

LAND USE COMMISSION MEETING

HELD ON NOVEMBER 18, 2015

COMMENCING AT 9:30 A.M.

MAUI ARTS & CULTURAL CENTER

MCCOY STUDIO THEATER

ONE CAMERON WAY

KAHULUI, MAUI, HAWAI'I 96732

A10-786

OLOWALU TOWN LLC

And

OLOWALU EKOLU LLC

Action to consider acceptance of the FEIS

Before: Jean Marie McManus, CSR #156

1 APPEARANCES:

2 EDMUND ACZON, Chairperson
3 JONATHAN SCHEUER, VICE CHAIR
4 ARNOLD D. WONG, VICE CHAIR

5 COMMISSIONERS:

6 AARON MAHI
7 LINDA ESTES
8 KENT HIRANAGA

9 DIANE ERICKSON, ESQ.
10 Deputy District Attorney

11 STAFF:

12 DANIEL ORODENKER, Executive Officer
13 BERT SARUWATARI, Planner
14 RILEY K. HAKODA, Planner/Chief Clerk

15 BRYAN YEE, ESQ.
16 Deputy Attorney General
17 RODNEY FUNAKOSHI, Office of Planning

18 For the State of Hawaii
19 Office of Planning

20 MICHAEL HOPPER, ESQ.
21 Deputy Corporation Counsel
22 WILLIAM SPENCE
23 County of Maui Planning Director

24 For the County of Maui

25 JENNIFER LIM, ESQ.
ONAONA THOENE, ESQ.

For Petitioner

BEFORE THE STATE LAND USE COMMISSION

STATE OF HAWAII

In the Matter of the) Docket No. A10-786
 Petition of)
)
 OLOWALU TOWN LLC and)
 OLOWALU EKOLU LLC)
)
 To Amend the Land Use)
 District Boundary of)
 Certain Lands Situated at)
 Olowalu, Island of Maui,)
 State of Hawaii,)
 Consisting of)
 Approximately 320 Acres)
 From the Agricultural)
 District to the Rural and)
 Urban Districts, Portions)
 Of Tax Map Key Nos. (2))
 4-8-003:084, 098, 099, 100)
 101, 102, 103, 104, 105,)
 106, 107, 108, 109, 110,)
 111, 112, 113, 114, 115,)
 116, 117, 118 and 124.)
 -----)

ACTION HEARING

Was held on December 7, 2015, commencing at 9:30 a.m.
 at the Maui Arts & Cultural Center, McCoy Studio
 Theater, One Cameron Way, Kahului, Maui, Hawaii
 96732.

Before: Jean Marie McManus, CSR #156

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1 CHAIRPERSON ACZON: The first order of
2 business is adoption of the November 4th, 2015
3 minutes. Any corrections or comments on them? If
4 not, is there a motion to adopt the minutes?

5 COMMISSIONER ESTES: So moved.

6 COMMISSIONER MAHI: Seconded.

7 CHAIRPERSON ACZON: The motion has been
8 made by Commissioner Estes and seconded by
9 Commissioner Mahi to adopt the minutes.

10 All if favor say "aye". Any opposed?

11 VICE CHAIR SCHEUER: Abstain.

12 CHAIRPERSON ACZON: The minutes are adopted
13 with one abstention.

14 The next agenda item is the tentative
15 meeting schedule. Mr. Orodener.

16 EXECUTIVE OFFICER: Thank you.

17 Tomorrow we will be again here to take up
18 the Special Permit extension for the Lanai Sanitary
19 Landfill.

20 December 9 and 10, again on Maui DOT room
21 to discuss A94-706 Ka'onoulu Ranch and also to go
22 into Executive Session on status Report.

23 On December 10th site visit on Ma'alaea
24 application, departing the courthouse area in
25 Kahului.

1 On January 13th and 14 the time is reserved
2 for Kauai Solar Project Special Permit Application.
3 January 27th and 28 also reserved for Kauai Special
4 Permit Application in that order.

5 February 12th and 13th is reserved for
6 Ma'alaea Plantation. February 24th and 25th, once
7 again, Ko Olina Motion for Reconsideration and update
8 on Waimanalo Gulch.

9 CHAIRPERSON ACZON: Thank you, Mr.
10 Orodenker.

11 Commissioners, any questions about the
12 schedule?

13 VICE CHAIR SCHEUER: Thank you, Chair.

14 Is there any possibility regarding the site
15 visit Ma'alaea, I just note that we're going to be
16 going there during the morning when it's a very calm
17 area, but most people who know Maui know that that
18 becomes very windy in the evening and late afternoon,
19 to give the Commissioners a sort of fuller sense of
20 the site.

21 EXECUTIVE OFFICER: We can talk about that.

22 CHAIRPERSON ACZON: Thank you, Commissioner
23 Scheuer.

24 Action meeting on number A10-786 Olowalu
25 Town LLC, Olowalu Ekolu LLC to consider the

1 acceptance of the Final Environmental Impact
2 Statement.

3 Will the parties please identify themselves
4 for the record.

5 MS. LIM: Good morning, Chair and
6 Commissioners. This is Jennifer Lim representing the
7 Petitioner Olowalu Town LLC and Olowalu Ekolu LLC.

8 With me is my associate Onaona Thoene. And
9 also seated directly to my right is a representative
10 from the Petitioners, Bill Frampton, and directly to
11 his right is Dave Ward. He's also a representative
12 for the Petitioner.

13 And I'll just mention briefly in the
14 audience we have several of the experts who prepared
15 studies in the EIS and I'll introduce them later on.

16 MR. HOPPER: Michael Hopper, Deputy
17 Corporation Counsel, and County of Maui Planning
18 Director Wil Spence.

19 MR. YEE: Bryan Yee on behalf of Office of
20 Planning. With me Rodney Funakoshi, Office of
21 Planning.

22 CHAIRPERSON ACZON: Thank you.

23 Let me update the written record on this
24 docket.

25 On June 4, 2010, the Commission met and

1 determined the Land Use Commission should be the
2 accepting authority pursuant to Chapter 343, HRS; for
3 Petitioner's Environmental Impact Statement relating
4 to the development and reclassification of
5 approximately 320 acres from the Agricultural
6 District to the Rural and Urban Districts, portions
7 of Tax Map Key Nos. (2) 4-8-003:084, 089 through 118
8 and 124 and that the project may have a significant
9 effect upon the environment to warrant the
10 preparation of an EIS.

11 On that same day, the Commission received
12 correspondence from County of Maui-Planning
13 Department.

14 On June 21, 2010, the Commission received a
15 supplemental affidavit of Service of Petition for
16 District Boundary Amendment from Petitioner.

17 On June 22, 2010, the Commission mailed the
18 order that the LUC would be the accepting authority
19 and that the Project warranted an EIS to the Parties.

20 On June 23rd, 2010, the Commission mailed
21 its determination letter to OEQC.

22 From July 2, 2010 to November 18, 2015, the
23 Commission received various comment letters and
24 correspondence on the draft EIS and the Petition.
25 The comment letters and correspondence are on file

1 with the Commission.

2 On February 23, 2010, the LUC mailed a
3 request for publication in the Environmental Notice
4 to OEQC.

5 On February 28th, 2012, the LUC received a
6 response letter from OEQC.

7 On April 12, 2012, the LUC mailed a comment
8 letter regarding the DEIS to Petitioner and
9 Petitioner's planner.

10 On October 26, 2015, the LUC received two
11 copies of the Final EIS and an electronic file on CD
12 from Petitioner.

13 On October 29, 2015, the LUC received a
14 copy of correspondence to Petitioner from OEQC
15 acknowledging receipt of the revised Distribution
16 List for the Final EIS on October 28, 2015.

17 On November 5, 2015, the Commission
18 received copies of Petitioner's response letters to
19 commenters on the EIS.

20 On November 9, 2015, the Commission
21 received Petitioner's Analysis of Final Environmental
22 Impact Statement for the Proposed Olowalu Town Master
23 Plan.

24 On November 10, 2105, the LUC mailed the
25 November 18-19, 2015 agenda notice to the Parties,

1 Statewide and Maui County mailing lists. On the same
2 day, the Commission received copies of letters
3 transmitting the FEIS for Olowalu Town Master Plan to
4 all Parties on the OEQC Approved Distribution list
5 from Petitioner.

6 On November 17, 2015, the LUC received a
7 letter from Petitioner regarding omissions in the
8 filing of the FEIS dated October 26, 2015. On the
9 same day, the Commission received OP's comment letter
10 on the Draft FEIS.

11 Let me briefly describe our procedure for
12 today on this docket.

13 1. First, I will give opportunity for the
14 Petitioner to comment on the Commission's Policy
15 governing reimbursement of hearing expenses.

16 2. I will then call for those individuals
17 desiring to provide public testimony to identify
18 themselves. All such individuals will be called in
19 turn to our witness box where they will be sworn in
20 prior to their testimony. The public testimony today
21 should be limited to the Petitioner's Final EIS and
22 should not go into the merits of the petition for
23 district boundary amendment.

24 After completion of the public testimony
25 portion of the proceedings, the Petitioner will make

1 its presentation.

2 4. After the completion of the
3 Petitioner's presentation, we will receive any
4 comments from the County of Maui Planning Department
5 and the State Office of Planning on Petitioner's
6 Final EIS.

7 5. The Commission will then conduct its
8 deliberations.

9 Due to high numbers of testifiers, we are
10 placing a three-minute limit to all testimony. At
11 the completion of the public testimony of the
12 proceeding, the Petitioner will make its
13 presentation.

14 After the completion of the Petitioner's
15 presentation, we will receive any comments from the
16 County of Maui Planning Department and the State
17 Office of Planning on Petitioner's Final EIS.

18 The Commission will then conduct its
19 deliberations. The Chair would also note that the
20 parties and public, from time to time, I will be
21 calling for short breaks.

22 Are there any questions on our procedure
23 for today?

24 MS. LIM: No questions from Petitioner, but
25 Chair, if I may, I apologize, but Petitioner did file

1 something just very last minute this morning. I
2 wanted to make a note of that for the record.

3 CHAIRPERSON ACZON: Noted.

4 MS. LIM: Thank you, sir.

5 CHAIRPERSON ACZON: Hearing no questions,
6 the parties please identified themselves for the
7 record.

8 Sorry. Ms. Lim, has our staff informed you
9 of the Commission's policy regarding the
10 reimbursement of hearing expenses?

11 MS. LIM: They have, Mr. Chair, and the
12 Petitioner is aware and will abide with the
13 requirement.

14 CHAIRPERSON ACZON: Mr. Orodenger, did
15 anyone sign up to testify?

16 EXECUTIVE DIRECTOR: Mr. Chair, we have a
17 large number of testifiers. I will be calling them
18 in order as they have signed up.

19 Please excuse me if I pronounce your name
20 incorrectly, the handwriting is hard to read. I will
21 be calling the first testifier, and then the one who
22 will be testifying, I ask the subsequent testifier to
23 please come down and wait on this side at the Chair
24 for their turn to have a rapid turn over. There's a
25 lot of testifiers.

1 That being said first testifier signed up
2 today is Bob Hansen followed by Clint Hansen.

3 CHAIRPERSON ACZON: May I swear you in?

4 Do you swear or affirm that your testimony
5 that you are about to give is truthful?

6 THE WITNESS: Thank you I'm Bob Hansen a
7 realtor here on Maui, been here 27 years.

8 CHAIRPERSON ACZON: You need to respond to
9 my question.

10 Do you affirm that your testimony today
11 will be truthful?

12 THE WITNESS: Yes.

13 BOB HANSEN

14 Was called as a public witness, was sworn to tell the
15 truth, was examined and testified as follows:

16 DIRECT EXAMINATION

17 CHAIRPERSON ACZON: Thank you. Please
18 state your name and address.

19 THE WITNESS: Bob Hansen, live at 90
20 Ho'okipa in Kihei.

21 CHAIRPERSON ACZON: Please proceed.

22 THE WITNESS: I'm a realtor here. Been
23 here 27 years. Very interested in providing housing
24 for people.

25 I would like the Commission to accept the

1 Environmental Impact Study. I've been a little
2 bit -- I haven't read the whole thing. It's quite
3 lengthy. But I know certain things about it.

4 I think it's important that, as they do, if
5 this project is approved, it goes forward, that it's
6 important that somebody observe so that there's
7 sensitive Hawaiian sites in there, that that be taken
8 care of. I know that will be done.

9 I think that this should also be approved
10 because we are in dire need, as a lot of people know,
11 of housing here on Maui. Its estimates are about
12 1000 new housing units a year are needed. I think
13 we're a huge number behind. I believe the number I
14 heard was 14,000, and we're really only approving
15 about 300 a year. So something needs to be done.

16 I am absolutely for small town Olowalu. I
17 like the concept of it. People don't have to drive
18 too far.

19 They will be putting in retention basins,
20 taking care of the sewage properly, so that it
21 doesn't flow into the sea like it does now.

22 I think that our reefs and our environment
23 will be protected more, and I think the developer is
24 going to do a good job. In fact, Dave Ward and
25 myself and some others started in Na Hale on Maui to

1 provide affordable housing in perpetuity, and I
2 appreciate them continuing to provide housing.

3 Thank you.

4 CHAIRPERSON ACZON: Before we go on, may I
5 ask you to turn off your phone or silence your phone.

6 Any questions for Mr. Hansen?

7 MS. LIM: No questions.

8 MR. HOPPER: No questions.

9 MR. YEE: No questions.

10 CHAIRPERSON ACZON: Commissioners? Next
11 testifier.

12 EXECUTIVE DIRECTOR: Clint Hansen followed
13 by Hinano Kaleleiki.

14 CHAIRPERSON ACZON: May I swear you in?

15 (Noise from the audience.)

16 CHAIRPERSON ACZON: Please stop doing that.
17 You're interrupting the hearing. Thank you.

18 Do you swear or affirm that the testimony
19 that you are about to give is the truth?

20 THE WITNESS: Absolutely.

21 CLINT HANSEN

22 Was called as a public witness, was sworn to tell the
23 truth, was examined and testified as follows:

24 DIRECT EXAMINATION

25 CHAIRPERSON ACZON: Thank you. Please

1 state your name and address and proceed with your
2 testimony.

3 THE WITNESS: My name is Clint Hansen. My
4 address is 65 Hale Ali'i in Kihei.

5 Thank you for giving me the opportunity to
6 share my opinion today.

7 I am the owner of Maui Paintball which is
8 located in Olowalu. I am also the broker in charge
9 of the Hansen Ohana website is --

10 THE REPORTER: Slow down.

11 THE WITNESS: I don't have enough time.

12 COMMISSIONER MAHI: It has to be record,
13 sir.

14 THE WITNESS: Oh, because she's -- I
15 got'cha.

16 I'm also the broker in charge of the Hansen
17 Ohana whose website Maui Real Estate dot net is now
18 the most popular real estate website.

19 While it is in my financial and personal
20 interest to not have small town Olowalu approved, as
21 I will likely mean Maui Paintball would be shutdown,
22 I am of the firm opinion that it is the island's best
23 interest to have the project approved.

24 As a realtor I deal with the desperate need
25 for housing on island, especially on the west side.

1 Without additional projects, it's impossible to meet
2 this demand. I like small town Olowalu because it
3 prevents urban sprawl, and creates a concentric town
4 with its own identity similar to Paia, Makawao and
5 Pukalani.

6 I also like that it gives the workforce on
7 the west side the ability to live closer to their
8 work as opposed to having to drive from the west
9 where housing is more readily available.

10 This will alleviate traffic congestion
11 twofold: It will allow people to live and work in
12 the same place, reducing commute times as well as
13 significantly improving infrastructure.

14 The greatest concern for the area is the
15 massive coral reef just off the proposed site. Co2
16 levels in our oceans have steadily been rising over
17 the last several decades increasing the acidity of
18 the water. This has contributed to large portions of
19 the reef dying off.

20 The biggest contributing factor has been a
21 result of global warming, causing temperatures to
22 increase dramatically and thereby creating an
23 environment that is inhospitable to the coral
24 gardens.

25 One of the final major contributing factors

1 to the coral die off in this area occurs when heavy
2 rains cause large amounts of sediment to blanket and
3 choke out the reef. The fallow lands surrounding
4 Olowalu lack the necessary ground cover to secure the
5 soil and prevent it from running into the ocean
6 during these heavy storms.

7 I commend the developers' efforts to deal
8 with this pervasive problem in the area. Their
9 intricate drainage plan in addition to the use of
10 strategically placed porous asphalt and lush
11 greenways will dramatically reduce the amount of
12 sediment that regularly smothers the local reef
13 system.

14 We have to start thinking of Maui's future
15 as doing the same old business as usual, urban sprawl
16 will lead to the ruination of our communities unique
17 identities.

18 We have to start building towns where we
19 live and work in the same place so that we may stop
20 relying on our carbon expensive commutes.]

21 While I will make my best efforts to
22 relocate the paintball field in one of the many
23 expansive open areas in small town Olowalu, I share
24 my opinion to my own detriment. The paintball field
25 is my baby and the people who frequent it are like my

1 family, but even if I knew an approval would close
2 the field --

3 CHAIRPERSON ACZON: Please summarize.

4 Any questions for Mr. Hansen?

5 MS. LIM: No questions.

6 MR. HOPPER: No questions.

7 MR. YEE: No questions.

8 CHAIRPERSON ACZON: Commissioners?

9 VICE CHAIR SCHEUER: I just want to echo
10 the Chair's introductory comments and this is for
11 your benefit but also for everybody's.

12 We're not here today to discuss the merits
13 of the redistricting. In other words, do we think
14 this is a good project that should go forward or do
15 we think that it's a bad project that should be
16 stopped.

17 We have a very specific issue in front of
18 us which is: Does the Final EIS, as submitted, meet
19 the legal qualifications of that. We're the
20 accepting authority. We have to make that
21 determination.

22 Did you have any specific comments about
23 that? I hope most of the testifiers can focus their
24 testimony on not whether they're for or against the
25 project, but on the specific issue that we have

1 before us.

2 THE WITNESS: For creating the paintball
3 field out in Olowalu I had to do EIS for my Special
4 Use Permit for the field, and there was an
5 archaeological study that detailed and outlined the
6 individual spots. And there's great care and
7 diligence to create these studies.

8 And in reviewing the FEIS statement that
9 they produced, which is quite lengthy, as far as I
10 can tell every study was done appropriately from
11 their flora and fauna counts to the impact
12 statements.

13 But more importantly to me, what I focused
14 on was the drainage portion of it. And I was very,
15 very satisfied to the improvements to the area, as I
16 mentioned, the current runoff is destroying the reef
17 in the area. And I do like the plans that they have
18 set forth.

19 VICE CHAIR SCHEUER: Thank you, very much,
20 Mr. Hansen.

21 CHAIRPERSON ACZON: Next.

22 EXECUTIVE OFFICER: Hinano Kaleleiki
23 followed by Katherine Smith.

24 CHAIRPERSON ACZON: May I swear you in?

25 Do you swear or affirm that the testimony

1 that you're about to give is truthful?

2 THE WITNESS: It's truthful, yes.

3 HINANO KALELEIKI

4 Was called as a public witness, was sworn to tell the
5 truth, was examined and testified as follows:

6 DIRECT EXAMINATION

7 CHAIRPERSON ACZON: Thank you. State your
8 name and address and proceed.

9 THE WITNESS: My name is Hinano Kaleleleiki.
10 Ukumehame, Apana 4.

11 I'm against the project. It doesn't meet
12 the standards. They didn't check the ownership of
13 the land. The land is not theirs. There is royal
14 patents that stand right now. There's land issues,
15 kuleana landowners that own those lands. It inures
16 to the person it originated from. That is the law.
17 It has not been taken out yet. It's not in the EIS.
18 Nobody brought it to the front table.

19 So, no, their planning hasn't been done
20 correctly. It wasn't right in the beginning, it
21 ain't right in the middle and it ain't right in the
22 end.

23 The constitution says if it's not
24 constitutionally correct, it's not part of the whole,
25 it's null and void. Thank you.

1 I'm sorry, go ahead. You had -- somebody
2 had a question.

3 CHAIRPERSON ACZON: Try wait. Any
4 questions?

5 MS. LIM: No questions.

6 MR. HOPPER: No questions.

7 MR. YEE: No questions.

8 CHAIRPERSON ACZON: Commissioners? Thank
9 you, very much.

10 THE WITNESS: Mahalo.

11 EXECUTIVE DIRECTOR: Katherine K. Smith,
12 followed by Kaneloa Kamanu.

13 CHAIRPERSON ACZON: Do you swear or affirm
14 that the testimony you're about to give is the truth?

15 THE WITNESS: I do.

16 KATHERINE KAMA'EMA'E SMITH

17 Was called as a public witness, was sworn to tell the
18 truth, was examined and testified as follows:

19 DIRECT EXAMINATION

20 CHAIRPERSON ACZON: State your name and
21 address.

22 THE WITNESS: Katherine Kama'ema'e Smith,
23 500 Kapalua Drive in Lahaina, West Maui. I am a
24 historian. I am a resident of West Maui for
25 26 years, and a volunteer for Olowalu Cultural

1 Reserve.

2 I understand that the Land Use Committee
3 will determine if the EIS for Olowalu Town Plan meets
4 the requirements of Hawaii statutes. Does it include
5 all the things an EIS is required by law to address?

6 I volunteered a lot of my time to read all
7 the Mahele 'Aina palapala of Olowalu ahupua'a and to
8 tend the native plants in Olowalu Cultural Reserve.
9 I believe the CIA component not only meets the
10 requirements to research and preserve but also the
11 option to promote the Hawaiian cultural aspects of
12 this land.

13 There is a lot of talk about the reef.
14 This EIS addresses that too. The latest study of the
15 reef carried out by Steve Dollar, Ph.D., a marine
16 biologist who has studied hundreds of reefs
17 throughout the Pacific, uses state of the art
18 methods. His study shows that this reef will be
19 continued to be challenged by silt load if the land
20 is left as is. Therefore, the EIS addresses runoff.

21 Dr. Dollar says the uniqueness of Olowalu
22 reef is a shallow, hard bottom that's good for coral
23 growth and that it is protected partially from both
24 north and south swells. He finds no scientific data
25 to support a so-called "kupuna" theory of reef

1 seeding. That's okay, because Hawai'i Statutes allow
2 for experts to disagree-even in an EIS. The point is
3 not to resolve all the science, but rather to ensure
4 that every environmental aspect has been researched
5 and that appropriate mitigation steps are addressed
6 by the plan and they are.

7 I have been testifying with the kupuna of
8 Olowalu for six years. In support of their ideas to
9 create a sustainable small town with shops,
10 businesses, parks, open view lines and affordable
11 housing all within walking distance. I stand with
12 them today. Thank you.

13 CHAIRPERSON ACZON: Thank you.

14 Any questions for the witness?

15 MS. LIM: No questions.

16 MR. HOPPER: No questions.

17 MR. YEE: No questions.

18 CHAIRPERSON ACZON: Commissioners?

19 Next testifier.

20 EXECUTIVE OFFICER: Kaneloa Kamanu followed
21 by Russell Kahookela.

22 CHAIRPERSON ACZON: May I swear you in?

23 Do you swear or affirm that the testimony
24 you are about to give is truthful?

25 THE WITNESS: Yes.

1 KANELOA KAMANA

2 Was called as a public witness, was sworn to tell the
3 truth, was examined and testified as follows:

4 DIRECT EXAMINATION

5 CHAIRPERSON ACZON: Please state your name
6 and address for the record and proceed with your
7 testimony.

8 THE WITNESS: My name is Kaneloa Kamanu. I
9 come from the moku of Wailuku. My address is 222
10 Waihe'e Valley Road. And I come here as
11 representative of Hui Aina and also as Kalamaku on
12 Maui.

13 My testimony basically states about the
14 rights of the natives. We know that the action, the
15 Department of Interior is trying to implement an
16 entity, government to government entity. And if we
17 look at that, why is that?

18 Because the native people have rights.
19 Rights that are invested. United States is trying to
20 figure out how they can capture those rights. What
21 that means to me is they know we have rights. And
22 this Commission continually dismisses those rights,
23 continuously every time we come forward.

24 Every time we claim this. And this stuff
25 is legislative. But yet our views are pushed to the

1 side. These meetings, these hearings only to satisfy
2 what needs to be done in the context of your
3 proceedings, which I think is wrong.

4 Because for one thing, we come here and we
5 show you all this evidence. You guys have evidence
6 from years already of my own testimony. Testimonies
7 of my native rights as kuleana alone, are
8 legislature, you guys recognize our law, 7-1, which
9 is our 1859 law. HRS, 60 percent of the HRS that are
10 instituted in the State of Hawaii are derived from
11 kingdom laws. Look at the parenthesis. It tells you
12 directly. But yet we are dismissed.

13 And we, according to -- you read our state
14 laws, and how you deal with things, that's what you
15 guys look at. But the thing is we legislated as our
16 ahu moku, again, prove to fact, the legislature, 202,
17 why? Customary and traditional practices to be
18 protected by the people of that moku of the ahupua'a,
19 to relearn the traditions that were given to us.

20 Why? Because in 1976 state constitution,
21 Article 12, Section 7 depicts what? That the state
22 will protect the customary traditional rights.

23 With the developments that come in, they
24 take away those rights. But even I read the state
25 laws that you have, do not define the kanaka of

1 passage. But you guys don't support that. You guys
2 lock us out with gates. You guys interfere with our
3 customary practices when you know -- and if you don't
4 know, then your incompetent. Read the state laws.

5 They tell you we --

6 CHAIRPERSON ACZON: Please summarize your
7 testimony.

8 THE WITNESS: My thing is, the rights of
9 the people, the people that live there are kuleana.
10 They have the paperwork. We get the documentation,
11 but yet this committee continues to adversely push us
12 to the side.

13 CHAIRPERSON ACZON: Thank you.

14 THE WITNESS: So the thing is --

15 CHAIRPERSON ACZON: Thank you.

16 Any questions?

17 MS. LIM: No questions.

18 MR. HOPPER: No.

19 MR. YEE: No.

20 CHAIRPERSON ACZON: Commissioners?

21 THE WITNESS: You guys know its true. What
22 goes around comes around, brah.

23 CHAIRPERSON ACZON: Do you swear or affirm
24 that the testimony that you're about a give is the
25 truth?

1 THE WITNESS: I do.

2 RUSSELL KAHOOKELE

3 Was called as a public witness, was sworn to tell the
4 truth, was examined and testified as follows:

5 DIRECT EXAMINATION

6 CHAIRPERSON ACZON: Please state your name
7 and address.

8 THE WITNESS: My name is Representative
9 Russell Kahookele. I'm the District Representative
10 of Hana, House 1.

11 Mr. Chair, Commissioners, thank you. What
12 we witnessing here today is government in action.
13 Unfortunately, it's de facto government, not the
14 lawful government of Hawaii.

15 You guys are tasked with making sure
16 whatever developments comes through makes everything
17 pono. The EIS that we talking about here, if you
18 just look at the conditions of our oceans, it's clear
19 to anybody that it's grossly impacted.

20 We going to talk about the runoffs that
21 comes down, but we ignore the chemicals on the golf
22 courses; we ignore all the sewage that's being bumped
23 out into the ocean; we ignore all of the stuff that
24 is going on.

25 We want to protect Hawaiian things, but the

1 Hawaiians we don't care about. They're a trouble.
2 They're a nuisance. Put them on the side. Even
3 though the State of Hawaii apologized to us in 1993
4 for their illegal act. You guys going to come here
5 and talk about law, legal legalities? You guys are
6 committing fraud. But what choices do you have?
7 What choice do you have?

8 This is what happened. This is the 58
9 state but yet nobody can produce the treaty. My tutu
10 said no. I didn't now -- I grew up pledging
11 allegiance to the flag during the military to defend
12 the constitution and bill of rights. And bill of
13 rights recognizes everybody's rights and their
14 nationality. Yet when we, the kanaka maoli people,
15 seek to become Hawaii nationals, we get locked up.

16 When the first marines came on shore was to
17 protect American interest and American lives, and
18 none of them was in danger then, and none of them are
19 in danger today. But since then until today, our way
20 of life has been grossly impacted.

21 If we are fishermen, like my uncle Keahi
22 family in Lahaina where they fish, and all those
23 boats out there on the ocean anchors off, just
24 dropping their waste right there, they cannot
25 survive. No more fish. If we get the fish, the fish

1 is contaminated and we get sick.

2 We used to catch the turtle, one of our
3 favorite fish. Somewhere along the line, somebody
4 say you cannot eat, got to protect them.

5 Now, I don't want to eat it, but guess
6 what? There is lots of food for the tiger sharks,
7 and they coming to eat the food and it's mistaking
8 the surfers for turtles.

9 So you guys want to make sure that the
10 environment is protected. You guys talk about the
11 runoffs going to come down and contaminate. It's
12 already contaminated. There should be a halt on any
13 further development unless it's going to be for the
14 people who live here in Hawaii, the kanaka maoli
15 people, not these ones. (Unintelligible) not the
16 ones who want to go buy new house.

17 CHAIRPERSON ACZON: Thank you.

18 THE WITNESS: You're welcome. This is my
19 last notice to you guys. Every action you take, you
20 will be held accountable for by the lawful government
21 of Hawaii.

22 CHAIRPERSON ACZON: Thank you.

23 Any questions?

24 THE WITNESS: I would also like to state
25 that I'm here on behalf of konohiki, who is the

1 lawful owner of this land.

2 CHAIRPERSON ACZON: Ms. Lim?

3 MS. LIM: No questions.

4 MR. HOPPER: No questions.

5 MR. YEE: No questions.

6 CHAIRPERSON ACZON: Commissioners? Next.

7 THE WITNESS: I would like to ask that you
8 take out the green sheet that you just received.

9 CHAIRPERSON ACZON: Let me swear you in
10 first. Do you swear or affirm that the testimony you
11 are about to give is the truth?

12 THE WITNESS: I do.

13 RICHARD MAYER

14 Was called as a public witness, was sworn to tell the
15 truth, was examined and testified as follows:

16 DIRECT EXAMINATION

17 CHAIRPERSON ACZON: State your name and
18 address and proceed.

19 THE WITNESS: My name is Richard Mayer.
20 Address is Kula,

21 I'm going to go strictly to the document
22 itself. As background I want to say that I'm a
23 former faculty member, reviewed hundreds of EIS
24 documents for the environment. I was a former member
25 of Planning Commission here on Maui, et cetera.

1 I believe the Olowalu Final EIS is
2 defective.

3 Number one, what they did not consider and
4 which governs everything is the idea that this is an
5 isolated community, everything stems from that, and
6 what they're trying to do is to cover over that
7 isolation.

8 Number two. Accessory dwelling, state do
9 not give the proper attention to the accessory
10 dwelling. They mention that many of these units, up
11 to 920 can have accessory dwelling, we call them
12 ohana, but they never ever discuss the impact of
13 those 920 units on infrastructure, on roads, on
14 schools, et cetera, et cetera, yet that could all be
15 built in addition to the 1500 they're asking for.

16 Number three. With regard to affordable
17 housing and workforce housing, they have done a bait
18 and switch on us. I was a member of the General
19 Planning Advisory Committee here on Maui that
20 approved the Urban Growth Boundaries.

21 They came to us and said there will be 500
22 affordable, 500 submarket and only 500 market unit
23 houses. They then went ahead in the Draft EIS and
24 said we are now increasing the market units from 500
25 to 750. And now, in the Final EIS they're saying

1 there will be 1,125 market units, because the county
2 changed an ordinance. By doing this, they were able
3 to get the Urban Growth Boundary, the GPAK and
4 Planning Commission and others gave them that Urban
5 Growth Boundary based on the fact that there's going
6 to be lots of affordable housing. But they're only
7 going to have 375 affordable workforce housing units,
8 not the original 1000 submarket priced houses.

9 They've also used the expression "seniors"
10 and "workforce housing" and combined the two. In
11 fact, in the statement they make it very clear that
12 the seniors are a part of the workforce. It's not
13 like there's additional housing for the seniors.

14 Jumping now to number six on the second
15 page, they have not produced a TIAR that the public
16 can review. I think your Office of Planning and your
17 staff pointed that out. That certainly doesn't
18 include in the Draft even the ohana units.

19 The existing Honoapilani Highway, they're
20 going to cut it in two places, so that the general
21 public that now uses that highway will have reduced
22 access to the sea, much like Wailea where the public
23 find the beaches down below are part of the hotel
24 property rather than the publics.

25 CHAIRPERSON ACZON: Please summarize your

1 testimony.

2 THE WITNESS: You can see -- submitting
3 this written testimony as part of my testimony you
4 will see they have not covered a very important
5 alternative and that is agricultural uses. They have
6 also mislead the Commission I believe with their use
7 of the financing for this thing from the county and
8 state.

9 CHAIRPERSON ACZON: We have your testimony
10 in front of us.

11 THE WITNESS: I would be glad to take
12 questions on that.

13 CHAIRPERSON ACZON: Any questions?

14 MS. LIM: No questions.

15 MR. HOPPER: No.

16 MR. YEE: No.

17 CHAIRPERSON ACZON: Commissioners?
18 Commissioner Scheuer.

19 VICE CHAIR SCHEUER: I have a couple of
20 questions for you.

21 I've done my best to review the voluminous
22 statement. One of the statements that you make early
23 in your testimony that is regarding ohana units is
24 that the Final EIS does not actually take into
25 account the additional impacts related to those

1 units.

2 I noted in one area regarding water that
3 the Final EIS actually does address, saying that the
4 Maui County water development standards include --
5 are based on the data from existing areas. And so
6 that they are saying that's their way of accounting
7 for the fact that their water demands are calculated
8 accurately.

9 I wasn't aware of any other places where
10 they track back to the relationship of ohana units.

11 Did you have a specific example for traffic
12 or other things where there is that relationship?

13 THE WITNESS: I wrote that comment down on
14 the Draft EIS, and when they gave their response to
15 my comments there, they sort of said, well, we count
16 guide how many people will actually build ohana
17 units, and so dismissed my statement.

18 I think that was a defective response to my
19 pointing out large number of ohana units. With
20 regard to the question itself, I don't believe they
21 accounted for the traffic, certainly not school
22 enrollments.

23 The schools in Lahaina are already over
24 capacity, as I point out, and they have said there
25 was 462 students coming out of these schools, and

1 they twisted the numbers from the 1500 units, by
2 making 900 of those multi-family units which the DOE
3 has a reduced number. If they had included the ohana
4 units, the enrollments from those up to 900 units
5 would have been significantly higher and they would
6 have been a real problem getting the monies needed.

7 VICE CHAIR SCHEUER: Thank you.

8 I note you addressed school impacts. Just
9 a final question.

10 One of the standards we have to review is
11 whether the responses to comments on the EIS were
12 satisfactory, actually, to us, so what I'm hearing in
13 your .11 in your written testimony under beach access
14 you say: My comments were ignored on beach access.

15 Do you have a specific contention about the
16 satisfactoriness of the Final EIS's responses to
17 those comments?

18 THE WITNESS: With regard to just beach
19 access?

20 VICE CHAIR SCHEUER: Beach access, yes.

21 THE WITNESS: They said we would put up
22 signs telling people what to do and giving handouts,
23 in a very vague sense.

24 I'm saying the road itself that goes along
25 the ocean now allows the public to get easy access to

1 the beach will be cut in two different places at each
2 end of their project, which means many tourist won't
3 know there are beaches there, and many others who now
4 snorkel and wish to utilize that area would have to
5 accept -- they said they would put up signs.

6 Where would they put up signs? Down at the
7 beach or up on the highway telling people there's a
8 beach down there, or that coral reefs that they can
9 snorkel at.

10 In other words, it's very vague and clear.
11 That's one of many, many areas where they did not
12 respond.

13 VICE CHAIR SCHEUER: Thank you, Mr. Mayer.

14 EXECUTIVE DIRECTOR: Hans Michel, Donna
15 Sterling.

16 CHAIRPERSON ACZON: May I swear you in?

17 Do you swear or affirm that the testimony
18 that you are about to give is truthful?

19 THE WITNESS: Yes, sir.

20 HANS MICHEL

21 Was called as a public witness, was sworn to tell the
22 truth, was examined and testified as follows:

23 DIRECT EXAMINATION

24 CHAIRPERSON ACZON: Thank you. Please
25 state your name and address for the record.

1
2 THE WITNESS: My name Hans Michel, 1404
3 Olona Place, Lahaina. I'm a citizen of the United
4 States. I married a Hawaiian and we get along fine.
5 We don't argue about what's up and down. Whatever
6 needs to be done. But West Maui needs housing. And
7 if we don't build Olowalu, we ain't going to get
8 nothing because we keep on talking for so many years.

9 The last housing project was Ali'i, we had
10 3,000 people applied for housing at that time. I
11 still have the paperwork at home. The part was this,
12 only 400 were qualified to get a loan from the bank.

13 Well, I hope they have chance to safe some
14 money meanwhile, because if Olowalu gets built and
15 supposed to build affordable housing, and
16 50 percent -- I don't know -- I cannot say what and
17 how they going to do it, but it's your commissioners
18 to look to it for they will do what they said in
19 the -- what you call it -- in the book, the one with
20 have about thousand pages what needs to be done and
21 not done.

22 So I'm not grumbling, but I believe we have
23 to look for our kids, grandchildren that they have
24 houses the next 20 years. The way this country
25 going, nothing going up, everything goes downhill.

1 So why worry about the ocean, because you can have a
2 big wave tomorrow and sweep you away, half of Maui is
3 gone.

4 We can thank God we didn't have no problem
5 with the hurricane in August. Four time hurricane
6 attack. Everybody still got roof on it. Thank God
7 for that. Supposed to be thankful rather than all
8 this grumbling and bitching.

9 Anyway, I hope and have my blessings you
10 going to build Olowalu. Me and my wife are for it.
11 Like I say, my wife is Hawaiian. I got no problem
12 whatsoever.

13 CHAIRPERSON ACZON: Any questions for the
14 testifier?

15 MS. LIM: No.

16 MR. HOPPER: No.

17 MR. YEE: No.

18 CHAIRPERSON ACZON: Commissioners? Thank
19 you.

20 EXECUTIVE DIRECTOR: Donna Sterling,
21 followed by Patricia Hoskin.

22 CHAIRPERSON ACZON: After you testify, I'm
23 going to call for short break.

24 VICE CHAIR SCHEUER: One of the reasons we
25 take breaks, we have a court reporter. Everything is

1 recorded verbatim and her hands need to be rested,
2 especially with how many people are here, so thank
3 you for your patience.

