Hearing held on February 16, 2022
Commencing at 9:07 a.m.
Held via Zoom Interactive Conference Technology

I. CALL TO ORDER

II. ADOPTION OF MINUTES
January 19-20-2022 Minutes

III. TENTATIVE MEETING SCHEDULE

IV. ACTION-
A19-809 Lanai Resorts, LLC dba Pulama Lanai (Maui)
To Consider the Acceptance of Petitioner's Final Environmental Assessment and Motion to Issue a Finding of No Significant Impact relating to the Petition to Amend the Land Use District Boundaries of certain land situated at Lanai City, Island of Lanai, consisting of approximately 200 acres from the Agricultural District to the Urban District. Tax Map key No. (2)4-9-02:01 (por.).

V. RECESS

BEFORE:
APPEARANCES BY VIDEOCONFERENCE

COMMISSIONERS PRESENT:
Jonathan Scheuer, Chair
Dan Giovanni
Nancy Cabral
Gary Okuda
Edmund Aczon
Arnold Wong

COMMISSIONERS EXCUSED:
Dawn N.S. Chang
Lee Ohigashi

STAFF PRESENT:
Daniel Orodenker, Executive Officer
Scott Derrickson, Chief Planner
Riley Hakoda, Staff Planner
Natasha Quinones, Chief Clerk
Julie China, Esq. Deputy Attorney General
APPEARANCES BY VIDEOCONFERENCE

PETITIONER:
Calvert Chipchase, Esq. for Pulama Lanai
Christopher Goodin, Esq. for Pulama Lanai

COUNTY OF MAUI:
Michael Hopper, Esq., Deputy Corporation Counsel,
   Maui County Planning Department
Jordan Hart, Deputy Planning Director
Kurt Wollenhaupt, Planner

OFFICE OF PLANNING AND SUSTAINABLE DEVELOPMENT:
Bryan Yee, Esq., Deputy Attorney General
Rodney Funakoshi, Land Use Administrator
Lorene Maki, Planner
CHAIR SCHEUER: It's 9:07 a.m. Aloha mai kakou and good morning. This is the February 16th, 2022, Land Use Commission meeting, which is being held using interactive conference technology linking videoconference participants and other interested individuals of the public via the Zoom Internet conferencing program to comply with state and county official operational directives during the ongoing COVID-19 pandemic. Members of the public are able to view the meeting via the Zoom webinar platform.

All meeting participants, I'd like to urge you to speak slowly, clearly, and directly into a microphone. We now generate the transcripts of these hearings directly from the Zoom recording, so it is helpful to have you state your name prior to speaking.

Also, keep in mind that because this is being recorded, your continued participation is your implied consent to be part of the public record of this event. If you do not wish to be part of the public record, you should leave the meeting now.

This Zoom conferencing technology allows all the parties and the commissioners access to this meeting via our own individual digital devices.

Because of that and often due to matters entirely
outside of our control, occasional disruptions to
connectivity may occur. If this happens, please let
us know, and please be patient as we try to restore
audiovisual signals in order to be able to conduct
business during the pandemic.

For the members of the public who may wish
to testify on any matter on which public testimony
is being taken and you are calling in by phone, when
I say that you can raise your hand, you can use the
key sequence *9, and then also, the key sequence *6
to ask to be unmuted. If you are accessing this via
Zoom software, you use the Raise Your Hand function.
I will repeat these instructions at the time that we
take public testimony.

We will take breaks from time to time,
approximately 10 minutes of the hour.

My name is Jonathan Likeke Scheuer. I have
the honor and pleasure of serving as the Land Use
Commission chair. Along with me, Commissioner Arnold
Wong, Commissioner Gary Okuda, Commissioner Edmund
Aczon, and our staff, our executive officer Daniel
Orodenker, our chief planner Scott Derrickson, our
staff planner Riley Hakoda, and our chief Clerk
Natasha Quinones, along with our deputy attorney
general Julie China, are all on the island of O'ahu.
Commissioner Nancy Cabral is on Hawaii Island. Commissioner Dan Giovanni is on Kauai. Commissioners Dawn Chang and Lee Ohigashi are excused from today's proceedings.

Our first order of business is adoption of the January 19-20, 2022, minutes.

Ms. Quinones, has there been any written testimony submitted on this matter?

**MS. QUINONES:** No, Chair. Hi. Good morning. This is Natasha. There was no written -- no testimony received on the minutes.

**CHAIR SCHEUER:** Okay. Is there any member of the public attending this meeting who wishes to testify solely on the adoption of the minutes from our January 19th and 20th meeting? If so, use the Raise Your Hand function.

Seeing none, are there any questions or comments on the minutes from the commission?

Commissioner Okuda?

**COMMISSIONER OKUDA:** Thank you very much, Mr. Chair. Before I forget, I would like to recuse myself on the second minutes, which dealt with the IAL petition from the City and County of Honolulu. I was not present, and I had recused myself from that matter. Thank you.
CHAIR SCHEUER: Okay. Any other questions or comments? If not, is there a motion to adopt?

COMMISSIONER WONG: Chair, this is Commissioner Wong.

CHAIR SCHEUER: Commissioner?

COMMISSIONER WONG: I move to adopt.

CHAIR SCHEUER: Is there a second?

COMMISSIONER GIOVANNI: Commissioner Giovanni moves to adopt. Second the motion.

CHAIR SCHEUER: We have a motion from Commissioner Wong and a second from Commissioner Giovanni. Any discussion? Seeing none, Mr. Orodenker, please do a roll call.

MR. ORODENKER: Mr. Chair, the motion is to adopt the minutes.

MR. ORODENKER: Commissioner Wong?

COMMISSIONER WONG: Aye.

MR. ORODENKER: Commissioner Giovanni?

COMMISSIONER GIOVANNI: Aye.

MR. ORODENKER: Commissioner Cabral?

COMMISSIONER CABRAL: I will abstain, as I was not present at those meetings.

MR. ORODENKER: Commissioner Aczon?

COMMISSIONER ACZON: Aye.

MR. ORODENKER: Commissioner Okuda?
COMMISSIONER OKUDA: Aye on the first minutes. Abstain on the second. Thank you.

MR. ORODENKER: Chair Scheuer?

CHAIR SCHEUER: Aye.

MR. ORODENKER: Chair, minutes from the first meeting are adopted. The minutes from the second meeting have (inaudible).

CHAIR SCHEUER: Sorry. You're breaking up, Mr. Orodenker.

MR. ORODENKER: Thank you, Chair. I'm sorry. We have five affirmative votes on the minutes of the first meeting. We don't have five affirmative votes on the minutes of the second meeting, so we have to try again at a later date for that one.

CHAIR SCHEUER: Okay. Thank you very much. We'll try again at our next meeting. Mr. Orodenker, will you please continue with the next agenda item, our tentative meeting schedule?

MR. ORODENKER: Mr. Chair, I kind of scheduled -- tomorrow we will be meeting once again by Zoom here to handle this Pulama Lanai Miki Basin matter if that matter is not completed today. We will also be adopting the order in New Century Public Charter School special permit matter tomorrow.
The meetings on March 9th and 10th have been continued. We are still holding March 9th open in case (inaudible), so I would ask the commissioners to observe that.

March 23rd and 24th. March 23rd, we will be picking up the KS Waiawa matter right here on O'ahu, and on March 24th, we will be taking up the FEIS acceptance on (inaudible).

I would note for the commissioners and for the public that should the governor's emergency proclamation expire in February, as we anticipate it will, the commission will be traveling to those meetings, and we will also be allowing participation by Zoom. So we will be holding, for lack of a better word, a hybrid meeting. However, most of the commissioners will be traveling to the various islands.

CHAIR SCHEUER: That word was traveling?

I'm not familiar with it, Mr. Orodenker.

MR. ORODENKER: I haven't seen a COVID check.

CHAIR SCHEUER: I am so fully vaccinated, I now have 5G, I assure you.

Any questions, Commissioners, for Mr. Orodenker?
MR. ORODENKER: I was going to continue with April.

CHAIR SCHEUER: Okay.

MR. ORODENKER: In April we will also be holding hearings. On April 13th, we will be on O'ahu for the KS Waiawa matter. April 14th, we will be on the Big Island for the Church-Hildal. April 27th, we will be on Kauai for Kekaha Agriculture matter. April 28th is also scheduled for a hearing. We do not have a specific docket for that date yet, though. We would caution the commissioners to entertain that date in case we do decide to.

On May 11th, we will be having a presentation by our chair, who graciously agreed to give us a presentation on the public trust doctrine. And we will be recording that for posterity.

May 12th, 25th, and 26th are kind of open, but I would also note for the commissioners that come June -- that by June, since we will be losing our chair and our vice chair, we will have to undertake an election of officers. So, Commissioners, keep that in mind.

Thank you, Mr. Chair.

CHAIR SCHEUER: Thank you, Mr. Orodenker.

Commissioners, any questions for Mr.
Orodenker? Seeing none.

Our next agenda item is Docket No. A19-809, Pulama Lanai Miki Basin Industrial Park, Maui County, to consider the acceptance of Petitioner's Final Environmental Assessment and a Motion to Issue a Finding of No Significant Impact Relating to the Petition to Amend the Land Use District Boundaries of certain land situated at Lanai City, Island of Lanai, consisting of approximately 200 acres from the Agricultural District to the Urban District. Tax Map Key No. (2)4-9-02, a portion of Lot 1.

Will the parties please identify yourselves for the record, starting with the petitioner?

MR. CHIPCHASE: Good morning, Chair, Commissioners. Calvert Chipchase and Chris Goodin for Pulama Lanai.

CHAIR SCHEUER: Welcome.

MR. HOPPER: Good morning, Chair, and Land Use commissioners. Deputy Corporation Counsel Michael Hopper, representing the Maui County Department of Planning. With me are Deputy Planning Director Jordan Hart and Planner Kurt Wollenhaupt.

CHAIR SCHEUER: Nice to see you, Michael.

MR. HOPPER: Good morning, Chair.
MR. YEE: Good morning. Deputy Attorney General Brian Yee on behalf of the Office of Planning and Sustainable Development. With me is Rodney Funakoshi and Lorene Maki from OPSD.

CHAIR SCHEUER: Okay. Before we begin or continue further, let me update the record.

On November 3rd, 2021, the Land Use Commission received an email notification from Munekiyo Hiraga that a second draft EA package had been submitted to the OEQC, or the Office of Environmental Quality Control, website and was available.

On November 17th, petitioner filed a second draft EA, list of files, and a CD. On November 24th, the commission received the petitioner's attachments, a second draft EA letter to the reviewing agency, and a second draft EA agency distribution list.

From December 9th through January 7th of this year, the commission received comments to the second draft environmental assessment filing: the Maui County Department of Transportation, the Maui County Department of Planning, the United States Fish & Wildlife Service, Maui County Department of Water Supply, comments from the Department of Land
and Natural Resources, comments from Sally Kay along
with questions, communication from the state of
Hawaii Department of Transportation, from the
University of Hawaii at Manoa, from Maui County
Department of Parks and Recreation, from the Maui
County Police Department, from David Tanoue, the
vice president of the R.M. Towill Corporation.

On January 11th, we received the Office of
Planning and Sustainable Development, OPSD's
comments to the second draft EA. On February 1st, we
received comments from the state of Hawaii
Commission on Water Resources Management. On
February 4th, we received the Petitioner's Motion to
Issue a Notice of a Finding of No Significant
Impact.

On February 7th, we emailed -- mailed and
emailed the meeting agenda for the February 16th and
17th meetings to the parties and to our statewide
and county lists. Also on that day, the commission
received OPSD's response to the motion for a FONSI,
and the petitioner's flash drive with the final
environmental assessment for the Miki Basin project.

On February 11th, the County of Maui filed
a transmittal -- a position statement and a
certificate of service.
Having updated the record, let me go over our procedures for today. First, I will ask petitioner to describe their agreement with the commission's policy governing reimbursement of hearing expenses.

I will then recognize any additional written testimony that has been submitted in this matter, working with the staff to do so.

I will then ask to see if there's any public testimony on this matter using either *9 if you are calling in by phone or Raise Your Hand functions. I will admit people one by one, swear them in, offer you the opportunity to give testimony, and ask you to remain to be questioned if there are any questions by any of the parties and the commission.

Following the conclusion of public testimony, I will ask the petitioner, Pulama Lanai, to make its presentation and receive any comments from the commission. They will be followed by the same process for the County of Maui and OPSD.

I will then give the opportunity to Pulama Lanai to have any rebuttal to any comments that have been made. And after that, the commission will ask any final questions and move into final
deliberations. As I stated before, we will try to
take breaks, approximately 10 minutes, in the hour.

Parties, are there any questions on our
procedures for today, starting with Mr. Chipchase?

MR. CHIPCHASE: None, Chair.

MR. HOPPER: No, Chair.

MR. YEE: No questions.

CHAIR SCHEUER: Okay. Folks, are there any
disclosures that people wish to make regarding this
docket? Seeing none.

Mr. Chipchase, have you reviewed HAR 15-
15-45.1 with regard to the reimbursement of hearing
expenses? And, if so, please state your client's
position on the matter.

MR. CHIPCHASE: Yes, Chair. Reviewed,
acknowledged, and accepted.

CHAIR SCHEUER: Thank you very much. We'll
move on to testimony.

In addition to the list of testifiers who
I've already noted, Ms. Quinones, has there been
additional written testimony received by the Land
Use Commission?

MS. QUINONES: Yes, Chair. We received
testimony from Nelinia Cabiles, managing editor of
Lanai Today. And I believe Sally Kay has signed up
to provide oral testimony this morning.

CHAIR SCHEUER: Okay. I see Ms. Kay's hand was raised. Along with Ms. Kay, if there's any individuals of the public who wish to provide oral testimony, now is the time. I'm going to admit -- okay, good. I'm seeing names. Ms. Kay will be followed by Diane Preza and Roger Alconcel.

One by one, I will promote you to be a panelist, and when you're promoted to be a panelist, you will now be enabled to turn on your audio and video. I will swear you in. Following being sworn in, you'll have the opportunity to give testimony.

So you're in the room, Ms. Kay. If you could enable your audio and video. Okay. You're off mute. That's great. Is it possible to turn on your camera? Do you have the bandwidth? Okay. There you are. Okay.

MS. KAY: Okay. Good. Good morning, Chair and

CHAIR SCHEUER: Good morning. I'm going to swear you in first.

MS. KAY: Yes.

CHAIR SCHEUER: Okay. Do you swear or affirm the testimony that you're about to give is the truth?
MS. KAY: I do.

CHAIR SCHEUER: Okay. Please, name and address for the record, and then proceed with your testimony.

MS. KAY: Okay. Good morning, Chair and commissioners. My name is Sally Kay. I live at 511 Ilima Avenue, Lanai City.

Since the issue before the commission is the completeness of the draft FEA and a request for a FONSI finding, I'd like to just point out a few places in the record where responses were either incomplete or nonresponsive for the commission's consideration.

With respect to the County of Maui Planning Department's question why the planned solar project could not be placed on existing ag land as allowed by statute, applicant says that 127 acres have been set aside to meet the needs of Docket 2015-0389, but the RFP in that docket indicates only 73 acres is required. This leaves 54 acres that would be rezoned from ag to urban with no identified use or need.

Applicant also says the proposed project's 73 acres would fill 95 percent of the renewable energy for the island, so it's not clear how the
remaining 54 acres would be needed for the remaining 5 percent of the energy left.

And applicant admits that if there is a need to accommodate permitted uses, they could be placed in the 127-acre area. That could mean any allowed but as yet unidentified industrial use could be placed there.

In any event, saying that co-locating the renewable energy project next to the MECO power plant makes the interconnection costs negligible doesn't respond to the question.

Second, (inaudible) request -- made twice -- that the FEA provide a conceptual plan of the projected uses and a schedule of development for each phase. This would seem an easy lay-up, since all the uses identified in the FEA are under applicant's control.

Third, applicant stated that full buildout will take 20 years, but then denied it would have to seek incremental LUC approval if development extends beyond 10 years.

I'll just close by noting that 200 acres permanently zoned from ag to urban on any other island would probably be a very big deal. And the numerous questions and comments regarding water
supply and usage show the commission that water on the only island with a single aquifer is always a major concern.

For the applicant to state that it failed to include a water reservation for a 100-acre ag park included in the water usage development plan because there's been no action by the state for 28 years to develop it begs the question of why applicant now needs 200 more industrial acres when the initial Miki Basin 20-acre heavy industrial project promised for close to 20 years remains unfilled.

Going forward and in light of the recent USGS modeling suggesting Lanai could see a decrease in recharge of up to 55 percent, I would ask the commission to apply strict scrutiny when, as now, so much of the maximum possible uses for the 200 acres remains unknown and when, as here, the party who wants to develop also happens to control the water delivery and supply systems.

Mahalo.

CHAIR SCHEUER: Ms. Kay, on your second point, at least for me, your second brief point, the audio cut out. So could you repeat your -- you said number two.
MS. KAY: Sure. It doesn't appear that the applicant complied with OPSD's request -- made twice -- that the FEA provide a conceptual plan of the projected uses and a schedule of development.

CHAIR SCHEUER: Okay.

MS. KAY: It would seem that would be an easy one, since all of the uses identified in the FEA are under applicant's control.

CHAIR SCHEUER: Thank you.

Questions for the witness, starting with Mr. Chipchase?

MR. CHIPCHASE: None, Chair.

CHAIR SCHEUER: Thank you.

OPSD -- oh, Maui County, rather.

MR. HOPPER: No, Chair. Thank you.

