for a drainage basin?

8 A Yes. That's an advantage in that there
9 are traditional crops that are suitable in drainageway
10 areas. Lo'i obviously is one, but also there are
11 orchard crops that can withstand floods.

12 Q So if we then take a step back, specific
13 focus we put on Punalu'u on the infrastructure, and we
14 look at the lands as a whole, Kawaiiloa and Punalu'u,
15 is there something you could touch on? Could you look
16 at the importance of maintaining it continuously,
17 holes, contiguous holes. It fits within the
18 management and your planning?

19 A Both of these areas have a history of
20 being managed as a landscape, of a history of being
21 managed as a co-efficiency as a landscape primarily
22 during plantation times but also traditional.
23 Hawaiian history. And that's our plan going forward
24 to manage these lands as a continuous landscape so
25 that we can optimize agricultural production but also

1 make for management purposes but also for the point of
2 having enough agricultural production that these areas
3 can become the bread baskets that they once were.

4 We need to optimize ulu. We need to have
5 diversified agriculture. We need to have enough
6 products out of these areas not in the sense of having
7 farmers, but also in the sense of making it a viable
8 agricultural area. We need enough produce to make
9 that critical mass in order for farmers to be here and
10 to have viable businesses. It's not just about
11 farming. It's about developing viable businesses.
12 It's about having enough product that can come out of
13 both of these areas that farmers can survive and
14 thrive.

15 Q If you take, lastly, a further step back,
16 come back to Kamehameha Schools on O'ahu. You've seen
17 the City's comments that the City has no objection to
18 the proposed designation. The City had asked a couple
19 questions. I was hoping you could address one of
20 them. That's one. What percentage of Kamehameha
21 Schools agricultural lands on O'ahu does this proposed
22 designation present?

23 A The number 70 percent, Mr. Chipchase.

24 Q I believe that's right, Mr. Keliipuleole.
25 I'll note that our response to OP's questions, which

1 raise similar issues, happened to OP's testimony and
2 that response shows that it's 71.5 percent of
3 Kamehameha Schools' agricultural lands on O'ahu which
4 represents nearly 5900 acres of Kamehameha Schools,
5 roughly 6600 which is prime agricultural lands.

6 So a huge chunk of Kamehameha Schools'
7 lands on O'ahu are proposed for this designation.
8 We've talked about these issues in different contexts,
9 Mr. Keliipuleole. I want to get just right down to
10 how were these lands selected as the lands that
11 Kamehameha Schools would pursue in Important Ag Land
12 designation?

13 A So again it starts with our strategic Ag
14 lands. These are the two priority areas on this
15 Island, O'ahu, that we focus to be, to where we're
16 going to make our investment where we're wanting to
17 revive agriculture on these former plantation lands.

18 So that's why they're here. We talked
19 about the investment we made on both of these lands.
20 We talked about the operational changes we made from
21 shipping out of plantation agriculture to diversified
22 agriculture. Again, going back to what I said
23 earlier. IAL and our approach to these lands I think
24 we're right on track. You've asked me again, why?
25 We're here with this Petition. I'll say again "why

1 not"? Our activities, our purpose, our intent on both
2 of these lands I believe are consistent with the IAL
3 designation.

4 MR. CHIPCHASE: Thank you,
5 Mr. Keliipuleole. I have no further questions.

6 CHAIRMAN McDONALD: Commissioners, any
7 questions? Commissioner Wong? Thank you,
8 Mr. Keliipuleole. Commissioner Wong.

9 COMMISSIONER WONG: The first question I
10 have is the lease that you're planning to give up to
11 the farmers who are farming, how long are those leases
12 approximately?

13 THE WITNESS: Sure. So the answer is a
14 little bit different depending on whether it's
15 Kawaihoa or Punalu'u. In Kawaihoa our leases are long
16 term. We have 20, 20 plus year leases. The farm
17 areas are larger. In Punalu'u the harvest is shorter,
18 like 5 years, especially because of our upcoming
19 stream mitigation process our leases are much
20 short-term, five years giving us the ability to
21 reconfigure once the Project starts and once it's
22 completed. So longer term leases in Kawaihoa 20 years
23 and shorter term lease in Punalu'u.

24 COMMISSIONER WONG: So the question I
25 would have it would be reconfigured for agriculture

1 still yet?

2 THE WITNESS: Correct.

3 COMMISSIONER WONG: Then the other issue I
4 have is the solar farm. What type of land is it?
5 A,B, or C lands?

6 THE WITNESS: I don't know.

7 MR. CHIPCHASE: Commissioner, we do have
8 the Petition from Mr. Witten, if any, he'll be up
9 later.

10 CHAIRMAN McDONALD: Commissioner Scheuer.

11 COMMISSIONER SCHEUER: Aloha. I had a
12 question about what your response might be to a
13 statement made by the Department of Agriculture,
14 specifically in their conclusion in their letter.
15 They suggested for the Kalaeloa that Kamehameha
16 Schools should actually demonstrate I think
17 affirmatively, that you have enough water presumably
18 to use all those areas continually during dry phases.

19 I kind of understand there's a
20 philosophical difference with the Department of
21 Agriculture approaching the designation, how many
22 acres Kamehameha Schools? Can you rephrase the
23 question?

24 THE WITNESS: Can you rephrase the
25 question, Mr. Scheuer?

1 COMMISSIONER SCHEUER: Are you only
2 setting aside enough -- let me try again. The
3 Department of Agriculture is essentially saying only
4 designated land where you have absolutely enough water
5 for irrigation. But you're taking a different
6 approach between the relationship of our available
7 water to your viable lands.

8 THE WITNESS: I see your question. So
9 Kawaihoa lands are irrigated -- formerly irrigated by
10 the plantation. The long answer and short answer.
11 Kawaihoa lands are served -- were served by 3 sources
12 of irrigation: Surface water, groundwater through a
13 pumping system, and actually water from Lake Wilson
14 that came across from Wahiawa through the Wahiawa
15 sugar land through the ditches in a way through at
16 Waiola through the ditches onto this part of the
17 property, normally Waiola.

18 So to start with there are quality
19 problems with the water that comes from Lake Wilson
20 that limits the kind of agriculture we bring back on
21 those lands. Right now we purposely designed the
22 system to not be dependent or at least use Waialua
23 water as the last source of water because of the
24 quality of that water. So that leaves us with a
25 source that's groundwater that we pump. It is

1 expensive water because of the electrical charge, the
2 electrical expense.

3 Then we have surface water which is clean,
4 which is the least expensive. So those types of --
5 those two sources of water are carried through the
6 ditch and pipe system we have. We have below that
7 pipe, that ditch system, about 2400 acres that can be
8 directly served by this ditch system.

9 I think what the Department of Agriculture
10 might be referring to is the lands that are above the
11 ditch system that right now are serviced by that
12 water.

13 But keep in mind, then, that there's
14 rainfall. All of those lands above the ditch were
15 planted in sugarcane. So we know there's rainfall
16 available to those lands. The second thing to keep in
17 mind is that we have mechanically that there is the
18 ability to pump water to those lands. Once we can get
19 our electrical costs stabilized, and there's more than
20 enough water to service these lands. It's the system
21 that's in place that limits the ability to service the
22 lands. It's the pumping costs associated with the
23 upper land that it will take to get water up there.

24 So the Department of Agriculture is right
25 in one respect. In that the current system may be

1 limited in its ability to reach those lands. We know
2 that there's enough source. And that in the future
3 there will be the mechanical ability to get water to
4 those lands if we can -- if we can make them cheap
5 enough for our farmers. So I'm not sure if I answered
6 your question.

7 COMMISSIONER SCHEUER: Okay. Thank you,
8 Chair.

9 CHAIRMAN McDONALD: Your next witness?

10 MR. CHIPCHASE: Thank you, Chair. The
11 Petitioner calls Giorgio Calderone.

12 GIORGIO CALDERONE

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

15 DIRECT EXAMINATION

16 BY MR. CHIPCHASE:

17 Q Good morning, Mr. Calderone. Please state
18 your name and introduce yourself for the record.

19 A My name is Giorgio Calderone.

20 Q Mr. Calderone, you recently changed your
21 position at Kamehameha Schools I understand. But up
22 until that recent change what were your primary
23 responsibilities?

24 A I was a regional manager responsible for
25 managing agricultural and conservation lands.

1 Q So as part of your responsibilities did
2 you participate in the selection of these lands as
3 Important Agricultural Lands as the preparation for
4 the participation?

5 A Yes.

6 Q I wanted to focus on different aspects of
7 the Petition in these lands. Really where I wanted to
8 start was what the community thinks about the
9 designations. So has Kamehameha Schools reached out
10 to the community in Kawaiiloa, to the farmers in
11 Kawaiiloa to discuss the designation?

12 A Yes. Our assets in Kawaiiloa support the
13 farmers.

14 Q Any farmers raise any concerns about the
15 designation?

16 A No.

17 Q We touched on another aspect with
18 Mr. Keliipuleole and that was infrastructure in the
19 area. Kamehameha Schools has made significant
20 infrastructure improvements in both Kalaeloa and
21 Punalu'u. How did Kamehameha Schools identify those
22 sites for those improvements?

23 A Yes. Mr. Keliipuleole acknowledged
24 earlier the strategic ag lands for 2009, identified
25 Kawaiiloa, Punalu'u for those two critical areas of

1 focus that we would make investments in.

2 Q And focus only on the Kawaiiloa area for a
3 moment. Can you give us some context of the scale of
4 investment in infrastructure on those lands?

5 A Over the years starting in the past 10
6 years, approximately 17 million has been invested in
7 the infrastructure.

8 Q So I wanted to break down that number a
9 little bit for the Commissioners. If we look on the
10 screen we see again the infrastructure board that was
11 on the site visit that we talked about earlier today.
12 What we've done is bubbled out aspects of it.

13 So if you can see from where you sit, if
14 you look at item 1 on the screen identifies as Opaelua
15 Reservoir 1. How much did Kamehameha Schools invest
16 and operate on that repair?

17 A About 2.8 million.

18 Q If we go down the list look at item 2. We
19 see the photograph of the ditch to pipe diversion. Can
20 you give us a sense of the scale on that diversion?

21 A That was probably our biggest,
22 5.7 million.

23 Q How much conversion did Kamehameha Schools
24 accomplish?

25 A On the exact linear foot long files,

1 basically, well, laying ditch.

2 Q Does that conversion also help the
3 retention rate in water distribution? Yeah. You
4 don't feel there's any evaporation?

5 A Yes, using the old system. I think we
6 estimated using about half by the time from the
7 diversion to the field.

8 Q Moving down the list to Item III. We see
9 a photograph of a new reservoir. How much has
10 Kamehameha Schools invested in that project?

11 A About 1 and-a-half mil.

12 Q We also see an irrigation filter system.
13 Can you describe that system, its role and approximate
14 cost?

15 A It's a centralized filtration system.
16 They used to have 'em spread throughout the
17 plantation. They were ultimately through the system,
18 basically as the water runs down to the sort of point,
19 brings across country. All water funnels through this
20 aeration filter system.

21 Q Then the next item that I have on my list
22 is item 4. I'm sorry, item 5, the well pumps and pump
23 controls? Can you describe that in the Kamehameha
24 Schools investment?

25 A We spent about 4.1 million. This is an

1 old pump 3 system sort of a well house. And it was a
2 main sort of source of groundwater for the plantation.
3 So we basically abandoned the old large pump that was
4 constantly failing. We had a lot of repairs, smaller
5 pumps that we can use, that pump smaller amounts.
6 Over time we need to increase pumps to the system.

7 Q Then item 6 is a photograph of some
8 improved roadways. How much did Kamehameha Schools
9 invest in roadways?

10 A About 350,000 over the years.

11 Q Mr. Keliipuleole also talked about the
12 problems on the lands that Kamehameha Schools took
13 over, in particular dumping, illegal dumping, camping.
14 We talked about Kamehameha Schools' efforts to curb
15 those uses and invest in security and fencing.

16 A Yes. Sp the fencing, we started out at
17 1.4 million in fencing for two primary purposes. One
18 is security especially in the lower reaches of the
19 plantation where a lot of the illegal access of
20 trespassing would occur.

21 The other part of it is we did a lot of
22 perimeter fencing for cattle. It will bring in cattle
23 tenants onto the property who they wanted to minimize
24 their upfront costs. So we made that initial
25 investment. So the tenants remained responsible for

1 the interior paddocks, fencing their units.

2 Q When I went over the list I skipped over a
3 couple items, 7 and 8. And those relate to the
4 improvements by the renewable energy providers. They
5 talked to me about or talked to us about those
6 improvement and how they relate to agriculture.

7 A Yes. So basically the wind farmers are
8 first for the solar energy project. They came in and
9 really improved a lot of the roadway systems and
10 helped with fencing as well. So the area of the
11 plantation they were on was probably the right word,
12 the most fallow of the area. Had a lot of albesia, a
13 lot of overgrowth, then put in a lot of roads.

14 It was almost, without a 4-wheel drive it
15 was pretty much impossible to get around unless you're
16 gonna hike in.

17 Q And so those improvements would directly
18 benefit the farmers in the area as well.

19 A Yes.

20 Q That was item 7. Item 8 is the proposed
21 fencing related to the solar area. Can you talk to us
22 about that project as well?

23 A Yeah. The PV farm they will put in
24 security/perimeter fencing for the sheep operator
25 which obviously acts as security, but also acts as

1 perimeter fencing for the sheep operator. So the
2 sheep operator at that point just needs to put in the
3 interior fencing to create the paddocks that work for
4 their operation.

5 Q Mr. Keliipuleole talked about Kamehameha
6 Schools' investment in water. I think as we've seen
7 on this board a lot of Kamehameha Schools' investments
8 have been related to the water delivery system. We
9 also talked about the ability to boost water up and
10 the reduction of costs, so making that practical for
11 farmers.

12 So I was hoping you could touch on the
13 connection between the proposed solar component of the
14 dual use and the ability to boost water at a lower
15 cost to farmers.

16 A Yes. One of the conditions with the solar
17 agreement if the Project were to move forward, they're
18 able basically to install a separate solar system for
19 our pump 3. So it would be connected to the larger PV
20 system. That system would still be connected to the
21 grid and operate the power purchase agreement with the
22 utility.

23 The secondary system would be co-located
24 around pump 3, just serve water pumping which
25 basically takes some of the majority of the energy

1 costs out of your water rate which over time that
2 should definitely help the farmers make the water much
3 more affordable.

