

LAND USE COMMISSION

STATE OF HAWAII

June 29, 2017

Commencing at 9:00 a.m.

Held at County of Kaua'i Moikeha Building

Conference Room 2A/2B

4444 Rice Street, Lihue, Kaua'i, Hawaii 96766

AGENDA:

I. Hearing and Action

A17-802 County of Kaua'i Housing Agency - Lima
Ola HRS 201H Project. Petition of County of
Kaua'i Housing Agency to Amend the Agricultural
land Use District Boundaries into Urban Land
Use District for certain lands situated at
'Ele'ele, Kaua'i, Hawaii, consisting of
approximately 75 acres, Tax Map Key No.
(4) 2-1-001:054.

BEFORE: Jean Marie McManus, CSR #156

1 APPEARANCES:

2 EDMUND ACZON, Chair
3 JONATHAN SCHEUER, Vice Chair
4 ARNOLD WONG, Vice Chair

5 COMMISSIONERS:

6 GARY OKUDA
7 LINDA ESTES
8 NANCY CABRAL
9 DAWN CHANG

10 DIANE ERICKSON, ESQ.
11 Deputy Attorney General

12 STAFF:

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

16 DAVID J. MINKIN, ESQ.
17 KELSEY S. YAMAGUCHI, ESQ.
18 Attorneys for Petitioner
19 County of Kaua'i Housing Agency

20 MATTHEW M. BRACKEN, ESQ.
21 MICHAEL DAHILIG, Director of Planning
22 County of Kauai Planning Department

23 DAWN APUNA, ESQ.
24 LEO ASCUNCION, Planning Director
25 State Office of Planning

JEAN NISHIDA SOUZA
Intervenor

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1 CHAIRPERSON ACZON: Good morning. This is the Land
2 Use Commission continuation of the hearing for Docket
3 817-802 County of Kaua'i Housing Agency to Amend the
4 Agricultural Land Use District Boundaries into the
5 Urban Land Use District for certain lands situated at
6 'Ele'ele, Kauai, Hawaii; consisting of approximately
7 75 acres, Tax Map Key No. (4) 2-1-001:054

8 Yesterday we concluded the public witness
9 testimony portion of this docket. We are now in the
10 presentation of case by the Petitioner.

11 Mr. Minkin, please continue your
12 presentation.

13 MR. MINKIN: For the record, David Minkin
14 and Kelsey Yamaguchi on behalf of the Petitioner.

15 When we broke yesterday, Max Solmssen was
16 on the stand. He had not finished his questioning.
17 However, based upon questions and issues that came
18 up, I would ask if we could deviate a little bit. I
19 have three potential witnesses that I would like to
20 get into the record.

21 I have Missy Kamai, Jim Powell, and Janet
22 Kahalekomo. And these folks go directly to the
23 questions that were being raised by the Commissioners
24 dealing with the area, dealing with traditional and
25 customary practices.

1 Both Janet Kahalekomo and Missy Kamai grew
2 up in the area, are familiar with the area, are
3 acquainted with the area and have ancestral history
4 going back years.

5 Jim Powell was the archaeologist who
6 actually built the trenches that were questioned by a
7 number of Commissioners, so I would like to be able
8 to put them on. And as they go up, I would make
9 offers of proof as to what they would, if necessary,
10 with, say Janet Kahalekomo, because of her age, maybe
11 I could just start off with some preliminary
12 questions before it turns over.

13 CHAIRPERSON ACZON: Are these in addition
14 to the witnesses that you're about to --

15 MR. MINKIN: Yes. And these are
16 individuals that should be fairly quick. And we will
17 expedite other witnesses to get everything -- my hope
18 is to get everything done today.

19 CHAIRPERSON ACZON: Any objections from the
20 parties?

21 MR. BRACKEN: No objection.

22 MS. APUNA: No.

23 MS. SOUZA: No objections, although this is
24 the first time I'm hearing about it.

25 CHAIRPERSON ACZON: Commissioners? No

1 objection. Please proceed.

2 MR. MINKIN: Would you prefer that I make
3 offers of proof, or call the witness and just start
4 with a series of foundational questions?

5 Would you prefer what we lawyers call
6 offers of proof as to what they would testify to, or
7 put the witnesses on, I think, and allow them to --

8 CHAIRPERSON ACZON: Just put the witness on
9 and then we can follow through.

10 MR. MINKIN: Okay, first witness would be
11 Jim Powell.

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

14 THE WITNESS: Yes.

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

17 THE WITNESS: James Powell, 222 Lula Road,
18 Wailua, Kaua'i.

19 CHAIRPERSON ACZON: Go ahead, Mr. Minkin.

20 JIM POWELL

21 Was called as a witness by and on behalf of the
22 Petitioner, was sworn to tell the truth, was examined
23 and testified as follows:

24 DIRECT EXAMINATION

25 BY MR. MINKIN:

1 Q Mr. Powell, how long have you lived on
2 Kaua'i?

3 A Came here in 1993, so what is that? About
4 25, 24 years.

5 Q Prior to moving here, what is your
6 educational background?

7 A University of Hawai'i B.A. geography 1972.

8 Q What is your current occupation?

9 A I work as a field archaeologists for SCS,
10 Scientific Consultant Services.

11 Q How long have been doing archaeology as a
12 profession?

13 A I became involved in archaeology somewhere
14 around '83 or '84.

15 Q And where have you focused your work as an
16 archaeologist?

17 A My focus has always been on Hawai'i. I
18 have done some navy projects in the Western Pacific,
19 Guam, Kwajalein.

20 Q Are you familiar with the Lima Ola project?

21 A Yes.

22 Q Were you taxed or assigned any
23 responsibilities to the archaeological study and
24 report for Lima Ola?

25 A I was assigned to do the field testing

1 which consisted of trenches in and around the coffee
2 fields.

3 Q In addition to the trenches, did you walk
4 the property?

5 A Yes. We did a total surface survey through
6 the rows of coffee and on all the access roads
7 surrounding and inside of the project area.

8 Q Why do you do that field survey?

9 A Typically we're looking for some kind of
10 surface indication that some human activity has taken
11 place. Once we find that, then we try to decide
12 whether it's activity that was created pre-history or
13 historic.

14 Q In this particular situation with Lima Ola,
15 you indicated five trenches. Where were the
16 locations of the trenches?

17 A They were typically between -- between the
18 rows of coffee just off the access road, along the
19 access road. I think we did one up next to the auwai
20 that runs across the property.

21 Q And why did you determine that five
22 trenches were sufficient?

23 A Well, I had a couple criteria. One, we're
24 in old agricultural lands where we don't typically do
25 a lot of work, but the work that we do has turned up

1 fairly negative.

2 Secondly, the coffee -- I'm sure it was
3 past bloom and starting to bean, so I didn't want to
4 disturb the agricultural operations. And if I start
5 cutting trenches everywhere, they've got big machines
6 that run through those rows, and I can't take
7 responsibility for what happens if a machine's wheel
8 goes into a soft trench and there's some kind of
9 disruption to their harvesting.

10 Q The trenches, were they located in a
11 particular area or throughout the parcel?

12 A They were spread through -- around the
13 perimeter and a couple access roads that ran across
14 the property vertically and horizontally.

15 Q In addition to walking the property, did
16 you have the opportunity to walk the adjacent parcel
17 that's Habitat for Humanity?

18 A Yes, I did. I felt that as long as there
19 was an open trench nearby, and these guys were right
20 next door, that gave me an opportunity to see the
21 possibility of much more than I would be able to see
22 in just my small trenches. So I walked the entire
23 drain trench top to bottom. And I think Keith was
24 telling me that it looked like it was about 800 feet
25 of trench. So it's a drain line. Starts shallow,

1 goes deep all the way mauka to makai across that
2 property, and I found nothing.

3 Q Based upon your experience, do you believe
4 that five trenches were sufficient for this location?

5 A I do. Considering number one, the coffee;
6 number two, the history of the area. And when I say
7 "history", that's what we typically call 100 years of
8 McBryde Sugarcane operations, plus Kaua'i Coffee
9 operations which were probably about -- they're about
10 20 years I believe.

11 Q Was the topography also considered when you
12 did the five trenches?

13 A Topography wasn't a problem out there.
14 It's not flat, but relatively gently sloping, and we
15 were able to get the machine to where we wanted it to
16 be.

17 Q Would you consider this a plateau area?

18 A I would think the plateau, in my opinion,
19 is a little bit flatter. Like I say, it's gently
20 sloping.

21 Q If this had been a valley, would you have
22 done more trenches?

23 A Valleys present a problem. If they're nice
24 wide valleys with the stream system, fine, we can get
25 a machine in there. If typical gulches out there on

1 that side, little harder. But we would expect to
2 find more surface stuff in the gulches.

3 Q Why is that?

4 A That's typically where the young sites are
5 out on that side. Little more closer to the ocean
6 but they're typically in those gulches.

7 Q Thank you. I have no further questions of
8 this witness.

9 CHAIRPERSON ACZON: Any questions, Mr.
10 Bracken?

11 MR. BRACKEN: No questions.

12 MS. APUNA: No questions.

13 MS. SOUZA: No questions.

14 CHAIRPERSON ACZON: Commissioners?
15 Commissioner Chang followed by Vice Chair Scheuer.

16 COMMISSIONER CHANG: Good morning, Jim. I
17 will disclose I have worked with Jim in the past.

18 MR. MINKIN: We won't hold that against
19 you.

20 THE WITNESS: Nor I.

21 COMMISSIONER CHANG: Could you tell me a
22 little bit about the history of the area?

23 THE WITNESS: Well, I can't give you dates.
24 Our company did do a historical -- I want to say a
25 bit of a history for NTGB, and my wife wrote that

1 report. All I know is that McBryde was known to be
2 growing rocks on that property, instead of sugarcane
3 and/or cattle because it was so rocky out there.

4 McBryde came probably late 1800s and owned
5 that property from Kaumualii Highway all the way over
6 to Koloa side, I think.

7 Prehistory I only know of sites that Bennet
8 mentioned in the gulches down by the shore.

9 COMMISSIONER CHANG: Do you know whether
10 there were any kuleana parcels within that project
11 area?

12 THE WITNESS: No, I don't.

13 COMMISSIONER CHANG: You selected five
14 trenches and this was 75 acres?

15 THE WITNESS: That's right.

16 COMMISSIONER CHANG: And the strategy for
17 the basis of the trenches were you had them along the
18 access road?

19 THE WITNESS: Along the access road on the
20 side away from where the machinery would be running.
21 And they were scattered around the perimeter. And
22 there was an access road down the center, and there
23 were two off that into one of the rows, short ones,
24 because, again, of the agricultural machinery.

25 COMMISSIONER CHANG: Are you familiar with

1 any -- the area makai, Wahiawa Bay, which is makai,
2 are you aware of any traditional customary practices,
3 fishing, gathering, that may have occurred on this
4 property, for example, trails? Are you aware of any
5 trails, any evidence of trails?

6 THE WITNESS: We didn't see any evidence of
7 trails. Like I say, the only evidence we saw was the
8 auwai that McBryde had for carrying irrigation across
9 that property in pretty much east/west direction.

10 COMMISSIONER CHANG: Did you see any
11 evidence of Native Hawaiian plants that may have been
12 used for traditional practices.

13 THE WITNESS: Ilima might have been out
14 there. Basically it was that haole koa and guinea
15 grass that typically fills in. Haole koa was along
16 the auwai. I usually see, and if I remember it,
17 because I like ilima, there must have been a couple
18 of ilima plants that I noticed up there.

19 COMMISSIONER CHANG: Are you familiar with
20 any previous archaeological work above the project
21 site mauka of the road?

22 THE WITNESS: No I'm not.

23 COMMISSIONER CHANG: Have you done any
24 archaeological work in the vicinity of this area?

25 THE WITNESS: Hanapepe, in the valley.

1 COMMISSIONER CHANG: Did you find any
2 evidence within your previous archaeological work of
3 habitation?

4 THE WITNESS: We did a burial in Hanapepe
5 Town. We were also called out after the hurricane to
6 do a burial when they were rebuilding the seawall
7 over by the Japanese cemetery on the west side of the
8 town, right where the canal comes across in front of
9 the national guard buildings. And we also did
10 fiberoptics through town.

11 We also I think -- what else? All
12 basically inside the makai side of Hanapepe Valley.

13 COMMISSIONER CHANG: Are there -- are you
14 aware of any burials, Native Hawaiian burials that
15 may have been found within the vicinity, not only
16 within the project area, but the vicinity of the
17 area?

18 THE WITNESS: Only the ones I mentioned
19 down in the valley. I don't know of anything up
20 there in those areas.

21 COMMISSIONER CHANG: Do you know whether
22 the auwai that ran through here, whether there is any
23 evidence that pre -- prior -- let me ask this
24 question.

25 Was the auwai, is that manmade, was that

1 built by the sugar company?

2 THE WITNESS: The existing auwai was built
3 by McBryde. It's concrete lined. Now, I can't say
4 that there wasn't one there before, but he gets all
5 his water from the wells down in Hanapepe Valley.
6 They pump it up and then they would run it across.
7 As far as there being an auwai there pre history,
8 Hawaiian style, I couldn't say.

9 COMMISSIONER CHANG: Have you seen any
10 evidence of an auwai both mauka and makai of the
11 project site?

12 THE WITNESS: I believe there's one more
13 plantation era auwai mauka of the one that we found,
14 outside of the project area.

15 COMMISSIONER CHANG: Are you -- have you
16 done any Cultural Impact Assessments around the
17 vicinity of this area?

18 THE WITNESS: No.

19 COMMISSIONER CHANG: Are you aware of
20 kupuna who are of this particular area?

21 THE WITNESS: I know a couple of people,
22 but I don't know their status inside the Hawaiian
23 community or local community.

24 COMMISSIONER CHANG: Were you asked to
25 participate in the Cultural Impact Assessment?

1 THE WITNESS: No.

2 COMMISSIONER CHANG: Have you found native
3 Hawaiian burials or cultural resources below
4 sugarcane fields on the Island of Kaua'i?

5 THE WITNESS: When you say below, are you
6 talking about laterally or --

7 COMMISSIONER CHANG: Horizontally.

8 THE WITNESS: Yes, when you dig. We don't
9 typically do much work in that area, sugarcane
10 fields. We did a survey in Wailua behind the heiaus
11 and we did some trenches there, found no burials.
12 Typically they're along the shore in our experience.

13 COMMISSIONER CHANG: Has most of your work
14 been on Kaua'i? Have you done work on other islands?

15 THE WITNESS: Yes, all the islands except
16 Lana'i and Niihau.

17 COMMISSIONER CHANG: Each island has their
18 own burial practices depending on their own geology.

19 THE WITNESS: Exactly. Geology seems to
20 determine or, plays a large part in the burial
21 practice. Big Island lava, not too much beach, et
22 cetera, Kaua'i lot of beaches.

23 COMMISSIONER CHANG: On the Island of
24 Hawaii most of the burials that you have discovered
25 they've been closer to the shoreline?

1 THE WITNESS: I would say 99 percent are
2 along the shoreline. And it may be that one percent
3 would probably be historic burials plantation era
4 kind of thing.

5 COMMISSIONER CHANG: Are you aware of any
6 lo'i either makai or mauka of this project site?

7 THE WITNESS: No.

8 COMMISSIONER CHANG: That's all the
9 questions I have for now.

10 CHAIRPERSON ACZON: Thank you. Vice Chair
11 Scheuer.

12 VICE CHAIR SCHEUER: Good morning.

13 There was one Land Court Award in this
14 area. Did you review or try and identify any
15 unsuccessful applications for Land Court Award or
16 Land Court Awards in this area?

17 THE WITNESS: No.

18 VICE CHAIR SCHEUER: You're not aware that
19 there may have been, but you did not search for any
20 applications for kuleana that were not granted during
21 Mahele?

22 THE WITNESS: I did not.

23 VICE CHAIR SCHEUER: When you say
24 99 percent of the burials that you discovered along
25 the shoreline, what proportion of your work has been

1 along the shoreline?

2 THE WITNESS: 95 percent.

3 VICE CHAIR SCHEUER: Nothing further, thank
4 you.

5 CHAIRPERSON ACZON: Commissioners, anybody
6 else?

7 Any follow-up questions from the parties,
8 Mr. Bracken, Ms. Apuna, Ms. Souza.

9 MR. MINKIN: No further questions of this
10 witness.

11 CHAIRPERSON ACZON: Please call your next
12 witness.

13 MR. MINKIN: The next witness would be
14 Missy Kamai.

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

17 THE WITNESS: Yes.

18 CHAIRPERSON ACZON: Please state name.

19 THE WITNESS: My name is Missy Kamai. I
20 live at 4922 Lakona Street, Hanamaulu.

21 MISSY KAMAI

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

25 DIRECT EXAMINATION

1 BY MR. MINKIN:

2 Q Where did you grow up?

3 A I grew up on the west side of Kaua'i,
4 Makaweli Camp, but for people who are born and raised
5 here Pakala.

6 Q When did you move away from Pakala?

7 A When I went to college, which was back in
8 1994.

9 Q Where did you go to college?

10 A I went to college at UH Hilo.

11 Q Did you graduate?

12 A Yes, I did.

13 Q In what field of study?

14 A I studied, majored in anthropology and had
15 minored in history and philosophy and Hawaiian
16 studies.

17 Q Why did you end of up selecting archeology?

18 A You can thank Pila Kikuchi from Kaua'i
19 Community College. He got me interested in
20 archaeology. But as I got into the field of
21 anthropology in UH Hilo, it kind of became apparent
22 with protesting development that was going on, that
23 as much as me being Native Hawaiian is
24 anti-development, we really needed Native Hawaiians
25 in our fields. So while I am Native Hawaiian and

1 basically don't like development, I feel that we need
2 to be in that position. It's a sharp fence to sit
3 on, but I'm here.

4 Q How long have you been an archaeologist?

5 A 19 years.

6 Q Are you still employed as an archaeologist?

7 A That is correct.

8 Q Are you doing any post-undergraduate work
9 at this time?

10 A Yes. I'm currently in the South New
11 Hampton University long-distance program for my
12 Master's in public history.

13 Q You said you grew up in Pakala or Makaweli
14 Camp. How many generations of your family go back in
15 that area?

16 A The area in Pakala, not so much. It is
17 plantation, so it is Robinson land. But I can trace
18 my genealogy to the west side of Kaua'i through my
19 dad six generations.

20 Q Are you familiar with the area that's been
21 referred to as Lima Ola?

22 A Yes.

23 Q How do you know this area?

24 A Well, growing up in plantation there wasn't
25 really a whole lot to do. I had a bicycle and I

1 traveled from Kalewa to Polihale to Kuula to Wahiawa.
2 My dad, on the weekends, used to be security guard
3 for Robinson, so we used to hit the valleys and the
4 ridges from Manau to Koloa all the way -- wherever
5 Robinson had land.

6 So I'm pretty familiar with the area, not
7 specifics, but we did pick medicinal plants in Kuula,
8 we went fishing in Wahiawa, we went oopu catching at
9 Waimea Valley, we picked taro in Makaweli. Cultural
10 practices I got.

11 Q Where you grew up, how far away is that
12 from Lima Ola?

13 A Approximately less than ten miles, roughly.
14 I guess if you're talking about Pakala, it's west.

15 Q Do you know the Lima Ola area? Are you
16 familiar with where Lima Ola is located?

17 A Yes.

18 Q You know it's adjacent to Habitat for
19 Humanity?

20 A Correct.

21 Q As a young kid did you go over that area?

22 A Yeah.

23 Q Did you ever come across any trails?

24 A No, no trails.

25 Q Did you ever notice any chanting?

1 A No.

2 Q Did you ever come across any hula
3 practitioners?

4 A No.

5 Q Any gathering?

6 A No. Oh, well, okay, so this is where I get
7 strange on how consider gathering. So as a
8 historian, and from what -- to extend beyond what Jim
9 said, so when McBryde did buy the land, started the
10 plantation, what happened is when the immigration
11 came and under contract labor contract which was 1850
12 that's the start of waves of immigrants that came
13 specifically for plantation, not when they came for
14 business which was Japanese/Chinese. 1850 when waves
15 of immigration came, a lot of them sort of brought
16 their way of life.

17 So a lot of the ditches that became part of
18 the plantation system, they grew vegetables, and
19 gathering in that sense they did. It wasn't Native
20 Hawaiian, but Native Hawaiian is subsistence living.
21 So that sort of carried on, but it wasn't
22 specifically to Native Hawaiians during contract
23 labor.

24 Unfortunately Native Hawaiians dug out.
25 They became navigators on ships. They went into

1 ranching which is the field that the family that my
2 mom came from. Native Hawaiians that went into the
3 ranching. So in a sense we did gather, and I saw
4 them gathering, but it was basically the immigrants
5 that came for plantation that were gathering and, you
6 know.

7 Q Your mom still lives in Pakala?

8 A Yes.

9 Q There has been talk about Hanapepe Valley.

10 A Kuula, yeah, and Hanapepe Valley.

11 Q Different than the Lima Ola parcel?

12 A Very different. Not only in environment,
13 but, you know, topography is different. Even what
14 you could gather is somewhat different.

15 Q Are you familiar with the area makai of
16 Lima Ola?

17 A The Wahiawa area, yes.

18 Q Different there than also Lima Ola parcel?

19 A Yes, for the exact same reason why mauka
20 property would be different from makai. The
21 environment, the types of plants that can grow
22 because there is more salt content at the ocean that
23 you don't see further up. So even the types of
24 plants that is being grown was different.

25 Q Do you understand that if this project, if

1 the Commission allows this boundary amendment to go
2 through, it would change this area from agricultural
3 to urban. Do you have any opinion about that?

4 A Well, this is -- I mean it is affordable
5 housing. Speaking about Native Hawaiian and coming
6 from like, you know, low income, I grew up low
7 income. I mean, it is hard to find housing now for
8 us to buy. And we need more housing.

9 I know some people chooses to live homeless
10 because they don't want to buy a house, but if you
11 could, I definitely would.

12 Q Do you think this affordable housing on the
13 west side would be beneficial to the communities on
14 the west side?

15 A It would if they have the first options to
16 buy instead of people that just came.

17 Q Thank you. I have no further questions of
18 this witness.

19 CHAIRPERSON ACZON: Any questions?

20 MR. BRACKEN: No questions.

21 MS. APUNA: No questions.

22 MS. SOUZA: No questions.

23 CHAIRPERSON ACZON: Commissioners?

24 Commissioner Chang followed by Vice Chair Scheuer.

25 COMMISSIONER CHANG: Aloha, Missy.

1 THE WITNESS: Aloha.

2 COMMISSIONER CHANG: Mahalo for being here
3 today.

4 THE WITNESS: No problem. It was an
5 interesting journey.

6 COMMISSIONER CHANG: We greatly appreciate
7 that sensitivity. Again, mahalo for being here.

8 Missy, your family, you're from the west
9 end?

10 THE WITNESS: Yes.

11 COMMISSIONER CHANG: Where do I begin? Are
12 there any, in your opinion, because you're one --
13 you're familiar with the west end, have you done
14 cultural impact assessments?

15 THE WITNESS: I have done it, not for this
16 particular project. I've helped more than I've
17 actually facilitated it, because that's really not my
18 area. I graduated with an anthro and specified in
19 Hawaiian archaeology, so I tend to do the evidence
20 left behind of precontact or historic.

21 COMMISSIONER CHANG: Were you involved in
22 this cultural impact assessment?

23 THE WITNESS: This one, no.

24 COMMISSIONER CHANG: With respect to this
25 project area, you talked about the 1850 wave of

1 plantation immigration.

2 THE WITNESS: That is correct.

3 COMMISSIONER CHANG: Do you know of any
4 mo'olelo about this area?

5 THE WITNESS: Are you talking specific to
6 the project area, or are you talking about --

7 COMMISSIONER CHANG: The ahupua'a. So
8 that's -- you know, sometime mo'olelo help us
9 understand stories about that area, what was
10 significant about the area, even winds, what grew
11 sometimes.

12 THE WITNESS: Off the top of my head, I
13 really can't, you know, specify for the ahupua'a.
14 But just listening to the traveling mo'olelos of
15 Hiiaka, Pele, Lohiau, they actually took you on a
16 journey that pretty much went through these areas,
17 but if you really listen, you look at the kauna, and
18 you kind of deal with the understanding that even if
19 it's a mo'olelo, still talking about somewhat living
20 people at one time.

21 So a lot of their travels was mauka as the
22 story with the mo'o in Wailua, and you get the chant,
23 the entrance chants, Pele, Lohiau, Hiiaka, you have
24 like Kuupele mauka of Manau. A lot of the stories
25 they talk about fishing, Maui, coastal. So there's

1 hardly any in between especially specifically to that
2 area. You might hear areas about the gulches because
3 you know had kalo, that kind of thing.

4 COMMISSIONER CHANG: Sometimes there can be
5 stories even of their journeys that may have passed
6 along even the shoreline and they may have left
7 something -- this area isn't -- you're not aware of
8 any particular --

9 THE WITNESS: Not particularly. I mean
10 just off of top of my head, and what I've
11 experienced. You know, especially with Hokule'a
12 coming back, you know, even the myths and legends of
13 Hawaii there was a particular reason a star, whether
14 it was for Pa'au coming from Tahiti, coming from
15 Hawaii or Hokule'a trying to come back.

16 COMMISSIONER CHANG: You looked at you said
17 1850 wave of immigration. Are you familiar with
18 activities precontact prior to that that may have
19 occurred within that ahupua'a, specifically that
20 land, but also within the vicinity of the area?

21 THE WITNESS: I don't know specifics for
22 that, that particular project area, but I did mention
23 Kuula.

24 When I used to go with my dad basically
25 there was a family friend that was down there, called

1 her Grandma Kuula, but her last name was Horn. That
2 was her LCA. When we went down, she was already gone
3 when I was alive. But we went in the gulch, not the
4 project area, but down in Hanapepe Valley, way in
5 Hanapepe Valley, went o'opu, opaeula?

6 COMMISSIONER CHANG: But that was more
7 Hanapepe?

8 THE WITNESS: Well, if you keep going
9 within Hanapepe, where the project is, it is just
10 past the project on the main highway past the
11 Hanapepe scenic route, there's dirt roads. If you
12 take that dirt road down, there is Kuula. And that's
13 within the Wahiawa. Kuula is basically the ili of
14 the ahupua'a of Wahiawa, and it's a big ili.

15 COMMISSIONER CHANG: And you mentioned
16 you're not familiar with any trails, no mauka-makai
17 tries that went up mauka down to makai? The bay
18 seems to be nice place for fishing. Are you aware of
19 any trails that go mauka-makai?

20 THE WITNESS: No. And that would be more
21 personally like since my dad was security, we took
22 what had mauka, and we just took whatever roads there
23 was makai and we walked, but I would not say that it
24 is a traditional or a, you know, a road.

