

LAND USE COMMISSION

STATE OF HAWAI'I

Hearing held on April 23, 2019

Commencing at 9:30 a.m.

Kaneohe Bay View Golf Course

Bayview Banquet Hall

45-285 Kaneohe Bay Drive, Kaneohe, HI 96744

AGENDA

I. Call to Order

II. Adoption of Minutes

III. Tentative Meeting Schedule

IV. ACTION

A17-804 HAWAIIAN MEMORIAL LIFE PLAN, LTD
(O'ahu)

* To Consider the Acceptance of the Final
Environmental Impact Statement for the
Petition to Amend the Conservation Land Use
District Boundary into the Urban Land Use
District for Approximately 53.449 acres of
land at Kane'ohe, Island of O'ahu, State of
Hawai'i TMK: (1)4-5-033:por.001

V. Adjournment

BEFORE: Jean Marie McManus, CSR #156

APPEARANCES:

JONATHAN SCHEUER, Chair
NANCY CABRAL, Vice Chair
AARON MAHI, Vice Chair
EDMUND ACZON
GARY OKUDA
DAWN CHANG

STAFF:

RANDALL S. NISHIYAMA, ESQ.
Deputy Attorney General

DANIEL ORODENKER, Executive Officer
RILEY K. HAKODA, Planner/Chief Clerk
SCOTT A.K. DERRICKSON, AICP-Planner

DAWN APUNA, ESQ.
Deputy Attorney General
RODNEY FUNAKOSHI, Planning Program Administrator
LORENE MAKI, Planner
For State Office of Planning

EUGENE TAKAHASHI, Deputy Director
DINA WONG, Acting Planning Division Chief
For Department of Planning & Permitting
City and County of Honolulu

BENJAMIN M. MATSUBARA, ESQ.
CURTIS T. TABATA, ESQ.
JAY MORTFORD
THOMAS A. FEE, President HHF Planners
Attorneys for Hawaii Memorial Life Plan, Ltd.

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1 CHAIRPERSON SCHEUER: Aloha mai kakou.

2 This is the April 23rd, 2019 Land Use
3 Commission meeting.

4 Our first order of business is adoption of
5 the April 3rd, 2019 minutes. Are there any comments
6 or corrections on the minutes? If there is none, is
7 there a motion to adopt?

8 VICE CHAIR MAHI: I move.

9 VICE CHAIR CABRAL: Second.

10 CHAIRPERSON SCHEUER: Motion has been made
11 by Commissioner Mahi and seconded by Commissioner
12 Cabral.

13 Any discussion on the motion? If not, all
14 in favor say "aye". Anybody opposed?

15 The motion carries and the minutes are
16 unanimously adopted.

17 Next agenda item is the tentative meeting
18 schedule. Mr. Orodener?

19 EXECUTIVE OFFICER: Tomorrow we will be at
20 the airport for the continuation of this matter.

21 May 7 we will be on Big Island for Waikoloa
22 Order to Show Cause.

23 May 8th we will be on Maui for Ka'ono'ulu
24 Ranch Evidentiary Hearing.

25 On May 22nd, we will be on Big Island for U

1 of N Bencorp and Shopoff.

2 June 5th is reserved.

3 June 6, we will be on Oahu for Pomaiki IAL
4 site visit.

5 June 26-27 North Shore IAL Poma'ikai
6 Partners.

7 July 11 is Waiawa and Poma'ikai. So that
8 is takes us into July.

9 CHAIRPERSON SCHEUER: Thanks, Dan.

10 Are there any questions for Dan about our
11 schedule?

12 Our next agenda item is a hearing and
13 action meeting on Docket A17-804 to consider the
14 acceptance of the Hawaiian Memorial Life Plan, Ltd.'s
15 Final EIS.

16 Will the parties please identify themselves
17 for the record?

18 MR. MATSUBARA: Good morning, Mr. Chairman,
19 Ben Matsubara and Curtis Tabata on behalf Hawaiian
20 Memorial Life Plan, Ltd. And to our right is Jay
21 Mortford.

22 CHAIRPERSON SCHEUER: Do you also have
23 somebody else at the table?

24 MR. MATSUBARA: Just the guy who prepared
25 the EIS.

1 CHAIRPERSON SCHEUER: For the record --

2 MR. FEE: Thomas Fee from HHF.

3 CHAIRPERSON SCHEUER: Good morning.

4 City and County.

5 MR. TAKAHASHI: Good morning. My name is
6 Eugene Takahashi, City and County of Honolulu,
7 Department of Planning & Permitting Deputy Director.
8 With me is Dina Wong, Planning Division Chief,
9 Department of Planning & Permitting.

10 CHAIRPERSON SCHEUER: And I believe you
11 told me before the hearing that you would briefly be
12 joined by Director Kathy Sokugawa.

13 MR. TAKAHASHI: The Acting Director is on
14 her way right now.

15 CHAIRPERSON SCHEUER: Thank you.

16 Office of Planning.

17 MS. APUNA: Good morning, Deputy Attorney
18 General, Dawn Apuna on behalf of the Office of
19 Planning. With me today is Lorene Maki and Rodney
20 Funakoshi.

21 CHAIRPERSON SCHEUER: I think we're getting
22 noise from outside.

23 (Discussion off the record.)

24 CHAIRPERSON SCHEUER: Let me now update the
25 record on this docket.

1 Actually before I update the record, since
2 we have so many new friends, let me briefly, if you
3 have not been testifying or hanging out with the Land
4 Use Commission before, I will say briefly a little
5 bit about who we are.

6 There are nine eligible members of the Land
7 Use Commission. We currently have eight members
8 seated.

9 We are all volunteers. We do this about
10 four days a month, plus time preparing for meetings
11 as volunteers on our own. We are appointed by the
12 governor and confirmed by the state senate.

13 For those of us who might serve another
14 term, you will have a chance to testify vigorously
15 for or against our confirmation when that comes up.
16 But we do this as our way of trying to help State of
17 Hawai'i implement its policy.

18 I'll now update the record.

19 On November 21st, 2017, the Commission met
20 and granted Petitioner's Motion to Designate the Land
21 Use Commission as approving agency for Environmental
22 Statement Under HRS Chapter 343 and Authority to
23 Prepare Environmental Impact Statement Preparation
24 Notice.

25 On November 30th, 2017, the LUC mailed a

1 request to Office of Environmental Quality Control
2 for Publication in the Environmental Notice with
3 associated materials.

4 Also on the same day, the Commission mailed
5 the order determining that the Land Use Commission
6 agreed to be the accepting authority pursuant to
7 Chapter 343 HRS and that the proposed action may have
8 a significant impact upon the environment to warrant
9 proceeding directly to the preparation of an
10 Environmental Impact Statement.

11 On December 11, 2017, the Commission
12 received a Notice of Intent to Intervene by Hui O
13 Pikoiloa.

14 On December 13, 2017, the Commission
15 received Petitioner's Certificate of Service
16 including Hui O Pikoiloa.

17 From January 2018 to October 2018, the
18 Commission received comments on the EIS Preparation
19 Notice and the Draft EIS which are on file and part
20 of the record.

21 On April 1st, 2019, the Commission received
22 Petitioner's Final EIS.

23 On April 9, 2019, the Commission received
24 SHPD's comment letter on the Petitioner's revised
25 Archaeological Inventory Survey dated April 8, 2019.

1 On April 15, 2019, the Commission mailed
2 the LUC meeting agenda notice to the Parties and
3 Statewide, and Oahu mailing lists.

4 On April 11, 2019, the Commission received
5 correspondence from the Office of Planning
6 recommending acceptance of the FEIS on this Docket.

7 On April 22nd, 2019, the Commission
8 received public written testimony from Pacific
9 Resource Partners, Hawai'i Construction Alliance,
10 Hawai'i Operating Engineers Industry Stabilization
11 Fund, the Hawai'i Laborers-Employers Cooperation and
12 Education Trust, and Five Generations.

13 Let me now briefly describe our procedures
14 for today.

15 First, I will give the opportunity for
16 Petitioner to acknowledge the Commission's Policy
17 governing reimbursement of hearing expenses.

18 I will then call for those individuals
19 desiring to provide public testimony. There is a
20 sign-up sheet next to the witness box on my right.

21 For those individuals wishing to give
22 testimony, all such individuals will be sworn in
23 prior to their testimony.

24 If you have not signed in yet and you
25 intend to give public testimony, I ask you to sign in

1 there.

2 When we begin the public testimony portion
3 of the hearing, I will have the Executive Officer
4 call up the name of the first person to give
5 testimony, and immediately following the person to
6 give testimony, and so if you hear your name come be
7 ready to go forward.

8 We have a full room and a lot of people
9 wanting to give testimony, so the smoother we can do
10 this, the better chance we have to hear everyone's
11 thoughts.

12 After completion of the Petitioner's
13 presentation, we will receive any comments from the
14 City and County, Department of Planning and
15 Permitting and the State Office of Planning.

16 After that, we will conduct our
17 deliberations on the matter.

18 From the parties, are there any questions
19 on our procedures for today?

20 MR. MATSUBARA: No questions.

21 MR. TAKAHASHI: No questions.

22 MS. APUNA: No questions.

23 COMMISSIONER CHANG: Chair, I would like to
24 make a disclosure.

25 CHAIRPERSON SCHEUER: I will get to

1 disclosure in one moment, Commissioner Chang, thank
2 you, right after I ask Mr. Tabata and other counsel
3 if they reviewed HAR 15-15-45.1 with regard to the
4 reimbursement of hearing expenses?

5 MR. MATSUBARA: We have.

6 CHAIRPERSON SCHEUER: What is your client's
7 position with regard to the policy?

8 MR. MATSUBARA: We agree to the policy and
9 accept it.

10 CHAIRPERSON SCHEUER: Thank you very much.

11 As you were anticipating -- well, I would
12 like to ask my Commissioners if you have any
13 disclosures? Commissioner Chang.

14 COMMISSIONER CHANG: Thank you, Mr. Chair.

15 I would like to disclose that in 2010 I did
16 do some work for Hawaiian Memorial Park. I have not
17 since 2010 done any work, and I do not believe that
18 the work that I previously did with Hawaiian Memorial
19 Park would in any way bias or prejudice me. I want
20 to disclose is that.

21 CHAIRPERSON SCHEUER: Thank you. Is there
22 any objection to Commissioner Chang's continued
23 participation in this matter?

24 MR. MATSUBARA: Petitioner has no
25 objection.

1 MR. TAKAHASHI: No objections.

2 MS. APUNA: No objections.

3 CHAIRPERSON SCHEUER: Commissioner Mahi.

4 VICE CHAIR MAHI: I also like to disclose
5 the fact that I'm a resident of Ko'olaupoko. I'm
6 also vice president of Ko'olaupoko Hawaiian Civic
7 Club who has been sought by the Petitioner to be a
8 counsel, and to be a supporter of their proposed --
9 so I want to disclose the fact that I'm a member of
10 the club, Ko'olaupoko Hawaiian Civic Club.

11 CHAIRPERSON SCHEUER: Do you believe you
12 can be fair and impartial?

13 VICE CHAIR MAHI: I believe I'll be fair to
14 make the decision according to, of course, at the
15 close and after those that I will be hearing today.

16 CHAIRPERSON SCHEUER: Any objection to
17 Commissioner Mahi?

18 MR. MATSUBARA: No objections.

19 MR. TAKAHASHI: No objection.

20 MS. APUNA: No objection.

21 CHAIRPERSON SCHEUER: Thank you.
22 Commissioner Okuda.

23 COMMISSIONER OKUDA: Thank you, Mr. Chair.

24 I would like to disclose the fact that my
25 grandparents and other family members are buried at

1 the park. Also that my parents own a plot at
2 Hawaiian Memorial Park, which I do not have any
3 control directly or indirectly over that.

4 And finally, to the extent that Mr. Tom Fee
5 has participated in preparation of this EIS
6 statement, I would like to disclose the fact that my
7 late father worked very closely with Mr. Fee in
8 connection with the Palolo Valley Agricultural
9 District Association.

10 I do not believe that any of those
11 relationships will affect my decision one way or the
12 other, or my questioning in this matter.

13 CHAIRPERSON SCHEUER: Thank you,
14 Commissioner.

15 Commissioner Aczon.

16 May I first proceed to ask if the parties
17 have any objection to Commissioner Okuda?

18 MR. MATSUBARA: No objection, Mr. Chair.

19 MR. TAKAHASHI: No objection.

20 MS. APUNA: No objections.

21 CHAIRPERSON SCHEUER: Commissioner Aczon.

22 COMMISSIONER ACZON: I was reading the
23 testimony, and I know most of them, their action on
24 the proposed site of the island. So I just want to
25 kind of make sure that they understand that I will be

1 impartial to this Petition.

2 CHAIRPERSON SCHEUER: Thank you. Are there
3 any objections to Commissioner Aczon's participation?

4 MR. MATSUBARA: No objection.

5 MR. TAKAHASHI: No objection.

6 MS. APUNA: No objections.

7 CHAIRPERSON SCHEUER: Commissioner Cabral.

8 VICE CHAIR CABRAL: I do want to let
9 everyone know that I have no conflict that I know of.
10 I know nothing except what I read in preparation for
11 this, so I don't think that should be a problem.
12 Thank you.

13 CHAIRPERSON SCHEUER: Thank you.

14 I will join in the majority on this matter.
15 I want to disclose for everybody in attendance that
16 in addition to serving voluntarily as Chair of State
17 Land Use Commission, I also serve, volunteer on the
18 Hawaiian Island Land Trust, and am currently Chair of
19 that board.

20 The EIS notes an intention by the
21 Petitioner to issue a Conservation Easement to the
22 Hawaiian Islands Land Trust as one of the mitigations
23 on this project.

24 I want to clarify a few things about that.
25 First of all, there is no written or other agreement

1 right now between the Petitioner and the Hawaiian
2 Island Land Trust for this.

3 Second of all, I want to clarify that I
4 receive no money for being on the Board of Hawaiian
5 Land Trust, in fact, I actually donate a huge amount
6 of money, because it's part of my tithing to the
7 lands as part of my service to Hawai'i.

8 So I additionally believe that -- I want to
9 disclose that -- but I believe I can be fair and
10 impartial in this matter.

11 I would like to ask the parties if they
12 have any objection to my continued participation in
13 these proceedings?

14 MR. MATSUBARA: No objection.

15 MR. TAKAHASHI: No objection.

16 MS. APUNA: No objection.

17 CHAIRPERSON SCHEUER: We may now proceed to
18 public testimony. And I'm actually going to first
19 ask Director Sokugawa, who has to go to council
20 hearing today, to first provide oral testimony.

21 So I'm going to swear you in. I'm going to
22 ask you to state your name and address for the record
23 and proceed with your testimony.

24 And due to the volume of testimony, I'm
25 going to ask people to limit their testimony to three

1 minutes.

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

4 THE WITNESS: I do.

5 CHAIRPERSON SCHEUER: Thank you.

6 Make sure the orange button is lit, and if
7 you look at me, I'm almost kissing the microphone.

8 Please state your name and address for the
9 record and proceed.

10 THE WITNESS: Is that my home address or
11 business address?

12 CHAIRPERSON SCHEUER: Business.

13 THE WITNESS: Kathy Sakugawa, Acting
14 Director for City Department of Planning and
15 Permitting. My work place is at 650 South King
16 Street, Honolulu, Hawai'i.

17 KATHY SOKUGAWA

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

21 DIRECT EXAMINATION

22 THE WITNESS: Thank you very much for this
23 opportunity. I'm sorry I can't stay for the whole
24 hearing. The council is dealing with a little matter
25 called short-term rentals even as we speak, so I need

1 to tear myself away from this to attend that hearing.

2 Thank you very much again for this
3 opportunity. I want to clarify our position. We
4 have no objections to the Land Use Commission
5 accepting the Final EIS. We believe our comments
6 have been adequately addressed or can be addressed
7 downstream in the Land Use Commission's deliberative
8 process.

9 I do want to clarify that there is a slight
10 uniqueness to the Ko'olaupoko Sustainable Community
11 Plan in that it spent a fair amount of detail on the
12 expansion of Hawaiian Memorial Park.

13 You may or may not know, but based on the
14 attendance today, that has been a very controversial
15 issue for us at the city, as well as it may be
16 perhaps for you on the boundary amendment.

17 We do believe that this is a good project
18 in the process of trying to make balanced decisions
19 on the Ko'olaupoko Sustainable Community Plan with
20 regard to the cemetery. I think a little bit more
21 detail than was needed for a policy plan, like the
22 Sustainable Community's Plan, has been included in
23 it.

24 Nevertheless, we believe it's still a
25 policy plan and should be treated as such. It is not

1 a zoning regulation. But we are, of course, looking
2 at you for guidance as we proceed with the boundary
3 amendment to formulate the city's position.

4 At this time we believe that essentially it
5 is, taken in its entirety, the project is consistent
6 with the Ko'olaupoko Sustainable Plan and can proceed
7 to boundary amendment.

8 CHAIRPERSON SCHEUER: Thank you very much.

9 Everybody, following the testimony, the
10 Petitioner and the Commissioners will have
11 opportunity to ask any questions of the witness.

12 Petitioner?

13 MR. MATSUBARA: Thank you, Mr. Chair.

14 CROSS-EXAMINATION

15 BY MR. MATSUBARA:

16 Q Good morning.

17 A Good morning.

18 Q Is the position that you're taking that the
19 Ko'olaupoko Sustainable Community is a broad policy
20 plan, and is not regulatory in nature?

21 A Yes, that is stipulated in our city
22 charter.

23 Q So that position is consistent with the
24 ordinance and the city charter?

25 A Correct. If you are referencing the

1 ordinance that adopted the Ko'olaupoko Sustainable
2 Plan, yes.

3 Q The ordinance indicates that it serves as a
4 policy guide.

5 A Yes.

6 Q And under Section 24-6.2(c) provides that
7 provisions of article and Ko'olaupoko Sustainable
8 Community Plans are not regulatory; is that correct?

9 A Yes.

10 Q Thank you very much.

11 CHAIRPERSON SCHEUER: Commissioners, are
12 there any questions for Director Kathy Sokugawa?

13 Thank you very much -- Commissioner Okuda.

14 COMMISSIONER OKUDA: Thank you.

15 Director, even though the county has
16 adopted the Sustainability Plan, the Land Use
17 Commission is still free to make the determination
18 here today, in other words, whether to accept this
19 EIS or not accept it, correct?

20 THE WITNESS: Correct.

21 COMMISSIONER OKUDA: So in other words, the
22 fact that the county has adopted the Sustainability
23 Plan doesn't mean that the Land Use Commission has to
24 adopt the EIS statement; is that correct?

25 THE WITNESS: Correct.

1 COMMISSIONER OKUDA: Thank you. I have no
2 further questions, Mr. Chair.

3 CHAIRPERSON SCHEUER: Any other questions,
4 Commissioners. Thank you very much.

5 Mr. Orodenker, who are the two next
6 witnesses?

7 EXECUTIVE OFFICER: Thank you, Mr. Chair.
8 First we have Alice Hewett, followed by Anna Lobisch.

9 CHAIRPERSON SCHEUER: As the witness is
10 approaching --

11 THE WITNESS: I didn't know testimony was
12 started.

13 CHAIRPERSON SCHEUER: You are not the
14 witness who was called.

15 THE WITNESS: Yes, Auntie Alice Hewett has
16 a problem with her vocal cords and asked me to read
17 her testimony.

18 CHAIRPERSON SCHEUER: So I will let you
19 start in a moment. Let me say this for everybody
20 else in the audience.

21 What we are doing today is not voting on
22 the merits of the project or the district boundary
23 amendment. The issue in front of us today is was the
24 Final EIS prepared acceptable under HRS 343 and the
25 Commission's rules.

1 So to the degree you can focus your
2 testimony not on the overall opinion you might have
3 about whether it's a good project or a bad project,
4 but on the EIS acceptability, that will be the most
5 helpful to us in our deliberation.

6 So I'm going to swear you in. Do you swear
7 or affirm that the testimony you're about to give is
8 the truth?

9 THE WITNESS: I swear.

10 CHAIRPERSON SCHEUER: So then state your
11 name for the record as well as the name of whose
12 testimony --

13 MAHEALANI CYPHER

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

17 DIRECT EXAMINATION

18 THE WITNESS: My name is Mahealani Cypher.
19 I'm a resident of Kaneohe. I am representing
20 Leialoha Kaluhiwa, the President, and Alice P.
21 Hewett, the Immediate Past President of the
22 Ko'olaupoko Hawaiian Civic Club.

23 Auntie Alice was unable to speak due to
24 vocal cord problems, so I'm here to offer her
25 testimony in support of accepting and approving the

1 EIS, Final EIS on Hawaiian Memorial Park Cemetery.

2 I wanted to offer clarification regarding
3 Mr. Mahi's statement. Discussion and decision on
4 this matter was made prior to membership in the club.
5 And he has not been consulted regarding the project
6 or our testimony today.

7 I should also note that our association
8 Hawaiian Civic Club also took a position this past
9 fall in support of Hawaiian Memorial Park Cemetery.

10 The association includes more than 60 civic
11 clubs throughout Hawai'i and across the country.

12 Auntie Alice is a member of Pikoiloa and is
13 greatly concerned about the future of Kaneohe.

14 CHAIRPERSON SCHEUER: Questions for the
15 witness?

16 MR. MATSUBARA: Thank you very much. I
17 hope Alice gets well soon.

18 THE WITNESS: She is sitting right behind
19 me.

20 CHAIRPERSON SCHEUER: Commissioners?

21 EXECUTIVE OFFICER: Next testifier is Anna
22 Lobisch followed by Dean Hazama.

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

1 THE WITNESS: I swear.

2 CHAIRPERSON SCHEUER: State your name and
3 address for the record.

4 ANNA LOBISCH

5 Was called as a witness by and on behalf of the
6 Public, was sworn to tell the truth, was examined and
7 testified as follows:

8 DIRECT EXAMINATION

9 THE WITNESS: My name is Anna Lobisch. I
10 live at 319 Iolani Avenue, Honolulu 96813. I'm for
11 the expansion.

12 I'm the mother of the baby that passed away
13 at the day care center on the military installation,
14 Baby Abigail.

15 I just want to share my experience I have
16 with Hawaiian Memorial Life Plan. I had moments with
17 Abigail that I would have not received from any other
18 place. The staff became my family. And the most
19 important thing about this expansion is that I have a
20 place to go now to see Abigail, and I feel like
21 everyone else should have that opportunity too
22 without judgment, and to be able to have no
23 expectation of the way that we grieve our family
24 members.

25 That's all I have to say.

1 CHAIRPERSON SCHEUER: Thank you very much.
2 Are there any questions for the witness?

3 MR. MATSUBARA: Just our sympathies. Thank
4 you very much.

5 CHAIRPERSON SCHEUER: Commissioners? Thank
6 you very much for testifying.

7 EXECUTIVE OFFICER: Dean Hazama, followed
8 by Grant Yoshimori.

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

12 THE WITNESS: I do.

13 CHAIRPERSON SCHEUER: Please state your
14 name and provide your address for the record.

15 DEAN HAZAMA
16 Was called as a witness by and on behalf of the
17 Public, was sworn to tell the truth, was examined and
18 testified as follows:

19 DIRECT EXAMINATION

20 THE WITNESS: I'm Dean Hazama, 95-215
21 Luaehu Place, Mililani.

22 Good morning, Chair Scheuer and members of
23 the Land Use Commission. My name is Dean Hazama. I
24 submitted prior written testimony during the public
25 open period for this Draft EIS, so I'd like to go

1 over some critical points, some of which Director
2 Sokugawa has covered briefly anyway.

3 As Chair of the Honolulu Planning
4 Commission during the update and approval of the
5 Ko'olaupoko Sustainability Community Plan, I've had
6 the opportunity, as well as my fellow Commissioners,
7 to thoroughly review the details of this project, and
8 heard many hours of public testimony as well.

9 I also had a chance to review the Draft EIS
10 for this project. I can tell you that the Commission
11 felt that the project does fulfill an important need
12 for the community. It does align with the current
13 and future land use vision of this region and
14 maintains open spaces specifically in this area.

15 The Applicant has demonstrated it had
16 worked with various community groups, such as Native
17 Hawaiian cultural practice and stewardship groups,
18 the Federal Wildlife Service and neighborhood board
19 to address and mitigate any project impact.

20 Specifically regarding the Draft EIS, it
21 adequately documents and addresses all major issues
22 associated with the project.

23 The findings are supported by technical
24 studies conducted by experts in their field who have
25 analyzed appropriate subject matter, the proposed

1 drainage, environmental and preservation measures to
2 address any project impacts.

3 For these reasons, the project was approved
4 and included in the updated Ko'olaupoko Sustainable
5 Communities Plan by the Planning Commission and the
6 City Council. I urge the State LUC to accept and
7 adopt this Draft EIS for this project.

