

WRITTEN DIRECT TESTIMONY OF CATHLEEN DAGHER

1. **Please state your name and business address for the record.**

Cathleen Dagher

2. **What is your current occupation?**

Archaeologist

3. **How long have you been a Cultural Resource Specialist?**

31 years

4. **Did you provide a copy of your resume for these proceedings?**

Yes

5. **Is Petitioner's Exhibit 11 a true and correct copy of your resume?**

Yes

6. **Please briefly describe your educational background.**

A.A. in Art History

B.A. in Anthropology with an emphasis in archaeology

7. **Do you specialize in any particular areas?**

Hawaiian Archaeology

8. **To what professional organizations do you belong?**

Society of Hawaiian Archaeology

9. **What additional training or certifications do you have?**

I have attended several Section 106 seminars/workshops presented by the Advisory Council on Historic Preservation.

10. Please briefly describe some of the projects that you have been involved with over the course of your career.

I have over twenty-five years of Hawaiian archaeological experience including over twelve years with the Department of Land and Natural Resources/State Historic Preservation Division.

Hawaiian field experience includes conducting archaeological inventory survey, data recovery, and monitoring projects on all of the major Hawaiian Islands. Some of the more interesting project areas were data recovery projects in Lālāmilo, on the Big Island; Hālawa Valley, O‘ahu for the H3; and Honokahua, Maui for the Ritz-Carlton

Prior experience includes three years of archaeological experience in California: USDA Forest Service (Sequoia and Plumas Districts) conducting inventory survey, and in White Mountain, California, lab analysis, teaching archaeological method and theory at High Altitude sites.

In addition, I have been employed by SCS since 2005, primarily as a writer. During that period I have written well-over 500 archaeological reports (all types) and approximately 100 Cultural Impact Assessment reports.

11. What does a Cultural Resource Specialist do?

I am a professional archaeologist, which includes practicing as a cultural resources specialist. My profession includes:

Identifying, documenting, recording, testing, and mapping (tape and compass and GPS) of archaeological sites and features. Disinterring Native Hawaiian human skeletal remains in imminent danger;

Writing and preparing technical archaeological reports in compliance with State and Federal (Section 106, NAGPRA, and ARPA) statutes and mitigation plans (all types) for all of the main Hawaiian Islands; Editing technical reports and plans for archaeological content and ensuring reports meet current Federal (Section 106 and NAGPRA) and State Standards (HARs) on all of the Hawaiian Islands; and

Preparing Cultural Impact Assessments, including consulting with Native Hawaiian community members in compliance with the State statutes (Chapter 343), in accordance with the State of Hawai‘i Department of Health’s Office of Environmental Quality Control (OEQC) Guidelines for Assessing Cultural Impacts, and Federal Statutes (NEPA) for all of the Hawaiian Islands.

12. How long have you worked for Scientific Consultant Services?

12 + years

13. What is your title at Scientific Consultant Services?

Senior Archaeologist

14. Have you ever testified under oath based on your work position before a judicial or administrative body?

No

15. If yes, when and where did you testify?

N/A

16. Have you ever testified as an expert based on your work position before a judicial or administrative body?

No

17. If yes, when and where did you testify?

N/A

18. Are you familiar with the archaeological, historical and cultural resources within and around the proposed Lima Ola Workforce Housing project (“Project”) and the Petition Area?

Yes

19. Are you familiar with the Project?

Yes

20. Please describe your involvement in the Project.

I conducted the consultation process and wrote the Cultural Impact Assessment for this project.

21. Did you prepare a study for this Project?

Yes, I conducted the consultation process and wrote the Cultural Impact Assessment for this project.

22. Is Petitioner’s Exhibit 3, Appendix G-1 a true and correct copy of your report?

Yes.

23. Did you rely on any other studies or consultants in drawing your conclusions and making your assessment of the Project?

No.

24. Did these studies form the basis for your opinions?

No.

25. Please summarize the scope of your study.

We were asked to prepare a cultural impact assessment for the Project area. We did the assessment because the Hawaii constitution, Article XII, Section 7, requires the State and its agencies to “protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua‘a tenants who are descendants of Native Hawaiians who inhabited the Hawaiian Islands prior to 1778. Act 50, which was passed by the Legislature in 2000, also requires state agencies and other developers to assess the effects of proposed land use or shoreline developments on the cultural practices of the community and State as part of the HRS Chapter 343 environmental review process.

Act 50 requires that an assessment of cultural practices and possible impacts of a proposed action be included in Environmental Assessments and Environmental Impact Statements and be taken into consideration during the planning process.

The purpose of a cultural impact study is to identify the possibility of on-going cultural activities and resources within a project area, or its vicinity, and then assess the potential for impacts on these cultural resources.