25 COMMISSIONER CHANG: I know that sometimes

1 when plantations came in, they may have -- access may
2 have been disrupted, traditional access. Are you
3 aware of anybody mentioning that even prior to sugar
4 plantations that they would access that area?

5 THE WITNESS: No, no, I mean you hear it
6 now when the coffee fields are harvesting, you can't
7 go down fishing Wahiawa lighthouse, but as it
8 pertaining to precontact, no.

9 COMMISSIONER CHANG: Are you aware of any
10 gathering, you know, medicinal plants that may have
11 been gathered either on that project area or within
12 the vicinity?

13 THE WITNESS: I would say no, not within
14 the vicinity. I remember that entire area being cane
15 fields and stopping on the side of the road to go
16 pick paia that my father wanted to eat.

17 COMMISSIONER CHANG: Jim Powell who was
18 right before you talked about that they had just --
19 McBryde, what did he call it, the rock, he was
20 growing rock. Was that area known to be more rocky?

21 THE WITNESS: It's actually a very rocky
22 area. I guess I'll put the archaeology cap on the
23 other side. We have done subsurface testing not in
24 that particular area, but it's a boulder field, blue
25 rock.

1 COMMISSIONER CHANG: So underneath a lot of
2 coffee and/or sugar, there's blue rock that may be
3 under there.

4 THE WITNESS: Possibly, yes. If you base
5 it at the waterline project I worked on just at the
6 exit of McBryde road going towards Lihue on Kalaheo
7 side, that was rock.

8 COMMISSIONER CHANG: Do you know if any
9 kupuna from that area?

10 THE WITNESS: No, not specific.

11 COMMISSIONER CHANG: Are you aware of any
12 today saying that they have exercised traditional
13 customary practices from that area?

14 THE WITNESS: Not that specific area, no.
15 And really not in the vicinity, but it's public
16 knowledge, but there was a court hearing for the
17 Hanapepe side about the hunting access, but there was
18 a problem there, but it's not anywhere near the
19 project of discussion right now.

20 COMMISSIONER CHANG: And I know you do very
21 good, very thorough work.

22 THE WITNESS: Thanks.

23 COMMISSIONER CHANG: Our legal mandate is
24 we have to identify value, cultural natural
25 resources. In your opinion are there any valued

1 cultural resources identified in this area?

2 THE WITNESS: Not in this specific area,
3 no. I mean one culturally, it's on the side of the
4 highway.

5 COMMISSIONER CHANG: Is that your opinion
6 as an archaeologist, or as someone who's grown up in
7 the area?

8 THE WITNESS: Both, but more growing up in
9 the area as cultural practitioner, I mean outside of
10 being a fisherman on the bike path or something like
11 that, I mean do you really want to practice culture
12 on the side of a highway especially on the west side
13 where we have so many hiding spots?

14 COMMISSIONER CHANG: Were you involved in
15 the archeological inventory survey for this project
16 area?

17 THE WITNESS: No, not for this particular
18 project.

19 COMMISSIONER CHANG: I know you've also
20 been involved with iwi kupuna.

21 THE WITNESS: More than I wanted to be, but
22 yes.

23 COMMISSIONER CHANG: Are you aware of any
24 iwi kupuna that may have been discovered below
25 sugarcane fields?

1 THE WITNESS: No.

2 COMMISSIONER CHANG: So Kaua'i, and Jim
3 Powell previously before you, his experience has been
4 that on Kaua'i most burials are found along the
5 shoreline. Is that also your experience?

6 THE WITNESS: You talking precontact?

7 COMMISSIONER CHANG: We didn't ask him but
8 I'm assuming most of the burials that he's been
9 finding are precontact. That may be a wrong
10 assumption. Has that been your experience, most of
11 the iwi kupuna have been along the shoreline?

12 THE WITNESS: Majority that -- as an
13 archeologist, yes. Majority of projects I've worked
14 on when iwi was discovered was on the shoreline, but
15 it is not only places that iwi could be found in our
16 particular profession.

17 COMMISSIONER CHANG: Are there other more
18 geological conditions on Kaua'i where iwi kupuna may
19 be found?

20 THE WITNESS: Oh, yeah, about seven years
21 ago I got a call from my boss in Honolulu. They got
22 a call from KPD, at the time there was no
23 archaeologist for SHPD State Historic Preservation
24 Division. So I guess there was a cooperation between
25 the company I do work for and the company Jim works

1 for with the state SHPD, that if inadvertent finds,
2 we will call it was discovered, our first job was to
3 identify if it is human or not. And so I got a call
4 to go into Hanapepe Valley.

5 I called the police officer -- I forgot his
6 name, but there was a couple walking in the morning
7 and they actually found a piece of bone on the road.
8 And so when the police officer got there, he looked
9 up in the valley and there was caves. That was his
10 extent of investigation, there was caves. So I went
11 in and walked up, it was plantation burials.

12 Coincidentally I did run into somebody who
13 grew up in that area. For two reasons did people
14 bury in caves, particularly in Hanapepe Valley. One
15 was because of flooding. When water rises the
16 possibility of burials would rise too, because a lot
17 of them weren't high class, they couldn't afford
18 heavy caskets, all ply board.

19 Second reason, financial. They could not
20 bury underground, they couldn't afford it, so they
21 buried in caves.

22 COMMISSIONER CHANG: That makes sense. In
23 this particular area when it was McBryde, a lot of
24 immigrant plantation workers, are you aware of any
25 plantation cemetery that may be in this area?

1 THE WITNESS: No, there's none in that
2 area.

3 COMMISSIONER CHANG: And, again, you were
4 not -- you did not participate in the cultural impact
5 assessment for this project?

6 THE WITNESS: No, not at all.

7 COMMISSIONER CHANG: Are you aware of any
8 kuleana lands within this project area.

9 THE WITNESS: Not really, but like said, I
10 didn't do any cultural impact assessment, just kind
11 of talking story about growing up.

12 COMMISSIONER CHANG: Thank you very much,
13 Missy.

14 THE WITNESS: Sure.

15 CHAIRPERSON ACZON: Vice chair Scheuer.

16 VICE CHAIR SCHEUER: Aloha.

17 THE WITNESS: Aloha.

18 VICE CHAIR SCHEUER: I understand you're
19 both an employee of an archaeological consultant firm
20 and so you're coming here both as a professional as
21 well as a person who is kamaaina to this place.

22 THE WITNESS: Yeah, I was asked to come as
23 Native Hawaiian, but if there is any way to help in
24 history background or archaeological or cultural
25 anthropology, I would be more than willing.

1 VICE CHAIR SCHEUER: Did you have a chance
2 to read the Cultural Impact Assessment for this
3 project?

4 THE WITNESS: No, I did not.

5 VICE CHAIR SCHEUER: You said you've been
6 in a supportive role on the preparation of other
7 cultural impact assessments.

8 THE WITNESS: That is correct.

9 VICE CHAIR SCHEUER: How is -- in your
10 practice, are you familiar with how you reach out to
11 try and talk with cultural practitioners?

12 THE WITNESS: Depends on the area. Like
13 the west side, I tend to call family first, and then
14 what we do is we call it the snow ball effect. We
15 call the people that we know whether it's in some
16 type of group like Kauai-Niihau Island Burial
17 Council. My mom and few relatives were part of the
18 board once upon a time. But also figures that I
19 know, I go to them and then get referred to other
20 people. And for me kind of makes it easy, because
21 like I said I'm from here, so I might even know the
22 people that they start referring to.

23 VICE CHAIR SCHEUER: Is sending a letter
24 asking for information an effective way to reaching
25 out to ask for this kind of information?

1 THE WITNESS: Yes and no. Letter is a
2 really a good way, but a phone call never hurts
3 anybody. The thing about that though, I'm thinking
4 about my mom, she has hard time answering the phone.
5 She doesn't have email. She refuses to turn on her
6 phone half the time. So having a letter or even
7 phone call, though I think it's more invasive with
8 certain cases, especially with phone call, but a
9 letter, but you know, you kind of need to follow up
10 with other things.

11 VICE CHAIR SCHEUER: So in this case we
12 heard testimony that they sent a letter and followed
13 up with a second letter. Receiving no responses,
14 they concluded there were not either significant
15 practices or nobody wanted to respond.

16 THE WITNESS: I don't know how to answer,
17 yeah, for this project. I tend to go to people's
18 houses, so.

19 VICE CHAIR SCHEUER: You testified in
20 response to questions from the Petitioner's attorney
21 that you're supportive of this project, correct me if
22 I'm misstating what you said, because we need
23 affordable housing on this island particularly if
24 this housing is available to the people on the west
25 side of the island.

1 THE WITNESS: The option, give them first
2 option. Not to say that everybody around Kaua'i is
3 like high class, medium income, but we do have a need
4 being from the west side, we really do have a need,
5 and if we can get first options to even buy a house,
6 then it would be better.

7 VICE CHAIR SCHEUER: So I have a few
8 questions related to that. One is, are you aware
9 what previous affordable project, whether the option
10 given first to the folks from west side or people
11 coming in from elsewhere --

12 THE WITNESS: So this is totally not
13 cultural or anything, but when I graduated from
14 college I came home for one year in 1994 to 1995. I
15 helped create Habitat housing in Ele'ele right now.
16 We did try to bring west side people in, and there
17 was a bunch. But you're talking 1994 to what we're
18 doing now, so a lot of people that was there, kupunas
19 that passed away, kids moved, you know.

20 But, yes, I am familiar. I worked with
21 Habitat. We build affordable housing in Kekaha.
22 Auntie Beleda (phonetic) was the head of Habitat, and
23 she is my relative. That's kind of how I got
24 finagled to build the houses for a year. We did
25 Kekaha, Anahola. Heck, we went to Louisiana to build

1 affordable housing. I helped for my friend when she
2 actually qualified at the Hanapepe area. I helped
3 her build her house.

4 VICE CHAIR SCHEUER: I used to work for OHA
5 at the time. So I'm familiar with the power house of
6 Auntie Beleda (phonetic) bless her.

7 So in this case the developer is the
8 county. The purpose is affordable housing. Some
9 significant questions have come up about the CIA, so
10 people like you have been kind enough to come in last
11 minute.

12 You spoke in your introduction about your
13 getting into anthropology and archeology, a concern
14 about the effect of development on Native Hawaiian
15 communities and practices.

16 THE WITNESS: Yes.

17 VICE CHAIR SCHEUER: If this was a
18 different developer, if this was for-profit
19 development, would you feel differently about this
20 process that we're in?

21 THE WITNESS: Yeah, I probably wouldn't
22 have said yes. I would not be here today. I would
23 be working on the county job I'm supposed to be on
24 right now.

25 VICE CHAIR SCHEUER: Last question. You

1 said it was an interesting journey. Explain a little
2 bit about that.

3 THE WITNESS: I just got a call at
4 9:00 o'clock last night asking if I would come and
5 speak on behalf of affordable housing on west side.
6 I was like, yeah, sure.

7 VICE CHAIR SCHEUER: You talked about --
8 thank you for correcting our pronunciation, as a
9 non-kamaaina and I'm looking at words and referring
10 to Wahiawa rather than Wahi'awa.

11 Is there fishing that goes on there now
12 which you are aware of?

13 THE WITNESS: Yeah, but they don't walk it,
14 they go by boat.

15 VICE CHAIR SCHEUER: But there is?

16 THE WITNESS: Still, yeah.

17 VICE CHAIR SCHEUER: Do you know what kind?

18 THE WITNESS: Kuhu, get kala, I think they
19 were saying ramarani (phonetic). So probably get
20 there too.

21 VICE CHAIR SCHEUER: What are the other
22 sort of coastal resources that you've seen people
23 gathering that you are aware?

24 THE WITNESS: On that particular coast if
25 you can catch it, there is a lot of waiwai'iole. Not

1 so much any more with the limu, but there was some.

2 VICE CHAIR SCHEUER: Mahalo.

3 THE WITNESS: Sure.

4 VICE CHAIR WONG: Thank you for coming. I
5 have a question.

6 You talk about blue rock in the area?

7 THE WITNESS: Yes.

8 VICE CHAIR WONG: As an archeologist,
9 archaeology, do you see -- just speak how I would
10 speak -- do you see any precontact -- can they do
11 anything with blue rock?

12 THE WITNESS: Well, the hardest part is to
13 get the blue rock because that is very solid one.
14 You know, working as an archeologist when we do
15 monitor, they're actually bringing in hoe rams to
16 slam through blue rock, so I cannot see my people
17 back in 1400 trying to get blue rock.

18 VICE CHAIR WONG: Thank you.

19 COMMISSIONER CABRAL: Based on your
20 superior knowledge of both education --

21 THE WITNESS: No superior.

22 COMMISSIONER CABRAL: Well, educationally,
23 you are far superior to me, and your background of
24 living and knowing the area, you're far superior to
25 me. I'm glad we got to do the site visit two weeks

1 ago.

2 So based on my extremely limited knowledge,
3 but your more superior experience and knowledge, I
4 looked at all of that, and it's coffee now, and I can
5 almost envision -- because I'm from Hilo, thank you
6 for coming to UH Hilo -- but I can envision, because
7 I know when Hilo was just acres of miles and miles of
8 beautiful waving sugarcane.

9 And so is there any reason, based on that
10 whole surrounding area being that it has been for 150
11 now plus years, any reason that you would think that
12 there has been some kind of past cultural practice,
13 that there's any type of evidence that we're missing?

14 I mean, you don't have a crystal ball, but
15 I mean just that whole area is so massive and so big
16 and so extending, and the history is so agricultural
17 for so long, do you have any reservation to think
18 that there may be something there for any reason that
19 we're missing?

20 THE WITNESS: Reservations, no. There is
21 nothing there. But because people keep bringing the
22 whole cultural thing, so the land concept of ahupua'a
23 is specifically makai to mauka, vice versa. It's
24 cultural, they walked it, I mean that's the only way
25 there was. No planes, nobody had wings. They had to

1 get to the mountains and come back to the ocean. So
2 it depends on that particular family, they would be
3 the evidence of that cultural practice.

4 So basically it's not archaeological any
5 more, it becomes the mo'olelo of that family. You
6 know, whether it's a child having a place name as
7 their Hawaiian name which that's most of my family,
8 we carry the place names of the area. Granted my
9 name comes from Kipu side, but most of our family
10 carries places as part of our name.

11 And story-telling basically once plantation
12 came with, you know, we do AIS's, we do data
13 recovery, in areas like that go, basically, I think
14 what Jim said, and I wasn't really paying attention,
15 and he didn't say -- sorry.

16 COMMISSIONER CABRAL: We appreciate your
17 clear honesty here.

18 THE WITNESS: When we do AIS's we dig to
19 what we call sterile. So basically there is nothing
20 there. When we talk about blue rock or bedrock or
21 lava or basalt, sterile is when rock just breaks and
22 becomes dirt. So there is absolutely nothing there.

23 And normally when we do survey, especially
24 in old cane area, our point is to go beyond what we
25 call the plow zone, so it's a plantation term that

1 when they cultivate tilling for next harvest or
2 planting, they actually till about three feet, give
3 or take to mix the soil up. And that is because I
4 grew up right around the cane trucks and watching
5 people work.

6 But we go beyond that to say four feet to
7 see if there is evidence of anything beyond that, and
8 then just to be on the safe side, due diligence, we
9 go all the way down to sterile. You can flip that to
10 say sand, decomposing organic material, so it's that
11 weird funky smell when vegetation goes bad. We dig
12 in materials like that in sand or in a swamp.

13 COMMISSIONER CABRAL: Thank you.

14 CHAIRPERSON ACZON: Commissioner Okuda.

15 COMMISSIONER OKUDA: A procedural question
16 to ask. Does the stipulation regarding expert
17 witnesses cover these supplemental witnesses?

18 CHAIRPERSON ACZON: I don't believe this is
19 expert witness.

20 COMMISSIONER OKUDA: There was a
21 stipulation that witnesses called today to be
22 experts. My question is, are these supplemental
23 witnesses covered by that statement?

24 MR. MINKIN: Good question. With the
25 things we were doing last night and this morning, we

1 didn't cover that. I would ask that the stipulation
2 carry over based on the expertise of the people that
3 have testified today. I would move that the
4 witnesses being called are considered experts also
5 and be a stipulation, and my understanding is we have
6 Kumu Leina'ala Jardin that I'm going to call. Also
7 Kumu Sabra Kauka and Thomas Nizo who is a salt maker.

8 COMMISSIONER OKUDA: So the record is
9 clear, is that the agreement of all the parties?

10 MR. BRACKEN: We would agree with that.

11 MS. APUNA: I think if each witness can be
12 qualified individually on their expertise as we go
13 along, that would make -- I think with each witness
14 that comes forward, that if the Petitioner can
15 qualify each one of them individually that might
16 allow each of the members to have more comfort.

17 MR. MINKIN: Based on the comment of the
18 state deputy attorney general, I would move to
19 qualify, based upon her experience, work history and
20 education, Ms. Kamai as an expert.

21 VICE CHAIR SCHEUER: In what field?

22 MR. MINKIN: In the field of archeology,
23 cultural practices and traditional practice.

24 CHAIRPERSON ACZON: Any objection?

25 MR. BRACKEN: No objection.

1 MS. APANA: No.

2 CHAIRPERSON ACZON: Ms. Souza?

3 MS. SOUZA: No objection. Would I be able
4 to answer the question that was posed to the others
5 about the stipulation yesterday versus the
6 stipulation today?

7 CHAIRPERSON ACZON: Say that again.

8 MS. SOUZA: The parties were able to
9 address the question about the stipulation yesterday
10 about the exhibits and the parties as being expert,
11 and I wasn't given the opportunity to address that.
12 May I do that now?

13 CHAIRPERSON ACZON: Yes.

14 MS. SOUZA: In coming up with the
15 stipulation yesterday, we all received exhibits and
16 written testimony of the witnesses, so it was easy to
17 understand where -- you know, what was going to be
18 said.

19 This morning we were not given advance
20 notice of the new witness list. We have no
21 additional exhibits or written testimonies. So at
22 this point I'm not capable of blanket approval of all
23 of the subsequent witnesses as being considered
24 expert.

25 CHAIRPERSON ACZON: Five-minute recess.

1 (Recess was taken.)

2 CHAIRPERSON ACZON: We're back on record.

3 Based on Ms. Apuna's recommendation to
4 qualify each witness as expert witness as they come
5 to the witness box, and all the parties will be able
6 to ask questions, including Commissioners based on
7 their testimony.

8 Would that be all right with everyone?

9 MR. MINKIN: That's fine.

10 COMMISSIONER CHANG: Chair, could I ask if
11 there is a resume, if you could also include that as
12 part of the record if you have it. If you don't,
13 don't worry.

14 MR. MINKIN: For the record, I'll indicate
15 no resumes.

16 MR. BRACKEN: Yes.

17 MS. APUNA: Yes.

18 CHAIRPERSON ACZON: Ms. Apuna, for the
19 record, I note that Mr. Funakoshi is not with us
20 today. Would you like to introduce --

21 MS. APANA: Thank you, Chair. Director Leo
22 Asuncion is here.

23 CHAIRPERSON ACZON: Welcome.

24 Commissioner Okuda, please continue.

25 COMMISSIONER OKUDA: Could we get

1 acknowledgment that Ms. Kamai is now an expert? I
2 didn't hear if it --

3 CHAIRPERSON ACZON: Any objection?

4 MR. MINKIN: I move to qualify her as
5 archaeologist as well as an expert in traditional and
6 customary native practices.

7 CHAIRPERSON ACZON: Any objections from the
8 parties?

9 MR. BRACKEN: No objection.

10 MS. APUNA: No objection.

11 MS. SOUZA: No objection.

12 CHAIRPERSON ACZON: Commissioners, for the
13 record, Ms. Kamai is an expert witness.

14 MR. MINKIN: Thank you.

15 THE WITNESS: Would you -- expert? Sorry,
16 kala mai.

17 COMMISSIONER OKUDA: Ms. Kamai, now that
18 you've been qualified as an expert, I would like to
19 ask you a question which actually does not fall
20 within your expertise.

21 THE WITNESS: Can I object then? Just
22 kidding.

23 COMMISSIONER OKUDA: But I think you're
24 well suited to answer as a person with long time
25 roots on the west side, including family roots.

1 There's been some testimony and some
2 evidence which raises the concern that this project,
3 if it's approved by the Land Use Commission, will
4 open the door to -- and this is my description, not
5 necessarily anyone else's -- to rapid development on
6 the west side which ultimately would hurt the long
7 time residents of the west side and maybe all the
8 people of this island.

9 What is your view on that?

10 THE WITNESS: I can't say I disagree with
11 that statement. But as Native Hawaiian or whatever
12 you want to call it, we need water to live, so our
13 natural resources should actually be what gives us
14 the right to develop or not to develop. If we can't
15 give the water where it needs to be for people
16 already here living on Kaua'i, but not only that,
17 farmers need the water, you know, lo'i, all of that.

18 If we still can have water without draining
19 the resource itself, then, you know, we really need
20 affordable housing period, doesn't matter whether you
21 approve, west side, east side, south side, north
22 side, everybody needs affordable housing. But if
23 there is not enough natural resources to supply it,
24 why are we building it? More of a common sense then
25 cultural aspect than anything.

1 Why do we keep building if we don't have
2 the natural resources to supply our people that's
3 here?

4 COMMISSIONER OKUDA: Thank you very much
5 for your response and thank you very much for coming
6 here. Your testimony has been extremely helpful and
7 we really appreciate it -- or at least I do.

8 VICE CHAIR SCHEUER: If you were -- if you
9 had been asked to conduct a cultural impact
10 assessment for a project in this area of Kaua'i, who
11 are some practitioners that you might have contacted?

12 THE WITNESS: Who from the west side?

13 VICE CHAIR SCHEUER: Yes.

14 THE WITNESS: Actually contact Thomas that
15 is over there already. Auntie Alethea (phonetic).
16 Mostly because she is a west side historian,
17 specifically Waimea, but she does have connecting
18 ties to her husband through Hanapepe which is not far
19 away from Wahiawa.

20 There is a lot of our kupunas passed away.
21 So just trying to think of who is left is kind of
22 overwhelming to say the least. Just off the top of
23 my head, I'd probably pick Auntie Alethea and hope it
24 spreads, or brother Tomas in the back over there.

25 VICE CHAIR SCHEUER: Thank you very much.

1 That was it.

2 COMMISSIONER CHANG: I'm not going to be
3 long, just two questions.

4 Question one, are you being paid for your
5 testimony today?

6 THE WITNESS: No, I am not. If I am, I
7 have asked whoever to please donate it to Kaua'i
8 Historical Society, because they need all the help
9 they can get.

10 COMMISSIONER CHANG: Mahalo for that.

11 My last question. You said you have no
12 reservations about rendering an opinion that at this
13 time you are not aware of any traditional customary
14 practices being exercised on this property; is that
15 correct?

16 THE WITNESS: That is correct. I pretty
17 much don't have any reservations about having an
18 opinion period.

19 COMMISSIONER CHANG: Fair enough. But you
20 also said --

21 COMMISSIONER ESTES: That's two questions.

22 THE WITNESS: Thank you, mahalo.

23 COMMISSIONER CHANG: But this is important
24 because it does set the framework for Ka Pa'akai and
25 how do we protect traditional customary practices,

1 but notwithstanding, at this time there may be no
2 identified resources, or someone coming forward
3 asserts traditional customary practices.

4 If in the future someone has a mo'olelo,
5 who has ties to the land, who can demonstrate that
6 their ohana has historically practiced or exercised,
7 the burden is on them to prove that, but would you
8 agree that someone in the future, because we never
9 abandon traditional customary practices, assuming we
10 can establish that, because you said something about
11 there might be other mo'olelos from families who may
12 practice, so would you agree that if someone in the
13 future -- and it could be many years down the road --
14 they come back, they have been on the mainland, but
15 they're able to trace their lands, their ties to
16 this, whether their name or some other connection,
17 but they can maybe in the future assert traditional
18 customary practices.

19 And I know you're not a lawyer, so if you
20 cannot.

21 THE WITNESS: Oh, no, no, I'm not going to
22 even talk like a lawyer because I don't know what
23 that means. You asked about genealogical knowledge,
24 which I do have for Wainiha, Huliwa, Kipu,
25 Nawiliwili, Waimea, Mana, Makaweli and Niihau

1 (phonetic). Have I lived in all those places? No.
2 But I do have connecting ties which as part of a
3 hobby I've been collecting stories because I have
4 been noticing -- and this is -- it's not a blanket
5 statement, but it's what I've been noticing lately is
6 my generation, meaning the 30 and, you know, the next
7 decade over, we are basically the bridge between the
8 younger generation and older generation, because what
9 we know is what they choose not to know or don't want
10 to know.

11 Everything that I have learned I grew up
12 with. All these lands I've talked about are now
13 locked up. I can talk about it, but my nieces, my
14 nephews, grand nieces and nephews will only hear of a
15 story and not have a connecting tie, only because
16 they lived it through me, but they don't know what it
17 felt like to go swimming in Hanapepe River. They
18 don't know what it means to pick waiwai'iole. They
19 don't know what it means to throw net down Wahiawa.

20 The closest is the basic is pick maile up
21 Kokee. And even that extent they don't know. So
22 my -- actually my hobby before, you know, getting
23 into the master's program, was I was collecting oral
24 history from kupunas that unfortunately has now
25 passed away, because my brothers' and sisters' kids

1 don't know about it or they don't care.

2 So I'm just trying to save what we do have
3 now, because as technology advances, development
4 progresses, and that kinds of human nature, we go to
5 a point where we implode. Too much technology, you
6 know. Nobody listens to people any more. So I'm
7 just collecting oral history from what I can.

8 COMMISSIONER CHANG: Mahalo. I assure you
9 we are listening today. Thank you very much.

10 CHAIRPERSON ACZON: Any other questions
11 from the Commissioners? Any follow-up questions from
12 the parties?

13 MR. MINKIN: No.

14 MR. BRACKEN: No.

15 MS. APUNA: No.

16 MS. SOUZA: No.

17 CHAIRPERSON ACZON: Thank very much, Ms.
18 Kamai.

19 MR. MINKIN: Next witness is Janet
20 Kahalekomo.

21 CHAIRPERSON ACZON: Do you attest that the
22 testimony you're about to give is the truth?

23 THE WITNESS: I beg your pardon?

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

1 THE WITNESS: Sorry, I brought my ears.

2 MR. MINKIN: For the record, that is Ms.
3 Kahalekomo's grandson Bronson Sahut (phonetic).

4 THE WITNESS: Yeah, sorry.

5 CHAIRPERSON ACZON: That's what happens
6 when you get a little bit too old. I'm getting
7 there.

8 Please state your name and address.

9 THE WITNESS: Janet Kahalekomo, 2218
10 Hakuahale Road.

11 JANET KAHALEKOMO

12 Was called as a witness by and on behalf of the
13 Petitioner, was sworn to tell the truth, was examined
14 and testified as follows:

15 DIRECT EXAMINATION

16 BY MR. MINKIN:

17 Q I'm going to ask you questions. I'm going
18 to talk loud. If you can't hear me, ask your
19 grandson to be your translator.