8 I thank you for this opportunity to testify
9 this morning.

10 CHAIRPERSON SCHEUER: Thank you. Questions
11 for the witness?

12 MR. MATSUBARA: Thank you.

13 CHAIRPERSON SCHEUER: Commissioners?

14 Scheuer rhymes with lawyer.

15 THE WITNESS: Oh, sorry. I was close.

16 CHAIRPERSON SCHEUER: Very close.

17 EXECUTIVE OFFICER: Grant Yoshimori,
18 followed by Mel Kalahili.

19 CHAIRPERSON SCHEUER: Do you swear or
20 affirm that the testimony you're about to give is the
21 truth?

22 THE WITNESS: I do.

23 GRANT YOSHIMORI

24 Was called as a witness by and on behalf of the
25 Public, was sworn to tell the truth, was examined and

1 testified as follows:

2 DIRECT EXAMINATION

3 THE WITNESS: My name is Grant Yoshimori,
4 45-464 Lipalu Street.

5 Good morning, Commissioners. I am a
6 resident of Kaneohe, and have also petitioned to
7 intervene with Hui O Pikoiloa.

8 I would like to request a nonacceptance of
9 Hawaiian Memorial's Environmental Impact Statement
10 for a couple of reasons.

11 The first reason is that the EIS does not
12 protect the endangered damselfly, blackline damselfly.

13 The damselfly is a small delicate
14 dragonfly-like creature. The U.S. Fish and Wildlife
15 states that there are less than 1,000 of these
16 creatures in the world, and they only live in the
17 Ko'olau mountain range.

18 The U.S. Fish and Wildlife Service made
19 several recommendations for the EIS modifications.
20 Hawaiian Memorial published the EIS without these
21 modifications.

22 Here are a few of the Fish and Wildlife
23 Service's recommendations.

24 Fish and Wildlife concern:

25 The service finds that the DEIS

1 underestimates or fails to adequately analyze certain
2 risks to the habitat supporting a local population of
3 the blackline damselfly.

4 Hawaiian Memorial's response:

5 We disagree with the service's assertion.

6 Fish and Wildlife concern:

7 The service therefore recommends that a
8 revised EIS also evaluate an alternative under which
9 no significant grading, excavation or construction
10 would occur on any of the slopes above the spring,
11 that is where the damselfly reside.

12 HMP response: The suggested alternative is
13 not reasonable or justified.

14 Clearly, the Final EIS does not address the
15 protection of the blackline damselfly as recommended
16 by Fish and Wildlife Service, whose responsibility is
17 to protect these endangered species.

18 In addition, the HMP excluded a letter from
19 the Department of Land and Natural Resources'
20 Division of Forestry and Wildlife. Forestry and
21 Wildlife responded to the Draft EIS on October 31st.
22 However, DOFAW's letter was not included in the Final
23 EIS.

24 Forestry and Wildlife also raised
25 recommendations for the protection of the blackline

1 damselfly.

2 They stated that the Hawaiian Memorial
3 location, quote, could be crucial for the
4 conservation of this species.

5 I'd like to emphasize "crucial for
6 conservation of this species." I would like to
7 emphasize conservation of the entire species.

8 Forestry and Wildlife also stated that
9 DOFAW recommends that the project's proposed action
10 be redesigned. HMP did not redesign.

11 Again, they did not address any of these
12 very strong concerns, and ignored the State
13 Department of Forestry and Wildlife's letter.

14 The second reason for nonacceptance is that
15 the current plan violates the City Ordinance 17-42,
16 the Ko'olaupoko Sustainable Communities Plan.
17 Despite it being a broad plan, as I mentioned
18 earlier, it is an ordinance, and there is specific
19 language in the ordinance to protect Pohai Nani and
20 the nearby residents.

21 Council member Pine has worked hard to
22 include those protections for the neighborhood.

23 The ordinance states: Any proposed
24 expansion by Hawaiian Memorial Park must include a
25 2000-foot buffer from Pohai Nani senior living

1 committee.

2 The City Department of Planning and
3 Permitting responded to the Draft EIS stating that
4 the proposed expansion is only about 1,350 feet away
5 from the Pohai Nani senior living community.

6 HMP did not alter their plan, so HMP's
7 current plan is developing too close to Pohai Nani,
8 and severely encroaches in the city's ordinance
9 mandated buffer.

10 CHAIRPERSON SCHEUER: Three minutes, so if
11 you can wrap up.

12 THE WITNESS: In summary, HMP clearly did
13 not address the Fish and Wildlife concerns, the
14 DOFAW's recommendation nor DPP's notice of the
15 Ordinance violation.

16 Because of these reasons, I am requesting
17 LUC exercise their power to issue a nonacceptance of
18 Hawaiian Memorial Life's EIS per HAR 11-200-23.
19 Nonacceptance will protect the damselfly, provide
20 Hawaiian Memorial the time to correct their EIS
21 deficiencies, and also save the LUC from a premature
22 district boundary amendment case.

23 Thank you.

24 CHAIRPERSON SCHEUER: Are there questions
25 for the witness?

CROSS-EXAMINATION

BY MR. MATSUBARA:

Q Good morning, Mr. Yoshimori.

A Good morning.

Q As you pointed out, the damselfly, the Sustainable Community Plan and the Fish and Wildlife position was discussed in the EIS?

A It was discussed, but they did not address the recommendations that they had made.

Q It was discussed?

A It was discussed. They didn't address it.

MR. MATSUBARA: Thank you very much.

CHAIRPERSON SCHEUER: Commissioners? Thank you very much.

EXECUTIVE OFFICER: Mel Kalahiki, followed by Pat Newalu.

CHAIRPERSON SCHEUER: Please silence your phones.

THE WITNESS: My name is Mel Kalahiki. Resident of Kaneohe.

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

THE WITNESS: I do swear.

-o0o-

MEL KALAHIKI

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

DIRECT EXAMINATION

THE WITNESS: I'm in support of the EIS,
Hawaiian Memorial expansion, simply because I am a
resident of Kaneohe. I have history here in Hawaiian
Memorial Park. My family is here, that goes back
generations. When I pass I don't want to be buried
anywhere else but in Hawaiian Memorial. I accept the
plan as it is, and thank you.

CHAIRPERSON SCHEUER: Thank you. Questions
for the witness?

MR. MATSUBARA: Thank you.

CHAIRPERSON SCHEUER: Commissioners? Thank
you very much.

EXECUTIVE OFFICER: Pat Newalu, followed by
Justin Soriano.

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

THE WITNESS: Yes, I do.

PAT NEWALU

Was called by and on behalf of the Public, was sworn

1 to tell the truth, was examined and testified as
2 follows:

3 DIRECT EXAMINATION

4 THE WITNESS: I am in support of Hawaiian
5 Memorial Park and the expansion. I have been
6 employed there for 25 years, employed in Kaneohe for
7 36 years. And in my experience assisting families
8 there I find that there is a huge need for families
9 of the loved ones to be together and have a proper
10 final resting place.

11 I'll share my personal story really quick.
12 My father was a World War II veteran. He was part of
13 the 442nd Infantry, and he always spoke -- as I was
14 growing up -- he came to Honolulu when he was very
15 young. And he worked in Kaneohe and he did a lot of
16 tile work for Kaneohe.

17 So he has a love for Kaneohe, but he always
18 shared with us he was a veteran, very proud of that.
19 If anything would happen to him, simply put him in a
20 pine box and take him to Punchbowl, and the VA will
21 take very good care of him. Growing up he said that
22 over and over again.

23 As I grew older I started working for the
24 cemetery. I saw the need and experienced families
25 wanting to be together, and as my father got older he

1 became ill, and he suffered for several years, maybe
2 15 years. And when one day he was not well, and I
3 told him, dad, you want to go Kaneohe, I want to show
4 you where I work.

5 I never really took him up there, because
6 he was always in pain. He said, good, let's go for a
7 ride. Took him to the cemetery. He knows where
8 Punchbowl is. I showed him the Hawaiian Memorial
9 Cemetery.

10 I said, dad, Punchbowl is filling up, so
11 you might want to be here. I showed him the area,
12 beautiful. I said, dad, I want to show you where my
13 spaces are. So I took him to where my spaces were.
14 I said, dad -- so my dad is local, Japanese born in
15 1922, very old fashion.

16 I said, dad, would you prefer to be with
17 your war buddies, or would you prefer to be with
18 Arthur and I here? And he just shortly looked away,
19 and he says, "oh, up to you". That means "yes".

20 He wasn't to one to bother or burden us,
21 but it was so important for him, and he wanted to be
22 with family.

23 So I just want to share that with you. I
24 see that day in and day without, where people come to
25 the cemetery and they want to be with their loved

1 ones. I just want you to take that into
2 consideration. It's important. We need this
3 expansion.

4 CHAIRPERSON SCHEUER: Questions for the
5 witness?

6 MR. MATSUBARA: Thank you.

7 CHAIRPERSON SCHEUER: Commissioners?
8 Commissioner Okuda.

9 COMMISSIONER OKUDA: Chair, I have to make
10 an additional disclosure. I know Ms. Newalu for the
11 fact that a few years ago she helped assist myself
12 and cousin in burying my grandparents after they had
13 resided 40 years at Higashi Hongwanji Temple.

14 That disclosure wouldn't affect my
15 decisionmaking in this case.

16 CHAIRPERSON SCHEUER: Any other questions
17 or comments? Thank you very much.

18 EXECUTIVE OFFICER: Justin Soriano,
19 followed by Mary Piette.

20 CHAIRPERSON SCHEUER: Justin Soriano? Not
21 here. Mary Piette. Please proceed, you're up.

22 THE WITNESS: I prefer standing. Can
23 people hear me, I hope so.

24 Oh, you want to do this first. Mary
25 Piette.

1 CHAIRPERSON SCHEUER: Do you swear or
2 affirm that the testimony you're about to give is the
3 truth?

4 THE WITNESS: Yes.

5 CHAIRPERSON SCHEUER: Please proceed.

6 MARY PIETTE

7 Was called as a witness by and on behalf of the
8 Public, was sworn to tell the truth, was examined and
9 testified as follows:

10 DIRECT EXAMINATION

11 THE WITNESS: Again, my name is Mary
12 Piette, and I'm a resident Pohai Nani. I've been in
13 the islands for 40 years, and as an information
14 specialist and librarian in Kaneohe Hawai'i State
15 Library and former head of Kailua.

16 Now as a resident of Pohai Nani, I have two
17 key issues which I wanted to address.

18 There's a number of trees that are planned
19 to be removed. And this is at a time when already,
20 as you read the newspapers, we are losing -- was it
21 1000 trees?

22 The second is the number of conservation
23 areas we have on this island. Take a look. We have
24 very few conservation land in the islands.

25 Further, I want to address the rainfall.

1 If you live, as we do at Pohai Nani, and I would say
2 I represent almost 100 percent of the 200 residents
3 there, we are looking down at sandbags and flooded
4 creeks.

5 The problem, no matter what you present, is
6 the fact that no one, except people who live here in
7 Hawai'i, can estimate the overwhelming power of the
8 rainfall and the rush that comes from the Ko'olau --
9 from the Ko'olau mountains. And with the global
10 warming, we living at Pohai Nani are experiencing
11 more floods.

12 I would like to read to you -- we have been
13 addressing this issue for quite sometime -- I want to
14 read to you a statement made in 2017 by Dr. Al
15 Keali'i Chock, a nationally known environmentalist at
16 the University of Hawai'i.

17 It is critical, however, I want to remind
18 you that there is a large corporation behind HMP.

19 HMP has been very persistent in their
20 expansion proposal. All of us recognize it.

21 The only supporters are those groups that
22 would expect some financial gain. That is one point.

23 The other is one I feel so very strongly
24 about, Hawai'i is very limited in size, unlike the
25 mainland, unlike Texas, our environment is very

1 fragile, and we, meaning we in Hawai'i, hold the
2 honor of being the endangered species capital of the
3 world.

4 I oppose this on the basis that I have four
5 grandchildren who live here and will grow up here,
6 and they need open space. Thank you.

7 CHAIRPERSON SCHEUER: Are there questions
8 for the witness?

9 MR. MATSUBARA: No questions.

10 CHAIRPERSON SCHEUER: Commissioners?

11 Commissioner Aczon. Ma'am, ma'am, ma'am.

12 THE WITNESS: You have a question? So the
13 record is clear, I am hard of hearing.

14 COMMISSIONER ACZON: Just to make the
15 record clear. I know you say some key issues, but
16 you didn't state your position whether you oppose or
17 support.

18 THE WITNESS: My position, I was the first
19 children's librarian at Kalihi --

20 CHAIRPERSON SCHEUER: If I may, I believe
21 the question from Commissioner Aczon is --

22 THE WITNESS: I'm having trouble hearing.

23 CHAIRPERSON SCHEUER: The question from
24 Commissioner Aczon is are you opposed to or in favor
25 of the acceptance of the EIS?

1 THE WITNESS: I am opposed.

2 CHAIRPERSON SCHEUER: Thank you very much.

3 EXECUTIVE OFFICER: Next witness is

4 Reverend Barbara Grace Ripple, followed by Reverend
5 Samuel Cox.

6 CHAIRPERSON SCHEUER: Good morning.

7 THE WITNESS: Good morning.

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

11 THE WITNESS: I do.

12 CHAIRPERSON SCHEUER: Please state your
13 name and address and proceed.

14 BARBARA GRACE RIPPLE

15 Was called as a witness by and on behalf of the
16 Public, was sworn to tell the truth, was examined and
17 testified as follows:

18 DIRECT EXAMINATION

19 THE WITNESS: My name is Barbara Grace
20 Ripple. My address is 45-090 Namoku Street, Kaneohe,
21 which is the address of Pohai Nani. We're in
22 Apartment 904.

23 CHAIRPERSON SCHEUER: Please proceed.

24 THE WITNESS: My husband and I have been
25 residents at Pohai Nani for almost six years. We

1 hope to continue as long as we live. We love Pohai
2 Nani and we support Pohai Nani. We also support
3 Kaneohe and the areas around us.

4 We love the nature. We love the invasive
5 species. We love all of that.

6 I have to say that I am opposed to
7 accepting this EIS. We have been coming to the
8 meetings here and the neighborhood board for six
9 years, close to six years, which is as long as we've
10 been at Pohai Nani.

11 My understanding, after hearing all sides
12 of the arguments, is that one of the things -- there
13 are many ways in which people who die can be buried.
14 There are many ways that it is done in other places
15 that the land really gets too close. For example,
16 going deep on top of one another, whatever.

17 There are other ways of taking place, and
18 we appreciate, we appreciate so much the cemetery.
19 We really do. But the expansion of it is very
20 harmful to Pohai Nani. We have already seen some
21 damage because of what has been expanded so far.

22 The increase in flooding. The increase in
23 problems. Right now we have three of our cottages
24 who are flooding every time it rains because there's
25 no place for the water to run. And some of this is

1 caused by problems.

2 We do not wish to have more problems
3 brought in. There are other ways, and we feel that
4 perhaps some of the people from Texas might have a
5 difficult time understanding, what life is like here
6 in Kaneohe.

7 So we ask that the EIS not be accepted, and
8 we ask that there be other ways looked at as for
9 providing for our families.

10 Thank you very much.

11 CHAIRPERSON SCHEUER: Thank you. Are there
12 questions for the witness?

13 MR. MATSUBARA: No questions.

14 CHAIRPERSON SCHEUER: Commissioners? Thank
15 you. Commissioner Okuda.

16 COMMISSIONER OKUDA: Thank you very much
17 for your testimony and taking time to come here
18 today. Just kind of like a question or comment.

19 We're here today to determine whether or
20 not to accept the EIS or not accept the EIS.

21 This really, in my view, doesn't have to
22 deal with whether it's a good project or not, whether
23 or not the boundary amendment will be approved or
24 not, that may or may not take place at some other
25 time.

1 You know, the Hawaii Supreme Court has told
2 us that we have to follow the law regarding certain
3 things and certain standards that we have to look at,
4 and that's what we're trying to do. So I just want
5 to assure you that we take our job seriously. We're
6 looking at the standards that have to be applied to
7 determine whether the EIS should be accepted or not,
8 but whether this is ultimately going to be an
9 approved boundary amendment or not approved, that's
10 going to be a separate situation.

11 So I just want to assure you, however, we
12 take our job seriously and we're hearing and
13 listening to all the testimony.

14 Thank you, Mr. Chair.

15 THE WITNESS: And thank you very much.

16 CHAIRPERSON SCHEUER: Thank you. Dan.

17 EXECUTIVE OFFICER: Reverend Samuel Cox,
18 followed by Chuck Burrows.

19 CHAIRPERSON SCHEUER: Aloha, Reverend. Do
20 you swear or affirm the testimony you're about to
21 give is the truth?

22 THE WITNESS: Yes.

23 CHAIRPERSON SCHEUER: State your name and
24 address and proceed.

25 -o0o-

SAMUEL COX

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

DIRECT EXAMINATION

THE WITNESS: Reverend Samuel Cox, retired Methodist minister and former missionary unit to Japan.

I am also a resident of Pohai Nani, and Pohai Nani Residents Association. I was president last year. And we are opposed to the EIS approval.

I would like to say that our major concern is it's the loss of environmental conservation land which can never be replaced. And this is a legacy for our children and our grandchildren.

I would also like to say that we have to face the reality that our space is limited here in Hawai'i. In Japan everyone by law is cremated. I think we all have to consider that. And the trend is more and more people are choosing cremation.

I myself have chosen this. In fact, I willed my body to the University Medical Center. And by the way, they offer free cremation, and they will even pay for your obituary. So I highly recommend it as a great alternative. That's my major issue.

1 Pohai Nani Residents Association's own
2 record is almost unanimously opposed to this project.
3 So I hope we will look at the future -- by the way,
4 in Japan, I was a missionary there. We have a plot
5 about eight-foot by eight-foot for more than 100
6 missionaries. So there's still space there in Japan.

7 And I think I would like to recommend the
8 cemetery look into that, or New Orleans where they do
9 high-rise. You know, high-rise is a way to go. So
10 look at other alternatives, because our space is
11 limited. Sooner or later we're going to have to deal
12 with this. So let's deal with this sooner.

13 CHAIRPERSON SCHEUER: Questions for the
14 witness?

15 MR. MATSUBARA: No questions.

16 CHAIRPERSON SCHEUER: Commissioner Chang.

17 COMMISSIONER CHANG: Thank you very much,
18 Reverend Cox, for your testimony.

19 I wanted to ask you a question. You're the
20 second Pohai Nani resident that has said that Pohai
21 Nani residents unanimously oppose the Petition. Is
22 there a poll? How do you determine that everyone
23 opposes the Petition?

24 THE WITNESS: Well, we had a general
25 meeting. And we asked for a vote. We had a show of

1 hands, and only three people out of our entire
2 membership were in support, and one was Chuck Burrows
3 who is coming up next.

4 COMMISSIONER CHANG: How many people
5 attended your meeting?

6 THE WITNESS: 60 or 70 or so.

7 COMMISSIONER CHANG: Thank you very much.

8 CHAIRPERSON SCHEUER: We're going to take
9 Dr. Burrows as our next testifier, then we will take
10 a ten-minute break after that, exactly ten minutes.

11 CHAIRPERSON SCHEUER: Good morning.

12 Do you swear or affirm the testimony you're
13 about to give is the truth?

14 THE WITNESS: Yes, I do.

15 CHAIRPERSON SCHEUER: Please proceed.

16 CHUCK BURROWS

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

20 DIRECT EXAMINATION

21 THE WITNESS: I'm Chuck Burrows, an
22 environmental educator as well as a Hawaiian cultural
23 practitioner for many years going back 20 or more
24 years when that Kawa'ewa'e Heiau was first
25 discovered.

1 I, with the Queen Emma Hawaiian Civic Club,
2 and later with the Ko'olaupoko Hawaiian Civic Club,
3 have been going there to care for that heiau. And,
4 of course, when the Petition came out by the Hawaiian
5 Memorial Park to develop their cemetery all the way
6 up to Pohai Nani, and that would impact the heiau
7 itself. We were opposed to it.

8 However, I, as a resident of Pohai Nani, am
9 representing myself and not the Pohai Nani residents.
10 And I stand by my written testimony in support of
11 this EIS and revised master plan by the Hawaiian
12 Memorial Park for various purposes that the Hawaiian
13 Memorial Park has really compromised, reduced the
14 areas where they had planned to develop with the
15 buffer zones 2000 feet from their proposed project,
16 150 feet away from the residents, and of course, to
17 establish a conservation easement which I strongly
18 support.

19 And if this plan is approved by this Land
20 Use Commission, I'll be working with others in the
21 environmental groups, cultural groups to enhance the
22 conservation easement where it calls for the
23 protection of that site where no building will ever
24 occur, and to extend the support of the Kawa'ewa'e
25 Heiau.

1 And also to remove the alien invasive trees
2 and planting native trees that should be planted as
3 well.

4 And I think the recommendations of the EIS
5 addresses all of the complaints about the development
6 as well as the damselfly project as well.

7 Now, one of the reasons to conserve this
8 area, especially 150 acres of conservation easement,
9 is also to be able to unite this with a proposed
10 acquisition by the state negotiated for the trust of
11 public lands for the purchasing of 1000 acres up
12 mauka of the existing highway and so forth.

13 So that conservation protection will tie in
14 to the project near Kawa'ewa'e Heiau as well.

15 CHAIRPERSON SCHEUER: Thank you very much.

16 Are there questions for the witness?

17 MR. MATSUBARA: No questions, thank you.

18 CHAIRPERSON SCHEUER: Commissioners?
19 Commissioner Chang.

20 COMMISSIONER CHANG: I just wanted to ask
21 you. Were you interviewed for the cultural impact
22 assessment for this project?

23 THE WITNESS: The question again?

24 COMMISSIONER CHANG: Were you consulted on
25 the cultural impact assessment for this project?

1 THE WITNESS: No, I wasn't interviewed, but
2 I have spoken to others who are associated with
3 developing the master plan about this project here.

4 COMMISSIONER CHANG: Thank you.

5 And one last question.

6 Did you attend the Pohai Nani meeting that
7 Reverend Cox mentioned that there were 60 people?

8 THE WITNESS: Oh, yes. In fact, I was the
9 one that instigated that meeting for the purpose of
10 educating the Pohai Nani residents about the EIS and
11 the plan. And ways, if this plan is approved, the
12 Land Use Commission, how the residents could then
13 participate in the conservation of the 150 or more
14 acres of the conservation easement.

15 COMMISSIONER CHANG: Thank you very much.

16 CHAIRPERSON SCHEUER: Are there any further
17 questions for the witness? Thank you very much.

18 It is now 10:28. We will reconvene at
19 10:38 exactly.

20 (Recess taken.)

21 CHAIRPERSON SCHEUER: We're back on the
22 record.

23 Mr. Orodenker, who are our next two
24 witnesses?

25 EXECUTIVE OFFICER: Rich McCreedy, followed

1 by Dudley Dias. Rich McCreedy, followed by Dudley
2 Dins.

3 CHAIRPERSON SCHEUER: Are the testifiers
4 here? Going once -- Mr. McCreedy.

5 CHAIRPERSON SCHEUER: Do you swear or
6 affirm that the testimony you're about to give is the
7 truth?

8 THE WITNESS: Yes, I do.

9 CHAIRPERSON SCHEUER: State your name and
10 address and proceed with your testimony.

11 RICH MCCREEDY

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

15 DIRECT EXAMINATION

16 THE WITNESS: My name is Rich McCreedy.
17 I'm opposed to the cemetery expansion. My address is
18 45-423 Ohaha Street, Kaneohe, Hawai'i.

19 I feel the EIS should not be accepted
20 because it has not been proven that HMP is out of
21 space.

22 I don't know if you guys have a copy of the
23 EIS now already in your possession, but if you look
24 at Figure 2.1, Chapter 2, page 12 of the Final EIS,
25 it shows a map, a little chart, a figure, that they

1 only have six percent of available plots to sell
2 indicated by yellow. And the rest of the whole
3 cemetery, 80 acres, is all in red.

4 This figure is misleading because elsewhere
5 in the Final EIS they state that in the 80 acres of
6 the cemetery there are 79,000 total plots. There are
7 presently 41,000 people buried. So that's
8 representing 53 percent of the total plots.

9 There are 48 percent of the plots still not
10 utilized. These plots conserve the needs of the
11 community. A better figure would show the total
12 number of unused plots. It's easy to imagine a
13 figure that showed 52 percent red and 48 percent
14 yellow.

15 In my letter to the Draft EIS I asked them
16 could you please provide us an accurate map, because
17 I'm sure they must know this information. Legally
18 they should keep track of who is buried in that
19 cemetery and who's not.

20 If they would provide to the Land Use
21 Commission a map showing exactly where these people
22 are buried and where there's people not buried, and
23 how much space is available that would be a much more
24 indicated trigger to go on.

25 So in summary on that, you know HMP still

1 has a lot of space if they manage their 80 acres
2 efficiently.

3 Ten years ago the LUC took a site visit up
4 to the neighborhood. I hope you also visited the
5 site this year.

6 I ask that the Commissioners please take
7 the time to read the letters of opposition to the
8 Draft EIS. There are many points that can be covered
9 that is hard to cover in three minutes. Thank you.

