

LAND USE COMMISSION HEARING

STATE OF HAWAII

Proceedings held on March 27, 2019

Natural Energy Laboratory Hawai'i Authority

73-987 Makako Bay Drive

Kailua-Kona, Hawai'i 96740-2637

Commencing at 1:30 p.m.

AGENDA

I Call to Order

II. Adoption of Minutes

III. Tentative Meeting Schedule

IV. STATUS REPORT AND ACTION (IF NECESSARY)  
A10-788 HHFDC & Forest City - Kamakana Villages  
at Keahuolu (Hawai'i)

V. STATUS REPORT AND ACTION (IF NECESSARY)  
A00-730 Lanihau Properties LLC (Hawai'i)

VI. RECESS

BEFORE: JEAN MARIE MCMANUS, CSR #156

1 APPEARANCES:

2 COMMISSIONERS:

3 NANCY CABRAL, ACTING CHAIRPERSON  
4 AARON MAHI, VICE CHAIR  
5 GARY OKUDA  
6 EDMUND ACZON  
7 ARNOLD WONG

8 STAFF:

9 RANDALL S. NISHIYAMA, DEPUTY ATTORNEY GENERAL  
10 DANIEL E. ORODENKER, EXECUTIVE OFFICER  
11 RILEY K. HAKODA, PLANNER/CHIEF CLERK  
12 SCOTT A.K. DERRICKSON, AICP-PLANNER

13 DAWN APUNA, ESQ.  
14 LORENE MAKI, PLANNER  
15 OFFICE OF PLANNING, STATE OF HAWAII

16 RON KIM, ESQ.  
17 DEPUTY CORPORATION COUNSEL  
18 DUANE KANUHA, DEPUTY PLANNING DIRECTOR  
19 COUNTY OF HAWAII

20 A00-730 LANIHAU PROPERTIES LLC

21 BENJAMIN A. KUDO, ESQ.  
22 TERRANCE MULDOON  
23 GREG GAUSE  
24 FOR KAISER PERMANENTE

25 RILEY W. SMITH, P.E.  
PRESIDENT AND CEO LANIHAU PROPERTIES

JEFF ZIMPFER, ENVIRONMENTAL PROTECTION SPECIALIST NPS  
JANETTE CHIRON  
Intervenor NPS

LIZ CHAR, DEVELOPMENT OFFICER  
FOR MICHAEL DEVELOPMENT COMPANY

STAN FUJIMOTO, PROJECT MANAGER  
DEPAK NEUPANE, DEVELOPMENT BRANCH CHIEF

For HHFDC  
EAN MINAKAMI, DEVELOPMENT SECTION CHIEF  
STANFORD CARR  
SCD KAMAKANA, LLC

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1           ACTING CHAIRPERSON CABRAL: Good afternoon.  
2 This is the March 27th, 2019 Land Use Commission  
3 meeting.

4           The first order of business will be the  
5 adoption of the February 20-21, 2019 minutes. I ask  
6 if are there any corrections or comments on these  
7 minutes? If not, is there a motion to adopt the  
8 minutes?

9           COMMISSIONER MAHI: I'll move.

10          COMMISSIONER ACZON: Second.

11          ACTING CHAIRPERSON CABRAL: Commissioner  
12 Mahi and Commissioner Aczon moved and second. All in  
13 favor? No one is opposed. Adopted. Thank you.

14          The minutes have been unanimously adopted.

15          The next agenda item is the tentative  
16 meeting schedule. Executive Officer, will you please  
17 provide that for us?

18          EXECUTIVE OFFICER: Thank you, Madam Chair.

19          Tomorrow we are again back here in NELHA  
20 for the U of N Bencorp Motion, Petition to Revert.

21          And for the A06-770 status report that is  
22 the Shopoff matter; and for A18-805 Church Draft EIS  
23 matter.

24          On April 3rd we will be at County of Maui  
25 for Kihei High School. That is a Declaratory Ruling

1 request.

2 April 23rd and 24th at Hawaiian Memorial  
3 Park for their FEIS acceptance.

4 May 8, 2019, we will be again be on Maui  
5 for Ka'ono'ulu Ranch evidentiary hearing, and perhaps  
6 Emmanuel Lutheran.

7 May 22nd, 2019 is set aside for adoption of  
8 any orders that may arise from these matters.

9 May 23rd is to be determined and ask the  
10 Commissioners to hold these dates open.

11 June 5th we will be Poma'ikai Partners LLC  
12 IAL site visit.

13 And June 26th and 27, we will be on the  
14 North Shore for IAL DR19-66 which is Poma'ikai  
15 Partners IAL submission.

16 On July 10th and 11th, we have the Waiawa  
17 matter, and that will be in Honolulu.

18 The rest of the schedule is up in the air.  
19 As a matter of fact, the whole schedule is always up  
20 in the air, so just keep the dates. Thank you.