20 Where do you live?

21 A Where I live now?

22 Q Yes, what town?

23 A I live in Bride Swan (phonetic).

24 Q How long have you lived there?

25 A Couple of years, but not as long as I lived

1 in the communities of Hanapepe, Port Allen and
2 Ele'ele. I lived almost all my life in that area.

3 Q I'm going to ask you a question my mother
4 said I should never ask. How old are you today?

5 A How old I am? Wow. No, that's quite all
6 right, when you're old, it's not a problem. I'll be
7 80 in two months. So I've lived pretty much of my
8 life in that area.

9 Q How far back does your family go in those
10 areas that you told us about?

11 A In that area, my mother was born in
12 Wahiawa, which is just above the area that you're
13 looking at right now. And so because my mom was born
14 in Wahiawa, she would tell me lot of stories.

15 But during my young life there was no
16 activity going on as far as cultural was concerned,
17 yeah, because by the time I was born and grew up in
18 the area, plantations already came in.

19 Q Did you hear stories from your mom or other
20 relatives about any cultural practices that went on
21 in that area of Lima Ola that the county wants to
22 develop in affordable housing?

23 A Yeah, the area that you're talking about
24 now, as far as my grandparents talked about it,
25 mother talked about it, there was no activity. No

1 activity in that 80 acres that you're looking at
2 right now.

3 A lot of the activity that took place for
4 my mom and her mother was down in Wahiawa. So
5 nothing going on in the area.

6 Q Do you consider yourself -- do you practice
7 cultural activities?

8 A Yes, very much so.

9 Q For the record, can you tell us what are
10 some of the cultural and traditional activities that
11 you yourself practice?

12 A Kupuna at Ele'ele School, so cultural
13 activities are very important, and that's what I do,
14 and I enjoy doing the most. And I practice many
15 things, but one of the important part right now is
16 the salt pans.

17 Q When you say salt pans, tell us where that
18 area is located.

19 A Down at Hanapepe.

20 Q How long have you been the kupuna at
21 Ele'ele Elementary School?

22 A 20-plus years.

23 Q At this time, before I continue with
24 questioning, I would like to have Ms. Kahalekomo
25 qualified as an expert in traditional and customary

1 native practices.

2 CHAIRPERSON ACZON: Any objection?

3 MR. BRACKEN: No objection.

4 MS. APUNA: No objection.

5 MS. SOUZA: No questions.

6 VICE CHAIR SCHEUER: Can I clarify? As
7 they relate to this particular area is what you're
8 asking for or broadly --

9 MR. MINKIN: I think more broadly, but she
10 has the knowledge to also opine to this particular
11 area because of family history and living in the
12 community.

13 VICE CHAIR SCHEUER: The reason I'm asking
14 the question is that some practitioners are very
15 clear that they don't want to be suddenly considered
16 to be an expert for areas that are outside of their
17 area of expertise, geographic area.

18 MR. MINKIN: How about we limit it to the
19 west side. Does that satisfy or take care of your
20 concern, Commissioner?

21 VICE CHAIR SCHEUER: Yes.

22 MR. MINKIN: With that additional
23 qualification, move to have Ms. Kahalekomo qualified
24 as an expert in traditional customary native
25 practices for the west side of Kaua'i.

1 MR. BRACKEN: No objection.

2 MS. APUNA: No objection.

3 MS. SOUZA: No objection.

4 COMMISSIONER CHANG: The only comment I
5 would like to make is I greatly appreciate that she
6 has been qualified as an expert. Mahalo.

7 CHAIRPERSON ACZON: Go ahead.

8 Q (By Mr. Minkin): Let's talk about the area
9 where the 75 acres of affordable housing the county
10 wants to build.

11 Are you in favor building affordable
12 housing for the people on Kaua'i?

13 A Of course, I more than want to see them.
14 That's why, you know, I am really for the housing
15 because I think there's so many people that still
16 need homes in the area. And I kind of watch our
17 island and find that we don't have too many homeless
18 people. We have, but maybe by building affordable
19 homes, we will be able to have these people
20 rehabilitated back into our system and then have a
21 home that they can call their home.

22 Q I want to take you back a number years. As
23 a child, as a teenager growing up, did you go on this
24 property? Were there any trails that you were aware
25 of on this property?

1 A That's something I need to think. Give me
2 another question while I'm thinking.

3 Q We'll get back to that.

4 Do you ever remember going onto this area,
5 I'll call it the area, Habitat for Humanity building
6 homes off the highway in that area?

7 A Yes.

8 Q We are just adjacent, Lima Ola is just
9 adjacent to Habitat. Do you have any recollection of
10 ever going on that property as a young child to do
11 anything with your family?

12 A Oh, yes.

13 Q What did you do?

14 A We used to go play. That was our
15 playground because you didn't want to go to the home
16 area, so we would go in that area and we would play.
17 But because sugar company had already gone in, yeah,
18 and they kind of leveled up the land, so when the
19 cane was growing in between the cane fields. So we
20 enjoyed that area, all of me and the kids my age that
21 lived in Port Allen, in Ele'ele, that's where we
22 would go to play, yes.

23 Q I know in Koloa Town there's trails,
24 historic trails. Do you know of any historic trails
25 that were in this 75 acres?

1 A I even don't know. Come back again, come
2 back with the question. No.

3 Q Bronson helped me get the question. Do you
4 know of any historic trails on the 75 acres?

5 A No.

6 Q Do you remember any stories from your mom
7 or dad or grandparents about historic trails in this
8 area?

9 A Not in the 75 acres, because it was all
10 cane. I know lot of stories about Wahiawa because
11 that is where the community was at the time.

12 Q Do you have any recollection either
13 yourself or being told that folks would do gathering
14 or chanting in the 75 acres?

15 A No.

16 Q Do you have any knowledge from either
17 yourself or from being told by your parents,
18 grandparents, neighbors, any of your extended ohana?

19 A No, no.

20 Q Do you know of any customary, traditional
21 native practices that were done in these 75 acres
22 before sugarcane?

23 A Not that I know of. And because my
24 grandparents never talked about it. You see if you
25 are a grandparent you would take your grandchild to

1 the area. If there was any culture of value that she
2 would want me to learn, she would have taken me there
3 because that's the kind of grandmother I am. But
4 because she did not take me there, I automatically
5 said, well, nothing going on in that area. So I
6 depended on my grandmother's knowledge to help me
7 focus on today.

8 Q Other than just a playground for you when
9 were you a kid?

10 A Yeah, that's all you could do.

11 Q I have no further questions. Some of the
12 other lawyers may have questions and then the
13 Commissioners may have questions. Thank you.

14 MR. BRACKEN: No questions.

15 MS. APUNA: No questions.

16 MS. SOUZA: I'm not a lawyer, but I have
17 questions.

18 CROSS-EXAMINATION

19 BY MS. SOUZA:

20 Q As a long-time employee and teacher at
21 Ele'ele School -- can you hear me? You've been there
22 for over 20 years now and have seen more students
23 come when different developments are built and as
24 more families move to the area.

25 So my question is when this project is

1 developed, 75 acres are developed, there will be
2 about 550 new homes that are built in the area and
3 more families moving in.

4 What has been some of your experiences at
5 Ele'ele School with more families moving to the area?

6 A Wow, that's a big question. Because right
7 now as it is our school is a small school, but with
8 impact of more people coming into the area, we will
9 need a bigger school.

10 Q As a salt maker, you spend quite a bit of
11 time, I'm guessing, at the salt pans. Would that be
12 only during the summer months or other times?

13 A You know, there is a lot of traffic already
14 as it is at Salt Pond. If you went there during the
15 evenings you would have to park somewhere crooked and
16 get a ticket from the policeman because it's not a
17 parking area.

18 But my concern as a salt maker is that when
19 the camping area is full to capacity, and people
20 still want to camp, they'll camp on the other end of
21 the county line, so there they are camping right in
22 the area that we're farming sea salt, and we don't
23 think that's a very good idea.

24 Q What are some of the impacts on your salt
25 making from that?

1 A Well, because naturally not only a lot of
2 people, but a lot of traffic, and the sewer system.

3 Q Thank you.

4 CHAIRPERSON ACZON: Commissioners, any
5 questions?

6 THE WITNESS: If you've never been to Salt
7 Pond in the evenings, it's a good time to go check it
8 out. Really beautiful during the evenings, but
9 you'll get to see the impact, people that are there,
10 and campers are there below the grounds, you will
11 know why I said it's a great impact on our salt
12 making activity.

13 And we tend not to salt making all year
14 round, there is a time limit that we have, and we
15 have to do it. Right now it's been flooded
16 underwater for quite sometime, but the campers are
17 still there.

18 CHAIRPERSON ACZON: Commissioners?

19 VICE CHAIR SCHEUER: Aloha.

20 THE WITNESS: Aloha.

21 VICE CHAIR SCHEUER: I want to ask you a
22 couple questions about salt making and couple about
23 hihiwai.

24 What kind of things do you fish or gather
25 down at Wahiawa?

1 THE WITNESS: All right, because this is my
2 playground, I can tell you a lot, not only salt
3 making a very important part, but growing up with my
4 grandparents, if we wanted to, my grandmother said we
5 going to catch aholahole today. She would only take
6 us to one spot and we would catch aholahole, the
7 amount she told us to catch and go home.

8 If somebody was sick and needed a certain
9 kind of medicine, she would take us to another area
10 where the limu grewed, so we could make medicine from
11 that. Hanapepe once upon a time was known for lolo
12 (phonetic). I don't know if all of you know lolo,
13 but it's a sea cucumber.

14 And so the aunties that lived in that area,
15 they did all of that. Now today with so much
16 traffic, and so many people going through the area,
17 they contaminate the water by going down there,
18 throwing their junk in the ocean. Now we cannot go
19 gather the limu that we need for medicine because
20 it's no longer there.

21 So for me that area was our livelihood.
22 That's where we got our fish to eat, our limu, all
23 the different sea urchins that grandmother taught us
24 how to gather, and we could gather all those things
25 at the ocean. But not in the 75 acres. There was

1 nothing there to harvest.

2 VICE CHAIR SCHEUER: But makai of the
3 75 acres is where you're talking about sea urchin and
4 lolo and other things?

5 THE WITNESS: In Wahiawa the community
6 where my mother lived was down towards the beach.
7 Because the other communities lived up there. I
8 remember at that time plantation was already in. So
9 in certain camps for different culture, yeah. So my
10 mother folks all lived down close to the beach. So
11 again, ocean resources became my main focus.

12 VICE CHAIR SCHEUER: For salt making you
13 mentioned it's been flooded more recently during the
14 time when you're supposed to be preparing to harvest
15 the salt, it's been flooding more recently at the
16 salt pans?

17 THE WITNESS: Yes, yes.

18 VICE CHAIR SCHEUER: Are there possible
19 problems with continuing the salt making tradition
20 beyond what you've already mentioned?

21 THE WITNESS: We would sure like to
22 continue it as long as we can. I am about the fifth
23 to sixth generation continuing to perpetuate our
24 culture by doing salt making. Now that we have so
25 much people, once upon a time you didn't have to

1 worry, you could stay on the beach for yourself. But
2 today we have so many people. And a lot of people
3 that come to our island to live are new, they don't
4 understand the malama honua. We all got to learn to
5 take care.

6 If you go to the beach, you throw your junk
7 there. What is it doing to our salt area?

8 VICE CHAIR SCHEUER: How can -- so
9 increased population can impact salt making or other
10 practices?

11 THE WITNESS: Right, right.

12 VICE CHAIR SCHEUER: When a commission like
13 us says its okay to develop a new area, which will
14 increase the population, what kind of things can we
15 do to try and minimize the impacts on places like
16 salt pans?

17 THE WITNESS: First of all you're building
18 it very close to my school, yeah. And there we do a
19 lot of the Hawaiian part -- Hawaiian studies part
20 where we try to teach our students all of these
21 things. And culture is part of what we teach, yeah?
22 So we're hoping that by teaching our younger
23 generation now, they will be able to go home and tell
24 their parents what they have learned and why it's
25 important that we continue to keep these things

1 going.

2 VICE CHAIR SCHEUER: Are there any other
3 conditions that you would want us to do to try and
4 protect anything done makai at Wahiawa from any
5 impacts from this development?

6 THE WITNESS: I don't know how to answer
7 that really clearly, but I'm hoping -- and this is
8 one of my greatest concern -- I'm hoping that when
9 things come on, that they will be able to come
10 together with community on both makai and mauka so
11 that everybody can live in harmony. Because if you
12 cannot live in harmony, not going to learn nothing.

13 My great concern is water. But be sure
14 that we're going to have enough water, because once
15 upon a time we had water for 100 years, but now with
16 development coming on, we coming down to 50 years.
17 And you see in California where they drinking
18 recycled water. Wow, I hope we never get to that. I
19 hope we never get to that.

20 VICE CHAIR SCHEUER: Thank you very much.

21 THE WITNESS: You're welcome.

22 CHAIRPERSON ACZON: Commissioner Chang.

23 COMMISSIONER CHANG: How do the children
24 address you at school? Auntie? Kupuna?

25 THE WITNESS: Kupuna, that's my title.

1 COMMISSIONER CHANG: I really appreciate
2 that you're here today. Thank you so very much for
3 being here. I just want to ask you just a couple of
4 questions.

5 I have -- I believe this is Figure 1 that's
6 part of the record. Is that correct, counsel?

7 MR. MINKIN: (Nods head up and down.)

8 COMMISSIONER CHANG: Can I show this to
9 kupuna? It is entitled Community Planning and
10 Engineering Project Location Map Ele'ele, Kaua'i,
11 Hawaii, Figure 1.

12 Is it okay if I stand here? This is where
13 the project is right above here Habitat for Humanity.
14 The project is this area in dark, Kaumualii Highway,
15 this is, you call it Wahiawa.

16 THE WITNESS: Yeah, Wahiawa.

17 COMMISSIONER CHANG: And the salt ponds
18 down here.

19 THE WITNESS: Down here.

20 COMMISSIONER CHANG: So when you talk about
21 salt pans, is it Hanapepe salt pans by --

22 THE WITNESS: Hanapepe.

23 COMMISSIONER CHANG: No salt pans in
24 Wahiawa Bay?

25 THE WITNESS: No.

1 COMMISSIONER CHANG: Your family fished in
2 Wahiawa Bay?

3 THE WITNESS: Uh-huh.

4 COMMISSIONER CHANG: What did you guys used
5 to fish?

6 THE WITNESS: Aholehole, and sometimes
7 would catch moi and akule when the season was there.

8 COMMISSIONER CHANG: And you teach at
9 Ele'ele School and you teach about the area?

10 THE WITNESS: Yes.

11 COMMISSIONER CHANG: What kinds of things
12 do you teach the children?

13 THE WITNESS: Besides language, I teach the
14 part about how to care for each other. We want to
15 take care of the land, but people come first. We can
16 learn to take care of each other with respect. That
17 is the greatest thing of all. I teach them music,
18 dancing.

19 At my school, I have two times a year where
20 the children perform for their parents and friends in
21 the community, that's during before Christmas break
22 and at May Day. And also we take them to the salt
23 pans. We take them to the taro patch that's up in
24 the valley.

25 So there's quite a few things. And I think

1 I feel very privileged to live in that ahupua'a of
2 Hanapepe because my grandparents lived in Hanapepe
3 nearest the river. They were both farmers of taro,
4 so my life resource was really river and ocean. And
5 today, I continue to teach them.

6 One thing I want to say. For long time
7 I've been teaching my children not to use suntan
8 lotion. I've been trying to teach them long time.
9 Not too long ago I find article in the paper where it
10 says we shouldn't be, and why shouldn't we be?

11 My grandmother and grandfather said when
12 you think you have to stay in the sun and put on
13 lotion, you don't belong there. You don't belong
14 there. You know why? After awhile the ocean comes
15 up, where does it go? It settles on the limu. Who
16 eats the limu? The fish that I'm going to catch. So
17 now who going to get sick at the end? Me.

18 So you see there is other kinds of things
19 that our kupuna teach our children and that's other
20 part of malama honua.

21 And there was a boy, said my dad he throw
22 the baby Pampers in the ocean. Told my dad you
23 shouldn't do that. And the dad was kind of little
24 bit upset with the little boy. And you know what the
25 little boy said? My kupuna said you cannot throw

1 rubbish in the ocean. See, he learned something. He
2 learned something. And he shared it with his
3 parents. And so now that father is not throwing no
4 more Pampers in the ocean. And those are just some
5 of the simple things that we teach.

6 COMMISSIONER CHANG: Mahalo, Kupuna, and
7 thank you for all the good work that you do. Are
8 there other kupuna in other schools?

9 THE WITNESS: All of our schools have
10 kupuna. Some schools that are bigger than mine there
11 is two, three, and sometimes four kupuna, but at my
12 school I'm only kupuna.

13 COMMISSIONER CHANG: Are you kupuna from
14 Ele'ele because you come from the area?

15 THE WITNESS: Because I live, I breathe
16 there. My parents, grandparents, great grandparents
17 came from the area. So it just tells you that I'm
18 going to die in the area.

19 COMMISSIONER CHANG: Kupuna, you're going
20 to out live all of us.

21 I want to ask you, going back to this map,
22 there's a cemetery near the ocean and this was all
23 plantation. Do you know whether there were any
24 plantation cemeteries within around this area other
25 than this one cemetery? And I'm pointing down makai

1 where it says "cemetery".

2 THE WITNESS: If this is -- wait, I'm
3 trying to look at it -- as far as I knew, that
4 different camps had their cemeteries, and because
5 plantations was in charge at the time, many of their
6 employees would be buried there. The only one that I
7 know about is the one at Port Allen.

8 COMMISSIONER CHANG: So your mama or
9 grandmother never told you about any cemetery?

10 THE WITNESS: Never.

11 COMMISSIONER CHANG: Do you know whether
12 there were any -- Mr. Minkin asked you if any trails
13 that went mauka to makai that ran through the
14 ahupua'a specifically through the property.

15 THE WITNESS: No.

16 COMMISSIONER CHANG: Do you know whether
17 there were any plant resources? And I know you said
18 that you played in the canefields, that was all
19 playground.

20 Are you aware of any like plants, medicinal
21 plants that were used for gathering either
22 mauka-makai or in that area?

23 THE WITNESS: Not right in the area, but
24 around the area, yes.

25 COMMISSIONER CHANG: What kind of plants.

1 THE WITNESS: Like popolo (phonetic), and
2 what is that name -- but there were several medicinal
3 plants. When my grandmother needed popolo, that's
4 where we would go. It was all bushes at that time.
5 They didn't use any weed killer.

6 COMMISSIONER CHANG: When you say within
7 the area, is it by the 75 acres where you would find
8 popolo?

9 THE WITNESS: No, no, before that.

10 COMMISSIONER CHANG: Thank you.

11 CHAIRPERSON ACZON: Any other questions?

12 COMMISSIONER ESTES: No.

13 COMMISSIONER CHANG: No questions.

14 CHAIRPERSON ACZON: Any other questions?

15 THE WITNESS: Let me invite you to our
16 community.

17 CHAIRPERSON ACZON: Any questions from the
18 parties?

19 MR. MINKIN: I have a few questions.

20 THE WITNESS: Okay.

21 REDIRECT EXAMINATION

22 BY MR. MINKIN:

23 Q Did you attend any community meetings with
24 your granddaughter Shalese (phonetic)?

25 A If the meetings were held at Ele'ele

1 School, yes.

2 Q Shalese is your granddaughter, correct?

3 A Yes.

4 Q And if -- would you have gone with her to
5 the meetings?

6 A No, no, no, because they not here already.

7 Q But back in 2016 she was here, correct?

8 A Oh, yeah, yeah.

9 Q So if Shalese went to meetings in May of
10 2016 and November 2016 at Ele'ele Elementary, you
11 would have been there too?

12 A Uh-huh.

13 Q Was that meeting put on by the Housing and
14 Planning folks that talked about this development?

15 A Yes.

16 Q One final question. I'm going to put your
17 grandson on the spot.

18 Is Bronson Sahut the same person that's
19 listed that got a letter from the cultural impact
20 folks?

21 A Yes.

22 Q Did he talk to you about it?

23 A Yes. I brought him -- actually I didn't
24 bring him, he brought me. I told him that I still
25 can see, but I cannot hear too well. But, yes, if

1 the report that I do culturally, yes, family
2 concerned, my grandson is involved. And now he
3 brings his children with him.

4 So as far as that is concerned, my
5 generation, if when I go, no longer here, they will
6 continue. They will be able to continue, because we
7 live the culture. We are -- this kupuna not only
8 talk, because if I have to talk, they will get
9 yanking on the ear, and I think that's for every
10 culture, not only Hawaiian culture.

11 In your culture, when there is something
12 that you think you can pass on to the next
13 generation, no wait until their old. Our youngest
14 one that going the salt patch now is two years old.
15 Then when you take them when they're young, they get
16 love for the thing that they're doing. When you take
17 them when teenagers, you miss the boat because by
18 then computer, iPads. At home nobody talks,
19 everybody busy.

20 So culturally if we live in Hawaii, all of
21 us need to know that the culture that you belong to
22 is important. But if you send your kids to Ele'ele
23 School, no, like Mrs. Souza over there, both of her
24 children came to Ele'ele School, and I was very
25 fortunate to be their kupuna while they were in

1 school.

2 Q Do you know families that are living two
3 and three-generations in the same house that some
4 folks would like to buy their own homes?

5 A Oh, yes, there is a lot, there's a lot.

6 Q Thank you. No further questions.

7 CHAIRPERSON ACZON: Any others?

8 MS. SOUZA: Auntie Janet is one of the most
9 special people in our community. And when our
10 community association was forming, she and her
11 granddaughter were active participants with us.

12 RECROSS EXAMINATION

13 BY MS. SOUZA:

14 Q Remember when we were forming?

15 A Yes.

16 Q So she is still receiving our emails and is
17 familiar with what we have been doing as a community
18 association. So mahalo.

19 A Mahalo.

20 CHAIRPERSON ACZON: Mr. Bracken?

21 MR. BRACKEN: No questions.

22 MS. APUNA: No questions.

23 CHAIRPERSON ACZON: Are you done?

24 COMMISSIONER CHANG: Can I ask one
25 clarification?

1 Kupuna, when you were asked questions about
2 salts pans, the traffic, campers, even suntan lotion,
3 is that Hanapepe salt pans or Wahiawa?

4 THE WITNESS: Salt pan area more because
5 you're swimming with the lotion on you. Then when
6 you go in the water and it starts to come out, it
7 settles on the limu because not all oil float.

8 And then, when I was young girl, the salt
9 ponds, reef over there, the limu was tall. So just
10 go with scissors and cut. Today, no more limu. So
11 much suntan lotion, it kills it back, back. That's
12 why when you go fish, no more, because there is
13 nothing for the fish to eat.

14 When there was lots of limu growing, fish
15 was nearby, you could cut, catch fish enough to go
16 home. You could go with your pole. Today got to get
17 boat, you go out in deep to get the fish. So believe
18 it or not we are kind of responsible for that
19 happening. And if we can remember that.

20 Tutu said if it's too hot, you don't belong
21 out there. You belong doing something else, patching
22 net, sewing net, all that kind of activity, but no
23 belong in the ocean.

24 CHAIRPERSON ACZON: Thank you.

25 MR. MINKIN: Thank you.

1 CHAIRPERSON ACZON: Please call your next
2 witness.

3 MR. MINKIN: Kumu Leina'ala Jardin.

4 CHAIRPERSON ACZON: Can we just have a
5 two-minute break.

6 (Recess was taken.)

7 CHAIRPERSON ACZON: We're back on the
8 record. Mr. Minkin, please continue.

9 MR. MINKIN: I believe she needs to be
10 sworn. Thank you, sir.

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

13 THE WITNESS: Yes.

14 CHAIRPERSON ACZON: Please state your name
15 and address.

16 THE WITNESS: Leina'ala Pavao Jardin,
17 2-2494 Kaumualii Highway, Kalaheo, Kaua'i.

18 CHAIRPERSON ACZON: Continue.

19 DIRECT EXAMINATION

20 BY MR. MINKIN:

21 Q Can you tell us a little bit about your
22 background, where you grew up?

23 A I was born and raised in Kalaheo, Kaua'i
24 about two miles from the project that we are talking
25 about today.

1 I am a Kumu Hula of 20 years now, so I have
2 a hula school with approximately 300 students. And
3 we're Halau Ka Lei Mokihana O Leina'ala. And we're a
4 school that does everything and anything to
5 perpetuate our Hawaiian culture, and anything that's
6 Hawaiian from the language to our chants, our
7 mo'olelo, the stories, dances of our Hawaiian people,
8 that's what we do.

9 Q Are you acquainted with the development
10 that the county wants to build, Lima Ola?

11 A Yes.

12 Q How are you acquainted with it?

13 A Well, I've heard it from my students and
14 they're as well excited about it. Majority of my
15 students are from the west side of Kaua'i. And I
16 just want to take a brief stop right here. And it's
17 absolutely an honor to follow our kupuna that was
18 sitting here before me, and I hope that you all
19 realize, and I know you do, how rich her testimony
20 was, but to listen to that, but not only what she
21 said but what she didn't say, and what we seen, her
22 grandson, her mo'opuna sitting next to her.

23 As I sat in the chair back there, and I
24 apologize for interjecting and adding this in, I
25 thought about my -- some day when I have mo'opuna, I

1 want my mo'opuna to be sitting next to me here on
2 Kaua'i. And so I think that's the purpose of why we
3 are all here today. What she said was so valuable,
4 but what we seen here with her mo'opuna sitting there
5 is something I think we need to keep in mind for us
6 who are born and raised here on Kaua'i.

7 I have two daughters who attend Kamehameha
8 Schools. One will be heading off to college to go
9 into law, and I hope she returns home. I truly do
10 hope she returns home. And anything that we can do
11 to keep our keiki, to bring them home, send them off,
12 an get education, and bring them home and do good for
13 our Hawaiian people is so important. So I lost track
14 of where my question was.

15 Q Actually your digression reminds me, I
16 forgot to qualify you.

17 I would at this point move to have Ms.
18 Jardin qualified as an expert in traditional and
19 customary practices related to the west side.