4 CHAIRPERSON ACZON: Do you affirm that the
5 testimony you are about to give is the truth?

6 THE WITNESS: Yes.

7 DONNA STERLING

8 Was called as a public witness, was sworn to tell the
9 truth, was examined and testified as follows:

10 DIRECT EXAMINATION

11 CHAIRPERSON ACZON: Thank you. Please
12 state your name and address for the record.

13 THE WITNESS: My name is Donna Sterling. I
14 live in Kahikinui, moku of Kahikinui and the ahupua'a
15 representative for Kahikinui. I have family that
16 comes from Ukumehame, Hinanakalehiki (phonetic).

17 Regarding this testimony today, Chair and
18 Commission, I would like to address that this is
19 coming from a person that was not able to make this
20 testimony, and I would like to submit for
21 recordation. Is that allowed?

22 CHAIRPERSON ACZON: Go ahead.

23 THE WITNESS: So Dear Land Use
24 Commissioners, please do not except the Final EIS for
25 Olowalu Town.

1 Hawaii state law, HAR 11-200, specifies
2 that an EIS shall fully declare the environmental
3 implications of the proposed action and shall discuss
4 all relevant and feasible consequences of the action.
5 Given the errors and omission of important details in
6 this Final EIS, it's not possible to address all
7 environmental and cultural implications and
8 consequences of the building the proposed Olowalu
9 Town. Therefore, this Final EIS should not be
10 accepted as a Final EIS.

11 In reading the FEIS I found many areas that
12 were vague and didn't address the issues. The
13 following areas are some of the areas not adequately
14 addressed.

15 Number one, damage to marine resources,
16 specifically the coral reef fronting the proposed
17 area. I have been a University of Hawaii research
18 diver for 24 years and have done extensive research
19 on the reef at Olowalu. I find the information in
20 Appendix E to be incomplete and misleading. The
21 methods used are not scientifically rigorous and it
22 us obvious that a thorough study was not done.

23 Number two. Water usage. It is not shown
24 correctly how the aquifer and streamflow in Olowalu
25 can support a development of this size. In addition

1 to homes and businesses, there are agricultural lots
2 which will require more water to grow crops.

3 Three. Sewage treatment. Maui has a
4 problem with eutrophication of nearshore waters in
5 all areas with sewage treatment plants.

6 Four. Runoff from construction and
7 addition of impervious land. There are claims of
8 using best management practices to avoid runoff, but
9 details are lacking. Best management practices are
10 still in development and have not been perfected.
11 Many developments on Maui have used "best management
12 practices" but still had severe impacts to nearshore
13 coral reefs.

14 CHAIRPERSON ACZON: Please summarize.

15 THE WITNESS: So five is: Traffic into
16 Lahaina is practically at a standstill almost every
17 afternoon.

18 Six. Loss of vital agricultural lands. A
19 Priority of Maui County is to preserve prime
20 agricultural lands. The EIS doesn't address how this
21 can be mitigated.

22 CHAIRPERSON ACZON: Any questions?

23 CROSS-EXAMINATION

24 BY MS. LIM:

25 Q One question. From whom were you giving

1 this testimony?

2 THE WITNESS: This is Donna Brown and I
3 will give this to you.

4 MS. LIM: Thank you, very much. I have no
5 further questions, Commissioner.

6 EXECUTIVE DIRECTOR: Patricia Hoskin.

7 CHAIRPERSON ACZON: The Chair calls for a
8 five-minute break.

9 (Recess taken.)

10 CHAIRPERSON ACZON: Back on the record.

11 COMMISSIONER HIRANAGA: Mr. Chair, I just
12 wanted to disclose that I did serve on the Maui
13 Planning Commission during the period of time that
14 the Maui Island Plan was reviewed, so I did
15 participate in the review of this proposed Olowalu
16 proposal. Thank you.

17 CHAIRPERSON ACZON: Thank you.

18 Commissioner Scheuer.

19 VICE CHAIR SCHEUER: Aloha. First of all I
20 notice many of you who are standing may be waiting to
21 testify. There are open seats, so wave your hand if
22 there is a seat next to you. Some people need to be
23 comfortable.

24 I also like to note I fully appreciate
25 there's very strong emotions in the room from all

1 sides, from people who feel like, wow, this is my
2 chance to actually have a home that I can afford, or
3 people who feel like this is going to harm this
4 precious place. And so I definitely understand the
5 urge for applause. I want to let you know, one of
6 the things it does is our court reporter can't
7 actually capture of the some of the statements that
8 are placed on the record, and we rely on that record
9 when we make our decisions and further actions come
10 on this.

11 So to the degree that we can try and show
12 respect for making sure everybody's voices are heard,
13 so to the degree that you feel it's possible to avoid
14 applause after speakers, no matter how you feel about
15 them, that would be of service to the discussion that
16 we're having today. Mahalo.

17 CHAIRPERSON ACZON: Thank you, Commissioner
18 Scheuer. Mr. Orodenger.

19 EXECUTIVE OFFICER: Patricia Hoskin
20 followed by Ananda Stone.

21 CHAIRPERSON ACZON: Let me swear you in.
22 Do you affirm that the testimony that
23 you're about to give is the truth?

24 THE WITNESS: Yes.

25 -000-

PATRICIA HOSKIN

Was called as a public witness, was sworn to tell the truth, was examined and testified as follows:

DIRECT EXAMINATION

CHAIRPERSON ACZON: Thank you. Please state your name and address for the record.

THE WITNESS: My name is Patricia Hoskin 2495 S. Kihei Road, No. 163, Kihei, Hawaii.

Aloha, members of the Land Use Commission. My name is Patricia Hoskin. I live in Kihei. I am a retired high school biology and chemistry teacher. I volunteer for five organizations on this island including the Natural Area Reserve of Ahihi Kinau.

I try to snorkel one day a week. It's very obvious that the corals are being stressed. In the Maui News dated 11-17-15, an article titled "State to come up with management plan for coral reefs" on page A3. The

This plan is long overdue. At the end of the article the writer says that scientists estimate that 30% of the world's population of coral has perished as a result of the above average water temperature. This is the background for the development at Olowalu.

I am concerned with all the effects of the

1 development, but especially on the ocean. The
2 developers hired Marine Research Consultants who
3 concluded that their development will benefit the
4 corals. It is good to prevent runoff. However, it
5 would be best if the development would benefit all
6 people on Maui. In this area the corals are the
7 oldest on the island, to my understanding. Once
8 these are dying, if they come back, they will not be
9 the same.

10 There also rare species of coral which are
11 being proposed to the endangered species list. In
12 addition to the coral, this area has been known as an
13 area to see rays, monk seals and turtles. Two of
14 these are endangered species. They will now be
15 sharing this area with over 3,000 new people.

16 Since the original meetings, the developers
17 have added 300,000 square feet of commercial space
18 and a 60-room hotel, to my understanding. I'm not an
19 expert their actual proposal.

20 The people staying in a hotel have little
21 concern about their lasting effects on the
22 environment. They're here to have a good time. And
23 it seems to me that to be adding a town, they should
24 be having a correct proportion of affordable housing,
25 which is desperately needed.

1 I would also like to know if the developers
2 are paying for a school or several schools and where
3 they are getting the teachers, since at this time the
4 high schools do not have enough substitutes to cover
5 the classes. I know, as an I substitute and I can
6 tell you sitting right here that there is at least
7 one class at Baldwin High School that still does not
8 have a permanent teacher for this year, and the
9 students are being taught with substitutes and have
10 been since the third week of this semester.

11 So I am asking you to reject the Olowalu
12 Town Development and the Final EIS for the main
13 reason of protecting the environment.

14 CHAIRPERSON ACZON: Thank you. Any
15 questions for the testifier?

16 MS. LIM: No.

17 MR. HOPPER: No.

18 MR. YEE: No.

19 CHAIRPERSON ACZON: Commissioner Estes.

20 COMMISSIONER ESTES: I've heard about the
21 overcrowding of schools on more than one occasion.
22 Is the logical conclusion to that that we shouldn't
23 let anybody move in?

24 THE WITNESS: No. My suggestion is --
25 where I came from in California, the city that I had

1 a contract with, demanded, in fact, I think that the
2 developers have to pay for the schools that the new
3 housing would serve.

4 I happen to teach for many years until I
5 retired in Fontana, California. That was an active
6 development, and it was not fought at all. People
7 wanted the houses. But for every certain amount of
8 homes, they had to provide so many elementary
9 schools, so many junior highs or whatever to feed
10 into the high schools.

11 It was a large district. We had five high
12 schools there, and my school had 4,000 students, one
13 of five high schools. So I'm just saying developers,
14 if they're going to be putting in a large amount of
15 homes, should be forced to provide the amount of
16 schools necessary to be built. And then the problem
17 is, getting the Department of Education to recruit
18 teachers. I mean that's a problem that is the
19 state's problem in this case.

20 CHAIRPERSON ACZON: Anybody else? Thank
21 you. Next.

22 EXECUTIVE OFFICER: Ananda Stone followed
23 by Kalani Ross.

24 CHAIRPERSON ACZON: Do you swear or affirm
25 that the testimony that you're about to give is the

1 truth?

2 THE WITNESS: I do

3 ANANDA STONE

4 Was called as a public witness, was sworn to tell the
5 truth, was examined and testified as follows:

6 DIRECT EXAMINATION

7 CHAIRPERSON ACZON: Please state your name
8 and address and please proceed with your testimony.

9 THE WITNESS: Ananda Stone, 1595 Kuuipo
10 Street, Lahaina.

11 Aloha Kakou, my name is Ananda Stone, and
12 I'm from Lahaina. Thank you members of the Land Use
13 Commission for hearing us today.

14 I would strongly like to urge you to reject
15 the Final EIS of Olowalu Town Village.

16 In Appendix C, regarding the Marine
17 Resources comments, the EIS states that the:

18 Olowalu marine resource consultant's
19 professional opinion is that "as long as the BMPs are
20 utilized and retention basins maximize sediment
21 trapping, there will be no rationale to indicate
22 potential changes that could be considered negative
23 impacts to the marine environment."

24 I don't see how the Final EIS responded
25 adequately in addressing the concerns that there is

1 no plan showing where the proposed retention basins
2 will be located.

3 The Final EIS should clearly detail how it
4 is going to mitigate runoff. We still don't see
5 where the retention basins are planned, how many,
6 what size will be planned, or how they will be
7 executed, so how can anyone determine if they would
8 be adequate enough in addressing the runoff of a
9 400-acre graded area?

10 The grading period of a development is when
11 you see the majority of runoff happening, at least in
12 West Maui. How many years of loose exposed soil are
13 we talking about? Eight to 10 years.

14 I've personally witnessed the harmful
15 effects of development at Honolua Ridge and Mahana
16 Ridge that have had on the ocean environment, and I
17 was there when Maui Land & Pine gave us their pitch
18 that they were going to do their due diligence and
19 ensure that natural resources would not be adversely
20 effected. But still the runoff from the development
21 above Honolua contributed to the coral decline in
22 Honolua Bay that went from a 42 percent coral cover
23 to ten percent coral cover in 2010.

24 This Final EIS delineates nothing more than
25 the plans that those two travesties did at Honolua

1 Ridge and Mahana Ridge. Making promises, having best
2 intentions, and following the BMPs in West Maui has
3 not been good enough, as current history has shown
4 us.

5 And I would like to just give you an
6 example of what runoff looks like into Honolua Bay.
7 (Indicating.)

8 CHAIRPERSON ACZON: Please summarize.

9 THE WITNESS: Olowalu reef is far too
10 valuable to our culture and economy to let this
11 happen. Once a reef is gone, we cannot bring it
12 back.

13 CHAIRPERSON ACZON: Any questions?

14 MS. LIM: No questions.

15 MR. HOPPER: No.

16 MR. YEE: No.

17 CHAIRPERSON ACZON: Commissioners? Thank
18 you.

19 COMMISSIONER MAHI: Mahalo so much for that
20 information. I think it's the most substantive
21 information I have received yet thus far relative to
22 what we're considering today, mahalo. State your
23 name again?

24 THE WITNESS: Ananda Stone.

25 COMMISSIONER MAHI: I thank you for

1 rendering that testimony, those are pictures based
2 near Olowalu?

3 THE WITNESS: These are not based near
4 Olowalu. This is West Maui, Honolua and DT Flemming
5 Beaches.

6 COMMISSIONER MAHI: I would like to turn my
7 questioning now to the developers.

8 Hearing this substantive information, I
9 would like to know if -- I would like to hear from
10 the Petitioner if you have a --

11 CHAIRPERSON ACZON: Commissioner Mahi, you
12 can question the Petitioner later. We're hearing
13 public testimony now.

14 COMMISSIONER MAHI: Oh, okay. No, no, we
15 will have our time. Thank you for that. I won't
16 forget.

17 EXECUTIVE OFFICER: Kalani Ross, Laura Van
18 Wagner, followed by Ray Van Wagner, followed by Sarah
19 Bryan. Please step on the side so we can speed up
20 the process.

21 CHAIRPERSON ACZON: May I swear you in?
22 Do you swear that your testimony you are
23 about to give is truthful?

24 THE WITNESS: Yes.

25 -o0o-

1 LAURA VAN WAGNER

2 Was called as a public witness, was sworn to tell the
3 truth, was examined and testified as follows:

4 DIRECT EXAMINATION

5 CHAIRPERSON ACZON: Thank you. Please
6 state your name and address for the record, and
7 please proceed with your testimony.

8 THE WITNESS: My name is Laura Van Wagner,
9 2560 Hunakai Street in Kihei.

10 CHAIRPERSON ACZON: Please proceed.

11 THE WITNESS: Aloha members of the Land Use
12 Commission. Putting a mile and a half road is not
13 going to be sustained, the amount of traffic that
14 will be created by a major development.

15 The EIS did not explain why its Traffic
16 Impact Assessment Report has not been accepted by the
17 State Department of Transportation, and merely refers
18 being in consultation with the agency.

19 The SDOT called Olowalu's Draft EIS 2011 an
20 unacceptable plan. Olowalu Town is trying to get
21 permission to build a project before there is a
22 realistic traffic system to serve it.

23 The Olowalu Draft EIS tried to claim that
24 75 percent of the new residents would only drive in
25 the development area since everything would be there,

1 in concluding that there would be no traffic impact
2 from the population shift from 80 to 4,000 in that
3 area.

4 This thinking is obviously flawed as there
5 are many things that people that would want to leave
6 the community for, such as going to the airport,
7 hospital, senior citizen center, Maui film festival,
8 4th of July parade, Costco or any of the big box
9 stores. Every kind of church or temple, preschool,
10 grade school, high school, college. Every kind of
11 restaurant bar and grill, health food store, and the
12 list goes on.

13 I know they have appropriated some land for
14 the school, but we are supposed to pay for that
15 school, and we know from experience how long it's
16 been taking to get the money for the school, the high
17 school in Kihei.

18 The SDOT rejected the 75 percent figure as
19 having no factual basis and it was changed in the
20 EIS. Lots of the conclusions in the EIS have no
21 factual basis and the document should not be
22 accepted.

23 I would therefore like to ask the
24 Commission to deny the Final EIS.

25 Thank you for listening.

1 CHAIRPERSON ACZON: Any questions for the
2 testifier?

3 MS. LIM: No questions.

4 MR. HOPPER: No questions.

5 MR. YEE: No questions.

6 CHAIRPERSON ACZON: Commissioners? Thank
7 you.

8 Ray Van Wagner followed by Sarah McLane
9 Bryan, followed by Christine Lamb.

10 CHAIRPERSON ACZON: As he calls your name,
11 please step to this side to speed up the process.

12 Can I swear you in?

13 Do you swear or affirm that the testimony
14 that you are about to give is truth?

15 THE WITNESS: Yes, I do.

16 RAY VAN WAGNER

17 Was called as a public witness, was sworn to tell the
18 truth, was examined and testified as follows:

19 DIRECT EXAMINATION

20 CHAIRPERSON ACZON: Please state your name
21 and address.

22 THE WITNESS: My name is Ray Van Wagner,
23 2560 Hunakai Street in Kihei.

24 In 1979 and 1980 I lived in west side. I
25 traveled to Wailuku or Kihei daily. It was important

1 to pick the right time to drive to avoid being in
2 bumper to bumper traffic. So nothing has gotten any
3 better.

4 Sometimes the bumper to bumper traffic
5 started in Olowalu. I wondered what it would look
6 like if there was ever an emergency. I did see
7 emergency vehicles go around by cane road at times,
8 but what if there was a major event? The other way
9 out of west Maui was past Napili, an old narrow road
10 down the side of a cliff with one car stopping while
11 another one went around. There was a steep cliff and
12 no guardrails. It was spooky, and I'll never forget
13 it.

14 Now there are plans to turn Olowalu into a
15 big town with thousands of people living and working
16 there and a hotel. This is asking for trouble.
17 Overloading an already busy road in a mile and a half
18 of freeway is not enough to fix it.

19 I would expect that a complete new road
20 from the harbor to Lahaina be built before a venture
21 of this size would be allowed. This could put west
22 side residents and visitors in a very tight spot if
23 there was a need to get out of Lahaina in case of an
24 emergency. Thank you.

25 CHAIRPERSON ACZON: Any questions?g

CROSS-EXAMINATION

BY MS. LIM:

Q One quick question.

Are you under the impression that the decision the Commission is making right now is going to authorize the Petitioner to go forward and build the project?

A I was. I thought we were here for to review your petition to the project. Maybe you're not going to do the project.

Q We are here today just to review the Environmental Impact Statement. In fact, if the Commission does decide to accept it, it in no way authorizes this Petitioner to move forward and actually build this project.

From the content of your testimony, it sounds as if you perhaps were here on that.

So thank you for responding.

A Thank you for correcting me.

CHAIRPERSON ACZON: County?

MR. HOPPER: No.

MR. YEE: No.

CHAIRPERSON ACZON: Commissioners? Next testifier.

EXECUTIVE OFFICER: Sarah McLane Bryan

1 followed by Christine Lamb, followed by Hannah
2 Bernard.

3 CHAIRPERSON ACZON: May I swear you in?
4 Do you swear that the testimony that you
5 are about to give is the truth?

6 THE WITNESS: I do.

7 SARAH McLANE BRYAN
8 Was called as a public witness, was sworn to tell the
9 truth, was examined and testified as follows:

10 DIRECT EXAMINATION

11 CHAIRPERSON ACZON: Thank you. Please
12 state your name address for the record.

13 THE WITNESS: My name is Sarah McLane
14 Bryan, 535 Kahua Place in Paia.

15 First all I just really wanted to say is
16 thank you for everyone for coming. No matter what
17 side you're on, I think this is really important to
18 be here and to talk about this as a community and to
19 get all of our opinions in front of you guys. Thank
20 you for coming to Maui. This means a lot.

21 My stance is that I would ask that you not
22 approve the Final EIS for many reasons, and actually
23 I wrote a whole thing about it, and as I started
24 listening to other testimony, I just wanted to point
25 out a couple of things.

1 The first is that an EIS in general is sort
2 of flawed. The way it's supposed to happen is that
3 the developer is supposed to create these large
4 reports and studies, and inevitably, if though do
5 find some sort of impact, they have to bring it to
6 you and then explain how they're going to try to
7 mitigate that.

8 But it's crazy to think that there won't be
9 any impacts in building a neighborhood or a school or
10 whatever it's going to be. And so it just seems like
11 it's always sort of this, and for lack of a better
12 word, like it doesn't seem fair to either side,
13 actually. That like we're supposed to just, you
14 know, say, okay.

15 Well, in this document it says there's
16 going to be no impact to our reef, for example. But
17 it would be pretty amazing if that were true. And we
18 actually have other developments that have tried to
19 do the same things, tried to put in BMPs. They plan
20 to put in retention ponds, and it hasn't worked.

21 So we're getting the same answers over and
22 over again. As Ananda was saying earlier, Mahana
23 Ridge, 25 instances of the brown water days that were
24 reported last year, and it took the state and the
25 county more than a year to do something about it.

1 And so I think a lot of us in this room are
2 not really willing to take that chance with Olowalu.
3 It's too precious, too special, and too many reasons
4 not to do it.

5 So I know we need to stick to things in the
6 EIS, but I wanted to point out a second about
7 endangered corals. They said they could not
8 determine which ones are endangered corals. I work
9 with many people at University of Hawaii, and they
10 have all said, well, I can identify those corals. So
11 that was plainly untrue.

12 Then also I wanted to point out that --

13 CHAIRPERSON ACZON: Please summarize.

14 THE WITNESS: -- it's meant to show there
15 is a need for this project. Now, I need affordable
16 housing just like the rest of us. I live here,
17 struggling to live here for a long time, but the
18 bottom line is our Maui Island Plan shows plenty of
19 housing going to be proposed for West Maui.

20 CHAIRPERSON ACZON: Any questions?

21 CROSS-EXAMINATION

22 BY MS. LIM:

23 Q Just one question.

24 You mentioned the Maui Island Plan. Thank
25 you for your testimony.

1 Are you aware that the Maui Island Plan
2 designation for much of the Olowalu Master Plan area?

3 A Yes. I believe they did actually include
4 some rural and urban areas in the master plan, yes.

5 Q Thank you. I just wanted that
6 clarification.

7 A I just wanted say that I think that, yes,
8 those areas were designated in the Maui Island Plan,
9 but so were several other developments in West Maui,
10 and actually when you calculate the numbers of
11 housing developments that are needed to cover the
12 projected population numbers for West Maui, it's over
13 100 percent that are going to be covered by the other
14 developments that are already coming through the
15 pipeline, and that we're covering the bases already.

16 CHAIRPERSON ACZON: County.

17 MR. HOPPER: No.

18 MR. YEE: No.

19 CHAIRPERSON ACZON: Commissioners? Thank
20 you.

21 EXECUTIVE DIRECTOR: Christine Lamb, Hannah
22 Bernard, followed by Richard Nelson.

23 CHAIRPERSON ACZON: Do you affirm that the
24 testimony that you are about to give is the truth?

25 THE WITNESS: Yes, it is.

CHRISTINE LAMB

Was called as a public witness, was sworn to tell the truth, was examined and testified as follows:

DIRECT EXAMINATION

CHAIRPERSON ACZON: Thank you. Please state your name and address for the record.

THE WITNESS: My name is Christine Lamb. I live on Halama Street in Kihei, Hawaii, but I am speaking on behalf of Francois Seneca who could not be here. He has a Ph.D. in molecular biology, so I'll read.

I highly recommend the Commission to deny the Final EIS for the Olowalu Town Development.

I am a researcher for University of Hawaii working on the effects of land-based pollutions including sediments on the health of coral reefs.

The Olowalu reef is one of the sites I currently study along the coast of West Maui. I've experienced firsthand the recent loss of live coral reefs in the shallows at Olowalu. That decline preceded the damage done during the bleaching events of the 2014 and 2015 summers.

Based on my personal investigation of the site, corals living at depth less than three meters are affected by an excessive input of terrestrial

1 sediments in the system.

2 I can affirm that this issue has taken
3 place within the last ten years. In fact, an
4 examination of past Google earth images strongly
5 suggests that recent clearing of the vegetation along
6 the coastline and on land adjacent to the beach has
7 most likely contributed to the problem.

8 I have read the current EIS for Olowalu
9 Town project and nothing is mentioned about best
10 management practices to prevent further
11 sediment-driven damage to the reef during
12 constructions. My opinion, based on my understanding
13 of the Olowalu coastal system and 15 years of
14 research on the stress response of corals is that if
15 the Olowalu Town project goes ahead following the
16 current EIS, people of Maui will lose one of their
17 natural treasures.

18 The key question is: Will the West Maui
19 community benefit more from the Olowalu reef being
20 alive or benefit more having Olowalu Town being
21 built. Thank you.

22 MS. LIM: No questions.

23 MR. HOPPER: Just with regard, to clarify,
24 is that a copy of the written testimony, or do we
25 have a copy of that testimony?

1 THE WITNESS: No, you don't have a copy.

2 CHAIRPERSON ACZON: OP?

3 MR. YEE: No question.

4 CHAIRPERSON ACZON: Commissioners? Thank
5 you.

6 THE WITNESS: While I'm here, can I speak
7 on behalf of myself as a resident of Kihei, four
8 years of educational teaching, I now substitute at
9 Baldwin High School. I just would like to share a
10 personal note.

11 For my students, they spend a lot of time
12 with their families using the beach at Olowalu. Any
13 time we take more of the public beach from the
14 public, we are really hurting the students here in
15 Maui.

16 The other thing is most teachers in Maui
17 admit they will never own a home. We have a teacher
18 shortage because we're losing our good teachers who
19 go to the mainland where they can afford to buy a
20 home to raise their family.

21 I'm so concerned that this project is
22 decreasing the number of homes that are affordable.

23 Thank you very much.

24 CHAIRPERSON ACZON: Thank you. Next
25 witness.

1 EXECUTIVE DIRECTOR: Hannah Bernard,
2 followed by Richard Nelson, followed by Alana Kay.

3 VICE CHAIR SCHEUER: I very much appreciate
4 it when folks try to keep applause down. Again, part
5 of making sure a few things, one, is that the court
6 reporter gets everything on the record, and also that
7 I really want to hear from everybody here and it does
8 take some time during the process. So just
9 respectfully, thank you.

10 CHAIRPERSON ACZON: May I swear you in?
11 Do you affirm that the testimony that you
12 are about to give is the truth?

13 THE WITNESS: Yes.

14 HANNAH BERNARD
15 Was called as a public witness, was sworn to tell the
16 truth, was examined and testified as follows:

17 DIRECT EXAMINATION

18 CHAIRPERSON ACZON: State your name and
19 address for the record.

20 THE WITNESS: Hannah Bernard, 25 Laupapa
21 Place Haiku.

22 First of all I want to thank you
23 Commissioners for being here today. It is an honor
24 to have you on Maui. I appreciate this opportunity
25 to talk about this very important situation. And I'm

1 asking that you please reject the FEIS for Olowalu
2 Town. It is inadequate. It does not fully declare
3 the environmental implications of the proposed
4 project nor discuss the feasible consequences
5 adequately.

6 Instead, it relies on assumptions that
7 nothing the project does will cause any harm, and the
8 apparent suggestion that BMPs, for example, water
9 management, will be followed rather than required.

10 And as previous testimony has concurred,
11 simply asking developers or homeowners to use BMPs
12 isn't good enough.

13 Some of the aspects I would like to focus
14 on the marine resource aspects. Hawaii wildlife Fund
15 is a Hawaii based marine conservation organization.

16 It appears the beach/ocean access will be
17 restricted due to parking limitations, or inadequate
18 parking, particularly at the surf break. This cannot
19 be considered an insignificant impact. Nor can the
20 addition of 2,000 to 4,000 beach/ocean users living
21 in close proximity to the reef be considered
22 insignificant.

23 The marine surveys are inadequate, four
24 surveys, and they are not baseline. Other
25 organizations have been doing work out there

1 including ours. In 2003 we prepared a report, the
2 importance of the back reef and deeper reef area both
3 geologically and biologically are not addressed.
4 These zones are characterized by rare coral species -
5 this is common knowledge - juvenile fish, green sea
6 turtles and endangered Hawaiian monk seals.

7 The aggregate coral zone is rare Hawaii in
8 that it consists of micro atolls and stony corals
9 that are built upon approximately 20 meters of coral
10 structure, unlike much of Hawaii's reefs that grow
11 upon lava substrate. The age and depth of these
12 coral structures can provide information about past
13 sea level changes and coral reef resilience to
14 hurricanes, among other things. These corals
15 survived Iniki.

16 This area's vulnerability to nutrient input
17 and sedimentation were noted but introducing a new
18 vector for such stressors such as sediment basins,
19 was highlighted as a solution instead of a potential
20 threat. Who's responsibility will it be to maintain
21 and dredge these sediment basins? Will they
22 concentrate and then leach nutrients? This is
23 unclear.

24 The wastewater treatment plant and
25 constructed wetland may leach nutrients into the

1 groundwater or outright spills due to equipment
2 failure and/or flooding, thereby jeopardizing the
3 nearshore waters and coral reef.

4 Climate change and sea level rise, two very
5 real threats to both shoreline development and marine
6 ecosystems are not addressed. Hawaii is experiencing
7 a significant El Nino and massive coral bleaching
8 episode, the third global event ever recorded. 500
9 year-old corals at Olowalu are bleaching, and there
10 may be permanent impacts. Considering that 16
11 percent of the world's coral reefs were lost during
12 the last global bleaching episode.

13 So to consider this EIS adequate is
14 completely unacceptable.

15 CHAIRPERSON ACZON: Any questions?

16 MS. LIM: No questions.

17 MR. HOPPER: No questions.

18 MR. YEE: No.

19 CHAIRPERSON ACZON: Commissioners? Thank
20 you. Next testifier.

21 EXECUTIVE DIRECTOR: Richard Nelson
22 followed by Alana Kay, followed by Adeline Rodrigues.

23 CHAIRPERSON ACZON: Do you affirm that the
24 testimony that you are about to give is the truth?

25 THE WITNESS: I do affirm.

1 RICHARD NELSON

2 Was called as a public witness, was sworn to tell the
3 truth, was examined and testified as follows:

4 DIRECT EXAMINATION

5 CHAIRPERSON ACZON: Thank you. Please
6 state your name and address.

7 THE WITNESS: Richard Nelson. I live at
8 115 Maninu Circle in Kihei.

9 I am here primarily to go on record and to
10 be stand in solidarity with this community who is
11 rejecting the Final EIS for the Olowalu Town
12 Development.

13 Looking at the EIS, and my background I
14 spent 25 years in marine science working for the
15 University of California. I've had an opportunity to
16 take a look at a few EISs in my time, and this
17 particular document, as weighty as it is, seems to be
18 filled with pukas.

19 One of my concerns is really there's been
20 very little discussion on post development
21 monitoring. When you have four to 5,000 people
22 coming into a small area that's adjacent to one of
23 the really most beautiful and important reefs on the
24 leeward side of Maui, and possibly in the state, when
25 you have that amount of people coming into that area

1 and doing all the things that people do, it's going
2 to have an affect. And the lack of monitoring,
3 continued monitoring with things changing so quickly,
4 could be disastrous.

5 There's been no discussion, that I could
6 find, of the 750,000 gallons per day of water coming
7 into this area. There's a recent paper by Kyle Van
8 Houton who discusses the impact of agricultural
9 runoff. And all though there is little discussion
10 about the agricultural element of this.

11 Remember, when we have 5,000 people,
12 they're all going to have gardens and beautiful lawns
13 and a lot of chemicals involved coming into that
14 area. And those chemicals will find their way into
15 the reef.

16 Dr. Kyle Van Houton suggests in his paper
17 that the tumors that we see on our honu are caused by
18 this kind of runoff. We have got to protect this
19 area.

20 You know, culturally, Olowalu was a place
21 of refuge. It was a place where someone could go to
22 find sanctuary. And this place has protected many
23 thousands of people.

24 CHAIRPERSON ACZON: Please summarize.

25 THE WITNESS: It's now our time to protect

1 this refuge. Thank you.

2 CHAIRPERSON ACZON: Any questions?

3 MS. LIM: No.

4 MR. HOPPER: No.

5 MR. YEE: No.

6 CHAIRPERSON ACZON: Commissioners? Next
7 testifier, please.

8 EXECUTIVE DIRECTOR: Alana Kay followed by
9 Adeline K. Rodrigues followed by Kawai Rodrigues.

10 CHAIRPERSON ACZON: May I swear you in?
11 Do you swear that the testimony you are
12 about to give is the truth?

13 THE WITNESS: Yes.

14 ALANA KAY

15 Was called as a public witness, was sworn to tell the
16 truth, was examined and testified as follows:

17 DIRECT EXAMINATION

18 CHAIRPERSON ACZON: Please state your name
19 and address.

20 THE WITNESS: My name is Alana Kay, 851
21 South Kihei Road, Kihei.

22 I'm here today because I believe that the
23 Final EIS for the Olowalu Town Master Plan
24 Development is insufficient and vague. The two
25 environmental impacts that I believe have been

1 insufficiently addressed are orographic rainfall and
2 LEED building standard's smart locations
3 requirements.

4 The U.S. Green Building Council established
5 LEED certification to slow the negative impacts of
6 urban sprawl on our ecosystems and undeveloped green
7 space. The Maui County Planning Department provided
8 a list of concerns to the developers, including one
9 item that addresses smart locations as described by
10 LEED certification factors. LEED certification
11 requires that developments be adjacent to existing
12 urban areas or be infill.

13 The third and weaker option states that a
14 development may be alternatively placed on a transit
15 corridor that provides public transportation at least
16 60 times per day. The Maui Bus makes around trip
17 past the proposed location once an hour, which
18 amounts to 14 times per day. This is nowhere close
19 to the 60 times a day that is required for the
20 location to be LEED certified.

21 Once again, the motivation of the US Green
22 Building council is to prevent damage to ecosystems,
23 waterways and undeveloped green space. Furthermore,
24 the planning department questioned the viability of
25 the existing transportation corridor for this project

1 because the Honoapillani Highway is slated for major
2 repair work as the shoreline is encroaching.

3 Considering all of the aforementioned factors, LEED
4 certification for this project would be of a low
5 rating or not at all.

6 Of utmost concern is the fact that Hawaii
7 is the most isolated landmass on the planet and we
8 are surrounded by salt water. We rely in large part
9 on orographic rainfall to replenish our freshwater
10 streams and aquifers. This rainfall is produced via
11 the hydrological cycle where moist air masses from
12 the land and ocean are elevated up the side of the
13 mountain by ocean winds, whereupon orographic
14 rainfall occurs when moisture rainfall significantly
15 feeds the four Wailuku streams and the Iao aquifer,
16 which is already a special management area.

17 While the developer has stated that they
18 will be planting a large volume of trees, they do not
19 demonstrate the extent to which the planting of trees
20 would mitigate the solar radiation absorption and
21 subsequent radiant heat that will result from a
22 development of this size. Even small temperature
23 variances have a negative impact on the amount of
24 precipitation provided by orographic rain. This will
25 have a significant impact on the sustainable yield of

1 watershed.

2 One more thing. The Maui Island Plan that
3 was addressed, the Maui Island Plan is merely a
4 guideline plan enforcement document, and it's not a
5 good excuse to put a development in this area. Thank
6 you.

7 CHAIRPERSON ACZON: Any questions?

8 MS. LIM: No.

9 MR. HOPPER: No.

10 MR. YEE: No.

11 CHAIRPERSON ACZON: Commissioners?

12 Next testifier.

13 Do you swear that the testimony that you
14 are about to give is the truth?

15 THE WITNESS: I do.

16 ADELINE KAMAILE-OLIHAI KA'AHUI RODRIGUES

17 Was called as a public witness, was sworn to tell the
18 truth, was examined and testified as follows:

19 DIRECT EXAMINATION

20 CHAIRPERSON ACZON: Please state your name
21 and address for the record.

22 THE WITNESS: Good morning, State Land Use
23 Commission.

24 CHAIRPERSON ACZON: Please state your name
25 and address for the record.

1 THE WITNESS: For the record, I am Adeline
2 Kamaile-Olihau Ka'ahui Rodrigues, 4132 Honoapiilani
3 Highway, Olowalu, and I am here testifying on my own
4 behalf.

5 I humbly ask all of you to accept the
6 Olowalu Town LLC Final EIS submission.

7 I was born in the ahupua'a of Olowalu in
8 1929, some 86 years ago. My mom and dad were born in
9 the ahupua'a of Ukumehame. I can trace my
10 descendants in Ukumehame and Olowalu as far back to
11 the 1600s. In 1966 my husband and I built our home
12 in Olowalu, next door to my mother. Olowalu has
13 always been a very special place to me and my family.

14 One of the earliest supporters of this
15 project, the late Tillie Nahooikaika of Olowalu
16 testified on its behalf. She and I both agreed that
17 our grandchildren and the following generations will
18 have a great future as a result of this proposed
19 town.

20 I have reviewed the Olowalu Town EIS
21 reports. From what I see, the developers have
22 addressed all concerns. I don't expect there will be
23 total agreement on this subject. Opposition to this
24 development has been the vocal, and I do believe that
25 everyone has a right to voice their opinions. I ask

1 that you give special consideration to those who live
2 in Olowalu.

3 There are many opponents to the development
4 of Olowalu Town due to a belief that it may possibly
5 damage our reefs. Please understand that we who live
6 in Olowalu know how important it is to protect our
7 reefs. Overfishing and recreational boat tours are
8 additional causes of reef damage. Almost every day
9 boat loads of visitors anchor off Olowalu. I have
10 even seen visitors standing on the reef.

11 Also, what effect does all their suntan
12 lotion have on the reefs? What about the drastic
13 effects of climate change? The developers have
14 studied the reefs and have included steps to protect
15 them.

16 I know the State Land Use Commissioners
17 make tough and smart decisions. At my age of 86, it
18 is unlikely that I will live to see this town built,
19 no matter what you decide. But my vision is, if the
20 EIS is accepted, it will be the most beautiful place
21 to live on Maui. I will be looking down from above
22 at a town like no other in all of Hawaii.

23 Again, I humbly ask all of you to accept
24 the Olowalu Town LLC Final EIS submission.

25 Thank you.

1 CHAIRPERSON ACZON: Any questions?

2 MS. LIM: No.

3 MR. HOPPER: No.

4 MR. YEE: No.

5 CHAIRPERSON ACZON: Commissioners?

6 COMMISSIONER HIRANAGA: Thank you for
7 commenting on the merits of the proposed Final EIS.
8 I just wanted to thank you for making the trip here
9 to provide your testimony. I know you were involved
10 in the Maui Planning process also, so I wanted to
11 thank you for appearing today.

12 THE WITNESS: You're welcome.

13 EXECUTIVE DIRECTOR: Kawai Rodrigues,
14 followed by Tiare Lawrence, followed by Alicia
15 Kalepa.

16 CHAIRPERSON ACZON: May I swear you in?

17 Do you affirm that the testimony that
18 you're about to give is the truth?

19 THE WITNESS: I do.

20 KAWAI RODRIGUES

21 Was called as a public witness, was sworn to tell the
22 truth, was examined and testified as follows:

23 DIRECT EXAMINATION

24 Kawai Rodrigues, 557 Akolea Street, Keanae
25 subdivision.

1 Aloha, good morning, Commissioners.

2 The ahupua'a of Olowalu is where I spent
3 the majority of my childhood and early adult years.
4 My mom was born in Ukumehame valley but has spent
5 most of her life in our family home in Olowalu. I
6 also have relatives that reside there. I
7 respectfully ask that the State LUC accept and
8 approve the Final EIS statement for the Olowalu Town
9 Center and Olowalu Ekolu LLC.

10 Columnist Lee Cataluna recently wrote an
11 article in the Star Advertiser called: What does it
12 mean to live the Hawaii Dream anymore? When kamaaina
13 developer A & B developed the flatlands on Maui in
14 the 1960's, the little houses were called Dream City
15 because that's where sugar workers could finally move
16 out of the plantation houses into homes of their own.
17 The dream was clearly defined, tangible and widely
18 held. Living the Hawaii dream used to mean homes
19 surrounded by a simple town center easily within
20 walking distance.