CHAIR SCHEUER: OPSD?

MR. YEE: No questions.

CHAIR SCHEUER: Commissioners? Beginning with Commissioner Okuda.

COMMISSIONER OKUDA: Thank you very much, Mr. Chair.

Thank you, Ms. Kay, for taking time to testify here today. We always welcome and value community input. May ask you this? First question. How long have you lived on Lanai?
MS. KAY: I first came to Lanai in 1974 from Honolulu.

COMMISSIONER OKUDA: Just for the record, if you don't mind, a somewhat personal question. Can you tell me what you occupation was during all those years on Lanai?

MS. KAY: Oh, I didn't spend all of those years completely on Lanai. My occupation when I left Lanai was as an assistant district attorney.

COMMISSIONER OKUDA: Okay. What years did you actually live on Lanai up until today? And approximations would be fine.

MS. KAY: Approximately from 1974 through 1981, and then returning every year until 2005, when my family retired and came home.

COMMISSIONER OKUDA: Is it your understanding, based on your living in the community, that this project is part of a bigger plan that is intended for Lanai? And I'm not asking you, you know, for an expert opinion. I'm just asking based on your living on Lanai, being a member of the community. Is it your impression that this is part of a bigger plan? It's like a piece of a puzzle.

MS. KAY: I think that's a question better
asked by the applicant than myself. We're not --
members of the community are not entirely privy to
all that's proposed, some of which have been
withdrawn. So I'm not sure I would venture an
opinion on that.

COMMISSIONER OKUDA: Okay. Whether you
have an opinion on that or not, have you or do you
know of the community being consulted in any way,
whether regular or not, on any type of master plan
that might be under consideration now for the island
of Lanai?

MS. KAY: I'm only aware of the Lanai
Community Plan. A master plan I'm not aware of. No.

COMMISSIONER OKUDA: Have there been any
meetings conducted by Pulama Lanai or anyone acting
on its behalf where the community has been invited
to be told about what might be the future master
plan of Lanai?

MS. KAY: There have been numerous
meetings held by Pulama Lanai with the community on
a variety of projects. As far as a master plan goes,
I'm unaware of any.

COMMISSIONER OKUDA: Okay. Thank you very
much for your testimony.

Thank you, Mr. Chair. No further
CHAIR SCHEUER: Thank you.

Commissioners, are there other questions for the witness?

I wish to clarify, Ms. Kay, you referenced the committee. Are you referring to the Lanai Planning Commission?

MS. KAY: I'm sorry? What committee?

CHAIR SCHEUER: You referenced, I believe, that the committee was unaware of something, so -- in your responses to Commissioner Okuda.

MS. KAY: No, no. I'm sorry. No, I'm not speaking -- I'm speaking only for myself. I was responding to the question about a master plan. I'm personally not aware of that.

CHAIR SCHEUER: Okay. Thank you very much.

Commissioners, anything further for Ms. Kay?

Thank you very much for your testimony. You've been much appreciated. I'm going to move you to be an attendee again.

And then I'm going to admit Diane Preza, followed by Roger Alconcel.

Good morning.

MS. PREZA: Good morning.
CHAIR SCHEUER: Do you swear or affirm the testimony you're about to give is the truth?

MS. PREZA: Yes. I do.

CHAIR SCHEUER: Okay. Name and address for the record, and then proceed.

MS. PREZA: Thank you. My name is Diane Preza. I live at 252 Kamoku Place, Lanai City. I'm testifying on behalf of myself. So, aloha, Chair Scheuer and commissioners. I also want to state that I'm born and raised on Lanai, and I am in support of the proposed Miki Basin Industrial Park.

Looking at the community's plan, the guiding principles, the first three state that -- that diversifying the economy is important to provide opportunities and resiliency for our community. It's important to provide opportunities for keiki to live and work on Lanai and that we should find ways to make -- to grow our economy. And I think that the Miki Industrial Park will offer these opportunities for our economy -- for our people to grow, for the economy to grow.

People will be allowed to be able to operate businesses in an appropriate place. Lanai folks are always talking about looking for commercial space, and right now there is not really
any available. So I can share with you a few
texts of what I hear for myself living in this
community.

So as you know, we have a great
overpopulation of axis deer, and there have been
talks in the community about a slaughterhouse to
help with the economy by, you know, exporting
venison or selling it on-island. There's talks of
that, and so Miki would be a great place to, you
know, have something like that.

We lack automotive repair shops here, so
if your car gets hit by a deer or, heaven forbid,
anything else, you would have to send things off-
island. So right now, we don't have any alternatives
here, not really.

I've heard the need for storage
facilities. Our permanent vet officer right now, the
vet is here on-island today. He has a little kind of
a mobile van where he can do minor surgeries, and he
services a lot of people here and pets, so. But
again, he only comes twice a month, and then he has
to park his van in a parking lot, and it's always
packed with people or with animals and residents
from the island coming to see him.

So I heard next month he cannot come
because the van has to be taken off-island. So that's one month, no vet services. And if you're a pet owner, it can be really devastating, so. But then this goes on and on as to why Miki would be a really good place for an industrial park, so.

I also like the idea of Miki being the site of a renewable energy project. So right now on Lanai, we pay about $6 a gallon for gas, so the reliance on fossil fuel is just not sustainable. And the location of Miki outside of town is a perfect place for this project.

So in conclusion, our community is always searching for ways to be responsively self-sustaining, and I think the Miki project will help us to do that. And that's all. Mahalo for your time.

CHAIR SCHEUER: Thank you very much.

Questions for the witness? Mr. Chipchase?

MR. CHIPCHASE: None, Chair.

MR. HOPPER: No questions, Chair. Thank you.

MR. YEE: No questions, Chair. Thank you.

CHAIR SCHEUER: Commissioners?

Ms. Preza, thank you for your testimony. Your testimony was in favor of the project overall. You understand that today we're not actually
discussing the merits of the projects. We're actually on discussing whether or not the environmental assessment is adequate.

**MS. PREZA:** Thank you.

**CHAIR SCHEUER:** You understand that's what we're up to today?

**MS. PREZA:** Yes. Thank you.

**CHAIR SCHEUER:** Okay. Did you have any specific comments that you want to make about your belief in the adequacy or inadequacy of the environmental assessment?

**MS. PREZA:** No, thank you.

**CHAIR SCHEUER:** Okay. Thank you very much for your testimony. We very much appreciate it. We're going to move you to be an attendee and admit Roger Alconcel.

**MR. ALCONCEL:** Roger Alconcel. Address is 1382 Lanai Avenue. I've been on the island for, like, 10 years now. I'm, you know, born and raised
here, but I lived on the mainland for a bit. But I
am in support of this project for the environmental
part of the Miki Basin.

The reason why I'm in support is I believe
that Pulama is planning to use this area as
renewable energy. Electricity on-island is very
expensive, and we rely on diesel. I just remember
when I was in the mainland, you know, Montana, and
my bill was maybe around, like, $60. And now it's,
like, close to $300, and I'm, like, that's a lot of
money that I have to spend.

But importantly, I think it's just good
for the environment. Just I'm hoping this project
for -- this will move forward.

And also, on Lanai the project of Miki
Basin is also important because it's also storage
space, like Diane alluded to. Storage space on Lanai
is very, very hard to find. And I've been going to
the beach. Wherever I lie, I can see people putting
trash or storage space, because they don't really
have space to put it. And it's hurting the
environment.

If I go down to Keomuku area and I can see
a sofa there, sometimes they put whatever because I
think they just don't have nowhere to store it. But
that's part of this project, and also, I trust that the environmental assessment is accurate and in support of this project. That's all. Thank you.

    CHAIR SCHEUER: Mahalo.

    Questions for the witness, Pulama?

    MR. CHIPCHASE: No, Chair. Thank you.

    CHAIR SCHEUER: Maui County?

    MR. HOPPER: No, Chair. Thank you.

    CHAIR SCHEUER: OPSD?

    MR. YEE: No questions. Thank you.

    CHAIR SCHEUER: Commissioners? Seeing none.

    Thank you very much for your testimony.

    Appreciate it very much.

    Are there any other individuals of the public wishing to testify in this matter? If so, please raise your hand using your Raise Your Hand function. Admitting Tamara Paltin.

    Aloha, councilmember. Always feels odd swearing in an official, but do you swear or affirm the testimony you're about to give is the truth? Oh, you're on mute, too.

    MS. PALTIN: Sorry. I do.

    CHAIR SCHEUER: Okay. Name and address for the record, and please proceed.
MS. PALTIN: Tamara Paltin, 110 Pualu
Place, Lahaina, Hawaii 96761.

CHAIR SCHEUER: Please proceed.

MS. PALTIN: Thank you, Chair. I
apologize. I'm not super up-to-date on this project.
I just saw, you know, the conversion of 200 acres,
and I just wanted to relay my only concern without
knowing too much about it is that when we recently
did a 201H on Lanai, it was brought to our attention
that, you know, they're tying into county wastewater
treatment facilities, and we're getting close to
capacity there.

And so just I'm not sure what the scope of
the entire plan for 200 acres from ag to urban is,
but if there is going to be a number of restrooms,
just if you guys can make sure that there's capacity
for that, or some sort of condition. That's my only
concern. Thank you.

CHAIR SCHEUER: Thank you very much.

Are there questions for the witness, Pulama?

MR. CHIPCHASE: No, Chair.

Thank you, councilmember.

CHAIR SCHEUER: Mr. Hopper?

MR. HOPPER: No, Chair. Thank you.
CHAIR SCHEUER: OPSD?

MR. YEE: No questions. Thank you.

CHAIR SCHEUER: Commissioners? Beginning with Commissioner Okuda.

MR. ORODENKER: Thank you very much, Mr. Chair.

And thank you, councilmember.

Let me tell you what my preliminary concern is right now, and maybe you can help with further testimony. And let me preface it by saying even though I might have a preliminary concern, I haven't made up my mind, and I really do try to keep an open mind.

But one of my concerns is that this project is just a piece of a bigger puzzle, the entire puzzle being the master plan of Lanai. And normally, if there's a bigger puzzle, in my view there are several cases, including the Superferry case, that requires that perhaps a full-on environmental impact statement be prepared so that there's full consultation with the community as far as what the future of all the impacts would be.

And especially where you have an island that is owned by a single owner, there might be even more of a public policy concern that we shouldn't be
doing things or evaluating things piecemeal, but we
need to look at the big picture.

Councilmember, would you care to comment
on that one way or the other?

MS. PALTIN: Well, you know, I share your
concern for sure. I think it is a valid concern,
given the reasons that you stated. The landowner, I
believe, owns 98 percent of the island, and I do
believe that we're not privy to the entirety of the
plans being made, although I do think that it's very
fluid with the amount of money that the owner has.
He can easily shift directions, I would imagine, you
know, with money not being an obstacle.

I would say plans can change very easily
compared to those for other people. I think, last I
googled, the net worth was about $122 billion. So do
share your concerns, although I'm not very familiar
with this exact project (inaudible) a lot.

COMMISSIONER OKUDA: Yeah. Thank you. And
I don't mean my comments to be taken totally
negative, because as I stated at the 201H hearing, I
believe one thing that is very favorable for Pulama
Lanai is they have Kurt Matsumoto. And based on
hearing and observing him as a witness, I conclude
that his heart is in Lanai. He's a Lanai boy, Lanai
high school graduate, and so I have no doubt about
his bona fides or his good intentions.

And preliminarily anyway, even though
we're only talking about the EA and not necessarily
the project itself, there are very meritorious
reasons for the project. So thank you very much for
your comment.

Thank you, Mr. Chair. No further
questions.

CHAIR SCHEUER: Commissioners, are there
other questions for Councilmember Paltin?

If I may, and this might be a better
question, Ms. Paltin, for Maui County, so feel free
to defer, but are you aware of any urbanization on
Maui Island of 200 acres or more for industrial use
in recent times?

MS. PALTIN: Not that I'm aware of for 200
acres. I think maybe the last one that I heard about
was industrialization at Pulehunui with DHHL, but
from what I understand, they're not bound by county
permitting and planning restrictions because of
DHHL. But I hadn't heard of anything on Maui County,
but you're right, it may be a better question for
Mr. Hart.

CHAIR SCHEUER: One question, though, that
may be is better for you. If there was a proposal on Maui with its size and population for an additional 200 acres of industrial land, would you expect the community to give it considerable scrutiny?

MS. PALTIN: Oh, yeah, for sure. Yes.

CHAIR SCHEUER: I have nothing further.

Thank you very much.

Is there anything further for Councilmember Paltin?

Thank you very much for taking the time to give your testimony. We appreciate it.

MS. PALTIN: Thank you.

CHAIR SCHEUER: Aloha.

Going to move councilmember to be an attendee. Are there any other members of the public who wish to provide public testimony on this matter? If so, please raise your hand using the Raise Your Hand function. If I see no more, I will close public testimony on this matter and move on. Going once, going twice. Seeing none, I'm closing public testimony on this matter, and we will proceed with the presentation by Pulama Lanai.

Perhaps, Mr. Chipchase, if you would give us an overview of how you want to use your time today and how much time you'd like to use, and then
I can plan our breaks accordingly.

**MR. CHIPCHASE:** Sure, Chair. I'm tempted to joke with you that I'll wrap up sometime tomorrow, but I don't think that would land well, so I'll just be straightforward and say --

**CHAIR SCHEUER:** Leave the room.

**MR. CHIPCHASE:** Well said, Chair. My presentation, including the witnesses that I will present, will consume less than an hour, chair, including my closing comments on it. I have a number of substantive experts that are available should the commission have questions related to their field. I don't plan to present all of them. I'll present a handful of those, and I'll go through that in my outline.

If I may, I think the most efficient way would be to complete my presentation and then make all the witnesses available for any questions. But, of course, that's at the commission's election.

Once I'm done, you know, obviously, we'll turn it over to questions. I can bring in those other witnesses and then move on to the other parties to the proceeding.

**CHAIR SCHEUER:** Okay. That sounds like a very helpful plan. I appreciate the outline.
I realize that we did start late due to late arrival of commissioners, but just for the sake of keeping everything together, I'd like to suggest we take a 10-minute break now, begin exactly at 10:00 with Mr. Chipchase's presentation. Is that acceptable?

MR. CHIPCHASE: Yes, Chair.

CHAIR SCHEUER: Okay. We're in recess until 10.

(Recess taken from 9:49 - 10:00 a.m.)

CHAIR SCHEUER: Okay. We are back on the record, and we're going to start with the presentation of Pulama Lanai and their counsel, Mr. Calvert Chipchase. Please proceed.

MR. CHIPCHASE: Thank you, Chair. Good morning again, and good morning, Commissioners.

As you know, we're here for consideration of the Miki Basin Industrial Park Final Environmental Assessment and our request for the issuance of a finding of no significant impact in according with Chapter 343 of the Hawaii Revised Statutes.

This FEA evaluates the impact of the proposed light and heavy industrial park. Pulama Lanai is proposing this industrial project as part
of the implementation of Lanai Community Plan. And
so, if you look at the timeline that we put up on
the screen, in 2016, the Lanai Community Plan was
updated, and it included this industrial park. So
this is simply the next step in that community
process. And at the time that the community plan was
adopted, there was extensive community discussion
and input.

The final environmental assessment that
implements that community plan was conducted to
evaluate the impacts of that action and took into
account both agency and public input.

Several technical studies were prepared,
and we will cover some of them in detail today, and
you've already heard from two public testifiers, Ms.
Preza and Mr. Alconcel, about the purpose and need
for that project -- the need for industrial space on
Lanai, which is consistent with the reason this area
was planned for industrial uses.

The 10 witnesses who are available today
to answer any questions that the commission may have
are listed up on the screen for you. I will only
call six of those witnesses as part of my
presentation, and our goal is to keep the
presentation short and respectful of your time. Of
course, if you'd like to speak with any of them or all of them, they are available today.

Our planned witnesses, and setting next to me now, include Dr. Keiki-Pua Dancil, who will discuss the purpose and need and the project description; Tessa Munekiyo Ng will discuss the preparation of this final environmental assessment. We have Ken Kawahara, and he will discuss the master plan and the wastewater master plan. Tom Nance will discuss the new well supply study and the alternative study.

Dr. Trisha Kehaulani Watson will discuss the archaeological, cultural, and historical studies. And finally, Kurt Matsumoto will conclude our witness testimony by sharing the vision of Pulama Lanai and how the Miki Basin project will positively impact Lanai and fulfill that community plan.

With that, Chair, I'll move on to my first witness, if I may, Dr. Keiki-Pua Dancil.

**CHAIR SCHEUER:** Yes. Please go ahead.

**MR. CHIPCHASE:** Chair, would you like to swear in the witness?

**CHAIR SCHEUER:** I would.

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

    DR. DANCIL: I do.

    CHAIR SCHEUER: Thank you, Dr. Dancil.

    MR. CHIPCHASE: All right. Dr. Dancil, would you introduce yourself to the commissioners?

    DR. DANCIL: Aloha, Commissioners. Keiki-Pua Dancil, senior vice president, government affairs and strategic planning for Pulama Lanai.

    CHAIR SCHEUER: If you would, one moment.

    Commissioner Giovanni?

    COMMISSIONER GIOVANNI: Yes. I wish to disclose to everyone that Ms. Dancil and I were former colleagues at Hawaiian Electric Company in the 2010-2015 time period. However, I don't feel that that relationship will have any bearing on my objectivity and fairness in deciding this matter before the commission today.

    CHAIR SCHEUER: Thank you for that disclosure. I'm going to talk with the parties if they have any objection to your continued participation. And then, since you've chosen to disclose on that, I'll just list off my relationships with the various witnesses following that.

