

LAND USE COMMISSION

STATE OF HAWAII

CONTESTED CASE HEARING

March 23, 2017

9:00 A.M.

County of Kaua'i Moikeha Building

4444 Rice Street

Lihu'e, Kaua'i, Hawai'i 96766

A16-801 University of Hawai'i

Community Colleges (Kaua'i)

To amend the Agricultural Land Use District
Boundary into the Urban District for Approximately
148.37 acres at Phi, Lihu'e, Kaua'i, Hawai'i, Tax Map
Key: (4)3-4-007:01, 02, 03 and 06.

BEFORE: Jean Marie McManus, CSR #156

1 APPEARANCES:

2 EDMUND ACZON CHAIRPERSON
3 JONATHAN SCHEUER VICE CHAIR
4 ARNOLD WONG VICE CHAIR

5 COMMISSIONERS:

6 NANCY CABRAL
7 GARY OKUDA
8 LINDA ESTES
9 KENT HIRANAGA
10 DAWN CHANG
11 AARON MAHI

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13 Executive Director

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15 Deputy Attorney Director

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17 SCOTT DERICKSON, AICP-Planner

18 LAUREL LOO, ESQ.
19 Shiramizu Loo & Nakamura
20 Attorney for UH Community College

21 JODI HIGUCHI, ESQ.
22 MARISA VALENCIANO, Planner
23 County Department of Planning

24 DAWN APUNA, ESQ.
25 RODNEY FUNAKOSHI, Planner
LORRAINE MAKI, Planner

State Office of Planning

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1 CHAIRPERSON ACZON: Good morning, everyone.

2 This is a continuation hearing action
3 meeting on Docket No. A16-801 University of Hawaii
4 Community Colleges to amend Agriculture Land Use
5 District Boundary into the Urban District for
6 approximately 148.37 acres at Puhi, Lihu'e, Island of
7 Kaua'i, State of Hawai'i, Tax Map Key (4)3-4-07:01,
8 02, 03 and 06.

9 Before I start, I have a special request.
10 The Chair intends to close the proceedings by
11 3:00 o'clock this afternoon, so we appreciate
12 everyone's cooperation to get this hearing moving
13 along. I think everyone would appreciate the early
14 close of this hearing.

15 Are there any individuals who wish to
16 provide testimony on this docket?

17 Nobody. We're on a good start.

18 So, Ms. Loo, please proceed with your
19 presentation in your case. Thank you.

20 MS. LOO: I would like to also note for the
21 record the presence of our KCC representatives
22 Chancellor Helen Cox, Vice Chancellor Brandon
23 Shimokawa and Director of Facilities Denise
24 Yoshimori-Yamamoto.

25 CHAIRPERSON ACZON: Thank you. Good

1 morning.

2 MS. LOO: In an effort, again, to
3 facilitate the proceedings today, I have secured the
4 stipulation of other counsel that all of our
5 witnesses who will be testifying today already
6 testified yesterday, and yesterday were qualified as
7 expert witnesses; and they have agreed to stipulate
8 that today's witnesses, they would agree that they
9 have been -- they are qualified to testify as experts
10 in their field, with your, Mr. Chairman's permission

11 CHAIRPERSON ACZON: Any objection?

12 MS. HIGUCHI: None.

13 MS. APUNA: None.

14 CHAIRPERSON ACZON: So noted, proceed.

15 MS. LOO: My first witness, Mr. Chairman,
16 is Earl Matsukawa.

17 CHAIRPERSON ACZON: Sit by the reporter, so
18 you she can hear.

19 Do you swear and affirm that the testimony
20 that you're about to give today is the truth?

21 THE WITNESS: Yes, I do

22 CHAIRPERSON ACZON: Please state your name
23 and address for the record.

24 THE WITNESS: My name is Earl Matsukawa.
25 My address is 602 Poipu Drive, Honolulu.

1 CHAIRPERSON ACZON: Please proceed

2 EARL MATSUKAWA

3 Was called by and on behalf of UH-KCC, was sworn to
4 tell the truth, was examined and testified as
5 follows:

6 DIRECT EXAMINATION

7 THE WITNESS: As I testified yesterday, I
8 am the Vice President and Director of Planning for
9 Wilson Okamoto Corporation, and we prepared the
10 Environmental Assessment for the University of Hawaii
11 Community Colleges.

12 The Environmental Assessment or EA was an
13 agency action, so it was processed by the University
14 of Hawaii Community Colleges. And the Final
15 Environmental Assessment and finding of no
16 significant impact was filed on November 27, 2012,
17 with the Office of Environmental Quality Control.
18 And it wasn't prepared in anticipation of seeking a
19 Boundary Amendment to the Urban District

20 So I'll just kind of talk about the maps
21 here. So back in 2012, what we had was the 1999
22 long-range development plan, they call it the LRDP.
23 And this is actually just under 200 acres, comprises
24 the Kaua'i Community College campus. This is the
25 portion owned by the KCC (indicating).

1 The Petition area, there's 148 acres in
2 this area. And this basically coincides within the
3 area of Urban Center designation of the Kaua'i
4 General Plan. So that is the area that is being
5 petitioned for. There is another roughly 50 acres
6 that are not part of this Petition.

7 When we did the EA, looked at the entire
8 campus, it hadn't been determined which portion would
9 be in the petition, so we conducted an Environmental
10 Assessment for the whole campus.

11 In 1999 the LRDP was based on a projected
12 growth. The student population which was measured in
13 terms of full-time equivalent, or FTE, had been
14 estimated at 1500 for the short-term, and 3,000 for
15 the build-out scenario.

16 So when we came in in 2012, the plan was
17 already 20 -- 1999 to 2012, so getting up there in
18 age. It had not been updated since when we started
19 the EA, so we worked with the college -- kind of work
20 out what areas might be developed.

21 So instead of just looking at buildings or
22 anything, some of the instruction areas like health
23 education, language, art, continuing ed, science,
24 math, those kinds of big categories of offerings that
25 the college had, we kind of sketched out where they

1 might fit, and then we based our EA on that scenario
2 in terms of where the areas might be developed.

3 Since then though, after the EIL was
4 published, they started a new update of the
5 long-range development plan.

6 CHAIRPERSON ACZON: Can you identify the
7 map that you're referring to?

8 THE WITNESS: Okay. This map?

9 CHAIRPERSON ACZON: Both of them.

10 THE WITNESS: This is the map from the
11 Environmental Assessment and it is a modification of
12 the 1999 LRDP.

13 CHAIRPERSON ACZON: What exhibit number is
14 it?

15 THE WITNESS: Two. So this is from the
16 Environmental Assessment.

17 CHAIRPERSON ACZON: And the other one is
18 exhibit number?

19 THE WITNESS: This is the draft LRDP, the
20 current draft LRDP.

21 MS. LOO: Is that in your EA?

22 THE WITNESS: No, this is in the Petition.
23 This was prepared after the EA.

24 MS. LOO: Attached to the Petition.

25 CHAIRPERSON ACZON: Is it part of your

1 exhibit?

2 THE WITNESS: Mr. Chairman, it's Exhibit 3
3 -- 2, it was connected. It's connected, excuse me.

4 CHAIRPERSON ACZON: Thank you.

5 THE WITNESS: So this is the current draft
6 LRDP. It's still in progress. Again, it shows the
7 entire 200, almost 200 acres. And then roughly
8 around here is the cutoff for the 148 acres that are
9 planned.

10 And this LRDP, current LRDP does not talk
11 about the full build-out of 3,000, they are only
12 looking at potentially going up to 1500 FTE. By
13 comparison, the current FTE is just over 700. So
14 there's quite a difference in terms of what their
15 projections are.

16 The develop -- if you look at here, all of
17 this development, almost everything you see here in
18 terms of building space is existing building. The UH
19 Community Colleges has only plans to do a few more
20 things in the immediate term.

21 One is this solar farm in this portion of
22 the campus, (indicating), and this is within the
23 Petition area. Imu is to be constructed in
24 conjunction with the culinary program. And then
25 there is a proposal at this point by the Kaua'i

1 Economic Development Board to create an Urban
2 Innovation Center in this area here (indicating).

3 This is not a University project. They
4 will be giving space to the Kaua'i Economic
5 Development Board. They made a space for this
6 facility here (indicating).

7 Way in the long term, probably not within
8 the foreseeable future, they do have space allocated
9 for classrooms here and here (indicating) and then a
10 possible student housing facility up here
11 (indicating) on the northern end. So that is the
12 extent of what they have planned.

13 If you look at the campus, most of it is
14 confined in this area. There is existing Kawaikini
15 Charter School that is on their campus leasing space,
16 as well as the Punana Leo O Kaua'i Preschool. This
17 is a Hawaiian emergent -- both of these are Hawaiian
18 emergent-type schools that are on the campus and are
19 leasing space for their facilities.

20 There has been some discussion yesterday
21 regarding the Puhi Cemetery. Just to point out, it
22 is in this area here (indicating), not near anywhere
23 that is currently being developed. This cemetery is
24 not owned by the school. We understand it is still
25 owned by Grove Farm, and it is also not part of the

1 Petition area.

2 Yesterday I walked through for Island
3 School the various criteria for the Urban
4 designation. In large part most of that still
5 applies, so I won't be repeating and going through
6 each of the criteria.

7 As far as urban development goes, adjacent
8 to existing urban areas. Yesterday I mentioned
9 currently Island School is not contiguous to the
10 urban area, but the Kaua'i Community College campus
11 is adjacent to urban area, and that's across
12 Kaumuali'i Highway.

13 Generally utilities are very similar.
14 Department of Water for water. One of the things
15 that is little different is that Grove Farm -- I
16 mean, Island School did use part of that Grove Farm
17 irrigation system for their landscape irrigation.
18 KCC is hooked up to the Department of Water, so they
19 use the potable water for most of the irrigation.

20 They do have an agreement with Grove Farm
21 to use some of that irrigation water for their
22 agricultural education program. Mainly in this area
23 here (indicating).

24 The site itself is fairly similar, one
25 percent to five percent slope. The lowest elevation,

1 310 feet near the Kaumuali'i Highway, 380 feet at the
2 northern end.

3 Drainage is, of course, different on this
4 site. It goes in several directions. This area
5 mostly drains part towards Puhi Stream, (indicating).
6 And there is a drainage basin here, so this area
7 drains -- there is a detention basin to capture heavy
8 flows, and it drains towards Kaumuali'i Highway.

9 The flood zone is similar, Zone X areas
10 defined to be outside the 42 percent annual chance of
11 flood plain.

12 And that's pretty much the differences
13 between the site as far as the urban designation
14 criteria goes, and I'm done if there are any
15 questions.

16 Q (By Ms. Loo): Just a couple of follow-ups,
17 Earl.

18 You stated yesterday your EA for Island
19 School addressed whether the lands being proposed
20 were in the Important Agricultural Land
21 classification.

22 Can you tell the Commissioners what your
23 research has shown about the IAL possibility of these
24 lands?

25 A Very similar answer. It is not in the IAL,

1 Important Agricultural Land designation. It has long
2 been in the Urban Center designation in the Kaua'i
3 General Plan, so it would not be qualified for IAL
4 designation.

5 Q Earl, you mentioned that the solar farm and
6 the imu and the KBED innovation center were the next
7 projects that were being proposed.

8 Do you know if they are currently today
9 being proposed?

10 A I'm not sure if they are. But UH Community
11 College is proposing the solar farm and the imu, but
12 the KBED would need to proceed. It's not UH
13 proposed, it would be KBED proposal for innovation
14 center.

15 Q Are you aware of whether the solar farm is
16 expected to impact any enrollment?

17 A No, it is not.

18 Q And the imu is for the culinary center?

19 A Yes, it is.

20 Q And because that's an existing program, are
21 you aware of whether that development of the imu --
22 it's an underground imu, correct?

23 A Yes.

24 Q -- would increase enrollment?

25 A It's not like a classroom facility that

1 they need more space for students. That program is
2 growing by itself, but it's nothing to do with the
3 imu itself.

4 Q And, finally, you mentioned potential
5 classrooms and student housing. But is there a time
6 frame for development or construction of those?

7 A No, there is no time frame for those.
8 Those are looked at as long-term future projects.

9 Q So those could be ten, 20 or 30 years or
10 more?

11 A Yes.

12 Q And based on enrollment?

13 A Yes.

14 Q Thank you. No further questions.

15 CHAIRPERSON ACZON: Any questions for Mr.
16 Matsukawa?

17 MS. HIGUCHI: One question.

18 CROSS-EXAMINATION

19 BY MS. HIGUCHI:

20 Q So the Petition included four parcels, Tax
21 Map 3-4-7, parcels 1, 2, 3 and 6. Is 6 also included
22 in the Petition area?

23 A Yes.

24 Q So I think Parcel 6 does fall above the
25 border of the Urban Center designation, and it's the

1 water tank, if I'm correct, the water tank is what is
2 on the Parcel 6, roughly 1.3 acres?

3 A It's a portion.

4 Yes, I'm not familiar with it, so I just
5 need to get briefed on the location of Parcel 6?

6 Q Nothing further.

7 CHAIRPERSON ACZON: Ms. Apuna.

8 CROSS-EXAMINATION

9 BY MS. APUNA:

10 Q Thank you for your testimony, I have a few
11 questions.

12 Is UH Community College -- I'm sorry -- let
13 me get organized.

14 Are you authorized to commit -- make
15 representations on behalf of University of Hawaii
16 Community Colleges?

17 A Yes, we are.

18 Q Were you able to read and understand the
19 proposed conditions by the Office of Planning on OP's
20 Exhibit 1 pages 12 and 13?

21 A Yes.

22 Q And is UH Community Colleges committed to
23 fulfilling those conditions?

24 A I believe so, yes.

25 Q And what are the land ratings of the --

1 what is the land rating in terms of ALISH, A-L-I-S-H
2 and LSB for the Petition area?

3 A Most of it is unrated. Most of the campus
4 -- there is a portion up by the -- near the solar
5 farm that is rated prime agricultural land.

6 Q Prime agricultural land. What, if any,
7 impacts to ag will the Petition have?

8 A It will not have any existing ag. The
9 program does promote ag as part of their curriculum.
10 The solar farm, in that area there is no ag growing
11 in there. It's an overgrown area.

12 Q And are you familiar with Site B006 of the
13 SHPD's, I guess their review of the Petition area?

14 A I'm not by citation.

15 Q Site B006 I believe is the Puhi Cemetery.

16 A Yes, yes.

17 Q What can you tell us about that site?

18 A Well, my understanding, it's owned by Grove
19 Farm. It is not owned by the community colleges, and
20 it is not within the Petition area.

21 Q But is it -- so can you describe, or maybe
22 can we go back to your Exhibit 2, that map and maybe
23 you could point out to the Commissioners where it's
24 located.

25 A Sure.

1 The Puhi Cemetery is right in this area
2 here. It is not within an area planned for
3 development. All the development is mainly along the
4 loop road, inside the loop road that provides access
5 to the campus. Again, it's in this area
6 (indicating). No development is being proposed
7 nearby.

8 Q So he was pointing to an area in the
9 center -- basically in the center of the parcel. So
10 would you say it's a land-locked area?

11 A Yes, it is land-locked. My understanding
12 is the KCC does provide access for people who are
13 visiting the cemetery.

14 Q And do you know about the area, the acreage
15 of that?

16 A Not offhand. I think we might have it.

17 MS. LOO: Puhi Cemetery, according to the
18 county website, it's 1.247.

19 MS. APUNA: Okay, thank you.

20 Q And then moving on, is UH Community
21 Colleges committed to providing to SHPD for review
22 and approval a campus designed for the portion of
23 Site 2179, an irrigation complex still in use for
24 educational and interpretive purposes.

25 So Site 2179 is the irrigation site

1 identified by SHPD. Do you recall that?

2 A They have no plans to do any improvements
3 that would an affect active irrigation systems. And
4 some of those historic sites are in active use as
5 irrigation system. They have no plans to touch any
6 of those systems.

7 Q Do you know if the UH School of Tropical
8 Ag-- I'm sorry, not sure what the official name is --
9 will be using that site?