21 I recently went to the island of Kauai to
22 attend the funeral of my father-in-law in a small
23 town on the western end called Waimea Town. The
24 hotel we stayed in was surrounded by homes within
25 walking distance of the town center. If you wanted

1 to eat breakfast, just walk to Yumi's, or if you
2 wanted some groceries, just walk next door to Big
3 Market.

4 I remember growing up in Olowalu riding my
5 bicycle to the Fiji Store. I also remember parking
6 in line at their gas station during the Arab oil
7 embargo in 1974. I also remember hiking the valleys
8 of Olowalu and Ukumehame, fishing, diving, surfing
9 the entire coastline.

10 Olowalu Town Master Plan community would be
11 a town not only for the former residents of Olowalu
12 who yearn to return some day with our families, but
13 also a town for all Maui families through community
14 based planning to develop a community where Maui
15 residents can afford to live and raise families. A
16 community where schools, stores, community centers,
17 parks, ball fields, beaches and shoreline, and other
18 civic resources will be within walking distance of
19 residents homes. A place designed to offer residents
20 an opportunity to live and work in the same
21 community. The same Hawaii Dream that those
22 plantation families envisioned 55 years ago.

23 In early 2000, 1350 residents, including
24 myself, participated in a community based workshop to
25 design a Small Town in Olowalu. Participants and

1 town planners exchanged valuable knowledge and
2 experiences. Olowalu Town Center was designed with
3 insight from the people of Maui. I have confidence
4 that the Final EIS draft statement will provide
5 solutions in regards to the development's impact on
6 the environment.

7 We have before you a rare opportunity for
8 the people of Maui. A community conceived from the
9 ground up by the people of Maui for the people of
10 Maui.

11 Thank you.

12 CHAIRPERSON ACZON: any questions for the
13 testifier?

14 MS. LIM: No

15 MR. HOPPER: No.

16 MR. YEE: No.

17 COMMISSIONER HIRANAGA: Again, not to
18 comment on the merits of the proposed Final EIS, but
19 I just wanted to thank Kawai for appearing today.
20 It's good to see you again, and see you in the water.

21 (Audience noise.)

22 CHAIRPERSON ACZON: I'm going to clear the
23 room if this thing doesn't stop.

24 Can I swear you?

25 THE WITNESS: Yes.

1 CHAIRPERSON ACZON: Do you affirm that the
2 testimony that you're about to give is the truth?

3 THE WITNESS: Yes.

4 TIARE LAWRENCE

5 Was called as a public witness, was sworn to tell the
6 truth, was examined and testified as follows:

7 DIRECT EXAMINATION

8 CHAIRPERSON ACZON: Thank you. Please
9 state your name and address.

10 THE WITNESS: My name is Tiare Lawrence,
11 from Lahaina, 28 Lino Place in Pukalani.

12 Before I get started, I just want to
13 clarify something to Adeline Rodrigues' statement
14 earlier. She did mention Auntie Nahooikaika. She
15 passed away five years ago. She is not here to
16 defend herself, and the plan that she was told was
17 completely different than what is happening. So
18 let's just be clear, no name dropping.

19 That is my auntie, and she's not here to
20 defend herself. And I know a lot of her ohana is in
21 opposition. I'll get started with my testimony.

22 Aloha, LUC. My ohana is from Olowalu and
23 are frequent surfers and gatherers at Olowalu.

24 As stated in the cultural assessment, in
25 ancient Hawaii Olowalu was a place of refuge. Today

1 many of us still consider Olowalu as our place of
2 refuge. It is where we can go to get away from town
3 and enjoy the serenity Olowalu has to offer.

4 Olowalu and Ukumehame is the only places
5 left on the west side without urbanization. Our
6 state laws specify that the content of an EIS needs
7 to be. The law is clear. It says an EIS shall fully
8 declare the environmental implications of the
9 proposed action and shall discuss all relevant and
10 feasible consequences of the action.

11 The Olowalu Town Final EIS does not fully
12 declare the environmental implications of the
13 proposed project or discuss the feasible
14 consequences. Instead it relies on assumptions that
15 nothing the project does will cause any harm. I am
16 concerned that the FEIS has assumptions about the
17 project's cultural and environmental impact.

18 They are not meaningfully discussed in the
19 document, or in some cases, not even mentioned.

20 As a kanaka maoli and cultural
21 practitioner, I do not agree with their use of
22 ahupua'a as a development model to urbanize mauka to
23 makai as stated in the EIS.

24 The use of ahupua'a as a development model
25 is out of date, completely false, completely

1 opposite. An ahupua'a was a traditional term in
2 ancient Hawaii. Hawaiians never urbanized prime
3 agricultural lands. Ahupua'a was developed for the
4 social, ecological well-being of a suburban system.

5 Ahupua'a was created to service kanaka
6 primarily our water source, sufficient enough to
7 support the community. Lack of restoration and
8 revitalization does not allow restoration, and by no
9 means can use the term ahupua'a. Using this term for
10 a development model is obscure, inappropriate, and
11 has no bearing as far as a traditional ahupua'a
12 system.

13 An ahupua'a system takes into account the
14 land division and also the adjacent er shoreline and
15 surrounding reef system. The priority of an ahupua'a
16 is to maintain and foster its resources. If this
17 community is based on the premise, impact of
18 shoreline and the reefs of the Launiupoko and Mahana
19 Ridge Development should be a telling sign of things
20 to come.

21 Therefore, the use of ahupua'a as a
22 development model is inaccurate.

23 Olowalu is also home to a thriving
24 population of nene habitat and nesting areas.

25 CHAIRPERSON ACZON: Please summarize.

1 THE WITNESS: I'm going to finish.

2 DLNR Forestry and Wildlife Division have
3 been monitoring them for over six-year now and have
4 also documented nesting sites. I was surprised to
5 find that in the EIS there was no habitat
6 conservation plan. The proposed wastewater wetlands
7 will be in the current nesting area, and the proposed
8 highway is adjacent to that area as well.

9 CHAIRPERSON ACZON: Please summarize.

10 THE WITNESS: -- many are attracted to
11 wetlands and reservoirs. The fact that the highway
12 will be close to it, that destination will be a major
13 safety concern for the endangered nene population of
14 Olowalu.

15 Pursuant to State of Hawaii endangered
16 species law codified Hawaii --

17 CHAIRPERSON ACZON: Please summarize.

18 THE WITNESS: It is unlawful for any person
19 to take an endangered or threatened species of
20 aquatic life, wild life, or land plants.

21 CHAIRPERSON ACZON: Your time is up.

22 THE WITNESS: Nowhere in the EIS does it
23 mention a habitat conservation plan for the nene
24 goose or an incidental take license.

25 CHAIRPERSON ACZON: Any questions for the

1 testifier?

2 MS. LIM: No questions.

3 MR. HOPPER: No.

4 MR. YEE: No.

5 COMMISSIONER HIRANAGA: You mentioned nene
6 goose presence. Can you be maybe a little more
7 specific regarding the location so that might assist
8 the Applicant?

9 THE WITNESS: They're primarily around the
10 reservoir up mauka near Pu'u Kealia (phonetic), and
11 they also habitat right behind my auntie's house
12 right by the Olowalu General Store there's a thriving
13 large population.

14 And if you contact the State Forestry and
15 Wildlife Division they will say that they have been
16 documenting these nesting sites for years. And I can
17 also provide you videos and pictures over the past
18 six years that my ohana have collected.

19 COMMISSIONER HIRANAGA: Thank you. I
20 wanted to thank you for that testimony. I realize
21 that what was presented to the Maui Planning
22 Commission when I was on that Commission may not be
23 exactly what is being presented now.

24 THE WITNESS: It is not.

25 COMMISSIONER HIRANAGA: Not commenting on

1 the merits, later during this process the Commission
2 will have an opportunity to question the Applicant.

3 COMMISSIONER MAHI: Can I get a copy of
4 your testimony?

5 THE WITNESS: Absolutely. I spent the past
6 two weeks reading the 3,000 pages. My eyes are sore.
7 But I collected a lot of points that I would like to
8 share, and I hope you will take the time to go over
9 them.

10 CHAIRPERSON ACZON: Commissioner Scheuer.

11 VICE CHAIR SCHEUER: Because you mentioned
12 that your ohana is from this area, are you familiar
13 with a place called Kalua Kanaka (phonetic)?

14 THE WITNESS: I'm not specifically familiar
15 to that area.

16 VICE CHAIR SCHEUER: I'll be asking
17 questions about its location and protection or
18 non-protection. Mahalo.

19 THE WITNESS: If you use the modern name --

20 CHAIRPERSON ACZON: Next testifier.

21 CHAIRPERSON ACZON: Do you affirm that the
22 testimony that you are about to give is the truth?

23 THE WITNESS: Yes.

24
25 -000-

ALICIA KALEPA

Was called as a public witness, was sworn to tell the truth, was examined and testified as follows:

DIRECT EXAMINATION

CHAIRPERSON ACZON: Please state your name and address.

THE WITNESS: Aloha. My name is Alicia Kalepa. And I 1690 Wahinahe (phonetic), Lahaina, Hawaiian Homes.

First of all I want to thank you for coming here. I appreciate you coming here listening to our testimony. I appreciate you being here also.

I felt that I would come here to defend my children's interest, my husband's interest and mine. Unfortunately, my husband is not here because he is actually doing the same thing that I'm doing right here. He is in South Africa on Hokulea, and he's doing the same thing to bring awareness to the world in regards to our water and natural resources.

I myself and my children oppose this development. We don't want it. And the reason why is I was just at Olowalu this weekend. A very comfortable safe place for my children. And a safe place for west side family, Lahaina family, Kihei, Up Country, all over. We know this place. I think

1 unfortunately you don't.

2 So it questions me if you would understand
3 where I'm coming from. Would you understand where
4 I'm coming from? No, I don't think so.

5 So in my busy work life during the week,
6 this is my refuge. This is where I come. I detox in
7 the ocean. I rejuvenate my soul. I rejuvenate my
8 spirit. And like many of us, I know when we do
9 that -- I have friends that I don't see for a month,
10 I go to Olowalu, I run into them. We rejuvenate.
11 It's a place for our families to reconnect and
12 rejuvenate our spirits.

13 I think what I want to leave here in saying
14 is please, please, if you could all please look at
15 me. If you could please all look at me. Please make
16 a conscious decision. The right decision. We all
17 know what the right decision is. But everybody is
18 coming here to like prove what the right decision is,
19 and we already know that. Right? We already know.

20 We our conscious and a conscious decision
21 is to not do it. That's the bottom line for all of
22 us. For all of you.

23 And my other question is: Have you ever
24 taken a boat ride along that coastline? Have you
25 ever taken a boat ride along that coastline,

1 snorkeled, swim in the water? It's a really
2 beautiful place. I believe the development of this
3 humongous, ginormous development will ruin it for my
4 children and my children's children.

5 So, again, I request that you not go
6 through with this. Thank you very much.

7 CHAIRPERSON ACZON: Any questions?

8 MS. LIM: No.

9 MR. HOPPER: No.

10 MR. YEE: No.

11 CHAIRPERSON ACZON: Commissioners?

12 I just want to remind everyone that every
13 time you interrupt you're taking away time from the
14 testifier.

15 THE WITNESS: Thank you.

16 CHAIRPERSON ACZON: Next testifier, please.

17 Do you affirm that the testimony that you
18 are about to give is the truth?

19 THE WITNESS: Aye.

20 JAY KALEPA

21 Was called as a public witness, was sworn to tell the
22 truth, was examined and testified as follows:

23 DIRECT EXAMINATION

24 CHAIRPERSON ACZON: Please state your NAME
25 and address for the record.

1 THE WITNESS: Aloha, Jay Kalepa, I'm
2 from the Kingdom of Hawaii.

3 Good morning, everybody. So much support
4 for Olowalu. It's fantastic. I just got to know
5 Olowalu like maybe three years ago, I went for my
6 cousins retirement party. Fabulous place. I loved
7 it.

8 This past couple weekends been going with
9 Alicia. We went to Olowalu, hang out and stuff. You
10 know, I don't mind development, I mean develop the
11 heck out of it, but show me where you guys got the
12 clear land titles.

13 From Olowalu we got Kanehea (phonetic),
14 Lunaililo. We got the original documentation. So
15 show us how you got clear title and build the heck
16 out of it, put whatever you guys want to put, but
17 show me clear title to the land.

18 I get kupunas up in there. We have iwi up
19 in there. Lots of good stuff, spiritual. You guys
20 going to develop something, show he proper protocol.
21 Show me the paperwork. You know, show me the kupunas
22 who actually live there who can testify, native
23 testimony, foreign testimonies. All the good stuff.

24 Come from the foundation. Kingdom of
25 Hawaii, that's the foundation; State of Hawaii,

1 federal, you guys all floating in the air, like bad
2 spirits. Connect yourself to the aina. That's your
3 foundation. And from there you can take forward.
4 Other than that, please don't be building on somebody
5 else's property. Right?

6 That's you guys houses, or whatever, that's
7 cool. But you guys build them on the wrong property.
8 Olowalu's got the whole kingdom. That's why things
9 not working, tell you the truth, not you guys' house.
10 This is not your guys house. That's why things not
11 working out.

12 All the pollution, all the whatever. I was
13 a land surveyor for a couple years, I know this kind
14 of stuff. That's why I quit land surveying, not
15 pono, doesn't feel correct. And we're all people
16 here. Everybody's a person here. We're not a
17 corporation. We're not trying to make money for the
18 other guys. We're here as people as individuals.

19 Everybody got a heart. Listen to your
20 heart; listen to your soul. Like Alicia was saying,
21 listen inside. Not trying to make money for
22 shareholders, got more important things. Look, look,
23 this is life. Everybody breathing over there,
24 everybody blood is flowing.

25 And the corporation, there's nothing. I

1 don't see any blood flowing through them. I don't
2 see anything. We all -- we got hearts. We all get
3 souls. We all beat as one, believe it or not, but
4 it's a polarity thing, you know?

5 CHAIRPERSON ACZON: Please summarize.

6 THE WITNESS: Got your mom, get your dad,
7 so love your mom and dad. Everybody have a terrific
8 day.

9 CHAIRPERSON ACZON: Any questions?

10 MS. LIM: No.

11 MR. HOPPER: No.

12 MR. YEE: No.

13 CHAIRPERSON ACZON: Commissioners?

14 EXECUTIVE DIRECTOR: Next testifier
15 Michaellyn Blando, followed by Glenn Kamaka followed
16 by Brent Schlea.

17 CHAIRPERSON ACZON: Do you swear that the
18 testimony that you are about to give is the truth?

19 THE WITNESS: Yes.

20 MICHAELLYN BLANDO

21 Was called as a public witness, was sworn to tell the
22 truth, was examined and testified as follows:

23 DIRECT EXAMINATION

24 CHAIRPERSON ACZON: Thank you. Please
25 state your name and address.

1 My name is Michaellyn Blando. 4955 Hanawai
2 Street in Napili, but I lived at 832 Olowalu Village.

3 Most of my concerns have been addressed by
4 everybody you've already heard and said, so I would
5 like to start by saying that I respect the landowner
6 as a businessman and as local employer whose
7 employees are treated well.

8 I respect that he has worked with the
9 community in the past on ideas like West Maui Walking
10 Trail from Ukumehame to tree to Kapalua granting use
11 of easement on his land, no questions asked. But I
12 cannot in good conscious support the proposed Olowalu
13 town given the EIS provided to me.

14 I am asking you to deny the Olowalu EIS
15 because it is flawed at best. Its inaccuracies and
16 inadequacies does not address the greater concerns of
17 the community.

18 It fails to adequately address the
19 preservation of cultural lands from mauka to makai.
20 The traffic issues on the only highway in and out of
21 the west side; the cost, social, economic, cultural
22 costs of developing prime agricultural land, and the
23 lack of affordable housing for our local community.

24 But most importantly, the degradation or
25 desecration of vital land and marine habitat. I am

1 not convinced that the runoff abatement is going to
2 work as claimed in the EIS. Development is not the
3 only solution, agriculture is too.

4 If you would like to see the reality of
5 what happens when you accept a flawed EIS, just take
6 a drive up north to Flemming and see how the
7 development of Mahana Estates is working out for the
8 beach and reef environment.

9 If you are lucky, there won't be any brown
10 water and you can put on your snorkel and see the
11 reef. They claimed to have adequate runoff
12 infrastructure, and we all know that it was wrong.

13 It is quite easy and quick for a developer
14 to build homes. It is almost impossible to bring the
15 reef back once they have killed it.

16 I strongly urge you to deny this proposed
17 EIS.

18 CHAIRPERSON ACZON: Any questions?

19 MS. LIM: No.

20 MR. HOPPER: No.

21 MR. YEE: No.

22 CHAIRPERSON ACZON: Commissioners?

23 EXECUTIVE DIRECTOR: Glenn Kamaka, followed
24 by Brent Schlea, followed by Laura Hagan.

25 VICE CHAIR SCHEUER: How many people

1 testified? What is the full list, like how many on
2 the full list?

3 EXECUTIVE DIRECTOR: Mr. VICE CHAIR, we
4 have 84 people signed up to testify out of 126.

5 CHAIRPERSON ACZON: Do you affirm that the
6 testimony that you are about to give is the truth?

7 THE WITNESS: In the name of Jesus Christ,
8 yes, I do.

9 GLENN KAMAKA
10 Was called as a public witness, was sworn to tell the
11 truth, was examined and testified as follows:

12 DIRECT EXAMINATION

13 THE WITNESS: Aloha, Glenn Kamaka, 1225
14 South Lahale, Lahaina.

15 Aloha, good morning, Mr. Chair, Board
16 members. I thank you for being here to listen to all
17 our man'o. There is a lot of mana'o being shared. I
18 come from my dad and my mom, James and Irene Kailui
19 Kamaka from Honokahua.

20 This area here, we fished from Honokahua
21 down to Ukumehame. We know what that life is like.
22 I know what that life was like once upon a time.

23 With this development I encourage you to
24 please deny this EIS. It will hurt the ocean. Like
25 my dad always said, what you develop mauka will

1 affect makai. I have seen that throughout the west
2 side. All the development that's come about on the
3 mauka side has affected makai.

4 Tsunami. It's going to come. When? We
5 know it's going to come. We've had a lot of brushes
6 with hurricane. It's going to come. This
7 development is just going to be right smack in it.
8 Who's going to be responsible if that hits?

9 All those people, those homes, who's going
10 to be responsible?

11 If we the people were able to prevent the
12 sale of Honolua to Honokohau, then we the people can
13 prevent the sale of Olowalu.

14 Enough is enough. Olowalu does not need to
15 be saved. It's we the people that need to be saved
16 from selling out what our kupunas have taught us
17 always to remember.

18 Do is what is right. If you listen not
19 just with your ears but with your heart, you can hear
20 your kupuna say malama aina malama o ke kai. Mahalo.

21 CHAIRPERSON ACZON: Any questions?

22 MS. LIM: No.

23 MR. HOPPER: No.

24 MR. YEE: No.

25 CHAIRPERSON ACZON: Commissioners? Thank

1 you. Next testifier.

2 EXECUTIVE DIRECTOR: Brent Schlea, followed
3 by Laura Hagan, followed by Dawn Hudson.

4 CHAIRPERSON ACZON: Do you swear or affirm
5 that the testimony that you are about to give is the
6 truth?

7 THE WITNESS: Yes, I do.

8 BRENT SCHLEA
9 Was called as a public witness, was sworn to tell the
10 truth, was examined and testified as follows:

11 DIRECT EXAMINATION

12 CHAIRPERSON ACZON: Please state your name
13 and address for the record.

14 THE WITNESS: Brent Schlea, 190 Hui F Road,
15 Napili.

16 Olowalu reef is a natural gem, and is in
17 need of protection. Those on this deciding
18 Commission have heard time, I'm sure, that in the
19 early 2000's Dr. Eric Brown conducted a baseline
20 study on marine life in the area adjacent to the
21 proposed development.

22 Dr. Brown characterized the Olowalu reef as
23 the best leeward reef in Maui and probably the whole
24 state. Numerous marine biologists and researchers
25 agreed with Dr. Brown and submitted testimony in 2008

1 and 2009 that any development would put reefs and
2 water quality at risk in this area.

3 Further research by Mike Field and the USGS
4 show that Olowalu reef is a mother reef. It's
5 spawning coral polyps have been shown to travel off
6 the coast and seed the reefs of West Maui and even
7 crossing the channels to seed Lanai and Molokai
8 reefs. We cannot disregard these studies, and this
9 area needs to be left protected at all cost.

10 Have they honestly thought about what would
11 happen if their proposed sewage plant would be
12 overwhelmed by mother nature's forces? Because I
13 have a strong feeling it's only a matter of time for
14 that to occur.

15 Are you, as a committee, prepared to hold
16 their feet to the fire if and when this were to
17 happen? Just looking at the proposed plans that
18 plant seems awfully close to the existing shoreline.

19 Government proposed tsunami evacuation
20 zones reflect minimum safe evacuation distances which
21 put the sewage plant not only across the street from
22 a popular surfing, diving and fishing spot, but just
23 over the county tsunami boundary, not taking into
24 consideration worse case scenarios which are bound to
25 happen.

1 Concerning the new highway, it is also
2 unclear what the fate of several ancient burial sites
3 in the area of the proposed upper road will be. Site
4 4821 burial scatter. Site 4699 burial cave. Site
5 4701 and the site 4700 complex are all in the
6 vicinity of the proposed road. Who knows what
7 unknown iwi are veer buried out there waiting to be
8 dug up by the developers machinery. Does that sound
9 pono to you?

10 Open space needs to be preserved, and the
11 future development needs to be well thought out. The
12 lure of Maui is its rural nature. It needs to be
13 preserved for our children, grandchildren --

14 CHAIRPERSON ACZON: Please summarize.

15 THE WITNESS: -- and future generations to
16 come. Olowalu is not an experiment to see if these
17 later development plans will work or not.

18 I sincerely ask this committee to consider
19 all the ramifications of this project before making
20 their final decisions on this EIS.

21 CHAIRPERSON ACZON: Any questions?

22 MS. LIM: No.

23 MR. HOPPER: No.

24 MR. YEE: No.

25 CHAIRPERSON ACZON: Commissioners?

1 Next. Thank you.

2 EXECUTIVE DIRECTOR: Laura Hagan, Dawn
3 Hudson, followed by Dana Reed. Laura Hagan?

4 CHAIRPERSON ACZON: Next one.

5 EXECUTIVE DIRECTOR: Donna Hudson, followed
6 by Dana Reed, followed by Heather Riverstone.

7 CHAIRPERSON ACZON: Do you affirm that the
8 testimony that you are about to give is the truth?

9 THE WITNESS: Yes, I do.

10 DANA REED

11 Was called as a public witness, was sworn to tell the
12 truth, was examined and testified as follows:

13 DIRECT EXAMINATION

14 CHAIRPERSON ACZON: State your name and
15 address for the record.

16 THE WITNESS: My name is Dana Reed, 100
17 Ridge Road, Apartment 1221 in Lahaina.

18 My name is Dana Reed and I am engineer that
19 has spent the last couple of years documenting,
20 photographically and with water quality samples, the
21 disaster that has happened at Honokahua Bay, up at DT
22 Flemming Beach Park due to Mahana Ridge Estates
23 development.

24 I do have a picture I want to show you real
25 quick. This is a brown water event that occurred

1 October 17th, 2015 of this year. There have been
2 numerous, numerous events, close to 60 to 70 brown
3 water events at that area in that bay in the last two
4 years.

5 The developer who's working on that
6 particular development has -- their EIS statement had
7 talked about best management practices. They have
8 actually -- we've worked with them -- I work with the
9 Maui Marine Resource Council, and the council has
10 talked with the developer about this particular
11 project, the unfortunate thing was we didn't really
12 capture the problems with that project until it
13 became a real problem for the bay and the reef below
14 the project.

15 They went beyond what Maui County requires
16 for BMPs when they were working on this particular
17 project, but the fact of the matter is, some of these
18 developments -- it's very hard to predict how things
19 are going to go, and the best management practices,
20 even though they used the ones prescribed by law and
21 went beyond, that did not adequately address the
22 nature of the development.

23 That is my concern with this Final EIS. I
24 do not see anything in here that gives me any sort of
25 warm fuzzy that this same problem is not going to

1 occur with this particular development Olowalu. And
2 the reef at Olowalu is considerably more important
3 really from a biological sense than some of the ones
4 that we're destroying already in West Maui.

5 We've destroyed so much of the reef in
6 areas up in West Maui that I hate to see anything
7 else happen, and I'm concerned about Olowalu. So I
8 am here to ask you to deny this EIS.

9 CHAIRPERSON ACZON: Thank you. Any
10 questions?

11 MS. LIM: No.

12 MR. HOPPER: No.

13 MR. YEE: No.

14 CHAIRPERSON ACZON: Commissioners?

15 COMMISSIONER ESTES: You said you didn't
16 see anything in here that would give you a warm fuzzy
17 feeling.

18 THE WITNESS: Yes, I see verbiage --

19 COMMISSIONER ESTES: What would give you a
20 warm fuzzy feeling?

21 THE WITNESS: Honestly, I'm not sure,
22 because that is really the concern. I think that we
23 don't understand particularly how to develop in some
24 of these areas.

25 COMMISSIONER ESTES: That's fine.

1 CHAIRPERSON ACZON: Commissioner Scheuer.

2 VICE CHAIR SCHEUER: Aloha, Ms. Reed. Just
3 to clarify, because a number of people have testified
4 about Flemming Beach and other area impacts. You're
5 referring to impacts from the construction phase of
6 the development mauka?

7 THE WITNESS: Yeah, the Mahana Ridge
8 Estates, they're in the -- well, they're not building
9 houses yet, just putting in infrastructure, and
10 putting in infrastructure, the roads.

11 What they did is they put a road up and
12 there was a gulch up there that they cleared, cut
13 down all the trees, and the lack of vegetation
14 allowed storm water to take huge amounts of sediment
15 down and pour them directly into the ocean.

16 So there's other areas. There's lots of
17 erosion up there. Like I said, they have gone over
18 and over trying to use best management practices,
19 silk fences out the wazoo, swales, all sorts of
20 things, but they have not proven to be adequate.

21 They're under Notice of Violation order
22 with the State Department of Health right now for the
23 violation of there MPDES permit and they were issued
24 a stop work order in January of this year that did
25 not get lifted until July of this year.

1 While they were working to go back to the
2 drawing board and try to figure out how to keep these
3 disasters happening. Clearly with this being
4 October 17th that hasn't completely been figured out
5 yet.

6 VICE CHAIR SCHEUER: Thank you very much.

7 CHAIRPERSON ACZON: Thank you.

8 COMMISSIONER HIRANAGA: Unfortunately, I'm
9 not familiar with the Mahana Ridge project. Let me
10 ask a question.

11 Do you know approximately how many acres
12 this project is? Is it single-family resident, if
13 so, do you have the size approximately? Is it
14 located below the lower highway? Can you kind of
15 briefly describe the project?

16 THE WITNESS: Yes, this development is a
17 part of a larger planned development called Kapalua
18 Mauka. This is the first phase. It's approximately
19 125 acres on the very northern part of that Kapalua
20 Mauka development. I think it's slated for 50
21 something homes, single-family homes, and they're on
22 larger lots.

23 It's on the top of the ridge, and that
24 ridge is not very wide. So that explains some of why
25 there's 125 acres, but only 51 lots.

1 COMMISSIONER HIRANAGA: Is it agricultural
2 subdivision, created a lot minimum?

3 THE WITNESS: I don't know that it's an
4 agricultural subdivision.

5 COMMISSIONER HIRANAGA: Well, if it's part
6 of Kapalua Mauka, I believe it is, but I could be
7 wrong. So it's under construction?

8 THE WITNESS: Yeah. Working on the
9 infrastructure. They have been given the go-ahead to
10 do two homes, to develop two lots.

11 COMMISSIONER HIRANAGA: So it's located
12 mauka of the new Honoapiilani.

13 THE WITNESS: Mauka of the highway just
14 above Flemming Beach Park.

15 COMMISSIONER HIRANAGA: Above the bay
16 course.

17 THE WITNESS: Above the bay course next to
18 the plantation course.

19 COMMISSIONER HIRANAGA: Thank you.

20 CHAIRPERSON ACZON: Anything else? Thank
21 you.

22 Just to remind everyone, we're going to
23 take two more testifiers, then we're going to take a
24 break.

25 EXECUTIVE OFFICER: Heather Riverstone

1 followed by Mike Moran

2 CHAIRPERSON ACZON: Do you affirm that the
3 testimony you are about to give is the truth?

4 THE WITNESS: I do.

5 HEATHER RIVERSTONE

6 Was called as a public witness, was sworn to tell the
7 truth, was examined and testified as follows:

8 DIRECT EXAMINATION

9 CHAIRPERSON ACZON: Please state your name
10 and address.

11 THE WITNESS: My name is Heather Riverstone
12 and I live at 2692 Akalani loop in Pukalani.

13 CHAIRPERSON ACZON: Please proceed.

14 THE WITNESS: Thank you everyone on the
15 Commission, everyone seated here now. I know this is
16 a really long day. A lot of people who want to have
17 something to say about this. I appreciate you
18 listening. I also appreciate the people who are
19 providing a space for us to listen to each other.

20 Also I want to thank everyone here today
21 who's coming to speak. We're all here because we
22 care. We care about Maui. We care about our
23 communities. We care about each other. We care
24 about our future. And we also care about our natural
25 resources and the reef.

1 The question at hand is, does this Final
2 EIS adequately address the adverse effects to our
3 natural environment, to the reef, to the natural
4 resources, to the cultural resources? And I believe
5 it does not.

6 And so I request that you vote against it,
7 and at the very least, if you are not prepared to
8 vote against it, please give people more time to
9 review it.

10 I believe this was submitted in 2012,
11 3 years to do the final, and it was submitted
12 November 1st, and we've only had 18 days to read a
13 very large document and review it, and 3,000 pages, I
14 hear. And this is such an important decision,
15 especially for our reef, and such a little bit of
16 time, and just to show you how important it is, so
17 many people came out on such short notice.

18 But this decision you're making today, it
19 might be easy to just say it's like just the next
20 step, we're only doing the EIS. One step at a time.
21 But if you approve this project, it's a decision you
22 can never take back, because once that reef is gone,
23 it's gone forever.

24 We don't know, as a people, how to repair
25 it. And it might be easy to just think you know

1 we're only here for the FEIS, but that is an
2 illusion. The real question is: Are we going to
3 protect the reef or not?

4 When you're making your decision whether or
5 not to approve this FEIS, please think carefully, not
6 just with your intellect, with your minds, but listen
7 to the testimony of the many people today. Listen
8 with your heart and your spirit for the well-being of
9 a living reef and what will be the best future for
10 your children and for their children. Listen
11 especially carefully to our Hawaiian brothers and
12 sisters who know more about this area than any EIS
13 ever could report.

14 Thank you for your time and information.

15 CHAIRPERSON ACZON: Thank you. Any
16 questions?

17 MS. LIM: No.

18 MR. HOPPER: Nope.

19 MR. YEE: No.

20 CHAIRPERSON ACZON: Commissioners?

21 Next testifier.

22 Do you affirm that the testimony that you
23 are about to give is the truth?

24 THE WITNESS: I do.

25 -o0o-

1 MIKE MORAN

2 Was called as a public witness, was sworn to tell the
3 truth, was examined and testified as follows:

4 DIRECT EXAMINATION

5 CHAIRPERSON ACZON: Please state your name
6 and address.

7 THE WITNESS: My name is Mike Moran. I'm a
8 concerned resident and frequent ocean recreationist
9 in opposition to Olowalu Town project.

10 CHAIRPERSON ACZON: Please state your
11 address.

12 THE WITNESS: Oh, I'm sorry. I live at 167
13 Aha Aina Way in Kihei.

14 Aloha, welcome back to Maui to all of you
15 and to my friend Riley.

16 Please do not approve the FEIS for the
17 proposed Olowalu Town.

18 This EIS is incomplete at best, and
19 attempting to push it forward is disingenuous. State
20 law is clear, stating an EIS shall fully declare the
21 environmental implications of the proposed action and
22 shall discuss all relevant and feasible consequences
23 for this action. This has not been done.

24 If we can just use assumptions saying
25 nothing the project does will cause any harm, then we

1 can state an assumption is this will wreck the last
2 well developed coral reef off Maui with coral
3 colonies dated by centuries. It needs to be
4 preserved, not only for its own existence, but to
5 sustain the entire reef system through seeding of
6 adjacent reefs.

7 This EIS is not up to required legal
8 standards, and thus, cannot be accepted.

9 While I am far from an expert nor marine
10 biologist, but then it does not necessarily require
11 science nor expertise just exposure and experience to
12 learn how large mauka developments that follow the
13 county's required best management practices in
14 development have desecrated our shrinking nearshore
15 coral reef system and all that encompasses.

16 Many others have and well address the other
17 reasons to say not a project of this magnitude in
18 this location, including motor vehicle traffic,
19 rising sea levels, tsunami zone, wildfire threats,
20 and fostering wealthy immigration, while residents
21 cannot afford homes.

22 Please reject this Final EIS to change land
23 from ag to rural and urban today for all who live
24 here now and future generations who will ask, what
25 were they thinking, if this huge project advances

1 with this invalid EIS.

2 CHAIRPERSON ACZON: Any questions?

3 MS. LIM: No.

4 MR. HOPPER: No.

5 MR. YEE: No.

6 CHAIRPERSON ACZON: We will take a break
7 and reconvene at 1:00 o'clock.

8 (Noon recess was taken.)

9 CHAIRPERSON ACZON: We're back on the
10 record.

11 EXECUTIVE OFFICER: Gary Savage.

12 CHAIRPERSON ACZON: Do you swear or affirm
13 that the testimony that you're about to give is the
14 truth?

15 THE WITNESS: Yes, I do.

16 GARY SAVAGE

17 Was called as a public witness, was sworn to tell the
18 truth, was examined and testified as follows:

19 DIRECT EXAMINATION

20 CHAIRPERSON ACZON: Please state your name
21 and address.

22 THE WITNESS: Gary Savich, 1010 Front
23 Street, Lahaina, Maui.

24 I've spent most of my life on Maui. I
25 remember when we used to dive the reefs, and they

1 were living and there were plenty of fish everywhere,
2 and that's in Lahaina. And currently those reefs are
3 nearly dead.

4 Every development on the west side has had
5 an environmental impact study, and most of these
6 studies are very similar in nature. They address all
7 the issues as this one does, but the one issue that
8 this one does not address is how they're going to
9 restore the reef once it's dead.

10 Because that will surely happen as it's
11 happened with every other development on the west
12 side. You go to the north end of the island, you
13 have Honolua Bay and then development all the way
14 through Lahaina. You come to Olowalu and there's one
15 gap, we have a living reef there.

16 You go on down past Ukumehame, you come to
17 Ma'alaea, dead reefs. So we have dead reefs on the
18 whole west side, one living reef on Olowalu. The
19 reason it's still alive is because there's no
20 development there.

21 Do the EIS study, look at it carefully.
22 You'll see there is no plan for restoring the reef
23 once it's gone.

24 I urge you to reject this. I have about
25 two minutes left of my time. I want everybody to

1 clap.

2 Thank you for volunteering your services.
3 I appreciate it.

4 CHAIRPERSON ACZON: Any questions for the
5 testifier?

6 MS. LIM: No.

7 MR. HOPPER: No.

8 MR. YEE: No.

9 CHAIRPERSON ACZON: Next testifier.

10 EXECUTIVE DIRECTOR: Maripuananio Tahiti,
11 followed by David Jenkins, followed by Jennifer
12 Karaca.

13 CHAIRPERSON ACZON: Do you affirm that the
14 testimony that you're about to give is the truth?

15 THE WITNESS: It is.

16 MARIPUANANIO TAHITI

17 Was called as a public witness, was sworn to tell the
18 truth, was examined and testified as follows:

19 DIRECT EXAMINATION

20 CHAIRPERSON ACZON: Thank you. Please
21 state your name and address for the record.

22 THE WITNESS: My given name is Maripuananio
23 Tahiti. My address is 4453 Upper Aki Street in
24 Lahaina.

25 CHAIRPERSON ACZON: Please proceed.

1 THE WITNESS: I am here to speak in behalf
2 of my kupunas past and also present and those to come
3 in the future. I'm also here to speak in behalf of
4 the independent sovereign Hawaiian kingdom state and
5 my great grandmother, who I am speaking in behalf of,
6 they are resurrected and I am here to say their
7 peace.

8 They lived in Olowalu. They were once --
9 I'm sorry, I'm nervous -- Ke'opuiki. He was the
10 chief who died by gun powder. He married Princess
11 Kalola Honokowai Lani and also Princess Kinanaloi O
12 Kelani Ikeoli (phonetic). These two were wise.

13 Olowalu must always remain pono, but we
14 have too many reports of hewa, hewa. The land is
15 pono. It must return to being pono.

16 And I have seen over the years it doesn't
17 do a darn good to speak, because the developers
18 continue to do what they want to do. This is the
19 reason why I'm here to address the matter.

20 The reefs -- we used to go to the beach; we
21 used to picnic there. That was our haven. Puuhonua
22 was given so that anyone to who did wrongdoing was
23 able to go ahead and flee there to get safety. Today
24 this also used as a haven for the kanaka maole. We
25 go there to enjoy ourselves, take time to rest our

1 minds. We go there to fish. We go there because it
2 is where we can relax and speak to our kupuna. There
3 are iwi's there in Olowalu.

4 Through my Grandfather Kamehameha there is
5 a plaque there right by the coastline in memory to
6 Kamehameha III, and he is my great grandfather.

7 So I am here to say once again, if this is
8 ignored -- and you have listened to my cousins -- if
9 this is ignored, I will not ask or address you. I am
10 owner of Maui, my fifth great grandfather Keamoku
11 (unintelligible) Governor of Maui.

12 CHAIRPERSON ACZON: In summary, understand,
13 I am doing you a favor by standing here and speaking
14 in behalf of my brother and sisters who have come and
15 meet with all of you, pleaded with all of you not to
16 do anything that is not pono to Olowalu.