    Any objection to Commissioner Giovanni's
continued participation, Mr. Chipchase?

MR. CHIPCHASE: No, Chair.

CHAIR SCHEUER: Mr. Hopper?

MR. HOPPER: No, Chair.

CHAIR SCHEUER: Okay.

MR. YEE: No, Chair.

CHAIR SCHEUER: And Mr. Yee? Okay.

MR. YEE: No objection. Thank you.

CHAIR SCHEUER: Thank you. Would you put the slide back up with the witnesses?

MR. CHIPCHASE: Yes, Chair.

CHAIR SCHEUER: So I've professionally interacted with Ms. Ng, Mr. Nance, and Ms. Watson in various capacities, and Mr. Kawahara is an Iolani classmate of mine. But I believe, despite my professional and social relationships with all of these individuals, I can continue to be fair and impartial. In these proceedings, if there is a concern, I'm going to ask each of the parties, and if there is a concern, I'll ask the vice chair to take over for deliberations and for whether or not I should continue to participate.

Mr. Chipchase?

MR. CHIPCHASE: No objection, Chair.

MR. HOPPER: No objection, Chair.
MR. YEE: No objection.

CHAIR SCHEUER: Okay. Thank you.

Anyone else on the commission who wish to
disclose any relationships with any of the witnesses
that Pulama is bringing forward?

Seeing none, thank you very much for that,
Commissioner Giovanni.

Please continue, Mr. Chipchase.

MR. CHIPCHASE: Very well, Chair. I
believe we left off, Dr. Dancil, with my request
that you briefly describe your responsibilities at
Pulama Lanai.

DR. DANCIL: Sure. So my responsibilities
include the overall project management, strategic
planning, and execution of permits and entitlements.
I direct the efforts of the community development
plan, which engages directly with the Lanai
community, the cultural and historic preservation
team, which monitors our construction activities,
restores historic sites, implements our preservation
plans and other similar activities.

In addition, I work in close collaboration
with the senior vice president of development and
construction. Together we align our activities to
achieve our vision for Pulama Lanai, ensuring a
unified process.

MR. CHIPCHASE: And would you just
describe for us your educational history and your
experience in planning and development?

DR. DANCIL: I have a Ph.D. in chemistry
from the University of San Diego, the University of
California San Diego, MBA from Harvard Business
School.

The research, problem-solving, and
analytical nature of my educational background
provides me a foundation and framework to
strategically analyze a variety of issues that may
arise during the design, planning, and development
of any project.

I have over a decade of experience in
business development and strategy. Most recently, as
Commissioner Giovanni mentioned, I served as the
director of strategic initiatives at Hawaiian
Electric.

MR. CHIPCHASE: Thank you. And as I said
in my introduction, we're here talking about the
Miki Basin project and asking the commission to
approve a finding of no significant impact, or a
FONSI. Would you describe your work with the
project?
DR. DANCIL: The project was submitted to the LUC a few months before I joined Pulama. We submitted the second draft EA that is currently before you now as the final EA. My involvement was significant during the second draft and the final EA. I worked with the technical experts regarding those studies.

In addition, I presented the second draft to the community at the Lanai Planning Commission for public comment and responded collaboratively with our consultants on the public comments that we received.

MR. CHIPCHASE: And would you describe for us the proposed action?

DR. DANCIL: The proposed action is the implementation of the Lanai Community Plan, which calls for rezoning of 200 acres for an industrial park in the Miki Basin area identified by the green outline on your screen, which is the site plan. In magenta, you have 50 percent that's zoned for light industrial according to the community plan, and in red, 50 percent is zoned heavy industrial.

Over 85 percent of the area has an identified use and is expected to be developed within the first 10 years, if not sooner. The
proposed action will require sufficient land available for immediate industrial needs and ensures sufficient availability for future economic diversification to support the on-island operations.

MR. CHIPCHASE: And you mentioned the community plan. Can you tell us why is Pulama Lanai proposing the project at this time?

DR. DANCIL: As mentioned, we are proposing the project to implement the community plan, which was approved in 2016. The Miki Basin project will increase the amount of land available for light and heavy industrial uses, develop the infrastructure necessary to encourage and support the development and new expanding industrial enterprises and relocate industrial uses that are currently spread around the island to an appropriate single location.

This is critical to the growth and diversification of the economy on Lanai, which will contribute to the island's resiliency and sustainability.

MR. CHIPCHASE: And so we heard today from a couple of public testifiers talking about the need for more industrial space on Lanai. Can you tell us what the assessment of the need for the project,
beginning with the existence or availability of urban land already on Lanai?

DR. DANCIL: There is a very limited amount of what is designated as urban district on Lanai, which is indicated as gray on the map on your screen. Approximately 3,000 acres, or 3 percent, of the land on Lanai is designated urban district.

MR. CHIPCHASE: So within this existing area, is there already sufficient space for an industrial park?

DR. DANCIL: There is not sufficient space in Lanai City. Even if there was sufficient space, the current uses and proposed industrial uses are not compatible.

MR. CHIPCHASE: Why was this location for the project site?

DR. DANCIL: The site was strategically selected. It is located away from the primary residential and resort areas. It will consolidate the industrial uses that are currently scattered. It is near other industrial uses on the island. Its adjacent parcels include the Lanai airport, the MECO fossil fuel facility, and the other 20-acre Miki Basin industrial condominium.

The site is also in close proximity to
both Kaumalapau Harbor, which is the primary seaport of entry of goods to the island, and the airport, the only point of entry for air cargo, both of which are conveniently located for future economic activities that may require transportation of commerce on or off the island.

**MR. CHIPCHASE:** What planned uses for this community plan 200-acre area are known at this time?

**DR. DANCIL:** Let's walk through the waterfall chart on this side, on the left. We set aside 10 percent, or 20 acres, for infrastructure. This is roads, common areas, et cetera, for the entire project. This is a common assumption in planning industrial parks of this size.

We are planning to relocate industrial uses already in existence on-island. These are identified as blue in your chart. We have 14.5 acres for a concrete crushing facility and interim uses, and 12.5 acres for an asphalt plant.

Relocating the concrete and asphalt facilities will consolidate industrial uses from other parts of the island and will not add to the industrial footprint on Lanai.

We have also set aside 127 acres for development of renewal energy for the project. MECO
1 has solicited bids with regard to renewable energy projects, which is utilizing photovoltaic and battery energy storage technology. Bids were due yesterday, and awards are scheduled to be announced in April.

This area was selected because it is adjacent to the MECO fossil fuel facility. The co-location of projects significantly reduces the interconnection costs, which brings down the cost of the overall project, which benefits all customers on Lanai, because this is a pass-through. Further away or across the street would just add additional costs borne by our residents.

These planned uses account for 174 acres, or 87 percent of the total proposed project area. The remaining 26 acres are reserved for other industrial uses, which have not been identified specifically at this time.

MR. CHIPCHASE: What is the timing of the proposed development of this 200-acre park?

DR. DANCIL: As you can see on this slide, we anticipate relocating the industrial uses immediately, within the first year or two after approval.

The renewable energy project is
anticipated to have a guaranteed commercial operation state no later than August 2025. However, the RFP respondents are encouraged to bring their projects online by December 2024.

The other new industrial uses will be developed on an as-needed basis, meaning if there is interest and space available. However, as noted in the market setting, we anticipate that the 26 acres will be used.

**MR. CHIPCHASE:** Dr. Dancil, you mentioned in your introductory remarks that you were brought in during the second draft of the FEA. How did the second draft differ from the first draft of the FEA?

**DR. DANCIL:** The second draft included a much more detailed development plan and updated technical studies. In some areas, we conducted studies to support our application.

**MR. CHIPCHASE:** Would you go over just some of those details for us?

**DR. DANCIL:** On this slide, we've summarized the changes of various technical studies. We've updated a few studies. It's indicated as an X under update study. These include drainage, economic and fiscal impact, traffic impact analysis, wastewater and water master plans.
These also supplemented the ethnographic component with interviews based on community feedback. And we've completed our ecological data recovery plan and report. That has been submitted to SHPD in January for review.

In addition, we've added two new studies, a new well supply alternative study and a market study.

**MR. CHIPCHASE:** Thank you, Dr. Dancil.

Chair, Commissioners, I don't have any further questions for Dr. Dancil at this time. Of course, she is available for your questions. Or, as I suggested, maybe we hold questioning until I've completed my presentation, because other witnesses may answer your questions. Thank you, Chair.

**CHAIR SCHEUER:** The chair's inclination is to follow the suggestion of the counsel for Pulama and just hold question until the end. Any concerns with that? If you change your mind, members, you can just raise your hand, and I'll call on you.

Please go ahead.

**MR. CHIPCHASE:** Thank you, Chair. So at this point, I will call my next witness, Tessa Ng.

**MS. NG:** Good morning, Chair.

**CHAIR SCHEUER:** Good morning. Do you swear
or affirm the testimony you're about to give is the truth?

    MS. NG: I do.

    CHAIR SCHEUER: Thank you.

    MR. CHIPCHASE: Ms. Ng, would you please introduce yourself to the commission?

    MS. NG: Good morning, Commissioners. My name is Tessa Munekiyo Ng, and I'm a vice president at Munekiyo Hiraga.

    MR. CHIPCHASE: And would you describe your responsibilities briefly at Munekiyo Hiraga?

    MS. NG: Sure. I advise major landowners, government agencies, and nonprofit organizations through the environmental review and land use permitting process. I'm responsible for managing project teams at Munekiyo Hiraga to ensure that our EA's, EIS's, and land use entitlement applications are prepared in accordance with applicable government regulations and standards.

    MR. CHIPCHASE: And would you describe for us your educational history and experience in environmental planning?

    MS. NG: Sure. I have a master's degree in city and regional planning from the University of California at Berkeley. Prior to that, I graduated
with a bachelor's degree with honors in political
economy from Georgetown University. I'm a member of
the American Institute of Certified Planners, the
American Planning Association Hawaii Chapter, the
Urban Land Institute, and Lambda Alpha
International.

**MR. CHIPCHASE:** And, Ms. Ng, looking at
the course of your career, approximately how many
EA's and EIS's have you been responsible for?

**MS. NG:** Sure. I'd say over 25.

**MR. CHIPCHASE:** And in your experience,
have you had an opportunity to testify before any
board or commission in Hawaii?

**MS. NG:** Yes. I appeared before the Maui
Planning Commission, the Lanai Planning Commission,
Board of Variances and Appeals, Maui County Council,
Honolulu City Council, as well as the Board of Land
and Natural Resources.

**MR. CHIPCHASE:** And were you qualified as
an expert in environmental planning in any of those
instances?

**MS. NG:** Yes. I appeared as the consultant
on various EA's, EIS's, and entitlement
applications.

**MR. CHIPCHASE:** And I understand that you
worked on the second draft EA for the Miki Basin 200-acre industrial park; right?

MS. NG: Yes. That's correct.

MR. CHIPCHASE: And could you describe for us your work on that project?

MS. NG: Sure. As you mentioned, Munekiyo Hiraga was brought on board at the end of 2020, when the plans for the project were being refined and further detailed, and as such, our involvement has included this most recent second draft EA, as well as addressing comments and submission of the final EA.

MR. CHIPCHASE: Thank you, Ms. Ng.

Chair, I would ask that the commission recognize Ms. Ng as an expert in the field of land use and environmental planning.

CHAIR SCHEUER: Just to clarify, Mr. Chipchase, so your questions were on the environmental review, but you want her also qualified as an expert for land use planning?

MR. CHIPCHASE: Well, I believe that in the environmental review conducted through the EA, her experience justifies both designations, Chair.

CHAIR SCHEUER: Okay.

Any objections, starting with the County?
MR. HOPPER:  No, Chair.

CHAIR SCHEUER:  OPSD?

MR. YEE:  We have no objections. Just in anticipation while we're -- possibly, Mr. Chase will be asking this question of a number of other witnesses. I kind of just felt that our lack of objection at this time, while I highly doubt we'll have objections later for Ms. Ng, our lack of objection on this proceeding does not necessarily prejudice our ability to object at a substantive hearing until we have more opportunity to review the witnesses' qualifications and resume. Thank you.

CHAIR SCHEUER:  So noted. Mr. Yee, for some reason, your -- I was able to catch everything you were saying, but your audio was distorted.

Commissioners?

We'll recognize Ms. Ng.

MR. CHIPCHASE:  Thank you, Chair.

CHAIR SCHEUER:  An expert as stated.

Please continue, Mr. Chipchase.

MR. CHIPCHASE:  And, Ms. Ng, would you summarize for us the agency consultation process in the first and second draft EA. And I understand we put that information up on the screen.

MS. NG:  Yes. As you can see in the chart,
we received comments from a number of agencies, including the LUC, Office of Planning and Sustainable Development, DLNR, state DOT, and the County Planning Department. We also received comments from several other agencies during both the first and second draft EA, as noted by the Xs in the chart.

MR. CHIPCHASE: And was there also public participation, meaning individuals other than the agencies, that has an opportunity to consult and comment?

MS. NG: Yes. And all individuals that submitted comments during the 30-day comment periods were responded to.

MR. CHIPCHASE: Was there any other public engagement in siting an industrial park, a 200-acre industrial park, in this area?

MS. NG: Yes. There was extensive public engagement during the Lanai Community Plan process where the proposed 200-acre industrial park was discussed at 10 Lanai Community Plan advisory committee meetings, four Lanai Planning Commission meetings, and three Maui County Council meetings as part of the update to the Lanai Community Plan.

In addition, a community meeting was held
on Lanai on October 22nd, 2016, where the project was explained and questions were fielded.

**MR. CHIPCHASE:** Moving from that the public comment is part of siting the project here in the Community Plan to the FEA, were all comments on the FEA addressed?

**MS. NG:** Yes. All substantive comments were addressed in the final EA, and all comments were responded to that were received during the comment period.

**MR. CHIPCHASE:** And if we can turn from the opportunity for public input on the site and on the EA to the substance of EA, help us understand what the trigger for the EA was.

**MS. NG:** Sure. So in this instance, the trigger was the use of state lands -- more specifically, intersection improvements that are proposed at Kaumalapau Highway that will be required.

**MR. CHIPCHASE:** And help us understand, too, what the purpose of an EA is.

**MS. NG:** An EA is a document that evaluates and provides information to the public and decision-makers as to whether a proposed action has a significant environment affect.
MR. CHIPCHASE: And what did your analysis through the EA conclude?

MS. NG: We concluded that the Miki Basin Industrial Park does not have a significant effect pursuant to the 13 significant criteria that are outlined in the EIS rules, HAR 11-200.1-13. And as you can see on this slide and the following, all criteria were assessed, and the results were not significant.

MR. CHIPCHASE: As part of your analysis, were secondary and cumulative impacts also considered?

MS. NG: Yes. They were. And the project will not result in significant cumulative or secondary impacts.

MR. CHIPCHASE: If you could summarize for us, what would you say the key takeaways are from this updated FEA?

MS. NG: As has been noted previously, the proposed Miki Basin Industrial Park is implementing the Lanai Community Plan. There are no impacts to archaeological resources or cultural practices. The impacts to agricultural lands are insignificant. There are no impacts to flora or fauna resources.

There are no drainage, wastewater, or
traffic impacts. There's also no immediate need for
development of new water resources, and there's
capacity when the demand requires the development of
a new well for future industrial use. And lastly,
there is a positive impact to the economy of Lanai.

MR. CHIPCHASE: And, Ms. Ng, in your
professional opinion, is a FONSI warranted for this
FEA?

MS. NG: Yes. I do believe the finding of
no significant impact is warranted.

MR. CHIPCHASE: Thank you, Ms. Ng.

Chair, I have no further questions, and
I'm prepared to call my next witness.

CHAIR SCHEUER: Please proceed.

MR. CHIPCHASE: Thank you, Chair.

Chair, I call Ken Kawahara.

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

MR. KAWAHARA: Yes, Chair.

MR. CHIPCHASE: Would you please introduce
yourself to the commission?

MR. KAWAHARA: My name is Ken Kawahara,
with Akinaka & Associates, an 81-year-old civil
consulting firm.

MR. CHIPCHASE: And what is your current
MR. KAWAHARA: President and CEO of Akinaka & Associates.

MR. CHIPCHASE: And would you describe for us your responsibilities?

MR. KAWAHARA: Job responsibilities include principal project management, facilities planning, marketing, business development, strategic planning, and monitoring work effort and quality control.

MR. CHIPCHASE: And would you describe for us your educational history and experience in the field of civil engineering?

MR. KAWAHARA: I have over 28 years of civil engineering experience. Prior to joining Akinaka & Associates, I served as the deputy director for the State of Hawaii Department of Land and Natural Resources Commission on Water Resource Management.

I have experience in both the public and private sector in planning, design, contracting, construction, construction management, regulatory compliance, and environmental quality monitoring. I also spent 10 years for the City & County of Honolulu Department of Wastewater Management, now
known as Environmental Services. I was the branch head for the regulatory control branch.

MR. CHIPCHASE: And if we look at the course of your career, how many wastewater and water master plans have you conducted?

MR. KAWAHARA: I have prepared at least six wastewater and over 12 water master plans, and I have reviewed quite a bit of reports during my public service.

MR. CHIPCHASE: And over the course of your career, have you had an opportunity to testify before any board or commission?

MR. KAWAHARA: Yes. I have. I've testified before the Board of Land and Natural Resources and the Commission on Water Resource Management.

MR. CHIPCHASE: And are you familiar with the Miki Basin industrial project?