10 A They do use water from the irrigation. We
11 have agreement to use it as part of their program for
12 irrigation of agricultural crops. Maybe I'm
13 misunderstanding. People from University, KCC are
14 suggesting that I'm misinterpreting.

15 Q So Site 2179 is the site that -- it's an
16 irrigation complex?

17 A I know that they identified a number of and
18 assigned historic preservation numbers to it, to
19 irrigation active and inactive sites, but I'm not
20 sure which site you're talking about in particular.

21 Q We'll move on, thank you.

22 And so as part of OP's proposed conditions,
23 we have a condition to do a glint and glare analysis
24 for proposed PV facilities. You're aware of that?

25 A Yes.

1 Q And that UH-CC is committed to fulfilling
2 that?

3 A Yes, to coordinate with the airport.

4 Q And that PV facility would also include the
5 solar farm as part of the analysis?

6 A The PV facility would be a solar farm, yes.

7 Q So that covers all the PV in the Petition
8 area?

9 A Yes, yes.

10 Q Thank you, no further questions.

11 CHAIRPERSON ACZON: Thank you.

12 Commissioners, any questions for Mr.

13 Matsukawa? Commissioner Wong.

14 VICE CHAIR WONG: Just wanted to check,
15 again, you were talking about FTE?

16 THE WITNESS: Yes, full time equivalent.

17 VICE CHAIR WONG: For students?

18 THE WITNESS: Yes.

19 CHAIRPERSON ACZON: You said how many?

20 THE WITNESS: For planning purposes on LRDP
21 1999 used a short-term -- shorter future projection
22 of 1500. And they said ultimate group build-out
23 would be for 3,000 FTE, just as a basis for planning
24 facilities.

25 The more recent draft LRDP that is still in

1 progress only sites the 1500 FTE as a potential
2 build-out scenario.

3 VICE CHAIR WONG: Somewhere in the near
4 future, I'm assuming?

5 THE WITNESS: Yeah. I forget the exact
6 term they use. I don't hear any discussion of the
7 3,000 FTE in the current planning.

8 VICE CHAIR WONG: Just wondering, because I
9 know I'm not supposed to bring up yesterday, but I'll
10 bring it up with the traffic study about that issue.

11 THE WITNESS: I think we need to be clear
12 that projections that are being done are, you know,
13 future scenarios the LRDP is not quite the same kind
14 of envisioning or projection that you would do for a
15 traffic study.

16 VICE CHAIR WONG: That's all I need to
17 know. Thank you.

18 CHAIRPERSON ACZON: Vice Chair Scheuer.

19 VICE CHAIR SCHEUER: Do you know the amount
20 of water used from the current irrigation system,
21 Grove Farm irrigation system, to which you referred
22 by the agricultural program?

23 THE WITNESS: I don't know the terms of the
24 agreement or what the exact amount being used. I'm
25 not sure if the UH people may be able to answer that.

1 We didn't address that as part of our EA.

2 VICE CHAIR SCHEUER: Are you aware of the
3 source waters for that?

4 THE WITNESS: I believe that area is where
5 Puhi Stream is running, so I'm thinking the origin is
6 Puhi Stream.

7 VICE CHAIR SCHEUER: Regarding the Puhi
8 Cemetery, are you aware that many cemeteries around
9 our islands, that there are both marked and unmarked
10 burials, and burials sometimes go out side of
11 property boundaries?

12 THE WITNESS: Yes, I'm aware of that.

13 VICE CHAIR SCHEUER: Did the EA recommend
14 any kinds of activities or best management perhaps to
15 avoid ground disturbance in and around the Puhi
16 Cemetery, even though the Puhi Cemetery itself is not
17 owned by the college and not part of the Petition
18 area, it's surrounded by the Petition area?

19 THE WITNESS: I think I would defer to a
20 later expert witness on that, that actually looked
21 into it, that would be Dr. Hammatt. I think he could
22 answer that more accurate than I would be -- I would
23 be going on some vague memory.

24 VICE CHAIR SCHEUER: If I recall correctly,
25 you did appear in front of us during a waiver

1 discussion or waiving the phasing portions of this
2 project.

3 THE WITNESS: Yes, yes.

4 VICE CHAIR SCHEUER: At that time I
5 suggested that there might be some conversations with
6 the Island Burial Council, which I believe you
7 affirmed could be done. Has that occurred yet?

8 THE WITNESS: I did not conduct. I would
9 defer to Dr. Hammatt on that.

10 VICE CHAIR SCHEUER: Okay. Thank you very
11 much.

12 CHAIRPERSON ACZON: Anybody else?
13 Commissioner Chang.

14 COMMISSIONER CHANG: Good morning, Mr.
15 Matsukawa. Just a couple questions. Thank you so
16 much for your testimony, that was very helpful.

17 Is Puhi Stream within the petition
18 boundary.

19 THE WITNESS: Yes, portions are.

20 COMMISSIONER CHANG: What are the proposed
21 activities for Puhi Stream?

22 THE WITNESS: There's nothing proposed in
23 that area.

24 COMMISSIONER CHANG: Is there any objection
25 by the Petitioner to provide a buffer there that

1 would be no activities -- no activities that would
2 potentially injure the stream, for example,
3 construction, subsurface excavation? Do you have any
4 objections to a reasonable buffer around the stream?
5 No activities could occur around that stream?

6 THE WITNESS: To the extent that the
7 natural drainage, existing drainage system for the
8 school, that it does drain towards the stream, so
9 ultimately that is the existing drainage pattern is
10 towards the stream.

11 So as long as -- unless something that you
12 would have to try and divert drainage, I think that
13 might be problematic. But other than that, there is
14 nothing to be developed near the stream.

15 COMMISSIONER CHANG: And that's good to
16 know. I guess it's just for purposes to ensure,
17 should this boundary amendment being made, that there
18 is some reasonable protections around that stream
19 because it is very sensitive.

20 THE WITNESS: Yes. Also the two Hawaiian
21 emergent schools are within that vicinity, so -- but
22 they would be subject to the normal drainage
23 requirements that apply through the county, I think.

24 COMMISSIONER CHANG: And maybe Dr. Hammatt
25 will be the proper person on Puhi Cemetery, but --

1 how far is the boundary of the Puhi Cemetery to the
2 Petition area?

3 THE WITNESS: The Puhi Cemetery is
4 land-locked by the Petition area.

5 COMMISSIONER CHANG: Again, I guess since
6 you can make representations on behalf of the
7 Petitioner, is there any objection to providing a
8 buffer within the Petition area for purposes of -- as
9 Commissioner Scheuer mentioned -- there are times
10 where there are unmarked burials outside the
11 cemetery. We have found that. So a reasonable
12 petition, a boundary area within the Petition area
13 that is adjacent to the cemetery?

14 THE WITNESS: Yes, we are able to do that.
15 It's a structural kind of thing where if there was
16 any construction --

17 COMMISSIONER CHANG: Right, that there
18 would be no subsurface excavation in the area within
19 a reasonable buffer.

20 THE WITNESS: Yes.

21 COMMISSIONER CHANG: And you mention too
22 that the community college provides access to
23 families who have burials at Puhi Cemetery.

24 THE WITNESS: That's my understanding.

25 COMMISSIONER CHANG: That seems to be an

1 unwritten kind of very courteous community kind of --
2 is there anything in writing?

3 THE WITNESS: No.

4 COMMISSIONER CHANG: Would you have any
5 objection if we included that as a condition, that
6 access would continue to be available to families for
7 access?

8 THE WITNESS: We're agreeable to that.

9 COMMISSIONER CHANG: Site 2179, what is
10 that? I know Ms. Apuna raised that. Should I ask
11 Dr. Hammatt?

12 THE WITNESS: I think so. They have so
13 many numbers for this particular site, I'm not really
14 sure what it is.

15 COMMISSIONER CHANG: Thank so very much.

16 CHAIRPERSON ACZON: Anybody else,
17 Commissioners?

18 COMMISSIONER MAHI: Just a quick question
19 about the solar farm.

20 Was that going to be just placed on the
21 land designated area? Was that going to be the only
22 activity? The solar farm will be in that particular
23 parcel by which you were planning to place the
24 panels?

25 THE WITNESS: Yes. It is in that area,

1 yes.

2 COMMISSIONER MAHI: Have you thought about
3 what they're doing over at Maui? Oftentimes we go to
4 Maui, like to eat at their cafeteria there, they put
5 the solar panels over the parking lot so it comes as
6 protection to the parking and also draws the rays of
7 the sun for the of solar energy.

8 THE WITNESS: They already have -- they
9 installed solar at this point, but they don't have
10 any plans to put them over the parking lot.

11 COMMISSIONER MAHI: I'm just suggesting
12 that that would be an idea.

13 THE WITNESS: Okay. We'll forward that to
14 them to consider.

15 COMMISSIONER MAHI: Only that the land
16 could probably be used once it's not locked into
17 solar panels. People even putting sheep on solar
18 farms. I think there could be another use other than
19 just putting the panels on the land. I'm just
20 bringing that as suggestion, kind of get more use out
21 of the previous use of the land which is ag, and I
22 just wanted to make that suggestion. That's it,
23 mahalo.

24 CHAIRPERSON ACZON: Anybody else?

25 COMMISSIONER CHANG: So sorry, Mr.

1 Matsukawa. I want to go back to the Puhi Stream.

2 Could you describe for me some of the activities that
3 occur there and some of the historic -- what is the
4 significance of the Puhi Stream?

5 THE WITNESS: It does flow -- I believe the
6 lower reaches, it's a tributary, and I don't know all
7 the streams that converge and names of the
8 tributaries, but it does end up in Nawiliwili. I
9 think it passes through the Menehune Fishpond, ends
10 up in that vicinity, and then eventually drains into
11 Nawiliwili.

12 COMMISSIONER CHANG: Are there any
13 downstream lo'i that may be impacted by this stream?

14 THE WITNESS: I am not aware. But I'm not
15 knowledgeable of that.

16 COMMISSIONER CHANG: It's your
17 understanding at least it drains into Nawiliwili
18 Stream which may impact that whole marine system.

19 THE WITNESS: It could, yes.

20 COMMISSIONER CHANG: And there are schools
21 that utilize Puhi Stream as well for educational
22 purposes?

23 THE WITNESS: I'm not aware if the charter
24 school or the other Hawaiian emergent preschool using
25 the stream as part of their curriculum. It is in

1 their vicinity, but I don't know if they actually go
2 down there. No knowledge of that.

3 COMMISSIONER CHANG: Maybe I'll follow with
4 Dr. Hammatt with respect to historic uses of Puhi
5 Stream, anybody that may be accessing that for
6 traditional customary practices.

7 Thank you so very much.

8 CHAIRPERSON ACZON: Before you do that, I
9 just want to let everybody know that our Executive
10 Officer was called to testify, so Mr. Scott
11 Derrickson will cover for him for the rest of the
12 hearing. Go ahead.

13 COMMISSIONER HIRANAGA: This is kind of a
14 follow-up to questions what I had yesterday. So.

15 I guess there's three plantation reservoirs
16 within the project site?

17 THE WITNESS: Yes.

18 COMMISSIONER HIRANAGA: Those are, I guess,
19 manmade?

20 THE WITNESS: Yes.

21 COMMISSIONER HIRANAGA: There is bermes
22 that were created?

23 THE WITNESS: Yes, that's my understanding.

24 COMMISSIONER HIRANAGA: As part of the EA,
25 did you inspect the structural integrity of these

1 manmade reservoirs?

2 THE WITNESS: No, we did not conduct any
3 investigation.

4 COMMISSIONER HIRANAGA: Although I
5 understand Grove Farm owns these reservoirs, if one
6 of these -- I guess one is abandoned, but there's two
7 in use?

8 THE WITNESS: Yeah, I believe so.

9 COMMISSIONER HIRANAGA: That's what it says
10 in the EA. I guess my concern, again, as I stated
11 yesterday, if one of these reservoirs, earthen dams,
12 should fail and release its waters downstream, it may
13 impact the school property.

14 So I'm wondering -- and especially the
15 reservoir above the property which is not within the
16 project area -- if the school is concerned about or
17 if the school is satisfied to rely on inspections by
18 Grove Farm, or they should have their own additional
19 inspections to ensure that the structural integrity
20 of the dam continues, because failure would result in
21 substantial damage to areas downstream?

22 THE WITNESS: I guess the responsibility
23 for assuring that the integrity of the reservoirs are
24 maintained lies with Grove Farm. And I don't see
25 that KCC would be necessarily interested in doing

1 their own inspection. If they felt that -- they
2 wouldn't be -- I think they could, if they wanted to.
3 Whether or not they felt they needed to, is the
4 question.

5 COMMISSIONER HIRANAGA: I just wanted to
6 put that on record that the schools may consider an
7 independent review for their own public safety.

8 I guess my only concern is like on Maui,
9 now that Hawaiian Commercial & Sugar Company has
10 stopped cultivation of sugarcane, and even in
11 Wailuku, Wailuku Sugar, there are numerous reservoirs
12 that were created. And now it's been urbanized and
13 there's residences below that don't realize that if
14 that reservoir failed, their homes would be wiped
15 out.

16 So I just want to bring attention to that
17 potential hazard.

18 THE WITNESS: I think the state runs the
19 dam inspection program also.

20 COMMISSIONER HIRANAGA: I'm not sure if you
21 want to rely on the state's ability to inspect all
22 existing reservoirs in the State of Hawaii. I would
23 think possibly you would want to take personal
24 initiative to ensure the safety of your property.
25 Just for the record.

1 Thank you. No further questions.

2 CHAIRPERSON ACZON: Anybody else? Thank
3 you thank you, Mr. Matsukawa.

4 COMMISSIONER OKUDA: Chair, sorry, if I
5 could just make a statement based on personal
6 privilege.

7 I don't think anything that we say here
8 today, unless it's contained in a duly authorized and
9 voted on decision, should create any additional
10 liability on the State of Hawaii or its subdivisions
11 unless the law provides for such liability.

12 I think Commissioners will take in as far
13 as things that should be looked into, but I think the
14 law states what the state entity has or doesn't have.
15 Even though it seems like a fine point, I just like
16 to state my point, which is that just because we, as
17 individual Commissioners, say something, that may or
18 may not really create any legal basis for duty of
19 care or any other duty. That is the point I would
20 like to make under personal privilege.

21 CHAIRPERSON ACZON: Thank you, Commissioner
22 Okuda.

23 Ms. Loo, please proceed.

24 MS. LOO: No more questions for Mr.
25 Matsukawa. Ready for our next witness, Dr. Hammatt.

1 May I swear. Do you affirm and swear that
2 the testimony that you're about to give is the truth?

3 THE WITNESS: Yes, I do.

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

6 THE WITNESS: Hallett Hammatt, 409 South
7 Kalaheo Avenue, Kailua, Oahu.

8 CHAIRPERSON ACZON: Please proceed.

9 HALLETT HAMMATT

10 Was called as a witness by and on behalf of UH-KCC,
11 was sworn to tell the truth, was examined and
12 testified as follows:

13 DIRECT EXAMINATION

14 MS. LOO: Mr. Chairman, for the record
15 there was a stipulation between the parties that
16 Dr. Hammatt is qualified as an expert.

17 CHAIRPERSON ACZON: Yes.

18 BY MS. LOO:

19 Q Dr. Hammatt, could you tell us what -- you
20 prepared reports on this project. Could you
21 summarize what your reports are for Hawaii Community
22 College?

23 And after you're done with that, I'll ask
24 you some specific questions on the irrigation ditch
25 system and the cemetery that were raised earlier.

1 A Yes. We did prepare an Archaeological
2 Inventory Survey in 2016 including the Petition area.
3 And if you like, I can summarize our findings.

4 Q Please do.

5 A To identify 21 -- 2146.

6 Q 2126, the irrigation.

7 A Yeah, the irrigation complex. That is the
8 same that we discussed yesterday. There are many
9 more features of this complex within the present
10 Petition area, and as Mr. Matsukawa explained, that
11 these are not going to be impacted.

12 The other finding was we did some test
13 excavations, specifically focused on the area of the
14 former Puhi Camp. We did 11 trenches and the only
15 remnant we could find, subsurface of the remains of
16 Puhi Camp was a trash pit which we documented,
17 basically modern trash, coke bottles and other
18 remains, discarded remains.