20 MR. BRACKEN: No objections.

21 MS. APUNA: No objection.

22 MS. SOUZA: No objections.

23 CHAIRPERSON ACZON: The Chair acknowledges
24 Ms. Jardin is an expert in traditional and customary
25 practices.

1 MR. MINKIN: Thank you.

2 Q As Kumu Hula, and you said you're
3 acquainted with this 75 acres near Habitat, correct?

4 A Yes.

5 Q Have you ever gone there for any
6 traditional or customary practices?

7 A No.

8 Q Have you ever heard from anyone in your
9 ohana that they went there for traditional and
10 customary practices?

11 A No, not in that area.

12 Q How many generations does your ohana go
13 back in that area?

14 A Several. My father himself worked in the
15 sugarcane fields right there. And my mother and my
16 grandparents, that was kind of like our backyard.
17 When you lived in Kalaheo, your backyard was two
18 miles away there in Hanapepe, Ele'ele, Salt Pond,
19 Wahiawa, you name it.

20 Many, many memories, not specific though,
21 and I thought about it, prayed about this last night.
22 Not specific to the 75 acres which is very
23 interesting. Go ahead, I'm such a kumu hula right
24 now.

25 Q Not a problem. Are you aware of

1 traditional or customary practices makai or mauka of
2 the 75 acres?

3 A Our Hawaiian people were amazing, right,
4 with the ocean makai and the mountains. They lived
5 in harmony. That was the lifestyle, right, those who
6 are up in the mountains produced farms and exchanged
7 with fishermen down makai.

8 So specific to that area I would have to
9 say the entire island, our islands, was what made our
10 Hawaiian people such a viable community. But
11 specific to like we went fishing, but I can't say was
12 directly in line with the 75 acres. We went to
13 Wahiawa which is a little bit over, I would say
14 further east to the property.

15 Q Your playground, do you ever remember
16 anyone in your ohana telling you there were trails
17 there that predated the plantation?

18 A No.

19 Q Did your ohana -- did anyone in your
20 family, ohana, tell you that they did any gathering
21 in the 75 acres?

22 A No.

23 Q Is there anywhere that you've been told or
24 learned that people lived in that area before
25 sugarcane?

1 A No. You know, in the hula -- and I believe
2 that's why I'm here today -- we need to remember that
3 our Hawaiian people had no written language at one
4 time. And the stories were kept alive by our
5 mo'olelo or by mele.

6 20 years of being kumu hula, we do so much
7 research. And I'm not an expert because as a kumu
8 hula, we're always learning, always researching. And
9 in 20 years I tried to look back, and last night I
10 was zipping through some paperwork and books. Not a
11 lot about that area that we're talking about today.

12 Very much about Manawaiopuna, which is up
13 in Hanapepe Valley. You know, of course, Hiiaka Pele
14 story of near Salt Pond and the salt beds, but of
15 this area, no.

16 There is one mo'olelo that I know of which
17 was Chief Carvalho here on Kaua'i who loved Ele'ele,
18 but nothing specific to this 75 acres, nor did he use
19 it as a place to live.

20 It just talks about him traversing the area
21 and making his way into Hanapepe Valley, but not
22 specific, you know, to that 75 acres. Nothing there
23 in history that I am aware of.

24 Q And I know you digressed and talked about
25 your two daughters and the desire to have them come

1 home. Is there a need for affordable housing on the
2 west side?

3 A Absolutely. I mean, it's no secret on
4 Kaua'i here we have a housing crisis, I firmly
5 believe. I have students that live in homes with two
6 or three families in one dwelling. Which is
7 beautiful for an ohana, really brings the meaning to
8 ohana, but I think if everyone could, they would love
9 to have their own home.

10 Q The planned development would include
11 single-family homes and multi-family units, some
12 homes to be bought, or land to be bought, and homes
13 built, and rentals. Are rentals also an issue on the
14 west side?

15 A Yes.

16 Q Tell us why.

17 A You know, and I hear and we talk about, you
18 know, development on the west side, and we're worried
19 about schools, you know, if we develop these homes,
20 what about the schools. I would want to -- what am I
21 trying to say -- I just listen to my students and the
22 thing is we don't want our children to have to move
23 off island to grow their families. We want them to
24 grow their families here on Kaua'i.

25 I want to see my grandchildren. If that

1 means 10, 15, 20 years from now we have to address
2 our schools needing to be improved or enlarged, then
3 let it be, but at that point I think we address
4 things like that. For now I think the focus is to
5 keep our families here on Kaua'i.

6 And you see it every day, I have students
7 who dance for me who go away to college and do not
8 come back, because they can't afford what we have
9 here on the island. So they need more to choose
10 from. They need more affordable housing whether
11 owning or renting.

12 And, you know, definitely, you put an ad
13 out in the paper for home rental, you get calls and
14 calls and calls. So there is a great need for home
15 rentals and ownership.

16 Q Thank you. I have no further questions.

17 CHAIRPERSON ACZON: Any questions, Mr.
18 Bracken?

19 MR. BRACKEN: No questions.

20 MS. APUNA: No questions.

21 MS. SOUZA: No questions.

22 CHAIRPERSON ACZON: Vice Chair Scheuer.

23 VICE CHAIR SCHEUER: I have three sort of
24 basic set of questions, might be sub-questions.

25 Are you familiar with the Supreme Court

1 case Ka Pa'akai O Ka 'Aina, where the duties that the
2 LUC has in relationship --

3 THE WITNESS: I've been told about it.

4 VICE CHAIR SCHEUER: Because that's what we
5 are trying to do here today, right?

6 THE WITNESS: Which is highly admirable,
7 mahalo.

8 VICE CHAIR SCHEUER: In the written record,
9 prior to today's witnesses, we had very, very little
10 about what traditional and customary practices may
11 exist both on the 75 acres as well as might be
12 affected by the development either makai, things like
13 runoff or increased population.

14 So Ka Pa'akai asks the LUC to identify the
15 scope of traditional and customary practices in the
16 area, identify the matter in which those practices
17 may be negatively affected by a proposed development.
18 And then if there is a negative affect, what actions
19 or conditions can placed.

20 So I heard you speak that you grew up doing
21 some fishing in Wahiawa. What kinds of things were
22 you fishing or gathering?

23 THE WITNESS: Fishing, we would go down --
24 I remember catching perch. I caught perch all the
25 time. But we just went down. Now can't get down

1 there any more to the bay, but I remember my dad
2 taking us, we grew up down there, very much there and
3 Salt Pond. So very special area.

4 VICE CHAIR SCHEUER: Do you continue to use
5 the Salt Pond area for cultural practices?

6 THE WITNESS: Yes.

7 VICE CHAIR SCHEUER: I realize there is a
8 difficulty in asking these questions. Can you
9 describe some of the practices associated with Salt
10 Pond?

11 THE WITNESS: Right. I am a dear friend
12 with the Santos ohana which has their salt beds
13 there. I take my students there to learn about the
14 cultivating of the pa'akai and the cultural practices
15 that we must malama and take care of, especially that
16 area as well. That is also an area, for example,
17 we're heading out to keiki hula soon on Oahu. And
18 that is an area that we go to for our final blessing.

19 To the Hawaiian people the pa'akai is very
20 sacred. For me being my backyard at Salt Pond, a
21 place where I grew up, that's where I take my
22 students. After months of training we go there as
23 our final blessing before we head off to competition.

24 VICE CHAIR SCHEUER: So hihiwai there?

25 THE WITNESS: Correct, yes.

1 VICE CHAIR SCHEUER: Are there, from
2 increased development in the area, in general, are
3 there impacts to practices or potential impacts to
4 the perpetuation of these kinds of practices that you
5 engage in fishing, gathering salt, hihiwai?

6 THE WITNESS: I don't think the impact is
7 from development, to be very honest. I think we have
8 a homeless population near the salt beds. We have
9 people camping out there. And I think that poses
10 more of a problem. They're not respecting the aina.
11 So to me that's more of a problem than the traffic in
12 that area or future potential. I think we need to
13 grab ahold of that problem.

14 VICE CHAIR SCHEUER: Is runoff a problem,
15 do you believe, in your experience?

16 THE WITNESS: No, I would have -- I can't
17 answer that.

18 VICE CHAIR SCHEUER: That's fine. Last
19 question.

20 Given the manner in which this project is
21 proceeding where there was little bit of record, and
22 then you presumably got a call late last night to see
23 whether you could come by, would you feel differently
24 about a Commission like LUC taking action on this if
25 this was, say, a for-profit commercial development?

1 THE WITNESS: Absolutely. Yeah. I think
2 the purpose behind this is beautiful, it's what we
3 need here on Kaua'i, we need affordable housing. We
4 need affordable rentals. From what I've heard of the
5 project, it sounds green, if you want to call it
6 that. I love the name of the project itself, Lima
7 Ola, is life, lima, the hands, so this community will
8 hold the future lives of our keiki in its hands
9 basically, so I love that.

10 VICE CHAIR SCHEUER: If there were to be
11 any impacts from increased population or increased
12 pollution, anything, any conditions that you would
13 want to see the Land Use Commission condition, place
14 as a condition of the rezoning to ensure that there
15 wouldn't be -- or we could manage any impacts on
16 traditional customary practices on this zoning?

17 THE WITNESS: Not that I can think of right
18 now.

19 VICE CHAIR SCHEUER: It's a complicated
20 question, but it is the one that we are supposed to
21 address.

22 THE WITNESS: No, nothing at the moment.

23 VICE CHAIR SCHEUER: Thank you.

24 CHAIRPERSON ACZON: Any questions,
25 Commissioners?

1 COMMISSIONER CHANG: Aloha. May I approach
2 the witness? I want to show you the same figure.
3 This is an exhibit that's part of the record, it's
4 known as Exhibit 1. A lot of your comments related
5 to fishing, salt pan. Is that in Hanapepe or is that
6 in Wahiawa?

7 THE WITNESS: Hanapepe is the salt beds,
8 then Wahiawa is where the bay where we would go
9 fishing when we were young.

10 COMMISSIONER CHANG: Can you still get
11 access to Wahiawa?

12 THE WITNESS: I can't. I believe they open
13 the gates every once in awhile. That's a coffee
14 company, so I haven't been down there for years.

15 COMMISSIONER CHANG: This is Wahiawa, and
16 the project area is right up mauka.

17 THE WITNESS: Mauka a little bit this way
18 (indicating).

19 COMMISSIONER CHANG: Right. Now, you said
20 there is a gate by the ocean?

21 THE WITNESS: By the coffee company. I'm
22 not sure of the access, I'm assuming. I would have
23 to double check, but I'm assuming there isn't free
24 24-hour access down to that bay.

25 COMMISSIONER CHANG: Has there always been

1 a gate there?

2 THE WITNESS: No, we could go any time.

3 COMMISSIONER CHANG: Do you remember when
4 they might have put the gate up there?

5 THE WITNESS: I want to say when I was in
6 college. I'm going to, so in the '92, '93 around
7 there, I would -- I think it was post Iniki.

8 COMMISSIONER CHANG: Don't worry, that's
9 very young. Your best recollection is the gate came
10 up sometime after college, '90s?

11 THE WITNESS: Uh-huh.

12 COMMISSIONER CHANG: But prior to that,
13 people could go fishing, there was open access?

14 THE WITNESS: Oh, yeah, you would see all
15 the families down there, fishing, hanging out. To my
16 knowledge, none of that any more.

17 So going back to what kupuna said, yes,
18 some of those things you can't share with your kids
19 what we experienced when we were young.

20 COMMISSIONER CHANG: In a lot of our
21 communities a lot of our traditional customary
22 practices have been impacted because we don't have
23 access, right?

24 THE WITNESS: Correct, yes.

25 COMMISSIONER CHANG: And your recollection

1 is that prior to this gate coming up, a lot of
2 families, local families, and I would assume even
3 more than just Hawaiians, would go down to Wahiawa
4 Bay, go fishing. What would they catch down there?

5 THE WITNESS: My gosh, I was very young
6 when -- I got really excited when I caught a perch.
7 We never fished too much. Very respectful. And to
8 what you're saying access is a big thing, but I think
9 our people, yeah, we need to learn to respect the
10 aina. And I can -- you know, we can ask and ask for
11 access to go back to these places, because things can
12 change. Gates can be torn down and our people can go
13 and enjoy, but we have to take care.

14 We can't grumble when we're forbidden to go
15 because we didn't take care.

16 COMMISSIONER CHANG: Do you know whether --
17 only if you know -- whether the gate came up because
18 -- let me ask.

19 Do you know why the gate may have come up?

20 THE WITNESS: I would think it was because
21 of the coffee plantation and probably for safety
22 purposes, you know.

23 COMMISSIONER CHANG: If access was
24 available, do you think the families would come back
25 and go fishing?

1 THE WITNESS: Oh, sure, yeah.

2 COMMISSIONER CHANG: And you -- so you're a
3 kumu hula doing it for over 20 years, I'm assuming
4 even before the 20 years when you were teaching, your
5 own family, your mother, your tutu, you were involved
6 in hula?

7 THE WITNESS: Absolutely. I started at the
8 young age of three. So hula has been my life and
9 it's afforded me to learn so much about this island
10 and our history, just very, very special.

11 Now, it's important that we just nurture
12 that knowledge and pass it on to the next generation.

13 COMMISSIONER CHANG: Sounds like you
14 continue to do that with your own daughters. And I
15 hope if and when they have children, that they would
16 continue.

17 THE WITNESS: Yes.

18 COMMISSIONER CHANG: So in your -- if my
19 recollection -- you said in your 20 years you're not
20 aware of any mo'olelo about this particular area?

21 THE WITNESS: No, no. And I say this, you
22 know, there is -- Kumu Sabra will come up in a little
23 bit as well, and she may have a wider vast collection
24 of mele that she's familiar with, but for us, I know
25 Auntie Sabra and myself when we select a mele, say

1 for example, Manawaiopuna, my niece danced that a
2 couple years ago at Keiki Hula. We immerse ourselves
3 into the mele. So we learn it, we translate it, and
4 if possible, we go and visit the area.

5 So like I said in all of my research,
6 especially when we go to Merrie Monarch, I like to do
7 everything about Kaua'i. As far as songs go, I have
8 not come across anything from this specific area.
9 Several for Hanapepe Valley, which is deeper up
10 mauka, but nothing about this specific area.

11 COMMISSIONER CHANG: And I know you're
12 speaking on your own behalf and Sabra will come up.

13 Are you aware of any other kumu hula who
14 may be aware of mo'olelo in this area?

15 THE WITNESS: You know, I think you're
16 going to get as fine as it gets coming up with Kumu
17 Sabra.

18 COMMISSIONER CHANG: And your father worked
19 on the plantation, but do you remember whether he
20 might have -- or your mother shared any stories about
21 this project area or this ahupua'a?

22 THE WITNESS: No, nothing specific, no.

23 COMMISSIONER CHANG: Are you aware of
24 anybody gathering any medicinal plants from this area
25 either from mauka or makai?

1 THE WITNESS: No.

2 COMMISSIONER CHANG: I think that's all.
3 Thank you so very much, really appreciate you coming
4 here.

5 CHAIRPERSON ACZON: Commissioner Okuda.

6 COMMISSIONER OKUDA: Thank you very much
7 for coming to testify today. Even though you've been
8 qualified as expert witness, I would just like to ask
9 a few additional questions so our record is complete.
10 Can you tell us who your kumu was who
11 trained you?

12 THE WITNESS: Good question. My first kumu
13 here on Kaua'i was Kuulei Punua (phonetic) at a very
14 young age of three when I started. She taught in
15 Kalaheo. About a year into it for some reason she
16 stopped teaching Kalaheo. My mother put me -- it was
17 a far drive from to Kalaheo to Lihue. For some
18 reason my mom wasn't willing to make that drive to
19 continue my study with Kuulei Punua.

20 So Auntie Lovey Apana opened up classes in
21 Kalaheo, and I studied under Auntie Lovey until she
22 fell ill. Here sister Kumu Hula Beverly Muraoka
23 (phonetic) took over. And then I graduated from high
24 school, went to the University of Hawaii at Hilo, and
25 that is where I met Kumu Hula Ray Fonseca. And I

1 studied under him for several years, and received my
2 blessing to become a kumu hula.

3 COMMISSIONER OKUDA: And Kumu Fonseca, do
4 you know who his kumu hula was?

5 THE WITNESS: George Naope. And Uncle
6 George Naope's kumu hula were some of the great
7 Iolani wahine, Edith Kanakaoli, rich, rich history
8 there.

9 COMMISSIONER OKUDA: And you could say
10 that's your lineage, and we could say that's your
11 educational and background lineage?

12 THE WITNESS: Right.

13 COMMISSIONER OKUDA: Can you briefly tell
14 us what you needed to study or do, for lack of a
15 better term, to be designated a kumu yourself?

16 THE WITNESS: You know having -- how can I
17 say this? Having so many students myself, you --
18 being a kumu hula is not for everyone. It truly is a
19 life. And I remember my kumu telling that to me,
20 Leina'ala, make sure this is what you want, because
21 you can't quit. There's no quitting. It's your
22 life.

23 So I studied very, very intensely with him.
24 He has since passed, of course, and now even more so
25 my job is to carry on his legacy. But you know you

1 learn every implement, you learn how to dance with
2 each implement. You learn the language. You learn
3 how to make everything. I'm not a huge fan of
4 purchasing. We make everything we possibly can,
5 whether going to the beach and collecting shells to
6 make our own Niihau shells and wear it on the Merrie
7 Monarch stage, whatever it is. We do our best to do
8 that. And all of that I learned from Kumu Ray.

9 With that in mind, no kumu knows
10 everything. Every time you select a mele, or
11 whatever you do, you're constantly learning. So he
12 gave me a great, great foundation, and I look forward
13 to learning more and perpetuating our culture and
14 keeping my kumu's legacy alive.

15 COMMISSIONER OKUDA: Thank you very much.

16 THE WITNESS: Mahalo nui for the question.

17 CHAIRPERSON ACZON: Any more questions,
18 Commissioners? Parties?

19 MR. BRACKEN: No questions.

20 MR. MINKIN: No questions.

21 CHAIRPERSON ACZON: Are you done with your
22 witness?

23 MR. MINKIN: I am done with this witness.

24 I would call Kumu Sabra.

25 THE WITNESS: Aloha mai kakou. My name is

1 Sabra Kauka. I'm a Hawaiian studies --

2 CHAIRPERSON ACZON: Let me swear you in
3 first.

4 THE WITNESS: Okay.

5 CHAIRPERSON ACZON: Do you attest that the
6 testimony you're about to give is the truth?

7 THE WITNESS: I do.

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

10 THE WITNESS: My name is Sabra Kauka. My
11 address is P.O. Box 3870, Lihue, and I live in Lihue
12 too.

13 SABRA KAUKA
14 Was called as a witness by and on behalf of the
15 Petitioner, was sworn to tell the truth, was examined
16 and testified as follows:

17 DIRECT EXAMINATION

18 BY MR. MINKIN:

19 Q Can you tell us a little bit about your
20 background?

21 A I teach Hawaiian studies, kindergarten
22 through 5th grade at a little school, Island School
23 here on Kaua'i, and hula through high school. As
24 well as I coordinate the Hawaiian studies kupuna on
25 Kaua'i for the Department of Education, which means

1 that I have resource people from Hanalei all the way
2 to Kekaha.

3 Auntie Janet Kahalekomo is my main resource
4 person for the Hanapepe west-side area.

5 Q Are you acquainted or familiar with the
6 Lima Ola project?

7 A Yes, I am acquainted with the Lima Ola
8 project. I believe it was three or four years ago,
9 2014, that would be three years ago, that I was
10 contacted by the people who were contracted to
11 consult on the project. Because they asked me if I
12 had any resource people on the west side that I could
13 ask about land use, traditional land use for that
14 area.

15 And so the person that I went to was Auntie
16 Janet Kahalekomo. Premier first of all. Lived
17 there, born and raised there, generations there.
18 Continues to make pa'akai. Continues to teach the
19 children of that area about that area and more.

20 And I'm just so glad that she could come
21 this morning because she has not been well, and we do
22 not know from day-to-day if she is going to be able to
23 come out and work.

24 How much of this goes public? Everything.
25 We are so very grateful to have her show up today

1 because she was the person I went to to get the
2 information that was requested.

3 Q Because you have resource people on the
4 west side, and they're under your kuleana to
5 basically take care of those folks and get that
6 Hawaiian studies out there?

7 A Yes.

8 Q Do you have interaction with people on the
9 west side?

10 A Yes. My son lives right there in Ele'ele.
11 My grandchildren went to Ele'ele School. One is
12 still there. They graduated from Waimea High School,
13 my two older boys. And the oldest grandson is living
14 in San Jose now with his son, Imelda, continuing his
15 education and just got his toe in the door working
16 for Apple.

17 Q Congratulations.

18 A Yeah, I know, but I want him home. I want
19 my grandchildren to come home, just like Kumu
20 Leina'ala, I want them to be able to come home and to
21 make a contribution to the community here.

22 Great opportunities up there, maybe more
23 affordable housing, but my hope is that if we make
24 housing affordable for our next generation, that they
25 will come home and that they will make the

1 contributions to our community, our local community.

2 Q I'm going to back up a little bit. How
3 long have you been a kumu hula?

4 A I've been a kumu of hula -- oh, my gosh.
5 I've taught hula since 1990, but I didn't 'uniki
6 until -- I don't remember what year it was.

7 My kumu though, you were talking about Kumu
8 Leina'ala learned from. My primary kumu is Victoria
9 Holt Takamine. Victoria's kumu is Maiki Aiu Lake.
10 Her kumu was Lokalia Montgomery, so we have all this
11 long lineage of Kaua'i people and hula. And of
12 course they teach so much more.

13 I mean not just Kaua'i, but I'm delighted
14 actually by the people who have preceded me. I'm so
15 glad we got ahold of Missy Kamai, because her feet
16 are on the ground. I mean she goes out there and she
17 works it, she walks it. She knows it as well as
18 doing the research, as well as doing the oral
19 history.

20 Kumu Janet Kahalekomo, I'm so pleased she
21 was able to show up this morning because she is my
22 resource person to that area. And, of course, Kumu
23 Leina'ala, who was born and raised there, and teaches
24 there and has an amazing halau, absolutely amazing.

25 Q Before we move on, I would ask to qualify

1 Kumu as an expert island-wide of traditional and
2 customary native practices.

3 CHAIRPERSON ACZON: Any objection?

4 MR. BRACKEN: No.

5 MS. APUNA: No objection.

6 MS. SOUZA: No objection.

7 VICE CHAIR SCHEUER: Can I ask the witness
8 if you are comfortable with that qualification?

9 THE WITNESS: I need to qualify it, because
10 my expertise is really in the cultural arts. I was
11 not born on the west side. My family lives there
12 now. I have family who lives in Kekaha. But I went
13 to Kamehameha and I was gone for many years. And
14 I've only been home for 30 years.

15 So it's a work of love, a labor of love,
16 and a mission for me to perpetuate Hawaiian culture
17 and to perpetuate the values that go along with
18 teaching the history, the stories of each place.

19 MR. MINKIN: I had moved basically to have
20 kumu qualified island-wide, not specifically the west
21 side.

22 CHAIRPERSON ACZON: And there was no
23 objection from anybody.

24 THE WITNESS: I'm comfortable with that.

25 Jonathan, you had a question?

1 VICE CHAIR SCHEUER: So the clarification
2 I'm trying to make, given our usual circumstances
3 that we have been going through this morning is that
4 you were not considered -- you do not consider
5 yourself to be an expert on all cultural and
6 traditional customary practices across the island; is
7 that correct?

8 THE WITNESS: No. We all have strengths in
9 certain areas, and mine are in the traditional arts
10 of kapa and lauhala weaving and --

11 VICE CHAIR SCHEUER: I'll disclose that I
12 was part of the same halau Ms. Kauka has 'uniki from.

13 THE WITNESS: And you know how rigorous
14 that training is.

15 VICE CHAIR SCHEUER: How would you describe
16 your expertise that we could then qualify you as
17 expert in?

18 THE WITNESS: Maybe cultural arts. In the
19 cultural arts.

20 VICE CHAIR SCHEUER: With that
21 qualification as considered by the Commissioner as
22 cultural arts expert, so move.

23 CHAIRPERSON ACZON: So change it to
24 cultural and traditional -- let me just clarify all
25 this.

1 COMMISSIONER CHANG: Could I just make a
2 comment? Hui aloha no. And I apologize if I sound
3 like I'm beyond my -- going outside of my realm. I
4 think Hawaiians are much --

5 CHAIRPERSON ACZON: Is this to do with
6 qualifying --

7 COMMISSIONER CHANG: Yes. I think she is
8 qualified as Mr. Minkin provided. I think she is
9 much too humble to go beyond that, but we have
10 qualified everybody this morning as traditional
11 cultural practices. And I think we will take Kumu's
12 testimony in the light -- but everybody else has been
13 qualified in the area of traditional and customary
14 practices, so notwithstanding her humility and her
15 hilahila, reluctance, I don't see any difference
16 between those who have come before her. That's my
17 only point.

18 CHAIRPERSON ACZON: Mr. Minkin?

19 COMMISSIONER CHANG: Are you comfortable
20 with that?

21 THE WITNESS: Yes, okay. But I got so much
22 more to learn.

23 MR. MINKIN: At this time I would again
24 move to have Kumu qualified as expert in traditional
25 and customary native practices based upon experience,

1 training and everything else that she does in her
2 daily life.

3 CHAIRPERSON ACZON: Island-wide?

4 MR. MINKIN: Island-wide.

5 CHAIRPERSON ACZON: Any objection?

6 MR. BRACKEN: No objection.

7 MS. APUNA: No.

8 MS. SOUZA: None.

9 CHAIRPERSON ACZON: Commissioners?

10 Let the record show that Kumu Sabra is an
11 expert witness for traditional and customary
12 practices.

13 THE WITNESS: Mahalo.

14 CHAIRPERSON ACZON: Please continue.

15 Q (By Mr. Minkin): You live in Lihue you
16 indicated?

17 A Yes, when I first came home I actually
18 lived on west side, but it seemed that all my work I
19 have to drive to Lihue every time. When I first came
20 home -- well, within a few years of coming home I
21 actually worked for Mayor JoAnn Yukimura as public
22 information officer, and I had to drive -- I woke up
23 before the sunrise, I'm on the road. I come home
24 after sunset, I see the stars. That's what I love
25 about west side, I see the stars.

1 So I moved into Lihue about 1989 or so and
2 I've been living here ever since.

3 Because from Lihue, then I can go to every
4 part of the island and equal driving distance from
5 here to Hanalei, from here to Kekaha, but I still
6 kind of like west side.

7 Q Where on the west side did you grow up?

8 A I didn't grow up on the west side, per se,
9 I just lived there in Waimea.

10 Q Are you acquainted with the Lima Ola site?

11 A I am acquainted with the Lima Ola site. I
12 didn't grow up here, so I didn't run through the
13 sugarcane fields like Auntie Janet, but I know
14 exactly where the site is.

15 Every year one district or another of
16 Hawaii we host a Hawaiian studies kupuna conference.
17 And it is a place-based cultural conference.