MR. KAWAHARA: Yes. I am.

MR. CHIPCHASE: And was it your role to supervise the preparation of the wastewater and water master plans for that project?

MR. KAWAHARA: Yes.

MR. CHIPCHASE: Chair, at this time, I would ask that Mr. Kawahara be recognized as an expert in the field of civil engineering.
specifically with respect to water and wastewater management plans.

CHAIR SCHEUER: Any objections?

MR. HOPPER: No objection, Chair.

MR. YEE: No objection, Chair, subject to --

CHAIR SCHEUER: Same -- same --

MR. YEE: Yes.

CHAIR SCHEUER: We're still -- just so you know, Mr. Yee, when it comes to your turn, we're picking up huge audio interference from you.

MR. YEE: I'm sorry. It might be because there is a lawnmower in the --

CHAIR SCHEUER: Commissioners, any objections?

Qualified as requested. Please continue.

MR. CHIPCHASE: Thank you, Chair. And I'll note, just in case Mr. Yee's lawnmower continues, that his reservation to his lack of objections is noted and accepted.

All right. Mr. Kawahara, we've put up on the screen Exhibit H-1 to the FEA. That's the water master plan. And I'd like you to please describe the current water system used by the Miki Basin area.

MR. KAWAHARA: Water for Miki Basin is
currently provided by the Manele water system, which
is owned, operated, and maintained by Lanai Water
Company. The Manele system is sourced by wells
number 2 and 4, which currently serve Manele,
Hulupoe, and Palawai irrigation grid.

Water from the wells is either stored in
the half-a-million-gallon Hi'i tank, the existing
half-a-million-gallon Hi'i tank, or the one-million-
gallon concrete Hi'i reservoir, or fed directly into
the distribution system, depending on the need.

The existing Manele water system consists
of 10-inch, 12-inch, and 16-inch transmission lines.

MR. CHIPCHASE: And what is the existing
daily water usage of the Manele water system that
will serve the project area?

MR. KAWAHARA: The average daily water
usage of the system is currently estimated at
433,000 gallons per day, which includes the usage
from Sensei Farms, the Manele project district, and
the airport.

MR. CHIPCHASE: And what is the estimated
water demand the industrial park will add to this
water system?

MR. KAWAHARA: The concrete facility is
anticipated to add 2,625 gallons per day, and the
asphalt plant is anticipated to add 1,000 gallons per day. The 127 acres of renewable energy will have no demand. The other industrial uses are estimated to be 156,000 gallons per day, based on water system standards. In total, the project may add 159,625 gallons per day to the Manele Bay water system.

MR. CHIPCHASE: Mr. Kawahara, help us understand the assumptions that you used when calculating this future demand.

MR. KAWAHARA: Sure. Demand for the concrete and asphalt plants are known, because they are simply relocating. There is negligible demand for the renewable energy facility.

For the demand of the remaining 26 acres, a 6,000 gallons per day per acre estimate was used. This is a standard estimate for industrial use and is conservative because it assumes industrial manufacturing would occur. If the use was for warehouses, for example, the actual demand would be much lower.

MR. CHIPCHASE: Help us understand some context for that, that estimate, where it comes from, and specifically compared to the demand for agricultural uses.

MR. KAWAHARA: Sure. According to water
system standards for Maui County, the estimated demand for agriculture use is 5,000 gallons per day per acre. For O'ahu it's 4,000 gallons per day for acre, and for Kauai it's 25,000 gallons per day per acre. So the Maui estimate is more on the conservative side.

MR. CHIPCHASE: I see. So it would be fair to say that you used the Maui County standards, and that is the most conservative estimate available.

MR. KAWAHARA: Yes.

CHAIR SCHEUER: Sorry -- 2,500 gallons per day for Kauai rather than 25,000, I believe.

MR. CHIPCHASE: Sorry. Sorry about that.

Thank you, chair.

MR. KAWAHARA: 25,000 gallons per acre per day.

MR. CHIPCHASE: 2,500.

MR. KAWAHARA: 2,500. Sorry.

MR. CHIPCHASE: How does the water master plan address the needs of the project?

MR. KAWAHARA: As the graph notes, the total demand for the existing water uses and the full buildout of the industrial park will exceed well 2's maximum daily pumping capacity. The project proposes to use unused existing capacity and
1 construct a new source as needed.
2
3 MR. CHIPCHASE: In the first five years or so, it's anticipated that the concrete facility and the asphalt plant will be relocated. Is there sufficient water to support these uses?
4
5 MR. KAWAHARA: Yes. There is existing capacity in public water system 238 to support the new demand for those uses.
6
7 MR. CHIPCHASE: And what upgrades are required for the project in the near term?
8
9 MR. KAWAHARA: An evaluation of the Palawai irrigation grid to determine pipe repair, replacement, or abandonment may be necessary. But the current transmission lines meet the water system standards for fire protection flow. The pressure-reducing valve could be lowered with addition of a booster pump.
10
11 Storage capacity is sufficient for the full buildout, and a new water resource will be required when the daily pumpage is above 480,000 gallons per day, which is the maximum capacity for well number 2.
12
13 MR. CHIPCHASE: In your opinion, Mr. Kawahara, will the project have a significant impact on the water infrastructure resources?
MR. KAWAHARA: No. It will not.

MR. CHIPCHASE: Turning to the wastewater system, what kind of wastewater system is proposed for the project?

MR. KAWAHARA: Wastewater will be treated onsite with individual wastewater systems.

MR. CHIPCHASE: Can you help us understand what that means?

MR. KAWAHARA: Individual wastewater systems are individual systems which will collect and treat the waste onsite.

MR. CHIPCHASE: And do you anticipate any leaching or other issues associated with these systems?

MR. KAWAHARA: We do not anticipate any leaching problem or any other air quality problems associated with individual wastewater systems.

MR. CHIPCHASE: All right. Thank you, Mr. Kawahara.

Chair, I have no further questions, and I'm prepared to call my next witness.

CHAIR SCHEUER: Okay. Please go ahead.

MR. CHIPCHASE: Yes, Chair. Thank you.

CHAIR SCHEUER: I will have questions for Mr. Kawahara later, for sure.
MR. CHIPCHASE: Of course. Chair, my next witness is appearing virtually.

CHAIR SCHEUER: Perhaps she is --

MR. CHIPCHASE: My slide deck is slightly out of order, Chair.

CHAIR SCHEUER: Okay.

MR. CHIPCHASE: I will fix that for you.

CHAIR SCHEUER: Who's your next witness?

MR. CHIPCHASE: Tom Nance, Chair.

CHAIR SCHEUER: Okay. And Mr. Nance is an attendee. I'm going to move him to be panelist.

Mr. Nance, if you could enable your audio and video. There we go. And perhaps lower your screen slightly so we see your entire -- yeah, there we go.

MR. NANCE: Okay.

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

Please proceed, Mr. Chipchase.

MR. CHIPCHASE: All right. Technical glitches aside, order to be nice to Mr. Goodin in place. Moving on.

Hi, Mr. Nance. Would you please introduce yourself to the commission?

MR. NANCE: Hi. I'm Tom Nance. I'm
president of a company doing business as Tom Nance Water Resource Engineering.

MR. CHIPCHASE: And would you describe for us your responsibilities in that position?

MR. NANCE: Well, in addition to being president, I work on all of the hydrologic and some of the hydrologic matters, primarily in the development of groundwater in wells or surface water as the need be.

MR. CHIPCHASE: And would you describe for us your educational history and experience in the field of water resource engineering?

MR. NANCE: I have a bachelor's of mechanical engineering and a master's in civil engineering from Stanford University. My primary areas of expertise are in groundwater and surface water development, which I have been doing since 1972. I'm in my 50th year.

MR. CHIPCHASE: You don't look it.

Approximately how many new well studies have you conducted over the course -- new well supply studies have you conducted over the course of your career?

MR. NANCE: It's more appropriate to think of how many wells I've developed, because every well that you develop you have to go through a study of
varying levels of detail. Over the 50-odd years I've been doing this throughout the state of Hawaii, wells of all types probably are in excess of 300. And if you add the wells that I've done overseas in the Western Pacific and in Bali and so forth and Asia, that'll add more than 100 other new wells. So that would be the extent of my experience in well development.

MR. CHIPCHASE: Understood, Mr. Nance. Thank you. And in that 50-year career, have you testified before any water commission?

MR. NANCE: Yes. Many times, including several times in front of the LUC.

MR. CHIPCHASE: And in those prior opportunities to testify before the LUC and other boards and commissions, were you qualified as an expert witness?

MR. NANCE: Yes.

MR. CHIPCHASE: And, Mr. Nance, are you familiar with the Miki Basin Industrial Park project?

MR. NANCE: Familiar with its water supply requirements, not the rest of the project, but that.

MR. CHIPCHASE: And focusing just on that aspect of the project, did you prepare the new well
supply alternative study for the Miki Basin Industrial Park?

    MR. NANCE: I did.

    MR. CHIPCHASE: Chair, I'd ask that Mr. Nance be recognized as an expert in the field of hydrology and water resource engineering.

    CHAIR SCHEUER: Any concerns or objections?

    MR. HOPPER: No, Chair.

    MR. YEE: No objection.

    CHAIR SCHEUER: Commissioners?

    Mr. Nance has been previously recognized by this commission in that regard. Please continue.

    MR. CHIPCHASE: Yes, Chair.

    Commissioners, Exhibit H-2 to the FEA is the new well supply alternatives study for the Manele Bay water system, also known as public water system 238, as Mr. Kawahara mentioned.

    Mr. Nance, could you describe the current system used by Miki Basin?

    MR. NANCE: Well, actually, Ken Kawahara did a very good job of describing the system. But from the perspective of sources of supply, there are two -- well 2 and well 4.

    MR. CHIPCHASE: Your study looked at three
locations for a potential new water source for the Manele system. What were the conclusions from your study?

MR. NANCE: Back up a little. Ken I don't believe went over, but in his water master plan, he identified the need for a new source equivalent to or greater than 426 GPM. So in taking a look at those -- at that requirement, I looked at three possible locations for a new well.

One would be at existing well 5, which is the south of well 4 on the exhibit. That was a production well way back when, stopped being used in the mid-'90s, now turned into a permanent monitor well.

The second site I looked at, which really isn't denoted on this, but it's immediately inland of well 2. Well 2 is almost adjacent to what's called shaft 3. They're separated by one or more closely-spaced vertical dikes. And looking for a site immediately inland of well 2 would be to try to drill into the compartment that's capped by shaft 3. Shaft 3 is no longer being used.

And the third site I looked at, which is labeled possible well sites, is about 2,000 feet to the northwest of well 2. Of those -- go ahead.
MR. CHIPCHASE: No, go ahead, Mr. Nance, please.

MR. NANCE: Well, of those three sites, I recommended pursuing the site called possible well site on the graphic. There are issues with trying to put a new well next to well 5, the now permanent monitoring thing, that have to do with long-term yield and difficulties with caving.

The site inland of well 2 to tap into shaft 3, there's a potential issue of some very modest hydrologic connection between well 2 and shaft 3, so if we drill there, we might have an adverse impact on the yield from well 2.

So the third site, possible well site, is the site that I recommend to pursue.

MR. CHIPCHASE: Thank you, Mr. Nance.

CHAIR SCHEUER: All right. I'm just going to interject right here quickly. Can you go back to the last slide?

MR. CHIPCHASE: Of course, Chair.

CHAIR SCHEUER: And then afterward, I'm going to call on Commissioner Giovanni.

Is the boundary line between the windward and leeward aquifers on this map, Mr. Nance?

MR. NANCE: It is not.
CHAIR SCHEUER: And if so, can you indicate it?

MR. NANCE: It is not.

CHAIR SCHEUER: Is it entirely within the leeward?

MR. NANCE: No. I can't draw my finger across it, but if you look, I'll identify the wells that are on the windward side for you. If we start up at the top, well 6, the drilled well, is in the windward. The lower Manele tunnel and the upper Manele tunnel are also windward. And to the north of there is something called shaft 2, which is also in the windward. All of the other wells shown on the graphic are in the leeward aquifers.

CHAIR SCHEUER: Including the proposed sites.

MR. NANCE: That's correct. Yes.

CHAIR SCHEUER: Okay. Thank you, Mr. Nance. Sorry for that.

Commissioner Giovanni?

COMMISSIONER GIOVANNI: Thank you, Chair.

Mr. Nance, can you clarify the units that you're referring to? What is 426 GPM?

MR. NANCE: Gallons per minute.

COMMISSIONER GIOVANNI: So how does that
relate to what was presented by Mr. Kawahara where he was talking about thousands of gallons per day, I believe; right?

MR. NANCE: Yeah. I think he described the capacity of well 2 by operating its pump for 16 hours. It's got a 500 GPM pump in it. And over a 16-hour period, he came up with the number -- was it 432,000 gallons per day?

COMMISSIONER GIOVANNI: Okay. So GPM, your M is minutes; right?

MR. NANCE: That's correct.

COMMISSIONER GIOVANNI: Okay. Thank you.

No further. I just wanted the clarification.

MR. NANCE: Sure.

CHAIR SCHEUER: And just to clarify for our proceedings, we'll mostly do questions at the end and also, of course, give the opportunity for the other parties to cross any of the witnesses.

Please continue, Mr. Chipchase.

MR. CHIPCHASE: Mr. Chair, will do.

So, Mr. Nance, coming back to the work that you did, would the additional pumpage from the new source exceed the total pumpage of 3 million gallons per day, specifically, the yield for the leeward aquifer?
MR. NANCE: No. It would not. This graphic shows the 3 million a day sustainable yield of the leeward aquifer and the total pumpage of all of the wells pumping from the leeward aquifer, and you can see in the last four or five years, that average has been about 1.5 million gallons a day. And in the past, the peaks have been less than 2 million gallons a day.

That red line on the graph is the moving annual average, and the moving annual average is the number you compare to the 3 million gallon a day sustainable yield.

Mr. Kawahara said that at full buildout and occupancy of the Miki Basin, it would add about 160,000 gallons a day to the current pumpage, and that would still have that pumpage well below 2 million gallons a day and obviously below the 3 million gallons a day sustainable yield.

MR. CHIPCHASE: And, Mr. Nance, in your opinion, would the use of this new water source significantly impact the aquifer?

MR. NANCE: It would not.

MR. CHIPCHASE: Thank you, Mr. Nance.

Chair, I have no further questions at this time. Of course, Mr. Nance will be available for
questions later.

CHAIR SCHEUER: You can feel free, Mr. Nance, to disable your audio and video for now, but stay in the room for questions.

MR. NANCE: Okay.

CHAIR SCHEUER: How many -- sorry, Cal. How many more witnesses right now?

MR. CHIPCHASE: Down to two, Chair.

CHAIR SCHEUER: Okay. Well, let's do at least one more before we take a break.

MR. CHIPCHASE: Very good. Where's Kehau?

DR. WATSON: I'm here.

MR. CHIPCHASE: Oh, Kehau, you're up.

DR. WATSON: I am?

CHAIR SCHEUER: Dr. Watson?

DR. WATSON: Hello.

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

DR. WATSON: Yes.

CHAIR SCHEUER: Please proceed.

MR. CHIPCHASE: Good morning. Although you're known, would you introduce yourself to the commission?

DR. WATSON: My name is Trisha Kehaulani Watson. I'm the president and founder of Honua
Consulting, an archaeology and cultural resource management firm.

MR. CHIPCHASE: And would you describe for us your educational background and experience?

DR. WATSON: I have a Ph.D. in American Studies and a law degree from the University of Hawaii, and I'm also a graduate of the environmental law program. I have more than 15 years of experience in preparing and overseeing cultural resource management reports and help familiar with claim practices and resources.

MR. CHIPCHASE: And just give us an estimate, over the course of your career, of the number of cultural resource projects that you've overseen.

DR. WATSON: Easily over 100.

MR. CHIPCHASE: And if you could also describe for us your involvement with Pulama Lanai.

DR. WATSON: We have the privilege of overseeing all the archaeology projects for Pulama Lanai. We took over this role after Tom Dye retired a few years ago, and it was a very well-done transition. We brought some of his staff, what were the lead staff for Lanai, on board with Honua, and they continue to lead the efforts.
MR. CHIPCHASE: And looking at generally your experience, have you had an opportunity to testify before the Land Use Commission before?

DR. WATSON: Yes. I have.

MR. CHIPCHASE: And were you qualified as an expert?

DR. WATSON: Yes. I was.

MR. CHIPCHASE: Are you familiar with the Miki Basin Industrial Park project?

DR. WATSON: Yes. I am.

MR. CHIPCHASE: Can you tell us about your involvement in that project?

DR. WATSON: We, again, inherited this project from Tom Dye, so Tom actually led all the field work. He's an outstanding archaeologist. The lead field technician that worked with Tom on it is now our lead field technician for Lanai, so we're very familiar with the work that was done. And then we're overseeing the SHPD compliance process for that. And then we did some additional work to look at traditional and customary practices in the area.

MR. CHIPCHASE: And was an AIS submitted to SHPD for the project?

DR. WATSON: Yes. It was. And it was accepted.
MR. CHIPCHASE: Chair, at this time I'd ask to have Dr. Watson qualified as an expert in cultural resource management, including archaeology and environmental law.

CHAIR SCHEUER: Any objections?

MR. HOPPER: No objections, Chair.

MR. YEE: No objection, Chair.

CHAIR SCHEUER: Commissioners?

Dr. Watson so recognized. Please continue.

MR. CHIPCHASE: Yes, Chair.