19 We could not identify a specific cultural
20 layer associated with Puhi Ranch except for this
21 trash layer. It amazes me that this camp that was
22 there from 1922 to 1980 did not leave a cultural
23 layer. And it speaks, I think, to the way the camp
24 was run and the neatness of the residents of the
25 area.

1 The other site previously discussed was the
2 Complex 16 features of the irrigation complex and
3 also Puhi Cemetery, which I'm sure will be subject of
4 other questions.

5 Puhi Cemetery is not in the Petition area,
6 but we did document it. It has over 100 graves. We
7 think we defined the boundary that is visible on the
8 surface, but as has been pointed, out a question
9 previously, by many, many painful experiences we know
10 that cemeteries are not always within the fenced area
11 as designated as the limit of the cemetery.

12 So we from the previous study we did for
13 Island School, we've only added actually one site
14 which was site 2307 which was the trash layer I
15 previously referred to. The other site which we
16 discussed in the previous report for Island School,
17 the Puhi Cemetery, and also the irrigation ditches,
18 irrigation properties, including the reservoirs and
19 the ditches.

20 Q As far as the irrigation ditches or that
21 system, are you aware whether any plans by the
22 community college will directly impact that complex?

23 A My understanding is that there is no
24 intention to impact those sites or those features.
25 However, in our Inventory Survey Report we did

1 recommend that consultation take place with SHPD
2 before any modifications take place.

3 Q And relative to Puhi Cemetery, is it also
4 your understanding that there are no short or
5 long-term plans by the community college to do any
6 activities that would impact that general area?

7 A That is my understanding.

8 Just to add to that, our recommendation is
9 that if there is going to be any activity in or
10 around the cemetery, that a preservation plan be
11 prepared.

12 Q And in preparing your report, you also
13 consulted with SHPD?

14 A That is correct.

15 Q What is the result of our open consultation
16 with SHPD on this Petition?

17 A The report was accepted, and we coordinated
18 with them on providing these two recommendations I
19 previously mentioned.

20 Q Dr. Hammatt, you're familiar with Ka
21 Pa'akai versus Land Use Commission?

22 A Yes, I am.

23 Q Have you conducted an assessment of whether
24 those tests are met in this Petition or not?

25 A Yes. And to address that, we performed a

1 Cultural Impact Assessment, which was done actually
2 previously to the Archaeological Inventory Survey.
3 For that assessment, it was quite thorough. We
4 contacted 32 people, we got 22 respondents, and we
5 did eight interviews.

6 As I previously mentioned, most of the
7 focus of course was on Puhi Camp and cultural
8 practices that took place there.

9 Q So to summarize, was it your finding that
10 there were no known traditional or customary Native
11 Hawaiian rights now being exercised in the Petition
12 area?

13 A That is correct.

14 Q Is that based on your interviews with all
15 these people?

16 A Based on the interviews and based on
17 historical research that this area has been in
18 sugarcane for quite a long time.

19 Q Thank you. No more questions.

20 CHAIRPERSON ACZON: Any questions for Mr.
21 Hammatt.

22 MS. HIGUCHI: None.

23 CHAIRPERSON ACZON: Ms. Apuna.

24 MS. APUNA: Yes.

25 -000-

CROSS-EXAMINATION

BY MS. APUNA:

Q Thank you, Mr. Hammatt, for your testimony.
We do have a few questions.

Is it possible for you to point out the
different historical sites on Petitioner's Exhibit 2
map that's behind you?

A Well, I can do kind of an approximation.
Puhi Camp is approximately here, Puhi Cemetery
(indicating).

CHAIRPERSON ACZON: Can you use the mike,
Mr. Hammatt?

THE WITNESS: Sorry. Puhi Camp is here
(indicating). Puhi Cemetery mauka, and one of the
reservoirs, and the other infrastructure of the
irrigation is pretty much spread all over the
project, mostly in the western portion.

Q (By Ms. Apuna): So with regard to Puhi
Cemetery, which is Site B006, you said that there
were some visible boundaries, but that you couldn't
necessarily rely on those visible boundaries of the
cemetery; is that correct?

A Well, we've learned from many experiences
that what shows on the surface of the ground is not
necessarily what is below the ground. This is

1 particularly true for cemeteries that have a
2 precontact component, which I do not believe this
3 cemetery does, but I have no proof of that.

4 Sorry, what was the question?

5 Q So the visible boundaries are there, but
6 you believe that there could be burials beyond the
7 physical, I mean the visible boundaries?

8 A Yes. As I mentioned before.

9 Q So a buffer beyond the visible boundaries
10 would probably be appropriate as far as identifying
11 the area of the cemetery?

12 A I would suggest the safe way to go about
13 this as part of preparation of the preservation plan
14 would be to do some very careful testing in four,
15 five areas around the boundary, just to make sure
16 that we have clearly defined the limitation,
17 geographic limitation of the iwi.

18 Q And Office of Planning's Exhibit 9 is a
19 letter from SHPD, and they suggest, as you had
20 mentioned, an Archaeological Preservation Plan for
21 the B006, the cemetery.

22 But I think that Mr. Matsukawa had pointed
23 out that it is a land-locked area, not part of the
24 Petition area. So you recommend the same, that there
25 should be an Archaeological Preservation Plan by the

1 Petitioner, even though it is not -- the property is
2 not owned by the University?

3 A Yes. And the reason for that is because of
4 the potential impact.

5 Q Thank you.

6 And then moving onto Site 2179, the
7 irrigation complex, SHPD, in the same letter to OP,
8 suggests review and acceptance of a campus design
9 incorporating the portion of Site 2179 still in use
10 for educational and interpretive purposes.

11 Do you agree with this suggestion by SHPD?

12 A Yes, I do. I do. Yes, very much so.

13 Q No further questions. Thank you.

14 CHAIRPERSON ACZON: Commissioners, any
15 question for Mr. Hammatt? Vice Chair Scheuer.

16 VICE CHAIR SCHEUER: Aloha, Dr. Hammatt.

17 THE WITNESS: Aloha.

18 VICE CHAIR SCHEUER: Just to follow-up on
19 very briefly what I understand your recommendation
20 is, that potentially as a condition that might be
21 placed on the redistricting, is that a certain area
22 around Puhi Cemetery might be identified as a buffer
23 area.

24 And that if development begins to proceed
25 within that buffer area, following up on this then

1 there could be further testing done to identify the
2 true boundaries of the cemetery before further work
3 is allowed; is that correct?

4 THE WITNESS: I would say to be extra
5 cautious to define a perimeter around this particular
6 historic property that is intelligently designated
7 would -- I would advise subsurface testing, yes.

8 VICE CHAIR SCHEUER: Just very briefly,
9 just to follow up on the representations made at the
10 previous meeting by Mr. Matsukawa that there might be
11 consultation with Island Burial Council.

12 Have you been involved in such
13 consultation, or are you aware of any consultation?

14 THE WITNESS: No, I'm not aware of
15 consultation that has taken place specifically for
16 this Puhi Cemetery. And, you know, when that
17 question came up a few minutes ago, my first thought
18 was, well, the jurisdiction between the Department of
19 Health for cemeteries and the Island Burial Council
20 is somewhat separate, but is also somewhat muddy.
21 But as a courtesy, I would also recommend
22 consultation with the Island Burial Council,
23 because --

24 VICE CHAIR SCHEUER: -- check in with them
25 saying this is going on?

1 THE WITNESS: Yes, absolutely. Because
2 they are the voice of the community.

3 VICE CHAIR SCHEUER: Mahalo.

4 CHAIRPERSON ACZON: Commissioner Chang.

5 COMMISSIONER CHANG: Thank you very much,
6 Dr. Hammatt. Always appreciate your testimony. I
7 just have a few questions.

8 Were there any -- are there any Land
9 Commission Awards within the Petition area?

10 THE WITNESS: There was -- this was a large
11 grant, but there are no small LCAs in the area.

12 Just to add to that, that's one of the
13 things we're very aware of. If we see small LCAs in
14 a particular area, that we're much more cognizant of
15 the possibility of burials and subsurface cultural
16 layers.

17 COMMISSIONER CHANG: When you did -- you
18 said the interviews that were taken place under the
19 Cultural Impact Assessment, and most of them related
20 to the Puhi Camp?

21 THE WITNESS: Puhi Camp, yes.

22 COMMISSIONER CHANG: I'm assuming that was
23 primarily plantation?

24 THE WITNESS: Yes.

25 COMMISSIONER CHANG: Were any interviews

1 done of people that would have had families prior to
2 Puhi Camp?

3 THE WITNESS: I'm not aware of that we
4 could identify any people who -- we did talk to
5 people who were familiar with the ahupua'a in
6 general, Nawiliwili Niumalu, and Haiku, but their
7 focus was mostly on activities that took place more
8 makai, particularly in the lo'i areas of Nawiliwili
9 Stream.

10 THE WITNESS: In general, traditional
11 customary practices are primarily Native Hawaiian
12 practices that are even far before.

13 Like plantations. So in just understanding
14 the ahupua'a, are you aware of any -- was a stream
15 used by any Hawaiians that you're aware of for
16 purposes of accessing either mauka or makai for lo'i
17 or fishing or gathering?

18 THE WITNESS: We did not find any direct
19 evidence of that in the interviews or the other
20 research.

21 COMMISSIONER CHANG: So based upon your
22 Cultural Impact Assessment there was no
23 identification of any Native Hawaiian plants that
24 could be used for medicinal purposes, or gathering
25 of -- again, access from mauka to makai, was there

1 any trails that you found?

2 THE WITNESS: No.

3 COMMISSIONER CHANG: No lo'i that you
4 found?

5 THE WITNESS: No.

6 COMMISSIONER CHANG: There are lo'i below?

7 THE WITNESS: Lo'i more makai in Nawiliwili
8 Stream.

9 COMMISSIONER CHANG: Are they still being
10 used, lo'i makai?

11 THE WITNESS: I'm not sure. I'm not sure.
12 I've been most areas of Nawiliwili Stream, I have not
13 seen lo'i there. But somebody in the room may come
14 up and say, oh, I'm growing lo'i in Nawiliwili
15 Stream.

16 COMMISSIONER CHANG: Let's assume maybe
17 there are some downstream lo'i, or neighbor maybe
18 downstream kuleana land that maybe sometime in the
19 future used for lo'i, so the Puhi Stream that ends up
20 going through there, that would be really critical to
21 maintain that constant flow of water.

22 THE WITNESS: Absolutely, Puhi Stream would
23 be essential to the life of Nawiliwili Stream.

24 COMMISSIONER CHANG: So it's really
25 important that we are assuring the pristine nature of

1 Puhi Stream that runs through Petition area but will
2 empty out into Nawiliwili Stream.

3 THE WITNESS: Yes.

4 COMMISSIONER CHANG: Hang on, let me just
5 check my notes.

6 CHAIRPERSON ACZON: Can follow up on that?
7 Chair wants to call a five-minute break.

8 (Recess taken.)

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

11 COMMISSIONER CHANG: Thank you so much.
12 Hal, one last question.

13 I know above the Petition area it looks to
14 be like a forestry area. Are you aware of -- maybe
15 this is more appropriate for the University of Hawaii
16 than for you, Hal, but you've done work all around
17 Kaua'i.

18 But are you aware in your research, are
19 there any gathering or hunting mauka above the
20 Petition area that this area may be an access?

21 THE WITNESS: Not aware of it, but it's a
22 possibility, yes.

23 COMMISSIONER CHANG: So your conclusion
24 under the Cultural Impact Assessment was, one, there
25 were no valuable cultural, natural or historic

1 resources within the Petition are?

2 THE WITNESS: That's correct.

3 COMMISSIONER CHANG: And your research also
4 found that there were no traditional, customary
5 practices being exercised, or that were previously
6 exercised in the Petition area?

7 THE WITNESS: That is correct.

8 COMMISSIONER CHANG: Thank you so much. I
9 appreciate your testimony.

10 CHAIRPERSON ACZON: Anybody else?
11 Commissioner Okuda.

12 COMMISSIONER OKUDA: Dr. Hammatt, short
13 question.

14 Can you tell us why there might be a
15 relationship between finding small Land Commission
16 Awards within a larger parcel, and the existence of,
17 as you put it, cultural layers or other evidence of
18 other activity?

19 THE WITNESS: Oh, yeah, it's just the
20 difference that if during the Mahele there were large
21 plots of lands given to ali'i who never lived there,
22 or never had any activities in that area.

23 As opposed to the small kuleana lots that
24 were given to individuals who were already using that
25 land. All they had to do was show that they were

1 using that land and testify before the Land
2 Commission to that use and get witnesses to that, and
3 they could stay on that land and use it and have it
4 as their kuleana.

5 And so we knew from that, from seeing a
6 small LCA on a map, we knew that somebody had lived
7 there before the Mahele, and probably for quite some
8 time afterwards, and a farmed there, survived there,
9 and probably left their remains there of whatever
10 they did. And also buried their family there. So
11 that's what we watch out for.

12 COMMISSIONER OKUDA: And so as you
13 testified previously, there's no such evidence here
14 that you could find of these smaller Land Commission
15 Award parcels within the subject parcel or Petition
16 area here, correct?

17 THE WITNESS: That is correct.

18 COMMISSIONER OKUDA: Thank you. No further
19 questions.

20 CHAIRPERSON ACZON: Vice Chair Scheuer.

21 VICE CHAIR SCHEUER: I'll keep this very
22 brief. This is a conversation Hal and I have been
23 having for many years.

24 I think the critical issue is not just
25 award parcels, because we know so many people apply

1 for parcels, and because they couldn't cross those
2 hurdles during the Mahele, they weren't awarded small
3 tracks, people who applied, actually living in the
4 area, actually bought their award.

5 So what is critical to look at not just
6 existing LCA awards, but there are records of who
7 applied in areas. If there is a large concentration
8 of people applying, they might not have been allowed
9 to reside there after the Mahele for very long, but
10 before the Mahele there is a very strong
11 indication --

12 THE WITNESS: Thank you, Jonathan, that's a
13 very important point. As pointed out in a number of
14 sources that there was a lot of complexity to these
15 awards. And, yeah, thank you.

16 CHAIRPERSON ACZON: Commissioners, anybody
17 else? Ms. Loo, do you have a follow-up question?

18 MS. LOO: I do have a couple follow-up
19 question.

20 REDIRECT EXAMINATION

21 BY MS. LOO:

22 Q Dr. Hammatt, in response to the questions
23 about a buffer, or a future preservation plan, your
24 testimony is that would or should be done at the time
25 of the development in the vicinity; correct?

1 A Yes.

2 Q And as far as KCC providing the buffer,
3 your understanding is it would be -- their ability
4 would be only to do it on the land that they own, and
5 not on the land that is owned by another entity; is
6 that correct?

7 A Yes, that is correct.

8 CHAIRPERSON ACZON: Thank you, Mr. Hammatt.
9 Oh, Commissioner Hiranaga.

10 COMMISSIONER HIRANAGA: Dr. Hammatt, not
11 sure if you can answer this question.

12 It is my understanding that navigable
13 streams are under the jurisdiction of the Department
14 of land and natural resources.

15 Perennial streams, are they under the
16 jurisdiction of the Corps of Engineers? Any type of
17 activity that may alter the streamflow must be
18 approved by the Corps of Engineers?

19 THE WITNESS: I'm not an expert on this,
20 certainly, but that's my understanding that the Corps
21 of Engineers does have jurisdiction on any
22 modification of streams, but I can't really speak to
23 this with any authority.

24 COMMISSIONER HIRANAGA: Perhaps one of your
25 other experts may shed light on that?

1 MS. LOO: Reggie David is acknowledging
2 that he can. He's our next witness.

3 COMMISSIONER HIRANAGA: At the appropriate
4 time.

5 CHAIRPERSON ACZON: Thank you. Please call
6 your next witness.

7 MS. LOO: Reggie David.

8 CHAIRPERSON ACZON: Do you wear or affirm
9 that the testimony you're about to give is the truth?

10 THE WITNESS: I do.

11 CHAIRPERSON ACZON: State your name and
12 address.

13 THE WITNESS: Reginald David, my address is
14 P.O. Box 1371, Kailua-Kona, Hawaii.

15 CHAIRPERSON ACZON: You may proceed.

16 REGINALD DAVID
17 Was called as a witness by and on behalf of UH-KCC,
18 was sworn to tell the truth, was examined and
19 testified as follow:

20 DIRECT EXAMINATION

21 BY MS. LOO:

22 Q Thank you. You've already been qualified
23 as an expert in this petition.

24 Can you describe to the Commissioners what
25 your survey of the KCC property entailed and what

1 your findings are?