21 ACTING CHAIRPERSON CABRAL: Thank you.

22 A10-788

23 The next agenda item is the status report  
24 on Docket A10-788 HHFDC & Forest City - Kamakana  
25 Villages at Keahuolu, Hawai'i, a Petition to Amend

1 the Agricultural Land Use District Boundaries into  
2 the Urban Land Use District Boundaries for certain  
3 lands that situate at Keahuolu, North Kona;  
4 consisting of approximately 271.837 acres, Tax Map  
5 Key No. (3)7-4-021:027, portions of 24, and portions  
6 of 25, portions of 26 and portions of 27.

7 Will the parties please identify themselves  
8 for the record?

9 MR. FUJIMOTO: Good afternoon, Madam  
10 Chairman, Commissioners. My name is Stan Fujimoto,  
11 project manager with Hawai'i Housing Finance and  
12 Development Corporation.

13 With me today is Depak Neupane, Development  
14 Branch Chief; and Dean Minakami, he's our Development  
15 Section Chief.

16 MR. CARR: Good morning, Commissioners. My  
17 name is Stanford Carr with SCD Kamakana LLC successor  
18 to Forest City on the master development of the  
19 Villages at Kamakana.

20 And off to my left here is Cory Hiraga from  
21 Stanford Carr Development.

22 MR. FUJIMOTO: We understand the National  
23 Park Service is also here as well as Michael's  
24 organization.

25 ACTING CHAIRPERSON CABRAL: Thank you.

1           Let us update the record in this docket.

2           At its May 23, 2018 meeting, the Commission  
3 received -- I'm sorry. Let me introduce everyone  
4 else, please. My apologies.

5           MR. KIM: Good afternoon, Commissioners.  
6 Deputy Corporation Counsel Ron Kim with County of  
7 Hawaii, and with me is Deputy Director of the  
8 Planning Department Duane Kanuha.

9           MS. APUNA: Good afternoon, Vice Chair and  
10 members of the Commission. Deputy Attorney General  
11 Dawn Apuna on behalf of the Office of Planning. Here  
12 with me today is Lorene Maki.

13           ACTING CHAIRPERSON CABRAL: Thank you. My  
14 apologies for skipping you earlier.

15           Back to our update of this docket.

16           At its May 23, 2018 meeting, the Commission  
17 received status reports on the Docket Nos. A00-738  
18 and A10-788 regarding NPS' complaints of  
19 noncompliance with conditions.

20           On January 29th, 2019, the Commission staff  
21 received notice to update the mail addresses to  
22 correspond to personnel changes at the Hawai'i  
23 National Park Service.

24           On March 18, 2019, a Land Use Commission  
25 meeting agenda notice for the March 27-28, 2019

1 meeting was sent to all parties and the statewide and  
2 Hawai'i mailing lists.

3 All members of the public, please be  
4 reminded that the Commission will not be considering  
5 the merits of A10-788 Petition; rather the Commission  
6 is interested in learning about the current state of  
7 the activities relating to this docket, including  
8 compliance with conditions.

9 Please, let us go over our procedures for  
10 this docket.

11 First, those individuals desiring to  
12 provide public testimony for the Commission's  
13 consideration will be asked to identify themselves  
14 and will be called in the order to our witness box  
15 where they will be sworn in prior to their testimony.

16 Given the number of people that will be  
17 testifying, we might ask that we be limited to three  
18 minutes of testimony per person.

19 At the conclusion of our public testimony,  
20 the Chair would like the National Park Service to  
21 provide its presentation first to better understand  
22 whether its -- the complaints and concerns in this  
23 matter have been adequately addressed since the last  
24 status update, and whether any further meetings on  
25 this matter are needed.



1           The Chair will then call for status report  
2           from the Petitioner. The Chair will then call on  
3           County of Hawaii and then finally the Chair will call  
4           on the Office of Planning.

5           I will now accept public testimony. Are  
6           there any individuals?

7           Commissioner Aczon.

8           COMMISSIONER ACZON: I want to make  
9           disclosure.

10          ACTING CHAIRPERSON CABRAL: Yes, sir.

11          COMMISSIONER ACZON: I've known Mr.  
12          Stanford Carr for maybe over 25 years during my  
13          involvement with Building Industry Association of  
14          Hawai'i. But who doesn't know Stanford Carr?

15          But anyway, we haven't, like what the  
16          Commissioner Okuda said, we haven't bought each other  
17          lunch, so I think I'm going to be okay, and I'm  
18          prepared to be fair and balanced with my decision.