Commissioners, Exhibit D-1 to the FEA is the archaeological inventory survey, the AIS. Exhibit D-2 is the acceptance letter. D-3 is the archaeological data recovery plan and report, and D-4 is supporting documentation on the cultural impact assessment report.

And, Dr. Watson, I hope you can just briefly describe for us the findings of the AIS.

DR. WATSON: Yes. So Tom and his team did a 100 percent pedestrian survey of the entire parcel. They then determined that it would be appropriate to do some subsurface testing. As you see there on your screen, the blue dots represent the 31 trenches that they did on the subsurface work. And that was basically what was in the AIS.
And they at the end of that recommended data recovery for two sites, but the AIS was sort of stopped at the subsurface testing. And that's what was submitted to SHPD for review.

Then he did complete the data recovery plan and a data recovery report, so those two sites were fully tested and, you know, the data was recovered. Any remnant parts or materials are now being professionally curated with the Lanai Culture and Heritage Center, as we do with any sites that undergo data recovery.

MR. CHIPCHASE: And in addition to the archaeological work that was conducted by Mr. Dye, did your firm collect any ethnographic data?

DR. WATSON: Yes. So the ethnographic data was actually collected in two parts. So the procedure beforehand, before we took over, Kepa Maly, who's a cultural expert extraordinaire, actually, and Tom would work together to include all of the traditional and customary information in the AIS itself.

So Kepa did an extensive study and looked at all sort of the history of the Hawaiian language resources, and that was all included in the AIS. And then subsequently, we did a couple of interviews
with practitioners, and then all of that was put
together, and then at the end of that, we determined
that no traditional or customary practices would be
affected by the project.

    MR. CHIPCHASE: And we've put up on the
screen the acceptance letter that you mentioned
earlier. As part of that acceptance letter, did SHPD
concur in the assessment and mitigation
recommendations?

    DR. WATSON: Yes. They did.

    MR. CHIPCHASE: And in your opinion, Dr.
Watson, would the Miki Basin project affect or
impair Native Hawaiian or customary -- Native
Hawaiian customary or traditional rites?

    DR. WATSON: No. Our conclusion in this
case was that it would not affect or impair
traditional or customary rites.

    MR. CHIPCHASE: Thank you, Dr. Watson.
Chair, I have no further questions at this
time.

    CHAIR SCHEUER: Thank you. And you have
one more?

    MR. CHIPCHASE: Yes, Chair. Mr. Matsumoto.

    CHAIR SCHEUER: Let's go through it, and
then we'll take a break.
MR. CHIPCHASE: Very good, Chair. All right, chair, swear in the witness, please.

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

MR. MATSUMOTO: Yes. I do.

MR. CHIPCHASE: All right. Mr. Matsumoto, like Dr. Watson, you're known, but would you introduce yourself anyway?

MR. MATSUMOTO: Yes. My name is Kurt Matsumoto, and I am the chief operating officer for Pulama Lanai.

MR. CHIPCHASE: And would you describe for us your responsibilities?

MR. MATSUMOTO: Yes. As the COO, I lead management work with the Lanai community to plan and implement sustainable commerce, energy, conservation, health care, housing, education, and hospitality initiatives.

MR. CHIPCHASE: And how long have you been with Pulama Lanai?

MR. MATSUMOTO: I've been with the organization since the beginning in 2012.

MR. CHIPCHASE: And what kind of work did you do before you joined Pulama Lanai.

MR. MATSUMOTO: Previously, I spent time
working with the previous landowner for about 10
years. I opened the Manele Bay Hotel and also
managed the operations of the Lodge at Koele and
both golf courses on Lanai.

I later moved on to managing operations on
Hawaii Island at the Mauna Lani Bay Resort, and then
later on Kauai at the Kukui'ula Resort.

MR. CHIPCHASE: And as we've gone over for
the last hour or so, we're here talking about the
FEA, the final environmental assessment for the Miki
Basin Industrial Park. And I'd like to discuss the
place of that park on the island of Lanai.

MR. MATSUMOTO: Sure. We strive to foster
a resilient and sustainable community, reducing our
dependency on fossil fuels and developing a place
where people and future generations can thrive.

MR. CHIPCHASE: And where does the Miki
Basin fit in that vision for sustainability and
resiliency?

MR. MATSUMOTO: Miki Basin is an important
part of our vision. In order to have a robust and
diversified economy that supports a sustainable and
resilient culture, we need to have diversified land
uses.

Proper zoning will aid in diversifying the
economy, encouraging new industry to develop, and provide spaces to support services for small businesses. Proper zoning will allow the installation of infrastructure suited to the type of uses in a light or heavy industrial area.

A key feature in the Miki Basin boundary amendment is the development of renewable energy projects, which are meant to stabilize and hopefully lower energy costs by reducing our dependence on fossil fuels. Development of renewable energy is key to increasing our energy security and becoming more resilient.

MR. CHIPCHASE: And as the community plan called for the creation of this 200-acre industrial park, is it anticipated with Lanai will require this additional industrial space?

MR. MATSUMOTO: Yes. Currently, there is a lack of industrial-zoned lands on the island. The Miki Basin Industrial Park will provide space for our current needs and allow expansion of future economic diversification and our resilience.

MR. CHIPCHASE: And as part of that anticipated need, can you tell us about the anticipated uses in the industrial park?

MR. MATSUMOTO: Development of the 200-
acre industrial park will allow existing industrial facilities currently scattered in businesses and residential areas in Lanai City to relocate to a more appropriate location having the infrastructure and buffers necessary for industrial use.

MR. CHIPCHASE: And consistent with that consolidation and from some of the public testimony that we heard and Dr. Dancil's testimony, what kind of heavy industrial uses might you anticipated?

MR. MATSUMOTO: Some examples of heavy industrial uses in communities of this size could include lumberyards, machine shops, major utility facilities, concrete and asphalt operations, and maybe one day a slaughterhouse.

MR. CHIPCHASE: And the same question with respect to light industrial uses. What kinds of light industrial uses are anticipated?

MR. MATSUMOTO: Generally, we could envision things like cold storage plants, commercial laundry, general food, fruit and vegetable processing, tire repair operation, and warehouse storage.

MR. CHIPCHASE: You talked about the importance of sustainability and resiliency. How does the project incorporate those values?
MR. MATSUMOTO: As the developer, Pulama Lanai will ensure that the industrial park incorporates, to the extent feasible and practicable, measure to promote energy conservation, sustainable design, environmental stewardship, and protection of the area's natural and cultural resources.

MR. CHIPCHASE: And are those efforts toward sustainability and resiliency consistent with Pulama Lanai's other efforts on the island?

MR. MATSUMOTO: Yes. For example, we strive to enhance and perpetuate the island's diverse species and fragile ecosystem through game management, native species preservation, watershed management, erosion control, coastal resources and fisheries management, invasive species control, and conservation education.

We implement an integrated and comprehensive approach to protect and manage Lanai's natural resources.

MR. CHIPCHASE: List just some examples of those efforts.

MR. MATSUMOTO: Sure. For one, major capital investments have been made to update our water infrastructure. We're using reclaimed water
systems for irrigation, and we completely renovated our golf course irrigation system and designed it to use less water.

Smart meters have been installed for our customers. These enable real-time monitoring and the ability to notify the utility and customers about potential leaks. Implementing the water conservation measures has decreased the demand on the resource, thereby allowing that water that is not leaking to be beneficially used or conserved.

MR. CHIPCHASE: And if we come back, then, from those broader conservation efforts to the Miki project, you said that this project will implement a community plan for industrial uses, consolidate existing industrial uses, add to economic diversification, and provide energy security. Did I miss anything in connection with this project?

MR. MATSUMOTO: Having a designated industrial area like Miki Basin will help us preserve the lifestyle in Lanai City and other parts of the island. This project was thoroughly studied to determine if there were significant impacts from the proposed project. Our technical experts and environmental planner concluded that there are no significant impacts.
We thank the commission for your careful consideration of this important project, and we ask for the issuance of a finding of no significant impact.

**MR. CHIPCHASE:** Thank you, Mr. Matsumoto. Chair, Commissioners, that concludes both my examination of Mr. Matsumoto and my presentation.

**CHAIR SCHEUER:** Thank you. If you could stop screensharing for a moment, Mr. Chipchase, I want to discuss with you and the counsel for OPSD and the County how we'll handle questions for the witnesses along with the commission.

I deferred to your request to leave all witnesses for the end. All the parties, of course, have the right to cross-examine. I know sometimes questions are stimulated by other questions, so I'm trying to figure out the best way to move forward through any questions that might be had for any of the witnesses.

My initial thought was to ask, noting that they might change their mind slightly later, to first ask if the County or Mr. Yee have particular questions for any of the witnesses.

**MR. HOPPER:** Chair, the County does not have questions for the witnesses at this time.
CHAIR SCHEUER: Okay. Mr. Yee?

MR. YEE: OPSD has no questions for the witnesses. Thank you.

CHAIR SCHEUER: Okay. So what we'll do is I'll ask the commissioners after we come back from a break for any questions for any of the witnesses. I'd like to be liberal in allowing them, if there's a line of questioning that starts with the commissioners, that the parties be allowed to ask follow-ups for the witnesses.

Is that acceptable, Mr. Chipchase?

MR. CHIPCHASE: Yes, Chair.

CHAIR SCHEUER: Okay. It is 10:58. I want to take a recess until 11:10. I know that I'm going to have questions for at least Mr. Kawahara, Mr. Nance, and the final witness, I don't know.

Commissioner Giovanni? Oh, you're muted, Commissioner Giovanni.

COMMISSIONER GIOVANNI: Thank you, Chair. It has been your custom to allow the other commissioners beside yourself to ask questions first.

CHAIR SCHEUER: Yes.

COMMISSIONER GIOVANNI: I have questions on the water area as well, but I would encourage the
chair to ask his questions first, because I always learn from your questions, and they usually answer mine. So can I ask that you consider asking your water-related questions first?

CHAIR SCHEUER: Thank you. Thank you for that. I do defer to the other commissioners, but I will go first if that's the desire.

Any other witnesses at this point, just to give a heads-up, Commissioner Wong?

COMMISSIONER WONG: No, Chair. I was going to ask the time limitations for other commissioners, just to make sure we have a quorum for the end.

CHAIR SCHEUER: Okay. When do people need to leave today? Anybody? I think 8, 9 o'clock at night, we're good, so.

We'll go on recess until 11:10. Thank you very much.

(Recess taken from 10:59 - 11:11 a.m.)

CHAIR SCHEUER: Deputy Attorney General China?

MS. CHINA: Yes. Chair, I just wish to disclose to everyone that I was Ken Kawahara's deputy AG while he was with the water commission, but that was over a decade ago.

CHAIR SCHEUER: Thank you for a good
disclosure as well.

Okay. So, Commissioners, other questions, or would you like me to sort of start down my line of broader questioning?

And, Cal, I'm going to have to work with you on this one, because my questions really are sort of interrelated questions around water capacity as well as the plans for the development. So you might need to sort of direct certain questions to certain witnesses.

MR. CHIPCHASE: Sure.

CHAIR SCHEUER: And just to be straightforward, the issue -- let me make an introductory remark before I start my questioning, first of all.

There is a proverb that says iron sharpens iron and one mind sharpens another. The intent of my question is to make sure we get a really good environmental assessment and make a good determination, not to cast aspersions against any individual or any analysis that's been done.

With that said, my core questions --

COMMISSIONER GIOVANNI: Yes, Chair. You mentioned that you're interested in the consequence
for development. I might note for the record that my questioning has to do not only with the instant development that is associated with the 200 acres, but the more grandiose development of Pulama Lanai for the entire 98 percent of the island that is owned by Mr. Ellison.

So in the context that your questions are asked and answered, I would appreciate it if it could be expanded — to the extent the answers could be expanded to the larger, long-term development so we don't address these important issues on a piecemeal basis. Thank you.

CHAIR SCHEUER: Thank you, Commissioner Giovanni. So — and that's a good segue.

So to continue, I have some immediate concerns with the development, and particularly I want to understand, Mr. Chipchase, whether the proposed industrial uses for the asphalt plant and the solar use are — whether or not the applicant is making an affirmative commitment to only ever have those industrial uses on these industrial lands, or whether it's contemplated by moving these lands into the urban district that in the future there could be different industrial uses, because the water demands, if you applied the Maui County's 6,000
gallons per acre per day water demand, which is applied to almost any other industrial development, would add up to an additional 1.2 million gallons a day of need of water for 200 acres of industrial land, and yet the calculation from Mr. Kawahara is just over maybe 15 percent of that.

So I'm trying to understand the short- and long-term implications of that. So I guess my first question, and this might be for either Dr. Dancil or Mr. Matsumoto, but while I understand it is clear that the proposal is for the immediate use of some of these lands for solar power and the concrete plant and the asphalt plant, with very low water uses, whether the landowner is permanently committing to only using these urban lands for those purposes.

**MR. CHIPCHASE:** Understood, Chair. And so I have brought Dr. Dancil back next to me to address that question.

I would just contextualize it a little bit, Chair, is we're here on the FEA, which analyzes reasonably foreseeable uses. Those are the reasonably foreseeable uses which would be the standard on the FEA, and so I think contextualized, the easy answer to your question is, yes, those are
the appropriate issues to analyze.

But in terms of your broader question, which obviously could come up in the DBA, I brought Dr. Dancil by to answer it.

CHAIR SCHEUER: Dr. Dancil, did you hear everything I said?

DR. DANCIL: I did. Thank you, Chair, Dr. Scheuer, for the question.

I believe, to just expand a little bit about the solar and battery energy project that is currently before the public utilities commission that is being proposed by MECO. I want to touch a little bit on the comments earlier as well by -- public comment by Ms. Kay to just give you some context.

The current RP is specific. It is specific for photovoltaic and battery ampoule technology. That is a specific ask in the current docket before the public utilities commission right now.

The MECO RFP did recognize approximately 73 acres for that area, as noted by public commenter Kay. However, it should be noted that depending on what type of solar photovoltaic used, fixed-tilt or single-axis, they have very different needs in terms of lag area. She is correct that it was 77, and that
was for fixed-tilt.

Before you there was a state special use permit around 2017 for a project over on Kauai, the Lawai AES project. If you use the -- that was a single-axis tracking technology, and it's photovoltaic. However, if you use that relation of megawatt per acre, you come out to approximately 122 acres. And that is why we reserved approximately 127, because we don't know what type of technology.

So for the near term, meaning a power purchase agreement of about 20 or 25 years, we do believe that that area would be used for that use.

Regarding --

CHAIR SCHEUER: So -- sorry, go ahead.

DR. DANCIL: All right. Regarding the asphalt plant, that is 12.5 acres, and we believe that will service needs, and as well as the concrete facility of 14.5 acres, we currently have a special use permit before the Maui Planning Commission that is going to be heard next month. And that is for in-term uses for that plant. And that is for 14.5 acres.

So for those 127, 12.5 as well as 14.5 acres, those have been -- they have been set aside for those particular uses. I don't understand what
technology we bid for, so I cannot comment on that until that's awarded.

CHAIR SCHEUER: Okay. So here's -- my dilemma is that if we are considering a DBA, and this is an EA for a DBA, putting this land permanently into the urban district, we really have to consider, I believe, the water uses that could be applied to this land long into the future.

If you were seeking a special use permit for a temporary use for photovoltaics, which is used in the agricultural district, we wouldn't have that same kind of analysis.

So I guess going back to my question, is there a commitment from the company to only have, let's say, industrial uses on these majority of the redistricted lands which will not have significant water uses?

DR. DANCIL: Yes. We have that commitment.

CHAIR SCHEUER: So that the overall water use for the 200 acres is not going to exceed the estimated water demands calculated by Akinaka.

DR. DANCIL: We believe so. Correct, Chair Dr. Scheuer. And that is --

CHAIR SCHEUER: So thinking ahead, we could rely on the environmental assessment and the
assumptions made around the future water demand in
the environmental assessment in terms of potential
conditions placed on this docket.

DR. DANCIL: Yes. We would be okay with
that.

CHAIR SCHEUER: Okay. That's very helpful.

That, then, gets to my sort of larger
question, and I'll allow Mr. Chipchase to either
direct them to Mr. Kawahara or Mr. Nance, who has
more experience on it. But I have some questions
around sustainable yield.

MR. CHIPCHASE: It's probably most
appropriately directed to Mr. Nance.

CHAIR SCHEUER: Okay.

Hi, Tom.

MR. NANCE: Hi.

CHAIR SCHEUER: So I'm trying to get to
the appropriateness of the conclusions of no
significant impact in the final environmental
assessment, and particularly the statements around
sustainable yield, including the statements that the
entire -- the two main aquifers on the island have a
sustainable yield of 6 million gallons per day.

So one question I've sort of hinted at in
my questions to you asking about where the wells
are. Am I correct in understanding that the vast
majority of wells on the island so far have been
developed in the leeward aquifer rather than the
windward aquifer?

MR. NANCE: Vast majority might be a
little of an exaggeration, but I can answer you in
this way. At the present time, only one well is
pumping from the windward aquifer. All of the other
actively pumped wells are in the leeward aquifer.

There are several wells in the windward
aquifer, pre-existing wells in the windward aquifer,
that are not used. And they include shaft 2 in
Maunalei Valley and the two tunnels that are further
up the valley from shaft 2.

CHAIR SCHEUER: Okay. Are the majority of
those wells -- and if you have documents that you
can refer to visually, that would help -- are the
majority of those wells, however, towards the
leeward side of the windward aquifer?