18 One year we hosted Hanapepe. And just in
19 Hanapepe alone the resource, the sites, cultural
20 sites there to visit the history there is rich. And
21 you know, yes, there is a gate up now on that
22 property because they have all these coffee fields
23 and they are very valuable. It's simply a matter of
24 asking permission, may I access Wahiawa Bay. Yes, of
25 course, kumu, come down.

1 So we went down for previsit just the
2 Kaua'i host people, and my interest in that area is
3 because this is where Prince George Humehume, who was
4 King Kaumualii's son, when he returned home this is
5 where his village was. This is where his encampment
6 was. And this is where he based his resistance to
7 Kamehameha. The battles occurred between Waimea,
8 Wahiawa and up mauka.

9 So when you were asking about the impact on
10 75 acres, not so much on that area because it's
11 higher, but just down the hill in the river, that's
12 where you find the lo'i. That's where you find the
13 kauhale. That's where you find the old sites.
14 That's where you find the old trails; not so much on
15 the high ground.

16 So when we went down two or three times in
17 preparing for conference, then taking the conference
18 participants there, we simply got permission from the
19 landowners.

20 Now, if you work for the company, of course
21 you're going to have key, take the family down, go
22 fishing, take care, yeah. But you know, if you're a
23 guest on that property, it's simply a matter of
24 asking permission, and they have been very generous
25 to us.

1 Q When you had that group come through and
2 basically took them to Wahiawa and Hanapepe, anyone
3 tell you that there was something about the 75 acres
4 of Lima Ola that needed to be --

5 A No, again, Auntie Janet was our resource
6 person for that area. And there was never any
7 concern about the 75 acres at Lima Ola.

8 Q Do you believe affordable housing is
9 necessary on the west side?

10 A Oh, my gosh, yes, I do, so necessary. I
11 work with people who are -- some who are single
12 mothers, some who are grandparents, and they all have
13 concerns for affordable housing for themselves and
14 for their families. I have one who has been, you
15 know, kind of living with her daughter, sleeping on a
16 couch in the living room for a couple of years now.
17 And for her to find an affordable place to rent on
18 single income, and she works four jobs, she teaches
19 Hawaiian studies in the school, works hotel
20 nighttime.

21 She goes out and does cultural workshops
22 for hotels again. And she's got four of those. And
23 barely breaking even. So affordable housing is
24 tremendously necessary. There is a great need here
25 on Kaua'i for that.

1 Q That's a combination of rentals as well as
2 ownership?

3 A Yes, I think so.

4 Q Thank you. I have no further questions.

5 CHAIRPERSON ACZON: Mr. Bracken.

6 MR. BRACKEN: No questions.

7 MS. APUNA: No questions.

8 MS. SOUZA: No questions.

9 CHAIRPERSON ACZON: Commissioners?

10 THE WITNESS: Thank you for doing your due
11 diligence.

12 COMMISSIONER CHANG: I greatly appreciate
13 the fact that you are here today. May I approach the
14 witness?

15 THE WITNESS: You know, if you were asking
16 the question about cultural uses of Lima Ola, I say
17 they don't grow any maile there. The hula plants, I
18 don't see any maile, I don't see any ilima. I don't
19 see any of those plants that I use for hula growing
20 even wild in that area.

21 Now it's all cultivated, but even wild
22 that's not the zones where they grow. Where they
23 grow is either up mauka in Kokee or down by the
24 ocean, and this is right in between.

25 COMMISSIONER CHANG: Mahalo. Thank you for

1 clarifying that.

2 This is an exhibit in the Petition, Figure
3 1, you talked about you had the workshop. Can you
4 show me where the gate is located?

5 THE WITNESS: You have to go where Kaua'i
6 Coffee right over there, down this road. But I
7 remember going in before had gate and we went down
8 the rocky road. Four-wheel drive country now. We
9 didn't have four-wheel drive.

10 COMMISSIONER CHANG: You talked about some
11 cultural sites. So where about is the cultural site?

12 THE WITNESS: I think on another one of the
13 maps you actually have it pointed out on the 29-page
14 document that the team sent to me. Cultural sites
15 are noted down here in the valley area.

16 COMMISSIONER CHANG: So not within the 75
17 acres?

18 THE WITNESS: No, down below where the
19 water is.

20 COMMISSIONER CHANG: And, you know, many
21 times traditional customary practices they may not
22 occur directly on the property, but sometimes the
23 property -- activities on the property could be
24 impacted.

25 So, for example, if there is, you know,

1 runoff, or if it is access, so are you aware of any
2 practices that may occur in Wahiawa Bay below the
3 project site?

4 THE WITNESS: Just as Auntie Janet and Kumu
5 Leina'ala have mentioned, you know, fishing,
6 gathering limu, those kinds of things. For me
7 personally my interest would be in visiting the old
8 village sites and seeing if there is any wauke still
9 growing there for kapa, those kinds of cultural
10 plants.

11 But, you know, it takes time, it takes
12 boots, and I haven't explored it to that depth,
13 haven't had any reason to explore it in that depth to
14 actually go back and look at the plants.

15 COMMISSIONER CHANG: In your opinion, if
16 access was available, and I know you have asked with
17 permission, but if access was made available, do you
18 think more families would come back fishing,
19 potentially gathering?

20 THE WITNESS: You know, I think of my son
21 who works quite a bit. And then on weekends they go
22 to church, so between the five-day work week and
23 church, there is no time for him to go fishing or
24 hunting, yeah, not much time.

25 So I'm not sure how to answer your

1 question. Just make it accessible would that bring
2 families back? Not necessarily, making housing
3 affordable, that will bring families back, because
4 what we have now, you know, because working with
5 Department of Education as well, we have been doing
6 teacher training. Every year we hire 60, 60 new
7 teachers off-island to come to our island to teach
8 our children. Why such turnover? Because they
9 cannot find an affordable place to live.

10 Every year we do the training, we take them
11 out, do cultural training with them.

12 Why do they leave? Big thing, housing. So
13 am I in support of Lima Ola? Yes, I am. We need it.
14 We don't need big fancy homes, we got plenty. That's
15 not where our people can live, that's not where they
16 can afford, even if they caretake a place. It's not
17 enough for families.

18 So mahalo nui to all of you for your
19 efforts, to this team, mahalo to you for doing due
20 diligence.

21 COMMISSIONER CHANG: The Cultural Impact
22 Assessment. So you were contacted?

23 THE WITNESS: Yeah.

24 COMMISSIONER CHANG: And you gave them
25 Auntie Janet's name?

1 THE WITNESS: Actually I went out and
2 interviewed her. I did the interview with Auntie
3 Janet asking the questions that the team sent me, and
4 I believe I sent it to them by email.

5 COMMISSIONER CHANG: Did you review that
6 Cultural Impact Assessment?

7 THE WITNESS: Yes, I did.

8 COMMISSIONER CHANG: Were you comfortable
9 with it?

10 THE WITNESS:

11 A Yes, I am. A couple misspellings, but just
12 minor. Maybe was my name, never mind.

13 COMMISSIONER CHANG: That hurts.

14 THE WITNESS: I made my living as editor
15 and writer for several years before returning home,
16 so I kind of look at those things, but that's okay.

17 COMMISSIONER CHANG: Do you know whether
18 they were able to interview anybody other than --
19 were you able?

20 THE WITNESS: Auntie Janet was the only one
21 that I interviewed. There were probably several
22 other people that could have been contacted, but she
23 was my main contact. Had she given me any other
24 names, I might have done it.

25 COMMISSIONER CHANG: Do you know whether

1 they tried to interview anybody else?

2 THE WITNESS: No, that's a question for
3 them.

4 COMMISSIONER CHANG: Fair enough, thank
5 you, I appreciate --

6 THE WITNESS: I know from their report,
7 they looked at a lot of literature, lot of historic
8 writings, even those that are more current by the
9 archeologists who have worked in the area. But
10 having Missy here to discuss those as well, hey, to
11 get all these people together in less than 24 hours,
12 I mean, hello, I mean, maikai loa.

13 And the hilarious thing is I had Missy's
14 email, but I didn't have her phone number. Neither
15 does her auntie, neither does the grandmother, but
16 one of these guys has a wife who was her classmate,
17 boom. That's how we get things done on Kaua'i.

18 COMMISSIONER CHANG: Exactly, that's the
19 network.

20 THE WITNESS: And thank goodness for time.

21 VICE CHAIR SCHEUER: Actually almost ten
22 years, August 2007 when Iniki happened. I kind of
23 wanted to just go through very quickly the same
24 questions I went through with Auntie Leina'ala.

25 And I've heard some of your responses to

1 Commissioner Chang's questions, so there are still
2 some historically fishing practices and gathering
3 along Wahiawa. Certainly salt making continues at
4 salt pan and other cultural practices at Salt Pan
5 Beach Park.

6 THE WITNESS: Uh-huh.

7 VICE CHAIR SCHEUER: The Intervenor in
8 their written documents have been concerned with
9 increased traffic at Salt Pan Beach Park, and then we
10 heard from Auntie Janet about -- our Kupuna Janet's
11 concerns about people parking all over and other
12 impacts from increased traffic at Salt Pan Beach Park
13 associated with also weather changes the season for
14 making salt is shorter.

15 Our job is to identify the scope of
16 traditional and customary practices, identify any
17 impact from the projects that may occur as a result
18 from those practices and design, or ask for any
19 conditions that might mitigate those impacts.

20 So really what I would like you to speak to
21 is whether it's runoff or increased traffic, what
22 things might occur from this project on traditional
23 and customary practices in this particular area?

24 THE WITNESS: You know, we have already
25 talked about the impact that additional population

1 will have on the school there. We are not aware of
2 any cultural or religious, traditional cultural
3 religious practices in that particular -- not on the
4 site. Definitely growth on the island and
5 environmental conditions, sea level rising, yes, it
6 is a real thing. The king tides that we had last
7 week and a month ago, yes, the seas do come over the
8 sand berme, and yes, they did flood; and yes, there
9 is coming up.

10 What Auntie Janet did not mention was our
11 concern from runoff from the mauka fields, but that's
12 not the area where Lima Ola is, drain is there, goes
13 into Wahiawa Bay not the salt pan.

14 VICE CHAIR SCHEUER: So when you pave an
15 area, like putting housing and roads, it can, without
16 proper mitigation, increase runoff or nonpoint source
17 pollution to makai areas.

18 THE WITNESS: Right, I'm sure. And I'm
19 sure the people who are planning that development
20 will take that into consideration when they look at
21 water usage, what they will do with all that runoff
22 from new roads and driveways, the pollution that
23 comes from motor vehicles. You know, maybe some day
24 Kaua'i will be electric vehicles, and so we won't
25 have, you know, those particular concerns.

1 Because in actuality there is so limited --
2 there is far more use of Hanapepe salt pond area than
3 there is in Wahiawa Bay. There is so much more
4 impact along the coast from all kinds of forces. You
5 know, mostly I'm thinking about the fishermen and
6 their use of that area, you know. The way Auntie
7 Janet talked, she talked about fishing for family,
8 boom, not commercial kind fishing, just fishing to
9 take home to the family, feed the family, feed the
10 community.

11 I see the benefits of Lima Ola outweighing
12 any negative impacts that an increase in population
13 could possibly have on not just that area, but on
14 this island.

15 VICE CHAIR SCHEUER: The idea is not that
16 we are supposed to balance necessarily impacts with
17 benefits, but to minimize impacts in the course of
18 receiving the benefits.

19 THE WITNESS: I hear you. And I feel very
20 reassured that as long as Kupuna Kahalekomo is
21 teaching at that school, that the children who live
22 in Lima Ola will know about the values that go with
23 living in Hawaii. Not just her, but she has trained
24 everyone of her mo'opuna, all the grandchildren down
25 to Bronson, and great grandchildren. That's one

1 thing I love and admire about her, she sees the
2 importance that lineage continuing to teach what she
3 learned from her kupuna to her keiki all the way
4 down.

5 She didn't say it today, but she has told
6 me before, because when I pass, I want them to know
7 how. It's like, yes, that's how. That's how.

8 VICE CHAIR SCHEUER: Last question. The
9 same one I asked the previous kumu. If this was a
10 commercial development or a second home, luxury home,
11 would you feel differently about this?

12 THE WITNESS: I would. Those are very
13 exclusive communities. We need homes for working
14 people. I would feel differently about it.

15 VICE CHAIR SCHEUER: So you wouldn't
16 necessarily have come at the last minute to speak?

17 THE WITNESS: No.

18 VICE CHAIR SCHEUER: Mahalo.

19 CHAIRPERSON ACZON: Anybody else?
20 Commercial Cabral.

21 COMMISSIONER CABRAL: Thank you so much for
22 all of you folks. I'm from the Big Island and I deal
23 with a lot of housing, including HUD, and lot of what
24 will probably move in there will be subsidized HUD
25 housing. And I'm fearful that there will be more

1 federal regulations because of the money source than
2 people may realize, and I would just want to make
3 recommendation -- not a question to you -- but that
4 you and these other wonderful ladies get together and
5 put together a lot of these resources while, again,
6 you have the generation still alive, and put it
7 together in a method that perhaps then you folks can
8 make sure that maybe the housing agency has something
9 to pass to every single resident that moves into this
10 housing project.

11 Because it's my findings when I have a
12 tenant or buyer coming in to a new housing, they're
13 very receptive to listen to everything, because they
14 don't get keys until they do what I tell them to do,
15 but after they've been there awhile, they may not
16 attend community meetings.

17 You might have it almost appear that it's a
18 requirement that they listen to something so that
19 they might make it a video, in the future, but
20 put together -- I mean, I have a little booklet I
21 bore people in telling them how to clean the house,
22 that's the moment I have their attention and I
23 think -- that I would love to think that in this
24 treasure of a cultural community that you have that
25 you make sure you pass it onto everybody moving in

1 regardless of what their background might be.

2 So you have the -- the housing folks back
3 here have them as captive audience for one moment in
4 time when they sign it.

5 THE WITNESS: You are not the first person
6 to recommend that we produce cultural orientation
7 pieces around the communities, with the resource
8 people that we have.

9 COMMISSIONER OKUDA: Thank you for your
10 testimony, Ms. Kauka. Just to complete our record.
11 Most of the prior witnesses, and a number of the
12 witnesses coming up have submitted a resume.

13 Can you please tell us a little bit about
14 or summarize your educational background and work
15 experience, and please don't feel the need to be
16 modest here, because it's important that we have a
17 complete record here.

18 Tell us a little bit about your educational
19 background, and also tell us a little bit about your
20 employment background.

21 THE WITNESS: Well, I graduated Kamehameha
22 Schools, and from University of Hawai'i. I did some
23 post graduate work from University of Alaska in
24 Fairbanks, actually 14 years living in Alaska. And
25 I've been home now for 30 years.

1 My background has been -- I spent many
2 years working as a photo journalist and as a writer
3 in Alaska. And on returning home, I was thankfully
4 employed by former Mayor JoAnn Yukimura, who is
5 sitting there, as her public information officer for
6 her first term.

7 And while I was working in that office, the
8 Hawaiian studies people came, and it was
9 Christmastime, and they came and they sang and they
10 were happy and they were really having a good fun
11 time. So I said who are you guys. So that was my
12 introduction to them.

13 And the person who was the head of that
14 program kept coming by my office and dropping off
15 these books, pamphlets and things for me to read and
16 hooked me up.

17 So the day after I left county employment,
18 I went into education and have been in Hawaiian
19 studies education ever since, very much enjoy it.

20 COMMISSIONER OKUDA: Thank you very much.

21 CHAIRPERSON ACZON: Anybody else? Any
22 follow-up questions?

23 MR. BRACKEN: Nope.

24 MS. APANA: No.

25 MS. SOUZA: No.

1 MR. MINKIN: No questions with this
2 witness.

3 CHAIRPERSON ACZON: Thank you very much.
4 Before you go to the next witness, Commissioner
5 Cabral.

6 COMMISSIONER CABRAL: I would like to make
7 a motion we take a lunch break that would become an
8 Executive Session for our Commission and to take care
9 of Commission business, personnel business.

10 CHAIRPERSON ACZON: Any objection?

11 VICE CHAIR SCHEUER: I'll second it.

12 CHAIRPERSON ACZON: Those in favor say
13 "aye". Opposed? Motion carried. We are going to go
14 into Executive Session, and everyone take advantage
15 of this, and we are going to go to lunch. So come
16 back about 12:45. So we are going to take a quick
17 lunch, come back 12:45.

18 (Executive Session and lunch recess were
19 taken.)

20 CHAIRPERSON ACZON: We're back on the
21 record. I realized some people are still eating, so
22 Chair doesn't mind if you continue eating. It's been
23 a very busy day.

24 Mr. Minkin, if I may just ask if you can
25 contain your questions pertaining to the witness'

1 expertise so we can move this along, and I ask that
2 with permission from the Commissioners. Just kind of
3 get it done.

4 MR. MINKIN: Absolutely.

5 CHAIRPERSON ACZON: Please call your next
6 witness.

7 MR. MINKIN: Next witness is Thomas Nizo.

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

10 THE WITNESS: Yes, sir.

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

13 THE WITNESS: Thomas Nizo, P.O. Box 69002,
14 Makaweli, Hawaii.

15 CHAIRPERSON ACZON: Please proceed.

16 THOMAS NIZO

17 Was called as a witness by and on behalf of the
18 Petitioner, was sworn to tell the truth, was examined
19 and testified as follows:

20 DIRECT EXAMINATION

21 BY MR. MINKIN:

22 Q Mr. Nizo, give us a very brief -- what is
23 your background and what do you do today?

24 A Currently I'm PMRF employee, Pacific
25 Missile Range Facility, DOD federal service employee.

1 Also manage the Waimea Theater here in -- out in
2 Waimea on the west side.

3 UNIDENTIFIED VOICE: Is your microphone on?

4 THE WITNESS: So, again, I'm a PMRF
5 employee down at Barking Sands, federal employee.

6 Also run, manage the historic Waimea
7 Theater out at Waimea. I'm a practicing cultural
8 practitioner of different areas.

9 I brought you guys salt as makana to you
10 guys and 'ike and for your guys' knowledge, and
11 that's my way of sharing to you guys, you know, you
12 guys' time and effort that you guys put into take the
13 time to make this right.

14 I would have brought in a pig head and taro
15 but that would be a little messy. I brought the
16 cleanest thing I could. I didn't know my audience
17 so. (Laughter).

18 I'm a member of the West Kaua'i Business
19 Professional Association, which does a lot of
20 community projects for the west side of Waimea. Just
21 sort of active community member.

22 Q (By Mr. Minkin): How long have you been a
23 cultural practitioner?

24 A Since I was, like Auntie said, two.

25 Q And how did you learn your -- what you

1 consider to be your cultural practice?

2 A I learn all that I practice from my kupuna,
3 my grandfather on both sides. Kupuna like aunties
4 before us. There's a saying that you don't learn all
5 of your 'ike from one halau, so I've had many kupuna
6 and teachers that have taught me what I know now.

7 Q And the salt that you brought with you
8 today, where did it come from?

9 A Salt came from Hanapepe, but it's
10 regular -- it's native name is kanaka iole, ku kanaka
11 iole.

12 Q You learned salt -- how to basically do
13 salt farming from both grandfather?

14 A The grandfather on my mom's side is who had
15 the kuleana of making salt. So as Auntie Janet
16 described it, at two we were in there and we got
17 hooked, right? And playing mud mostly, not really
18 working. But that was the fun part, that was the
19 hook part.

20 I went away to Kamehameha Schools for my
21 education, graduated, and then during that teenage
22 time, as she described, I didn't want to go there,
23 but it was a chore, but now that we have matured, I
24 look forward to that.

25 Yesterday I went and filled my beds, ten

1 beds and I filled it by hand, because it's just a
2 wahi pana that is very special to us, it reenergize
3 us.

4 Q Your maternal grandfather, what was his
5 name?

6 A Levy Milimilinalakalau Welaiwehua (phonetic).

7 Q How many -- you grew up on the west side?

8 A Yes.

9 Q How many generations can -- when you do
10 your genealogy search -- can you go back on the west
11 side?

12 A I think it was seven.

13 Q At this time I would move to have Mr. Nizo
14 qualified as an expert in traditional and customary
15 native practices.

16 MR. BRACKEN: No objection.

17 MS. APUNA: No objection.

18 MS. SOUZA: No objection.

19 CHAIRPERSON ACZON: He's accepted as
20 traditional expert witness on traditional and
21 customary practices.

22 Q (By Mr. Minkin): Are you familiar with the
23 Lima Ola project?

24 A Somewhat.

25 Q You know where it's located?

1 A Yes, sir.

2 Q Do you believe that affordable housing is
3 necessary on the west side?

4 A Yes. I mean, I definitely think things
5 trickle down kind of process, right. I mean, five
6 years, maybe five years ago I probably wasn't in the
7 best financial situation, and like somebody stated
8 prior, a lot of the rentals are kind of geared to
9 PMRF employees and the rates are really, really high
10 on the west side as far as rentals are concerned. So
11 I believe if we have an opportunity to have local
12 people ohana get affordable homes, I think that will
13 take out the competition of rentals on the west side.

14 I know for a fact -- a cousin of mine I saw
15 her truck on Craigslist list yesterday. I called her
16 and I said, "How come? What's wrong?" She said she
17 is trying to decrease her debt ratio because she is
18 trying to get one of those homes like Habitat right
19 adjacent to what we are talking about.

20 So she is trying to get one of those
21 affordable self-built homes. That's her goal. She
22 is giving up mode of transportation and opting to
23 catch the Kaua'i bus to make that shift for her
24 family. So there is definitely a need out there.

25 Q Let's talk about PMRF and rentals.

1 VICE CHAIR SCHEUER: Mr. Minkin, just as
2 one Commissioner, I don't think we will hear from any
3 witness who doesn't think affordable housing is a
4 good idea. I believe the witness is an expert on
5 traditional and customary practices and that's what
6 I'm excited to hear about.

7 MR. MINKIN: Okay.

8 Q You've indicated you're familiar with the
9 75 acres?

10 A Yes. I know where it's located.

11 Q Anyone in your ohana use those 75 acres for
12 customary and traditional practices, to your
13 knowledge?

14 A Not for customary and traditional
15 practices, but I know there are stories that my
16 grandfather and his friends used to say, and as
17 Auntie Janet stated, that was their playground. They
18 used to go mili mili being mischievous in the
19 fields, you know. That's pretty much the stories
20 that I've heard. Wasn't about gathering things, just
21 kind of like their playground.

22 Q So nothing passed down about anyone
23 chanting there?

24 A No.

25 Q Anyone -- you said nothing about anyone

1 gathering anything?

2 A No, sir.

3 Q Nothing about anyone -- let's talk about
4 trails. Any knowledge passed down to you through
5 your ohana going through generations about their
6 being trails there?

7 A I think the only trail that used to have
8 was my grandfather telling me I had it easy, I used
9 to walk 20 miles to school, something like that. Not
10 traditional trails for hunting or anything like that.

11 Q Thank you, sir. Nothing further.

12 CHAIRPERSON ACZON: Any questions?

13 MR. BRACKEN: No questions.

14 MS. APUNA: No questions.

15 MS. SOUZA: Yes.

16 CROSS-EXAMINATION

17 BY MS. SOUZA:

18 Q Thomas, as you take care of your salt pans
19 and make salt, about how much time do you think you
20 spend down at the salt pans?

21 A So the first initial prep is probably four
22 days worth. Then every third day you have to tend to
23 the lo'i, so you have to go fill the waters. Then
24 every sixth week -- well, the first harvest comes on
25 the sixth week, and that takes the whole day. Then

1 every week after that you can harvest, right. But I
2 mean I spend my whole summers there. I don't know if
3 you want me to quantify an hourly. Have to get out
4 my calculator. I spend a lot of time there at Salt
5 Pond.

6 Q What is your observation about the use,
7 recreational use of Salt Pond Beach Park and the
8 surrounding beach areas that you can see from the
9 salt pans?

10 A Well, the use of Salt Pond is great,
11 constantly people there. A lot of families are using
12 it for parties and gathering, and whatnot. I know
13 being salt maker we just had a vote in our hui about
14 the county being proactive and upgrading the sewer
15 system; and getting our input as to placement and
16 processes that they're going take -- at the
17 mitigation process they're going to take to ensure
18 our salt beds are not impacted. So grateful for the
19 county to be proactive in that respect.

20 Q Do you have any thoughts about how the
21 development of approximately 550 homes in the Lima
22 Ola area might impact the beach park and surrounding
23 areas with increased recreational use?

24 A Yes. I mean, with another 500 homes being
25 planned for that area, I don't think those homes are

1 going to be inhabited by people moving from
2 California or moving from somewhere else. I
3 believe -- like there is multi-families in one unit,
4 right, so I believe -- and just like my cousin, she
5 has two sisters with both families and their mom in
6 this one house. So she's trying to get an affordable
7 unit there.

8 So I don't think there is an impact on --
9 direct correlation between housing units and people
10 using Salt Pond. I think people are already here on
11 island utilizing Salt Pond.

12 Q Thank you.

13 CHAIRPERSON ACZON: Commissioners,
14 questions?

15 COMMISSIONER CHANG: If I may approach the
16 witness?

17 Aloha. I would like to ask you. This is
18 an exhibit that is part of the Petition Figure 1.
19 This map isn't very comprehensive. Can you show me
20 where Hanapepe salt pans are located with respect to
21 the map, off the map?

22 THE WITNESS: What is this? The bay, park,
23 is this the area -- somewheres here (indicating.)

24 COMMISSIONER CHANG: Are you familiar with
25 where the project area is?

1 THE WITNESS: Yeah.

2 COMMISSIONER CHANG: So the salt pans are a
3 substantial distance from where the project area is?

4 THE WITNESS: Uh-huh.

5 COMMISSIONER CHANG: Do you know whether
6 there is any salt pond gathering at Wahiawa?

7 THE WITNESS: No.

8 COMMISSIONER CHANG: None, okay.

9 Are you familiar or aware of any fishing
10 that might be going on at Wahiawa Bay?

11 THE WITNESS: Just as previously stated,
12 limu, aholhole, kalau (phonetic), perch.

13 COMMISSIONER CHANG: Do you guys do that
14 any more?

15 THE WITNESS: No. For same reason access
16 is being restricted by the coffee company.

17 COMMISSIONER CHANG: If access was open,
18 other than just through a key -- Auntie Sabra said
19 ask permission -- but if an access was open, do you
20 think more people would go back to fish in that area?

21 THE WITNESS: Yeah. I mean, I would
22 definitely take advantage of the opportunity if it
23 came up.

24 COMMISSIONER CHANG: And the people who
25 fished in that area, were they doing for subsistence

1 or selling it?