19          ACTING CHAIRPERSON CABRAL: Thank you. Any  
20          other disclosures at this time?

21          Does anyone here object? Anyone of the  
22          public, Petitioner, Office of Planning, Hawaii County  
23          Object? National Parks? Anyone have any problem  
24          with that disclosure? Okay.

25          COMMISSIONER WONG: Chair, same thing as

1 Commissioner Aczon, I know Mr. Carr from his TV  
2 commercials, and also as a friend through the  
3 Building Industry Association. And he also didn't  
4 buy me lunch yet. I have complaints about that maybe  
5 sometimes, but not really.

6 ACTING CHAIRPERSON CABRAL: Thank you,  
7 Commissioner Wong.

8 Does anyone present have any problems with  
9 that disclosure, that lack of relationship with no  
10 lunch? Mr. Gary Okuda, yes.

11 COMMISSIONER OKUDA: Chair, as I disclosed  
12 at the last hearing on this matter, I have -- my  
13 office and myself personally has represented Hirai  
14 Realty, Incorporated, which is the Hirai family  
15 corporation. Craig Hirai, who is the executive  
16 director of the Hawaii Housing Finance and  
17 Development Corporation may have an interest with  
18 respect to Hirai Realty or the matters that I dealt  
19 with Hirai Realty. But I do not believe that will  
20 affect anything I do in this matter.

21 ACTING CHAIRPERSON CABRAL: Thank you.

22 Does anyone have any problems with that  
23 disclosure?

24 This reminds me, at the last hearing I also  
25 had a disclosure that I had previously had

1 involvement with public housing that may or may not  
2 have involved HHFDC. And so anyway, I certainly  
3 don't have any confusion, because I can barely  
4 remember it, but I've been 40 years doing this, so I  
5 know I've had dealings with HHFDC in the past.

6 Does anyone have any problems with my lack  
7 of memory? Thank you, and I got no lunches.

8 Let's go onto public testimony. I  
9 understand no one has signed up to have any public  
10 testimony. Is that correct?

11 Anyone that's failed to sign up that would  
12 like to sign up? Then we will proceed onward.

13 Before the Petitioner, we were going to  
14 look at -- National Park is going to be first, or it  
15 says Petitioner here, but earlier -- can I ask the  
16 National Park if they would like to come forward and  
17 be sworn in?

18 MR. ZIMPFER: I don't have a presentation.

19 ACTING CHAIRPERSON CABRAL: Would you like  
20 to come forward and we can --

21 May I swear you in?

22 THE WITNESS: Yes, you may.

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

1 THE WITNESS: Yes.

2 ACTING CHAIRPERSON CABRAL: Thank you very  
3 much. Go ahead and proceed.

4 JEFFREY ZIMPFER

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

7 MR. ZIMPFER: I don't have any presentation  
8 prepared. I've been in communication with Cory  
9 Hiraga a bit about deadlines and stuff, but I don't  
10 really have anything to present.

11 Will Ms. Char come up later? But I'm not  
12 even sure if that's -- I believe they put in the  
13 filters that they said they were going to put in, and  
14 so as far as that goes, we're okay.

15 ACTING CHAIRPERSON CABRAL: Thank you very  
16 much. I guess you can be dismissed, and we will look  
17 to the Petitioner at this time, and whatever order  
18 you, the Petitioners, you seem to be a group.

19 Okay, I'm sorry. Ms. Char.

20 Let me swear you in first. So you're here  
21 speaking for the Petitioner?

22 MS. CHAR: Not exactly. We developed a  
23 portion of the property that's known as Kamakana  
24 affordable rental housing.

25 ACTING CHAIRPERSON CABRAL: Let me have you

1 introduce yourself with your full name.

2 THE WITNESS: My name is Elizabeth  
3 Elizabeth Char, VP of Development at Michael's  
4 organization.

5 ACTING CHAIRPERSON CABRAL: May I swear you  
6 in, please?

7 Do you swear or affirm that the testimony  
8 that you are about to give is the truth?

9 THE WITNESS: Yes.

10 ACTING CHAIRPERSON CABRAL: Thank you. Go  
11 ahead and proceed.

12 ELIZABETH CHAR  
13 Was called as a witness by and on behalf of the  
14 Michael's organization, was sworn to tell the truth,  
15 was examined and testified as follows:

16 THE WITNESS: Thank you very much. Chair  
17 and Commissioners.

18 We are here to see if we can get a  
19 determination from the Land Use Commission to state  
20 that our project has met the Condition 13 of the LUC  
21 Docket A10-788, that we have been in discussion with  
22 the National Park Service for a little over a year,  
23 year-and-a-half.

24 We were informed that while the NPS, and I  
25 believe we are in agreement that the conditions have

1       been met, that determination can only be made by the  
2       Commission.