4 Q So as Kamehameha Schools' costs are
5 lowered, the farmers' costs are lower.

6 A Yes.

7 Q I wanted to stay in Kawaiiloa but now talk
8 about current and planned agricultural uses. So this
9 slide corresponds, Commissioners, to one of the
10 handouts we provided. It's identical but because this
11 one is difficult to see the detail on our PowerPoint,
12 we thought would help. I believe, Mr. Calderone, you
13 a have a copy of that. I'd like you to just take us
14 through the different existing and proposed uses of
15 the Kalaeloa area.

16 A Okay. So start with the brown areas. The
17 brown areas represent current agricultural operations.
18 These are predominately irrigated fields. And these
19 are ones that are currently in operation. The brown
20 crosshatched areas with the white background is an
21 area -- we're looking for future Ag, so it's that
22 cross-hatched with the white background sandwiched
23 between the blue and the brown.

24 The brown cross-hatched with the yellow
25 background represents future pasture areas. And so

1 that's an area we will be actively seeking farmers.

2 The orange area represents land that will
3 be leased for cattle operations. We're in the process
4 of finalizing that agreement. The blue -- the blue
5 outlined area is a -- will be leased to another cattle
6 operator. We're in the process of wrapping up that
7 agreement as well.

8 The light green area, same situation,
9 leased for another cattle operator. We're working at
10 finishing up that development agreement as well. And
11 the pink area represents pending pasture. We're
12 working with -- we're still working to find the final
13 tenant. We're going through our original
14 RFP/solicitation for cattle operators and working that
15 list to determine who will fit in that area.

16 Q And so when Kamehameha Schools has leased
17 or is in the process of leasing its lands for future
18 uses, do I understand correctly that the entire area
19 that's shaded will be part of those leases?

20 A Yes.

21 Q We've talked with you and
22 Mr. Keliipuleole about the solar component of that
23 dual use area. Mr. Keliipuleole mentioned that the
24 area will be approximately 384 acres. Is that the
25 entire leased area versus the occupied area --

1 A Yeah.

2 Q -- versus the actual occupied area? Maybe
3 explain the distinction?

4 A Yes. The footprint of the solar component
5 I want to say it's probably closer to 250. That
6 includes the whole, that would be the whole leased
7 area to include sort of a perimeter fenced areas. So
8 including all the buffers.

9 Q All right. So it's correct the actual
10 used area is roughly 250.

11 A Yes.

12 Q I wonder if we could get into a little
13 more detail about those panels and the agricultural
14 component and how they relate to the agricultural
15 component compatible with that use in the area.

16 A Yes. So as Mr. Keliipuleole indicated
17 sheep. They want to bring in a sheep operator.
18 Basically the panels will be mounted approximately 4
19 to 7 feet, or at the lowest 7 at the highest in a
20 normal layout. If they go with a single access
21 tracker, which is actually fairly likely, that's where
22 you have one point of access.

23 So it will follow the sun as it moves.
24 With the single access you're looking at the lowest
25 point of 2 feet, highest point 9 feet. Now the panels

1 are actually tilting. This is adequate clearance for
2 the sheep. Even as they move they move very slow. So
3 it's not like the sheep will be sitting there and all
4 of a sudden it starts tilting. If they move they'll
5 move very slow. The sheep will be sitting there. All
6 of a sudden it will tilt.

7 I wanted to focus to re-emphasize that.
8 When Kamehameha Schools views the leasing of this area
9 they view it as a dual use. And the Kamehameha
10 Schools is committed to the agricultural component of
11 that use. Definitely.

12 So the next thing I want to focus on the
13 last part of Kawaiiloa, is to come back to water and
14 just talk a little bit about the quantities need and
15 the quantities available. Again, this is information
16 that was provided to the Office of Planning as part of
17 their submission. But I'd like you to explain a
18 little bit for us today what your best estimate as to
19 the quantity of water needed and the capacity.

20 Q Okay. Current use is approximately 1 to 1
21 and-a-half mgd. We have adequate water to supply
22 that. Our best estimate -- well, long term the
23 capacity of the system itself is 6 mgd. So we know we
24 can support 6 mgd. So for 1 and-a-half mgd, it gives
25 us some capacity for future uses.

1 So for an example, it would be the pasture
2 tenant. On the previous map, if you have the map,
3 it's that sort of orange area in the lower left.

4 They're looking to do finished pasturing.
5 So when you're doing finished pasturing you're going
6 to irrigate those paddocks. So basically they will
7 irrigate to increase grass growth. And you can
8 actually finish off the cattle anymore in a smaller
9 area.

10 So right now 1 and 1/2 mgd system capacity
11 is 6 mgd. It gives us a lot of buffer. And over
12 time, as Mr. Keliipuleole indicated, if it's cost
13 effective we can boost water out potentially.
14 Initially the cattle operators are going to boost
15 stock water. But when you're boosting stock water you
16 don't need -- you're really boosting a very small
17 amount, just for them to drink.

18 Basically you could use little solar
19 pumps, small pipes, just to get them into the unit.
20 You can even use some catchment. So you don't have to
21 put in these big pumps. But to really irrigate it in
22 the future you'll need a pumping system and a boosting
23 system. And we'll just evaluate that at the time.

24 But right now the way we have it laid out
25 our current and future tenants it works with the

1 existing infrastructure that we have.

2 So if I understood that last comment
3 correctly, there's sufficient water to support
4 pasture, orchard of the unirrigated lands that
5 Kamehameha Schools has laid out for leasing?

6 A Yes.

7 Q And so just to tie up the water for this
8 area. As you've seen in the Office of Planning's they
9 believe there's sufficient water to support viable
10 agricultural production in the Kawaihoa area. Do you
11 agree with that conclusion?

12 A Yes.

13 Q If we could shift from Punalu'u -- or from
14 Kawaihoa to Punalu'u that is, I'd like to take us
15 through the same issues we discussed for Kalaeloa
16 starting with the farmer and community support. Did
17 Kamehameha Schools have an opportunity to speak with
18 its farmers in Punalu'u and reach out to the community
19 to discuss their views on the proposed designation?

20 A Yes. Our asset manager in Punalu'u met
21 with both the farmers as well as community members.

22 Q Were the farmers supportive?

23 A Yes. We've received numerous letters in
24 support as well as a letter in support for the
25 petition from the Punalu'u Community Association.

1 Q Did any farmers express any opposition to
2 the designation?

3 A No.

4 Q Let's talk in a little more detail about
5 the infrastructure and Kamehameha Schools' investment
6 in the Punalu'u area. So this is the same slide we
7 saw earlier with Mr. Keliipuleole and saw again on our
8 the site visit.

9 I was hoping you could take us through in
10 a little more detail, these infrastructure
11 improvements, how they relate to Ag and the cost to
12 Kamehameha Schools.

13 A Okay. Do you want me to start at 1 or you
14 want to start at a little high level first?

15 Q Sure. Or we'll go to high level first.

16 A We bascially -- up until now we spent
17 about 1.6 million on the system. And that is mainly
18 money spent on an intake -- we'll talk a little about
19 the intake as well as -- for all this piping of the
20 ditch and tunnel system to ensure that the backbone
21 critical water system stays functional.

22 We were actually having tunnels starting
23 to collapse. That's when we initially piped the
24 system. Punalu'u has no -- we don't use groundwater.
25 It's a 100 percent surface water. It's a perennial

1 stream, has adequate water. We'll talk a little bit
2 about that. So it's all gravity fed pipe system
3 through a diversion.

4 If you look at item 1 which is the stream
5 diversion intake. We spent about 609,000 on that
6 project. The project basically took an old -- what
7 you see there is completely new. We took the old
8 system which basically took all the low flow through
9 quite a bit of water, roughly half of the stream
10 water, 7 mgd or so into an open ditch system whether
11 it was used or not.

12 So this system by piping it and using this
13 new intake the stream gets all low flow. We have fish
14 ladders on the side for opu as they migrate out. It
15 shuts off for 2 hours after sunset which allows the
16 larvae to migrate downstream without getting pulled in
17 the system. We're only using water that we need
18 because it's piped. So way more water is remaining in
19 the stream with this new system.

20 So we didn't just pipe an old system. We
21 realized this area had some sensitive ecological
22 issues, especially if we're going to do a stream
23 restoration project. You might as well -- you don't
24 wanna have an impaired sort of mauka diversion if
25 you're gonna invest in repairing and restoring the

1 stream in the lower reaches.

2 Item 2 which is the ditch and flume. You
3 can see that's just laying pipe in the ditch and
4 tunnel system. We spent roughly 915,000 on that.

5 Item 3. Which is basically saying it's a
6 monitoring control system. It's a solar power.
7 That's about 30,000.

8 Item 4. Is a new ag storage facility.
9 This is in planning and design right now. Actually we
10 probably will start construction by this summer. We
11 plan to spend about 600,000 on this baseyard facility.
12 Basically the function of that facility, it's because
13 Punalu'u has about 28 farmers in Punalu'u they're much
14 smaller than you see in Kawaiiloa.

15 People have 1, 2 acres, will have multiple
16 5-acre units. But they're a much smaller footprint.
17 So we have an area where we can store equipment, have
18 some shared equipment. They can store their chemicals
19 and just maintain better control over the operation.

20 Item 5. This is the stream restoration
21 and flood mitigation area. That's also on the map.
22 We plan on spending roughly 4 and-a-half million on
23 this project for the reasons that Mr. Keliipuleole
24 indicated earlier.

25 Q So you mentioned the tenant mix, the

1 number of farmers and the diversity of farmers. So
2 let's turn to that and look at the current and
3 proposed uses of the Punalu'u area. So what we've
4 done on this map is overlaid Kamehameha Schools'
5 existing and proposed leasing plan as well as the
6 stream restoration project area over the proposed IAL
7 designation. And I believe, again, we've got a
8 handout that shows these in a little more clarity.
9 You can see from the PowerPoint.

10 Would you walk us through this map and
11 sort of explain to the Commission what it shows and
12 how it relates to Kamehameha Schools' agricultural
13 plans in the area.

14 CHAIRMAN McDONALD: Mr. Chipchase, before
15 we move forward I'm going to request we take a short
16 recess for our court reporter and allow Mr. Calderone
17 to proceed with the Punalu'u portion presentation
18 after.

19 MR. CHIPCHASE: Very good, Chair.

20 CHAIRMAN McDONALD: We'll take a 5-minute
21 recess.

22 (Recess was held.)

23 CHAIRMAN McDONALD: Back on the record.

24 MR. CALDERONE: So you can see the uses
25 are predominantly in the lower, all confined in the

1 boundary of the stream restoration project. Basically
2 uses. It's pretty much predominantly diversified ag.
3 We do have one aquaculture tenant and one pasture
4 tenant. And they're identified on the map. The
5 aquaculture tenant is a blue. You can see it on the
6 map in blue. And then the pasture tenant is down in
7 the lighter green.

8 As I understand the depiction, the entire
9 area is colored in dark green are leased and the
10 entire area is shaded in the lighter color will be
11 leased.

12 A Yes.

13 Q I want to focus on one small part of the
14 Punalu'u proposed designation. And the context for
15 that is, as you know, the Department of Agriculture
16 supported designated the entire area. But the Office
17 of Planning in its comments proposed to exclude
18 approximately 131 acres of the designation following
19 the hundred foot contour line.

20 So I wanted to focus on that portion of
21 the excluded areas or that OP would propose to
22 exclude, and ask you to explain how those lands are
23 used and will be leased and their importance to the
24 farmers.

25 A Yeah. So there's nothing in farming

1 occurring upslope mauka of the 100 foot contour.
2 Bascially if you look at the map, the handout map
3 which is this one.

4 Q The use map.

5 A Yeah, the use map. And then we can go
6 back to the other one, I'm sorry. When you look at
7 the parcels or the leasable units they're not a
8 hundred percent farmable. If you look at sort of the
9 areas down in kinda in this area here it does get a
10 little steep as you go up. But a lot of it these are
11 not areas that are mechanically harvested or farmed.
12 It's all manual. They still put -- they use them for
13 orchard crops, diversified ag.

14 They're not farming straight up to the
15 boundary. Definitely not. It is too steep. It's
16 really one is a -- we manage these as sort of
17 contiguous units. I think, you know, I would agree
18 there's probably a contour of, like 200, 250. I don't
19 know what the right number is. But it's kinda -- it
20 just seems impractical use of contour especially as
21 the lessee's trying -- if they're trying to use an IAL
22 incentive using this boundary as something convenient
23 that exists. They don't have to figure out what
24 elevation the farmer is at to determine if an
25 incentive can occur or not.

1 But that's basically, these units are --
2 some are almost a hundred percent farmable. And
3 others have lower ratios depending where they are on
4 the plantation -- or on the site.

5 Q As part of making them farmable I wanted
6 to look specifically at the water delivery capacity
7 and the water delivery system. So what we've put up
8 here is an overlay of the water delivery system onto
9 the proposed ag designation for Punalu'u.

10 And I was hoping you'd talk to us about
11 the best estimate as to the need, the delivery
12 capacity and how far this system can transport water
13 throughout the Punalu'u area.

14 A Yeah. The system has a capacity of about
15 4 and-a-half to 5 mgd. That's in the pipe, the main
16 pipe artery that comes off the intake. Currently
17 we're using around 1 and-a-half to 2 and-a-half mgd.
18 Where we go with the ultimate uses depend on obviously
19 crops types. Orchard would be a lot less. There is
20 some plans to open up more wet lo'i. So if you open
21 up more wet, flooded lo'i, kalo, that will probably
22 increase the use. So it'll depend on the mix of the
23 future tenants on where we're sort of restricted.

24 We definitely have enough water to do a
25 hundred percent lo'i expansion and flooded. We could

1 go dryland expansion. Basically we have about 2
2 and-a-half mgd buffer to work with.

3 Q And in terms of the delivery, as I looked
4 at the map it appears that the delivery system makes
5 water available all the way down to the far end of the
6 Kahana side of the Punalu'u area; is that correct?

7 A Yes.

8 Q Let's focus on water a bit longer. The
9 Department of Ag has concluded there's abundant
10 irrigation water supply. Do you agree with that
11 assessment?

12 A Yes.

13 Q And in addition Punalu'u receives
14 significant rain I understand; is that right?

15 A Yes. Between 65 inches and 120 inches.

16 Q And, just finally, Mr. Calderone, I wanted
17 to just talk a little bit more about the stream
18 restoration project, really just looking at the
19 timeline and what you expect to be the benefits of
20 that project.

