

Ka'ūpūlehu Development Monitoring Committee

May 7, 2012

Mr. Dan Davidson
Executive Director
State Land Use Commission
P. O. Box 2359
Honolulu, HI 96704-2359

LAND USE COMMISSION
STATE OF HAWAII
2012 MAY 23 A 9:18

**RE: Ka'ūpūlehu Development Monitoring Committee (KDMC)
Extension of Term & 2007-2012 Summary Progress Report**

Me ka ha'aha'a Mr. Davidson,

Pursuant to the Findings of Fact and Decision & Order of State Land Use Commission (LUC) Docket No. A93-701, dated October 18, 2001, the Ka'ūpūlehu Development Committee (KDMC) was established in April 2002; and filed its Operational Plan with the Commission on May 2002.

We, Hannah Kihalani Springer and Leina'ala Keakealani Lighter were appointed as the native Hawaiian representatives for the LUC and Developer (WB KD Acquisition, LLC), respectively.

During our first term, we worked closely with the developers and monitored the development of Lot 4 in accordance with the established provisions and as reported in our annual progress reports to the LUC. While the significant portion of the development was completed for the Increment 1 phase of the Lot 4A development, the KDMC felt that continued monitoring and participation was necessary to ensure sustained compliance during subsequent phases of development and through the gradual transition from developer to the homeowners association.

On April 2007, we submitted a letter to the LUC expressing our willingness to serve a second term. Also at that time, we submitted separate letters (see attached) summarizing our overall impressions of our first term.

The attached 2007-2012 Summary Progress Report and Meeting Log covers the period of our second term.

Development has progressed slowly due to the economy. Our concern for resource management and land use is constantly being tested. The current economic climate and resulting hardships are causing individuals to come on to site to harvest ocean resources for commercial sale at an

unprecedented rate. Therefore, watchful eyes and diligent monitoring, such as provided by the Ka'ūpūlehu Interpretive Center at Kalaemanō and the Ka'ūpūlehu Marine Life Advisory Committee (KMLAC), are necessary for the continued well-being of our 'āina and resources. We are grateful for their presence and cooperation with us.

At Ka'ūpūlehu, we continue to make strides in adapting and refining the changing needs of natural and cultural resources stewardship. The development of programs at the previously mentioned Ka'ūpūlehu Interpretive Center at Kalaemanō offers the opportunity for resources stewardship through responsive management. The Center is also made great strides in educational outreach and community-based partnerships.

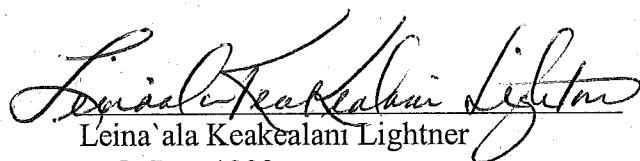
Consistent with our sentiments expressed in our 2007 letters to the LUC, we feel the KDMC continues to serve as a key component in the private-public partnerships at subsequent phases of Ka'ūpūlehu growth.

Therefore, we hereby declare our willingness to serve an additional term effective April 1, 2012 until such time as it is deemed appropriate to sunset the KDMC.

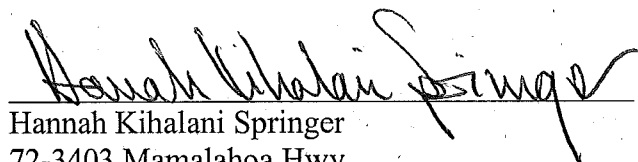
Please do not hesitate to contact us if there are any questions or concerns.

ʻO maua no me ka ʻoiā ʻiʻo,

Ka'ūpūlehu Development Monitoring Committee:



Leina'ala Keakealani Lightner
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Attachments.