3               We would like a ruling, something to that  
4       effect.   Thank you.

5               ACTING CHAIRPERSON CABRAL:   As we proceed,  
6       we will find out.   Thank you.

7               Sorry, any questions?   Commissioner Wong.

8               COMMISSIONER WONG:   Chair, this is for the  
9       National Park Service?

10              Just wanted to reconfirm that the condition  
11       that was stated is -- you are satisfied with the  
12       filter?

13              MR. ZIMPFER:   Yes.

14              COMMISSIONER WONG:   So you are -- the  
15       National Park Services is satisfied that it has been  
16       fulfilled?

17              MR. ZIMPFER:   Yes.

18              COMMISSIONER WONG:   That's all I need to  
19       know.   Thank you.

20              ACTING CHAIRPERSON CABRAL:   Any other  
21       questions of our speaker now, or the prior speaker?  
22       Thank you very much.

23              Let's proceed with our Petitioner at the  
24       table, so give us your presentation at this time.

25              Thank you, Mr. Carr.   May I swear you in?

1 You've previously given your name. So, Jean, are you  
2 clear with the name?

3 COURT REPORTER: Yes.

4 ACTING CHAIR CABRAL: Do you swear or  
5 affirm that the testimony that you are about to give  
6 is the truth?

7 THE WITNESS: I do.

8 ACTING CHAIRPERSON CABRAL: Thank you.  
9 Proceed.

10 STANFORD CARR  
11 Was called as a witness by and on behalf of Kamakana  
12 Villages, was sworn to tell the truth, was examined  
13 and testified as follows:

14 MR. CARR: Good afternoon Vice Chair  
15 Cabral. My name is Stanford Carr. We are  
16 collaborating with HHFDC as the successor to Forest  
17 City to be the master developer for Kamakana. We  
18 have since reviewed all of the conditions of the  
19 docket, and are collaborating with HHFDC to revisit  
20 the designs of the master plan.

21 I brought with us the original master plan  
22 approved and introduced by Forest City is here off to  
23 the right being held by Cory Hiraga.

24 In our opinion, the design was not  
25 conducive to the topography of the 273 acres. We

1 since regrouped with our team and designers and  
2 engineers, and we've created this draft interim  
3 concept with respect to the bubble site plans, where  
4 we would locate the different variable land uses, the  
5 multi-family, single family, neighborhood,  
6 commercial, park, schools, as well as identifying the  
7 existing preservation sites due to archaeological  
8 historical sites.

9 We are now having our engineers look at the  
10 phasing, quantify the order of magnitude of the  
11 off-site and on-site infrastructure, including  
12 identifying a master plan of our wet and dry  
13 utilities of sewer, water, drainage, power, roadways.

14 We will then be developing a phasing plan  
15 and working with the HHFDC and generating the budgets  
16 and cash flows and economic feasibility of this  
17 project.

18 During the course of this process it will  
19 flush out if we need to make any modifications to the  
20 docket, and if such, we will be coming back in to  
21 make such modifications before this body.

22 We initially, looking at the land uses, we  
23 have eliminated some of the roadways. So we need to  
24 consult with both State Department of Transportation  
25 as well as the County of Hawaii with respect to the



1 various agencies, and provide consultation with each  
2 of them to get their feedback and comments with  
3 respect to where we are today, and what are the  
4 concerns in the interim as we plan and move forward  
5 with our designs.

6 ACTING CHAIRPERSON CABRAL: Thank you.

7 Questions from my Commissioners?

8 Thank you very much.

9 So, Mr. Fujimoto, do you have anything in  
10 addition you want to say?

11 MR. FUJIMOTO: No.

12 ACTING CHAIRPERSON CABRAL: So the  
13 Petitioner is finished with their presentation. We  
14 move onto Deputy Corporation Counsel, Mr. Ronald Kim.

15 MR. KIM: Thank you, Vice Chair. The  
16 County has no comments on the status report.

17 ACTING CHAIRPERSON CABRAL: Office of  
18 Planning, Ms. Apuna.

19 MS. APUNA: Office of Planning doesn't have  
20 any comments.

21 ACTING CHAIRPERSON CABRAL: Thank you very  
22 much.

23 Commissioners, do you have any final  
24 questions or comments at this time? Commissioners,  
25 what is the status -- this is a status report. We

1 are not required to take any action at this time. If  
2 no action is taken, the requirements of a continued  
3 annual status report will remain.

4 And it appears that the National Park  
5 Service's concerns have been addressed. So if  
6 there's no further discussion, we're going to have a  
7 small break. Commissioner Mahi.

8 COMMISSIONER MAHI: A motion has to be  
9 made, right?

10 ACTING CHAIRPERSON CABRAL: From my  
11 understanding, a motion is not necessary at this time  
12 because this is a status report not requiring it, but  
13 I'm certain that the Petitioner, they're going to be  
14 making changes. We will see them again. I think our  
15 biggest concern here, because this came up last year,  
16 because National Park Service was concerned.