21 A Yeah. Hoping to get permits by this
22 September. That might be a little optimistic, but
23 sometime this year. Basically the Project itself, we
24 talked through some of the benefits earlier.
25 Mr. Keliipuleole described some of them. Definitely

1 restoring the stream to its natural flood plain, its
2 natural meandering state is one.

3 So restoring the ecological function,
4 creating settling basins to help reduce flooding,
5 which a main benefit is ensuring that the ag lands
6 that are outside of the stream restoration project do
7 remain drier, do not experience flooding.

8 One of the problems we have today is when
9 the stream sort of breaches sort of the berms, it'll
10 start flooding the ag lands today.

11 So it is pretty devastating to a farmer
12 that does experience flooding. So the benefit of the
13 project will definitely be whatever is sort of
14 long-term diversified ag will not experience this
15 periodic flooding.

16 We'll also create new farm parcels for
17 taro and orchard crops within the flood plains. We're
18 gonna look for appropriate agricultural uses within
19 the flood plain because 90 -- I don't know the exact
20 number, but 90, 95% of the time it'll basically be
21 dry. Because it's not a huge watershed so what it
22 does you get a sort of a flashing. It comes in pretty
23 quick and then it's gone.

24 So it's not like we're gonna look for
25 areas that can support farming and still, a banana

1 that can still work to survive periodic flooding.

2 And then ultimately we're looking to
3 creating new wetland areas for birds and native
4 species we talked a little about earlier.

5 MR. CHIPCHASE: Thank you. I have no
6 further questions.

7 CHAIRMAN McDONALD: Commissioners, any
8 questions?

9 COMMISSIONER CLENDENINN: You just talked
10 about the restoration, the stream restoration. Just
11 curious. Can you go into it a little bit more? I
12 noticed there's one area that's sort of separated.
13 Also I was wondering about runoff from fertilizers and
14 other things. What will happen in those situations?

15 MR. CALDERONE: Okay. So the stream with
16 the best map (off mic) --

17 CHAIRMAN McDONALD: Mr. Calderone, could
18 you take the mic with you.

19 MR. CALDERONE: Oh, yeah -- is this area
20 right here. We talk about the stream restoration. It
21 doesn't go all the way up. We're looking at basically
22 kind of near the baseyard facility makai. What it'll
23 do, basically historically that stream has been
24 impaired. We've had a previous tenant that actually
25 straightened the stream, actually channelized it.

1 Basically they did that to increase the maximized
2 amount of ag land usable and literally built these big
3 berms. Short of concreting it, sent it straight to
4 the ocean.

5 So we tried to restore it. It was never
6 fully restored. The project was intended to restore
7 the stream in its ecological functioning state. It is
8 -- it does have the unfortunate impact it is in the
9 nice slower reaches. It does take up some of the ag
10 land. But ultimately I think the benefit is we will
11 be able to do ag in it. We'll ensure the remaining ag
12 land remains dry and not prone to flooding.

13 And it will just really -- it really
14 restores the ecological health of the ahupua'a. The
15 stream's restoration along with ag were two critical
16 projects in the ahupua'a plan and that the community
17 was in strong support of helping restore the health of
18 this area.

19 MR. KELIIPULEOLE: Just to follow up on
20 that. That one area where you have some farming
21 there's also houses?

22 MR. CALDERONE: It's kind of hard to
23 describe it. There's a -- I'll get the mic. It might
24 be a little -- you can see a little bit here, this
25 kinda grayish area we don't own it. That's a

1 subdivision. There's a lot of embedded kuleana in
2 there. This is a country-zoned parcel that's actually
3 down here, Keneki's Restaurant. It's a plate lunch
4 place down there.

5 COMMISSIONER CLENDENINN: So is it mostly
6 farming in that area or housing?

7 MR. CALDERONE: It's mainly housing.
8 And it will or will not be affected by the
9 restoration. Best map. I don't know if we have
10 another exhibit that depicts it any better, do we?

11 CHAIRMAN McDONALD: Mr. Chipchase, before
12 we move forward I'm going to request that we take a
13 short recess for our court reporter.

14 (10:30 recess)

15 MR. CHIPCHASE: Thank you, Mr. Chairman.

16 CONT'D EXAMINATION

17 BY MR. CHIPCHASE:

18 Q Mr. Calderone, when we took a break we
19 were talking about the existing Use map. I was just
20 hoping you could orient us to the map and just quickly
21 walk us through it.

22 A Okay. The yellow lines that you see are
23 sort of the farming units that we have. These are the
24 farming parcels. If you look at the letters -- it's
25 hard to see but if you reference the map you look at

1 the at the letters the E is an existing license or
2 lessee or in the process of wrapping one up. P is
3 future plan agriculture where we actually spent money
4 clearing and looking to solicit a tenant. And the S.
5 is will be impacted by the stream restoration project.
6 So you can see the "S"s are predominantly in the lower
7 or confined to the boundary of the stream restoration
8 project.

9 The types of uses: Basically it's pretty
10 much predominantly diversified Ag. We do have one
11 aquaculture tenant and one pasture tenant. They're
12 identified on the map. The aquaculture tenant is in
13 blue. You can see it on the map in blue. The pasture
14 tenant in the lighter green.

15 Q As I understand the depiction, the entire
16 area is colored in dark green are leased and the
17 entire area is shaded in the lighter color will be
18 leased.

19 A Yes.

20 Q I wanted to focus on one small part of the
21 Punalu'u proposed designation. The context for that
22 is, as you know, the Department of Agriculture
23 supported designating the entire area. But the Office
24 of Planning in its comments proposed to exclude
25 approximately 131 acres of the designation following

1 the hundred foot contour line. So I wanted to focus
2 on that portion of the excluded areas that OP would
3 propose to exclude, and ask you to explain how those
4 lands are used and will be leased and their importance
5 to the farmers.

6 A Yes. So there's no farming occurring
7 upslope mauka of that hundred foot contour. Basically
8 the tenants -- so if you look at the map that -- the
9 handout map, which is this one if you guys have
10 reference.

11 Q The use map.

12 A Yeah, the use map. And then you can go
13 back to the other one. Sorry about that but I'm just
14 trying to reference. When you look at the parcels are
15 the leasable units, they're not a hundred percent
16 farmable especially if you look at sort of the areas
17 down in kind of this area over here (indicating wall
18 map). It does get a little steep as you go up. But a
19 lot of it, these are not areas that are mechanically
20 harvested or farmed. It's all manual. They still use
21 them for orchard crops, diversified ag. They're not
22 farming straight up to the boundary. Definitely not.
23 It is too steep.

24 It's really one is we manage to use sort
25 of a contiguous units. So I think I would agree

1 there's probably a contour that might, maybe it's 250
2 or I don't know what the right number is. But it kind
3 of just seems a practical use of a contour especially
4 if the lessee is trying to try to use an IAL incentive
5 using the boundaries something convenient that exists.
6 They don't have to figure out what elevation of
7 farmers is that to determine if an incentive can occur
8 or not.

9 But that's basically, you know, these
10 units are some, are almost a hundred percent farmable
11 and others have lower ratios depending where they're
12 on the site.

13 Q As part of making them farmable, I wanted
14 to look specifically at the water delivery capacity
15 and the water delivery system. So what we've put up
16 here is an overlay of the water delivery system onto
17 the proposed Ag designation for Punalu'u. And I was
18 hoping you'd talk to us about the best estimate as to
19 the need and delivery capacity how far this system can
20 transport water throughout the Punalu'u area.

21 A Yeah. The system has a capacity of about
22 4 and-a-half to 5 mgd. So that's in the pipe, the
23 main pipe artery that comes off the intake. Currently
24 we're using around 1 and-a-half to 2 and-a-half mgd.
25 Where we go with the ultimate use is dependent on

1 obviously crop type. Orchard would be a lot less.

2 There is some plans to open more lo'i. So if we open
3 up more lo'i, flooded lo'i, kalo that will probably
4 increase the use. So it will depend on the mix of the
5 future tenants where that, where we are sort of
6 restricted. Because we definitely don't have enough
7 water to do a hundred percent lo'i expansion. At
8 least we're flooded. We could go dry land. Basically
9 we have about 2 and-a-half mgd buffer to work with.

10 Q In terms of the delivery is that what the
11 map appears that the delivery system makes water
12 available all the way down to the far end of the
13 Kahana side of the Punalu'u area, is that correct?

14 A Yes.

15 Q Let's focus on water a bit longer. The
16 Department of Ag has completed there's abundant
17 irrigation water supply. Do you agree with that
18 assessment?

19 A Yes.

20 Q And in addition Punalu'u receives
21 significant rain I understand, is that right?

22 A Yes. Between 65 and 120 inches per year.

23 Q Just finally, Mr. Calderone, I wanted to
24 talk a little bit more about the steam restoration
25 project really just looking at the timeline and what

1 you expect to be the benefits of that project.

2 A Yeah. Hoping to get permits by this
3 September. It might be a little optimistic but
4 sometime this year. Basically the project itself, we
5 talked through some of the benefits earlier.

6 Mr. Keliipuleole described some of them
7 definitely restoring its stream to its natural flood
8 plain, its natural meandering state. So restoring its
9 ecological function, creating settling basins to help
10 reduce flooding which a main benefit is ensuring that
11 the ag lands that are outside of the stream
12 restoration project do remain dry or do not experience
13 flooding.

14 One of the problems we have today is when
15 the stream sort of breaches the berms it will start
16 flooding the ag lands today. So it is pretty
17 devastating to a farmer that does experience flooding.
18 So the benefit of the project will definitely be
19 whatever is, insert, long-term diversified ag -- will
20 not experience this periodic flooding.

21 We will also create new farm parcels for
22 taro and orchards within the flood plains. We're
23 going to look for appropriate agricultural uses within
24 the floodplain. Because 90 -- I don't know the exact
25 number -- 95, 90 percent of the time these areas,

1 probably 95, will basically be dry. Because it's not
2 a huge watershed. So when it does you get sort of a
3 flashing. It comes in pretty quick and then it's
4 gone. So it's not like we can look for areas that can
5 support farming and still, you know, banana that can
6 still survive periodic flooding. Then ultimately
7 we're looking to create new wetland areas for birds
8 and native species.

9 MR. CHIPCHASE: Thank you. I have no
10 further questions.

11 CHAIRMAN McDONALD: Commissioners, any
12 questions? Commissioner Clendeninn.

13 COMMISSIONER CLENDENINN: Let's just talk
14 about the stream restoration. Just curious. Can you
15 go into it a little bit more? I notice there's one
16 area that's sort of separated. Also talking about
17 runoff from fertilizers and other things what will
18 happen in those situations.

19 THE WITNESS: So the stream -- it's best
20 not -- I don't know if you can see it on this map. I
21 don't think we have another exhibit. Stream
22 restoration area is basically --

23 CHAIRMAN McDONALD: Mr. Calderone, would
24 you take the mic with you. (going to wall maps)

25 THE WITNESS: Oh, yeah. Is this area

1 right here. We talk about the stream restoration. It
2 doesn't go all the way up. We're looking at basically
3 kind of near the baseyard facility makai. What it
4 will do basically historically that stream has been
5 impaired.

6 We've had a previous tenant that actually
7 straightened the stream that actually channelized it.
8 Basically that did that to increase and maximize the
9 amount of Ag land useable. And built these big berms
10 and short of concreting it, sent it straight to the
11 ocean. They were cited. Tried to restore it but it
12 was never fully restored.

13 This project is intended to restore the
14 stream to its ecological functioning state. It is --
15 it does have the unfortunate fact it isn't in nice
16 lower reaches. It does take up some of the Ag land
17 but ultimately I think the benefit is we will be able
18 to do Ag in it. We'll ensure the remaining Ag land
19 that we have remains dry and not prone to flooding.
20 And it'll just -- it really restores the ecological
21 health of that ahupua'a which one of the -- the stream
22 restoration along with Ag were two critical projects
23 in the ahupua'a plan that the community was in strong
24 support of helping restore the health of this area.

25 COMMISSIONER CLENDENINN: Just to follow

1 up. Then that one area where you have some farming it
2 looks like there's also houses down there? Can you
3 tell me?

4 Q I'm sorry, which area?

5 COMMISSIONER CLENDENINN: It's kind of
6 hard to describe.

7 MR. CALDERONE: (mic on) Well, you could
8 see a little bit here. This kind of grayish area here
9 we don't own it. That's a subdivision. There's a lot
10 of embedded kuleana in there. This is a country zoned
11 parcel. It's actually Keneki's Restaurant, is a plate
12 lunch down there.

13 COMMISSIONER CLENDENINN: So is it mostly
14 farming in that area or housing?

15 THE WITNESS: It's mainly housing.

16 COMMISSIONER CLENDENINN: It will or will
17 not be affected by the restorations?

18 THE WITNESS: No. There'll be affected
19 such that they won't experience much flooding. So
20 they should benefit. So the ultimate -- the project
21 threshold is it can't increase flooding for the area.
22 So basically anything we do with that stream
23 restoration Project you can only keep it the same or
24 reduce flooding for adjoining properties.

25 CHAIRMAN McDONALD: Commissioner Aczon.

1 COMMISSIONER ACZON: I just want to go
2 back to the OP's comment about the excluding the
3 approximately 131 acres because of the slope and poor
4 conditions. Can you think of any other uses for that
5 area?

6 THE WITNESS: Yes. I think if you raise
7 the contour -- I mean I don't want to get into the
8 acreage. I think we have a different view of the
9 final acreage. But ultimately there is land that's
10 not. It is going to be difficult to farm in the
11 margins. In the more sloped areas they tend to plant,
12 like I think orchard crops, you could do maybe mamake.
13 There's things you could plant in there.

14 But ultimately there are going to be areas
15 that you cannot plant. They're just too steep. But
16 they are gonna manage it as well. The reason why they
17 want to manage it and keep vegetation on it is also
18 for just erosion control and part of their soil -- we
19 actually do have a soil conservation plan for the
20 whole farming area through NRCS.

21 So each farmer is gonna take a different
22 view. Some will be a little more -- I don't want to
23 say aggressive, but, maybe they're in better shape.
24 They can handle the steeper areas and others will
25 probably be less aggressive in what they plant in

1 those areas.

2 COMMISSIONER ACZON: I'm trying to kind of
3 think of, maybe OP can explain on the downside. If it
4 includes these acres to the Petition what's the
5 downside for the state?

6 THE WITNESS: Yeah. And I think one of
7 the things earlier -- the problem -- the hard part of
8 a contour is when you set up a parcel and you pick a
9 contour, but surveying the contour. So when you look
10 at sort of these farming units across these contours,
11 it's hard to -- I don't know what the county
12 incentives are gonna be and what the regulations will
13 say.