2 A Certainly.

3 We conducted standardized bird counts on
4 the property which involved 12, eight-minute
5 standards vertical point counts across the property.
6 We recorded 526 individual birds of 18 species,
7 representing 15 separate families.

8 An additional three species nene, common
9 gallinule and black-crown heron were recorded
10 essentially flying over the property while we were
11 moving across the fairly large site.

12 The nene and common gallinule, as I stated
13 yesterday, are listed as endangered species under
14 both federal and State of Hawaii Endangered Species
15 Statutes.

16 We also recorded Pacific golden plover,
17 'Aiea and black-ground night-time 'Aukau on the
18 property. Both of those are indigenous native
19 species. The plover is a migratory shorebird species
20 that winter in the Hawaiian Islands, and the black
21 ground night heron is the resident water obligate
22 species found across the state.

23 The remaining 17 alien species are recorded
24 established alien species, and the species list is
25 extremely similar what we found on the Island School

1 property and is essentially what you would expect to
2 find in the greater Lihu'e area.

3 Q For the record, the dead cat was on Island
4 School property and not KCC.

5 A That is correct.

6 Q Reggie, yesterday you also testified on
7 behalf of Eric Guinther. Can you describe what your
8 business relationship is with Mr. Guinther and what
9 your work was in relation to the testimony that he
10 has submitted in this matter?

11 A Yeah. Eric Guinther and I have been
12 working very closely together for -- good lord --
13 over 30 years, and probably co-authored something on
14 the order of 400 survey reports across the state.

15 He is the botanist, and I am the critter
16 person. But on this particular job, I was the lead
17 author and principal author of the report that you
18 have all been provided.

19 I don't know if you would like me to say
20 what he did find or --

21 Q I will ask you to briefly summarize, but
22 you also supervised Mr. Guinther's work on this
23 project?

24 A That is correct.

25 Q And you're familiar with the testimony that

1 he submitted?

2 A Correct.

3 Q Could you briefly state what his findings
4 were which you supplied?

5 A Certainly. He found one mushroom species,
6 tan ferns, three gymnosperms, Cook pine, Sago palms
7 and podocarpus, very primitive plants. And 203
8 flowering plants.

9 If you consider all of the plants recorded,
10 found outside the landscaped areas, there is a
11 significant amount of this property that is already
12 landscaped or it's in use by the University for
13 Hawaiian cultural program and agricultural test
14 ideas.

15 We recorded 88 species outside of that
16 property, only five those were native, three are
17 ferns. Also acacia koa and one early Polynesian
18 introduction of ohe, a species of bamboo. None of
19 those species were in large numbers.

20 The planted or landscaped vegetation on the
21 campus, and the agricultural station included a
22 number of native and Polynesian introduced species in
23 all 12 Polynesian canoe plants, 14 species of astro
24 plants indigenous to the Hawaiian Islands, and 11
25 species of vascular plants endemic to these islands

1 were recorded as well.

2 Basically all of those plants were part of
3 the University's curriculum in one form or another,
4 and are planted around the building or being used in
5 some teaching capacity on the property.

6 Q Thank you. No more questions.

7 CHAIRPERSON ACZON: Any questions for Mr.
8 David?

9 MS. HIGUCHI: None, thank you.

10 CHAIRPERSON ACZON: Ms. Apuna.

11 MS. APUNA: No questions.

12 CHAIRPERSON ACZON: Commissioner Chang.

13 COMMISSIONER CHANG: Thank you so much for
14 your testimony.

15 A question, and this was -- we had the
16 Island Petition yesterday, and my recollection is
17 there was a conclusion, and that Petition area is
18 adjacent to this property. There was a conclusion
19 that the studies performed indicate that there may be
20 an adverse effect.

21 But in this, on this Petition area, there
22 was a conclusion that there would be no adverse
23 effect. I wanted to know what was the difference
24 between the two areas given the close proximity to
25 one another?

1 THE WITNESS: Frankly, I'm not sure why
2 there were different findings on that as well. There
3 were more endangered bird species found on the Island
4 School property, that's simply a function of that
5 reservoir.

6 The reality is all of the same species that
7 were found on Island School property and the
8 seabirds, which obviously were not seen, but we know
9 fly over the property, are certainly doing the same
10 thing on the college campus as well.

11 COMMISSIONER CHANG: Would it be fair to
12 say that even though your conclusion for the current
13 Petition at UH, that we would probably find the same
14 species on both properties?

15 THE WITNESS: With the -- well, with the
16 possible exception of the common gallinule, which is
17 really only in pretty dense vegetation in overgrown
18 auwais and places like that. But, yes, all of the
19 other ones certainly could be found on that property.

20 COMMISSIONER CHANG: So may have just been
21 a product of the times that the studies were done to
22 indicate different sightings?

23 THE WITNESS: No I would have to go back
24 and look at the list, they are very, very similar. I
25 think the only species we did not find on the KCC

1 property was common gallinule. We found all the
2 other species that we found on the Island School
3 property on KCC as well, as we would expect.

4 COMMISSIONER CHANG: Okay, maybe it was
5 just -- I just noticed a difference. Maybe we will
6 have to go back and look, because there were certain
7 mitigation measures because there may be adverse
8 effect.

9 So on the Island School property we had
10 talked about integrating an educational component for
11 endangered species. Would that be applicable to this
12 property as well, this Petition area as well?

13 THE WITNESS: We talked about two
14 educational sort of outreaches on the Island School
15 property. One was actually construction awareness
16 program to ensure that construction activities don't
17 harm endangered species.

18 Then the other one was a suggestion that
19 was floated as potential possibility for Island
20 School was adding educational component in their
21 curriculum to basically teach their students more
22 about the Hawaiian culture and those species, and
23 presumably the Hawaiians use of those species in a
24 university setting. I see no difference why you
25 would not want to do the same thing.

1 COMMISSIONER CHANG: And I know you're
2 speaking on behalf of Mr. Guinther and you oversaw
3 his report as well.

4 Based upon the resources that he found,
5 were there any species that may have -- that may be
6 used for traditional customary practices? For
7 example, la'au lapa'au, any of those plants
8 potentially medicinal plants? Other than I know that
9 the school is actively -- they have a cultural
10 program, so not that they're actually growing, but
11 things that may be natural on that property?

12 THE WITNESS: Nothing that is not a very
13 common such as a'ali'i was found on the rest of the
14 site. All of the plants that might have been used by
15 Native Hawaiians and their ancestors were within the
16 teaching facility.

17 COMMISSIONER CHANG: And it seems the
18 university is doing a fine job of incorporating that
19 into their curriculum as well as other programs, so I
20 appreciated that.

21 THE WITNESS: That was our impression too.
22 We were quite impressed with their agricultural area,
23 and the plants that they were growing there and the
24 way that they were growing there.

25 COMMISSIONER CHANG: I guess I just want to

1 see whether independently from that there were any
2 other plant species, or are there any bird species
3 that may have been used for traditional purposes,
4 feather lei making, cloth, any kinds of purposes like
5 that?

6 THE WITNESS: Well, basically the Hawaiians
7 and the early Polynesians used all of the protein
8 that was available in the islands. So they certainly
9 would have used nice large birds, as all cultures
10 have done on all islands across the planet.

11 None of the traditional feather -- cape
12 birds are still extinct in the lowlands on Kaua'i or
13 any other island for that matter. Basically you
14 would need to get up above 3,000 feet elevation on
15 this island to get into i'iwi and aupuni and those
16 birds that were used in the feather making. There
17 are a lot of chickens down there.

18 COMMISSIONER CHANG: I don't think the
19 chickens would be considered traditional customary
20 practice, at least not for feather lei-making. It
21 may have been consumed. I appreciate that, because I
22 think there is a growing practice now for feather
23 lei-making. So that's good to know that
24 geographically those bird species are generally at an
25 upper elevation.

1 THE WITNESS: And rapidly declining.

2 COMMISSIONER CHANG: Thank you so search
3 for your clarifying answer.

4 CHAIRPERSON ACZON: Anybody else?
5 Commissioner Hiranaga.

6 COMMISSIONER HIRANAGA: So perhaps you may
7 be able to answer my question earlier. I do realize
8 that Department of Land and Natural Resources is a
9 state agency, and Army Corps of Engineers is federal
10 agency.

11 Does the Army Corps of Engineers have
12 jurisdiction over all streams?

13 THE WITNESS: Not all streams, but all
14 streams that they consider to be basically rising to
15 the category where they choose to take jurisdiction.

16 COMMISSIONER HIRANAGA: Does perennial
17 streams meet that category?

18 THE WITNESS: No, they do not.

19 COMMISSIONER HIRANAGA: And so there's no
20 agency, governmental agency that has jurisdiction
21 over perennial streams? If a property owner wishes
22 to alter the streamflow, stream direction, stream
23 amount?

24 THE WITNESS: I am not an expert in this
25 area, so I would have to ask somebody else to answer

1 that question.

2 COMMISSIONER HIRANAGA: Is someone in your
3 group of experts maybe able to answer that?

4 MR. MATSUKAWA: The corps does take
5 jurisdiction of what they consider U.S. waters, and
6 depending on the stream, if it is non-tidal, I think
7 there is what they call the ordinary high-water mark
8 below which they would take jurisdiction in most
9 streams.

10 COMMISSIONER HIRANAGA: Did you say
11 non-tidal?

12 MR. MATSUKAWA: Yeah. So if it's a tidal
13 stream, the jurisdiction is defined differently than
14 in a non-tidal, meaning it is a flowing stream, and
15 even in streams that are somewhat intermittent, they
16 do look for that ordinary high-water that makes it
17 visible. You know, you would have to go in with the
18 people, and the vegetation and such, but to mark
19 that. And below that line is where they generally
20 take jurisdiction even in intermittent stream.

21 COMMISSIONER HIRANAGA: Thank you.

22 CHAIRPERSON ACZON: Anybody else? Ms. Loo,
23 any follow-up question for Mr. Hammatt?

24 MS. LOO: No.

25 CHAIRMAN ACZON: Thank you, Mr. Hammatt.

1 Please call your next witness.

2 MS. LOO: Our final witness is Pete Pascua,
3 but Mr. Chairman, I also want to ask your indulgence.
4 We clarified during the break, and would like to
5 correct the record on the water tank lot, and like to
6 call Mr. Matsukawa, just take a minute to clarify
7 that.

8 CHAIRPERSON ACZON: Okay.

9 EARL MATSUKAWA

10 Was recalled as a witness on behalf of UH-KCC, was
11 previously sworn to tell the truth, was examined and
12 testified as follows:

13 REDIRECT EXAMINATION

14 BY MS. LOO:

15 Q I believe the question from OP was whether
16 Lot 6, which is the water tank, was in the Petition
17 area.

18 CHAIRPERSON ACZON: You're still under
19 oath.

20 THE WITNESS: Yes. TMK 3-4-7:06 is not
21 within the Petition area. I think when we wrote the
22 EA, it was part of the EA project area, because we
23 looked at the entire campus. I think in the
24 transposition to the Petition, it was an error that
25 got incorporated and then replicated after that

1 without being caught.

2 So 06 is not within the Petition area.
3 That is the water tank owned, land owned by KCC.

4 CHAIRPERSON ACZON: Thank you for the
5 clarification.

6 MS. LOO: Our last witness is Pete Pascua.

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

10 THE WITNESS: Yes, I do.

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

13 THE WITNESS: Pete Pascua. My address is
14 1907 South Beretania Street, Suite 400, Honolulu,
15 Oahu.

16 CHAIRPERSON ACZON: You may proceed.

17 PETE PASCUA

18 Was called as a witness by and on behalf of UH-KCC,
19 was sworn to tell the truth, was examined and
20 testified as follows:

21 DIRECT EXAMINATION

22 BY MS. LOO:

23 Q Yesterday for Island School you gave a
24 description of your report. I would like you to
25 summarize your report as far as it pertains to KCC.

1 Then I'm going to ask you some follow-up questions
2 about the timing of your preparation of your report
3 as it relates to today.

4 A Okay. Similar to the previous report I
5 described for Island School, the KCC report was also
6 prepared in 2010. Same data was used as a baseline.
7 Projections were based on the five percent increase
8 that I had mentioned earlier in the previous docket,
9 as well as trips generated by Island School were also
10 incorporated in the project.

11 On top of that for the KCC project, we
12 determined the traffic projected based on enrollment
13 projections. Also for consistency with the Island
14 School study to year 2020, which is different from
15 any other planning document that you may have seen
16 previously, especially the ones that were presented
17 by Mr. Matsukawa where no timetable was associated
18 with those improvements.

19 Then ran calculations, traffic engineering
20 calculations to determine what the level of service
21 of the study intersections that we looked at. And
22 these intersections are the same intersections that
23 were considered under the Island School traffic
24 study, which are the three intersections on the
25 highway fronting the project site, or the Petition

1 area, which is at Puhi Road, Nani Street and Nuhou
2 Street as well.

3 Recommendations: If you recall, the Island
4 School project had five recommendations. The same
5 recommendations pertain to the KCC project. And I
6 just wanted to mention that the total impact
7 associated with the cumulative effect -- when I say
8 "cumulative", I mean incorporating both, again,
9 Island School project traffic generation, as well as
10 KCC traffic generation, the cumulative effect on the
11 highway is really no effect in terms of level of
12 service, which is generally the trigger, as you may
13 know, for mitigation.

14 Q So there was discussion yesterday relative
15 to a suggestion that the report, the traffic analysis
16 report should be updated at 2020.

17 Can you discuss whether that recommendation
18 still stands with -- in relation to KCC, particularly
19 given that KCC's enrollment is nowhere near what your
20 projections were when you prepared the report?

21 A Certainly.

22 To be consistent with the other project, in
23 this case Island School project, the KCC build-out --
24 I shouldn't say build-out -- projection year, was
25 maintained at 2020. And at that time when we

1 prepared the study back in 2010, no specific
2 timetable for the master plan was available.
3 Therefore, to ensure that we incorporate both
4 projects as part of the impact study, we had
5 extrapolated enrollment projections based on
6 historical data to determine what the traffic
7 generation would be.

8 But with respect to an update, updates are
9 usually triggered by enrollment -- enrollment
10 increases in this case, because traffic generation is
11 tied to the enrollment as opposed to specific
12 improvements on-site.

13 Good example would be, you know, a
14 classroom, if you build a classroom, the classroom in
15 itself doesn't generate traffic. But if you fill it
16 with students or increase enrollment, then enrollment
17 would generate traffic.

18 Q So when you prepared this report for KCC,
19 you were using enrollment projections greater than
20 the current enrollment of 700 FTE?

21 A That's correct. Information we got in 2010
22 showed an FTE enrollment of 840. We did, again,
23 projection based on historical enrollment data to the
24 year 2020, which came out to enrollment increase at
25 1,038 FTE. Which I understand is way more than

1 what's occurring today.

2 If I do an enrollment projection today, as
3 I understand, enrollment has been declining, so we
4 would be going actually down the other way at a
5 500 perhaps enrollment projection.

6 So, you know, it's so subjective in terms
7 of what would happen. But in our case, since we are
8 directing impacts, we wanted to make sure we take the
9 worst-case scenario by extrapolating it to a positive
10 in terms of enrollment increases.

11 Q So you are not recommending an update to
12 the traffic report in 2020 just based on the year
13 occurring? You're recommending a traffic updated
14 traffic report if there's a substantial increase in
15 enrollment?

16 A Yes, that was the intent, really. And
17 because -- like I had mentioned earlier -- enrollment
18 is really the key that addresses our --

19 VICE CHAIR SCHEUER: I'm sorry. I have a
20 little bit of a problem with this line of questioning
21 because you're really asking him about testimony for
22 a Petition whose attorneys are not here, whose
23 interest are not being represented.