17 CHAIRPERSON ACZON: Thank you. Any
18 questions for testifier?

19 MS. LIM: No.

20 MR. HOPPER: No.

21 MR. YEE: No.

22 CHAIRPERSON ACZON: Commissioners? Thank
23 you.

24 Do you affirm that the testimony that you
25 are about to give is the truth?

1 THE WITNESS: I do.

2 DAVID JENKINS

3 Was called as a public witness, was sworn to tell the
4 truth, was examined and testified as follows:

5 DIRECT EXAMINATION

6 CHAIRPERSON ACZON: Thank you. Please
7 state your name and address.

8 THE WITNESS: My name is David Jenkins. I
9 live at 74 South Lauhoe Place, Lahaina. And I would
10 just like to assure everybody that despite speaking
11 English, I am in fact a real American, not one of
12 those pesky incomers, and I live full-time on the
13 island.

14 Prior to retiring, I did have a 30-year
15 career in the marketing industry. And if there is
16 one thing I can recognize is a piece of slanted
17 advocacy underpinned with huge reams of data to make
18 it look credible. I did a huge amount that have
19 myself.

20 Quite frankly, this document that we're
21 looking at today, is not an EIS. It says there is no
22 impact. What it really is, is 2000 pages of advocacy
23 for the next stage of the process.

24 Now, that's bound to sound rather rude to
25 the developer and the professional skills and

1 integrity of the best consultants that money can buy,
2 but maybe with only three minutes I just want to
3 suggest a way of making sure that common sense gets
4 equally weighed to this incredible amount of denter
5 that no testifier can counter argue in detail.

6 Let's remember, this is a proposal to drop
7 two pyears (phonetic). The population we're talking
8 about is almost two pyears. We're talking about
9 dropping that into existing good farmland. So maybe
10 if we think about it that way, it's really difficult
11 to credit the document in totality as valued.

12 So let me paraphrase those 2,000 pages.
13 Water, no problem, loads of it. More than we need.
14 That's what that section said.

15 Pristine reef. We found the one expert in
16 the world that, unlike everybody else, says no
17 problem.

18 Fire, police, won't take them long to get
19 there from the other side of the civic center.

20 School kids, only 4 or 500, bus them. If
21 you want to build a school later, that too is fine.

22 Traffic, no problem. Journey time may vary
23 by about five seconds. Beware experts and spurious
24 accuracy.

25 Sewage, only nine tons a week of wet sludge

1 to be trucked out from the location. That's actually
2 what they say. So no problem.

3 And we're assured with a really lengthy
4 chemistry lesson to do with microbes and gas and all
5 of that, that the state of the art sewage farm is not
6 going to release any noxious odors.

7 So they're asking us to believe that the
8 environmental footprint of 5,000 people is going to
9 be so light that even the poop won't smell.

10 It seems to me that this developer, around
11 about the year 2005, took a decision that selling off
12 their Pioneer Mill lands as agricultural lots, which
13 they had begun to do in Launiupoko and Olowalu was
14 not going to maximize return on investment.

15 So it looks to me like the reality that
16 underpins this entire EIS process is that it is
17 really, to be brutal, window dressing for the next
18 stage of development which is the reason in the
19 application.

20 So I feel that a decision on plunging a
21 major new you town on Maui should be driven by social
22 consensus, not by the financial needs of a developer.
23 Thank you.

24 CHAIRPERSON ACZON: Any questions for the
25 testifier?

1 MS. LIM: No questions.

2 MR. HOPPER: No.

3 MR. YEE: No.

4 CHAIRPERSON ACZON: Commissioners?

5 Thank you.

6 EXECUTIVE DIRECTOR: Jennifer Karaca, Peter
7 deAquino, followed by John Astilla.

8 The reason I'm calling two or three people,
9 is so that you can come down so there is no delay.
10 So could you please come down and sit in the Chair.

11 CHAIRPERSON ACZON: Do you affirm that the
12 testimony you are going to give is the truth?

13 THE WITNESS: Yes.

14 JENNIFER KARACA
15 Was called as a public witness, was sworn to tell the
16 truth, was examined and testified as follows:

17 DIRECT EXAMINATION

18 CHAIRPERSON ACZON: Please state your name
19 and address.

20 THE WITNESS: Jennifer Karaca, 11 Henna
21 Road, Ulupalakua.

22 I'm here to testify that I feel this EIS is
23 defective, inaccurate, untruthful and should be
24 rejected.

25 I feel that if this not rejected, it will

1 result in further lawsuits for the County of Maui and
2 the state, which we already have enough of due to not
3 looking into planning correctly, and all the
4 repercussions that come along with development.

5 This plan bodes 1500 residential homes and
6 approximately over 900 ohanas, and says that it will
7 provide sustainability and walkability by providing
8 1000 long-term jobs. That's not going to be near
9 enough jobs to provide a walkability for all of the
10 residents that this development is stating.

11 The infrastructure and road planning is
12 awful. Not only will it cause more traffic accidents
13 and problems for the county, it will also, in times
14 of need for evacuation, could cost lives. It's very
15 irresponsible planning to let this go through.

16 The wastewater treatment plant bodes that
17 they will be treating wastewater to R1 standards. R1
18 standards, according to the 2015 Pacific Water
19 Conservation Council cause algal bloom. They are
20 exactly what you do not want to release into the
21 ocean. It will destroy the reefs. That's exactly
22 the type of wastewater you do not want to put into
23 the ocean. And they are stating that this is what
24 they're going to do.

25 On top of that, they also state on page

1 107-108 that no threatened or endangered plant
2 species or cannabis species were found during this
3 survey. In addition their critical habitat
4 (unintelligible) occurs on or adjacent to the
5 protected site.

6 This is a blatant lie. It is completely
7 inaccurate. Any common knowledge that this is a lie.
8 This is a blatant cover up in an EIS. This alone
9 with the knowledge that you've been provided here of
10 the endangered species can cost the county so many
11 lawsuits. So many lawsuits.

12 On top of that there are more coral being
13 added to the endangered species list as we speak.
14 This with climate change and infrastructure that
15 they're planning, where all this development is is
16 tsunami high risk zone. It's in a flood zone. So
17 even with all of the state of the art promoting
18 sustainability -- I'm a sustainable science major at
19 the college, it's great, but the location of the site
20 will not allow it to be sustainable.

21 With climate change and sea level rise all
22 this underground infrastructure and technology, it
23 will be null and void. You cannot deter wastewater,
24 sewage and storm water runoff when you're already at
25 sea level. It's not logical.

1 They can say what they want to say, but
2 using your brain and looking at Kihei and other
3 areas, it's not possible.

4 CHAIRPERSON ACZON: Please summarize.

5 THE WITNESS: On top of this, page 20
6 states they propose to capture 100 percent of post
7 development and predevelopment storm water. That's
8 also impossible. It's a blatant lie. It's
9 impossible.

10 CHAIRPERSON ACZON: Please summarize.

11 THE WITNESS: That's summarized. All of
12 this that they're stating in here is inaccurate,
13 false and almost blatantly on purpose to avoid the
14 truth.

15 CHAIRPERSON ACZON: Thank you. Any
16 questions?

17 MS. LIM: No questions.

18 MR. HOPPER: No.

19 MR. YEE: No.

20 CHAIRPERSON ACZON: Commissioners? Thank
21 you.

22 EXECUTIVE DIRECTOR: Peter deAquino.

23 CHAIRPERSON ACZON: Do you affirm that the
24 testimony that you're about to give is the truth?

25 THE WITNESS: The whole truth and nothing

1 but the truth.

2 PETER deAQUINO

3 Was called as a public witness, was sworn to tell the
4 truth, was examined and testified as follows:

5 DIRECT EXAMINATION

6 CHAIRPERSON ACZON: Please state your name
7 and address.

8 THE WITNESS: My name is Peter deAquino
9 from the Island of Maui, moku of Na Wai Eha, I
10 recently reside in Lahaina.

11 Like I said I represent myself, my ohana
12 which is my family, my ancestors and up to at least
13 seven-generation to come before me and after me.
14 This is a Hawaiian way of thinking. We always think
15 about the future at least seven generations. I was
16 born and raised on the Island of Maui.

17 I feel that this Commission should deny
18 this EIS. I didn't want to call it Final EIS, this
19 Environmental Impact Statement very unclear about its
20 impact on me as a cultural practitioner.

21 My grandmother was born in Olowalu. My
22 family, we fish and dive there for generations. With
23 this development I will be denied access to the
24 coast, all of the coast, not just beach access that
25 is set up, so I have to walk to get to the access.

1 The designated cultural reserve that are in
2 place are not happening for me. I'm a fisherman.
3 And in Article 12, Section 7, Hawaii's constitution,
4 it ensures that I get to practice my culture the way
5 I need to. And this EIS will not let me do that.

6 The EIS states that the development will
7 help marine coastal ecosystems, where, in fact, I
8 don't know of any coastal development that helps the
9 marine ecosystem. In fact, since the clearing of
10 coastal trees, I've noticed a huge decline in bait
11 fish and other marine species such as lua, aholehole,
12 weke, awama, just to name a few, octopus, even the
13 black tip sharks that are known to breed out there.
14 That's just one shark.

15 In late 2011 some trees were removed. Me
16 and my cousin Alton Santos, who lives in Olowalu
17 today, we went out there and we noticed an immediate
18 impact, just a few trees.

19 This is when I noticed it. And since then
20 more trees are gone and more impact and damage has
21 been done. The trees blocked the dust. And lot of
22 people talk about Olowalu is very windy, constant
23 dust is being blown onto the reef.

24 And I walk that reef with my throw net, and
25 I notice the silt on the bottom. The reef is dying.

1 That's a matter of fact. And to say that this
2 development, what is stated in the EIS, is going to
3 help that, I can't see it as a professional scientist
4 there. We are scientists. As a fisherman, I have to
5 know the tides, the type of fish and the impact that
6 I have.

7 CHAIRPERSON ACZON: Please summarize.

8 THE WITNESS: So there is a lot of
9 statements being made today about the impact on the
10 reef. And as a fisherman, I see these impacts
11 greatly. And it would be absurd to allow
12 construction. We all know what happens with
13 construction.

14 CHAIRPERSON ACZON: Please summarize.

15 THE WITNESS: It's made -- Maui
16 construction is made to get the job done fast,
17 efficient and with the least amount of cost. But it
18 doesn't -- the cost is more than what you can see in
19 numbers.

20 CHAIRPERSON ACZON: Thank you.

21 THE WITNESS: And in fines.

22 CHAIRPERSON ACZON: Thank you. Any
23 questions?

24 THE WITNESS: People are going to get
25 fined. They going to pay the fine like nothing

1 because they already have the money.

2 And all of this stuff needs to be addressed
3 in this EIS, all this stuff that I been mention. So
4 this --

5 CHAIRPERSON ACZON: Recess --

6 THE WITNESS: Does that mean my testimony
7 is thrown out? Is there any questions? Mahalo nui.

8 CHAIRPERSON ACZON: We're back on the
9 record. Next testifier, please.

10 VICE CHAIR SCHEUER: Chair, sorry, we need
11 to offer the parties a chance to ask questions of the
12 last testifier.

13 VICE CHAIR SCHEUER: Were you or any other
14 fishermen that you know of consulted during the EIS
15 process about the scope of your traditional and
16 customary practices in the area?

17 THE WITNESS: I was actually not asked any
18 questions. And my cousin who lives there was not
19 asked any of these questions.

20 VICE CHAIR SCHEUER: Are you aware of
21 anywhere in the EIS where it discusses the scope of
22 traditional fishing practices that might be affected
23 by the petition area or by the proposed project?

24 THE WITNESS: Not specifically which
25 fishing practices, but it's so broad that I doubt

1 that they -- they've never asked us how we fish, and
2 I personally have never been asked how I fish.
3 There's multiple ways that I fish, and I a lot of the
4 coastal fishing is done. I also free dive and spear
5 fish, and I noticed that there's underwater springs
6 that also help the coral. And with pumping out of
7 the water, it might change that.

8 So it's the whole thing will affect ocean,
9 is what I'm trying to say.

10 VICE CHAIR SCHEUER: So I understand, just
11 to be like super clear for our record, you use this
12 area in a traditional and customary fashion in terms
13 of you fish?

14 THE WITNESS: Yes, at least once a week.

15 VICE CHAIR SCHEUER: Do you believe, other
16 than the ways that you mentioned, one of the concerns
17 brought up is the increased amount of recreational
18 use that can be anticipated from this project. Do
19 you believe the EIS has addressed any potential
20 mitigation for the impact of traditional and
21 customary practices?

22 THE WITNESS: No, I don't feel that they
23 are specific enough about the impacts. And I
24 understand there's going to be more people there, and
25 there might be less access for me to get there. And

1 these people, I mean, I see it all oh the time
2 wherever I fish on the west side, people that live at
3 these places, they have first access to it, where I,
4 prior to them being there, I had first access to
5 them.

6 So it's automatically impacting me and my
7 family and my sustainability of life. So I don't get
8 first crack at them, and this is a lot of people you
9 guys are talking about coming in out of Hawaii.
10 Let's be honest. Like there is a lot of low income
11 houses that were brought up, and what is low income?
12 \$500,000? \$300,000?

13 It's not logical to me, and I know it will
14 definitely impact the fish and the reef and my
15 sustainable lifestyle of living.

16 VICE CHAIR SCHEUER: Thank you very much.

17 THE WITNESS: Thank you so much for your
18 questions.

19 CHAIRPERSON ACZON: Anybody else? Thank
20 you. Next testifier.

21 EXECUTIVE OFFICER: John Astilla, followed
22 by Mark Hyde, followed by Thomas Cook. John Astilla?
23 Mark Hyde. After Mark Hyde, Thomas Cook.

24 CHAIRPERSON ACZON: Do you affirm that your
25 testimony that you're about to give is the truth?

1 THE WITNESS: Yes.

2 MARK HYDE

3 Was called as a public witness, was sworn to tell the
4 truth, was examined and testified as follows:

5 DIRECT EXAMINATION

6 CHAIRPERSON ACZON: Thank you. Please
7 state your name and address for the record.

8 THE WITNESS: My name is Mark Hyde, and I
9 reside at 4320 East Waiholo Loop in Kihei.

10 The discussion in the FEIS regarding the
11 impact on additional traffic from this project will
12 have on access to medically necessary emergency
13 health care for the people of West Maui is
14 nonexistent.

15 In 2007 I served on a state empanelled
16 health care task force that was charged with
17 identifying and ranking in priority Maui County's
18 health care needs, and I chaired its acute care
19 subcommittee.

20 After months of investigation and
21 testimony, including that of health care
22 professionals and experts, we ranked need for acute
23 care service in West Maui has the top county priority
24 because there are none in the area.

25 Partially as a result of that report, a

1 certificate of need was given by the state for
2 construction of a West Maui hospital that's
3 referenced in passing on page 212 in the FEIS as a
4 solution to all the community's future health care
5 needs. It absolutely will not be that.

6 While a small acute care hospital
7 constructed in the area will benefit community,
8 residents and visitors needing, time sensitive access
9 to specialty stroke and heart care, among other
10 things, will still need to travel to Maui Memorial
11 for treatment because stroke and heart, heart care
12 is both highly specialized and expensive, requiring
13 24 by seven staffing by qualified and trained doctors
14 and nurses and needing unique complex and expensive
15 medical equipment.

16 EMT's who testified before the task force
17 indicated that the best way to transport stroke and
18 heart attack patients from West Maui to Maui Memorial
19 is by ground transportation via Honoapiilani Highway,
20 a roadway that is almost problematic and clogged with
21 traffic.

22 Air transport was discussed and rejected as
23 an efficient means of transport from West Maui to
24 Central Maui. Those who are suffering stroke or
25 heart attack must seek treatment immediately. It's

1 couched in terms of the golden hour. Further
2 burdening the highway beyond its current obvious
3 incapacity would result in traffic jams and
4 occasional accidents resulting in closure of the
5 highway is nothing short of playing Russian roulette
6 with the lives of the people of West Maui, and
7 visitors who need immediate access to the county's
8 only tertiary care hospital.

9 Unless or until the capacity of this whole
10 arterial is expanded, a developing Olowalu Town in
11 the middle of the key access route of West to Central
12 is akin to the kind of event of blockage that is the
13 very heart of heart attacks and strokes.

14 CHAIRPERSON ACZON: Any questions?

15 MS. LIM: No.

16 MR. HOPPER: No.

17 MR. YEE: No.

18 CHAIRPERSON ACZON: Commissioners? Thank
19 you. Next testifier.

20 EXECUTIVE DIRECTOR: Thomas Cook, followed
21 by Alex Dreher, followed by -- I'm sorry, having
22 trouble with handwriting -- Kelhi Pali.

23 CHAIRPERSON ACZON: May I swear you in?

24 Do you affirm that your testimony that
25 you're about to give is the truth?

1 THE WITNESS: I do.

2 THOMAS COOK

3 Was called as a public witness, was sworn to tell the
4 truth, was examined and testified as follows:

5 DIRECT EXAMINATION

6 CHAIRPERSON ACZON: Thank you. Please
7 state your name and address for the record.

8 THE WITNESS: My name is Thomas Cook. My
9 current address is 18 Poholani Place in Kihei.

10 I've lived there for the last 10 years.
11 Previous 32 years 690 Awala Road.

12 I'm not a scientist or an authority. I'd
13 like to basically just give you a little bit about my
14 background which hopefully enable you people to have
15 a feeling of where I'm coming from.

16 I'm a general contractor, but I homesteaded
17 in Kapakalua. Planted trees 40 years ago. Became
18 very self-sufficient with rain catchment, wind
19 generators, raising our own food. It became very
20 apparent to me when my children became middle age
21 that I felt like I was on a life raft and tied to the
22 Titanic. And that the concept, my philosophy of
23 being self-sufficient -- I was fortunate that I had
24 manifested that. It wasn't enough.

25 So I started to become very involved in the

1 community. And subsequently worked with Maui Nui,
2 affordable task force, GPAK with a number of other
3 people here.

4 What I feel in the room today and what I
5 sense, and it's been ongoing for years on this our
6 island home, fear and anger. And not feeling heard.
7 A sense of being basically victimized by the powers
8 that be.

9 And I share in those feelings and I'm not
10 just talking off. I'm supporting this project
11 because I know the people who are doing it. And all
12 projects are not developed equal. Wailea Point
13 pisses me off -- excuse me -- when I walk that path
14 and I see the sign that says like you know they're
15 doing us one big favor. I want to tear them on the
16 ground. People not fishing. People not having
17 access. This is not going to be Wailea Point.

18 These brothers got heart. It's not just
19 talk. They're young. It's a community-based plan.
20 No plan is perfect. No plan is everything's going to
21 be good.

22 I sincerely in my heart believe, and that's
23 why I'm supportive when we're concerned about things
24 we will have people to talk to. They will listen.
25 They will respond. We will be able to work together.

1 900 kids are going to graduate from public
2 school this year, working on the mentoring program.
3 This address the EIS, students, not so much the
4 schools for the kids, but how about the kids that are
5 graduating from schools. I'm not just talking about
6 homes, I'm talking about young adults coming into the
7 community that we work together and act like a
8 community instead of like, you know, tribes at war.

9 I have nothing but good feelings for
10 everybody who disagrees with me, and I hope that I
11 deserve the aloha and respect not to get angry at me
12 because I disagree with you. Really I'm just --
13 where I'm coming from, I'm saying like I've seen a
14 lot of projects when I was in GPAK, not all projects
15 are equal. I'm not supportive of a lot of stuff.

16 I think we have an opportunity for this
17 community-based plan. These guys have been in it for
18 the long haul, have gone through --

19 CHAIRPERSON ACZON: They have gone through
20 all of the things. This is a part, a key part. They
21 have done everything, and it isn't over. This is
22 something that's going to evolve and take time.
23 Let's work together, people. Aloha.

24 CHAIRPERSON ACZON: Any questions?

25 MS. LIM: No questions.

1 MR. HOPPER: No questions.

2 MR. YEE: No questions.

3 CHAIRPERSON ACZON: Commissioners?

4 Just remember, if you want to say
5 something, there is a sign-in sheet over here and you
6 guys can testify. Next please.

7 EXECUTIVE OFFICER: Alex Dreher, followed
8 by Kelhe Pali, followed by Amy Fonarow.

9 CHAIRPERSON ACZON: Do you swear or affirm
10 that the testimony that you're about to give is the
11 truth?

12 THE WITNESS: Yes.

13 ALEX DREHER
14 Was called as a public witness, was sworn to tell the
15 truth, was examined and testified as follows:

16 DIRECT EXAMINATION

17 CHAIRPERSON ACZON: Please state your name
18 and address for the record.

19 THE WITNESS: My name is Alex Dreher, 818
20 Olowalu Village Road. I'm a resident and homeowner.

21 CHAIRPERSON ACZON: Please proceed.

22 THE WITNESS: For me Olowalu is a very
23 special place. Again, a place of refuge that not
24 only myself as resident, but many people that live on
25 the island go to relax and rejuvenate. Most of the

1 island coastal areas are already very developed.
2 Kapalua, all the way to Launiupoko. For a lot of us,
3 and the kamaaina love to go to Olowalu to enjoy that
4 and renew. There's really not a lot left of beaches
5 that are not impacted by developments.

6 I know there are needs for housing, though
7 I feel that the EIS and the development proposed may
8 not be the development that Olowalu needs.

9 Affordable housing is extremely limited.
10 Turning agricultural land into hotel zoning doesn't
11 really sit right with me, especially for Olowalu. We
12 have plenty of hotels. We have extreme amounts of
13 tourism which is great and it's fine, because we need
14 that balance to support families and residents that
15 live here.

16 Although there needs to be a limit to that.
17 And for everybody that lives here, if we keep choking
18 up our roadways and our resources, we're going to
19 become somewhat like Oahu, and I prefer not to live
20 somewhere like Oahu.

21 So I just wanted to state that in the EIS
22 statement that there will be zero impact to our
23 special reef of Olowalu, which is one of the largest
24 in the state, is inaccurate.

25 Having a sewage treatment plant across the

1 street from the surfing break does not sit well with
2 me, and many surfers and many people that want to
3 enjoy the ocean in Olowalu, and I say no. Thank you.

4 CHAIRPERSON ACZON: Thank you. Any
5 questions for the testifier?

6 MS. LIM: No.

7 MR. HOPPER: No.

8 MR. YEE: No.

9 CHAIRPERSON ACZON: Commissioners? Thank
10 you. Next testifier.

11 Do you affirm that the testimony that
12 you're about to give is the truth?

13 THE WITNESS: Yes, to the best of my
14 knowledge.

15 KELLE PALI-CREW

16 Was called as a public witness, was sworn to tell the
17 truth, was examined and testified as follows:

18 DIRECT EXAMINATION

19 CHAIRPERSON ACZON: State your name and
20 address for the record.

21 THE WITNESS: Kelle Pali-Crew and I'm a
22 Maui resident.

23 CHAIRPERSON ACZON: Your address.

24 THE WITNESS: I prefer not to give my
25 address. Born and raised in Napili Hau and now

1 reside in Kihei.

2 CHAIRPERSON ACZON: Thank you. Please
3 proceed.

4 THE WITNESS: So I am Hawaii and Chinese,
5 born and raised in Napili Hau. I did see my
6 neighborhood that I grew up in develop quickly. I
7 used to be able to cross the street and had stables
8 over there and you could go play. You go there and
9 now lots of development.

10 But as a mature 40-year old woman now and a
11 mother of four, a two-year old, a 12-year old, a
12 16-year old and a 22-year old who will be married in
13 March, I understand the bigger picture. So I'm here
14 to share with you.

15 First of all, I'm so encouraged by all of
16 the testimonies, no matter what side you're on, I'm
17 just so encouraged that you have the passion and
18 heart and the desire to make our home a better place.

19 I know that we are all opposed and what
20 that looks like, but there is not enough of us. You
21 guys are just a tiny representation of what really is
22 here on Maui.

23 Unfortunately, the rest of the families are
24 working three, four jobs and trying to pay mortgages
25 and rent and can't be here like we can. So for that

1 I'm just really encouraged by everyone here.

2 I come into the position where I can see
3 both sides and I can appreciate the love for Olowalu.
4 I too, from my own personal experiences, love Olowalu
5 and many memories from there.

6 But from what I learn, love can be
7 diminished when we have disrespect and hate added to
8 the mix and, unfortunately, blinds us sometimes for
9 what's better for everybody.

10 We need to protect our reefs, no doubt
11 about that. We do need to address the safety issues
12 and that's certain, but we also need affordable
13 homes.

14 I've been volunteering in the public school
15 system the last several years in Kihei and have seen
16 firsthand the kids that go to school and their
17 parents make too much to afford free lunch, and not
18 enough to afford lunch. I have personally funded
19 lunch funds so these kids be can eat.

20 They need a home. We need affordable
21 housing. If you look at all of the new Maui planned
22 spaces for proposed affordable houses, what will that
23 take? Ten-years? 20 years? More than ten years to
24 try to get this off the ground.

25 I support the current report. I know them.

1 I've learned to know them. They're one of us, and I
2 know they're doing the right thing. I leave my
3 testimony with this. Integrity is what we need to
4 talk about today, Frampton and Ward are one of us.
5 And they have moved forward in the last ten years in
6 the right way. I'm ashamed to say past developers
7 may not have fulfilled this, and I'm certain that
8 they will.

9 CHAIRPERSON ACZON: Thank you. Any
10 questions?

11 MS. LIM: No.

12 MR. HOPPER: No.

13 MR. YEE: No.

14 CHAIRPERSON ACZON: Commissioners? Thank
15 you. Next testifier.

16 EXECUTIVE DIRECTOR: Amy Fonarow, followed
17 by Cheryl King.

18 CHAIRPERSON ACZON: Do you affirm that the
19 testimony you're about to give is the truth?

20 THE WITNESS: Yes.

21 AMY FONAROW

22 Was called as a public witness, was sworn to tell the
23 truth, was examined and testified as follows:

24 DIRECT EXAMINATION

25 CHAIRPERSON ACZON: Please state your name

1 and address.

2 THE WITNESS: Amy Fonarow and I live at 120
3 Hui Road in Lahaina.

4 Today I'll be speaking on behalf of Meghan
5 Daigler marine researcher at UH Manoa.

6 Actually one FYI, I wanted to let you guys
7 know -- by the way, thank you for being here and
8 everybody.

9 The group that submitted the Final EIS,
10 marine research consultant, they're the same group
11 that did the Final Impact Statement for Mahana Ridge,
12 claiming no impacts to the marine environment. And
13 that was the one where Dana Reed showed the
14 photograph of the sedimentation.

15 Please consider the rejection of the Final
16 EIS for proposed development of Olowalu Town on the
17 island of Maui.

18 Benthic composition is under represented.
19 The area of Olowalu reef that the FEIS attempts to
20 address is approximately 454 acres, or 1.8 million
21 square meters. The area that the FEIS actually
22 covered is five, 500 meter long transects, assuming
23 they are one meter wide is roughly 2500 square
24 meters, or 0.62 acres. Clearly, the area covered is
25 not sufficient and there is a need for more transects

1 to accurately represent the current status of
2 Olowalu's reef. Furthermore, it is absolutely not
3 possible for the FEIS to serve as a baseline for
4 Olowalu's reef community due to the complete lack of
5 benthic composition data.

6 Also marine water chemistry is under
7 represented. The number of marine water samples
8 collected for water chemistry analyses is not
9 sufficient enough to represent accurate values.
10 Marine water chemistry can be highly variable, and it
11 is a scientific standard for the average of three
12 samples per location to be presented with the
13 associated variance. The FEIS only has one sample
14 per location, and only 60 samples altogether to
15 address the entire 454 acres of Olowalu reef. That
16 is equivalent to 1 sample per 7.5 acres. In
17 addition, Transect 1 has extremely high nitrogen
18 levels at the nearshore sites, the reasoning for
19 which was not addressed by the FEIS. In this same
20 area, the Olowalu landfill was closed in the early
21 1990's the leachate from this closed landfill might
22 be affecting the nearshore environment, none of which
23 was ever mentioned in the FEIS.

24 In terms of sedimentation and nutrients on
25 multiple occasions, the FEIS concludes that

1 development of Olowalu Town will decrease
2 sedimentation rates for the retention basins.

3 CHAIRPERSON ACZON: Please summaries.

4 THE WITNESS: Well, once they do
5 construction, there will be more sedimentation
6 because the rain will move the dirt into the reef.

7 Also once Olowalu Town is built there will
8 be sustained increased levels of nutrients in the
9 adjacent nearshore coastal water through five major
10 sources.

11 Wastewater, fertilizer, leakage at the
12 wastewater treatment plant, 4.5 acres R1 reused for
13 irrigation.

14 CHAIRPERSON ACZON: Please summarize.

15 THE WITNESS: We are saying that the
16 nutrient responsive algae that has bloomed throughout
17 Maui, include Kihei, north-west Maui, Maalaea and
18 from Kahului to Hookipa.

19 CHAIRPERSON ACZON: We have this testimony.

20 THE WITNESS: In consideration of the
21 aforementioned issues, I respectfully request that it
22 is rejected by your authority. Thank you.

23 CHAIRPERSON ACZON: Questions?

24 MS. LIM: No.

25 MR. HOPPER: No.

1 MR. YEE: No.

2 CHAIRPERSON ACZON: Commissioners?

3 Do you swear or affirm that the testimony
4 that you're about to give IS the truth?

5 THE WITNESS: Yes, sir.

6 CHERYL KING

7 Was called as a public witness, was sworn to tell the
8 truth, was examined and testified as follows:

9 DIRECT EXAMINATION

10 CHAIRPERSON ACZON: Please state your name
11 and address.

12 THE WITNESS: Cheryl King, 24 Laumakane
13 Loop, Kihei.

14 Thank you all for being here. I know you
15 all have difficult jobs, and it's a very complicated
16 issue. Mahalo for listening to everybody's
17 testimony. I'm truly inspired by such a wonderful
18 community turnout. This is really great.

19 So I'm here basically to state, like many
20 of my community members, that you do not accept this
21 proposal of Olowalu Town EIS as final.

22 All the impacts are have been adequately
23 addressed, which is very concerning.

24 I'm a 16-year Maui resident and marine
25 biologist who continues to watch in horror as our

1 mauka and makai lands are developed at an alarming
2 rate. There seems to be no stopping this process
3 despite the many issues surrounding the short and
4 long-term impacts. We're all feeling this pressure,
5 or we wouldn't be here today. It's simply tragic
6 that Maui is losing her natural charm.

7 Olowalu provides extremely important
8 habitats for sharks, manta rays, monk seals, and sea
9 turtles just to name some of them.

10 Everyone who experiences this area reflects
11 on its expansive coral reef characteristics and
12 natural beauty. This complex reef system needs to be
13 protected and actively managed appropriately with no
14 nearby development.

15 The EIS mentioned that this development
16 will improve the quality of the reef by its
17 mitigation efforts. I don't see how that's possible.
18 These drainage-related best management practices
19 should be incorporated. And there is a lot of good
20 ideas in this plan, but will they be incorporated?
21 And will they work?

22 It seems like we all have major doubts
23 concerning those ideas.

24 The proposed development threatens the very
25 natural qualities of the Olowalu area that we

1 appreciate and that all animals need to survive.
2 Development simply cannot be done in a sustainable
3 way so close to the ocean. The impending doom of
4 sedimentation and chemical runoff kills coral reefs
5 and this is happened too many times where development
6 was allowed to occur. Hawaii's reefs are in serious
7 decline, especially with this year's major coral
8 bleaching event. They simply cannot handle any more
9 stressors.

10 This is a chance for Maui to truly make a
11 positive, not negative, impact on the future of
12 hundreds of species that are struggling to survive
13 statewide changes in land and seascapes, plus the
14 communities that rely on this area.

15 I truly appreciate your time and expertise
16 on this important matter. It's up to you, but please
17 don't let our beautiful island turn into another
18 Oahu.

19 CHAIRPERSON ACZON: Questions?

20 MS. LIM: No.

21 MR. HOPPER: No.

22 MR. YEE: No.

23 CHAIRPERSON ACZON: Commissioners?

24 Thank you.

25 THE WITNESS: The next two people that are

1 listed cannot stay, but they submitted written
2 testimony.

3 CHAIRPERSON ACZON: Next.

4 EXECUTIVE OFFICER: Tiffany Thomas, Leonard
5 Nakoa, III, Jaclyn Mae Santos and Lawrence
6 Carnicelli.

7 CHAIRPERSON ACZON: Do you affirm that the
8 testimony that you're about to give is the truth?

9 THE WITNESS: Yes.

10 LEONARD NAKOA

11 Was called as a public witness, was sworn to tell the
12 truth, was examined and testified as follows:

13 DIRECT EXAMINATION

14 CHAIRPERSON ACZON: Please state your name
15 and address.

16 THE WITNESS: Leonard Nakoa, III, also
17 known as Junior, 5155 E Hanaway Street, Napili.

18 About everybody said over here you guys
19 wrong already. This is Hawaiian lands. I going to
20 stop there because I going to talk about EIS stuff.
21 That's the stuff you guys need to hear.

22 The EIS, you guys all environmental guys?
23 I hope so, because the best environmental guys
24 Hawaiians back in the day, live off the island, do
25 the right way from mauka to makai, the ahupua'a over

1 here. If these guys talking about ahupua'a, open up
2 the waters, open up the waters and the rivers so the
3 kine can go ahead and replenish all the water down to
4 the ocean, feed the reefs and all that kine stuff.
5 No more Hawaiian, okay? So open up the water.

6 Getting back to the sewage plant, you guys
7 got to make one over there, right? You guys got to
8 make a sewage plant over there. Okay. Maui County
9 is getting sued because of the sewage plant that they
10 cannot manage, so correct that problem first before
11 you guys go create another one. Fix that one first.

12 I don't know if you guys can do it, or
13 whatever, make sure you have guys -- prove to us can
14 be done, can be managed. Then we can maybe support,
15 but I cannot support this, because the beaches, they
16 telling us, all from Kalu Beach all the way down to
17 the end -- what they call that -- the embassy, the
18 big building. They tell us cannot fish because
19 overfish enough, that's because of the runoff from
20 all these hotels being built. The dodo water coming
21 from the sewage.

22 That's not fishermen's fault, not the guys
23 that dive there. These guys protect their own
24 icebox. They're not going to overfish.

25 It's the development that's screwing up.

1 Fix that kind stuff first before you guys come up
2 with another project like this. Because for the
3 locals -- this is all us locals -- we don't want a
4 beach in Lahaina, we got to sleep overnight sometimes
5 two nights for cleaning up our beach for baby luau
6 down at the beach.

7 Kalu Beach, Waiakuli and E.T. Flemming,
8 other than that, are all hotels, Sheraton, like that
9 stuff, all the way -- luau, baby -- stage luau --
10 they all down there, they going to entertain. But
11 that's the same thing with this shoreline.

12 These guys going to push us off. Only got
13 beach access. And then like when we go, have
14 something at Kalu Beach. We just get Hyatt calling
15 us up. Let us be us. Let us be us. But you guys
16 taking that way from us.

17 One more thing, housing. I know it's a big
18 thing, the housing. Maui County, Maui say due
19 diligence, and go back, go get the guys who owe us
20 our houses. Get the hotels that owe us. That's the
21 environmental impact. Collect the houses that owed
22 to us. Then go ahead and support these kind
23 projects. Go get the houses that is already owed to
24 us.

25 CHAIRPERSON ACZON: Any of questions?

1 MS. LIM: No.

2 MR. HOPPER: No.

3 MR. YEE: No.

4 CHAIRPERSON ACZON: Commissioners?

5 EXECUTIVE OFFICER: Jaclyn Mae Santos,
6 followed by Lawrence Carnicelli, and followed by
7 Summer Kupau.

8 CHAIRPERSON ACZON: Do you swear or affirm
9 that the testimony that you are about to give is the
10 truth?

11 THE WITNESS: Yes.

12 JACLYN MAE SANTOS
13 Was called as a public witness, was sworn to tell the
14 truth, was examined and testified as follows:

15 DIRECT EXAMINATION

16 CHAIRPERSON ACZON: Please state your name
17 and address for the record.

18 THE WITNESS: My name is Jaclyn Mae Santos
19 and I'm speaking on behalf of the Santos family of
20 Olowalu. Our address is 804 Olowalu.

21 CHAIRPERSON ACZON: Please proceed.

22 THE WITNESS: I stand before you today to
23 humbly request that the Land Use Commission deny the
24 Olowalu Town EIS.

25 Now, I'm not a marine biologist I'm not a

1 realtor, I'm not kanaka maoli, I'm not an activist,
2 not a person with a lot of money, and I'm not here
3 today to repeat a bunch of facts that have already
4 been presented to you.

5 I'm just a girl from Olowalu. A girl who
6 was born and raised in this special place. A girl
7 whose father was raised in Olowalu, a fifth
8 generation Santos on Maui. A girl who wants to call
9 Olowalu home forever. A girl who wants to raise her
10 children in Olowalu and allow them to call it home.

11 I want them to have better than I have.
12 Isn't that the point, to provide better than you had?
13 I'm a girl who studies hula, a student of the
14 culture. A girl who honors what has come before and
15 allows it to guide me into the future.

16 Having had the privilege through my
17 education and support of my parents, I've traveled
18 the world and I've experienced the beauty and nature
19 of all people and treasure every moment of my
20 experience.

21 But nothing compares to what we hold
22 dearest to our heart and soul, and for me that is
23 Olowalu. It is my greatest teacher and my closest
24 relative. Aside from all of the other's points
25 mentioned today, like the failure to embrace Native

1 Hawaiian culture and practices mauka-to-makai, the
2 inevitable loss of reef, lack of affordable housing
3 for local families, and the shameful misuse of the
4 term ahupua'a.

5 Including also the lack of infrastructure
6 and place for our traffic to and from the west side.
7 And this idea of building a hotel.

8 In my mind it's a simple matter. You build
9 homes, a hotel, and the land will suffer. It will
10 result in imminent death to the ecosystem, and the
11 land and ocean will pay the ultimate price.

12 I'm asking you all to ask yourself what is
13 important to you? What is Olowalu worth to you? Can
14 it be priced? Is this system in itself a flawed
15 system? Are you able to connect with the being in
16 yourself and realize what is right and wrong? Where
17 does your moral compass point you?

18 Can you feel in your heart whispering what
19 is right and wrong? I truly think that you do.

20 CHAIRPERSON ACZON: Please summarize.

21 THE WITNESS: I'm asking you to go with
22 what your heart is telling you. To do the right
23 thing for all time for Olowalu, for the sacredness of
24 its being for me and for my children, and personally
25 asking you to allow me to offer my children the very

1 best, better than I had, in Olowalu that is thriving
2 because of the preservation of the sanctity of the
3 land.