10 CHAIRPERSON SCHEUER: Thank you very much.
11 Questions for the witness?

12 MR. MATSUBARA: No questions.

13 CHAIRPERSON SCHEUER: Commissioners?

14 I have a question for you.

15 I understood your testimony that we should,
16 you believe we should reject or not accept the EIS
17 because the cemetery has available space?

18 THE WITNESS: Right. One of the main
19 contentions seems to be that they're running out of
20 space.

21 CHAIRPERSON SCHEUER: But is there -- I
22 don't know if your microphone has gone off.

23 THE WITNESS: Sorry.

24 One of our main contentions in the early
25 documents, and that figure claims they are running

1 out of space.

2 CHAIRPERSON SCHEUER: An EIS, the purpose
3 of it is to identify, disclose potential impacts
4 accurately, and the standard associated with a
5 complete EIS versus incomplete EIS. We're not
6 talking about whether or not the project should go
7 forward, just whether or not this project -- what
8 specific legal provisions are you're saying the EIS
9 doesn't need because of this?

10 THE WITNESS: I'm saying that their
11 assumption that the land is too scarce for them to
12 continue to have people be buried, and that the risk
13 to the environment is so extreme, if you look at all
14 the detail of what they plan to do as far as
15 bulldozing and grading the land, that is a crazily
16 extensive project, and to me it's not worth the risk
17 of hurting the environment just because they think in
18 to some terms that they're out of space.

19 If they use the land they have efficiently,
20 they can last for many, many years.

21 CHAIRPERSON SCHEUER: Thank you very much.
22 Any more questions for the witness? Dan.

23 CHAIRPERSON SCHEUER: Dudley Dins, followed
24 by Levi May.

25 CHAIRPERSON SCHEUER: Dudley Dins. We are

1 reading based on your handwriting, so we apologize if
2 we misstate your name. No Dudley Dins? Levi May.

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

5 THE WITNESS: I do.

6 CHAIRPERSON SCHEUER: State your name and
7 address for record and proceed.

8 DUDLEY DIAS

9 Was called by and on behalf of the Public, was sworn
10 to tell the truth, was examined and testified as
11 follows:

12 DIRECT EXAMINATION

13 THE WITNESS: My name is Dudley Dias. I
14 own the property at 45-469 Lipalu Street. I don't
15 live there, but what affects it, affects me. Is that
16 good enough?

17 CHAIRPERSON SCHEUER: Do you have -- so
18 you're a property owner?

19 THE WITNESS: I own that property, correct.

20 CHAIRPERSON SCHEUER: Do you have a
21 position on whether we should accept or not accept?

22 THE WITNESS: That's what I'm asking. I'm
23 not a resident there, but...

24 CHAIRPERSON SCHEUER: You have a property
25 interest. This portion of our proceedings you can

1 testify whether or not you're a property owner.

2 THE WITNESS: Yeah, I own the property.
3 I'm a property owner. My concerns is parking when
4 Memorial Park opens up, people going to want to park
5 and that's not fair to the residents.

6 Another thing too is my concern is the
7 flooding. The road has showed significant site of
8 sweating after heavy rains. The roads starting to
9 show like water seepage coming out. Water seepage
10 can show shifting the land, then we'll have another
11 Palolo incident.

12 Also my concern is about the endangered
13 species. We she just discovered one on Hawai'i, the
14 Big Island, thought to be extinct, a plant related to
15 hibiscus. And now we know for a fact we have
16 endangered species in the valley, and it's not being
17 properly addressed.

18 And what other endangered species do we
19 have in the valley besides insects? There's also
20 mammals, also plants, also many other things.

21 So my concerns is to be fair to the
22 residents. What about the parking?

23 Two, what about the land shift? Is there
24 going to be another Palolo in the making where the
25 land is going to shift and then they going to be

1 stuck with not being able to sell the property
2 because of improper development?

3 And what about the native species? We
4 always talk about protecting the aina and saving it.
5 Why don't we start doing it with the valley?

6 That's my stance on it. That's the three.

7 CHAIRPERSON SCHEUER: Are there any
8 questions for Mr. Dias?

9 MR. MATSUBARA: No questions.

10 CHAIRPERSON SCHEUER: Commissioner Chang.

11 COMMISSIONER CHANG: Thank you so much for
12 your testimony.

13 I wanted to ask you, you said you own the
14 property. Do you live there too?

15 THE WITNESS: I don't live there as of yet,
16 but as I get older I probably move there because it's
17 very peaceful. Essentially centrally located to a
18 lot of what you call like supermarkets and stuff like
19 that.

20 COMMISSIONER CHANG: Have you read the EIS?

21 THE WITNESS: I haven't read it, but I've
22 lived there all my life and nobody ever said anything
23 about the road sweating. It would rain on a
24 Wednesday, and three, three weeks later the road
25 would be sweating. Water keeps coming off the road.

1 And if you take away the -- if you develop the
2 valley, it's what they call flora and fauna, it's
3 called a mat, all the dead leaves and everything that
4 overtime sets up. And the mat holds the water in
5 place and keeps the ground intact. And when you
6 destroy the mat, you're going to destroy all the
7 water being held in place.

8 And probably what you going to see issues
9 when it comes to soil movement and stuff like that.

10 I lived their almost all my life, and the
11 road never used to sweat. And all of a sudden even
12 after like a week-and-a-half, the seepage would still
13 be coming through. That's going have affect on the
14 road and that's going to affect lot of the homes too.

15 COMMISSIONER CHANG: Thank you very much.

16 CHAIRPERSON SCHEUER: Any other questions
17 for the witness?

18 COMMISSIONER ACZON: You didn't state
19 whether you support --

20 THE WITNESS: I definitely do not support
21 it. I oppose.

22 COMMISSIONER ACZON: I just want to make it
23 on the record.

24 THE WITNESS: I oppose. Thank you.

25 EXECUTIVE OFFICER: Levi May followed by

1 Joy Kimura.

2 CHAIRPERSON SCHEUER: Levi May, Joy Kimura.

3 THE WITNESS: Aloha, Chair. I'm here today
4 representing --

5 CHAIRPERSON SCHEUER: Do you swear or
6 affirm the testimony you're about to give is the
7 truth?

8 THE WITNESS: Yes.

9 JOY KIMURA

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

13 DIRECT EXAMINATION

14 THE WITNESS: Joy Kimura. 650 Ewilei Road,
15 Suite 285, Honolulu, Hawai'i 96817.

16 I'm here today representing Hawai'i LECET.

17 Hawai'i LECET is a labor-management
18 partnership between the Hawaii Laborers' Union, Local
19 368, its 5000-plus members and its 250-plus unionized
20 contractors.

21 We submitted written testimony in support
22 of this project. I would like to stand on this
23 testimony and conclude by saying we support this
24 project, not only because of the opportunity for jobs
25 for our members, but also because we believe Hawaiian

1 Memorial Park has adequately addressed community
2 concerns brought up.

3 Thank you for the opportunity to testify.

4 CHAIRPERSON SCHEUER: Thank you. Questions
5 for the witness?

6 MR. MATSUBARA: No questions.

7 CHAIRPERSON SCHEUER: Commissioners? Thank
8 you Ms. Kimura.

9 EXECUTIVE OFFICER: Rene Mansho, followed
10 by Nathaniel Kinney.

11 CHAIRPERSON SCHEUER: Good morning.

12 THE WITNESS: Good morning, aloha.

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

16 THE WITNESS: I do.

17 CHAIRPERSON SCHEUER: Please proceed.

18 IRENE MANSHO

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

22 DIRECT EXAMINATION

23 THE WITNESS: Aloha, Chair, and members of
24 the Commission. Irene Mansho, address is 94-428
25 Kahulialii Street, Mililani. And I'm here today as a

1 very grateful community volunteer that works closely
2 with Hawaiian Memorial Life Plan due to their support
3 for our going green, recycling community clean up
4 project, as well as the Hawaii Lions Club District
5 50.

6 It's been 16 years where the community says
7 there is opala on the side of the street. We have no
8 place to take it. So we volunteer on Saturdays,
9 provide one-stop drop-off place where you can take
10 your opala, and it's all recycled. Nothing goes in
11 the landfill.

12 And Hawaiian Memorial Life Plan has been
13 there sponsoring the volunteers that show up to greet
14 you, take your opala, and make sure everything is
15 being recycled.

16 The Lions Club, all volunteers too. We
17 participated in many processes with the Draft EIS,
18 and listening to the community concerns, and while
19 there is so many valid issues, I think for us it was
20 mainly to let you know that in all our years working
21 with Hawaiian memorial Life Plan Park, they're very
22 dependable and trustworthy. You know that they're
23 worthy of their honor, and they will work with you to
24 mediate or ameliorate any concerns.

25 So it makes you feel comfortable that

1 they're a good neighbor. There's a conflict of
2 interest, because many of us have plots there, or
3 your family or friends are resting in peace there.

4 More importantly, we just built the Gold
5 Star Families Memorial Monument. And many people
6 don't know what Gold Star Families are, and they're
7 the ones left behind after their loved ones died in
8 war or active duty. So the ones left grieving, left
9 behind, now have a place to go and it's all being
10 done as a community service.

11 When you get to work with families who are
12 hurting and they have a way to heal, it makes you
13 feel really beautiful, wonderful that there are so
14 many good groups out there interested in helping.

15 This Final EIS has been very thorough, very
16 respectful. And I've seen how you address all sides
17 of the issue. So I thank you for letting us provide
18 our support for this Final EIS process. Mahalo.

19 CHAIRPERSON SCHEUER: Any questions for the
20 witness?

21 MR. MATSUBARA: No questions.

22 CHAIRPERSON SCHEUER: Commissioners? Thank
23 you.

24 EXECUTIVE OFFICER: Nathaniel Kinney,
25 followed by Julianne McCreedy.

1 THE WITNESS: Hi. I'm Nathaniel Kinney for
2 the Hawai'i Construction Alliance.

3 CHAIRPERSON SCHEUER: Do you swear or
4 affirm that the testimony you're about to give is the
5 truth?

6 THE WITNESS: Yes.

7 NATHANIEL KINNEY
8 Was called as a witness by and on behalf of the
9 Public, was sworn to tell the truth, was examined and
10 testified as follows:

11 DIRECT EXAMINATION

12 THE WITNESS: The Hawai'i Construction
13 Alliance has a couple of points. We support the
14 acceptance of the EIS.

15 One, because this would be a significant
16 project for our members in a down construction
17 market. I don't know if you guys have been watching
18 the news, the work outlook does not look very good,
19 so this would be significant economic benefit for our
20 members.

21 Second, Hawaiian Memorial Park has
22 committed in writing to using 100 percent local
23 workforce. That's really important in these days
24 where you have people coming in and bringing outside
25 workers coming in.

1 Third, this is kind of like a personal note
2 for me. My grandfather and my grandmother are buried
3 out there. My dad, every birthday for my
4 grandmother, he goes out there and puts flowers on
5 her grave and cleans up the plot. And I'm a little
6 saddened to hear that it might not be possible to
7 have him buried there as well. Because I know my dad
8 really respected his mom and dad and I'm just a
9 little worried about that, and I hope this expansion
10 can go through so that he can be buried there one
11 day.

12 CHAIRPERSON SCHEUER: Any questions?

13 MR. MATSUBARA: No questions.

14 CHAIRPERSON SCHEUER: Commissioners?

15 Commissioner Chang.

16 COMMISSIONER CHANG: Thank you for your
17 testimony.

18 I just was just wondering, have you read
19 the EIS?

20 THE WITNESS: I have read portions of it.
21 It's a fairly long document. I wish I could say that
22 I read it cover to cover, but the Hawai'i
23 Construction Alliance has been supportive of this
24 project even before I was executive director, so I
25 read the portions that I think pertain to our members

1 and job benefits and like that.

2 CHAIRPERSON SCHEUER: Commissioner Okuda.

3 COMMISSIONER OKUDA: Thank you very much
4 for your testimony.

5 In reviewing the EIS, did you see anything
6 in there which disclosed what the projected profit
7 would be if this expansion was provided or granted?

8 And the reason why I ask that, since EIS is
9 a planning document to assist a decisionmaking body
10 to make a decision, in the EIS there is an
11 explanation of economic benefits to the community,
12 but to determine whether or not these economic
13 benefits would really take place or not you would
14 think there would be a disclosure of what the
15 expected profit, for example, net income after or
16 before payment of taxes would be.

17 Do you see any kind of disclosure in the
18 EIS of that?

19 THE WITNESS: No. I'm mainly concerned
20 about how many jobs the project will create, and
21 whether or not they're going to go to local workers.

22 COMMISSIONER OKUDA: I'm just asking a
23 question, because if in fact they can't make a
24 profit, there's not going to be any jobs; correct?

25 THE WITNESS: I'm not certain I understand

1 the question, but I don't know.

2 COMMISSIONER OKUDA: Thank you very much
3 for taking your time to be here today.

4 CHAIRPERSON SCHEUER: Thank you.

5 EXECUTIVE OFFICER: Julianne McCreedy,
6 followed by Mahealani Cypher.

7 CHAIRPERSON SCHEUER: Aloha.

8 Do you swear or affirm the testimony you're
9 about to give is the truth?

10 THE WITNESS: Yes, it is.

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

13 JULIANNE MCCREEDY

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

17 DIRECT EXAMINATION

18 THE WITNESS: For the record, my name is
19 Julianne McCreedy, speaking on behalf of our
20 beautiful neighborhood in the Pikoi'loa Subdivision
21 of Kaneohe. My address is 45-423 Ohaha Street, and I
22 am part of a neighborhood coalition that is trying to
23 stop the expansion of Hawaiian Memorial Park.

24 I believe that loved ones need to be
25 memorialized and I'm not here to judge the

1 disposition of people in the past; however, I believe
2 we have a responsibility to the environmentally
3 sensitive to Hawaii's natural resources and limited
4 land.

5 The DEIS indicates that most of the
6 extensive excavation will occur at the western end of
7 the Petition Area that, yet, no mention is made of
8 how such excavation might be mitigated.

9 Cemeteries in the past were sited without
10 regard to environmental consequences. There are
11 numerous published papers, books and articles on
12 cemetery contamination. Cemeteries are basically
13 special kinds of landfills full of toxic chemicals,
14 such as caskets, varnishes, sealers, preservatives,
15 metal handles, and embalmed bodies that can leach
16 into the groundwater.

17 The concrete outer burial containers limit
18 but do not prevent seepage of these associated decay
19 products and microorganisms into the surrounding
20 environment.

21 HMP even acknowledged in a letter to me
22 that the trend towards cremation would reduce the
23 hazardous material concerns that are associated with
24 casket burials. Little attention or research in the
25 U.S. has been given to cemeteries as a possible

1 source of pollution and groundwater contamination.

2 Nevertheless, HMP proposes 30,000 burial
3 plots, and 28 acres of Kawa Watershed region that
4 flows directly into Kaneohe Bay. Although HMP is
5 currently compliant with Hawai'i State cemetery
6 regulations, shouldn't these concerns warrant further
7 study to identify and quantify the risk of the
8 current HMP cemetery before an expansion is allowed?

9 Pesticides and herbicides were found in
10 Kawa Stream as recently as 2017, which could be
11 residuals of past agriculture and ranching
12 activities, or even discharge from the surrounding
13 neighborhood. However, HMP is also listed as a
14 significant source of nonpoint source pollution, so
15 who is to say that the cemetery is not a systemic
16 part of the problem?

17 It has been noted in the past that HMP does
18 not maintain a written log or systematic record to
19 keep them accountable. However, their DEIS did
20 acknowledge that herbicides, pesticides and
21 fertilizers will be used in the future within the
22 proposed project.

23 The Office of Conservation and Coastal
24 Lands have noted --

25 CHAIRPERSON SCHEUER: That's three minutes.

1 If you can summarize.

2 THE WITNESS: Sure.

3 The facts and findings of the Land Use
4 Commission in 2009 are as relevant today as they were
5 back then. Our Kawa and Lipalu Watershed regions
6 still maintain ecological, scenic and historical
7 value.

8 The proposed expansion will pose potential
9 health, safety and ecological risks for our
10 neighborhood. If so much of the Final EIS is still
11 to be determined in the design phase, how can we be
12 assured that unintended consequences will not occur?

13 Please consider this as you determine
14 whether to deny or approve their EIS. Thank you so
15 much for your time and consideration.

16 CHAIRPERSON SCHEUER: Thank you very much
17 for your testimony.

18 Are there questions for the witness?

19 CROSS-EXAMINATION

20 BY MR. MATSUBARA:

21 Q You mentioned the Draft EIS, you refer to
22 the Draft EIS. Were you able to review the Final
23 EIS?

24 A Yes. We went through this ten years ago,
25 so we made sure to go through it thoroughly.

1 Q Current?

2 A Yes, we have a hard copy.

3 Q In the water quality section of the Final
4 EIS, there's references to water quality samples that
5 were taken, and there were no traces of formaldehyde
6 found.

7 A Yes. I'm not taking formaldehyde, talking
8 about decay products from the caskets, from the
9 varnishes, sealers, metal handles and ornaments on
10 wooden caskets, and these could flow directly into
11 the Kaneohe Bay.

12 Q Did you see all the elements they study?

13 A Actually they did say that the pesticides
14 and herbicides were found in Kawa Stream as recently
15 as 2017.

16 Q Now, in terms of the other jurisdictions
17 where you reference concerns with the burial
18 practices, in the response to your comment it was
19 referenced that those jurisdictions are in countries
20 that do not have as stringent burial requirements.

21 A No, actually I have five or six books
22 published in the U.S. and articles that are published
23 in the U.S.

24 Q So you disagree with what data was
25 submitted in the Final EIS?

1 A Yes.

2 CHAIRPERSON SCHEUER: Commissioners,
3 questions for the witness? Commissioner Chang.

4 COMMISSIONER CHANG: Thank you for your
5 testimony. I just want to confirm, it sounds like
6 you read through the EIS, Final EIS.

7 THE WITNESS: This is déjà vu. We did this
8 ten years ago.

9 COMMISSIONER CHANG: I take it that's a
10 yes.

11 THE WITNESS: Yeah.

12 COMMISSIONER CHANG: I understand Hui
13 Pikoi'loa, you have filed a Notice of Intent to
14 intervene?

15 THE WITNESS: Yes. So we filed -- yes.

16 COMMISSIONER CHANG: So it is your intent
17 after this EIS, and after the Petition that's
18 docketed, that Hui Pikoi'loa intends to participate
19 in this project in the proceedings?

20 THE WITNESS: Yes.

21 CHAIRPERSON SCHEUER: Accepting the EIS or
22 not, but --

23 THE WITNESS: We are not accepting the EIS.

24 COMMISSIONER CHANG: I'm just noting that I
25 went through the files that Hui Pikoi'loa did file

1 Notice of Intent.

2 THE WITNESS: Yes.

3 COMMISSIONER CHANG: I intended to ask Mr.
4 Yoshimori that, but it slipped my mind. Thank you
5 very much.

6 THE WITNESS: Thank you for your time and
7 consideration.

8 EXECUTIVE OFFICER: Mahealani Cypher
9 followed by Mo Radke.

10 CHAIRPERSON SCHEUER: Then after that we
11 have three more witnesses signed in on this sheet.
12 If you are intending to testify and you have not
13 signed in yet, there is a sign-in sheet. Aloha
14 again.

15 THE WITNESS: Aloha.

16 CHAIRPERSON SCHEUER: You're still under
17 oath.

18 MAHEALANI CYPHER

19 Was called as a witness by and on behalf of the
20 Public, was previously sworn in to testify, was
21 examined and testified as follows:

22 DIRECT EXAMINATION

23 THE WITNESS: Mahealani Cypher, and I am a
24 lifelong resident of Kaneohe, having lived here
25 nearly 73 years. I have three children, nine

1 grandchildren and five great grandchildren, and I'm
2 here to speak as an individual as how families are
3 very important to Kaneohe.

4 Family concerns from birth to death.
5 Families of Kaneohe are very close to each other, and
6 one of things most connected with that, funerals and
7 burials of their family members. And one of the
8 things I'm concerned about is that there should be
9 opportunity for family members to be buried together,
10 and that is one of the things that many people from
11 Kaneohe have told me they're concerned about. If
12 there is inaccurate space in HMP, they may not be
13 able to be buried near family members.

14 I'm a community historian, story teller,
15 cultural entrepreneur. I formerly wrote many
16 articles, and formerly wrote many articles on
17 planning when I was an editor of the newspaper,
18 community newspaper, and won awards from federal
19 agencies for my efforts in planning.

20 I also have been very active in advocating
21 for preservation of historic sites, and one of which
22 is Kawa'ewa'e, which is within the Project Area.

23 I was gratified to see that the landowner
24 has offered to create a cultural preserve, and
25 involve our community in helping to care for that

1 heiau.

2 I'm here to give strong support for
3 acceptance of this EIS. I have studied EIS's, page
4 by page, many times before. And I see that the
5 efforts made by this developer are commendable.

6 We need to provide burial spaces, because
7 our people want to be buried near their family at
8 Hawaiian Memorial Park, so we hope that this FEIS
9 will be accepted. Mahalo.

10 CHAIRPERSON SCHEUER: Thank you.

11 Are there questions for the witness?

12 MR. MATSUBARA: No questions.

13 CHAIRPERSON SCHEUER: Commissioners?

14 COMMISSIONER CHANG: Aloha. I wanted to
15 ask you, you said you read the EIS? Did you read the
16 Cultural Impact Assessment?

17 THE WITNESS: Yes.

18 COMMISSIONER CHANG: Were you interviewed
19 in that?

20 THE WITNESS: Yes, I was, several times by
21 different people.

22 COMMISSIONER CHANG: Did you read the
23 Archaeological Inventory Survey Report?

24 THE WITNESS: The first one.

25 COMMISSIONER CHANG: The one that is part

1 of this EIS?

2 THE WITNESS: Yes.

3 COMMISSIONER CHANG: Has the Koolaupoko
4 Hawaiian Civic Club, is the intention that the civic
5 club will be the stewards of the cultural preserve?
6 Has that been worked out?

7 THE WITNESS: I think they're still working
8 on how that will be. I was most interested in the
9 fact that the landowner is willing to create a
10 cultural preserve, and community involvement will
11 definitely be part of that plan.

12 COMMISSIONER CHANG: Thank you.

13 CHAIRPERSON SCHEUER: Are there further
14 questions for Ms. Cypher? Mahalo.

15 EXECUTIVE OFFICER: Mo Radke, followed by
16 Alicia Maluafiti.

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

20 THE WITNESS: I swear.

21 MO RADKE

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

25 DIRECT EXAMINATION

1 Aloha. Thank you for allowing me the
2 opportunity to speak.

3 I am a 27-year resident of Hawai'i. Been
4 on the Kaneohe Neighborhood Board for nine years, and
5 I've been serving as its chair for the last five.

6 But I'm here today not in that capacity,
7 I'm here as a resident of 45-674 Apuakea Street,
8 across the street from Hawaiian Memorial Park.

9 It's true that there have been lots of
10 iterations of the EIS for this property. And I'd
11 just like to say that the Hawaiian Memorial Park team
12 started off with an item that wasn't that great, and
13 they changed it based on community input, and it
14 still wasn't that great. And more community input
15 and they changed it. And then they changed it again.

16 So I would like to say I'm in support of
17 this FEIS, and I also appreciate the effort of HMP to
18 meet the needs of the community. And if there still
19 are issues that need to be flushed out, perhaps, they
20 don't need to be, but what I've seen, and from what
21 I've read in the EIS, the EA's and things that are
22 benefitting the hui and the community, I'm
23 appreciative of. So thank you very much.

24 CHAIRPERSON SCHEUER: Thank you very much.
25 And thank you for waiting for your turn to testify.

1 Are there questions from the Petitioner?

2 MR. MATSUBARA: No questions.

3 CHAIRPERSON SCHEUER: Commissioners?

4 Commissioner Chang.

5 COMMISSIONER CHANG: Mr. Radke, has

6 Hawaiian Memorial Park come to the Kaneohe

7 Neighborhood Board to present their project?

8 THE WITNESS: Yes.

9 COMMISSIONER CHANG: On numerous occasions
10 or just once?

11 THE WITNESS: More than once.

12 COMMISSIONER CHANG: Thank you.

13 CHAIRPERSON SCHEUER: Are there other
14 questions for the witness? Thank you very much.

15 THE WITNESS: Forgive my departure, I have
16 to pick up my granddaughter.

17 CHAIRPERSON SCHEUER: We will keep up and
18 party without you.

19 EXECUTIVE OFFICER: Alicia Maluaffi,
20 followed by Lianne Chang.

21 CHAIRPERSON SCHEUER: Do you swear or
22 affirm that the testimony that you're about to give
23 is the truth?

24 THE WITNESS: I do.

25 CHAIRPERSON SCHEUER: Make sure you speak

1 directly into the microphone.