17 So based on your prior testimony, you're  
18 satisfied?

19 MR. ZIMPFER: We're satisfied with the  
20 Michael Group's way of meeting the condition, and I  
21 would encourage Stanford Carr's group to use the  
22 methods that are outlined in the conditions of  
23 Finding of Fact, Conclusion of Law, Decision and  
24 Order to stick with those, because I believe it was  
25 considerably more expensive for them to go in and

1 retrofit than it would have been to put in the  
2 green -- some of the things that were lined out in  
3 the conditions.

4 ACTING CHAIRPERSON CABRAL: Jean, did you  
5 get all that?

6 COURT REPORTER: Yes.

7 ACTING CHAIRPERSON CABRAL: Thank you very  
8 much for your comments. Can we conclude this  
9 portion? This portion of our show is concluded.  
10 Thank you very much.

11 (Recess taken.)

12 Thank you for returning from the break. I  
13 would like to proceed with our meeting today.

14 A00-730

15 The next agenda item is to receive a  
16 continued status report, and taking the appropriate  
17 action on Docket A00-730, Lanihau Properties LLC,  
18 Hawai'i, a Petition to amend the Conservation Land  
19 Use District Boundary into Urban Land Use District  
20 for approximately 336.984 acres at Honokohau, North  
21 Kona, Hawai'i, Tax Map Key No. 7-4-08, portions of 13  
22 and 7-4-08:30.

23 Will the parties please identify themselves  
24 for the record?

25 MR. KUDO: Counsel for the party of Kaiser

1       Permanente, Ben Kudo. With me is Executive Director  
2       Terry Muldoon, and project manager, Greg Gause.

3               MR. SMITH: Good afternoon. Riley Smith,  
4       President of Lanihau Properties.

5               ACTING CHAIRPERSON CABRAL: Thank you, Mr.  
6       Smith. County, please.

7               MR. KIM: Good afternoon, Deputy  
8       Corporation Counsel Ron Kim representing the County  
9       of Hawaii. With me is Deputy Planning Director Duane  
10      Kanuha.

11              ACTING CHAIRPERSON CABRAL: Thank you. And  
12      the Office of Planning.

13              MS. APUNA: Good afternoon. Deputy  
14      Attorney General Dawn Apuna on behalf of Office of  
15      Planning. Here with me is Lorene Maki.

16              ACTING CHAIRPERSON CABRAL: Thank you very  
17      much.

18              Let me at this point update the record in  
19      this docket.

20              On May 23rd, 2018, the Commission received  
21      a status report on Docket No. A00-738 and A10-788  
22      regarding National Park Service's complaints of  
23      noncompliance with conditions.

24              On January 29, 2019, the Commission staff  
25      received notice to update the mail addresses to

1 correspond to personnel changes of the National Park  
2 Service.

3 On March 18, 2019, an LUC meeting agenda  
4 notice for the March 27-28, 2019 meeting was sent to  
5 the Parties and the Statewide, and Hawai'i mailing  
6 lists.

7 For the members of the public, please be  
8 reminded that the Commission will not be considering  
9 the merits of A00-730 Petition; rather the Commission  
10 is interested in learning what the current state of  
11 activities of the Petitioner related to this docket  
12 are, including as they pertain to the National Park  
13 Service's assertion that there has been noncompliance  
14 with conditions of approval.

15 Let me go over our procedure for this  
16 docket.

17 First, those individuals desiring to  
18 provide public testimony for the Commission's  
19 consideration may be asked to identify themselves and  
20 will be called in the order -- in that order to our  
21 witness box, where they will be sworn in to provide  
22 their testimony.

23 Depending on the number of individuals,  
24 there may be a time limit.

25 At the conclusion of the public testimony,

1 the Chair would like the National Park Service to  
2 provide its presentation first to better understand  
3 whether its complaints and concerns in this matter  
4 have been adequately addressed since the last status  
5 update, and whether any further meetings on this  
6 matter are needed.

7 After questioning the National Park  
8 Service, the Chair will next call on the Petitioner  
9 to respond to this, and to provide its status update  
10 on this matter.

11 After the questioning the Petitioner, the  
12 Chair will call on the County of Hawaii, then on the  
13 Office of Planning.

14 After that the Chair will entertain its  
15 final questions and comments.

16 The Chair would also like to note that from  
17 time to time it may be calling for a short break.

18 Are there any questions at this time about  
19 our procedures, Attorney Kudo?

20 MR. KUDO: Just a suggestion. It might be  
21 helpful for Kaiser Permanente to make our  
22 presentation, since it's our wastewater treatment  
23 plant that is in question, then go to Dr. Zimpfer and  
24 National Park Service in relation to what we have  
25 done.