14 So if a farmer has a unit and they want to
15 take advantage of incentive are they going to have to
16 be in a position to say, "Wait. This is being used
17 below 250 feet." It just seems from a practical
18 perspective it's hard to manage. I think the contour
19 approach to it.

20 COMMISSIONER ACZON: Thank you. Just a
21 clarification. I just want to compare about the
22 Petitioner waiving any, all rights to credits.

23 THE WITNESS: Yes. We are waiving the
24 15 percent D class credits in this Petition.

25 COMMISSIONER ACZON: Who enforced them if

1 there is...?

2 THE WITNESS: If we try in the future?

3 COMMISSIONER ACZON: Try in the future.

4 MR. CHIPCHASE: Commissioner, it's part of
5 our Proposed Findings of Fact, Conclusions of Law and
6 Decision and Order, the waiver.

7 COMMISSIONER ACZON: That's all. Thank
8 you, Mr. Chair.

9 CHAIRMAN McDONALD: Commissioner Scheuer.

10 COMMISSIONER SCHEUER: Mr. Calderone,
11 three questions. The first two regarding water. If I
12 understand correctly particularly in Punalu'u, rather
13 than your previous lessee who really sought to
14 maximize the amount of withdrawn water and then
15 maximize the amount of Agricultural land, the approach
16 Kamehameha Schools has taken in this case is actually
17 to first look at what could be appropriately,
18 responsibly diverted from the stream while protecting
19 the instream uses of water and then saying: "Okay.
20 Given that much water that's available we can irrigate
21 this much land?"

22 THE WITNESS: Yes. Actually that's a
23 great way. You described it very well. It's the
24 balancing mechanism we use is not about optimizing Ag
25 production per se because you do it as a tradeoff so

1 doesn't cost the ecosystem. We trying to do a
2 balance, see what's available from a water
3 perspective. See what the environmental needs are
4 then try to figure out what is the right balance.

5 So we feel we struck a good balance
6 between use of water, agricultural needs as well as
7 stream ecology.

8 COMMISSIONER SCHEUER: Is that the same
9 approach in Kawaihoa?

10 THE WITNESS: Yes. Kawaihoa, same thing.
11 Kawaihoa they don't take as much. Those are more. I
12 think they're still considered perennial. Punalu'u
13 just has an abundance of water because of its
14 location. So in Kawaihoa, the same thing. When we
15 looked at designing the system, I think I said the
16 ditch capacity is about 6 mgd. Historically I think
17 even pump 3 they were rated up to 15 mgd. So we
18 didn't design it for sort of max use.

19 COMMISSIONER SCHEUER: Regarding Punalu'u.
20 If this Petition is granted, since you've already
21 reduced the amount of water you're withdrawing from
22 Punalu'u Stream.

23 THE WITNESS: Yes.

24 COMMISSIONER SCHEUER: Do you anticipate
25 going to the Water Commission to increase the interim

1 in-stream flow standard for that stream to match what
2 you're leaving in the stream now?

3 THE WITNESS: Yeah. You know we -- the
4 short answer is I don't know. We talked about setting
5 an interim instream flow standard. Then it sort of --
6 we never -- with the community. It never got -- there
7 was never a final agreement how we want to do that. I
8 don't think we have a problem doing that. It's just
9 it was not something we intended to do in a short
10 term. But I don't know see why we wouldn't do it. I
11 mean it is what it is. This is our system. I don't
12 see why we would do it. I think it was smart
13 administratively.

14 COMMISSIONER SCHEUER: Okay. And finally,
15 during the site visit it was pointed out that within
16 the IAL Petition Area on this brown shaded map in
17 Figure 2 to the OP comment letter, there were some
18 Native Hawaiian cultural sites, I believe both old
19 lo'i terraces as well as at least the remains of a
20 heiau.

21 THE WITNESS: Yes.

22 COMMISSIONER SCHEUER: How, in your
23 management, does Kamehameha Schools ensure the
24 protection of those cultural sites from farming
25 activities?

1 THE WITNESS: Yes. So if the site is
2 included in a lease area that will be buffered through
3 that agreement. Sometimes we create enclaves. We
4 sort of buffer around it. What we've done and
5 especially where there's agricultural complexes, we
6 actually are looking to actually reuse it, reopen it
7 just create -- instead of sort of putting a sort of
8 fence around it we're actually want to engage an
9 archaeologist to sort of figure out what was there,
10 what are the limits of it.

11 And then possibly repurpose it as a
12 current sort of modern agricultural functioning system
13 that was based on historical traditional complex.

14 So we would look for the appropriate use.
15 So if it was a lo'i complex whether it be dryland, we
16 would try to repurpose it as dryland lo'i not just
17 obviously scrape it and then banana or --

18 COMMISSIONER SCHEUER: But if it was a
19 religious site or another kind of site you might be
20 excluding those from these?

21 THE WITNESS: Yeah, those would probably
22 be excluded, yes. And they would be integrated. One
23 of the big themes for the Punalu'u ahupua'a was
24 education. So even our lo'i system that if you
25 remember when we drove up there was a lo'i complex to

1 the right of one of the roads you kinda looked down.
2 That was our UH Kapapa Lo'i program that they bring in
3 students and they work in the lo'i. And we bring in
4 --I can't remember the exact amount, but lots of
5 students through that site.

6 So education is a big theme, trying to
7 integrate education whether there be farmer education,
8 traditional sort of land management, cultural sort of
9 education. What is a big part of our ahupua'a
10 management plan. And engaging community as part of
11 this, and integrating it into the management of the
12 area.

13 COMMISSIONER SCHEUER: Thank you.

14 CHAIRMAN McDONALD: Commissioners, any
15 other questions? (pause) Mr. Calderone, just a
16 question of curiosity on my part. Any discussions or
17 thoughts about including agricultural tourism as part
18 of your plan?

19 THE WITNESS: Yes. This site not
20 interior. There has been talk about it. We look at
21 long term we would like to have, build the processing
22 facility closer to Kamehameha Highway. Probably have
23 a farmers market. So there's an area of distribution
24 for the farmers if they elect to go that route if they
25 want to distribute to farmers market or use the

1 processing facility.

2 And then just see, sort of agritourism.

3 It wouldn't be sort of, you know, not -- it would

4 be -- it could be a farm sort of issue. We're looking

5 at farmers market. They can observe the processing.

6 And then just figure out what's appropriate. So I

7 could see in the future layering agritourism into it.

8 But it's not a central component of the plan.

9 CHAIRMAN McDONALD: Great. Thank you.

10 Thank you for your testimony. Mr. Chipchase, your
11 final witness?

12 MR. CHIPCHASE: Yes. Chair, our final
13 witness is Tom Witten.

14 THOMAS WITTEN

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

17 THE WITNESS: Yes.

18 CHAIRMAN McDONALD: Please state your name
19 and your address.

20 THE WITNESS: Tom Witten, 2277 Halakau
21 Street, Honolulu, Hawai'i, 96821.

22 CHAIRMAN McDONALD: Thank you,
23 Mr. Witten.

24 DIRECT EXAMINATION

25 BY MR. CHIPCHASE:

1 Q Mr. Witten, you're an old hand at this,
2 but for the benefit of the record could you please
3 just briefly describe your present position, your
4 educational background.

5 A Yes. I've been working with PBR Hawai'i
6 for coming up on 35 years as a landscape planning,
7 land planning, community planning, environmental and
8 landscape architectural firm practicing primarily in
9 Hawai'i. I've been the past president and currently
10 chairman. And am principal planner on mostly larger
11 scale, resource management, regional planning types of
12 projects for both county, state and private sector
13 clients.

14 Q I'm sorry if I missed it, but your
15 education?

16 A I have my degree in Landscape Architecture
17 from the University of California Berkeley.

18 Q Do I understand correctly you're also a
19 Fellow?

20 A Yeah, I became inducted as a Fellow of the
21 American Society of Landscape Architects last year.

22 Q How many of the Important Ag Land
23 petitions have you been involved in in the state?

24 A I've been involved in six of the seven
25 petitions that have been approved.

1 Q Can you described just generally your role
2 and your firm's role in the preparation of the
3 petitions.

4 A Certainly. As some of the land planners
5 involved in those petitions we typically on important
6 ag land assessments we prepare an agricultural land
7 assessment of the Petitioner's lands and then prepare
8 the supporting documentation to quantify and identify
9 how those proposed lands, proposed IAL lands, are
10 consistent with the characteristics and criteria put
11 forward by the Legislature.

12 Q As part of those petitions in your other
13 work before the Land Use Commission have you ever been
14 qualified as an expert before?

15 A Yes. On numerous occasions I've been
16 qualified as a land planner and environmental planner
17 before the Commission.

18 MR. CHIPCHASE: Mr. Chair, I would offer
19 Mr. Witten as an expert in land planning and
20 environmental planning.

21 CHAIRMAN McDONALD: Mr. Witten, we're
22 familiar with your expertise and so granted.

23 MR. CHIPCHASE: Thank you, Chair.

24 Q Mr. Witten, did you assist with Kamehameha
25 Schools present petition for the designation of lands

1 as Important Agricultural Lands?

2 A Yes. We've engaged with Kamehameha
3 Schools probably close to 2 years now looking at their
4 agricultural resources in context with their strategic
5 Ag Plan both statewide and focusing on how their
6 agricultural resources can benefit from their
7 Important Ag Lands approach put forward by the
8 Legislature.

9 I think last year we completed the Kauai
10 Petition for about 190 acres with Kamehameha Schools
11 and O'ahu was next on their list of advancing this
12 effort.

13 Q So focusing on the O'ahu component of the
14 effort in this Petition in particular, can you help us
15 understand from a planning and environmental land
16 planning perspective why these lands were selected for
17 Important Ag Land designation?

18 A I think we've, similar to the Legislature,
19 we've taken a relatively holistic approach in
20 assessing both the historic use and current use and
21 planned use in both these areas. As Mr. Keliipuleole
22 and Mr. Calderone testified they have invested
23 significant investments in primarily ag-related
24 infrastructure.

25 So the focus became looking at, consistent

1 with their strategic ag plan, to really look at in the
2 long term in perpetuity how these lands should be
3 managed from that perspective.

4 Historically they were managed as an
5 ahupua'a from mountain to sea. And similarly
6 Kamehameha Schools approaches that integrated land
7 management approach.

8 So we've looked at all the both the county
9 and state land use framework plans that affect these
10 lands. And came to the conclusion that the proposed
11 IAL were consistent with the characteristics and
12 standards put forth by the Legislature. And from a
13 planning perspective and land management perspective
14 made perfect sense.

15 Q So let's talk about certain aspects of
16 that holistic approach. And one is the soil qualities
17 and growing conditions. So we put up here on the
18 screen our figures 3A and 3B to our Petition. Just
19 very briefly describe what these figures show and that
20 rating system.

21 A Yes. The Land Study Bureau, University of
22 Hawaii classification system basically ranks lands
23 from A to E on productivity levels. So A being the
24 best an E being the least productive. Typically and
25 as illustrated here, the lower reaches and those lands

1 that have established irrigation systems are rated A.

2 B. Are still quality lands that may not
3 have irrigation.

4 C. Gets into areas that are a little more
5 marginal.

6 And D. Are typically more constrained
7 lands such as deep slopes, gulches or drainageways.
8 But the size, just the A, B, C, D, E ratings you'll
9 find, and this was similar to our Kaua'i petition, the
10 Windward lands that have a lot of rainfall, the soil
11 ratings are typically a lot lower.

12 So in the case of Punalu'u you'll see
13 there's very little B class land and most of it's C, D
14 and E. But as you saw on the field trip and as this
15 site has been historically used, it is sort of the
16 bread basket of that Windward side. So just because
17 of the soil classifications and productivity ratings
18 under the LSB rating doesn't mean that these lands
19 can't be very productively farmed.

20 Q So you mentioned low-rated lands on prior
21 petitions. So I was wondering is it common for C, D
22 and E lands to be included as Important Agricultural
23 Lands?

24 A Yes. I think we took a quick look at
25 some of the other petitions we've done. And as an

1 example Parker Ranch. Over 50,000 acres were
2 designated IAL. But almost 95 percent of it is C, D
3 and E lands. But it is a large, contiguous pasture
4 ranch operation on the Big Island that doesn't have
5 the soil qualities, but it's still a very productive
6 and considered very important within the context of
7 the State agricultural goals that that land be
8 afforded the IAL designation and participate in
9 whatever incentives come forward.

10 Q So let's turn to another aspect of
11 productivity. And that's solar radiation. These on
12 the screen now are Figures 4A and 4B from our
13 Petition. If you could briefly describe them and what
14 those studies show.

15 A Yeah. They basically show the levels of
16 solar radiation that are annualized for the lands. On
17 the left of the screen you'll see Kawaiiloa area being
18 very high in the 450, I think it's calories per, I
19 forget what the rating is. It's a measure of the
20 solar radiation on the site.

21 Punalu'u, more Windward, more cloud cover
22 drops down to the 300 to 350. But is still very
23 favorable for agricultural production.

24 Q Then turning to another aspect of the
25 Petition and that is the rating under the Agricultural

1 Lands of Significance in the state of Hawai'i, the
2 ALISH ratings. We've put on the board figures 5A and
3 5B from our Petition. I was hoping you could briefly
4 explain what these figures show.

5 A Again, the ALISH system was developed by
6 the Department of Agriculture back in 1977. The
7 primary criteria were the soil qualities and existing
8 use. At that time most of the plantations were still
9 very productive. So you'll see in the Kawaiiloa area
10 most of the lands are highlighted as Prime. There's
11 Prime, Unique and Other.

12 The Unique lands are those lands that have
13 unique qualities such as low lands for taro and lo'i
14 and the like. And other lands or those lands that may
15 not have irrigation, but still might be productive or
16 may have some slope constraints or other constraints
17 that they can still be very productive agriculturally,
18 but just takes some additional management.

19 Again, on the Punalu'u side, you'll see
20 most of the lower sloped areas are covered. Those
21 were primarily in sugar production that delineated
22 those limits at that time.

23 The upper mauka portion which isn't
24 designated is an area that on the mapping just wasn't
25 covered under the various quad maps that were mapped.

1 It's not that those lands aren't rated. They just
2 weren't covered under the survey and work that the
3 Department of Ag had and we had access to.

4 Q If you look on the figure of the Punalu'u
5 picture and we look at the other rated lands, it
6 appears that the other rating on the ALISH goes above
7 the hundred foot contour. Is that right?