According to the State Office of Environmental Quality Control (“OEQC”) “Guidelines for Assessing Cultural Impacts” (“OEQC Guidelines”) the types of cultural practices and beliefs subject to assessment may include subsistence, commercial, residential, agricultural, access-related, recreational, and religions and spiritual customs. The types of cultural resources subject to assessment may include traditional cultural properties or other types of historic sites, both manmade and natural, which support such cultural beliefs.

26. Please describe the methodology you used.

The cultural impact assessment was prepared as much in possible with the suggested methodology and content protocol in the OEQC Guidelines, which provides that information may be obtained through scoping, community meetings, ethnographic interviews and oral histories.

In preparing the assessment, we did archival and documentary research, and had communications with organizations have knowledge of the Project area, its cultural resources, and its practices and beliefs. Our assessment contains in more detail how the assessment was conducted in conformance with the OEQC Guidelines.

27. Is that methodology consistent with generally accepted industry standards?

Yes

28. Are there government regulatory guidelines applicable to your studies?

Yes, as already described, Hawaii Revised Statutes, Chapter 343 requires environmental assessments and impact statements to identify and assess the potential effects of a proposed action upon the cultural practices of the community and State. We also used the OEQC Guidelines.

29. Please describe the matters addressed pursuant to the OEQC guidelines.

The OEQC guidelines list 11 matters that should be addressed in the preparation of a CIA:

- (1) A discussion of the methods applied and results of consultation with individuals identified by the preparer as being familiar with cultural practices and features associated with the project area, including any constraints or limitations which might have affected the quality of the information obtained.
- (2) A description of the methods adopted by the preparer to identify, locate and select the persons interviewed, and a discussion of the level of effort undertaken.
- (3) Ethnographic and oral history interview procedures, including the circumstances under which I undertook the interviews, and any constraints or limitations that might have affected the quality of the information obtained.
- (4) Biographical information concerning the individuals consulted, their particular expertise, and their historical and genealogical relationship to the project area, as well as information concerning the persons submitting information or interviewed, their particular knowledge and cultural expertise, if any, and their historical and genealogical relationship to the project area.
- (5) A discussion concerning historical and cultural source materials consulted, the institutions and repositories searched and the level of effort undertaken. This discussion should include, if

appropriate, the particular perspective of the authors, any opposing views, and any other relevant constraints, limitations or biases.

- (6) A discussion concerning the cultural resources, practices and beliefs identified, and, for resources and practices, their location within the broad geographical area in which the proposed action is located, as well as their direct or indirect significance or connection to the project site.
- (7) A discussion concerning the nature of the cultural practices and beliefs, and the significance of the cultural resources within the project area, affected directly or indirectly by the proposed project.
- (8) An explanation of any confidential information that has been withheld from public disclosure in the assessment.
- (9) A discussion concerning any conflicting information in regard to identified cultural resources, practices and beliefs.
- (10) An analysis of the potential effects of any proposed physical alteration on cultural resources or practices or beliefs; the potential of the proposed action to introduce elements which may alter the setting in which cultural practices take place.
- (11) A bibliography of references, and attached records of interviews which were allowed to be disclosed.

30. Was your methodology consistent with those regulatory guidelines?

Yes

31. **Are you familiar with the requirements imposed by the Hawaii Supreme Court in the *Ka Pa‘akai O Ka ‘Aina v. Land Use Commission* decision?**

Yes. The Court ruled that the Land Use Commission must make specific findings and conclusions related to cultural, historical, and natural resources and the associated traditional and customary practices of a site prior to granting a reclassification.

Specifically, the Commission must have information on (i) the identity and scope of “valued, cultural, historical, or natural resources” in the Petition Area, including the extent to which traditional and customary native Hawaiian rights are exercised in the Petition Area; (1) the extent to which those resources – including traditional and customary native Hawaiian rights – will be affected or impaired by the proposed action; and (iii) the feasible action, if any, to be taken by the Commission to reasonably protect native Hawaiian rights if they are found to exist.

32. **In light of *Ka Pa‘akai O Ka ‘Aina*, does your Cultural Impact Assessment provide sufficient information for the Commission to grant the requested reclassification?**

Yes

33. **Did you identify any cultural resources within the Petition Area?**

No, not during the CIA process. However, SCS identified a single, historic plantation era site, designated as State Site 50-30-09-2219, during the Archaeological Inventory Survey.