4 Furthermore, I want to say that you should
5 all take a serious look at page ten and 11 of the
6 Executive Summary on unresolved issues because it's
7 clearly written that --

8 CHAIRPERSON ACZON: Thank you. Any
9 questions?

10 MS. LIM: No.

11 MR. HOPPER: No.

12 MR. YEE: No.

13 CHAIRPERSON ACZON: Commissioners? Thank
14 you.

15 Do you affirm that the testimony that
16 you're about to give is the truth?

17 THE WITNESS: I do.

18 LAWRENCE CARNICELLI

19 Was called as a public witness, was sworn to tell the
20 truth, was examined and testified as follows:

21 DIRECT EXAMINATION

22 CHAIRPERSON ACZON: Thank you. State your
23 name and address.

24 THE WITNESS: Lawrence Carnicelli, 2771
25 Ulani Circle, Pukalani.

1 I am the Chairman of the Government Affairs
2 Committee for the Hawaii Association of Realtors.
3 I'm also on the Realtors Association of Maui
4 Government Affairs committee, but I'm not here
5 testifying for either one of those entities,
6 testifying on my own behalf. I just wanted you to
7 know I'm involved in the process.

8 I appreciate all of you Commissioners and
9 everything that you do, and the volunteer hours that
10 do.

11 I have two passions that are up for me.
12 One is affordable housing; the other one is the
13 environment. I see Mr. Ward applying for the job to
14 take over -- the job that Mr. Anderson is leaving,
15 it's an affordable housing company. I'm also aware
16 of Ke Kalehakula (phonetic). That's also about
17 building affordable housing.

18 All the testimony about affordable housing
19 resonates with me. However, we need to build it
20 right. We need to build -- I hate using Hawaiian
21 words because I'm a haole guy -- it needs to be pono.
22 As I look at this EIS, it's not pono.

23 I'm going to start with this letter that
24 was sent to Mr. Orodener by the State of Hawaii
25 Planning. They rejected it, right? So just as you

1 guys, Commissioners, I'm sure you've probably already
2 seen this. They rejected this. The Petitioner
3 basically doesn't take care of the historic, and the
4 traffic study is wrong.

5 So that's one, just to go to factual stuff.

6 The other thing is the Petitioner actually
7 submitted an addendum this morning. She said --
8 counsel said it's like, oh, I have an amendment that
9 we just filed last mean minute. That in and of
10 itself is enough to cancel this EIS.

11 We haven't had a chance to review it. It's
12 a 3900 page tome. At 100 pages a day, it would take
13 you over a month to read. I'm a slow reader. I
14 couldn't even do 100 pages a day. I scanned it.

15 The other thing I would go to is Appendix
16 L. It says it's a draft. How can you have a Final
17 EIS that still has a draft? It doesn't make any
18 sense. So I go to that.

19 The other thing, since I still have some
20 time, I have a letter here from the Department of
21 Planning dated February 25th, 2010, coming from
22 Jeffery Mun to Olowalu LLC. I get it's not the
23 Petitioner, but it's the same group, and this was ten
24 years after they got their SMA. Ten years after they
25 got their SMA.

1 CHAIRPERSON ACZON: Please summarize.

2 THE WITNESS: Ten years. There were nine
3 conditions of the 33 that still were not fulfilled.
4 Same thing. It's all full of stuff that's public
5 health and safety, it's historic, it's traffic, it's
6 the same stuff. And I'll on go ahead and leave this.

7 CHAIRPERSON ACZON: Thank you. Any
8 questions?

9 MS. LIM: No questions, but I would like to
10 make a clarification. Thanks for your testimony.

11 You misstated what I filed. What we
12 filed this morning was merely a response to what the
13 Office of Planning filed late yesterday. There is
14 been no amendment to the EIS.

15 THE WITNESS: You called it an amendment on
16 the record.

17 MS. LIM: There was no amendment filed to
18 the FEIS.

19 THE WITNESS: We should have a chance to
20 review that.

21 MS. LIM: In the same way that we have a
22 chance to review public testimony that was submitted
23 today. That's all.

24 CHAIRPERSON ACZON: Thank you.
25 Commissioners?

1 Do you affirm that the testimony that
2 you're about to give is the truth?

3 THE WITNESS: Yes.

4 SUMMER KUPAU-ODO

5 Was called as a public witness, was sworn to tell the
6 truth, was examined and testified as follows:

7 DIRECT EXAMINATION

8 CHAIRPERSON ACZON: Please state your name
9 and address.

10 THE WITNESS: Aloha kakou, Summer
11 Kupau-Odo, attorney with Earthjustice. Address is
12 850 Richard Street, Suite 400, Honolulu 96813.

13 I'm submitting this testimony. We have
14 also submitted written testimony on behalf of our
15 client Maui Tomorrow Foundation, and we respectfully
16 request that the Commission reject the Olowalu Town
17 EIS.

18 First of all, we echo many of the concerns
19 raised by so many people from this Maui community.
20 There concerns about the content inadequacies of this
21 FEIS, including the insufficient discussion of
22 environmental impacts on the precious Olowalu coral
23 reef, which is a mother reef that seeds other reefs
24 in Maui Nui.

25 Insufficient discussion on impacts on

1 traditional and customary Native Hawaiian practices,
2 which was testified to so eloquently by some from
3 this place.

4 Also insufficient discussion on the impacts
5 to endangered and threatened species, including the
6 nene and the Hawaiian Monk seal.

7 And also insufficient discussion about
8 impacts to the historic and cultural sites of this
9 very special place.

10 But my testimony today is really to raise
11 the Commission's attention and to discuss an
12 additional procedural violation of the Hawaii
13 Environmental Policy Act, and that is the absence of
14 federal agency cooperation in the preparation of the
15 EIS.

16 Now, pursuant to Hawaii Administrative Rule
17 11-200-23, subsection (b)(1), before this Commission
18 can except the FEIS, it must find that the procedures
19 for preparing the statement, as testified in Title
20 11, Chapter 200 of Administrative Rules have all been
21 completed satisfactorily.

22 When an action, such as this one, is
23 subject to the National Environmental Policy Act or
24 NEPA, in addition to HEPA.

25 Hawaii administrative Rule 11-200-25

1 requires cooperation with federal agencies, and to
2 the fullest extent possible, including preparing
3 joint environmental impact statements with concurrent
4 public review and processing at both levels of
5 government.

6 The Olowalu Town Master Plan is dependent
7 on two federal actions that triggers environmental
8 review under NEPA.

9 First of all, it requires the Section 404
10 Clean Water Act Dredge And Fill permit from the Army
11 Corps of Engineers. And second, the project depends
12 on the realignment of the Honoapiilani Highway, which
13 is a federal aid highway project for which, as I
14 think this Commission is aware, another joint federal
15 or a joint EIS is being prepared between the State
16 Department of Transportation and the Federal Highway
17 Administration.

18 These are federal triggers that require
19 environmental review at the national level, and our
20 administrative rules 11-200-25 requires that the
21 Olowalu Town EIS be prepared in cooperation with
22 these federal agencies.

23 CHAIRPERSON ACZON: Please summarize. We
24 have your testimony.

25 THE WITNESS: Because the FEIS before you

1 is not prepared in compliance with Hawaii
2 Administrative Rules, the Commission cannot
3 officially accept it.

4 CHAIRPERSON ACZON: Thank you. Any
5 questions?

6 VICE CHAIR SCHEUER: Mr. Chair, has the
7 Petitioner seen the written testimony from
8 Earthjustice?

9 MS. LIM: Yes, we did.

10 VICE CHAIR SCHEUER: So we're about at a
11 time for a break. Are you prepared to ask questions
12 of the witness right now?

13 MS. LIM: If we could do so after the
14 break. We were somewhat --

15 VICE CHAIR SCHEUER: I'm raising this --
16 obviously the witness has brought some serious
17 allegations about whether or not this would
18 invalidate the FEIS. Just for procedurally we want
19 to make sure you have some time to review the written
20 testimony, so when you ask your questions, you will
21 have some ability for doing that.

22 I certainly will have questions of the
23 Earthjustice witness as well.

24 CHAIRPERSON ACZON: Any questions?

25 Let's take a five-minute break.

1 (Recess was taken.)

2 CHAIRPERSON ACZON: Ms. Lim, do you have
3 questions?

4 MS. LIM: I'll try to get our head around
5 it. Clearly, even in the preparation of the draft
6 and the final EIS there was not a lack of
7 awareness -- (unintelligible).

8 Even with this time that we were just given
9 to review, we're still trying to wrap our head around
10 your letter a little bit.

11 Some of my questions will seem elementary
12 and asking you to repeat things that you clearly
13 wrote, but it can only help.

14 CROSS-EXAMINATION

15 BY MS. LIM:

16 Q I want to, if I could, start with the
17 statement that we do need a permit. And I want to
18 ask you to explain to me where in the Final EIS you
19 noted that that -- or you saw something that
20 indicated to you that we needed a permit --

21 A Well, upon review of the draft, and
22 specifically looking at what the EIS provided with
23 the Hobby report with the Aquatic Resource Survey,
24 doing the best I could to compare the maps and his
25 analyses in that report with the maps, specifically

1 Figure 4 of the Final EIS on determining -- first, of
2 all, Hobby determined that those are jurisdictional
3 waters that are covered. That require a permit.

4 Q Even with that statement that Hobby made
5 that determination that the starting point does Hobby
6 have the wherewithal to make a determination, first
7 of all, whether or not the waters --

8 A I'm going by what you, the Applicant,
9 submitted and put in your Final EIS. And accepting
10 the analyses that he understood took while using the
11 Army Corps of Engineers approved jurisdictional
12 determination form, it appears that all six of those
13 aquatic features that fall within the project area
14 are jurisdictional waters that require the Dredge and
15 Fill permit if you're going to undertake construction
16 on them.

17 Again, going back to the map. It looks
18 like all of these waters will be affected. And if
19 that's not the case, then that's something that the
20 Applicant would have to correct.

21 Again, this goes to other people's comments
22 about how there just wasn't enough time to review.
23 If such substantive changes are going to be made,
24 then you would need to undertake the review process
25 again. I'm just echoing what was stated in the

1 Office of Planning's letter. The Office of Planning
2 also --

3 Q But we're still just talking about Hobby's
4 report. Just to wrap that up, because you clearly
5 you spent some time --

6 A I did the best I could in looking at
7 documents that you provided in the Final EIS.

8 Q You acknowledge it wouldn't be Bob Hobby
9 who would have the authority to determine whether or
10 not --

11 A No the Corp.

12 Q Are you aware of the Army Corps of
13 Engineers having made the jurisdictional
14 determination? Are you aware of the Olowalu Master
15 Plan area?

16 A No. And actually I point to, in my written
17 submittal, HAR -- I believe it's 11-200-25(1) which
18 puts the responsibility on you the Applicant to
19 notify the Army Corps when you believe that NEPA is
20 applicable.

21 And I think you have known this, because in
22 the list of permitting, that's required, page 401 of
23 your Final EIS for the entire list of permits that
24 you would need, you do put down there that it's
25 possible that the EA permit, or what we refer to as

1 Section 404 Clean Water Act Permit, would be
2 required.

3 Q You are correct, it is noted as a
4 possibility.

5 When you looked through the EIS, did you
6 notice that there has been correspondence with the
7 U.S. Corps of Engineers as well as federal agencies?

8 A Yes, and --

9 Q But not a jurisdictional determination?

10 A Yeah. If I could address what the Army
11 Corps advised the Applicant. This I believe was
12 submitted at the early stage at the preparation
13 notice comments, and the corps did advise the
14 Applicant to submit that form.

15 So the question is: Why hasn't that form
16 been submitted, because NEPA, the National
17 Environmental Policy Act is triggered. If that
18 applies to your project, then you must reach out to
19 them. You must notify, not just them, but Office of
20 Environmental Quality Control and other interested
21 agencies.

22 These are the requirements under Hawaii
23 Administrative Rules.

24 Q That would be a requirement if A, there
25 were waters of the United States located anywhere;

1 and B, we were going to be doing something within the
2 waters of the United States, that would be some how
3 be exempt under the Clean Water Act.

4 Jumping to the second part. What action do
5 you see described in the EIS that indicates that
6 there are any proposed activities within what you're
7 alleging are waters of the United States?

8 I know this is a burden. Point me to it in
9 the EIS?

10 A So if you look at my written testimony, the
11 biggest one that sticks out has to do with the
12 highway, which I can also address, but the 160-foot
13 wide bridge that you plan to construct over the
14 Olowalu Stream, that would, to me, require 404 permit
15 and it would trigger environmental review under the
16 national act. This is on page 234 of the Final EIS.

17 Q If in fact there was a dredge and fill
18 versus --

19 A Well --

20 Q -- construction that didn't involve
21 actually putting --

22 A Well, if --

23 Q -- anything into the water to --

24 MS. ERICKSON: Would you please not talk
25 over each other? She needs to get each of your

1 testimony.

2 THE WITNESS: But I also site to federal
3 regulation 33 C.F.R. which defines discharge of fill
4 material to generally include placement of fill that
5 is necessary for the construction of any structure or
6 infrastructure in the water of the United States, the
7 building of any structure, infrastructure requiring
8 rock, sand, dirt or other material for its
9 construction.

10 And, again, this is my best interpretation
11 of what the Applicant has put into its Final EIS.
12 But if you're going to construct 160-foot wide bridge
13 over the Olowalu Stream at a different mauka location
14 so that you can fulfill the realignment part of your
15 project of your town plan, then, yes, according to
16 this regulation, you need to get a 404 permit.

17 Q (By Ms. Lim): Just to clarify, are you
18 under the impression that the bridge itself will be
19 160 feet wide?

20 A It's going to go over -- this might be a
21 question for clarification.

22 I'm just looking at what was stated.
23 That's my understanding is that it would have to --
24 well, the right-of-way is going to be 160 feet,
25 right?

1 Q So, again, just to wrap it up, I think we
2 acknowledge -- I'm supposed to be asking you
3 questions.

4 Do you acknowledge that at this point there
5 is no -- there is been no jurisdictional
6 determination indicating that there are waters of the
7 United States?

8 A By the Army Corps.

9 Q Correct.

10 A Yes. That is not in the FEIS, and it
11 should be, as the Army Corps directed that the
12 Applicant do.

13 Q Do you acknowledge that the Army Corps of
14 Engineers has been communicated with throughout the
15 EIS process?

16 A Actually I don't have knowledge about
17 throughout. I just know of that initial letter, and
18 of course, if Applicant has had communications, then
19 that wasn't reflected in the Final report, and it
20 should be, right? That's another requirement of the
21 HR.

22 Q I think that's something that we can
23 definitely -- the consultant when we're putting on
24 our actual case, will address.

25 But to go back to our Q and A.

1 So there has been correspondence with the
2 U.S. Army Corps of Engineers. There hasn't been any
3 determination that there is waters of the United
4 States.

5 My third question is: At this point, when
6 the Applicant and the EIS is describing a highway
7 project that in no way states that it's going to be
8 using waters of the United States, that it will be
9 dredging and filling, and I note that even though the
10 list of entitlements say this is a possibility, in
11 the same way that I mean if all of a sudden, you
12 know, several endangered species shows up on the
13 property, obviously, that would change the scenario
14 as well. Anything can happen.

15 But there is no indication in the text of
16 the EIS that building the bridge would involve
17 actually doing dredge and fill within the waters of
18 the United States?

19 A The dredge -- well, those terms were not
20 used. But the way the project is described, and,
21 again, looking at Olowalu Stream and not just the
22 stream, but comparing the maps that Hobby prepared
23 for your EIS, and also Figure 4 itself, which is very
24 vague about what parts of the highway will be -- or
25 the remnant highway after you do the mauka

1 realignment, what parts will be extracted, that would
2 also trigger the need for dredge and fill because
3 road extraction looks like it will be occurring above
4 the Kapa'iki Fishpond pipe, which oddly again, using
5 the Army Corps' form says is jurisdictional water of
6 the United States.

7 So, yeah, my reading is that if all of
8 these activities are going to take place, and they're
9 components of your Master Plan, yes, you do need to
10 apply for 404 permit. And at the very least contact
11 Army Corps, submit the jurisdictional determination
12 because the National Environmental Policy Act must be
13 implemented now at the early time.

14 These are key policies of both federal law
15 and Hawaii environmental laws which this Commission
16 has a duty to uphold.

17 Q I couldn't agree with you more. And when
18 the EIS process in 2010 clearly there has been no
19 shortage of efforts on the part of the Applicant to
20 make contact with the various agencies.

21 And for that reason, at this stage,
22 anticipating the development as described in the EIS,
23 the Applicant has no reason to believe that 404
24 permit would be required.

25 I'm going to move to the second topic,

1 because I know we're taking up a lot of time and I
2 think also these people may have several questions
3 for you.

4 That was the highway. Something else that
5 you brought up.

6 And I'm going to ask you if you would,
7 please, clarify for me what you're saying is that the
8 highway right now runs along the coast. We're going
9 to be realigning that, and the EIS is ripe with
10 explanations about how we're going to be moving and
11 creating a new highway alignment further mauka and
12 leaving this area down here.

13 So do you suggest in your letter and in
14 your testimony that that relocation that's going to
15 somehow require NEPA compliance?

16 A Yes. Statements in the Final EIS that say
17 that the project or the master plan is dependent on
18 having realignment. I believe the term that was
19 used -- I can look for it -- but that the highway
20 realignment for the Olowalu Master Plan would be in
21 conjunction with the DOT and Federal Highway
22 Administration, Maalaea to Launiupoko widening
23 realignment project.

24 So if it's in conjunction with, then it's a
25 necessary element of the plan and that's critical,

1 because right now as we speak there is an EIS process
2 underway for that Ma'alaea to Launiupoko project.
3 And it's a joint effort between both another state
4 agency DOT, as well as the Federal Highway
5 Administration and Federal Highway Administration
6 issue is key, because if there is federal assistance
7 involved, even federal funding, this is a federal
8 highway, that's a necessary component of the your
9 plan, then that triggers environmental review.

10 If you look at the January 26th letter this
11 year from the DOT, they advised the Applicant to
12 incorporate documents from their EIS into this EIS.
13 Even -- I mean, this is critical information that is
14 being compiled by joint efforts with the federal
15 agencies with all the federal resources, expertise
16 about impacts, and they list, including endangered
17 species, including cultural rights and cultural
18 important sites.

19 I mean they have this -- it's stated in
20 their letter. And I also point out that they have
21 told the Applicant in a more recent letter attached I
22 believe to your memorandum, counsel, dated
23 November 9, 2015, that they wanted portions or
24 references in the final statement that reference or
25 state that the DOT requires or approved various

1 actions of the Olowalu Town. They're saying that
2 should be deleted from the text.

3 So that suggests to me that they're not
4 behind this project. And there are multiple signs
5 saying wait, we have information, please incorporate
6 the information that we have.

7 Q I think that we're maybe going a little
8 farther afield and doing some interpretation of the
9 DOT letter. And the interpretation of DOT
10 November 6th letter, it's irrelevant to the issue of
11 whether or not there is any federal funding that's
12 planned for the portion of the relocated highway
13 that's within the Olowalu Town Master Plan area.

14 Now, are you aware of any federal funds
15 that have been appropriated or that are even in
16 active current budget for the highway relocation
17 within the Olowalu Town Master Plan area?

18 A No. But I'm aware it is designated a
19 federal aid highway, and that the Federal Highway
20 Administration is a part of that joint environmental
21 review.

22 Q Are you aware that that environmental
23 review, the one you mentioned earlier, the status of
24 that environmental review?

25 A Am I aware of the status? I just spoke

1 with the environmental engineer at the Federal
2 Highway Administration, and she told me that it is
3 still being compiled, and that the State DOT is still
4 reviewing it. But it's an on-going process. They've
5 been working on it. I think the federal notice went
6 out back in 2012.

7 Q The Applicant is speaking in my ear but
8 he's actually on the task force that was looking at
9 doing that highway EIS, and in fact, it's -- just
10 confirming that in 2008 was the last time that there
11 was a meeting. So that EIS has, for all effective
12 purposes, terminated, and there aren't any funds
13 right now.

14 Now, that's not to say there aren't any
15 funds anywhere along the great length of highway
16 that's proposed for relocation, but we are only
17 talking about -- the only thing we care about is what
18 is happening within the Olowalu Master Plan area.
19 There are no federal funds set aside, and no
20 federally sponsored or federally coordinated EIS
21 document or NEPA document at this point in time.
22 That's why when we looked through the EIS -- let me
23 again go back to the question mode.

24 You perhaps noticed that the budget or the
25 infrastructure, those costs that are stated in the

1 EIS include funds for building the relocated highway.

2 You took note of that?

3 A I'm sorry, the funds --

4 Q The projected cost for the highway
5 relocation. And did you take note of whether or not
6 the Applicant indicated that those funds would come
7 from any federal source or from any state source?

8 A No. I pointed out in my written submittal
9 that is a fact that is not discussed and that it
10 should be, because if the Applicant is down the road
11 going to rely on federal funds like federal
12 assistance, then it should be stated now, so that an
13 environmental review could happen.

14 But I do want to correct one thing. The
15 EIS, again, looking at January 26, 2015 letter from
16 the State Department of Transportation, that in
17 paragraph eight references an EIS for the Ma'alaea to
18 Launiupoko realignment.

19 Is it your contention this is a
20 misstatement on the part of DOT? That the agencies
21 are not --

22 Q I do need another minute to respond to you.

23 I don't know to what extent we are going to
24 go back and forth.

25 THE WITNESS: I wanted to correct what I

1 believe was a misstatement. Again, I'm going based
2 off a letter from Department of Transportation.

3 CHAIRPERSON ACZON: Additional questions?

4 COMMISSIONER HIRANAGA: Mr. Chair, is it
5 appropriate to perhaps have the Office of Planning
6 have there questions and provide the Applicant time
7 to --

8 MS. LIM: We'll stop. Thank you for the
9 opportunity for the back and forth. We're finished.

10 CHAIRPERSON ACZON: Mr. Hopper?

11 MR. HOPPER: No questions.

12 CHAIRPERSON ACZON: Mr. Yee?

13 MR. YEE: Just a few questions.

14 CROSS-EXAMINATION

15 BY MR. YEE:

16 Q Thank you for submitting your testimony.

17 Bryan Yee, Deputy Attorney General for the
18 Office of Planning.

19 I just wanted to better understand the
20 letter which I got today. I tried to read it as best
21 I could.

22 For my questions I would like you to assume
23 for the moment that NEPA is going to be triggered by
24 something.

25 So as I read this letter, if NEPA is

1 triggered, then a notification to the relevant
2 federal agency is required under state rules,
3 correct?

4 A Yes.

5 Q And then it says that the state agency
6 should cooperated or must cooperate with relevant
7 federal agency; is that right?

8 A Yes.

9 Q Now, here's the part that I'm trying to get
10 a better hold of.

11 Are you saying that in this situation there
12 must be a joint NEPA EIS prepared?

13 A There must be joint environmental review at
14 this stage. It's very likely because -- I mean,
15 given all of the time and effort put into the EIS,
16 the fact that it is considered a significant impact
17 on the environment, basically because of the state
18 side an EIS is required, there is a great likelihood
19 that one may be required on the federal side.

20 But the rules say joint cooperation. So
21 environmental review. The bottom line is if NEPA
22 applies, then they need to coordinate with that
23 responsible federal agency and that responsible
24 federal agency, in this case Army Corps and Federal
25 Highway Administration would then determine whether

1 there may be a federal action that significantly
2 affects the environment.

3 Q What I want to get a better understanding
4 then is the cooperation, is the term I think used in
5 the rule.

6 Does that cooperation mean that the state
7 EIS must be held up for federal action for the
8 federal environmental relief?

9 A I don't want to say that it should be held
10 up, but its a process that should have started long
11 ago when the state process began. And really the key
12 is the rule that says that when a Commission or when
13 an agency is determining whether to accept an EIS,
14 that all procedures must have been satisfactorily
15 complied with. And in this case it wasn't, because
16 of 11-200-25, which, again, when NEPA requires joint
17 environmental review.

18 Q And I guess it's the review part versus the
19 word "cooperation" that I'm trying to get a hold of.

20 So if the federal government is not
21 currently doing environmental review, for the moment
22 Corps of Engineers is not, so if the federal
23 government is not currently doing an environmental
24 review, but the state agency is before us as we have
25 in this case a prepared proposed Final EIS.

1 I understand the need to cooperate, but why
2 does term "cooperate" mean joint environmental
3 review?

4 A Because that rule, again, Section 25 that
5 talks about cooperation to the fullest extent
6 possible, including the preparation of joint EIS's
7 and concurrent review periods.

8 That modifies the meaning of what
9 cooperation, it helps you to define what cooperation
10 means.

11 So in this case, given, again, the
12 controversy over the impact; the fact that an EIS is
13 required state-side, likely going to be required
14 federal-side, and that's what needs to take place.

15 Now, you asked earlier about the holding up
16 the state side. I think it can just be viewed as,
17 yes, you cannot accept this EIS at this stage because
18 it's not in compliance with the rule that requires
19 joint cooperation with the federal agencies.

20 It's not a matter of holding up anything,
21 just you have to comply with the rules and you cannot
22 accept this EIS because it didn't follow procedural
23 rules under Section 25 of Title 11.

24 Q Does the facts of case, are they impacted
25 at all by federal government Act 4, in other words,

1 federal government asks you to work with them, does
2 that result in one -- does that one result and the
3 federal government says -- I ask you to conduct it
4 with them, does that result in a different -- does
5 that have a different result?

6 A No. I want to be clear too. On the
7 federal side, their regulation actually mirror our
8 regulations state side, because NEPA requires that
9 the federal agencies cooperate jointly with state
10 agencies and applicants in the preparation or
11 environmental review.

12 So one federal agency couldn't just say,
13 no, we're not going to coordinate review with you,
14 but two, if they did, it still doesn't make the
15 process correct. It still doesn't cure the
16 illegality of this non-joint cooperation in the
17 preparation of a document.

18 Q So if the federal agency says, I'm not
19 ready to go yet, but if you guys want to go forward
20 with your state side, do whatever you like, does that
21 mean that the federal agency is no longer cooperating
22 and, therefore, some violation if the state process
23 moves forward?

24 A If the federal agencies had said that they
25 would not cooperate, then there would be a violation

1 of federal law, which is why I'm saying that should
2 not occur now. Is a federal agency going to say
3 that? I don't know. One could. Federal agencies
4 make mistakes all the time. But to answer that
5 question, yes, they should not. They would have to
6 cooperate.

7 Q From what I'm hearing you say then, the
8 term "cooperation" is going to be synonymous with
9 concurrent environmental review.

10 In other words, you're reaching this
11 conclusion because a concurrent environmental review
12 and cooperation are the same thing in this?

13 A Reading the entire rule, right,
14 requirement.

15 Q Okay. Thank you for the explanation.

16 CHAIRPERSON ACZON: Commissioners, any
17 questions? Commissioner Wong.

18 VICE CHAIR WONG: I have a question.

19 Reading the draft EIS, you stated there was
20 no communication between Army Corps of Engineers and
21 the Applicant? Is that correct?

22 THE WITNESS: There was no cooperation. So
23 this is getting to Mr. Yee's question.

24 Cooperation is the legal term that's used
25 in the rule. There definitely was communication.

1 There was consultation. The Applicant did reach out
2 to numerous agencies when it was preparing or issuing
3 the preparation notice for the draft EIS. And at
4 that time the Army Corps did issue a letter again
5 advising them to submit jurisdictional determination
6 form, to also contact their office to determine
7 whether dredge and fill type of work would be taking
8 place. But that's not cooperation under the rule
9 11-200-25.

10 VICE CHAIR WONG: Thank you.

11 CHAIRPERSON ACZON: Commissioner Scheuer.

12 VICE CHAIR SCHEUER: Aloha.

13 THE WITNESS: Aloha.

14 VICE CHAIR SCHEUER: Trying to wrap my head
15 around this significant issue and want to not take up
16 time that you're you could be questioned more by the
17 petitioner.

18 THE WITNESS: Right, and you and I know
19 there is a lot of people waiting.

20 VICE CHAIR SCHEUER: Mahalo, I guess the
21 question I have is fairly simple.

22 You spent a lot of time reviewing the EIS,
23 correct?

24 THE WITNESS: Yes, and the FEIS.

25 VICE CHAIR SCHEUER: And you weren't able

1 to determine from the information that was in the
2 FEIS whether or not definitively that there were
3 federal triggers, but it appeared to you that there
4 might be. Is that a correct summary?

5 THE WITNESS: Wait. Now, are we talking
6 about draft?

7 VICE CHAIR SCHEUER: The Final. I can
8 restate it if you would like me to.

9 What I heard in your oral summary of
10 written testimony is that you did your best by
11 reviewing the FEIS to figure out whether or not
12 federal -- I'm not going to get the legal terms
13 right -- cooperation or were involved but it appeared
14 that way from the information in the FEIS and that's
15 the basis of your testimony is that 404 permit is
16 going to be required?

17 THE WITNESS: Yes, 404. Based on my review
18 of the FEIS 404 is required. It could have been more
19 clearly stated in the FEIS. That's another
20 inadequacy that diverges from what --

21 VICE CHAIR SCHEUER: So my concern is that
22 if we argued for a moment that Ms. Lim's questioning
23 was sort of sufficient and no it doesn't say
24 definitively in the EIS, FEIS that there is going to
25 be a federal permit, but we have two sort of

1 brilliant minds sort of arguing over whether or not a
2 federal permit is required.

3 Would you believe that that then sort of
4 would trigger the other part of our ability to render
5 a decision that this is acceptable because there is a
6 lack of clarity?

7 THE WITNESS: Yes, most definitely, because
8 you as the Commission have to find that the
9 procedures have been met to your satisfaction. And
10 again, if there's a disagreement between not a party,
11 but, you know, as an attorney and two legal
12 interpretations, and if you can't come to a
13 determination, then, yes, I don't know how you could
14 be satisfied that the procedures have been met.

15 And at least you could require the
16 Applicant to clarify whether it would need a permit
17 and whether they have the obligation to then notify
18 the Army Corps. And the Army Corps again is just
19 one, and I'm not saying that I don't believe they
20 need one. I believe they need one based on the
21 information in the EIS.

22 But, again, knowing the other agencies that
23 should be cooperated with in the preparation of the
24 EIS, the Federal Highway Administration. This is a
25 part of their plan. Highway realignment is a federal

1 project.

2 VICE CHAIR SCHEUER: Thank you for your
3 response. That's it for me.

4 CHAIRPERSON ACZON: Commissioner Wong.

5 VICE CHAIR WONG: I just wanted to ask the
6 Executive Officer, you know, it's getting late in the
7 day. We have all these people. How much more
8 witnesses?

9 EXECUTIVE OFFICER: We're at number 50 and
10 just received another 15, so close to 100 people.

11 VICE CHAIR WONG: You know, this issue, all
12 these testifiers on this list, do we have enough time
13 to make a very good decision? Or what will happen if
14 we postpone it? What are the ramifications?

15 MS. ERICKSON: Under the Hawaii
16 Administrative -- under HAR 11-223(d) the Commission
17 has 30 days in which to make a determination, and if
18 the Commission does not act to accept or reject it,
19 it is deemed automatically accepted after 30 days.

20 MS. LIM: What Ms. Erickson said is
21 perfectly 100 percent correct, but I do want to
22 add -- and this is also written in the letter that we
23 submitted to the Commission this morning -- that the
24 11-200-23(d) does require or does obligate the agency
25 to make a decision within 30-days. However, there is

1 an ability, if the Applicant -- at the Applicant's
2 request -- and that was the purpose of our letter --
3 if the Applicant requests an extension, the agency
4 can choose to extend that decision-making deadline by
5 up to 15 days.

6 MS. ERICKSON: The rule says that the
7 extension shall not be allowed merely for convenience
8 of the accepting authority. So it has to be to allow
9 you to be able to do something.

10 MS. LIM: I agree with Deputy AG entirely
11 on that.

12 VICE CHAIR WONG: So I have a question,
13 because of this issue that came up with the federal,
14 do you need more time to research it?

15 MS. LIM: May I answer that question by
16 answering a few questions that she didn't ask, which
17 is the heart of it, is we would like more time and
18 that was the purpose of amending the letter that we
19 submitted to the Commission this morning.

20 We would like more time for the reasons
21 expressed in that letter which includes the fact that
22 the Office of State Planning filed something very
23 late yesterday, and one of the concerns was that the
24 Office of State Planning expressed was that the
25 public hadn't had sufficient time to review the

1 traffic report, so these 15 days would give --

2 CHAIRPERSON ACZON: We got a letter this
3 morning. Are you saying that? Are you asking for
4 the 15-day extension?

5 MS. LIM: We are asking for the 15-day
6 extension. However, we are not asking for the 15-day
7 extension solely because -- we were asking for that
8 extension before discussion about the federal trigger
9 because, frankly, we don't believe that there are any
10 federal triggers.

11 If we start getting into the realm of
12 speculation, at some point five, ten, 15, 20 years
13 from now there may be a federal trigger, then we are
14 never, ever going to get to decision-making.

15 CHAIRPERSON ACZON: Is that the only
16 reason?

17 MS. LIM: The reason we would like the
18 extension are so that we can have Mr. Steve Dollar,
19 who is a marine water quality expert, come and
20 respond to questions that the Commission may have
21 about his study. And he's actually out of the
22 country right now doing some research work.

23 Also so that the reasons expressed in our
24 letter, I won't bore you by repeating all that, but
25 we did make that request prior to this discussion

1 with Maui Tomorrow about possible federal triggers,
2 and we would like the Commission to do that.

3 It is not solely for the Commission's
4 convenience so that there can be more information
5 provided to the Commission, more opportunity for the
6 public to review the material posted on the
7 Commission's website October 27th.

8 So it is for the Applicant's convenience,
9 also for the public's convenience and to allow more
10 free flow of information and questioning from the
11 Commission.

12 CHAIRPERSON ACZON: The Chair would, like
13 to take a short break.

14 (Recess was taken.)

15 CHAIRPERSON ACZON: Back on the record.

16 Is there any more questions for the
17 testifier? Commissioner Estes.

18 COMMISSIONER ESTES: My question is for Ms.
19 Lim. Is she coming back?

20 CHAIRPERSON ACZON: Anybody else for the
21 testifier? Can you wait for her presentation for
22 your question?

23 COMMISSIONER ESTES: If you want to hear
24 somebody else now, fine.

25 This has to do with the request for

1 extension of time. And I'm going to refer to your
2 letter this morning where you talk about the response
3 of OP's last minute letter. And you say,
4 nevertheless, OP's last minute letter.

5 CHAIRPERSON ACZON: Commissioner Estes, can
6 we cover that later?

7 COMMISSIONER ESTES: No, I truly want to
8 ask this question now.

9 VICE CHAIR SCHEUER: Just in deference to
10 the witness, do you have any more questions for the
11 witness?

12 COMMISSIONER ESTES: I'm sorry.

13 VICE CHAIR SCHEUER: You're done, thank
14 you.

15 COMMISSIONER ESTES: Anyway, you talk about
16 the considerable amount of written testimony
17 submitted to the Commission regarding the FEIS leads
18 us to anticipate that the Commission may desire more
19 time to review.

20 Now, I thought you were asking for more
21 time, but now you're saying it's the Commission.

22 MS. LIM: We are asking for more time.
23 There is no equivocation on that.

24 One of the reasons why we anticipated, when
25 we wrote this letter early this morning, that more

1 time would assist us in providing this Commission
2 with ample opportunity to hear more information, hear
3 the public testimony, hear from our consultant, so
4 the Commission can have more time to hear more about
5 the Final EIS.

6 It's our request, but in part it is to
7 facilitate a decision making that we would obviously
8 like you to reach.

9 COMMISSIONER ESTES: My other question is
10 you said your water expert that you wanted us to hear
11 from is in Samoa. Did you anticipate all along that
12 you were going to ask for extension?

13 MS. LIM: No, and that's a fair question.
14 We only just found that out -- I only just got back
15 to the country myself.

16 CHAIRPERSON ACZON: Commissioner Estes,
17 please bear with me. We're going to take those
18 issues, but can we just move this? I'll give
19 sometime tomorrow to do that.

20 I just want to kind of make a statement in
21 light of really the we really do want to move through
22 the testimony, because we don't want to -- because of
23 press of time, like our legal counsel saying, if we
24 cannot make decision, it's automatic approval. We
25 don't want that to happen, so we really need your

1 help to really get this thing going. Lot of public
2 testimony today, and then we come back tomorrow. We
3 going to take the motion of the extension and we can
4 deliberate those motions.

5 We want to get the public testimony going.
6 The one on the list. So I really need think your
7 cooperation. We want to make this hearing very
8 efficient, so please help us out, because like I
9 said, we don't want automatic approval. We want to
10 deliberate and look at all the facts of evidence.

11 If not, we don't make that deadline, it's
12 automatic approval. Okay. I really would appreciate
13 when you guys come to the witness box, if the
14 testimony or representative of somebody else make
15 those testimony already, please, you can waive your
16 testimony. And if you want to go to the witness box,
17 you can just say in support or opposition and we will
18 recognize that on the record.

19 Thank you. Commissioners, anything else to
20 add? Thank you. Mr. Orodenger.

21 EXECUTIVE OFFICER: In an effort to move
22 this along, I'll name the next four witnesses.
23 Austin Kalama, Mike Foley, Joe Kent, Frank Caprioni.

24 CHAIRPERSON ACZON: Do you swear or affirm
25 that the testimony that you are about to give is the

1 truth?

2 THE WITNESS: Yes.

3 AUSTIN KALAMA

4 Was called as a public witness, was sworn to tell the
5 truth, was examined and testified as follows:

6 DIRECT EXAMINATION

7 CHAIRPERSON ACZON: Please state your name
8 and address for the record.

9 THE WITNESS: Austin Kalama from 808 Kula.

10 My name is Austin Kalama. I'm 17 years
11 old. I was born and raised on Maui. I am a Hawaiian
12 descendant. I am kanaka maoli. I'm here to ask you,
13 please, revise the current EIS for Olowalu
14 development.

15 I've been surfing here at Olowalu as long
16 as I can remember. I love the ocean and everything
17 Olowalu is my most favorite place on Maui, an
18 absolutely beautiful part of the island and if it
19 gets developed, it will be lost there for people.
20 The reef well be destroyed.

21 I surf Olowalu, look at the mountains, see
22 the beauty of this island. I don't want to see
23 houses and houses covering once beautiful mountains.
24 I want my kids and their kids to surf the waves and
25 see how beautiful Olowalu is. I want to swim and see

1 amazing reefs, clear water and see fish, not dead
2 coral and trash on the dead reef.

3 That's all I have to say.

4 CHAIRPERSON ACZON: Any questions?

5 MS. LIM: No.

6 MR. HOPPER: No.

7 MR. YEE: No.

8 CHAIRPERSON ACZON: Commissioners? Thank
9 you. Please call on the next testifier. Mike Foley
10 followed by Joe Kent followed by Frank Caprioni,
11 followed by Susan Bradford.