1           ACTING CHAIRPERSON CABRAL: Is that  
2 acceptable to National Park Service?

3           MR. ZIMPFER: Yes.

4           ACTING CHAIRPERSON CABRAL: Is that  
5 acceptable to my fellow Commissioners? Okay.

6           Thank you very much. I'll go ahead and ask  
7 the Petitioner to please make their presentation.

8           MR. KUDO: We are not the Petitioner, we're  
9 actually a landowner in the Petitioner's business  
10 park. Riley Smith is representing the actual  
11 Petitioner, which is Lanihau Properties LLC that  
12 obtained a D&O from this particular Commission in  
13 2003, and in particular in question is Condition of  
14 the D&O 1(c) that requires certain standards be met  
15 by the wastewater treatment plant in removing  
16 phosphorous and nitrogen.

17           ACTING CHAIRPERSON CABRAL: Can I ask the  
18 Petitioner, Mr. Riley Smith, that Attorney Kudo go  
19 ahead and proceed with his presentation?

20           MR. SMITH: Yes.

21           ACTING CHAIRPERSON CABRAL: Thank you very  
22 much. Proceed.

23           Are there any public witnesses? I cheated,  
24 I looked on the paper. No one signed up. Then,  
25 please, my apologies for skipping procedures.

1           Mr. Kudo. I would like to turn it over to  
2 Terrance Muldoon and Greg Gause to explain two parts.

3           The first is to explain to you what we did  
4 since the May Land Use Commission hearing last year  
5 to remediate and modify the wastewater treatment  
6 plant; and the second part is to give you what the  
7 sampling data has indicated since last year to this  
8 year.

9           We wanted to take enough data over several  
10 months to make sure that we stabilized the operation  
11 of the plant. And with that, I'll turn it over to  
12 Mr. Muldoon and Mr. Gause.

13           ACTING CHAIRPERSON CABRAL: I need to swear  
14 you in first.

15           Do you swear or affirm that the testimony  
16 that you are about to give is the truth?

17           THE WITNESS: I do.

18           ACTING CHAIRPERSON CABRAL: Proceed.

19           TERRANCE MULDOON  
20 Was called as a witness by and on behalf of Kaiser  
21 Permanente, was sworn to tell the truth, was examined  
22 and testified as follows:

23           DIRECT EXAMINATION

24           THE WITNESS: Thank you, very much.

25           From the time that we were notified that we



1 were not in compliance with the effluent discharge  
2 requirements, we engaged engineering support to help  
3 us work through issues, and determined that we should  
4 take two steps basically.

5 One was to increase or provide carbon  
6 injection into the wastewater treatment system with  
7 the intent to remove more nitrogen from the waste  
8 stream.

9 We were also advised by engineers to inject  
10 metal salts into the waste stream to help us to  
11 remove phosphorous.

12 In addition to that, we also provided a  
13 phosphorous filter at the end point in the process.  
14 And we have a process flow diagram which we provided  
15 to you where you can see that we have injection  
16 points for metal salts and for carbon. And then at  
17 the end of the waste stream, we have phosphorous  
18 filtration.

19 So we have added a number of components to  
20 try to bring the waste stream as close as we can to  
21 the requirements for the Decision and Order.

22 I can say -- and we shared with the  
23 National Park Service the results of this. We did  
24 work through some start-up issues that we had. We  
25 had some fluctuations over the last year which we

1 shared with National Park Service, but we are getting  
2 through that, getting the plant optimized and  
3 running.

4 And over the past three months, I will say  
5 that on average we are above the requirements that  
6 are in the Decision and Order. We do have some drift  
7 that is occurring in a couple of places. And in this  
8 case, the blue line is phosphorous removal. The  
9 requirement is 80 percent.

10 The orange line is nitrogen removal, and  
11 requirement on that is 90 percent, and so sort of  
12 place it.

13 So I think we're getting very, very close  
14 to being there all the time, and on average we are  
15 there over the last period of time.

16 I don't know if there's anything else I can  
17 share.

18 MR. KUDO: I would just like to add that  
19 during from May to the present, that we have had what  
20 I would consider to be a very good working  
21 relationship with the National Park Service. We met  
22 with them at least a couple of times and exchanged  
23 emails with regard to our efforts to stabilize the  
24 sampling data from the plant as we tweak the system  
25 with regard to the various chemicals that are needed.

1           ACTING CHAIRPERSON CABRAL: Thank you.

2           Does the National Park Service have any  
3 comments at this time?

4           MR. ZIMPFER: No. I'm just pleased with  
5 the progress. Like he said, we have been meeting and  
6 e-mailing. They came over a couple months ago, and  
7 it looks really encouraging. As long as they  
8 continue to meet the mark and we get their reports,  
9 we're happy.