cc: WB KD Acquisitions, LLC

**KDMC Meeting Log
Second Term: 2007-2012**

<i>Year</i>	<i>Date</i>	<i>Type</i>	<i>Purpose</i>	<i>Other</i>	<i>Comments/notes</i>
2007	Jan. 16	KDMC			
	Feb. 20	Special KDMC	Kalaamano Field Visit		
	Mar. 20	KDMC			
	Apr. 17	KDMC			
	May 15	Special KDMC	Hilo/PHRI		
	Sept. 17	Special KDMC	KDMC prep		
	Sept. 18	KDMC			
	Oct. 9	Special KDMC	KS/Archaeology		
2008	Jan. 22	Special KDMC	KDMC Admin.		
	Feb. 8	KDMC		LL - consult	Gen. admin
	Feb. 26	KDMC			
	Mar. 3	Special KDMC	KD Burials		
	Apr. 8	KDMC			
	May 7	Special KDMC	Hilo/Waimea Field Trip		
	May 13	KDMC			
	July 8	KDMC			
	Sept. 9	KDMC			
	Nov. 18	KDMC			
	Nov. 19			LL/HS - consult	KD Cultural Hike
2009	Jan. 13	KDMC			
	Jan. 30	Special KDMC	Workshop on trails & arch.		
	Mar. 10	KDMC		LL/HS - consult	Field visit w/Keapa & TSDye
	Apr. 22			LL - consult	KD Burial site inspection w/KS
	May 5			LL - consult	KD shoreline/PAF walk thru
	May 12	KDMC			
	July 14	KDMC			
	July 20	Special KDMC			
	Sept. 8	KDMC			
	Nov.			LL/HS - consult	KD Interpretive Ctr
	Dec.			LL/HS - consult	KD Interpretive Ctr
2010	Jan. 2			HS - consult	
	Mar. 9	KDMC	Dr. Brock - WQ		
	May 3			LL - consult	KD Burials w/SHPD & KS
	June 1			LL - consult	KD Burials - blessing
	June 3			LL - consult	KD Burials - monitor Fair

					American cave closure
	Jul. 6	Special KDMC	KDMC Admin.		
	Jul. 14	KDMC			
	Jul. 20			HS – consult	LUC annual rpt
	Sept. 7			HS – consult	
	Oct. 20			LL – consult	Cultural resources
	Oct. 26	Special KDMC	KDMC Admin.		
2011	May 25	KDMC			
	June 8			HS – consult	
	July 6			LL – consult	KDIC landscaping
	July 12			HS – consult	
	July 18	Special KDMC	LUC cond. 2a		
	Nov. 22	Special KDMC	Kona Village		
	Dec. 6			LL – consult	KD shoreline monitoring

Ka`ūpūlehu Development Monitoring Committee

2007 – 2012 Summary Progress Report

Pursuant to LUC D&O A93-107 and the KDMC Operational Plan, the following addresses the KDMC’s five areas of general authority:

<i>Task</i>	<i>Status/Comments</i>
<p>1. Monitoring the availability of natural and cultural resources for present and future generations.</p> <p><i>The natural and cultural resources of the subject were described in the resource management plan preserved to the LUC and referred to in the D&O. KD has developed a Kaupulehu Integrated Resources Management Plan (“IRMP”) and an Implementation Plan (“IP”) to guide the management of the resources. The KDMC will periodically ascertain that the activities recommended by KD in its IP remain consistent with the LUC’s interest to make these resources available for present and future generations. The KDMC will accomplish this through periodic monitoring of the resources and review of data from monitoring plans in place for the project. KD will submit to the KDMC for its review relevant monitoring plan data and information as it becomes available.</i></p>	<p>The KDMC continues to monitor the resources and reviews the data in the monitoring plans, and works with the Interpretive Center staff to ensure the availability of the natural and cultural resources for present and future generations.</p> <p>Monitored water, marine, and salt resources by reviewing Annual Water Quality Monitoring Reports, Marine Assessment Annual Surveys, and Salt Pan Monitoring Reports by Environmental Assessment, LLC (Dr. Richard Brock) for the period from 2007- 2011.</p> <p>Working with the Interpretive Center (IC) as it serves as the gateway for research and educational studies, such as opihi monitoring by UHH and petroglyph studies by the Stasacks.</p> <p>Working with The Nature Conservancy of Hawaii (TNCH) on a variety of resource management programs (e.g., nearshore fish and reef surveys), including studies by Nakahu Kalei on relationships with man, environment, and resource.</p> <p>Working with the Ka`ūpūlehu Marine Life Advisory Committee (KMLAC) on monitoring the marine resources and establishing a marine reserve to return productive and sustainable subsistence fishing to Ka`ūpūlehu.</p>
<p>2. Monitoring to insure that appropriate access is provided within the subject area for the exercise of the traditional and customary native Hawaiian gathering rights.</p> <p><i>KD is required by the County of Hawaii, pursuant to the Special Management</i></p>	<p>The KDMC has become familiar with the customary and traditional practices conducted at Kalaemanō, and continues monitoring access.</p> <p>A Comprehensive Public Access Plan (CPAF) was developed with input from the KDMC and approved by the County Planning Department in August 2004.</p>

Area Use Permit grants for the project, to prepare and implement a comprehensive public access plan. The KDMC will periodically ascertain that the access to the project area is being provided in compliance with the plan and traditional and customary native Hawaiian gathering rights are protected.