2 THE WITNESS: I've been told I have no
3 problem being heard.

4 ALICIA MALUAFITI

5 Was called as a witness by and on behalf of the
6 Public, was sworn to tell the truth, was examined and
7 testified as follows:

8 DIRECT EXAMINATION

9 My name is Alicia Maluafiti, 91-285 Fort
10 Weaver Road, Ewa Beach, Hawai'i.

11 You're probably wondering why somebody from
12 Ewa Beach is coming all the way over here. Well,
13 it's because we have four generations over here in
14 HMP, my great, great grandfather, my great
15 grandfather is the first HPD solo bicycle officer
16 killed in the line of duty. He is buried there with
17 my great grandmother, including my grandparents, and
18 four more generations.

19 We have another three waiting in line to
20 look for someplace to be buried.

21 I'm all the way from here from Ewa because,
22 as you know, as Land Use Commissioners -- and I'm in
23 support of the Final EIS, by the way.

24 As you know as LUC Commissioners, all the
25 population growth and the residential housing is

1 happening on the west side, 35 percent population
2 growth. When is the last time the windward side had
3 any residential housing?

4 Let me tell you what that says to us. We
5 build all these houses. We have nowhere to bury our
6 people. So even family that's born and raised in
7 Kaneohe, they're not raising their families here any
8 more, they're sending them out to us.

9 Where I live in Ewa Beach you cannot drill
10 down one foot before you hit coral. We are not going
11 to be able to bury our families on the west side. We
12 need a place to bury them, and this is the place that
13 we are going to do it.

14 I read the summary of the Final EIS. There
15 has been no new public cemetery on this island for 50
16 years. That's in Section 2-14 of the Final EIS.

17 That isn't going to be a concern for those
18 of us who are looking for those final resting places.
19 And I will tell you, I'm going to be cremated. I
20 want to land with the rest of my family. I don't
21 want my ashes spread out in the ocean, out in Ewa
22 Beach. We want the rest of our ashes, including my
23 husband of 20 years who died, I have his ashes. We
24 need to go somewhere, and we need a place like
25 Hawaiian Memorial Park.

1 Guess what else we have on the west side?
2 I get tired of hearing, not in my backyard
3 explanation. We have Kahi Power Plant, we have
4 H-Power. We have the Waimanalo Gulch, the dump. We
5 have PVC construction waste, and we have every
6 refinery, coal power plant, you name it, in Campbell
7 Industrial Park.

8 Is it okay if we just have a little
9 cemetery to bury our families? It's beautiful over
10 here. What you got on the west side, not so pretty.
11 So I'm just here to advocate for this cemetery and
12 those burials plots for the rest of our families. We
13 have nowhere else to put them. Thank you.

14 CHAIRPERSON SCHEUER: Petitioner,
15 questions?

16 MR. MATSUBARA: No questions.

17 CHAIRPERSON SCHEUER: Commissioners?
18 Mahalo.

19 EXECUTIVE OFFICER: Lianne Chang, followed
20 by Puanani Akaka.

21 THE WITNESS: Good morning. I have a
22 protocol, I am --

23 CHAIRPERSON SCHEUER: Would you like to
24 read testimony on behalf of another individual?

25 THE WITNESS: Yes. Should I sign in for

1 her or what the --

2 CHAIRPERSON SCHEUER: Just make clear in
3 your oral testimony who you are and who you're
4 reading on behalf of.

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

7 THE WITNESS: Yes, I do.

8 CHAIRPERSON SCHEUER: State your name for
9 the record and then your mother's name.

10 THE WITNESS: So I'm Puanani Akaka. I'd
11 like to read a message from my mother Ellen Akaka,
12 also on behalf of my father. They live at 45-442
13 Ohaha Street, which is right -- their property abuts
14 HMP.

15 PUANANI AKAKA
16 Was called as a witness by and on behalf of the
17 Public and Ellen Akaka, was sworn to tell the truth,
18 was examined and testified as follows:

19 DIRECT EXAMINATION

20 So her statement is:

21 Our property has over many years been
22 affected by flooding caused by mudslides that appear
23 to have been emanated from HMP. Needless to say, we
24 have serious concerns about their future plans to
25 expand. We have just learned that there are plans

1 for detention basins to be positioned at the top of
2 our property. We have not heard this issue discussed
3 in any previous meetings and have no idea what the
4 potential impact would be.

5 In addition to our ongoing previous
6 concerns, we have also just learned that the
7 neighborhood will be affected by construction issues
8 for one to one-and-one-half years, including the
9 continual noise and the dust, etc., which goes along
10 with it.

11 This is not an issue that has been
12 addressed during any of the meetings previous to this
13 latest report. This is not acceptable.

14 Keep in mind that our neighborhood, which
15 is made up largely of an older population, some with
16 health issues typical to that age group, will be
17 severely impacted by that ongoing project. And we
18 are all concerned, regardless of HMP's assurances
19 that there will be no problems.

20 Please reconsider this project for the
21 health and safety of the residents. There are
22 alternatives to expansion of the cemetery.

23 That is the end of it.

24 CHAIRPERSON SCHEUER: Are there questions
25 for the witness, Petitioner?

1 MR. MATSUBARA: No questions.

2 CHAIRPERSON SCHEUER: Commissioners?

3 Commissioner Cabral.

4 VICE CHAIR CABRAL: There has been a few
5 references to flooding and water concerns. And I'm
6 from Hilo, so I know water. And so because I see a
7 lot of property, I manage a lot of properties.

8 Have there been -- has the city and county
9 or any agencies come in and done studies for you
10 folks as homeowners, or for your parents as
11 homeowners that you are aware of over the years as to
12 what the cause of this, and or how frequent it is?
13 Do you have -- I had 50 inches in three days in my
14 yard a few months ago, and on some occasions that
15 happens.

16 Is there any real knowledge as to what the
17 cause is that your family knows?

18 THE WITNESS: To our knowledge, there has
19 not been any study by city and county. I know, since
20 the floods last year that happened on Kaua'i and
21 Waimanalo, the city and county has come and dug out,
22 cleaned out the embankment that's right behind their
23 property that has the water coming down, they will
24 come and clean that out.

25 But I don't know if any study from the city

1 and county or the state that has flooding concerns
2 from up the hillside.

3 CHAIRPERSON SCHEUER: Any other questions
4 for the witness? Lianne Chang. Lianne Chang. Thank
5 you.

6 THE WITNESS: I was going to read -- I was
7 unclear about the process.

8 CHAIRPERSON SCHEUER: Please proceed.

9 THE WITNESS: Okay, thank you.

10 PUANANI AKAKA

11 DIRECT EXAMINATION

12 THE WITNESS: I have a different address.
13 My address is P.O. Box 62125, Honolulu, Hawai'i
14 96839.

15 I came across some information from the
16 National Funeral Directors Association that -- I
17 should restart again. I'm actually opposed to the
18 FEIS.

19 In the National Funeral Directors
20 Association I have come across articles that state
21 cremations are up. Hawai'i has the highest cremation
22 rates in the country, 73 percent of families choosing
23 that option, but I didn't see anything in the EIS
24 that had Hawaiian Memorial Park allowing residents to
25 come up with any sort of alternative for that,

1 studies on asking the community whether they would
2 rather have cremations done, perhaps have legacy
3 trees. There was no studies done or polls asking the
4 residents for that option instead of burials.

5 And I realize for me it does have an impact
6 with some air pollutants, but according to public
7 health, there's no hazard from ashes. So that would
8 be a huge relief on the environment in terms of
9 burials to be cremations instead, and offered that
10 option more often.

11 This whole project is such a violent impact
12 on the environment. Trees have already been
13 mentioned. CNN had a report about one trillion trees
14 needed to be planted to stop global -- and yet, we're
15 actually asking people to uproot all these trees.

16 The one thing I notice also in the EIS
17 specifically where they talked about avian impacts.
18 They stated in their EIS that they had no evidence of
19 barn owls, and yet I've been hearing them around my
20 house for years. So I'm unclear how they missed the
21 barn owl, and if they missed the barn owl, then what
22 else have they missed in the impact statement?

23 There's also studies that have found that
24 pueos have been sighted in Kaneohe and Kailua, yet
25 they haven't seen them, and I have to wonder what are

1 they missing? If we raise that land, we have no idea
2 what we are losing because we don't know what we have
3 there. That's my biggest concern.

4 We also don't know the full extent of
5 Kawa'ewa'e Heiau. It's not just the stone walls on
6 the hill, it's a huge complex. We don't know how far
7 it goes. We don't know whether there's sister heiaus
8 across the valley. If you have been up there, you
9 can see the entire valley --

10 CHAIRPERSON SCHEUER: If you can summarize.

11 THE WITNESS: Those are my biggest concerns
12 again the environment, and what are we losing.

13 Thank you.

14 CHAIRPERSON SCHEUER: Further questions for
15 the witness?

16 MR. MATSUBARA: No questions.

17 CHAIRPERSON SCHEUER: Commissioners?
18 Commissioner Chang.

19 COMMISSIONER CHANG: You oppose the EIS?

20 THE WITNESS: Yes.

21 COMMISSIONER CHANG: And you oppose it on
22 environmental grounds.

23 Have you read the Petitioner's studies on
24 flora-fauna?

25 THE WITNESS: I read that portion, yes.

1 COMMISSIONER CHANG: You disagree with
2 their conclusion?

3 THE WITNESS: There is a section talks
4 about barn owl. Didn't see any barn owl. I've been
5 seeing them and hearing them for years right around
6 that property.

7 COMMISSIONER CHANG: Have you read other
8 portions of the EIS related to flooding?

9 THE WITNESS: My parents wrote that
10 portion, I didn't.

11 COMMISSIONER CHANG: I know your parents
12 aren't here, but is it their opinion that those
13 studies are not adequate?

14 THE WITNESS: Yeah. They don't find them
15 adequate.

16 COMMISSIONER CHANG: Are you aware of any
17 other studies that may have been done?

18 THE WITNESS: No.

19 COMMISSIONER CHANG: Thank you very much.

20 CHAIRPERSON SCHEUER: Lianne Chang followed
21 by Perry Asato.

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

24 THE WITNESS: Yes.

25 -o0o-

LIANNE CHANG

Was called by and on behalf of the Public, was sworn to tell the truth, was examined and testified as follows:

DIRECT EXAMINATION

THE WITNESS: My name is Lianne Chang, 45-431 Ohaha Street, the street that immediately abuts the area of several concerns.

My main concern is for the laua'e fern, which is abundant in this area that they're going to expand upon. They did mention, or they did show a picture of their plans to preserve certain areas of the laua'e. I don't think that's adequate enough because I am a cultural practitioner. I dance hula. So we use that fern to adorn ourselves or kahiko. There are several halaus in the area and even on the other side of the island. They come here specifically to gather the laua'e fern.

And just the cultural preserve commitment for that, I do believe that it's going to be greatly impacted because the laua'e needs the trees. They thrive in the shade of the trees and the moisture that the canopy gives to them.

And I think that the laua'e is greatly impacted by this, therefore, our ability to safely go

1 to an area that is accessible for us to gather what
2 we need for our dance.

3 And I think I did hear someone mention
4 about just that people, including myself, cultural
5 practitioners would have access to keys to the area.
6 They would protect it. Not quite sure if that was
7 adequately explained in the EIS, I'm not sure. So
8 I'm concerned about that.

9 Another concern is they mentioned they were
10 going to help maintain cultural preserve area.
11 Sounds like a third party that's going to be
12 intervening and arranging for this. I'm not sure who
13 that is, or what the process is and how regularly
14 they're going to maintain the area. It is pretty
15 much overgrown right now. I commend their efforts to
16 try to address this issues.

17 One other concern is rock walls. I didn't
18 realize after reading portions of the EIS how the
19 boulders, I guess, and the rocks that are in that
20 area, when they grade the area, I think it's going to
21 make it unstable. And it's even mentioned that
22 there's an area above the cultural preserve that has
23 a lot of boulders. I'm not sure. I don't think they
24 adequately addressed that. For my safety, when I go
25 to gather, I don't want to have to look for boulders

1 coming down from the hillside.

2 Those are my main concerns. Are there
3 questions?

4 CHAIRPERSON SCHEUER: Questions from the
5 Petitioner?

6 CROSS-EXAMINATION

7 BY MR. MATSUBARA:

8 Q Ms. Chang, you were interviewed for the
9 cultural impact analysis, were you not?

10 A No.

11 Q You weren't?

12 A I don't remember if I was.

13 Q Were you given a map of the area and asked
14 where you frequent on the property?

15 A I'm sorry, yes.

16 Q Marked the map where you went?

17 A Yes.

18 Q So you were interviewed for the cultural
19 impact?

20 A (Witness nods head up and down.)

21 Q So we have your sketch as to where you
22 frequent on the property?

23 A (Witness nods head up and down.)

24 Q Did it include the cultural area preserve
25 that is going to be designated?

1 A What was the question again?

2 Q Does the area you frequented include the
3 cultural area preserve that's contemplated?

4 A Yes.

5 Q It you did?

6 A The one small portion. I go to several
7 different areas along that hillside.

8 Q And you marked it off?

9 A Yes.

10 Q Thank you. No further questions.

11 CHAIRPERSON SCHEUER: Commissioners?

12 COMMISSIONER CHANG: Aloha, Dr. Chang.
13 Thank you for being here today. I just wanted to
14 follow up on your statement that you're a cultural
15 practitioner.

16 You're a kumu hula, and you take your halau
17 to --

18 THE WITNESS: I'm sorry, I'm not a kumu
19 hula.

20 COMMISSIONER CHANG: But you actually go up
21 to the area and gather laua'e?

22 THE WITNESS: Yes.

23 COMMISSIONER CHANG: How big an area do you
24 gather?

25 THE WITNESS: It kind of depends on the

1 time of the year that we go. There's certain areas
2 that are more abundant during different seasons of
3 the year. But I pretty much walk along the whole
4 hillside there, different areas.

5 COMMISSIONER CHANG: You also said other
6 cultural practitioners also gather laua'e there?

7 THE WITNESS: I know some other dancers and
8 halaus that go there.

9 COMMISSIONER CHANG: I'm looking at their
10 Cultural Impact Assessment as to how would they
11 propose to address the laua'e or what you gather.

12 Have you read the Cultural Impact
13 Assessment?

14 THE WITNESS: I have not gone through the
15 whole -- just kind of bits and pieces.

16 COMMISSIONER CHANG: Based upon your
17 current use and other hula practitioners who gather
18 laua'e, what would you like -- what would be your
19 recommendation as to what the appropriate, an area,
20 if they're going -- let me just ask you.

21 What is your recommendation?

22 THE WITNESS: I would like the largest area
23 of the hillside to remain with as much trees as
24 possible, because, again, the laua'e thrives in the
25 shade and the moisture provided by the trees -- a

1 larger area to be preserved.

2 COMMISSIONER CHANG: Could the laua'e
3 thrive in the cultural preserve if there are more
4 vegetation, more trees?

5 THE WITNESS: I think that would help, yes.

6 COMMISSIONER CHANG: Do you think that's an
7 adequate area?

8 THE WITNESS: No, sorry, just again, I know
9 several halau that do utilize that area, yeah.

10 COMMISSIONER CHANG: Are there other things
11 that you gather or you know of other practitioners
12 who gather in the area?

13 THE WITNESS: I know of other practitioners
14 that gather in the area. I know that there are very
15 small patches of laua'e fern that grow there. Again,
16 it needs shade. It's very low on the hillside on the
17 side near Kawa'ewa'e Heiau, but there is not much
18 cover there. It's dried out, but still some very
19 small patches.

20 COMMISSIONER CHANG: Do you have other
21 cultural concerns regarding the continued use of the
22 area?

23 THE WITNESS: I guess just -- is just the
24 process. I know they're working on a process to
25 allow people, cultural practitioners access to the

1 area. I just hope it's not like going to be too
2 difficult for access to the area when we need to go
3 there. It's not just for Merrie Monarch time. A lot
4 of halaus -- we have shows that we do, Waikiki or
5 gatherings or anything like that. So we need access
6 throughout the year.

7 COMMISSIONER CHANG: Do you currently have
8 good access right now?

9 THE WITNESS: Yes.

10 COMMISSIONER CHANG: So that's one of your
11 major concerns, continued access?

12 THE WITNESS: Continued access. Making the
13 area safe, and that's all good, but I just hope we
14 don't have to go through a whole long process to be
15 able to have access, because sometimes things come up
16 quickly, you want to go when you have the time to go.

17 Now, I work five, six days a week, and I'm
18 on call sometimes, because I want to have the access
19 there when I need to get there to gather the ferns.

20 COMMISSIONER CHANG: Thank you very much.

21 CHAIRPERSON SCHEUER: Are there further
22 questions for Dr. Chang? Commissioner Okuda.

23 COMMISSIONER OKUDA: Thank you very much,
24 Chair. Thank you, Dr. Chang.

25 Again, we're trying to focus on whether or

1 not this EIS is sufficient under the law, which may
2 not necessarily be whether or not this is ultimately
3 a good project.

4 So reading from Hawai'i Supreme Court case
5 that lays out the rules that we have to follow, and
6 we as a Commission, many times we have to follow
7 these rules whether we personally agree with the law
8 or not, because that's --

9 This comes from a case called Price versus
10 Obayashi, where the Supreme Court said an EIS need
11 not be exhaustive to the point of discussing all
12 possible details bearing on the proposed action, but
13 will be upheld as adequate if it has been compiled in
14 good faith, and sets forth sufficient information to
15 enable the decisionmaker to consider fully the
16 environmental factors involved, and to make a
17 reasoned decision after balancing the risk of harm to
18 the environment against the benefits to be derived
19 from the proposed action, as well as to make a
20 reasoned choice between alternatives.

21 Now, specifically regarding the cultural
22 aspect that you're testifying about, do you believe
23 this Environmental Impact Statement provides enough
24 information, provides enough information so we as the
25 LUC can weigh the advantages and disadvantages of

1 impact, advantage on cultural practice, or do you
2 think that there isn't enough information there to
3 make a reasoned decision or weigh the impact?

4 THE WITNESS: It would be nice to see more
5 specifics, I guess, on what the plan is as far as the
6 upkeep of the heiau.

7 Are you going to have volunteer groups
8 coming in? How often? And then I guess the other
9 question is: What is the process to gain access to
10 the area when I need to gather the ferns, myself and
11 other practitioners of hula?

12 COMMISSIONER OKUDA: Thank you very much.

13 THE WITNESS: I didn't see the details.

14 COMMISSIONER OKUDA: Thank you very much.

15 CHAIRPERSON SCHEUER: Are there further
16 questions? I have a couple questions.

17 One has to do with my having been
18 (decipherable) -- want to make sure we are clear on
19 the record.

20 We often see laua'e plants all over in full
21 sun. Why can you not use that laua'e?

22 THE WITNESS: The reason is when you pick
23 laua'e, you want to use the laua'e that is dark
24 green, and you will only find that when it has been
25 growing under shade and when it has adequate water.

1 And again, certain times of the year, summer for
2 instance, you will have hard time finding the dark
3 leaves because it's a dry time of the year.

4 So all you see the yellow leaves, you're
5 going to see leaves with scores. We cannot use that.

6 CHAIRPERSON SCHEUER: So for the preserve
7 area, you would like to ensure that there is
8 sufficient canopy cover retained so that it is not
9 just present or absence of laua'e, but the proper
10 quality?

11 THE WITNESS: Exactly.

12 CHAIRPERSON SCHEUER: Again, building on
13 Commissioner Okuda's comments.

14 Our decision today is did the EIS meet the
15 requirements of Hawai'i law, administrative rules,
16 case law, in terms of disclosing impact?

17 Your concerns about access and things, do
18 you understand these to be the LUC, if this project
19 proceeds, may put conditions in place on a district
20 boundary amendment?

21 THE WITNESS: No, I don't.

22 CHAIRPERSON SCHEUER: So I believe there's
23 one condition is that in terms of adequacy of the
24 EIS, if we find the EIS is adequate, we can then
25 actually proceed with a hearing. If we proceed with

1 the hearing and the Commission does decide that the
2 requirements for district boundary amendment are met,
3 we can put conditions on that which could include
4 conditions for the protection of traditional and
5 customary practices in the area.

6 THE WITNESS: I understand.

7 CHAIRPERSON SCHEUER: That was it. Mahalo.

8 Our final two witnesses, Perry Asato,
9 followed by Weston Welsh.

10 MS. ASATO: He has laryngitis, so he asked
11 me to read it.

12 CHAIRPERSON SCHEUER: The record will
13 reflect that Mr. Asato is here, but because he has
14 laryngitis his testimony will be read by you.

15 Do you swear or affirm the testimony being
16 read for you is the truth?

17 THE WITNESS: Yes.

18 MARY ASATO

19 Was called as a witness by and on behalf of the
20 Public and Perry Asato, was sworn to tell the truth,
21 was examined and testified as follows:

22 DIRECT EXAMINATION

23 THE WITNESS: Mary Asato, 45-154 Popoki
24 Street, Kaneohe.

25 Why were laws created? To protect people

1 and the public who enforces the law, the police
2 officers.

3 Why were sanctuaries, preservation or
4 conservation lands created? To protect the land and
5 wildlife.

6 If you can't enforce the law or rules for
7 conservation lands, why did you make it? It makes no
8 sense.

9 If this expansion is accepted, I guess
10 grandma and grandpa will be able to see their grave
11 from Pohai Nani.

12 How comforting is that?

13 Please enforce what you have created.
14 Protect this conservation lands. This is Hawaii,
15 show some aloha. And lets keep Hawaii, Hawaii.

16 CHAIRPERSON SCHEUER: Commissioners? Thank
17 you very much.

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

20 THE WITNESS: Yes, I do.

21 WESTON WELCH

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

25 DIRECT EXAMINATION

1 THE WITNESS: I'm representing the Outdoor
2 Circle here today. Thank you for this opportunity to
3 do so.

4 It's always hard to follow a very short and
5 sweet and elegant presentation like we just had. And
6 there's been many excellent speakers here today on
7 both sides. I realize this is an issue that touches
8 the heart strings of people on both sides, and we
9 appreciate that.

10 I am going to be addressing mostly the
11 ecological and scenic concerns that are in this EIS,
12 and we are opposed to it, the change of conservation
13 land.

14 This is especially concerning to our Kailua
15 and Kaneohe branches as well. The statewide office
16 of Outdoor Circle does oppose the proposed expansion
17 of this Hawaiian Memorial Park, and reclassification
18 of lands being proposed, because we do not feel it
19 would be good stewardship of the land, nor do we
20 believe that such a reclassification would be
21 consistent with the constitution to conserve and
22 protect Hawai'i's natural resources. Therefore, we
23 ask that you maintain the existing classification of
24 the land.

25 I did receive a letter back from HHF

1 Planners, March 29th, to a letter I had sent to them
2 in October last year. And so most of my comments
3 will be based on what they sent back to me.

4 They did say that the Petitioner's being a
5 good neighbor by modifying initial plans in 2008
6 incorporating elements that are beneficial to
7 minimize effects and address prior concerns.

8 But we would say that our concerns remains
9 substantially the same with this reading of the
10 previous plan.

11 We do have an official statement from our
12 board that is still in effect from May of 2011 when a
13 similar expansion was proposed, but the reasons are
14 too numerous to list here. However, the Petitioner
15 has said that they have had several meetings over the
16 years with the Kaneohe Neighborhood Board, community
17 members, government agencies, and others to address
18 concerns of the previous plans, but -- and that those
19 plans have been addressed and mitigated, however, I
20 would say that based on the testimony I've heard
21 today, that those -- while those concerns may have
22 been addressed, I don't think that they have been
23 mitigated adequately to what your testifiers have
24 shown today.

25 The entire ahupua'a, from the ridge to

1 shore, the stream, the bay, the fishponds, the
2 resultant destruction of native plant and animal
3 ecosystems and the destruction of scenic landscapes
4 for Kailua with loss of critical watershed elements
5 and under-capacity of retention ponds are --

6 CHAIRPERSON SCHEUER: Three minutes. If
7 you would summarize.

8 THE WITNESS: Yes, I can.

9 While one specific maintenance involving
10 things like lycos phosphate being discharged into the
11 stream, and that that would not have much of an
12 adverse effect there, but obviously lawsuits on the
13 federal level that would -- should be read now we are
14 talking about the potential contamination.

15 But we do believe that when an area is
16 deforested and natural canopy and environment is
17 destroyed as proposed, the result is certain to lead
18 to detrimental effects as we have testified, and we
19 would ask that these -- that this land use ordinance
20 not be permitted to be changed, that people expect
21 conservation land to be conserved. Just from a plain
22 reading and understanding when the area residents
23 think something is conservation, it's conservation to
24 be preserved as-is and I appreciate the opportunity
25 to testify.

1 CHAIRPERSON SCHEUER: Questions for the
2 witness?

3 MR. MATSUBARA: No questions.

4 CHAIRPERSON SCHEUER: Commissioners?
5 Commissioner Okuda.

6 COMMISSIONER OKUDA: Thank you, Mr. Chair.

7 Thank you, Mr. Welch, for testifying.

8 Again, looking at the standard that the
9 Hawaii Supreme Court in Butler versus Obayashi case
10 says we have to apply -- look at two things:

11 Number one, whether or not the EIS has been
12 compiled in good faith; and number two, whether or
13 not it sets out sufficient information as described
14 by the Supreme Court so that we can make a decision
15 at possibly some other time.