10          ACTING CHAIRPERSON CABRAL: Thank you.

11          Can I just say that:

12          Do you swear and affirm that the testimony  
13 you've been giving is the truth?

14          MR. ZIMPFER: Yes, it is.

15          ACTING CHAIRPERSON CABRAL: Thank you.

16                   JEFF ZIMPFER

17 Was called as a witness by and on behalf of the  
18 National Parks Service, was sworn to tell the truth.

19          ACTING CHAIRPERSON CABRAL: Commissioners,  
20 any questions? Commissioner Wong.

21          COMMISSIONER WONG: So for Kaiser, you have  
22 met, or you are meeting the requirements of the  
23 phosphorous that the National Park Service --

24          MR. KUDO: We have met, or exceeded in some  
25 instances, requirements for removal of phosphorous.

1 COMMISSIONER WONG: And National Park  
2 Service, you agree with that point, and you're okay  
3 with that, correct?

4 MR. ZIMPFER: Yes, as long it continues.  
5 It started out with some fluctuations, but we need to  
6 see it for a few more months. But it's looking  
7 really good, as long as we get these reports and  
8 they're meeting the mark.

9 COMMISSIONER WONG: So the conditions have  
10 been met?

11 MR. ZIMPFER: Yes.

12 ACTING CHAIRPERSON CABRAL: Any other  
13 Commissioners? Commissioner Okuda.

14 COMMISSIONER OKUDA: Chair, just to clear  
15 the record. I know Dr. Zimpfer has been testifying,  
16 can you formally identify his name just so the record  
17 is really clear?

18 ACTING CHAIRPERSON CABRAL: Absolutely.  
19 National Park Service can you identify your name,  
20 please?

21 MR. ZIMPFER: My name is Jeff Zimpfer.

22 ACTING CHAIRPERSON CABRAL: And you've been  
23 with us before. Thank you. Good to see you again.  
24 And your associate.

25 MR. ZIMPFER: This is Janette Chiron.

1           ACTING CHAIRPERSON CABRAL: Thank you very  
2 much for coming.

3           COMMISSIONER OKUDA: Just so we have some  
4 context of Dr. Zimpfer's testimony, can the doctor be  
5 asked to briefly give us his education and  
6 experience, background just so there is some kind of  
7 context as to what he just testified to the actions  
8 that have been taken and the results?

9           ACTING CHAIRPERSON CABRAL: Mr. Zimpfer,  
10 can you come on up to the hot seat for us, so Jean  
11 gets an easier time getting the record and written  
12 transcript.

13           THE WITNESS: Education, Bachelor's in  
14 landscape architecture; Master's degree in forestry,  
15 and Ph.D. in natural resources and environmental  
16 sciences.

17           I've worked with plants and soils and  
18 nutrients for the last 25 years or so. And I've been  
19 with the park service since -- here in Kona since  
20 July of 2011.

21           ACTING CHAIRPERSON CABRAL: Thank you very  
22 much. Any other questions of the National Park  
23 Service or about any questions?

24           Commissioner Mahi.

25           COMMISSIONER MAHI: For Kaiser, I was

1 wondering, all the tests that you've been doing so  
2 far and the results you've been receiving, has the  
3 capacity of the system that you've already started,  
4 has that increased, or has it been pretty stable?

5 MR. MULDOON: It has been very stable. So  
6 it hasn't increased at all. Our well water  
7 consumption is about a 1000 gallons a day. It's held  
8 pretty steady at that.

9 This facility was designed to be LEED Gold,  
10 and water conservation was one of the big things that  
11 was a part of that. That's how the wetlands came  
12 into play that Mr. Zimpfer mentioned earlier.

13 But we haven't seen any very significant  
14 changes in consumption at this point.

15 COMMISSIONER MAHI: I remember when we met  
16 back in May we talked about what would happen when  
17 you have a larger amount of what you call clients  
18 that might be moving here or being participants in  
19 all the various developments which are starting to  
20 occur. Example, we just talked about in our last  
21 session.

22 How do you see that occurring in terms of  
23 what are you going to do to handle increased  
24 capacity?

25 MR. MULDOON: Right now, most of the use

1 capacity is on fix or count facility, so certainly  
2 there is a small increase that comes with additional  
3 use, that is certainly true. But it's not that  
4 significant compared to what is there.

5 What really makes a difference is when  
6 we're going to need to expand on the site to meet  
7 increased demand and have additional footprint. When  
8 that occurs, I mean, we're hopeful that the county  
9 has sanitary sewer at that point so we can make  
10 connection to that. That's the ultimate end result  
11 for all of us, right? We really need to get out of  
12 handling this the way we do.