12 CHAIRPERSON ACZON: Do you affirm that your
13 testimony that you're about to give is the truth?

14 THE WITNESS: Yes.

15 MIKE FOLEY

16 Was called as a public witness, was sworn to tell the
17 truth, was examined and testified as follows:

18 DIRECT EXAMINATION

19 CHAIRPERSON ACZON: Please state your name
20 and address.

21 THE WITNESS: Mike Foley, 3625 Piakea, in
22 Makawao.

23 CHAIRPERSON ACZON: Please proceed.

24 THE WITNESS: I live Up Country now, but I
25 lived in West Maui for more than ten years and drove

1 through Olowalu almost daily. I am Vice President of
2 Maui Tomorrow, and our attorney has already spoken to
3 you Summer Kupau-Odo today. However, I am speaking
4 as an individual, and Summer is speaking for Maui
5 Tomorrow.

6 12 years ago I was the Country Planning
7 Director. I have appeared before this body on
8 numerous occasions as an expert witness, and I have
9 advised these developers for 12 years not to proceed
10 with this project.

11 The Final Environmental Impact report or
12 statement does not comply with Hawaii Administrative
13 Rules Title 11, Chapter 200. And I agree with the
14 State Office of Planning that the EIS should not be
15 accepted. That's an easy way for you to conclude the
16 this hearing tomorrow, reject this final
17 Environmental Impact Statement.

18 I submitted comments in 2012. The
19 responses to my comments on the Final EIS were
20 inadequate. They were ambiguous. They were vague.
21 Now, we're reviewing an EIS that is still incomplete
22 and should not be accepted by this Commission.

23 I submitted a letter to you several days
24 ago with examples of the inadequacy of this Final
25 EIS, but I'll mention just a few of them. Traffic,

1 for example, we have approximately 900 ohana units in
2 addition to the 1500 houses that are discussed in the
3 report. So it's not 1500, it's 2400, and that makes
4 a huge difference, not only in traffic, but also in
5 schools and water and a lot of other issues.

6 The State Department of Transportation says
7 there are many unresolved issues. Their letter
8 raises issues about the alignment, about land
9 acquisition, about highway funding, and concludes
10 that they are not satisfied that these issues have
11 been resolved.

12 Also the cumulative impacts have not been
13 adequately analyzed, especially with respect to the
14 many projects approved in West Maui. There are
15 12,000 units already approved in Maui. There are
16 many, many projects already approved that can provide
17 housing. And affordable housing will not be provided
18 by this project because of the incredible
19 infrastructure cost and HOA maintenance fees that
20 will be necessary for this project.

21 CHAIRPERSON ACZON: Please summarize.

22 THE WITNESS: The schools in West Maui are
23 already overcrowd. The fire station is far too far
24 away. The mitigation is incomplete in the Final EIS
25 because they have not completely addressed all the

1 mitigation necessary.

2 CHAIRPERSON ACZON: Thank you. Any
3 questions for the testifier.

4 MS. LIM: No.

5 MR. HOPPER: No.

6 MR. YEE: No.

7 CHAIRPERSON ACZON: Commissioners.

8 VICE CHAIR SCHEUER: Very briefly.

9 Mr. Foley, can you just expand, because I
10 believe your earlier letter to us talked specifically
11 about not normal fire situation but wildfires.

12 THE WITNESS: Yes. Anybody who has driven
13 through West Maui on numerous occasions like I have
14 has been stopped by not only traffic accidents but
15 also wildfires. There have been a number of
16 wildfires between Launiupoko and Ma'alaea that have
17 stopped the traffic in both directions for hours and
18 hours.

19 There is no fire station obviously in
20 Olowalu, it's miles away in Lahaina. Even if these
21 guys provide land for a fire station, it would cost
22 millions to build a fire station and to provide the
23 employees. I see no commitment to solve the fire
24 station problem or the school problem.

25 VICE CHAIR SCHEUER: Thank you.

1 CHAIRPERSON ACZON: Any other
2 Commissioners? Next testifier, please.

3 EXECUTIVE OFFICER: Joe Kent followed by
4 Frank Caprioni followed by Susan Bradford followed by
5 Akiana Kulama.

6 CHAIRPERSON ACZON: Do you swear or affirm
7 that your testimony that you're about to give is the
8 truth?

9 THE WITNESS: Yes.

10 JOE KENT
11 Was called as a public witness, was sworn to tell the
12 truth, was examined and testified as follows:

13 DIRECT EXAMINATION

14 CHAIRPERSON ACZON: Please state your name
15 and address, and please proceed with your testimony.

16 THE WITNESS: My name Joe Kent and I live
17 in Honolulu. I come you to you today as an
18 individual, as a former Lahaina school teacher. I
19 have taught at King Kamehameha III in Lahaina, and I
20 neither support nor oppose the EIS, I just would like
21 to speak to the process.

22 Many people are here saying we don't have
23 enough teachers to fulfill the demand. I was a
24 public school teacher in Lahaina, and during that
25 time I saw my rent going up by hundreds of dollars in

1 the past few years. I saw my friends becoming
2 homeless, and eventually I was forced to leave Maui
3 and move away because of the high cost of living and
4 the lack of housing and lack of opportunity.

5 Just before I left, I made a documentary
6 exploring this issue, but also exploring the
7 environmental impact of the Olowalu Town project. Me
8 and some friends got a shoe-string budget together
9 explored the project.

10 And I wanted to raise some questions that
11 we considered. First, who will save Olowalu? Nobody
12 denies that Olowalu is in great danger even before
13 development. In talking to the environmental experts
14 for the video, which can be found, by the way, on
15 Maui Now dot com, I think.

16 In talking to environmentalist, they found
17 that the reef is in danger right now today because of
18 the storm water runoff problems created by poor
19 government planning in this area.

20 The Olowalu project EIS demonstrates a plan
21 that may save Olowalu. It may not save Olowalu, but
22 it may save Olowalu from the problems we see today.

23 Second, who is better at caring for the
24 land? Often we find that lands that are owned and
25 spoken for by everybody, are often taken care of by

1 nobody. Often we see in public parks and public
2 spaces, which are poorly taken care of and we have
3 all seen this.

4 In Olowalu I do see the interest to take
5 care of the land here, and fix the problems of the
6 past.

7 Third, again, the choice is between
8 creating more housing or saving the environment.
9 What if the answer is to do both? What if there is a
10 middle ground approach that may accomplish goals of
11 both groups?

12 I'm not convinced that denying the project
13 by the way. Will save the reef either. The whole
14 reason that they want to move the road in the first
15 place is to deal with environmental problems because
16 the road is too close to the ocean right now. So I
17 would just like to --

18 CHAIRPERSON ACZON: Please summarize.

19 THE WITNESS: -- keep this process open.
20 Thank you.

21 CHAIRPERSON ACZON: Any questions for the
22 testifier?

23 MS. LIM: No questions.

24 MR. HOPPER: No.

25 MR. YEE: No.

1 CHAIRPERSON ACZON: Commissioners?

2 Thank you. Next.

3 EXECUTIVE DIRECTOR: Frank Caprioni
4 followed by Susan Bradford.

5 CHAIRPERSON ACZON: Do you affirm that the
6 testimony that you are about to give is the truth?

7 THE WITNESS: Yes, sir.

8 FRANK CAPRIONI

9 Was called as a public witness, was sworn to tell the
10 truth, was examined and testified as follows:

11 DIRECT EXAMINATION

12 CHAIRPERSON ACZON: Thank you. State your
13 name AND address for the record.

14 THE WITNESS: Frank Caprioni, 801 Olowalu.
15 I'm here representing my wife and two children who
16 couldn't make it today. Thank you for your time
17 today.

18 I am here today to please ask the
19 Commission to not accept this Final EIS. The law
20 clearly states that the EIS shall fully declare the
21 environmental implications of the proposed action and
22 shall discuss all relevant and feasible consequences.

23 Instead the EIS relies on assumptions that
24 nothing the project does will cause any harm. And we
25 know that not to be true, especially in the face of

1 natural disasters we have seen in other land
2 developments where accident happens like in upper
3 Mahana

4 There are many about Olowalu's fragile
5 ecosystem that the EIS leaves out. One, they failed
6 to acknowledge the federally protected nene live,
7 nest and feed in Olowalu. DLNR has been keeping
8 accounts of this since 2012 of the nene nesting in
9 Olowalu, and some locals have been keeping track even
10 longer.

11 The EIS fails to knowledge the endangered
12 monk seal that I have personally seen frequent
13 Olowalu, especially landing where there is a proposed
14 hotel.

15 The EIS also fails to acknowledge the
16 endangered mother reef system that a lot of people
17 would say is what makes Olowalu so special. And the
18 reef has already been under a lot of stress and there
19 are very obvious signs of that.

20 The EIS even states the developer will
21 benefit the reef which is ludicrous, especially the
22 way that West Maui Land has managed the land so far,
23 next to Peter Martin's house which is 150 feet from
24 the shoreline. We have pictures of it, an empty and
25 we had been told it had been like that for a couple

1 months. And I can show you that picture if you like.
2 And they have previously been cited before for not
3 doing proper dust protection at the house next to
4 them.

5 And coincidentally the reef out in front of
6 the house has been observed from scientists and local
7 fishermen to have to have heavy sediment on the reef,
8 and is completely choking it out. And there's only
9 two houses built there.

10 The reef system is the last of its kind in
11 Hawaii and should be one of our major goals to
12 preserve it and the ecosystem that it encompasses,
13 and not take any shortcuts in doing so.

14 I have personally tried to work with West
15 Maui Land to address these issues, especially when
16 there has been a lot of research and education into
17 the reef and how to protect them. And when I have
18 tried to contact West Maui Land and manager, I would
19 either get ignored, called a complainer and even
20 threatened by their field manager.

21 As a neighbor, it's hard for me to believe
22 that they would truly do the right thing when they
23 can't even properly manage the land now.

24 Olowalu is also prime ag land. I know this
25 because I farm there. I have never once seen West

1 Maui Land attempt to grow anything in Olowalu, but
2 they say it's not feasible. How do you know if you
3 do not try? Olowalu could be amazing place for local
4 people, they could grow their own food and provide
5 for the great of the community. Especially when we
6 import 85 to 90 percent of our food, and we talk
7 about creating sustainable jobs. Funny.

8 We need as many farmers and farmland as
9 possible to create sustainable jobs to provide
10 healthy food.

11 Olowalu could truly be an amazing example
12 of example of what an ahupua'a could look like in
13 this modern day. But feel the development plans are
14 the furthest thing from that, 300 to 350,000 square
15 feet of commercial space, basically the size of three
16 Maui malls in Olowalu.

17 CHAIRPERSON ACZON: Please summarize.

18 THE WITNESS: Basically my summary is that
19 this EIS is completely flawed. They don't talk about
20 neighbors that I live next to. Never once has anyone
21 come and talked to me. So I'm completely against
22 this.

23 CHAIRPERSON ACZON: Any questions, Ms. Lim?

24 MS. LIM: No.

25 MR. HOPPER: No.

1 MR. YEE: No Commissioners.

2 EXECUTIVE OFFICER: Susan Bradford.

3 CHAIRPERSON ACZON: Do you swear or affirm
4 that the testimony that you're about to give is the
5 truth?

6 THE WITNESS: Yes.

7 SUSAN BRADFORD

8 Was called as a public witness, was sworn to tell the
9 truth, was examined and testified as follows:

10 DIRECT EXAMINATION

11 CHAIRPERSON ACZON: Thank you. Please
12 state your name and address for the record and
13 proceed.

14 THE WITNESS: My name is Susan Bradford.
15 I'm at 588 Kaleo Street in Kihei. I want to thank
16 you for being here today. This has been a long day
17 for all of us.

18 I am here to ask you to deny this EIS. And
19 I'm here because for several years I was part of the
20 Pali to Puamana task force. We created this document
21 that looked at the area from Pali to Puamana about
22 what the future might look like especially with the
23 land use and especially with the roads.

24 The vision was to create an eight-mile
25 corridor of bike and hiking trails, camping along the

1 coastline. Moving the road to mauka. And really
2 creating a long space that would be open to the
3 public.

4 This development is anything but that. One
5 of the task force was to create a proposed
6 realignment of the highway to increase road capacity
7 and to increase open space preserve, as I've said.

8 The magnitude of this project and its
9 potential impacts with the development slated for the
10 area, it's important that a new road be designated
11 first, and agreed on first before any development is
12 approved.

13 The Pali to Puamana plan is only partially
14 described in this FEIS, and important parts are left
15 out, which is why I'm asking you to please deny this
16 request.

17 The EIS does not mention that the Pali to
18 Puamana task force came up with -- we came up with
19 three potential roadways. We chose the one in
20 between. They chose a different road. And it was
21 different from the one we discussed.

22 EIS's are supposed to divulge the steps and
23 explain why an alternative route was chosen. The
24 preferred route was further makai and included beach
25 parks on the north end of Olowalu, where the 16 acres

1 are for sale, and the south end makai of the existing
2 road.

3 The EIS does not mention that the
4 Launiupoko to Ma'alaea relocation of Honoapiilani
5 Highway is a state and federal project, and Olowalu
6 will need to accommodate federal standards for the
7 road. The whole topic is avoided.

8 State Department of Transportation comment
9 letter asked that the FEIS discussion include both,
10 but they are missing.

11 CHAIRPERSON ACZON: Please summarize.

12 THE WITNESS: The Pali to Puamana plan
13 asked for open space makai of the road. This is not
14 indicated in any significant way on the map. We ask
15 for a public -- the Pali to Puamana public access for
16 people all along the coast. This is not addressed in
17 the EIS. And in general, it does not really discuss
18 how Olowalu Town follows the recommendation of the
19 Pali to Puamana plan.

20 CHAIRPERSON ACZON: Thank you. Any
21 questions for the testifiers? Commissioners? Thank
22 you.

23 Do you swear or affirm that the testimony
24 that you are about to give is the truth?

25 THE WITNESS: Yes.

1 ORIANA KALAMA

2 Was called as a public witness, was sworn to tell the
3 truth, was examined and testified as follows:

4 DIRECT EXAMINATION

5 CHAIRPERSON ACZON: Please state your name
6 and address and proceed.

7 THE WITNESS: My name is Oriana Kalama,
8 1633 West Kuiaha.

9 I'm here to speak on behalf of my
10 organization and our 547,000 supporters. These are
11 worldwide supporters. We are an ocean defender
12 foundation. I would like to share one of the mottos,
13 because it's very relevant to this issue. One of our
14 mottos is the fight to save the ocean begins on land.
15 This is very pertinent at the moment.

16 So I'm here to ask you to please, please
17 reject the Environmental Impact Study performed by
18 this project. I was really confused and shocked to
19 read the sentence in the EIS performed by Marine
20 Research Consultants. It stated that there is no
21 rationale to indicate the potential for negative
22 impacts to the marine environment. And I believe
23 this is a very incorrect statement.

24 Now, have you heard of the accidents of the
25 prior developments, and they are not examples of

1 something positive.

2 I would like to invite you to please help
3 me find a project of this magnitude anywhere on earth
4 that has not caused harm or detriment to marine life
5 ecosystems. I insist that you look because such
6 projects don't really exist. Do you have any
7 examples of your prior work that has no impact to the
8 reefs or has a benefit to the reefs because if you
9 have that, I would like to share that with the world
10 because we need that kind of projects, but I believe
11 your project does not cover that.

12 So, yeah, have you heard of accidents too,
13 because those happen too when you plan the best,
14 those things happen.

15 So here are some of the facts regarding the
16 effects of this type of project on our reefs.
17 Coastal construction can cause chronic sedimentation,
18 industrial discharge and changes in water flow and
19 runoff which can adversely affect coral growth rates
20 and metabolic activities as well as directly kill our
21 corals.

22 Pollutants from such projects can also lead
23 to increase in coral disease and mortality. It can
24 cause changes in coral community structure and in
25 impede coral growth reproduction and larval

1 settlement.

2 The degradation of coral reefs can result
3 in the loss of tourism revenue, which is our number
4 one source of income on the island. The degradation
5 of our reefs will also cause loss of fish.

6 We are now currently witnessing the third
7 global bleaching event ever on record and our reefs
8 at Olowalu are being affected by this bleaching as
9 well.

10 This project could potentially destroy this
11 fragile reef ecosystem. It is very important that we
12 do not add any more stress to this reef. We firmly
13 believe that this project poses a big threat to the
14 health of the reefs at Olowalu.

15 We do not need to look far to see the
16 destruction of our reefs caused by coastal
17 constructions. I gave you five examples, two from
18 your own company. So one of the examples I want to
19 share is Ma'alaea, because the Maui Center they did
20 how many years ago?

21 CHAIRPERSON ACZON: Please summarize.

22 THE WITNESS: So summarizing, I suggest
23 that the developers consider honoring the proper use
24 and meaning of the word ahupua'a. It's a beautiful
25 process that needs to be brought back for the benefit

1 of the people of Hawaii. It's not a term to be
2 abused, so please reject the EIS.

3 CHAIRPERSON ACZON: Any questions of the
4 testifier? Commissioners? Thank you.

5 THE WITNESS: May I ask on behalf of
6 myself? I spoke on behalf of our organization.

7 Take me one second. I want to share an
8 anecdote it. Before I was elected, I was a private
9 chef. So I actually cater for the people who own
10 this property. I baked at peoples' home and fed them
11 dinners. It's an amazing property.

12 I don't know this for a fact, but I have a
13 feeling that these people have enough money to
14 provide food for not only their children but their
15 children's children, grandchildren, perhaps 7
16 generations down.

17 Please consider the livelihood of the
18 people of Hawaii before you destroy the reefs.

19 CHAIRPERSON ACZON: Do you affirm that the
20 testimony you're about to give is the truth?

21 THE WITNESS: I do.

22 JOHN FITZPATRICK

23 Was called as a public witness, was sworn to tell the
24 truth, was examined and testified as follows:

25 DIRECT EXAMINATION

1 CHAIRPERSON ACZON: State your name and
2 address.

3 THE WITNESS: John Fitzpatrick, address 715
4 S. Kihei Road, Apartment 230.

5 I have a BS in marine biology and Master's
6 degree in zoology where I studied the ecology of
7 coral reef organisms. I am opposed to approving the
8 Olowalu Town development EIS because it's inadequate
9 and fails to address the communities concerns about
10 the preservation of Native Hawaiian cultural
11 practices, traffic, fire, tsunami, and degradation of
12 vital terrestrial and marine habitat, just to name a
13 few.

14 I also, starting last week, I asked people
15 to sign a petition to help reject this plan. So as
16 of this morning, we had somewhere around 1600 people
17 sign, and right now almost 2000 people. So I would
18 like to share that as well. All around the world.
19 700 people from Lahaina, because they know how bad
20 the traffic will be during the development period.

21 I do back a lot of it. I can back a lot of
22 what people said, but I'll only choose a little bit.

23 The EIS fails to address endangered species
24 that frequent the area. In the FEIS, Volume I, part
25 2, page 22, section B, the proposed EIS says: There

1 are no endangered or threatened species or their
2 habitat in the master plan for alternatives one and
3 two.

4 This is contrary to local knowledge of the
5 area where we find endangered nene goose nesting
6 areas in the path of what will be the new highway.

7 And in addition, they choose to exclude the
8 endangered Hawaiian monk seals that frequent the reef
9 area and utilize the beach as a resting area.

10 What happens to these resting areas when
11 4,000 more people are utilizing the beach and coral
12 reef ecosystems. They completely exclude the
13 endangered sea turtle cleaning stations that are
14 often frequented by 20 plus turtles.

15 And lastly they don't include the how the
16 development has on rare species of coral that are
17 being proposed to be placed on endangered species
18 list as we speak.

19 In addition to endangered coral species,
20 this developed coral ecosystem on the island. The
21 last well-developed coral reef ecosystem on the
22 island. You 700year old kupuna coral -- and there is
23 scientific evidence to that -- that do seed adjacent
24 reefs. With the exception of the paid Marine
25 Research Consultants, Inc., who claim the retention

1 basin, 1700 homes up to 3000 cars, wastewater sewage
2 treatment plant, 4.5 acre leach field, additional
3 fertilizers and pesticides will actually benefit the
4 largest, oldest, and extremely priceless coral reef
5 ecosystem.

6 Coral reef experts from across the globe
7 have told us that this development will exacerbate
8 the affects of global climate change and ocean
9 acidification. They say that this development will
10 drive the priceless coral reef down the slippery
11 slope of slime.

12 Thank you very much, and I really urge you
13 to reject this Environmental Impact Statement.

14 CHAIRPERSON ACZON: Commissioners? Next
15 testifier.

16 EXECUTIVE DIRECTOR: Lani Eckart-Dodd, Dr.
17 Keli'i Akina.

18 CHAIRPERSON ACZON: Do you affirm that you
19 will tell the truth?

20 THE WITNESS: I affirm that everything I
21 say is truthful.

22 KELI'I AKINA

23 Was called as a public witness, was sworn to tell the
24 truth, was examined and testified as follows:

25 DIRECT EXAMINATION

1 CHAIRPERSON ACZON: Please state your name and
2 address.

3 THE WITNESS: Dr. Keli'i Akina, 335
4 Merchant Street, Honolulu, Hawaii 96802.

5 Aloha mae kakou, mae ke'aina, my governors,
6 my friends, my kupuna, our elders, president of Grass
7 Roots of Hawaii, also professor at Hawaii Pacific
8 University where I teach the course in Hawaiian
9 Pacific philosophy.

10 I'm here today to give comments only on the
11 Hawaiian cultural aspects of the EIS. I am a Native
12 Hawaiian kumu, I am kanaka maoli, and today I hope to
13 speak for the aina, for the ahupua'a, but the
14 recognized expert is Dr. George Kanahela who has
15 written of the Hawaiian sense of the placing in his
16 great work ku kanaka.

17 Accordingly, an ahupua'a is the most
18 comprehensive venue for the Hawaiian sense of place.
19 Far from an untouched nature, a healthy ahupua'a
20 needs intensive human engagement. It needs work. It
21 needs play. It needs residents, and that's what
22 makes it sustainable and makes it productive. But
23 currently the Olowalu ahupua'a is deprived of the
24 intense human activity that it requires in order to
25 be safe and productive.

1 For example, Mr. Foley testified that the
2 vacant land makes it susceptible to brush fires, and
3 many of the problems cited today exist because the
4 land is vacant and not developed. What we need to do
5 is understand that currently there are no parties
6 there to malama the aina. The coral reef itself is
7 endangered because no party is responsible for proper
8 care of the shore and land.

9 Furthermore, there is no flourishing
10 population there as there were thousands in ancient
11 times.

12 As you evaluate the Olowalu EIS, I would
13 like you to consider three questions. Number one,
14 kuleana or care taking. Will the Olowalu Town
15 increase the level of care taking of that land, the
16 level of human activity? The level of engagement?

17 Number two, lokahi or harmony between
18 nature and man. Will the proposed town which will
19 have more than 80 percent open space and greenery and
20 less than 20 percent development, will it fulfill the
21 harmony of man and nature?

22 And third, ini'ola, will it provide a
23 better life, housing, work and play for a population?

24 As I look at this, as a kumu of Hawaiian
25 philosophy, from the impact on the culture, I

1 conclude that the Olowalu Town EIS indeed addresses
2 these Hawaiian cultural issues.

3 CHAIRPERSON ACZON: Please summarize.

4 THE WITNESS: Mahalo. Do you have any of
5 questions?

6 MS. LIM: No questions, thank you.

7 CHAIRPERSON ACZON: Commissioners? Thank
8 you.

9 THE WITNESS: Mahalo.

10 VICE CHAIR SCHEUER: Dr. Akina, you said
11 that there was -- I think I wrote down your quote
12 correctly -- that there's no parties in Olowalu to
13 malama the land today?

14 THE WITNESS: There are individuals, but
15 I'm talking about the entire ahupua'a, mountain to
16 ocean, no particular body or individual that is held
17 fully responsible. The development itself presents
18 you with a party that would be held responsible.

19 VICE CHAIR SCHEUER: I asked because we
20 have heard from many individuals who say they take on
21 that role. And I wanted to make sure that point was
22 clear from the voluminous testimony we have had
23 today.

24 THE WITNESS: We are not talking about just
25 individuals responsible, but if we were to say who's

1 responsible from the mountain to the ocean to see
2 that the entire region is well-developed, protected
3 and provided for, currently we don't any party
4 responsible.

5 That's part of the reason the runoff damage
6 to coral reef and so forth. So that's a question
7 you'll consider as you look at the EIS: Will this
8 give us a party to hold responsible?

9 CHAIRPERSON ACZON: Any other question for
10 Dr. Akina? Thank you, Dr. Akina.

11 THE WITNESS: Mahalo.

12 EXECUTIVE DIRECTOR: Next testifier Doris
13 Lang, followed by Gordon Firestein, followed by Peter
14 Fallon.

15 CHAIRPERSON ACZON: Do you swear or affirm
16 that the testimony that you are about to give is the
17 truth?

18 THE WITNESS: Absolutely.

19 DORIS LANG

20 Was called as a public witness, was sworn to tell the
21 truth, was examined and testified as follows:

22 DIRECT EXAMINATION

23 CHAIRPERSON ACZON: Thank you. Please
24 state your name and address for the record.

25 THE WITNESS: My name is Doris Lang, and I

1 live at 186 Paia Pohaku in Lahaina.

2 My husband Gordon and I are farmers up in
3 Launiupoko, and we're active members of the Hawaii
4 Farmers Union United, and we are -- or I am against
5 this EIS for the reason that we need more prime
6 agricultural land.

7 And that part of the EIS statement I see is
8 one of the things -- and maybe it's not supposed to
9 be included -- but the area where they're talking
10 about is an area that is extremely windy. And I know
11 that from living in Launiupoko the wind -- and we
12 need more trees and more things to keep the land that
13 from washing down onto the reef.

14 We need to keep all of that in, and we need
15 to have plants growing in this area so that we can
16 have sustainable food, and that we can continue to
17 have ag in this region.

18 I also want to mention that the nene were
19 brought up, and we in Launiupoko. The flight path
20 from the nene go over our house and our property
21 daily. And we have seen an increase of these
22 endangered species because of the nesting grounds
23 that are in Olowalu. And I'm one of the people that
24 signed the petition of the 2000.

25 And in closing, I just want to say that I

1 want to thank you very much for listening to me. And
2 I really do believe that in your hearts, that if you
3 do follow your heart, you'll know the right thing,
4 the right decision for you, on either side, but
5 follow the heart.

6 CHAIRPERSON ACZON: Thank you. Any
7 questions?

8 THE WITNESS: And I reject the project.

9 CHAIRPERSON ACZON: Any questions for the
10 testifier? Commissioners? Thank you very much.

11 EXECUTIVE DIRECTOR: Gordon Firestein,
12 followed by Peter Fallon, followed by Gerald Durkan,
13 M.D.

14 CHAIRPERSON ACZON: Do you affirm that the
15 testimony that you're about to give is the truth?

16 THE WITNESS: Yes.

17 GORDON FIRESTEIN

18 Was called as a public witness, was sworn to tell the
19 truth, was examined and testified as follows:

20 DIRECT EXAMINATION

21 CHAIRPERSON ACZON: Please state your name
22 and address for the record.

23 THE WITNESS: Gordon Firestein, 186 Paia
24 Pohaku Place in Lahaina.

25 CHAIRPERSON ACZON: Please proceed.

1 THE WITNESS: Thank you.

2 I am here to oppose the proposed Olowalu
3 Town development because the Environmental Impact
4 Statement is inadequate. I'm going to talk today
5 just to the issue of traffic. The EIS does not
6 adequately address the impact of putting hundreds and
7 hundreds of additional cars onto a highway that is
8 already overloaded.

9 There are many pages in the EIS that deal
10 with traffic flow within the project boundaries
11 so-called O-turns, highway realignment and the like.

12 But if you zoom out far enough beyond the
13 project boundaries, what you see is something akin to
14 a snake that has swallowed an elephant.

15 Our thin ribbon of highway is constrained
16 more or less permanently by the tunnel in the pali --
17 suffers frequently from slowdowns simply from the
18 current traffic load and the signal at Launiupoko.
19 Of course, when there are accidents, which are all
20 too common, and fires as mentioned, the traffic
21 grinds to a halt, sometimes for hours.

22 No matter how well-designed the traffic
23 flow may be within a master project proposed for
24 Olowalu, the additional traffic it will unload onto
25 the highway cannot in any way make matters better.

1 In fact, the developers cannot possibly
2 address this problem adequately, because there is no
3 practical way to improve the flow along the entire
4 length of highway from the West Side to the rest of
5 the island.

6 We live at the end of what is essentially a
7 very long cul-de-sac, despite the road through
8 Kahakuloa to the north. For all practical purposes,
9 there is one way in and one way out. This project
10 proposes to dump an elephant-sized load of traffic
11 right in the middle of this.

12 There are many reasons the EIS is
13 inadequate, as we have heard today. Failure to
14 address the project impact on traffic on the highway
15 is just one of them.

16 I urge you to reject the EIS and stop this
17 project before it does irreparable harm to the West
18 Side of Maui.

19 CHAIRPERSON ACZON: Commissioners? Thank
20 you very much. Next.

21 EXECUTIVE DIRECTOR: Peter Fallon.

22 CHAIRPERSON ACZON: Do you swear that the
23 testimony that you're about to give is the truth?

24 THE WITNESS: Yes, I do.

25 -o0o-

PETER FALLON

Was called as a public witness, was sworn to tell the truth, was examined and testified as follows:

DIRECT EXAMINATION

CHAIRPERSON ACZON: Thank you. Please state your name and address.

THE WITNESS: Peter Fallon, 462 Laulea Place, Paia, Hawaii.

I'm here to reject the project and ask you to do the same in your consideration. I will spare you the time, as anything I would have said has been said already, but I do appreciate your time and do you reject this project. Mahalo.

CHAIRPERSON ACZON: Any questions, Commissioners? Thanks for that short testimony. Next testifier.

Do you swear that the testimony that you're about to give is the truth?

THE WITNESS: Yes, it is

GERALD DURKAN

Was called as a public witness, was sworn to tell the truth, was examined and testified as follows:

DIRECT EXAMINATION

CHAIRPERSON ACZON: Please state your name and address.

1 THE WITNESS: Gerald Durkan, 1280 Kauhika
2 Road, Haiku.

3 I am thrilled to be here. I would ask you
4 all to reject this proposal. I have raised eight
5 children here. Two of them have been naturalist with
6 the Pacific Whale Foundation. They spend their whole
7 time educating people on these boats.

8 I do not think any of the people who will
9 be living there, staying in the hotels and generally
10 passing through will be educated to the extent that
11 they have had even by minimal knowledge.

12 I can only see pure destruction of this
13 reef. It will be gone. It would be a total shame.
14 Please understand, I would invite all of members -- I
15 didn't realize you're from Oahu until I was just
16 informed. I would ask that you visit this place,
17 spend ten minutes in the water, enjoy it as we do,
18 and understand that it will be gone depending our
19 actions. Thank you.

20 CHAIRPERSON ACZON: Thank you. Any
21 questions, Commissioners? Thank you very much.

22 EXECUTIVE DIRECTOR: Is Darryl Amarac here?
23 Kalei Kauhane.

24 CHAIRPERSON ACZON: Do you swear that the
25 testimony that you're about to give is the truth?

1 THE WITNESS: Honest is the truth.

2 KALEI KAUHANE

3 Was called as a public witness, was sworn to tell the
4 truth, was examined and testified as follows:

5 DIRECT EXAMINATION

6 CHAIRPERSON ACZON: Please state your name
7 and address for the record.

8 THE WITNESS: Kalei Kauhane kupuna of Maui.
9 Kupuna on Maui Kingdom of Hawaii.

10 E'o. Thank you for staying up with us.
11 Mahalo for your guys eyeballs right now watching you
12 guys all night. We can hold accountable by why
13 Olowalu is the way it is, America and the
14 plantations. They did it do us. They desecrated our
15 lands over through our kingdom, illegally, let's get
16 that right. I pretty sure you guys pretty smart.
17 You guys know our history here, what happened here.

18 I don't have to go one frigging history
19 class up here. We all know what happened. Maui Land
20 frigging stole that land from our people. And when
21 they went out of business, who they sold them to?
22 Peter Martin, right.

23 That is why Olowalu is dry the way it is.
24 That is why our family is not there any more, not to
25 mention 1789 Metcalf, but killed 199 kahuna. Their

1 descendents supposed to be here today to talk, not
2 just us. Right?

3 122 years of desecration to this aina and
4 we have one meeting like this. This is bullshit.
5 You guys should know already, this is hewa. What you
6 guys doing is hewa. Genocide.

7 All America today did and the plantations
8 did over here was rape our land, kill our people,
9 genocide, our culture, and lie to the world, that's
10 it.

11 You guys have no right to hold this
12 meeting. Decision should be made by Hawaiians.
13 Anything that happen here should be made by us, not
14 by you guys. What you guys freaking state, Land Use
15 Commission. What positive you guys did? Nothing.
16 And you guys like build one freaking town outside
17 there. Do something pono. Go help the families that
18 belong there. Help them get back home so they're not
19 homeless, living in the bushes. Those families
20 belong there by Olowalu.

21 Still the descendants out there that belong
22 in Olowalu. And you like do something pono, put them
23 home, not in townhouses, not one freaking whatever
24 kind freaking affordable house. Bullshit you guys
25 talking about.

1 CHAIRPERSON ACZON: Please summarize.

2 THE WITNESS: The Kingdom of Hawaii still
3 exists. To all the protectors of Olowalu.

4 CHAIRPERSON ACZON: Any questions?
5 Commissioners? Next testifier, please.

6 Do you swear or affirm that the testimony
7 you're about to give is the truth?

8 THE WITNESS: Yes.

9 MAHIE ATAY

10 Was called as a public witness, was sworn to tell the
11 truth, was examined and testified as follows:

12 DIRECT EXAMINATION

13 CHAIRPERSON ACZON: Please state your name
14 and address.

15 THE WITNESS: Aloha, I'm Mahie Atay. I
16 currently reside at 2172 Mahina Kea Street where I
17 rent from my cousin just so I can farm.

18 I moved to Mahina a year-and-a-half ago. I
19 quit my job working and catering for the tourist for
20 ten years until I finally have woke up. Akua brought
21 me back home, home where I belong. And I stand here
22 a mahi ai, a new mahi ai.

23 Fortunately my grandparents all were
24 farmers. I was also fortunate enough to be the first
25 cohort of the UHMC farming apprentice mentorship in

1 which we graduated this past Sunday.

2 We spent seven months learning how to craft
3 natural farming with volunteer mentors. One of my
4 mentors was my uncle, Alike Atay, and James Luciano,
5 who both farm in Lahaina, Malakahala Wai.

6 I lived in Wailuku but I travel to
7 Launiupoko to farm. I also farm at West Kuiaha in
8 Haiku as well as at home in Wailuku, and soon to be
9 Waikapu.

10 After our fellow cohorts up there, we had
11 the honor to continue in our education. If you folks
12 are really sincere consider that you folks look at
13 this EIS and reject it. You guys choose of all
14 places to develop on prime agricultural lands.

15 You folks talk about our future. I am the
16 future. We are the future. I played soccer. I grew
17 up with Peter Martin's daughter. It's a shame to
18 come home and find out what has been going on here.
19 I'm saddened and sorry that you have to go through
20 all this.

21 But we have been taking all this. I'm
22 sorry, kupuna, that you folks have been brainwashed
23 as well, because I have been there. I used to sit on
24 the backside. Why are we doing this? It's no
25 purpose. We keep arguing and fighting and nothing

1 comes across.

2 But I sit no longer on the backside, and I
3 stand and sit here in front of everybody. I have to
4 think about a lot, and you know, if we don't, if I
5 don't show the children what our past used to be, we
6 will not -- Hawaii will not be as it is. We will
7 soon be like what Oahu is getting hit with turning
8 into a metropolitan city, I believe.

9 There's so many already developed land.
10 And you guys talk about affordable housing. So many
11 empty buildings out here. Why can't we just fix
12 those buildings and turn them into affordable
13 housing?

14 CHAIRPERSON ACZON: Please summarize.

15 THE WITNESS: Summarization is you folks
16 think you folks are helping. Look with your hearts.
17 Put yourself in our position. Our pocket may not be
18 deep but my heart is deeper.

19 CHAIRPERSON ACZON: Questions?

20 Do you affirm that the testimony that
21 you're about to give is the truth?

22 THE WITNESS: Yes.

23 ALBERT PEREZ

24 Was called as a public witness, was sworn to tell the
25 truth, was examined and testified as follows:

DIRECT EXAMINATION

CHAIRPERSON ACZON: State your name and address for the record.

THE WITNESS: Albert Perez with Maui Tomorrow Foundation, address 55 North Church Street in Wailuku.

Thank you for coming. Thank you for serving on the Commission. We do appreciate it.

I represent the Maui Tomorrow Foundation. We have followed this proposed Olowalu town project for many years. We submitted comments in 2012 on the draft EIS, and we recently received some responses.

While we are glad our comments and those of state and county agencies have resulted in some information being added to the Final EIS, we are disappointed that the Final EIS still denies impacts, or omits any discussion of impacts in a number of major areas. And we, therefore ask the LUC not to accept the FEIS until this information is provided as required by HAR 11-200.

We are particularly concerned that many of our comments about the project's potential impacts on public trust practice water resources have been ignored or dismissed. Without accurate and prudent evaluation of impacts to the stream, the aquifer, and

1 ocean waters of Olowalu, the true impacts of this
2 project on cultural practices, stream health and the
3 nearshore fisheries cannot truly be known. What
4 follows in our comments is an overview of project
5 impacts mentioned in our comments, that are omitted
6 or not dealt with in the FEIS responses.

7 If you refer to my written testimony, I'm
8 just going to talk about comment number 9, and you
9 have our other comments that have been sent to you.

10 Maui Tomorrow pointed out many expensive
11 and non-traditional design options are being proposed
12 to prove that there will be no impacts to natural and
13 cultural resources. We pointed out that failure to
14 implement these design options would almost guarantee
15 that serious impacts would occur. These potential
16 impacts were not analyzed. Since the FEIS becomes
17 the defining authority on any impacts, and it says
18 there are none, future review will not be likely to
19 scrutinize the outcomes of what we're talking about.

20 Olowalu Town response to our comment states
21 that detailed, systematic review at the state and
22 county levels will ensure that impacts to natural and
23 cultural resources are mitigated. This is echoed
24 throughout the FEIS. Unfortunately, the state and
25 county have a serious enforcement problem. Two

1 examples are right here in West Maui, talked about by
2 earlier testifiers.

3 And in our written comments that I
4 submitted to is a picture of a failed silt dust
5 curtain on the shoreline. So this is not stopping
6 anything. I'm sure the audience can't see that.