What I'm trying to get at -- is it true
that well development in the windward aquifer has
been largely -- there's been very little well
development, and actual nature of potentially
productive well sites in the windward aquifer has
not been explored?
MR. NANCE: Well, historically, actually, the development started in Maunalei on the windward side, but and there was a pipeline that went from Maunalei Valley up over the top of the mountain and into Lanai City. It's long since been abandoned. It was actually hard to keep operating and had some difficulties.

But today, well 6 actually is pretty close to the boundary between windward and leeward. I could let you know that we've actually located four sites that may ultimately develop on the windward side, and they are further away from the leeward/windward boundary than well 6.

CHAIR SCHEUER: How far into the windward aquifer are they?

MR. NANCE: I'd have to have the graphic, but they're probably at least 2,000 to 3,000 feet, maybe, something in that range, 2,000 to 4,000 feet from that boundary.

CHAIR SCHEUER: But the overall dimensions of the windward aquifer are --

MR. NANCE: Much bigger than that.

CHAIR SCHEUER: Okay.

MR. NANCE: Yeah.

CHAIR SCHEUER: So what are -- what are
some of the -- if sustainable yield is to be reached, according to the water commission itself, what are some of the assumptions that have to be met for us to be able to successfully pump up to sustainable yield?

MR. NANCE: I'm not sure I understand your question. Could you try to rephrase it a different way?

CHAIR SCHEUER: In the state water resources protection plan, which sets sustainable yield, and which notes that they calculate sustainable yield on a number of assumptions, including that everything is a basal aquifer, they also state a number of assumptions that have to be met if the sustainable yield number can actually be pumped to. Can you recount some of those for the commission?

MR. NANCE: I'm not actually familiar with it. I could tell you how I would look at it is the response of water levels to pumping will tell you where you're at in terms of reaching or not reaching a sustainable yield.

And you also need to know that this -- generalizations about leeward and windward are pretty misleading, actually, because all of the
wells tap into separate groundwater compartments
that have very little response to the compartments
next to them.

    I've chased through the records. Wells 4
and 5 had similar water levels when they were
originally developed in the early '50s. They don't
know. The only time I've actually been able to say
is there an effect pumping one compartment to the
other is that testing that I did with well 2 and
shaft 3, which are basically adjacent to each other.

    So you're talking about wells that located
in leeward, located in windward, but they're really
in a compartment bounded by dikes and of no
influence of one or the other.

    So if you look at any well in a particular
compartment that used to be able to deliver, let's
say, 200,000 gallons a day with a stable water
level, and all of a sudden that water level is in
decline and the only way you can stop it is to
reduce the pumpage, so it's -- not to say it's far
more complicated than this broad generalization of
three windward, three leeward. It's really going to
be a compartment-by-compartment response to pumping.

    CHAIR SCHEUER: So, yeah, I couldn't agree
with you more. So thank you for that.
So my concern with the statement in the EA that simply says, you know what, sustainable yield is three here on this side and three on that side, and therefore, we're not going to get near sustainable yield, and therefore, there's no significant impact, is actually not necessarily reflected of hydrologic reality on the island. That's my summary of what you just said. Is that a fair statement?

MR. NANCE: Yeah. I would guess. You know, it's really rather than leeward versus windward, it's well compartment versus well compartment. And the realities are that if, for example, this projected decades-out reduction and sustainable yield, that will be reflected in the water levels pumped compartment-by-compartment.

And that, at some point in time, may dictate going to develop those four sites we've located on the windward side to bring water to the leeward to meet the demand, because recharge is less and the wells that used to be able to produce X MGD or X-hundred thousand gallons a day with a stable water level are now unable to do that.

So that water level response, compartment-by-compartment, well-by-well, will dictate going
forward what you can and can't do.

CHAIR SCHEUER: So what do you recommend
to this body, the commission, who has to make
decisions about whether or not to make a finding of
no significant impact, when if we focus -- and I
realize, Tom, your testimony is solely focused on
the continued sustainability of wells, not any
ectological effects associated with pumping or
anything else.

MR. NANCE: Right.

CHAIR SCHEUER: But can we continue to
pump these wells successfully if the geology and
hydrology of Lanai is such that it really is
dependent on the particular responses in these
different compartments, and yet the data that's been
presented us in the FEA is only on this broad level?
How do we make reliable findings about whether or
not there is potentially a significant impact from
the proposed development, particular thinking about
it in the context of overall development of Lanai?

MR. NANCE: Okay. I don't want to go to
the overall development, because I don't know what
they have in mind. But from my perspective when I
say it will not adversely impact the aquifer, I'm
basing that on the fact that the site I'm
recommending is almost certainly in a different compartment than well 2 to the southeast of it or well 3 to the northwest of it, so that it can be pumped without adversely impacting the yield of well 2 or well 3.

And that's the context in which I'm saying it's not going to impair the aquifer. It's going to be drawing from an individual compartment that I'm assuming will not be the compartment tapped by well 2 or by well 3.

CHAIR SCHEUER: And again, your testimony is based on the water demands estimated by Mr. Kawahara and Akinaka; correct? Not an application of 6,000 gallons a day to the 200 acres, so an overall water demand of 1.2 million gallons a day; is that correct?

MR. NANCE: That is correct. Yes.

CHAIR SCHEUER: Okay. So last thing I'll ask for you is just -- and just so we have it clear on the record, so when you read the water resources protection plan, it says you can reach sustainable yield for any given area assuming it's all basal, which we know is not correct on this island, right -- that there's these compartments; that if pumping is evenly spaced; that the wells are evenly
distributed through the entire aquifer area; that
they're to the same depth and pumping at the same
rate, are among the assumptions that have to be met
if sustainable yield is going to be fully met.
That's according to the water commission.

If you've read the water resources
protection plan, those -- I guess you could confirm
that those are not new assumptions to you and how
the state could --

MR. NANCE: They're not new, but it's far-
fetched that you can actually achieve that. But,
yes.

CHAIR SCHEUER: So really through this
body in this instance and perhaps going forward,
really shouldn't be relying so much on whether or
not we're above or below sustainable yield in order
to make determinations about impact.

MR. NANCE: Well, there's a physical
reality of is there or is there not, and there's
this regulatory issue of whether there's an impact
or not. Obviously, the additional pumpage of the new
well will increase the total pumpage of the leeward
aquifer, and the water commission is regulating it
by that single number.

But the field reality is if we are
continuing to lose water levels pumping at the same rate we used to be able to, it's probably because the long-term recharge of the aquifer isn't what it used to be, and we need to start thinking about going to the windward side and developing wells on that side and reduce what we're pumping on the leeward side in response to the change in long-term recharge.

CHAIR SCHEUER: Okay. The last question I have is can you anticipate if we needed to go into the windward aquifer those few thousand feet in -- I don't know necessarily the terrain, but could there be -- is there likely, just in your professional opinion, in the development of those well sites, that there might be environmental impacts in having to develop new wells in the windward aquifer farther in?

MR. NANCE: I wouldn't think so. I'm the one who actually selected those locations, and did so in response to what was happening on the leeward side and getting sufficiently into the windward aquifer, and there actually happens to be a whole bunch of dirt roads in that forested area, so the sites are picked out on roadways and easements created already to get the water to the leeward
side.

So I don't expect, other than moving pumpage to the windward aquifer, that we're going to see a change in -- as an environmental impact.

**CHAIR SCHEUER:** Okay. I was specifically referring to not knowing the terrain that you're referring to, whether there's roads or utilities or other things that would have to go in in order to be able to develop farther into the windward aquifer.

**MR. NANCE:** Yeah. All four sites on dirt roads that exist, but there's, other than that, no utilities whatsoever. So we would be putting power lines and pipelines in these roads to get it back to the leeward side.

**CHAIR SCHEUER:** Okay. And you're not familiar -- or are you familiar with the United States Geological Survey study that was referenced in testimony today?

**MR. NANCE:** I haven't had a chance to look at it. I've been busy with pump tests and all this stuff in the last 10 or 12 days in a row, so I haven't had a chance to review it. I understand that they made a presentation, but the report with all the details is not yet available. I'm not familiar enough to talk about it.
CHAIR SCHEUER: Okay. I don't have anything further right now, Mr. Chipchase and Mr. Nance. Thank you very much. I'm going to let my fellow commissioners ask questions.

Commissioner Giovanni?

COMMISSIONER GIOVANNI: Thank you, Chair. And thank you for going first. That was very helpful and will shorten my questions.

I just want to revisit the responses by Ms. Dancil to your initial inquiry regarding the -- I think it's approximately 145 acres that have been identified for the renewable energy plus the relocation of the concrete and asphalt plants, which in total have very, very small water consumption.

And, Ms. Dancil, if I can ask you to reaffirm your commitment, based on my understanding of -- and I'll say it, what my understanding is now -- that the immediate expectation for the water demand for that 145 acres is very low, much lower than the standard, the planning standard for Maui County, and that when this project comes before this commission, you would be willing to commit to a condition that limits the water consumption on that 145 so-called acres permanently at that level; is that correct?
1  DR. DANCIL: That is correct.
2
3  COMMISSIONER GIOVANNI: Okay. Thank you
4 for that. So as a corollary to that, you did mention
5 that you have set aside 127 acres for renewable
6 energy projects, but depending on the technology of
7 use -- and you are correct; it may be the full
8 amount or it may be considerably less -- it's
9 possible that as much as 50 acres that you have set
10 aside for renewable energy will be freed up for
11 other uses. Is it your intent that those other uses
12 will then not have any water demand any greater than
13 the renewable energy that might possibly go there?
14
15  DR. DANCIL: Yes, Commissioner, you are
16 correct. There could potentially be approximately an
17 additional 50 acres that will be used, depending on
18 the technology that is selected in the MECO RFP --
19 or the awardee. However, we do have a state goal to
20 get to 100 percent RPS by 2045.
21
22 If you look at a typical solar facility,
23 it's a 25-year PPA. We are well within 2045. So we
24 do need to make sure that we do have enough land
25 available. And those 50 acres could potentially be
26 used for additional renewable technologies to help
27 meet the state's goal of 100 percent by 2045.
28
29  COMMISSIONER GIOVANNI: Thank you for
Mr. Chipchase, I think it's a related question, and I don't know who is the right person to respond from your team. But in terms of the potential uses for the site, Mr. Matsumoto went through a general description of the potential uses, industrial uses, for the 200 acres near term and long term.

And one thing that was missing in my expectation was whether or not there might be any greenhouses for food production on this 200 acres. Is it then explicitly identified that none of these 200 acres would be used for that purpose?

**DR. DANCIL:** Commissioner, I can answer that question, if that's okay.

Right across the street from these 200 acres on the other side of Kaumalapau, we do have a facility. I'm not sure if you're familiar with our agricultural group. They are Sensei Ag. Sensei Farms is located there.

We have approximately six greenhouses in full production, delivering food to all islands. First and foremost, we do deliver greens and tomatoes to Lanai. That's our primary thing, again, feeding our island and our residents first. And we
started shipping out food from there. Approximately 100,000 square-foot under greenhouse hydroponic space. So this is a significant agriculture endeavor with very minimal impacts on resources, significantly less water than if it was used outside in open air. We also power these greenhouses with photovoltaic and battery sites, so it is off grid. So again, significant less impact on natural resources.

That's across the street. There will be no greenhouses in this area.

COMMISSIONER GIOVANNI: Your final comment was really the answer to my question. I am familiar with that, and I was wondering if you were going to expand into these 200 acres, and you said no; correct?

DR. DANCIL: That is correct.

COMMISSIONER GIOVANNI: Thank you. I'll hold my further questions until later. Thank you, Chair.

CHAIR SCHEUER: Commissioners, questions for any of the witnesses?

Commissioner Wong?

COMMISSIONER WONG: Thank you, Chair.
Several questions. Mr. Chipchase, you know when it was shown on the screen about all the responding state agencies and other agencies such as MECO, was the County of Maui also responding, especially the fire department? Because there's only one fire station there.

I was wondering if they responded that they have enough capability in case the industrial area was, you know, get on fire.

**MR. CHIPCHASE:** Good question, Commissioner, and I brought Ms. Ng back to answer it.

**MS. NG:** Thank you, Commissioner. So not shown on that slide, the fire department got their comment in just after the 30-day comment period, or several days after the 30-day comment period, so it's not included in the slide.

But we did receive a comment letter from the fire department basically saying they reserve the right to comment during the building permit review process, but did not have any comments on the second draft EA. And so they did not raise those concerns, and we have separately acknowledged the response from the -- or the comment from the fire department.
COMMISSIONER WONG: And also the police department?

MS. NG: The police department did comment on the second draft EA.

COMMISSIONER WONG: Was there no problems or what -- just some general, you know, you can take it. What did they say, since there's only --

MS. NG: Yeah. Just consulting my notes here, and the police department have no objections.

COMMISSIONER WONG: Okay. Thank you.

That's all for that portion of the --

The other question I have, and I don't know if Mr. Kawahara or someone -- it's about, you know, we're talking about the water issue. Was there any issue regarding recycling the water or gray water or, you know, in the industrial area instead of using fresh water or from waters from the cell -- wells, I mean.

MR. CHIPCHASE: We'll have Mr. Kawahara back, and he shall do his best.

MR. KAWAHARA: Thank you, Commissioner, for the question. If I understand correctly, you're asking about any use of the recycling water?

COMMISSIONER WONG: Yes. If the industrial complex that we are -- in front of us, the EA -- was
there any statements regarding reuse of any water instead of using the wells?

            **MR. KAWHARA:** I guess in our area, we did the water and wastewater master plans. Based on the limited amount of water usage and the individual wastewater systems as related in the wastewater master plan, it would depend.

            A lot of it depends on the constituents of the wastewater and what kind of industrial uses. As mentioned in my introduction, I spent 10 years at the City and County of Honolulu wastewater department, and I was in charge of the pre-treatment program.

            So we looked at industrial uses, and depending on the chemical constituents in the effluent would determine whether or not it's applicable for treatment. So there is, you know, some unknowns, but there is a limited amount of wastewater being produced, and I wouldn't at this time know if it would be reasonable to try and look at reuse of that smaller quantities.

            **COMMISSIONER WONG:** Okay. So the other question I have, I guess, it's -- you know, because it's going to be it's industrial, light and heavy industry complex. You know, a lot of it is going to
be cement and, you know, building and all that stuff. What's going to happen to, I mean, all that building supplies that's being used or -- where is the, you know, construction waste going to go? Just wondering, just for the sake of wondering.

**MR. CHIPCHASE:** Yeah. No, well, I don't know that Mr. Kawahara's the right witness for that. I'll look around my room. And you get Dr. Dancil back.

**COMMISSIONER WONG:** Thank you, Dr. Dancil. Thank you, Mr. Kawahara, for your explanation.

**MR. KAWAHARA:** You're welcome.

**DR. DANCIL:** So basically, right now what we do is try to recycle as much of the concrete as we can. We separate out the parts that we can't use and ship them off-island. But we try to reuse as much as we can on-island.

For example, the rebar is separated, and we don't use the rebar again, and we reuse the concrete. So that's why there's a lot of stuff piling, going on in the area as well.

**MR. CHIPCHASE:** And just to be clear, Dr. Dancil, there's an existing concrete plant.

**DR. DANCIL:** Correct.
MR. CHIPCHASE: And we're relocating that concrete plant to the Miki area.

DR. DANCIL: Correct. Literally, right next door.

__: So it's not a new use.

DR. DANCIL: No, it's not a new use. It's an existing use.

COMMISSIONER WONG: Okay. Thank you, Mr. Chipchase.

Thank you, Dr. Dancil.

Thank you, Chair.

CHAIR SCHEUER: Thank you, Commissioner Wong.

Commissioner Giovanni?

COMMISSIONER GIOVANNI: Thank you, Chair.

So while Ms. Dancil's in the chair, I'd like to express a little bit of frustration that this commission has, not in you, Ms. Dancil, but in general.

And it has to do with your forecasts of when the renewable energy projects will be coming online. I think you said as target April 2025, and hopefully in December 2024.

I just want to note for the record that this commission has entertained a variety of solar
energy projects, all of which have come before this commission with great urgency because we got to meet these schedules, only to find out that these projects, several of which, mostly on O'ahu and other neighbor islands, have been significantly delayed, to our frustration.

So we just encourage you to be very practical and reasonable when you put forth these forecasts of when these projects might be coming online, because it is important in our overall planning sequence. More comment than a question, Ms. Dancil.

MS. DANCIL: Thank you.

CHAIR SCHEUER: Commissioners?

Commissioner Okuda? Followed by Commissioner Cabral.

COMMISSIONER OKUDA: Thank you very much, Mr. Chair.

You know, this question might be able to be answered by Mr. Chipchase or whoever he would like to call, but I don't mind Mr. Chipchase answering some of these questions.

Is it true or not true that the Hawaii Supreme Court has said or held that if a project is really just one step or an increment to fulfill a
larger plan or larger scheme, we as the Land Use Commission have to evaluate the larger plan or the larger scheme, and we cannot just simply focus on the increment or the one step? Is that a fair statement of the law?

MR. CHIPCHASE: I would say not exactly, Commissioner. You know, if we looked at the Kilakila 'O Haleakala case, for example, you certainly get into this idea of is there improper segmentation. But remember, in that case, the question was whether this master plan should have also considered the telescope project in evaluating its impact. The master plan was necessary to implement the telescope project, but the court held that the master plan was appropriately considered by itself without the telescope project also being considered.

And the reason the court said that is because the master plan had independent utility, but it looked at all of the area, not merely the telescope portion of it. And that independent utility meant that it was appropriate to consider just the master plan, and they did not also need to consider the telescope project. In other words, it wasn't improper segmentation.