16 So my first question to you is what
17 evidence does you or your organization have that this
18 EIS was compiled not in good faith? In other words,
19 what evidence do you have that the EIS was compiled
20 let's say in bad faith?

21 THE WITNESS: Well, I'm not going to say
22 that the EIS was compiled in bad faith. I think all
23 people are acting according to their own good faith,
24 just that we have a different opinion on the impact
25 of what we consider to be an important watershed area

1 that should be maintained as-is.

2 COMMISSIONER OKUDA: And frankly, a
3 difference of opinion I think is the strength of
4 American democracy, where we, in an open forum, air
5 out differences. I think everybody here has been
6 respectful of the process because we love our islands
7 here. That's really good it's done that.

8 But getting back to the standard that the
9 Supreme Court is saying we have to comply with, can
10 you or your organization point to specifically where
11 the EIS isn't a sufficient disclosure of information
12 which would allow us to weigh the pros and cons or
13 the advantages or disadvantages?

14 In other words, if you can point out maybe
15 one or two instances where you or your organization
16 believes the EIS does not give the sufficient
17 information required by the Butler versus Obayashi?

18 THE WITNESS: I think it would be in our
19 interpretation of what is sufficient or insufficient.
20 For example, where it talks about Section 3.12 of the
21 Draft EIS, it discusses substantial amount of grading
22 activities would occur to construct the cemetery
23 expansion that would result in significant change and
24 impact on soils and rock material present.

25 Says, while several mitigative measures and

1 best management practices were identified to address
2 both short and long-term effects of the project. But
3 we would say that in our comments we said that these
4 do lead to detrimental effects.

5 So just by the admission here with
6 significant change and impact on existing soils and
7 rock material present, is that a detrimental effect?
8 Is that enough to be considered detrimental effect
9 when it's from the Petitioner? Is the loss of canopy
10 coverage that we've heard that there's maybe the
11 native owls or the ferns that are growing, while the
12 Petitioner might say this is not, it will not
13 increase runoff into the stream, nature seems to do a
14 fairly good job of absorbing water as it is. And
15 when we cut down the canopy, it's just common sense
16 that the watershed cannot absorb as it did in its
17 natural state.

18 So we would respectfully say that our
19 understanding of how the watershed works, while we
20 don't have experts that are testifying against this,
21 and have done analysis on this, that we would come to
22 a logical common sense understanding that the
23 watershed in its natural form is the best way of
24 keeping this land preserved.

25 COMMISSIONER OKUDA: Quick followup.

1 Regarding that, do you believe the EIS
2 gives enough of a warning to us as LUC that, hey, if
3 you approve this project, the EIS is telling us this
4 is the downside risks that you're exposing the
5 community to?

6 THE WITNESS: No.

7 COMMISSIONER OKUDA: Thank you.

8 CHAIRPERSON SCHEUER: Any further questions
9 for the witness? Thank you.

10 Seeing none, I'm going to close the public
11 testimony portion of this hearing. It is now
12 11:50 a.m. While we work for free, we do require
13 food and water. So I would like to take a 45-minute
14 break to follow up where we are in our proceedings
15 now having completed the public witness portion of
16 our proceedings.

17 After our break, the Petitioner will have a
18 chance to present their case. After that the
19 comments will be received from City and County of
20 Honolulu and Office of Planning.

21 Then go to the final phase which is
22 deliberation on the matter before us, which is either
23 acceptance or denial of, or nonacceptance of the
24 FEIS.

25 Petitioner, how long do you anticipate

1 needing for your case?

2 MR. MATSUBARA: About an hour, hour and a
3 half at the most.

4 CHAIRPERSON SCHEUER: So we might get
5 through this today. It is 11:50. We will reconvene
6 at 12:40 p.m.

7 (Noon recess taken.)

8 CHAIRPERSON SCHEUER: It is 12:40 on the
9 nose. We're back in session, and we're going to
10 proceed with the Petitioner's presentation.

11 MR. MATSUBARA: Thank you, Mr. Chair. I
12 would like to call the first witness Jay Mortford.

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

16 THE WITNESS: I do.

17 JAY MORTFORD

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

21 DIRECT EXAMINATION

22 THE WITNESS: My name, for the record, is
23 Jay Mortford. Address is 1330 Mauna Kea Street,
24 Honolulu, Hawai'i.

25 By MR. MATSUBARA:

1 Q What is your position with the Petitioner,
2 Hawaiian Memorial Life Plan?

3 A I am the president of Hawaiian Memorial
4 Life Plan.

5 Q The Petitioner owns and manages Hawaiian
6 Memorial Park; is that correct?

7 A That is correct.

8 Q How long have you been involved in the
9 funeral and cemetery industry?

10 A Started in the industry 27 years ago.

11 Q When did Hawaiian Memorial Park begin its
12 operation in Kaneohe?

13 A The cemetery's original development was in
14 1958.

15 Q In terms of the business model for Hawaiian
16 Memorial Park, it's a local company that's sustained
17 by local employees; is that correct?

18 A Our company is affiliated with a
19 corporation called Service Corporation International,
20 but that organization has deferred all the leadership
21 to the local people in this community. So all of our
22 operations are ran by local people, local staff.

23 I'm probably the only one that doesn't live
24 local.

25 Q And all the decisions are made here

1 locally?

2 A Yes. The decisions are made here locally.

3 Q Will you briefly describe the Petition
4 before the Commission today?

5 CHAIRPERSON SCHEUER: Could you just make
6 sure you're really close to the microphone? We're
7 having a hard time hearing.

8 THE WITNESS: I want to make sure I'm
9 accurate on this.

10 The Petition currently right now consists
11 of 53.45 acres. There is dedicated cemetery of 28.2
12 acres of cemetery space. There's a 14-and-a-half
13 cultural preserve that will be developed, and a
14 larger area, 156-and-a-half acres of a 164.4 acre
15 parcel that will have a conservation easement on it.

16 We have been in discussion with Hawaiian
17 Land Trust, and once we move forward, we are
18 committed to work with them on the conservation.

19 Q Would you summarize briefly the necessity
20 of this project?

21 A I want to mention, we currently have 41,000
22 interments in the Hawaiian Memorial Park Cemetery,
23 though we have 80 acres of it developed.

24 A big portion of the cemetery and funeral
25 industry is prearranged sales. So families will

1 prearrange sections of cemetery property so they can
2 have family all together.

3 So though you may not have every site
4 someone buried in it, someone has pre-purchased that
5 site so they can have a guarantee loved ones are near
6 each other.

7 Currently we are approximately 94 to
8 95 percent sold out. We need the expansion to
9 continue the operations like we have been in the last
10 60 years.

11 MR. MATSUBARA: I have no further question,
12 Mr. Chair.

13 CHAIRPERSON SCHEUER: Are there questions
14 for this witness from the county?

15 MR. TAKAHASHI: No questions.

16 CHAIRPERSON SCHEUER: Office of Planning?

17 MS. APUNA: No questions.

18 CHAIRPERSON SCHEUER: Commissioners?
19 Commissioner Cabral.

20 VICE CHAIR CABRAL: Just so I can have a
21 better understanding of the ownership, you said
22 you're affiliated with a larger group, and based on
23 some of the information given by the community
24 earlier, is that through Texas, because someone
25 referenced something about Texas?

1 THE WITNESS: Our corporate office is
2 located in Houston, Texas.

3 VICE CHAIR CABRAL: Is it set up that -- so
4 they own the actual operations, or who owns the
5 actual land in terms of who owns the corporation that
6 owns the land?

7 THE WITNESS: Hawaiian Memorial Life Plan,
8 Ltd., owns the land. We're a subsidiary of Service
9 Corporation International.

10 VICE CHAIR CABRAL: So almost like a
11 franchise operation of the larger --

12 THE WITNESS: To a degree, yes.

13 VICE CHAIR CABRAL: Thank you very much.

14 CHAIRPERSON SCHEUER: Commissioners, are
15 there other questions? Commissioner Chang.

16 COMMISSIONER CHANG: Good afternoon, Mr.
17 Mortford. Thank you for being here.

18 I wanted to ask you, with respect to the
19 cultural preserve, what is the intention of Hawaiian
20 Memorial Park with respect to who would steward that
21 preserve? Is it Hawaiian Lands Trust? Koolaupoko
22 Hawaiian Civic Club?

23 THE WITNESS: We have worked very closely
24 with members of the Ko'olaupoko Hawaiian Civic Club,
25 and we currently have a MOU with that organization.

1 They have -- they will have complete control of how
2 the cultural preserve is managed.

3 We will defer all decisions to them. Our
4 company has committed to developing the preserve in
5 the manner in which they dictate to us on how they
6 want it designed. Once that portion of it is
7 completed, then they will steward it.

8 Hawaiian Island Land Trust would have an
9 overall umbrella conservation easement over the
10 overall parcel.

11 COMMISSIONER CHANG: I'm not sure if you're
12 the right person to ask, but the cultural preserve,
13 you're asking for that to be taken out of
14 Conservation District and placed into part of the
15 boundary amendment to Urban District?

16 THE WITNESS: That's correct.

17 COMMISSIONER CHANG: What are the uses in
18 the cultural preserve that are inconsistent with the
19 Conservation District?

20 THE WITNESS: That is not a question for
21 me. I'll defer to the experts on that.

22 COMMISSIONER CHANG: Thank you.

23 CHAIRPERSON SCHEUER: Commissioners?
24 Commissioner Okuda.

25 COMMISSIONER OKUDA: Thank you, Mr. Chair.

1 Mr. Mortford, just so that I get the
2 corporate ownership and structure correct, is it true
3 that Service Corporation International owns
4 100 percent of the shares of stock of Hawaiian
5 Memorial Life Plan, Ltd.?

6 THE WITNESS: Yes.

7 COMMISSIONER OKUDA: Prior to acquiring the
8 100 percent of shares of stock of Hawaiian Memorial
9 Life Plan, did Service Corporation International have
10 any ownership interest in Hawaiian Memorial Life
11 Plan?

12 THE WITNESS: Not to my knowledge.

13 COMMISSIONER OKUDA: Can you tell us
14 approximately what year Service Corporation
15 International acquired or obtained, or obtained
16 transfer of the shares of Hawaiian Memorial Life
17 Plan, Ltd.?

18 THE WITNESS: The business in Hawai'i was
19 taken on by Service Corporation International in
20 1992.

21 COMMISSIONER OKUDA: And before -- when you
22 said business was taken on, do you also mean that's
23 when the shares of stock were purchased or acquired?

24 THE WITNESS: That's correct.

25 COMMISSIONER OKUDA: Before the shares of

1 stock were purchased or acquired by Service
2 Corporation International, I'm assuming Service
3 Corporation International did due diligence
4 investigation of the operations and the status and
5 things dealing with Hawaiian Memorial Park; is that
6 correct?

7 THE WITNESS: I wasn't involved with the
8 company at that time, but I would assume that's a
9 fair assessment, yes.

10 COMMISSIONER OKUDA: At the time when
11 Service Corporation International acquired Hawaiian
12 Memorial Park, it probably knew that this portion of
13 the park's land was designated conservation, correct?

14 THE WITNESS: I think that's a fair
15 assessment, yes.

16 COMMISSIONER OKUDA: At that time, it would
17 probably be a fair assessment that Service
18 Corporation International understood that its
19 cemetery operations could not be expanded into the
20 conservation area unless certain governmental
21 approvals were received; fair statement?

22 THE WITNESS: Actually I can speak to what
23 I know from that timeframe.

24 The parcel was originally purchased by
25 Hawaiian Memorial Park Cemetery Association in 1984,

1 I believe was a 202 acre parcel, 203 acre parcel.

2 At the time, my understanding is that
3 cemetery was defined an allowable use with the DLNR
4 at that timeframe. In the mid '90s, like around
5 1994 -- these are estimates, these are just saying
6 I've been explaining -- Department of Land and
7 Natural Resources moved that language along with golf
8 courses around that timeframe, and that's why we are
9 where we are today. That's my understanding.

10 COMMISSIONER OKUDA: I'm just trying to get
11 to what your understanding was at the time Service
12 Corporation International acquired its ownership
13 interest in Hawaiian Memorial Park.

14 Did it understand that at that time when it
15 acquired its interest, that it could expand -- strike
16 that.

17 At the time it acquired its interest, did
18 Service Corporation International believe that it
19 could operate its cemetery operations in the
20 conservation designated land; or did it believe it
21 could not do so without further government approval?

22 THE WITNESS: I was told by a former owner
23 that it was conditioned with them on the purchase
24 from Service Corporation International that they
25 would develop this acreage in the future, that they

1 had to purchase that acreage along with the rest of
2 the purchase, and that they promised to extend the
3 cemetery at that time.

4 So to answer to your question, my
5 understanding is that Service Corporation
6 International had a belief they were committed for
7 future growth on that land and they would be able to
8 do that.

9 I can't answer, because I wasn't involved
10 in regards to if they were aware there would be
11 additional governmental approval.

12 COMMISSIONER OKUDA: Let me ask the
13 question this way.

14 Can you tell us whether or not at the time
15 when Service Corporation International acquired its
16 shares in Hawaiian Memorial Park, Ltd., whether or
17 not it believed that its cemetery operation was a
18 permitted use at that time in the conservation zoned
19 land?

20 THE WITNESS: I believe from what I have
21 been told that they thought it was an allowable use.

22 COMMISSIONER OKUDA: I'm sorry?

23 THE WITNESS: I believe from what I was
24 told -- I wasn't directly involved -- that it was an
25 allowable use.

1 COMMISSIONER OKUDA: Who told you that?

2 THE WITNESS: John Farias.

3 COMMISSIONER OKUDA: Have you read the
4 entire -- have you read the entire EIS that has been
5 presented to us for approval or acceptance?

6 THE WITNESS: I have read the reports as
7 they have been coming in. I haven't read it cover to
8 cover, but over the past year I've read the reports
9 that came in, yes.

10 COMMISSIONER OKUDA: Part of the report is
11 a justification, or part of the EIS, rather, includes
12 a justification or an explanation of the economic
13 benefits that are to accrue, or possibly probably
14 would accrue to the community; is that correct?

15 THE WITNESS: That is correct.

16 COMMISSIONER OKUDA: And these economic
17 benefits, of course, would accrue only if the
18 cemetery expansion and operation made money, to use a
19 lay person's term; correct?

20 THE WITNESS: That is correct.

21 COMMISSIONER OKUDA: Has your company,
22 whether its Hawaiian Memorial Park, Ltd., or Service
23 Corporation International, made an estimate of what
24 it anticipates to receive as gross revenue over the
25 entire term of its operations? What the gross

1 revenue would be from sales and operations from the
2 presently Conservation Zoned land?

3 THE WITNESS: I have not seen a pro forma
4 that would address the future of every segment of the
5 project as it's laid out and developed.

6 I know that our cemetery does developments
7 across the country all the time, and they had a
8 pretty good idea what they will be able to perform at
9 what level to be able to have a positive impact on
10 their operations and continue our businesses.

11 But I have not seen a pro forma on
12 potential revenue out of this project.

13 COMMISSIONER OKUDA: Well, you know, you've
14 -- what is your position again with --

15 THE WITNESS: I'm president of the company.

16 COMMISSIONER OKUDA: And you've been
17 president of the company here in Hawai'i since --

18 THE WITNESS: My current position in 2006.

19 COMMISSIONER OKUDA: During the time that
20 you have been with Hawaiian Memorial Park, Ltd., have
21 you heard even third or fourth-hand any type of
22 estimate of the possible amount of revenue that would
23 be generated from the Conservation Zoned portion?

24 THE WITNESS: I have not.

25 COMMISSIONER OKUDA: So if -- do you

1 have -- given your position, and based on your
2 experience in the industry, can you even give us an
3 estimate of a range of what the probable income would
4 be that would be derived from the Conservation Zoned
5 area?

6 THE WITNESS: I can give you an estimate
7 based on margin, on what I feel that out of the
8 project we would get on a margin based on expenses,
9 and you know, as far as what would go out and what
10 would come in, I think we would probably average
11 between four and \$5000 upwards depending on the
12 location.

13 So you're going to have your cost of sell,
14 your infrastructure. We look at the initial
15 infrastructure of this project can be between 28 to
16 \$30 million, that will be just putting the
17 infrastructure of the project in.

18 That in itself will be funded by Service
19 Corporation International initially, third-party
20 funding. But as far as the acreage and the original
21 development, that hasn't been talked about yet. I'm
22 assuming, looking at 8 to 10 acres, and you're going
23 to be generating -- this is a tough question without
24 me sitting down and doing some estimate with
25 analysis. I really can't answer it, you know, off

1 the top of my head.

2 COMMISSIONER OKUDA: Please don't prejudge
3 the meaning of my questions. I don't believe there's
4 anything wrong with making money. In fact, many
5 times a work-well project is not supposed to go
6 forward if it is not financially viable.

7 But you understand that as far as for us to
8 determine whether or not this EIS is acceptable, we
9 have to determine whether or not there's sufficient
10 information for us to use the EIS to make the later
11 judgement under the statutory framework that the
12 legislature has imposed on us.

13 So, I mean, is it reasonable to say that
14 Hawaiian Memorial Park, Ltd., expects to earn gross
15 revenues of over \$500 million from sales and
16 operations in the Conservation Zoned area, or you
17 can't tell us one way or the other?

18 THE WITNESS: I think that's -- that is
19 rather high -- but I think that its potential
20 between, for a total 28 acres spread out over time, I
21 think there is a possibility that you could move
22 upwards into that much money, yes.

23 COMMISSIONER OKUDA: Is it possible, given
24 the acreage, that over time you could move up into
25 maybe \$700 million?

1 THE WITNESS: I don't think so.

2 COMMISSIONER OKUDA: You don't think so?

3 THE WITNESS: No.

4 COMMISSIONER OKUDA: But there's nothing in
5 this EIS that's been presented to us that shows what
6 the gross income or revenue would be, or how that
7 would be calculated or determined; correct?

8 THE WITNESS: That is correct.

9 COMMISSIONER OKUDA: Now, would you agree
10 that the central premise or foundation of this
11 request or redesignation of the conservation land,
12 the fundamental bottom line, foundational premises is
13 we have to have a place, or we should have a place
14 where we can bury or interment or place for final
15 rest of our treasured family members?

16 THE WITNESS: I think that is the primary
17 reason.

18 COMMISSIONER OKUDA: And there are
19 different alternatives on how to reach that
20 objective, correct?

21 THE WITNESS: I'm not sure I understand the
22 question. What do you mean by "different
23 alternatives"?

24 COMMISSIONER OKUDA: For example, I think
25 in your EIS there was a discussion of what some of

1 the other cemeteries in the State of Hawai'i have
2 been doing, or at least on the Island of Oahu that
3 have been doing to deal with -- I don't want to use
4 the word "burial", because you in the funeral
5 industry have certain terms -- but if you use a lay
6 person's term, burial or interment or place for in
7 perpetuity remains of our loved ones.

8 I mean, there's a discussion in the EIS,
9 correct?

10 THE WITNESS: I believe so. I don't recall
11 reading that, but yes.

12 COMMISSIONER OKUDA: For example, didn't
13 you have in your EIS a table that listed the
14 different cemeteries in the state on the Island of
15 Oahu, and how many plots or grips or earned spaces
16 were in existence?

17 THE WITNESS: I believe in that report it
18 showed the burial space would be out 2040, if I
19 recall.

20 COMMISSIONER OKUDA: I'm looking maybe at
21 alternatives. For example, one of the entries in the
22 table was Oahu Cemetery, correct?

23 THE WITNESS: Yes.

24 COMMISSIONER OKUDA: Oahu Cemetery,
25 according to the table, was established in what year?

1 THE WITNESS: I don't recall the year it
2 was established. I know it's the oldest cemetery on
3 Oahu.

4 COMMISSIONER OKUDA: Was that 1848?

5 THE WITNESS: It's possible, yes.

6 COMMISSIONER OKUDA: And Oahu Cemetery was
7 still advertising or representing that there are ways
8 of, for lack of a term, burying, burying or keeping
9 in perpetuity ones loves ones; correct?

10 THE WITNESS: I don't recall that. But if
11 you're meaning that families have the option to
12 cremate to be able to inurn as an option, I'm sure
13 that was pointed out, yes.

14 COMMISSIONER OKUDA: Isn't it true, Oahu
15 Cemetery advertises last space, urn space so you can
16 visit your love one and actually see the urn and that
17 would bring comfort to the person?

18 THE WITNESS: I haven't seen that
19 advertisement.

20 COMMISSIONER OKUDA: In any event, we are
21 talking about whether or not the EIS adequately
22 addresses alternatives.

23 Was there a discussion in the draft -- not
24 the draft -- was there a discussion in the EIS that
25 was presented to us for acceptance or denial about

1 those type of alternatives being built on Hawaiian
2 Memorial Park, Ltd's existing land?

3 In other words, not on the conservation
4 designated area, but those type of alternatives on
5 the existing land? Was there discussion about that
6 in the EIS?

7 THE WITNESS: I don't recall if it was or
8 not. But I would like to defer to the person that
9 did -- the expert that did that report.

10 COMMISSIONER OKUDA: So I should probably
11 direct these questions to someone else?

12 THE WITNESS: That probably would be
13 better.

14 COMMISSIONER OKUDA: Thank you very much,
15 Mr. Chair, and thank you very much for your
16 testimony.

17 CHAIRPERSON SCHEUER: Anything further,
18 Commissioners?

19 MR. MATSUBARA: We have --

20 CHAIRPERSON SCHEUER: After you're done
21 with this witness, if you could give us a preview of
22 who you're planning to call to give the Commissioners
23 a sense of who they might address certain questions
24 to.

25 -000-

DIRECT EXAMINATION CONTINUED

BY MR. MATSUBARA:

Q In terms of the economic benefits for the community was asked, there's construction cost that are going to be incurred in terms of the development cost for the cemetery; is that correct?

A That is correct.

Q So that's economic benefit to the community?

A That's correct.

Q Now, in terms of the construction cost for what you're proposing to develop if the Petition is approved, you've laid out construction costs in the EIS 29 to \$30 million?

A That's correct.

Q You reviewed the feasibility of the organization to pay for and develop that, the Petition Area, as you represented in the Petition?

A Correct.

Q And based on your historic record in terms of sales, margins and profitability, you believe that the purchase and acquisition and development is sustainable?

A I do.

Q This is based on all the things we just

1 mentioned in terms of historical experience, the fact
2 that the company is willing to invest the \$30 million
3 in this property and fully develop it, understanding
4 that the sale of plots stretches over a long period
5 of time, because people may pre-buy their lots and
6 not use it for years?

7 A That's correct.

8 MR. MATSUBARA: The EIS does contain the
9 revenue for the park annually, and our expert who
10 prepared it, included it in the EIS and could address
11 it specifically, but it is in the EIS.

12 I have no further questions, thank you.

13 CHAIRPERSON SCHEUER: Thank you, Mr.
14 Mortford.

15 THE WITNESS: Thank you.

16 MR. MATSUBARA: Mr. Tabata will be handling
17 the next witness and give you a preview.

18 MR. TABATA: Our next witness is Scott Ezer
19 and he will be called as the EIS preparer.

20 CHAIRPERSON SCHEUER: Hold up, Mr. Ezer.
21 Who else are you planning to call, if
22 anyone?

23 MR. TABATA: We have all of our --

24 COURT REPORTER: I can't hear you.

25 MR. TABATA: -- If there are areas that the

1 Commissioners wish to get into, we can call our
2 consultants, depending on the subject matter.

3 CHAIRPERSON SCHEUER: At this point you're
4 just planning to call Mr. Mortford and Mr. Ezer?

5 MR. TABATA: Correct.

6 CHAIRPERSON SCHEUER: Mr. Ezer, do you
7 swear or affirm that the testimony you're about to
8 give is the truth?

9 THE WITNESS: I do.

10 CHAIRPERSON SCHEUER: You may proceed with
11 your witness, Mr. Tabata.

12 SCOTT H. EZER

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

16 DIRECT EXAMINATION

17 BY MR. TABATA:

18 Q Would you please provide your professional
19 background?

20 A Before I do that, I think for the record I
21 have to identify my name.

22 Again, Scott Ezer. My address, which is
23 733 Bishop Street, Suite 2590, Honolulu, Hawai'i
24 96813.

25 Q Thank you. Now, please provide us your

1 background information.

2 A I received a bachelor in art degree from
3 University of California Berkeley in sociology in
4 1974. I received a master's in urban regional
5 planning from the University of Hawai'i at Manoa in
6 1977.

7 I began my professional experience as a
8 planner working for the City and County of Honolulu
9 with the Department of Land Utilization, which is the
10 precursor agency to Department of Planning and
11 Permitting.

12 While I was working at DLU, I had a wide
13 variety of experiences, permit processing, reviewing
14 EIS's. I was also co-author of the City and County
15 of Honolulu zoning code for land use ordinance.

16 In 1989 I left the city and county to work
17 for my current company. At that point it was known
18 as Helber Hastert & Kimura. That morphed into Helber
19 Hastert & Fee Planners, and we are currently known as
20 HHF Planners.