8 A Correct.

9 Q Your experience on prior petitions, is it
10 common to have lands that are either unrated or rated
11 'other' to be included as Important Agricultural
12 Lands?

13 A Yes. On many of the petitions there were
14 drainageways, steep portions on the site that were
15 included in the IAL designations and approved by the
16 Commission. And it's looked at more from a, as I
17 mentioned earlier, sort of the land management and
18 stewardship responsibilities that you wouldn't want to
19 isolate certain lands that have a less than ideal
20 condition from the responsibility of, say, the tenant
21 farmers as far as how they manage those lands.

22 I think Kamehameha Schools in their
23 licenses and leases address that from a land
24 management and stewardship responsibility. So I think
25 in this case we've taken that sort of broader

1 perspective and have included some lands that
2 obviously wouldn't be farmed but are still integral to
3 the agricultural operations.

4 Q And so do these other lands that may not
5 be farmed, can they also assist with watershed
6 management and access and those types of issues that
7 relate directly to farming of the other lands?

8 A Yes. In many cases like in Kawaiiloa when
9 we did the field survey, you saw as we got up to the
10 mauka lands it got a lot more fragmented with gulches
11 and ravines. Those lands have been out of production
12 for over 15 years.

13 And you could see the kind of growth that
14 albizia and other invasive species that have taken
15 over which at one time that was all cane production,
16 sugar production.

17 So I think it's the integration of the
18 watershed and management of those drainageways that
19 functioned to drain the more productive lands as
20 integral. And many of the accessways go through
21 there. The irrigation systems go through those
22 gulches and the like.

23 Q And so I wanted next to focus a little bit
24 on the infrastructure and really just to put it in
25 context since you've worked on so many Petitions for

1 Important Agricultural Lands. We've spent a lot of
2 time talking about, looking at the improvements that
3 Kamehameha Schools has made to these lands.

4 I wondered from your broader perspective,
5 having done this many times, what degree of investment
6 has Kamehameha Schools made relative to other
7 petitions you've seen?

8 A From my perspective looking at the work we
9 worked on, a lot of the other IAL petitions have been
10 the land managers and operators of the larger scale
11 plantations. I think Grove Farm's case served in a
12 similar transitional role of taking over previously
13 plantation land.

14 But in the case of Kamehameha Schools
15 where for over a hundred years it was in sort of
16 plantation scale agriculture. They inherited a lot of
17 infrastructure that required a lot of maintenance.
18 Once they've gotten their arms around assessing the
19 needs and how to put these lands into productive use,
20 they've kind of stepped out in front and made these
21 investments, significant investments as we've
22 outlined.

23 And so on the site visit to make these
24 lands on the long-term a very viable agricultural
25 operation. And their challenge has been to find the

1 farmers to get on the land and put them back into
2 production.

3 But as you saw from the previous testimony
4 they have most of the areas planned and licensed or
5 leased to be put into production. And I think over
6 the years hopefully the IAL incentives will further
7 enhance those farmers' ability to make a go of
8 agriculture.

9 Q You mentioned about Kamehameha Schools
10 plans. And we've certainly talked a lot about that
11 today. I hopping we could turn just briefly to the
12 state and county planning for the areas and see how
13 the proposed designation fits within those plans?

14 A Yeah. This Exhibit Figure 8A and 8B that
15 we're referring to is the State Land Use boundary
16 maps. As you'll note for many of the boundaries of
17 our proposed IAL we've utilized the Conservation
18 boundary or the extent of the Agricultural lands.

19 So on the upper areas of Kawaiiloa as an
20 example and the upper reaches up Opaelua, part of
21 Kawaiiloa, it's really Anahulu Valley is the only
22 conservation lands that dissects that which is a
23 large, a large valley. Even down in the lower reaches
24 of Anahulu Valley there are some ag lands that provide
25 some contiguous connections between Opaelua and

1 Kawaihoa. But those lands are being studied under the
2 specific management plan 'cause there's a lot of
3 cultural sites with that valley.

4 So Kamehameha Schools is approaching that
5 as a separate resource management challenge.

6 But typically and similar to Punalu'u the
7 State Land Use boundaries and county zoning go up to
8 the extent of the lands we have proposed for IAL to be
9 consistent with those designations.

10 Q So you mentioned the county zoning. So we
11 just put up figure 7A and B from the Petition showing
12 some of the planning for both of those areas?

13 A Yeah. These exhibits are the North Shore
14 Sustainable Community's Plan land use map and also the
15 Ko'olauloa Sustainable Community's Plan land use map.
16 Again, consistent with those sort of regional planning
17 documents our proposed IAL is consistent.

18 The County had some concerns, expressed
19 some concerns about the preservation designations in
20 Punalu'u. But we clarified with them that's primarily
21 the stream restoration area. And that in actuality
22 these maps are very conceptual. But in actuality a
23 lot of those lands are either being farmed or can be
24 farmed especially after the stream restoration and the
25 permitted uses that preservation allow for pasturage

1 and agricultural uses. So there wasn't any concern
2 there.

3 Q So, lastly, in terms of city and county
4 planning you've taken a look at the city's efforts to
5 identify Important Agricultural Lands and the top 3
6 and top 4 criteria that the city had used. And you
7 transformed those criterion into a composite here
8 showing the lands that we propose at Kawaiiloa and
9 Punalu'u and how those lands are consistent with the
10 City's proposed criteria as well.

11 I was hoping you could just briefly
12 explain what you did and what your figures, Figures 9A
13 and B to the Petition show.

14 A Yes. The City and County has embarked on
15 their Important Ag Lands identification process. They
16 completed their first phase which started looking at
17 the key criteria that the state put forward and tried
18 to rank those and elevate which ones they thought were
19 most important.

20 So they came up with a map, generalized
21 map for the island that shows, you know, which lands
22 meet three of the highest criteria and which lands
23 meet four of the highest criteria and so forth, all
24 the way down from 4 out of 4, down to 1 out of 4 and 1
25 out of 3 to 3 out -- 3 out of 3 to 1 out of 3.

1 So in both cases all the proposed, what's
2 highlighted here is all the proposed IAL lands
3 typically fall within those categories. These are
4 just the top criteria. So that doesn't mean there's
5 also criteria that's put forth in the criteria of
6 characteristics as the State put forward to define
7 IAL.

8 So it just shows generally their first
9 phase that we're very consistent with what they are
10 visioning as candidate lands. They haven't -- they're
11 just embarking on their Phase 2 which will hopefully
12 get them all the way down to designating what they
13 would come forward to the Commission, first to the
14 County Planning Commission and ultimately the Land Use
15 Commission, on what they would be requesting be
16 designated Important Ag Lands for the county.

17 Q So in speaking of the City and County, The
18 City's comment letters expressed no objection to the
19 designation but did ask a question regarding the role
20 of these lands in maintaining the critical land mass
21 of agricultural land for the State of Hawai'i.

22 I was hoping that you could provide that
23 overview for us today.

24 A I think it kind of speaks to some of my
25 earlier comments about how these lands had been

1 historically used and managed both from an historic
2 ahupua'a perspective of land management and
3 stewardship. And more recently and historically from
4 the agricultural operations, the integration of the
5 water systems, the improvements of the delivery
6 systems to be as efficient as possible. And really
7 looking at it as a management tool.

8 The Important Ag Lands is really sort of
9 an overlay on the Agricultural District from a state
10 perspective. But as the county and the state provided
11 some incentives. But as the county goes through their
12 IAL they're also mandated to look at it and come up
13 with incentives that will further enhance the,
14 hopefully the viability from an economic perspective
15 that the farmers can benefit from.

16 So we've taken that sort of holistic
17 approach and recognized, you know, small portions of
18 the land areas may not be farmable or desire to be
19 farmable. But through the consistency with state and
20 county land use policies we felt it appropriate to
21 look at it from that perspective.

22 Q So consistent with maintaining that
23 critical mass of the entire area, and you talked about
24 the whole ahupua'a and the historic management use of
25 it, do these comments also apply to the portion above

1 the hundred foot contour in Punalu'u that the Office
2 of Planning would produce to exclude?

3 A Yes, I think so. There's definitely -- we
4 concur with the Office of Planning. There's
5 definitely some -- the way the state and county land
6 use districts and zoning boundaries have been
7 designated go up onto the ridge, further up on the
8 ridgeline than would probably historically been
9 farmed. Although there has been evidences, as was
10 mentioned earlier, of some alluvial ag and historic,
11 pre-contact use of some of the steeper sloped lands.

12 But generally in more recent history some
13 of those ridges definitely wouldn't be farmed. We've
14 looked at the slope and the agricultural plans that
15 Kamehameha Schools has worked on. If you take the 200
16 or 250-foot elevation or so, there's really -- it's
17 really on the Kahana side of the Project Area. (using
18 pointer) The Kahana side of the Project Area. It's
19 on the right side of the image is where you get up
20 into some of those ridges come down and gets very
21 rocky, our site visit when you looked up there.

22 Also it's only a couple years ago that all
23 those lands -- well, not all those lands but the
24 majority of those lands probably up to the 250 plus or
25 minus elevation were cleared. Only within 2 years all

1 that growth has come back. I mean we saw some areas
2 that the farmers had come back in and are maintaining
3 it and clearing it out.

4 But when you look at the context of the
5 400+ acres proposed for IAL, I just roughed out an
6 estimated acreage of probably 30 or 40 acres that's
7 really, probably wouldn't be farmed. I mean you're
8 taking about less than 10 percent. We talked earlier
9 about other Petition Areas and land types that were
10 included in that. Even upper Kawaiiloa we saw in the
11 field there's gulches and drainageways.

12 But when looked at in totality we feel
13 from a planning and management perspective it just
14 makes a lot more sense to leave those lands in. And
15 we don't see any, you know, any negative aspect of
16 leaving those lands in because then they can be
17 managed as an integral unit.

18 Q Finally, Mr. Witten, there had been a
19 question earlier from the Commission regarding the
20 soil ratings for the area that will be duly used for
21 solar and grazing. Were you able to pull together
22 those figures?

23 A Yeah. Actually it was one of the figures
24 in the earlier presentation of the Kawaiiloa farm. On
25 the very top, it's probably eligible. But they

1 actually show -- their overlay is on the LSB soil
2 rankings. Of their 384 acres, the large majority of
3 the 332 acres is on B land. About 38 acres on C land.
4 And a couple acres of A land.

5 Again, the A lands is pretty much defined
6 by that mid-level ditch system although some of these
7 upper lands can be served by the Wahiawa ditch. But
8 again that dual use, it's mostly primarily on B. class
9 lands. There's a summary on this exhibit.

10 MR. CHIPCHASE: Thank you, Mr. Witten. I
11 have no further questions.

12 CHAIRMAN McDONALD: Commissioners, any
13 questions for Mr. Witten? Commissioner Wong.

14 COMMISSIONER WONG: I just have one
15 question. You know the dual use for the solar farm,
16 it's gonna be sheep grazing also on the bottom?

17 THE WITNESS: Correct.

18 COMMISSIONER WONG: This is just a
19 question I had because I remember watching a John
20 Wayne movie last night cattle-wise. (audience general
21 chuckling). They said that sheep is a feral animal
22 that may dig up the grass itself. So it'd be almost
23 all dirt. So I mean how can it be a dual land use if
24 the sheep's gonna make it all dirt?

25 THE WITNESS: Yeah, I don't have the

1 specifics on the carrying capacity of how many head
2 per acre. But I think the land management, the
3 operator who's gonna do the sheep is gonna have to,
4 you know, rotate and have paddocks and move 'em
5 around. Because I mean right now other than stock
6 water most of that is all rain-supported pasture.

7 So I think it's gonna be a land management
8 thing. I don't think even Kamehameha Schools has the
9 information yet as far as what the capacity of that
10 use will be with the sheep. They have an operator
11 that's interested in coming in and making a go of it.

12 COMMISSIONER WONG: Okay. Thank you.

13 CHAIRMAN McDONALD: Any other questions?
14 (no responses) Thank you, Mr. Witten.

15 MR. WHITTEN: Thank you.

16 CHAIRMAN McDONALD: Mr. Chipchase, does
17 that conclude your presentation?

18 MR. CHIPCHASE: That concludes our
19 presentation.

20 CHAIRMAN McDONALD: Thank you. County,
21 would you like to provide any testimony at this time?

22 MR. LEWALLEN: No thank you, Mr. Chair.
23 We stand on our comments. We regret that they were
24 late getting to you.

25 CHAIRMAN McDONALD: Thank you. OP, any

1 testimony at this time?

2 MR. YEE: We do. First, Mr. Earl Ching
3 from the Department of Agriculture is present. We're
4 not seeking to submit oral testimony. I'm sorry, Earl
5 "Yamamoto." There's also a Noah Ching. Earl Yamamoto
6 is here from the Department of Agriculture who is
7 prepared to answer any questions you may have of him.
8 The Department of Agriculture has submitted written
9 comments and they're prepared to rest on those
10 comments.

11 We also have Mr. Rodney Funakoshi from the
12 Office of Planning is prepared to give a summary of
13 the Office of Planning's letter that was submitted to
14 you previously.

15 If there are no questions for Mr. Yamamoto
16 we'd like to call Mr. Rodney Funakoshi.

17 CHAIRMAN McDONALD: I guess first,
18 Commissioners, any questions for the Department of Ag?
19 Seeing none. Mr. Funakoshi?

20 MR. YEE: Could we take a 5-minute break?
21 I just remembered that I think they had some exhibits
22 that they wanted to put up on the wall.

23 CHAIRMAN McDONALD: Okay. 5-minute recess.
24 (recess 11:39) We are back on the record. As a
25 matter of some housekeeping, I note a couple of our

1 Commissioners had made some disclosures on previous
2 petitions that have involved Kamehameha Schools. For
3 the record I'm going to have them disclose it at this
4 point in time. Commissioner Ahakuelo. (11:46)

5 COMMISSIONER AHAKUELO: Mr. Chair, my
6 mother-in-law works at Kamehameha Schools, if there's
7 any conflict.

8 CHAIRMAN McDONALD: Any objection to
9 Commissioner Ahakuelo's participation? (no response)
10 Commissioner Scheuer?

11 COMMISSIONER SCHEUER: I was employed by
12 Kamehameha Schools in the land asset division from
13 2002 to 2003. In addition, my wife was an employee of
14 Group 70 International, worked as a consultant for
15 Kamehameha Schools land assets division developing the
16 North Shore larger plan for this area. I believe I
17 can be impartial on this matter.