Through its monitoring activities, the KDMC will become familiar with the customary and traditional practices being conducted therein.

The following specific areas of oversight have been enumerated for the KDMC by the LUC with respect to traditional and customary native Hawaiian gathering rights and cultural practices:

(a) Monitoring the quality of the salt gathering resource within the resource management area and provide access to it.

(b) Monitoring the effectiveness of WBKDA's [KD's] action to provide access to and/or preserve and maintain traditional and customary native Hawaiian practices and cultural resources.

Access to the project area is provided through the Interpretive Center in compliance with the CPAF, and in keeping with the traditional and customary native Hawaiian practices.
Reviews and monitors the implementation of the CPAF as prescribed by the County, such as signage and general access provisions.

Participates in and monitors the processes and efforts of the KMLAC to establish a marine reserve as it relates to and affects gathering rights.

(a) KDMC reviewed annual water quality, marine life, and salt pan reports for 2007-2011 period. Recommended that no further monitoring/testing of salt pans were necessary.

Public access for the gathering of salt continues.

KDMC monitors programs by the IC which provide access to the salt pans for practical and educational purposes.

(b) The IC is an effective and active provider of access to the natural and cultural resources of Kalaemanō, thus preserving and maintaining traditional and customary native Hawaiian practices and cultural resources.

Access to the shoreline is provided through the IC for educational activities and programs.

Reviews and monitors the provisions for public access (i.e., signage) being implemented, as prescribed by the CPAF, for the opening of public access to the shoreline.

Working with T.S. Dye Archaeologists on a revision to the site preservation plan to address preservation and interpretative programming for the cultural resources at Kalaemanō.

<p>(c) Monitoring burial sites and insuring that WBKDA [KD] adheres to prevailing and/or published protocols and procedures of the Hawaii County Burial Council and/or State Historic Preservation Division.</p> <p>(d) Monitoring Pele worship occurring on the petition area within the resource management area and any site designated for Pele worship, if so identified.</p> <p>(e) Monitoring nearshore water quality.</p> <p>(f) Reviewing WBKDA's [KD's] inventory of Pele's tears and pursuant to Condition 4 of the D&O, making recommendations regarding their disposition.</p> <p>(g) Monitoring of KD's provision of appropriate access to the shoreline to preserve and protect access rights to native Hawaiian and the public to kupe`e shells that may be found along the shoreline.</p> <p><i>It is contemplated that the KDMC will primarily perform the monitoring actions required by sections III (B)(2)a-g by reviewing data and reports from the project's or KD's monitoring programs or personal observation.</i></p>	<p>Participates in and monitors the processes and efforts of the KMLAC to establish a marine reserve as it relates to access and preservation of the natural and cultural resources.</p> <p>(c) All known burials have been secured in compliance with the protocols and procedures prescribed by the Hawaii County Burial Council and SHPD.</p> <p>Monitored the completion of the final burial treatments, as prescribed by the Burial Treatment Plan and acknowledged by SHPD on Aug. 24, 2010.</p> <p>(d) There continues to be none observed.</p> <p>(e) Monitored water, marine, and salt resources by reviewing Annual Water Quality Monitoring Reports, Marine Assessment Annual Surveys, and Salt Pan Monitoring Reports by Environmental Assessment, LLC (Dr. Richard Brock) for the period from 2007- 2011. On-going water quality will continue to be monitored by the KDMC.</p> <p>(f) This condition has been complied with and no further monitoring is necessary.</p> <p>(g) KDMC has no comments or recommendations regarding kupe`e shells or Pele tears.</p>
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<p><i>Any complaints concerning traditional and customary practices associated with these resources and received by KD, the State of Hawaii and/or the County of Hawaii shall be forwarded to the KDMC for review and resolution if appropriate.</i></p>	
<p>3. Monitoring and dispute resolution decisions related to protection of native Hawaiian practitioners exercising customary and traditional practices and rights.</p> <p><i>The KDMC shall adopt procedures for conducting dispute resolution regarding the exercise of customary and traditional gathering rights and practices.</i></p>	<p>There have been no disputes to date.</p>
<p>4. Provide recommendations to the LUC on maintenance and/or preservation of traditional and customary native Hawaiian practices and cultural resources.</p> <p><i>Based upon its monitoring activities, the KDMC shall determine whether any recommendations to the LUC concerning maintenance and/or preservation of traditional and customary native Hawaiian practices and cultural resources are warranted. It shall forward such recommendations to the LUC in writing as part of its required annual report....[The KDMC shall prepare an annual report to the LUC which summarizes its activities during the prior year, the items and issues covered and their deliberations, any other findings and/or recommendations and any other matters it wishes to bring to the attention of the LUC.]</i></p>	<p>The KDMC has accomplished one of the goals stated in this section of the last report with the opening of the IC and the choice of the <i>kahu</i> for it. This provides a framework for the work for maintaining and/or preserving the traditional and customary native Hawaiian practices and cultural resources.</p>