21 I have been a principal in the firm since
22 19 -- since 2001.

23 Q How many EIS's have you prepared?

24 A I can remember at least a dozen EIS's that
25 I have either been the principal author or the

1 principal-in-charge for going back to the 1990s. I
2 have also been the principal author or the
3 principal-in-charge of at least 25 EA's, either under
4 the provisions of Chapter 343 Hawaii Revised
5 Statutes, or the National Environmental Policy Act as
6 amended.

7 Q Thank you.

8 How long have you been living in Hawai'i?

9 A I moved to Hawai'i in 1961. My dad taught
10 at the University of Hawai'i. Over the years, prior
11 to my working for city and county in planning
12 capacity, I was a lifeguard for the city and county
13 between 1972 and 1978, principally working at Sandy
14 Beach Park and Makapu'u Beach Park.

15 Q Could you please describe for us your
16 involvement with this project?

17 A Before I get there, I also would just like
18 to add in terms of my experience, as a professional
19 planner in Hawai'i I've had the opportunity to work
20 on many planning-related documents for government
21 agencies.

22 As part of that experience I was
23 responsible for preparing two sustainable community
24 plans for the City and County of Honolulu. I've
25 worked on -- I was principal in charge for the North

1 Shore Sustainable Communities Plan.

2 I was also in charge of the Koolauloa
3 Sustainable Communities Plan. I am
4 principal-in-charge for an update to the County
5 General Plan, which is currently before the City and
6 County, City Council. And I also have been
7 principal-in-charge for a project to identify
8 Important Agricultural Land for the city and county,
9 which is also before the Honolulu City Council which
10 I believe will be forwarded to this body soon.

11 Q Thank you.

12 Could you describe for us how you are
13 involved with this project?

14 A I've been associated with the opportunity
15 to expand Hawaiian Memorial Park going back to 2007.
16 I was the principal-in-charge for the EIS, which was
17 accepted by this body for that project. As we know,
18 that petition was not approved, and we went back,
19 completely redesigned the project, and redid this EIS
20 over the last three or four years.

21 So I have been not only associated with the
22 attempt to change the State Land Use District
23 Boundary Amendment, but I also assisted the landowner
24 in obtaining an amendment to the Koolaupoko
25 Sustainable Communities Plan that allows this project

1 to be consistent with the Koolaupoko SCP.

2 Q The community plan, was that in 2017?

3 A Say again, please.

4 Q The amendment with the community plan that
5 you were involved in, that was in 2017?

6 A Correct. The City Council adopted, and a
7 complete update to the Ko'olaupoko Sustainable
8 Communities Plan in 2017, which included the
9 amendment that brings this project into consistency
10 with the SCP.

11 Q And this project that we're talking about,
12 was that included in the community growth boundary?

13 A Yes.

14 Q And based on your experience, do you
15 believe that this project is in conformance with that
16 community plan?

17 A I do, and I am in agreement with the
18 remarks that Acting Director Sokugawa gave earlier
19 this morning that identified the project to be
20 consistent with the SCP.

21 Q Could you describe for us the project that
22 is before the Commission?

23 A Mr. Mortford already identified the main
24 elements of the project. He described the size of
25 the project.

1 There are three basic components to the
2 project, the cemetery itself, which comprises
3 28.2 acres, the cultural preserve which accommodates
4 14.5 acres, and then the balance of the Petition Area
5 which 53.45 acres would be left to open undisturbed
6 area.

7 But the Conservation Easement also goes
8 outside the bounds of the Petition Area to ensure
9 that there would be no further expansion of the
10 cemetery outside of the area being proposed as part
11 of the boundary agreement.

12 Q Included with the EIS there are several
13 studies and reports. Could you please describe those
14 for us?

15 A We undertook a large number of studies for
16 this project. We did a market study, and all of the
17 authors of the studies I'm going to identify are
18 present here.

19 We did an Archaeological Inventory Survey,
20 which was in addition to the Archaeological Inventory
21 Survey that was done back in 2008.

22 We did an update and expansion of a
23 Cultural Impact Assessment that included interviews
24 with, I believe, at least six kumu hula who use the
25 property to gather.

1 We did a flora study. We did a faunal
2 study. We did a special study of invertebrates,
3 focusing on the endangered Hawaiian blackline
4 damselfly.

5 We did a study on water quality that looked
6 at the chemical content of stormwater that is
7 generated by and off the property. Water samples
8 taken from Kawa Stream immediately adjacent to the
9 property throughout the course of Kawa Stream and
10 also where Kawa Stream enters into Kaneohe Bay.

11 We did advanced analysis of groundwater,
12 specifically as it affects the habitat for the
13 blackline damselfly, and understanding how the water
14 source for the damselfly is provided, because without
15 that water source, there would be no habitat for the
16 damselfly.

17 We did a noise study that looked at
18 specifically the impacts associated with construction
19 noise in the vicinity of the cemetery expansion area.

20 We did a Traffic Impact Analysis Report.
21 And we also looked at whether drainageways on the
22 property were or were not considered jurisdictional
23 waters of the U.S.

24 Q Could you also describe for us the
25 procedural history for the EIS?

1 A The EIS Preparation Notice was published on
2 December 23rd, 2017. The comment period ended on
3 January 22, 2018. The Draft EIS notice, EIS notice
4 published on September 8th, 2018, and the comment
5 period deadline ended October 23rd, 2018. The Final
6 EIS Notice of availability was published on
7 April 23rd, 2019. It was filed with the Commission
8 on April 1st, 2019.

9 Q The comments that you received through the
10 prep notice and the Draft EIS, those comments were
11 included in Final EIS?

12 A All comments that were received by the
13 comment period deadline are included in the document,
14 and responses to all of those comments are also in
15 the Final EIS.

16 Q We had testimony earlier that said that the
17 DOFAW letter was not included in the Final EIS.

18 Could you explain that, please?

19 A That is correct.

20 The DOFAW letter was not received prior to
21 the comment period deadline. It was not the only
22 comment letter that was received after the deadline.
23 We had to treat all late letters in the same manner.
24 They do not appear in the Final EIS, but we have
25 answered those letters, and commenters received our

1 responses.

2 Q Thank you.

3 Scott, does the proposed Final EIS, to your
4 knowledge, satisfy how housing requirements Section
5 11-200-18 of the Hawai'i Administrative Rules and
6 Chapter 343 of the Hawai'i Revised Statutes?

7 A I believe it does and it was prepared in
8 good faith.

9 Q Thank you.

10 MR. TABATA: I have no further questions.

11 CHAIRPERSON SCHEUER: City and county?

12 MR. TAKAHASHI: We have no questions.

13 CHAIRPERSON SCHEUER: Office of Planning?

14 MS. APUNA: Yes, I do have one question.

15 CROSS-EXAMINATION

16 BY MS. APUNA:

17 Q I think counsel mentioned that there were
18 other letters that were -- that came in after the
19 deadline.

20 Can you tell us what agencies those were?

21 A The agencies -- specifically the agencies
22 were the State Department of Transportation, the City
23 and County Department of Transportation Services.
24 And I believe -- I'm sorry -- Division of Aquatic
25 Resources with DLNR.

1 Many divisions within DLNR did get their
2 comments in on time, others did not.

3 Q So would the Office of Planning be able to
4 get copies of those letters?

5 A Yes.

6 Q Thank you. And the responses?

7 A Yes.

8 Q Thank you.

9 CHAIRPERSON SCHEUER: Commissioners,
10 questions for Mr. Ezer?

11 Commissioner Chang.

12 COMMISSIONER CHANG: Thank you so much for
13 being here. Just a few questions.

14 I did ask Mr. Mortford about the cultural
15 preserve. As I understand you just described the
16 project as three components, 28 acres being the
17 expansion, approximately 12 acres for the cultural
18 preserve, and 53 acres would be on Conservation
19 Easement?

20 But the Petition Area for the boundary
21 amendment is just the expansion and the cultural
22 preserve; is that correct?

23 THE WITNESS: That is correct.

24 COMMISSIONER CHANG: Could you explain --
25 and I did read through the EIS -- what are the

1 proposed activities in the cultural preserve that are
2 inconsistent with the Conservation District?

3 THE WITNESS: The Petitioner has been in
4 discussion with Ko'olaupoko Hawai'i Civic Club about
5 the possibility of using a portion of the cultural
6 preserve for traditional Hawaiian burial.

7 Recently, there has been an amendment to
8 the Hawaii Revised Statute that allows Native
9 Hawaiian burial to proceed without or -- and I'm not
10 an expert in this specific law -- but it does allow
11 practitioners not to have to fall under the other
12 provisions of burial requirements contained in the
13 Hawai'i Revised Statute.

14 So the intent is to allow a portion of the
15 cultural preserve to accommodate these burials. And
16 we do not believe that would be allowed in the state
17 Conservation District.

18 COMMISSIONER CHANG: You've been working on
19 the project since 2007?

20 THE WITNESS: Correct.

21 COMMISSIONER CHANG: Could you briefly
22 describe what are the changes that have been made
23 since 2007 to today in response to community concerns
24 or agency comments?

25 THE WITNESS: It's a long list.

1 COMMISSIONER CHANG: Briefly describe --

2 THE WITNESS: The first thing we did is we
3 eliminated any consideration of expanding the
4 cemetery beyond the boundaries of what we are now
5 calling the cultural preserve between the cultural
6 preserve and Pohai Nani in order to provide a larger
7 buffer between the project and Pohai Nani. That's
8 number one.

9 Number two, we have taken an active role in
10 opening discussions with the Hawaiian Island Land
11 Trust to ensure that the community is provided with
12 sufficient proof that there will be no further
13 development within the property owned by Hawai'i
14 Memorial Life Plan, Ltd., so that the entire property
15 would fall under the Conservation Easement, and the
16 only use allowed within the 28.2 acres that would
17 accommodate the cemetery expansion would be cemetery
18 use.

19 We have eliminated entirely all structures
20 associated with the project.

21 In the previous iteration of the project,
22 there were larger buildings that were referred to as
23 mausoleums. Those have been eliminated, so that they
24 are no longer part of the project.

25 We've expanded the buffer between adjoining

1 residential properties from 50 to 100 feet to a
2 minimum of 150 feet. So all of -- there's a larger
3 buffer there.

4 We also were able to obtain an amendment to
5 the county's Sustainable Communities Plan, which
6 brings the project into consistency with the
7 Sustainable Communities Plan.

8 COMMISSIONER CHANG: With the changes,
9 based on what you've been saying and what I heard, it
10 appears as if those changes were made, were in
11 response to comments or concerns that were raised,
12 whether it be by Pohai Nani, whether it by the Native
13 Hawaiian community, whether it be by the residents;
14 is that a fair statement?

15 THE WITNESS: That is a fair statement.

16 COMMISSIONER CHANG: I would like to move
17 onto the Archaeological Inventory Survey that was
18 done.

19 THE WITNESS: I will try to answer your
20 questions. If I cannot, we have people that can.

21 COMMISSIONER CHANG: Fair enough. Because
22 we are here to determine the adequacy of the FEIS.
23 And so if you can help me better understand the AIS
24 report.

25 What was the trenching strategy for the EIS

1 report? Because it appears as if there were only two
2 new excavation trenches that were done in the EIS.
3 The other new historic properties appear to have been
4 identified to a pedestrian -- what was the trenching
5 strategy given that the cemetery is proposing
6 expansion on approximately 28 acres.

7 What kind of sampling strategies did they
8 use, did your archaeologist use for the area that is
9 being proposed for the cemetery expansion?

10 THE WITNESS: I'm going to punt on that.
11 I'm going to ask one of our consultants to come up,
12 I'll be here.

13 CHAIRPERSON SCHEUER: Procedurally in terms
14 of flow, Commissioner Chang, do you have other
15 questions for Mr. Ezer before we move onto another
16 witness?

17 COMMISSIONER CHANG: Why don't you ask the
18 other Commissioners if they have any questions of Mr.
19 Ezer.

20 CHAIRPERSON SCHEUER: Before we bring up
21 Dr. Sproat, Commissioners, are there other questions
22 for Mr. Ezer? Commissioner Okuda.

23 COMMISSIONER OKUDA: Thank you, Mr. Chair.

24 Mr. Ezer, in preparing the EIS which we
25 have to make a decision on today, did you or someone

1 in your team investigate or check into what other
2 cemeteries on Oahu have done to allow interments or
3 burials -- let me use the term "burial" to include
4 keeping of urns, whether it's in the ground or in
5 niches or mausoleums or burial, sort of in a lay
6 person's term?

7 Did either you or members of your team
8 investigate what alternatives other cemeteries on
9 Oahu have engaged in to increase burial capacity?

10 THE WITNESS: The firm we engaged to
11 examine the market as it relates to the burial
12 industry, looked at common practices throughout Oahu,
13 and did investigate, I believe, all of the main
14 cemeteries on Oahu, including Oahu Cemetery, Valley
15 of the Temple, Mililani Cemetery, and the proposed
16 cemetery in Hawaii Kai which has been on the books at
17 least ten, maybe 15 years, but has not seen any
18 development including their practices that relate to
19 the differentiation between in-ground or casketed
20 burials and interments, yes.

21 COMMISSIONER OKUDA: So would it be a fair
22 statement to say that the building or building of
23 column burials or mid structures or things like that
24 or expansion of those types of structures to hold
25 urns or even caskets are alternatives for burials

1 compared to, or alternatives to simply put in urns or
2 caskets into the ground?

3 THE WITNESS: Some of those cemeteries do
4 that. In response to concerns raised during the last
5 go-round of this, the previous petition, all of those
6 above-ground structures, at the request of the
7 community, were removed from the project.

8 They were determined to not be -- they were
9 determined or thought to be visual intrusions and
10 were removed from the project.

11 You can still have smaller structures
12 within your own plot to put interments, and Hawaiian
13 Memorial Park does that as a common practice.

14 COMMISSIONER OKUDA: I apologize if my
15 question is not clear, because I'm not looking to the
16 ultimate approval of the request for the boundary
17 amendment or not approving it, I'm trying to focus on
18 whether or not the EIS, based on the standards set
19 forth, for example, in Price versus Obayashi, whether
20 or not the alternatives have been discussed.

21 So I'm not trying to make a judgment on
22 whether or not the alternative is a good alternative
23 or bad alternative, just looking to see whether or
24 not the alternative was discussed, even if that
25 alternative in the past might have fallen flat.

1 So more specifically, does the EIS discuss
2 as an alternative to the expansion or boundary
3 redesignation of the proposed expanded space, did it
4 discuss the building or expansion of column burials
5 or mid space or other ways of inurning or burying
6 multiple remains in the existing or now existing
7 cemetery without an expansion? Was that alternative
8 discussed in the Final EIS?

9 THE WITNESS: It was not. And for a
10 reason. And that is, I think, as Mr. Mortford
11 explained, 94, 95 percent of the plots available at
12 Hawaiian Memorial Park have already been sold. They
13 have been sold under a specific contract. And the
14 terms of that contract have already been set. So it
15 would be difficult, if not impossible, to redo those
16 contracts to allow more burials of any kind that are
17 already permitted by the contract.

18 COMMISSIONER OKUDA: My question was
19 whether or not the alternative was presented.

20 Now, there might be reasons why that
21 alternative would not be a good alternative, and
22 maybe there would be reasons why maybe 80 percent of
23 the time that alternative would not be probable or
24 not be used.

25 My question is simply, so that we determine

1 that we satisfy the standard of Price versus
2 Obayashi, whether the alternative was discussed at
3 all?

4 Related to that, isn't it true that, for
5 example, right now there is a limitation on the
6 number of -- is there or is there not a limitation on
7 the number of urns that can be placed in a family's
8 cemetery plot at Hawaiian Memorial Park?

9 THE WITNESS: I believe there is a limit.
10 What that limit is, I don't know exactly.

11 COMMISSIONER OKUDA: Okay. Whatever that
12 limit is, isn't it true that one alternative to
13 satisfy the desires of local families, that everyone
14 be buried together, let's say if the limit is six
15 urns in a plot, that it might be possible to allow
16 maybe 12 urns in the plot provided an additional fee
17 is paid to Hawaiian Memorial Park? I mean, that
18 would be an alternative, correct?

19 THE WITNESS: That could be an alternative,
20 but with respect to Title 11, Chapter 200 and Chapter
21 343, we are directed to address reasonable
22 alternatives. And I don't believe that from the
23 construct of the examination of this project that
24 that was considered a reasonable alternative.

25 COMMISSIONER OKUDA: The point is that that

1 alternative doesn't appear anywhere in the EIS,
2 correct?

3 THE WITNESS: That is correct.

4 COMMISSIONER OKUDA: And we heard at least
5 one public testimony about the fact that in Japan
6 there may be multiple urns placed in a plot. Do find
7 that testimony not believable?

8 THE WITNESS: I'm not -- I have no
9 knowledge of what occurs in Japan. There are reasons
10 for restrictions on numbers of urns.

11 COMMISSIONER OKUDA: I'm just trying to
12 investigate whether or not the EIS has presented to
13 us alternatives for decision-making just to raise one
14 other question, to check the scope or determine the
15 scope of alternatives that were looked at.

16 Did you or members of your team look at the
17 physical layout, for example, Nuuanu Memorial Park
18 about how they have been adding urn space in places
19 where you would be very surprised that you could even
20 add urn space?

21 THE WITNESS: We did not examine the
22 business practices of each one of the cemeteries that
23 we looked at during our market study.

24 We did do interviews and we had discussions
25 with representatives of those cemeteries about their

1 business practice, and those were considered in
2 determining whether or not the expansion was
3 warranted a market perspective.

4 COMMISSIONER OKUDA: And regarding -- one
5 final question later about whether or not the
6 expansion is warranted from a business perspective,
7 but going back to alternatives to the expansion of
8 the park for burials, did you consider, for example,
9 what Nuuanu Memorial Park seems to have done, which
10 is adding on niche spaces to existing buildings?

11 Was that considered an alternative for
12 burial, to deal with burial demand in the EIS? Does
13 it address that?

14 THE WITNESS: It did not.

15 COMMISSIONER OKUDA: And did the EIS
16 address, for example, the alternative of possibly
17 redeveloping the parking lot area of the Memorial
18 Park, even though it might require additional
19 government approvals, but developing the parking
20 areas to deal with the demand for inurnments or
21 keeping of urns in some type of niches?

22 THE WITNESS: It was not determined to be a
23 reasonable alternative because the park has a certain
24 environment it needs to protect, including the
25 availability of parking spaces and roadways for the

1 safety of its patrons.

2 The space at the existing Hawaiian Memorial
3 Park has been effectively exhausted.

4 COMMISSIONER OKUDA: I was just looking at
5 alternatives.

6 My final question deals with your comment
7 about economics.

8 Can you tell us what the expected revenue
9 is for Hawaiian Memorial Park, Ltd., and its
10 shareholder -- actually skip the shareholder -- what
11 would be the expected revenue for Hawaiian Memorial
12 Park that would arise out of the Conservation Zoned
13 area if it were redesignated to allow the cemetery
14 expansion? How much money are we looking at?

15 THE WITNESS: I believe you asked Mr.
16 Mortford that question, and he gave you an estimate.
17 I think the requirements of the Commission and the --

18 Somebody just pointed out to me that we
19 have a Table 4-11 which -- during the various periods
20 of development -- and it's on page 4-64 of the EIS,
21 suggests that -- and I'm going to give you a round
22 number here -- that the revenue to be derived between
23 2020 and the total during buildout would be
24 approximately \$116 million.

25 COMMISSIONER OKUDA: So that's the amount

1 that the applicant projects it will receive. Is that
2 gross revenue from the expansion of the cemetery?

3 THE WITNESS: I'm going to defer those
4 questions.

5 MR. MATSUBARA: We have the specific --

6 CHAIRPERSON SCHEUER: Counsel, can you
7 speak into the microphone?

8 MR. MATSUBARA: We have the specific
9 witness who prepared the economic study who can
10 answer your question.

11 COMMISSIONER OKUDA: Then I will defer to
12 that person. Thank you.

13 CHAIRPERSON SCHEUER: It's 1:42. We are
14 going to keep Scott on and take a ten-minute break.

15 (Recess taken.)

16 CHAIRPERSON SCHEUER: Aloha. We are back
17 in session. Three minutes later than I wanted to be,
18 but trying to figure out how long we have this room
19 until. The answer is 5:00 o'clock.

20 As a balance between providing as complete
21 and full and fair discussion of the issues before us,
22 but also being efficient, it is still my hope to get
23 through the entire docket including deliberations
24 today, but we will see how it goes.

25 We still have Mr. Ezer on the witness

1 stand. Are there further questions for Mr. Ezer?

2 Commissioner Chang.

3 COMMISSIONER CHANG: Thank you, Scott.

4 This is a followup to a question that I had asked
5 about changes that have been made.

6 So at one point in time the proposed
7 expansion included what is now approximately 58 acres
8 that's going to be the Conservation Easement?

9 THE WITNESS: Yes.

10 COMMISSIONER CHANG: I am assuming within
11 that 58 acres Hawaiian Memorial Park was
12 contemplating putting in additional burial plots
13 there?

14 THE WITNESS: Correct.

15 COMMISSIONER CHANG: So that's actually
16 approximately twice the size of the proposed cemetery
17 expansion now, which is --

18 THE WITNESS: Correct.

19 COMMISSIONER CHANG: So based upon your
20 market analysis, at some point in time Hawaiian
21 Memorial Park needed the 58 acres to meet their
22 needs?

23 THE WITNESS: I believe they were trying to
24 meet longer-range needs. So whatever space is
25 allowable will meet the needs up to a certain point

1 in time.

2 COMMISSIONER CHANG: So if the FEIS that we
3 now have before us, is that -- is the proposed
4 project's need, is that need now -- is 28 acres
5 sufficient to meet Hawaiian Memorial Park's needs for
6 the next -- I can't recall what is in your FEIS. But
7 is that now sufficient, or are there going to be a
8 request at some later time?

9 THE WITNESS: There will be no further
10 requests.

11 COMMISSIONER CHANG: Have there been
12 adjustments to the burial practices that there is not
13 a need for the additional 58 acres?

14 THE WITNESS: No. At some point in time
15 the community, the Island of Oahu, will still need
16 that burial space. Where it is provided will be an
17 interesting conversation for others.

18 COMMISSSIONER CHANG: Does it also appear
19 to say that Hawaiian Memorial Park made adjustments
20 to it plans in response to community needs as well as
21 its own needs?

22 THE WITNESS: That is correct.

23 COMMISSIONER CHANG: Looking through the
24 alternative analysis or the alternative considered,
25 there was one alternative that we need future

1 studies.

2 So is it now the position of Hawaiian
3 Memorial Park that this FEIS is totally complete and
4 there are no additional studies that need to be
5 reviewed or prepared for the proposed?

6 THE WITNESS: To my knowledge, I believe we
7 have provided the information necessary for the Land
8 Use Commission to consider the docket.

9 COMMISSIONER CHANG: Thank you very much.

10 CHAIRPERSON SCHEUER: Are there further
11 questions for Mr. Ezer? Commissioner Cabral.

12 VICE CHAIR CABRAL: I'll try and be fast.

13 I'm trying to go back in my notes from the
14 community, and one of the things someone had
15 referenced they were concerned about parking in the
16 area. And I don't recall seeing anything in your
17 statement that addressed parking.

18 I saw you worked with DOT on that, on
19 transportation, but was -- the parking would be
20 internal, and I'm assuming that the county would
21 require that they provide parking lots. Is that an
22 issue for community on parking?

23 THE WITNESS: I believe, and I hope I'm not
24 speaking out of turn, but my understanding of the
25 parking issue relates to people who access the

1 property through the end of the dead end of Lipalu
2 Street.

3 Currently practitioners who want access to
4 the property to gather or to go visit Kawa'ewa'e
5 Heiau, access the property from that Lipalu Street
6 because that is the closest point of access to those
7 areas.

8 So if there are large numbers of people who
9 are entering the property, that's where they would
10 go.

11 In addition to that, there are frequent
12 instances of trespassing on the property. People,
13 hunters, people access, and again, a common entry
14 point is the end of Lipalu Street, that's my
15 understanding of the parking situation. All of the
16 parking for the guests and visitors for the cemetery
17 would be handled on-site.

18 VICE CHAIR CABRAL: Thank you.

19 I see too that you've given a lot of
20 consideration to a number of the other issues with
21 the water, flooding, attempted to address that. And
22 then -- oh, the fly, damselfly has been addressed.

23 So one of the other things too is that
24 someone said that it was going to be very close to
25 Pohai Nani, and yet I read in here, I think it's

1 1900 feet away from Pohai Nani, but someone said it's
2 going to be within a few feet hundred feet within
3 Pohai Nani.

4 THE WITNESS: The comment letter that we
5 received from the Department of Planning and
6 Permitting on the Draft EIS suggested that the
7 cemetery was going to be about 1350 feet from Pohai
8 Nani. The issue in that case was that, in error, the
9 Department of Planning and Permitting made their
10 measurements to the edge of the Pohai Nani property,
11 the boundary property instead of to where people
12 actually live. So that's the discrepancy in the
13 numbers.