18 CHAIRMAN McDONALD: Thank you,
19 Commissioner Scheuer. Petitioner, any objections to
20 Commissioner Scheuer's participation?

21 MR. CHIPCHASE: No, Chair.

22 CHAIRMAN McDONALD: Thank you.
23 Mr. Funakoshi or Office of Planning?

24 THE WITNESS: Sure.

25 RODNEY FUNAKOSHI

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

3 THE WITNESS: Yes.

4 CHAIRMAN McDONALD: Thank you. Please
5 proceed.

6 DIRECT EXAMINATION

7 BY MR. YEE:

8 Q Could you please state your name and
9 position for the record.

10 A Rodney Funakoshi. I'm an administrative
11 planning administrator with the state of Hawai'i
12 Office of Planning.

13 Q And was the letter from the Office of
14 Planning to the Land Use Commission dated February 10,
15 2015 prepared by you at your request?

16 A Yes, under my supervision, yes.

17 Q Could you please summarize the Office of
18 Planning's position in this case?

19 A Thank you. First of all, OP would like to
20 extend our appreciation for Petitioner Kamehameha
21 Schools' participation in their voluntary process for
22 the designation of IAL. We'd also like to commend KS
23 for its strategic agricultural plan for the very
24 well-thought out and well-considered long range goals
25 and objectives which are consistent with state

1 administration's objectives in this area.

2 The IAL process reflects the compelling
3 state interests in conserving the state's agricultural
4 land resource space and assuring the long-term
5 availability of agricultural lands for agricultural
6 use.

7 And just to quickly summarize. The IAL
8 designation process, the definition contained in HRS
9 205-42 provides that IAL lands should be capable of
10 producing sustained high agricultural yields to
11 produce agricultural commodities for a need to promote
12 the expansion of agricultural activities.

13 OP solicited comments from several
14 agencies. The Natural Resource Conservation Service
15 acknowledged that not all of the proposed lands meet
16 the State's ALISH or Federal farmland criteria for
17 IAL. However, they recognize the potential benefits
18 of preserving the Petition IAL as a large block of
19 contiguous land area.

20 The State Department of Agriculture
21 expressed concerns including the limited percentage of
22 land currently in agricultural production, fair to
23 very poor soil qualities in some areas, and land areas
24 in gulches which makes it difficult for agricultural
25 use.

1 Nonetheless, the Department of Agriculture
2 did support designation of the area for IAL. And,
3 finally, the State Commission on Water Resource
4 Management did ask questions relative to the
5 quantities of water needed, the delivery system for
6 the irrigation systems and how much water is
7 anticipated to be diverted from area streams.

8 So quickly, the criteria: There are 8
9 criteria. No. 1. Land currently used for
10 agricultural production. Kawaiiloa has 11 percent
11 approximately in agricultural production currently
12 being leased for diversified agriculture and
13 livestock.

14 There is, as mentioned, a proposed
15 50-megawatt solar farm being proposed on a 500-acre
16 portion. In general we would like to note that OP
17 does not consider wind turbines and proposed solar
18 energy facilities to be -- that should be considered
19 in the identification of IAL because they are not
20 agricultural activities that do not promote
21 agricultural development.

22 In Punalu'u about 36 percent of the
23 Punalu'u lands are proposed that are currently being
24 leased for agricultural purposes -- currently being
25 used for agriculture production.

1 The second criteria relates to soil
2 qualities and growing conditions that support
3 agricultural production of food and energy producing
4 crops. So in Kawaihoa much of the lands do meet this
5 criteria. About 50 percent are rated A and B.
6 12 percent are rated C by the Land Study Bureau.

7 At the same time in Kawaihoa about a
8 quarter of the area has slopes equal to or greater
9 than 20 percent. And OP uses the 20 percent criteria,
10 which is relevant to agricultural productivity,
11 because steep slopes typically hinder machinery and
12 labor operations due to geographic features such as
13 ravines, gulches and steep terrain and poor soil
14 quality.

15 In Punalu'u the proposed lands partially
16 meet the criteria for soil quality. And so the
17 proposed LSB ratings show that C, D and E lands
18 account for about 90 percent of the Petition Area.
19 This is in the Punalu'u area.

20 The 5th criteria relative to the
21 agricultural productivity rating systems, and they
22 cite in particular the state's ALISH system, in
23 Kawaihoa the lands appear to meet this criteria. In
24 Punalu'u, particularly meet this criterion although
25 the majority of the lands are classified as ALISH in

1 both areas.

2 And the fourth criterion relates to lands
3 associated with traditional Native Hawaiian
4 agricultural uses. And in Kawaihoa partially meet
5 this criterion. And the wind farm and proposed solar
6 farm also acknowledged energy production uses that are
7 referenced in the criterion.

8 In Punalu'u there is some taro and
9 aquaculture that also meets this criterion.

10 The 5th one is land with sufficient
11 quantities of water to support viable agricultural
12 production. And the Kawaihoa lands meet this
13 production -- ah, meet this criterion, and in Punalu'u
14 portion. There is a high amount of rainfall in the
15 Punalu'u area. So for much of the area natural
16 rainfall can provide such irrigation.

17 I should note that the Department of
18 Agriculture and the Commission on Water Resource
19 Management noted that the possible need to petition to
20 amend interim in-stream flow standard for any new or
21 expanded diversions of surface water.

22 And 6. Land whose designation as IAL is
23 consistent with the community plans of the county.
24 Kawaihoa meets this criterion as does Punalu'u.

25 7. Land that contributes to maintaining a

1 critical mass important to agricultural operating
2 productivity. In Kawaihoa it's not fully met because
3 of extensive fragmentation of productive areas in the
4 upper lands. The Punalu'u area does appear to meet
5 this criterion.

6 The final criterion 8 is land with or near
7 support infrastructure conducive to agricultural
8 productivity. And Kawaihoa appears to meet this
9 criterion. And the Punalu'u area partially meets this
10 criterion with respect to water.

11 In summary, OP recommends that the Land
12 Use Commission approve the designation of Kawaihoa
13 lands in its entirety. We do recommend that a portion
14 of the proposed Punalu'u lands consisting of
15 approximately 290 acres of the proposed 421 acres be
16 designated as IAL.

17 The areas are shown behind me. So Figure
18 1. I'm sorry. This Figure 2 shows the proposed IAL
19 designation area and the excluded area in gray.

20 Figure 2 shows the -- I'm sorry. That's
21 Figure 2. And Figure 1 shows the same area using a
22 land slope and contour map. And as was noted the
23 yellow line refers to a hundred foot elevation but
24 it's still the same. We are not changing that
25 criterion. It's simply a mislabeling. It's also

1 mislabeled in the text as well.

2 We did have concerns in the Kawaiiloa area
3 with the upper lands that are punctuated by steep
4 gulches and slopes. In particular the portions of the
5 upper Kawaiiloa lands may not be capable of producing
6 sustained high cultural yields given the steep terrain
7 or even pastures, it may be difficult due to the need
8 to fence the gulches to prevent cattle, sheep or other
9 grazing animals from entering the ravines.

10 While OP would not typically recommend
11 such areas be designated as IAL, the Petitioner has
12 represented that the upper lands will be leased for
13 pasture use.

14 In Punalu'u OP does not support
15 designating areas that are properly considered less
16 productive agricultural lands due to steep land
17 slopes over 20 percent and overall poor soil qualities
18 under the ALISH and LSB systems.

19 As noted above Important Agricultural
20 Lands are capable of producing sustained high
21 agricultural yields when treated and managed according
22 to accepted farming methods and technology.

23 So portions of the Punalu'u lands we feel
24 would not be capable of producing sustained high
25 agriculture yields given the terrain and soil quality.

1 But, nonetheless, we do note on an overall basis that
2 99 percent of the proposed IAL lands are being
3 recommended for designation. That's all. Thank you.

4 FURTHER EXAMINATION

5 BY MR. YEE:

6 Q Just briefly. There was a question
7 regarding the percentage of lands owned by Kamehameha.
8 Do you remember if the Office of Planning's done a
9 review of what percentage of lands this would
10 constitute? Would it be over a majority of their
11 lands on O'ahu?

12 A Yes. We did look at it. We also inquired
13 the same of the Petitioner as to the amount of lands
14 that would possibly qualify for the majority
15 incentives. So Petitioner has indicated that
16 52 percent of KS's agriculture and urban lands on
17 O'ahu, the proposed IAL acreage represents 52 percent
18 of the KS's holdings for agriculture and urban lands
19 on O'ahu.

20 Q And if the 131 acres is excluded does that
21 affect the majority? Does that affect whether or not
22 a majority of the lands will be in IAL?

23 A They would still qualify for that
24 incentive.

25 MR. YEE: Okay. Thank you. Nothing

1 further.

2 CHAIRMAN McDONALD: Commissioners, any
3 questions for Mr. Funakoshi at this time? Hearing
4 none, thank you, Mr. Funakoshi for your testimony.

5 MR. YEE: The Office of Planning has no
6 further witnesses. We're prepared with comments for
7 final argument at a point which you think is
8 appropriate.

9 CHAIRMAN McDONALD: Mr. Chipchase, any
10 final closing comments?

11 MR. CHIPCHASE: Chair, my final closing
12 comments would be these and they'll be brief. If we
13 run through each of the criterion, and we certainly do
14 that in the proposed Order, and whether we look at it
15 in terms of our Petition, the evidence that we've seen
16 today or the Office of Planning's comments, the lands
17 that we propose to designate meet most of those
18 criterias in whole or in large part.

19 So you see consistent with that overlap, a
20 significant overlap between the lands we propose to
21 designate and the criteria that this body looks at is
22 reflected in the supportive comments that have been
23 received by the agencies. The City has no objections.
24 We believe we addressed the City's questions today.

25 That the Department of Agriculture

1 supports the entire designation in Punalu'u and
2 Kawaihoa with the exception of having questions
3 related to the solar project, we believe we've
4 answered those questions today.

5 And that the Office of Planning supports
6 the entire designation of Kawaihoa. And a majority of
7 the designation in Punalu'u we believe is reflective
8 of our consistency with this Commission's standards.

9 The one comment that I would make to the
10 excluded area in Punalu'u, as you heard from the
11 testimony today from Mr. Calderone and
12 Mr. Keliipuleole as well as Mr. Witten as an expert
13 witness, portions of the land that the Office of
14 Planning recommends to exclude in Punalu'u are
15 currently used for agricultural operations.

16 Other portions will be used for
17 agricultural operations. Portions of it are
18 designated 'other' under ALISH. So you would be
19 excluding, to follow OP's recommendation, lands that
20 actually are productive in production, have
21 historically been in production, and are rated by
22 ALISH.

23 For that small portion of land that
24 Mr. Witten talked about, 30 or 40 acres, rough
25 numbering it, is everybody acknowledges, above what is

1 actually farmable. No downside has been identified to
2 include in those lands. And significant upsides have
3 been identified including continuity of management,
4 ease for the farmers who will lease all of those
5 lands.

6 And they'll be responsible for maintaining
7 them both from an ecological perspective as well as
8 from an agricultural perspective, and as well as the
9 benefits that they may want to attain not having to
10 identify as they're building fences where that contour
11 line begins and ends.

12 Finally, there was a question as to sheep.
13 I'm able to roughly answer it for you. I don't know
14 if I do as good as John Wayne, but I will try
15 nonetheless. (various chuckling) According to the
16 Special Use Permit application which ultimately this
17 body will review, anticipate 100 to 200 head as the
18 sustainable amount.

19 Kamehameha Schools also, and I'd be happy
20 to bring Mr. Calderone up. Probably not necessary,
21 but I can represent to you that Kamehameha Schools is
22 committed to ensuring that its lessees, including the
23 sheep lessees', manage their lands in a responsible
24 and agricultural and ecological way.

25 So with that, Chair, I would ask that the

1 Commission move to designate all of the lands that the
2 Kamehameha Schools has proposed as Important
3 Agricultural Lands. Thank you.

4 CHAIRMAN McDONALD: Thank you,
5 Mr. Chipchase. County, any final comments?

6 MR. LEWALLEN: Just a few, thank you. We
7 would agree that Petitioner has adequately addressed
8 the few questions that the Department of Planning and
9 Permitting put on. And we'd restate that the
10 Department of Planning and Permitting has no
11 objections to this Project. Thank you.

12 CHAIRMAN McDONALD: Thank you. Mr. Yee?

13 MR. YEE: Thank you. I want to beg your
14 indulgence a little bit because I wanted to talk about
15 the IAL structure 'cause we never really had an
16 opportunity to talk about that. I know some of you
17 have come to this Commission with differing levels of
18 sophistication and background. So I did want to take
19 an opportunity to talk a little bit about the
20 Important Agricultural Lands system and how this case
21 then fits into it.

22 We start with -- and I'll try not to do
23 this in every case, by the way. But maybe since this
24 is my first opportunity to speak to the entire
25 Commission, I wanted to take that opportunity. We

1 start with Article XI Section 3 of the Hawaii State
2 Constitution.

3 Finally, there was a question as to sheep.
4 I'm able to roughly answer it for you. I don't know
5 if I do as good as John Wayne but I will try,
6 nonetheless. (general chuckling) according to the
7 Special Use Permit Application which ultimately this
8 body will review anticipate 100 to 200 head as the
9 sustainable amount.

10 Kamehameha Schools also, and I'd be happy
11 to bring Mr. Calderone up if the body felt necessary.
12 But I can represent to you that Kamehameha Schools is
13 committed to ensuring its lessees, including sheep
14 lessees manage the lands in responsible agricultural
15 and ecological way.

16 So with that, Chair, I would ask the
17 Commission move to designate all of the lands that the
18 Kamehameha Schools has proposed as Important
19 Agricultural Lands. Thank you.

20 CHAIRMAN McDONALD: Thank you,
21 Mr. Chipchase. County, any final comments?

22 MR. LEWALLEN: Just a few, thank you.
23 We'd agree that Petitioner has adequately addressed
24 the few questions that the Department of Planning and
25 Permitting put on. And we'd restate the Department of

1 Planning and Permitting has no objection to this
2 Project. Thank you.

3 CHAIRMAN McDONALD: Thank you. Mr. Yee.

4 MR. YEE: Thank you. I want to beg your
5 indulgence a little bit because I want to talk about
6 the IAL structure 'cause we never really had an
7 opportunity to talk about that. I know some of you
8 have to come to this Commission with differing levels
9 of sophistication and background. So I did want to
10 take an opportunity to talk a little bit about the
11 Important Agricultural Lands system and how this case
12 then fits into it.