24 If you could confine it to his
25 recommendations on this project rather than

1 discussion of what was discussed yesterday, that
2 might be more of a fair process to Island School.

3 MS. LOO: My question was for KCC, his
4 recommendation is not to do a traffic update unless
5 the enrollment went up.

6 VICE CHAIR SCHEUER: It's unclear in your
7 question because you have referred repeatedly to his
8 responses yesterday.

9 MS. LOO: Okay. I want to make it specific
10 that Mr. Pascua is referring to KCC enrollment.

11 VICE CHAIR SCHEUER: Thank you for that
12 clarification.

13 Q (By Ms. Loo): So your recommendation is if
14 KCC sees a substantial increase in enrollment, that
15 should be a trigger for an updated traffic report?

16 A Yes. That's more appropriate. As I
17 mentioned earlier, enrollment is the factor that
18 triggers traffic generation.

19 Q Okay. Thank you. No more questions.

20 CHAIRPERSON ACZON: Thank you, Mr. Pascua.

21 Wait, sorry. Any questions?

22 MS. HIGUCHI: No questions.

23 CHAIRPERSON ACZON: Ms. Apuna?

24 CROSS-EXAMINATION

25 BY MS. APUNA:

1 Q Thank you, Ms. Pascua. I think you stated
2 that a TIR update is usually triggered by enrollment
3 increases. So is that the actual -- just to
4 clarify -- the actual current enrollment, or based on
5 a projected enrollment that a TIR update would be
6 required?

7 A It's a projected enrollment is what I was
8 referring to.

9 Q So if, for instance, KCC sees that there
10 will be 1000 more students and there's some standard
11 of when -- of how many -- what is the standard that
12 would trigger?

13 A Thank you for that question.

14 That's a technical one that I was trying to
15 not really go into, but since you asked the
16 question -- let -- improvements or mitigation
17 measures for traffic studies are generally triggered
18 by changes in level of service.

19 Level of service is a quantitative and
20 qualitative measure of traffic operations at an
21 intersection.

22 Once the level of service changes to
23 something that is unacceptable -- when I say
24 "unacceptable", there's level of service D -- I'm
25 sorry, level of service worst than level of service

1 D, so in other words, level of service E and F, it's
2 a rating scale from A to F. If that level of service
3 changes to level of service E or F, or any specific
4 movement at an intersection that you're studying,
5 then it triggers mitigation.

6 To change the level of service requires
7 about a five percent difference in traffic volume.
8 And I say "approximately five percent", because it
9 varies depending on what your baseline traffic would
10 be.

11 Now, to trigger a five percent change in
12 traffic demand at an intersection, would equate to
13 somewhere between 350 to 400 FTE increase.

14 I hope that answers your question.

15 Q Thank you.

16 So is there a specific number for KCC as
17 far as enrollment that would trigger a TIR update?
18 It would just be based on five percent, or is there a
19 specific number?

20 A That is what I just mentioned, roughly 400
21 FTE enrollment number.

22 Q Would trigger an update?

23 A Would trigger -- a five percent difference
24 in traffic demand, which would trigger the necessity
25 for improvements at an intersection, which would

1 trigger a need for an updated TIR.

2 Q Thank you.

3 CHAIRPERSON ACZON: Commissioners?
4 Commissioner Cabral.

5 COMMISSIONER CABRAL: I have a question, I
6 think probably for the county, if I can, but it
7 relates to traffic. So you don't get away yet.

8 So let's say -- just trying to figure out
9 how these different agencies work in regards to
10 traffic. So you have a number of buildings there,
11 and let's say, they're going, and they come -- the
12 university comes, the school comes and says we want
13 to build more buildings, because we're going to bring
14 in more people.

15 Am I correct understanding that then the
16 county could require that an additional traffic study
17 be done at that time when an increase for additional
18 building permits and expansion come in?

19 MS. HIGUCHI: Yes. At the point of a
20 zoning permit or a building permit, if required,
21 would trigger like a 360 review. That permit will be
22 transmitted to all the respective agencies for
23 comment. And that may trigger the need for updated
24 traffic impact assessment.

25 COMMISSIONER CABRAL: Okay. So then you

1 figure out from the studies that, yeah, we're going
2 to need something done to those intersections because
3 of all this traffic.

4 What difference does it make to the
5 Petitioner, or to the building person, I mean, does
6 it -- does that mean that they have to help pay for
7 that intersection or does it still just mean that the
8 county or state, if it's a state roadway? I mean,
9 that's what I want to know.

10 Once you know all this stuff, and once you
11 have the problem, who cares? I mean, what is
12 happens? Whose money is it that's going to solve it,
13 I guess?

14 MS. HIGUCHI: Well, the responsibility of
15 who makes the improvements, I'm not 100 percent sure.
16 I may actually refer to the Mike -- I'm sorry, the
17 Planning Director, if there's more specific --

18 CHAIRPERSON ACZON: Can we delay that for
19 the county's presentation?

20 COMMISSIONER CABRAL: Okay.

21 CHAIRPERSON ACZON: Let's focus to our
22 witness right now.

23 COMMISSIONER CABRAL: Okay, sorry.

24 CHAIRPERSON ACZON: Just hold that though.
25 Commissioner Chang.

1 COMMISSIONER CHANG: Thank you for being
2 here. Thank you for your testimony.

3 THE WITNESS: Thank you. Good morning.

4 COMMISSIONER CHANG: I am a little
5 confused. If we're going to tie the updated TIAR to
6 enrollment, so is that a unilateral decision made by
7 the University that when they reach a particular
8 enrollment, they're going to do it? Or is that
9 something that gets requested by the county?

10 Because your testimony was it's when -- it
11 should be triggered by enrollment, not necessarily
12 infrastructure or improvement.

13 So it sounds like that becomes a unilateral
14 decision by the University. When they reach a
15 particular enrollment, they're going to do an updated
16 TIAR?

17 THE WITNESS: Well, based on my experience
18 with other projects as well, any time -- say, for
19 example, the University would be coming up or
20 developing plans or improvements, whether it be
21 additional classrooms, performing art center,
22 whatever it may be, those plans, construction plans
23 need to go to the county for permitting.

24 When it goes to the county for permitting,
25 in order to approve the permits, they need to

1 address -- they being the University -- need to
2 address any of the impacts that will be caused by the
3 University as a result of perhaps enrollment
4 increases associated with this project. That's my
5 understanding.

6 COMMISSIONER CHANG: So what I'm hearing
7 is, if the University concludes their improvements
8 will cause no increase in enrollment, it doesn't
9 reach that five percent threshold, then they don't
10 need to do a TIAR update?

11 THE WITNESS: I think they still would have
12 to do an update, but whether the update says, you
13 reached that threshold or not, is what's going to
14 determine whether improvements will be required in
15 addition to what they are proposing on-site.

16 COMMISSIONER CHANG: I guess I'm trying
17 to -- for purposes of the LUC, what would be a
18 reasonable condition that we would require the
19 Petitioner to comply with on this TIAR update? And
20 I'm not real clear. Is it the increase in
21 enrollment? Is it the improvement? Because I'm also
22 thinking about the basis is FTE, and I'm assuming
23 that means full time -- I would suspect that a
24 college -- that Kaua'i Community College, like many
25 of our community colleges on Oahu -- are really

1 part-time. So I don't know how you calculate
2 part-time students who take a couple of credits, not
3 full-time, but they, in my view, would have the same
4 level of impact because they're bringing their car or
5 whatever transportation.

6 So I don't know how you differentiate
7 full-time versus part-time, construction workers,
8 faculty. How do you impact -- you call it the level
9 of services changed?

10 THE WITNESS: There is multiple questions
11 in there. So let me try and see if I can --

12 COMMISSIONER CHANG: Fair enough.

13 THE WITNESS: -- address the first one,
14 which is the difference between full-time equivalent
15 and part-time versus full-time students, or whatever
16 it may be.

17 Full-time equivalent students, or a
18 full-time equivalent student is really trying to
19 equate all the different types of students you have
20 into a common type of student, which is a full-time
21 equivalent of students, because as you said there are
22 part-time students, which I disagree would not have
23 the same effect on traffic during the peak hours
24 because their classes may not occur during the peak
25 hours.

1 But in any case, it's a way of determining
2 the various different types of students that you have
3 by commonizing, or making the number of students
4 similar.

5 And, you know, traffic generation rates,
6 based on FTE, is a nationwide standard that all
7 traffic engineers use across the country. And it's
8 just the way -- it varies -- it's just a way of,
9 again, trying to come up with the same unit of
10 measure for the number of students you have at a
11 particular college, but it varies from college to
12 college.

13 I'm not sure -- I can't remember the second
14 question.

15 CHAIRMAN ACZON: Commissioner Estes.

16 COMMISSIONER ESTES: Right now there's a
17 big bottleneck at Puhi Road and the highway during
18 peak times, particularly afternoon, 4:00 to 5:30, I
19 think.

20 My question is: How can you tell whether
21 that's caused by KCC, or more people shopping at
22 Costco?

23 THE WITNESS: By looking at the individual
24 movements when you analyze the intersection, and
25 where they're coming from. KCC on the mauka side,

1 you can look at the queuing that occurs as a result
2 of traffic being dispersed by KCC and/or -- or versus
3 from the Costco side. That's one way.

4 But I think, as I -- with regard to traffic
5 analysis, we look at the intersection as a whole,
6 because one can affect the other. It depends how the
7 signal at that intersection, if it's signalized, how
8 it's timed.

9 One may have preferential treatment over
10 the other. And during different times of the day,
11 you may have a flip-flop in demand, but yet you have
12 the same signal timing associated with that
13 particular intersection.

14 So a lot of times a cause may be as a
15 result of a benefit that is by one versus the other.

16 CHAIRPERSON ACZON: Mr. Pascua, is that
17 something that the county would look at during the
18 permitting process?

19 THE WITNESS: Yes, that's my understanding.
20 In this case, would be the State Department of
21 Transportation.

22 CHAIRPERSON ACZON: County or state before
23 they issue a permit?

24 THE WITNESS: Yes, correct.

25 CHAIRPERSON ACZON: Commissioner Estes?

1 Commissioner Hiranaga.

2 COMMISSIONER HIRANAGA: Looking at Table
3 3-3, which I guess, is from the Wilson Okamoto
4 Corporation Traffic Impact Report. Maybe you could
5 explain the differences between C, D, E, you stated E
6 and F is unacceptable, I guess that's because of
7 stacking, time it takes to get through the
8 intersection.

9 But a lot of people equate D as
10 unsatisfactory because they equate that to grades,
11 schools, and was not acceptable to my parents anyway.
12 So if could you maybe explain the differences between
13 A, B, C, D, E and F.

14 THE WITNESS: Thank you for that question,
15 Commissioner.

16 I do not have that table in front of me
17 that you cited. But with regard to level of service,
18 the different grades of level of service, it's a
19 grade scale that describes traffic operations, and
20 it's designated by letters A through F.

21 Level of service A represents free-flow
22 conditions. Level of service F represents congested
23 conditions.

24 State Department of Transportation uses
25 level of service D as being acceptable, anything

1 below that, level of service E and F being
2 unacceptable, and requires mitigation to the extent
3 possible. And I say "to the extent possible",
4 because a lot of times, as you may know, improvements
5 cannot be incorporated into a specific roadway,
6 because of perhaps physical constraints, or whatever
7 may be.

8 But in any case, the level of service
9 designation does follow -- as Commissioner's question
10 indicated -- does follow, or is similar to a grading
11 scale. However, level of service D, which is
12 considered -- when you're in school is considered
13 bad, and not performing well as a student, level of
14 service D is actually the prime target of which you
15 want to design new roadways.

16 And I say that only because you don't want
17 to design a 20-lane freeway so everything runs at
18 level of service A. That's impractical. You design
19 it as 6 lanes perhaps, interstate freeway say, as an
20 example, and if it operates at level of service D,
21 you did a good job.

22 So it's a little bit different from a
23 letter grade associated with school.

24 COMMISSIONER HIRANAGA: So I guess
25 balancing cost versus benefit, the state determines

1 that level of service D is acceptable.

2 So just referring to Table 3, which is the
3 traffic report that was done in December of 2010.
4 The projected levels of service in the year 2020, D
5 is the lowest level of service. There are no
6 projected E or F levels of services at the
7 intersections that were studied.

8 THE WITNESS: That's correct.

9 COMMISSIONER HIRANAGA: Thank you.

10 CHAIRPERSON ACZON: Anybody else? Vice
11 Chair Wong.

12 VICE CHAIR WONG: Thank you for your
13 information. Just wanted to check again.

14 So the study itself on the peak hours -- I
15 know you did a conservative study -- but the peak
16 hours was that when the school was let out for both
17 campuses that you also had that level?

18 THE WITNESS: Let me clarify. When I said
19 peak, and how we determined the peak. The peak
20 volumes that we collected along that stretch we
21 studied, stretch of roadway we studied, was based on
22 72 hours of traffic data. When I say 72 hours,
23 that's three days of continuous data. So every
24 15 minutes we determine what the traffic volumes
25 would be on each approach. In fact, on each lane.

1 That is when you see road tubes across the
2 roads, that's what the road tubes are really doing.

3 And we looked at the cumulative peak that
4 occurs -- when that cumulative peak would occur on
5 the roadway within a 24-hour period.

6 And the reason why we do it 72 hours is to
7 make sure we got the right peak hour. So it's a
8 double check, triple check in that case that we do
9 catch the cumulative peak.

10 And it may be part of the peak of when the
11 school let's out versus computer peak, or it could be
12 more of the computer peak and little bit of the
13 school peak, but nonetheless it's the cumulative
14 peak, or the absolute peak, if you will, of the
15 traffic demands on the roadway.

16 So I can't really answer your question if
17 it's really when the school let's out or not, because
18 it could be partial, or school start, it could be
19 partially when the school starts, and partially
20 attributed by commuter traffic or regional traffic
21 that passes through, or one or the other.

22 It's a mix, really. But nonetheless it's
23 absolute peak throughout the between 24-hour period,
24 triple check for three days.

25 VICE CHAIR WONG: Thank you.

1 When you say "peak", and I think of the
2 kids that you like used to hire to check the little
3 clicker -- sorry, 72 hours he was sitting there. I
4 just wanted to say that. Thank you for that.

5 THE WITNESS: I appreciate that. 30 years
6 ago I stood at the corner, not 72, four hours,
7 counting every single car that passed by.

8 CHAIRPERSON ACZON: Vice Chair Scheuer.

9 VICE CHAIR SCHEUER: I was just going to
10 thank the witness for explaining that the State
11 Department of Transportation sees D as success. I've
12 been confused by them for years, and now I understand
13 the grading system.

14 CHAIRPERSON ACZON: Anybody else?

15 COMMISSIONER CABRAL: I do. I'll make this
16 question to you, you are an expert.

17 I guess my problem is, let's say no
18 building permits are requested from the Petitioner,
19 or anybody else in the area, and enrollment really
20 hasn't significantly changed for the Petitioner, and
21 yet use of the property significantly increases for a
22 variety of reasons. You've got the charter school,
23 you've got maybe more events. Maybe the school works
24 more with the public and you have a lot more public
25 events taking place of their University facilities.

1 And so the traffic really starts to increase and the
2 intersections, the subject intersections of which
3 looks like there's two, really start showing -- and
4 the community starts -- everybody's complaining about
5 the traffic at those intersections, and it might be
6 that -- and if it's only occasional, because of a
7 great sale at Costco, that eventually that goes away.

8 But what would then trigger a study from
9 you, or an improvement, and who would pay for it if
10 there's no significant building permits being issued
11 and no significant identifiable change to usage of a
12 property?

13 THE WITNESS: I can only base it on
14 experience with regard to other projects. A good
15 example, in this case, it's University as well. But
16 it's for University at Manoa when there was a lot of
17 traffic whenever the Stan Sheriff Center would have
18 an event. The University would request -- well, one
19 thing, first of all, get complaints obviously from
20 the communities surrounding, individuals who live in
21 the area.