5. Reporting and budgeting obligations.

(a) The KDMC shall prepare and annual report to the LUC which summaries the activities during the prior year, the items and issues covered in their deliberations, any other findings and/or recommendations and any other matters it wishes to bring to the attention of the LUC. Such report will be due by May 15, 2002 and by May 15th of each year thereafter, until such time as the KDMC terminated. The KDMC shall give KD a copy of its annual report simultaneous with its filing with the LUC.

(b) The KDMC shall develop annually a budget for the following year and KD shall be given an opportunity to review the budget. Such budget should be approved annually by March 31 of each year. If there is any dispute between the KDMC and KD with respect to the composition of the budget, including adequate staff for the KDMC to carry out its function, the matter shall be submitted to the LUC for its final approval within 120 days of the date of submittal.

(c) In developing the budget, the KDMC shall take into account which phase of the development the project is in, the anticipated level of activity of the KDMC required as result thereof, the experience of the KDMC during the prior year in terms of the number of special and regular meetings which have been held and are anticipated to be required the following year. Consideration shall also be given to the extent to which significant disputes with or among practitioners, have arisen during the prior year and the extent to which the

(a) This Summary Annual Report for the period covering 2007-2011 fulfills this requirement.

(b) The KDMC Operational Plan, approved by the LUC on May 13, 2002, set forth the operating costs and compensation for members and staff of KDMC.

(c) KDMC members have been compensated accordingly for special and regular meetings, as well as for consultations and other programmatic activities (see attached meeting log).

prior year's budget has met the needs of the KDMC that year. The budget should also reflect any surplus or deficit for the prior year.

(d) The KDMC is obligated to account for all funds expended during the prior year and KD shall have the right, upon reasonable notice, to inspect the books and records of the KDMC.

(d) All KDMC funds and expenses are administered and accounted for by WBKDA.

ADDENDUM

KDMC Annual Progress Report
May 15, 2012

At a Special Meeting held on May 7, 2012, the KDMC reviewed and moved to approve the WBKDA/ Kaupulehu Community Association annual budget for the resource management areas pursuant to LUC D&O A93-107 Condition 2(a) as defined below:

“Petitioner shall establish a 235-acre resource management area to maintain, protect, and preserve the exercise of traditional and customary practices and cultural resources within the Petition Area consistent with this decision and order. Petitioner shall establish an annual budget for maintaining the resource management area including the costs of administration, infrastructure, capital costs, security and educational personnel to be approved by the KDMC. Excluding the approximately 37.064-acre archaeological preserve, which will be retained in the Conservation District, the resource management are shall encompass approximately 198 acres.”

December 19, 2007

To Anthony Ching
Chairman of the L.U.C.

Re: Close of the first term of the Ka'ūpūlehu Development Monitors

Monitoring Summery Report for 2007

Aloha Anthony,

News of your new ventures in life has made way to the Committee table. I send my sincere best wishes to your good health and future endeavors. An invitation to stop and visit Ka'upulehu via Kona Village is always extended.

At the beginning of the year, we had monthly meetings, and sometimes more, to assure the growing pains of development would be addressed and controlled so as not to become an unmanageable situation. The "whats and hows" of our approach was based on constant communication between both the developers (Kūki'o, Hualālai and Ka'ūpūlehu Development) and we, the monitors.

The Developer has taken careful steps in their processing of development being attentive to the policies of the County, State and Landowner as well as the concerns of the Kama'āina. Monthly progress reports were adequately presented by the Developer keeping us informed of their individual stages of development.

Note: Kaulupūlehu was to set a precedence of development protocol to avoid public criticism and opposition as well as simply doing what is right for both the land the people. Kūki'o Development has been diligent in having a Liaison (Christine Bean) in constant communication with Lei Lightner and Hannah Springer. There have been no discrepancies or concerns on the land or the resources that was not addressed immediately. We did find, however, that when development is completed, impact on the land and resources will become a concern, than I see the necessity of monitoring becoming even more important. The developer will no longer be here and homes will replace empty space. Public accesses have been established by the law which will put resources at risk of depletion due to unmanaged impact. For this concern we

feel a need for Hannah and me to continue monitoring the resources of the area, especially with the growth of the Kona/Kohala population. For this reason, perhaps, the KDMC presence will help Mālama any situations that may arise.