34. **How did you evaluate whether traditional and customary native Hawaiian rights are being practiced within the Project area?**

Consultation was conducted via telephone, e-mail, personal interviews, and the U.S. postal service. Consultation was sought from Dr. Kamana‘opono M. Crabbe, Chief

Executive Officer, Office of Hawaiian Affairs; Hinano Rodrigues, State Historic Preservation Division, Maui; Kunane Aipolani, Chair, Kauai Island Burial Council; William Ho‘ohuli, community member; Glenn K. Kapahu, community member; John Kruse, community member; Rhoda L. Libre, community member; Joseph P. Manini, community member; Leah Perreira, community member; Ronson K. Sahut, community member; Beryl Blaich, community member; Kuulei Santos, community member, and Wilma K. Holi, community member.

In addition, a Cultural Impact Assessment Notice was published on October 9, 10 and 13, 2013, in the Honolulu Star Advertiser and in The Garden Isle News, which published on the same dates on Kauai, and the November 2013 issue of the OHA newspaper, Ka Wai Ola.

In addition to the consultation process, we reviewed a number of historical and cultural source materials as more specifically set forth in our assessment.

35. Who did you interview?

No interviews were conducted as none of those contacted indicated that they would like to be interviewed.

36. How are these individuals connected with this area?

SCS sought information from individuals and organizations that are knowledgeable about the project area, its cultural resources, and traditional cultural practices conducted in the area. To this end, we reached out to community members who are familiar with the area and to organizations that could refer us to additional individuals knowledgeable about traditional cultural practices conducted in the area.

37. Did you receive any other responses?

Yes, we received a response from Mrs. Kauka. Mrs. Kauka stated that John Kruse gave here the SCS letter requesting information on cultural sites on the Project area. Mrs. Kauka, in turn showed the SCS letter of inquiry to Kupuna Janet Kahalekomo, as she is the oldest link,

in the Hawaiian Studies Kupuna program, to the Hanapepe area, and she is quite knowledgeable. Kupuna Kahalekomo said that the area has been in either sugar cane or coffee production for her whole life. So any cultural sites that may have been there are long gone.

We also received a written response from Dr. Kamana`opono M. Crabbe, CEO, Office of Hawaiian Affairs. In a letter dated May 2, 2014, Dr. Kamana`opono M. Crabbe, Chief Executive Officer, Office of Hawaiian Affairs (OHA), indicated that the OHA received SCS's initial letter of inquiry on March 12, 2014, and the follow-up letter on April 18, 2014. The Office of Hawaiian Affairs applauded SCS's and further stated:

efforts to perform a cultural impact assessment. In addition, OHA requested assurances that "should iwi kūpuna or Native Hawaiian cultural or traditional deposits be identified during ground altering activities related to this project, all work will immediately cease and the appropriate agencies will be contacted pursuant to applicable law. OHA would like to be notified and consulted if burials are found.

38. Based on your training and experience, are those individuals reliable and credible sources for determining whether any traditional and customary native Hawaiian practices are being exercised in the Project area?

Yes

39. Do you feel that the investigation you did was sufficient to determine whether there were any cultural resources in the Project area?

Yes, given the nature of the Project area as an area that has been in active agricultural use for sugar cane, and then coffee, for many years. The level of effort taken to identify potential effect by a project to cultural resources, places or beliefs under the OEQC Guidelines has not been officially defined and is left up to the investigator. A good faith effort can mean contacting agencies by letter, interviewing people who may be affected by the project or who know its history, research identifying sensitive areas and previous land use, holding meetings in

which the public is invited to testify, notifying the community through the media, and other appropriate strategies based on the type of project being proposed and its impact potential. Sending inquiring letters to organizations concerning development of a piece of property that has already been totally impacted by previous activity and is located in an already-developed area industrial area may be a “good faith effort.” However, when many factors need to be considered, such as in coastal or mountain development, a good faith effort might mean an entirely different level of research activity.

In the current undertaking, letters of inquiry were sent to individuals and organizations that may have knowledge or information pertaining to the collection of cultural resources and/or practices currently, or previously conducted in close proximity to the Project area.

40. Based on the studies and interviews you did, are there any Native Hawaiian traditional and customary practices being exercised in the Project area?

No.

41. Have you reviewed the “Archaeological Inventory Survey of a 78-Acre Parcel in Hanapepe Ahupua‘a, District of Kona, Kaua‘i Island, Hawai‘i [TMK: (4)-2-1-001:054]” prepared by Jim Powell and Michael Dega?

Yes.

42. What did you conclude based upon the Powell and Dega survey?

This is a great report!

43. In your professional opinion, what effect will the reclassification of the Petition Area and the development of the Project have on the cultural resources, practices or beliefs and the archaeological resources?

None.

44. In your professional opinion, will the development of the Project have an adverse effect on any cultural resources?

No.

DATED: Honolulu, Hawai'i, May 12, 2017.

A handwritten signature in cursive script, appearing to read "Cathleen Dagher".

Cathleen Dagher