7 CHAIRPERSON ACZON: Please summarize.

8 THE WITNESS: We showed also the other one,
9 the Mahana Ridge. Clearly state and county review
10 processes cannot be relied upon to prevent impacts,
11 and the Final EIS should discuss the impacts on that
12 natural and cultural resources if the state and
13 county review and enforcement are ineffective, as
14 they currently are.

15 Thank you. Please reject the current EIS
16 in its current form.

17 CHAIRPERSON ACZON: Any questions?
18 Commissioners? Commissioner Scheuer.

19 VICE CHAIR SCHEUER: Do you believe a FEIS
20 would actually -- sorry, let me step back.

21 Do you think it's theoretically possible
22 for a project such as the one proposed to have the
23 FEIS that would meet the legal standards of being
24 accepted?

25 THE WITNESS: Absolutely. I think they

1 need to disclose potential impacts so that
2 decision-making such as this body have full
3 information with which to make a decision.

4 EXECUTIVE DIRECTOR: Next testifier Michele
5 Lincoln. Iris Riverstone, followed by Jerry
6 Riverstone, followed by Keahalu Akini, followed by
7 Eugene de Naie.

8 CHAIRPERSON ACZON: Do you affirm that the
9 testimony that you're about to give is the truth?

10 THE WITNESS: Yes.

11 IRIS RIVERSTONE

12 Was called as a public witness, was sworn to tell the
13 truth, was examined and testified as follows:

14 DIRECT EXAMINATION

15 CHAIRPERSON ACZON: Please state your name
16 and address for the record.

17 THE WITNESS: Iris Riverstone. I live at
18 2692 Akalani Loop in Pukalani. And I am here to --
19 I'm here as a citizen, as a kid. I'm not -- I may
20 not have a fancy degree or university education, but
21 I've been to Olowalu, and I've seen how beautiful it
22 is now, and I want to keep it that way. And I don't
23 want a development that will be there with thousands
24 more people than already there and for all the
25 impacts that has cultural, environmental, it's an

1 amazing reef. I've snorkeled there. It's truly a
2 wonderful place to be, and I want it to stay that
3 way. And for those reasons I'm urging you to reject
4 the current EIS.

5 And at the very least, demand a more
6 suitable EIS is produced that will more accurately
7 address the issues that we're facing as far as the
8 environmental preservation of this amazing area.

9 And I want to see that continue for the
10 rest of my life, and if I have children and their
11 children, I want it to -- I want there to be that
12 beautiful place for them to go and see how it used to
13 be. And I want it to continue to be that way.

14 CHAIRPERSON ACZON: Thank you. Any
15 questions? Commissioners? Thank you.

16 Do you affirm that the testimony that
17 you're about to give is the truth?

18 THE WITNESS: Yes.

19 JERRY RIVERSTONE

20 Was called as a public witness, was sworn to tell the
21 truth, was examined and testified as follows:

22 DIRECT EXAMINATION

23 CHAIRPERSON ACZON: Please state your name
24 address for the record.

25 THE WITNESS: Jerry Riverstone. I also

1 live at 2692 Akalani Loop in Pukalani.

2 Speaking here as a citizen. Wow, chocked
3 up after that last one. I want to be able to snorkel
4 with Iris and her children as well in that spot.

5 And I'm here today to urge you to request
6 the FEIS. On a light note, sum it up by saying I
7 want Olowalu to look more like the tablecloth here,
8 than the curtain behind you. I think these
9 tablecloths were modeled after Olowalu.

10 If you just stand on the beach and look
11 out, look like any old beach, but what we have there
12 and have a responsibility for is something as special
13 as the old growth redwoods in California, the Grand
14 Canyon, anything of that statute.

15 You go out there -- might be easy to take
16 for granite, but that's something as special as we
17 have the responsibility for.

18 I do appreciate the sentiment for
19 affordable housing versus sustainable community. I
20 respect all the work that's gone into this proposal.
21 The problem is the location. It's the wrong spot for
22 something like this.

23 There are 100 spots on Maui that could use
24 something like this, but not something as special as
25 the reef in Olowalu, that's not one of them.

1 In terms of the study, I think the study is
2 flawed in that it really looks at that one spot as an
3 island as something in isolation. As we heard from
4 the biologist, that's kind of a nursery or seed bed
5 for the other reefs on Maui as far as away as Lanai
6 and I don't think the EIS adequately takes that into
7 account.

8 Another shortcoming is that the best
9 management practices. I'm very sceptical that they
10 would do job the in the best of times, but Maui has
11 been spared a serious hurricane or tsunami, and I
12 don't think the EIS adequately looks at what could
13 happen in the event of serious storms.

14 All sediment ends of up in the sediment
15 basin. What is going to happen when flood water
16 comes? We have never really had a storm surge, I
17 don't believe, in historical memory.

18 All that sediment in one instant would be
19 out on the reef. So best management practices maybe.

20 But what we're doing when we invite in 2400
21 new housing units, each one of those can be seen as a
22 micro toxic waste ways study. Everyone's got their
23 paint, depending on who lives there, people have
24 their Round Up. You put all that together and bring
25 in a lot of toxins loaded onto the reef.

1 Culturally I think those who are here
2 representing Hawaiian sovereignty, they clearly to me
3 have the moral and legal high ground. Until their
4 rights are adequately recognized though there are
5 other things like the UN declaration on rights of
6 indigenous people finally endorsed by United States
7 in 2010.

8 CHAIRPERSON ACZON: Please summarize.

9 THE WITNESS: I'll just say I don't think
10 adequate consultation has been performed as we saw
11 today of people who have cultural land use there. So
12 please do the right thing for the keiki for the
13 future.

14 CHAIRPERSON ACZON: Thank you. Any
15 questions for the testifier?

16 COMMISSIONER ESTES: You pointed out this
17 is the wrong spot, and you said there were lots of
18 other spots that would be better, lots of other
19 locations. Can you name some for me?

20 THE WITNESS: You know as much as I hate to
21 see development go, there are a lot of places. An
22 awful lot of cane fields in Central Maui where
23 sustainable communities could be built. Basically
24 almost anywhere you see a cane field would be better
25 than this spot. So that's a pretty wide swath of

1 land between Wailuku, Pukalani, next to Paia. We
2 could develop some of the areas we already have are a
3 lot better rather than do it from scratch. But I
4 would say someplace that's already heavily impacted
5 rather than the most sensitive spot left on Maui.

6 CHAIRPERSON ACZON: Any of other questions?
7 Thank you.

8 CHAIRPERSON ACZON: Do you swear or affirm
9 that the testimony that your about to give is the
10 truth.

11 THE WITNESS: Yes.

12 KEAMALU AKINI

13 Was called as a public witness, was sworn to tell the
14 truth, was examined and testified as follows:

15 DIRECT EXAMINATION

16 CHAIRPERSON ACZON: Thank you.

17 Please state your name and address.

18 THE WITNESS: Keamalu Akini, 459 Lahua
19 Place, Wailuku. I've only lived here for a brief
20 time, only a year. I'm a native of Big Island, but
21 I'm not new to the matter that Olowalu brings to me
22 and its visitors, and especially natives of this
23 land.

24 Further research into this EIS has shown me
25 that it isn't complete. And, therefore, shouldn't be

1 brought to this meeting, to this hearing based on
2 that alone. It being incomplete, it only haves
3 vague, very vague information and evidence in it.
4 And the fact that only part of the project is in this
5 survey, should completely be abolished from the
6 hearing.

7 Like I said, I haven't been able to
8 research it that much, have such short of time
9 knowing about it, but like I said, Olowalu has its
10 magic and we need to preserve it as people, as
11 citizens in the land that we're taking advantage of.

12 I mean, there is no problem taking
13 advantage of anything, but take it for granted is
14 something completely different. Disrespected is
15 something completely different. There are bones
16 there, sacred bones. Already bones that have been
17 covered up across the street, and it's overlooked.

18 We shouldn't keep repeating this history at
19 all. We all know what's pono. When we have that
20 voice in our head, that consciousness. From akua,
21 from God, to do what is right and to do what is
22 wrong. You look into your pocket or look into your
23 heart like everybody been saying. See what's in your
24 heart or look for financial gain. On the terms of
25 balance, which is more important.

1 That's all I have to say.

2 CHAIRPERSON ACZON: Any questions for
3 testifier? Commissioners? Thank you.

4 EXECUTIVE DIRECTOR: Lucienne de Naie,
5 followed by Robert Winter, followed by Zane Kekoa
6 Schweitzer.

7 CHAIRPERSON ACZON: Please don't feel that
8 you have to take the three minutes.

9 Do you swear or affirm that the testimony
10 that you're about to give is the truth?

11 THE WITNESS: I do.

12 LUCIENNE de NAIE
13 Was called as a public witness, was sworn to tell the
14 truth, was examined and testified as follows:

15 DIRECT EXAMINATION

16 CHAIRPERSON ACZON: Please state your name
17 and address for the record.

18 THE WITNESS: Lucienne de Naie, P.O.
19 Box 610, Haiku, commonly known as Eugene.

20 I'm here representing the Sierra Club Maui.
21 Welcome to Maui. We are all happy that you're here.

22 We've been tracking this project since
23 1999. And the basis of the Final Environmental
24 Impact Statement is kind of this whole project will
25 be done perfectly and therefore there will be no

1 significant impacts.

2 I've read virtually the entire statement
3 that's kind of the overall conclusion, but the
4 reality is this kind of really a very sensitive place
5 and lots of things could go wrong. And, therefore,
6 this document really needs to be realistic and talk
7 about some of these things.

8 I'm here today to talk about water. We do
9 not feel that the areas in discussing water resources
10 are adequate in the Final EIS. It never really
11 describes why nearly a million gallons a day of
12 Olowalu stream water is currently being diverted from
13 state land with no current diversion license, and
14 this water is being used to supply a private
15 irrigation company with less than 30 paying
16 customers. So you do the math, that's
17 900,000 gallons a day around 30 customers. Where is
18 that water going?

19 And the FEIS does refer to a current ag
20 usage on the land of 50,000 gallons a day. That's a
21 big difference. So what's happening with the water
22 there? It's a public resource.

23 The FEIS also sidesteps any description of
24 how the leaking Olowalu Ditch and Reservoir systems
25 is impacting the viability of the streams that have

1 mauka-makai flows, and in effect wasting water which
2 is protected under the Water Code.

3 It gives lip service to the idea of stream
4 restoration, which is a priority issue from the
5 people consulted in the Cultural Impact Assessment,
6 but it doesn't describe what level the flows will be
7 restored to, only that things will be improved by
8 repairing sections of the ditch. This ditch is now
9 leaking, but most of the water goes back into the
10 stream.

11 Some folks think that's one of the reason
12 why the stream has some flow past that point because
13 of the big puka in the ditch.

14 The FEIS assures us that when Olowalu is
15 developed, things will improve because only about 3.9
16 million gallons of stream water will be needed, and
17 the other irrigation needs will be supplied by the R1
18 water from the sewage treatment plant.

19 Unfortunately, it really does not
20 completely discuss that there is going to be larger
21 rural lots, 150 to 200 something of them. I don't
22 think that they'll be hooked up to the sewer system
23 and they're going to need water. And they may be
24 developed first. So we are going to probably need
25 more stream water sooner than less stream water,

1 because we won't have this plant operating at the
2 beginning.

3 CHAIRPERSON ACZON: Please summarize.

4 THE WITNESS: There is no mention of what
5 our kuleana users need. It's just an absent topic.
6 They have first priority under our Water Code.
7 Really this thing isn't ready for prime time and it
8 should be rejected.

9 CHAIRPERSON ACZON: Any questions?
10 Commissioners? Commissioner Scheuer.

11 VICE CHAIR SCHEUER: Ms. de Naie, you
12 mentioned the idea that there is currently water
13 coming into the ditch system in Olowalu from state
14 lands and without license.

15 THE WITNESS: Yes. I got this information.
16 There's a letter from the State Lands Division in the
17 comment section of the Final EIS.

18 VICE CHAIR SCHEUER: Do you recall if
19 that's disclosed of one of the potentially needed
20 permits?

21 THE WITNESS: Not without my computer. It
22 might be.

23 May I say one more thing?

24 This was asked: Who would be responsible
25 for this land? The current landowners are

1 responsible for this land. They have an SMA Permit
2 that says they're supposed to deal with erosion and
3 dust and so forth, and no one is enforcing it.

4 So ultimately the county and the state
5 should be enforcing the current landowners to malama
6 this land.

7 CHAIRPERSON ACZON: Duly noted.

8 We have at least two more pages, but we
9 have to take a break for our court reporter, and
10 we'll come back. Short break, please.

11 (Recess taken.)

12 CHAIRPERSON ACZON: We're back on the
13 record.

14 EXECUTIVE OFFICER: Robert Winter.

15 CHAIRPERSON ACZON: Do you swear or affirm
16 that the testimony that you're about to give is the
17 truth?

18 THE WITNESS: Yes, I do.

19 ROBERT WINTER

20 Was called as a public witness, was sworn to tell the
21 truth, was examined and testified as follows:

22 DIRECT EXAMINATION

23 MR. CHAIRMAN: Thank you. Please state
24 name and address.

25 THE WITNESS: My name is Robert Winter. I

1 live moku of Lahaina.

2 I would like to urge you to reject the EIS
3 because it is defective and woefully. It leaves out
4 one important fact and it is this: If it fails to
5 assess Maui reef systems in a big picture. Every
6 single reef on Maui with development above it is in
7 decline.

8 And I want to highlight a couple of extreme
9 examples. Starting on the West Side we have Honolua
10 Bay. Now, Honolua Bay, when David Kohl was president
11 of Maui Land and Pine, he was also president of the
12 Nature Conservancy, so he had some credibility. And
13 he said here's the EIS, and there won't be any
14 problems.

15 Honolua bay was a jewel in the crown of
16 Maui and has lost 80 to 90 percent of its coral in a
17 very few years, dead.

18 If we go on to Central Maui, Ma'alaea Bay,
19 also a treasure trough of habitat and coral reef
20 wildlife and when Maui Ocean Center opened up, they
21 went through all the processes and swore up and down,
22 here's our EIS, nothing can go wrong. Ma'alaea Bay
23 was 95 percent dead in a very few years.

24 Samples on the south end Maui at Maluaka,
25 where developer Everett Dowling swore up and down

1 that he would not only not harm the reefs, but the
2 reefs would be better when he was done.

3 And the only reason that Everett Dowling's
4 project did not harm the reefs is that he went out of
5 business. Before he went out of business, he sank
6 dynamite blasting caps that were nowhere mentioned in
7 his EIS, to make room for underground parking.
8 Fortunately he's out of business.

9 I own Snorkel Bob's across Hawaii. Because
10 of that I get invited all the time to be on radio
11 shows. I usually have no problems. They want to
12 talk about reefs. I'm very active in marine
13 conservation. My friend, Donald Couch, invited me on
14 his show. This was years ago, his first national
15 play. And I was going go to talk about reefs on the
16 show called Small Town Maui, along with Bill Frampton
17 and Dave Ward, two developers who seemed like good
18 guys. And we heard testimony to that effect today.

19 And I was taken aback because they kept
20 talking about growth, everything needs growth, every
21 child needs growth, every living being needs growth.
22 I put two and two together and realized that I had
23 been bushwhacked to be on a show to promote
24 development at Olowalu. And I had to remind these
25 very good guys that sometimes we have growth in the

1 wrong place. It's called tumor.

2 I wasn't invited back to the show and also
3 wasn't contacted on this EIS statement, and it is
4 incomplete. We have people coming to Maui because
5 it's different from other places. Maui is a reef
6 community. Olowalu is the most important reef on
7 Maui.

8 CHAIRPERSON ACZON: Please summarize.

9 THE WITNESS: Ua Mau Ke Ea O Ka Aina Ka
10 Pono, the life of the land is perpetuated in
11 righteousness. But I have to wonder why the State of
12 Hawaii messes around with that, when you have a
13 flawed system. I appreciate your efforts here, but
14 all you're here to do is to is justify these guys,
15 the sell outs at Olowalu is about \$750 million and
16 that's conservative, that's light.

17 Everybody here opposed to this has no money
18 in mind, it's all from the heart. Thank you.

19 CHAIRPERSON ACZON: Aloha. Questions?
20 Commissioners?

21 Do you swear or affirm that the testimony
22 that you're about to give is the truth?

23 THE WITNESS: Yeah.

24 ZANE KEKOA SCHWEITZER

25 Was called as a public witness, was sworn to tell the

1 truth, was examined and testified as follows:

2 DIRECT EXAMINATION

3 CHAIRPERSON ACZON: Thank you. Please
4 state your name and address.

5 THE WITNESS: My name is Zane Kekoa
6 Schweitzer from Launiupoko, 657 Ka Hele Ku Street,
7 Lahaina.

8 So aloha, my name is Zane Kekoa Schweitzer.
9 I'm a world champion standup paddler, an ocean
10 enthusiast in every way. I'm from Kahala, but I've
11 been living Launiupoko for over 15 years with my
12 family.

13 I'm here representing the keiki of Hawaii,
14 the future of Hawaii, because I'm still a kid and I
15 know what is important to a kid, family, friends,
16 family and cultural practices and fun.

17 I'm also here representing, of course, my
18 ohana, Hui Nalu O, our community, and, of course,
19 everybody here that wants to reject the EIS.

20 I travel seven months a year competing and
21 teaching non-profit water sport clinics for keiki,
22 and hopes to share the joy that the ocean and sports
23 practice in the ocean can bring to ones life. The
24 joy that it can bring to ones life.

25 I believe that the ocean is a playground

1 that's open for access any time of day to the keiki
2 and all people of all ages, no matter what their
3 financial position or no matter what their
4 upbringing.

5 From my childhood I had the opportunity to
6 realize just how fortunate I am to be from Hawaii, to
7 be from Maui, have my roots in Lahaina.

8 From my childhood I also learned just how
9 much of an impact the human hand can have on the
10 environment. I've seen exotic and beautiful places
11 all over the world being destroyed year by year,
12 visit by visit to me, and I'm sad to say that I've
13 also seen the similar situation every time I come
14 home.

15 I oppose the proposed the Olowalu Town
16 development because the Environmental Impact
17 Statement is inadequate and fails to address the
18 community's concerns about the preservation of Native
19 Hawaiian cultural practices, traffic, fire, tsunamis
20 and the degradation of viable terrestrial and marine
21 habitat, just to name a few.

22 The EIS does not mention the impact on
23 surfers who utilize Olowalu. No mention of where
24 public parking will be placed, if near existing
25 surfing locations or how recreational users will be

1 able to access the coastline.

2 Across the road from a major is surfing
3 site they are proposing to build a wastewater
4 treatment plant. The EIS failed to examine the
5 effects this has on culture and surfing in the area
6 and the potential effects a sewage spill may have on
7 the nearshore environment.

8 Furthermore, they are planning to have
9 4.5-acre leach field, and we all know that leaks into
10 the ground, and there is an aquifer that floats into
11 the ocean, and so it will eventually make it to the
12 ocean.

13 CHAIRPERSON ACZON: Please summarize.

14 THE WITNESS: So for my summary, I'm going
15 to go off, I guess heart here, and say that it's sad
16 to see such a beautiful place get destroyed, because
17 I travel a lot, and I know that people go to a lot of
18 places for the beauty of things and not to shop. And
19 Hawaii is one of those places; Maui is one of those
20 places. Honolulu is a play for people to go shop,
21 but Maui is a place where people come to enjoy the
22 ocean, to come and enjoy activities, to come and
23 learn about the culture.

24 CHAIRPERSON ACZON: Thank you. Any
25 questions? Commissioners?

1 EXECUTIVE DIRECTOR: Matty Schweitzer,
2 followed by Sierra Knight, followed by Paul Fenelon,
3 followed by Snake Ahitee. Is Matty Schweitzer here?
4 Sierra Knight. Paul Fenelon. Snake Ahitee.

5 CHAIRPERSON ACZON: Do you swear or affirm
6 that the testimony that you're about to give is the
7 truth?

8 THE WITNESS: I do.

9 SNAKE AHITEE
10 Was called as public witness, was sworn to tell the
11 truth, was examined and testified as follows:

12 DIRECT EXAMINATION

13 CHAIRPERSON ACZON: Please state your name
14 and address for the record.

15 THE WITNESS: My name is Snake Ahitee. I
16 live at 33 West Apuhi Street in Lahaina.

17 I was raised in Lahaina. Lived on
18 Launiupoko with my great grandparents. We had a
19 beach house down there. Our place of fishing was
20 from Lahaina to Olowalu.

21 My tutu was the Maehilua (phonetic) Ohana.
22 Launiupoko Beach Park wasn't Launiupoko Beach Park,
23 it was Maehilua (phonetic) Beach. That was my ohana.
24 My tutu gave birth in the ocean, which my great uncle
25 turned into a fish. And I grew up with that.

1 I was raised there, and I'm kind of the
2 endangered species, because I'm the last of the
3 person that knows all the fishing ground, all the
4 lots, the holes, all the way -- the akule comes in,
5 the 'opelu comes in. I did that when I was little.
6 From Hukilau, there's all the different families
7 comes every month, hukilau once a month. Fishing
8 ground was plenty fish.

9 I know had lot of changes because of the el
10 nino and the weather change, yeah. I just came home
11 from Tahiti. I been sailing with Hokulea from 1975.
12 I was one of the first crew that did that. When I
13 came home, the weather was really different. It's
14 changing a lot because of el nino, and pretty much
15 windy, this situation when we sail back from Tahiti.

16 I've been sailing almost like ten times
17 across from Tahiti back to here, so lot of changes
18 that happening.

19 For me the fishing ground from Lahaina to
20 Olowalu, I know all where all the fishing is, and I'm
21 objecting to the project right now because it's going
22 to change everything that I have learned.

23 For me I need to teach my grand kids what
24 all the fish spots is. And because build Olowalu
25 Town, it's going to screw up everything. I have seen

1 many places that are changed.

2 I just sailed from Tahiti to Samoa, went
3 all through the different places where they have
4 fishing sanctuary, and right now they pretty much
5 taking care of it. Because in 1976 when we traveled
6 there, so polluted. And now pretty much it's
7 changing, so they cannot awaken themselves so that
8 they take care of the aina.

9 So for me, I not here talking to everybody,
10 I so shy of talking, but this is a problem that I
11 need to address, yeah.

12 CHAIRPERSON ACZON: Please summarize.

13 THE WITNESS: To me it's my kuleana too,
14 because I'm the last person that I live, that
15 generation from Lahaina to Olowalu, and I live to
16 teach my grand kids about all the areas that I fish
17 and it's still there, nobody knows about the place.

18 CHAIRPERSON ACZON: Thank you.

19 THE WITNESS: Thank you for inviting us
20 here to speak about the aina and the ocean itself.

21 CHAIRPERSON ACZON: Thank you. Any
22 questions? Commissioners?

23 VICE CHAIR SCHEUER: May I ask you a couple
24 of questions, please?

25 Were you contacted during the cultural

1 impact assessment, or any other part of the EIS
2 process for your knowledge about traditional and
3 customary practices related to fishing in this area?

4 THE WITNESS: No. Somebody just called my
5 wife. And then this is a problem from Lahaina to
6 Olowalu, because I think only me for myself know all
7 about the ocean itself, all the reef and all the
8 different fishes in that area, because I was brought
9 up from my dad, his tutu, that show him all the
10 different things, yeah.

11 VICE CHAIR SCHEUER: One more question, and
12 I apologize, it's a slightly awkward question to ask.

13 Would folks kamaaina to this area recognize
14 if they had questions about fishing in this area, if
15 they asked a few people, would they say go talk to
16 Snake?

17 THE WITNESS: Yes. Everybody comes to me.
18 I've been surfing Honolua Bay from way back in the
19 '50's, late '50's. I have surfed there for many,
20 many years from big waves to small waves. And all
21 the younger kids, they come to me, talk to me about
22 this and that.

23 So I'm here to not only teach but, you
24 know, listen to what their needs.

25 VICE CHAIR SCHEUER: Mahalo. If I may, one

1 more question.

2 Just so I clearly understand the summary of
3 your testimony, in my mind, you're saying this
4 proposed development would impact your exercise of
5 traditional and customary practices of fishing within
6 this area, and that's not been addressed?

7 THE WITNESS: Not only fishing, Olowalu
8 reef. I used to surf with the sharks right out
9 there. And I just follow the sharks, you know. Like
10 that fishing is amazing, you know.

11 If you can take care of them, they take
12 care of you. That's what it's all about, yeah.

13 VICE CHAIR SCHEUER: Mahalo.

14 EXECUTIVE DIRECTOR: Amy Markel, followed
15 by Joseph Borone, followed by Chris Caberra, followed
16 by Lauren Blickley.

17 CHAIRPERSON ACZON: Do you swear or affirm
18 that the testimony that you're about to give is the
19 truth?

20 THE WITNESS: I do.

21 JOSEPH BORONE

22 Was called as a public witness, was sworn to tell the
23 truth, was examined and testified as follows:

24 DIRECT EXAMINATION

25 CHAIRPERSON ACZON: Please state your name

1 and address.

2 THE WITNESS: Joe Borone, 45 Hake Hele
3 Street, Lahaina. Previous to November 1st, I was at
4 806 Olowalu Village Drive, Olowalu.

5 I would like to talk a little bit about my
6 job because I feel like I have a unique insight. I
7 work for a kayak and snorkel tour operation, and I'm
8 out on the reef four to five days a week.

9 I also recently completed the farm
10 apprentice mentor program sponsored by the Hawaii
11 Farmer's Union United. So I have a little bit of a
12 background. I did 125 classroom hours on sustainable
13 agriculture and 200 farm hours.

14 I'll try to keep this brief and not go over
15 too many subjects, but I do have particular insight
16 of those, so I want to talk about the document. I
17 believe the EIS is incomplete. I feel like it's an
18 incomplete document, any significant issues are
19 omitted. So this being the environmental document, I
20 think the most significant environment is the reef,
21 it's over 450 acres of ocean, more than 700 years
22 old. Our coral reefs in Hawaii, I don't know if you
23 know this, are the number one source of biodiversity
24 in our oceans. We don't have the kelp and the
25 plankton they have near the poles. And worldwide

1 it's second only to tropical rainforest in the amount
2 of biodiversity that they have.

3 So in addition to the endangered species,
4 people have mentioned the nene and monk seal. We've
5 got five species of endemic coral out there that
6 don't exist anywhere in the world outside of Hawaii.

7 There's a black tip nursery directly
8 adjacent to the shore, going out about 25 meters.
9 The black tip sharks come in every winter and raise
10 pups until they're big enough to go out by
11 themselves.

12 I feel the survey is incomplete since this
13 survey was started in 2010/2012. These last two
14 summers we've had unprecedented stress on the coral
15 reef due to two major bleaching events. And all the
16 scientists we've had on the reef -- I'm not a marine
17 biologist -- had them all over the reef this summer.
18 They're telling us the reef is up to 50 percent
19 bleached.

20 And I can tell you this firsthand from
21 watching it change from the beginning of summer until
22 now, they're telling us the damage is not yet the
23 issues, but it's a really critical stage for these
24 reefs, and any significant additional stress or
25 silicification is really going to exacerbate the

1 issue.

2 A couple other issues is whether the water
3 remains above normal temperatures or cools off, how
4 much fluctuation there is as opposed to stability in
5 the water temperature, but any additional stresses
6 are going to have a major impact on the reef.

7 So speaking to that issue, since I've been
8 on the reef we saw significant impact from the
9 removal of only four kiawe trees nearshore. Peter
10 DeAquino already talked about that as far as the
11 fish is immediately --

12 CHAIRPERSON ACZON: Please summarize.

13 THE WITNESS: -- which they were calling
14 bait fish but these are actually herbivores that help
15 to eat the invasive algae that grows on the reef.

16 As soon as those trees were gone, the water
17 temperature moved up, the small fish move out, that's
18 already impacting about two to five acres of reef
19 just in the removal of four trees, so how can this
20 document say that clearing alone, putting in 1700 new
21 homes is no significant impact on the reef?

22 In summary, the document doesn't address
23 all of the issues that we do understand? And these
24 aren't linear effects. This ecosystem is really
25 complex, we don't understand the way it works, so

1 these effects aren't necessarily linear.

2 And this document doesn't even address the
3 things we do understand. So therefore the EIS is
4 incomplete and I believe invalid.

5 CHAIRPERSON ACZON: Any questions?
6 Commissioners? Thank you.

7 EXECUTIVE DIRECTOR: Chris Cabrerra,
8 followed by Lauren Blickley.

9 UNKNOWN SPEAKER: Some people have to go to
10 work.

11 CHAIRPERSON ACZON: We're trying to finish
12 the public testimony today, so we can do some
13 deliberations.

14 Do you swear or affirm that the testimony
15 that you're about to give is the truth?

16 THE WITNESS: I do.

17 LAUREN BLICKLEY
18 Was called as a public witness, was sworn to tell the
19 truth, was examined and testified as follows:

20 DIRECT EXAMINATION

21 CHAIRPERSON ACZON: Please state your name
22 and address.

23 THE WITNESS: Lauren Blickley, 14 Panini
24 Place, Paia.

25 Thank you all. I know that it's been a

1 really long day, and thank you for giving us this
2 opportunity to talk.

3 Like I said, my name is Lauren Blickley. I
4 have a Bachelors of Science, marine biology; I also
5 have a master's in environmental science and
6 management, focused in coastal resource management.
7 I'm here today representing Surfrider Foundation and
8 Surfrider Maui Chapter.

9 We believe that the FEIS is inadequate and
10 should not be approved as-is. In 2012 Surfrider Maui
11 did submit comments related to the proposed Olowalu
12 Town EIS, and we had two major concerns: One is
13 beach access in light of moving Honoapiilani Highway
14 mauka; and the second was water quality as relates to
15 the sewage treatment plant that would be located
16 directly above a popular surf spot as well as the
17 potential for R1 waters to drain directly into the
18 adjacent Olowalu Stream then directly into the ocean.

19 Unfortunately the FEIS does not actually
20 address these issues, and it failed to answer some of
21 our really honestly basic questions.

22 We're particularly concerned because a
23 project of this size and scope is going to have no
24 question environmental and community impacts. And,
25 for example, the north area is a really widely used

1 surf spot; south area is heavily used by families,
2 kayakers, divers, fishermen, snorkelers.

3 Despite how far widely used these areas are
4 by the community and how popular it is, nowhere in
5 the FEIS is it even speculated that there is even
6 going to be a parking area. Is there going to be a
7 parking lot? Is there going to be five spots, 100?
8 Am I going to have to walk a mile with my surfboard
9 to get to a spot where that can pull right up to now?

10 Am I going to have to pay a \$50 parking fee
11 annually? I have no idea. None of this is
12 stipulated, and again this is an area that is really
13 heavily used by the community already.

14 The second area as I mentioned that we are
15 concerned about is water quality uses. Again, some
16 really basic questions. There have been no
17 calculations done to tell us what size storm would
18 overwhelm one of the treatment plants, again,
19 directly mauka of a really popular surfing spot.

20 Also there is no -- we have no questions
21 answered, what are the impacts if this treatment
22 plant does overflow, because it has to be shutdown in
23 an emergency. What happens if the engineered wetland
24 overflows? Again, draining directly into the ocean.
25 And these questions have not been answered. And,

1 again, some pretty basic questions that you think
2 should and could be answered in a Final EIS.

3 We honestly need an EIS that truthfully
4 acknowledges and addresses these environmental and
5 community impacts, and the results from this
6 projected development, and again, a development that
7 is so sizeable.

8 CHAIRPERSON ACZON: Please summarize.

9 THE WITNESS: The current EIS is grossly
10 inadequate and it should not be approved by Land Use
11 Commission.

12 CHAIRPERSON ACZON: Any questions?
13 Commissioners? Thank you.

14 Do you swear or affirm that the testimony
15 that you're about to give is the truth?

16 THE WITNESS: Yes.

17 RYAN ASPILI
18 Was called as a public witness, was sworn to tell the
19 truth, was examined and testified as follows:

20 DIRECT EXAMINATION

21 CHAIRPERSON ACZON: Please state your name
22 and address for the record.

23 THE WITNESS: Ryan Aspili, 1205 Nahele
24 Place, Lahaina.

25 I am a Native Hawaiian descendent, lineal

1 descendent of Olowalu area through my kupuna, Joseph
2 Kaona (phonetic) and Pao Kahului (phonetic), and her
3 parents Kahului and Papahi (phonetic). And I am
4 currently finishing my bachelors in Hawaiian language
5 and studies at University of Hawaii at Manoa.

6 I'm here today to urge the Land Use
7 Commission to deny the reclassification of land in
8 Olowalu from agriculture to urban and rural district.

9 The Final EIS is insufficient and does not
10 meet the State of Hawaii responsibility to protect
11 Native Hawaiian rights incongruency (unintelligible)
12 of the Hawaii State Constitution.

13 Also, if the LUC were to adopt the proposed
14 EIS, they would be improperly delegating its duty to
15 protect Native Hawaiian Rights through the developers
16 consistent with the findings versus land use.

17 Lastly, the Land Use Commission should do
18 its due diligence in researching the validity of
19 title to land situated at Olowalu and determine
20 whether or not they have clear title to the land or
21 if they are in fact crown lands from the kingdom.

22 Article 12, Section 7 of the Hawaii State
23 Constitution states that the state reaffirms and
24 shall protect all rights, customarily and
25 traditionally exercised for subsistence, cultural and

1 religious purposes and possessed by ahupua'a tenants
2 who are descendents of Native Hawaiians who inhabited
3 the Hawaiian Islands prior to 1778, subject to the
4 right of the state to regulate such right.

5 The Final EIS provided does not reasonably
6 protect these rights, and does not address in what
7 ways these rights will be protected.

8 In the EIS they mention that the Ala Loa
9 Trail was used for intra ahupua'a travel, but the
10 mauka-makai trail was for prayer, for inter ahupua'a
11 travel. They use this time of travel to divert
12 attention from the Ala Loa, in which they intend to
13 subsist substantially limit if not cut off their
14 access entirely to said trail and resources obtained
15 near the shoreline. This is evidenced in their plan
16 to relocate and convert the old highway road to
17 secondary coastal roadway.

18 The access mauka-to-makai resources are
19 significantly impaired. Can you imagine what type of
20 access afforded with 1500 more families and homes?

21 There are also special pohaku found only in
22 the Olowalu coastline that my ohana have used from
23 time immemorial to make pohaku kui ai for subsistence
24 purposes. Not only were the pohaku not mentioned in
25 the Cultural Impact Statement, they were also not

1 currently being protected under the current EIS.

2 Ultimately you will terminate access to my
3 ohana and countless other ohanas to access and gather
4 for subsistence purposes.

5 In the Final EIS, if the Final EIS being
6 proposed does not address all customary and
7 traditional rights of Native Hawaiians, then how can
8 we be sure they plan to protect our rights from being
9 regulated out of existence?

10 In Ka Pa'ikai versus LUC, LUC improperly
11 delegated its duty to protect Native Hawaiian rights
12 because they had failed to rely on their resource
13 management plan on the front end.

14 Here we see the similar narrative, in which
15 many of issues, including traffic improvements and
16 cultural resources still remain unresolved. Olowalu
17 Town LLC and associates have not identified all of
18 the cultural, historical and natural resources which
19 I personally can attest to.

20 CHAIRPERSON ACZON: Please summarize.

21 THE WITNESS: I would like to conclude by
22 reiterating my stance in opposition to the rezoning
23 of the development in Olowalu, and would like to say
24 mahalo.

25 CHAIRPERSON ACZON: Thank you. Any

1 questions? Commissioners? Thank you very much.

2 EXECUTIVE OFFICER: Linda Nahina
3 Magalianes.

4 CHAIRPERSON ACZON: Do you affirm that the
5 testimony that you're about to give is the truth?

6 THE WITNESS: Yes.

7 LINDA NAHINA MAGALIANES
8 Was called as a public witness, was sworn to tell the
9 truth, was examined and testified as follows:

10 DIRECT EXAMINATION

11 CHAIRPERSON ACZON: Thank you. Please
12 state your name and address for the record.

13 THE WITNESS: My name is Linda Nahina
14 Magalianes and I live in Lahaina.

15 Did you guys ever ask that question to
16 these guys, what you asked me, if they telling the
17 truth?

18 CHAIRPERSON ACZON: They were sworn in.

19 THE WITNESS: Just checking.

20 First of all I am a lineal descendant of
21 Olowalu and there's many of us. I'm first of all
22 against the EIS, even though I was a part of the EIS,
23 but there is stuff in there that I shared, but it's
24 not in there.

25 First of all, the impact that going to

1 cause and this happened to me. On 11/11/11 I
2 remarried, my second marriage. I had asked out of
3 the kindness to Peter Martin's office if I can hold
4 my 15-minute ceremony at the public beach access,
5 because I knew that they were going to have a wedding
6 next at the plantation.

7 Donna, whoever works for them, told me I
8 couldn't, and that she was going to call the police
9 on me. So because I didn't want that to happen in my
10 wedding, I walked away from that upset, sad because I
11 am a lineal descendant.

12 I lived in Olowalu. Was a juice stand
13 there right now. That's where I was partly raised.
14 My kupunas buried on the top of Pu'u Kelia
15 (phonetic). That place is so sacred that if you walk
16 that area, walk in the valley, you going feel all
17 that.

18 So now to be told, no, that I cannot use
19 the public access for 15 minutes for my wedding, how
20 this going impact the rest of the people in the
21 future? It doesn't even state that in there, nothing
22 about parking lot, access to the area, and the
23 culture reserve. What is that reserved for? For
24 who? Not for our people. You go check the culture
25 reserve, all the Filipinos leasing the property for

1 their own good. Not for us Hawaiians, not for the
2 lineal descendants from there.

3 And this town impacting the heart of
4 Olowalu. I sorry, you kupunas. Whatever you decide,
5 that's your choice, auntie, you know that. I never
6 down you guys, but if you like this project, why
7 don't we move them by your side? Yeah, move them to
8 that side, because they're the only one who live in
9 Olowalu that wants it. I sorry I got to talk like
10 that.

11 But I'm angry, very angry, because I'm also
12 on the committee of the Ahu Moku. I handle the
13 cultural aspect part of it, not cultural, iwi
14 kupunas. When they find iwi kupunas in Olowalu, who
15 they call? Me, Linda Nahina Magalianes. Remember
16 that name.

17 And I got called out there three times
18 already. Once because one worker found an iwi that
19 they also told them about it, and they told him go to
20 go throw away. What he did, he put it in the tree so
21 he could find it next day. He got fired, but he
22 brought it to us.