22 And to address that -- and a lot of
23 times -- let me back up. A lot of times the
24 complaints go to city, and County of Honolulu in this
25 case, or Department of Transportation. And the

1 Department of Transportation and/or the city agencies
2 would ask the University to see what they can do to
3 help alleviate traffic that's being -- that's a
4 problem for these residents in the area.

5 And in this specific case, the University
6 did look into it, came up with, or required -- not
7 required -- asked me, or our firm, to come up with --
8 to prepare a study and come up with some demand
9 management strategies to try and alleviate congestion
10 that occurs during isolated special events.

11 And a study was prepared and identified
12 some strategies, and that's being employed today,
13 which apparently works. They include contra-flowing
14 the access roads around the arena, making access
15 points one way in, one way out. In other words,
16 improving circulation. That's one way.

17 Other ways where you could -- I can't think
18 of other ways, or other reasons offhand where the
19 University would be required to prepare a demand
20 management -- traffic demand management strategy
21 study to address that. But that's one example.

22 COMMISSIONER CABRAL: Thank you.

23 That does answer my question. That's what
24 I was wondering about.

25 CHAIRPERSON ACZON: Commissioner Hiranaga.

1 COMMISSIONER HIRANAGA: Just to add to your
2 comments.

3 Special event traffic congestion could also
4 be mitigated by the hiring of off-duty policemen to
5 conduct traffic control at intersections, versus
6 relying on mechanized traffic control.

7 THE WITNESS: Absolutely. I didn't mention
8 it, but the study that I did for the University
9 regarding Stan Sheriff Center did recommend police
10 officers, but not from -- only from a traffic
11 operation standpoint, but also from a safety
12 standpoint.

13 CHAIRPERSON ACZON: Ms. Loo, do you have
14 any of follow-up question for Mr. Pascua?

15 MS. LOO: No, follow up. I do have a
16 personal anecdote if you would indulge me.

17 I sit on transportation --

18 CHAIRPERSON ACZON: We got until 3:00
19 o'clock.

20 MS. LOO: I am aware the county can confirm
21 that all of the KCC students, by virtue of being a
22 student are issued a free bus pass, or it's included
23 in the cost of their tuition. So every KCC student
24 can ride the bus for free.

25 CHAIRPERSON ACZON: Thank you. Thank you,

1 Mr. Pascua.

2 Anything else?

3 MS. LOO: No other witnesses.

4 CHAIRPERSON ACZON: Any questions for the
5 Petitioners?

6 MS. HIGUCHI: Nothing.

7 MS. APUNA: None.

8 CHAIRPERSON ACZON: Vice Chair Scheuer.

9 VICE CHAIR SCHEUER: I'm not sure if this
10 is an artifact of what we have on the Land Use
11 Commission website, or an artifact of what you
12 submitted. Exhibit 3 is the Final EIS -- your
13 Exhibit 3 is the Final EIS for this project.

14 What we have on-line contains Exhibit 3,
15 but -- or contains the text of the FEA, but none of
16 the appendices. So like the TIAR itself, the
17 biological report itself, any letters submitted by
18 parties and responses to them, are they actually part
19 of the record?

20 MS. LOO: They should be part of the
21 record. We will clarify with staff. They have been
22 circulated.

23 VICE CHAIR SCHEUER: My question isn't
24 whether they have been circulated, my question is
25 that actually part of the exhibit, because what is

1 showing up on the LUC website is that they're not
2 actually part of the exhibit.

3 MS. LOO: They should be part of the
4 exhibit.

5 CHAIRPERSON ACZON: Mr. Derrickson is
6 looking.

7 We will do that on the next break.

8 Anything else? Questions for --

9 COMMISSIONER CHANG: Can I just ask, just
10 for some confirmation from the Petitioner.

11 One, that you are -- you have no objections
12 to a reasonable buffer within the Petitioner's
13 property around Puhi Cemetery made in consultation
14 with State Historic Preservation Division for
15 purposes of potential subsurface burials?

16 MS. LOO: Commissioner Chang, would the
17 trigger be upon development in the vicinity?

18 COMMISSIONER CHANG: Yes, that's correct.

19 MS. LOO: Yeah.

20 COMMISSIONER CHANG: You're right, it would
21 be tied to some kind of proposed development.

22 MS. LOO: And not 2020?

23 COMMISSIONER CHANG: Unless you're
24 proposing something. Yes, there's not a unilateral,
25 it would just be triggered by a proposed activity

1 that may occur, and it doesn't have to be subsurface.
2 It could be -- so long as there's some kind of
3 improvement that may, in fact, effect that boundary.
4 And I don't know what a reasonable buffer is. I will
5 leave that to the experts of SHPD in consultation
6 with the University and an archaeological -- your
7 consultant. So you have no objection?

8 MS. LOO: No objection.

9 COMMISSIONER CHANG: Second one, Puhi
10 Stream has been identified as a very important water
11 resource that goes down to Nawiliwili Stream --
12 whether there's downstream lo'i or not -- but it is a
13 very important source of water that you have no
14 objections to, again, a reasonable buffer that would
15 prohibit any kind of activity that would cause
16 potentially erosion into the stream or some kind of
17 degradation of the stream. You have no objection to
18 that?

19 MS. LOO: That's correct, as long as it's
20 based on development activity in the vicinity.

21 COMMISSIONER CHANG: Yes. But I think it
22 would be -- I guess, I would urge you to maybe do an
23 assessment of what kind of activities you're
24 currently doing. If there is anything that may
25 potentially -- because you have may not have a

1 proposed activity within that buffer area, but it
2 could be outside of that area that may have an
3 impact. I would defer to the University.

4 I think my primary concern is that the
5 waters of Puhi Stream remain in it's very pristine
6 state because of its function to Nawiliwili Bay, as
7 well as all along -- so even if it may be outside of
8 that buffer area, if it may potentially have an
9 impact to the stream, that the buffer would just be
10 an area that would exclude any kind of invasive
11 activity, but it would also be looking at activity
12 beyond the buffer that may have an impact.

13 MS. LOO: So I think what we'll do is we
14 will relate to the University and the Director of
15 Facilities concern about any immediate potential,
16 harmful causes to the stream and address it on their
17 own, if so.

18 But in the alternative, we would not have
19 an objection to a condition where the community
20 college would investigate a buffer with assistance
21 from whichever agency we're required to consult with,
22 should there be planned development in the vicinity
23 of the stream.

24 COMMISSIONER CHANG: Excellent. I really
25 appreciate that. And you seem to be good stewards of

1 the land, seem to be doing really good activities,
2 utilizing native plants and trying to maintain that.
3 I just want to make sure that that just continues on.
4 Thank you very much. I appreciate that you've
5 answered the questions I have.

6 CHAIRPERSON ACZON: Thank you,
7 Commissioners? Commissioner Cabral.

8 COMMISSIONER CABRAL: I hope this will be
9 taken as a suggestion.

10 I did property management in my other life,
11 and in that sense I manage properties. In fact, at
12 one point I managed a cemetery, but I manage
13 properties adjacent to cemeteries, so my suggestion
14 would be that you look at that land sooner rather
15 than later, and either look to preserve the trees
16 that might be in that area, or look to plant
17 appropriate trees in that area to provide height,
18 because I will assure you that there is a lot of
19 people who do not want to live in a building that
20 looks down on a cemetery, that they have
21 preferential -- that it become a consideration for
22 people, and possibly even for working in that area or
23 maybe even attending a class.

24 So your development within visual sight of
25 that is also a concern, and the sooner you start

1 planting some appropriate tree growth, it may help
2 you have better use of your land with less problems
3 in the future. Just my personal experience.

4 CHAIRPERSON ACZON: Commissioner Hiranaga.

5 COMMISSIONER HIRANAGA: Just expanding a
6 little bit on Commissioner Chang's comments regarding
7 disruption of streamflow in development. And I guess
8 this could be clarified in the Decision and Order,
9 but given diversion for agricultural purposes could
10 be destructive to individuals downstream, so I'm not
11 sure who regulates how much diversion is allowed, if
12 it is riparian rights, because if you divert -- I
13 understand like for taro lo'i some of the water is
14 returned back to the stream, because they need
15 constant flow, but other types of agricultural usee,
16 the water will be absorbed into the ground or
17 evaporate, and will not be returned to the stream
18 flow. So I think there needs to be some kind of
19 clarity.

20 COMMISSIONER CHANG: The appropriate agency
21 is the Water Commission, DLNR.

22 COMMISSIONER HIRANAGA: But more clarity as
23 to what is considered development.

24 CHAIRPERSON ACZON: Thank you. Ms. Loo.

25 MS. LOO: So in response to that, Mr.

1 Matsukawa clarified to me it's not the stream that is
2 being diverted for any uses by KCC, but they are
3 taking some water from the irrigation ditch, which is
4 different from the stream, for their agricultural
5 program. And that is under an agreement with Grove
6 Farm.

7 COMMISSIONER HIRANAGA: Mr. Chair, I guess
8 for clarity, the water does come from streams up
9 above, and is diverted into the irrigation ditch,
10 because the irrigation ditches are not the source of
11 the water.

12 MS. LOO: My understanding it is an
13 agreement that community college has for use of
14 irrigation water from the irrigation stream. Of
15 course, the water comes from, in the ditch, comes
16 from a stream. I don't know whether it's 100 percent
17 from Puhi Stream, but I'm just wondering out loud
18 whether or not consultation with CWRM, Commission on
19 Water Resources Management, would be appropriate.
20 And I don't know whether that would be a condition,
21 because it would necessarily involve a third-party
22 being Grove Farm.

23 You know, certainly we will have that
24 discussion with KCC as far as having the discussion
25 with Grove Farm and the Commission on Water Resources

1 Management.

2 COMMISSIONER HIRANAGA: Thank you.

3 CHAIRPERSON ACZON: Vice Chair Scheuer, do
4 you have anything to add?

5 VICE CHAIR SCHEUER: Yeah, since this is my
6 area of professional practices on proceedings in
7 front of the Water Commission. I think we're talking
8 about two issues that are being conflated right now
9 in this discussion.

10 One, we're talking about the impacts from
11 any land altering activity or runoff that might occur
12 from the development on the campus into Puhi Stream,
13 and therefore, affect downstream, either biological
14 resources or cultural uses along Puhi Stream and
15 further downstream, all the way to Nawiliwili. That
16 is one sort of line of questioning that has come up.

17 We're concerned -- are you taking care of
18 the activities on the campus in a way that you're not
19 putting additional siltation or pollution or other
20 adverse -- into Puhi Stream.

21 Then there is a separate set of issues that
22 you're actually relying on stream water, which we do
23 not know the stream that water is being diverted
24 from, that comes from the Grove Farm irrigation
25 ditch. And I think that there are generally

1 legitimate questions about how that is permitted,
2 whether that's simply a system that has been
3 grandfathered in since the first days of the Water
4 Code, whether there's any competing instream uses in
5 that stream that are not being provided for, that
6 your uses are competing for, but I think those are
7 legitimate concerns. But we don't have any factual
8 information around this.

9 So I think more -- at least I'm saying, a
10 heads up, be good stewards of the water, just don't
11 assume that because it's in the ditch, it's all cool.
12 So that's my thoughts.

13 MS. LOO: I'm very happy to have that
14 conversation with community college and ask them to
15 follow up with Grove Farm.

16 CHAIRPERSON ACZON: That would be good. So
17 that's the end of your presentation?

18 MS. LOO: Yes.

19 CHAIRPERSON ACZON: Thank you, before we go
20 to county's presentation, let's take a five-minute
21 break?

22 (Recess taken.)

23 CHAIRPERSON ACZON: Back record on the
24 record.

25 Before I give the floor to Ms. Higuchi, I

1 want to ask the staff to clarify Vice Chair Scheuer's
2 inquiry.

3 MR. DERRICKSON: The question was whether
4 or not the appendices, particularly the TIAR PART OF
5 THE a Final EA, you didn't find on the website,
6 that's true. We checked, it's not up now. But we do
7 believe that was filed as part of exhibits. So we're
8 going to go back and double check it.

9 VICE CHAIR SCHEUER: Just to keep clear
10 procedure, I don't know how we deal with this. We
11 just want to make sure those are -- if it was not LUC
12 staff error, but if for some reason the parties
13 didn't submit the full FEA as an exhibit, we just
14 want to get that somehow added into the record.

15 MR. DERRICKSON: Correct.

16 CHAIRPERSON ACZON: The staff will make
17 sure that happens, Vice Chair Scheuer.

18 Ms. Higuchi, please proceed with your
19 presentation.

20 MS. HIGUCHI: The Planning Department of
21 County of Kaua'i is in support of the University of
22 Hawaii Community Colleges Petition to Amend State
23 Land Use District Boundaries of approximately 148.37
24 acres of this property from the Agricultural to the
25 Urban District.

1 The proposed Boundary Amendment will align
2 the current campuses uses and long-range expansion
3 goals with the over all vision for the Petition area
4 under the General Plan and the Lihu'e Community Plan.

5 We will have two witnesses, planner Marisa
6 Valenciano will just briefly discuss the General Plan
7 and the Lihu'e Community Plan.

8 And then the Planning Director will be
9 covering Important Ag Lands, and also addressing any
10 other remaining questions that the Commission may
11 have for him.

12 Chair, is it okay if Marisa gives her
13 testimony next to me?

14 CHAIRPERSON ACZON: Prefer the witness box
15 so our recorder can are record it properly.

16 May I swear you in first?

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

19 THE WITNESS: Yes.

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

22 THE WITNESS: My name is Marisa Valenciano,
23 P.O. Box 124, Lihu'e, Hawaii.

24 CHAIRPERSON ACZON: Please proceed.

25 MARISA VALENCIANO

1 Was called as a witness by and on behalf of County of
2 Kaua'i Planning Department, was sworn to tell the
3 truth, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MS. HIGUCHI:

6 Q Can you please just give a little bit of
7 your background?

8 A Sure. I'm born and raised on the Island of
9 Kaua'i. And in 2012 I received my undergraduate
10 degree in Planning, Public Policy and Management, as
11 well as Political Science at the University of
12 Oregon.

13 In 2013 I started as a long-range planner
14 here at County of Kaua'i Planning Department, and
15 have been in this position for about four years.

16 Q What type of projects are you currently
17 assigned to, or have been assigned to in your
18 position?

19 A So as a long-range planner, I've been able
20 to help assist in the update of our General Plan and
21 also the community plans.

22 Q Have you reviewed the current proposal in
23 the context of the General Plan conformance and also
24 the Lihu'e Community Plan?

25 A Yes.

1 Q Can you talk a little bit about the Kaua'i
2 General Plan and how it sets up the policy underlying
3 development across Kaua'i?

4 A Yes. The General Plan is our top-level
5 policy document, and it basically guides land use
6 regulation, the location and character of new
7 development and facilities as well as planning for
8 state and county facilities.

9 Q So there are three parcels within the
10 Petition area, Parcels 2 and 3 and a portion of
11 Parcel 1; is that correct?

12 A Yes.

13 Q So Parcels 3 and 2, what zoning -- I'm
14 sorry -- General Plan designation does it have?

15 A Parcel 3 and 2, the General Plan
16 designation is Urban Center.

17 Q And then the portion of Parcel 1 that is
18 included in the Petition area, what is that
19 designation?

20 A That area is also designated as Urban
21 Center.

22 Q Can you talk about what that Urban Center
23 designation means?

24 A Yes. So the Urban Center designation was
25 intended to accommodate more intensive urban uses and

1 zoning in more compact urban areas.

2 Q And how does that Urban Center designation
3 support this current position?

4 A So the Urban Center designation was
5 provided to recommend the area as an existing
6 educational center and to encourage the future
7 development of that area, that campus.

8 Q And how does the Lihu'e Community Plan
9 function in relation to the General Plan?

10 A The community plans just further defines
11 and updates the goals and objectives of the land use
12 zoning, and even some of the projects for each of the
13 planning districts.

14 Q What is the Petition area designated under
15 the Lihu'e Community Plan?

16 A The entire Petition area is designated as
17 Urban Center and lies within what we call the Urban
18 Edge Boundary.

19 Q What is that Urban Edge Boundary?

20 A The Urban Edge Boundary is a regional
21 spatial policy. Basically it designates where growth
22 should be directed. The purpose is really to
23 concentrate future growth and development into the
24 existing centers, and by doing so one of the benefits
25 is that it preserves agricultural open space and

1 conservation lands.