2 THE WITNESS: Subsistence.

3 COMMISSIONER CHANG: When they went there
4 to gather limu, commercial or subsistence?

5 THE WITNESS: Subsistence.

6 COMMISSIONER CHANG: Do you believe that,
7 as a practitioner -- let me ask you.

8 I know Mr. Minkin asked you whether you
9 were aware of any cultural practices that existed on
10 that project area and you said no. Usually like
11 Auntie Janet said kind of playground. Are you aware
12 of any cultural practices that existed either mauka
13 or makai of the project area?

14 THE WITNESS: No.

15 COMMISSIONER CHANG: Thank you so much,
16 you've answered my questions.

17 CHAIRPERSON ACZON: Vice Chair Scheuer.

18 VICE CHAIR SCHEUER: Aloha. Thank you for
19 being with us.

20 THE WITNESS: Mahalo.

21 VICE CHAIR SCHEUER: I am unfamiliar with
22 the salt making process, though I've been the lucky
23 recipient in the past.

24 THE WITNESS: And you will be today.

25 VICE CHAIR SCHEUER: It's something that

1 does not happen other places around the state,
2 especially around the archipelago.

3 Where does saltwater come from that you
4 evaporate from?

5 THE WITNESS: So from the salt ponds,
6 there's a little bay, it gets pushed under from
7 sandstone tubes, and for some reason it just happens
8 that way. I guess the waters, the salinity level is
9 way higher in the salt beds where you dig your puna,
10 and your water comes out, right, than the water
11 that's in the bay, for some reason, and we dig our
12 puna. We clean it out every year to supply water to
13 our beds.

14 VICE CHAIR SCHEUER: You mentioned that
15 you -- or you asked county to be proactive about
16 sewage treatment?

17 THE WITNESS: Not just recently, I mean
18 it's been kind of talk for awhile. Maybe because of
19 this project, they're upgrading, they're being
20 proactive in seeing maybe a rising use because of
21 different families, or might have different families
22 coming off from different areas and moving closer to
23 our salt pond, and trying to be ahead of the game to
24 a certain extent and improve those.

25 VICE CHAIR SCHEUER: So there is a concern

1 in continuing the practice about the quality of water
2 that it not be polluted or not pollutants in the
3 water coming into the --

4 THE WITNESS: Well, the pollutants would
5 have been from the over -- the limited capacity of
6 the sewage treatment process now from there, right.
7 I would say couple years back when we had that heavy
8 rains for 40 days and 40 nights here, the sewage --
9 actually amount of water sewage kind of back up into
10 the salt pan area. It didn't reach all the way to
11 the salt beds, it was mostly on the corner piece.
12 But still it got down into the salt area, that was
13 the concern.

14 VICE CHAIR SCHEUER: Sounds like -- correct
15 me, because I'm sure I might not be getting this --
16 but the water is saltier, so some of the water is
17 coming from the ocean clearly, but all the sources of
18 water flowing into the salt pan, it's not entirely
19 clear how that -- what the hydrology is.

20 THE WITNESS: Well, I think the county is
21 trying to get a hydrologist to study our water as
22 part of this project, an environmental study I guess.
23 But none of the water coming off of the canefields
24 really enter. It's only when it's -- I meant the
25 normal day-to-day kind of drainage, no, but when you

1 have the 40-day/40-night kind of thing --

2 VICE CHAIR SCHEUER: Flood flows can enter
3 that area?

4 THE WITNESS: Yeah.

5 VICE CHAIR SCHEUER: And then can ocean
6 water enter that area?

7 THE WITNESS: Ocean water can come over the
8 dune, so I remember somebody asking about the
9 mitigation, or different things you could do if this
10 project does come over. Like I mentioned the county
11 be proactive about upgrading the sewage system at the
12 park.

13 The other thing the hui is trying to get to
14 is, there is a cross road between the park and the
15 airfield, to shut that down and to close off the area
16 where people transverse to the beach and drive on the
17 sand dune, because that sand dune used to be at least
18 20 feet higher.

19 So the ocean water king tides can't really
20 come over, but over the years, people been driving
21 there, driving there and pulling the sand from off
22 the beach and towards the salt beds. So the
23 outer-skirts, the salt beds are getting lome, kind of
24 mud, because there's a lot more sand content in the
25 mud.

1 VICE CHAIR SCHEUER: I'm sorry, loam,
2 l-o-a-m?

3 THE WITNESS: L-o-m-e, lome. So the
4 introduction of the sand now from the beach because
5 people are just driving without a care and without
6 direction, without restrictions, is affecting the
7 outer beds.

8 VICE CHAIR SCHEUER: Last question. In
9 your experience, not in your salt-making experience,
10 but in your fishing or seaweed gathering experience,
11 does onshore pollution issues come into the coast,
12 can that decrease the availability of resources?

13 THE WITNESS: Definitely. Kupuna Janet
14 said suntan lotion, different oils. Port Allen is
15 right next door. Just not too long ago they had a
16 run ashore near there, so there is definitely
17 environmental impacts that swings around the bay that
18 could be a potential.

19 VICE CHAIR SCHEUER: Mahalo.

20 CHAIRPERSON ACZON: Any additional
21 questions? Anybody else? Mr. Bracken?

22 MR. BRACKEN: No questions.

23 MS. APUNA: No questions.

24 RECROSS-EXAMINATION

25 BY MS. SOUZA:

1 Q Just to clarify. Could you define what the
2 puna is that you talked about?

3 A It's where the saltwater comes out of.

4 Q And so you take the water from that to put
5 into the --

6 A You take the water from the puna, put it
7 into what they call a wai ku, standing water, right,
8 ku means just to stand. It's a place where you allow
9 the water to get even more saltier, because you're
10 letting it sit in this pond that is getting
11 evaporated and salt crystals are forming.

12 So then after you get it from you wai ku,
13 you put it into your lo'i and those beds that you
14 made, and then the salt process gets even faster. It
15 takes six weeks to get one harvest. Then after you
16 harvest it, you have to go and dry it now at your
17 house.

18 So that process takes almost ten weeks to
19 get it to the point where this salt is not going to
20 melt back into water. If there is one hint of
21 moisture, the salt will turn back into water in a
22 bucket.

23 So it's a long process to get this. So put
24 it on your state and malama it well.

25 Q So focusing now on the quantity of water in

1 the puna, or the ease of the water filling up the
2 puna to be taken out, is that adversely affected by
3 the cars on the beach and compaction of the dune?

4 A No. So the flow of water is not impacted
5 by the people driving on the beach and whatnot.
6 Because it's sand too, lined tubes all underneath, so
7 there is no effect of people just driving on the top,
8 because it's kind of way down.

9 Our wells are ten feet down, right, so we
10 got to dig it by hand, no machinery allowed in that
11 area.

12 The thing that effects the outer-skirts is
13 from the driving and the compaction of the sand is,
14 like I said, the introduction of the higher sand
15 content in the mud, so that when you rub your beds,
16 it's not a complete seal. You need mud, 100 percent
17 black mud to seal that bed. So if you have sand in
18 it, the water leaks out.

19 Q Thank you.

20 CHAIRPERSON ACZON: Follow up?

21 MR. MINKIN: Very briefly.

22 REDIRECT EXAMINATION

23 BY MR. MINKIN:

24 Q You talked about the 40 days of rain and 40
25 nights of rain that was in February and March of

1 2006, correct?

2 A Yeah.

3 Q And you indicated that was -- is that the
4 only time that you remember any site basically from
5 the plantation, the coffee plantation, any water
6 coming down?

7 A Yeah. That was one of the main drainage
8 points. I mean, it focused in that area just because
9 there's no way the land could handle that much
10 precipitation.

11 Q Did you have an understanding that that was
12 at least a 100-year flood situation, if not more?

13 A Yes. Within the last two years we have
14 seen higher amount of rainfall in Hanapepe. So the
15 last year '16 -- so '14 and '15 I couldn't make salt
16 because there it was flooded most of the salt season.
17 Our season starts in about May, runs until about
18 September, and for two years we couldn't make salt.
19 I actually ran out of salt. We just give it away,
20 trade and barter.

21 Last year was a very good year and
22 hopefully this year another good year. But it's just
23 El Nino, El Nina, whatever it is, just weather
24 patterns.

25 Q But the flooding wasn't result of any

1 runoff from the plantation?

2 A No, prior two years not because of
3 plantation runoff.

4 Q Thank you. No further questions.

5 MS. SOUZA: Perhaps I misheard, but just to
6 make sure the record is clear, the runoff that you
7 were referring to, Mr. Minkin, 40 days and 40 nights
8 did you say was from the coffee plantation or sugar
9 plantation? I believe coffee was not grown upland of
10 this area, it was sugar at the time.

11 THE WITNESS: You're talking about 2006,
12 the 40 days, 40 nights is Robinson lands, that was
13 all cane. Now it's all ranch lands.

14 MS. SOUZA: Thank you.

15 MR. MINKIN: Thank you.

16 COMMISSIONER CHANG: I want to not be
17 confused. This is not part of the record, this is a
18 map that Commissioner Cabral got.

19 MS. SOUZA: As I offered yesterday, I have
20 maps. I have an aerial photo of this area if you
21 like to -- I believe they have all been entered into
22 the record.

23 COMMISSIONER CHANG: Okay, that's probably
24 more appropriate. I just want to be very clear in my
25 mind.

1 We are talking about Hanapepe salt ponds.
2 The project area is Ele'ele. I want to be very clear
3 in my mind that the runoff we're talking about came
4 from the uplands of the sugar plantation above
5 Hanapepe and not Ele'ele?

6 THE WITNESS: Not even Hanapepe, it's the
7 next valley over.

8 COMMISSIONER CHANG: That's my confusion.
9 Seems like Ele'ele, the project area, but talking
10 about Hanapepe salt pans.

11 Thank you so much.

12 This I understand is a map that's actually
13 been entered into as exhibit. Is it okay if I use
14 this?

15 MS. SOUZA: This is Intervenor's Exhibit 1.

16 COMMISSIONER CHANG: So where is the salt
17 pans?

18 THE WITNESS: Right here (indicating).

19 COMMISSIONER CHANG: Can you tell me where
20 is the proposed project? Can you tell?

21 THE WITNESS: Here (indicating).

22 COMMISSIONER CHANG: So when we are talking
23 about -- Mr. Minkin just talked about the 40 days/40
24 nights flooding, it came from these mauka uplands?

25 THE WITNESS: Right.

1 COMMISSIONER CHANG: Did it come from these
2 mauka uplands (indicating)?

3 THE WITNESS: No.

4 COMMISSIONER CHANG: When you were talking
5 about the salt pans and the ponds, did you call it
6 the --

7 VICE CHAIR SCHEUER: Could you make it so
8 we can see?

9 COMMISSIONER CHANG: I'm having a little
10 conversation with Mr. Nizo.

11 So Mr. Nizo showed me the salt pans is
12 right here (indicating).

13 MR. MINKIN: For the record, on Exhibit 1
14 to Intervenor, that's on the bottom left-hand corner.

15 COMMISSIONER CHANG: So this is the
16 location of Hanapepe salt ponds, right?

17 THE WITNESS: Right.

18 COMMISSIONER CHANG: Mr. Nizo showed me
19 this. Why don't you show me. The proposed project
20 is right here (indicating).

21 So I asked Mr. Nizo, when Mr. Minkin asked
22 him about the flooding, that the waters came from the
23 mauka lands above the salt pans, right? It didn't
24 come from the mauka lands above Ele'ele?

25 THE WITNESS: No.

1 COMMISSIONER CHANG: When you talked about
2 the puna.

3 THE WITNESS: Wai puna, the wells.

4 COMMISSIONER CHANG: Where are the wells
5 located?

6 THE WITNESS: In each of the families'
7 ahupua'a, lo'i, whatever you want to call it, we dig
8 our own well. So in my well, two wai puna and
9 somebody else's area, there's three, somebody else's
10 might be smaller, so might only have one.

11 COMMISSIONER CHANG: Where are those
12 located?

13 THE WITNESS: It's within that little area.
14 All underground. So I mean, if this was my lo'i for
15 my family, you would have one wai puna in the middle
16 and one wai puna out here, and that would service all
17 of your beds. But it's just two wells that are fed
18 by an underground stream.

19 COMMISSIONER CHANG: Do you know whether
20 any of those underground streams that may feed into
21 your wai puna here may come from lands up mauka up
22 Ele'ele?

23 THE WITNESS: No.

24 COMMISSIONER CHANG: Thank you so much for
25 this. This is very helpful.

1 CHAIRPERSON ACZON: Thank you, Mr. Nizo.
2 Please call your next witness.

3 MR. MINKIN: Max Solmssen, and I believe we
4 left with Commissioner Wong wanted to ask questions.

5 VICE CHAIR SCHEUER: I'm not sure if
6 anybody has actually a map showing drainage basins
7 within the area.

8 CHAIRPERSON ACZON: Anybody?

9 VICE CHAIR SCHEUER: I would rather refer
10 to a map than ask individuals their thoughts on which
11 area drains to where.

12 CHAIRPERSON ACZON: Let's take a two minute
13 recess.

14 (Recess was taken.)

15 CHAIRPERSON ACZON: Back on the record. I
16 want to ask the parties if there is any objection to
17 the Commissioners accepting this salt.

18 MR. MINKIN: On behalf of the Petitioner,
19 assuming it won't affect anybody's decision, none
20 whatsoever.

21 MR. BRACKEN: No objection.

22 MS. SOUZA: No objection.

23 MS. APUNA: No objection.

24 CHAIRPERSON ACZON: Please proceed.

25 MR. MINKIN: Recalling Max Solmssen. I

1 believe we left off yesterday before we broke --

2 CHAIRPERSON ACZON: You're still under
3 oath.

4 MR. MINKIN: -- Commissioner Wong wanted to
5 ask questions.

6 MAX SOLMSSEN
7 Having been previously sworn to tell the truth, was
8 examined and testified as follows:

9 VICE CHAIR WONG: Hello again.

10 THE WITNESS: Hello.

11 VICE CHAIR WONG: So I guess what happens
12 is your company did the Environmental Assessment on
13 this project and your boss was more the lead than
14 you. Is that how I gathered from yesterday?

15 THE WITNESS: At the beginning of the
16 project that was the case of more an author,
17 researcher. Then over time I became project manager.

18 VICE CHAIR WONG: So the question I'm going
19 to ask is this. Did you have any other projects?
20 Did you have done any other EA, EIS?

21 THE WITNESS: Yes.

22 VICE CHAIR WONG: So you have done others?

23 THE WITNESS: Yes.

24 VICE CHAIR WONG: And you stated yesterday
25 that you believed that the EA was satisfactory and

1 you didn't need to go to the next step, is that
2 correct?

3 THE WITNESS: Yes.

4 VICE CHAIR WONG: And you reviewed all the
5 studies, TIAR and --

6 THE WITNESS: Yes.

7 VICE CHAIR WONG: That's it. Thank you.

8 CHAIRPERSON ACZON: Commissioner Okuda.

9 COMMISSIONER OKUDA: Thank you, Chair.

10 Can I ask you if you did show the witness
11 Mr. Dahilig's direct testimony, Exhibit 4, I think?
12 And then also if Mr. Solmssen can also look at his
13 direct testimony, which I believe is Exhibit 14.

14 I just want to clarify, just comparison of
15 a couple of questions.

16 MR. MINKIN: For the record, before we go
17 there, it started out, Mr. Dahilig started out as
18 Exhibit 4, then later it became Exhibit 38 for the
19 record, based on clarity.

20 And then Mr. Solmssen started out
21 Exhibit 14, then became Exhibit 48.

22 COMMISSIONER OKUDA: But the substance of
23 those document are the same?

24 MR. MINKIN: Correct. Just the numbering
25 changed.

1 COMMISSIONER OKUDA: Mr. Solmssen, if you
2 can look at your response to question number 45, the
3 question asks: In your professional opinion is the
4 project in conformance with the General Plan.

5 Do you see number 45 on your response?

6 THE WITNESS: Yes.

7 COMMISSIONER OKUDA: And you answered yes,
8 right?

9 THE WITNESS: Yes.

10 COMMISSIONER OKUDA: Can you please turn to
11 Mr. Dahilig's direct testimony? If you look at
12 question number 41 where the question to him: In
13 your professional opinion is the project in
14 conformance with the General Plan, and he answers:
15 Not necessarily. He says: However, please refer to
16 comments to question 40 above.

17 And, you know, his response continues, and
18 then there is a response that he spells out with
19 respect to his answer given to question 40.

20 Before you signed your direct testimony
21 document, did you know, or did you know that Mr.
22 Dahilig was giving those answers?

23 THE WITNESS: No.

24 COMMISSIONER OKUDA: Before you testified
25 here today and yesterday, did you know that Mr.

1 Dahilig gave those answers?

2 THE WITNESS: No, I don't believe so.

3 COMMISSIONER OKUDA: Is right now the first
4 time you've seen or noticed that Mr. Dahilig gave
5 those answers?

6 THE WITNESS: Yes.

7 COMMISSIONER OKUDA: Now that you've read
8 the responses that Mr. Dahilig gave to those
9 questions, does that change your opinion or testimony
10 in any way?

11 THE WITNESS: No. I guess I like to just
12 clarify, you know, it's a complicated issue. My
13 answer was just yes. Mr. Dahilig gave more of a
14 detailed answer because it's not a simple question.

15 COMMISSIONER OKUDA: So do you believe Mr.
16 Dahilig's answers are more accurate than your answer?

17 THE WITNESS: Well, actually I haven't read
18 the whole content of 40 which he references, but with
19 regard to the question itself, as mentioned, the
20 General Plan map shows the area still in agricultural
21 use, so in that way, the planned use would not be in
22 conformance with that map.

23 However, the content of the General Plan,
24 the text as Mr. Dahilig mentions the reason in this
25 question, as well as in the Final Environmental

1 Assessment, shows how some portion of the text of the
2 General Plan are concurrent with development of the
3 site.

4 COMMISSIONER OKUDA: And then can you
5 please turn to your responses to question 54. And
6 question 54 asks: Please describe the project's
7 conformance with the standards under HAR 15-15-18.

8 Do you see that on page eight of your
9 direct testimony?

10 THE WITNESS: Yes.

11 COMMISSIONER OKUDA: There is subparagraphs
12 to question 54, which seems to be in italics
13 quotations from the different administrative rules,
14 correct?

15 THE WITNESS: Yes.

16 COMMISSIONER OKUDA: I'm kind of not sure
17 if I understand the responses. I mean, did you put
18 any responses there? It looks like it's just
19 summaries or in italics provisions of administrative
20 rules and there are no responses, it's kind of blank.

21 In fact, one paragraph, subparagraph four,
22 which deals with HAR 15-15-18 (4) which has no
23 response.

24 Did you answer question 54, or did you not
25 answer 54?

1 THE WITNESS: I answered question 54, prior
2 to it's not my area of expertise with Land Use
3 Commission rules and regulations, and so given the
4 time constraint to come up with this, I looked at the
5 rules and basically this is straight from the rules.

6 That missing one is a typo. That's a typo
7 why it's blank, an error of omission.

8 COMMISSIONER OKUDA: Because the response
9 to 54 doesn't say I don't have expertise, I'm not
10 answering, it just says what it says.

11 So I'm just trying to determine are you
12 trying to communicate some information to us as a
13 Commissioner by what is written here in response to
14 question 54? Or are you not trying to communicate
15 anything to us?

16 THE WITNESS: I'm trying to communicate
17 how, through my interpretation of these regulations
18 as an environmental planner, not an attorney or
19 anything like that, would be applicable to our
20 project.

21 COMMISSIONER OKUDA: Okay. My only comment
22 is -- I can see sort of like a summary or statement
23 of what the administrative rules are, but I don't see
24 a statement regarding application. But I guess in
25 any event your testimony is what it is.

1 Can you look at Mr. Dahilig's testimony and
2 look at his response to question 49 which I believe
3 is in a similar format.

4 My question to you is that, do you dispute
5 or disagree with what Mr. Dahilig responded to in his
6 direct testimony at question 49?

7 THE WITNESS: Give me one second.

8 COMMISSIONER OKUDA: Sure. And maybe I can
9 ask a preliminary question.

10 Is this the first time you're reading Mr.
11 Dahilig's responses to his question 49?

12 THE WITNESS: Yes.

13 COMMISSIONER OKUDA: You know what, if this
14 is the first time you're reading it, it's kind of
15 unfair for me to ask you off the cuff questions.
16 I'll withdraw the question.

17 Thank you, Mr. Chair. I have no further
18 questions.

19 VICE CHAIR SCHEUER: Good afternoon. Two
20 sets of questions going to the relationship of the
21 Environmental Assessment to any potential impacts on
22 Salt Pond area, including the park area as well as
23 the salt pans themselves. And then the questions on
24 the impact on alternately Wahiawa Bay.

25 In the EA you publish a comment letter on

1 the draft EA from an email from the Intervenor person
2 who subsequently becomes the Intervenor, and she
3 states, in her point B, page 398 of the EA:

4 No information is provided on the
5 anticipated population increase and the impacts on
6 Salt Pond Beach Park which is the nearest beach park
7 in the area.

8 And the response letter from your firm
9 dated June 27th signed by Frank Komacho, the response
10 to that comment, his letter, is on page -- at least
11 according to the PDF -- page 399. It might have a
12 different pagination in the physical document.

13 THE WITNESS: The June 27th --

14 VICE CHAIR ACZON: Correct. Response: It
15 is not anticipated that the proposed development
16 would result in a significant impact to regional
17 beach parks since the proposed housing units may be
18 occupied by local residents who already utilize these
19 areas.

20 Can you point to where else in the EA
21 there's evidence that shows that this is not going to
22 result in any increase in population or use? Because
23 this has been speculated by various witnesses.

24 THE WITNESS: As far as what we did in the
25 EA, environmental review process, we did the kind of

1 normal kind of analysis including number of specific
2 site specific studies, consulted with the county
3 agencies, parks, and community groups, and basically
4 what we are looking at is addition of existing
5 population or shifting of an existing population, and
6 I think unless you do another site specific study in
7 more detail than what we feel was necessary, there
8 was no indication that there would be an additional
9 impact from our research.

10 VICE CHAIR SCHEUER: I'm going to repeat my
11 question, because I'm not sure I understood your
12 response, answer.

13 Is there somewhere in the EA where there is
14 evidence that the people living in these units are
15 actually from the west side of Kaua'i and already
16 utilize this park?

17 THE WITNESS: I guess there is not specific
18 evidence.

19 VICE CHAIR SCHEUER: Thank you. In another
20 part of the EA you describe the drainage mitigation
21 measures for the site itself which, as I understand
22 and I believe another witness might address later,
23 the site itself drains into Wahiawa Bay.

24 We have also heard from a number of
25 witnesses now who have spent either historically or

1 occasionally currently they conduct traditional and
2 customary practices of fishing and gathering in that
3 area.

4 You refer to drainage for the area will be
5 done to county standards. Do you know what those
6 standards are?

7 THE WITNESS: It's a two-year storm.

8 VICE CHAIR SCHEUER: A two-year storm?

9 THE WITNESS: Yeah, two-year storm.

10 VICE CHAIR SCHEUER: So increased runoff
11 from greater than a two-year storm is not addressed
12 by the proposed mitigation measures?

13 THE WITNESS: No, just to make sure we are
14 adhering to county standards.

15 VICE CHAIR SCHEUER: Do you know if the
16 county standards are designed to be in compliance
17 solely with federal water quality standards, or are
18 they also developed in relationship to minimizing
19 impacts on traditional and customary practices?

20 THE WITNESS: I don't know the details of
21 how the drainage standards were formed, but I do know
22 some of the BMPs are in adherence with the Clean
23 Water Act and the provisions that DH require that we
24 do talk about.

25 VICE CHAIR SCHEUER: In regards to my two

1 sets of questions, does the area of your expertise
2 extend to an ability to suggest measures that could
3 be imposed by this Commission to address, should
4 there (A), be an impact of increased use of the beach
5 park from this development?

6 Are you able to suggest any potential
7 mitigation measures that could be done to address any
8 impacts on the beach park or Salt Pond; is that
9 within your area of expertise? I'm not asking what
10 those measures are.

11 THE WITNESS: Yeah. If, through our
12 research and consultation, that we found that there
13 is evidence, there would be some kind of significant
14 impact to the beach park or any other recreational
15 areas, then we would have continued to investigate
16 that.

17 VICE CHAIR SCHEUER: And similarly, if
18 there is now evidence on the record of valued natural
19 resources in the Wahiawa Bay area, which are used for
20 traditional and customary purposes, is it within your
21 capabilities to suggest mitigation measures to
22 minimize impacts upon those?

23 THE WITNESS: I believe we do talk about
24 mitigation measures for stormwater in the EA.

25 VICE CHAIR SCHEUER: To a two-year --

1 THE WITNESS: Yeah, county standards, yeah.

2 VICE CHAIR SCHEUER: Thank you.

3 CHAIRPERSON ACZON: Anybody else?

4 Commissioner Chang.

5 COMMISSIONER CHANG: Thank you. I just
6 wanted to follow up. I think my first line of
7 questioning with you dealt with a determination to do
8 an EA versus an EIS.

9 And this -- as I read the project
10 description in the EA proposed improvements include
11 site work and grading, utility and infrastructure
12 development, construction of residential housing
13 units, and a one 500,000 gallon water storage tank.
14 So that's the project description.

15 Did it contemplate the full built-out?

16 THE WITNESS: Yes.

17 COMMISSIONER CHANG: So when you considered
18 Phases II, III and IV, what did you include in
19 your -- how did you consider potential impacts of
20 traffic, school improvements, water improvements,
21 that at this point in time have not been determined
22 because it would be -- those updates are going to be
23 provided after the phase is completed?

24 So what was your scope of review in those
25 potential areas where there has not been a

1 determination of what the requirements will be until
2 the previous phase is completed?

3 THE WITNESS: Well, although technically
4 they haven't -- all the county agencies haven't --
5 you know, basically said what is going to be needed
6 to be done mitigation-wise or for full build-out. We
7 looked at the project in total. So, for example,
8 first area you brought up was traffic. So we had a
9 site specific TIAR done for this project that
10 encompassed full build-out.

11 COMMISSIONER CHANG: So if the TIAR as
12 provided for in the Petition is that an updated TIAR
13 will be done after the completion of the previous
14 phase, right?

15 THE WITNESS: Uh-huh.

16 COMMISSIONER CHANG: So what happens if
17 that TIAR update says there's been so much
18 development, not only from this project, but let's
19 say the surrounding areas, now there is more
20 development, because as I understand this process,
21 201H process, this is the environmental review
22 document.

23 When we do the next phases there will be no
24 environmental review process; is that correct?

25 THE WITNESS: That depends on what is going

1 on at that time and how much time has gone by. You
2 know, I just guess it just depends -- you go back to
3 consultation with all the county agencies, state
4 agencies. At that time just depends how much time
5 has gone by, and like I say, what has happened around
6 the area.