Other subjects that were addressed in the year:

Return of artifacts as cultural Resources from the archaeological and burial sites, previously removed by PHRI.

Establishment of policies in partnership with Bishop Estate in regards to these cultural resources either being used for educational interpretation or re-internment.

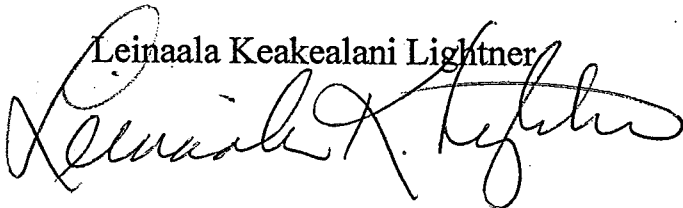
Establishment of the Kalaemanō Interpretive/Learning Center has been progressing well. We are excited about it and hope you will come visit when it opens.

All in all, the growth and well being of Ka'ūpūlehu will be determined by the diligence and care of stewards who have aloha for this 'āina. It has been my pleasure, but more my responsibility to share in the growth and well being of my ancestral lands.

With that said, happy holidays and a prosperous future,

Sincerely,

Leinaala Keakealani Lightner

A handwritten signature in black ink, appearing to read 'Leinaala Keakealani Lightner', written over the printed name.

Hannah Kihalani Springer
Kukui'ohiwai, Ka'ūpūlehu
72-3403 Mamalahoa Hwy.
Kailua-Kona, HI 96740

January 21, 2008

Mr. Anthony Ching
Executive Director
State Land Use Commission
P. O. Box 2359
Honolulu, HI 96804

Me ka ha'aha'a,

As we conclude the first five year term of the Ka'ūpūlehu Development Monitoring Committee (KDMC), we understand that your time with the State Land Use Commission (LUC) is concluded as well. Thank you for your interest and guidance during the years that we have worked together. While the KDMC has voted to continue our work for another term, you will be moving on, and we, of course, wish you well.

We, members of the KDMC, continue to engage in the lifestyles and practices that brought us into the process which began before the LUC in 1994.

As you know, the interveners concern was with the failure of the Environmental Impact Statement to adequately describe historic and on going cultural practices, the landscape upon which they are conducted, impacts to the practice and landscape by development, and mitigation of those impacts. During the ensuing years, through the course of the LUC intervention and the County Special Management Area use permit process these were articulated. During the ensuing years through various legislative sessions and periods of review and revision of the Administrative Rules of various agencies, what evolved to be the campaign to establish a required Cultural Impact Statement as part of the land use planning process has also been successful.

Here at Ka'ūpūlehu, the KDMC has moved with diligence to comply with the Decision and Order (D & O) of October 2001 and the KDMC Operations Plan of 2002. All activities and outcomes have been duly reported to you via our annual reports and your periodic site visits. Both Kaupulehu Developments and WB Kūki'o have been exemplary in their support of the KDMC.

The productive and progressive relationships formed at Ka'ūpūlehu including all of the developers (both parties to this docket and all neighbors), the land owner, and *Kama'āina*

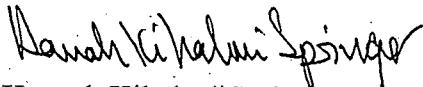
are exemplary as well. An environment of mutual respect and *aloha* prevails, allowing us to discuss with candor and care, matters of natural and cultural resources monitoring, management, interpretation, and education.

During the course of this year we have accomplished the precedent of returning of all artifacts and ecofacts from Ka'ūpūlehu to Ka'ūpūlehu. This was done according to the vision of the KDMC, the will of the land owner, and the facilitation of the developer.

We look forward to being of continuing service as the project moves from the development phase into the operations associated with home owners moving onto the land and during any future development phase, in accordance with the D & O. We want to assure continuity of monitoring, interpretation, education, and *kama`āina* presence from one phase to the next.

We also look forward to a fully staffed and operational Interpretive Center continuing the work and spirit of the KDMC when the work of the committee is concluded. *Mahalo hou* for your *kōkua* with our work.

'O au no me ka 'oiā 'i'o,



Hannah Kihalani Springer