14 VICE CHAIR CABRAL: Thank you very much.

15 CHAIRPERSON SCHEUER: Commissioners?
16 Commissioner Okuda.

17 COMMISSIONER OKUDA: Chair, thank you.

18 A question by my fellow Commissioner about
19 the flooding issue.

20 Is there anything in the Final EIS which
21 discuss the quantity or projected quantity of solids
22 which would runoff during construction?

23 THE WITNESS: Yes.

24 COMMISSIONER OKUDA: Is that on a certain
25 page or chart because I might have overlooked it?

1 THE WITNESS: I'm sure it is on a certain
2 page or chart, but I can't quote it to you off the
3 top of my head.

4 We did a quite extensive investigation of
5 all of that in a number of different studies
6 including water quality, civil engineering, grading.
7 There is an extensive discussion of what materials
8 would leave the property and ultimately wind up in
9 Kawa Stream.

10 COMMISSIONER OKUDA: I looked at the Kawa
11 Stream study, and that seemed to be a study of
12 outflows that are currently taking place, and what
13 might take place after construction was finished.

14 I know there was a reference that best
15 practices would be used during construction to limit
16 surface runoff, things like that.

17 My question was, was that quantified
18 anywhere in there, as far as whether or not there was
19 going to be an increase in runoff during construction
20 or anything like that?

21 THE WITNESS: The discussion of the
22 construction period impacts deal with the best
23 management practices that go into effect during the
24 grading.

25 As part of the processing of a grading

1 permit, there has to be a much more detailed analysis
2 of how that works and exactly what the best
3 management practices are.

4 COMMISSIONER OKUDA: That's basically what
5 I was looking to see whether or not that information
6 was contained in the EIS.

7 THE WITNESS: Discussion of construction
8 period impacts is in the EIS.

9 COMMISSIONER OKUDA: Okay, I guess I'll
10 have to look again. Thank you.

11 CHAIRPERSON SCHEUER: Commissioners, other
12 questions?

13 If I may, I want to ask some questions that
14 are really related to public testimony that we
15 received earlier.

16 One of the questions, and one that -- two
17 or three makes sense to a lot of people, there is a
18 Conservation District. Why would we move it out of
19 the Conservation District?

20 Could you discuss the difference between
21 protection of land zoning as in the Conservation
22 District versus the protection provided by a
23 Conservation Easement?

24 THE WITNESS: They both use the term
25 "conservation" but they're very different legal

1 vehicles. The Conservation District was formerly
2 adopted by this body in 1964, it's an outgrowth of
3 the 1962 State Land Use plot. When all of the land
4 in the State of Hawai'i was placed into four separate
5 land use categories.

6 The Conservation District in and of itself
7 is intended to protect land that has high -- for lack
8 of a better term, I realize it's redundant -- but
9 conservation value.

10 The Conservation District itself is further
11 subdivided into different subzones ranging from the
12 most protected subzone to the least protected
13 subzone.

14 The majority of the project area, of the
15 Petition Area, is in the least sensitive of the
16 protected subzones.

17 The Office of Conservation and -- OCCL had
18 no issues related to the Petition. The area that
19 we're discussing previously has been used as a dairy,
20 and as a pineapple plantation.

21 The vegetation on the property is mostly
22 invasive.

23 CHAIRPERSON SCHEUER: Just, again,
24 Conservation Zoning versus Conservation Easement.

25 THE WITNESS: So the zoning allows certain

1 kinds of uses and dictates how you can use those uses
2 within the Conservation District.

3 A Conservation Easement is a private
4 agreement between property owner and the owner of the
5 easement or the holder of the easement.

6 In this case, I believe that there is a
7 state statute which provides oversight and directs
8 how Conservation Easements are to be arranged and
9 agreed upon; and the holder of the easement is the
10 entity that ensures that the provisions of the
11 agreement are held rather than a government entity.

12 CHAIRPERSON SCHEUER: And can conservation
13 easements be revoked or changed?

14 THE WITNESS: It cannot.

15 CHAIRPERSON SCHEUER: So more permanent?

16 THE WITNESS: More permanent.

17 CHAIRPERSON SCHEUER: The difference
18 between conservation easement over agricultural land
19 versus IAL designation is that IAL may be removed,
20 but a conservation easement for agricultural land
21 cannot be removed?

22 THE WITNESS: That is correct.

23 CHAIRPERSON SCHEUER: I want to talk
24 about -- I don't believe there is a lot of case law
25 that really explains what a good set of alternatives

1 is versus a not so good set of alternatives.

2 Alternatives have to comply with and
3 fulfill the objectives of the project?

4 THE WITNESS: That is correct.

5 CHAIRPERSON SCHEUER: And provide some
6 reasonable -- that includes alternatives that would
7 have less environmental impact; is that correct?

8 THE WITNESS: That is correct.

9 CHAIRPERSON SCHEUER: Help me understand
10 the objectives of this project.

11 Are in-ground burials one of the key
12 objectives of this project providing land for
13 additional in-ground burials as opposed to column
14 burials?

15 THE WITNESS: It is the primary purpose and
16 objective of this project. I think we went into
17 considerable detail identifying that the recent trend
18 in flipping the percentage of in-ground burials
19 versus cremation, a number of cremations have gone
20 up, but although the number of percentage of
21 in-ground burials have gone down, their numbers have
22 remained the same just because more people are
23 passing away.

24 The percentage of people that are in my age
25 cohort, as we refer to us as boomers, we are now a

1 major segment of the demographic, and we're dying in
2 large numbers, and for that reason, the need for
3 in-ground burials has not diminished and that is a
4 primary objective and need for the purpose.

5 CHAIRPERSON SCHEUER: Was that a primary
6 concern in preparing the EIS in terms of choosing
7 which alternatives might be worthy of consideration
8 that they would fulfill that objective?

9 THE WITNESS: It's a central consideration
10 when you're looking at alternatives does it fulfill
11 purpose and need.

12 CHAIRPERSON SCHEUER: My last -- I have two
13 more, three sets of questions. One has to do with
14 the late comments from the Division of Aquatic
15 Resources regarding the presumably damselfly habitat.

16 THE WITNESS: I don't believe the DAR
17 commented on the damselfly at all.

18 CHAIRPERSON SCHEUER: Can you confirm that?

19 THE WITNESS: They did not comment on the
20 damselfly.

21 CHAIRPERSON SCHEUER: The Division of
22 Forestry and Wildlife?

23 THE WITNESS: DOFAW did.

24 CHAIRPERSON SCHEUER: And are you
25 incorporating all of the recommended protective

1 strategies for Division of Forestry and Wildlife?

2 THE WITNESS: We have a difference of
3 opinion in terms of with DOFAW and how they were
4 regarding some of the minimization measures.

5 We met with Mr. David Smith, who is the
6 DOFAW chief administrator for DOFAW, last week. We
7 discussed his letter, we discussed our comment. And
8 he had no issues with the project after our
9 conversation.

10 CHAIRPERSON SCHEUER: Will you have further
11 information on that if we move forward in the
12 proceedings?

13 THE WITNESS: Yes.

14 CHAIRPERSON SCHEUER: Finally, there was a
15 comment from a member of the public about roads below
16 the existing cemetery sweating or exuding water, if I
17 understood him correctly -- well, after rainfall
18 events. And a trend over his lifetime experience in
19 the area increasing over time.

20 Can you discuss how the EIS addressed
21 issues of the affect of changing upslope vegetation
22 on water flow in the area?

23 THE WITNESS: Yes. There's been a lot of
24 discussion about changing the characteristic of
25 stormwater on the property once there's been grading

1 and existing vegetation has been removed.

2 Now, the fact of the matter is that much of
3 the land area that's under the existing canopy is
4 dirt. There's no ground cover. Some ground cover in
5 some areas, but a large area underneath the canopy is
6 dirt, because nothing can grow under the canopy.

7 We documented, through the studies that we
8 did, and our water quality people, our civil
9 engineering people will all tell you that in terms of
10 understanding the characteristics of stormwater, when
11 there is bare earth versus turfgrass, and the fact
12 that the area we're proposing to grade, we are going
13 to reduce the slope. We're changing a number of the
14 characteristics associated with stormwater runoff.

15 That is the surface area, which would go to
16 grass, which has a higher capability to slow down
17 runoff, and allow percolation of runoff into the
18 ground. And the slope would slow the runoff down to
19 allow -- it would reduce the amount of runoff.

20 Putting in retention basins around the periphery of
21 the area that is going to be graded will capture a
22 lot of the stormwater and allowing it to settle,
23 removing the total suspended solids, and also allow
24 for a more efficient release of stormwater that does
25 not percolate into the ground into the county

1 drainage system.

2 CHAIRPERSON SCHEUER: Thank you. I have
3 nothing further.

4 Commissioners, anything further for Mr.
5 Ezer?

6 COMMISSIONER CHANG: One last question to
7 follow up.

8 CHAIRPERSON SCHEUER: Is this the last
9 question?

10 COMMISSIONER CHANG: I promise this is the
11 last question for Mr. Ezer.

12 Concerns regarding access, you mentioned
13 that along with the neighbors. How has the EIS
14 addressed that?

15 THE WITNESS: When we conducted a Cultural
16 Impact Assessment, the interviews for the Cultural
17 Impact Assessment, almost all of -- and I can't think
18 of an instance when this would not occur.

19 Practitioners access the property through
20 Lipalu Street. So there's been discussion about --
21 the plan provides access to the cultural preserve
22 through the future cemetery, and that would be -- we
23 could eliminate access off Lipalu Street.

24 The practitioners at this time are -- they
25 haven't completely bought into the concept of access

1 through the cemetery. They may want to continue
2 through Lipalu Street, but we believe that eventually
3 that could be accommodated, but there will also be --
4 the Petitioner has committed to putting a fence along
5 the end of Lipalu Street to access the property that
6 would control access so that only those who are truly
7 practitioners could gain access to the property.

8 COMMISSIONER CHANG: Thank you.

9 CHAIRPERSON SCHEUER: Okay. Redirect?

10 MR. TABATA: Thank you.

11 REDIRECT EXAMINATION

12 BY MR. TABATA:

13 Q Scott, in the EIS, most of the
14 alternatives, was there a no-action alternative?

15 A Yes, there was.

16 Q And this no-action alternative, does this
17 alternative concern a situation where there is no
18 request for district boundary amendment?

19 A That is the no-action alternative, yes.

20 Q So the no-action alternative, Hawaiian
21 Memorial Park would simply continue to exist with its
22 existing 80 acres?

23 A Yes, correct.

24 Q And in your EIS on Page 2-52 says:
25 No-action alternative was eliminated from

1 consideration because it will not meet the needs,
2 objectives of the project; is that correct?

3 A That is correct.

4 Q Thank you. No further questions.

5 CHAIRPERSON SCHEUER: I believe, based on
6 the questioning from our Commissioners, we wanted to
7 bring up a couple of your additional experts,
8 starting with Ms. Kealoha Sproat.

9 MR. MATSUBARA: Mr. Chairman, we will call
10 Trisha Kealani Watson, principal involved in
11 preparing the Archaeological Inventory Survey to
12 answer some of the questions raised by Commissioner
13 Chang.

14 A brief background relating to Trisha
15 Watson might be appropriate in regard to
16 qualifications and background. Could you briefly
17 summarize?

18 CHAIRPERSON SCHEUER: Do you swear or
19 affirm that the testimony you're about to give is the
20 truth?

21 THE WITNESS: Yes. I'm loud. I'll try not
22 to be obnoxiously loud, just loud.

23 TRISHA WATSON
24 Was called as a witness by and on behalf of the
25 Petitioner, was sworn to tell the truth, was examined

1 and testified as follows:

2 DIRECT EXAMINATION

3 BY MR. MATSUBARA:

4 Q There was a question raised by Commissioner
5 Chang relating to the trenching strategy that was
6 utilized for the AIS.

7 Could you elaborate on that and whether or
8 not SHPD was involved and how was it coordinated?

9 A Thank you.

10 So we were first hired on to actually
11 complete a supplemental AIS. Upon us getting hired
12 to do the work, we consulted very early with SHPD,
13 State Historic Preservation Division, specifically
14 the Archaeological Branch Chief Dr. Susan Lebo.

15 In discussion with Dr. Lebo, she helped us
16 to determine an appropriate methodology to ensure
17 that we were sufficiently covering and surveying the
18 area. Because this area had been previously studied
19 in a 2009 Archaeological Inventory Study that had
20 been previously completed and accepted by the State
21 Historic Preservation Division, it was determined
22 that the best methodology for this additional action
23 would be a pedestrian survey of the entire site.

24 Our team conducted that pedestrian survey,
25 100 percent pedestrian survey of the Petition Area,

1 during which we found a number of newly identified
2 historic sites. So they were already historic sites,
3 they were simply newly identified.

4 With each discovery we consulted with
5 Dr. Lebo. Only one of the sites were determined to
6 have a potential to have additional findings.

7 At that point we were directed by the State
8 Historic Preservation Division to complete an
9 excavation to potentially find additional data about
10 the site, specifically, to identify whether it was a
11 traditional site or historic site.

12 The difference between traditional sites
13 are precontact, whereas historic sites are
14 post-contact but at least 50 years old.

15 The first excavation was completed, and it
16 was inconclusive, at which point we again consulted
17 with Dr. Lebo, which included a field visit from
18 Dr. Lebo to the site, with an additional staff
19 archaeologist from SHPD, at which time she asked for
20 an additional excavation to see if we could identify
21 additional data, which we did so.

22 And lab testing and the results of that
23 excavation helped us to determine that it was a
24 historic site and not a traditional site.

25 COMMISSIONER CHANG: Thank you for the

1 explanation.

2 So I am looking at some of the figures in
3 the EIS report. So help me to understand, there was
4 100 percent pedestrian survey?

5 THE WITNESS: Correct.

6 COMMISSIONER CHANG: Within the area that
7 is being proposed for the cemetery, 23 acres. How
8 many trench excavations were done in the 2009 AIS,
9 and how many were done in the most recent
10 supplemental or the new AIS?

11 THE WITNESS: In the first 2009 study
12 conducted by Cultural Surveys Hawaii, there were
13 three excavation sites within the area that is
14 proposed for the cemetery expansion.

15 For our study we were only asked or
16 directed by SHPD to conduct two excavation studies.
17 It was found that because there were very limited
18 findings in the 2009 subsurface work, that it was
19 very unlikely that any additional excavation of that
20 area would yield similar results. It is the practice
21 of SHPD to only conduct testing that is approved, so
22 we only conducted the testing that we were directed
23 to. And again, where we were asked to conduct
24 additional testing, whether pedestrian or subsurface
25 we did so as instructed.

1 COMMISSIONER CHANG: Did you feel that a
2 total of four trenches were appropriate given the
3 historic nature of what has been found in the
4 cultural preserve, I guess I just -- I'm a little
5 curious on the conclusion that it's unlikely that
6 there will be more historic properties that will be
7 discovered in the additional 23 acres.

8 So out of the 23 acres, four excavation
9 test trenches were prepared; is that correct?

10 THE WITNESS: Actually five, three from the
11 2009 study, two in the most recent study.

12 The AIS, the original 2009 AIS was
13 completed and accepted. So it was a complete AIS.

14 The second one we conducted, while we did
15 find an additional, I believe off top of my head, 14
16 sites that were newly identified, they were of such
17 low integrity, it is why we think that there would
18 not be additional findings on the subsurface testing.

19 I should also mention that this is not the
20 end of the archaeological work that will take place.
21 So upon acceptance of the AIS, we will complete, and
22 already have a draft of a preservation plan, which
23 includes the new site, so I feel it appropriate to
24 mention that where we did identify, I believe it's
25 Honua No. 14, the site where we did additional

1 excavation, we actually redrafted the cultural
2 boundary to include that site. So we feel like we
3 have, when appropriate, taken appropriate action in
4 this draft to ensure that all historic sites of
5 significance and integrity are preserved.

6 After the preservation plan, on the
7 Conservation Easement side, there will be a
8 management plan that also helps to manage the
9 historic and cultural properties in the area.

10 On the SHPD side, there will be a data
11 recovery plan first completed and sent to SHPD for
12 approval, after which point there will be data
13 recovery.

14 From there will be an archaeological
15 monitoring plan, which needs to again be approved by
16 SHPD. And then the results of the archaeological
17 monitoring.

18 COMMISSIONER CHANG: In all of those cases,
19 any burials that may be discovered under those,
20 whether it's data recovery or archaeological
21 monitoring, would be considered inadvertent
22 discovery. It would not be considered previously
23 identified; is that correct?

24 THE WITNESS: Correct.

25 COMMISSIONER CHANG: In your expert

1 opinion, did you believe that the three previous test
2 trenches and two additional ones were adequate for
3 the 23 acres, given the fact that all these new
4 additional sites are discovered, and that you have a
5 very rich cultural preserve, probably one of the
6 largest heiaus on the Windward side?

7 THE WITNESS: If the question is if I
8 believe it was sufficient, yes, because we have had
9 now at least eight different archaeologists do a full
10 pedestrian survey over the area, not including those
11 experts on the State Historic Preservation Division.
12 And there is consensus amongst the various experts
13 and field technicians that there are not additional
14 sites that are to be identified or sites of
15 significance.

16 We really did comb the area very, very
17 carefully, and again, where we identified a potential
18 site of significance, there was extensive additional
19 testing conducted that led to the result that it was
20 a historic, not traditional site.

21 COMMISSIONER CHANG: Would you agree that
22 many times where we find habitation sites, it is a
23 potential indicator of subsurface burials, so the
24 fact that you may not find any surface, you do a
25 pedestrian survey, isn't necessarily conclusive that

1 there aren't any subsurface burials?

2 THE WITNESS: I concur. But it is why we
3 are having the additional data recovery and
4 archaeological monitoring during the entire course of
5 the project.

6 COMMISSIONER CHANG: You would agree one of
7 the major concerns of the Native Hawaiian community,
8 at least some members of the Native Hawaiian
9 community, that by shifting it to an archaeological
10 monitoring program, where they become inadvertent
11 versus previously identified, that for some members
12 of the community that has been -- that has been
13 determined to not be -- how would you say -- that
14 there would have been a desire to have a greater
15 archaeological inventory survey to try to identify
16 some of those sites so that they would be determined
17 to be previously identified?

18 THE WITNESS: I agree that that is often
19 the case, but I think in this case where we have a
20 cultural advisory group consisting of kumu hula and
21 area practitioners, the relationship that's been
22 developed between the landowner and the cultural
23 practitioner from the community help to assure that
24 in the event of an inadvertent discovery, there would
25 be sufficient input from the area practitioners.

1 And to answer, I think, your earlier
2 question as to what is inconsistent with the current
3 boundary amendment and why we need to move to urban,
4 it was in close consultation with the area
5 practitioners, who in 2015 amended the -- fact sheet
6 to allow for clean burials, burials where -- Hawaiian
7 burials where the flesh was stripped off the iwi, and
8 the iwi would be buried.

9 So there has been a request by
10 practitioners to allow for that cultural practice in
11 the area. We have been in discussion with State
12 Historic Preservation Division about it. We are
13 working with various humu hula and lehua hula to help
14 develop, again, the preservation plan and management
15 plan to allow for this traditional practice to occur.

16 So we are quite comfortable with where we
17 are regarding consultation with the area
18 practitioners.

19 COMMISSIONER CHANG: Is it the opinion --
20 have you discussed with OCCL that that practice is
21 inconsistent with conservation boundary, or that it
22 would require this boundary amendment, or is that a
23 permitted use within the Conservation District?

24 THE WITNESS: It is currently not a
25 permitted use, because it would be considered

1 cemetery use, despite it being a cultural practice.

2 And I have discussed it at length with Sam
3 Lemmo, the administrator of the Office of
4 Conservation and Coastal Land, and it was determined
5 that the most appropriate course of action would be
6 to seek the boundary amendment to place the
7 Conservation Easement over it with a covenant that
8 only allows for this traditional practice to take
9 place and no other development.

10 COMMISSIONER CHANG: So does -- is that the
11 only proposed activity that would be inconsistent
12 with the Conservation District, that is the basis for
13 requesting this be -- the boundary amendment include
14 this cultural preserve, is that the only activity?

15 THE WITNESS: Yes, only activity.

16 COMMISSIONER CHANG: If there was a
17 restriction on the cultural preserve, that that would
18 be the only activity, there would be no objection?

19 THE WITNESS: There would be no objection.

20 I will add, and I believe this is already
21 permitted within the existing conser -- HRS 183, but
22 there has been a request to have improved access for
23 kupuna.

24 The land is quite instable and steep in
25 places, so there is discussion about providing

1 appropriate trails which we do believe is increasing
2 cultural access to various sites, but that is also an
3 activity that would take place, but I believe that's
4 already permissible under HRS 183.

5 COMMISSIONER CHANG: There was discussion
6 about the cultural preserve may be stewarded by the
7 Koolaupoko Hawaiian Civic Club. Is that your
8 understanding, because I know under the -- did you
9 also do the Cultural Impact Assessment?

10 THE WITNESS: Yes, I did.

11 COMMISSIONER CHANG: Was that the
12 understanding with Ko'olaupoko, that they would be
13 the stewards of this preserve?

14 THE WITNESS: Yes. There is a letter of
15 intent already signed between the landowner and the
16 Ko'olaupoko Hawaiian Civic Club. We felt this most
17 appropriate, because they had been the previous
18 caretakers of both the heiau and surrounding area.

19 As I mentioned, we have created a cultural
20 advisory group that includes members of the civic
21 club and area practitioners, so we feel like we are
22 adequately addressing all of the cultural and
23 traditional access needs.

24 COMMISSIONER CHANG: I would like to
25 recognize that. I thought the Cultural Impact

1 Assessment, you provided a lot of really good
2 information in there. Very well done.

3 THE WITNESS: Thank you. I really
4 appreciate that.

5 COMMISSIONER CHANG: There was, out of the
6 170 pages, the mitigation came down to two pages.
7 And we cannot, under Ka Pa'akai, we cannot delegate
8 that to the developer.

9 Are there specific recommendations that
10 have come out of the consultation with respect to the
11 actual use of the cultural preserve and how that will
12 be managed, in particular like the laua'e, the
13 cultural gatherers?

14 CHAIRPERSON SCHEUER: If I may,
15 Commissioner. Can you ask the question related to
16 the adequacy of the FEIS?

17 COMMISSIONER CHANG: The Cultural Impact
18 Assessment is part of the EIS, so I want to make sure
19 there is sufficient information in there for the LUC
20 to make a determination.

21 So I'm just looking at issues related to
22 the -- that have been raised about the gatherers of
23 the laua'e.

24 THE WITNESS: Thank you for the question.

25 I do feel it's an incredibly important one.

1 As you heard in public testimony, there was
2 concern by the area residents about parking on Lipalu
3 Street and trespassers and people accessing and
4 disrupting the adjacent neighborhood.

5 What we provided in the EIA was recognition
6 that there were numerous cultural practitioners that
7 utilize that access directly through Lipalu Street to
8 access the laua'e. So that is the primary route that
9 practitioners take, parking on Lipalu and walking up.

10 What we feel is outside of any
11 decision-making, like you said, you can't delegate
12 that authority, but what the LUC will need to resolve
13 is there has been an offer from the landowner to
14 close off that Lipalu Street permanently.

15 Alternatively there would be access
16 provided through the cemetery land to the laua'e, but
17 that would be potentially an impact if we are in fact
18 adversely impacting the access they have.

19 So we simply provided the information that
20 via the oral history we took, this is something that
21 the practitioners have identified as an important
22 access route to the resource.

23 I think we will be comfortable with
24 whatever decision the LUC makes as to how that
25 traditional and customary access is protected, but

1 that there are, either through the cemetery, or
2 maintaining some sort of access on Lipalu Street, but
3 we would like to at least figure out how to
4 adequately address the adjacent neighbor's concerns
5 about people walking through that area.

6 COMMISSIONER CHANG: Thank you very much.

7 CHAIRPERSON SCHEUER: Are there questions
8 for this witness from the county?

9 MR. TAKAHASHI: No questions.

10 CHAIRPERSON SCHEUER: Office of Planning?

11 MS. APUNA: No questions.

12 CHAIRPERSON SCHEUER: Any further questions
13 from the Commissioners?

14 MR. MATSUBARA: Chairman, housekeeping. I
15 neglected to qualify the witness as an expert based
16 on her curriculum vitae, her experience and her very
17 informative testimony.

18 We would like the Commission to consider
19 her an expert in the preparation of archaeological
20 inventory surveys and cultural impact analysis.

21 CHAIRPERSON SCHEUER: Are there any
22 objections from the county?

23 MR. TAKAHASHI: No objections.

24 MS. APUNA: No objections.

25 CHAIRPERSON SCHEUER: Commissioners? She

1 is qualified.

2 MR. MATSUBARA: Thank you.

3 CHAIRPERSON SCHEUER: Is there any
4 redirect?

5 MR. MATSUBARA: No redirect.

6 MR. TABATA: We have Tom Holliday present
7 to discuss market and economic impacts.

8 CHAIRPERSON SCHEUER: Aloha, Mr. Holliday.

9 THE WITNESS: Good afternoon,
10 Commissioners.

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

14 THE WITNESS: I do.

15 TOM HOLLIDAY

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

19 DIRECT EXAMINATION

20 THE WITNESS: My name is Tom Holliday,
21 I'm a director with the Hallstrom Team at CBRE. I'm
22 a real estate economist and appraiser, 1003 Bishop
23 Street, Suite 1800 in Honolulu.