13 But in the interim, we would have to make  
14 choices that range, and we considered all of these --  
15 none of them are ideal. One, put in a larger plant  
16 that conforms with the requirements of the Decision  
17 and Order. That would be quite expensive, but  
18 probably is doable.

19 The second option would be to bump and  
20 transport waste to treatment plant. That's got its  
21 own issues environmentally, and road use and other  
22 things, but it is a possible solution, though a  
23 costly one.

24 Then the last one is, can we get physical  
25 connection to sanitary waste treatment that allows us

1 to then handle the waste in that fashion.

2 So those are the three things that we  
3 thought about and would consider. There may be  
4 others that come up from an engineering perspective.

5 ACTING CHAIRPERSON CABRAL: Any additional  
6 questions from our Commissioners at this time?

7 Proceeding right along. Can I go ahead and  
8 ask County of Hawaii, do you have any input or  
9 questions of our Petitioner or National Park while  
10 they're at the hot seat?

11 MR. KIM: No questions or comments from the  
12 county, thank you.

13 ACTING CHAIRPERSON CABRAL: Office of  
14 Planning?

15 MS. APUNA: No questions or comments from  
16 the Office of Planning.

17 ACTING CHAIRPERSON CABRAL: Commissioners,  
18 any other comments based on their comments? Thank  
19 you very much. The Commissioners have no additional  
20 comments. Commissioner Wong.

21 COMMISSIONER WONG: So going back again to  
22 National Park Service one more time. So because you  
23 are satisfied at this time and hopefully in the  
24 future with Kaiser and the wastewater issue, we don't  
25 need to see you any more, that should be okay. Do



1 you believe we need to have another meeting in six  
2 months or a year on this issue?

3 MR. ZIMPFER: I don't think so. I don't  
4 know how we formally wrap it up, but as long as -- I  
5 guess I would have to leave it to the Land Use  
6 Commission staff too.

7 Assuming we get reports every month, and  
8 they're on the money like they are now, I see no  
9 further issues.

10 COMMISSIONER WONG: So can I take it  
11 that if the status report coming into our office, we  
12 note and everyone is clear on what is being sent in  
13 and reviewed it, and we don't hear anything from  
14 anyone, that that should suffice for you?

15 MR. ZIMPFER: Yes.

16 COMMISSIONER WONG: And we shouldn't have  
17 any more meetings for now on this issue?

18 THE WITNESS: Yes.

19 ACTING CHAIRPERSON CABRAL: This is a  
20 status report for the Commissioners. We are not  
21 required to take any action at this time. If no  
22 action is taken, the requirements of a continued  
23 annual status report still remains.

24 And since National Park Service is  
25 currently satisfied, I think they understand that in

1 the event that if the reports come in and the  
2 readings are not appropriate, then they can come back  
3 to this body as previously done.

4 So at this point, based on the comments by  
5 the Intervenor and the Petitioner, the Chair will  
6 proceed at this point and take no action with the  
7 knowledge that National Park Service is aware that  
8 they can come back to this body.

9 Commissioner Wong.

10 COMMISSIONER WONG: Hopefully the National  
11 Park Service, instead of coming to us, if there is an  
12 anomaly or anything, check first with Kaiser and try  
13 to work the details out first so we don't need to  
14 have these --

15 MR. ZIMPFER: Correct, right.

16 MR. KUDO: And I think from our side, if we  
17 notice an anomaly we will contact Dr. Zimpfer and  
18 tell him if there was a reason for it, mechanical  
19 breakdown or something else that occurred on the  
20 property.

21 MR. ZIMPFER: Absolutely.

22 ACTING CHAIRPERSON CABRAL: I recommend  
23 good communication may solve all of this.

24 Commissioner Okuda.

25 COMMISSIONER OKUDA: Chair, I think what's

1 happened here is a real demonstration of cooperation,  
2 collaboration, people working together to move the  
3 community forward. So I agree with Commissioner Wong  
4 that there's really no need for us at this point in  
5 time. Everyone has their rights and remedies if  
6 things are needed, but it really doesn't seem like  
7 right now that further government intervention is  
8 necessary.

9 So I think this is really positive and a  
10 good example for everyone, especially for us here.  
11 So thank you very much.

12 ACTING CHAIRPERSON CABRAL: Thank you. And  
13 we will take a recess, five-minute recess. Thank you  
14 very much.

15 I would like to clarify our recess will be  
16 until tomorrow morning at 9:00 a.m.

17 (The proceedings were adjourned at 2:30  
18 p.m.)  
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## CERTIFICATE

STATE OF HAWAII                    )  
  ) SS.  
COUNTY OF HONOLULU            )

I, JEAN MARIE McMANUS, do hereby certify:

That on March 27, 2019, at 1:30 p.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 27th day of March, 2019, in  
Honolulu, Hawaii.

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