13 We start with -- and I'll try not to do
14 this in every case, by the way, but maybe since this
15 is my first opportunity to speak to the entire
16 Commission, I wanted to take that opportunity.

17 We start with Article XI section 3 of the
18 Hawaii State Constitution which in 1978 was passed,
19 that talked about Important Agricultural Lands,
20 established pursuant to standards and criteria created
21 by the Legislature. So this was in 1978. It talks
22 about creating these standards and criteria.

23 In 2003 there was actually a court case
24 that said: "Oh, well these are Important Agricultural
25 Lands. You shouldn't allow them to be rezoned without

1 a 2/3 majority." The Supreme Court said, "You know I
2 know it was passed in 1978 but this constitutional
3 provision is not self-executing. So in the absence of
4 a legislative statute there's nothing that can be
5 done."

6 So consequently in 2005, so there's a
7 fairly significant gap, which nothing was done about
8 IAL. Finally in 2005 the Legislature passes a statute
9 for this. And under that the counties were to propose
10 lands for IAL within 16 months after receipt of state
11 monies. To date only Kauai has received any monies.

12 And although all the counties have
13 initiated reviews they're in different stages of that
14 process. The City and County of Kauai has done what
15 they're calling phase 1. Kaua'i is probably furthest
16 along. But even they do not have an action currently
17 to propose to the Land Use Commission.

18 Now, the county plans could only take
19 effect 3 years after the incentives were enacted.
20 That deadline is long-since passed. The idea, though,
21 was that we would give private landowners 3 years in
22 which they could come forward to the Land Use
23 Commission and voluntarily designate some of their lands
24 for IAL designation.

25 Now, why would they do that? There are

1 probably 3 major types of incentives. First is the
2 85/15 which is a landowner could come, for example,
3 with a hundred acres, and say, "I would like to
4 designate 85 acres as IAL. And in return I want
5 15 acres to be reclassified into the, let's say,
6 Urban District."

7 So they could take -- this was considered
8 an incentive. Landowners could come and somehow get
9 their land reclassified by also designating other
10 lands as IAL.

11 Now, this has never been requested of the
12 Land Use Commission. No landowners come forward and
13 said, "I want to take advantage of it." But you
14 should know that that is a possibility.

15 The second incentive are the incentives
16 for the farmers who are on the land. Probably the
17 most important incentive are tax credits which must go
18 through the Department of Agriculture and be approved.
19 And when certain types of improvements are done on
20 IAL land the farmer can then go and say, "I would like
21 a tax credit for buying this equipment or for doing
22 this work."

23 And if approved they can then get some
24 monetary tax help. This is not a direct -- this is
25 for the farmer, not necessarily for the landowner.

1 The landowner has, perhaps, an indirect
2 benefit in the sense that anything which helps a
3 farmer economically survive helps the landowner then
4 lease out the property for agriculture. But the
5 incentive itself goes to the farmer.

6 And, finally, there is what I call the
7 'majority incentive' which is if a landowner comes
8 forward and voluntarily designates 50 percent or more
9 of their lands as IAL, and it is accepted by the Land
10 Use Commission, then the counties are not allowed to
11 designate any other property as IAL.

12 So this is one of the reasons the Office
13 of Planning will look carefully at the land and will
14 say: "Well, yes this qualifies" or "No, this doesn't
15 qualify" because we're always cognizant of the
16 possibility that someone might try to get land which
17 is of marginal use in order to preserve other lands
18 that is really better, would be better designated as
19 IAL and would prevent the county from designating the
20 other lands.

21 So we're always looking at the criteria
22 and trying to do a reality check to make sure that,
23 yes, this proposal is true and is a valid basis. We
24 are not suggesting in any way that's going on here.

25 We are agreeing regardless of whether you

1 agree with the 131 acres that's in dispute, this
2 Kamehameha Schools will get the majority incentive in
3 the sense that once this is approved the City and
4 County of Honolulu will not be able to designate any
5 other lands of Kamehameha as IAL.

6 Now, what is an IAL designation? I want
7 to be clear especially what it is not. An IAL
8 designation is not a reclassification. It identifies
9 land as important to agriculture but it does not
10 impose any specific use restrictions other than some
11 fairly minor restrictions relating to a more careful
12 definition of farm dwellings and employee housing as
13 well as a clear prohibition against residential
14 subdivisions which, frankly, are generally prohibited
15 on agricultural lands anyway.

16 Special permits are still allowed on IAL.
17 So, for example, IAL land was identified as a possible
18 location on Maui for a landfill. And is the subject
19 in this case of a special permit for a solar in the
20 Petition Area. Now, special permits must be referred
21 to the Department of Agriculture and the Office of
22 Planning for comment when it's done on IAL. But this
23 is a common practice anyway, so there is no
24 particular additional restriction on their lands.

25 And then, finally, there's no prohibition

1 on District Boundary Amendments, or zoning changes of
2 IAL. Although specific findings have to be made that
3 quote, "on balance the public benefit for the proposed
4 District Boundary Amendment or zone change outweighs
5 the benefit of retaining the land for agricultural
6 purposes."

7 "And the proposed action will have no
8 significant impact upon the viability of agricultural
9 operations on adjacent agricultural lands." This
10 comes from HRS 205-50D.

11 There are also certain specific standards
12 and criteria that have to be considered. Probably the
13 only restriction that's of import in this issue is
14 that the District Boundary Amendment or zone change
15 must receive a two-thirds vote of the approving body.

16 Now, this is not an impact on the Land Use
17 Commission because you already have a 6 vote majority
18 required for reclassification. But it does change
19 what the counties are required to find before they do
20 a zone change.

21 So within this context we come across
22 individual cases such as this one, in which landowners
23 will ask to voluntarily designate lands as IAL. And
24 the Office of Planning has identified certain lands
25 whose soils are rated D or E, sort of the lowest two

1 classes of soil, and are situated on lands with a
2 slope of 20 percent or more.

3 And the Office of Planning suggests that
4 these 131 out of 9,000+ acres should be excluded.

5 It's your discretion. It's your choice.
6 We made our argument about it. I'll try not to harp
7 on this issue. We will note that there's over 30
8 percent of the lands in this Petition Area that are
9 rated, that are not in ALISH or that are not rated
10 that are in D or E classifications.

11 So the Office of Planning has agreed to
12 include a fairly significant acreage of lands with
13 poor soil quality.

14 We understand the issue of contiguousness
15 and the importance of ravines, et cetera. You will
16 note on Figure 3 that the Kawaiiloa lands have a
17 significant amount of ravine land in the mauka
18 sections. Nevertheless, there are also some ALISH
19 lands within it.

20 And the Office of Planning was unable to
21 figure out a way to keep sort of the good lands in and
22 the bad lands out in any kind of sensible, a way
23 without gerrymandering the entire Petition Area.

24 In the Punalu'u lands, however, we did
25 look at the 100 foot contour which excluded, as I

1 said, 131 acres out of 9,000+ acres which had poor
2 soils and were steeply sloped.

3 So Office of Planning believes the contour
4 lines are an objective and mapable demarcation. So
5 that was the basis of our decision. We recognize the
6 Kamehameha Schools has a very good agricultural
7 management plan for this area. We applaud them for
8 it. We think it's terrific as well as their land
9 management system with managers who will help the
10 individual tenants.

11 For the Office of Planning we don't look
12 very closely at the landowner. We are much more
13 concerned with the land. So we're looking at the
14 qualities of the land much more than we're looking at
15 the qualities of the landowner.

16 Because when we come across individual
17 petitions we're not -- we don't want to place a very
18 high emphasis in trying to compare one landowner to
19 another. So if someone else comes in with poor
20 quality soils and steeply-sloped land, we don't want
21 to say, "Well, you're not as good of a land manager as
22 Kamehameha Schools." Or that, "Kamehameha Schools is
23 so much better than you."

24 That's just not a judgment that we want to
25 enter into. So for the Office of Planning's

1 recommendation and analysis, we certainly recognize
2 the very strong stewardship that Kamehameha Schools
3 has done. But it was not an overriding concern from
4 the basic quality of the lands and the steepness of
5 that land as well as our ability to create an
6 objective demarcation for that.

7 This explains why we've made our
8 recommendation. We certainly thank the Kamehameha
9 Schools for its effort. I will leave that with the
10 Commission's discretion now as to its final decision.
11 Thank you.

12 CHAIRMAN McDONALD: Thank you.
13 Commissioners, any final questions, clarifications?

14 COMMISSIONER HIRANAGA: Mr. Chair?

15 CHAIRMAN McDONALD: Commissioner Hiranaga.

16 COMMISSIONER HIRANAGA: Just a couple of
17 questions. Once the IAL designation is granted is
18 that for eternity or is it amendable?

19 CHAIRMAN McDONALD: Yeah, it's amendable
20 but it needs to go through the Legislature. Mr. Yee
21 can expand on the laws of the IAL.

22 MR. YEE: Thank you. It depends. If the
23 lands includes the 85/15 where 15 percent of the land
24 is reclassified, then you cannot change the IAL
25 designation without a two-thirds concurrence by each

1 House of the Legislature. A very difficult standard.

2 But as I said, no one's ever come in for
3 an 85/15 process. So in the absence of that, yes, it
4 can be changed at the decision. If a landowner comes
5 in and says, "I no longer have water. Things have
6 changed." Then they can come back to the LUC and ask
7 for a change.

8 COMMISSIONER HIRANAGA: Second question
9 is: Once the 50 percent threshold is attained and the
10 landowner subsequently sells a portion of this area,
11 and now that threshold is no longer met, what happens?

12 MR. YEE: That's a good question. The
13 statute doesn't really say. I presume what's gonna
14 happen, frankly, is at the time of the adoption we're
15 going to look at the percentage ownerships. And
16 probably decisions will be made at that point.

17 Because your question could easily apply
18 to what happens if a landowner acquires more land. So
19 it works both ways. But the statute is silent on it.
20 Probably the most practical answer is at the time of
21 decision-making we're going to look at it and we
22 probably won't look at it again.

23 In other words, at the time you adopt or
24 at the time the county adopts their maps we'll look at
25 the 50 percent. But once the IAL designations are

1 made I don't think anyone's gonna be looking at
2 percentage ownerships after that.

3 COMMISSIONER HIRANAGA: Okay. Thank you.

4 COMMISSIONER McDONALD: Commissioner
5 Clendeninn.

6 COMMISSIONER CLENDENINN: Yes. I have a
7 question on the farmer who in this designation for
8 Punalu'u where you say you're cutting back, you'd like
9 to cut back on the area of the land. And I think, you
10 know, it was brought up even by Kamehameha Schools
11 that that particular farmer who's on that land that's
12 partially IAL and partially not, now what happens to
13 his tax break?

14 Does he only get part of it because he was
15 farming actually an area that was slightly higher than
16 a hundred, but he's already farming on it?

17 MR. YEE: The Department of Agriculture is
18 here if you want to ask them more specifically, and
19 detailed about this. But my understanding is if
20 you're doing something like buying equipment to be
21 used on the IAL portion you're probably fine.

22 If you're doing actual, like structural
23 changes, putting up, perhaps, a fence or barn or
24 something, I guess that would be, I think would be
25 more difficult to justify if that structure is located

1 on the non-IAL land.

2 I'm not sure how many structures there're
3 going to be located other than maybe fences on land
4 with slopes of 20 percent or more. I mean
5 hypothetically I guess it's possible.

6 COMMISSIONER CLENDENINN: Well, it's just
7 the concern of the farmer who's actually what this is
8 really all about making sure it's farmed. I'm just
9 concerned that it may create problems for them.

10 MR. YEE: Well, if you want, as I said,
11 the Department of Agriculture is here. I don't have
12 that sort of quite all that knowledge on specifically
13 how it would be done. I can just tell you generally
14 what the principles would be.

15 CHAIRMAN McDONALD: Does the Department of
16 Agriculture have a response?

17 MR. YAMAMOTO: Earl Yamamoto, Department
18 of Agriculture Planner.

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

22 THE WITNESS: It's the truth as far as
23 completeness and accuracy. I can't vouch for it
24 because I don't have my book in front of me for the
25 incentives. There are some tax credit -- speaking of

1 the tax credits section, which goes to the taxpayer,
2 by the way. So the taxpayer can either be the
3 landowner or the farmer. Usually -- I'm digressing a
4 little bit. But that kind of putting things in its
5 place maybe a little bit more easier to explain.

6 KS as the taxpayer and the owner of the
7 property can make improvements to roadways, the large
8 roadways, irrigation systems, things that the
9 individual farmer will not get involved with, but will
10 certainly benefit. So KS as the taxpayer for these
11 improvements, of course, will be able to compile all
12 your invoices and make the claims at such time they
13 feel it would be advantageous for them.

14 The individual farmers on their
15 properties, however done, whatever land tenure devices
16 used, say a lease. Then on that leased land as a
17 taxpayer the farmer puts up a fence or irrigation
18 systems, buys trucks, tractors, sprayers, and so
19 forth, so on.

20 As a taxpayer for that, these expenditures
21 for his farm, he can also claim for the tax credit
22 which again it's a portion of the total expenditure.
23 It's not one for one.

24 With respect to your question on split
25 property: Some of the, some of the credits, I'm not

1 sure to what extent the -- some of the incentives.
2 I'm not sure to what extent the tax credit allows for
3 the expenditures that capture or that mostly service
4 IAL. It doesn't have to be all in IAL, but mostly
5 service. Like irrigation systems that cross
6 boundaries.

7 I think of a case that comes to mind is on
8 the Grove Farm one on Kauai, the Waipa Irrigation
9 Reservoir. I'm sorry. I think none of you were
10 Commissioners back then. But in any case, (audience
11 laughter) I'm not sure if I answered the question.
12 Some of the incentives as long as the majority,
13 however defined, is of the use of a particular piece
14 of equipment, say, a truck, the majority of the use is
15 spent on IAL despite the fact that the land may be a
16 split.

17 If the taxpayer/farmer is willing to
18 attest to that, then I guess that's good enough for us
19 that the expenditure of funds to purchase that truck
20 or lease of equipment would be maybe included. So I
21 would gather the same thing maybe for fencing would
22 apply to capture an entire area, the principal use
23 being cattle grazing.

24 Then I'm thinking perhaps that the entire
25 fence would be okay, could be captured, could qualify

1 as a tax credit. Right? Unless I hear otherwise I
2 don't hear any objections to what I just said.