7 COMMISSIONER CHANG: Do you think there
8 could be additional requirement of a new EA or EIS
9 for the next phase?

10 THE WITNESS: Hard for me to say right now.
11 For this project for our EA, we're looking at the
12 project in full build-out entirety, impacts of it.

13 COMMISSIONER CHANG: I understand that you
14 were looking at full build-out, but again, there are
15 some unknown factors, because the proposed schedule
16 is 20 years. We don't know what the requirements
17 will be on some of these infrastructure depending on
18 the previous phase? Right.

19 So I'm just curious as to how you
20 considered the potential impacts of those future
21 phases when we don't know what the requirements are.

22 THE WITNESS: That is something you would
23 have to do for either an EA or EIS. You have to make
24 some predictions based on the best data you can find
25 at certain time period.

1 But then a project like this, or any other
2 project that could last a long time, maybe if it's
3 not even a large scale project, maybe there's
4 something that happens and the project gets shutdown.
5 So it's possible that there might need to be some
6 kind of update in addition to TIAR.

7 COMMISSIONER CHANG: Like a supplemental
8 EA, because you've been qualified as expert in this
9 area too, right?

10 THE WITNESS: Yes. So that's possible.

11 COMMISSIONER CHANG: There's been another
12 assertion by one of the public testifiers yesterday
13 about the issue of segmentation and cumulative
14 impact.

15 In your opinion, because this project is
16 being built in phases over a 20-year period of time
17 with an EA, that based upon your expert opinion,
18 you've done several environmental documents, your
19 opinion is this is not segmentation?

20 THE WITNESS: No, I think example of
21 segmentation is if we just did an EA for Phase I and
22 left the rest of it and say we may not build that,
23 but we looked at all phases for the total project.

24 CHAIRPERSON ACZON: Anybody else?
25 Follow-up questions?

1 MR. BRACKEN: No questions.

2 MS. APUNA: No questions.

3 MS. SOUZA: Yes, I have a couple.

4 RECROSS EXAMINATION

5 BY MS. SOUZA:

6 Q How is the accepting agency for the EA or
7 EIS determined?

8 A Research and consultation with the agencies
9 themselves.

10 Q So you were hired by the County Planning
11 Agency to develop this environmental document, an EA
12 for the County Housing Agency, and accepting agency
13 for this Final EA was the County Housing Agency; is
14 that correct?

15 A Yes.

16 Q Is that normal?

17 A Yeah, there are quite a few instances where
18 you do have the proposing agency also be the
19 accepting authority or determining agency.

20 Q I have a question about the project
21 stormwater in response to the Commissioner's question
22 about the direction of the flow, stormwater flow.

23 You indicated that it would be to Wahiawa
24 Gulch. Yet the EA states that project stormwater
25 collection area is actually located in the southwest

1 corner of the project site, implying that the storm
2 drainage will be directed to the southwest instead.

3 Can you clarify?

4 A I can try and clarify. I think the next
5 witness designed the stormwater system, but I can try
6 and look at a map real quick.

7 So you're saying detention basin --

8 CHAIRPERSON ACZON: Can you identify what
9 you're looking at?

10 THE WITNESS: Looking at Exhibit 3 -- well,
11 this is the name of the map. I don't know what the
12 actual is -- Exhibit 13B, Exhibit 5 in Exhibit 13B.

13 Looking at this map, there is basically all
14 the stormwater is not going to go in exactly one
15 distinct location. Some of it, looking at the arrows
16 here, some of it is going to go more towards Wahiawa
17 Stream, and then -- but the vast majority of it is
18 going to go to the detention basin and then straight
19 down.

20 VICE CHAIR SCHEUER: It's new. Perhaps
21 hold the map in the manner in which -- thank you.

22 THE WITNESS: So this is the project area
23 here (indicating). The ocean is on this side. So
24 the planned detention basin is right here
25 (indicating). So you can see the arrows. Most of

1 the stormwater is going right towards the detention
2 basin as we discussed in the EA, but there is some
3 water -- existing drainage conditions.

4 This is the developed drainage conditions.
5 I guess this is probably what we are more talking
6 about, right, developed drainage conditions.

7 So but this is actually looking more
8 closely to the site than the last map. The last map
9 was kind of zoomed out more. But this shows that the
10 stormwater is going right to the detention basin
11 here, southwest.

12 Q (By Ms. Souza): From there, how does it
13 flow to the ocean?

14 A Well, it goes into the detention basins, so
15 it goes underground, percolates there, then across
16 over Halewili Road -- under -- culvert under.

17 Q Then in which direction?

18 A Gravity towards makai.

19 Q Is Glass Beach affected?

20 A Well, I mean, areas below that is an
21 existing conditions when there is stormwater
22 flooding, it's going to go mauka to makai in that
23 area.

24 Q So just to be clear, it will flow in the
25 southwest direction?

1 MR. MINKIN: For the record, this is the
2 environmental person. The engineer will be
3 testifying, and these are his maps and his diagrams,
4 these questions would be better posed to him.

5 MS. SOUZA: That's fine. I have maybe one
6 more.

7 Q So as the preparer of the Environmental
8 Assessment, did you review all of the comments that
9 were submitted by agencies and folks?

10 A Yes.

11 Q So one of the comments on the EA that you
12 received was from A&B. And there was a map of their
13 master plan for the area immediately -- well, this
14 area, the lands immediately to the east, lands
15 immediately to the west to the coast, and then from
16 there to Numila, correct?

17 A Yes.

18 Q So how -- what is the relationship of that
19 to this project? How is this project related to
20 that?

21 A Well, we discussed that in the cumulative
22 impact section of the EA, we mention that project for
23 that exact reason, because we received that
24 consultation letter from A&B with their planned map.
25 As we say in the EA, right now there is no project

1 there, they don't have approval for doing any of
2 that, but we do talk about cumulative impact, it is
3 potentially a reasonable foreseeable project.

4 We just say these other developed areas
5 need to take into consideration environmental effects
6 they're going to have before they're permitted.

7 Q Thank you.

8 CHAIRPERSON ACZON: Follow-up, Mr. Minkin?

9 MR. MINKIN: No follow up.

10 CHAIRPERSON ACZON: Thank you very much.
11 Please call your next witness.

12 MR. MINKIN: Because we are under the
13 understanding that we probably won't finish today,
14 I'm going to be calling out of order, Marie Williams,
15 because she will not be here in early July.

16 CHAIRPERSON ACZON: May I swear you in.

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

19 THE WITNESS: I do.

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

22 THE WITNESS: Aloha, Marie Williams. I'm
23 the planner with the Kaua'i County Planning
24 Department. I manage the long-range program. My
25 work address is 4444 Rice Street, Suite A473, Lihue,

1 Hawaii 96766.

2 MARIE WILLIAMS

3 Was called as a witness by and on behalf of the
4 Petitioner, was sworn to tell the truth, was examined
5 and testified as follows:

6 DIRECT EXAMINATION

7 MR. MINKIN: For the record, Ms. Williams'
8 resume is at Exhibit 35, formerly Exhibit 1, for
9 those who are still using that. Her direct testimony
10 is Exhibit 36, formerly Exhibit 2.

11 With that, I would submit it's already been
12 stipulated into evidence and turn it over. Thank
13 you, Chair.

14 CROSS-EXAMINATION

15 BY MR. BRACKEN:

16 Q Are you familiar with -- are you familiar
17 with the HRS 201H process?

18 A I am.

19 Q What does that process do?

20 A It basically allows a development project
21 that is deemed to meet the criteria of 201H to be
22 exempt or expedite to the standard state and county
23 planning process, particularly, for example,
24 conformance with the county's General Plan, which
25 typically is a requirement or something that is

1 weighed in evaluating a boundary amendment at the
2 state level or a county zoning amendment at the
3 county level.

4 Q What is the purpose of the County General
5 Plan?

6 A The county general plan is established by
7 our charter. It basically is our high level policy
8 document, it's a guiding plan. It sets a vision, and
9 it's essentially what we aspire to when the county
10 considers how it should grow and develop, as well,
11 and it impacts the policies contained within the
12 General Plan, impacts how we grow. It's how the
13 Planning Department evaluates projects that go before
14 the Planning Commission.

15 And it also guides project development
16 through our six-year capital improvement program and
17 it informs the development of community plans, and
18 more specific plans such as town plans, urban design
19 plans and other agencies, actually by charter, are
20 supposed to use the General Plan in developing their
21 master plans or their facility plan, their short to
22 mid range facility plans as well.

23 Q And how often is it required to be updated
24 under the county ordinance?

25 A Chapter 7 of the Kaua'i County Code where

1 our General Plan is housed, it actually does require
2 the Planning Department to update the plan every ten
3 years. This has not ever occurred. Our existing
4 General Plan was approved in the year 2000, it is now
5 17 years old.

6 Q Are you currently involved in the process
7 of updating the General Plan?

8 A I am.

9 Q Where is it at in the updating stage?

10 A Well, we began to update the General Plan
11 about five years ago with Phase I where we conducted
12 a series of technical reports. The public process
13 for the General Plan was launched in the year 2015,
14 about two years ago.

15 And at this point in time we do have a
16 Planning Commission approved draft, and we are
17 preparing and finalizing that draft to transmit to
18 our county council, and upon approval at council, we
19 will have a new and updated General Plan.

20 Q Is it -- under the current General Plan, is
21 Port Allen designated as a job center?

22 A And, again, whenever I -- just simply
23 because when I say General Plan, I'm referring to the
24 2000 General Plan. Yes, in that plan it does
25 identify a preliminary community planning district

1 vision for the area, and it does identify in the
2 vision statement that Port Allen should be an area to
3 be improved and expanded upon not only for industrial
4 use but for port activity and local serving business
5 as well.

6 Q In the Draft Updated General Plan, what is
7 its designation for the Lima Ola area?

8 A It is residential community.

9 Q Was a built out study conducted for
10 Hanapepe Ele'ele area?

11 A As part of Phase I of the General Plan
12 Update, our series of technical reports we did in
13 fact hire a consultant PBR Hawaii to use the GIS and
14 go through our permit and building and zoning permit
15 logs to assess what the build out trend has been
16 since the year 2000, and whether, and to look at our
17 population forecast to determine if in fact our
18 zoning particularly, our residential zoning capacity
19 would be adequate. And of course this was done --
20 being done for the General Plan. It did occur from
21 the island-wide look, but he did -- our consultant
22 did go to the planning district level as well.

23 And, yes, it was determined -- he did do a
24 build out and that report is on-line. What was
25 interesting is that looking at the building permit

1 info that only 150 homes had been constructed in the
2 entire planning district from the year 2000, and
3 moreover, it was under-zoned, if you considered what
4 the 2035 housing demand would be.

5 Q Has any build out occurred since the study
6 was conducted?

7 A I'm unsure. The study was completed in
8 about the year 2013, 2014.

9 Q Are you familiar with Hanapepe-Ele'ele
10 Community Development Plan?

11 A I am.

12 Q Is the Lima Ola project consistent with
13 this plan?

14 A It is not consistent with the map, the land
15 use map in that plan. But I may also add that the
16 community development plan for this area was
17 completed in 1974. Again, by law, we actually are
18 meant to do a review of that plan every five years.
19 A review has not occurred, and so the plan is quite
20 old, and neither did updates occur after the 1987
21 General Plan was updated nor the 2000 General Plan
22 update.

23 It is our existing community plan for the
24 area, it does not reflect the overarching land use
25 policy for sometime.

1 Q According go to the U.S. Census Bureaus
2 American Community Survey data for Kaua'i, are you
3 aware of the amount of the owner-occupied homes added
4 to the Kauai between 2010 and 2016?

5 A Yes, I apologize, I don't have those
6 numbers before me. It is something that within our
7 division we are always looking at the American
8 Community Survey. There are one, three and five
9 years estimates of course, and above what we noticed
10 that the trend is that we are producing a lot more
11 new homes island-wide, especially compared with the
12 years 2000 to 2009.

13 And, of course, with the 2020 census coming
14 up, that's every ten years when we do a full count,
15 it goes above and beyond a survey, but it's looking
16 like we are under performing for housing is concerned
17 compared to previous years.

18 Q Have you or the Planning Department staff
19 advised the housing agencies, mayor's office and
20 council on the planning compatibility of the proposed
21 Lima Ola project?

22 A In reference -- sorry, just to clarify. Do
23 you mean before the site was selected or more in
24 recent times?

25 Q More recently.

1 A Yes, I will say that of course since we
2 launched the General Plan Update, and we knew we
3 would be having an island-wide discussion about our
4 Land Use Map and what had to change, and we already
5 anticipated that Lima Ola would be part of the
6 changes we would transmit to our Planning Commission.

7 The housing agency has been involved
8 especially when we did what we call visioning
9 workshop specific to this planning district where we
10 went out and did a design exercise walking and bus
11 tour and looked at the different projects.

12 And the housing agency has always been a
13 part of that, and they have always been very open to
14 answering any questions that participants had as
15 well.

16 Q And is there natural growth in the Hanapepe
17 Ele'ele area?

18 A Yes, there is natural growth island-wide,
19 yes, natural increases.

20 Q Thank you. I have no further questions.

21 CHAIRPERSON ACZON: Ms. Apuna.

22 MS. APUNA: No questions.

23 CROSS-EXAMINATION

24 BY MS. SOUZA:

25 Q Are you familiar with the population

1 projections for the island 2035 that is in the Draft
2 General Plan Update?

3 A I am.

4 Q Those population projections have a
5 breakdown by region, correct?

6 A Yes.

7 Q Can you characterize the, I guess, the
8 trend or the numbers for the Hanapepe-Ele'ele area as
9 reflected in the that General Plan Update?

10 A Yes. I believe that you are referencing
11 the infographic that I believe someone previously
12 brought up as well. And first of all, as it stands
13 today, we have a Planning Commission approved draft.
14 That draft is not available on-line yet. Hundreds of
15 changes were made to the Planning Commission process
16 and our staff and consultant are doing the work of
17 integrating all changes in full and complete draft to
18 transmit to council.

19 So essentially the Planning Commission
20 Draft is not available to anyone right now. One of
21 the actions approved by the Planning Commission was
22 to update all the infographics to correct them,
23 because we saw that particularly early draft, that
24 infographic that is being referenced now is actually
25 incorrect.

1 The graphic designer we used, used a
2 different table within our report, and I wish that
3 wasn't the case, but the correct population
4 allocations and housing allocations used to inform
5 the policy discussion in the general plan, in our
6 technical study report one, our socioeconomic study,
7 and that's available on-line for about three years
8 now.

9 When it comes to this planning district in
10 particular, what our consultant did, and our
11 consultant was SMS, he had over 40 years of
12 experience in doing these types of work here in
13 Hawaii. He did look at natural trends, he definitely
14 based it on what he saw historically occurring and it
15 was estimated that of course Hanapepe-Ele'ele
16 planning district would not be a major growth area,
17 not compared to Lihue or South Kaua'i where we have
18 major job centers.

19 But he did estimate modest population
20 increase that would translate to an additional 880
21 homes. That would be the demand by the year 2035.
22 And that I believe equates to about eight percent of
23 the island future growth, and not three percent as
24 shown in that infographic.

25 Q Actually I was referring to Table 11, which

1 is not an infographic, but it's a table with
2 population.

3 MR. MINKIN: Is that in evidence, Ms.
4 Souza?

5 MS. SOUZA: No, but I can provide it. I
6 have an enlargement of it here for reference if you
7 would like.

8 A I don't have it right in front of me, but I
9 think I'm familiar with that table. I do have it. I
10 do I have it.

11 CHAIRPERSON ACZON: Is that part of the --

12 VICE CHAIR WONG: Is that Exhibit 23 Draft
13 County of Kauai General Plan?

14 MR. MINKIN: My understanding it's an older
15 one.

16 VICE CHAIR WONG: That's the exhibit number
17 I have.

18 THE WITNESS: That is not the current draft
19 even.

20 Q (By Ms. Souza): The current draft that's
21 available publicly is dated what date?

22 A It is dated June 13th, but that does not
23 integrate all of the changes that have been made over
24 the past six months by Planning Commission.

25 Q Shall I proceed?

1 VICE CHAIR WONG: I wanted you to clarify
2 what --

3 MS. SOUZA: So the increase --

4 MR. MINKIN: Which version are you working
5 off of? Are you working off the January 2017 or the
6 or June 13th, 2017?

7 MS. SOUZA: I had access on-line to the
8 June 13, 2017 departmental draft.

9 MR. MINKIN: Do you have a copy of that?

10 THE WITNESS: I have a copy of that.

11 CHAIRPERSON ACZON: Was it part of the
12 exhibits?

13 VICE CHAIR WONG: That is not considered an
14 exhibit.

15 MR. MINKIN: It's not an exhibit.

16 VICE CHAIR WONG: The January one is an
17 exhibit agreed by all parties. The June one on-line
18 is not agreed by all parties, so we cannot take it
19 right now.

20 CHAIRPERSON ACZON: Unless you want to
21 introduce that.

22 VICE CHAIR WONG: But we haven't reviewed
23 it.

24 COMMISSIONER OKUDA: Can I make a
25 suggestion that whatever the proposed exhibits be

1 shown to counsel for the other parties and maybe they
2 can agree on whether or not it can be made part of
3 the record or not.

4 CHAIRPERSON ACZON: Is that okay with you?

5 MR. MINKIN: That's fine.

6 CHAIRPERSON ACZON: Let's have a two minute
7 recess.

8 (Recess was taken.)

9 CHAIRPERSON ACZON: Back on record. Go
10 ahead.

11 Q (By Ms. Souza): So this chart which is
12 from the June 13, 2017 departmental draft of the
13 General Plan Update will be submitted as Intervenor's
14 Exhibit 3. So Marie has it.

15 MR. MINKIN: For the record, there will be
16 certain requested changes. Ms. Souza has indicated
17 she will make those changes. With that
18 understanding, so stipulated.

19 CHAIRPERSON ACZON: Any other objection?

20 MR. BRACKEN: No objection.

21 MS. APUNA: No objection.

22 CHAIRPERSON ACZON: Commissioners? Hearing
23 no objection, Intervenor's Exhibit No. 3 will be
24 accepted into the record with some changes.

25 MR. MINKIN: Thank you, sir.

1 Q (By Ms. Souza): Marie, could you summarize
2 what the population changes are that's for
3 Hanapepe-Ele'ele based on this chart?

4 A Yeah, the chart reflects the resident
5 population forecast for Kaua'i county. Again, I
6 already referenced that our consultant was SMS, and
7 we directed him to look at 20-year forecast, at the
8 time was actually 2010 as our base year. So 2010
9 census was the launch point for any forecast moving
10 ahead.

11 And, yes, for Hanapepe-Ele'ele planning
12 district the forecast indicates that given existing
13 trends, that the population would increase from about
14 6,157 people, this was our census 2010 figure for the
15 area, to about 7100 in the year 2035, an increase of
16 about 950.

17 Q Looking at the 2020 population estimate,
18 and comparing it to the 2035 estimate, that
19 difference for growth is about 500 people, would you
20 say?

21 A 600.

22 Q So how would you reconcile the population
23 projections as reflected in Table 11 here with the
24 population projections that Mr. Holliday referenced
25 in his revised or updated market study?

1 A Well, first of all, I will say that the
2 technical study we did for the General Plan of course
3 was very broad, as many assumptions were used to
4 determine what our allocation of the forecast to the
5 various planning districts should be.

6 And I also want to be clear that technical
7 reports in and of itself, are not policy of the
8 General Plan. We purposely did our technical studies
9 outside of the public process, because we wanted to
10 kind of have an expert technical base upon which the
11 public process is launched.

12 And that information is to used to inform
13 what ultimately the policy is. So I wanted to state
14 for the record any forecast in the General Plan are
15 not necessarily the policy of the General Plan.

16 In terms of reconciling our report done for
17 the General Plan with a market study done for a
18 particular development, I would have to say that
19 they're quite -- the scope would be very different.
20 We did not look at the impacts of particular
21 projects, of course. It was a very high level study
22 that we did. And I believe that the market study
23 really did hone in on the build-out of a particular
24 project and its impacts to the area.

25 And I have not read the market study, but

1 my understanding is that they did in fact go to the
2 technical studies of the General Plan and use that as
3 a base.

4 Q Would it be correct to conclude that the
5 development of the Petition area would exceed the
6 2035 projection in the departmental draft in the
7 General Plan?

8 A Again, when we looked at the build out of
9 the area and saw that it is under-zoned in terms --
10 if our goal really was to meet housing demand by the
11 year 2035. And the report also includes an estimate
12 of what the housing demand will be by that year.

13 And so like I said earlier, the report does
14 say that an additional 880 homes are needed between
15 2010 to 2035. Given that I don't think too much
16 development has happened since 2010, I would say that
17 this project helps meet that demand that is
18 forecasted.

19 Q Is there a problem associated with the --
20 is there a problem if that number is exceeded?

21 A No. And, again, I need to state again that
22 any projection especially on the planning district
23 level are meant to spur the policy. That the
24 discussion we had with our citizens advisory
25 committee and public at large and stakeholders and

1 landowners about how the land use map should change.
2 It's just one factor into that, but ultimately we
3 also do recognize that the community planning
4 process, which we have not started yet for west
5 Kaua'i, but we hope to next year, will dive deeper
6 into what those particular -- what the build out will
7 be, and how we can determine the extent of growth
8 specific to that area.

9 Q So I understand you're very familiar with
10 the 201H process?

11 A I am familiar, but this is my first brush
12 with that law and this process.

13 Q Do you know if it was a requirement that
14 the full County Council have a public hearing on that
15 project in order for it to be considered eligible for
16 201H processing?

17 A I do not know, sorry.

18 Q Thank you.

19 CHAIRPERSON ACZON: Can you provide a copy
20 of Exhibit 3 for parties?

21 MS. SOUZA: I will do that. In the
22 meantime I will cut this up using Riley's knife, cut
23 it up and give it to you so at least you have
24 something, and I will provide page copies to the
25 parties tomorrow, if that's okay.

1 CHAIRPERSON ACZON: Is that okay, Mr.
2 Riley? Thank you.

3 Vice Chair Wong, question?

4 VICE CHAIR WONG: Good afternoon. Since
5 you're dealing with the General Plan for Kaua'i, and
6 all the reviews of population growth and everything
7 else on the island, the question I have is did you
8 take into account people -- how many generations are
9 living in one house, or one facility for the
10 population growth, or because let's say there is
11 three generations, say six to ten people in one
12 house. Is that part of the population growth, or do
13 you just say it's a unit, or how do you deal with
14 that?

15 THE WITNESS: Yes, of course persons per
16 household is weighed, and our consultant was good
17 enough to actually forecast it down to the planning
18 district level as well.

19 So we saw that, at least based on 2010
20 numbers we had is that Hanapepe-Ele'ele planning
21 district had a persons per household rate of 3.1,
22 which indicates kind of a crowding situation is
23 occurring, and it was the highest of the per persons
24 per household rate of any other planning district.

25 I think the lowest of course was on the

1 North Shore, for example. And those forecast were
2 factored into the ultimate forecast as well.

3 VICE CHAIR WONG: So the issue, I guess we
4 are taking high levels now, so the issue in terms of
5 housing, that was taken into consideration also, or
6 just, for example, let's say Ele'ele area 3.1
7 compared to North Shore which is lower.

8 Does it mean that, let's say they need two
9 times as much housing compared to the North Shore, or
10 how is that done?

11 THE WITNESS: We actually did not consider
12 pent up, the demands that might be existing now that
13 is not being met. We definitely used probably 2010
14 as a starting point. But if those were factored in
15 it would definitely increase our housing need, the
16 figures related to housing need.

17 But the pent-up demand, they were not
18 factored into the forecast.

19 VICE CHAIR WONG: So we don't -- I guess
20 that information is blank because, let's say we're
21 looking at affordable housing now. So let's say we
22 wanted to build affordable housing at Ele'ele
23 compared to North Shore would need less affordable
24 housing because of that 3.1 versus whatever number,
25 is that correct?

1 THE WITNESS: Yeah. And I also want to be
2 clear that when it comes to housing or any issue in
3 the General Plan, we rely on not only our technical
4 report conducted specific to the General Plan, but we
5 do a lot of stakeholder interviews, we reach out to
6 our agencies and department. We bring in experts.
7 Housing was a major topic of this General Plan
8 process, so a lot of information was factored in
9 ultimately into our policies in the General Plan
10 related to housing.

11 VICE CHAIR WONG: So the other question I
12 have is, because we had a traffic engineer here, and
13 he was talking about the traffic issues, so was that
14 pent up demand also included in the traffic studies,
15 or was it not even included in terms of, you know,
16 including with the growth and everything else?

17 THE WITNESS: I don't know.

18 VICE CHAIR WONG: No further questions.

19 CHAIRPERSON ACZON: Commissioner Estes.

20 COMMISSIONER ESTES: You refer to the
21 General Plan as a high level policy aspiration,
22 right? So you take the General Plan and you get the
23 county council, you take it there and you get their
24 approval or try and get their approval?

25 THE WITNESS: Yes.

1 COMMISSIONER ESTES: What you come out with
2 though, it doesn't have the force of law, does it?

3 THE WITNESS: It's referenced in Chapter 7
4 of Kaua'i County Code, but it's true, it's not a
5 permit approval. It's not a boundary amendment. It
6 doesn't entitle someone to develop a project.

7 For example, the land use map is in fact
8 quite -- I hate to use the term, but it's almost like
9 a conceptual map in a way. It's our desired state in
10 the future.

11 COMMISSIONER ESTES: So when they accept
12 it, they say, well, this looks like a good idea?

13 THE WITNESS: Yes.

14 COMMISSIONER ESTES: Thank you.

15 CHAIRPERSON ACZON: Anybody else? Any
16 follow up, Mr. Bracken?

17 RECROSS-EXAMINATION

18 BY MR. BRACKEN:

19 Q What is the concept of steered growth?

20 A Do you mean how we should manage growth?
21 Managed growth?

22 Q Yeah.

23 A Yeah, that's essentially what my job as a
24 long-range planner is. We use the long-range plan,
25 even shorter range plans to assess what the growth

1 trends are, what possible impacts of growth, and
2 through a community process we try to manage those
3 impacts and foresee or prevent increasing existing --
4 or compounding existing problems as well. And this
5 is everything from housing to land use to
6 strengthening our town's environmental impacts in and
7 at least in this General Plan and the climate changes
8 are something that we're addressing as well as a
9 whole slew of things.

10 Q You mention that Port Allen is a job
11 center. Would Lima Ola bring growth demand for
12 housing other areas closer to Port Allen?

13 A Yes.

14 Q Is it fair to say that the housing demand
15 should not be based on growth demand?

16 A Yes, and this is kind of chicken and the
17 egg question. Housing will create -- increase the
18 employment base, and in turn those people that are
19 part of the workforce will need jobs or might create
20 more jobs, and likewise if there's a job center, you
21 want to provide housing for that people, especially
22 if it's a growing industry, as close to the job
23 center as you possibly can.