2 Q I'm going to direct you to County's
3 Exhibit 1.

4 Are you familiar with that figure, Figure
5 5-2?

6 A Yes.

7 Q What is that -- what does Figure 5-2
8 represent?

9 A So this figure depicts the Urban Edge
10 Boundary, which is intended to limit the urban
11 sprawl, and defines where higher density urban
12 development should be contained.

13 So areas outside of this Urban Edge
14 Boundary are intended for open space conservation and
15 agriculture lands.

16 Q Where is the Petition area in relation to
17 that Urban Edge Boundary?

18 A The Petition area lies entirely within the
19 Urban Edge Boundary.

20 Q Are there any other policies that you may
21 be aware of in the Lihu'e Community Plan that
22 supports the boundary amendment in this Petition ara?

23 A Yes. So within the Lihu'e Community Plan
24 the specific policies that encourage this land use
25 amendment to establish the urban designation for KCC

1 to accommodate future expansion of the campus, and it
2 basically also sets forth policy to consider future
3 development of select areas mauka of the highway to
4 be developed as KCC enrollment reaches capacity.

5 Q Are you familiar with the Special
6 Management Area?

7 A Yes.

8 Q Is the Petition area contained within the
9 Special Management Area?

10 A No.

11 Q Thank you. That's all the questions I have
12 for Ms. Valenciano.

13 CHAIRPERSON ACZON: Any questions, Ms. Loo?

14 MS. LOO: No.

15 CHAIRPERSON ACZON: Ms. Apuna.

16 MS. APUNA: No.

17 CHAIRPERSON ACZON: Commissioners? Thank
18 you, Ms. Valenciano.

19 THE WITNESS: Thank you.

20 MS. HIGUCHI: Like to call the Planning
21 Director, Michael Dahilig.

22 CHAIRPERSON ACZON: May I swear you in
23 first?

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

1 THE WITNESS: Yes.

2 CHAIRPERSON ACZON: Please state your name
3 and address for the record.

4 THE WITNESS: Michael Dahilig, 4444 Rice
5 Street, Suite A 473, Lihu'e, Kaua'i.

6 CHAIRPERSON ACZON: You may proceed.

7 MICHAEL DAHILIG

8 Was called as a witness on behalf of County of Kaua'i
9 Planning Department, was sworn to tell the truth, was
10 examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MS. HIGUCHI:

13 Q Mr. Dahilig, can you please explain the
14 county's processes so far in identifying Important
15 Agricultural Lands, and the county's -- I'm sorry,
16 just in general, the process?

17 A So the county was actually selected at the
18 adoption of Act 183 to be a test case to first test
19 out a geo-spatial analysis of the eight criteria laid
20 out in the law. And this was actually done in the
21 South Kaua'i area. So that was kind of a test case.

22 And we proceeded on. Council funded a full
23 grant to the University of Hawaii, Department of
24 Urban and Regional Planning back in 2009 to conduct
25 full-on IAL study throughout the whole island.

1 The predominant function of the study was
2 actually to take input from the community. And we
3 community stakeholders convened in an technical
4 advisory committee that essentially ranked the eight
5 criteria laid out in the IAL law, and used that to,
6 in a GIS format, weigh and score areas around the
7 island that were, I guess, best candidates for IAL
8 lands.

9 What the county had done then with that
10 process is -- concurrently, many landowners on the
11 island had elected to take advantage of the private
12 landowner lock-out provision, where we had petitions
13 from three of the county's largest landowners put
14 lands into IAL.

15 And at the completion of this study we
16 still had one outlying landowner -- and I'm sure many
17 of you were on the Commission when we handled that
18 Petition, and that was the Gay Robinson Petition.

19 And they came in, and we initially had
20 approached them to go through the county process, but
21 then they had elected to go through the private
22 landowner process on their own.

23 To date what the county has in its
24 inventory is approximately 38,000 acres of IAL, which
25 accounts to about 30 percent of state's total IAL

1 inventory. And we have, in the study, a target of
2 about 21,000 acres, so with the inclusion of the Gay
3 Robinson Petition, we have well exceeded the IAL
4 lands in our inventory, at least in the short-term.

5 Q As part of the study, was there a criteria
6 or a scoring system that was developed to help
7 instruct the county in any potential county led
8 designation?

9 A Yes. As was mentioned earlier, the scoring
10 system was largely developed as a consequence of the
11 input that was given to the technical advisory
12 committee members. This was a range of stakeholders
13 from farmers to professors to landowners, and they
14 looked at things like, again, as the eight criteria
15 lay out water, a proximity to ports and harbors, what
16 the kind of soils are there. And so those were
17 ranked based on that stakeholder process to say what
18 is the most important. And what they found the most
19 important was water.

20 And so that was provided a certain weight
21 in the way that the lands were ultimately scored.
22 And so the process was largely, again, a derivative
23 of a community led effort based on a community
24 preference versus our department actually prescribing
25 what is the most important, because we felt it was

1 important to have the practitioners and the
2 landowners and the people that are on the ground to
3 really give their input as to what is functioning
4 IAL.

5 Q And one of the criteria recommended,
6 included reference to the General Plan designation
7 and scoring urban designations, for instance, that
8 would be factored into the ultimate score of a
9 particular land?

10 A Right, because, you know, the 2000 General
11 Plan already had this area earmarked as Urban Center
12 -- sorry, my apologies -- an amendment had it
13 earmarked as Urban Center. When we actually followed
14 through with finalization of the process, we did not
15 consider these areas as being scored as part of the
16 overall IAL study.

17 Q And are you familiar with Exhibit 2, this
18 is Figure 5-3?

19 A Yes.

20 Q And what is it -- does it show?

21 A Just what I had described. You know, the
22 areas outside of the Urban Edge Boundary do show that
23 dark green, which I believe is the 28 or higher score
24 color. 28, just for the Commissioner's references,
25 is that threshold that all the criteria, based on the

1 scoring system developed by the community, has been
2 met. But if you notice within the Urban Edge
3 Boundary, laid out in community plan, there is no
4 such coloration, and that again is indicative of the
5 Urban Center designation for the area.

6 You can notice -- the area underneath the
7 word "Puhi" on the map is actually the Petition area,
8 so you notice there is no color there.

9 Q And can you explain the zoning permit and
10 building process, and how that may address any needs
11 for any updated traffic study or any other impacts?

12 A With respect to Kaua'i Community College,
13 it's a unique situation, because you actually have a
14 state agency that would be using state lands, or
15 would be using state monies.

16 And that immediately would trigger an
17 analysis under Hawaii Revised Chapter 343. What is
18 required under Chapter 343 would be an analysis that
19 want to take a look at the current level of impact
20 and perspective impacts with respect to enrollment,
21 and then any studies would be based upon that
22 presumption.

23 So, for example, if KCC wanted to build a
24 science building, they would have to go through the
25 343 process and most likely conduct an environmental

1 assessment. That environmental assessment would be
2 something that is circulated to a number of
3 stakeholder agencies, as well as the public, and most
4 likely would require a degree of traffic analysis.

5 What we have seen in the past with state
6 and county projects of such size is that a minimum
7 TIR would be conducted and folding into the 343
8 disclosure as part of the record before any type of
9 permitting would have to be initiated.

10 So in terms of us at the county, starting
11 off the permitting process, we would have to ensure
12 that there was an accepted 343 document by the
13 college. And the 343 document would have not have to
14 been challenged by the public as being sufficient for
15 that information.

16 So there would be, in my opinion,
17 sufficient information to at least lay out the
18 traffic conditions based off of projected enrollment
19 for any type of construction that is done state or
20 county.

21 Q Thank you. No further questions.

22 CHAIRPERSON ACZON: Any questions for Mr.
23 Dahilig?

24 MS. LOO: No.

25 CHAIRPERSON ACZON: Ms. Apuna?

1 MS. APUNA: No.

2 CHAIRPERSON ACZON: Commissioner Cabral.

3 COMMISSIONER CABRAL: I'm trying to get
4 this traffic cleared up.

5 So you said, if I heard you correctly, that
6 because this is a state agency doing this, that they
7 would be required to do a traffic study as part of
8 their general analysis for any building, or any new
9 development they would be putting on the property.
10 Is that what you're saying?

11 THE WITNESS: Yes. The requirements under
12 Chapter 343 is that it takes a look at number of
13 conditions, like flora and fauna, historical,
14 cultural impacts, and even traffic.

15 The only way to get to a proper traffic
16 analysis would be to disclose something that is
17 generated with a TIAR. And so if you're building
18 something on a large scale, let's say like a science
19 building, they would be required to go through a TIAR
20 in order to adequately provide the information that I
21 believe the courts, as well as the Environmental
22 Council, I believe, has laid out as what is
23 sufficient information to reach a level of proper
24 disclosure.

25 So we feel confident that the information,

1 before it would even hit our department with a permit
2 request, would already have been conducted because of
3 those required disclosures under the state or county
4 funds or lands triggered under HRS 343.

5 COMMISSIONER CABRAL: Thank you very much.

6 CHAIRPERSON ACZON: Commissioner Chang.

7 COMMISSIONER CHANG: Aloha, Mike, thank you
8 so much for your clarification.

9 I guess I just -- my understanding of what
10 I heard is, because they are a state agency, that
11 would be one of the 343 triggers. But it wasn't very
12 clear to my mind, and I guess your comment back to
13 Commissioner Cabral was that they would
14 automatically -- I guess that's what I'm not -- I
15 would like to be confident that DOT would require.
16 My real concern about this traffic study, is because
17 it was done so long ago in 2010.

18 I don't know whether DOT would
19 automatically require an update. One would hope that
20 they would, and I guess I'm just wondering, would it
21 be helpful to the county to have some kind of
22 specific condition that there would be --
23 notwithstanding, this would go through a regular
24 environmental review process, and one would expect
25 that another state agency like DOT would ask for, you

1 know, an update.

2 I don't know whether they are looking at
3 the previous work. So would it be helpful to have a
4 condition that specifically discusses -- and it could
5 be conditioned on, you know, increase in enrollment,
6 but my concern is the original TIAR was done in 2010
7 and there has been a lot of changes in this area. So
8 I'm looking at what would be helpful to the county,
9 and if it wouldn't be helpful, if you're confident
10 that DOT is going to do it, then that's fine. But if
11 it would be helpful, how can we assist in that?

12 THE WITNESS: Like I -- I've always been of
13 the opinion that more information is always better
14 whenever we're making a decision. But who generates
15 that information and at what time, I think, is always
16 the question.

17 In a circumstance like this, what comes to
18 mind is that the particular intersection of concern
19 is handled both by the state and the county, because
20 it crosses jurisdiction. And it is earmarked for a
21 second phase of widening by the state.

22 And I think there was some comments earlier
23 concerning the bottleneck that does happen there.

24 I know the widening project had gone from
25 the conversion of Kaumuali'i, from Kuhio to

1 Kaumuali'i all the way through to this particular
2 intersection. And it narrows down from a four lane
3 to a two-lane highway. And I think that's where
4 you're seeing the bottleneck happened that was
5 described earlier.

6 Whether or not KCC should bear the
7 responsibility of generating the traffic information
8 at that intersection, I think would -- you know, even
9 though we have a study by expert reports is only good
10 until 2020. I wouldn't necessarily say that the
11 college, in its activity based off of both the
12 downward trend in enrollment, as well as the fact the
13 traffic engineer has said it's enrollment that drives
14 the change in any impact versus construction of
15 buildings.

16 Those two things I wouldn't say would
17 necessitate needing a traffic study at this time,
18 because there are, again, other stakeholders that are
19 in that area that are doing other things, that
20 because they are state agencies or county agencies,
21 they are going to be doing their own 343 disclosures
22 as well.

23 I didn't mean to suggest that a TIR is
24 automatic, but given the standards as now laid out
25 with disclosures, the only real way to reach a

1 sufficient level disclosure on traffic impacts is to
2 conduct some type of TIR analysis.

3 And so it's up to the disclosing agency or
4 accepting agency to accept whatever information is or
5 is not in the document, either draft form or at final
6 form. But if something is submitted as insufficient,
7 and I believe in the past we commented as well as
8 that the documents may have insufficient information
9 to warrant an acceptance by an accepting agency. I
10 think the responsible thing would be for that state
11 agency to conduct at least a meaningful traffic
12 impact analysis to disclose properly as part of their
13 constitutional duties.

14 COMMISSIONER CHANG: And I appreciate that.
15 I think the fact that someone does a traffic study,
16 doesn't necessarily mean they are causing increase.
17 I mean, in school just 100 more KCC, and maybe the
18 decline, but as you say, having that additional
19 information -- and it does appear as if there's quite
20 a few other activities within the vicinity that sort
21 of -- who gets there first? Who submits the first
22 permit? And then others after that maybe able to
23 build upon that information. And that would be the
24 best case.

25 So the more information the county has, the

1 more informed your decision-making can be.

2 THE WITNESS: Right. And I would also
3 suggest that in this particular circumstance, if the
4 study conducted by both KCC and/or Island School
5 seven years ago was being used in a perspective EIS,
6 we are also bound to ensure that certain information
7 and documentation within these disclosure documents
8 is not stale.

9 So if we were to look at that study as
10 being relied upon to warrant an acceptance by a state
11 or government agency for some type of activity, let's
12 say, the University, I think we would have issue with
13 the information of being stale and not up-to-date,
14 therefore, warranting some type of at least update or
15 some type of further look or hard look at that
16 information.

17 COMMISSIONER CHANG: This is going to be a
18 joke. Can we ensure that you're going to be around
19 long enough -- don't answer that -- that's just a
20 joke. I understand how responsible the comment is.
21 Thank you very much. No need to answer.

22 CHAIRPERSON ACZON: Commissioner Mahi.

23 COMMISSIONER MAHI: He's a young man, lot
24 younger than we are.

25 The question I have also is to the concerns

1 that were mentioned earlier about the Puhi Stream
2 which goes and runs in and out of the property of our
3 discussion. And the effects it would have as it
4 flows down -- as it makes its way downstream and the
5 effects that it might have on those that are planting
6 or farming or using that particular stream before it
7 enters Nawiliwili.

8 What other requirements relative to that?
9 Only because of the stream having partial connection
10 to the area that we talking about, have in terms of
11 monitoring, terms of the responsibility of the
12 Petitioner to ensure that whatever happens upstream
13 when it takes place downstream, even though partial
14 jurisdictional relationships with that stream effect.

15 Could you clarify some of that?

16 THE WITNESS: So the county, not
17 particularly my agency, but our Department of Public
18 Works does have an ordinance that complies with, you
19 know, many of the federal requirements concerning
20 things like particulates and discharge and those
21 types of things.

22 So if any activity on the campus would
23 occur where there was movement of over 150 cubic
24 yards of material, they would have to come in for a
25 permit. And if that was the case, the permit

1 consequentially requires a best management practices
2 already be instituted to ensure that certain
3 temporary retention basins or filtration types of
4 structures be placed while any type of construction
5 is going on.

6 So there is at least at county level, I
7 guess, the requisite permitting structure to ensure
8 that there isn't any type of, I guess, pollution to
9 the stream that would be caused as the consequence of
10 construction.

11 We are also aware that that stream is used
12 as an educational tool for Native Hawaiian practices,
13 or -- and so how that occurs, I think for us, we're
14 not really concerned about that. Because the message
15 of stewardship and harmony with the natural
16 environment, we more focused on the large scale
17 construction activities, grading, grubbing that's in
18 excess of 150 cubic yards of material.

19 COMMISSIONER MAHI: Would the Petitioner be
20 also cognizant of the fact that they have to --
21 because the stream does go in and out of their
22 property as we have identified, would not there be
23 some public announcement about that relationship that
24 the Petitioner has with the stream, so that those who
25 are conducting whatever kind of activities in the

1 lower part of the stream before it enters into the
2 bay has an opportunity to respond?