3 (laughter)

4 COMMISSIONER CLENDENINN: Well, I just, as
5 I said, I think it's still a concern. I look at some
6 of the Punalu'u lands. A lot of the farmers, and we
7 actually on the site visit did see some farms that are
8 above 100. And they seem to be farmable. So I
9 understand OP's rationale. But I'm also just very
10 concerned about the farmers who have to lease the land
11 and what's gonna happen with them.

12 CHAIRMAN McDONALD: Thank you,
13 Commissioner. Commissioner Scheuer.

14 COMMISSIONER SCHEUER: I have a question
15 for Mr. Chipchase or perhaps your witnesses. There
16 was in the delayed received letter from the City,
17 paragraph No. 6 asks -- we also ask what lands could
18 be withheld from future IAL designation by the
19 landowner should these Petitioned lands be approved?

20 MR. CHIPCHASE: Right, Commissioner. So
21 we tried to address that partially in our response to
22 OP's earlier questions which dovetailed with this a
23 little bit. So our response to OP is actually an
24 exhibit to require OP's submittal. So I referred to
25 that.

1 Mr. Keliipuleole explained that more than
2 70 percent of just our Ag lands is actually
3 71.5 percent, is proposed for IAL designation in this
4 Petition. As I explained and he confirmed that is
5 almost all of them, the vast majority of are ALISH
6 lands as part of it. That remaining 28.5 percent of
7 agricultural land, the currently designated
8 agricultural land, obviously would be excluded from
9 this Petition.

10 And as OP explained with the majority
11 incentive would not be available for IAL designation.
12 But as you heard from the witnesses today, KS
13 approached its designation here today first from a
14 statewide perspective looking at its lands, and then
15 from a regional O'ahu perspective down to the specific
16 areas to identify those lands among its total holdings
17 that qualify for IAL, that KS intended to use for
18 agriculture in perpetuity for which there was
19 availability of infrastructure.

20 And it had the ability to make
21 improvements, all those other things that we've talked
22 about and settled on these lands as meeting those
23 criteria.

24 So it's that balance of lands that don't
25 meet those standards in Kamehameha Schools' views for

1 one reason or another, absence of water, not part of
2 the strategic plan and so on, that are excluded from
3 this designation that would be excluded from the
4 County designation.

5 COMMISSIONER SCHEUER: Would you be able
6 to quickly rattle off some of geographic areas those
7 lands are on?

8 MR. CHIPCHASE: If you gave me 5 minutes I
9 probably could.

10 COMMISSIONER SCHEUER: No! (laughter)

11 MR. CHIPCHASE: I don't have that
12 immediately in front of me. If you'd like I'm happy
13 to get it.

14 COMMISSIONER SCHEUER: No, thank you.

15 CHAIRMAN McDONALD: Commissioner Wong.

16 COMMISSIONER WONG: Chair, I want to make
17 a motion to approve Petitioner's request for a total
18 of 9,592.048 acres of IAL designation with the
19 following conditions: Petitioner shall comply with
20 representations made to this Commission with respect
21 to not claiming any credits described in HRS 205-45H
22 with respect to this Petition Area, and also shall
23 record it with the Bureau of Conveyances within 7 days
24 of the Commission's D&O.

25 CHAIRMAN McDONALD: Commissioner Wong,

1 just to confirm that's the entire land area requested
2 in the Petition?

3 COMMISSIONER WONG: Correct.

4 CHAIRMAN McDONALD: We have a motion by
5 Commissioner Wong. Do we have a second?

6 COMMISSIONER CLENDENINN: Second.

7 CHAIRMAN McDONALD: Discussion?
8 Commissioner Hiranaga.

9 COMMISSIONER HIRANAGA: So regarding the
10 area that OP is recommending to be excluded, I don't
11 see a functional impact to the land user, the farmer.
12 It's a line on the map. I could see if his lease
13 encumbers IAL and non-IAL lands, he still is gonna
14 farm where we he can farm within his leased area.

15 So I know there was some discussion about
16 using farm equipment on both types of lands and might
17 possible impact the tax credits. But I guess for
18 myself I tend to defer to State and County agencies'
19 comments versus the Petitioner's. And right now I
20 don't see a convincing argument from the Petitioner
21 that the 100+ acres should be included in the request.

22 Basically State agencies are here to
23 protect the public interest. And private landowners,
24 their consultants are here to basically look for the
25 best interest of their -- the private owners.

1 So at this point I'm not convinced that
2 that 100+ acres should be included within the Petition
3 Area. So if someone can provide me more information I
4 might change my opinion.

5 CHAIRMAN McDONALD: Do you have any
6 comments, Commissioner Wong?

7 COMMISSIONER WONG: Yeah. To tell you the
8 truth I'm just concerned that in the future some of us
9 may not be here at this meeting, may not look back at
10 the minutes. And when a farmer who's on that land
11 that's not designated or partially designates, he
12 alone needs credit or help and assistance with this.
13 DOA may say "no" because it's less than 50 percent or
14 whatever.

15 So what I'm worried about is the existing
16 farmers and any future farmers they may not get it.
17 That's the problem how it's designated now, how it
18 breaks up now. I'm not saying that DOA would do that
19 or would not do that. It's just that I'm concerned
20 about the farmers. That's the main thing.

21 CHAIRMAN McDONALD: Well, just to confirm
22 I believe the County didn't have an issue against
23 designating the entire Petition Area. OP had an issue
24 specifically with the lands at Punalu'u.

25 From my standpoint, you know, I've sat

1 through a bunch of hearings with regards to
2 redistricting of Urban lands, Agriculture to Urban, as
3 well as a bunch of different IAL designations.

4 For me the common concerns with regards to
5 the feasibility of farming is the economics involved.
6 And from my perspective whatever we can do, and when I
7 say "we" this body, that represents the State's
8 interest, whatever we can do to support those efforts
9 and initiatives I'm in support of.

10 I'm not saying that whatever comes before
11 us I would agree with designation of IAL. But in this
12 particular case and the presentation provided by the
13 Petitioner, the testimony provided by Mr. Witten,
14 Mr. Calderone, and Mr. Keliipuleole, I feel that the
15 land mass that Kamehameha currently owns and occupies
16 with regards to the agriculture use I'm in full
17 support of the entire designation of the Petition
18 Area.

19 Again, it's from the standpoint of what we
20 can do as a body to help the cause. In this case it's
21 the support of agricultural development. Commissioner
22 Scheuer.

23 COMMISSIONER SCHEUER: I'd like to give my
24 perspective on the concerns raised by Commissioner
25 Hiranaga. I share with him a general deference and

1 deep respect for the expertise of staff. I don't, in
2 this case, disagree with their observations about the
3 slope of the land in Punalu'u or the lack of certain
4 classification of soil type for it.

5 But the reason why I believe it's
6 compelling to include that land in this case has to do
7 with the perspective -- and this might eclipse some of
8 the Chair's comments -- the perspective Kamehameha
9 Schools took in its planning efforts first looking
10 statewide, then at an island basis, and then really at
11 the ahupua'a basis.

12 You need to have enough land in Punalu'u
13 for the tremendous investment in agricultural
14 infrastructure to make sense. And to their credit
15 they're actively taking land, some land out of certain
16 kinds of crop potential by restoring the stream in
17 Punalu'u Valley which needed to be restored, in my
18 opinion.

19 So you want to replace that land on the
20 stream bottom to allow for the stream restoration with
21 other potential land. This is partially what allows.
22 Is it the most ideal agricultural land? No. But is
23 it important within the scope of that whole approach
24 to agriculture that they're pursuing in the Punalu'u
25 ahupua'a? I believe it is. That's why in this case I

1 believe it's warranted.

2 CHAIRMAN McDONALD: Thank you. Any
3 further discussion, Commissioners?

4 COMMISSIONER HIRANAGA: Mr. Chair, just
5 for clarity. If the area that OP opposes to be
6 included in IAL does not preclude it from being used
7 for agricultural purposes. It just does not qualify
8 towards tax credits or the percentage of dedication
9 from the property owners.

10 So, again, it's basically a line on a map.
11 It's pretty much irrelevant to the farmer unless, you
12 know, tax credit issues come into play. But it'd be
13 more of a disclosure issue, I think, from the property
14 owner to the lessee that, "There's this line here.
15 And if you cross this line, you're still welcome to
16 farm it but there are some ramifications that we need
17 to inform you of."

18 So, again, my experience serving on boards
19 and commissions is I put a deep amount of trust in the
20 various state and county agencies and their opinions.
21 And I agree that Kamehameha Schools is a very, is an
22 admirable organization. But, again, it's difficult
23 when you start making individual decisions on an
24 applicant's trustworthiness and credibility. So maybe
25 you could poll me last? (general laughter)

1 CHAIRMAN McDONALD: Your comments are well
2 taken, Commissioner Hiranaga. For me, like I say, it
3 comes down to the incentives that come with the IAL
4 designation. So with that, Commissioners --

5 COMMISSIONER HIRANAGA: Oh, a question on
6 protocol.

7 CHAIRMAN McDONALD: Okay.

8 COMMISSIONER HIRANAGA: So if the super
9 majority of 6 ayes is not reached what is the
10 ramifications?

11 CHAIRMAN McDONALD: Well, we can entertain
12 another motion.

13 COMMISSIONER HIRANAGA: It would be an
14 inaction, not a denial? Lack of action, not a denial?

15 CHAIRMAN McDONALD: That's correct. I
16 believe there would be another motion that could be
17 heard. Further discussion, Commissioners? (no
18 response) With that, Mr. Orodenger, can you please
19 poll the Commission.

20 MR. ORODENKER: Thank you, Mr. Chair. The
21 motion is to grant the Petition as requested by
22 Petitioner subject to the condition the Petitioner
23 will not claim credits under 205-45(h) HRS and record
24 the Decision and Order with the Bureau of Conveyances.
25 Commissioner Wong?

1 COMMISSIONER WONG: Aye.

2 MR. ORODENKER: Commissioner Clendeninn?

3 COMMISSIONER CLENDENINN: Aye.

4 MR. ORODENKER: Commissioner Scheuer?

5 COMMISSIONER SCHEUER: Aye.

6 MR. ORODENKER: Commissioner Aczon?

7 COMMISSIONER ACZON: Aye.

8 MR. ORODENKER: Commissioner Ahakuelo?

9 COMMISSIONER AHAKUELO: Aye.

10 MR. ORODENKER: Commissioner Hiranaga?

11 COMMISSIONER HIRANAGA: Nay.

12 MR. ORODENKER: Commissioner McDonald?

13 CHAIRMAN McDONALD: Aye.

14 MR. ORODENKER: Commissioners, the motion
15 passes with 6 votes in favor and 1 opposed.

16 CHAIRMAN McDONALD: Thank you,
17 Mr. Orodenker. Thank you, Petitioner, for your time,
18 your efforts with regards to, again, the commitment
19 put forward by Kamehameha Schools in support of the
20 Agricultural initiative. Best of luck to you folks.
21 Thank you to the Office of Planning as well as the
22 County for your time. And, Commissioners, thank you
23 as well.

24 One last thing before we move to our next
25 agenda item while you folks can stay here.

1 HB1042 is going to be heard tomorrow.
2 It's relating to Important Agricultural Lands. That
3 is a bill that the County Planning Departments on Maui
4 and the Big Island pushed to give them a grant and aid
5 for fiscal years 2015 and 2017 to do Important
6 Agricultural Land designations. I believe they're
7 asking for \$2 million or \$4 million? I can't
8 remember. But anyway, it's a significant amount of
9 money. We will be testifying in support of the
10 concept but we will leave the actual dollar amount up
11 to the Legislature.

12 There are a number of other bills that
13 we're currently monitoring: SB320 Relating to the Ag
14 District. I won't go through 'em all. There are four
15 bills that are simply place-holders. They're just
16 blank. They're entitled "relating to land use".
17 Wherein something could be inserted at some point in
18 time by this committee. And they've all been single
19 referrals to Water and Land. And that's it.

20 CHAIRMAN McDONALD: Okay. Thank you,
21 Mr. Orodenker. Commissioners, any questions relating
22 to the bills that Dan has just reviewed?

23 COMMISSIONER WONG: Mr. Chair, I want to
24 make a motion to ratify the testimonies of the
25 previously stated bills. Also to delegate the staff

1 to provide testimony on any future bills that's on
2 similar issues either for or against for this
3 Legislative session. I think I said it correctly.

4 MS. ERICKSON: For clarification, perhaps
5 you mean that you want to delegate to the staff to
6 support the same kind of bills that they supported or
7 to continue to support those bills unless they're
8 changed, and to oppose the bills that they've been
9 opposing for the reasons that they oppose it.

10 COMMISSIONER WONG: Yeah. Friendly
11 amendment, whatever Diane stated. (laughter)

12 MS. ERICKSON: Just clarification.

13 CHAIRMAN McDONALD: So does everybody
14 understand the clarification and the motion? Okay.

15 COMMISSIONER WONG: I'll make a motion.

16 CHAIRMAN McDONALD: Motion by Commissioner
17 Wong.

18 COMMISSIONER SCHEUER: Second.

19 CHAIRMAN McDONALD: Seconded by
20 Commissioner Scheuer.

21 CHAIRMAN McDONALD: Mr. Orodenger, please
22 poll the Commission.

23 MR. ORODENKER: Thank you, Mr. Chair. The
24 motion is to ratify testimony and authorize staff to
25 continue to testify on the same bills in a similar

1 manner. Commissioner Wong?

2 COMMISSIONER WONG: Aye.

3 MR. ORODENKER: Commissioner Scheuer?

4 COMMISSIONER SCHEUER: Aye.

5 MR. ORODENKER: Commissioner Aczon?

6 COMMISSIONER ACZON: Aye.

7 MR. ORODENKER: Commissioner Hiranaga?

8 I'll put him down as absent.

9 COMMISSIONER HIRANAGA: (absent)

10 MR. ORODENKER: Commissioner Ahakuelo?

11 COMMISSIONER AHAKUELO: Aye.

12 MR. ORODENKER: Commissioner Clendeninn?

13 COMMISSIONER CLENDENINN: Aye.

14 MR. ORODENKER: Chair McDonald?

15 CHAIRMAN McDONALD: Yes.

16 MR. ORODENKER: Thank you, Mr. Chair. The
17 motion passes.

18 CHAIRMAN McDONALD: Okay. Any further
19 discussion by the Commissioners? Hearing none, we're
20 adjourned for the day.

21

22

23 (The proceedings were adjourned at 1:00 p.m.)

24

25

--oo00oo--

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 matters on the 18th day of February 2015;

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 matters.

DATED: This 25th day of February 2015