If we translate that here to this, we see
that what this project is doing is implementing the community plan. So the community plan has already planned for this use, this 200 acres in this site. That's what the community has decided through those planning efforts, and the county has decided through those planning efforts is appropriate for the island of Lanai.

And so this project and the EA that precedes it is implementing that, and in that way and many others, it has that independent utility that the court in the 'O Haleakala case recognized.

COMMISSIONER OKUDA: But it's true that there are at least two Hawaii Supreme Court cases where you could conclude the opposite; correct?

MR. CHIPCHASE: I wouldn't say that either, commissioner. You know, you'd mentioned the Superferry case.

The problem with the Superferry case is that they studied only the impact of improving the pier, but improving the pier was for the Superferry. And so in that sense, you needed to consider all of the project. It was really one project. That is, obviously, would be --

The analogy there would be if in studying this project, we looked only at the trigger, right?
In that case, it looked only at the trigger,
repairing the pier, improving the pier.

So if we looked only at our trigger, the
intersection, and we said, okay, well, does this
intersection have any significant impact, you'd say
no, you're entitled to an exemption, probably,
because you're just doing basic roadway work, you're
making improvement to an existing roadway.

We didn't do that, obviously. We used that
trigger, and we considered the entirety of the
project, and so in that way, completely in line with
the Superferry case.

COMMISSIONER OKUDA: Okay. Just so that
we're clear, when we say Superferry case, we're all
talking about the case titled Sierra Club versus
Department of Transportation 115 HA 299, the 2007
case; correct?

MR. CHIPCHASE: You're always so much
better with case citations than I am. I got the
names. I don't have the case citation, but I presume
that's true.

COMMISSIONER OKUDA: Okay. But in that
case, the Supreme Court looked at the fact that,
well, the exemption was based on an argument that
we're only doing work at the pier, and so, you know,
whatever else might happen with the Superferry, that
doesn't have to be considered.

But in the end the Supreme Court said you
got to look at the big picture. Is that a fair
statement of what took place in that case?

MR. CHIPCHASE: I think you and I are on
the same page there. That's exactly what I
summarized. So the analogy would be if we looked
only at the intersection here, improving the
intersection, that's the only state land component;
right? The only trigger here is the intersection.

So if we looked only at the intersection,
you might say, oh, gosh, you have a Superferry
problem, because you didn't look at the rest of the
project. Here, we've looked at the rest of the
project, the entirety of the 200 acres, the planned
uses, the impacts to flora, fauna, archaeological
resources, water resources, wastewater. We did all
of that not just for the intersection, but for the
entire project. And so we're squarely in line with
Superferry's dictates.

COMMISSIONER OKUDA: Yeah. And, Mr.
Chipchase, I don't disagree with the thoroughness of
your work, which I think, at least for me
personally, I find a lot of respect for, because
you're very thorough.

And let me ask this question, which is related to that. Since you have done, and your team have done, this very thorough job, how much more work would it be to have to complete an environmental impact statement?

**MR. CHIPCHASE:** Well, I guess I would answer that in two parts, Commissioner. The first would there's a lot of work that goes into an EIS, and so it would be considerable more time and considerable more work.

The second part would be that it's not a question of how much more work it is; right? That's not the tilt between an EA and an EIS.

The tilt is are there anticipated significant impacts? And what you've heard from that thorough evaluation from all the experts -- and I could bring on the other guys that we have, from Munekiyo Hiraga, who prepared the report, and, you know, as you heard from Tess, has prepared many of these reports over her own career and the career of her firm, in particular -- have determined that there is no significant impact anticipated from this project. So we don't have any indication from all the work that's been done that we tilt over to the
EIS, the environmental impact statement that you had mentioned.

And without that tilt, there'd be no basis to consider requiring such a statement.

COMMISSIONER OKUDA: Yeah. And let me ask these couple of questions just so that you know where I'm coming from and you can educate me if I'm coming from the wrong direction; okay?

My view is that it's a question of where in the process we are. In other words, the work can be the same, the quality can be the same, but for lack of a better word, the standard of review, if there's a challenge later, is different.

You know, you and I as trial lawyers, sometimes it's better to win a case later in the process than early on in the motion to dismiss, because you're more likely get reversed if you win on a motion to dismiss than, you know, later on at summary judgment or at trial.

So my question along this line is basically this. How much more time do you predict it would add to your process, your actual development process, if you had to go through with preparation of an environmental impact statement and that procedure or process? How much more time would we
add to the situation?

    MR. CHIPCHASE: Commissioner, I'm going to bring over Ms. Ng to answer that question just because it's a technical one involving her expertise. And so I'll let her answer that specific question, and then I will add my comments as well.

    COMMISSIONER OKUDA: Sure.

    MS. NG: Thank you, Commissioner. EIS processes can easily take two, three years, or even longer, depending on the specifics of the case, all the studies that are needed to be done in support of it, comments received, things like that.

    MR. CHIPCHASE: And so then for my commentary, I like the analogy, Commissioner, to -- it's hard not to call you Gary. I like the analogy - just for my own disclosure, one of the first people I ever worked with practicing law was Commissioner Okuda. We were partners or co-teaming on a case years and years go.

    The analogy to your motion to dismiss is an interesting one. If I have a claim that has no viable basis under Hawaii law, I will absolutely move to dismiss it, because it should not pass Go; right? That's why we have standards set up in the rules of procedure and developed by the Supreme
Court, or interpreted and applied by the Supreme court, to guide us there, to tell us what to do when a claim has no merit. It doesn't state a viable claim in our technical terms.

We have the same kind of standards here guiding what we do; right? There are rules, and there's Supreme Court precedent -- we've talked about a couple of them -- that guide what we do and what we should do individually, as experts that I brought before and as the body's deciding these things, is follow those standards, those guides that have been set out.

And as we've set out through the experts, when you're implementing a community plan, when the community has already called for that, and when your evaluation considers not only the trigger, but the entirety of that project that you're implementing, and when your experts have looked at it and determined that there is not likely to be a significant impact on all of the different resources and the standards that they have reviewed, you conclude that there's no significant impact, and you issue a FONSI.

And you don't think, well, maybe some other path would be safer or better or different.
You look at the standards, you look at the reports, and you apply them. And that's what we've done here.

**COMMISSIONER OKUDA:** Okay. But would you agree that reasonable minds could differ, for example, on water impacts?

Now, I know there's that representation by your client's representative, Dr. Dancil, that water usage will be limited. But we've had cases come before the Land Use Commission where conditions are placed, and then several years down the road, people come to have a condition removed.

A recent example was a pedestrian overpass. And so some of us might come to a conclusion that we can't really rely on the permanency of these conditions, and it's better to take a more comprehensive view, for example, of what could be the ultimate water impacts.

Would you agree that in this case reasonable minds could differ about whether or not there really is a significant impact from this development?

**MR. CHIPCHASE:** No, Commissioner, with respect, I wouldn't agree that reasonable minds could differ.

**COMMISSIONER OKUDA:** Okay.
MR. CHIPCHASE: And if you'll let me just expand momentarily on that, all decisions are evidence based. And the evidence before the commission on this proceeding, this part of the proceeding, is uncontroverted. This is the anticipated use.

And we've even gone further than you would need to go in any EA proceeding by committing at this point, rather than at the DBA point, that we would limit our water use to those projections developed by Mr. Kawahara and presented in his report.

And so, given that representation, and then given the analysis done by Mr. Nance and Mr. Kawahara both on system capacity and water availability, there would be no basis in the record for determining that there was likely to be a significant impact on water resources.

And so, if we go by the evidence, which we have to, and we go by the standards that we have to, I submit that reasonable minds could not differ on the outcome.

COMMISSIONER OKUDA: Does Lanai company -- or does Pulama Lanai or its owner, Mr. Ellison, have a vision for what Lanai is to look like in the
future?

MR. CHIPCHASE: I'm actually going to invite Mr. Matsumoto to come sit and so we can get some record testimony on that to address the question, because I understand where you're coming from. And what you will hear is that there is no overall goal or plan, that this project is not an increment or a phase in any larger project or program.

What you will hear is that, as I think you heard earlier, is that the community planning resulted in the determination that Lanai needed an additional 200 acres of industrial use and that this project, this Miki industrial project, is implementing that.

The visions of sustainability and diversification are shared by everyone, I'm sure, at this table, our virtual table today, and on many other islands and by many other bodies. But in terms of a program, a goal, those things that our standards talk about, there isn't one. This is implementing the community plan.

But I'll turn it over to Mr. Matsumoto to elaborate.

MR. MATSUMOTO: Thank you.
Commissioner, I guess to address your question, you know, we brought this forward. I went through the community plan process, went through all the meetings, was even in the workshop where people could write down their ideas and the things that they wanted, so I'm intimately aware of how this came to be a part of the community plan.

And, you know, this is not being inserted because of, you know, some huge master plan or anything like that that we have. This is a need that has been identified by the community. They want these activities out of Lanai City and various other areas of the island and concentrated in one location. And that's simply why we're bringing this forward. And I think we've demonstrated that there already are uses that can be placed in this location.

COMMISSIONER OKUDA: Yeah. And if I can just ask this question, okay, and I assure you we all are going to make a decision based on the evidence and the law.

But -- and I've stated, Mr. Matsumoto, that I find you not only a credible person, but somebody very committed to the island and to our state.
Wouldn't it be better that while you have a team, a really competent lawyer like Mr. Chipchase, somebody like you who is born, raised, you know, who's heart is in Lanai, you have this team of people who are clearly committed to the island, and you personally, I think, bring credibility to the process.

Would it be better that we don't have a repeat of, like, the Superferry case, where possibly -- and with apologies to my neighbor island friends who may not like the Superferry, but where a good idea gets torpedoed in the end not because of the merits, necessarily, of the project, but because somebody tried to short-circuit and take a shortcut on a process where in fact it really wasn't a shortcut?

I mean, would it -- would Pulama Lanai and the people of Lanai really suffer real prejudice if maybe everyone was just a little bit more careful, we were all more careful about the process so that when we get done with this, there's not going to be any type of challenge? And frankly, maybe at that point in time, the entire parcel can be used for urban industrial use with no water restriction?

MR. CHIPCHASE: I'll start and then, of
course, invite Mr. Matsumoto to finish.

    I mean, in near-term prejudice, obviously, there's near-term prejudice. There's near-term prejudice in being able to locate the solar facility. As Commissioner Giovanni said, you guys have approved many of those, and they've been delayed.

    You have here a party who is prepared to go forward and has the intention and the resources to go forward. So obviously, there's a prejudice to everybody who continues to pay higher rates, the state whose goals continue to be deferred, and to, you know, the environment that continues to be impacted by fossil fuels.

    There's obviously an impact in other direct ways in terms of relocating these services and in terms of what you heard from the public testimony, the need today to locate industrial uses within this area. So obviously, commissioner, there's prejudice that would be -- is established on the record before you.

    But even more critically than that, as you talked about the process, there's prejudice to the process, because that's not the process that's set out in the rules or the law. The process that's set
out in the rules or the law is the one that we follow. No short circuits, no shortcuts, no, you know, clever things as were done in the Superferry, following the process to the letter, and indeed, going through the EA process effectively twice, with two full rounds of comments on the EA.

Having done that, disregarding the process and implementing a different one is prejudicial to the rules and to the law and to the standards that we follow.

But I'll invite Mr. Matsumoto to comment, if he has any.

CHAIR SCHEUER: And then after this, I'm going to ask if, Commissioner Okuda, if you have more questions, we'll take a pause --

COMMISSIONER OKUDA: No.

CHAIR SCHEUER: -- and let Commissioner Cabral go.

MR. MATSUMOTO: Yeah, just quickly to add, Commissioner Okuda, you know, I guess your comment about how more time. The community plan started six months after I started my job 10 years ago. So for me, this is a 10-year journey that allows us to now be before you with this request. So this is not a really quick or not well-considered project.
COMMISSIONER OKUDA: Okay. Thank you very much.

Thank you, Chair.
Thank you, Mr. Matsumoto.
Thank you, Mr. Chipchase.
I have no further questions.

CHAIR SCHEUER: Thank you.
Commissioner Cabral? And then I'm just going to signal. I think I actually do have a couple of follow-ups as well. I don't know if others do.

Commissioner Cabral?

COMMISSIONER CABRAL: I, hopefully, will be quick.

Thank you very much for all of this great information. I have a, hopefully, simple question for the young lady that made the -- had the comments earlier that did the cultural assessment. So if I could --

CHAIR SCHEUER: Dr. Watson.

COMMISSIONER CABRAL: Okay. Thank you.

MR. CHIPCHASE: Yeah, we were all scrambling to see which young lady you meant, Commissioner. Dr. Watson and I are about the same age, so I will take that to mean that I'm young.

CHAIR SCHEUER: I don't believe that was
among the qualifications you offered as a witness.

COMMISSIONER CABRAL: I think I'm grayer than anyone at this point, so I can call everybody young at this point.

Yes. Thank you, Dr. Watson. This is really a general question. I heard your comments on how you did the cultural assessment, and you found no items or anything of concern in that geographical area that our subject property is that had anything to do with any Hawaiian cultural activities or any artifacts or anything of that nature.

Because the land has been what appeared from your photograph of the old car and that -- and pineapple for a long time -- and I lived on Molokai for quite a few years, so when they had pineapple and I worked at a hotel and used to go pick my own pineapple.

My question is were there other type of activities, other type of artifacts or other types of cultural activities from other types of groups of people that may not have been Hawaiian in nature in that land area? And are you even supposed to make notations of that?

I'm just feeling like this is a really big question or a big concept, you know. I feel we're
going to just -- if it's not Hawaiian, it's okay to
bulldoze over it, but yet we have so many wonderful
-- so much history and so much depth of other types
of groups of people, and I would hate to not
recognize that and preserve that, if possible.

So what -- did you find anything else of
interest?

DR. WATSON: That's an excellent question,
and thank you for asking it.

So just kind of for everyone, the
background. Under HRS 6E, which is the state
historic preservation laws, it's a criterion E that
not only covers Native Hawaiians, but other ethnic
groups. Actually, the role is to look at not only
Native Hawaiian practices, but any particular
activities for other cultural groups.

We certainly have found that on other
parts of Lanai and on other projects. There were no
-- so how we distinguish historic sites is pre-
contact are traditional. Post-contact over 50 years
old are historic. There were no significant historic
properties either.

So not only were there -- are there no
traditional pre-contact features or sites left,
there is nothing from a post-contact plantation,
industrial farming as well, that was identified in this parcel.

And we do absolutely look at, through our relationship and work with the Lanai Culture and Heritage Center, which is not only focused on traditional Native Hawaiian but, of course, plantation-era historic activities. There were no practices or customs identified from other ethnic groups as well.

So it's an excellent question. We do always look for that, and I appreciate you asking it.

COMMISSIONER CABRAL: Appreciate the answer, because you just -- your answer was there was no just Hawaiian cultural activities, and I thought, well, what about everybody else? So thank you very much for your looking for it and for the law that protects everyone. Thank you.

DR. WATSON: Thank you so much. Any other questions while I'm sitting here? I was, of course, eating a snack bar so, you know, it was perfect. Any other questions?

CHAIR SCHEUER: Any other questions for Dr. Watson? Are there any other questions commissioners? I have one follow-up on water issues
-- well, a couple -- and then one follow-up on other
things.

Commissioner Giovanni?

COMMISSIONER GIOVANNI: I have a question
for Ms. Ng, I believe.

CHAIR SCHEUER: Okay.

COMMISSIONER GIOVANNI: Ms. Ng, I found
the EA to be generally very good, except I was a
little surprised about the depth by which the
greenhouse gas impacts were assessed. Could you
elaborate just a bit on the scope of that analysis
that you performed for the EA on greenhouse gas
effects and climate change?

MS. NG: Sure. As we've been discussing, a
significant portion of the acreage for the project
will be for renewable energy, which reduces fossil
fuel use. And so in that sense, you know, greenhouse
impacts are no significant impact -- in fact, a
positive impact, right, with reduction of fossil
fuel use.

COMMISSIONER GIOVANNI: Could you
quantify? Was any of your analysis -- was any net
benefit analysis included? I understand that your
conclusion is that there's no net negative impact,
but I would imagine that there's quite a positive
impact, if you did a quantified analysis. I just wondered if you did one.

MR. CHIPCHASE: I'm going to actually invite Dr. Dancil back to address that question more completely.

DR. DANCIL: Mahalo, Commissioner Giovanni, for that excellent question.

We did not include it in here, but we will definitely include it as required in the DBA.

However, I did do a calculation as some back-up work. So if you look at the amount of renewable energy that MECO is looking to procure, it's about 35,800 megawatt hours annually.

If you use the EPA calculator, which is publicly available, to do kind of a high-level quick and dirty in terms of what the greenhouse gas, it's basically looking at equivalence of reducing 56,967 barrels of oil.

And I can pull up, if you bear with me, my iSite on the number in regards to metric tons. 25,371 metric tons of carbon dioxide equivalence is what it's offsetting. So as you mentioned, it does have a positive impact.

COMMISSIONER GIOVANNI: That's what I expected it to be. And thank you very much, Ms.
Dancil, for doing the math for us.

Mr. Chipchase, let me encourage you not only for the instant docket, but for all future dockets, that an environmental analysis of the greenhouse gas effects be quantified and put forth, whether it be in an EA or EIS, because especially when you have a situation like this, when it's strongly net benefit, it should be taken into account and not just expressed as a no negative impact. Thank you.