24 I always talk too fast, kick me if I talk
25 too fast.

1 During the course of the discussion this
2 morning, it became apparent there were a couple
3 issues that I might comment on for the Commission's
4 benefit.

5 First was a discussion of alternative
6 burial types. And, yes, it is true that Nuuanu
7 Cemetery on Oahu are trying desperately to stay in
8 business. So they are building these column burials
9 as an attempt to have product to sell, because they
10 basically do not. There is no evidence strong market
11 demands for them as yet, but they are trying to do
12 those things.

13 But I think one thing that has kind of
14 moved across the floor today is the concept that
15 somehow all burials should be pushed into one thing,
16 cremation. And there's 25 to 30 percent of the
17 populace that will not accept cremation for religious
18 or other reasons. So you will always have full
19 in-ground burials.

20 And I think there's been a misconception
21 about Japanese burials and Asian burials. I used to
22 play tennis at Craigside Condominium, right at the
23 base of the Nuuanu Cemetery. Amazing to be out there
24 on weekends. You could smell the incense of families
25 visiting their family plots, of having picnics, and

1 enjoying the prospects of family and ohana and
2 dealing with them that you can't get from a column
3 burial.

4 You want a place you can sit. And I don't
5 claim to be an expert at all in Japan burial
6 practices, but I've been to Japan many times. My
7 life partner is going back to her small town village
8 of Ofanato, which was totally destroyed by the 2011
9 tsunami.

10 So burial practices, I see how they have
11 been practiced in Japan after this great tragedy.
12 And it's very common, most common for them to have
13 burial plots. As a matter of fact, she is going over
14 next month to see her mom's new burial plot, and the
15 headstone in which her urn is going to be placed.

16 They're not forcing them into sides of
17 walls. People want to have a place where family can
18 come and have fraternity with their long forebearers.

19 So I think it is necessary that you allow
20 for broad alternatives, just like you can't force
21 everybody to drive a Prius, you can't force
22 everybody --

23 CHAIRPERSON SCHEUER: I drive a Prius.

24 THE WITNESS: That's okay. But some people
25 need to drive trucks. I'm not saying it's bad.

1 CHAIRPERSON SCHEUER: Disclosure.

2 THE WITNESS: You have to allow for
3 diversity, and you have to allow for the fact that
4 people want to be able to meet together around their
5 past dead.

6 So it's not that burial-type alternatives
7 to in-ground interment don't exist, but the market
8 hasn't demonstrated a huge demand for them as yet.
9 They're still just a small portion, and I think it is
10 wrong to assume that we can somehow force everybody
11 into a small niche somewhere.

12 Secondly, in talking about the dollars that
13 flow from the project and how they will be. We did
14 not do an appraisal, although by trade I'm an
15 appraiser, I appraise hotels.

16 But in our report we looked at the economic
17 activity that was associated with the operation of
18 Hawaiian Memorial Park. And so the numbers that were
19 pointed to as being over the course of the projection
20 period of 115 million, that was not the sales, if you
21 will, of the plots, but that was the ongoing economic
22 activity of providing services, memorial use of
23 the -- memorial spaces and other things at the park.

24 And we didn't do an appraisal, but we can
25 kind of do the math real quick. If there is 30,000

1 new plots created, and they sell for an average of
2 \$8000 a piece, that would be \$240 million in gross
3 sales.

4 From that gross sales, you have to take out
5 the \$30 million it costs to create the
6 infrastructure. You have to take out the sales
7 commissions you pay to those who sell the plots. You
8 have to take out money to set aside into the trust
9 fund to take care of that section of the cemetery.

10 So by the time you get done paying for all
11 these things, the net sells proceeds would probably
12 be \$150 million or so a year, maybe a little higher.

13 If you discount that because that's going
14 to be gotten over 17 years to the present value of
15 what happens on that conservation land would probably
16 only be 75 or \$80 million. But the gross sales would
17 be 240, the company would net maybe half or so of
18 that.

19 Those are the two issues that I heard that
20 I could help address. I'm open to any questions.

21 MR. TABATA: No further questions.

22 CHAIRPERSON SCHEUER: Questions from the
23 city?

24 MR. TAKAHASHI: No questions.

25 MS. APUNA: No questions.

1 CHAIRPERSON SCHEUER: Commissioners?
2 Commissioner Okuda.

3 COMMISSIONER OKUDA: Thank you for your
4 testimony clarifying this.

5 Did your study take into account what could
6 be the potential economic benefit to Hawaiian
7 Memorial Park if it allowed additional urns or
8 caskets to be buried in the same family plot?

9 THE WITNESS: No. We did not do any type
10 of appraisal or analysis profitability, we only
11 looked at economic impact resulting from the
12 development of the product.

13 COMMISSIONER OKUDA: Again, this is not to
14 prejudge the ultimate decision here, but just to look
15 and see if the EIS has adequately laid out
16 alternatives for the decisionmaker to make the
17 ultimate decision, but that could be an alternative
18 which would still fulfill one of the positive
19 advantages as you described it of in-ground burials,
20 that if, for example, additional caskets which might
21 require additional vaults to be built that would be a
22 cost of additional caskets could be put into the
23 ground in excess of what Hawaiian Memorial Park now
24 allows or additional urns, you could have additional
25 burials in the same plot and still enjoy the

1 camaraderie of families burning incense and things
2 like that; correct?

3 THE WITNESS: Sure.

4 COMMISSIONER OKUDA: That wasn't addressed
5 in your market analysis.

6 THE WITNESS: That really does not impact
7 the economic output of the project. It still would
8 require so much in memorial services, and other
9 things, so we did not look at returns to the
10 developer as part of our assignment.

11 COMMISSIONER OKUDA: I'm not trying to
12 argue that you should have, and that somehow makes
13 your analysis defective, just trying to see whether
14 or not that which seems to be a reasonable
15 alternative was discussed anywhere --

16 THE WITNESS: As far as how it affects
17 demand, we did consider it, demand versus supply.
18 But as far as how it affects the profitability of the
19 venture, that's really not our kuleana.

20 COMMISSIONER OKUDA: Thank you very much.

21 CHAIRPERSON SCHEUER: Anything else,
22 Commissioners, for this witness?

23 Any redirect?

24 MR. TABATA: No redirect.

25 CHAIRPERSON SCHEUER: Do you have anything

1 further on your presentation by the Petitioner?

2 MR. MATSUBARA: Our presentation has
3 concluded in terms of the witnesses we have. Just
4 our request in regard to the purpose of today's
5 hearing.

6 CHAIRPERSON SCHEUER: Do you want to do
7 that or reserve some kind of time at the end?

8 MR. MATSUBARA: What's contemplated to be
9 done right now?

10 CHAIRPERSON SCHEUER: Next would be any
11 presentation by the county, any presentation by the
12 Office of Planning.

13 MR. MATSUBARA: I'll do it after.

14 MR. TAKAHASHI: We have no presentation to
15 offer.

16 CHAIRPERSON SCHEUER: Nothing beyond Ms.
17 Sokugawa's testimony.

18 Office of Planning.

19 MS. APUNA: Short statement.

20 OP reviewed the EIS Preparation Notice and
21 Draft EIS for District Boundary Amendment Petition
22 and provided comments that were sufficiently
23 addressed by the Petitioner.

24 OP commented that certain studies such as
25 cemetery capacity, traffic impact and impacts to

1 surface and groundwater should be included among
2 others.

3 OP also commented that SHPD's comments
4 should be included. The FEIS indicates that SHPD
5 completed their review and a comment letter and
6 response included in Appendix A-4.

7 OP recommends that this Commission accept
8 the EIS for the Petition.

9 CHAIRPERSON SCHEUER: Commissioners, are
10 there any questions for Office of Planning?
11 Commissioner Okuda.

12 COMMISSIONER OKUDA: Thank you, Mr. Chair.

13 If I can ask the Office of Planning, do you
14 think, or does the Office of Planning believe there
15 was an adequate discussion of alternatives such as
16 increasing the number of caskets or urns that could
17 be buried in an existing plot on the existing
18 Memorial Park Cemetery without going into the
19 Conservation Zone?

20 Do you believe the EIS had sufficient
21 discussion regarding that to allow the Commission
22 later on to use the EIS as a tool in making its
23 ultimate decision if it came to that?

24 MS. APUNA: I believe that Petitioner did
25 review a reasonable alternative. There's probably an

1 endless amount of alternatives that could be looked
2 at, but I think that they considered the reasonable
3 ones in their assessment, the FEIS.

4 COMMISSIONER OKUDA: What does the Office
5 of Planning see in the record that indicates
6 increasing the capacity of existing plots for burials
7 would not be a reasonable alternative?

8 MS. APUNA: Can you please restate the
9 question?

10 COMMISSIONER OKUDA: Do you see, or can you
11 point to anything in the record including the EIS
12 which would indicate that increasing the capacity of
13 number of caskets or urns that could be placed in an
14 existing plot would be an unreasonable alternative?

15 For example, there was testimony that
16 Hawaiian Memorial Park has certain limits on number
17 of urns that can be placed in a plot. I'm just
18 trying to find out what in the EIS did the Office of
19 Planning see that indicated that increasing the
20 capacity or allowed number of urns in a plot to be
21 unreasonable?

22 MS. APUNA: I think there was testimony
23 that said that to do that, to increase the number
24 of -- to add to the plots, that would interfere with
25 some perhaps contractual obligations that would be

1 difficult. I would consider that unreasonable.

2 COMMISSIONER OKUDA: I might have missed
3 this in the EIS and its attached studies, but having
4 grown up on the Windward side, I think we can
5 remember the time when Kaneohe Bay was pristine and
6 glass bottom boats were taking people and tourists
7 and residents to look at the reef structure.

8 Then came surface runoff from construction,
9 and now we have the bay as it is.

10 What in the EIS clearly indicated
11 quantitatively what the expected surface runoff would
12 be during construction? I don't mean to turn this
13 into a test.

14 My broader question is does the Office of
15 Planning believe that the EIS adequately addresses
16 the issue of runoff, you know -- and I'm not saying
17 it's bad or good or whatever -- is there sufficient
18 information in there for the Land Use Commission to
19 make an informed decision later on on the boundary
20 amendment if it gets to that point?

21 MS. APUNA: I'm told that under the best
22 management practices that were reviewed in the FEIS
23 that there is discussion about runoff and those sorts
24 of things that were adequate for OP to review.

25 COMMISSIONER OKUDA: Thank you very much.

1 I have no further questions.

2 CHAIRPERSON SCHEUER: Thank you. Other
3 further questions for Office of Planning?

4 Let me briefly ask: Is our court reporter
5 good to power through?

6 COURT REPORTER: You bet.

7 CHAIRPERSON SCHEUER: Petitioner, would you
8 like to offer concluding remarks?

9 MR. MATSUBARA: Yes, Mr. Chair, thank you.

10 I would like to ask the Commissioners to
11 act favorably to our request to accept the Final EIS
12 submitted to you for this particular project based on
13 the fact that it has satisfied the statutory
14 requirements of 343 and Administrative Rules under
15 11-200.

16 In the case that Commissioner Okuda cited
17 Price versus Obayashi, clearly reflected that the
18 rule of reason governs in this particular
19 determination you make.

20 And what facts -- what the rule of reason
21 is applied, is the FEIS that we submitted. Now, we
22 propose a project in the Petition we filed with you.
23 It was our obligation to tell you what the impacts,
24 environmental impacts would be of that particular
25 project. And all that information had to be gathered

1 in good faith and presented for purposes of full
2 discussion.

3 It was distributed to agencies and
4 distributed to public. Comments were welcome and we
5 were required to respond to those comments.

6 And those were addressed to a particular
7 project, which is the cemetery, where we indicated
8 that there would be burials primarily, and that is
9 what we were proposing to do.

10 Then we discussed what impacts would be
11 from that proposed action.

12 Now, I think, I believe from the comments
13 we have been getting pro or against, is that I
14 believe all the relevant environmental factors that
15 needed to be considered for this project have been
16 raised, discussed and thoroughly vetted.

17 Now, I agree not everybody agrees with the
18 position taken by others. But it's there on the
19 table. It's all out there. And I think there is no
20 question that there was no bad faith, only good faith
21 in terms of putting it together and presenting it to
22 you. So I think we've satisfied the requirements of
23 Price versus Obayashi in that regard in terms of
24 providing you all the relevant information that's
25 applicable to this particular project, and done in

1 good faith.

2 So under the circumstances, we ask that you
3 favorably consider acceptance of this FEIS because
4 then we can move on to the next stage where you
5 balance what came up today, and what is in the FEIS
6 as indicated in Price versus Obayashi.

7 You measure that against the benefits to be
8 provided by this project, and that comes up when we
9 go to the district boundary procedure, where we can
10 get into the other areas besides the environment,
11 relating to what, we hope, what we intend to do with
12 this project.

13 And so I believe we satisfied the
14 requirements in terms of bringing to your attention
15 the EIS that occurs, so you have enough to measure
16 against the Petition itself. Thank you.

17 CHAIRPERSON SCHEUER: Thank you.

18 Commissioners, any final questions for any
19 of the parties? Seeing none.

20 Commissioners, as you well know, our issue
21 today is acceptance for or nonacceptance of the EIS.

22 I'll entertain the motion that LUC either
23 accepts or does not, and further authorize LUC
24 executive officer to notify the Office of
25 Environmental Quality Control and the parties that

1 LUC has accepted or not accepted the EIS.

2 The motion should state the reasons for
3 acceptance or nonacceptance of the EIS.

4 Commissioner Cabral.

5 VICE CHAIR CABRAL: As the only person not
6 connected to the project in any way, I will take it
7 for the team here.

8 I would like to go ahead and move to find
9 that the Petitioner's Final EIS complies with the
10 content requirements for the FEIS and its acceptance
11 pursuant to Hawai'i Revised Chapter, Chapter 343 and
12 HAR Chapter 11-200.

13 That would be my main motion. And that I
14 would also like to make sure that we authorize our
15 executive officer to notify and submit a record of
16 this acceptance to the Applicant and the Office of
17 Environmental Quality Control no later than May 1st,
18 2019, which is our deadline to act.

19 CHAIRPERSON SCHEUER: Motion made by
20 Commissioner Cabral. Is there a second?
21 Commissioner Aczon.

22 COMMISSIONER ACZON: I would like to second
23 the motion.

24 CHAIRPERSON SCHEUER: A motion has been
25 made by Commissioner Cabral and seconded by

1 Commissioner Aczon to accept the Final EIS.

2 Would the movant or second like to speak to
3 the reasons why you made the motion?

4 VICE CHAIR CABRAL: I will.

5 I think that having read quite a bit of
6 information and did, somewhat buried in the EIS --
7 thank you for allowing me lots to read this past
8 weekend.

9 That, and I think in the perimeters that we
10 are given within the law that we are, again, this is
11 not us accepting the project, per se, but that we are
12 very bound by a number of laws and regulations and
13 court orders, so at this point we have, based on all
14 of the given information, we have no alternative but
15 to accept the Final EIS.

16 CHAIRPERSON SCHEUER: Commissioner Aczon.

17 COMMISSIONER ACZON: Mr. Chair, after all
18 this reading and testimonies, I'm very satisfied that
19 FEIS is vetted, and that some related to Petitioner
20 responded to comments by the community, and I really
21 commend them for voluntarily making changes to their
22 plans based on communities' comments.

23 CHAIRPERSON SCHEUER: Commissioners, we're
24 in deliberations. Commissioner Chang.

25 COMMISSIONER CHANG: Thank you for the

1 motion.

2 I greatly appreciated just the community
3 coming out, and I know the issue is the adequacy of
4 the FEIS.

5 I think Commissioner Cabral -- this is a
6 very thick document. There was a lot of information
7 provided, and some very good reports prepared. While
8 I may have disagreed with whether the EIA was
9 adequate or not, the state agency that governs that
10 was SHPD said it was and they accepted.

11 More importantly, I think that there has
12 been modifications to this plan in relationship to
13 what they heard previously, and I think Mr. Matsubara
14 is right, is that what we're evaluating is the plan
15 submitted to us today, which is a cultural preserve
16 of 12 acres. It is also a cemetery expansion of
17 about 24 acres. And then a substantial portion of
18 that land put into conservation.

19 Sitting at the LUC, not everybody is going
20 to be very happy, so I think we try to do the best
21 that we can looking at the information that's
22 presented to us, and trying to evaluate at this point
23 in time.

24 Again, it is only the FEIS, not the entire
25 project, but I think there's been a good faith

1 attempt. There has been a lot of information
2 provided in the FEIS, and in my view, I'm inclined to
3 vote in favor of the motion.

4 CHAIRPERSON SCHEUER: Commissioner Okuda.

5 COMMISSIONER OKUDA: Mr. Chair, as part of
6 deliberations here, I would like to state the reasons
7 why at this point in time I would be inclined not to
8 accept the EIS.

9 Now, I recognize what the Hawai'i Supreme
10 Court has said in Price versus Obayashi, and it
11 specifically said at 81 Hawaii Reports at 171 at page
12 182, the Pacific section d citation is 914 Pacific 2d
13 at 1375, where the Supreme Court said that it's
14 guided, as Mr. Matsubara said, by the rule of reason.

15 And I quote under which an EIS need not be
16 exhausted to the point of discussing all possible
17 details bearing on the proposed action.

18 So it's true that I do recognize that in
19 evaluating an EIS, frankly this is not the place to
20 nitpick things which might ultimately be decided at
21 the ultimate decision-making place, which in this
22 case would be the Petition for the Boundary
23 Amendment, but there's two items which I find or
24 would find are not clearly and sufficiently discussed
25 in the EIS which has a bearing on the ultimate

1 decision.

2 The first part is going to the basic
3 justification for the cemetery expansion, which is
4 the need to deal with burials or upcoming burial
5 demand, projected burial demand.

6 There is not sufficient discussion in the
7 EIS about alternatives that could be done or taken
8 place on the existing cemetery property.

9 Now, perhaps it's not economically
10 feasible, perhaps in the end there wouldn't be
11 demand, perhaps cultural, religious or other
12 objections to those types of alternatives, but the
13 EIS should have had that type of alternative
14 discussed in it.

15 The second item which is of concern is the
16 fact that I do not believe that there's sufficient
17 discussion in the EIS to allow the decisionmaker here
18 to make a decision and rational choices about the
19 impact of potential surface runoff.

20 The EIS discloses the fact that there's
21 going to be significant grading of Oneawa Hills, and
22 grading is required basically so that people visiting
23 in-ground burial sites will be able to get to those
24 sites because it would be difficult if the hills were
25 too steep.

1 There's not sufficient discussion in my
2 mind as far as what the impacts are. There is a
3 discussion about use of best practices as far as
4 mitigation of runoff, but there isn't much detail
5 after that. That, in my view, is significant,
6 because that goes to what considerations the
7 Commission would have to take later on in discussing
8 or making the decision regarding whether to approve
9 or deny the boundary amendment.

10 I do recognize the fact that a lot of
11 thought was put into this Environmental Impact
12 Statement. I think it reflects the reputation of
13 counsel, that they always do a really good job in
14 presenting complete and accurate pleadings no matter
15 what tribunal they're in front of, but for those
16 reasons I respectfully am inclined at this point in
17 time to vote against this EIS.

18 CHAIRPERSON SCHEUER: Vice Chair Mahi, do
19 you have anything to state for deliberations?

20 VICE CHAIR MAHI: Thank you, Chair.

21 I'm the kind of person that doesn't say
22 much during the course of events, but at the end
23 after hearing all the testimony and all the different
24 concerns and views that have been expressed, and
25 notwithstanding my comrade here who has stated so

1 firmly, and by who I deeply respect his deliberation
2 and his reasoning, my comrade, Mr. Okuda, my feeling
3 is in the overall picture of looking at what has
4 happened historically in the area, Mahinui, that's my
5 name. Mahinui is the area of real estate that was
6 cut off from Olomana, for those that know the story.

7 Olomana was a large fierce warrior of which
8 a kapahua had to deal with.

9 And as we were discussing this, that whole
10 battle going through my mind, and I'm only going to
11 say it now, but it is my feeling not only as a
12 commissioner, but as a resident, I'm kamaaina to this
13 side of the island, but not kupa'aina and there is a
14 large difference.

15 Kupa means you were born here. Kama means
16 you came from somewhere else. And I'm from Kona area
17 which is kalihi.

18 I see historically what's happening here is
19 that the best way to preserve this tradition of
20 Mahinui, and onto the other portion of Koolaupoko,
21 and that's why I stand in support the findings of the
22 EIS.

23 CHAIRPERSON SCHEUER: I have not spoken yet
24 on this matter.

25 I'll start by noting that I find the law

1 and rules that describe what constitutes a
2 satisfactory set of alternatives very dissatisfying
3 to me personally. I think it is very possible to
4 write an EIS that is legally adequate that doesn't
5 look at alternatives that are truly meaningful in a
6 sense of like overall community desires might be for
7 a particular parcel of land. It's driven by the
8 proposer of a project, driven by economic and other
9 goals.

10 I think it's -- we lack, as a Commission
11 and other bodies of the State of Hawai'i, who make
12 decisions on adequacy of EIS's, we lack a good set of
13 guidance in terms of getting to alternatives that
14 really would get to like we want to look at what ways
15 we can use land more efficiently.

16 But as much as I would like that standard,
17 that standard is not fair. We are bound with the
18 standards of law and in the rules guided by the force
19 that we have.

20 So I believe that given the objectives that
21 the Petitioner has stated are their objectives for
22 this project, the alternatives presented to us are
23 reasonable. I recognize very clearly that people who
24 have spoken against the project have significant
25 concerns about the potential impacts from the

1 project.

2 My support of the motion is not because I
3 believe that they're wrong that there might not be
4 any potential impacts of the project, I actually
5 believe there are potential impacts from the project,
6 my duty is not to speak for or against the project,
7 but did the EIS give us an adequate basis for moving
8 forward to the next stage of decision-making, where
9 we can decide, based on those impacts, can they be
10 mitigated, can they not be mitigated? If they
11 cannot, do we choose to deny the request or accept
12 the request for district boundary amendment.

13 I believe that we have a sufficient basis
14 in this document to make that decision. And I'll
15 note that this Commission, and really this set of
16 members of this Commission, we are a bit unusual. We
17 have rejected two EIS's in the last couple of years,
18 both on Maui, very large proposed project at Olowalu
19 on Maui; a proposed project in Kihei, and both of
20 those cases one thing that occurred was we had noted
21 cultural practitioners come forward whose opinions
22 had been ignored, never been consulted with, very
23 sound basis for determining that we did not have
24 sufficient information in front of us.

25 And I didn't see those particular basis in

1 front us right now.

2 To be very clear, I have not taken a
3 position on the overall project. The decision in
4 front of us today is the adequacy of the EIS, and I
5 believe the FEIS does meet the legal requirements.

6 Any further deliberation to be had among
7 us? If not, Mr. Orodenger, please poll the
8 Commission.

9 EXECUTIVE OFFICER: Thank you, Mr. Chair.
10 The motion is to find the Petitioner's Final EIS is
11 complete and complies with the requirements of
12 Chapter 343 and authorizes the executive officer to
13 notify OEQC as to same.

14 Commissioner Cabral?

15 VICE CHAIR CABRAL: Yes.

16 EXECUTIVE OFFICER: Commissioner Aczon?

17 COMMISSIONER ACZON: Yes.

18 EXECUTIVE OFFICER: Commissioner Ohigashi
19 is not present.

20 Commissioner Mahi?

21 VICE CHAIR MAHI: Aye.

22 EXECUTIVE OFFICER: Commissioner Chang?

23 COMMISSIONER CHANG: Yes.

24 Commissioner Okuda?

25 COMMISSIONER OKUDA: No.

1 EXECUTIVE OFFICER: Chair Scheuer?

2 CHAIRPERSON SCHEUER: Aye.

3 EXECUTIVE OFFICER: Thank you, Mr. Chair.

4 The motion passes with five votes and one deny.

5 CHAIRPERSON SCHEUER: The motion has passed

6 with the minimum number as possible. With the

7 conclusion of this agenda matter, I don't believe

8 that there's any other business in front of the

9 Commission, and that I adjourn this hearing.

10 (The proceedings adjourned at 3:10 p.m.)

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CERTIFICATE

STATE OF HAWAII)
) SS.
COUNTY OF HONOLULU)

I, JEAN MARIE McMANUS, do hereby certify:

That on April 23, 2019 at 9:30 a.m., the
proceedings contained herein was taken down by me in
machine shorthand and was thereafter reduced to
typewriting under my supervision; that the foregoing
represents, to the best of my ability, a true and
correct copy of the proceedings had in the foregoing
matter.

I further certify that I am not of counsel for
any of the parties hereto, nor in any way interested
in the outcome of the cause named in this caption.

Dated this 23rd day of April, 2019, in
Honolulu, Hawaii.

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