23 CHAIRPERSON ACZON: Please summarize.

24 THE WITNESS: And we were told by the state
25 guy that that's not even one iwi kupuna.

1 I summarize. I'm highly against the EIS.

2 CHAIRPERSON ACZON: Any questions?

3 Commissioners? Thank you.

4 EXECUTIVE DIRECTOR: Keahi Haia-Kehai.

5 Carol Lee Kamekona, followed by Kristan Vasquez.

6 CHAIRPERSON ACZON: Do you swear that the
7 testimony that you're about to give is the truth?

8 THE WITNESS: Yes.

9 CAROL LEE KAMEKONA

10 Was called as a public witness, was sworn to tell the
11 truth, was examined and testified as follows:

12 DIRECT EXAMINATION

13 CHAIRPERSON ACZON: Thank you. Please
14 state your name and address for the record.

15 THE WITNESS: Carol Lee Amekona, 862 Makali
16 Street, Kahului.

17 Let's start by saying the fastest way from
18 point A to point B is straight line, right? Ok, I'll
19 buy that.

20 An ahupua'a is a land division from the
21 uplands to the sea. However, in that ahupua'a it
22 does not necessarily follow a straight path downward.
23 The division was based on the natural flow of water.
24 Kanaka maoli living mauka would grow kalo, uala, ulu
25 and those living makai would fish. They would then

1 trade goods with each other, thereby establishing a
2 sense of balance and a sense of place.

3 The utilization of natural resources with
4 little or not impact for the sustainability of
5 community, that is the true concept of ahupua'a.
6 Anything to the contrary is plagiarism and therefore
7 a misrepresentation thereof.

8 The Cultural Inventory Assessment
9 acknowledges past and present cultural practices take
10 place on the lands, but concludes that none of these
11 will be affected because a Cultural Reserve has been
12 established, 74 acres of land.

13 We are not Indians. We do not live on
14 reservations. So don't limit us to practicing our
15 culture on a reserve.

16 What about our lawai'a? Our fishermen?
17 What about fostering and maintaining our ocean
18 resources? Gathering of limu, opihi, i'a, etcetera?

19 These issues are not addressed in the CIA
20 or part of the Cultural Reserve. As noted in the
21 CIA, ten years after the establishment of the
22 Cultural Reserve, cultural access to Kaiwaloa Heiau
23 still has not been resolved.

24 A Cultural Reserve has no clear power to
25 protecting cultural practices.

1 According to the FEIS, several issues are
2 not addressed:

3 1. What enforcement is there in ensuring
4 each single-family household will use only 275
5 gallons of potable water a day? What is the
6 justification for that assumption on the household?

7 2. Supposing of the 1500 proposed units,
8 say 800 exercise their option in having an accessory
9 dwelling unit as allowed under the Olowalu Town Plan?

10 3. What if all 1500 residences use twice
11 the usage predicted of drinking water:

12 4. These are agricultural lands. What if
13 all 1500 units opt to have a lo'i? What affect would
14 these instances have on the limited supply of the
15 Olowalu aquifer?

16 Not to mention the water needs of the
17 Olowalu Cultural Reserve. As we all know, cultural
18 rights and practices have priority. So add the water
19 usage for the lo'i of the OCR to the possible 1500
20 units having lo'i. How much more water does that
21 calculate to?

22 Two new drinking water wells are proposed
23 for the project and both are located near Olowalu
24 Stream, yet the EIS concludes no impact with little
25 data to support this conclusion. Wells that pump

1 near a stream can affect the natural underground
2 flows associated with those streams.

3 The FEIS is missing important analyses
4 and information regarding Public Trust water
5 resources and is assuming or concluding a lack of
6 impacts to these resources based upon inadequate
7 data. The FEIS does not comply with the content
8 rules in HAR 11-200 and should not be accepted.

9 Mahalo.

10 CHAIRPERSON ACZON: Any questions?
11 Commissioners?

12 EXECUTIVE DIRECTOR: Kristen Vasques,
13 followed by Susan Vasques, followed by Anu Yagi,
14 followed by Jan Ferguson.

15 Kristin, is she here? Is Susan here?

16 CHAIRPERSON ACZON: Do you affirm that the
17 testimony that you're about to give is the truth?

18 THE WITNESS: I do.

19 ANU YAGI

20 Was called as a public witness, was sworn to tell the
21 truth, was examined and testified as follows:

22 DIRECT EXAMINATION

23 CHAIRPERSON ACZON: Please state your name
24 and address for the record.

25 THE WITNESS: My name is Anu Yagi. I

1 reside at 1597 A'a Street in the town known as -- the
2 neighborhood known as Waikele in Lahaina.

3 Kala mae, I'm nervous.

4 CHAIRPERSON ACZON: We don't mind.

5 THE WITNESS: I foremost want to thank the
6 LUC for your fortitude, for you being here. I want
7 to thank you for this process. This process is
8 important, albeit arduous.

9 I'm personally overwhelmed by the emotion
10 of today, probably visibly shaking at this time, but
11 thank you. Thank you very much.

12 I would like to simply add my voice to this
13 fascinating feud in opposition to the
14 environmental impact -- proposed EIS. There's been
15 an abundant amount of articulate, scientific and
16 cultural evidence that's been before you, so I simply
17 just want to echo and a'o that.

18 My good friend Vinny -- I don't have hula
19 sister, but hula brother. He taught me this quote or
20 this manao. We are the descendents of our ancestors,
21 but we are also the ancestors to our descendants.

22 What kind of ancestor will we be? How will
23 we be remembered? The choices that you make today
24 will be remembered.

25 So thank you for making the right choices.

1 And I especially appreciate the countenance of the
2 people who are showing that they're active listeners,
3 compassionate listeners. It stands in contrast to
4 other things that are being presented here today, so
5 thank you for that.

6 One more thing. I've been really disturbed
7 by usage of Hawaiian ideas, and Hawaiian words, and
8 Hawaiian philosophy misunderstood and misrepresented,
9 particularly the ahupua'a.

10 I also think it's interesting that it has
11 been stated no impact. Perhaps that's another
12 misunderstanding about the Hawaiian language. In
13 Hawaiian "know" means "indeed".

14 CHAIRPERSON ACZON: Any questions?
15 Commissioners? Thank you.

16 Do you swear that the testimony that you're
17 about to give is the truth?

18 THE WITNESS: I do.

19 CHAIRPERSON ACZON: Thank you.

20 JAN FERGUSON

21 Was called as a public witness, was sworn to tell the
22 truth, was examined and testified as follows:

23 DIRECT EXAMINATION

24 CHAIRPERSON ACZON: Please state your name
25 and address.

1 THE WITNESS: My name is Jan Ferguson.
2 10898 Kula Highway in Kula.

3 I cannot state with more passion or
4 expertise the reasons to reject the EIS and the ways
5 it fails to address the real issues. I urge you to
6 reject it.

7 Further, as a 45-year resident of Maui, I
8 have been to countless hearings of this nature. One
9 by one the pristine beaches on the coastlines of Maui
10 have been developed and taken over by big business
11 that gives little or nothing back to Maui or the
12 aina.

13 It is shameful that the Hawaiian people
14 have been robbed of all that is rightfully theirs. I
15 am proud and encouraged by the people here today who
16 have once again been put in the position to beg for
17 the preservation of natural resources, cultural lands
18 and for the last vestige of coastline available to
19 the public.

20 When making your decision, I urge you to
21 consider that for the people of Maui, Olowalu is one
22 of the last undeveloped places. Reject the EIS and
23 save Olowalu. Thank you.

24 CHAIRPERSON ACZON: Thank you. Any
25 questions? Commissioners? Thank you.

1 Do you affirm that the testimony that
2 you're about to give is the truth?

3 THE WITNESS: Yes.

4 SARA TEKULA

5 Was called as a public witness, was sworn to tell the
6 truth, was examined and testified as follows:

7 DIRECT EXAMINATION

8 CHAIRPERSON ACZON: Please state your name
9 and address for the record.

10 THE WITNESS: I'm Sara Tekula. I reside on
11 Piiholo in Makawao.

12 After reading as much as I could of the
13 Final EIS, I can see that Olowalu Town fails -- or
14 the developers fail to carefully address many impacts
15 that the proposed development would likely bring to
16 our ocean, our land, our cultural resources, and our
17 beloved island culture experience. Therefore, this
18 EIS does not follow requirements put forth by state
19 law, and as Commissioners you would then be required
20 to reject it.

21 I ask you to take a very close look at what
22 the Final EIS presents and pay attention to the
23 things that are left out.

24 For example, just something simple, none of
25 the maps are to scale. You would think that over the

1 years we could produce an accurate map. This is
2 nowhere close to a thorough statement on
3 environmental impact. West Maui development has been
4 responsible for development for Makila, Kaula and
5 Launiupoko and now it's Olowalu.

6 They have been through this process before
7 and must understand thoroughly what an EIS must
8 contain. Have they forgotten? Or are things being
9 left out on purpose? The most glaring example of
10 this to me is there have not been any of the
11 necessary major archaeological reports included in
12 the Final EIS as pointed out by the Office of
13 Planning in yesterday's letter, even though there
14 were many different letters sent that notified the
15 developers that more study would be required.

16 This concern alone is more than enough
17 reason to reject the FEIS considering the cultural
18 significance of the area and generations of Hawaiians
19 who have called Olowalu their home since antiquity.

20 There's a high likelihood that we will need
21 history preservation plans in place and diligent
22 general review by Burial Council. In the proposed
23 Olowalu area, experts have determined the Olowalu
24 Valley area as the site of major religious ceremonies
25 probably involving high chiefs and rulers. This has

1 been completely ignored by the developers in the
2 FEIS.

3 In addition, the complaints on the Draft
4 EIS by many leaders in the community appear to be
5 ignored in this final version. Why is that? The law
6 requires that these comments are each specifically
7 addressed in the Final EIS. This has not happened.

8 It is obvious no such analyses were done.
9 It appears they were patently ignored. How can we,
10 in good conscious, move forward with potentially
11 harmful and permanent impacts on our resident
12 cultural resources, sacred archaeological sites, and
13 irreplaceable historic artifacts, wildlife, including
14 endangered species in land and water.

15 I want to leave with a couple of questions
16 that I hope you will ask them tomorrow, if that's
17 okay.

18 Number one, does the Final EIS accurately
19 and adequately fully declare the project impasse? If
20 not, why not?

21 Does the EIS accurately and adequately
22 describe and discuss relevant and feasible impacts in
23 the worst case scenario? If not, why not?

24 Where are the required archaeological
25 surveys? If you don't have them, why weren't they

1 done?

2 For those who submitted comments on the
3 Draft EIS, why were they ignored?

4 How will this development impact nearby
5 wetlands at Ukumehame? We haven't heard very many
6 people bring that up. These areas are connected.

7 Finally, how will you guarantee protection
8 of the pristine Olowalu mother reef system that we
9 have heard a lot about today? It is the last
10 functioning reef that we have in West Maui and we
11 have already lost the others.

12 CHAIRPERSON ACZON: Any questions?
13 Commissioners? Thank you.

14 EXECUTIVE DIRECTOR: Kelley Janes, followed
15 by Rikki Torres-Pestina, followed by Summer Trans,
16 followed by Kalani Ross.

17 CHAIRPERSON ACZON: Do you affirm that the
18 testimony that you're about to give is the truth.

19 THE WITNESS: Yes, sir.

20 RIKKI TORRES-PESTINA
21 Was called as a public witness, was sworn to tell the
22 truth, was examined and testified as follows:

23 DIRECT EXAMINATION

24 CHAIRPERSON ACZON: Please state your name
25 and address for the record.

1 THE WITNESS: Rikki Torres-Pestina. I was
2 born in the moku of Hamakua, Honokaa. I now reside
3 in Hamakua Poko. Eight months ago I went to the
4 Bureau of Conveyance, one of your state departments,
5 and I legally changed my address so it now reads
6 Hawaiian islands, outside the U.S.

7 It's ironic that you ask us if we're
8 telling the truth, yet your form of government is not
9 based on the truth. 123 years ago your government
10 committed a crime called high treason, and to this
11 day, you folks are perpetuating that crime.

12 Have you ever had anything stolen from you?
13 How you think us kanaka maoli feel? We had
14 everything stolen from us, our government, our
15 language? I was born in 1945. In the early forties
16 the Department of Education when it was a territory,
17 we wrote all our history books. Welcome to the
18 revolution. Revenge is not our cause; restoration of
19 the Hawaiian kingdom is. We no carry guns, we no
20 make bombs, no weapons of mass destruction.

21 Our weapons of choice, computers and
22 massive amounts of aloha. We are rooted in an
23 ancient spiritual beliefs of aloha aina and aloha
24 kakou. One of the pillars of the beliefs is called
25 kini kapu (phonetic), and to translate it in English,

1 it's a consecrated law that allowed almost demand the
2 kanaka to live in harmony with each other, in mother
3 nature, in the spiritual realm.

4 Your government and your government ways
5 has destroyed our culture. It's destroying our
6 oceans. It's destroying our aina.

7 I'm a combat veteran. I went and saw what
8 America did to the other parts of this planet, and
9 it's going on today. You must dig deep into your
10 souls, in your manou (phonetic). Talk to your
11 ancestors. Do what you must do for our children and
12 their children and their children, very deep.

13 You're committing crimes against humanity.
14 Committing genocide. This is a crime. You're
15 committing crimes against the environment. You're
16 committing crimes against humans.

17 Please stop. Make the world aware of what
18 Hawaii Ne is. Hawaii Ne, second heaven. Keep it
19 second heaven. Mahalo.

20 CHAIRPERSON ACZON: Thank you. Any
21 questions? Commissioners? Thank you.

22 EXECUTIVE DIRECTOR: Summer Tran. Is
23 Summer here? Kalani Ross.

24 CHAIRPERSON ACZON: Do you affirm that the
25 testimony that you're about to give is the truth.

1 THE WITNESS: Yes.

2 ED KAAHUI

3 Was called as a public witness, was sworn to tell the
4 truth, was examined and testified as follows:

5 DIRECT EXAMINATION

6 CHAIRPERSON ACZON: Thank you. Please
7 state your name and address for the record.

8 THE WITNESS: My name is Ed Kaahui. My
9 address is 306 West Aipuni Place, Lahaina.

10 I'm here to testify for the approval of the
11 Olowalu EIS. And I will be talking about the
12 cultural aspect.

13 I was raised in Olowalu for 75 years. I
14 don't think anybody sitting here, other than my
15 sister up there, can tell you about Olowalu. So
16 anybody that came in for the last, they're new
17 comers.

18 You talk about agriculture, yeah. Cane is
19 a good place for, lot of wind, lot of rocks. I was a
20 pig farmer in Olowalu, that's probably what you can
21 raise there. My uncle tried to raise taro, couldn't
22 succeed, so he went to pig farming too, both of us.

23 As for the reef, that's a good story. I
24 mean my children and I have been out on the reef for
25 maybe 50 years, 60 years, and I've seen the changes

1 that have occurred. And all these professors, marine
2 biologist come here and testify, oh, the reef is
3 dying. And if it's dying, what you doing about it?

4 Well, let me apologize for my ohana up
5 here. Because they have no manners. But the reef,
6 if the reef is dying, then do something about it. I
7 don't see anybody going out there picking up trash,
8 picking up rubbish, picking up the junk in the water.

9 They can laugh all they want, but I know,
10 go ahead.

11 But no one has been in that area longer
12 than myself, I believe, that's still alive and still
13 here. So if you guys got any question or ideas about
14 the reef, maybe they should ask me.

15 I'm not a professor, I'm not a marine
16 biologist. I look at the reef with my own eyes. I
17 am Olowalu. And after me I don't know who else.

18 I got a son sitting in this audience. He's
19 forty something years old. We are surfing, diving,
20 fishing, but now he cannot even lay net because
21 there's changes in the rules. They make rule. You
22 cannot throw net. So at my age, I supposed to be
23 diving?

24 CHAIRPERSON ACZON: Please summarize.

25 THE WITNESS: I don't think so.

1 In summarizing, I've heard a lot of
2 comments from the younger people that said they know
3 everything about the reefs out in Olowalu. Let's go
4 outside and talk. Let's see what you know.

5 CHAIRPERSON ACZON: Thank you. Any
6 questions? Commissioners? Thank you.

7 CHAIRPERSON ACZON: Do you affirm that the
8 testimony that you're about to give is the truth?

9 THE WITNESS: Yes.

10 MYRNA AHITEE
11 Was called as a public witness, was sworn to tell the
12 truth, was examined and testified as follows:

13 DIRECT EXAMINATION

14 CHAIRPERSON ACZON: Thank you.

15 Please state name and address.

16 THE WITNESS: My name is Myrna Ahitee. I
17 live 33 West Aipuni Place, Hawaiian homesteads. I'm
18 married to Snake Ahitee, and we have children. I
19 come from a family of fishermen. I married a
20 fisherman, and we spend a lot of time in the ocean.
21 And my husband is -- basically a lot of times you can
22 see his truck down at Olowalu fishing or whatever
23 ocean sports. He's got a green Toyota truck, you see
24 it every day.

25 Bottom line, they want to put a sewage

1 treatment plant across the surfing area where he
2 normally is. And as we all know, the treatment
3 plants that we currently have, they did those
4 injection wells. And now there is a big hoo-ha that
5 it's destroying the ocean. That's why you cannot fish
6 at the beach Kaanapali is because they like that fish
7 to eat, that limu, all that thing grows. And the
8 only thing can eat is that particular fish.

9 So it's right across the street. It's so
10 low, it's like, okay, guys, are we dealing with the
11 issue here? And you're saying it's not going to
12 impact -- oh, my goodness -- the ocean, please, you
13 know.

14 Then also I heard about this along time
15 back, they're going to close our roads. That
16 beautiful road I drive every single day and, of
17 course, now driving back at 12:00 o'clock and your
18 traffic is backed up to Ma'alaea because of the
19 stoplights in Launiupoko and Puamana. So can you
20 imagine emergency? My goodness. Olowalu with 1500
21 homes and thousands of people, they going to go right
22 down there. I don't think they're just going to buy
23 their stuff there.

24 So we used to go to the ocean to clean our
25 body. You going to get kaki'o, cuts. You go to the

1 ocean. Now you can't even do that, because you going
2 to get MRSA. I had a friend unfortunately she was
3 camping at Olowalu, and she had MRSA and e coli.

4 So you know what it is, the water is pilau.
5 You guys need to take care of that ocean now. Forget
6 this development stuff right now. You get all those
7 tourists going down the ocean, what they doing? Come
8 on, we all know.

9 We got to malama now. And this
10 development, whatever, it's going to take years,
11 probably not my life time, but my husband wants to
12 teach my grand kids. I want my grand kids -- I come
13 from a line of fishermen. I'm not afraid of the
14 ocean. I'm afraid of the shark, but that's my
15 husband's family.

16 But bottom line is Launiupoko, that whole
17 area, people come from this side of the island to go
18 to have their parties in Lahaina. And you're saying,
19 you know, you're going to have this road -- I don't
20 know how long this going to take. Took how many
21 years for that bridge up? But still, just looking at
22 what 700 acres, if they did two-acre lots, 350 homes,
23 is the smallest size.

24 CHAIRPERSON ACZON: Please summarize.

25 THE WITNESS: So I reject this proposal. I

1 wish they would -- I know it's about money, you know,
2 they got to survive, but is it a choice of our future
3 for our keiki. We can do something better. We can
4 work together, make it work. Don't just dump all
5 those houses there.

6 CHAIRPERSON ACZON: Thank you. Any
7 questions? Commissioners?

8 COMMISSIONER HIRANAGA: Again, not
9 commenting on the Environmental Impact Statement, not
10 on the merits. Thank you and thank you for coming
11 out here.

12 CHAIRPERSON ACZON: Thank you. Anybody
13 else?

14 EXECUTIVE DIRECTOR: Robin Neubold.

15 CHAIRPERSON ACZON: Do you swear or affirm
16 that the testimony that you're about to give is the
17 truth.

18 THE WITNESS: Yes.

19 ROBIN NEUBOLD

20 Was called as a public witness, was sworn to tell the
21 truth, was examined and testified as follows:

22 DIRECT EXAMINATION

23 CHAIRPERSON ACZON: Please state your name
24 and address.

25 THE WITNESS: Robin Neubold, 3136 Keikihi

1 Street in Kihei.

2 I'm speaking on behalf of Pauline Fiene.
3 Thank you for being here today and allowing us this
4 opportunity to talk with you.

5 This is again written by Pauline Fiene.

6 I'm writing to asking that you do not
7 approve the Final EIS for Olowalu Town project.

8 I am a diver and biologist with over 9,000
9 dives in Maui waters since 1987. I mainly study a
10 group of mollusks called Opisthobranchs, but I also
11 have broad interests in coral reef ecology.

12 In 2011 I commented on the Draft EIS in
13 regard to Appendix D, the Assessment of Marine Water
14 Chemistry and Biotic Community Structure in the
15 vicinity of the Olowalu Town Master Plan. A couple
16 of weeks ago, I received responses to my comments.

17 However, my comments were not substantively
18 addressed in the FEIS.

19 In my second comment I reported that there
20 are twice as many species, 24 species versus 12
21 species of corals within the area that was surveyed
22 than were reported. The EIS states that the NOAA
23 methodology that was used is deemed to be an
24 appropriate scientific methods to survey such a large
25 area. But clearly it is not, otherwise, how could

1 fully half the species be reported? Obviously the
2 methodology used for the EIS was not effective at
3 surveying and recording the correct number of species
4 present. That omission calls into question whether
5 the rest of the data in the EIS are accurate.

6 I was not requesting an exhaustive list of
7 all species in the area. That would be impossible.
8 But corals are a protected group of marine animals in
9 Hawaii. Boaters have been assessed huge fines for
10 damaging corals, yet developers could impact half of
11 them and no one would know, based on this EIS.

12 If we do not have an accurate accounting of
13 all the species present, we are being misled into
14 thinking that there are fully half as many species as
15 there actually are, and thus we can't accurately
16 assess future impacts.

17 In my third comment I stated that the
18 number of species of corals that form micro-atolls at
19 Olowalu is under-reported. Olowalu is also the most
20 extensive area of well-developed micro-atolls in the
21 whole state, making it a state treasure. The unique
22 status of this area in the whole state is not even
23 mentioned in the EIS, again downplaying the value of
24 this area's marine resources.

25 CHAIRPERSON ACZON: Please summarize. We

1 have her testimony.

2 THE WITNESS: The summary is that the EIS
3 is not final until it addresses the reality of the
4 project's potential sediment impacts during
5 construction.

6 CHAIRPERSON ACZON: Any questions?
7 Commissioners?

8 EXECUTIVE DIRECTOR: Do you affirm that the
9 testimony that you're about to give is the truth?

10 THE WITNESS: I do.

11 CHAIRPERSON ACZON: Please state your name
12 and address for the record.

13 TEGAN HAMMOND
14 Was called as a public witness, was sworn to tell the
15 truth, was examined and testified as follows:

16 DIRECT EXAMINATION

17 CHAIRPERSON ACZON: Please state your name
18 and address for the record.

19 THE WITNESS: Tegan Hammond, 893 Makani
20 Street, Makawao

21 Aloha. Thank you all for your attention.
22 It's been a long day, but I appreciate it.

23 I'm with the Maui Marine Resource Council.
24 At the Draft Environmental Impact Statement we
25 submitted questions regarding sedimentation in

1 reference to the reefs, and I just wanted to address
2 those concerns. I know many of those things have
3 been addressed here today, and so I'll try to keep my
4 comments brief.

5 Overall our responses that we received were
6 still in insufficient, in our opinion, and our
7 concerns are still standing as the initial letter
8 indicated.

9 Our one big comment is that we're looking
10 for real detailed specifics on what the construction
11 process sediment mitigation plans are. And there is
12 a lot of really great planning that's gone into this
13 in terms of post construction, BMP's, nice design
14 elements there. But the construction phase is one of
15 the most dangerous parts in terms of the reef's
16 perspective for sediment risk. And without a real
17 detailed plan outlined for that, our concerns are
18 still very real.

19 Right now we noted in a recent study
20 there's been some coral mortality at Hekili Point
21 which is dated a to around a year, year-and-a-half,
22 two years back. And the subsequent timeline that is
23 also in line with some recent tree clearings, so what
24 we are seeing right now are practices which are not
25 also resulting in improved health to the reef which

1 are happening today. So this begs us to ask the
2 question: What will become with this much larger
3 scale project in the future?

4 I know in my summary that I submitted for
5 you all there is some photos included, and one of the
6 statements that was made was that nearshore impact
7 from sedimentation and chemical impacts are limited
8 to about 100 meters from shore. But as you guys can
9 see from those photos and much of the document,
10 sediment is carried with it and attaches to other
11 elements in the water. And it extends out farther
12 than 100 meters offshore.

13 In summary, I think we feel the Final EIS
14 is not yet final, and we still would like to see our
15 concerns addressed. Thank you very much.

16 CHAIRPERSON ACZON: Thank you. Any
17 questions? Commissioners? Thank you.

18 EXECUTIVE DIRECTOR: Connie Applegate.

19 CHAIRPERSON ACZON: Do you affirm that the
20 testimony that you're to give is the truth?

21 THE WITNESS: Yes.

22 CONNIE APPLEGATE

23 Was called as a public witness, was sworn to tell the
24 truth, was examined and testified as follows:

25 DIRECT EXAMINATION

1 CHAIRPERSON ACZON: Please state your
2 name and address.

3 THE WITNESS: Connie Applegate. I live 34
4 West Aupuni Place, Lahaina.

5 I am a farmer. And I am the owner and
6 operator of Olowalu Ala Nui Hydroponic Farms for the
7 last 15 years. And I absolutely support these two
8 guys Frampton and Ward, thank you.

9 CHAIRPERSON ACZON: Any questions for Ms.
10 Applegate? Commissioners? Thank you.

11 EXECUTIVE DIRECTOR: The final testifier
12 Mark Deakos.

13 CHAIRPERSON ACZON: Do you affirm that the
14 testimony that your about to give is the truth.

15 THE WITNESS: Yes.

16 MARK DEAKOS
17 Was called as a public witness, was sworn to tell the
18 truth, was examined and testified as follows:

19 DIRECT EXAMINATION

20 CHAIRPERSON ACZON: Please state your name
21 and address for the record.

22 THE WITNESS: Mark Deakos, 4493
23 Honoapiilani, Napili.

24 So I did my work on Olowalu. Just a quick
25 note talk about sediment on the reefs. Just so you

1 understand the issue of sediment. Once it lands on
2 the reef, it gets resuspended over and over time,
3 blocks the light so corals can't grow, new coral
4 can't land. So a one time one event and it's there.
5 It's not like a sewage spill, it dissipates after
6 days. A lot of people don't see it after a few days.
7 It's just resting on the bottom.

8 So the message there is you can't have one
9 failure. This will continue to kill over and over
10 again.

11 So the EIS states there's no impacts.
12 That's quite a broad statement. I tried to find any
13 references in the marine report, I didn't find any.
14 When I did Google coastal development as an impact as
15 a positive impact on the reef, I couldn't anything.

16 In the paper I see tremendous literature in
17 the opposite, tremendous negative impacts. So that
18 alone is probable cause to discuss the impact.

19 Also look at the track record. The same
20 Marine Research Consultant group is also the one that
21 did the Mahana Estates, which was a complete
22 disaster. You heard a lot about that today.

23 We also know down at Olowalu, a couple
24 houses, Peter Martin's house violations of BMP there.
25 A couple days ago violations on the lot they cleared

1 right next to it. So clearly mistakes happen, and I
2 think that's probable cause to at least address a
3 ten-year build out that maybe there will be at least
4 one failure, one oops.

5 So if that's the case, then they should go
6 ahead and discuss what that impact would be. So
7 let's say you get that one failure, you get that one
8 jump of sediment on the reef, how does that going to
9 affect commercial use, cultural use? How is that
10 going to affect any -- you need to survey that. You
11 need to understand who's using it, who's fishing
12 there, who's using it culturally, recreation, the
13 commercial side of things.

14 So I can make some suggestions on what kind
15 of survey. I've been working with these guys over
16 the last three-years. Very nice guys, I agree. We
17 presented them some of the top four biologists in the
18 state and we have all the resources that they need to
19 do a proper reef assessment.

20 And just one example. We talked about
21 300-year old coral. So what is involved in
22 mitigating that? You have get that one failure, you
23 accidentally kill a 300-year old coral. What does
24 that mean as far as impact? You've got to measure
25 it, talk about it. It's not an easy thing to assess.

1 But how are you going to replace it, grow a coral for
2 300 years, put it back? Those types of mitigation.
3 It's not easy to do, and we know the value of this
4 place.

5 So there's a tremendous amount of work that
6 needs to go into this EIS to really be
7 representative.

8 CHAIRPERSON ACZON: Please summarize.

9 THE WITNESS: Worst case scenario. I have
10 a lot of other recommendations. I know you've asked
11 a few people about what would you do. You don't
12 think there is enough information.

13 I would be happy to provide those kinds of
14 things.

15 CHAIRPERSON ACZON: Thank you. Any
16 questions for the testifier?

17 VICE CHAIR SCHEUER: Your submitting your
18 written testimony to us?

19 THE WITNESS: Yes.

20 VICE CHAIR SCHEUER: Thank you.

21 CHAIRPERSON ACZON: Are there any more
22 public witnesses?

23 (Audience interruption.)

24 CHAIRPERSON ACZON: Please sit down. Are
25 you testifying?

1 CHAIRPERSON ACZON: Do you affirm that the
2 testimony that you're about to give is the truth.

3 THE WITNESS: Yes.

4 THELMA POOLEKA-KUAPUHI
5 Was called as a public witness, was sworn to tell the
6 truth, was examined and testified as follows:

7 DIRECT EXAMINATION

8 CHAIRPERSON ACZON: Please state your name
9 and address for the record.

10 THE WITNESS: Thelma Pooleka-Kuapuhi. I
11 reside in Olowalu in my parents' home for 75 years.

12 On the EIS I approve. I'm still living
13 there. I'm retired, and I live in my parents' home,
14 our family home, and it's beautiful. So if you going
15 to build homes for people, I welcome them, because
16 it's a beautiful -- I want them to enjoy the beauty
17 of Olowalu. So any questions?

18 CHAIRPERSON ACZON: Thank you. Any
19 questions? Commissioners?

20 Anybody else, public witnesses?

21 Thank you. That concludes our public
22 testimony for today.

23 Tomorrow we will hear from the Petitioners
24 presentation, followed by the county -- and the
25 motion from the Petitioners, and then followed by the

1 County and Office of Planning.

2 I just want to remind everyone that we have
3 a full agenda tomorrow. After this docket we going
4 to proceed with Docket SP94-386, County of Maui
5 landfill.

6 And I want to remind everybody that we have
7 to vacate this room by 12:00 noon. So we really need
8 to be efficient to get all the testimonies.

9 Any question on that?

10 MS. LIM: If we may. Thank you for
11 clarifying, confirming that tomorrow we'll have an
12 opportunity to discuss our motion in that request.

13 I would just like to add if there is any
14 way possible for us to be able to present the
15 testimony of our traffic expert, Roger Dyar,
16 recognizing that you have the agenda and a short day,
17 I wanted to mention.

18 CHAIRPERSON ACZON: They going to be
19 available tomorrow?

20 MS. LIM: He's flown in specially for the
21 hearing.

22 CHAIRPERSON ACZON: Any of objection?

23 (Audience interruption.)

24 CHAIRPERSON ACZON: We have to proceed with
25 the last docket, so is this going to be long?

1 MS. LIM: We will be efficient with
2 whatever time that you can allow us. So, no, it will
3 not be long. I would say under any 20 minutes.

4 CHAIRPERSON ACZON: Any objection from the
5 parties? County?

6 MR. YEE: Just the traffic expert to
7 testify today?

8 CHAIRPERSON ACZON: Tomorrow.

9 MR. YEE: We have no objection to any
10 witnesses being called tomorrow.

11 When you're finished, I do have another
12 procedural question.

13 CHAIRPERSON ACZON: Commissioners?

14 VICE CHAIR SCHEUER: Mr. Chair, let me try
15 to get this straight in my mind where we're at.

16 So we have heard public testimony. The
17 testimony portion has concluded. Tomorrow as the
18 first order of business, the Petitioner has asked for
19 a 15-day extending. We can either grant that
20 extension or deny it.

21 If we grant the extension, then sometime
22 within that 15 days or shortly thereafter we would
23 hold another hearing which will also be subject to
24 having public witnesses, actually on the question
25 that has been before us, should the FEIS be accepted.

1 If we say reject Petitioner's motion, then
2 we would actually make a ruling on the petition --
3 excuse me -- the FEIS tomorrow. And if, as was
4 covered before, the way the law is laid out in Hawaii
5 Administrative Rules governing EIS's, if we fail to
6 take action tomorrow, within 30 days it's considered
7 automatically approved.

8 This was the change that the legislature
9 made to the law a couple years ago.

10 If we approve the FEIS is complete, that
11 it's and they have one more step towards a complete
12 docket in front of us.

13 If we reject it, the Petitioner has 60 days
14 to appeal that to the State Environmental Council.

15 Do I have that sort of correct where we're
16 at in the process in my mind? Thank you.

17 CHAIRPERSON ACZON: Any other questions?

18 MR. YEE: The question I have is with
19 respect to public testimony tomorrow. The past
20 practice of the Land Use Commission has been to hold
21 one series of public testimony during its two-day
22 hearing, and when that is completed, you do not
23 normally allow additional public testimony for those
24 two days.

25 If the Commission were to meet again in

1 another period of time, like December, as
2 anticipated, then public testimony would again be
3 allowed at the beginning of the hearing.

4 And so I just wanted to clarify whether
5 tomorrow Land Use Commission is going to again open
6 up the hearing to public testimony, or whether we
7 have concluded the public testimony for this period
8 today? Thank you.

9 CHAIRPERSON ACZON:

10 COMMISSIONER HIRANAGA: Before you answer
11 that. I have a question in a similar line. I don't
12 have much history with the LUC, so from a position of
13 protocol, are you going to be recessing this current
14 meeting?

15 CHAIRPERSON ACZON: That's correct.

16 COMMISSIONER HIRANAGA: So you're not going
17 to allow an opportunity for public testimony to
18 continue tomorrow, but you would limit public
19 testimony to people who have not testified today,
20 but --

21 CHAIRPERSON ACZON: What we are going to
22 do, because of the time, we have another docket to
23 consider, it's going to depend on how fast -- we
24 probably going to have some people testify after all
25 presentations, depending on how long, because we have

1 to vacate this room.

2 So we will allow if it time allows us,
3 otherwise we are not going to have time to deliberate
4 and make decision. Again, we don't want to
5 automatically, you know, get approval, because of the
6 timetable that we have.

7 MR. YEE: Chair, if I may. We really
8 appreciate the input from the public. The public
9 testimony is very important, an eye-opener for me. I
10 value what everyone says, but I think our
11 recommendation, quite frankly, is to conclude your
12 public testimony, to recess, continue this hearing
13 tomorrow, and frankly not allow additional public
14 testimony.

15 Just to make clear to people, you know,
16 it's not a good day to come tomorrow to this, if
17 you're going to public testify. If we come back in
18 December to look at this FEIS again, then we open it
19 up again for public testimony.

20 But tet up the expectation of people that
21 they may testify, sets people up for possible
22 disappointment. I think with respect to, as much as
23 I know you want to allow as much public testimony as
24 possible, our recommendation is to respectfully ask
25 that people wait either -- and to be clear, even if

1 the FEIS is granted, then we still have the petition
2 to consider and public testimony will again be opened
3 up to everyone who wants to testify, of which, I
4 think, frankly, will fall similar to what we received
5 today.

6 So with respect, our recommendation is not
7 to have public testimony tomorrow.

8 CHAIRPERSON ACZON: That's a good point.
9 Is the Commissioners okay with that? Because there's
10 things that might happen tomorrow because of the
11 extension, but we don't really know what is going to
12 happen tomorrow.

13 COMMISSIONER ESTES: Yeah, we do know
14 what's going to happen tomorrow.

15 CHAIRPERSON ACZON: Go ahead, Commissioner
16 Estes. We can't hear you.

17 COMMISSIONER ESTES: I think we do know
18 what is going to happen tomorrow, right?

19 You guys are going to come, give their
20 presentation. Hear from you guys, and we're not
21 taking public testimony. We finished it today.

22 CHAIRPERSON ACZON: We still going to
23 deliberate and vote on the issue, so we don't really
24 have a decision --

25 VICE CHAIR SCHEUER: Mr. Chair.

1 CHAIRPERSON ACZON: Go ahead.

2 VICE CHAIR SCHEUER: Procedurally it's the
3 discretion of the Chair to close the public testimony
4 or not. And I do share the general desire to make as
5 much space as possible for members of the public to
6 speak.

7 But the reason why I think that it is in
8 this case advisable to close the testimony, because
9 if we do not close the testimony today, then people
10 could come testify tomorrow, that could lead us to
11 actually run out of time to even consider the motion
12 to extend, in which case as I've described Hawaii
13 Administrative Rules.

14 The EIS would be automatically approved by
15 the Land Use Commission's failure to act.

16 CHAIRPERSON ACZON: Thank you, Commissioner
17 Scheuer, for that clarification. I think we all
18 agree.

19 (Audience interruption.)

20 MS. LIM: Just one final point, because the
21 matter was listed as continued action, if necessary,
22 for tomorrow. And we came in today with this request
23 for extension, and we appreciate that that will be
24 heard and discussed tomorrow.

25 Should that request be denied tomorrow, we

1 will need opportunity to put on our case and try to
2 have our experts respond to questions that the public
3 and Commissioners have put on.

4 So I just wanted to register that with you,
5 which it may kind up jumping the other matter.

6 CHAIRPERSON ACZON: It's on the agenda, so
7 we can't bump it. So that's the reason why we're
8 trying to limit the public testimony so we have more
9 time to discuss. Okay.

10 Public testimony is closed today, and we
11 will make deliberate tomorrow after the presentation.

12 Anything else, Commissioners? We will
13 recess tonight and we will convene tomorrow morning
14 at 8:30.

15 (The proceedings ended at 6:30 p.m.)
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CERTIFICATE

STATE OF HAWAII)
) SS.
COUNTY OF HONOLULU)

I, JEAN MARIE McMANUS, do hereby certify:

That on November 18, 2015, at 9:30 a.m., the proceedings contained herein was taken down by me in machine shorthand and was thereafter reduced to typewriting under my supervision; that the foregoing represents, to the best of my ability, a true and correct copy of the proceedings had in the foregoing matter.

I further certify that I am not of counsel for any of the parties hereto, nor in any way interested in the outcome of the cause named in this caption.

Dated this 18th day of November, 2015, in Honolulu, Hawaii.

JEAN MARIE McMANUS, CSR #156