MR. CHIPCHASE: Understood. And I appreciate that encouragement, Commissioner. I would -- I will allow the commission a little insight. We did discuss this issue extensively, what to include in the EA, and based on the existing standards for an EA, we put the information that is before you in this EA, so we followed the standards, anticipating that to follow the commission's rule for the DBA, we would need to include a more detailed analysis.

But notwithstanding what standards may be, your point is well taken.

COMMISSIONER GIOVANNI: Yeah. The rules that have been adopted for the Land Use Commission, we give it much more serious consideration for greenhouse gas effects than we did historically. I
encourage you to change along with us.

    MR. CHIPCHASE: Very good.

    CHAIR SCHEUER: Commissioners, anything further?

    So I have a few more. Let me take them in this order. First, Mr. Chipchase, you can direct me to whoever is best to respond. How many acres of land currently in Lanai City will now be freed up if this DBA is successful?

    MR. CHIPCHASE: I'll invite Dr. Dancil back. And I think it would be two parts. One would be the uses that are being relocated, and the second would be the industrial uses that we know are spread around maybe in areas not authorized for them that need to find a home, as you heard from the testifiers today.

    DR. DANCIL: Thank you, Chair Dr. Scheuer for that question.

    So within Lanai City, these types of -- as noted by some of the public comments, there are some activities that are currently being done in residential areas.

    For example, I think Ms. Preza did talk about if you hit an axis deer and you need to fix your car or something like that, there are some of
those activities going on right now in residential areas. So it's not necessarily acres within the residential area in Lanai City. It's more uses. And those are obviously more important in the Miki Basin area, as well as the example that she did with the veterinarian that comes and parks in the parking lot.

However, other scattered areas around Lanai, the asphalt plant as well as the concrete crushing operations will be relocated, and it's approximately the 26 acres, as it's currently noted, that will be relocated.

CHAIR SCHEUER: And those uses are currently in the urban district that located elsewhere?

DR. DANCIL: Yes. Right next by the Miki 20 is where the concrete facility is, and then we do have the asphalt plant and the Manele concrete down near Manele.

CHAIR SCHEUER: So what are the lands that are freed up from these uses going to be used for?

DR. DANCIL: We don't have any plans right now to use them.

CHAIR SCHEUER: But they're in the urban district.
DR. DANCIL: In terms of -- so the Miki 20 has been district --

Is that the right term?

MR. CHIPCHASE: Redistricted.

DR. DANCIL: Redistricted to urban. Yes, just the Miki 20. The asphalt 20 is down near the Manele project district, which is part of the Manele district project area.

CHAIR SCHEUER: So I guess I'm just -- because it's -- I don't believe, and maybe Ms. Ng could confirm, but any of the future uses of these freed-up lands is not considered in the EA.

DR. DANCIL: It is not considered, and there are no current plans right now.

CHAIR SCHEUER: So just an observation, there is a gap, though, that to say, like, oh, we need the urban land, and yet we're freeing up urban land, but we don't actually have plans for it. It sort of is a gap in the narrative for me. And maybe it my limitations on what I understand.

MR. CHIPCHASE: Yeah. So I think, Chair, you know, as you've heard, it was two parts. One is the community plan determined that these industrial uses were needed. But the second is that we're consolidating. So we're bringing uses that are
currently spread, at least in part, on other parts of the island and consolidating them.

So the request wasn't that I need to locate an asphalt plant. The planned us is we would like to locate this asphalt plant, to consolidate it so that we have a more consolidated, confined industrial area, which is consistent with good planning, consistent with what the community plan has called for, and has a lower environmental impact and footprint, because now you're not hauling from larger distances and having to move between different places.

**CHAIR SCHEUER:** I do understand those things. My questions really are centered around, though, however, we now have these other lands that are available for uses, and we often hear about how we need lands for various uses. It just seems to be a gap.

So with that said, I just want to add two more things about water. One is I just want any of your witnesses to confirm, so it'll be clear on the record, my understanding, which I believe is correct, is that when the state sets sustainable yields, which they last set in the last version of the water resources protection plan, two things.
One is that if all other things are held equal, a reduction in recharge will lead to a reduction in sustainable yield.

And second, that while the state water resources protection plan acknowledges that climate change is occurring, it has not incorporated any climate change projections into any of the state's sustainable yield calculations, meaning the current sustainable yield calculation of 3 million gallons a day for the leeward aquifer and 3 million gallons a day for the windward aquifer on Lanai may indeed go down significantly if recharge is reduced.

**MR. CHIPCHASE:** I don't know that I have any witness who could make those statements, Chair. But if Mr. Nance has anything to share, I invite him to comment. Otherwise -- there he is. Where he went?

**MR. NANCE:** Jonathan, I don't disagree with your statements, actually. If the recharge actually is diminished significantly, it will ultimately require the sustainable yield to be adjusted to the new level of recharge. And to my knowledge, anyway, none of the present sustainable yields throughout the state do reflect the long-term climate change potential impact on recharge.
CHAIR SCHEUER: Thank you very much, Mr. Nance. I really appreciate that.

So my last thing is not a question, but a statement. I find that the water -- that one of the greatest potential impacts from this rezoning is on water resources. And I find that the -- I find that, based on the testimony and the documents and the questions and the responses, that there is not a significant impact if water consumption is kept to the level that has been projected by Akinaka.

And the reason I say that, just so it's very clear that when -- if and when the DBA comes forward, if the request is for water resources beyond that level, I would have to state that the EA did not actually examine such a use, and we couldn't rely on the EA for any of that.

MR. CHIPCHASE: Understood, Chair.

CHAIR SCHEUER: Okay. I just want to be -- I don't want -- you all are operating in good faith, and I don't want you to feel like what I'm saying comes as any surprise later.

MR. CHIPCHASE: I believe you have Dr. Dancil's commitment on the record, not once but twice. And if you'd like Mr. Matsumoto to make the same commitment, I'm sure he's prepared to do so.
CHAIR SCHEUER: It's enough. All that's in front of us right now is the EA, and so really all I'm just trying to make clear is what I find to be in the EA and what I find is not in the EA, so. But I really appreciate it.

Is there anything further, Commissioners?

If there's nothing further, I think actually we might be able to dispense with things. So I would first ask just to do a final confirmation from the County and OPSD that they have no questions.

MR. HOPPER: Sorry. No, Chair.

MR. YEE: No questions, Chair.

CHAIR SCHEUER: Okay. And are you ready to make statements on the case, both of you?

MR. HOPPER: Yes, Chair.

CHAIR SCHEUER: Okay. About how long each, do you think?

MR. HOPPER: I will be very brief. We're mainly here to answer questions, if you have them, with the witnesses we have. But we don't have anything other than the statement that we filed to present.

CHAIR SCHEUER: Mr. Yee?

MR. YEE: Same.

CHAIR SCHEUER: So, Commissioners, we
could either power through and possibly be done fairly soon. Now we've gone well over an hour. Or we could take a break for lunch. What's your inclination? Power through?

Arnold's looking sad.

COMMISSIONER WONG: Yeah, and I'm willing to power through, Chair.

CHAIR SCHEUER: Okay. So let's here from -
- what we'll do is we'll hear from Maui County, any questions for Maui County from the commissioners, then OPSD, any questions, and a chance for final comments or rebuttal from Mr. Chipchase, and we'll go into formal deliberation.

Mr. Hopper?

MR. HOPPER: Thank you, Chair. The County of Maui did file a response to the motion for a finding of no significant impact. The County has no objections to the LUC granting a motion and finding no significant impact with respect to this project and entering a FONSI.

I do have Deputy Director Jordan Hart and Planner Kurt Wollenhaupt here to answer County-related questions, if you have them. But we don't want to take up any more of the commission's time than necessary, so we will rest on our pleading and
allow questions, if the commission had any.

   CHAIR SCHEUER: Thank you, Mr. Hopper.

   Commissioners, questions for the County?

Seeing none.

   MR. HOPPER: Thank you, Chair.

   CHAIR SCHEUER: Mr. Yee?

   MR. YEE: OPSD similarly has no objections to the acceptance of the FEA. Many of the issues raised today are issues that we will also be interested in pursuing at the DBA hearing, but for purposes of this matter today, we have no objections and believe the FEA should be accepted. Thank you.

   CHAIR SCHEUER: Questions for Mr. Yee and OPSD from the commissioners? Seeing none.

   Mr. Chipchase, does Pulama wish to make any rebuttal to anything or any closing statements before we enter into deliberations?

   MR. CHIPCHASE: Indeed, Chair, but very, very briefly, because I know the dangers of keeping Commissioner Wong from his lunch.

   And so, we'll put just briefly up on the screen that context, those standards that we talked about throughout today, and particularly my very much appreciated colloquy with Commissioner Okuda. I never know who's going to ask me harder questions,
Chair, you or Commissioner Okuda. It is a contest.

But we put these standards up on the screen. And as you've heard today, the focus is on significance. And as you've read in the EA, and I appreciate the comments and the questions that we have received, all 13 criteria for significance can be answered in the negative for this project.

Up on the screen, the left column includes the HAR requirement. The middle column summarizes how it was addressed in the FEA, and the right column shows the reference page in the FEA, so that you have all this material.

And as is my usual practice, I will submit our PowerPoint slides to the commission so that they form part of the record.

The criteria continue and finally conclude here. As you can see in the materials, and you've heard today, the Lanai Community Plan identifies this project. And as you heard from Mr. Matsumoto, this is really the next step in the 10-year, more than 10-year effort to carry out the specific intent of the community and the planning work that they did at a community level and that was adopted by the council.

As you've heard, and I appreciate the
qualifications that you offered, Chair, but as you
heard, based on the record and representations that
were made today, there is no negative impact, and
all the criteria have been addressed.

And so, based on the evidence before you
and the standards that we apply, we ask that you
grant this motion to accept the final EA and issue
the finding of no significant impact. Thank you all
for your time.

CHAIR SCHEUER: Thank you.

Commissioners, any final questions for the
applicant? Seeing none, the chair will entertain a
motion that the LCU accept or does not accept
petitioner's final environmental assessment and
grants or denies petitioner's motion to issue a
notice of a finding of no significant impact for
Docket No. A19-809 Pulama Lanai for the proposed
Miki Basin Industrial Park. Any motion should state
the reasons for its -- are the basis for its
proposal. Commissioners?

Commissioner Wong?

COMMISSIONER WONG: Yes, Chair. I'd like
to make a motion to find that we determine that the
petitioner's final environmental assessment and the
project is not likely to have significant impacts to
the environment pursuant to HRS Chapter 343 and the
HAR Chapter 11 that we just saw, the Chapter 200, 11-200, and that the LUC authorize the executive
officer to notify and submit a record of this
determination to applicant and the environmental
review program by March 2022 determined deadline for
the commission's action.

And then I'll state that I'll have some
statements later about my motion, Chair.

CHAIR SCHEUER: Okay.

Commissioner Cabral?

COMMISSIONER CABRAL: I'd like to go ahead
and second that motion.

CHAIR SCHEUER: Okay. I'm going to ask
first to move on to the seconder to speak to the
motion, and then I'll go to the rest of the
commissioners.

COMMISSIONER WONG: That's me, yeah,
Chair?

CHAIR SCHEUER: That's you.

COMMISSIONER WONG: Thank you, Chair.

First off that, you know, the
determination that was continued, the FEA was
sufficient for our determination to me, and that
they pretty much checked the boxes that was needed.
It's not saying that I will support or deny this project in the future, but it's just that the FEA was sufficient.

The second thing is, you know, I would like to see some sort of phased issue, or the phasing of this project in the future when they come back to us for, you know, what's going to happen in 10 years, what's going to happen in 15 years, what's going to happen in 20 years. So that -- what is the increments that's going to happen for this whole project, because this is a big project. So I just would like to see that also.

But I think that they checked the boxes that it won't show -- doesn't show anything that will happen to the environment. So that's how I'm going to support this motion, Chair.

CHAIR SCHEUER: Thank you, Commissioner Wong.

Commissioner Cabral?

COMMISSIONER CABRAL: Thank you, Chair and my fellow commissioners.

I want to support this also, because I know there's always the ability to have a million questions and look for perfection and look for a guarantee that nothing will ever go wrong in the
future. But I think, too, that if we don't, as the planners, and people in our community start to allow for efforts with good planning and for reasonable ability to move forward, we will just have inappropriate land use taking place in a larger and larger way, where people will just have their concrete plant on ag land. They'll just be slaughtering the deer in the carport. Well, that's what we do at my house, but that's okay, you know. But so that type of thing.

And I think that we need to at least try and provide the citizens on all of these islands the ability to do things in a proper manner. So we have to start letting go and allowing for zoning to allow for all types of uses that we know citizens and communities need for their land.

And clearly, Lanai is lacking in the ability to have properly zoned areas for business and industrial-type uses, so I do support their efforts to move forward with their future plans at this point. Thank you.

CHAIR SCHEUER: Thank you, Commissioner Cabral.

Commissioners, we have a motion before us to accept the EA and initial finding of no
significant impact.

Commissioner Giovanni?

COMMISSIONER GIOVANNI: Thank you, Chair.

I will be supporting this motion. I find the final EA to be sufficient, although not perfect. I find that the good faith commitment of Ms. Dancil on two occasions within today's hearing to limit the water use to be critical to my understanding of their commitment and critical to my support for this project going forward and the conclusion of the sufficiency of the final EA.

I also feel that I commend Pulama Lanai in -- I think it's a great idea to consolidate and concentrate these industrial-related urban activities in one location on the island as opposed to dispersing at many different places. It not only makes common sense to me, but it seems to be the will of the community, and they've responded to it. So I'm very supportive of this motion.

CHAIR SCHEUER: Thank you, Commissioner Giovanni.

Commissioners, we are in deliberation.

Commissioner Okuda?

COMMISSIONER OKUDA: Thank you, Mr. Chair.

I still have serious concerns whether or
not there's a violation, for lack of a better term, of the Superferry case.

But not withstanding those concerns, what's convinced me to support this motion is the testimony of Mr. Matsumoto. I find him to be a very credible witness, very committed to the community. Even though it's not in the record, I'm sure he could make a lot more money in his industry anywhere else in the United States. For him to come home to Lanai speaks a lot about him.

And so, based on his testimony, which convinced me of the fact that this EA probably is accurate, I will be supporting the motion. Thank you.

CHAIR SCHEUER: Thank you, Commissioner Okuda.

Commissioner Aczon, do you wish to make any comments at this time?

COMMISSIONER ACZON: Sure, since you force me to say something.

COMMISSIONER CABRAL: You can abstain.

COMMISSIONER ACZON: Yeah. I will be supporting the motion. I believe the petitioner provided us with easy-to-understand presentation with credible witnesses, and also with the support
of the County and OP. I will strongly be supporting this motion.

And also, some of the issues that were raised today can be addressed during the DBA application. Thank you, chair.

**CHAIR SCHEUER:** As the chair, I'm also tending to support the motion. I want to recognize I very much appreciated all of the public testimony. I recognize that and this is my perception, and perhaps wrong, but perhaps on Lanai, testifying not in complete accord with the wishes of the landowner can be more challenging.

I found that the witness, Mr. Kawahara, responded to the concerns about wastewater capacity raised by Councilmember Paltin. I find that some of the questions about why the acreage differentiations for different potential solar uses raised by Ms. Kay were answered by Dr. Dancil. And some of Ms. Kay's questions about sequencing can actually be addressed meaningfully in the DBA proceeding itself, assuming we proceed to that point.

I won't further make any comments regarding water, since I think I've already made my position clear on that, other than to note with pleasure that I think I've never in a hearing agreed
so much with Tom Nance. It was a pleasure to come to
common understandings on critical water issues. And
I'm pleased to move this forward.

Is there anything further, Commissioners?

Seeing none.

Mr. Orodenker, would you please poll the
commission?

MR. ORODENKER: Thank you, Mr. Chair.

The motion is to find that the LUC
determines that the petitioner's final environment
assessment project does not have a significant
impact to the environment pursuant to HRS Chapter
343 and that the commission authorize the executive
officer to notify and submit a record of its
determination (inaudible).

Commissioner Wong?

COMMISSIONER WONG: Aye.

MR. ORODENKER: Commissioner Cabral?

COMMISSIONER CABRAL: Aye.

MR. ORODENKER: Commissioner Giovanni?

COMMISSIONER GIOVANNI: Aye.

MR. ORODENKER: Commissioner Aczon?

COMMISSIONER ACZON: Yes.

MR. ORODENKER: Commissioner Okuda?

COMMISSIONER OKUDA: Yes.
MR. ORODENKER: Chair Scheuer?

CHAIR SCHEUER: Aye.

MR. ORODENKER: Thank you, Mr. Chair. The motion passes with six votes.

CHAIR SCHEUER: Thank you very much to Mr. Chipchase and Mr. Matsumoto and Pulama, to OPSD and to Maui County, and to all of our witnesses.

There being no further business for today, I declare this meeting in recess until tomorrow, February 17th, at 9 a.m.

MR. CHIPCHASE: Thank you, Mr. Chair.

Thank you, everyone. Have a good day.

(Meeting recessed at 12:37 p.m.)
CERTIFICATE

I, Davilyn Payne, do hereby certify that the proceeding named herein was professionally transcribed on the date set forth in the certificate herein; that I transcribed all testimony adduced and other oral proceedings had in the foregoing matter; and that the foregoing transcript pages constitute a full, true, and correct record of such testimony adduced and oral proceeding had and of the whole thereof.

IN WITNESS HEREOF, I have hereunto set my hand this 31st day of March, 2022.

_____ Davilyn Payne _____

Davilyn Payne