3 THE WITNESS: I cannot speak for the
4 University, but if they were to approach us with an
5 application for some type of grading or grubbing
6 activity, I would hope that they would consult with
7 their inhouse cultural practitioners that are
8 actually there, and using the stream particularly
9 with their Native Hawaiian education program, as well
10 as the Native Hawaiian charter schools that are
11 adjacent to that stream.

12 I would hope whatever they would submit to
13 us, would include a record of that consultation with
14 those practitioners.

15 COMMISSIONER MAHI: My main concern is that
16 there be required to be certain to announce, or be
17 some kind of public hearing so that those that are
18 along that or parts of the estuary have chance to
19 support or even defend their opposition to the
20 activity that might be taking place.

21 THE WITNESS: Similar to, I guess, the
22 intake processes that you have here at the Land Use
23 Commission, our permitting process does require
24 public notice, does require the opportunity for an
25 agency hearing, as well as potential for

1 intervention, and also requires that landowners
2 within a certain proximity also be notified of any
3 types of action. So the safeguards for transparency
4 and public notice, are built into our county laws for
5 that specific purpose.

6 COMMISSIONER MAHI: Thank you.

7 CHAIRPERSON ACZON: Anybody else?

8 Commissioner Okuda.

9 COMMISSIONER OKUDA: Thank you. Mr.

10 Dahilig, I know you're a modest guy, but just so we
11 can have a context of the testimony you've given, can
12 you please tell us your educational background?

13 THE WITNESS: I received a Bachelor of -- I
14 probably shouldn't say where I went to high school,
15 but I received a Bachelor of Science with honors from
16 the University of Hawai'i in geology and geophysics
17 in 2003. In 2006 I graduated from the William S.
18 Richardson School of Law with a certification in
19 Environmental Law. And in 2011 I received my
20 Master's in Urban and Regional Planning, University
21 of Hawaii. And I'm member a the Hawaii Bar, but I'm
22 inactive status.

23 COMMISSIONER OKUDA: And you also served as
24 a regent for the University of Hawaii; is that
25 correct?

1 THE WITNESS: I guess I probably should
2 disclose that because I did serve as a University
3 Regent from 2005 to 2013. And my title presently,
4 Emeritus Regent of the University System. I hope
5 that doesn't raise any conflict.

6 COMMISSIONER OKUDA: I don't think so, but
7 it does give you some background knowledge of how the
8 University operates, at least during the time you
9 were regent.

10 THE WITNESS: Right. I guess I was one of
11 the regents that did help hire Chancellor Cox back in
12 in 2008. So I have an understanding of where
13 Chancellor Cox's issues and needs are on this
14 particular campus from a higher education background.

15 COMMISSIONER OKUDA: Thank you. No further
16 questions.

17 CHAIRPERSON ACZON: Do you have a follow-up
18 question?

19 MS. LOO: None.

20 CHAIRPERSON ACZON: Thank you, Mr. Dahilig.

21 Ms. Higuchi?

22 MS. HIGUCHI: Nothing further from the
23 county. Thank you.

24 CHAIRPERSON ACZON: Any questions for Ms.
25 Higuchi?

1 MS. LOO: No.

2 CHAIRPERSON ACZON: Ms. Apuna?

3 MS. APUNA: Office of Planning calls Rodney
4 Funakoshi to the stand.

5 CHAIRPERSON ACZON: Thank you,
6 Commissioners. No questions for Ms. Higuchi. Thank
7 you.

8 Ms. Apuna, please proceed with your
9 presentation.

10 MS. APUNA: Office of Planning calls Rodney
11 Funakoshi.

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

15 THE WITNESS: Yes.

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

18 THE WITNESS: Rodney Funakoshi, 235 South
19 Beretania Street, Honolulu.

20 CHAIRPERSON ACZON: Please proceed.

21 RODNEY FUNAKOSHI

22 Was called as a witness by and on behalf of the State
23 Office of Planning, was sworn to tell the truth, was
24 examined and testified as follows:

25 DIRECT EXAMINATION

1 BY MS. APUNA:

2 Q Can you please state your title position
3 and background at OP?

4 A I'm the Planning Program Administrator with
5 Land Use Division at State Office of Planning.

6 Q Are you familiar with the Petition?

7 A Yes.

8 Q What standards did OP specifically apply in
9 evaluating the District Boundary Amendment Petition?

10 A OP reviews the petitions under Section
11 205-17 and Chapter 15-15 Hawaii Administrative Rules.

12 Q Under Section 205-17 HRS, did OP
13 specifically consider the extent to which the
14 proposed reclassification conforms to the policies,
15 priority guidelines, and the Hawaii state plan,
16 county plans, and applicable district standards?

17 A Yes.

18 Q Can you please summarize OP's assessment of
19 the Petition conformity to those plans and standards?

20 A With appropriate mitigation, the proposed
21 reclassification is generally consistent with the
22 goals, objectives and policies of the state plan.

23 It is not consistent with the state
24 objective to protect productive and cultural lands,
25 however the property is within the county's Urban

1 Edge Boundary of the Lihu'e Community Plan, and
2 designated Urban Center in the current General Plan.

3 As such, Petition meets the standards for
4 Urban District boundaries, in that project area is
5 adjacent to existing urban development, and basic
6 services are adequate.

7 Furthermore, the project generally conforms
8 to the state Coastal Zone Management objectives and
9 policies.

10 Q Under Section 205-17 HRS, what issues of
11 concern to the state are notable by OP in terms of
12 impact and potential mitigation?

13 A Regarding stormwater management and
14 drainage, the Office of Planning recommends that the
15 Petitioner maintain existing drainage patterns,
16 implement best management practices, and incorporate
17 low income development practices for on-site
18 stormwater capture and reuse into the Petition area
19 site design and landscaping, control water quality
20 and mitigate nonpoint sources of pollution.

21 Regarding endangered species, there are
22 three wetlands within the Petition area, as well as
23 several endangered bird species and various wetland
24 birds that frequent the area including the Hawaiian
25 nene, common moorhen, Pacific golden plover and

1 black-crown night heron.

2 OP recommends that mitigation be imposed in
3 the form of conditions on the Petitioner to mitigate
4 the element impacts on endangered threatened and
5 listed fauna and wildlife. And these are informed --
6 there are more specifically outlined in OP's
7 conditions, but generally they cover an endangered
8 species awareness program for a biological monitor to
9 be present on-site during the nesting season. That
10 exterior lighting be shielded for any nighttime work
11 construction, and for long-term operation of the
12 proposed facility. And that no dense vegetation
13 clearing occur between June and September for the
14 benefit of the hoary bats.

15 Regarding archaeological and historic
16 resources, we do have a condition relative to the
17 incidental fines of any archaeological sites or
18 resources in the area, that there shall be -- work
19 shall decrease and consultation initiated with State
20 Historic Preservation Division.

21 We also received a letter from State
22 Historic Preservation, subsequent letter from State
23 Historic Preservation, letter recommending additional
24 conditions that were not included in our Office of
25 Planning submitted written testimony, and so these

1 are reflected in the letter.

2 Q Exhibit 9?

3 A Exhibit 9.

4 Q Office of Planning Exhibit 9.

5 A Thank you.

6 And I'll read it into the record, our
7 recommended condition.

8 Prior to ground disturbances the Department
9 of Land and Natural Resources, State Historic
10 Preservation Division shall review and approve the
11 following:

12 1) An archaeological preservation plan for
13 the Puhi Camp Cemetery, B006, meeting the
14 requirements of Hawaii Administrative Rules, Section
15 13-277; and verification of the implementation of the
16 interim protection measures for site B006 and;

17 2) a campus design for the portion of Site
18 2179, an irrigation complex still in use for
19 educational and interpretative purposes.

20 Q Mr. Funakoshi, in regard to the suggested
21 archaeological preservation plan, there was
22 discussion today that -- and I think that when --
23 that that plan should take place at the point of when
24 there is actual disturbance to the ground.

25 But do you have any opinion as to the

1 timing of the archaeological preservation plan for
2 the cemetery site?

3 A Yeah. We would like to follow up with the
4 State Historic Preservation Division, as well as the
5 Petitioner to more -- to better determine the
6 appropriate timing for the follow-up preservation
7 plan.

8 I guess the concern is that if you -- for
9 one thing, it's unclear what the vicinity means in
10 terms of potential future development. But it would
11 seem that it could be a very long ways off, and it
12 may be prudent to determine boundaries and
13 appropriate buffers needed sooner rather than at some
14 distant point in the future.

15 Q And then moving onto OP's concerns with
16 transportation.

17 A There's two areas of concern, one is
18 relative to Lihue Airport.

19 We have conditions requiring general
20 compliance with State Department of Transportation
21 and Federal Aviation Administration rules and
22 memoranda regarding construction in the vicinity of
23 the airport and its affects on wildlife.

24 We would also, however, like to add a
25 condition, a sub-condition to that regarding

1 requirement for glint and glare analysis. And this
2 is reflected in the Island School Petition, so I'll
3 read it into the record.

4 That the Petitioner shall consult, conduct
5 a glint and glare analysis for PV facilities.
6 Petitioner shall submit the analysis to the State
7 Department of Transportation with the comment and
8 approval. If glint and glare from the PV system is
9 determined to create a hazardous condition,
10 Petitioner shall immediately mitigate the hazard at
11 their expense.

12 Relative to highways, we do have a
13 condition that the Petitioner coordinate with DOT to
14 update the 2010 TIAR to include the expansion plans
15 of Petitioner's facilities, and also discussion of
16 the Hanamaulu Bypass Project alignment, and the Kuhio
17 Highway widening from Anomui Street to Kipu Road area
18 from two to four lanes.

19 We would also like to add to that TIR
20 update to include the proposed expansion of the
21 Island School facilities.

22 Finally, there has been discussion relative
23 to the appropriate timing of that, and we do concur
24 that Chapter 343 EIS process could very well trigger
25 preparation of an update to the TIAR. But as pointed

1 out, that does not guarantee it. What we would like
2 to suggest is that it could be triggered also by the
3 completion of long-range development plan, so that
4 would also be appropriate, we believe, point at which
5 time to include that, to include a trigger for that
6 traffic update.

7 Q Thank you, Mr. Funakoshi.

8 Based upon OP's review and evaluation, what
9 is OP's recommendation for the Petition?

10 A Office of Planning recommends approval of
11 University of Hawaii Community Colleges Petition for
12 reclassification from State Agricultural District to
13 the Urban District, subject to conditions as OP has
14 recommended. Thank you.

15 MS. APUNA: Mr. Funakoshi is available for
16 any questions.

17 CHAIRPERSON ACZON: Any questions for Mr.
18 Funakoshi, Ms. Loo?

19 CROSS-EXAMINATION

20 BY MS. LOO:

21 Q You heard Mr. Dahilig testify a few minutes
22 ago about activity in the Puhi area intersections at
23 the community college entrance?

24 A Yeah.

25 Q And you heard him say that he is aware of

1 other agencies who will be impacting that
2 intersection, and may be coming in with plans
3 shortly?

4 A Yeah.

5 Q Are you aware of any of those plans?

6 A Not specifically.

7 Q And yet your recommendation today is for
8 KCC to update 2010 TIAR to include the Hanamaulu
9 Bypass Project and also include Island School plan?

10 A Yes. That is pursuant to Department of
11 Transportation's recommendation.

12 Q Thank you. No further questions.

13 CHAIRPERSON ACZON: Ms. Higuchi?

14 MS. HIGUCHI: No questions. Thank you.

15 CHAIRPERSON ACZON: Commissioners, any
16 questions for Mr. Funakoshi?

17 Thank you, Mr. Funakoshi.

18 You may proceed with the rest of your
19 presentation.

20 MS. APUNA: We're done.

21 CHAIRPERSON ACZON: Do you have any
22 question for Ms. Apuna?

23 MS. LOO: No, I do not.

24 CHAIRPERSON ACZON: Commissioners? Thank
25 you Ms. Apuna.

1 Given that the parties have completed their
2 presentations before the Land Use Commission, I
3 declare that the evidentiary portion of this
4 proceeding to have been completed, subject to the
5 receipt of various follow-up reports and/or answers
6 that might have been requested during the course of
7 this hearing.

8 This includes the Petitioners TIAR, if the
9 LUC research concludes that it was not submitted.

10 I direct parties draft their individual
11 proposed findings of fact, conclusions of law and
12 decision and order based upon the record in this
13 docket and serve the same upon each other and the
14 Commission.

15 The proposed findings of fact must
16 reference the witness as well as the date, page and
17 line numbers of the transcripts to identify your
18 facts.

19 In addition to the transcript, the exhibits
20 in evidence should also be referenced. Please
21 contacts Jean McManus, court reporter, to arrange for
22 copies of today's transcript.

23 I note for the parties that the Commission
24 has standard conditions, which we would like the
25 parties to consider in preparing the proposed orders.

1 A copy of the standard conditions may be obtained
2 from Commission staff.

3 Also, I request that the parties consult
4 with staff early in the process to ensure that
5 technical and non-substantive formatting protocols
6 observed by the Commission are adhered to.

7 Of course, should any of the parties desire
8 to stipulate to any portion of all the findings of
9 fact, conclusions of law and decision and order, they
10 are encouraged to do so.

11 Regardless of whether the parties pursue a
12 partial or fully stipulated order, I direct that each
13 party file its proposal with the Commission and serve
14 copies on the other parties no later than the close
15 of business on April 20, 2017. All comments or
16 objections to parties' respective proposals shall be
17 filed with the Commission and served upon the other
18 parties no later than the close of business on May 4,
19 2017.

20 Do the parties have any objections to this
21 schedule? If there are no objections to the
22 schedule?

23 MS. HIGUCHI: No objection, but we would be
24 willing to stipulate to the Petitioner's proposed
25 findings of fact, conclusions of law, and decision

1 and order, if that's okay.

2 CHAIRPERSON ACZON: So noted.

3 Ms. Apuna?

4 MS. APUNA: Yes, we would also like to
5 waive our right to provide our own draft D and O, but
6 reserve our right to make comments and suggestions.

7 CHAIRPERSON ACZON: Duly noted.

8 Commissioners?

9 COMMISSIONER CHANG: Chair, just one
10 question. Maybe I heard it wrong. Is the record
11 that LUC has, does not include the appendices?

12 CHAIRPERSON ACZON: They're still
13 researching.

14 MR. DERRICKSON: We do have the appendices
15 for the Final EA. They were mislabeled and they're
16 part of -- you can find them A16-800 Island School
17 section.

18 We will move them over so they will be
19 attached to the correct Final EA. So they do exist.
20 They were filed. They're part of the record?

21 CHAIRPERSON ACZON: Thank you for the
22 clarification.

23 VICE CHAIR SCHEUER: Chair, just to clarify
24 the county's point. I think I heard you say you were
25 asserting that you would stipulate to all the

1 proposed findings of fact, in contrast to OP saying
2 they would reserve the right to review the findings
3 of fact and then stipulate.

4 Do you want to clarify?

5 MS. HIGUCHI: I'm just referring to the HAR
6 15-15-82.1, but I apologize. May I clarify and also
7 reserve a right to comment on the proposed --
8 Petitioner's proposed by May 4th?

9 CHAIRPERSON ACZON: Duly noted.

10 VICE CHAIR SCHEUER: Sorry, UH.

11 CHAIRPERSON ACZON: The Chair is proposing
12 to expedite these proceedings so that the final
13 arguments can be heard on June 15, 2017 due to
14 conflicts with LUC commitments and docket scheduling
15 demands.

16 Are there any questions with respect to our
17 procedures?

18 MS. HIGUCHI: None.

19 MS. LOO: No.

20 MS. APUNA: Nothing.

21 CHAIRPERSON ACZON: Thank you for your
22 efforts in efficiently presenting your case in this
23 matter.

24 There be no other items on the agenda, we
25 are adjourned for the day.

(The proceedings adjourned at 12:04 p.m.)

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CERTIFICATE

STATE OF HAWAII)
) SS.
COUNTY OF HONOLULU)

I, JEAN MARIE McMANUS, do hereby certify:

That on March 23, 2017, at 9:00 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 23rd day of March, 2017, in
Honolulu, Hawaii.

/S/ Jean Marie McManus
JEAN MARIE McMANUS, CSR #156