24 Q No further questions, thank you.

25 CHAIRPERSON ACZON: Commissioner Okuda.

1 COMMISSIONER OKUDA: As a long-range
2 planner, do you believe that if the Land Use
3 Commission approves a boundary change for either part
4 or the whole of this project, it creates a risk of
5 what some people have referred to as a domino effect?
6 That this is just going to be the first piece of more
7 boundary changes where people are going to come in
8 and say -- and these people that come in won't
9 necessarily be affordable housing people -- they will
10 just say, hey, you know, got Lima Ola there, so
11 what's a little bit more. Then it's a little bit
12 more, then little bit more, and pretty soon you look
13 like Oahu.

14 THE WITNESS: Yeah. No, in this case, no.
15 And the reason being is because this process of going
16 through the 201H process is not the typical way
17 development occurs. I know that for any other
18 developer to get a boundary amendment, first thing
19 they need to seek or have a General Plan Amendment so
20 it is consistent with the land use map as I'm finding
21 out now, getting to the point where you have an
22 adopted General Plan, it can take years. There are
23 thousands of people involved.

24 And just through the Planning Commission
25 process we get several hundred people testifying and

1 submitting their concerns as well. And so just to
2 get to it the point where you're on the General Plan
3 Land Use Map, a lot of work has been gone through to
4 get there. That's just the starting point. Then
5 going through a process such as this one is very
6 involved. Then to return to the county and get your
7 subsequent zoning amendment. I would assume the
8 project would have to be subdivided as well and go
9 through the agency review. It's quite involved.

10 So I don't feel that boundary amendment
11 done through the 201H process will automatically open
12 up anything, because it won't change our planning
13 system.

14 COMMISSIONER OKUDA: Thank you for your
15 response.

16 CHAIRPERSON ACZON: Ms. Souza, do you have
17 a follow-up question?

18 RECROSS-EXAMINATION

19 BY MS. SOUZA:

20 Q When the boundary -- if the boundary change
21 happens and this is designated, or maybe designated
22 urban, would the casual observer be able to determine
23 whether that was processed through a 201H process or
24 not?

25 A No. And I hope not, because this project

1 is meant to -- it's being designed to basically have
2 a range of households and housing types, and not only
3 look like affordable homes, it's meant to look like a
4 whole complete place with a bunch of different
5 diversity of households. So I hope it blends into
6 the existing town and not necessarily stands out and
7 looks very different.

8 Q So just the fact that it may be designated
9 urban, do you think that will have a domino effect on
10 other adjacent properties? Does it have that
11 potential?

12 A Well, I will say that to the future
13 community planning process for this area we naturally
14 we do have to consider what is there, what
15 development is there. And what we saw when we did
16 our visioning workshop for this area, I think it was
17 a year or two ago, was that there was a lot of
18 interest in how Lima Ola can strengthen the town
19 core, and support the goals of the district as well,
20 improve access, make the highway a safer walking
21 environment as well.

22 So, yes, any development will impact the
23 future of an area, but that has to go through a
24 community planning process and we need the community
25 to come together and the stakeholders and hopefully

1 achieve consensus on what that future will be.

2 CHAIRPERSON ACZON: Mr. Minkin, follow-up?

3 MR. MINKIN: No follow-up questions. Thank
4 you, Chair.

5 COMMISSIONER CHANG: This is sort of in
6 light of some of the comments. Thank you so much for
7 your testimony. Very helpful to understand the
8 development planning process.

9 Could you very briefly describe for us the
10 community engagement process and the development
11 planning process in general and then specifically
12 Hanapepe-Ele'ele, the community surrounding the Lima
13 Ola project? I would like to know what was the level
14 of participation in that process.

15 THE WITNESS: Yeah, of course when we
16 typically do a community plan update, it's more
17 directed and a little bit easier to manage the public
18 process because you're working with a smaller group
19 of course.

20 With this General Plan we already were
21 quite aware that in this day and age you have to kind
22 of go all out when it comes to getting the public
23 involved. You can't simply put a poster on a wall
24 and hope people show up and listen to your consultant
25 talk for an hour.

1 So from the very start, we did -- we had a
2 website, we did new fun things such as Instagram, had
3 a contest trying to get the youth involved.
4 Definitely thought of the demographic groups that we
5 don't typically see when we do events, how we reach
6 out to them.

7 We were concerned with getting our youth,
8 not just kids but people in their 30's starting a
9 family. We actually don't see them participate too
10 much. But it's really those people that our long
11 range plans can impact the most.

12 So on top of specific outreach at the
13 schools, we also did an art contest. Of course, we
14 did the open house event. We went to every single
15 planning district, and we had maps out. We invited
16 people to come. We kept it very open. We wanted to
17 hear from people rather than tell them.

18 All our outreach formats were done for
19 people to approach us and for us to hear rather than
20 us telling them what planning best practices were,
21 for example.

22 We also did something called pop-up week
23 where we went a week-and-a-half popping up. We had a
24 tenting kind of a road show and we would go to
25 different parks or events and just show up. And we

1 thought that was a really good way of getting people,
2 like pulling them off the street that typically
3 wouldn't have an interest even though they do care
4 about Kaua'i, of course, and speaking to Hanapepe
5 Ele'ele area.

6 We did do open house at the very start. We
7 did do one or two pop-up events there. I can't
8 remember where the locations were. Of course we did
9 have members of our citizens advisory committee that
10 lived there that participated as well. And when we
11 had our discussion -- we did do, as part of our week
12 long Land Use Map workshop, we hired a consultant to
13 come down and basically talk with the community at
14 large to figure out organizations, population
15 projections aside, development potential aside, how
16 do you want your town to evolve, rather than talking
17 about it terms of coloring it in a map. But envision
18 what the future for this area could be. Does it need
19 to change a lot or are we happy with what we have or
20 do we essentially have to maintain.

21 And so we did that. I believe we spent a
22 day and a half in Hanapepe-Ele'ele doing that full
23 day and a half, and we closed with a community
24 presentation on that.

25 And then finally once we got to the point

1 where we had what we called a discussion draft, we
2 weren't quite ready to take it to Planning
3 Commission. We felt we needed more input. We did
4 another open house there as well.

5 COMMISSIONER CHANG: Did you have specific
6 comments when you went out to Ele'ele and Hanapepe
7 community on the Lima Ola project?

8 THE WITNESS: Yes.

9 COMMISSIONER CHANG: Have you made those
10 comments available to the housing department with
11 respect to concerns or comments that the community
12 had in your process?

13 THE WITNESS: Yes. All of the comments
14 are -- every piece of input we got we always put
15 on-line and make it available. We have from the
16 start. As I said, housing agencies have to
17 participate in our special land use workshop for this
18 area, and I will say that of course some people were
19 concerned. They did share concerns, but also a lot
20 of interest in how the Lima Ola can connect to the
21 town as well, and access along the coast.

22 How we can ensure that new development, as
23 you all are discussing now, can serve to ultimately
24 advance the goals of the community.

25 COMMISSIONER CHANG: Did you participate in

1 the Hanapepe-Ele'ele community meetings?

2 THE WITNESS: I did.

3 COMMISSIONER CHANG: Without giving us any
4 specific numbers, what was your observation on the
5 community's support, opposition to Lima Ola project?
6 What was your assessment or observation?

7 THE WITNESS: Of course there was not full
8 agreement, but I would say there was overwhelming
9 support at that time.

10 COMMISSIONER CHANG: Thank you.

11 CHAIRPERSON ACZON: Do you have anything
12 else for the witness?

13 MR. MINKIN: No.

14 CHAIRPERSON ACZON: Thank you. Mr. Minkin
15 you may call your next witness. But let everyone
16 know the Chair is going to recess between 3:30 and
17 3:45.

18 MR. MINKIN: Next witness would be Anson
19 Murayama.

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

22 THE WITNESS: Yes.

23 CHAIRPERSON ACZON: Please state your name
24 and address.

25 THE WITNESS: Anson Murayama, address is

1 1286 Queen Emma Street, Honolulu 96813.

2 ANSON MURAYAMA

3 Was called as a witness by and on behalf of the
4 Petitioner, was sworn to tell the truth, was examined
5 and testified as follows:

6 DIRECT EXAMINATION

7 MR. MINKIN: For the record, what is now
8 marked as Exhibit 41, previously Exhibit 7, and
9 Exhibit 42 previously Exhibit 8 are the resume and
10 written direct testimony of Mr. Murayama.

11 I'm going to embarrass him right now.

12 Q Where did you go to high school?

13 A Graduated from Waimea High School.

14 Q With that I now turn him over.

15 CHAIRPERSON ACZON: What year?

16 THE WITNESS: 1980.

17 CHAIRPERSON ACZON: Mr. Bracken.

18 CROSS-EXAMINATION

19 BY MR. BRACKEN:

20 Q Do you expect any runoff from Lima Ola
21 project to go towards Hanapepe?

22 A No.

23 Q No further questions.

24 MS. APUNA: No questions.

25 -o0o-

CROSS-EXAMINATION

BY MS. SOUZA:

Q There has been some question about the direction of runoff. Can you explain a little bit both in terms of the flow within the Petition area and then downstream to the ocean?

A Typically like anyplace on the island, flows go from mauka-makai, and this is no different. So within the subdivision itself, and if I'm talking about the developed condition, we will provide, you know, grass swales along with some drainage inlets that will be piped to a detention basin.

And what the purpose of the detention basin really is if you look at it from a flood control standpoint, it will absorb the peak of the storm basically. And what it will release is what would match what was existing if the development was not there. And that's how we would intend to design this. In other words, anything downstream of this development. It will match the existing conditions.

Q Is it your assessment though that the two-year storm design will accommodate peak for the project?

A Yes. Well, the two-year storm is a county standard and that is what we will follow. Basically

1 whatever we design on this subdivision will meet the
2 county standards, and based on the area of the
3 drainage, drainage area, it falls below 100 acres,
4 and the two-year storm is adequate.

5 Q What would be the impact during rain events
6 bigger than the two-year storm?

7 A Anything greater than the two-year there
8 will be some flooding, I'm not going to deny that,
9 however, the roads typically are designed to carry
10 more of the flow, and it will still get somehow
11 directed to this detention basin, because that's the
12 lowest point in the development.

13 If the detention basin gets overwhelmed,
14 we're going to design in some sort of spillway to
15 ensure that it goes out and not back towards the
16 development. It's just more of a safety measure we
17 will put in.

18 Q What would be the effect on Halewili Road
19 which is makai of the project?

20 A It will remain the same basically. It will
21 still -- the design development will contain whatever
22 the two-year flow comes out to be, anything in
23 addition to that, I mean, it's just going to have
24 basically Halewili is going to be -- right now it
25 acts like a dam. There's a small culvert right now

1 that goes through, however, we would like to put in
2 additional culvert to make sure it goes past Halewili
3 Road.

4 Q Which area of the coast or ocean would be
5 affected by the drainage?

6 A Well, right now it goes south. I guess you
7 kind of mentioned southwest by Glass Beach, I would
8 say what we based our assessment on was more of a
9 USGS aerial type contour map which is ten foot
10 contours. So the accuracy is not really great, but
11 it's something that we rely on at this point for
12 planning or preliminary design. And, yes, the water
13 will continue to sheet flow towards those areas.

14 Q Would you say that Glass Beach might be
15 affected by the flooding?

16 A Well, it's going to meet the existing
17 conditions, so it's going to be the same flow.

18 Q Are you able to address Kapa Reservoir?

19 A No.

20 Q Are you able to address the air traffic
21 comment that has come in?

22 A No, it was our traffic engineer who
23 addressed those concerns.

24 Q Even if it's air traffic, not highway?

25 A Talking about airport?

1 MR. MINKIN: Excuse me. Just for clarity,
2 Ms. Souza, which one of the seven categories is air
3 traffic?

4 MS. SOUZA: You're right. Thank you. I'll
5 withdraw my question. Thank you.

6 CHAIRPERSON ACZON: Commissioners?

7 VICE CHAIR SCHEUER: Aloha.

8 THE WITNESS: Aloha.

9 VICE CHAIR SCHEUER: Help me to understand
10 some of your previous responses to the questions of
11 the Intervenor. When you say it's not going to
12 increase runoff beyond existing conditions, only up
13 to the two-year flood level; is that correct?

14 THE WITNESS: Correct.

15 VICE CHAIR SCHEUER: So in conditions
16 beyond the two-year flood level there will be
17 increased flow of water towards the coast?

18 THE WITNESS: There could be.

19 VICE CHAIR SCHEUER: What would mean that
20 there wouldn't be -- if there was a flood beyond the
21 two-year --

22 THE WITNESS: Right now it's kind of hard
23 to say because, like I said, Halewili Road really
24 acts like a dam. There is a low spot right there.
25 As we design this system in terms of the county

1 standards all we need to consider really is the
2 two-year storm. So that's what we have done.

3 VICE CHAIR SCHEUER: Do you know what the
4 basis of the county standards are.

5 THE WITNESS: In terms of --

6 VICE CHAIR SCHEUER: Why is that the
7 standard chosen the two-year -- what is it designed
8 to protect?

9 THE WITNESS: I don't know why two-year is
10 a standard.

11 VICE CHAIR SCHEUER: So you are not able to
12 testify as to whether or not that is a sufficient
13 standard to protect any valued natural resources
14 makai of the site?

15 THE WITNESS: I can say that I'm confident
16 that it will work, but I cannot say what the basis of
17 the two-year was.

18 VICE CHAIR SCHEUER: When you say you're
19 confident it will work, what do you mean?

20 THE WITNESS: Based on that two-year storm
21 and the fact --

22 VICE CHAIR SCHEUER: Let me reask. It will
23 work, meet the county standards?

24 THE WITNESS: Correct.

25 VICE CHAIR SCHEUER: It will be able to

1 capture, you believe, the two-year storm standards.

2 THE WITNESS: Correct.

3 VICE CHAIR SCHEUER: But you have no
4 basis -- nothing in the drainage plan considered the
5 potential effects downstream on traditional and
6 customary valued resources, correct?

7 THE WITNESS: Downstream, like I said, we
8 are just discharging whatever the existing condition
9 has been.

10 VICE CHAIR SCHEUER: Under the two-year
11 level?

12 THE WITNESS: Yes.

13 VICE CHAIR SCHEUER: But over the two-year
14 level, certainly over the lifetime of this project,
15 you're likely to get more heavy storms. There is
16 nothing in your plan that addresses those impacts?

17 THE WITNESS: No.

18 VICE CHAIR SCHEUER: Thank you.

19 VICE CHAIR WONG: So I have a question
20 about, you know, you came from Waimea.

21 THE WITNESS: Yeah.

22 VICE CHAIR WONG: So in terms of your
23 history of the island and the area, the west side, do
24 you see anything besides the 40 day/40 night issue,
25 more than 100-year storm during your history of this

1 area?

2 THE WITNESS: I wasn't on the island that
3 time. I left the island right after I graduated high
4 school and moved to Oahu. So but, you know,
5 typically the west side has been really dry, once in
6 awhile you have your Kona storms come in, but most of
7 the time it's been pretty dry. So that's what I can
8 remember since when I was living here.

9 VICE CHAIR WONG: So the question I'm going
10 to ask, two-year standard. So do you think, in your
11 best guess, is enough for the area?

12 THE WITNESS: Yes.

13 VICE CHAIR WONG: That is all, thank you.

14 COMMISSIONER CHANG: You're going to hear a
15 series of us asking the same thing. Thank you so
16 much for your testimony.

17 And notwithstanding meeting the county
18 two-year standards, and I think Commissioner Scheuer
19 talked about traditional and customary practices and
20 series of witnesses talked about fishing in the area,
21 limu. Did you ever fish or pick limu in the area.

22 THE WITNESS: No.

23 COMMISSIONER CHANG: I come from Kaneohe
24 Bay. My family are fishermen. I expect when the
25 county approval had a lot of the mauka developments,

1 they probably met some kind of standards. Now
2 Kaneohe Bay hard to go fishing inside there, a lot of
3 the runoff, and once that's in there, we are still
4 recovering. I mean, the bay, you cannot go fishing.
5 So let me ask you a hypothetical question.

6 You are designing for the two-year county
7 standard. If you were designing it to ensure that
8 the runoff does not go into, in particular, Wahiawa
9 Bay along the coast, what would you do differently?
10 What would you recommend differently?

11 THE WITNESS: More for it to just not go
12 into the bay.

13 COMMISSIONER CHANG: Is there some other
14 way to either capture that or to -- so that it
15 doesn't go, because once it goes in, you pau.

16 THE WITNESS: The things -- getting back to
17 this whole two-year thing, you know, top of the
18 detention basin itself, it's not -- think of it --
19 it's not only flood control, but it also collects
20 sediment, so it also serves as a water quality
21 facility, along with the bio swales that we trying to
22 put in, because the thing is what we like to do is
23 slow the water down.

24 Because nowadays, you look at roads on
25 Oahu, curb and gutter, everything is hard surface.

1 In this case we would like to provide grass swales,
2 slows down water and it allows particulates to filter
3 out. By the time it reaches the detention basin,
4 it's going to sit there for awhile, not going to be
5 passed through. So while it sits, it allows solids
6 to settle out.

7 Then typically what we will do is design in
8 what we call anti-vortex riser. It's basically a
9 riser pipe with perforations and gravel filter around
10 it, then what it does it allows once the sediment
11 settles out, allows cleaner water to pass through,
12 then it flows downstream.

13 COMMISSIONER CHANG: Is that currently how
14 you're designing this?

15 THE WITNESS: Yes.

16 COMMISSIONER CHANG: Again, you're
17 designing it for two-year?

18 THE WITNESS: Yes.

19 COMMISSIONER CHANG: I'm going to ask you
20 to think out of the box, beyond the two-year, if you
21 were to design it to something beyond two years.

22 THE WITNESS: Greater than two-year storm?

23 COMMISSIONER CHANG: What would you do
24 differently, or is there anything you would do
25 differently?

1 THE WITNESS: No. If anything, the
2 detention basin might get bigger.

3 COMMISSIONER CHANG: Would there be
4 additional plantings along the way, more vegetation?

5 THE WITNESS: No.

6 COMMISSIONER CHANG: So we're going to have
7 to -- I guess our mandate is more than the two-year
8 county standard. It is if people cannot fish or
9 cannot gather limu over there, I mean, is there
10 something else that could provide greater protection
11 to ensure that, you know, that potential runoff, I
12 mean best case, let's hope it never happens, but we
13 always got to look at just in case it does happen, is
14 there anything else that we could do? Think out of
15 the box, brother. You got a chance to be very
16 creative here. You don't have to pay for it.

17 THE WITNESS: There is all kinds of what
18 they call best management practices available.
19 Whether it's filters, bio swales, what have you, and
20 basically it's used to just clean up the water. And
21 the way to me in the bay is like Kaneohe Bay before
22 allowed sediments to get into the bay, which
23 obviously affected the coral and whatever.

24 So as much as possible, that's what we are
25 trying to do, and that's what I would do is try to at

1 least throw in some of those BMPs, best management
2 practices.

3 COMMISSIONER CHANG: I appreciate that. I
4 mean clean water goes in, that's something else, but
5 it's all that dirty, that sedimentation that really
6 makes it very difficult for the sustainability and
7 health of that ecosystem. So thank you, I appreciate
8 that. Thank you. No other questions.

9 CHAIRPERSON ACZON: Commissioner Cabral.

10 COMMISSIONER CABRAL: Do you have any
11 experience -- not quite sure for what I call for
12 grass pavers. In Hilo we have lots more rain, so I'm
13 starting to do this where we put in especially
14 secondary parking areas, instead of having it be
15 asphalt or concrete or gravel, because people trip on
16 it and stuff where we create gravel underneath and
17 then put blocks in and then fill in with grass.
18 Looks like grass, you can mow it or keep it worn down
19 with cars on top of it. But when you walk on it, you
20 don't mush in the mud, and that allows for lot of
21 percolation.

22 Is that something that could be maybe used
23 in terms of the house design or lot design especially
24 for the second car or something, or driveways or that
25 might help with some of this, create less runoff?

1 THE WITNESS: That's a good question. I'm
2 familiar with grass pavers. However, you know, as
3 far as the roadways are concerned --

4 COMMISSIONER CABRAL: Got to be hard,
5 private area.

6 THE WITNESS: The private areas we like to
7 leave it up to the developers, whoever is going to
8 come in to develop the area to kind of come up with
9 something of their own.

10 COMMISSIONER OKUDA: You used the term best
11 management practices. Are there any best management
12 practices which are not included in your plan at this
13 point in time?

14 THE WITNESS: That are not included in my
15 plan?

16 COMMISSIONER OKUDA: Right, not included in
17 your plan at this time.

18 THE WITNESS: Yeah, there is stuff like
19 filter, sand filters, bermes, you know, filter
20 bermes, there's a whole slew of things that, you
21 know, but for this one particular project, all that
22 was really needed was detention basin. That's what
23 we thought.

24 COMMISSIONER OKUDA: And when you use the
25 term best management practices, just so that we

1 understand the definition we're operating on, what do
2 you mean by that?

3 THE WITNESS: It's a term basically that
4 follows NPDES permit, National Pollution Elimination
5 Discharge System, something like that. It falls
6 under the Federal Clean Water Act, and it's mandated
7 by Department of -- State Department of Health. So
8 any time we do land disturbance we got to go and get
9 that permit and we got to provide temporary BMPs to
10 ensure that there is no, I guess, pollution running
11 off the site during construction.

12 However, we also need to put in permanent
13 BMPs to ensure that everything works or to --
14 according to what the design calls for.

15 COMMISSIONER OKUDA: Are there any best
16 management practices which are not included in your
17 drainage plan at this point in time?

18 THE WITNESS: Yes. The stuff I just
19 mentioned.

20 COMMISSIONER OKUDA: That would be sand
21 filters and filter bermes?

22 THE WITNESS: Yeah, and some others that I
23 can't recall right now.

24 COMMISSIONER OKUDA: Would you have a
25 general recollection of what these other items would

1 be? If you can't, it's not a big deal.

2 THE WITNESS: Right off the top of my head
3 I can't, but I know there is several BMPs people use.

4 COMMISSIONER OKUDA: Is there a reason why
5 these BMPs were not included in your drainage plan?

6 THE WITNESS: At this point it wasn't
7 really necessary. We can achieve the goal or the end
8 product by using the detention basin.

9 COMMISSIONER OKUDA: Would these BMPs add
10 any development level of additional -- not safety,
11 but additional assurance or help in minimizing the
12 risk of pollution?

13 THE WITNESS: I don't think it would be any
14 different from any other BMP.

15 COMMISSIONER OKUDA: I'm just talking about
16 these BMPs. Can I ask you this. Would the BMPs
17 change, depending on whether you're talking about a
18 two-year flood, ten-year flood, or 50-year flood?

19 THE WITNESS: No, just maybe the size.

20 COMMISSIONER OKUDA: And the size of the
21 detention basin -- strike that. The difference
22 between two-year flood, ten-year, 50-year flood that
23 in your view affects just the size of the detention
24 basin?

25 THE WITNESS: Yes.

1 COMMISSIONER OKUDA: If there wasn't a
2 two-year county standard or requirement to plan for a
3 two-year flood, would you, in your profession as an
4 engineer, given your experience in the industry and
5 your profession, what kind of year flood would you
6 plan for?

7 THE WITNESS: I think that's a difficult
8 question, because typically we would design to
9 whatever the county requires, or at least as minimum
10 standards.

11 COMMISSIONER OKUDA: Have you ever had a
12 developer or client come and ask you to design
13 something beyond what the county requires?

14 THE WITNESS: No.

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

17 CHAIRPERSON ACZON: Commissioners?

18 VICE CHAIR SCHEUER: Just one more.

19 Are you -- we have in another docket had
20 people testify and show us photos of surface runoff
21 during construction, polluting their shore waters
22 even when best management practices were completely
23 followed. Are you familiar personally with seeing
24 that occur?

25 THE WITNESS: Yes.

1 VICE CHAIR SCHEUER: Thank you.

2 CHAIRPERSON ACZON: Anybody else? Any
3 follow up, Mr. Bracken?

4 MR. BRACKEN: No questions.

5 MS. APUNA: No questions.

6 REDIRECT EXAMINATION

7 BY MR. MINKIN:

8 Q You talked about the Federal Clean Water
9 Act. That didn't exist when Kaneohe Bay first got
10 polluted, did it?

11 A I'm not sure.

12 Q But you do know that the Federal Clean
13 Water Act is now enforced by Department of Health?

14 A Yes.

15 Q And if the Department of Health doesn't do
16 their job, at least EPA will do its job as long as it
17 still exists under the current administration?

18 A Yes.

19 Q The whole concept of -- you said the whole
20 purpose of the two-year mitigation is to keep it or
21 allow whatever surface water flow equals whatever
22 already exists there, correct?

23 A Can you --

24 Q That was a little convoluted. Let me
25 rephrase it.

1 The whole purpose of the drainage plan is
2 to basically mirror what already exists, if there is
3 extra water because of the streets and houses, it's
4 swales are directed into detention basin, and then if
5 there is any downslope, it's going to be what already
6 exists?

7 A Correct.

8 Q That existence would be what already exists
9 now with the coffee fields would be there whether it
10 was a two-year rain, 50-year rain or even 100-year
11 rain?

12 A Correct.

13 Q And efforts are now being made -- the
14 housing project is trying to mitigate against this
15 particular down field flow, correct?

16 A Correct.

17 Q Do you know if the county participates with
18 the Federal Flood Program?

19 A I believe they do.

20 Q Do you know what -- how FEMA or what FEMA
21 requires Federal Emergency Management Agency?

22 A Yes.

23 Q And the county has to comport with FEMA
24 also, correct?

25 A Yes.

1 Q Do you know if there is a quarry makai of
2 Lima Ola?

3 A I believe there is one. I'm not
4 100 percent sure but I believe there is one.

5 Q Do you know how long that quarry has
6 existed?

7 A No.

8 Q Based upon your professional experience and
9 your expertise do you believe a two-year catch basin
10 is sufficient?

11 A Yes.

12 Q Thank you. No further questions.

13 CHAIRPERSON ACZON: Thank you. Are you
14 done with the witness?

15 MR. MINKIN: I am done.

16 CHAIRPERSON ACZON: Thank you. I think I'm
17 going to call it a day. We're going to go in recess
18 and reconvene on July 7th. And we will notify
19 everybody. Same place.

20 (The proceedings adjourned at 3:36 p.m.)

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CERTIFICATE

STATE OF HAWAII)
) SS.
COUNTY OF HONOLULU)

I, JEAN MARIE McMANUS, do hereby certify:

That on June 29, 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 29th day of June, 2017, in Honolulu,
Hawaii.

JEAN MARIE McMANUS, CSR #156